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HOUSE OF REPRESENTATIVES—*Thursday, November 14, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O God, to hear the sounds and see the sights of Your creation that are heard and shared by every person. Enlighten us so we are aware of the human experience—the sounds of laughter and the sight of tears, the sounds of anguish, and the joy of love and embrace, the words of loneliness and the beauty of people celebrating together in the bonds of peace. Remind us always, O God, to hear and see all the human emotions for we know and believe that Your spirit is with us in all the moments of life, in good times and bad, and Your benediction never departs from us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Indiana [Mr. BURTON] will please come forward and lead the House in the Pledge of Allegiance.

Mr. BURTON of Indiana led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that during the joint meeting to hear an address by His Excellency Carlos Saul Menem, only the doors immediately opposite the Speaker and those on his right and left will be open.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3595

Mr. RHODES. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 3595.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

RECESS

The SPEAKER. Pursuant to the order of the House of Tuesday, November 12, 1991, the House will stand in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 5 minutes a.m.), the House stood in recess subject to the call of the Chair.

During the recess, beginning at about 11:30 a.m., the following proceedings were had.

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY HIS EXCELLENCY CARLOS SAUL MENEM, PRESIDENT OF THE REPUBLIC OF ARGENTINA

The Speaker of the House presided.

The Doorkeeper, the Honorable James T. Molloy, announced the President pro tempore and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the President pro tempore of the Senate taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort His Excellency Carlos Saul Menem into the Chamber:

The gentleman from Missouri [Mr. GEPHARDT];

The gentleman from Michigan [Mr. BONIOR];

The gentleman from Maryland [Mr. HOYER];

The gentleman from Florida [Mr. FASCELL];

The gentleman from Illinois [Mr. MICHEL];

The gentleman from Georgia [Mr. GINGRICH];

The gentleman from California [Mr. LEWIS]; and

The gentleman from Michigan [Mr. BROOMFIELD].

The PRESIDENT pro tempore (Mr. BYRD). The President pro tempore of the Senate, at the direction of that body, appoints, the following Senators as a committee on the part of the Senate to escort his Excellency Carlos Saul Menem, President of the Republic of Argentina, into the House Chamber:

The Senator from Maine [Mr. MITCHELL];

The Senator from Rhode Island [Mr. PELL];

The Senator from Texas [Mr. BENTSEN];

The Senator from Connecticut [Mr. DODD];

The Senator from Massachusetts [Mr. KERRY];

The Senator from Florida [Mr. GRAHAM];

The Senator from Kansas [Mr. DOLE];

The Senator from Wyoming [Mr. SIMPSON];

The Senator from Indiana [Mr. LUGAR];

The Senator from South Dakota [Mr. PRESSLER];

The Senator from Utah [Mr. HATCH]; and

The Senator from Minnesota [Mr. DURENBERGER].

The Doorkeeper announced the Ambassadors, Ministers, and Chargés d'Affaires of foreign governments.

The Ambassadors, Ministers, and Chargés d'Affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

At 11 o'clock and 35 minutes a.m., the Doorkeeper announced the President of the Republic of Argentina.

The President of the Republic of Argentina, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and personal pleasure to present to you His Excellency, Carlos Saul Menem, President of the Republic of Argentina.

ADDRESS BY HIS EXCELLENCY, CARLOS SAUL MENEM, PRESIDENT OF THE REPUBLIC OF ARGENTINA

(The following is an English translation of the address delivered in Spanish by President Carlos Saul Menem before the joint meeting.)

President CARLOS SAUL MENEM. Mr. Speaker, Members of the Congress, ladies and gentleman, sisters and brothers of America: It is a great deference for my country and, at the same time, a great personal honor for me to be received at this joint session of both Chambers of the Congress of the United States.

Without exaggeration, I can say that I come here at the best moment of our bilateral relations, sharing the same values of Western civilization.

These are the very same values that are the basis of your Constitution. Our charter, today in full application, followed that model and that orientation. Those same values of freedom, coexistence, human rights, democracy and political, economic, and social stability. The Argentine people have committed their best efforts to that end.

My government has started a series of deep transformations: facts, not words, concrete not abstract, reforming the state, creating incentives for private capital, generating equal treatment for domestic and foreign investment, consolidating the defeat of inflation, opening our economy to international competition, breaking our isolation from the rest of the world, overcoming a great period of stagnation to face reactivation and the growth of our productive structures.

These are our objectives, supported by real, tangible achievements. We have reduced the number of public employees, we have rationalized their tasks, we have given greater hierarchy to the permanent staff.

Our convertibility plan, insures the full backing, with foreign exchange, of all our monetary base. We have stability and reactivation, we have fiscal balance, we have a healthy currency.

We have implemented a privatization plan of previously unheard of intensity. In some significant areas, this has already been completed, such as telecommunication, air transportation, and most of the oil sector.

This plan will include all public companies, electricity, gas water services, railroads, energy, and so forth. All this has meant a deadweight for the Argentine people for all these years. We have established a detailed agenda and all these privatizations will be finished by the end of 1992, as was decided by a decree, I have signed not more than 48 hours ago.

All this is combined with a complete deregulation of the economic policies. This means dismantling 60 years of controls, market reservations, quotas, pseudo tariff practices, professional monopolies, and all kinds of obstacles.

These measures, implemented with a drastic opening up of the economy, imply a reduction of import taxes to an average 14 percent, keeping thus, our doors open to international trade and foreign investments.

All these great decisions have received the support of the Argentine people, as has been clearly shown during the last elections, held on September 8 and October 27.

Legislators and friends: So that our program may be able to bear fruit, it is of the utmost importance that it should be welcome abroad receiving concrete answers.

This honorable Congress can, through its action, contribute greatly toward this end, and on this issue I should add that any legislation that restricts the access of certain Argentine products to the North American market does not help us in our development, nor does it help to strengthen the necessary links between our economies. It means also a barrier to our opening.

That is why, I would like to take advantage of this opportunity, a historical one for my country and a memorable one for me, to preach for a free trade between Argentine and the United States, that will benefit both peoples.

This free trade should be something concerning the whole world and that is why we are struggling and insisting on the need for strengthening our position during the Uruguay round of negotiations of GATT.

When the countries in America are struggling to achieve a free trade in the area, it is not only the United States but all the countries of the world that should struggle to obtain the elimination forever of subsidies, especially in the case of agricultural production.

Another aspect, as important as the first, where this Honorable Congress can contribute, is giving support to Argentine's negotiations with the International Monetary Fund and multilateral banks.

We hope, during 1992, to solve the problem of our foreign debt within the framework of a program such as the Brady plan.

At the same time, we would like to stress our commitment of getting together in the continued and lengthy task that will lead us to our target, that is ambitious but possible, and this is the continental integration all the way from Alaska to Tierra del Fuego.

I am convinced that the Enterprise for the Americas Initiative, Mercosur, the "Four plus One" framework agreement and the free-trade agreements existing between Canada and the United States, to include Mexico in the near future, are palpable proof that an integrating conscience is gaining strength in the countries of this continent, so that they will be able to expect—on an equal footing and with identical opportunities—to gain access to full development and well-being for their people.

Legislators: The quest and the achievement of the aims we pursue in the domestic field, wishes also to show to the international community our firm determination of being fully reinserted in the world.

A fundamental part of this reinsertion has been the reestablishment of relations with Great Britain and South Africa.

In spite of the differences that still exist as to the Malvinas Islands and that we hope to be able to solve through diplomatic channels.

With our neighboring countries in South America, we have established the Southern Cone common market—Mercosur—of fundamental economic and political projections.

Our policies on security, based on regional disarmament with the elimination of mass destruction weapons, has taken us, with Brazil, to an agreement on nuclear safeguards. This is satisfactory for both countries and for the International Atomic Energy Agency, and will allow us, in due course, to sign the Tlatelco Treaty.

This policy has led us to sign also an agreement with Brazil and Chile banning chemical and biological weapons. Uruguay, Bolivia, and Paraguay have also been included in this agreement.

As to missiles, not only are we against the development of this technology with the object of warfare, but we also have subscribed the missile technology control regime [MTCR], and we have created the National Commission for Space Activities [CONAE], with solely peaceful objectives, hoping to agree on cooperation programs with NASA as well as other important similar agencies in the world.

Thus, we have set the scene for a total détente in the region and we have built confidence at the international level. Our American vocation expects cooperation and coordination between Latin American countries and all countries in America, and very specially based on our unrestricted support for the Rio group, a true regional reference.

Honorable Congress: This reinsertion seeks to consolidate common values. That is why we did not hesitate to join the coalition of countries participating in the Gulf crisis, complying with U.N. resolutions.

Along the same lines, we can mention our recognition of the Baltic Republics, one of the first countries to do so at the international level, and our immediate and firm rejection of the failed coup in the Soviet Union last August.

This, our American vocation, a vocation for democracy, is something that should include all and each of the countries of our continent.

Our continent has to consolidate and strengthen democracy and reaffirm a rule of freedom where, unfortunately, it does not exist today.

This is a challenge that allows for no exception, I insist, absolutely no exception in the whole of this continent.

Legislators, ladies and gentlemen: There is no better forum than this honorable Chamber, where the representatives of the North American people debate, to transmit the message of friendship sent by all the Argentine people, by a serious Argentina, stable, predictable, ready to be a part of the world with responsibility and maturity, an Argentina that feels a deep admiration for the indefatigable efforts deployed by the United States of America in the search for peace in the Middle East.

The conference that has met these last days in Madrid is the most recent proof of this difficult path that the United States of America is following to bring together those parties in conflict. The changes that have taken place lately in the international sphere allows us to have a greater hope than the one we had in the past, such as the achievement of a just and lasting peace for that region.

This important role that is being played by the United States of America in the Middle East has been reaffirmed undoubtedly by the role they had during the Persian Gulf crisis where the political risk as well as the military risk was based essentially on the shoulders of the leaders and the soldiers of this country.

All this process of transformation that we considered necessary took in stride enormous sacrifices that had to be done by the Argentine people and these were done without the people losing 1 inch of their freedom, an essential value for Argentina and America. This freedom is and still will be the norm that guides us in our course within our homes and also around the world.

Receive then, this greeting.

You should know it is sent by a people that is making heroic sacrifices to contribute to a better future.

In this future, and from this present mature and fruitful dialog, the United States of America and Argentina will walk together for the benefit of a new order, with more justice, more freedom, and that will be of great advantage for the whole world.

I ask God to bless you and the American people, your officials, and leaders.

Thank you very much.

[Applause, the Members rising.]

At 12 o'clock and 9 minutes p.m., the President of the Republic of Argentina, accompanied by the Committee of Escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber and the Ambassadors, Ministers, and Chargés d'Affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses dissolved.

Accordingly, at 12 o'clock and 13 minutes p.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until 12:30 p.m.

□ 1230

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. McNULTY) at 12 o'clock and 33 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 10 1-minute speeches on each side.

PRESIDENT SHOULD FOLLOW UNEMPLOYMENT BENEFITS WITH MORE DOMESTIC AGENDA ITEMS

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, it appears that we have the President on board finally on the train to try to help people who have used up their unemployment benefits, but we cannot wait 4, 5, or 6 months to get the President along on each issue that we need to try to rebuild this economy.

Mr. Speaker, we are glad the President is back in the United States, but now we need to see some domestic leadership. We want to see the President's proposal on health care so that all Americans have decent health care and are not bankrupted by the cost of it. We need to see the President's request for reinvigorating the economy without giving one more tax cut to millionaires and billionaires across America.

Let us not just talk about helping middle-class Americans. Let us see whether the President will come forward with a real middle-class tax cut to help working families take care of their children. That will spur on the economy.

Mr. Speaker, we need to engage this administration on a domestic agenda because not just eastern Connecticut but all across this continent, from Connecticut to California, this country is facing disaster.

ADMINISTRATION PROPOSALS INCLUDE MORE JOBS, CAMPAIGN REFORM

(Mr. HUNTER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, let me just answer the gentleman who just criticized the President. The President has a growth package that is not only going to send checks to the people who are unemployed but it is going to give them what they really want, and that is a job. It is going to give them a million jobs in construction, manufacturing, and the service industries. We are going to do that with a growth platform that includes relief for middle-class families, and that includes a capital gains tax cut that will get people out there hiring people. We must remember that blue collar workers cannot hire themselves. They need to have a factory, or a businessman, or a corporation that hires them.

The President of the United States is going to do that, and while he does that, we are going to give them a reform package that is going to strike at the hearts of the Democrats in Congress. It is going to force the Democrats in Congress to get at least 50 percent of their money from their own constituents. At this point they get about 10 percent of their reelection money in their own districts; they go to special interests outside their districts to get the other 90 percent.

Mr. Speaker, we are going to have reform, and we are going to have jobs.

CREDIT CARD INTEREST RATES MUST FALL

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, credit card interest rates are too high and Americans are fed up with paying these high rates because banks have lost money on loans to Third World countries or leveraged buyouts.

In the 27 years that I have been in this House I have fought against high interest rates, particularly on credit cards. Today I am continuing that fight. Last night the Senate passed a cap on credit card interest rates at four points above the rates charged by the Internal Revenue Service on delinquent taxes. That would place a ceiling of 14 percent on credit card rates today. Today I will introduce an identical bill to the one that passed the Senate. If there had been an open rule granted on the banking bill that we will be debating here today, I would offer my credit card bill as an amendment. But since that is not possible, I will push for early passage of my cap bill.

The discount rate is 4.75 percent. That is the rate the Government charges when it lends money to banks. But the rate charged by many banks on credit cards is 19 percent or higher. That is legalized loan sharking. It is putting a plastic pistol to the head of credit card customers and extorting money.

The American people want a cap on credit card interest rates and since this is the House of the people, I urge my colleagues to support my legislation.

DEMOCRAT LEADERSHIP FOSTERS ECONOMIC STAGNATION INSTEAD OF SUPPORTING JOBS AND ECONOMIC GROWTH

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, I, as a Republican, believe in two fundamental concepts: First, that the family is the basic unit of our society, and that national policy ought to strengthen the family by relieving the crushing burden of taxation that is presently imposed.

Second, I believe that a job is the best form of welfare ever devised, and that national policy ought to be oriented toward job creation and economic growth through a cut in the capital gains tax and other measures. We, as Republicans, believe in incentives to encourage savings and investment in capital formation which is so essential to business expansion. We recognize that business expansion and a thriving economy are the progenitors of employment opportunity. We grow increasingly frustrated as the Democratic leadership allows the national economy to stagnate. We find it incomprehensible that the Democratic leadership seems committed to an economic environment which nurtures unemployment.

Most of all, Mr. Speaker, we know that if we were the party in power, Congress would again become the facilitator of economic growth and prosperity.

JOBS OVERSEAS SHOULD BE RETURNED TO AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks).

Mr. TRAFICANT. Mr. Speaker, President Bush said he is getting a bum rap from the Democrats. He is really flying overseas to find jobs for the American workers.

That says it all. The President is right on target. Since 1981 all the American jobs are overseas, and the President knows where to go and find them.

But the truth is, Mr. Speaker, that it was not enough for Ronald Reagan to ship them overseas. President Bush needed a fast track. Think about it. The biggest employment office in America is the unemployment bureau itself.

Mr. Speaker, it is time for Congress to extend unemployment benefits, and it is time for Congress to pass some policies and laws that will return some American jobs to our own country.

VIOLENCE IN NORTHERN IRELAND

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I rise to voice concern regarding the escalating violence currently plaguing Northern Ireland. Since 1969, more than 3,000 people have died at the hands of terrorists representing the various factions of this ongoing civil strife. Regardless of where we stand on the political issues, it is important that we vehemently denounce the violence which only exacerbates the distrust and suspicion that exists between loyalists and nationalists.

As a new generation of terrorists unleashes its anger, we witness the dismal result that two decades of violence has had on the youth and young adults of Northern Ireland. The sadistic brutality which characterizes the most recent wave of killings, forces us to recognize that continued violence only drives the factions farther away from the possibility of reaching an understanding and dims the hope of achieving an end to years of fighting. Violence begets violence, not peace.

Talks, such as those that took place this past spring and summer, are the most constructive basis on which to base a meaningul peace. During the talks, all the groups unconditionally denounced terrorism as a means of achieving political change. They recognized that what must precede any peace is an end to the violence and a recognition of the groups' common interest.

Let the Congress stand united in our opposition to violence in Northern Ireland and in our support of restarted political talks as the means of achieving peace. This vicious cycle must first be broken before there can be any hope of an end to the strife.

□ 1240

CONGRESS MUST ACT WHERE THE PRESIDENT FEARS TO LEAD

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the President finally says he will sign today's unemployment bill. That is good for hundreds of thousands of Americans who have exhausted their unemployment benefits and cannot find productive work, and good for thousands of Oregonians. It is good news today.

After 4 months of denial, two effective vetoes, the President finally admits there might have been a problem, that some people might have become unemployed, they might not have been able to find work. But he still denies that there is a recession in America today. He still denies that hundreds of thousands of Americans are on the unemployment lines and they cannot find productive work.

Mr. Speaker, the President should act. He should send us a growth package. But he is afraid to. It took him 4 months to recognize the unemployment problem. We cannot wait 4 months for a recovery package. Congress must act where the President fears to lead.

THE DEMOCRATS' MAGIC ACT

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, the Democrats have a magic act that would make Harry Houdini envious.

They have tried to make the President's domestic agenda disappear into thin air. Then, they claim they have never seen it.

The American people know the President has submitted a domestic agenda to this Congress.

I would call a comprehensive crime bill, a comprehensive banking bill, a comprehensive education bill, and a highway bill a thorough domestic agenda.

Yet, the majority, with wave of a wand and a wink from their special interest groups, have relegated these initiatives to legislative oblivion.

Mr. Speaker, when Republicans are in control, this vanishing act would disappear. Republicans would work to implement the President's domestic agenda, not work to keep it from the public's view.

To my colleagues across the aisle who dabble in this sleight-of-hand trickery, I know where you have hidden the President's domestic agenda. It's in the top hat, underneath the rabbit.

Put the illusions aside. Let's end the magic act, and implement the President's domestic agenda.

COMPROMISE SURFACE TRANSPORTATION REAUTHORIZATION ACT

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, for the last 2 weeks, 96 of our House and Senate colleagues have been meeting to craft a compromise surface transportation reauthorization act. This is quite a formidable task since the differences between the House and Senate versions are so dramatic. However, of all the provisions in the two bills, I am most concerned about the conferees retaining the fast formulas and the 90 percent minimum allocation found in H.R. 2950, the House-passed version of the transportation reauthorization. It was with a great deal of energy and forethought that the House Public Works and Transportation Committee included these provisions in the House version—a bill which received 343 votes. I urge our colleagues to hold firm on these two important issues.

The fast formulas and the 90 percent minimum allocation are of great importance to this Nation's donor States—States that have traditionally contributed a great deal more to the Federal highway trust fund than they received. This Congress has a majority of Members from donor States and you can ask any of them the importance of these provisions. There are States like California, Texas, Florida, North Carolina, Virginia—in fact 29 States that receive considerably less from the trust fund than they contribute. Yet while this inequity continues, some States receive far more from the trust fund than invested.

There is no way that high-growth, high-population States like Florida and the others I have mentioned can continue to meet their transportation needs under the current system or under the Senate bill. That is why I am so pleased that the House bill contains these important formula changes. This Congress heard Chairman ROE, Chairman MINETA, and Mr. HAMMERSCHMIDT enthusiastically pledge, with great faith and fidelity, on October 25 to hold firm on these two critical donor State issues. This is deeply appreciated by the majority of Congress, most of whom represent donor States—States that have been deprived in the past of a fair formula for the distribution of highway funds.

SUPPORT BUYER ENCOURAGEMENT ACT

(Mr. RAVENEL asked and was given permission to address the House for 1 minute.)

Mr. RAVENEL. Mr. Speaker, yesterday I introduced a bill to amend the 1986 Tax Reform Act. It will encourage economic growth by providing temporary restoration of the deduction for personal interest. This legislation will encourage consumers to exercise their purchasing power and stimulate the economy.

The laws of supply and demand feed on one another so that buyer reluctance exacerbates a stagnating economy. My bill is a demand-side approach giving consumers positive incentives to borrow and spend. Economists agree that just a small decrease in taxes, which my bill will amount to, has immediate, beneficial multiplier effects. This is what it will take to get our economy out of the doldrums. As always, it has been increased consumers confidence and buying that has pulled our Nation out of its recessions. My Buyer Encouragement Act can be the catalyst. I invite my colleagues to sign on as cosponsors.

U.S. GOVERNMENT SHOULD PURSUE MIDDLE EAST TERRORIST GOVERNMENTS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, this morning the Justice Department announced indictments charging Libyan nationals with murder and conspiracy in the bombing of Pan Am flight 103 over Lockerbie, Scotland.

This is a welcome development, Mr. Speaker. But as the father of one of the British citizens killed in the explosion said, "These two Libyans are two minnows in a very large pond."

All the evidence, he said, "points to an unholy alliance between Libya, Iran, and Syria." Why is our Government not pursuing these culprits as well?

Mr. Speaker, 270 innocent people, most of them Americans, were killed on Pan Am flight 103. Three of my constituents died. Syria quite possibly has the blood of innocent Americans on its hands, and yet the Bush administration, incredibly, instead of pursuing Syria's role in this crash, is now contemplating removing Syria from the list of countries that sponsors terrorism.

This is just the latest illogical tilt toward Syria as the administration looks the other way as Syria completes their annexation of Lebanon, refuses to enter direct peace talks with Israel, and continues trafficking in narcotics and terrorism.

Mr. Speaker, did not Saddam Hussein teach us what happens when we try to placate despots?

CONGRESSIONAL DEMOCRATS SHOULD ADDRESS PRESIDENTIAL DOMESTIC AGENDA

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, if Republicans were the majority in the House, we would spend less time trying to blame the President for everything that is wrong in our society and more time passing legislation to create jobs and stimulate economic growth.

The President has a strong domestic agenda that the Democratic leadership has chosen to ignore. On March 6, the President challenged Congress to send to him two important domestic bills in 100 days, the highway bill and the crime bill. Mr. Speaker, 253 days later, the Democratic leadership has still not been able to rise to that challenge. The highway bill and crime bill have still not been signed into law.

If we can't get the highway and crime bill to the President in 253 days, the future does not look good for the other important domestic issues that have still not been addressed, including an economic growth package.

Mr. Speaker, I wish your colleagues would spend less energy trying to put the blame on someone else for the recession, and spend more energy on addressing the domestic agenda that President Bush has laid out for us.

RELIEF COMING FOR UNEMPLOYED

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, three strikes and you're out. The President has finally read the handwriting on the wall, as well as the polls, and has agreed, after two vetoes, to a bill to extend unemployment benefits for working middle-class families left jobless by this recession. This is very, very good news for families struggling from a recession that is now over 2 years old in my own State of Connecticut.

Too many families have been waiting, and waiting, for the President to work with Congress to provide this desperately needed relief. Their sighs of relief are audible even here.

Americans' biggest fear is the possible loss of a job. In an recent poll, 39 percent said that "chances are high" that a family member will lose their job in the near future.

Today we can finally cushion the blow for many who thought they might never see this day; for many who, for the first time in their lives, have been forced to stand in the unemployment lines; or for many who have had to go home and tell their family that they've lost their job. I know. I listen to their stories every week.

Mr. Speaker, the only question left is, Why did it take the President so long? But the important thing is that the unemployed of America will get a bill and some relief in these prolonged tough economic times.

□ 1350

INCONSISTENT POLICY

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, would you please tell your fellow Democrats to be consistent. Last year at this time, we had 1-minute speech after 1-minute speech telling George Bush to cave in and to raise taxes to reduce the Federal Government deficit. And he did that.

Now we are hearing that we have got to cut taxes because people are out of work because of the tax increase that the Democrats in Congress hoisted upon the President of the United States. This kind of a yo-yo economy is purely and simply the result of inconsistent policies on the part of the majority in Congress who think that the voters' attention span is less than a minute or two.

I have got news for them. The American public knows why we have economic problems. It is because of congressional overspending and inconsistent tax policy.

It seems to me that we should have taken the advice of liberal and conservative economists last year who said that when the economy is going into a recession the worst thing to do is to raise taxes.

PRESIDENT MAY BE PAYING ATTENTION

(Mr. DOOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLEY. Mr. Speaker, it took 5 months, several more trips overseas, and a lost Senate race in Pennsylvania, but the Bush White House has finally found a jobless benefits extension it can agree to.

Because of that, unemployed American families suffering from this recession have some hope today.

They have some hope because much needed help will arrive soon. And they have hope because serious problems right here in America finally may have captured the attention of their President.

Now that Air Force One is parked on American soil for awhile, maybe the White House will work with this Congress to forge a domestic policy that meets our Nation's real needs.

CROATIA

(Mr. MILLER of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Washington. Mr. Speaker, despite attempts at EC-brokered negotiations, Dubrovnik and Vukovar continue to face devastating shelling claiming more innocent lives.

The EC is apparently now prepared to seek an emergency U.N. Security Council session on Yugoslavia. The United States must play a prominent role in this session. President Bush has announced that the United States will join the EC in imposing broad economic sanctions against Yugoslavia. He should also go on record and urge an immediate cease-fire of hostilities between all parties fighting in Croatia.

Further, the House should pass House Concurrent Resolution 224, introduced by Representative ELTON GALLEGLY, and House Concurrent Resolution 200, introduced by Representative WILLIAM BROOMFIELD. These two resolutions call for specific steps which will help end the bloodshed in Yugoslavia.

FDIC RECAPITALIZATION MUST BE OUR PRIORITY

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, today the House considers yet another banking bill. Just 10 days ago, on November 4, H.R. 6—the major banking bill—was rejected 89 to 324.

The legislation we consider today—H.R. 2094—was overwhelmingly approved without amendment by the Banking Committee on a 37 to 15 vote. However, it will be the subject of an amendment approved by the Rules Committee, an amendment which I would note was never considered by the Banking Committee. Let's pass this banking bill today without amendment.

Replenishment of the bank insurance fund of the Federal Deposit Insurance Corporation [FDIC] is absolutely necessary—of that there can be no question. I can think of no action more important to our economy which absolutely needs to be taken before we adjourn on or before November 26 than the recapitalization of the FDIC.

At the end of the third quarter of this year, the FDIC's reserves had declined to their lowest level since 1962, having only $2.5 billion in its coffers. But the FDIC insures 12 times more money today than it did in 1962.

In closing, I urge my colleagues to pass this bill today without amendment. We must act today to recapitalize the FDIC. Without recapitalization the FDIC will not be able to shut the doors of failing banks, and losses at these institutions will needlessly skyrocket.

Without recapitalization, depositor confidence in all our depository institutions will erode—and who can predict the consequences to our economy if that happens?

OILSEED SUBSIDIES

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, in 1987, the American Soybean Association filed a complaint with the U.S. Trade Representative challenging the EC's system of subsidies for oilseeds in 1987. In 1989, the GATT dispute settlement panel issued findings that the European oilseed subsidy program did indeed violate the General Agreement on Tariffs and Trade. In June this year, the European Community Council of Ministers agreed to implement the GATT panel findings by October 31, 1991, but the next month a new system of oilseeds subsidies was proposed which would guarantee European producers a return that would be twice that of the world market, while U.S. soybean producers operate without a direct subsidy program.

Mr. Speaker, this Member introduced House Resolution 257 last month; it urges that, if by October 31, 1991, the European Community Council of Ministers has not adopted a new oilseeds regime that is fully in conformity with its GATT obligations, the U.S. Trade Representative should immediately take action to compensate for the trade losses caused by the EC's failure to comply with the GATT ruling. The actions taken by the U.S. Trade Representative would remain in effect until the EC brought its oilseeds regime into conformity with GATT obligations.

On November 12, 1991, the U.S. Trade Representative expressed concern that the GATT panel findings regarding oilseeds were not completed and stated that if the EC did not produce an acceptable plan by December 3, then the United States will press forward to reconvene the original GATT panel to reexamine this issue.

This Member is concerned that the EC is again dragging out this issue. If the original GATT panel is to reconvene, more time could pass, probably delaying action past the beginning of our next crop year.

I urge my colleagues to join the 55 Members who have cosponsored my resolution, House Resolution 257, in order to send a strong message to the European Community that we will no longer tolerate their violation of GATT regarding oilseed subsidies—and to strengthen the leverage of Ambassador Carla Hills.

It is extremely important for our U.S. Trade Representative to have Congress' backing during the negotiation process.

ENGLISH FIRST

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, let me begin by stating the obvious: Every American should learn to speak English.

Having said that, I have just received, through the mail, a copy of a recent solicitation by an organization called English First.

English First's solicitation contained some of the most vile, fetid, racist garbage that I have read in a long time.

This organization, which is supposedly trying to make English the official language of the United States, is trying to appeal to white Americans' most basic racial fears and paranoia.

Consider what will happen if you do not send $30 to English First.

> White children may be taught that they are descendants of European ice people whose lack of skin color identifies them as an inferior race.
>
> Bilingual teachers will do away with English and anything European.
>
> Your children will be taught by minority educators and intellectuals.

Let us look at the obvious facts. Since the birth of our Nation, millions and millions of immigrants have come to our shores and guess what—they learned English.

But now times have changed.

This week, David Duke, the one-time Grand Wizard of the KKK and apologist for Nazi kooks and skinheads everywhere is one step from becoming Governor of Louisiana.

Now English First is trying to ride his filthy coattails.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). This will be the last 1-minute statement. Additional 1-minute statements will be entertained later in the legislative day.

AS THIS SESSION DRAWS TO A CLOSE

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, as this session draws to a close, the media reports on all of the things we have yet to do.

They say things like:

> The Congress hopes to complete consideration of legislation important to the future of this country. Expected items are the highway bill, crime legislation, and banking reform.

Mr. Speaker, lest the American people forget, on March 6, the President required the crime and highway bills be completed by June 14.

It is now November 14, and the media reports the Congress may finish this legislation by the end of the session.

If Republicans were in control of the Congress, these bills would have already become law.

We would be well on our way to making our streets safer and our highways sturdier.

Our banks would be on the road to recovery, and the unemployed would be on the job again.

The Democrats complain that the President has no domestic agenda. Mr. Speaker, I disagree.

The Democrat-controlled Congress will not act on those issues that the people and President believe need the most attention.

And the media continues to report on bills that should have been law 6 months ago.

□ 1300

REQUEST FOR PERMISSION TO OFFER AMENDMENT TO H.R. 2094, FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991, NOTWITHSTANDING HOUSE RESOLUTION 277

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that notwithstanding House Resolution 277, that during further consideration of the bill, H.R. 2094, I be permitted to offer an amendment placing a ceiling on credit card interest rates immediately following consideration of the amendments authorized by the resolution.

The SPEAKER pro tempore (Mr. HERTEL). Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Mr. Speaker, reserving the right to object, I am told that we do not know of any signoff on this on our side. Can the gentleman from Illinois tell me what it is he is doing?

Mr. ANNUNZIO. If the gentleman will yield, Mr. Speaker, that is true. But my unanimous-consent request was dictated to me by the American people. I have been fighting this fight for 3 or 4 years, so I speak for the American people today.

Mr. WALKER. Reserving the right to object, there are a lot of us here who would like to think we speak for the American people. The problem is, the rules of the House are generally such that we cannot get that kind of speaking.

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will yield, all I ask is for the gentleman to join me as I speak for the American people.

Mr. WALKER. Mr. Speaker, will the gentleman tell me what it is he is doing? When he is speaking for the American people, what is it he is doing? That would help me, to begin with here.

Mr. ANNUNZIO. My amendment is very simple. As the gentleman knows, for 5 years I have been trying to put a cap on interest rates. So all my amendment provides is a cap on interest rates on credit cards.

Mr. WALKER. And so the gentleman, I am certain, took this amendment to the Rules Committee, is that right?

Mr. ANNUNZIO. No; I did not take it to the Rules Committee.

Mr. WALKER. Did the gentleman offer this amendment before the Rules Committee?

Mr. ANNUNZIO. No; Mr. Speaker, I did not.

Mr. WALKER. Are we not about to consider a rule on the banking bill, and is that not the appropriate place for this amendment to have been considered?

Mr. ANNUNZIO. My amendment was passed in the Committee on Banking, Finance and Urban Affairs about 3 years ago.

Mr. WYLIE. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PROVIDING FOR CONSIDERATION OF H.R. 3575, FEDERAL SUPPLEMENTAL COMPENSATION ACT OF 1991

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 280 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 280

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee on the Whole House on the State of the Union for the consideration of bill (H.R. 3575) to provide a program of Federal supplemental compensation, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of H.R. 3757 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentleman from Maryland [Mr. MCMILLEN].

(By unanimous consent, Mr. MCMILLEN of Maryland was allowed to speak out of order.)

FLIGHT LIMITS AT NATIONAL AIRPORT

Mr. MCMILLEN of Maryland. Mr. Speaker, I take this time regarding a story in the Washington Post that reported that the FAA had lifted flight restrictions and recommended lifting the flight restrictions at National Airport. That is not the case, and I want to make the matter clear for the RECORD.

Mr. Speaker, today it was reported that the Federal Aviation Administration [FAA] had recommended to remove restrictions on the number of flights per hour allowed at National Airport.

However, upon further investigation it appears this is not the case. No recommendation has been made and the FAA is still examining the so-called slot rule.

Mr. Speaker, while the immediate crisis has passed, the fight is far from over. The debate over the high density rule which established flight limitations at four major airports, including National Airport, has a long history and an uncertain future.

Last year, as part of the budget agreement, provisions were placed in the bill—by Members seeking to improve business opportunities for carriers in their districts—to repeal the high density rule. This proposal was vigorously opposed and was reduced to language authorizing the FAA to "look at the situation."

There were a number of good reasons why these flight limitations were enacted to begin with that are still valid today. First, any increase in the number of flights will simultaneously increase safety risks. Increasing flights at National Airport is the equivalent of placing economic gains ahead of passenger safety.

Second, flight restrictions help avoid lengthy delays. Advocates of abolishing the slot rule argue that it will reduce costs to consumers. Increasing the time spent waiting at the airport is not cost efficient. The final reason that flight restrictions are important is because they help contain the level of aircraft noise.

It is imperative that we keep a balance between the rights of those who fly and those adversely affected by air traffic noise. By eliminating flight limitations at National Airport you are disrupting the delicate balance that many have worked hard to sustain. Keep the high density rule in place, it works.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON]; pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, better late than never.

After saying no twice, the President finally is willing to support a bill funding unemployment benefits for America's jobless.

Mr. Speaker, our message to the President is simple. Welcome aboard.

The American people have been waiting for some lifeline in this recession.

Now one is almost in their grasp.

The only surprise is that it has taken this long.

For months the President refused to admit the nature of this crisis.

Why did he change his mind?

It has to do with the dreaded "R" word. In fact, two "R" words—Republican and recession.

The President had declared an emergency for the Turks; for the Kurds; for the people of Bangladesh; only for middle-class Americans was there no emergency.

"No big deal," said his Secretary of the Treasury.

Well, there is a recession all right; 8.6 million out of work; 300,000 people a month running out of unemployment benefits.

At this rate, by Christmas more people will be out of work and out of benefits than at any time since the Great Depression of the 1930's.

Pink slips do not make great Christmas presents.

It's a big deal, all right; a very big deal.

We are glad the President has come over to our side.

Of course, it is just a beginning.

We need economic growth.

Under this President growth has been the lowest of any President since World War II.

And what about jobs?

The fact is, we're losing 9,400 jobs a month. That's the highest since World War II.

We need economic growth, all right.

The trouble is, this President does not have a growth plan.

All he does is shrug his shoulders and say we should have done capital gains.

Capital gains. That is his only idea.

A tax cut that gives 80 percent of the benefits to those making over $200,000 a year.

The people who have made out like bandits in the eighties.

Democrats have a plan to promote growth.

It's a middle-class tax cut.

It's not money for the wealthy, hoping it will trickle down.

It is a tax cut for average folks, so the money can bubble up.

What does bubble-up economics mean? It means putting money back in the pockets of the people who have been most squeezed by the eighties—squeezed by property taxes; squeezed by health care premiums; squeezed by college tuition, and squeezed by mortgage payments.

We do not want a tax cut for people who take ski trips to the Swiss Alps.

We want a tax cut for people who want to take their kids to a ball game.

That is how to jump start this economy. That is how to get America moving again.

But, Mr. Speaker, first things first.

Before we do that, we must pass this bill.

For 6 months now, we have had nothing but cynicism out of the White House, gimmicks, and parliamentary tricks.

It is time to stop playing politics. It's time to start helping Americans.

Mr. Speaker, next week is Thanksgiving. Let us get these checks out in time for turkey dinner. I cannot think of anything more important on our plate.

Mr. Speaker, House Resolution 280 makes it in order to consider in the House the bill H.R. 3575—the Federal Supplemental Compensation Act of 1991. The rule waives all points of order against the bill.

The rule also makes in order an amendment in the nature of a substitute consisting of the text of H.R. 3757 as an original bill for the purpose of amendment. The rule waives all points of order against the substitute.

The rule makes in order no amendments to the substitute, and provides one motion to recommit the bill with or without instruction.

Mr. Speaker, I urge my colleagues to support the rule and the bill.

□ 1310

Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, the President of the United States has stated that the recession is over. I commend him for actually using the dreaded "R" word in public.

I hope the 4,500 employees of Midway Airlines, who have now joined the unemployment line, heard the President.

I hope they take comfort in his words during this period of so-called economic growth and prosperity.

I am sure that my constituents, the men and women who flew Midway's planes, manned check-in counters, and maintained aircraft, will not begin to feel the country's economic recovery for quite some time.

Until today, Midway Airlines was America's 12th largest carrier and could boast of being the last survivor of deregulation. Midway Airlines was the cause of a long-awaited rejuvenation of Midway Airport.

Midway Airlines formed a cornerstone in the economic base of the southwest side of Cook County.

Although I am confident that the neighborhood will eventually recover, I am not so confident that the lost careers and broken dreams of Midway men and women will ever be restored.

The quality of life of these individuals has been jeopardized.

I can only hope that the administration will join me in doing everything within our power to help minimize the effects of this tragic situation.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in rising in support of this rule and the bill, let me just say that this is the fifth unemployment compensation rule we have brought to the floor of this House in the past 4 months. But I would like to think that this effort, this rule, is a little like Beethoven's Fifth Symphony in that it hails a victory for the American people.

Unlike all those which have gone before, this is one rule which brings us a bill that is not weighted down with partisanship or Budget Act violations or veto threats, weights which collectively sank those other previous bills. Instead, this rule signifies a victory for bipartisanship, for compliance with the budget agreement and for cooperation and compromise between the President and Congress. In short, Mr. Speaker, it marks a great victory for our democratic process at its finest, although many of us would have preferred such a victory much earlier in the game, even 4 months ago.

Like any victory that is achieved in a democracy, it is not as neat or as clean or as decisive or even as satisfying as any of us would have ideally preferred. But, Mr. Speaker, we are operating in the rough-and-tumble real world of politics and not in some ideal utopian state. Politics is the art of the possible and the art of compromise, and this compromise was made possible by everyone giving a little and taking a little with no one getting everything that he or she wanted.

I just want to take this opportunity to commend all of those directly and indirectly involved in these negotiations, particularly our Republican leader, the gentleman from Illinois [Mr. MICHEL], and the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], and President Bush on their persistence and their dedication and hard work in making this bipartisan compromise come to fruition here today on the floor.

Mr. Speaker, what made all this possible was a sincere belief by all of those involved on both sides of the aisle and at both ends of Pennsylvania Avenue that the time has come to stop playing the narrow politics of partisanship and to start playing the broader politics of addressing real human needs, of finding a way to provide additional relief for the unemployed and for doing so now, today.

What does this compromise emergency benefits proposal do? Well, basically it provides emergency benefits through the next Fourth of July with a reach-back period to March 1 of this year under which some 32 States are eligible to participate. The compromise provides a three-tier system of benefits under which all States get at least 6 additional weeks, some 19 States get at least 13 weeks, and some 10 States, hardest pressed, get up to 20 weeks of additional unemployment compensation benefits.

This proposal includes ex-servicemen, school employees and contains job search and railroad workers' provisions an amendment that I offered in the Committee on Rules several times.

The total cost of the benefits package is just slightly over $5 billion, and this in turn is completely financed by several funding provisions. These include the IRS debt-collection authority, a 1-year extension of the 0.2 percent FUTA tax; a revised estimated tax proposal, and a guaranteed student loan debt recovery provision.

It is important to note that over the 5-year period these funding provisions actually bring in $241 million more than the cost of this program. Think about that.

To quote from the administration policy statement on the bill:

> H.R. 3575 meets the requirements outlined by the President. It provides a temporary program for jobless workers. The benefits are paid for each year in accordance with the budget agreement. Therefore, it will not threaten the economic recovery and its associated job creation.

It will not affect the recovery by violating the discipline of the Budget Enforcement Act.

Let me further affirm that this compromise meets the pay-as-you-go requirement of the budget agreement, by quoting from a portion of a letter from OMB Director Darman to our good chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI]:

> According to our estimate, the compromise is consistent with the Budget Enforcement Act in each of the fiscal years 1992 through 1995. This, as you know, has been one of the key criteria that the President has insisted upon from the outset.

The letter goes on, and I again quote:

> Because the test of consistency with the budget agreement act has now been met on a mutually satisfactory basis, the President strongly urges the prompt enactment of this compromise in order that benefit payments may be made at the earliest feasible date.

Mr. Speaker, I especially want to call attention to two items in this package. First, the provision relating to reform of the Guaranteed Student Loan Program that will bring in an estimated $115 million. This is similar to a provision we had in the Dole-Michel-Solomon proposal which we wanted to bring to the floor but were not allowed to offer. In essence what that portion will do is to enable the IRS to collect on student loans where previously the taxpayers have had to absorb the cost of billions of dollars in defaulted student loans.

And, Mr. Speaker, you know, nothing aggravates the American taxpayer more than this issue. After living up to their own obligations and paying off their own loans at great personal sacrifice and suffering in many cases, they then have to shell out more taxes to foot the bill for those who refuse to pay back their own debts. This group, would you believe, includes many doctors, many lawyers, many professionals, and many businessmen who are living high off the hog on taxpayers' dollars. That is disgraceful.

This bill is going to do something about that. The reform proposal will greatly lessen the possibility of such defaults by requiring, listen to this, greater creditworthiness to begin with, and more information to enable us to track and locate the borrower once he leaves school.

More importantly, it authorizes the Secretary of Education to garnish the disposable pay of individuals who are in arrears on their loan repayments.

These reforms are long overdue, in my opinion, and they should ultimately save the American taxpayers billions of dollars.

Second, with respect to the new provision for revised estimated taxes, like many of my friends on the Committee on Ways and Means on both sides of the aisle, I was greatly troubled by this when it first was unveiled; and I still have some pause over that provision. I realize that the negotiators have since worked out most of the problems initially identified with this proposal, and that it will presumably no longer have the unintended consequence of clobbering the little guy who has a one-time gain through the sale of his house or a lump-sum pension distribution.

□ 1320

I do, however, continue to worry about other inadvertent consequences that this might have. But, finally, let me just say I think the one thing that has persuaded me to support this package, notwithstanding these reservations, is the amendment adopted to this bill offered by the gentleman from Iowa [Mr. GRANDY], which will sunset the provisions on December 31, 1996.

That means the temporary tax increase will expire 5 years from now.

Mr. Speaker, I commend the gentleman on his amendment, which I believe was overwhelmingly embraced by the Committee on Ways and Means. The entire compromise package was subsequently reported from the committee by a vote of 29 to 7, with broad bipartisan support.

Mr. Speaker, let me conclude my remarks by saying that I not only support this long-overdue unemployment compensation compromise but I also support the rule that makes it in order. I say this as one who hardly ever supports any kind of restrictive rule.

But I think we do have one of those rare occasions where the bipartisan leadership is in agreement on the rule and the bill it makes in order. The President is also on board, and the budget agreement is finally being honored as it should have been all along and we never would have gotten into the situation we are in today.

But, most importantly, this rule deserves our support because it is in the best interests of those who have long ago exhausted their benefits and urgently need the extra relief now.

As Mr. Darman indicated in his letter to Chairman ROSTENKOWSKI, and I quote,

> The President has instructed the Department of Labor to prepare for implementation, on the assumption that the Congress may act immediately, with a view toward getting checks out before Thanksgiving, wherever possible.

I can think of no further action on the part of this Congress as we race toward adjournment than to assist in expediting the goals of making sure that those checks are going to get there as soon as possible.

That is why I strongly support the rule, and I urge every Member to vote for it and to vote for the bill that is coming right up.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the Republican leader who had so much to do with putting together this compromise.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, I will only take a moment because I will make some appropriate remarks at the time we consider the measure, but obviously the rule has to be passed in order that we might consider that.

I too would certainly embrace the remarks I just heard the gentleman from New York [Mr. SOLOMON] make with respect to the importance of our passage of this measure and the adoption of what now will be an amendment to the original base bill that has been agreed to in a very cooperative way by Members of the majority, minority, and the White House.

Since the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI] is on the floor now, I express my personal thanks and appreciation to him especially for the manner in which he has dealt with the minority in crafting this compromise.

So I would, obviously, urge all Members to support the rule and let us get on with the important business at hand.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, I of course rise in support of the rule, and I rise in support of the underlying legislation.

Around here, the operative phrase is, "Don't settle for a Band-Aid solution; don't settle for anything except a solution to the underlying root cause of the problem."

Clearly, the bill before us is a Band-Aid solution, and there is an underlying problem, that is, the lagging, flagging economy, the economy which could be in depression in some areas of the country, certainly in recession in most areas of the country, and in oblivion in certain other sectors.

But this is one time where the gentleman from Kentucky and, I would believe, all Members of the House and the other body will support a Band-Aid solution because the pain and the hurt out there among the long-term unemployed is so severe, the infection is raging so greatly that we need to apply a Band-Aid, a poultice, a cooling solution, something to ease the pain until we can deal with the underlying problem.

I think it has been said by both sides of the aisle that there will be attention to the underlying problems, the need to have the economy grow, the various tax changes that might be involved in that, the various incentives that may have to be adopted by this body and the other body to encourage business to develop.

But one way or the other, while we are awaiting the solution of the underlying problems, we need to pass this bill which is before us.

The gentleman from Illinois [Mr. ROSTENKOWSKI] and the other gentleman from Illinois [Mr. MICHEL] are entitled to praise from this body for the work they have done, as well as the Speaker, the President, who have cooperated.

Mr. Speaker, I think this is a great day for the House and certainly, more important, a great day for America.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. DREIER], a member of the Committee on Rules.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in support of this rule and congratulate the gentleman from New York [Mr. SOLOMON], my colleague, and Mr. BONIOR for putting this together. I think this is clearly a very difficult and challenging time for all of us in this House and clearly it is for every American.

Last night "Nightline" did a session in which they did not have experts from Washington or other parts of the world talking about the problems that confront us, they instead had people who are being victimized by the economic challenges with which we are dealing here today.

I am adamantly opposed to, and have consistently voted against, every tax increase that has come down the line. I am happy from having just spoken with our distinguished Republican leader, the gentleman from Illinois [Mr. MICHEL]. I have been assured there is not a tax increase in this package.

I am ecstatic at the prospect of being able to get at those people who have in fact abrogated their responsibility by failing to repay their loans to the Federal Government.

We have doctors, lawyers, and other people who have been making tremendous amounts of money, and yet taxpayers are still saddled with the obligation to pay off the educational expenses of these people.

It seems to me that this may be, as the gentleman from Kentucky just said, a Band-Aid approach. I am concerned about the prospect of people saying, "Well, over the next 20 weeks I don't have to look for work, I will look for it maybe in 19 weeks."

I am concerned about some of the potential impact of this, precedent setting as it is. But at the same time I think we do have to show a degree of compassion for people who truly need it. These are people who are not the standard people who have been welfare recipients in the past, but families, people who have held very good jobs in the past, who through no fault of their own have in fact been thrown out of work.

So I hope very much that we can pass this rule and move ahead with a very balanced approach. I congratulate the President and all those who have been involved and responsible for bringing about this compromise.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, today the House votes on a supplemental unemployment benefits package that will at long last provide relief to workers who, through no fault of their own, have exhausted their regular unemployment insurance benefits.

H.R. 3575 represents the fifth such attempt by Congress to help the millions of working men and women struggling to survive a recession that has threatened their homes, their families, and their lives. Both previous measures to extend benefits were cancelled by the President. Finally, the administration has seen fit to work out a compromise with leaders of the Congress to do something for unemployed workers who have spent months wondering whether their Government was going to help them or turn its back on them.

The Supplemental Compensation Act we vote on today is that compromise, and it comes none too soon. In my home State of New York, the unemployment rate stands at over 7 percent. A portion of my district has averaged 9.2 percent unemployment during 1991. Several States have a statewide unemployment rate of 9 percent or more over the last 6 months.

This legislation will help a great many of these workers as it provides that all States will be eligible for at least 6 weeks of extended benefits. Some States, including New York, will receive an additional 13 weeks of benefits, while the bill provides an additional 20 weeks to States with the highest unemployment rates. In additional, H.R. 3575 includes a reachback provision to cover those who exhausted their regular benefits after February 28, 1991, in States with adjusted insured unemployment rates of at least 3 percent. The bill will also extend additional unemployment benefits to eligible employees of educational institutions, ex-service members, and railroad workers with less than 10 years service in the railroad system.

H.R. 3575 does not require an emergency designation in order to comply with the Budget Act. Rather, the package is budget neutral, financed primarily by speeding up and extending revenue intake under current law.

Mr. Speaker, this relief has been a long time coming. I urge swift legislative and administrative action so that hope may be returned as quickly as possible to the millions of Americans who have been waiting for their Government to act.

□ 1330

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. McEwen], a distinguished member of the Committee on Rules.

Mr. McEWEN. Mr. Speaker, I rise to express a certain amount of concern about why we are in this position presently.

Mr. Speaker, as you know, many of us have longed to provide the extended unemployment to those that are in this condition, and, as you know, the tradition throughout the history of the Congress is such that during a recession, where less jobs are available, it takes longer to find a new job, and so the Congress, recognizing that, provides these extended benefits, as we seek to today.

Now there are three ways that this can be done. No. 1 is that we can use the fund that has accumulated for that purpose, and that way we would not increase taxes or increase borrowing. But under the recent budget agreement that money was all spent earlier in the year, so now Congress is in a position in which it has to do one of three things: Under the budget agreement, it must increase taxes on those that still do have a job, or it will have to go out and borrow the money in the marketplace, or it will have to find the $5.1 billion someplace in this $1.3 trillion budget, a very, very minuscule amount of money to gather from throughout the Federal budget.

Mr. Speaker, that was suggested by the President, however in August of last year the Congress, just before recessing for August, said that the President would provide these funds, and since there was no money left in the unemployment account that he could declare an emergency, violate the budget agreement and go out and borrow the money. The President chose not to do that, and so in September, when the Congress came back, they drafted a new bill that said this:

When the President approves this legislation, an emergency is automatically declared, and, therefore, the budget agreement is hereby abrogated, and the President will go out and borrow the money for the Congress to give for these purposes.

Mr. Speaker, all the time many of us felt it would be appropriate having to do that, as every family does that when they need a little bit of money from one source, they take it from another. We believe that somewhere in the Federal budget we could find the $5 billion to give to those in need.

But once again Congress refuses to do so, and so now we are here with, quote, a compromise, unquote. It is not a compromise at all. It is just a shifting from borrowing the money and adding to the deficit to increasing taxes.

My colleagues say, "Well, how is it going to increase the taxes?"

I say to my colleagues, "If you walk around this floor anytime over the next hour, they will tell you exactly the number of people that the Internal Revenue Service has estimated will have to pay this tax. They estimate it at about 475,000 people, and since it is only 475,000, why certainly we could vote to tax them and give it to those who are in need without question, and that's obviously a good political move."

Let me just explain what the tax is all about. Presently when a person estimates their income for the following year they are permitted to take quarterly an expectation as to what that tax will be, and in the last quarter, if they have missed it, then they must make up the difference. In other words, if one makes $45,000 one year, in the next year they are going to make $53,000. Under this new tax, what it says is that, if one predicts that their income is going to increase to $53,000, and instead of going to $53,000, it goes to $55,000, and you did not estimate that properly during the first three quarters, they not only pay the additional tax; remember the tax is not really due until the end of the year, but they should have paid it all along, and they will not only pay the additional tax, but under this bill they will be hit with a penalty, an IRS penalty, year, after year, after year. And if retirees get a report, a 1099 from their mutual fund, or if they sell a piece of property and there is an unexpected glitch somewhere, not only do they pay the tax on it, but they will be smacked with a penalty, and we intend to use that money for the next 5 years so Congress can pass this bill today.

Mr. Speaker, it is a questionable approach in my judgment. The better alternative by far would have been to find the $5 billion and do what they knew was right in the first place.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. Durbin].

Mr. DURBIN. Mr. Speaker, Congress has followed a tortured path to this day when we are seeking to extend unemployment benefits to 3 million Americans. Allow me to note several things that have happened during this journey.

President Bush has steadfastly refused to admit that this Nation is in a recession; 93,000 families in Illinois know better. Millions of American families know better. Not only are they in a recession, but their unemployment benefits are exhausted. Their alternative was to turn to welfare.

President Bush refused to sign two pieces of legislation sent to him over the last several months to provide unemployment benefits for these families and to declare an emergency so that it can be done immediately under the budget agreement. The President is willing to ask this Congress to declare an emergency for the Kurds and for Turkey, but not for unemployed Americans.

So, today we have the so-called compromise bill before us, and there is one point which should be made very, very clear. President Bush would not agree on extending unemployment benefits to unemployed Americans unless Congress agreed to raise taxes. That is right; read my lips: unless Congress agreed to raise taxes, and here are the taxes that are raised:

Under current law the unemployment tax rate on employers is set at 0.8 percent. It is scheduled to drop to 0.6 percent after 1995. This bill maintains the higher tax rate for an additional year on employers.

A colleague of mine on the other side of the aisle got up earlier and said he was assured by the leadership that there was not a tax increase in this package. Read on, my friend. There is a tax increase, and President Bush would not agree to this compromise unless it included that tax increase.

Mr. Speaker, it is fundamentally unfair to collect billions of dollars from American employers for the economic emergency we now face and then hold that trust fund sacred, not touching it, and raise taxes again on those employers. The Democrats would have reached into the emergency fund created for that purpose to help the unemployed. The President said, "No; I won't agree to it unless you'll raise taxes."

Remember that when the 1992 election cycle comes around and the President's party starts to talk about their steadfast refusal to ever increase taxes.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding this time to me.

As my colleagues know, the Democrats practice a lot of revisionist history. That last speech was one of the most interesting of the revisionist histories I have heard. What the President said all along was, "You can't increase unemployment benefits without paying for it. You can't add to the deficit."

Mr. Speaker, I am always astounded to hear Democrats come to the floor talking about the President has no domestic agenda. One portion of the President's domestic agenda has been to try to keep deficits from going up. Democrats in Congress consistently frustrate that attempt. They attempt to break last year's budget agreement despite the fact that they were the ones who drove the budget agreement, and now they come and complain about the fact that the President insisted throughout this process that we provide for unemployment benefits, but we do not drive up the deficit in the process of doing so. That is precisely the way they would have treated it. They do not care about deficits. They are perfectly content to spend money any which way they want to, and if the deficit happens to increase, so be it.

Mr. Speaker, the fact is that that is a major problem for the American people because it drives up interest rates. It does all kinds of harmful things for the economy, but then again they are the party who has been perfectly willing to kill jobs in order to try to keep the economy down so that they make out better politically.

That is what we heard a moment ago in the speech of the gentleman from Illinois [Mr. DURBIN]. The problem is that the Democrats consistently attempt to bring down the economic performance in hopes that that will payoff for them in political ways.

Now, it seems to me, that the one thing that has been achieved here is—and it is the main thing that has been achieved in this package—is we now have a package on the floor that is an unemployment bill that does not have increased deficits in it. I think that is an advantage. I personally would have preferred some other way to do it, and I think the President would, too. We would prefer if the Democrats would go after some of the junk they have in the spending packages through this. As my colleagues know, we can find $5 billion in congressional perks and pork, but the Democrats would not touch that type of stuff because they would prefer to add to the deficit.

□ 1340

Mr. BONIOR. Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, to respond to my good friend, the gentleman from Pennsylvania [Mr. WALKER], let me say that the fact is that there is an $8 billion balance in the trust fund created for this purpose. The President refuses to spend that money and refuses to declare an emergency to help unemployed workers.

The gentleman from Pennsylvania will have to concede that his approach, and the President's approach, to this compromise includes a tax increase on American businesses in 1995. The gentleman can dance around and talk about perks and pork all he wants. The fact is that this compromise includes a tax increase. It is a bitter pill for my Republican friends to swallow.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Washington [Mr. CHANDLER].

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CHANDLER. I yield to my colleague, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank my colleague for yielding.

The gentleman from Illinois [Mr. DURBIN] once again engages in revisionism. The fact is that there is no money in the trust fund that has not already been committed under last year's Budget Act. The Democrats in last year's Budget Act understood that there were moneys in these trust funds. They decided to spend it for other things, other than the purposes for which the trust fund was created.

So, therefore, while the money is there, it has already been committed under the trust fund for other purposes.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. That is absolutely ridiculous, and the gentleman once again is misleading the American people.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. CHANDLER. No; I will not yield. I want to use my own time.

I want to say, Mr. Speaker, that I am very glad we have a compromise here today, and I want to thank the chairman of the Committee on Ways and Means for his leadership, the minority leader, the gentleman from Illinois [Mr. MICHEL], for his leadership, and Senator DOLE for his leadership in bringing about this compromise today. People are hurting out there in America, and I think they have been impatient, and rightfully so.

I am very pleased that workers who are out of work and who have exhausted their benefits in the State of Washington will now qualify for 13 additional weeks of benefits. But I have to say that while I am one who does not normally get up on the floor of this House and engage in this political rhetoric, I am going to today, because I am sick and tired of seeing George Bush blamed for this delay.

When I came back from the August recess, I read in papers from all across this country that the Democrats were going to use the unemployment compensation issue to try to embarrass George Bush, and that is exactly what those original bills were intended to do. All we have to do is read the rhetoric. The President never said no to an unemployment compensation extension. He said, "No, unless you pay for it." He is now signing this bill. We have done it right. It is paid for, and it does not add to the deficit. It does not break last year's budget agreement.

Let me say further that I do not want anybody to think for a second that this Member believes that this is the answer to this Nation's economic problems. People do not want welfare; they want jobs. We have the most significant jobs bill in this Congress waiting in conference right now, and that is the transportation bill. We ought to get cracking and pass that bill and put those Americans who will go to work immediately to work on those thousands of construction projects that will be funded by that bill.

Mr. Speaker, that is the kind of rhetoric that the people want to hear.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. HERTEL). The time of the gentleman from Washington [Mr. CHANDLER] has expired.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. WISE. I am happy to yield to the gentleman from Ohio.

Mr. PEASE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, when my colleague, the gentleman from Washington, spoke, I hope I did not hear him right, but I thought he said, "The American people don't want welfare." I hope he is not equating unemployment benefits with welfare. That is certainly not the case.

My friend, the gentleman from Pennsylvania, said earlier that the trust funds were fully committed by the Democrats a year ago to other purposes. I would like to have him specify what those other purposes were.

Mr. WISE. Mr. Speaker, I appreciate the gentleman's remarks. My observation would be that this bipartisan compromise had better get voted on quickly before it unravels right here on the floor.

Mr. Speaker, I would like to note that I rise in support of the rule.

Mr. Speaker, there are two aspects to this bill. One is the provision of extended unemployment benefits to those who have run through their 26 weeks and through no fault of their own are still unemployed and are trying to find work, and will find work, but they need some additional assistance.

The second issue is how we pay for this, and that is what has dragged this thing out. I wish that the Rules Committee had seen fit to make my amendment in order. My amendment would have changed the way we pay for it from what is on the floor today, because it would instead sequester foreign aid for a period of 4 years, and that money would have been used to raise the $5.1 billion to pay for this. Unfortunately, my amendment was not adopted, so we have the provisions of the bill before us.

Nonetheless, it is a bipartisan compromise, and the important thing to remember is that the first issue again is to get the benefits to the people who need them the most: for instance, the 12,300 West Virginians who have already exhausted their unemployment benefits but are still unemployed; those families will benefit from this package, and will benefit very soon. Benefits will also go to the additional 300 West Virginia families who every week exhaust their regular unemployment benefits. These people are out looking for work, they are trying to pay the mortgage, they are trying to make their car payments, and they are trying to keep that child in school. Those additional 300 families a week will qualify for this and be able to draw an additional 20 weeks. Benefits will also go to those 16,900 West Virginia families who are currently unemployed and are presently in the first group of benefits, the basic unemployment benefits, and they know that if they are not able to find work, there will be additional relief for them.

I want to stress that these are working families who have deposited taxes into our system for many, many years, and they are simply saying, "We don't want a handout. We just want the assistance given any foreign country to help them over the rough times." These are benefits that are given so we can help our West Virginia families over their rough times.

Mr. Speaker, I urge support of this rule and of this bill.

Mr. SOLOMON. Mr. Speaker, in yielding 3 minutes to the distinguished gentleman from New York [Mr. MCGRATH], let me inform the gentleman from West Virginia [Mr. WISE] that we offered his motion to make his amendment in order. It was defeated on a party line vote, with every Member of his party voting against making his amendment in order. I would have loved to have seen it.

Mr. MCGRATH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am greatful to my colleagues for persevering in the effort to extend unemployment benefits. While I would have liked to see legislation on this issue enacted last July, our democracy does not always produce instant gratification.

To those who criticize Congress for its shortcomings, I would say that the bill before us is an example of our constitutional system at its best. We began this debate miles apart with both sides voicing legitimate regional, economic, and philosophical concerns. While no one is completely satisfied with the compromises, this bill adequately addresses the issues we wrestled with over the last 5 months.

Most important, Americans in need of a helping hand will soon see some measure of relief from the economic downturn that continues to plague our Nation.

Mr. Speaker, I particularly and especially want to thank our Republican leader, the gentleman from Illinois [Mr. MICHEL], the chairman of our committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], and my colleague, the gentleman from New York [Mr. DOWNEY], whose efforts over the past several days have made this a truly bipartisan initiative.

Mr. Speaker, I urge every Member of this House to support this package.

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. DOWNEY], who probably more than anybody else in this institution is responsible for moving this legislation forward and for getting the attention of this body to the needs of the people who will be benefiting by this bill. The gentleman from New York has worked tirelessly on it, and he is in my mind primarily responsible for alerting this Congress to the needs of these people who really have very serious problems at this time.

□ 1350

Mr. DOWNEY. Mr. Speaker, let me thank my friend, the gentleman from Michigan [Mr. BONIOR], and also my friend, the gentleman from New York [Mr. MCGRATH], for their kind words.

I want to begin by recognizing the work of the minority leader, Mr. MICHEL. Many people disparage politics today because political parties talk past each other and do not solve problems. I think that the activity of the minority leader in the last couple of days to help forge a compromise stands that theory on its head. He is as interested in my mind in helping those people who need help as any other Member of Congress, and without him I am not sure that we would even be here today. Thank you very much, BOB, for your fine work.

Mr. Speaker, we have heard a lot of revisionist history here, and I do not want to engage in that. We have taken too long, both from the presidential perspective and a Congressional perspective, to be here. There are 8.5 million people unemployed. There are 3 million people who desperately need our help.

Mr. Speaker, my friend, the gentleman from New York [Mr. MCGRATH], referred to those on Long Island. There are almost 93,000 Long Islanders out of work, and they are desperate for our help. We have finally achieved what we have for so long set out to do, and that is forge a classic compromise.

Mr. Speaker, with all due respect to my Republican colleagues who have come up to the well and said they wanted to pay for it, I understand that, and I think that was the right thing to do. I supported the Rostenkowski amendments in the previous bills to make sure that it was paid for. But none of you did, or very few of you did. So I would not want to simply stand there and say now we have gotten exactly what we wanted and Democrats stood in the way of that. It should have been paid for and it should have been paid for back in August, but there was never any indication back in August that there was an interest in forging a bipartisan compromise.

Mr. Speaker, the problem that exists with unemployment in November, the 17th month of this recession, has existed for the last 6 months, and it will exist for the next couple of years until we finally fix the unemployment compensation system once and for all.

This is a temporary fix in a program that is completely broken. It started to be broken in the early eighties, and now it is completely unworkable. We have States across this country that have high rates of unemployment and yet do not qualify for extended benefits. Until there is a permanent fix in the law, we are going to find ourselves in this situation recession after recession.

So while we are busy throwing sometimes bouquets and boss to one another about who is responsible for what and when, understand one thing: This is a temporary fix. The program is still broken. We still have to find a way for extended benefits to be paid on a more automatic basis so that it can function as the countercyclical tool it was designed to be back in 1935.

Mr. Speaker, if we do not fix it, we will go through this tortured process once again in a couple of years, and lots of innocent people, tens of thousands of them, will be harmed.

Mr. Speaker, let me review one or two points that I feel are absolutely critical. We wanted on our side of the aisle to provide a three-tier layer of benefits, 20, 13, and 6 weeks. We have done that.

We wanted to do something else. We have changed the law and, thankfully, in a permanent way, to make sure that the people who are in the military, honorably discharged, are treated the same way as those members of the military who were separated involuntarily.

There was a big argument about this. Our friend in the Senate, Mr. DOLE, did not want to do that. But Members of Congress in the House here, both Republicans and Democrats, recognized that we needed to put our dollars were our mouths were when it came to dealing with the heroes of Desert Storm. We make the changes that are necessary for those veterans. We do not have two ways of treating military retirees.

Mr. Speaker, we have mistreated people who left the military 10 years ago. That abuse ends today.

With respect to the people who have exhausted their benefits, the difference between this bill and the Dole bill can be measured in simple numbers. More people—800,000—will benefit from the bill that we will pass today than would from the prior Dole compromise.

The benefit level here, while it comes, in my mind, a month too late, is adequate to deal with the problem. If we recognize that it is only a temporary fix, we will be fully on our way to solving a long term and important problem that faces this country.

Mr. Speaker, this is a middle class entitlement program. Make no mistake about it, the people who are out there who need and deserve these benefits feel they have earned them, and they have. We have finally, finally lived up to our commitment to them. For that, we should all be very thankful.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise to express my concern that the unemployed in Wisconsin are being left out of this bill. The bill proposes only 5 weeks of extended unemployment compensation benefits for the unemployed in Wisconsin, whereas the unemployed in States like California, Florida, Illinois, and Texas would get 13 weeks, and those who are unemployed in Connecticut, Massachusetts, Michigan, and New Jersey would get 20 weeks of unemployment compensation.

Furthermore, because Wisconsin is ineligible for reach-back benefits under this bill, those whose unemployment compensation benefits have run out by this Sunday would not get any extended benefits under the provisions of this bill.

Unfortunately, this bill does not recognize that the misery of unemployment does not have a geographic boundary. I am very afraid that Wisconsin workers who were hoping that the Federal Government would provide them with relief will be sorely disappointed.

Mr. BONIOR. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I express my gratitude to the gentleman from Michigan [Mr. BONIOR] for recognizing me.

Mr. Speaker, I rise in support of the bill. It is long overdue for us to be enacting and sending to the President a bill that he hopefully will sign.

As much as I support this bill, I would like to call attention to a major flaw in the bill, a flaw that was inserted at the insistence of the White House.

All of the previous bills we have considered, including the bill reported by the Committee on Ways and Means 2 weeks ago, calculated whether a State was eligible for reach back or not according to the total unemployment rate of that State. All of the previous bills did that.

I have been pushing the use of the total unemployment rate, the TUR, for 8 years now, because I think it is much more valid than the insured unemployment rate, which does not even count those people as unemployed who have already exhausted all of their benefits.

The White House this week, in fact in the compromise before us today, insisted that we go back to the insured unemployment rate, the IUR, which is inaccurate and not a proper reflection of how many people in a State need help.

The result of the insistence of the White House that we use IUR means no reach back provisions for unemployed workers in Ohio, Delaware, Indiana, Louisiana, New Hampshire, North Carolina, and Oklahoma.

It is going to be hard to tell the workers in those areas who exhausted their benefits months ago that they are not eligible for the reach back provisions that will be available to those in many other States. I am going to have to tell them straight, it is because the White House insisted on using an outmoded and inaccurate measure of the real distress of unemployment in a State.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I rise in support of this bill. Yesterday, Oregonians found out that 3,700 people lost their jobs just last month—that's a jump of five-tenths of 1 percent.

It has been 136 days—and two bills—since this House first passed extended unemployment benefits. Since then, 40,653 Oregonians have received their first unemployment check, and 15,549 have received their last. No wonder people are losing faith in Government—no wonder they're fed up.

While Oregonians have been to the unemployment office, the President has been on an all-expenses-paid world tour: France, London, Greece, Crete, Turkey, the Soviet Union, Spain, Italy, and the Netherlands. I hope he stays home long enough to sign this bill.

Maybe during a layover, the President can stop by Portland and meet Wayne Benson and his two kids. Unemployment benefits are getting Wayne the retraining he needs to find real work. Last month, Wayne told me that he would lose his home and his future without his unemployment check. Next week he gets the last one.

Let us pass this bill and get Wayne Benson and 86,000 other Oregonians the benefits they have earned and need so desperately.

□ 1400

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, there is an old adage that good policy makes good politics. If that is true, today we are going to see the antithesis of that adage. Today we are going to see that bad politics makes bad policy.

Mr. Speaker, the trouble is, we have the wrong bill being made in order by this rule. We do not have here a bill that addresses the real serious needs of all our Nation's unemployed. No, Mr. Speaker. We are making in order here a bill that is a political document that first addresses the needs of the politicians involved and then, secondly, addresses in the most marginal way the needs of only the most elite of the Nation's unemployed.

Not only that, we have put forth a bogus funding proposal that is an embarrassment. Not only have we failed with this bill to do anything within our power, and our responsibility, and our duty to help the Nation's young college graduates find a job in a recovering and growing economy and job market, but we then pretend that we will pay for the costs of paying those who have had already the privilege of working and drawing unemployment benefits by garnishing the wages that these college students will not have in order to pay for it. This is an intellectual and moral sham. We ought to be ashamed to bring a bill of this nature to the floor when, in fact, we ought to have been, since August, instead of playing politics in the most shameful way possible, talking about a growth package to put this Nation's unemployed back to work.

I will vote against this rule, and I will vote against the bill, because the American people deserve more.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding time to me.

I stand here in support of the rule and in support of the bill. As someone who has voted against past measures, simply because I wanted to make sure that when I went to talk to my high school students I would tell them that we are not again going to be spending short term and put the debt on their backs for the rest of their lives. I am glad to see that both sides were able to sit down and work out a compromise, a compromise which, frankly, is not perfect, but not too many are. That is good enough, as far as I am concerned, that Members of this body should be supportive of it because, as the gentleman from New York [Mr. DOWNEY] said, there is a need out there. And there is something that we should be addressing. I only wish that along with the unemployment package that we are considering today, we would also be considering a growth package that would be looking also at the future of these young men and women who are going to be entering the work force to make sure that they, too, have opportunities that many of us in this Chamber have had, which is an opportunity for a good job, opportunity to build a home and to live and work in a prosperous America.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Let me just, in wrapping this up, say that I was a little concerned for a while that we were going to get back into the partisan bickering that has delayed this bill for 4 months. But, by and large, I want to commend both sides of the aisle because we have really done what we needed to do. And that is to put this bill together, put it on the floor, and give it to the American people.

I voted against the other measures that came to the floor because I was so concerned that we were not going to live up to the agreement that both sides of the aisle gave to the American people that we would support the budget agreement. We should not increase the deficit.

All of those previous unemployment bills would have done that. They would have added $6 billion to an already burgeoning $350 billion deficit. That would have increased unemployment, if we had passed those bills. That would have been wrong.

I want to commend the President for sticking to his guns because we now have a bill that is pay as you go.

We are going to pay for these benefits, which is the way it should be. It will not increase the deficit and, therefore, even though we could not have an economic growth package to go along with this bill that would have created jobs along with paychecks for those that are unemployed at the present time, at least we will provide the necessary benefits that we have to give them today. I urge every Member on both sides of the aisle to support this rule and then support the bill.

Let us get it over to the President and let him sign it, as he has said he will do, and we will get the checks flowing before Thanksgiving.

Mr. Speaker, I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

This legislation helps people who need help, people who through no fault of their own, wake up one morning, go to work, confronted by the boss who says that, "I'm sorry but I have to lay you off. Sales are down. Business is bad. I am sorry."

We are talking about hardworking people who built this country, Mr. Speaker, talking about working families, middle-income people, who through no fault of their own, have been put out of work. These are people that get up early. They punch in. They eat lunch at their desk. They sometimes have a second job.

It is a bill that the American people want and have said so, loud and clear for the last 4 months.

Let us pass this bill. Let us get it on the President's desk and let us get it done by Thanksgiving. When we go back to our districts and our townhall meetings and talk to our unemployed men and women, let us be able to look them in the eye and say, we did something for them. Let us be able to say we gave the President yet another chance to give the deserving Americans another chance.

Mr. Speaker, I urge my colleagues to vote for the rule, vote for the bill, and let us get this job done and move on to the questions of growth and getting this economy moving again.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HERTEL). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 37, not voting 6, as follows:

[Roll No. 395]

YEAS—391

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe

Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—37

Allard
Allen
Archer
Armey
Baker
Barton
Bunning
Burton
Coble
Combest
Crane
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Duncan
Fawell
Hancock
Hefley
Holloway
Hopkins
Inhofe
Johnson (TX)
Lightfoot
Marlenee
McCandless
McEwen
Petri
Ridge
Rohrabacher
Schaefer
Sensenbrenner
Smith (TX)
Stump
Taylor (NC)
Vander Jagt
Weber

NOT VOTING—6

Brown
Campbell (CA)
Hatcher
Mrazek
Schulze
Young (AK)

□ 1430

Mr. LEWIS of Georgia changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HERTEL). Pursuant to an event earlier today, the Chair has an announcement relating to recognition.

Earlier today the Chair inadvertently entertained a unanimous-consent request to alter the special order of business established by House Resolution 277 to permit an additional unrelated amendment to H.R. 2094 in the Committee of the Whole. Although objection was heard, the Chair believes that such requests should not even be considered. The Chair had not been informed of the nature of the request and was misled in that regard. It is the type of request that should be cleared with the chairman and ranking minority member of the committee of jurisdiction and with the party floor leaders. This view is consistent with the Chair's previously announced policy on recognition for unanimous-consent requests for the consideration of bills and resolutions, and this announcement should serve as a further elucidation of that policy.

FEDERAL SUPPLEMENTAL COMPENSATION ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 280 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3575.

□ 1433

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3575) to provide a program of Federal supplemental compensation, and for other purposes with Mr. LEWIS of Georgia in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong support for the Emergency Unemployment Compensation Act of 1991, a bipartisan compromise on unemployment benefits.

I have stood before this body on several occasions in the last few months arguing for an extension of unemployment benefits for millions of unemployed workers and their families. I sincerely hope that at long last we will pass, and the president will sign, this much needed extension of unemployment benefits.

Mr. Chairman, H.R. 3757 is sponsored by the Republican leader, Mr. MICHEL, the majority leader, Mr. GEPHARDT, the acting subcommittee chairman, Mr. DOWNEY, and myself and is the product of good-faith negotiations between Democrats and Republicans in the House, as well as the administration. It represents a good compromise which I expect the President to sign because it is fiscally responsible and it provides much needed benefits to millions of unemployed Americans. In fact, the Director of the Office of Management and Budget, Mr. Darman, sent a letter to me yesterday which said "the President strongly urges the prompt enactment of the compromise." I will submit a copy of this letter for the RECORD.

The compromise bill would retain many of the provisions of the previously vetoed bill, S. 1722, as well as many provisions of H.R. 3575, as previously reported by the Ways and Means Committee. However, the compromise before you today contains important modifications to both the benefit and financing provisions of the prior bills.

First, the Emergency Unemployment Compensation Program would be effective for 7½ months, from November 17, 1991, through July 4, 1992. However, it would have the same reach-back starting date of March 1, 1991, that was included in the vetoed bill. Any worker who has exhausted his or her regular benefits on or after this date would be eligible for weekly benefits if he is still eligible when the program is effective. States would be able to pay three tiers of benefits of 6, 13, or 20 weeks depending on unemployment and benefit exhaustion rates in each State. Under this bill, 24 States would be eligible for extended benefits under the first tier of benefits, 19 States would be eligible under the middle tier, and 10 States would be eligible under the highest tier. In addition, 34 States would be eligible for reach-back benefits.

Second, H.R. 3757 would retain the provisions in H.R. 3575 concerning job search demonstrations, ex-servicemembers' benefits, and nonprofessional school employees, and would add a railroad workers provision. The total cost of the benefit package is approximately $5.3 billion over 5 years. Some 3 million unemployed individuals and their families will receive assistance as a result of these provisions.

H.R. 3757 finances this benefit package with four provisions. First, a permanent extension of the IRS' authority to collect nontax debts through refund offsets of delinquent taxpayers. Second, a 1-year extension in 1996, of the 0.2 percent FUTA tax. Third, a revision of the so-called Bentsen proposal dealing with estimated tax payments that would treat wealthy individuals who make estimated tax payments more like wage earners who are subject to income tax withholding. And fourth, a compromise provision that would enable the Federal Government to collect payments from individuals who have defaulted on their student loans. I want to emphasize that both the proposed increase in the FUTA wage base as well as the proposed spectrum fees have been dropped from the compromise before you today.

The compromise would conform estimated tax payments of taxpayers more closely to their actual tax liabilities. The provision would sunset after 5 years. Only taxpayers whose adjusted gross income is above $75,000 for the year and whose AGI has grown by more than $40,000 over the past year will have to increase their estimated quarterly tax payments. Even these taxpayers will be exempt if their $40,000 increase is from an involuntary conversion or the sale of a principal residence, or if they have not made quarterly estimated tax payments during any of the prior 3 years. In addition, special rules are provided for partnerships and so-called subchapter S corporations.

Mr. Chairman, I also want to point out that the bill I am presenting today contains two provisions that are not within the jurisdiction of the Committee on Ways and Means. The first provision deals with railroad unemployment insurance benefits, and is within the jurisdiction of the Energy and Commerce Committee. This provision would extend unemployment benefits to rail workers with fewer than 10 years of service in the same way it does to other workers. The second provision deals with guaranteed student loans and is in the jurisdiction of the Education and Labor Committee.

I want to emphasize, Mr. Chairman, that both of these provisions were included in the bill only after discussion with and the support of the leadership. In the case of the guaranteed student loan provision, it was included only after extensive negotiations with and at the insistence of the administration. I want to give absolute assurances to the two committees of jurisdiction that the inclusion of these two provisions does not constitute any precedent for the future. The Committee on Ways and Means will not cite the inclusion of these provisions in this bill as a jurisdictional precedent in the future.

Mr. Chairman, we have waited far too long to pass this essential bill providing much needed unemployment benefits to millions of our fellow citizens. Because some unemployed workers might have become discouraged in the process, I urge the administration to widely publicize the availability of these benefits. These individuals deserve the benefits to which they are entitled, and I hope all of them will claim and receive their benefits as soon as possible.

Now is the time for the politics to stop and for us to act. The administration and the States are ready to send out checks before Thanksgiving wherever possible.

I urge adoption of this critical legislation.

Mr. Chairman, the letter to which I referred is as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The President has been fully briefed on the unemployment insurance negotiations. He is particularly pleased that, at last, a satisfactory compromise has been reached.

According to our estimates, the compromise is consistent with the Budget Enforcement Act (BEA) in each of the fiscal years 1992 through 1995. This, as you know, has been one of the key criteria the President has insisted upon from the outset. Because the test of consistency with the BEA has now been met on a mutually satisfactory basis, the President strongly urges the prompt enactment of the compromise—in order that benefit payments may be made at the earliest feasible date. He has instructed the Department of Labor to prepare for implementation on the assumption that the Congress may act immediately—with a view toward getting checks out before Thanksgiving wherever possible.

Because OMB estimates that the compromise is fully funded in each of the five budget years, no sequester would be triggered by enactment of the compromise. I therefore respectfully request that you omit any directed scorekeeping language (which we would, of course, have to oppose—and which is now unnecessary).

In making our scoring estimate, I should note that we have accepted a CBO criticism of our earlier estimate of savings derived from the IRS non-tax debt collection provision. CBO correctly pointed out that we had made our error in our baseline calculation. On the advice of OMB's General Counsel, we are correcting our error (as explained in the attached note). I trust you will find this entirely appropriate.

Again, please let me thank you for your consistent interest in trying to conform with the budget agreement—and in helping, thereby, to make this compromise possible.

With best regards,

RICHARD DARMAN,
Director.

Attachment.

The baseline in the President's February budget was constructed based on the belief that the law authorizing the IRS to offset against tax refunds debts owed the U.S. was permanent law. However, the IRS refund offset authority in fact expires, pursuant to law, in January 1994.

The Budget Enforcement Act (BEA) provides that, in constructing the baseline, laws are "assumed to operate in the manner specified in those laws." (Section 257) The baseline calculation violated this BEA provision because the IRS refund offset law was mistakenly assumed to continue when the law provides that it expires. This mistake of law was identified by CBO in their February review of the President's budget.

The BEA also provides that, in scoring legislation during the year, OMB must use the economic and technical assumptions underlying the most recently submitted President's budget. This BEA provision and the BEA baseline provision raise a conflict of law. If OMB uses the technical assumption in the budget concerning the IRS refund offset law, it will continue to violate the BEA baseline provision and perpetuate a mistake of law. If OMB corrects the mistake of law, it will arguably violate the BEA provision requiring use of the assumptions contained in the President's budget.

This conflict should be resolved in a manner most consistent with the principles and purposes of the BEA.

The purpose of the "no change" provision of the BEA is to prevent the use of estimating discretion by OMB to shift the baseline during the year. This concern could be implicated if there is a change under any circumstances or for any reason. However, the concern is directed at changes that reflect a change in judgment—better analysis, new information or improved estimating techniques. This concern is reduced (arguably, eliminated) when the change reflects not a shift in estimating judgment, but recognition of an error of law that violates a provision of the BEA.

The purposes of the detailed estimating rules of the BEA were to set forth a precise process for enforcing spending limits and to confine OMB estimating discretion. Allowing a violation of those directives to be uncorrectable would undermine the purpose of the BEA to establish a budget enforcement process based on rules. The estimating rules of the BEA would be rendered meaningless if their violation could not be corrected; a rule the violation of which cannot be remedied is not a rule. Not correcting such a violation would also undermine the purposes of the BEA by increasing OMB discretion—allowing OMB to make erroneous assumptions that violate the BEA but cannot be corrected.

□ 1440

Mr. ARCHER. Mr. Chairman, I yield 6 minutes to the respected minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I rise in support of the compromise forged between the President and the bipartisan leadership in this House to provide supplemental unemployment benefits.

Mr. Chairman, I want at the very outset to pay my respects to the distinguished chairman of the committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], for the manner in which he has dealt with the minority in forging this compromise, and also those of his cohorts on that committee.

Mr. Chairman, let me also pay my respects to my ranking member and the Republican members who serve on the Committee on Ways and Means, with whom I may have a difference of opinion. I think primarily, on our side, because of our budget restraints, there are those much more inclined to find an offset by way of expenditure reductions as distinguished from foraging around out there in the wilderness for some means by which we can get the kind of revenue that satisfies our budget agreement, to be perfectly frank. I am getting a little bit wary of having to do that because it is getting more and more difficult all the time.

But I do, as I say, want to thank the distinguished gentleman for giving, as he gave, and for conceding to some of the demands that he made.

In a phone call from the President yesterday he expressed his support for this compromise.

Mr. Chairman, in a letter from the Office of Management and Budget Director Richard Darman, I have been assured that this program is fully funded in each of the 5 years and that it is consistent with last year's budget agreement.

The Department of Labor has indicated to us that the legislation, if enacted in the next day or so, as we expect it to be, there is a real possibility that the checks can be in the mail by Thanksgiving or soon thereafter.

The road to action has, at long last, been laid out before us through compromise. And all we need now is the good judgment to get on with our travel down this road.

The agreement is based on three principles, which the President early on set forth and which we have now accepted.

First, the program has to be temporary. Second, the program is fully paid for, it will not add to the deficit and it will not result in a sequester, which is always a threat out there if we do not abide by the budget rules.

Third, we are not resorting to the declaration of emergency to break the budget agreement. Some would question whether this is really an emergency, or emergency enough to break the budget agreement. But the minute we do it for one program, it is sure going to follow that we would resort to that mechanism for other programs for which we cannot find the financing.

Now, as the chairman indicated, we do provide the three tiers of benefits under formulas designed to target the benefits where the need is greatest.

Originally, we were at two tiers; so that was a concession on our part to move to the three tiers.

The extended unemployment program agreed upon will provide 20 weeks of additional benefits to 10 States, 13 weeks of benefits to 19 States, and the remaining 24 States will receive 6 weeks of additional benefits.

Now, a reach-back provision will be available to 34 of our States. This means those who have exhausted their regular 26 weeks of unemployment benefits since way back on March 1, 1991, will now be eligible for the additional benefits their States qualify for. Those benefits would be paid retroactively.

Let me touch upon those financing features. As the chairman indicated: First, the IRS tax refund offset program is permanently extended. Second, the program requiring individuals to make estimated tax payments has been modified, but the modifications will expire in 5 years. I think that is important.

Now, individuals making over $75,000 in adjusted gross income, whose income increases by more than $40,000 in the next year, will have to make estimated tax payments equal to 90 percent of their tax liability.

This is to get them to make estimated tax payments more in line with their real income and, quite frankly, more in line with what everyday working men and women are obliged to pay by way of their weekly or biweekly withholding.

Mr. Chairman, we have carved out some exceptions so that hardship cases can be avoided. All told, it is estimated that we are talking about 450,000 taxpayers in this high-income category.

I know that our distinguished ranking member has reservations about the concept itself. He is a very diligent member of that committee who knows the workings of tax law much better than I do. But on this issue we have a disagreement. Hopefully, we have protected ourselves enough with the carving out of these exceptions that we will not run afoul of our own doings today, a year or so down the road.

Mr. Chairman, the third financing mechanism is the Federal unemployment tax surcharge of 0.2 percent, which is being extended for 1 year beyond 1995.

And fourth, changes have been made to collection procedures for delinquent student loans.

Mr. Chairman, in this House the majority has its agenda, and we have ours. On many occasions we both feel compelled to address the same issue but in a different way.

At least that is the way we began our discussions on this issue.

Our differences on this issue had to do principally with coverage and financing. We have compromised in order to do what we feel can help Americans in need. It is the right thing to do.

Mr. Chairman, unemployed Americans do need our help; not the rhetoric, or posturing, or the partisan sniping that has taken place. I understand that give-and-take.

But I just want to say again, in conclusion, that there are times when the two sides, the divergent sides, have got to come together by way of compromise in the interests of the American people. I think that is what they would prefer that we do, recognizing sometimes that those differences between the two parties have to be acrimoniously debated in this House before we finally come to an agreement.

But this is a good agreement, and I hope there will be overwhelming support on both sides of the aisle, in support of the compromise.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, I rise in support of the legislation. I will skip the usual partisanship and incorporate by reference the obvious.

Mr. Chairman, I do want to make an observation about the provision in the bill that provides for garnishment, regardless of State law, of wages of people who have student loans that are delinquent and have not paid them. I think that is a very good thing to do.

The Government ought to collect the money. In the words of Calvin Coolidge, "They hired the money, let them pay it back."

It is no more than fair.

On the other hand, it is awfully one way, because the private employers to whom the money is owed by Federal employees cannot garnish the wages of Federal employees. What Uncle Sam is saying in this particular provision is very simply this: "Don't call on us, we will call on you." It is time Uncle Sam lived up to the responsibilities of an employer himself and allow just debts to be collected and stop defending deadbeats on the Federal payroll, of whom there is no more than 2 percent.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I understand the pressure that the President has been under on this issue. He is a very, very caring human being, and he cares about those who have lost their jobs through no fault of their own and cannot find work through no fault of their own.

□ 1450

However, Mr. Chairman, he has insisted that the budget agreement and the deficits facing this country not be increased so that our children and their children will not have to pay additional amounts, and to his credit he has won this battle with the Congress. Perhaps unborn generations will never know of this, but he has stood firm in their favor.

I think it should be well understood by this body, and by the people of this country, that this has nothing to do with putting money in the unemployment trust fund. This is strictly a budgetary operation to be sure that we do not increase the deficits. If we want to increase spending out of the trust fund that was not contemplated at the time of the Budget Enforcement Act's passage, then we should offset it. That offset, to me, should be out of other spending programs, not by additional revenues raised from the workers of this country. This plan does not put additional dollars in the fund. Ultimately they must be replaced, and ultimately it is a virtual certainty that payroll taxes will go up to put those dollars in the fund, but we should not have to pay twice out of revenues. Spending should be cut to accommodate this additional spending program to meet the requirements of the budget.

All of us in this House care about the plight of those who, through no fault of their own, have lost their jobs and who, through no fault of their own or their own efforts, are unable to find other jobs. But does the end justify the means?

I stood on the floor of this House in 1986 for 3 consecutive days and pointed out to the people of this country what would happen if we passed the 1986 Tax Reform Act that proposed fairness, and simplicity, and growth. Where is that growth today? But it is deja vu because once again the powers—the powers that wish to make something happen because of the pressures that exist currently—have come together to pass this bill, and it will pass overwhelmingly. But my remarks will be in the RECORD, as they were in 1986, and now people come up over, and over, and over again and say, "Why did the Congress pass that act," and I say, " Read the RECORD."

We hear lip service given over and over again by almost all the Members of this body that we have to have fairness and simplicity in the Tax Code, and in its present form this bill does neither. In fact, it exacerbates the unfairness and the complexity of the Tax Code.

I heard in 1986,

> We're short of revenue. Let's just give some more penalty options to the IRS. Let's give them some more agents. They'll raise more revenue out of the existing tax code, and that way nobody has taxes increased.

Talk to the people who are being stepped on by IRS agents and hear their stories where innocently they have made mistakes, and they pay, and pay, and pay. That same thing will happen as a result of this financing mechanism. People will be blind-sided with no knowledge of what to expect on their next year's taxes until they prepare their form in April and until they receive their K-1's by March 15, if they are lucky, and their 1099 by the end of January, if they are lucky.

But the Government under this will have the IRS agents out with their penalty interest to penalize those who fail to pay in advance, and already the Government takes in three to four times more money in overpayments during the year than in underpayments, but those who overpay do not get any interest on the money that the Government uses, which is theirs. This will compound the inequity of those provisions, and it will boomerang on every one of us when payers, taxpayers, legitimately paying their taxes are faced with these penalty interest deficit charges and are forced to pay by the IRS. It imposes unfair mandatory standards of accuracy on taxpayers who cannot find their way out of a new maze of safe harbors in estimated tax collections.

Ironically this bill also sets a very intriguing precedent, one which I do support, for future consideration of economic issues and tax policy proposals before the Committee on Ways and Means. Under the CBO and joint committee scorekeeping this package is $910 million short in the first year of meeting the requirement of the Budget Enforcement Act. In other words, it increases the deficit in the first year by $910 million under CBO and joint committee scoring. But when it came before our committee, just in the nick of time, the chairman received a letter from the Office of Management and Budget which said the package would not trigger a sequester, and so expediently the committee disregarded all of the restrictions and strictures that have always been placed upon us in the Committee on Ways and Means to follow CBO and joint committee estimates, and they said, "What's good enough for OMB is good enough for us."

That is an interesting precedent because I have a number of items that I will propose in the future where OMB scorekeeping disagrees with CBO-joint committee which in the past I have been prohibited from offering in the committee, and now I can well say I have got a letter from OMB. That is what counts.

I am really excited about this new precedent that the House will establish today. As I told the chairman in markup yesterday, it opens all sorts of new possibilities for capital gains and other important proposals where scorekeeping differences exist between the administration and CBO-joint committee. It is a great precedent where a letter from OMB is now all we need to overcome scorekeeping barriers in Congress.

But back to the substance of the committee amendment. It is important to note that the $5.2 billion drain on the unemployment trust fund makes it virtually inevitable that at some future date, as I said earlier, unemployment taxes will increase. Only a fraction of the revenue generated by this bill goes into the trust fund, and that is from the extension of the two-tenths of 1 cent FUTA surtax way out in the fifth year, and, interestingly enough, we set another precedent with this bill.

Mr. Chairman, the budget enforcement agreement only requires that we measure up in a 5-year window. So, conveniently the committee sunset the revenue raising provisions in the 6th year. That means there is going to be an additional $2½ billion deficit to be paid for by our children and their children, which will never be recovered by any set aside or offset because, once that year gets into the 5-year window, it will be built into the baseline, and the deficit will increase without remedy on the part of the Congress.

Yes, it can be argued that it provides some relief for the indiscriminate approach which was first proposed in the Senate, would have met my major objections and a forest fire storm, bipartisan in nature, in our committee. In fact, we Republicans on the committee forced negotiators to consider ways to reduce gross unfairness in the earlier version.

Nonetheless, the basic proposition is completely misguided. The estimated tax provisions have nothing whatsoever to do with unemployment insurance. They constitute a multiyear morass of complexity in the tax code to finance a temporary benefit. The estimated tax change is merely a gimmick to increase tax collections from one group of vulnerable taxpayers in order to pay for unrelated increased Federal spending.

Proponents would have the American people believe that the amendment will create hardship only for the wealthy who can easily calculate their tax liabilities. That simply is not true. And we will hear from these taxpayers in the next 5 years. The new standards will ensnare small investors, retirees, owners of family businesses, and people who must sell off assets to meet family emergencies. The partial relief provided for small interests in limited partnerships and S corporations takes a rough justice approach to carving out an exemption with the emphases clearly on rough rather than justice.

□ 1500

Nor does the amendment do anything to solve the original proposal's flaws with regard to other past due entities, such as trust and estates, pension distributions, and, yes, Mr. Chairman, mutual funds, which generally make their distributions in December, and which are not reported to the taxpayer earlier than the end of January. These are the kinds of people who will be blindsided by the IRS and the penalty interests.

The amendment exacerbates an already serious problem in current law, the ability of taxpayers to obtain the information they need in time to file their taxes and make their estimated tax payments. It provides no relief in that area. Instead, it imposes penalties on taxpayers who simply cannot comply with the law. Is that how we define fairness?

Furthermore, the committee amendment will greatly complicate tax filing for many taxpayers. Not only must they be able to guess their expected income correctly, they must also be able to guess what their deductions will be, both above and below the line. Filling out tax forms once a year is an onerous enough task. I am probably one of the few Members of Congress who does his own tax return each year. I do it because I want to understand how the code works, and it is virtually impossible to do it today with certainly.

This will be absurdly and unnecessarily complex in addition for many Americans. The committee has done important committee work on tax simplification this year. For many taxpayers, however, this amendment will generate enough complexity to eclipse those previous simplification efforts even before they are enacted.

I know there is that certain bipartisan desperation to get the unemployment compensation issue behind us. I am under no illusion that concerns about unfairness, additional complexity, and the budget agreement, will deter those who now want a bill at virtually any cost. This latest incarnation of the estimated tax grab may appear to provide the magical answer negotiators have sought. Members should know, however, that the silver bullet manufactured to finance the package is more than a bit tarnished, even before taxpayers who are affected, have felt its punch. And feel its punch, they will. Have we already forgotten the lessons of section 89—that dire consequences accompany precipitous and ill-informed action? No committee hearings were ever held on this.

Mr. Chairman, make no mistake about it, apparently the majority is willing to pass this bill, but I will vote against it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, my legislation, H.R. 3511, to provide extended unemployment benefits to railroad workers is included in the legislation before the House today. We did not provide this benefit in the earlier bills vetoed by the President, and I am correcting this inequity with this amendment.

My legislation will give approximately 3,000 railroad workers with less than 10 years in the railroad system up to 13 weeks of extended benefits through fiscal year 1992. The number of weeks of benefits depends on the earnings of the worker. Railroad workers who have exhausted their benefits before enactment, but after February 28, 1991, would be eligible when the temporary national trigger is in effect. The amendment also exempts the railroad unemployment insurance fund from sequestration.

This amendment is to the Railroad Unemployment Insurance Act which is in the jurisdiction of the Energy and Commerce Committee. I have the support of Chairmen DINGELL and SWIFT in offering the amendment, and Mr. SWIFT, the chairman of the Subcommittee of Jurisdiction, joins me as a cosponsor. This amendment is an important step for the Congress to provide equity for the men and women who work on our Nation's railroads.

The Congressional Budget Office gave me a cost estimate for this amendment of $10 million. The current balance of the railroad unemployment insurance trust fund was $337 million as of June 30, 1991, compared to an average base line balance of $225 million. Thus, this fund is more than $110 million above normal balances and could easily fund the $10 million cost. The $10 million would be made up in new revenues coming in during 1993 and 1994.

I thank the chairman and the leadership for accepting my amendment to assure that Montana's and America's railroad workers receive extended unemployment benefits.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, people from Bayport, Long Island, to Burbank, CA, today are breathing a sigh of relief, especially those people who are out of work or who may be put out of work in the next couple of weeks. They are breathing a sigh of relief because we have finally, here in the House, gotten our act together and have come forward with a bill that will make a difference to them. That is something that has been well said by others.

I want to address what the gentleman from Texas has been talking about, the trade-off, if you will, between the tax changes that the Ways and Means Committee has made and the 400,000 taxpayers that the gentleman is so consumed with, who must earn over $75,000 this year and must have $40,000 in extra income next year to even qualify for this new estimated tax, and who will have to pay this tax—and, oh, heaven forbid that they should have to pay a tax on income they earned on a timely basis. That is all we have done here, to balance that with the fact that there are 3 million people who are out of work and who are looking forward to a check of $208 a week.

Let me tell the gentleman from Texas that I am happy that those 400,000 taxpayers have to pay the taxes they owe, because there are millions of Americans who richly deserve the benefits from the proceeds of that tax. That is what this is all about.

Mr. Chairman, there are those of us over here who want to make sure there are benefits flowing, and there are apparently plenty of Members over there who seek no other concern than to protect the wealthiest taxpayers in America.

The CHAIRMAN. The time of the gentleman from New York [Mr. DOWNEY] has expired.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in support of this bill.

In my opinion, this bill is about 4 months overdue, but the old phrase is: "Better late than never." I hope that we can get this bill to the President as soon as possible.

I would like to commend the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the minority leader, the gentleman from Illinois [Mr. MICHEL], for their excellent work in finally bridging the differences and bringing the bill to us. I would like to commend the gentleman from New York [Mr. DOWNEY] for his great leadership on the Unemployment Subcommittee that over the months worked so hard to bring us this bill that is on the floor today.

We all recognize that this bill is not all that it should be or all that we want it to be. First, it is a temporary fix, not the permanent reform of unemployment compensation that we should have passed long ago.

Second, there is an egregious flaw insisted upon by the White House which denies Ohio and six other States reachback benefits.

Nonetheless, Mr. Chairman, this is an important and a vital bill for millions of Americans who are unemployed and who have lost their benefits. We ought to pass it today overwhelmingly.

Mr. Chairman, let me advise my colleagues that the cities of Lorain and Elyria in my home district have the highest rates of unemployment in the State of Ohio. Unemployed workers in my district, as well as throughout the country, are in desperate need of the additional benefits this bill provides.

There is one glaring difference between the recession we are currently experiencing, and previous recessions. That difference has to do with the effectiveness of the unemployment compensation system. This system was established, not only to provide income maintenance for workers losing their jobs through no fault of their own, but also as a countercyclical measure for the economy.

During the 1974–75 recession, 81 percent of unemployed workers eligible to receive extended benefits got them. During the 1979–80 recession, this figure was 60 percent. And during the 1981–83 recession 51 percent of unemployed workers eligible for extended benefits got them.

However, during the current recession, only 5.7 percent of those eligible for extended benefits have gotten them. In fact, right now, no State qualifies for extended benefits under the current program, notwithstanding the fact that 2.4 million people have exhausted their regular benefits during the recession and 1.5 million continue to be unemployed.

Mr. Chairman, almost 8½ million people are out of work. The situation will get worse before it gets better. More people are losing their jobs now than have in the past few months. Initial claims for unemployment benefits are averaging 435,000 per week which is up from 400,000 per week back in July.

Another positive aspect of this bill is that it will not add to our already enormous deficit. The benefits provided by this bill are fully paid for over the next 5 years, as is required under last year's budget agreement.

Just recently, the Treasury Department released the financial totals for the fiscal year ended September 30, 1991. As expected, the Federal Government ran its largest 1-year deficit in history—almost $269 billion. Unfortunately, this distinction is likely to be short-lived. The deficit for this fiscal year is expected to be even worse.

Last year we decided to impose constraints on our ability to increase programs without paying for them. These constraints are needed if we are ever going to get a handle on the deficit. They also serve a useful purpose in forcing us to evaluate the propriety of any proposed program because we must also fund it.

The Democratic Party has tried on two previous occasions to provide supplemental benefits to unemployed workers. Each time, the President has thwarted these efforts. Now, the President is feeling the heat and has decided to support this bill. By doing so, he hopes to deflect criticism of his lack of a domestic program. Regardless of his motives, I am glad he has decided to do the right thing.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, four times our committee has produced an extended benefits bill. Four times we have marched up this hill, and four times we have been frustrated and disappointed. Now there is agreement between the chairman of our committee and the leadership on the Republican side and the White House.

We have produced a good bill that accomplishes the job ahead of us. It is time now to stop the fighting and vote on this measure. It is not a permanent bill. It is not a permanent fix. It does not satisfy every State, but it does get the benefits to the people who need them.

Now, I ask the Members to remember this: You and I are here to legislate. We are here to make a decision. We are here to consider what is good and what is bad, and we have finally put a bill together in this instance. We have got to make a decision. We cannot simply say, "I want to disagree" or "There is one aspect here I don't like."

Mr. Chairman, the fact is that this essentially does what needs to be done. We really ought to reach a conclusion in the next few minutes, quit the talking, and pass this bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Committee on Education and Labor, the gentleman from Michigan [Mr. FORD].

□ 1510

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I stand here with the feeling that anyone might have with an automatic weapon against his temple. I come from a part of the country that is in terrible pain because of unemployment—extended, long-term unemployment. I cannot vote against a bill, no matter what it has in it, that will provide some relief for these people.

But I have to tell you, this is a bad bill. This is not a bad bill when one examines what it does for your unemployed workers. But it is a totally dishonest bill when you examine what it does to other people who are going to pay for it.

Mr. Chairman, the fact is that this bill has been used by the White House and Mr. Darman to blackjack our leadership into agreeing to take the guaranteed student loan program, which was designed to lend money to students over age 21 who are too poor to go to school, and deny them a loan unless they can show creditworthiness with a national credit organization. If they cannot show creditworthiness, then they have to find a cosigner who can show creditworthiness.

Mr. Chairman, that is the end of loans to many low income people in this country. The program was started for people who could not walk into a bank with a cosigner and borrow money. This turns around 26 years of a commitment to the people of this country to give people access to education. Indeed, for my unemployed auto worker, if he has been out of work long enough to exhaust his unemployment and he stays out of work while he goes on this unemployment, he had better find a job doing something other than improving himself, because if he wants to borrow money to go back to school to get a job in some field that he is not trained for now, we are not going to help him, because he cannot get a positive credit statement. If he has been out of work that long, chances are he has not been paying his bills.

Mr. Chairman, that is how they purport to save money. I do not object to the money they save by collecting money from people who have defaulted on their student loans. I object to using this as a rationing device to keep people from getting loans in the first place and then claiming, as the administration does, that they will save $1 billion.

They will save that $1 billion at the expense of training after high school for the people we are going to be depending on for the work force of this country for the rest of this decade.

Mr. Chairman, it looks like President Bush has postponed his world tour long enough to stop home and check his messages. The message is one that this Congress and the American people have been trying to send the President since the beginning of the summer: Over 3 million unemployed people in this country are hurting and they need a hand. With Senator WOFFORD'S stunning upset victory on November 5, the people of Pennsylvania sent the White House the most convincing message of all. The voters' message to George Bush was clear: Help us and help us now, or you will be unemployed in November 1992.

I was interested to see that only last night, the President finally expressed his concrete support for legislation to help the unemployed. This is the same man who not 2 weeks ago said that the number of jobless in our Nation constituted only a "tiny percent" of all Americans. Mr. Chairman, I wish that were the case; it is not in my district. I have stood in this well before and shared with my colleagues the grim economic picture in my district and in the State of Michigan. I have spoken of the number of unemployed. I have said that WARN notices, notices of plant closings and mass job layoffs, have long since exceeded the number Michigan had in all of last year and I have called attention to the amount of mail I have received on this issue. None of these statistics embody the desperate situation that exists in my district like the real stories that I hear everyday from my constituents.

There is a woman in Wayne, MI, by the name of Diane Thornton. She has raised a family and held a job all of her adult life. Like so many people in the 15th District, the recession has hit her hard. Ms. Thornton was laid off from her job at a small manufacturing plant a number of months ago and has been looking for work ever since. Mr. Chairman, despite all of her searching, all that Diane Thornton can find is a job at McDonald's. The bill that we are considering today is hardly a victory for Diane Thornton. She is in the process of losing her house and her car, and is rapidly running out of options. The two bills that the President vetoed might have helped Diane Thornton. The measure before us today may be too little too late for people like her. Creditors and bill collectors are calling Ms. Thornton day and night and all that President Bush has been able to tell her is that she is among a "tiny percent" of Americans who are without work and that prosperity is right around the corner. Mr. Chairman, my constituents deserve a break today, and it is not a job flipping hamburgers at McDonald's.

President Bush recently slammed Congress again for failing to pass a capital gains tax break. Mr. Bush claims that it is measures like this that will help our economy and create jobs. Mr. Chairman, Diane Thornton does not have any stocks and bonds she can sell. She cannot even make her mortgage payments. This same attitude was reflected on the floor of this House a few weeks ago when a number of my colleagues actually came to this well and said, "When the rich get richer, the poor get richer too." Somehow I don't think that my constituents, who are worried about making it through a bitter Michigan winter, would find that slogan very comforting. President Bush can talk trickle-down, growth, and jobs, and blame Congress all that he wants, but the people in my district know who vetoed two extensions bills.

The compromise legislation that we are considering here today is far from perfect, but it is deserving of our support. H.R. 3575, the Federal Supplemental Compensation Act, would provide extended benefits to our long-term unemployed workers only until July of next year. An additional 6, 13, or 20 weeks of aid would be available to workers who have exhausted their regular benefits based on the severity of unemployment in each State. Michigan, which has recorded average unemployment rates of around 9 percent over the last 6 months, would qualify for the full 20 weeks of extended benefits. This legislation would also reach back to help certain workers whose benefits expired after February 28, 1991.

Mr. Chairman, I support this bill despite the fact that it is too little and in many cases too late. It is better to give hard-pressed unemployed people something rather than nothing, and it is better to provide help late rather than never.

I also support this bill despite the fact that it makes major changes in the Guaranteed Student Loan Program that are bad public policy. The Guaranteed Student Loan Program is in the jurisdiction of the Education and Labor Committee which I chair. I did not agree to these changes in the program. Unfortunately, in my view, the House leadership agreed to accept them with a gun held to their head by the administration. The administration has brought in through the back door changes in the Guaranteed Student Loan Program that they could not successfully obtain in the regular legislative process. The administration has exacted a very heavy price in educational opportunities for American students in return for desperately needed benefits for the unemployed. It is a classic case of legislative extortion.

The most outrageous provision related to the Guaranteed Student Loan Program requires that student borrowers over the age of 21 must undergo a credit check for which they may be charged up to $25. Those who, in the judgment of a lender, have an adverse credit history must obtain a creditworthy cosigner before they can receive a loan. This turns the purpose of the student loan program on its head. The program is supposed to open educational opportunities to those who are not creditworthy. If we only wanted to lend to creditworthy borrowers, we would not need the Federal Guaranteed Student Loan Program. We provide a Federal guarantee precisely because student borrowers are not creditworthy. This provision specifically affects the nontraditional students—students who are older, over the age of 21. These older, nontraditional students are now the majority in postsecondary education. Under this provision the unemployed auto worker who has missed some payments on his or her bills will have to find a creditworthy cosigner in order to get a student loan—not a likely prospect. Therefore, this unemployed auto worker will not be able to obtain a loan to return to school to get the training he or she needs to qualify for employment in the rapidly changing and increasingly high-technology job market.

Another particularly harsh and unwise provision allows student loan guaranty agencies and the Secretary of Education to garnish wages in order to obtain repayment on defaulted student loans "notwithstanding any provision of State law." Therefore, regardless of the priorities established by state law for garnishment, such as child support or alimony payments, student loans can be placed at the head of the line ahead of all other debts.

Mr. Chairman, despite these flaws, I support this compromise. I urge my colleagues to pass this bill and give the American people the help they so desperately need.

Mr. ARCHER. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I am pleased to rise today in support of H.R. 3575, to extend for up to 20 additional weeks benefits to unemployed American workers. In my State of New Jersey, unemployed persons will be eligible for the full 20 additional weeks of benefits. I wish to direct my brief remarks, however, to the guaranteed student loan [GSL] provisions contained in the bill.

Mr. Chairman, in these uncertain economic times, with millions unemployed or threatened by unemployment, this action is long overdue. I deeply regret these delays; but I am more than reasonably assured that we have a balanced proposal worthy of support.

As a member of the Committee on Education and Labor who has worked for a number of years to win approval of various initiatives that will curb student loan defaults, I am extremely pleased to note that this bill includes several of my antidefault proposals. First, this bill requires lenders to obtain the GSL applicant's driver's license number at the time of application. These changes in law should be adopted permanently and extended beyond this emergency provision.

Second, this compromise measure requires institutions to obtain through exit interviews specific information from each borrower: the expected permanent address, the name and address of the expected employer, and the name and address of the next of kin. Institutions are required to submit this information to the holder of the loan.

Third, this legislation allows the Secretary of Education to obtain from other Federal agencies information concerning the names and address of both borrowers and their employers. These provisions will enable the Federal Government to more easily locate borrowers who are in default.

This bill includes several other significant provisions that will better enable the Federal Government to curb defaults. In order to ensure the creditworthiness of borrowers, lenders will be required to conduct credit checks for all students aged 21 and over—current law prohibits credit checks for GSL's). For those with negative credit ratings, a creditworthy cosigner will be required. To cover their costs, lenders will be permitted to charge applicants $25 or the actual cost of the credit check, whichever is less.

To prevent borrowers from using bankruptcy law to shield themselves from GSL repayment obligations, this bill requires lenders to obtain a GSL borrower's signature to give clearance for confessed judgment at the same time the borrower signs the promissory note for the loan. This provision simply precludes borrowers who file for bankruptcy from evading GSL repayment prior to a judgment by the bankruptcy court.

This bill also gives the Secretary of Education the authority to garnish up to 10 percent of defaulters' disposable pay. Current law allows student loan payments to be deducted from the wages of Federal workers. In addition, the IRS is authorized to withhold defaulters' Federal tax refunds. It is important to note that a number of conditions designed to protect the rights of borrowers must be met before a borrower's pay can be garnished. Further, the wages of borrowers who have been laid off during the prior 12-months period cannot be garnished. Nor does this provision give the Secretary the authority to garnish work-related benefits such as Social Security payments and Federal unemployment compensation.

With respect to this last provision, Mr. Chairman, it is my understanding that the use of the term "disposable pay" will serve to ensure that this new authority does not interfere in any way with a borrower's obligation to make court-ordered child support payments. Were this provision to interfere with such borrower obligations, I would have to oppose it.

In conclusion, Mr. Chairman, I commend the Committee on Ways and Means for including in this important measure to provide extended benefits for unemployed Americans these GSL Program reforms. As one who has devoted a great deal of time and attention to ensuring the integrity of Federal student loan programs, I certainly applaud these GSL reforms.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, we are talking about people thrown out of work. Now some want to throw them out on the street. We are talking about people from all walks of life.

Mr. Chairman, I met on Monday with three such people. They had worked about 90 years among the three in retail sales, and one as an engineer. They had things like this to say: "I have worked all my life," one said. "When it comes time to take back a little, there is nothing there for me."

Another said, "When out of work, it is not a recession, it is a depression."

One of them, an engineer in his sixties, has been looking everywhere for work. All he has been offered is to wash windows. An engineer. He would do that, if he could.

This step is long overdue. The delay has been a disgrace. Talk about unfairness, the greatest unfairness is to say no to people out of work through no fault of their own, saying let them eat crumbs.

Mr. Chairman, let us pass this bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I rise in support of the measure before us. I urge an aye vote.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN], a member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Chairman, let me thank the gentleman for yielding.

Mr. Chairman, H.R. 3575, the benefits provided are very important to the people of our Nation. For the people of Maryland our unemployment rate is 50 percent higher than it was before this recession. Over 40,000 people in my State have exhausted their State unemployment benefits who will benefit now from H.R. 3575 by 13 additional weeks of unemployment compensation.

Furthermore, the provisions for reachback to March 1 will apply to the people of Maryland. It is not only important for the people who are unemployed, who have been the hardest hit by the recession, but for our economy to get badly needed funds into our economy.

Mr. Chairman, I am not happy with the funding mechanism. There is $8 billion in a trust fund that I think should be used during a recessionary time. I think we have added some additional complications for U.S. taxpayers. But it is important to point out that this bill will provide badly needed benefits.

Mr. Chairman, this is a temporary bill. The gentleman from New York [Mr. DOWNEY] pointed out on several occasions this bill expires on July 4, 1992. We needed to look at a permanent bill that provides relief during a recessionary time with funds collected while we have a rosy economy.

Mr. Chairman, there are 133,000 people unemployed in Maryland and only 46,000 are receiving unemployment compensation, the lowest in any recession. We need to act on this bill, but then we need to come back and pass a permanent bill so we are not in this problem again during the next recession.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] has 14 minutes remaining and the gentleman from Texas [Mr. ARCHER] has 9½ minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, many have speculated why we are here, the President's declining poll ratings, the Pennsylvania Senate race, the negotiating skill of the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from Texas [Mr. ARCHER]. But whatever the reason, it is about time. It is about time we put politics aside and start helping our own disenfranchised, rather than those of every other country.

We are a nation trying to break out of our longest recession. Currently there are 8.6 million unemployed Americans and within the last week an additional 33,000 Americans have applied for unemployment benefits across the Nation. These people have families they have to feed, clothe, house, and take care of in an economy where there are simply not enough jobs—in New Mexico alone, the unemployment rate has remained at over 6 percent and the number of employment beneficiaries continues to rise.

Mr. Chairman, like many of my colleagues, I am concerned about the health and well-being of our Nation's unemployed. I am proud to fight for America's families by supporting this important legislation and I urge my colleagues to do so as well.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in strong support of H.R. 3575.

It is about time those working Americans who find themselves unemployed in these difficult times actually start to receive the benefits we have been talking about since August.

The Ways and Means Committee, on which I sit, has approved no fewer than four extended unemployment compensation packages. And this is the third time the House has taken up this issue. I am pleased that we can finally all stand here today with a compromise that the President has pledged to sign. It is my hope that by next week these benefits can actually get into the hands of those who need them.

For Connecticut this bill has good news and bad news. The bad news is that our economic situation is bad enough to put us in the most distressed category. The good news is that this means Connecticut gets the maximum additional benefits.

So, Mr. Chairman, I rise in strong support of this bill. Fully 37 percent of the unemployed in Connecticut have exhausted their benefits. This legislation will provide these individuals with the assistance necessary to tied them and their families over until they can find new jobs. I urge my colleagues support.

□ 1520

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise in support of H.R. 3575, the extension of unemployment benefits for people who have lost their jobs.

This is the third time since the beginning of August that Congress has attempted to extend unemployment benefits. The President has blocked our other two attempts to extend these needed benefits. But he's finally agreed to sign this bill. Better late then never.

The President's hiding behind the budget agreement in vetoing the previous bills has resulted in a 4-month delay in getting extended unemployment benefits to people who have lost their jobs through no fault of their own.

This is a disgrace considering the fact that there is an unemployment insurance trust fund with an $8 billion surplus which is being used to do nothing but mask the size of the Federal budget deficit. This money should be used for what it was originally intend to do, pay for extended unemployment insurance for hard working men and women who have lost their jobs.

Mr. Chairman, unemployment insurance is not welfare or a government handout. People pay into the unemployment insurance fund so that they can have a safety net should they lose their jobs. The President may not realize it yet, but this country is in a severe recession and we need to help people so that they can pay their mortgage, put their children through school, and put food on their tables.

Mr. Chairman, for the third time, let us pass an extension of unemployment benefits and send it to the President for his signature. Although it is later than it should be, I am glad that the President is finally going to sign this bill. We must get these benefits out to the millions of people who desperately need them. I ask the Members to support the bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, people in this country are in trouble. Families in the United States are in trouble.

We have had the lowest housing starts in the history of the country since 1945, the lowest car sales in the history of this country. We have had the lowest number of new jobs created in the last 3 years since Herbert Hoover was President in the Depression.

Mr. Chairman, our people need help. This is a start. They need more. They need jobs. They need progress. But this is a start.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding time to me.

We have before us a very tough mixture and, I might say, one of the toughest votes that I am going to face since I have been in the Congress.

I first of all want to pay tribute to our chairman who, instead of politicizing an issue, as was done down the hall in the other body, he went head to head with the administration and worked out a deal. I have severe problems with this deal, but at least it gets over the problem of the integrity of the Budget Act of last October.

It does show that we have Members here in the House of Representatives that are willing to use their motivation to put people back to work, people who are out of work and cannot find work, at least to get the benefits out to them. At least he is doing something about it instead of playing politics.

But I have also very, very severe questions as to how this has been done. The gentleman from Texas [Mr. ARCHER] pointed out that this is probably one of the worst tax bills that we have ever had. We are springing it on the American people.

It is not fair, and it is a bad tax. There is no question about that.

Then we have the question which has been politicized for the last month or two, and that is the question, over the last several months, the question of people talking about the $8 billion in the trust fund. What trust fund?

There is a trust fund on paper only. That trust fund is part of a unified budget which has been used up. It is gone. There is nothing but IOU's in that trust fund.

Let us not have any mistake about it. The Committee on Ways and Means and the administration have to go in and try and find some real dollars in order to solve the question.

What it has done, by jimmying around some accounting figures, it has come up with the necessary amount in order to protect the integrity of the Budget Act. That is important.

Even in these last minutes of debate, I am still in doubt as to how I am going to vote on this bill because deciding between needed benefits and bad tax law really puts us in one heck of a problem.

However, we can get around this. We can stop this shell game we are playing by taking this trust fund as other trust funds off budget. There is no reason why a trust fund that is set up specifically and receives contributions specifically for the purpose of taking care of the unemployed should take care of running down the deficit of this country. That is not what it is for. It is unfair. We should start a new beginning, not today, because we cannot do it, but we have to start with some truth in accounting in this Government. We need to start talking about taking these trust funds off of budget where they do not count any more than an attorney's trust fund would count in building up his own personal income statement.

It is unfair. It is about time that we start considering fairness and truth in accounting and taking care of our Government. I do not know how this particular bill is going to fly, but I think that we did show that this body did rise above politics. This message is something that I hope they are hearing down at the other end of the hall in the Senate.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in strong support of this measure. It is sorely needed, and I hope my colleagues will endorse it.

Mr. Chairman, I rise in support of H.R. 3575's program of federal supplemental compensation and I would like to commend the gentleman from Illinois [Mr. ROSTENKOWSKI], the gentleman from New York [Mr. DOWNEY], and the ranking minority member, the gentleman from Texas [Mr. ARCHER], for their efforts in bringing this very important issue to the floor, and for working out a compromise acceptable to the administration.

Mr. Chairman, our Nation is still suffering from the effects of the recession. There are still too many people unemployed. The unemployment rate now stands at about 7 percent. As we speak, 8.75 million Americans are out there looking for jobs.

We cannot ignore these unemployment statistics. The Congress cannot turn its back on our Nation's workers who have found themselves out of work due to the recent recession.

The general upturn in our economy is encouraging. But our workers have not yet found jobs and their unemployment insurance is about to run or has already run out.

In my congressional district in New York there is an even greater rate of unemployment than the national average. Many of my constituents inform me that they cannot find work and as their unemployment insurance runs out, they cannot even feed their families.

It is time that we address their desperate situation. Let us throw our hard-working citizens a lifeline of additional unemployment benefits to keep them afloat a little while longer. Let us extend their unemployment benefits a little longer until these hard-working Americans, who have been put out of work through no fault of their own, can find employment in our reviving economy.

Mr. Chairman, I support this measure and I urge all my colleagues to support this measure. It is the responsible thing to do in the best interests of our Nation.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. COX].

Mr. COX of Illinois. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise today in support of this legislation in a third attempt to provide unemployed men and women and their families with urgently needed extended unemployment benefits.

The current economic situation, which the President has just recently realized is a problem, has left over 8½ million American workers unable to find jobs. By summer's end that number included 11 percent of the work force in Rockford, IL, which is the economic hub of my district.

While we must address the needs of the unemployed, we must also maintain our commitment to fiscal responsibility. I ran for this office promising the people of my district that I would address every piece of legislation with the premise of "how we will pay for it." This legislation does that. Thanks to the work of Chairman ROSTENKOWSKI and the Ways and Means Committee, this legislation is budget neutral. It determines exactly where the money to pay for the extension of benefits is going to come from.

Considering this, I strongly urge my colleagues to support this legislation. We cannot continue to deny the temporarily unemployed of this country with the emergency extension they so need.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, today is a day of jubilation for the diverse faces of this Nation's work force who are without work and have ultimately exhausted their unemployment benefits. I feel good that we are voting on a humanitarian issue—targeted for Americans—which President Bush has agreed to support. The numbers of the unemployment compensating exhausters reached 3 million during this protracted recession. I cannot help but ask myself: How long does it take before the voices of hard working Americans can be heard by their government? It seems that the rapid deployment efforts fail when American workers and their families are stranded.

Mr. Chairman, from the ditch diggers, to the carpenters, to the office workers and the engineers, many have suffered both physically and mentally. Budget concerns glazed with political rhetoric blocked the path of extended unemployment benefits, despite all of the stories that we have heard and read about in the news of how families and their children are suffering. We cannot overlook the accounts of mental breakdowns that occur when a breadwinner becomes helpless and must watch the needs of his or her family go unmet. This recession has real consequences that effect real people.

In my view, this is certainly not how the working people of this country should be treated. It should not take 3 months, by any reasonable measure, to get benefits to people that have paid taxes for benefits all along.

Just briefly, Mr. Chairman, I do want to express my concern about the financing of this bill. I, without question, fully support the extension of benefits. However, pitting one group of victims against another by the Government stepping up it's efforts to collect on student loan defaulters, is a sad commentary. Without debating the issue of student loan defaults, many students merely cannot repay these loans—loans that the Federal Government provided at a time when these very students should have been receiving grants. This Government, in large part, has helped to create a phenomenal default rate, and now are exacerbating the situation with a new twist on robbing Peter to pay Paul.

Unemployment benefits should not be about how long the extra benefits should last and how to pay for them, but this issue is about government airlifting its citizens from harsh economic conditions. After all, Mr. Speaker, people from around the globe receive the help from the U.S. Treasury without paying any taxes. What more is it to ask assistance for those that pay taxes to the U.S. Treasury?

The American workers know that is was not the mailman that delayed extended benefits due them. They very well know that the delay was caused by a lack of concern by their President. On the next opportunity that President Bush gets to help those that earn a living on the brawn of their back and through the use of their hands, I hope that he orders rapid deployment.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a highly respected member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of this bill. I am deeply pleased that we are finally able to act.

Connecticut is one of those States that qualifies for 20 weeks. That means that we have an extraordinary number of people who are feeling the harsh, real pain of prolonged unemployment. They are good folks. They have worked hard all their lives. Most of them are simply the victims of a serious recession and a number of other forces at work in our society.

□ 1530

Regardless, we are finally doing what I believe we needed to do. We are addressing a fierce need of hardworking Americans, but we are doing it responsibly.

I think it is important to put on the RECORD that we would not be doing it responsibly if it were not for the President's tough veto hand. He has taken enormous personal hits on this. He has been out there, made to look vicious and mean, when all he was trying to do was to get us to fund the benefits we offer the people, and that is our responsibility. It is because of the deficit that we have built up that America's economy is fragile, that our people are so vulnerable, and if we do not change our ways by funding new benefits without going through months of delay through this veto exchange, then we will continue to do damage to the reputation of democracy and of this House.

So I rise in strong support of this bill because it not only provides much needed benefits, but it does fund them in response to the President's leadership.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, in 1988 President Bush promised 30 million new jobs, and ever since, Mr. Chairman, American workers have been waiting, waiting. The truth is the American worker has stopped waiting and is now reading the want ads.

The legacy is clear. The President now knows it. He is not flying overseas for publicity. He says he is looking for jobs for American workers, and that is a part of the legacy. Americans' jobs since 1981 have moved overseas, and it is appropriate that the President should go and try and find them.

Now, Mr. Chairman, I want to thank you for this bill. Ohio did not have much to say in this bill. If they did in Ohio, then I do not know what the hell they are doing.

But I do want to say this, I want to say thank you, because 10 percent of something is better than 100 percent of nothing.

Let us pass at least some help for the American workers who are unemployed.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Chairman, I rise in support of the bill before us, and I thank very much and commend the chairman, Mr. ROSTENKOWSKI, for bringing this bill and being so tenacious in bringing an unemployment benefits extension bill to this floor. The first two bills that he brought to the floor were exceptionally good. Unfortunately, the refusal of the President to support either one of those measures has now sacrificed in our State of Ohio 53,000 workers who are not going to get assistance under this bill. Twice before the President blocked unemployment benefits extension legislation. Twice already we have had to cut back in what we were asking for the unemployed.

Now, in order to get some help for those desperate unemployed Americans before the end of this year we had to strike a deal, so now the reachback benefits are going to be eliminated for Ohio and six other States just so we can get the President for Ohio and six other States just so we can get the President to sign the bill. That means that 53,000 Ohio workers who have already exhausted their benefits, who cannot find work, who are getting nothing in the form of income right now, who do not know where their next check is coming from, who were dependent on this legislation, are out of luck. The White House has let them down.

Part of me, obviously, would like to oppose this bill, but I will not because we have 85,000 unemployed workers who will be eligible under the bill. But I want to say that the American people are going to remember the President's record on this issue of unemployment benefits, and 53,000 Ohioans are not going to forget they were sacrificed to appease the President's position.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, today, I rise to support H.R. 3575, our latest effort to extend unemployment benefits.

Mr. Chairman, the unemployed men and women of this country have been waiting all year for this legislation. Thanks to the diligence of my colleagues, Chairman ROSTENKOWSKI, Minority Leader MICHEL and TOM DOWNEY, we have this legislation to consider today.

Finally, our President has seen the writing on the wall. And the message on the wall was written in Pennsylvania last week.

Pennsylvanians have made it clear—it is time for the Federal Government to respond to the needs of Americans.

That means the President must support an extension of unemployment benefits for unemployed American workers who are victims of this recession.

But we must not stop here.

President Bush must sign the Family and Medical Leave Act to support our working families.

And he must show real commitment to reform our sick health care system.

Finally he must give real tax relief for working, middle-income families.

Mr. Chairman, I am pleased to support this legislation today to extend unemployment benefits. Finally, we can provide humanitarian aid for working Americans.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I am very concerned about the unemployed of our country, but we have to put everything into perspective. The fact of the matter is last year the economy was doing well and we raised taxes on the backs of the American people by $181 billion, and that is the reason that the unemployment rate has been going up. And what are we doing with this legislation? We are going to add another $2 billion or $3 billion to the deficit. The deficit this year is going to be $400 billion, the largest in U.S. history, and these young people up here in the future are not going to be able to get a job because we are destroying the economy with these huge deficits. This short-term solution is going to cause, along with all this other profligate spending, massive unemployment in this country, a major economic downturn. We have to get control of our appetite for spending and we should start with this one, even though I am very concerned about the plight of those who are unemployed.

Mr. ARCHER. Mr. Chairman, may I ask how much time remains?

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has 3½ minutes remaining, and the gentleman from Illinois [Mr. ROSTENKOWSKI] has 5 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I want to thank the gentleman from Illinois for the time and salute him. There are 20,000 unemployed people in the Louisville area, which I represent. There are 135,000 unemployed Kentuckians in the State which I am privileged to represent. Each one of them sends his and her thanks to the gentleman from Illinois [Mr. ROSTENKOWSKI], the other gentleman from Illinois [Mr. MICHEL], and the gentleman from New York [Mr. DOWNEY] on having had the perseverance and the tenacity to bring this bill to the floor today.

I said earlier today that this was a Band-Aid approach. It delivers pain relief, but not a solution to the cause of the pain. But certainly this bill is a wonderful step forward. It does signify the concern we have for unemployed people. It is a bill that ought to pass with broad and general support. Then, having applied the Band-Aid, we can get down to the signal problem of the patient, and that is something we will have to deal with.

Mr. ARCHER. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, today we are here to do what is fair, or at least to partially do what is partially fair. Mr. Chairman, it would have been fair if in 1989, when the President was sworn in and he warned of the possibility of a recession that the Congress might have taken seriously and acted upon his recommendations for a growth package to avoid the recession. It would have been fair in the summer of 1989, when the majority of the House Ways and Means Committee, and by a 100-percent majority here in the House, we would have passed the growth package named Archer-Jenkins as we did in the House and failed to do in the Senate to avoid that recession.

It would have been fair if we had not imposed 181 billion dollars' worth of taxes at the inception of that recession in that defunct budget summit deal that caused the recession to get worse, but because we could not be fair then we now have thousands of American workers out of work. The most tragic of these are the young folks who have just gone to 4 years of college, come out of college with their new degree, and all of their hope, and all of their optimism, and cannot find a job. But today as we are being fair, do we relate to them? No. We have no time for them in this bill, Mr. Chairman.

It would have been fair if we had had a growth package for those discouraged workers who have given up looking for a job to open up the growth of the economy so they should have some hope, some chance to have a job. Did we worry about that? No. We did not think that was necessarily what was fair.

It would have been fair if we had taken the unemployed workers who have exhausted their benefits and put them in an economic growth economy where the jobs would come back and they could go back to work. But that was not considered fair by the Democrats.

□ 1540

What we are doing to be fair today, Mr. Chairman, is to give them another 10 or 20 weeks of dependence on that unemployment check and let them worry about when and if they will ever get another job. The only thing that is fair about this is politics for those people who think the American people are shortsighted, greedy, and stupid enough to buy this as responsible public policy.

I suggest we vote no and then get busy on a growth package and give the American working men and women a chance in this economy.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise today in strong support of this critical legislation. Millions of Americans are unemployed. Millions have seen their benefits begin * * * and end.

We began this process months ago. In early August, we sent to the President the first of several bills to respond to that emergency situation. But while Americans suffered, the administration delayed.

There should be no mistake about it. American families have already paid the price of the administration's months of outright denial that we are even in a recession.

If anyone in this Chamber questions that reality, let me tell you what this recession is doing to two families in New Rochelle, NY:

Ernesto Gaglianese, a laborer, has been out of work for 6 months. He and his wife are caring for his wife's mother. That makes it impossible for his wife to work. But they have a mortgage and a 17-year-old son at home. They are deeply worried about what will happen to them when Ernesto's benefits run out next week.

David and Maureen Zaccagnino also live in New Rochelle. They bought a house with a mortgage that takes two incomes to pay, that is not uncommon in this day and age. Last year, they bought a car that Marureen uses to travel to the two jobs she is holding down, one full time and one part time, to try to make ends meet. David has been out of work for months, and their savings are running low. Next they will have to put their home up for sale, and in this economic time, they do not know whether or not they will be able to sell it. But they feel that they will have no choice but to try.

As Maureen Zaccagnino said:

> I never though in my life—never—that I would have to live through what my father went through in the depression. This isn't a slump * * * people are losing their lives, their families.

Mr. Chairman, David Zaccagnino's unemployment benefits also run out next week. We must move today to send this bill to the White House. Too many have already suffered from the inaction caused by intransigence on the part of the administration for almost 4 months. I urge my colleagues to pass this bill today.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Chairman, I rise to support this bill.

It amazes me how those who live well in this country would not give the same right to working-class people. We export jobs to Mexico, we export jobs to Japan, and we sell them nothing, and when the American worker is out of work, we refuse to give them unemployment compensation.

As I stand before God, no health care, no jobs, no unemployment compensation: The American worker is not a stepchild of the world, and we must learn that, I hope to God, that one day they wake up and find out that they have supported the wrong people. That is why we have the problems that we have in this country today.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, I congratulate the gentleman from Pennsylvania in his second day as a Member of the U.S. House of Representatives upon such an eloquent statement.

On behalf of the many unemployed in Kentucky including my own congressional district where there are thousands of unemployed coal miners in the high-sulfur coal fields of western Kentucky, and on behalf of 540 people recently unemployed at York International Corp. in Madisonville, KY, and other unemployed people across my district, I salute the work that has been done toward a compromise for unemployment compensation benefits extension.

I support this legislation and urge my colleagues to do likewise.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I just want to stand up here and say that I guess everything that could be said has been said except for one thing, and that is that this is only part of a two-part play, and the sequel on economic growth and job creation is every bit as important as the opening act.

Now, there are Democratic leaders in this Congress who have been saying, and this is from the Wall Street Journal, "We are not going to adjourn until such time as an unemployment insurance extension bill has been approved."

I want to submit to you, my friends over there, that you can go on Bush bashing, you can go on demagoging this issue, or we can turn our attention to fashioning on this floor an economic growth package that will tell those folks when they have exhausted this round of unemployment insurance benefits that we are concerned about creating jobs for them.

You control the schedule. You control the rules. Let us have the all-important debate now on economic growth and job creation.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Chairman, on behalf of the people I represent in Memphis and others in the State of Tennessee and for those who have already exhausted their benefits and those who will soon be exhausting their benefits, I certainly would like to thank you, Mr. Chairman, and the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI] and the subcommittee chairman, the gentleman from New York [Mr. DOWNEY], for bringing this bill back after the President saw fit to veto this legislation in the past.

It was your leadership and the leadership of the gentleman from New York [Mr. DOWNEY] that insisted upon this Congress being sensitive to those who are unemployed and those who have exhausted their benefits.

Knowing that we are faced with a recession, a sluggish economy, knowing many people who are out of work in this country, yes, this is only a Band-Aid. We need to get on about the business of doing other things for the unemployed in this country, but I think it is high time that we move this legislation on out and get it signed by the

President and give the relief that is needed for the unemployed and those who have exhausted their benefits.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, this has been a long, tedious debate. We have been discussing unemployment now for almost 4½ months.

There have been some severe differences of opinion. This is one of the rare times, however, that when you have concluded debate you feel some elation that there has been a bipartisan effort displayed, that the mix has been that we have given and we have taken.

I would like to pay my particular respects to the minority leader, the gentleman from Illinois [Mr. MICHEL], with whom I have worked over the last 72 hours in trying to come to a conclusion in this debate. I think that although I am sure he is not satisfied as I am not satisfied, ultimately we have done what I believe is the legislative thing: we have come to an agreement. We have compromised.

I just know that although none of us walks away winners, the people that will be getting their checks, I hope before Thanksgiving, are recognizing that the Congress is now working in the best interests of the country.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I am happy to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in full support of this piece of legislation and commend the chairman and the rest of the committee for coming up with something that, frankly, is valuable for many, many Americans in this country, and I urge its passage.

Mr. DOOLITTLE. Mr. Chairman, while I recognize that it may not be politically expedient to do so, I have no choice but to oppose H.R. 3575, the latest version of unemployment compensation amendments. In fact, to be frank, I find myself increasingly baffled and angered by legislative action in this body which ignores real problems and concentrates on treating symptoms.

What can we be thinking about? How can we consider imposing a greater tax burden on Americans, such as is mandated in this bill, without also offering definitive proof that we will take meaningful steps to improve their future? When we've exhausted the latest round of unemployment benefits provided under this bill, then what will we do? Spend more money that we haven't got?

If we really recognize the seriousness of unemployment as a national problem—and I believe that it is serious—why are we not taking responsible steps to create jobs by adopting an economic growth package? Earlier today, I pointed out that the key to employment opportunity is economic growth—growth dependent upon government policies which stimulate savings, investment, capital formation, and business expansion. That's where new jobs come from. Instead of recognizing the root cause of the problem, we continue blind allegiance to the Band-Aid approach, stubbornly continuing to administer the same ineffective medicine despite the fact that it has not helped the patient.

I could, and would, have supported the President's original plan—but this proposal is not it. This bill has absolutely nothing to do with economics or fiscal responsibility or legislative leadership; it has everything to do with politics. I cannot condone it, and I am appalled that so many of my colleagues are allowing themselves to be so badly fooled.

I will vote "no" because this approach is simply wrong. It's time we did something meaningful to really help unemployed Americans by adopting a pro-growth economic package coupled with providing interim relief for the unemployed.

Mr. MCMILLEN of Maryland. Mr. Chairman, I and many of my colleagues are understandably amazed at the about-face made by the administration on the issue of unemployment extension. But I must say, we are also delighted.

Whatever degree of appreciation the unemployed can show the administration for its reconsideration of this matter however, must be multiplied tenfold to fairly recognize the efforts made by the Democratic leadership to keep this issue alive. After two knockout punches from the President, who could have foreseen that round three would spell victory for the unemployed?

And this victory is a bountiful one for them. Workers in every State qualify for the extension, eligibility for retroactive benefits is judged on State unemployment levels, and for use of the adjusted insured unemployment rate, is a fairer shake for the unemployed than the unemployment measurements implemented by the Reagan-Bush administration in the early 1980's.

I am grateful for the efforts made on both sides to reach a compromise. Maryland will be a better place because of it. I am pleased that the Federal Government fully recognizes its responsibility to those disadvantaged by these recessionary times. In addition, I am glad to see that this bill's design requires no borrowing and the administration deserves some credit on that account. Let's hope that the third time is a charm and that the President stays true on his promise to uphold the compromise.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in strong support of extending unemployment benefits.

The people of my district and State have been struggling under the dark clouds of recession for almost a year.

Whether they are factory workers in Waterbury or white-collar executives in Wilton, unemployment is real and unrelenting. It strikes at the family, it cripples the pocketbook and damages the soul.

Mr. Speaker, my constituents are hard-working people. They do the best they can to raise their children, pay their taxes, and find time to help those around them.

For those out of work and still looking, unemployment compensation is a bridge to another opportunity. They have paid into this fund. In most cases they are looking for work, but opportunities are rare and extremely competitive.

If they are not helped during this extraordinary time, they will lose their homes, lose their insurance, and worse, lose hope.

This side of the aisle has always shown its concern for the economic health of our Nation. The President is also committed to help those who are hurting.

We have never turned a blind eye to the unemployed. That important issue before us today is how do we really get our economy rolling?

Yes, this bill stops the hemorrhaging, but now is the time for curing the diseases which infect our economy.

Mr. Chairman, we must spark a fire under our economy. This Congress must begin to work on and deliver tax cutting, progrowth legislation that will propel the creation of new jobs, increased revenues, and real opportunities for all.

If we act now, those who are now pounding the pavement for jobs must know this Congress is setting the table for a hearty menu of jobs and careers.

When the next 20 weeks run out, we must have in place initiatives that remove the bureaucratic straightjacket from the backs of investors and entrepreneurs.

Some want to politicize this issue. They want to drag up tired and mean-spirited cliches instead of tackling core problems—high taxes, tight credit, and needless red tape.

I have introduced legislation that will extend several tax credit programs to small businesses to spur new companies, jobs, and hope.

Small businesses are the backbone of our Nation and our economy. If we are to grow out of this recession, small businesses must flourish without the weight of the bureaucracy and taxation.

We need a capital gains tax cut for those who are willing to take risks and build on their dreams.

There are other proposals from this side of the aisle which deserve debate and a vote. But all some people wish to do is delay action, prevent real tax cuts, and hold back the great potential of our Nation.

Mr. Chairman, let us help millions of Americans today with this legislation and begin a serious dialog to start an economic renaissance in this country.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 3575, the Federal Supplemental Compensation Act—our third attempt to help American workers as they try to climb out of this Republican recession.

Almost 9 million Americans who want to work still cannot find jobs in this recession—nearly 2 million more than at this time last year. In Michigan, unemployment is at 9.7 percent, in Massachusetts, it is 9.2 percent, and in California—my home—it is 7.7 percent. Over 2 million Americans—the largest number since 1950—have exhausted their unemployment benefits. More than 1.6 million of those workers ran out of benefits since the beginning of the recession. Nearly 2,000 workers are still being laid off every day. And more than 1 million discouraged Americans have given up looking for jobs.

H.R. 3575 will provide up to 20 weeks of extended unemployment benefits for American workers who have exhausted their regular benefits. Eligible workers in California, which is home to 1 out of every 7 jobless workers, will receive up to 13 weeks of extended unemployment benefits. This is much needed relief for the 37,000 jobless Californians who have exhausted their regular State umemployment benefits each month without receiving additional unemployment aid. And some American workers, depending upon their States' unemployment levels, will receive retroactive benefits.

H.R. 3575 is budget neutral. It will be financed primarily by speeding up collections from high-income taxpayers and extending the current unemployment tax rate—which is paid by employers—for 1 year.

H.R. 3575 gives the President a third chance to acknowledge our economic crisis here at home and to do the right thing for American workers. And it appears that—after vetoing our two previous bills and witnessing both another rise in the national unemployment rate and our all-night, marathon vigil here in Congress on behalf of aid to American workers—the President may have finally awakened to the emergency at hand and finally be willing to sign this bill. After leading us into economic decline, the President has now indicated that he intends to take advantage of this opportunity to begin to set things right.

American workers need those benefits. Their families are suffering. They need help with basic, everyday expenses. Today, by passing H.R. 3575, Congress will once more reach out to those middle-income workers who are slowly slipping into poverty. I urge my colleagues on both sides of the aisle to support passage of the Federal Supplemental Compensation Act, aid to American workers and their families.

Mr. HUGHES. Mr. Chairman, I rise today to join my colleagues in support of this legislation which will provide extended unemployment benefits to the 8.6 million Americans who are out of work.

Last week the American people very clearly articulated their rejection of the status quo. The incumbents and the sure bets in Tuesday's elections, both Democrat and Republican alike, were soundly defeated in several races across the country.

The American people spoke at the election polls of the need to turn around the economy, the need for attention to the issues most important to them—such as education, health care, and the ability to get a job and be a productive member of our society. Simply, Americans sent a message calling for change. A change in our national priorities that will make Americans a priority.

Americans have shared with the President the pride in the remarkable triumphs the President has had in the area of foreign affairs—the ending of the cold war, Operation Desert Storm, and the recent Mid-East peace talks held in Madrid.

The President now needs to share the concern that the American people have about domestic issues. The concern about not having a job, about trying to feed a family and pay the bills, about receiving adequate health care. I strongly urge our President to listen to the American people. The President must stop turning a deaf ear to Americans whose lives have been devastated by this recession.

We have twice before sent a bill to the President seeking relief for unemployed Americans. It is imperative that we pass this third attempt at an unemployment benefit extension since recovery is not right around the corner as evidenced by yesterday's news of an increase in wholesale prices.

I urge my colleagues to support this bill and I strongly urge the President's swift consideration and enactment of this legislation into law.

Mr. DINGELL. Mr. Chaiman, I rise in strong support of H.R. 3575, which will provide an additional 20 weeks of unemployment benefits to millions of American workers and their families during this recession. I applaud the persistence of Chairman ROSTENKOWSKI and the other members of the Committee on Ways and Means who were determined to enact this measure into law despite months of White House hostility.

Both H.R. 3575 as introduced and the language of H.R. 3757, made in order by the rule as original text, would treat railroad workers equitably by providing extended unemployment benefits to them in the same manner and under the same conditions as the bill provides for other workers. The effort to include unemployed railroad workers in an unemployment benefits extension measure was undertaken at the outset, last July, by the chairman of our Subcommittee on Transportation and Hazardous Materials, Mr. SWIFT, and by my friend from Montana, Mr. WILLIAMS. They, too, have been persistent in seeking to protect these people and their families.

Because unemployment benefits for railroad workers fall under the jurisdiction of the Committee on Energy and Commerce, H.R. 3575 and H.R. 3757, were jointly referred upon introduction to our committee as well as the Committee on Ways and Means. Ways and Means has consulted with us on this matter, and we have been pleased to support their request for immediate and prompt consideration of these bills on the floor. I appreciate Chairman ROSTENKOWSKI's cooperation in this regard and congratulate him on this success.

Mr. COYNE. Mr. Chairman, I believe the compromise unemployment compensation package before the House today is long overdue. Action on this issue has been delayed for too long because of the administration's do-nothing economic policies and the inability of Congress to overcome the administration's vetoes of previous unemployment relief legislation.

For over 4 months, the administration has stonewalled efforts to provide relief for the millions of unemployed Americans who have exhausted their unemployment benefits. The only thing that has changed since August is the administration's realization that the American people have grown tired of global road shows. They want a government that looks after the needs of Americans here at home.

The administration has been quick to proclaim an end to the recession, but they cannot fool the American people who see their neighbors losing their jobs. The administration cannot hide the fact that the unemployment rate has stopped its decline and started growing again in October. The administration cannot ignore the steady stream of pink slips being issued by many of our Nations' largest employers.

The administration has finally awakened from its complacency about the continued economic troubles of our country. The President has heard the voices of Pennsylvanians and Americans everywhere who want their government to move aggressively to promote economic growth and an end to their recession. The American people want a government that takes care of our own citizens.

I have talked with workers in Pennsylvania who cannot understand why the administration refused for so long to deal with unemployment compensation reform. They know that the unemployment rate in Pennsylvania has averaged 7 percent over the past 6 months. It is no secret that nearly 30 percent of unemployment Pennsylvanians exhaust their benefits each month.

Most of all, Pennsylvanians and American workers everywhere know that the unemployment trust fund is running a surplus of over $8 billion. This is money that U.S. workers and their employers have paid each week out of their pockets. They do not buy the administration's excuse that we cannot afford to help those who have exhausted their benefits.

This latest unemployment compensation program offers some hope for the over 2 million Americans who have exhausted their benefits. This compromise package provides up to 20 weeks of extended benefits for States hardest hit by our country's continuing economic troubles. Most States would be eligible for 6 or 13 weeks of emergency unemployment compensation.

In the Commonwealth of Pennsylvania, unemployed workers who have exhausted their benefits would receive 13 weeks of extended benefits. Pennsylvanians and those in other States experiencing the highest national rates of unemployment would also benefit from reach-back provisions for those who exhausted their benefits earlier this year. These reach-back provisions would allow those who lost their unemployment compensation benefits since March 1, 1991, to claim compensation for those months.

Congress has removed the administration's excuse that this unemployment compensation relief would bust the budget by providing a compromise funding plan. This plan includes extended debt collection by the Internal Revenue Service, continuation of existing unemployment tax rates, savings from new rules for the operation of Federal student loan programs, and changes in the payment of estimated taxes by high income taxpayers.

Mr. Chairman, I believe this agreement provides the bare minimum for those who have lost their unemployment benefits and those who are at risk of losing those benefits. We need to have the President sign this bill into law as soon as possible. The time for excuses and stonewalling is over.

Mr. STOKES. Mr. Chairman, I rise today to express my support of H.R. 3575, the Federal Supplemental Compensation Act, which will provide up to 20 weeks of supplemental unemployment benefits for workers who have exhausted their regular benefits. I hope that all my colleagues will support this essential legislation to provide extended benefits to the millions of American workers who have exhausted or will exhaust their unemployment benefits this year.

While I am extremely disappointed that we are revisiting this issue for the third time this year, I am glad to see that President Bush has finally heard the cries of the American people in their suffering, and will let extended unemployment benefits go to the millions of individuals who have lost their jobs. This revelation on the part of the President that the recession is real, and Americans need assistance and compassion from their government, is ample enough reason for all of us to give thanks as we approach this holiday season.

I commend my colleagues for their leadership and tenacity in reaching an agreement with the President to extend unemployment benefits. I sincerely wish, however, that the President had extended the benefits last summer, when Congress first enacted an unemployment reform bill. The President could have prevented 3 additional months of suffering for our long-term unemployed, and demonstrated the concern for the American people that we expect from our President, by declaring a budget emergency in August, thereby providing these desperately needed benefits to millions of Americans who are out of work.

Mr. Chairman, President Bush's promise to sign an unemployment reform bill now rings hollow, and the American people will not be fooled into believing that the President came to this agreement voluntarily. Nevertheless, despite the motivation behind the President's sudden willingness to sign an extended benefits bill, I urge all my colleagues, on behalf of the thousands of Ohioans who have exhausted their benefits, to support this bill, and show the American people that we in Congress are committed to addressing the economic problems facing our Nation.

Mr. GRADISON. Mr. Chairman, H.R. 3575, as amended, is far from being a perfect bill. I have serious problems with the estimated tax financing provision. I fear that this provision will cause significant hardship and needless complexity for many taxpayers, especially small investors, retirees, owners of family businesses, and people who must sell off assets to meet family emergencies. Because of the horrible tax policy contained in the bill, I voted against it in committee.

However, the bill represents a compromise to extend benefits to those in need, and, in spite of its technical problems, I will vote for it. It is fully financed according to the Office of Management and Budget, and does not violate the budget agreement.

Workers in Ohio who exhaust their benefits after November 17, will be eligible to receive an additional 6 weeks of unemployment compensation on top of the 26 weeks already paid. I hope that this legislation will ease at least a little of their suffering.

Mr. GUNDERSON. Mr. Chairman, I intend to support the compromise worked out on legislation to extend unemployment benefits. However, I must make it clear that I am concerned about how well this legislation covers those unemployed in Wisconsin.

The bill passed in August would have provided benefits to 63,000 State residents. That bill was vetoed because Congress refused to pay for the extended benefits. The cost of the bill would have added $5.6 billion to the Federal deficit.

The bill proposed by Mr. MICHEL, the Republican leader, following the veto would have provided benefits to between 48,000–60,000 State residents. That legislation, which included a financing mechanism, was blocked by the Democratic leadership in Congress.

The bill we will now pass will assist just 35,000–50,000 unemployed residents. The good news is, after weeks of playing partisan political games with this issue, Democratic leaders have agreed to work with the President to pass a bill that can be signed. The bad news is, fewer unemployed residents in Wisconsin will be helped.

I have supported each successive bill because, in a declining economy, laid off workers need help. This is especially true of workers at the Uniroyal plant in Eau Claire, where 1,400 workers face layoff. Half of those workers have already been laid off. This bill will cover those laid off after May 19, 1991. Fortunately, the largest plant layoffs began on May 31, assuring employees still unemployed will receive an additional 6 weeks of unemployment benefits.

I have also supported each bill because of the changes to current law to assist military personnel now unemployed. Each bill has retained the reduction of required active duty service for unemployment benefits from 180 days to 90 days. And each reduced the waiting period for discharged military personnel seeking benefits from 4 weeks to 1 week. For those returning from the Persian Gulf war to a shrinking American economy, easing standards they must meet for unemployment benefits is only fair.

Congress must now turn attention to stimulating an economic recovery. Extending benefits to unemployed Americans is an important first step to helping those in need. But, Congress will have done its job on this front properly only after it takes aggressive action to put Americans back to work. Passage of the legislation we are considering today will allow Congress to begin that effort.

Mr. GREEN of New York. Mr. Chairman, I rise in strong support of H.R. 3575, legislation to extend unemployment benefits and provide economic relief for our Nation's unemployed. Today, there are almost a quarter of a million unemployed in New York State and over 3 million jobless Americans nationwide whose unemployment benefits have expired. The bill before us is a lifeline to these desperate people. Moreover, unlike previous proposals, it provides extended benefits without busting the 1990 budget enforcement agreement—our only source of fiscal discipline.

Finally, after 4 months of political posturing, the impasse over extending unemployment benefits has been broken. The bill under consideration provides an additional 13 weeks of benefits for jobless New Yorkers whose regular benefits expired after February 28, 1991. The $5.3 billion legislative proposal is budget-neutral and therefore will not add to our $260 billion, and growing, Federal budget deficit. The self-financing proposal extends the current rate of unemployment tax on employers for one additional year, accelerates tax collections on certain high-income taxpayers, and makes a variety of changes to prevent defaults on guaranteed student loans.

For more than 50 years, the unemployment insurance system has been a significant component of the American economy. Not only does it deal with the personal tragedy that afflicts a family when a wage earner becomes unemployed, but the system has also provided an important countercyclical effort to try and shorten and ease recessions and get us back on the track toward economic recovery.

However, over the past 15 years, there has been a significant erosion in the unemployment insurance system. A tremendous disparity has emerged between the percentage of insured unemployment as compared with total unemployment—1990 marked the seventh straight year that unemployment insurance coverage dropped below 40 percent nationally. As you can see, there is something desperately wrong with a system that protects only one-third of all temporarily unemployed workers.

With ample evidence that the current unemployment insurance system has been unresponsive to the needs of our Nation's jobless, I testified before the House Rules Committee last July in support of extending unemployment benefits. I requested that the Rules Committee permit the House to vote on a comprehensive unemployment reform bill that addressed the long-term problems plaguing the unemployment insurance program, while preserving our deficit-reduction law.

In closing, I am pleased that the House has been given an opportunity to vote on an extended benefits bill that helps jobless Americans without busting the budget. H.R. 3575 is a compassionate and responsible approach to helping our Nation's unemployed. It will help remedy the despair that is confronting unemployed Americans who have been unable to find a new job under current economic conditions as well as help get our sluggish economy moving again. I encourage my colleagues to vote in support of extending unemployment benefits. Vote "yes" on H.R. 3575.

Mr. GEJDENSON. Mr. Chairman, I would like to take this opportunity to express my support for the Unemployment Insurance Reform Act [H.R. 3575].

Mr. Chairman, unemployment benefits should have been extended 4 months ago. Congress overwhelmingly adopted good unemployment legislation on two other occasions. Each time, however, the President decided that the needs of American workers did not matter. Once he did so by not declaring a budgetary emergency which would have triggered the extension of benefits, and then second by vetoing the bill.

Finally, the administration has seen the light and decided it needs to do something to help our Nation's workers. This relief is long overdue. The unemployment rate rose again in October to 6.8 percent. Over 8.58 million American workers are out of work and another 3 million have exhausted their benefits.

Unlike the administration, I've known for quite a while that additional benefits are needed. There have been some strong indicators back in my home State of Connecticut that our Nation's workers desperately need help to survive. It was obvious to me when 55 people applied for a part-time dishwasher position at the Cypress Restaurant in Middletown, CT. In past years, the owner of the Cypress has had trouble finding anyone who wanted the job, now he doesn't know what to do with all the applicants.

The bill we are voting on today gives hard-working people the chance they deserve to escape the pain of the recession. With the adoption of this bill, workers in Connecticut will be eligible for an additional 20 weeks of benefits. It will give them the ability to make their mortgage payments for a few more months, finance their children's education for one more semester, and pay for heat during the harsh winter months.

Mr. Chairman, now that we have convinced the President that the American workers matter, maybe we can also convince him to support diversification efforts to help the defense workers in eastern Connecticut find the business opportunities they need to survive.

Ms. SNOWE. Mr. Chairman, I rise to express my support for H.R. 3575. It is high time—actually, it was high time months ago—we reached an agreement to provide additional assistance for the 8.6 million unemployed in this country.

Over 42,700 people in my State of Maine were without jobs in September. The need for this bill is best summed up by a constituent of mine who recently wrote "Last December, I was laid off from my full-time job as a carpenter for a building contractor * * *. Since then, I've applied for more than 40 jobs without success."

Here is a skilled individual who has been looking for work for almost a year and he has been turned down by 40 potential employers. His situation is similar to the stories I have heard over and over again from people across my State.

These stories illustrate why I strongly supported the two other measures on unemployment brought before us because the people of my district are not sitting home quietly collecting unemployment, they are out pounding the pavement looking for jobs that do not exist. The least we can do is provide them with a few more weeks of assistance to help them out in these tough times.

H.R. 3575 would allow individuals in Maine to receive up to a total of 20 weeks of extended benefits. Those who received the full 13 weeks of benefits provided under the old extended benefits program earlier this year will be eligible for an additional 7 weeks; those who did not receive any extended benefits will be eligible for the full 20.

This bill shows what can happen when both sides of the aisle work together, and I am pleased that an agreement was reached on the funding mechanism. I hope the bipartisanship which finally found its way into this bill will carry over as we work on finding the solutions to the many pressing issues which face this country.

Mr. POSHARD. Mr. Chairman, I rise in strong support of H.R. 3575, to provide extended benefits to long-term unemployed workers.

I have been a strong supporter of this effort, long before opponents of the bill suddenly realized we are fighting a recession. In my State it means 13 weeks of benefits for thousands of workers, a few weeks more or less for other States depending on their situation. We need this bill.

Every week I visit with people in my southern Illinois district who are out of work. They tell me of hanging on by a thread, paying their bills as best they can, living on bare essentials, and enduring real personal pain. I find it hard to believe it has taken this long for some people to open their hearts to their plight. I am glad we are finally taking action.

Mr. Chairman, those who would oppose this bill have really lost sight of what's important. We cannot afford to let families be crushed by this recession. We are talking about keeping working men and women afloat long enough for them to find jobs, and believe me, I wish them luck, because the job market today is very tough.

I am proud to say that I stand by the working men and women of this country, who are valiantly striving to provide for their families in times of great distress. This bill is a modest first step to remedy their situation, and I am pleased to offer my support.

Mr. BORSKI. Mr. Chairman, I rise in support of H.R. 3575, the Federal Supplemental Compensation Act, and call for its immediate passage. We cannot let Americans in need of financial assistance wait a moment longer for relief.

Since this summer we have fought for extended benefits for the unemployed and have continuously been struck down by the White House.

This compromise plan answers all the concerns of those who questioned where money will come from to finance extended benefits, but most importantly, it tells the American people that Congress has heard their pleas for help and hasn't turned away from their cries for relief.

It has been painful to head back to my district in Philadelphia, look straight in the eyes of many of the people who elected me to this office, and tell them that despite my efforts, our President has turned his back on them.

We are talking about hard-working Americans, many of whom have been employed for 10 or 20 years with the same company.

They didn't ask to be phased out or laid off from the jobs they held for years. They didn't ask for the economic condition in our country that warranted a change in their job stature.

What they did ask for was financial help from Congress enabling them to get back up on their feet.

Congress listened.

The White House shut the window.

But that window opened wide on election day and the American people shouted a message finally heard by the President: Make domestic issues a top priority.

I'm pleased that message has finally been heard and thrilled this compromise plan has finally been worked out.

Pennsylvania's unemployment problem is serious and while I'm disappointed unemployed workers from my State will only be eligible for 13 weeks of benefits under this plan, 13 weeks is certainly a big help.

As we approach the holiday season let us approve this bill and give America's unemployed worker a gift they deserve: Proof, in their pockets, that Congress will help them in their time of financial need.

Mr. MOODY. Mr. Chairman, finally, the President has agreed that the unemployed of America rate his attention. Unfortunately, only some do—over 30,000 Wisconsin workers that have exhausted their unemployment benefits so far this year will not get 1 cent because this bill does not reach back to them. This is a serious flaw.

Later today we will vote, at the President's request, to open the Treasury to provide tens of billions of dollars to bail out this Nation's biggest banks. We have sent hundreds of millions of dollars to address emergencies overseas.

Yet when it comes to the unemployed, Bush is stingy—fighting with Congress every step of the way to limit benefits as much as possible. These working families may be losing their homes, their cars, they may be forced to take their children out of school, but the President is telling them they are not worth the same type of consideration that an Iraqi Kurd is.

Mr. Bush has made his priorities clear—and working families don't make the list.

He supports this bill only because he has read the political tea leaves and decided he better make some gesture to real Americans, Americans who live by the sweat of their brow, not just the clip of their coupon.

I will support this bill because it is better than nothing. But the message the administration has sent is that they would have preferred nothing, and for too many families in my State, that's exactly what they will get.

Mr. ATKINS. Mr. Chairman, I recently received a letter from a singleparent employee of Raytheon's Patriot missile plant in Andover, MA, who desperately wants me to urge the President to pay some attention to the recession and to sign an unemployment bill.

When the President visited the Patriot plant last October, he expressed his pride in these same workers as the Persian Gulf war raged on and the Patriot missile shielded our troops and our allies.

But now that they face unemployment, the President turns his back.

This constituent writes, "Some of our unemployed in Massachusetts are those who helped supply the Patriot systems for our soldiers in the gulf."

After years on the job, this woman is afraid that she will be next to go in another round of layoffs and worries about how she will care for her children.

Mr. Speaker, the economy all over America is rotten and in New England the situation is even worse.

I have sent a copy of this letter to the President as a reminder that there are proud but desperate people here at home.

The original bill we passed extending unemployment benefits was cynically signed by the President under the knowledge that the bill's financing plan allowed his signature to be merely symbolic.

Then, when we in Congress designated the measure as the spending emergency it truly is, the President vetoed the bill because he believed it was a budget-buster and because he incorrectly viewed the recession as ending.

When this happened, more than one constituent asked me why last year's 7-billion-dollar Egyptian debt relief was not considered a budget buster.

Just before the President left Washington for Italy last week, he was shocked by the Senate race in Pennsylvania into paying at least some lip service to the problems here.

But even while he admits that "people are hurting," the President seems to believe that there isn't a recession here in America.

I have even heard some of the administration's supporters claim that the recession is not a recession, but rather a euphemistic "slow-down in the recovery."

Mr. Chairman, I am thankful that we've finally reached a compromise on the unemployment bill.

But my constituents needed relief many months ago, and they are sick and tired of the political games President George Bush, Richard Darman, and Governor Sununu are playing with their lives.

I hope the administration will finally end its massive denial regarding the state of the economy.

I hope the President will finally heed the pleas of hard-working Americans here at home and will sign this unemployment bill.

Mr. EWING. Mr. Chairman, I rise in strong support of the compromise legislation providing temporary extended unemployment benefits to those who have already exhausted their benefits.

I have long felt that such an extension was needed to help get thousands of American families through the recession. In the last several months we have faced a steadily increasing rate of unemployment throughout the country. In my own State of Illinois the unemployment rate increased dramatically during the month of October, climbing from 7.1 percent to 7.7 percent. During October, the number of jobless grew by 35,000 to 461,000 in Illinois alone. With more people joining the unemployment lines and no turnaround in the economy likely in the immediate future, the need for these benefits becomes painfully clearer every day.

I want to praise the Republican leader, BOB MICHEL, and the Bush administration for their strong leadership in working with Chairman ROSTENKOWSKI to craft this mutually acceptable, bipartisan legislation. As a result of their steadfast efforts, we have before us a package which will provide up to 20 weeks of extended benefits for some 3 million Americans without violating the principles of the budget agreement, without increasing the already bloated Federal deficit, and without imposing new taxes. Because of their efforts, extended benefits checks will be in the hands of the long-term unemployed before Thanksgiving.

From the beginning, the fiscally irresponsible Democratic leadership in Congress have opted to increase the deficit or raise taxes to pay for this package. In typical Democratic fashion, it never crossed the minds of the big spenders that this program could be financed without making our grandchildren pay for it or increasing the already overwhelming burden on American taxpayers.

From the very beginning the Democrats in Congress have sought to make this a political issue rather than helping the unemployed. Well, I say that the unemployed need benefits more than they need cute speeches on the evening news. But for the past 2 months that's all they have heard from Congress. Instead of sitting down at the table with Republicans to craft a package like the one we have before us today, until 2 weeks ago the Democrats have opted to support packages which they knew could never be passed. They would rather create campaign issues than really helping the unemployed.

Again, I rise in strong support of H.R. 3575 and urge my colleagues to support it. Let us get the checks in the mail.

Mr. SCHEUER. Mr. Chairman, I rise in strong support of the legislation before us today, H.R. 3575, because it is a measure that will finally begin easing the plight facing millions of our Nation's currently unemployed.

In the summer and September, this Congress—alarmed by the depth of the current recession—twice passed legislation to provide extended unemployment benefits for long-term unemployed workers. But on both occasions, President Bush blocked our bid to aid the unemployed because he did not consider their plight enough of an emergency.

Now, with economic indicators showing the phantom recovery fading into recession, the President has finally relented. Now, after HARRIS WOFFORD'S upset victor in Pennsylvania, President Bush has finally gotten the message: People are hurting all over, and it is an emergency.

Simply put, in a recession, it becomes harder to find work. Around our Nation, the rate of unemployment is approaching 7 percent, and in New York, it has risen above 9 percent. By passing this legislation, we acknowledge that times are hard, that finding work is difficult, and that many Americans desperately need help.

Mr. Chairman, I am very pleased that this bill is supported by the administration—because that means we can stop playing politics and get benefits to the people who need them the most.

Ms. NORTON. Mr. Chairman, since the Congress first sent an unemployment bill to the President in August, not much has changed. The national unemployment rate is still 6.8 percent. The unemployment rate in the Nation's Capital is still 8 percent. The unemployed are still flooding our offices with phone calls and letters. People are still desperately seeking jobs. They are still struggling to make their housing payments. Mr. Chairman, people are still in pain. And the beat goes on.

This time around, though, the months are growing colder and Americans are more desperate. If this Congress and this administration have heard the people they represent, now is the time to show it.

In the past year, the number of jobs in the District of Columbia has decreased by 7,600. The construction and trade industries have been particularly hard hit and account for the loss of 4,500 jobs. Since January of this year, there have been 36,186 initial claims for unemployment in the District. This bill will provide relief for those whose benefits have been exhausted. The District will qualify for an additional 13 weeks of unemployment benefits. At this time of year, these benefits are especially needed.

The neglect of the domestic economy has brought about the need for an extension of unemployment benefits. The victims should not bear the burden alone. The recession will not end tomorrow. But some of the suffering can. This bill would provide a real Thanksgiving for millions whose only plea to us is for the opportunity to work. And the beat goes on.

Mr. OLVER. Mr. Chairman. At long last, we have come to an agreement with the President to help the out of work families—not a moment to soon.

In fact, given the cosmetic changes from the original bill, and the 8,000 plus in my district and the 3 million people all across this country, who have exhausted their benefits, this should have been done 4 months ago.

It should have happened this summer, but I am grateful that they do not have to wait another day.

Take a man from my hometown in Amherst. Last month, I received a letter in which he wrote: I'm a 40-year-old college grad and computer pro living in Massachusetts. I am about to lose everything I have worked for in 25 years. I have been unemployed for over 20 weeks. Extend the unemployment benefits for additional 20 weeks.

Some constituents from Greenfield Tap and Die sent me a copy of a letter to President Bush in which they wrote:

> We do not plan to be unemployed, but we must be realistic and face the future. Giving corporations more tax breaks will not help us. Unemployment in our region is higher than most parts of the United States. Many factories have shut down and there are no jobs to move to.

For the 8.5 million Americans out of work; for the 40,000 working families in my western Massachusetts district who are out of a job; for the 40-year old college grad in Amherst and the machinists in Greenfield, let's finish this business today.

I for one am glad that the President has stopped playing politics and got back to the business of helping the people of this Nation.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 3575, the long overdue extension of unemployment benefits.

This past summer we in Congress gathered to enact legislation to assist those Americans suffering from the worsening recession. Now, more than 3 months later, those Americans, and millions more, are still waiting for help from their Government.

Mr. President, and my colleagues across the aisle, have accused us of being out of touch with Americans, yet, it has taken them 3 months to see the necessity of what we do here today. In August, with the highest unemployment rate in 5 years, the President said there was no emergency and prevented those Americans whose unemployment benefits had expired from receiving assistance. In October, with more than 8.5 million Americans out of work, the President refused to recognize the tremendous pain the recession was causing, and slammed the door in the face of those suffering Americans, and vetoed the extended unemployment benefits bill. Now, even the President can not miss the severity of the recession the country is in. Finally, he has indicated he will not oppose this legislation. Very good Mr. President, but you are 3 months behind the times.

While the American worker has waited for the Government to provide needed assistance, the recession's grip on the Nation has grown tighter. This is a deep recession. The President's remedy of denying it, urging greater confidence, lowering interest rates, and extensive foreign travel has done nothing but let the recession drag on and worsen. With an unemployment rate of 6.8 percent, an increase of 0.7 percent in the wholesale price index in October, and the recently reported decline of leading economic indicators for the month of September—the first such decline this year—evidence of the weakness of the Nation's economy surrounds us.

More than 8.5 million Americans are out of work, more than 2 million have seen their unemployment benefits expire, and most shockingly, the recent revelation that 1 in 10 Americans receive food stamps. That 10 percent of the population of the richest country in the world must turn to the Government for assistance simply to feed themselves and their families is a clear indication that something is seriously wrong with the Nation's economy; and it is a national disgrace. The President has said he will sign this bill; congratulations Mr. President, but you should have done it 3 months ago. People are suffering greatly in our country, let us help Americans to get back on their feet. I urge my colleagues to support H.R. 3575.

Ms. LONG. Mr. Chairman, I reluctantly rise in opposition to H.R. 3575, the Federal Supplemental Compensation Act. I understand the need to extend unemployment compensation to millions of Americans who have exhausted their benefits and I appreciate the hard work of my colleagues in forging this bill. However, this legislation, in my view, takes a misdirected approach.

The financing provision of H.R. 3575 would increase taxes on employers, by extending the current unemployment tax rate for an additional year.

I am also concerned that Indiana is 1 of 19 States which does not qualify for reachback benefits. The reachback benefits would provide extended unemployment benefits to those individuals who exhausted their regular benefits between March and the date of enactment. Those individuals in my State who most desperately need benefits, who may have exhausted their regular benefits last March, do not receive relief. I cannot support such a bill which does not help those individuals who have been hardest hit by this recession.

Employers have paid over $8 billion into the Unemployment Insurance Trust Fund for the purpose of providing extended benefits. We need to use the money in the trust fund to provide benefits, not to hide the true size of the budget deficit. I cannot support H.R. 3575, which increases taxes and fails to provide assistance to those unemployed individuals who most need assistance.

Mr. MATSUI. Mr. Speaker, today we have the opportunity to finally send on to our citizens extended unemployment insurance benefits. It has taken three attempts, but at last we can do something to assist the 8.6 million Americans who are out of work and unable to find a job. While the President has refused to acknowledge that we are in a recession, millions of unemployed American workers know otherwise.

In California the unemployment rate in October was 7.8 percent. California's unemployment rate has been above 7 percent for much of 1991. During the first 5 months of this year alone, some 347,000 unemployed Californians reached the end of their benefits. Some 37,000 Californians exhaust their State unemployment insurance benefits each month.

This legislation would provide real relief to the millions of Californians and millions of other Americans who are without jobs or regular income. California, like many other States that have passed the 7-percent unemployment rate, is unable to secure extended benefits for its citizens.

The current unemployment insurance system is ill-equipped to serve the numbers of people needing continued benefits. Cuts made during the 1980's have decimated the extended benefits program, rendering it unable to meet the needs of the long-term unemployed. Congress must act to extend these benefits to the millions of unemployed Americans who have exhausted their regular unemployment benefits.

The United States is a country made up of people who are proud to work. We all should take great offense at those who would suggest that these unemployed Americans are lazy or do not try hard enough to find employment. It is high time the President acknowledge that we are in fact in the midst of a recession and sign this critical legislation to provide needed assistance to millions of Americans. We must provide an adequate safety net in times such as these to protect American workers who have fallen on hard times. I urge my colleagues to vote for this legislation.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of the bill, H.R. 3757, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 3757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Unemployment Compensation Act of 1991".

TITLE I—EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 101. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this Act with the Secretary of Labor (hereafter in this Act referred to as the "Secretary"). Any State which is a party to an agreement under this Act may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law,

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and are not paid or entitled to be paid any additional compensation under any State or Federal law), and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada, and

(2) for any week of unemployment which begins in the individual's period of eligibility (as defined in section 106(a)(2)).

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period, or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT.—For purposes of any agreement under this Act—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment,

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where inconsistent with the provisions of this Act or with the regulations or operating instructions of the Secretary promulgated to carry out this Act, and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an account is established under section 102 shall not exceed the amount established in such account for such individual.

(e) ELECTION.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State in a 20-week period or a 13-week period, as defined in section 102, is authorized to and may elect to trigger off an extended compensation period in order to provide payment of emergency unemployment compensation to individuals who have exhausted their rights to regular compensation under State law.

SEC. 102. EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this Act shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 100 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which the individual most recently received regular compensation, or

(B) the applicable limit times the individual's average weekly benefit amount for the benefit year.

(2) APPLICABLE LIMIT.—For purposes of this section—

(A) IN GENERAL.—Except as otherwise provided in this paragraph—

(i) In the case of weeks beginning during a 20-week period, the applicable limit is 20.

(ii) In the case of weeks beginning during a 13-week period, the applicable limit is 13.

(iii) In the case of weeks not beginning in a 20-week period or 13-week period, the applicable limit is 6.

(B) APPLICABLE LIMIT NOT REDUCED.—An individual's applicable limit for any week shall in no event be less than the highest applicable limit in effect for any prior week for which emergency unemployment compensation was payable to the individual from the account involved.

(C) INCREASE IN APPLICABLE LIMIT.—If the applicable limit in effect for any week is higher than the applicable limit for any prior week, the applicable limit shall be the higher applicable limit, reduced (but not below zero) by the number of prior weeks for which emergency unemployment compensation was paid to the individual from the account involved.

(3) REDUCTION FOR EXTENDED BENEFITS.—The amount in an account under paragraph (1) shall be reduced (but not below zero) by the aggregate amount of extended compensation (if any) received by such individual relating to the same benefit year under the Federal-State Extended Unemployment Compensation Act of 1970.

(4) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) 20-WEEK PERIOD.—For purposes of this section—

(1) IN GENERAL.—The term "20-week period" means, with respect to any State, the period which—

(A) begins with the third week after the first week for which the requirements of paragraph (2) are satisfied, and

(B) ends with the third week after the first week for which the requirements of paragraph (2) are not satisfied.

(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements of this paragraph are satisfied for any week if—

(A) the adjusted rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is at least 5 percent, or

(B) the average rate of total unemployment in such State for the period consisting of the most recent 6-calendar month period (for which data are published before the close of such week) is at least 9 percent.

(d) 13-WEEK PERIOD.—For purposes of this section—

(1) IN GENERAL.—The term "13-week period" means, with respect to any State, the period which—

(A) begins with the third week after the first week for which the requirements of paragraph (2) are satisfied, and

(B) ends with the third week after the first week for which the requirements of paragraph (2) are not satisfied.

(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements of this paragraph are satisfied for any week—

(A) if the adjusted rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is at least 4 percent, or

(B) if—

(i) the adjusted rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is at least 2.5 percent, and

(ii) the exhaustion rate in the State for the most recent month for which data are available before the close of such week is at least 29 percent.

(e) SPECIAL RULES.—

(1) COORDINATION BETWEEN PERIODS.—A 13-week period shall not be in effect for any week if a 20-week period is in effect for such week.

(2) SPECIAL RULES FOR DETERMINING PERIODS.—

(A) MINIMUM PERIOD.—Except as provided in subparagraph (B), a 20-week period or 13-week period shall last for not less than 13 weeks.

(B) EXCEPTION.—If, but for subparagraph (A), a 20-week period would be in effect for a State, such period shall take effect without regard to subparagraph (A).

(3) NOTIFICATION BY SECRETARY.—When a determination has been made that a 20-week period or 13-week period is beginning or ending with respect to a State, the Secretary shall cause notice of such determination to be published in the Federal Register.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no emergency unemployment compensation shall be payable to any individual under this Act for any week—

(A) beginning before the later of—

(i) November 17, 1991, or

(ii) the first week following the week in which an agreement under this Act is entered into, or

(B) beginning after July 4, 1992.

(2) TRANSITION.—In the case of an individual who is receiving emergency unemployment compensation for a week which includes July 4, 1992, such compensation shall continue to be payable to such individual in accordance with subsection (b) for any week beginning in a period of consecutive weeks for each of which the individual meets the eligibility requirements of this Act.

(3) REACHBACK PROVISIONS.—

(A) IN GENERAL.—If—

(i) any individual exhausted such individual's rights to regular compensation (or extended compensation) under the State law after February 28, 1991, and before the first week following November 16, 1991 (or, if later, the first week following the week in which the agreement under this Act is entered into), and

(ii)(I) the adjusted rate of insured unemployment (determined on the basis of the information referred to in subsection (g)(2)) in such State for the 13-week period ending on October 19, 1991, is at least 3 percent, or (II) a 20-week period or 13-week period is in effect in such State for the 1st week for which emergency unemployment compensation may be payable in such State under this title,

such individual shall be entitled to emergency unemployment compensation under this Act in the same manner as if such individual's benefit year ended no earlier than the last day of such following week.

(B) LIMITATION OF BENEFITS.—In the case of an individual who has exhausted such individual's rights to both regular and extended compensation, any emergency unemployment compensation payable under subparagraph (A) shall be reduced in accordance with subsection (b)(3).

(g) TRANSITIONAL RULES.—

(1) IN GENERAL.—For purposes of determining whether a 20-week period or 13-week period is in effect with respect to any State for the 1st week for which emergency unemployment compensation may be payable under this title in such State, this Act shall be treated as having been in effect for all weeks ending on or after October 19, 1991.

(2) SPECIAL RULES.—A 20-week period or 13-week period shall begin in any State with the 1st week for which emergency unemployment compensation may be payable in such State under this title if, on the basis of information submitted to the Committee on Ways and Means of the House of Representatives by the Department of Labor on November 7, 1991, the requirements of subsection (c)(2) or (d)(2), as the case may be, are satisfied by such State for the week which ends on October 19, 1991. For purposes of the preceding sentence, the exhaustion rate shall be determined on the basis of (A) the monthly average number of individual exhausting their rights to regular compensation during the 8-month period ending with September of 1991, and (B) the monthly average number of individuals filing initial claims for regular compensation during the 8-month period ending with March of 1991.

SEC. 103. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this Act an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this Act or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this Act in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this Act shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this Act for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 104. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this Act.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

(c) ASSISTANCE TO STATES.—There are hereby authorized to be appropriated, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act) in meeting the costs of administration of agreements under this Act.

(d) AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as may be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code, and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 105. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency unemployment compensation under this Act to which he was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this Act in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of emergency unemployment compensation under this Act to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual, and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this Act or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 106. DEFINITIONS.

(a) IN GENERAL.—For purposes of this Act:

(1) IN GENERAL.—The terms "compensation", "regular compensation", "extended compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(2) PERIOD OF ELIGIBILITY.—An individual's period of eligibility consists of any week which begins on or after November 17, 1991, and which (except as provided in section 102(f)(2)) begins before July 4, 1992; except that an individual shall not have any period of eligibility unless his benefit year ends on or after November 16, 1991.

(3) ADJUSTED RATE OF INSURED UNEMPLOYMENT.—The adjusted rate of insured unemployment for any period shall be determined in the same manner as the rate of insured unemployment is determined under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970; except that individuals exhausting their rights to regular compensation during the most recent 3 calendar months for which data are available before the close of the period for which such rate is being determined shall be taken into account as if they were individuals filing claims for regular compensation for each week during the period for which such rate is being determined.

(4) EXHAUSTION RATE.—The exhaustion rate for any month is the percentage obtained by dividing—

(A) the monthly average number of individuals exhausting their rights to regular compensation under the State law during the 12-month period ending with such month, by

(B) the monthly average number of individuals filing initial claims for regular compensation under the State law during the 12-month period ending with the 6th month of the 12-month period referred to in subparagraph (A).

(5) RATE OF TOTAL UNEMPLOYMENT.—The term "rate of total unemployment" means, with respect to any period, the average unadjusted total rate of unemployment (as determined by the Secretary) for a State for such period.

(b) ROUNDING.—For purposes of this Act, any rate determined under paragraph (3), (4), or (5) of subsection (a) shall be rounded to the nearest 1/10th of a percent.

TITLE II—DEMONSTRATION PROGRAM TO PROVIDE JOB SEARCH ASSISTANCE

SEC. 201. DEMONSTRATION PROGRAM TO PROVIDE JOB SEARCH ASSISTANCE.

(a) GENERAL RULE.—The Secretary of Labor (hereafter in this title referred to as the "Secretary") shall carry out a demonstration program under this title for purposes of determining the feasibility of implementing job search assistance programs. To carry out such demonstration program, the Secretary shall enter into agreements with 3 States which—

(1) apply to participate in such program, and

(2) demonstrate to the Secretary that they are capable of implementing the provisions of an agreement under this section.

(b) SELECTION OF STATES.—

(1) IN GENERAL.—In determining whether to enter into an agreement with a State under this section, the Secretary shall take into consideration at least—

(A) the size, geography, and occupational and industrial composition of the State,

(B) the adequacy of State resources to carry out a job search assistance program,

(C) the range and extent of specialized services to be provided by the State to individuals covered by the agreement, and

(D) the design of the evaluation to be applied by the State to the program.

(2) REPLICATION OF PRIOR DEMONSTRATION PROJECT.—At least 1 of the States selected by the Secretary under subsection (a) shall be a State which has operated a successful demonstration project with respect to job search assistance under a contract with the Department of Labor. The demonstration program under this title of any such State shall, at a minimum, replicate the project it operated under such contract in the same geographic areas.

(c) PROVISIONS OF AGREEMENT.—Any agreement entered into with a State under this section shall—

(1) provide that the State will implement a job search assistance program during the 1-year period specified in such agreement,

(2) provide that such implementation will begin not later than the date 18 months after the date of the enactment of this Act,

(3) contain such provisions as may be necessary to ensure an accurate evaluation of the effectiveness of a job search assistance program, including—

(A) random selection of eligible individuals for participation in the program and for inclusion in a control group, and

(B) collection of data on participants and members of a control group as of the close of the 1-year period and 2-year period after the operations of the program cease,

(4) provide that not more than 5 percent of the claimants for unemployment compensation under the State law shall be selected as participants in the job search assistance program, and

(5) contain such other provisions as the Secretary may require.

SEC. 202. JOB SEARCH ASSISTANCE PROGRAM.

(a) GENERAL RULE.—For purposes of this title, a job search assistance program shall provide that—

(1) eligible individuals who are selected to participate in the program shall be required to participate in a qualified intensive job search program after receiving compensation under such State law during any benefit year for at least 6 but not more than 10 weeks,

(2) every individual required to participate in a job search program under paragraph (1) shall be entitled to receive an intensive job search program voucher, and

(3) any individual who is required under paragraph (1) to participate in a qualified intensive job search program and who does not satisfactorily participate in such program shall be disqualified from receiving compensation under such State law for the period (of not more than 10 weeks) specified in the agreement under section 201.

(b) ELIGIBLE INDIVIDUAL.—For purposes of this title—

(1) IN GENERAL.—The term "eligible individual" means any individual receiving compensation under the State law during any benefit year if, during the 3-year period ending on the last day of the base period for such benefit year, such individual had at least 126 weeks of employment at wages of $30 or more a week with such individual's last employer in such base period (or, if data with respect to weeks of employment with such last employer are not available, an equivalent amount of employment computed under regulations prescribed by the Secretary).

(2) EXCEPTION.—Such term shall not include any individual if—

(A) such individual has a definite date for recall to his former employment,

(B) such individual seeks employment through a union hall or similar arrangement, or

(C) the State agency—

(i) waives the requirements of subsection (a)(1) for good cause shown by such individual, or

(ii) determines that such participation would not be appropriate for such individual.

(c) Qualified Intensive Job Search Program.—For purposes of this section, the term "qualified intensive job search program" means any intensive job search assistance program which—

(1) is approved by the State agency,

(2) is provided by an organization qualified to provide job search assistance programs under any other Federal law, and

(3) includes—

(A) all basic employment services, such as orientation, testing, a job-search workshop, and an individual assessment and counseling interview, and

(B) additional services, such as ongoing contact with the program staff, followup assistance, resource centers, and job search materials and equipment.

(d) Intensive Job Search Voucher.—For purposes of this section, the term "intensive job search voucher" means any voucher which entitles the organization (including the State employment service) providing the qualified intensive job search assistance program to a payment from the State agency equal to the lesser of—

(1) the reasonable costs of providing such program, or

(2) the average weekly benefit amount in the State.

SEC. 203. ADMINISTRATIVE PROVISIONS.

(a) Financing Provisions.—

(1) Payments to states.—There shall be paid to each State which enters into an agreement under section 201 an amount equal to the lesser of the reasonable costs of operating the job search assistance program pursuant to such agreement or the State's average weekly benefit amount for each individual selected to participate in the job search assistance program operated by such State pursuant to such agreement. Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) shall be used for purposes of making such payments.

(2) Payments on calendar month basis.—There shall be paid to each State either in advance or by way of reimbursement, as may be determined by the Secretary, such sum as the Secretary estimates the State will be entitled to receive under this subsection for each calendar month, reduced or increased, as the case may be, by any sum by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such method as may be agreed upon by the Secretary and the State agency.

(3) Certification.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this subsection. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

(4) Special rule.—Notwithstanding any other provision of law, amounts in the account of a State in the Unemployment Trust Fund may be used for purposes of making payments pursuant to intensive job search vouchers provided pursuant to an agreement under this title.

(b) Reports to Congress.—

(1) Interim reports.—The Secretary shall submit 2 interim reports to the Congress on the effectiveness of the demonstration program carried out under this title. The 1st such report shall be submitted before the date 2 years after operations under the demonstration program commenced and the 2d such report shall be submitted before the date 4 years after such commencement.

(2) Final report.—Not later than the date 5 years after the commencement referred to in paragraph (1), the Secretary shall submit a final report to the Congress on the demonstration program carried out under this title. Such report shall include estimates of program impact, such as—

(A) changes in duration of unemployment, earnings, and hours worked of participants,

(B) changes in unemployment compensation outlays,

(C) changes in unemployment taxes,

(D) net effect on the Unemployment Trust Fund,

(E) net effect on Federal unified budget deficit, and

(F) net social benefits or costs of the program.

(c) Definitions.—For purposes of this title, the terms "compensation", "benefit year", "State", "State agency", "State law", "base period", and "week" have the respective meanings given such terms by section 106.

TITLE III—OTHER PROVISIONS

SEC. 301. PAYMENTS OF UNEMPLOYMENT COMPENSATION TO FORMER MEMBERS OF THE ARMED FORCES.

(a) Repeal of Certain Limitations.—Subsection (c) of section 8521 of title 5, United States Code, is hereby repealed.

(b) Reduction in Length of Required Active Duty by Reserves.—Paragraph (1) of section 8521(a) of such title 5 is amended by striking "180 days" and inserting "90 days".

(c) Effective Date.—The amendments made by this section shall apply to weeks of unemployment beginning on or after the date of the enactment of this Act.

SEC. 302. OPTIONAL BENEFITS FOR CERTAIN SCHOOL EMPLOYEES.

(a) In General.—

(1) Subclause (I) of section 3304(a)(6)(A)(ii) of the Internal Revenue Code of 1986 is amended by striking "shall be denied" and inserting "may be denied".

(2) Subparagraph (A) of section 3304(a)(6) of such Code is amended by striking "and" at the end of clauses (iii) and (iv) and by inserting after clause (v) the following new clause:

"(vi) with respect to services described in clause (ii), clauses (iii) and (iv) shall be applied by substituting 'may be denied' for 'shall be denied', and".

(b) Effective Date.—The amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the date of the enactment of this Act.

SEC. 303. ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION.

Section 908 of the Social Security Act is amended to read as follows:

"ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION

"Sec. 908. (a) Establishment.—Not later than February 1, 1992, and every 4th year thereafter, the Secretary of Labor shall establish an advisory council to be known as the Advisory Council on Unemployment Compensation (referred to in this section as the 'Council').

"(b) Function.—It shall be the function of each Council to evaluate the unemployment compensation program, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and any other aspects of the program and to make recommendations for improvement.

"(c) Members.—

"(1) In general.—Each Council shall consist of 11 members as follows:

"(A) 5 members appointed by the President, to include representatives of business, labor, State government, and the public.

"(B) 3 members appointed by the President pro tempore of the Senate, in consultation with the Chairman and ranking member of the Committee on Finance of the Senate.

"(C) 3 members appointed by the Speaker of the House of Representatives, in consultation with the Chairman and ranking member of the Committee on Ways and Means of the House of Representatives.

"(2) Qualifications.—In appointing members under subparagraphs (B) and (C) of paragraph (1), the President pro tempore of the Senate and the Speaker of the House of Representatives shall each appoint—

"(A) 1 representative of the interests of business,

"(B) 1 representative of the interests of labor, and

"(C) 1 representative of the interests of State governments.

"(3) Vacancies.—A vacancy in any Council shall be filled in the manner in which the original appointment was made.

"(4) Chairman.—The President shall appoint the Chairman of the Council from among it members.

"(d) Staff and Other Assistance.—

"(1) In general.—Each Council may engage any technical assistance (including actuarial services) required by the Council to carry out its functions under this section.

"(2) Assistance from Secretary of Labor.—The Secretary of Labor shall provide each Council with any staff, office facilities, and other assistance, and any data prepared by the Department of Labor, required by the Council to carry out its functions under this section.

"(e) Compensation.—Each member of any Council—

"(1) shall be entitled to receive compensation at the rate of pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Council, and

"(2) while engaged in the performance of such duties away from such member's home or regular place of business, shall be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(f) Report.—

"(1) In general.—Not later than February 1 of the 2d year following the year in which any Council is required to be established under subsection (a), the Council shall submit to the President and the Congress a report setting forth the findings and recommendations of the Council as a result of its evaluation of the unemployment compensation program under this section.

"(2) Report of first council.—The Council shall include in its report required to be submitted by February 1, 1994, the Council's findings and recommendations with respect to determining eligibility for extended unemployment benefits on the basis of unemployment statistics for regions, States, or subdivisions of States."

SEC. 304. REPORT ON METHOD OF ALLOCATING ADMINISTRATIVE FUNDS AMONG STATES.

(a) In General.—The Secretary of Labor shall submit to the Congress, within the 12-month period beginning on the date of the enactment of this Act, a comprehensive report setting forth a proposal for revising the method of allocating grants among the States under section 302 of the Social Security Act.

(b) Specific Requirements.—The report required by subsection (a) shall include an analysis of—

(1) the use of unemployment insurance workload levels as the primary factor in allocating grants among the States under section 302 of the Social Security Act,

(2) ways to ensure that each State receive not less than a minimum grant amount for each fiscal year,

(3) the use of nationally available objective data to determine the unemployment compensation administrative costs of each State, with consideration of legitimate cost differences among the States,

(4) ways to simplify the method of allocating such grants among the States,

(5) ways to eliminate the disincentives to productivity and efficiency which exist in the current method of allocating such grants among the States,

(6) ways to promote innovation and cost-effective practices in the method of allocating such grants among the States, and

(7) the effect of the proposal set forth in such report on the grant amounts allocated to each State.

(c) Congressional Review Period.—The Secretary of Labor may not revise the method in effect on the date of the enactment of this Act for allocating grants among the States under section 302 of the Social Security Act, until after the expiration of the 12-month period beginning on the date on which the report required by subsection (a) is submitted to the Congress.

TITLE IV—FINANCING PROVISIONS

SEC. 401. PERMANENT EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

(a) In General.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking ", and on or before January 10, 1994".

(b) Effective Date.—The amendment made by this section shall take effect on October 1, 1991.

SEC. 402. EXTENSION OF FUTA SURTAX.

Section 3301 of the Internal Revenue Code of 1986 (relating to rate of unemployment tax) is amended—

(1) by striking "1995" in paragraph (1) and inserting "1996", and

(2) by striking "1996" in paragraph (2) and inserting "1997".

SEC. 403. MODIFICATION TO INDIVIDUAL ESTIMATED TAX REQUIREMENTS.

(a) General Rule.—Paragraph (1) of section 6654(d) of the Internal Revenue Code of 1986 (relating to amount of required installments) is amended by adding at the end thereof the following new subparagraphs:

"(C) Limitation on use of preceding year's tax.—

"(i) In general.—In any case to which this subparagraph applies, clause (ii) of subparagraph (B) shall be applied as if it read as follows:

" '(ii) the greater of—

" '(I) 100 percent of the tax shown on the return of the individual for the preceding taxable year, or

" '(II) 90 percent of the tax shown on the return for the current year, determined by taking into account the adjustments set forth in subparagraph (D).'

"(ii) Cases to which subparagraph applies.—This subparagraph shall apply if—

"(I) the modified adjusted gross income for the current year exceeds the amount of the adjusted gross income shown on the return of the individual for the preceding taxable year by more than $40,000 ($20,000 in the case of a separate return for the current year by a married individual),

"(II) the adjusted gross income shown on the return for the current year exceeds $75,000 ($37,500 in the case of a married individual filing a separate return), and

"(III) the taxpayer has made a payment of estimated tax (determined without regard to subsection (g) and section 6402(b)) with respect to any of the preceding 3 taxable years (or a penalty has been previously assessed under this section for a failure to pay estimated tax with respect to any of such 3 preceding taxable years).

This subparagraph shall not apply to any taxable year beginning after December 31, 1996.

"(iii) May use preceding year's tax for first installment.—This subparagraph shall not apply for purposes of determining the amount of the 1st required installment for any taxable year. Any reduction in an installment by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st succeeding required installment (with respect to which the requirements of clause (iv) are not met) by the amount of such reduction.

"(iv) Annualization exception.—This subparagraph shall not apply to any required installment if the individual establishes that the requirements of subclauses (I) and (II) of clause (ii) would not have been satisfied if such subclauses were applied on the basis of—

"(I) the annualized amount of the modified adjusted gross income for months in the current year ending before the due date for the installment determined by assuming that all items referred to in clause (i) of subparagraph (D) accrued ratably during the current year, and

"(II) the annualized amount of the adjusted gross income for months in the current year ending before the due date for the installment.

Any reduction in an installment under the preceding sentence shall be recaptured by increasing the amount of the 1st succeeding required installment (with respect to which the requirements of the preceding sentence are not met) by the amount of such reduction.

"(D) Modified adjusted gross income for current year.—For purposes of this paragraph, the term 'modified adjusted gross income' means the amount of the adjusted gross income shown on the return for the current year determined with the following modifications:

"(i) The qualified pass-thru items shown on the return for the preceding taxable year shall be treated as also shown on the return for the current year (and the actual qualified pass-thru items (if any) for the current year shall be disregarded).

"(ii) The amount of any gain from any involuntary conversion (within the meaning of section 1033) which is shown on the return for the current year shall be disregarded.

"(iii) The amount of any gain from the sale or exchange of a principal residence (within the meaning of section 1034) which is shown on the return for the current year shall be disregarded.

"(E) Qualified pass-thru item.—For purposes of this paragraph—

"(i) In general.—Except as otherwise provided in this subparagraph, the term 'qualified pass-thru item' means any item of income, gain, loss, deduction, or credit attributable to an interest in a partnership or S corporation. Such term shall not include any gain or loss from the disposition of an interest in an entity referred to in the preceding sentence.

"(ii) 10-percent owners and general partners excluded.—The term 'qualified pass-thru item' shall not include, with respect to any year, any item attributable to—

"(I) an interest in an S corporation, if at any time during such year the individual was a 10-percent owner in such corporation, or

"(II) an interest in a partnership, if at any time during such year the individual was a 10-percent owner or general partner in such partnership.

"(iii) 10-percent owner.—The term '10-percent owner' means—

"(I) in the case of an S corporation, an individual who owns 10 percent or more (by vote or value) of the stock in such corporation, and

"(II) in the case of a partnership, an individual who owns 10 percent or more of the capital interest (or the profits interest) in such partnership.

"(F) Other definitions and special rules.—For purposes of this paragraph—

"(i) Current year.—The term 'current year' means the taxable year for which the amount of the installment is being determined.

"(ii) Special rule.—If no return is filed for the current year, any reference in subparagraph (C) or (D) to an item shown on the return for the current year shall be treated as a reference to the actual amount of such item for such year.

"(iii) Marital status.—Marital status shall be determined under section 7703."

(b) Technical Amendments.—

(1) Subparagraph (C) of section 6654(i)(1) of such Code is amended to read as follows:

"(C) the amount of such installment shall be equal to the required annual payment determined under subsection (d)(1)(B) by substituting '66⅔ percent' for '90 percent' and without regard to subparagraph (C) of subsection (d)(1), and".

(2) Subparagraph (A) of section 6654(j)(3) of such Code is amended by inserting before the period at the end thereof the following: "and subsection (d)(1)(C)(iii) shall not apply".

(3) Paragraph (4) of section 6654(l) of such Code is amended by striking "subsection (d)(2)(B)(i)" and inserting "paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE V—RAILROAD UNEMPLOYMENT INSURANCE

SEC. 501. EXTENDED RAILROAD UNEMPLOYMENT INSURANCE BENEFITS DURING PERIODS OF HIGH NATIONAL UNEMPLOYMENT.

(a) In General.—For purposes of section 2(h) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(h)(2)), a "period of high unemployment" includes any month during the period November, 1991 through July, 1992.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no employee shall have an extended benefit period under the second proviso of section 2(c) of the Railroad Unemployment Insurance Act beginning before November 17, 1991, or after July 4, 1992.

(2) TRANSITION.—If an employee has established an extended benefit period under the second proviso of section 2(c) of the Railroad Unemployment Insurance Act and the last day of such extended benefit period, as established, is after July 4, 1992, such employee shall continue to be entitled to extended unemployment benefits for days of unemployment in registration periods included in such extended benefit period, provided that such employee meets the eligibility requirements of this section and the Railroad Unemployment Insurance Act.

(3) REACHBACK PROVISIONS.—If an employee has exhausted that employee's rights to normal unemployment benefits under section 2(c) of the Railroad Unemployment Insurance Act after February 28, 1991, but before November 17, 1991, such employee shall, for the purposes of the application of this section, be deemed to have exhausted such rights after November 17, 1991.

(c) LIMITATION ON PAYMENT.—Extended benefits under this section shall be payable for a maximum of 65 days of unemployment, including any extended benefits payable by reason of the application of the reachback provisions.

TITLE VI—GUARANTEED STUDENT LOANS

SEC. 601. CREDIT CHECKS; COSIGNERS.

(a) FISL PROGRAM.—Section 427(a)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), hereafter in this title referred as "the Act", is amended to read as follows:

"(A) is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under this part a lender shall—

"(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

"(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be an adverse credit history;".

(b) GSL PROGRAM.—Section 428(b)(1) of the Act is amended—

(1) in subparagraph (U), by striking "and" at the end thereof;

(2) in subparagraph (V), by striking the period at the end thereof and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(W) provides that prior to making a loan made, insured, or guaranteed under this part (other than a loan made in accordance with section 428C), a lender shall—

"(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

"(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be an adverse credit history.".

SEC. 602. BORROWER INFORMATION.

(a) FISL PROGRAM.—Section 427 of the Act is amended by adding at the end thereof the following new subsection:

"(d) BORROWER INFORMATION.—The lender shall obtain the borrower's driver's license number, if any, at the time of application for the loan.".

(b) GSL PROGRAM.—Section 428 of the Act is amended—

(1) in subsection (a)(2)(A)—

(A) in clause (i)(I), by striking out "and" at the end thereof;

(B) in clause (ii), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's driver's number, if any.".

SEC. 603. ADDITIONAL BORROWER INFORMATION.

Section 485(b) of the Act is amended—

"(1) by striking the subsection heading and inserting "EXIT COUNSELING FOR BORROWERS; BORROWER INFORMATION.—"; and

(2) by adding at the end thereof the following: "Each eligible institution shall require that the borrower of a loan made under part B, part D, or part E submit to the institution, during the exit interview required by this subsection, the borrower's expected permanent address after leaving the institution, regardless of the reason for leaving; the name and address of the borrower's expected employer after leaving the institution; and the address of the borrower's next of kin. In the case of a loan made under part B, the institution shall then submit this information to the holder of the loan.".

SEC. 604. CONFESSION OF JUDGMENT.

Section 428(b)(1) of the Act is further amended—

(1) in subparagraph (V), by striking "and" at the end thereof;

(2) in subparagraph (W), by striking the period at the end thereof and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(X) provides that the lender shall obtain, as part of the note or written agreement evidencing the loan, the borrower's authorization for entry of judgment against the borrower in the event of default.".

SEC. 605. WAGE GARNISHMENT.

(a) AMENDMENT.—Part G of title IV of the Act is amended by inserting immediately following section 488 the following new section:

"WAGE GARNISHMENT REQUIREMENT

"SEC. 488A. (a) GARNISHMENT REQUIREMENTS.—Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this title that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B on which the guaranty agency received reimbursement from the Secretary under section 428(c), with the guaranty agency holding the loan, as appropriate, provided that—

"(1) the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

"(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

"(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

"(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

"(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

"(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph;

"(7) if an individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of such individual until such individual has been reemployed continuously for at least 12 months; and

"(8) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

"(b) HEARING REQUIREMENTS.—A hearing described in subsection (a)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2), and in accordance with such procedures as the Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(c) NOTICE REQUIREMENTS.—The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(d) DEFINITION.—For the purpose of this section, the term 'disposable pay' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by law to be withheld.".

(b) ABOLITION OF ADDITIONAL COST PAYMENTS.—

(1) Section 428E of the Act is repealed.

(2) Section 428(c)(6) of the Act is amended by striking subparagraph (D).

SEC. 606. DATA MATCHING.

Part G of title IV of the Act is further amended by inserting immediately following section 489 the following new section:

"DATA MATCHING

"SEC. 489A. (a)(1) The Secretary is authorized to obtain information from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States concerning the most recent address of an individual obligated on a loan held by the Secretary or a loan made in accordance with part B of this title held by a guaranty agency, or an individual owing a refund of an overpayment of a grant awarded under this title, and the name and address of such individual's employer, if the Secretary determines that such information is needed to enforce the loan or collect the overpayment.

"(2) The Secretary is authorized to provide the information described in paragraph (1) to a guaranty agency holding a loan made under part B of this title on which such individual is obligated.

"(b)(1) Notwithstanding any other provision of law, whenever the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized under this section, such individual or his designee shall promptly cause a search to be made of the records of the agency to determine whether the information requested is contained in those records.

"(2)(A) If such information is found, the individual shall, in conformance with the provisions of the Privacy Act of 1974, as amended, immediately transmit such information to the Secretary, except that if disclosure of this information would contravene national policy or security interests of the United States, or the confidentiality of census data, the individual shall immediately so notify the Secretary and shall not transmit the information.

"(B) If no such information is found, the individual shall immediately so notify the Secretary.

"(3)(A) The reasonable costs incurred by any such agency of the United States in providing any such information to the Secretary shall be reimbursed by the Secretary, and retained by the agency.

"(B) Whenever such information is furnished to a guaranty agency, that agency shall be charged a fee to be used to reimburse the Secretary for the expense of providing such information.".

MODIFICATION TO AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be modified with a technical correction which is at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment in the nature of a substitute offered by Mr. ROSTENKOWSKI:

(1) In section 102(g)(2) of the bill, strike "filing initial claims for" and insert "receiving first payments of".

(2) In section 106(a)(4)(B) of the bill, strike "filing initial claims for" and insert "receiving first payments of".

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. ARCHER. Mr. Chairman, reserving the right to object, I do so in order to ask a question of the chairman.

Is this request for modification one that was made by the Department of Labor?

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. Further reserving the right to object, I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, the gentleman is correct. This is a request made by the Department of Labor, the administration, to help expedite the funneling of the checks to our unemployed.

Mr. ARCHER. Mr. Chairman, I thank the gentleman for his explanation.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. No amendment to the amendment in the nature of a substitute, as modified, is in order.

The question is on the amendment in the nature of a substitute, as modified.

The amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. HOYER] having assumed the chair, Mr. LEWIS of Georgia, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3575) to provide a program of Federal supplemental compensation, and for other purposes, pursuant to House Resolution 280, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

□ 1350

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 396, nays 30, not voting 8, as follows:

[Roll No. 396]

YEAS—396

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock

Harris
Hastert
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—30

Allard
Archer
Armey
Baker
Barrett
Barton
Burton
Combest
Crane
Dannemeyer
DeLay
Doolittle
Duncan
Gallegly
Hansen
Hayes (LA)
Holloway
Inhofe
Johnson (TX)
Lightfoot
Livingston
Long
Nichols
Petri
Schaefer
Sensenbrenner
Stenholm
Stump
Valentine
Weber

NOT VOTING—8

Campbell (CA)
Hatcher
Jenkins
Lloyd
Paxon
Schulze
Thomas (WY)
Young (AK)

□ 1610

Mr. ROHRABACHER and Mr. PACKARD changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to provide a program of emergency unemployment compensation, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3575, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REQUEST TO EXTEND DEBATE ON H.R. 2094, FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

(Mr. SOLOMON asked and was given permission to address the House for 1 minute, and revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, I rise to clarify the rule which brought the banking bill to the floor yesterday, at which time we had 1 hour of general debate. We then took up a 10-minute en bloc amendment which was successfully passed by the House. We are now about to resolve ourselves back into the Committee of the Whole to take up the en bloc amendment of the gentleman from Ohio [Mr. WYLIE]. After all debate time has expired and, because of the seriousness of this bill, I think it would behoove the House to be able to hear the majority leader, the gentleman from Missouri [Mr. GEPHARDT], and the minority leader, the gentleman from Illinois [Mr. MICHEL], sum up, after either the successful passage or failure of the Wylie amendment, the bill before us.

Mr. Speaker, if there would be no objection to that, I would at the appropriate time make a unanimous consent request to extend debate for 10 minutes, to be equally divided between the majority leader and the minority leader so that the bill could be explained at the end of all debate time.

Mr. DINGELL. Mr. Speaker, reserving the right to object, I would make a couple of observations.

First, I have enormous respect and affection for the gentleman from New York [Mr. SOLOMON], my good friend, as he well knows. Second, I have enormous respect and affection for the leadership on both sides of the aisle, and I follow the leadership on this side of the aisle whenever it is possible.

Regrettably I would observe that that simply gives 10 minutes to the proponents of the amendment. I do not believe that is consistent with the procedures that have been set forth by the Committee on Rules.

Mr. Speaker, I, therefore, object.

The SPEAKER pro tempore (Mr. MONTGOMERY). Objection is heard.

FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 277 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2094.

□ 1613

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2094) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, November 13, 1991, pending were the amendments en bloc offered by the gentleman from Ohio [Mr. WYLIE].

Under the rule, the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. HUBBARD. Mr. Chairman, I rise in opposition to the amendments en bloc offered by the gentleman from Ohio.

The CHAIRMAN. The gentleman from Kentucky [Mr. HUBBARD] will be recognized for 30 minutes.

Mr. WYLIE. Mr. Chairman, I yield 15 minutes to the gentleman from North Carolina [Mr. NEAL] to allocate as he pleases.

The CHAIRMAN. Without objection, the gentleman from North Carolina [Mr. NEAL] will control 15 minutes.

There was no objection.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Wylie-Neal amendment which is before us right now has three elements. It has full interstate banking and branching, it has a limitation on insurance activities by national banks, and a limitation on real estate activities by bank holding companies. The interstate banking and branching provisions are identical to those which were in the Vento-Bereuter compromise provision adopted by the House on a vote of 366 to 4.

The savings that will result from interstate banking and branching are best stated in a letter from Secretary Brady which I received today.

DEAR MEMBER OF CONGRESS: A wide range of experts agree that nationwide interstate branching—the cornerstone of the Wylie-Neal amendment—will reduce bank costs by billions of dollars and produce a safer, more efficient banking system.

In the enclosed letter, Lowell Bryan, the banking expert at the McKinsey & Company consulting firm, estimates that bank costs would go down by $10 billion per year.

In a CBO-sponsored study, Professor David Humphrey of Florida State University concludes that banks will pass most of the cost savings on to their customers.

These billions in cost savings will mean more bank loans to businesses and consumers at lower rates.

The Administration strongly urges you to support the Wylie-Neal amendment.

Sincerely,

NICHOLAS F. BRADY.

Mr. Chairman, the insurance part of our amendment also is not new. Basically the same provisions were included in the Committee on Banking, finance and Urban Affairs and the Committee on Energy and Commerce reported bills. Our amendment would close the so-called Delaware loophole which would allow a State-chartered bank in Delaware to sell insurance in any State other than Delaware, and it would close the loophole which would allow banks to sell insurance nationwide through offices located in towns with populations of 5,000 or less. A letter from the banking industry, I fear, has caused a misunderstanding in this regard. My amendment still would allow banks to sell insurance in towns of 5,000 or less and in contiguous rural areas, but it would not allow Citicorp to sell insurance in Los Angeles, Dallas, and Boston from a bank located in a town of 5,000 or less. Our amendment closes a loophole that was never intended by Congress.

Mr. Chairman, our amendment would not require banks to divest if they are already in the insurance business. Contrary to the information being spread, the amendment would in no way affect the ability of a State to authorize its own State-chartered banks to engage in insurance sales activity within that State.

The third part of our amendment would, simply stated, say that Congress will decide whether bank holding companies should be able to get into the real estate business. In 1987, the Federal Reserve put out for comment a rule that would have allowed bank holding companies to become involved in the direct investment of real estate. The real estate market went sour, as we know, and the proposal was shelved. But it is still on the shelf and can be taken off at any time. One of the causes of the S&L debacle was massive direct investment in real estate by savings and loans. I think that this is one of those amendments that we would look back on years from now and say, "I'm glad I voted for that amendment because it saved the taxpayers a lot of money."

What our amendment does is prohibit the Federal Reserve from further expanding the real estate authorities or powers of bank holding companies without Congress acting.

Mr. Chairman, I urge adoption of the Wylie-Neal amendment.

Mr. HUBBARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just 10 days ago, on November 4, the House overwhelmingly rejected a banking reform bill. The final vote, my colleagues will recall, was yes: 89, no: 224.

□ 1620

Then our House Banking Committee, led by our distinguished chairman, the gentleman from Texas [Mr. GONZALEZ] went back to work. H.R. 2094, a narrow, simple bill to recapitalize the bank insurance fund of the Federal Deposit Insurance Corporation and to provide for more regulations on our banks, was introduced. The bill was passed by the House Banking Committee by a vote of 37 to 15 without amendments.

Now comes this major, controversial, complex amendment introduced by two of our friends on the Banking Committee and approved by the Committee on Rules which, if passed today—and remember that I predicted this at 4:20 this afternoon—if this amendment passes, the bill will be defeated this afternoon, and we will for the second time have failed this year in this Congress to recapitalize the bank insurance fund.

Mr. Chairman, there are parts of the Wylie-Neal amendment which I support, but we must recapitalize the Federal Deposit Insurance Corporation before we adjourn for the year in 1991, and that is just a few days away, no later than the Tuesday before Thanksgiving.

Let me emphasize this: There is no compromise possible today which will please all of our friends with their competing interests on this Wylie-Neal amendment. That is right, I say to my colleagues, there is no way to satisfy simultaneously the National Association of Realtors, the Securities Industry Association, the American Bankers Association, the Independent Bankers Association of America, and my own constituent, my friend, R.C. Riley of Benton, KY, who just happens to be the nationwide president of the Independent Insurance Agents of America, a significant competing industry and an industry which supports the amendment.

Mr. Chairman, the last effort to satisfy the competing powers and the lobbyists was, I repeat, met with a vote of yes, 89, no, 324. If we want a result similar to that on this bill, then we will, of course, support the Wylie-Neal amendment.

Mr. Chairman, I urge rejection of the amendment.

Mr. NEAL of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are here today because there is a problem. The administration is asking for $70 billion because the banking industry is in trouble.

Some folks are arguing for a so-called narrow bill. They are saying, "Just give the administration this money. Don't do anything much to clean up the problem. Just give them the money and forget about it."

But that is a mistake. We have an opportunity here, a limited opportunity, I will agree, to improve the system, because, as the gentleman from Ohio [Mr. WYLIE] pointed out, some estimates say that we can help it build up to $10 billion worth of capital that can be there as a buffer against the taxpayer bailout. That is what this amendment is all about.

The heart of this amendment, the interstate portion, the portion that would save all the money, passed this House by a vote of 366 to 4. That is what I am arguing for.

Mr. Chairman, I yield 2 minutes to a very distinguished member of the Democratic leadership, the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I support the passage of the Wylie-Neal amendment and I will support final passage of H.R. 2094.

This amendment advances two interests of paramount importance to me.

First, I strongly believe in the interstate branching provisions. America's banks must be able to compete in the international marketplace. We need a strong and vibrant financial system. Interstate branching, as established by the Wylie amendment, is the best way to enable the banking industry to become more efficient and more competitive.

Second, it is critically important that the issuance provisions of the Wylie amendment be adopted by this House. They are carefully drawn to ensure that States have the right to decide whether banks should be able to sell insurance to their citizens.

My own State has decided that banks should be able to sell insurance and my State's bankers—small and large—support this bill. But, other States have decided differently and their decision should be respected by the Federal Government and by their sister States.

Mr. Chairman, it is not enough that the Wylie amendment be adopted. It is equally important that this bill succeed on final passage.

We must provide the funds to protect every American family that has its money in an FDIC-insured bank.

We must move forward on a broad approach to banking reform.

We must demonstrate to the American people that Congress can live up to its responsibilities. We have to do our job and move this to conference. We have to fund the bank insurance fund.

Failure today would accomplish nothing. I hear—and I understand—the arguments of those who say that this bill could be improved. Obviously—but it seems that will have to wait for another day to do that.

This is the bill we have produced. This is the bill that we need. And, this is the bill that we must enact.

I urge my colleagues to support the Wylie-Neal amendment and to support final passage.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise in strong support of the Wylie-Neal amendment.

In addition to incorporating the nationwide banking and branching provisions of title III of H.R. 6, which this House approved last week, Congressman WYLIE'S amendment includes the provisions of the Hayes insurance amendment which I previously supported. These provisions were originally reported by the Energy and Commerce Committee and were also a part of both the Dingell-Gonzalez compromise and the Wylie motion to recommit H.R. 6. Specifically, these provisions will prevent banks from engaging in unlimited insurance activities beyond a State's borders without the legislative authorization of each individual State.

The Wylie amendment also correctly clarifies congressional intent regarding the geographic scope of a national bank's ability to sell insurance by narrowing it to a town of 5,000.

The amendment also limits the ability of banks to get into the real estate business, a provision your local real estate brokers and agents strongly support.

These provisions are very important parts of this banking reform legislation.

This legislation will help bring the national crisis that has been developing in the financial services industry to an end.

I urge my colleagues to support this amendment.

Mr. HUBBARD. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. VENTO. Mr. Chairman, I rise in opposition to the pending Wylie amendment.

My colleagues may be aware that a major component of the amendment is the Vento-Bereuter amendment from H.R. 6 which was considered last week. That compromise was successful by an overwhelming vote. The fact of the matter is that we all voted for interstate branching. So if that is not the issue here, what is the issue?

The issue is that this amendment is saddled with other provisions, provisions dealing with insurance, that affect national banks, thousands of national banks across this country, and that is why the American Banking Association which favored my amendment is against this amendment. They are against the amendment because it takes away more than it gives in terms of what is happening. As good as interstate branching may be in some people's minds, this amendment takes away the profitability of banks to provide the opportunity to sustain themselves and to save the taxpayers money.

Second, this amendment puts in a completely unrelated provision which was neither considered nor passed on the House floor, and that is the real estate provision in this Wylie amendment. It puts in a moratorium on real estate activities, freezing banks in the position they are today in exercising real estate activities.

Furthermore, what this amendment does without the context, for instance, of title IV and the firewalls is that it suggests you can have your dessert first.

Mr. WYLIE. Mr. Chairman, will the gentleman yield.

Mr. VENTO. I will not yield at this time. The gentleman has his own time.

Mr. WYLIE. The gentleman made a mistake on the real estate——

Mr. VENTO. I have but 2 minutes, and I will not yield.

The fact of the matter is, it suggests to the banks they can have their chocolate cake right now and eat that first, and they are promising they are going to come back and eat their broccoli and then do banking reform.

□ 1630

The truth of the matter is, that does not work with children, and it is not going to work in this case with these banks and other financial interests. We have to have a balanced bill that deals with all the components. If you provide the sugar this year, you are never going to get the banks to take a reform shot of vinegar next year in terms of true banking reform.

That is the fault with this Wylie amendment. This issue, the real estate issue, as I said, is a moratorium on real estate activities as of December 31, 1991.

The Wylie amendment we are now considering is a wolf in sheep's clothing. Based on the merits and the momentum of the Vento-Bereuter amendment vote, the proponents of this package are now trying to claim a political victory for a questionable policy, which, in fact, would hurt, not help, banks.

What the administration and their advocates choose to ignore in pursuing this strategy is the complex nature of bank reform. The components of any legislative package are interrelated. We must craft a balanced proposal and not treat banking reform like a menu from a Chinese restaurant selecting something from column A and something worse from column B. This will result in more than indigestion.

In its blind pursuit to attain a political success, the administration and the supporters of the pending amendment have turned their backs to the issue of bank profitability and the safety and soundness of the insurance fund. The advocates have blindly courted and done the bidding of interest groups who, in fact, have contradictory goals to that end. The result is an illogical policy which takes one step forward and two steps backward.

Unfortunately, for the banks and their ultimate success or failure, the pending Wylie amendment is a two-edged sword. The amendment provides some banks with the prospect of significant savings through the consolidation and the diversification that will ultimately result from interstate branching and banking as envisioned by the Vento-Bereuter amendment. But on the other hand, the Wylie amendment precludes most banks from insurance sales both on an interstate and intrastate basis. Mr. Chairman, major banks across the Nation have sold insurance for over 50 years. Retail insurance sales pose no risks to banks or the deposit insurance fund. In fact, such insurance activities have helped those banks to survive difficult periods. Nor has this bank power forced independent insurance agents into extinction. Yet this amendment seeks to undercut and make such a power inoperable for almost all the banks across this Nation. The failure of the Wylie amendment is not only what it includes but also what it omits. If we are to enact comprehensive financial institutions reform, we cannot ignore the very real issue and the impact of the Federal Reserve Board's deregulation of banks in the securities market. This deregulation and further steps by the regulators represent a very real threat to the safety and soundness of the bank insurance fund to which we are making a $70 billion loan in this legislation. Strong steps are needed to ensure that protections are in place for the American consumer and taxpayer. It is ironic that in the rush to close insurance sales to banks, the administration refuses to address the myriad of loopholes that its regulators have created in the past and will continue to expand in the future. The passage of this amendment will make it impossible to deal with that subject today or in this Congress next year or for years to come.

Mr. Chairman, the pending amendment is not comprehensive reform. It is a hollow shell. The positive reforms that Members have referred to regarding early intervention, limits on foreign deposits and least cost resolution are not in the Wylie amendment. Therefore, I must urge my colleagues to oppose the Wylie amendment and to approve H.R. 2094 as it now stands. Surely, we can regroup at a later date to deal with comprehensive bank reforms both interstate banking and branching and the exercise of nontraditional banking powers by banks.

The need to recapitalize the bank insurance fund is urgent and the noncontroversial reforms in the bill at this point are essential. They should not be sidetracked or held hostage to the demands of the special interests represented so vividly in the Wylie amendment.

I urge my colleagues to reject the Wylie amendment.

Mr. WYLIE. Mr. Chairman, might I inquire of the situation on the time?

The CHAIRMAN. The gentleman from North Carolina [Mr. NEAL] has 12 minutes, the gentleman from Ohio [Mr. WYLIE] has 10½ minutes remaining and the gentleman from Kentucky [Mr. HUBBARD] has 25 minutes remaining.

Mr. HUBBARD. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, real estate, banking, insurance, securities. Special interests, all. Make no doubt about it. There is only one special interest, however, that has been the driving force in bringing this bill out here on the floor today, and that is the American taxpayer, because he and she are being asked to pick up the tab for $70 billion because of the poor investment decisions of the bankers in the 1980's.

Now the Wylie amendment comes to us. It says, well, we want to protect you against banks in the insurance industry. We want to protect you against banks in the real estate industry. But we are going to allow regulators let banks into securities. That is like saying we are going to keep you away from the quarter slot machines, but that roulette table over there where you can still roll a double or nothing in the securities marketplace—no safeguards, no protection—just allow these two things to be merged.

Mr. Chairman, it would be one thing if there was a real amendment out here that was going to build that firewall between the taxpayer and this incredible financial catastrophe which we are being asked to bail out here on the floor today and next week, $80 billion for the S&L's next week, $150 billion between the two for the week for the Congress to be voting for these two industries. By the way, that is eight times all of the health care we are going to vote on this year for the American public. That is six times housing. That is four times education.

Unfortunately the American public in the 1980's became the unwitting cosignatories on every junk bond deal, on every hostile takeover, on every empty commercial real estate tower, on every empty condo that was built in America. And that bill comes due today on the floor, and we are going to pay for it. Not us, the Congress, but the American taxpayer.

Now, let us talk about these numbers, because we are always beating our own breasts about how we deserve some of the blame for the $3 trillion Federal deficit.

Mr. Chairman, let me throw out another number for Members; $9 trillion is owed by the private sector; $9 trillion was not paid back.

Now, all debt is not bad debt. There is no question about that. Some of it is good debt. You loan out money to a first-time home buyer: good debt. You loan out money so a family can put their kids through school: good debt. You loan out money so you can give a corporation the opportunity to invest in research and development so they can create jobs in this society: good debt.

We are not paying back that money today. We are paying back the junk bonds, we are paying back the hostile takeovers, we are paying back every one of these ridiculous investments which the bankers got into.

They come in here and say the only way out is for us to get out into even more risky activities with no safeguards and no protections.

Wylie does not give safeguards and protections. This bill on final passage does not give protection or safeguards against the repetition next year and the year after and the year after, $150 billion every single year, $1 trillion. All the hopes and all the dreams of all the people in this country over the next decade, the health care, the housing, the transportation, the corporate investment.

Mr. Chairman, that is what this debate is all about, and that is what we should be debating out here on the floor.

Mr. Chairman, by the way, if any Many are wondering whether or not we are going to ever have a financial institution in the top 20 in the world, do not worry: the RTC is already the second largest financial institution in the world, and growing.

Vote on no final passage. Without safeguards, none of this legislation deserves the vote of any Members in this Chamber.

Mr. WYLIE. Mr. Chairman, the gentleman made an excellent speech, but may I suggest it had nothing to do with the amendment before us right now.

Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would just like to address one issue at this moment, and that is whether or not this bill and the Wylie amendment in particular facilitates or prescribes interstate banking.

Frankly, in effect it does a little bit of both. But most of all it provides standards for what is already taking place.

Whether this Congress passes this amendment, this bill, interstate conglomeration is occurring because of what the private sector is doing, not because of what Congress may or may not propel through legislation.

Mr. Chairman, I am, personally, a Member that is not enthusiastic about interstate banking, but I believe that in the event it occurs, and because it is occurring, it is crucial that a too-big-to-fail syndrome not become a much-too-big-to-fail syndrome. Therefore, this Congress has an obligation to establish reasonable banking standards.

The most responsible standard is a capital standard. That is included in the Wylie amendment. Without the Wylie amendment, we will have interstate banking without adequate attention to capital. With the Wylie amendment we will have a minimum national standard that has some hope of saving the taxpayers a great deal of money.

Mr. Chairman, I think personally it is key that banks be given every incentive to be banks, that is, to be lending institutions. Hence, it is key that we establish a capital standard so that they do not simply use taxpayer-depositor resources to leverage themselves instead of making loans to commercial enterprises.

Therefore, this amendment has the implication of providing protection for smaller banks, protection for the taxpayers, and protection for the economy at large.

Mr. Chairman, there are the concerns that matter most at this particular time. I do not like all parts of the Wylie amendment, but I will say, unless this Congress passes a capital standard, we will be turning our back on prudential banking reform.

Mr. Chairman, a capital standard is not a perfect standard, but it is the one protection that truly matters.

Mr. HUBBARD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. LAFALCE], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. LAFALCE. Mr. Chairman, let me clear up one misconception: when we deal with the RTC legislation, we are in fact dealing with a taxpayer bailout. When we deal with the recapitalization of the BIF, we are dealing with a situation where the banks, through assessments, must pay back this loan.

Mr. Chairman, it could conceivably turn into a bailout if we do not do something to rationalize the industry, to modernize the industry. That is what would have happened had we passed the bill reported out by the House Committee on Banking, Finance and Urban Affairs.

Now, on the Wylie amendment, I have very mixed emotions, because I strongly favor interstate banking and branching. In 1986 I introduced a bill reported out of the House Committee on Banking, Finance and Urban Affairs that would have accomplished this. Unfortunately, we could not get it passed, and we wound up with regional compacts excluding certain States from engaging in interstate banking activity.

Mr. Chairman, I would love to vote for the interstate provisions. There are a couple of difficulties, however.

First of all, while I do think we should have capital standards, I think that capital standards are much too excessive and really prohibits virtually every bank in the country from participating in interstate banking. Only a few could.

Mr. Chairman, we are making the same mistake in this amendment that we did with the capital standards of the FIRREA legislation. We engaged in overkill.

Second, we have added too much in the way of restrictions to the interstate. I speak most specifically now of insurance and real estate, but especially insurance.

What the law with respect to bank activity in the insurance field should be is very controversial. Assume, however, that the restrictions the gentleman from Ohio [Mr. WYLIE] called for, are justified and have merit.

☐ 1640

Then they should be applicable to all. But this amendment does not make them applicable to all. It grandfathers certain institutions in certain States. And so if they are an institution in one of 18 States, they will be able to carry on in future any activity involving insurance that they are presently engaged in. But if they are an institution in any one of the other 30-plus States, they will be prohibited.

We have a war between the States in this amendment. We have unfair competition. The amendment should be rejected.

Mr. NEAL of North Carolina. Mr. Chairman, I yield 1 minute to the distinguished senior Representative, the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, this Congress must act to enable the FDIC to make good on the promise of deposit insurance. We should support this bill and pass it.

I also rise in support of the Wylie amendment, which I believe strikes a sensible balance between the need to let banks into new areas, while also promoting a vibrant and competitive insurance sector for consumers. When the bank reform bill was before us last week, I was disappointed that we were presented with the choice of either curbing banks' securities powers and keeping them out of the insurance sector or retaining banks' securities powers and allowing banks further into insurance. That was not, in my judgment, a balanced choice, but it was a choice we had to make.

With some regret, I therefore voted to strip title IV from H.R. 6, because I believe that we should not severely restrict banks' existing authority in securities. I was reluctant, however, to expand the ability of banks to get into the insurance industry because of potential competitive problems posed by banks tying the purchase of, for example, car insurance to the approval of a car loan.

The Wylie amendment which we consider today presents us with a better choice. It allows banks to engage in interstate branching unless States pass a law to opt-out. It does not curb banks' current authority in securities. But it does not allow banks further into the insurance real estate business. This amendment gives banks the chance to get into more profitable lines of business that do not pose risks to the deposit insurance fund. We must take responsible action to modernize the financial system while retaining strong regulatory supervision. This bill, with the Wylie amendment, does so in a reasonable way. I urge the passage of the amendment.

Mr. WYLIE. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank the gentleman for yielding time to me.

I would like to ask the gentleman from Ohio if subtitle B of his amendment would negatively impact proposition 103 that was passsed in my State of California. The grandfather provisions of your amendment indicate that existing interstate sales activities would not be grandfathered if subject to pending litigation on June 1, 1991. Specifically, I would like to know if it is the gentleman's intent to have the grandfather provisions of subtitle B apply to California institutions even though a certain amount of litigation was still lingering around proposition 103 on that June 1, 1991, date?

Mr. WYLIE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, it is my intent that subtitle B's grandfather provisions concering interstate sales should apply to States like California where an insurance law has been passed either legislatively or otherwise prior to May 1, 1990, even if the law may be still subject to lingering litigation or was subject to lingering litigation on June 1, 1991. It is my intent that all California institutions engaged in interstate sales of insurance products as of June 1, 1991, would have this insurance activity or functionally equivalent activities grandfathered regardless of lingering challenges to the proposition 103 ballot initiative. As the gentleman is aware, I was prepared to offer a technical modification to my amendment today in order to clarify this issue but was told that such a modification may face an objection. The language I was prepared to offer was agreed to by both the insurance agents and the bankers. In any event, I believe that this is a technical matter and we can clean it up at a later date.

Mr. HUBBARD. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Chairman, it is just 40 more days and Christmas will be here. Boy, are we talking about a Christmas tree, one that is full of a little bit of everything. Unfortunately, at the bottom of this tree is a bunch of trash.

One of the biggest problems with this bill is what it does with interstate banking, what it can do to rural America throughout this country. If we can imagine a little small town that has a little rural bank that loans money to farmers and to small businesses in that community and reinvests every little dollar they can back into that community.

We are talking about big banks coming in, putting in little branch banks, sucking the money out, taking it, investing it on the Japanese stock market or whatever.

I urge my colleagues to vote against the Wylie amendment and to vote against the final passage of this bill.

Mr. HUBBARD. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I must oppose this amendment.

I do this somewhat reluctantly, because the amendment before us includes several insurance provisions which I originally developed when the Subcommittee on Commerce, Consumer Protection, and Competitiveness considered this legislation back in September. These provisions address when banks can sell insurance across State lines and in small towns. They are fine.

But several other provisions adopted by our subcommittee relating to insurance were dropped. They were strong consumer protection provisions. One prohibited banks from making a loan commitment conditional on buying insurance from the bank. Another required banks to give customers full disclosures when selling insurance products that were not covered by Federal deposit insurance. Another protected the confidentiality of consumer records.

For some reason unknown to me, these crucial proconsumer provisions were left out of the Wylie amendment. When it comes to insurance matters, all the Wylie amendment does is protect the insurance industry. It in no way protects the consumer.

This inequity is all the more lopsided because the Wylie amendment allows for interstate branching. It expands the powers of banks across State lines, but it doesn't include counterbalancing regulatory protections. It gives the unelected regulators the key to the National Treasury and tells them to help themselves to taxpayers' money in the form of bailouts year after year after year.

Vote down this amendment and this $70 billion backbreaking bailout bill.

Mr. LAFALCE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 397]

Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Armey
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (GA)
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Washington
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Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

☐ 1705

The CHAIRMAN (Mr. CARR). Three hundred ninety-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Chair would announce that there are approximately 35 minutes of debate time remaining. The gentleman from Kentucky [Mr. HUBBARD] has 17 minutes remaining, the gentleman from North Carolina [Mr. NEAL] has 11 minutes remaining, and the gentleman from Ohio [Mr. WYLIE] has 7½ minutes remaining.

Mr. HUBBARD. Mr. Chairman, I yield 3 minutes to our distinguished colleague, the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I rise in opposition to the Wylie en bloc amendment. It is nothing but a Thanksgiving feast for handpicked guests of the Republican party. And the taxpayer is the turkey.

Now mind you, I have nothing against those guests sitting at the table. I happen to support interstate banking. I support keeping banks out of the insurance industry. And I support limits on bank involvement in high-flying real estate ventures. These changes will help to reduce risk and get our banks back in the business of making sound loans.

But this amendment does nothing—nothing at all—to protect small businesses and working families—black and white, rural and urban—from the voracious appetites of huge banks that want to expand across State lines.

Just look at what is happening across America. Large interstate banks are sucking deposits from Main Street, shipping them to Wall Street, and saying "tough luck" to small businesses and families trying to own a home. One large regional bank bought $18 billion—that is billion—worth of junk bonds and T-bills on Wall Street. And guess where they got the money from? From small towns in Texas. In the little town of Victoria, TX, that bank took $188 million in deposits, but only made $33 million in loans.

In our cities, too, big banks are taking too much, and giving too little. Particularly in communities of color, branches have been shut and loan officers laid off. Instead of speaking with their friendly neighborhood banker about a home loan or a school loan, residents only get the steely stare of an automatic teller machine. They can put money in, but they cannot get any loans out. No wonder minorities in this country are 2 to 4 times more likely to be turned down for a home loan than whites of the same income—there are no bankers to understand their credit needs.

The bottom line is that this amendment fails to ensure that small businesses and young families receive their fair share of credit. It's just a deal that's been cut, and ordinary Americans have been cut out.

Mr. Chairman, I say to my colleagues, if you want your small towns and neighborhoods to be sucked dry of credit and turned into economic disaster areas, then vote for this amendment. And if you want to see banks replaced by ATM's in cornfields and on street corners, then vote for this amendment. But if you want to make sure that working people are not pickpocketed by big interstate banks, if you want to see that everyone in this great country gets a fair shot at owning a home or sending a child to college, then I urge you to oppose this amendment. It treats taxpayers like nothing but turkeys at the bankers' Thanksgiving feast. Let us vote down this amendment, vote down this bill, and put together a bill that treats taxpayers like the honored guests they deserve to be.

☐ 1710

Mr. NEAL of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentlemen from Massachusetts said something about junk bonds.

I just want to make it clear that banks cannot buy junk bonds. Under any circumstances, banks cannot buy junk bonds, so they do not go to small town America and pick up money and put it in junk bonds. They cannot buy junk bonds.

It is a total myth that banks suck money out of small communities and take it to large communities. It is the genius of our system that money is available throughout our system wherever it is needed. In my own State, we have big banks and we have lots of small banks. We should not legislate on the basis of some mistaken mythology.

Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman, I would urge at this time that we pass the Wylie amendment. I think it is a major mistake if we do not, and let me tell you why.

First of all, the Wylie amendment allows interstate branching. Now, granted it is somewhat crippled by various provisions, but nonetheless, it allows it.

Interstate branching is going to bring substantial savings to the banking industry, significant new services to the consumer, and if we do not allow interstate branching today on this vote, the chances are it will be 2 years, at least 2 years, and perhaps longer, before we have an opportunity to do this again.

The McFadden Act has not been amended for 58 years. Interstate branching is an idea whose time has come, and gone. It went 20 years ago. It is something we simply need to do.

Now, let me say two things in response to earlier arguments. One of our colleagues indicated that banks are not taking any broccoli in this bill. Chairman GONZALEZ presented an amendment last night, which we adopted, that contains all sorts of broccoli for the banks, a lot of good, toughening regulatory provisions that will require our banks work more carefully, enable the regulators to regulate them more effectively, has, unfortunately, imposed more costs on them.

Second, one of our colleagues talked of the weakness of our banking system as caused by bad loans. Bad loans, Mr. Chairman, are a symptom of the structural problems in the banking industry, not the cause. The fact is that the banks of the seventies and eighties lost their best customers and have had to resort to less creditworthy customers, so it is not a question of bad loans creating the problem. It is a question of significant structural changes taking place out there in the economy generally that have weakened our banks, lessened their market share, resulted in many, many more failures than ever before in our history, and forced this legislation to strengthen banks, therefore averting further failures and making a taxpayer bailout less likely.

So Mr. Chairman, I would urge you to support the Wylie-Neal amendment and then vote for the bill later today.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN of North Carolina. Mr. Chairman, I rise in support of the Wylie amendment and the bill.

I urge my colleagues to support this en bloc amendment. In North Carolina we have a long history of interstate branching which led to regional branching through interstate compacts. This geographic diversification has contributed greatly to the overall strength of North Carolina's banks and the strength of our State's economy. We now have the third lowest unemployment rate in the United States, with probably the most extensive branches. As larger banks in North Carolina have grown more competitive and profitable in this regulatory climate, old independents have done well. New independent banks have started up and thrived. In fact, it was this competitive strength that allowed North Carolina banks to rescue troubled banks in other States that did not allow geographic or functional diversification. They might have done well in Massachusetts.

At a time when many of our larger banks are merging in an effort to strengthen their operations, interstate branching is especially important for the economy. Interstate branching will allow banks to compete with one another across the country, rather than through a multiplicity of units protected by arbitrary geographic lines, causing weakness. It will allow banks to diversify risks, overcoming a major cause of bank insolvency. It will allow business and consumers a broader choice of financial services at the lowest cost. It will enable banks to attract capital for greater strength.

At the same time, this bill gives each State the right to opt out of interstate branching and impose responsible controls on branch banks located within their borders in the next 3 years. While all but four States have already instituted some form of interstate branching, this bill will allow each State to consider the interstate branching issue at their own speed.

This bill adds no securities powers, no insurance powers, no real estate powers. It imposes no greater risk than exists today.

My colleagues, this is a minimal effort and poses little threat to anyone, and I urge my colleagues to support this amendment.

Mr. HUBBARD. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I urge my colleagues to vote no on final passage. Do not be seduced into thinking that this legislation represents comprehensive bank reform or a consensus on various issues, because it does not.

We should all recognize this bill for what it is: The mother of all financial bailouts, bailouts without any safeguards, without any protections. And we should realize that this is not merely round II on bank legislation. This financial fiasco will be a 15 rounder, and we should be prepared for the Bush administration to come back again and again, as they did with the S&L's, asking the Congress to pour more and more money into bailouts. Every dollar earmarked for financial bailouts is a dollar not spent on America's other pressing domestic needs.

But, unfortunately, it is money that must be approved to pay off depositors and close insolvent banks. And it is the price our country is now paying for the go-go policies of Republican financial deregulation in the 1980's. So I believe that we should move forward with a narrow bill to recapitalize the bank insurance fund, and go with a moratorium and strengthen certain regulatory practices. These changes are necessary, and it makes sense to move forward with them now.

However, it would be a mistake to approve, at this point, bits and pieces of bank reform to score political points with some groups and abandon all other efforts to deal with bank reform more comprehensively. We should reject this 11th-hour goody-bag that pleases the narrow interests of a few. This bill has no safeguards, no firewalls, no consumer provisions—and yet some are arguing that regardless of what happens on the Wylie amendment, this is a must pass bill. I would say to my colleagues: Do not allow yourselves to be fooled on this vote because the consequences of a $70 billion blunder and future bailouts are just too big.

The Congress made that mistake once before, in the early 1980's, with Garn-St Germain. Let us not repeat that fiasco. This House can do better than this, and I believe we should pass a narrow bill and then come back and put together a package that will earn the full support of the House from both sides of the aisle.

Mr. HUBBARD. Mr. Chairman, I yield 3 minutes to our distinguished colleague, the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, many of us in this Chamber have decided how they are going to vote on this amendment. Some have not. To those of you who have not, I would like to have 3 minutes of your time.

One decade ago, Members of the House sat in this Chamber and they debated what to do to save Chrysler, which was hemorrhaging, threatening to go under.

Can you imagine as we were debating whether or not to provide Federal loan guarantees for Chrysler, what if Ford and GM had walked in and said,

> Well, look, we don't protest those loan guarantees, but we sure don't want Chrysler to be able to sell minivans until they become profitable.

What if GM and Ford had come in and said,

> Well, we don't object to loan guarantees, but what we sure don't want is Chrysler to be able to sell convertibles in towns of 5,000 or less. We don't want them to be able to sell convertibles in certain towns.

Well, we would have laughed them out of Washington, and the reason is clearly GM and Ford would not have been interested in competition. They did not want it. They would not have wanted it from Chrysler.

What did we want? We wanted Chrysler to make a buck to be able to repay the loan guarantees that they used and go on about their business.

Well, Mr. Chairman, we did not tie one arm of Chrysler behind its back a decade ago.

□ 1720

We do not need to tie one arm of the banking industry behind its back today. What is at issue here, my colleagues, is one word: Competition, competition. Under current law, and please follow this, under current law insurance companies can own banks and those banks market their banking products to the insurance company's policyholders all over the country.

Under the Wylie amendment, they will still be able to do that. That is good for the goose.

How about under current law which now, under current law, banks can own insurance subsidiaries; those subsidiaries can sell their insurance products to the bank customers across the country? How about that? That can happen right now under current law. It is a mirror image of the first.

Under the Wylie amendment, that would be prohibited. Why would you say, my friends, what is good for the goose is good for the gander? Under the Wylie amendment, Traveler's, Hancock, USAA, Prudential, Hartford, Allstate, they will all still be able to own their banks and they will be able to do the very opposite of what I think my banks and your banks should be able to do in your State, and that is they should be able to sell across State lines, if other States do not prohibit them. If other States do not opt out, our States should be able to sell insurance across State lines.

Not one bank has ever failed in this country, to my knowledge, because they sell insurance. They make money doing it. It is a profitable business. The consumer groups like it. Consumers actually benefit because of that competition.

If you vote for the Wylie amendment, you tie one arm behind the banking industry's back; you are not fair, you are anticonsumer, you are anticompetition.

Defeat the Wylie amendment.

Mr. NEAL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman from North Carolina.

Nobody is going to be happy voting for this bill. I suspect the best people expect is that some people will vote for this bill with the same enthusiasm that many of us hope some of our constituents will be voting for us in November; cognizant of the faults but nonetheless thinking it is the best they are going to get.

I think that is a fair description of this bill.

The Wylie amendment has been consistently—inconsistently attacked as being too pro and too antibanker.

Mr. Chairman, I am going to vote for the Wylie amendment. I think the restrictions it puts on the banks and the real estate and the insurance industries are both poor public policy and politically inevitable. The banks simply do not have the strength to hold them off, and I do not want to see the legislation forever held up.

I do not think it is realistic for the banks to get into real estate and insurance, not that today the banks are going to be getting into real estate. The notion that anybody is jumping to get into real estate today is a little bit strange. But I think that that is a political necessity.

I do, however, want to focus on what I think is an excellent bill, given the circumstances.

I want to repeat that in this bill people have said there are no safeguards. That is simply wrong.

The gentleman from Texas presided over a process in which we have a bill which restricts brokered deposits, it restricts bank insurance contracts, it mandates early intervention to close banks. People say, "I don't want to vote for another S&L bill." Then do not. This has nothing in common with earlier S&L legislation. This is not a bill giving the banks more power. This is as reasonable an approach as you are going to get.

Mr. Chairman, I am for the amendment of my friend from Ohio. I am going to vote for the final bill one way or another. It has a number of tough regulating reforms.

A final thing I want to say is this: When people talk about a $70 billion bailout, are they in fact denying our obligation to pay depositors in banks who have failed? Let me remind the Members, the majority of this House voted not to restrict deposit insurance. Some of us wanted to limit deposit insurance. The majority was not to restrict it.

Are you not going to make good on that vote and on that promise?

Mr. HUBBARD. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the chairman, the gentleman from Kentucky, for yielding this time to me.

Mr. Chairman, let me say I rise in strong opposition to the amendment.

Mr. Chairman, these bills, the banking bills we voted on, every one of them will not have what is desperately needed in the banking industry, and that is: real reform. What we have to do in the long run is somehow deal with the issue of deposit insurance and what banks can do with the money that they have derived from deposit insurance. Right now that can do so many things that they get themselves in trouble and, as we are learning in these bills, they get the taxpayers in trouble.

But, unfortunately, not the bill last week, not the bill today and not the bill we will do next week if we defeat this bill as we should, when we deal with that issue. However, this bill and the Wylie amendment will stand in the way permanently of ever getting real reform.

I disagree with my colleague from Massachusetts; this does have strong, strong echoes of the S&L crisis in it because with the Wylie amendment, while we are doing a little bit for some of the banks and a little bit for some of the insurance and real estate, we are not preventing the banking regulators from allowing the banks to go into new areas. We are not going to do that this year.

But what we can do is pass a narrow bill that will then allow us to vote on real reform and put together real reform next year.

So, Mr. Chairman, if you vote for this amendment and then vote for final passage, you are putting a dagger in the heart of finally reforming our banking system so we will not have to come back time and time again and vote new recaps.

The amendment, I would say charitably, is a hodgepodge; negatively, I would say it is a cynical amendment, designed to pick up a little support here, a little support there, getting something done and not really getting reform; so, as I believe, some people at the other end of Pennsylvania Avenue can wave a flag and say they have gotten something done even though they have not.

Mr. Chairman, this is not the time to do that. The banking system is in too great a crisis to put together hodgepodge amendments and call them reform. We must either grapple with all of reform, which we can do next year, or pass a very narrow bill with a recap and some of the amendments that Mr. GONZALEZ has put in his bill.

But to go halfway or a quarter of the way and then say we have done our job would be a tragic, tragic mistake.

Mr. Chairman, I urge a vote against the Wylie amendment, and if it should pass, I urge a vote against final passage.

Mr. NEAL of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Mr. SCHUMER is right, this bill does not do everything that needs to be done. But if we were to reject it for that reason, it would let the perfect be the enemy of the good.

We tried in the Banking Committee to do much more, but we were not able to get it to the floor. This provision, this interstate provision, will let the industry, without harming anyone, make up to $10 billion more. That goes right to capital, right to reducing the likelihood of a taxpayer bailout.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. I thank the gentleman for yielding.

Mr. Chairman, I stand in support of the Wylie amendment this evening, not because it represents a panacea for the financial ills that plague this Nation but because it helps to restore confidence in the banking system by getting us to go—and "go" is voting to recapitalize the bank insurance fund. That is our fundamental obligation this evening.

Those Members of Congress who come from New England, we know that when the Bank of New England went under, the third costliest bank failure in American history, that all the deposits of our constituents were honored and, in most cases, above $100,000.

Now, I accept the fact here tonight that there is an element in this House that does not want to vote for anything that relates to the bank insurance fund. The argument that they are going to use is, being intimidated by people back home, is to suggest that somehow you are going to bail out the bankers.

Let me say something right now, and that is simply this: We are voting for one simple initiative, and that is to bail out the depositors and not to bail out the bankers, and we ought not to demagogue this issue any further.

The best vote that came out of that Banking Committee was for the original plan offered by the distinguished chairman, the gentleman from Texas. It was a good bill then, it is a good bill now; it is too bad we do not have that bill in front of us.

We have our last best shot at a decent reform measure; that is the only issue before us this evening, and I urge an affirmative vote on that measure.

□ 1730

Mr. HUBBARD. Mr. Chairman, I yield 4 minutes to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, this is a bad amendment. It is a bad bill. I say that without any ill will and without anything other than the greatest respect and affection for all of my colleagues.

Just 1 week ago we passed on three separate occasions amendments requiring safeguards for depositors, for the public, for the investors. This amendment provides none of those. The committee did it on three separate occasions.

Now the bill H.R. 6, failed. There were many reasons why it failed. All of my colleagues know why the bill failed.

The harsh fact of the matter is we are back again. We have here before us a piece of legislation that regrettably embodies no adequate safeguards. Regrettably it embodies something else, a mishmash of things for the banks, things for other interests. This amendment has the same failures. It includes all of the things that are thought to be necessary to secure the support of separate groups in our society that might give the necessary votes.

The way this matter should be addressed, Mr Chairman, is that we should reject the amendment. We should reject the bill. Then we can do either of two things. We can come back with a bill with adequate safeguards, or we can come back with a short bill and defer until some future time, hopefully early in the spring, an adequate program of achieving necessary reforms and protections.

Mr. Chairman, if my colleagues look, they will find one thing very interesting. Supposedly the amendment before us achieves the support of the banking people. Regrettably it does not. The American Bankers Association, The Independent Bankers, State Banking Associations, the Association of Bank Holding Companies, the Financial Services Council, and the Conference of State Bank Supervisors all oppose the amendment, and they oppose the bill. Interestingly enough, the Consumers Union, the Consumers Federation, the AFL-CIO, the NAACP, they all oppose the amendment and the bill. Obviously something has not been done here as it should have been. Clearly the amendment does not achieve the support of the banks. Clearly the amendment does not achieve the support of the consumers.

It fails another very important test. Many of my colleagues here remember the unfortunate occasion where we passed the savings and loan bailout. The interesting thing about that was we said, "Now the savings and loans, because they have achieved such a terrible mess, we're going to give them new powers so that they can restore themselves to good health." So, we gave it to them, and it took them less than 10 years to convert a $20 billion shortfall in the insurance fund to a $500 billion shortfall. Imagine what this country could do if we had not passed that legislation and we had that $500 billion to spend on matters of importance.

Now some will say, "Oh, we can pass this because we must." Yes, we must, and we are going to have to pass a bailout or a recapitalization of the fund, and that we should do because that is for the depositors.

But to free up the banks and say, "Banks, go forth, branch all over the place and merge, drain moneys from local communities, have fun, do the same thing that the savings and loans did," would be a calamitous error.

The harsh fact of the matter is that banks are running around town telling everybody that they are in trouble because of regulation. That is hooey. The banks are in trouble because they practiced poor banking.

Do not free them up and give them more power to practice more bad banking practices across the Nation at great cost to our constituents. Vote this bill down.

Mr. NEAL of North Carolina. Mr. Chairman, that was an excellent speech. It just has nothing to do with this bill.

Mr. Chairman, this bill does not give new powers to banks. The bill that the distinguished chairman of the Committee on Energy and Commerce is talking about is not before us. We passed a bill out of the Committee on Banking, Finance and Urban Affairs. We just never got it to the floor.

The so-called safeguards that the gentleman from Michigan [Mr. DINGELL] wants would limit the ability of banks to do things they are already doing. But let me tell my colleagues: No bank ever failed by offering mutual funds, no bank ever failed by offering discount brokerage services or dealing in safe government securities. Those are the things, the safeguards, the chairman talks about that he wants to impose.

Now there is nothing similar between what is done here with banks and what was done with savings and loans. In the case of this bill we are increasing regulation. We are increasing capital requirements, and the only new thing we are suggesting for banks is essentially a twist on something they are doing already. Forty-eight States now allow interstate banking. We are suggesting that it should be easier to do interstate branching, a more efficient way of doing essentially the same thing.

Mr. Chairman, this is a way of reducing the likelihood of a taxpayer bailout. That is the issue today.

Mr. Chairman, I reserve the balance of my time.

Mr. WYLIE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to associate myself with the comments and remarks of the gentleman from North Carolina [Mr. NEAL]. The analogy to the savings and loan problem is no analogy at all. There is no taxpayer money involved in this bill today. We are providing for a recapitalization, which is absolutely necessary, which is to be paid for by the banking industry itself.

Now I know this is not a perfect bill, but it is certainly much better than the situation we have before us now.

The gentleman from New York [Mr. SCHUMER] mentioned a little earlier that he did not like my amendment, but he liked Mr. Lowell Bryant's proposal as far as core banks are concerned. Mr. Lowell Bryant has written a letter saying that he estimates that bank costs would go down by $10 billion per year if interstate banking and branching were passed today. I submit there will be large economies of scale, and for that reason alone we ought to pass my amendment.

But we do not increase powers for banks, as the gentleman said. We decrease the powers for banks, if anything.

Mr. HUBBARD. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. BARNARD], a very knowledgeable member of the Committee on Banking, Finance and Urban Affairs.

Mr. BARNARD. Mr. Chairman and members of the committee, we have been pursuing passing comprehensive bank reform now for many, many years. The last great bill that addressed banking, and securities and insurance was the Glass-Steagall bill in the 1930's. Much has happened and much has changed since the 1930's. This was the year that we decided that, yes, we needed comprehensive bank reform.

We have had many, many studies that were brought before the Committee on Banking, Finance and Urban Affairs and to this Congress as to why we need reform. We tried valiantly, we tried hard, for a comprehensive banking bill. Unfortunately it did not pass. We have a very different opinion among Members of this Congress as to what comprehensive bank reform is all about.

□ 1740

I am not dismayed that in 1 year we were not able to accomplish something that we tried to accomplish in, say, the last 20 years. I am not dismayed at all. But I think we have made a valiant attempt. But let us not give up at this point. Let us not take something that is second best over something that is the best we can get.

Mr. Chairman, I say to my friends that the Wylie en bloc amendment is not the answer to our problems. There is an answer out there. I feel that we have the ability to work together and accomplish that goal of working together and coming up with comprehensive bank reform which will be modern bank reform. I am not willing to sacrifice something that is less better than what we can get.

Yes, I think we have come a long way in this debate we have heard both sides. I think we are better prepared today than ever before to come together. One of our great Presidents said, "Let us reason together." I think we have laid the foundation for us to come together and work. But this amendment tonight is not the answer, and this is not the time to do it.

Haste does not make anything but waste, and we are going to be wasting the banking industry if we go forth with this bill tonight. I urge my friends, let us go back to the table. Let us go back and reason together. We have time. Yes, we have to accommodate the recapitalization part of the bill, and we have time to do it.

Mr. Chairman, let me say to my friends that there is nothing so great as our service to the country. Even getting out before Thanksgiving is not that great. Someone said we would be here until Christmas. So be it. Our duty is to the country and what is in the best interest of the country, and haste tonight is not in the best interest of our country. I say to the Members we should vote down the Wylie en bloc amendment, vote down this bill, and then let us go back to the drawing table.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the distinguished ranking member for yielding this time to me.

Mr. Chairman, I just simply want to say that there is a wonderful moment at the very end of the musical, "Phantom of the Opera," where the Phantom says, "This is the point of no return." This is the point of no return for bank reform.

We can keep on with this latest version of political corrections, doing a slow waltz to the tune of the special interest groups as we try to write 435 versions of bank reform, or we can do the right thing, the responsible thing, here tonight and pass this legislation, which does, contrary to what the distinguished chairman of the Committee on Energy and Commerce said, contain increased regulatory standards. What does he call these? Increased capital standards. What does he call this? Early intervention. What does he call this? Least costly resolution.

Mr. Chairman, let us do the right thing. Let us not go back to 1986 when this Congress had the opportunity to act on a bill to recapitalize FSLIC but failed to do that and set the stage for a taxpayer bailout of the banking industry. Let us pass this legislation with the Wylie amendment included.

Mr. NEAL of North Carolina. Mr. Chairman, I yield myself one-half minute.

Mr. Chairman, let me point out that our good friend, the gentleman from Georgia [Mr. BARNARD] did not give us one reason for not passing the bill. He said we could get a better bill, and I agree. I would love to have a better bill, but there is no chance this year that we will get a better bill.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. NEAL of North Carolina. No, I will not yield.

Mr. BARNARD. We could have a lot of chances to get a better bill.

Mr. NEAL of North Carolina. I will not yield.

Mr. Chairman, there is no chance this year for a better bill. We should take what we can get at this time and move ahead. We may get more next year.

Mr. Chairman, I yield my final 2 minutes to the distinguished gentleman from Ohio [Mr. WYLIE].

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] now has a total of 5 minutes remaining, and the gentleman from Kentucky [Mr. HUBBARD] has one-half minute remaining.

Mr. WYLIE. Mr. Chairman, I understand that I have the right to close; is that correct?

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] has the right to close debate.

Mr. WYLIE. Mr. Chairman, I have just one additional speaker.

The CHAIRMAN. The gentleman from Kentucky [Mr. HUBBARD] is recognized for his remaining 30 seconds.

Mr. HUBBARD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as we have debated this issue this afternoon, obviously Members on the side of the gentleman from Ohio [Mr. WYLIE] and the gentleman from North Carolina [Mr. NEAL] have given us various reasons why they are for the Wylie-Neal approach, and opponents have given us various reasons why they are opposed to it. Speaker after speaker has said that before we go home, however, on November 26 or earlier, we have to recapitalize the Federal Deposit Insurance Corporation. We must do that. We can do that today on final passage, but for heaven's sake, let us defeat the Wylie en bloc amendments because, I repeat, that will cause the entire bill to fail.

Mr. Chairman, I ask the Members to vote no on the Wylie en bloc amendments.

Mr. WYLIE. Mr. Chairman, I yield 5 minutes to our distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], to close debate.

Mr. MICHEL. Mr. Chairman, this is the second time today that we have had a significant piece of legislation on the floor that does not divide on political lines across the aisle. There are proponents and opponents on both sides. I guess that is the way I like it, because it suggests that politics by party is not the overriding thing; it is what we as individuals will do to make up our own minds. And that is a good thing.

The Wylie amendment is a critical component of overall banking reform. The Wylie amendment would allow for interstate banking and branching, an essential step that will allow banks to realize the benefits of geographical diversity and greater efficiency. The Wylie amendment also protects States that do not want interstate banking by providing an opt-out provision.

The United States is the only industrialized country in the world that prohibits regional and national branching, and we are paying a high price for that. Not only does interstate banking lessen the financial risks for one area of the country but it also means efficiency and cost savings for the banking system.

Adoption of the Wylie amendment is an imperative, it seems to me, for getting this piece of legislation passed.

Let us keep in mind that what we are trying to do is to guarantee the security of deposits held in our banks, and the gentleman from Massachusetts a few moments ago made that point so eloquently. That is really what it is all about, and that is the bottom line.

At the same time we are attempting to improve the vitality of our banking system so this type of legislation will not be needed again. We are trying to ensure that taxpayers are not left holding the bag for massive bailouts later on.

Congress cannot just fund the losses of the banking system. We have to fix the underlying problems that caused the losses in the first place. There is not an insurance fund big enough to cover $3 trillion in deposits if banks continue to fail in record numbers, as they are.

We need to provide the country with a strong, safe banking system, one that pumps credit into businesses, one that funds economic growth and new jobs, and one that allows our banks to compete with foreign banks.

Real reform means fixing the too big to fail doctrine that today puts the FDIC on the hook for every uninsured depositor in big banks. This bill makes that fix.

Reform means mandatory annual examinations for every bank in this country. This bill does that.

Reform means early intervention with failing banks and a new regulatory system of "prompt corrective action," one that requires regulators to make banks fix their problems before they mushroom into deposit insurance losses. This bill accomplishes that.

Mr. Chairman, the very word, "bank," evokes a vision of institutional coldness, anonymity, and impersonal dealing. But here we are dealing with human faces, with the fear of our neighbors, our friends, and our families who need a secure banking system.

Last year alone, I say to my friends, 216 banks failed. The bank insurance fund is at the lowest point in 60 years, and unless we act, it will be out of funds within several weeks. When that happens and we are adjourned, brother, you wait until the wrath of the people comes down on this institution. If we do not act now, the price tag later on will be much higher and the stakes much greater.

Mr. Chairman, this bill with this amendment before us now in its present form is as good as we are going to get and is as responsible as we are going to see. There may be other solutions, but where are the votes?

This is one of those tough gut-wrenching votes that your constituents elected you to cast.

□ 1750

It is not easy, but it is necessary. The lobbying on this bill has been intense, with loyalties and alliances switching daily. As a matter of fact, it is a moving target out there.

What will eventually satisfy all of the competing interests? Nothing. Frankly, that is why it has taken us so long to get to this point and why the outcome is still in doubt. And behind the technicalities, behind the competing interests, above the specific problems of lobbying groups, lie the needs of the American people.

Mr. Chairman, let us make that quantum leap of politics transcending the competing claims of this group and that group, and make the right decision by supporting this amendment and voting yes on final passage.

For those of you who say just vote no, no, it is not perfect. But I would ask you, if this bill goes down, what have you got? Well, I will tell you. We certainly are not going to conference, and I will bet you, number two, in view of that amendment adopted on credit cards in the other body, that will be a part of anything that comes back the next time around. How would you like that?

Then No. 3, with no replenishment of the Bank Insurance Fund, and nothing to reimburse the guaranteed depositors of those banks that fail in the future—that will really bring the wrath of the American people down on this institution.

Mr. Chairman, we have got a job to do today, a darn tough job, and you have to wipe those special interests out of your mind and say what is it that will really get this job done?

Mr. Chairman, I plead with Members to vote for the Wylie amendment and vote for passage of this bill. Move it over into conference, and then, quite frankly, we will still get another shot at voting yes or no on the conference report.

Mr. Chairman, for the RECORD I include a letter urging support for final passage and the Wylie-Neal amendment from President George Bush.

THE WHITE HOUSE,
Washington, DC, November 14, 1991.

The Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MICHEL: Today the House of Representatives will consider H.R. 2094, the Federal Deposit Insurance Corporation Improvement Act of 1991.

The Congress must pass legislation this year that will recapitalize the Bank Insurance Fund and make a significant start on fixing the underlying structural problems that affect our banking industry. While H.R. 2094 lacks some of the important reforms initially approved by a bipartisan majority of the House Banking Committee, I believe that this legislation, if amended by both the Wylie-Neal amendment and the Gonzalez amendment, would be an important step forward in the process of achieving worthwhile reform.

Perhaps most important, H.R. 2094 will protect the millions of depositors who depend on a strong Bank Insurance Fund. But simply pouring money into the Fund—without fixing the industry so it can pay its own way—would leave taxpayers exposed.

I strongly urge all members to support final passage of H.R. 2094 if the Wylie-Neal amendment is adopted.

Sincerely,

GEORGE BUSH.

Mr. WEISS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio [Mr. WYLIE]. Let us not be fooled by claims that by unanimously approving the Vento-Bereuter amendment to H.R. 6, the House has already indicated its support for this measure. That amendment was an acceptable interstate banking and branching compromise. This measure is a sharp fanged wolf in sheep's clothing.

Had the gentleman offered a lean amendment which would have repealed the existing restrictions on interstate banking and branching imposed by the McFadden Act of 1927 and the Bank Holding Act of 1956, he would have my vote today. I would have also supported an attempt to include an opt-out element such as that included in the Vento-Bereuter amendment to allow States more flexibility. But the administration got too greedy. They have weighed down this amendment with loads of extra baggage. In fact, Mr. Chairman, we see more baggage in this amendment than President Bush carries with him on all his foreign trips.

A most interesting provision is the new restriction on banks or bank subsidiaries from engaging in real estate investment, management, or development, or to purchase and sell real estate as a principal broker. Where did this provision come from? It certainly was not in the banking bill which we debated on the floor of the House last week.

Mr. Chairman, voting for this bill reminds me of buying a new car. Upon first examining the car on the lot, you like the car as it is and conclude that the sticker price is within reach. However, after negotiating with the car salesman, you find yourself paying for more extras than you can ever afford. I urge my colleagues to not let some fast talking salesmen weigh this vehicle down with burdensome extras—defeat the Wylie amendment to H.R. 2094.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise in support of the Wylie amendment. I feel that it is a responsible compromise. It allows interstate banking, while limiting insurance and real estate activities by banks.

Interstate banking is already an acknowledged fact. This provision will ensure that it is done in a safe and sound manner, and that States have the ability to opt out of the system. Furthermore, by allowing banks to branch interstate, it will encourage diversity, thus strengthening the overall safety of the system.

The limitations on insurance and real estate activities is in keeping with my position throughout the debate. I am not opposed to expanded powers per se, but I am opposed to expanded taxpayer liability. New powers need to be coupled with true deposit insurance reform. Without such reform, new powers should not be allowed.

While I support the Wylie amendment, I have serious qualms about the overall bill. I feel strongly that reform is desperately needed in our deposit insurance system. Unfortunately, the bill does not address the real problem: The pricing of deposit insurance.

In the public's eyes, there is no difference between a well capitalized bank and an insolvent bank. The cost and coverage of insurance is the same, and there are no incentives for either depositors or managers to exercise restraint. This is how we ended up with the S&L debacle.

If we can infuse some market pressure into the system, then the whole question of firewalls and safeguards becomes much less important. Until then, any talk of reform is meaningless. Safeguards are necessary, but not sufficient to ensure the long-term safety and soundness of the system.

I support a narrow bill, and pledge to work with my colleagues over the next 2 weeks to come up with a viable alternative package. Before we give the FDIC a $70 billion line of credit, we need to make sure the system will work.

Mr. KANJORSKI. Mr. Chairman, the Wylie-Neal amendment is a good compromise, and should be supported.

If there is one lesson we should have learned from the S&L disaster in Texas, the Continental Illinois failure, and the current problems in New England, it is that geographic diversity reduces the risk to both banks' portfolios and the FDIC insurance fund.

The Wylie-Neal amendment, which includes the Vento-Bereuter interstate banking compromise, will promote geographic diversity, reduce risks for banks, the FDIC fund, and taxpayers, and will help to move banking into the 21st century.

Allowing interstate banking will also enable financial institutions to achieve significant economy of scale savings by reducing overhead and converting banks to branches. This will substantially increase their competitiveness and strength at no risk to the FDIC fund or the taxpayer.

The Wylie-Neal amendment is also important because it closes several important loopholes that the administration and the State of Delaware have irresponsibly used to make a mockery of the Congress and legislative intent.

The Wylie-Neal amendment closes both the town of 5,000 loophole, and the Delaware loophole.

When the Congress originally authorized the town of 5,000 exception for insurance sales by banks in small towns, there is no doubt in anyone's mind that the exception was intended only to ensure that residents of those small towns would have access to insurance.

It was never contemplated that big banks would set up shop in a small town for the express purpose of selling insurance nationwide. That is a gross perversion of congressional intent.

Nor was it ever intended that we would allow State banks in Delaware to have risky insurance underwriting, and anticompetitive nationwide insurance sales, powers we expressly denied to other banks.

As much as I admire my colleague from Delaware, and respect the tenacity with which he has fought for his State's interest, I cannot support any State's efforts to gamble with Federal funds.

If Delaware, or any other State, wants to start its own deposit insurance system, and gamble with its own funds, more power to it. But any State that wishes to rely on Federal deposit insurance, backed by the full faith and credit of the U.S. Treasury and U.S. taxpayers, for its depositors should be willing to play by Federal rules. It should not make up its own rules.

He who pays the piper, should be allowed to call the tune.

Mr. Chairman, as Danny DeVito has shown in his most recent movie, it is easy to gamble with other people's money, it is more difficult to do so with your own.

It is in the best interests of all U.S. taxpayers, and our financial system, that we pass the Wylie-Neal amendment.

Mr. OWENS of Utah. Mr. Chairman, today I voted in reluctant support of the Wylie amendment to H.R. 2094. When we voted on H.R. 6 last week, I stated that the Congress must take courageous steps to assert its legitimate role in the regulatory process. Moreover, recapitalization of the bank insurance fund is vital to consumer confidence in the Nation's banking system. However, I intend to vote against the bill because I feel it best to vote on a clean, narrow bill where its imperfections can be worked out. We have a short, but not insurmountable period of time to act on a narrow bill, and we should try, again, to do so.

Yesterday, the gentleman from Georgia [Mr. BARNARD] best expressed the reasons for my opposition to the rule governing today's vote. There was no good reason whatsoever, to incorporate the interstate branching and real estate provisions into the Wylie amendment. Mr. KANJORSKI revealed a potentially serious loophole regarding the too-big-to-fail policy. We should have had the opportunity to vote on this matter as well. Had a truly narrow bill, with simple BIF recapitalization and regulatory reform, not been possible, the committee could easily have put forth an equally controversial amendment dealing exclusively with insurance. But, the rule passed, and we once again find ourselves caught in another tug of war.

In spite of my vote for the Wylie amendment, let me make it perfectly clear that I am not unequivocally opposed to allowing banks to engage further in insurance activities. I will acknowledge that such activities will probably not help the status of the banking industry too much. Only the management changes resulting from deposit insurance and regulatory reform and significant restructuring of the industry can accomplish that. But it can add a new element of competition to the insurance industry, and we should look into such possibilities in the future—but not today, which is why I voted against final passage.

If insurance is to be regulated at the State level, as I believe it should continue to be, we must always keep an eye on where further competition can be fostered. There is a growing sentiment that McCarran-Ferguson should be repealed or dramatically reformed. I would likely oppose such a move, but if repeal of McCarran-Ferguson is to be averted, the issue of competition in the industry is something that must inevitably be addressed.

Bank involvement may provide a means of doing so. Separate facilities, stringent reporting requirements, accounting procedures, as well as prohibitions on the sharing of certain information and regulating the advertisements and sales pitch of a bank's insurance affiliate are all measures that I believe may work to foster competition in the industry while preventing abuse of the deposit insurance safety net.

What is at issue is who determines the guidelines under which banks can engage in those activities. To a large degree, the extent to which banks can engage in nonbanking activities is determined by administrative fiat and loopholes. Make no mistake about it—the regulatory loopholes are there. Had the Wylie amendment passed, all but one of the banks using the so-called Delaware loophole would have been grandfathered. Likewise, most banks would not have been impacted by the closure of the so-called small town loophole. But there was no legitimate reason to include such an amendment on this bill at this time.

Finally, I opposed final passage of this legislation—if for no other reason than to get the bill to committee and send a strong signal to the American people that somebody is willing to make the difficult decisions needed to ensure consumer confidence in the banking system. The final version of this bill, if passed, will not be perfect. And I am in no way committed to supporting whatever the committee may offer in the future. I may, in the end, support a bill that deals more with strict regulatory reform and recapitalization. But the best alternative, for depositors, is a narrow bill, and I urge the Banking and Rules Committees to offer that alternative in the future.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Ohio [Mr. WYLIE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WYLIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 208, answered "present" 2, not voting 14, as follows:

[Roll No. 398]

AYES—210

Allard
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Archer

Armey
Atkins
AuCoin
Ballenger
Bentley
Berman
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Broomfield
Brown
Bruce
Burton
Callahan
Camp
Clement
Clinger
Coble
Coleman (MO)
Condit
Costello
Coughlin
Cox (CA)
Crane
Cunningham
Davis
de la Garza
DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dixon
Donnelly
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Emerson
Engel
Fazio
Feighan
Fields
Fish
Flake
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Hall (TX)
Hansen
Hastert
Hayes (LA)
Hefner
Henry
Hoagland
Hobson
Horn
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Kanjorski
Kasich
Kennelly
Lagomarsino
Lancaster
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Martin
Martinez
Matsui
Mavroules
McCandless
McCloskey
McCollum
McCrery
McDade
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Michel
Mineta
Moakley
Moorhead
Moran
Neal (MA)
Neal (NC)
Nussle
Oakar
Owens (UT)
Oxley
Packard
Pallone
Pastor
Patterson
Payne (NJ)
Pease
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ramstad
Ravenel
Reed
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Roybal
Sangmeister
Santorum
Sawyer
Saxton
Serrano
Shaw
Shays
Shuster
Sisisky
Slattery
Smith (FL)
Smith (NJ)
Solomon
Spence
Spratt
Stallings
Stearns
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Torres
Torricelli
Upton
Valentine
Vander Jagt
Walker
Walsh
Weber
Weldon
Wilson
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NOES—208

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Applegate
Aspin
Bacchus
Baker
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bereuter
Bevill
Blackwell
Borski
Boucher
Boxer
Brewster
Browder
Bryant
Bunning
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cox (IL)
Coyne
Cramer
Dannemeyer
Darden
Dellums
Dingell
Dorgan (ND)
Downey
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Foglietta
Ford (MI)
Gaydos
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Harris
Hayes (IL)
Hefley
Herger
Hertel
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Levine (CA)
Lightfoot
Long
Markey
Marlenee
Mazzoli
McCurdy
McDermott
McEwen
McHugh
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mink
Mollohan
Montgomery
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nichols
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Panetta
Parker
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Poshard
Rahall
Rangel
Ray
Richardson
Roberts
Roe
Roemer
Rogers
Roth
Rowland
Russo
Sabo
Sanders
Sarpalius
Savage
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Sharp
Sikorski
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (OR)
Smith (TX)
Snowe
Solarz
Staggers
Stark
Stenholm
Stokes
Studds
Stump
Swift
Synar
Taylor (MS)
Thomas (GA)
Thornton
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Yates

ANSWERED "PRESENT"—2

Brooks
Cooper

NOT VOTING—14

Campbell (CA)
Hatcher
Jefferson
Jenkins
Kolbe
Lloyd
Molinari
Moody
Morella
Paxon
Rostenkowski
Schulze
Thomas (WY)
Young (AK)

□ 1809

The Clerk announced the following pairs:

On this vote:

Mr. Moody for, with Mr. Jenkins against.

Mrs. Lloyd for, with Mr. Hatcher against.

Mr. Kolbe for, with Mr. Thomas of Wyoming against.

Mr. HASTERT changed his vote from "no" to "aye."

So the amendments en bloc were agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. MORELLA. Mr. Speaker, I would like to state that on rollcall No. 398 I put my card into the box, and thought it had recorded my vote. It is not recorded. We are double checking it. But I had voted "aye."

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

Mrs. BOXER. Mr. Chairman, I rise today in opposition of H.R. 2094. No one can question the need for action to solve problems in the Nation's banking industry. But this bill, with the proposed Wylie amendment, will not solve those problems.

Recapitalizing the FDIC fund to cover losses from failed banks is essential, but this bill could repeat past mistakes by not requiring pay-as-you-go provisions. If the banks are unable to replenish the loans authorized for the FDIC, as some believe will be the case, then the taxpayers will once again be left holding the bag. if we are going to commit up to $70 billion of taxpayers money for the FDIC—much more with interest payments—then we need real bank reform.

Likewise, interstate banking is being touted as a way of allowing banks to spread their risks. Unfortunately, based on past experience, interstate banking without proper protections will increase both the consumers' and taxpayers' risk. This bill allows large banks unlimited powers to expand across State lines. There are no safeguards to assure that the credit needs of low- and moderate-income and minority communities will be provided for. The bill eliminates other public safeguards, such as restrictions on securities transactions, contained in the Dingell-Gonzalez H.R. 6 compromise. Further, State authority over out-of-State banking is seriously eroded by requiring that the States explicitly opt-out of interstate banking, rather than opting-in if they choose. This legislation places our communities, our families, and all taxpayers at risk.

Let us solve our banking problems, not compound them.

Mr. MOODY. Mr. Chairman, I rise in opposition to H.R. 2094, the FDIC Capitalization and Improvement Act, because I feel that it is the beginning of a monstrous taxpayer bailout of the banking industry.

Mr. Chairman, I also rise in opposition to this bill because I feel that we have an important obligation to ensure that our financial system is properly regulated. We owe it to our Nation's taxpayers to protect them from having to use their taxes to save a banking system that has been consistently mismanaged. This bill does not accomplish that.

Most experts, including Comptroller General Charles Bowsher and former FDIC Chair Bill Seidman, agree that the loan to the FDIC in the bill may never be repaid as it is supposed to be under the bill's provisions. It will become a grant paid for by every working family in this Nation.

When the Treasury covers the losses of innocent people's deposits, these innocent people are actually helping to finance their own reimbursement. A loan from the Treasury to the FDIC should occur only if it is accompanied by strict measures to guard against this happening. Adequate safety features are not present in this bill

To elaborate, I want to point out that this bill does nothing to stop the Federal Reserve from continuing to tear down the wall separating banking and securities. Since 1985, the Fed has been looking for ways to let banks into the securities industry. If they do this without strict guidelines from this body, guidelines that this bill does not contain, then we can surely expect to see banks engaging in more and riskier activities. The banking industry has made a complete mess out of the activities in which they can currently engage in. How can we go without increasing regulations and placing strict limits on further powers?

Of course, this is not true of most of the Nation's banks. Analysts point out that the it is the largest banks, mostly in New York and other northeastern States, which are most responsible for the industry's troubles. These banks are in trouble simply because they chose to enter into risky and speculative ventures which later turned bad, such as loans to Third World countries, loans to corporate takeover artists, and excessive real estate development. That is absolutely the core of the industry's problems. Expert's estimate that the largest five bank failures in the country will account for at least 40 percent of total losses to the FDIC. Clearly, the very largest of our Nation's 12,000 banks have created this crisis.

We are at a critical point in the history of our banking system. We are being forced to vote on legislation that will have great ramifications on the future of our banking industry. What makes this such a tough choice for me is that the banks in my State of Wisconsin are strong, stable, and profitable. Only two of Wisconsin's banks have failed in the last 10 years, a period that includes the farm recession and the devastation of so much of our manufacturing industry in the early 1980's. Both of these failures were due to fraud, not bad lending decisions.

Wisconsin's banks do not need or desire the massive reform of the industry that has been debated for over 6 months. They find it outrageous that they should be subjected to consequences and costs that were created by the mismanaged, large, money center banks in other regions.

Mr. HOAGLAND. Mr. Chairman, the Gonzalez banking amendment that we approved yesterday, as part of H.R. 2094, the banking reform bill, includes a number of important steps to improve the supervision of banks such as annual, on-site examinations and tightening up on the regulation of foreign banks.

One provision, important to my district in Omaha is the Bank Enterprise Program which would encourage banks to lend to distressed neighborhoods. Traditionally, banks have been reluctant to invest in distressed areas. But the provisions in this bill establish new incentives for banks and savings and loans to increase lending and deposit taking in low-income neighborhoods. Under the bill, banks would receive reduced insurance premiums and assessments on lifeline accounts—accounts which offer basic transaction services to people—for increasing their activities in distressed areas.

Let me give you a few concrete examples of how this would help north Omaha. In this section of town, there are several vacant and abandoned buildings, like an old supermarket. Omaha's economy is booming, with telemarketing making significant growth strides. One telemarketing company would like to expand into this area. In addition, a seafood distributor and a manufacturer of metal components are interested in locating here, where workers live close by and public transportation is available. Banks, however, have always hesitated to invest in areas like this. The incentives in the bill before us would help attract investment in these substandard buildings and in turn create jobs and revival of a depressed part of our town.

The provisions have been modified to address the budget implications raised by the chairman of the Budget Committee, Congressman PANETTA. Under this amendment, the Bank Enterprise Program would be effective when revenues are available.

The Bank Enterprise Program is a good approach. Instead of punishing banks in some way for not investing in distressed areas, they are carrots. Banks can invest in these neighborhoods, make a profit, spur economic development, create jobs and encourage cooperation among lenders and communities. With efforts like this, we can use the tools of banking to bring prosperity and hope to many communities that have for too long been plagued by hopelessness.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2094) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes, pursuant to House Resolution 277, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a motion to recommit, with instructions.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ARMEY. Mr. Speaker, I am, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARMEY moves to recommit the bill, H.R. 2094, to the Committee on Banking, Finance and Urban Affairs with instructions to report the same to the House forthwith with the following amendment:

Add at the end of the bill the following new title:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. INSTITUTIONS EXEMPT FROM EXAMINATION; 2-YEAR SAFE HARBOR RULE.

(a) IN GENERAL.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) by striking "In connection with" and inserting the following: "(a) IN GENERAL.—Subject to subsections (b) and (c), in connection with"; and

(2) by adding at the end the following new subsections:

"(b) EXEMPT INSTITUTIONS.—Subsection (a) shall not apply to a regulated financial institution during a year if, on December 31 immediately preceding that year—

"(1) the institution—

"(A) has total assets of less than $250,000,000,

"(B) does not have a home office in a consolidated metropolitan statistical area, and

"(C) does not have a branch office in a consolidated metropolitan statistical area; or

"(2) the institution has total assets of less than $100,000,000.

"(d) 2-YEAR EXEMPTION FROM CONSIDERATION OF RECORD.—During the 2-year period beginning on any date on which the appropriate Federal banking agency issues a written evaluation under section 807 that contains a rating for a regulated financial institution of satisfactory or outstanding—

"(1) subsection (a)(2) shall not apply to the institution; and

"(2) for purposes of interstate branching and acquisition by the institution, and for any notice or application by the institution or any affiliate of the institution (including any bank holding company of which the institution is a subsidiary), the institution shall be deemed to have met all applicable requirements under this Act.".

(b) CONSOLIDATED METROPOLITAN STATISTICAL AREA DEFINED.—Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended—

(1) in paragraph (2) by striking "and" after the semicolon at the end;

(2) in paragraph (3)(F) by striking the period at the end and inserting a semicolon;

(3) in paragraph (4) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(5) the term 'consolidated metropolitan statistical area' means an area so designated by the Director of the Office of Management and Budget.".

SEC. 602. 1 INSURED ACCOUNT PER DEPOSITOR.

(a) IN GENERAL.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) (as amended by section 311(b) of this Act) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (b) the following new subparagraphs:

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor or by others for the benefit of the depositor, as follows:

"(i) Deposits registered under the same taxpayer identification number or employer identification number of one depositor shall be attributed to that depositor.

"(ii) Deposits registered under the taxpayer identification number or employer identification number of more than one depositor shall be attributed equally, unless otherwise specified in the deposit account records, among those depositors.

"(iii) Deposits consisting of a revocable trust or similar account shall be attributed to the settlor or grantor of the deposit account.

"(iv) Deposits maintained by an individual or entity (including an insured depository institution) acting as an agent, custodian, nominee, conservator or in a similar capacity on behalf of a principal (other than an insured depository institution) shall be attributed to such principal.

"(v) Such other attribution to a depositor as the Board of Directors determines by regulation not to be unduly burdensome and costly to calculate, to the extent that the depositor has control over the deposit account and that such attribution would be consistent with the insurance purposes of this Act.

"(D) DEPOSITOR IDENTIFICATION.—

"(i) IDENTIFICATION NUMBER.—All deposits shall be registered under the taxpayer identification number or employer identification number of each depositor.

"(ii) CONSIDERATION OF ADDITIONAL INFORMATION.—For the purpose of aggregating and attributing deposits the Corporation may consider additional information contained in the records of the insured depository institution or made available by the depositor.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(a)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(B)) is amended by striking "(C) and (D)" and inserting "(C), (E), and (F)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ECKART. Mr. Speaker, reserving the right to object, what was the unanimous-consent request?

The SPEAKER. The unanimous-consent request was for the purpose of asking consent to dispense with further reading of the motion to recommit.

Mr. ECKART. Mr. Speaker, we do not have a copy on this side, so I am constrained to object to this unanimous-consent request.

The SPEAKER. Perhaps the gentleman would like to reserve his right to object.

Mr. ECKART. Mr. Speaker, reserving the right to object, if we may have a copy of it or an explanation, I will be happy to yield to my colleague, the gentleman from Texas, if he would like to explain his motion to recommit.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the recommendations are really quite simple. I ask that the bill be recommitted and that it be brought back including a provision, one, having to do with the CRA provisions, that we would include then exemptions from the CRA provisions for rural banks with $250 million in assets and urban banks with $100 million in assets, and provide a safe harbor of 2 years for banks who have excellent CRA ratings.

In addition to that, the motion asks that we limit the FDIC insurance coverage to individuals on one account of $100,000 and one additional IRA account of $100,000 per individual, per institution. This last provision would take effect on January 1, 1995.

The CRA provisions of my motion were passed in subcommittee and in the committee, and the provisions regarding limitations of FDIC coverage were those recommended to the committee initially by the President.

Mr. ECKART. Continuing to reserve the right to object, Mr. Speaker, does the gentleman intend to seek a rollcall vote on this motion to recommit?

Mr. WALKER. Regular order, Mr. Speaker.

The SPEAKER. The gentleman from Pennsylvania demands regular order. Is there objection to the request of the gentleman from Texas.

Mr. ECKART. Reserving my right to object, Mr. Speaker——

The SPEAKER. The gentleman from Pennsylvania demands regular order. The gentleman from Ohio at this point will either have to object or withdraw his objection to the unanimous-consent request to dispense with further reading of the motion to recommit. That is the question before the House.

Mr. ECKART. Mr. Speaker, I simply wanted to inquire as to whether there would be a rollcall vote on this motion to recommit. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas [Mr. ARMEY] will be recognized for 5 minutes in support of the motion to recommit with instructions, and the gentleman from Texas [Mr. GONZALEZ] will be recognized for 5 minutes in opposition.

The Chair recognizes the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I will be very quickly to the point.

As I said, I believe the provisions of my motion are very clear to the body. The CRA provisions of my motion I feel are necessary in order to give the small banks and especially the smaller rural banks some relief from unnecessary costs and unnecessary redtape, and I believe that will save them from being, in fact, put at risk.

Limitations on FDIC deposit insurance I feel are necessary and are prudent, given the fact that we do still continue to cover passthrough accounts and broker deposits. I feel it is important to protect the taxpayer from unnecessary exposure in the event that foreclosures should have to take place in the future.

Mr. Speaker, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I rise in opposition to this motion to recommit. It is really a pig in a poke.

From what the gentleman has explained thus far, he wants to recommit this to the committee. We have already gone over this. Each one of those issues the gentleman has described have been lost by a substantial vote in the committee. I urge the Members not to support this motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 227, answered "present" 2, not voting 14, as follows:

[Roll No. 399]

AYES—191

Allard
Anderson
Andrews (TX)
Archer
Baker
Ballenger
Barton
Bateman
Berman
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Broomfield
Brown
Burton
Camp
Campbell (CO)
Cardin
Chandler
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Coughlin
Cox (CA)
Cunningham
Davis
DeLauro
Derrick
Dicks
Dixon
Dooley
Dornan (CA)
Dreier
Duncan
Dwyer
Dymally
Early
Edwards (CA)
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Hall (TX)
Hansen
Hayes (LA)
Hefner
Hoagland
Hobson
Horn
Hoyer
Huckaby
Hunter
Hyde
Ireland
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Kasich
Kennelly
Kleczka
Klug
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Leach
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lowery (CA)
Machtley
Martin
Mavroules
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Moorhead
Moran
Morella
Morrison
Myers
Neal (MA)
Neal (NC)
Nussle
Oakar
Orton
Oxley
Packard
Pastor
Patterson
Pease
Pelosi
Penny
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ramstad
Ravenel
Reed
Regula
Rhodes
Riggs
Rinaldo
Ritter
Ros-Lehtinen
Rose
Roybal
Santorum
Sawyer
Saxton
Schaefer
Shaw
Shays
Shuster
Sisisky
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Sundquist
Swett
Synar
Tallon
Tanner
Taylor (NC)
Thomas (CA)
Torres
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Wilson
Wolf
Wylie
Young (FL)
Zeliff

NOES—227

Abercrombie
Ackerman
Alexander
Allen
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate

Armey
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barrett
Beilenson
Bennett
Bentley
Bereuter
Bevill
Blackwell
Borski
Boucher
Boxer
Brewster
Browder
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Carper
Carr
Chapman
Clay
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Cox (IL)
Coyne
Cramer
Crane
Dannemeyer
Darden
de la Garza
DeFazio
DeLay
Dellums
Dickinson
Dingell
Donnelly
Doolittle
Dorgan (ND)
Downey
Durbin
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Flake
Foglietta
Ford (MI)
Gaydos
Gejdenson
Glickman
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Harris
Hastert
Hayes (IL)
Hefley
Henry
Herger
Hertel
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Hughes
Hutto
Inhofe
Jacobs
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kildee
Kolter
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Levine (CA)
Lightfoot
Long
Lowey (NY)
Luken
Manton
Markey
Marlenee
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mink
Mollohan
Montgomery
Mrazek
Murphy
Murtha
Nagle
Natcher
Nichols
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Payne (NJ)
Payne (VA)
Perkins
Peterson (FL)
Peterson (MN)
Petri
Poshard
Rahall
Rangel
Ray
Richardson
Ridge
Roberts
Roe
Roemer
Rogers
Rohrabacher
Roth
Roukema
Rowland
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (OR)
Solarz
Staggers
Stallings
Stark
Stokes
Studds
Stump
Swift
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

ANSWERED "PRESENT"—2

Brooks
Cooper

NOT VOTING—14

Campbell (CA)
Hatcher
Jefferson
Jenkins
Kolbe
Lehman (FL)
Lloyd
Molinari
Moody
Paxon
Rostenkowski
Schulze
Thomas (WY)
Young (AK)

□ 1837

The Clerk announced the following pairs:

On this vote:

Mr. Jenkins for, with Mr. Moody against.

Mr. Kolbe for, with Mrs. Lloyd against.

Mr. Thomas of Wyoming for, with Mr. Hatcher against.

Messrs. BERMAN, COLEMAN of Texas, and DIXON changed their vote from "no" to "aye."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2100, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993 AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-316) on the resolution (H. Res. 281) waiving all points of order against the conference report on the bill (H.R. 2100) to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL 6 P.M. ON FRIDAY, NOVEMBER 15, 1991, TO FILE REPORT ON H.R. 3635, PREVENTIVE HEALTH AMENDMENTS OF 1991

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until 6 p.m. on Friday, November 15, 1991, to file its report on H.R. 3635.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL 6 P.M. ON FRIDAY, NOVEMBER 15, 1991, TO FILE REPORT ON S. 1475, REAUTHORIZATION OF PROGRAM PROVIDING FOR PROTECTION OF MENTALLY ILL

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until 6 p.m. on Friday, November 15, 1991, to file its report on S. 1475.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I could not hear the gentleman. I am not certain exactly what we are doing.

The SPEAKER. The gentleman from California is asking that the Committee on Energy and Commerce may have until 6 p.m. Friday to file a report on S. 1475.

Mr. WALKER. Mr. Speaker, this has been cleared with the minority?

Mr. WAXMAN. Mr. Speaker, if the gentleman will yield, yes, it has.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REREFERRAL OF H.R. 3237 TO COMMITTEE ON THE JUDICIARY

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the bill (H.R. 3237) to extend the terms of office of members of the Foreign Claims Settlement Commission, and that the bill be rereferred to the Committee on the Judiciary.

□ 1840

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to inquire of the gentleman from Florida [Mr. FASCELL], has this been cleared by the minority?

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Speaker, it has, and I am beginning to wonder about the communications system on the other side.

I can assure the gentleman it has been cleared.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I take this time to inquire of the distinguished majority whip the schedule, and I yield to the distinguished majority whip, the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. I thank the gentleman for yielding.

Mr. Speaker, I say to my friend from Georgia the schedule of next week is as follows. We are finished with votes this week.

The program for the House of Representatives for the week of the 18th of November, 1991, and into the week of November 25, 1991, is as follows. Does the gentleman request that I read, which I would be happy to, the 22 titles on suspension?

Mr. GINGRICH. No. I think we can stipulate that there are 22 titles that will be up on suspension, and Members can address the schedule as announced to learn what those 22 are.

The titles referred to are as follows:

House Resolution 201, recognizing the Congressional High School Art Competition.

H.R. 3394, Indian Self-Determination and Education Assistance Act.

S. 1720, Navajo-Hopi Relocation Program reauthorization.

H.R. 355, drought assistance relief, concur with an amendment.

H.R. 1304, Telephone Advertising Consumer Rights Act.

S. 1475, Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991.

H.R. 3635, Preventive Health Block Grant Amendments of 1991.

H.R. 2722, Abandoned Infants Assistance Act of 1991.

H.R. —, Metropolitan Washington Airports Act Amendments of 1991.

H.R. —, authorizing the President to transfer certain limited equipment pursuant to the CPE Treaty.

House Concurrent Resolution 188, concerning freedom of emigration and travel for Syrian Jews.

House Resolution 262, congratulating Daw Aung San Suu Key on receiving the Nobel Peace Prize and expressing continued congressional concern about human rights abuses in Burma.

House Concurrent Resolution 216, regarding forced labor in Chinese prisons.

House Concurrent Resolution —, regarding Zambia's transition to democracy.

H.R. 3728, to provide for a 6-month extension of the Commission of the Bicentennial of the Constitution.

H.R. 2763, National Geological Mapping Act of 1991.

H.R. 2790, Cave Creek Canyon Protection Act of 1991.

S. 668, grants to Indian Tribal governments to regulate environmental quality on Indians' reservations.

H.R. 3012, designating the White Clay Creek for potential addition to the National Wild and Scenic Rivers System.

H.R. 3245, designating certain National Forest System lands in the State of Georgia as wilderness.

H.R. 1592, increasing the size of the National Forest System.

Mr. BONIOR. Mr. Speaker, we will meet at noon on Monday to consider the 21 bills on suspension. Recorded votes on the suspensions will be postponed until after debate on all the suspensions.

Mr. Speaker, we have alerted our people to expect votes by 2:00 or 2:30, which would appear to be early, given the number of suspensions. But that has been the case in recent days.

So I want to make sure people are aware of the fact that we could expect votes that early, although it is not likely, given the number that we are talking about.

Mr. Speaker, let me say we will do H.R. 2100, the Defense authorization conference report for 1992, with 1 hour of debate. Action may be necessary, although we do not anticipate it, the Labor/HHS veto override on that particular piece of legislation.

On Tuesday, the 19th of November, we will meet at 1. I believe the gentleman from Georgia's party has a conference on that day, if I am not mistaken.

On Tuesday, the House will meet at 1 p.m., and we will consider H.R. 3559, the Medicaid moratorium amendments of 1991, subject to a rule; and H.R. 2130, the National Oceanic and Atmospheric Administration Authorization Act of 1991, under a modified open rule, 1 hour of debate.

Wednesday, November 20, and the balance of the week and perhaps into the weekend, the House will meet the balance of the week at 10 a.m. Conference reports are expected on the Department of Defense appropriation bill, on the California Desert Protection Act, on the Presidential election campaign fund fairness, on House of Representatives campaign spending limit and Election Reform Act of 1991; H.R. 3435, Resolution Trust Corporation Restructuring Act of 1991, the RTC bill; and H.R. 2038, the intelligence authorization for fiscal year 1992 conference report.

Mr. Speaker, I would also say that in light of the vote this evening on the banking bill, Members should expect to receive that bill at some point next week. And, of course, other conference reports at the end of the session will be announced later if they still progress through the committees.

Mr. GINGRICH. I thank the majority whip for outlining the probable schedule.

Let me ask a couple of things.

First of all, I notice the absence, at least I believe it is absent, of the so-called October surprise task force. Does the gentleman know if that resolution is likely to come to the floor?

Mr. BONIOR. I do not. I frankly do not know the status of that, but I would be happy to find out for my colleague.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank the gentleman for yielding to me.

Mr. Speaker, we were so busy today you just might not have noticed it, this item in the Style section of the Post. Gary Sick sold his sick theory to Hollywood for $500,000. So do not tell me that rumor-mongering does not pay off in this city. And Oliver Stone, a quote, conspiracy buff, who is releasing a sick film called "JFK," for Christmas, he will be the one directing this film.

Mr. WEISS. Mr. Speaker, regular order.

Mr. GINGRICH. Mr. Speaker, reclaiming my time, let me ask also briefly, if I might just observe for the minority side: I have a suspicion that Members should be prepared to work very, very late and probably up until Monday or Tuesday, at the earliest, of the following week. I say that only because on our side I do not see any votes for banking reform, frankly, or for the clean refunding of the bank fund. And I have a hunch that today's vote on the Resolution Trust Corporation—that is, the vote today indicates the Resolution Trust Corporation is going to have a very hard time passing.

I just want to say on our side I think Members should be prepared to come and camp for a while. I think this could be a very long period starting next weekend.

ADJOURNMENT TO MONDAY, NOVEMBER 18, 1991

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns on tomorrow, Friday, November 15, 1991, it adjourn to meet at noon on Monday, November 18, 1991.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HOUR OF MEETING ON TUESDAY NEXT

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, November 18, 1991, it adjourn to meet on Tuesday, November 19, 1991, at 1:00 p.m.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

NOTICE OF CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-162)

The SPEAKER pro tempore (Mr. ROEMER) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed.

(For message, see proceedings of the Senate of today, Thursday, November 14, 1991.)

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. CARDIN. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

□ 1850

INITIAL REPORT ON THE INQUIRY OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT INTO THE OPERATIONS OF THE HOUSE BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. McHUGH] is recognized for 5 minutes.

Mr. McHUGH. Mr. Speaker, I rise today to make an initial report to the House on the inquiry of the Committee on Standards of Official Conduct into the operations of the facility commonly known as the House bank. I serve as acting chairman of the committee for purposes of this inquiry, and I am making this interim report to let Members know what we have done, what we plan to do, and how long it is likely to take.

While it is understandable that rumors will circulate in a case like this, one of the reasons this report is being released is to set some of those rumors to rest.

HOUSE RESOLUTION 236

This inquiry is being conducted pursuant to House Resolution 236, which was agreed to on October 3, 1991. It directed the committee, or a subcommittee thereof, to examine the operations of the House bank for a period commencing July 1, 1988, and to determine whether those operations or the use of the bank by Members, officers, or employees involve, "questions of potential violation of the rules of the House or any other applicable standards of conduct."

In making this determination, the committee was instructed to consider the following factors:

First, whether Members, officers, employees, or others abused the banking privileges by routinely and repeatedly writing checks for which their accounts did not have, by a significant amount, sufficient funds on deposit to cover;

Second, the bank's practices with respect to nonaccountholders or checks not written on House bank accounts transacted at the bank's facilities; and

Third, the general operation and management of the bank by the Sergeant at Arms and his employees.

If, after its review, the committee concludes that any individual Member, officer, or employee may have violated a House rule or other applicable standard, the committee is directed to consider the initiation of an inquiry, if appropriate. This refers to a preliminary inquiry as more fully described in the committee's rules.

In summary, the House has instructed the Committee on Standards to examine the operations of the House bank, the practices of those who used it, and then to determine whether those operations or practices constituted potential violations of the rules of the House or any other applicable standards of conduct.

SUBCOMMITTEE OF INQUIRY

The full committee met on October 9 and, pursuant to House Resolution 236, authorized the acting chairman and ranking Republican member to designate a six-member subcommittee to conduct the inquiry. The subcommittee was appointed on October 11 and, in addition to myself, it includes Mr. HANSEN, Mr. CARDIN, Mr. GRANDY, Mr. McDERMOTT, and Mr. GOSS.

Since its appointment, the subcommittee has taken extensive testimony from the General Accounting Office [GAO] and all key employees of the House bank. The subcommittee staff has also interviewed representatives of the Riggs Bank and the Treasury Department. On the basis of these interviews and testimony, the subcommittee has an understanding of the bank's operations, which I will briefly describe in just a few moments. However, it became readily apparent to the subcommittee that in order to judge the practices of those using the bank, much more information would have to be gathered than was available.

For example, to determine whether any Members potentially violated any relevant rules or standards in overdrawing their accounts, the subcommittee must have a history of those accounts for the period in question. The House bank did not maintain such a history, nor have prior audits by the GAO compiled one.

Some statistics have been reported in the press regarding overdrafts by Members. The statistics have been taken from GAO audits covering a 2-year period from July 1, 1988, through June 30, 1990. On the basis of these reports, some people have concluded that there is a comprehensive list of Members' accounts which includes all of their overdrafts. The subcommittee has no reason to believe that such a comprehensive list exists. What does exist are GAO working papers prepared in connection with its audit and sampling activities, which I will now describe. Prior GAO audits have been conducted to determine whether the financial statements of the Sergeant at Arms reasonably reflect its financial condition. Those audits were not designed to track the accounts of individual Members.

However, during the 2 audit years in question, the GAO did sample lists of overdrafts maintained by the bank on a daily basis. The sole purpose of this sampling was to determine the general magnitude of the overdraft problem. For example, for the audit period July 1, 1988, through June 30, 1989, GAO calculated the number and face amount of overdrawn checks for 1 day in each month of the 12-month period. It employed a different sampling technique for the second audit year. For the period July 1, 1989, through June 30, 1990, it counted all overdrawn checks, 8,331, but only made an analysis of those with a face amount of $1,000 or more.

I want to emphasize that these GAO audits sampled only a limited number of checks for a limited time period, and considered only the face amount of those checks. Although these samples were useful in assessing the general magnitude of the overdraft problem, they are wholly inadequate if the subcommittee is to meet its responsibilities under the House resolution. To judge the practices of account holders during the 39-month period at issue, we must have for each account the total number of overdrawn checks, the amount by which the account was overdrawn in each case, and the period of time each overdrawn check was unredeemed.

Unfortunately, this information is not easily accessible and will take time to compile. It is not stored in any computer or on any master list previously prepared. The information can be obtained only by a page-by-page examination of the daily settlement sheets maintained at the House bank, and by comparing the face amount of each overdraft listed on those daily sheets with each Member's monthly account statement. In some cases copies of individual checks stored on microfilm may also have to be examined. All of these records are now in the custody of the subcommittee.

The subcommittee has arranged to have GAO detail a number of its auditors to the subcommittee to collect this information. We are most anxious to expedite this inquiry, but collecting the necessary information will take time. The GAO has begun its work and has assured the subcommittee that it will be able to provide all the necessary information by the end of January 1992. We sincerely regret this delay, but to meet its obligations under House Resolution 236 the subcommittee must have complete information.

I would like to stress that the subcommittee does not now have one comprehensive list of Members and their overdrawn checks. In fact, we have asked GAO to provide us with information on Members' accounts in coded form, that is, without giving us the Members' names. We do not need names to make judgments about account practices. The subcommittee believes that this approach will provide greater assurance that its judgments will be made without reference to personalities or party affiliation. Of course, if the subcommittee ultimately determines that certain account practices may have violated House rules or another applicable standard, the identity of such account holders will become relevant. The subcommittee, however, has made no decision with regard to disclosure.

OPERATIONS OF THE HOUSE BANK

I would now like to relate in brief some of what we have learned about the operations of the facility known as the House bank. A more exhaustive treatment of the bank's operations is contained in a recently released report by a task force of the Committee on House Administration, which has permanent responsibility for oversight of all functions of the Office of Sergeant at Arms, including the House bank. I would encourage Members to read that report, particularly those portions dealing with the House bank's operating practices, and will not take the time to restate here the subcommittee's substantially similar findings regarding those practices. I would also note that, pursuant to House Resolution 236, all bank and check cashing operations of the Sergeant at Arms must cease by December 31, 1991.

ACCOUNT CHECKS

The House bank is actually a disbursing office and a cooperative check-writing and check-cashing facility that utilizes a pooled fund of Members' money to conduct its activities. There are no taxpayer dollars involved in the common fund. The only account holders are Members who choose to have their salaries deposited in the common fund. Additional deposits are permitted.

The bank makes no loans and pays no interest to Members on their deposits. It issues its own checks to account holders, which may then be used by Members to draw on the fund. These checks are processed by the Federal Reserve System in the same manner as checks issued by commercial banks.

In addition to account holders, check-cashing privileges at the House bank were available to former Members, officers and employees of the House, and members of the press. Nonaccount checks deposited or cashed at the House bank are cleared through the system by the Riggs Bank.

The current controversy derives from the long-term practice of the bank to honor, with rare exceptions, any account check presented to it, regardless of the balance in the Member's account. The bank's routine procedure was to withhold checks with insufficient funds—overdrafts—from the daily posting and debiting process, contact each Member who had written such a check, and then post the check when a deposit was made to cover it. Thus, a Member's monthly account statement would not contain any indication of the overdraft and would never register a negative balance. In addition, no charge was assessed by the bank for overdrawn checks.

Apparently, this has been the standard practice of the bank for at least 30 years, and probably many more. In this regard prior GAO reports are instructive. In fiscal year 1963, according to GAO, there were 5,660 overdrafts. In fiscal year 1969, there were 10,369. In fiscal year 1972, there were 12,309. The reports for these years note, rather matter of factly, that the Sergeant at Arms considered the overdrafts to be an advance of salary.

While, of course, salaries and other operating costs of the House bank are paid from appropriated funds, there is no evidence that any taxpayers' money or any money in the Member accounts were lost at any time because of the overdraft practices.

On the day a check with insufficient funds was presented at the bank, the Member's name and the face amount of the check were listed on the back of the settlement sheet for that day. Other checks which raised nonrelated technical questions, such as a questionable signature, were also listed there. This is the only list of overdrafts maintained at the bank. To determine how many overdrafts a Member had during the 39-month period covered by this inquiry, the committee must examine each daily settlement sheet. To determine the amount by which each check was overdrawn, there must be an additional step of examining the Member's monthly statement to ascertain the account balance on the day the check was presented.

There is no evidence that Members or other users of the bank were ever provided written guidelines covering the bank's operations, including how overdrafts would be handled. The bank's employees testified that they never encouraged overdrafts, but they did handle them in ways that were handed down to them when they assumed their positions, in some cases many years ago. These employees, as well as the Sergeant at Arms, testified that as a general rule overdrafts were dealt with in the following manner:

First, with respect to an overdraft that was presented at the bank a day or two before bank employees knew a deposit would be made sufficient to cover the overdraft, the employees would simply hold the check until the deposit was made. In these cases, Members would not be notified and, therefore, would have no reason to know their names appeared on the daily settlement sheets. For example, since paychecks were sure to be deposited on the first day of the month, calls were not made to Members whose overdrawn checks were presented on the last day or two of the month.

Second, if an overdraft were presented to the bank more than 1 or 2 days before an adequate deposit was certain to be made, a bank employee would generally call the Member, notify the Member of the overdraft, and ask that it be covered. However, if the overdraft amount did not exceed the next month's deposit for net salary, the bank would continue to hold the overdraft until the salary deposit was made.

Third, in those cases where the overdraft or a combination of overdrafts exceeded the next month's net salary deposit, which bank employees stated were significantly fewer in number, the bank would notify the Member and ask that the overdrafts be covered or, according to the testimony of one employee, at least be brought down to an amount less than the next month's deposit. If the Member did not respond within 2 or 3 days of being notified, or otherwise indicated the overdrafts could not or would not be so reduced, the bank, at least in some cases, returned the overdrafts to maker, that is, sent the checks back through the system and did not hold them. In these cases, the Bank employees considered the overdrafts to pose a more serious problem because there was no assurance that they would be covered by the next scheduled salary deposit.

Fourth, in those very limited cases where a Member presented a check with insufficient funds to cover overdrafts the bank was already holding, the bank would sometimes advise the Member that he or she could no longer cash or deposit personal checks at the bank window.

In some of the situations described, the Sergeant at Arms would be asked by bank employees, or would himself volunteer, to talk with Members who had not responded in a timely fashion to notifications that their accounts were overdrawn. The Sergeant at Arms testified that in those cases he would personally encourage Members to bring their accounts current.

NONACCOUNT CHECKS

While the focus of attention has been on overdrafts by Members who maintained accounts, House Resolution 236 also directs the committee to review bank practices with respect to nonaccount holders and checks not drawn on the House bank.

This would cover checks cashed at the House bank window by Members, whether or not they are account holders, by officers and employees of the House, and by others with check-cashing privileges. Generally, the House bank cashed all such checks without first determining whether the check was backed by sufficient funds.

The GAO report published in February 1990, covering the period July 1, 1988, through June 30, 1989, noted that many individuals, including one Member, the Sergeant at Arms, and a former teller, chased several checks at the House bank, drawn on commercial banks, which did not have sufficient funds to cover them. Pursuant to the resolution, these practices will be examined.

Although the House bank does maintain a computer program containing the names of employees who have cashed insufficient funds checks, it contains information only for the current calendar year. More detailed information is not readily available. Aside from the GAO records relating to its February 1990 report, the full record of nonaccount check-cashing for the 39-month period can only be obtained from an examination of photocopied checks, some of which are in the possession of the House bank, and others of which are in the possession of the Riggs Bank. The subcommittee is in the process of determining how much of this information can be obtained within a reasonable time.

In conclusion, Mr. Speaker, the subcommittee is proceeding as promptly as possible, consistent with its having all relevant information before reaching any final judgments.

□ 1900

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. GRANDY] is recognized for 5 minutes.

[Mr. GRANDY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

□ 1910

REPORT ON INQUIRY OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT INTO OPERATIONS OF HOUSE BANK

The SPEAKER pro tempore (Mr. ROEMER). Under a previous order of the House, the gentleman from Maryland [Mr. CARDIN] is recognized for 5 minutes.

Mr. CARDIN. Mr. Speaker, I take this time in order to afford any other member of the subcommittee or any Member of the House who wishes to use that time in regard to the comments of the chairman of the Committee on Standards of Official Conduct.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Speaker, this is an interesting investigation we are finding ourselves in. I think Chairman McHUGH did an excellent job in outlining and framing where we are trying to go in this particular investigation.

Mr. Speaker, I have been on this committee now for 11 years. I remember starting with ABSCAM and going through all of them, and all of the others were relatively easy. Because we had a direct target. We could shoot at that and knew who we were going for. Everybody on the House floor would get worried and nervous and excited because so and so was up before the Ethics Committee. That is almost like having the IRS look at you. Everybody worries about it for a while.

But then they forgot about it, because they got involved in their regular walks of life and what they do, and they said, "Gee, I hope it comes out for him." But they forgot about it.

This is the first investigation in those 11 years that I have sat on this committee where everyone is nervous. Even the very clean who have their letter from the Sergeant at Arms and think they can hold it up and proudly say they are clean, they are nervous, because this investigation has the possibility of throwing disrespect on the entire House.

So, because of that, the rumor mills are turned up. They are turned up to the highest volume I have ever seen them here.

I think the members of the Ethics Committee can walk on the floor and will be asked a dozen times a day what is going on. Or somebody is going to come to you and you feel like a father confessor, and say, "I am very sorry, I don't know, I can't tell you." They tell you about the one or two checks that they bounced and how bad they feel about it, and they wish they had never done it, but it was an oversight, and everyone has a great excuse for it. I have not heard one that is not a very plausible excuse.

However, we are moving along. As the chairman pointed out, we are going through these steps.

What are we doing? We had the GAO in, and they explained to us what they have done. We had the bank people in, and they have explained what they have done. We will possibly have many other people come in.

Out of that, slowly this thing will grind down and we will come to the point where we are able to say whether or not there are abusers.

Now, anybody watching this thing, or all the great legal professors of the world who are watching it, I would like to see if in Black's Dictionary or somewhere else someone can give me the definition of an abuser of checks in the House bank, which is not a bank. I would kind of like to see that, because I think we are going to have a very difficult time determining in our own hearts and minds what constitutes an abuser.

I do not know who it is. Does anybody know? I will yield if you want to tell me what it is. I do not think we know.

But it will fall on 14 of us to determine what an abuser is. Then we are going to have to start working and say now that we have found an abuser, whatever that is, we now have to find out what rule applies.

We cannot hang anybody if we do not have something to hang them on, so to speak. We cannot even send a letter of reproval to them, unless we have something to do it with.

So we will plough through the books, and our talented legal counsel who sits with us will go through the books. Out of that, hopefully we can find something that we can hang it on.

Now, we are always hit, and letters come in to us every day saying gee, in my bank I cannot do that.

We are not working under the same rules as the Zion Bank in Salt Lake City or Riggs Bank here in Washington, DC. We are working under our own set of rules. So we are going to have to work that out.

I do not think, and I resent the idea that people think that this committee is going to whitewash this. No such thing. But it does take time.

I do not blame the Members for being impatient. Of course they are impatient. They want to get exonerated, get this thing over with, and go on with their lives. We have got enough Congress bashing around the United States without looking for more, and this has brought disrespect on us. It is unfortunate that it has.

So it falls on the 14 of us to somewhat come up with an idea, which we are doing, which is well-stated by the gentleman from New York [Mr. McHUGH], on how we are supposed to proceed.

I would hope we would keep foremost in our minds that even though we say it a lot, I hope if we ever meant it, ever, that we have been here, the institution is absolutely bigger than any one individual here.

There are 435 of us, and I would hope we would realize that for 200 years we have been a beacon to the world, a bastion of freedom, understanding, and fair play, and everything that is good in the world. It would worry me if anyone gets so greedy, so worried about their own salvation, their own reelection, that they do not realize that this institution is really more important than any one of us.

I would hope, and I appreciate my colleagues who have worked on this, that we continue a clean, fair, honest investigation that will clear up this matter, not only in the minds of 435 of us, but also to the American public.

REPORT ON INQUIRY OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT INTO OPERATIONS OF HOUSE BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to my friend, the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, I appreciate the gentleman yielding.

As a member of the subcommittee, I want to associate myself with the comments of the gentleman from New York

[Mr. McHUGH], our chairman, and the gentleman from Utah [Mr. HANSEN], concerning the reason why we have issued this interim report and the process that we are following.

In order for us to comply with the instructions of the House of Representatives by House Resolution 236, it is important that we make an objective and complete investigation of all of the material that we must go through. That is going to take some time, and that is the reason why we thought it was important to report to the House with an interim report telling the process that we are following.

So I just really wanted to associate myself with the comments of my colleagues on the subcommittee.

Mr. GOSS. Mr. Speaker, reclaiming my time, I yield to my friend, the honorable gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, want to add my voice in support to the chairman's interim report which has the support of the subcommittee and the full committee. We have all been fully apprised of its contents, participated in its preparation, and advised those members who are not on the subcommittee of its contents this morning in a meeting.

Mr. Speaker, I only want to make a couple of points. One of them was made very well by our distinguished ranking member. There is no such thing as a simple investigation in the Committee of Standards of Official Conduct. It may look that way when the story first breaks in the paper. But when the committee sits down to deliberate the facts and sorts out the rumors, it never gets easier, and it never gets shorter.

Although I am not content to confront a job that will probably take us to the end of January just to get the raw data, I find no other solution. If there is not going to be a comprehensive, exhaustive review of these records, we are not doing justice to Resolution 236.

But I want to make two points that the chairman emphasized in his report that I think Members should keep in mind as we proceed.

One, the discovery of overdrafts does not determine a deficiency in a Member's account. That is what we must go in and reconstruct, and that is the painstaking work.

In other words, if a Member consistently and repeatedly was overdrawn and a check is overdrawn for $10,000, he might very well have $9,999 in his account. The data that has been published in the papers does not reveal that information.

The other important point to remember is that there was no established pattern of notification. Members might have drawn a variety of conclusions on whether or not they could use this trust fund, this depository fund, as an account from which they could draw advances on their salary, but there was, to the best of our information and from the testimony that we have received under oath, no understanding of what that notification process was.

Let me just say finally that one of the problems that we have in the committee is constantly dealing with the rumors that surface throughout this investigation. In this last week there have been some very unfortunate rumors in various national publications regarding the committee, regarding the information.

I want to stress completely that this committee is not the source of those rumors. We have complete confidence in both the Republicans and the Democrats and the staff that serve on this committee. But it is inevitable that Members who are concerned and more than a little anxious about this investigation will draw some conclusions, and there is nothing we can do to avoid that except to periodically assure Members that we are proceeding apace slowly and surely and will come to some kind of resolution.

□ 1920

One final point that I think is very important: We have reached no final judgments, no interim judgments, and will not and cannot until all of our raw material is before us and we can begin to sort it out.

Mr. GOSS. Mr. Speaker, I thank the gentleman. I want to emphasize that under the leadership of the gentleman from New York, Chairman McHUGH, we have had a very diligent and a very nonpartisan effort undergoing and, believe me, there have been stresses and strains as we all know because of the rumor mill.

I am very satisfied that a very faithful job is being done and, of course, that is what is required.

I am also convinced that to get the total truth is going to take some time, given the way the records are handled and the circumstances of the task that we have.

As the chairman has reported in his address here earlier, in his remarks, we are looking now at a January time work period and inevitably there is going to be more after that. We are aware of the sensitivity of timing. We are proceeding as rapidly as we can, consistent with good judgment and doing a faithful job.

We certainly know two things: that every individual Member of this institution wants, deserves and will receive fair treatment. The second thing we know is that we do not want to do anything that would bring discredit to the institution. I think we are fully charged on that, and I think we will live up to those responsibilities.

RESPONSIBILITY OF THE SUBCOMMITTEE

The SPEAKER pro tempore (Mr. ROEMER). Under a previous order of the House, the gentleman from Washington [Mr. McDERMOTT] is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, I first of all want to acknowledge the able leadership of the gentleman from New York [Mr. McHUGH], our chairman, and the gentleman from Utah [Mr. HANSEN], ranking member.

None of us sought the position on the Committee on Standards of Official Conduct. It is a responsibility that weighs very heavily on us because we stand in judgment on our confreres. We have to determine what is best for the House, and it is not an easy job.

I think there is no one in this body who seeks to sit on this committee. I, as a new Member in the Congress, am very impressed by the fact that the deliberations of the subcommittee have been without partisanship, that they have been focused on the issue and what is best for the House. I think the thing that probably troubles us, I came to the House of Representatives because I wanted to work on national health insurance. I wanted to spend my time on issues related to my district.

I find myself spending hour after hour sitting on this committee. I do it because I think it is something that has to be done, but I also do it in this way because I believe that every Member of this House is entitled to our full attention so that no one receives anything but fair treatment in this process.

It is difficult to stand in judgment of any other human being. It is not a responsibility that one takes lightly. I think that we all hope that we can get this done as quickly as possible. But I think quick and dirty Western justice is not what we want.

What we want is thoughtful and careful examination of the whole process so that no one is unjustly treated in this process. I fully associate myself with all the remarks in the report, and I thank the chairman for his leadership.

PROFITS FROM MEDICARE ALLOW THREE AMGEN EXECUTIVES TO TAKE MILLIONS IN PROFITS FROM STOCK OPTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, in the coming 12 months, the Amgen Corp. will make hundreds of millions in essentially pure profit from its sales of the drug EPO to Medicare patients with kidney disease. Despite these extraordinary monopolistic profits, the Bush administration has delayed in getting a better price for the taxpayer on this anemia-fighting drug.

These extraordinary profits have helped make Amgen one of the hot stocks of Wall Street.

How hot?

According to yesterday's Wall Street Journal:

> Three insiders sold stock last month, according to SEC filings. Some of the 81,220 shares sold at between $60.25 and $61.25 each were acquired for $4.50 through the exercise of options.

The chief financial officer, for example sold 24,000 shares at between $60.25 and $60.75, having exercised an option to buy them for $4.50 a share just before they were sold—a profit of about $1,344,000.

I'm for profits, Mr. Speaker, and Amgen makes a good and important product. But I'm not for monopoly windfall profits paid for by taxpayers through a regressive tax. Where is the moderation in the pricing? Where is the sense of citizenship or of restraint in selling an important product to very sick people?

Three hundred million a year in nearly pure profit from Medicare is too much. The Bush administration should renegotiate the price immediately or find a new way to buy the drug, break the monopoly, or make the drug itself at Government labs.

In one new biotech drug after another, the public—which funded the basic research that makes these drugs possible—is being taken to the cleaners.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. The treatment of Haitian political refugees deserves the attention of decent people everywhere. I am concerned about Haitian political refugees because I am a human being. I am also concerned specifically and particularly because my district has the largest number of Haitian-Americans outside the community of Miami. So the second largest Haitian-American community in the country is in Brooklyn in the 12th Congressional District.

We all should be concerned about the savage and inhumane drama that is taking place on the seas between Haiti and the shores of the United States. The Haitians have again become the victims of military thugs who refuse to recognize democracy and have used their guns to force themselves upon the people, even after democracy so beautifully prevailed in an election in Haiti where 70 percent of the people who came out to vote voted for President Aristide.

President Aristide was elected by 70 percent of the voters. What greater democratic mandate could a president receive?

In the United States in the last election between 52 and 53 percent of the people who voted voted for the President of the United States. Over 40 percent of the people did not bother to come out to vote at all, but of those who came out to vote for President Bush, between 52 and 53 percent voted for him.

Every American would defend to the death the right of President Bush to serve his full 4-year term, despite the fact that only 52 percent voted for him. President Aristide received 70 percent of the vote, and certainly he deserves to serve out his full term.

There should be no ambivalence in the U.S. governmental policy toward President Aristide. Any person elected with that kind of mandate for the people deserves the support of the United States.

Nevertheless, the military bandits who are trained in the United States, who are paid by the United States, saw fit to take over Aristide's government. The coup took place on September 30. Today, we are still thrashing about for a strong and firm reaction which the military coup would respect in Haiti.

While we are doing that, however, the people of Haiti have reacted in large numbers by fleeing to the countryside and some have tried to flee the country completely. There is a great body of water between the United States and Haiti, so persons trying to flee Haiti to get to the United States must cross that body of water.

Many have drowned in the process; many others have been rescued on the seas by the Coast Guard or seized near the shores of the United States by the Coast Guard and are on ships. There are hundreds of Haitians who have been held on ships, United States Coast Guard vessels, for two and three weeks.

Hundreds of people have been detained on ships that are meant only to hold a few dozen people. They have been forced to sleep on the decks of these ships, men, women, children. And the entire civilized world ought to take a close look at what is happening.

We have an Auschwitz on the sea, a Buchenwald on the seas. It is outrageous.

The problem is the policies of the United States toward Haiti are always double-standard policies. We always apply a different standard to Haiti than we apply to other nations, and in the case of political refugees, we have consistently refused to recognize political refugees fleeing from Haiti and give them the same kind of treatment that we give refugees who are fleeing from other countries.

Our doors have been wide open. One of the great attributes of our country is that we have always reached out to those who were fleeing oppression. The country was founded by people fleeing oppression. We have been consistent most of the time, whether they are Hungarian Freedom Fighters fleeing Communist oppression in Hungary or Salvadorans, Nicaraguans, people fleeing oppression in Central America or South America, we have always opened the doors. People from Lebanon, Palestine, all over we have consistently opened our doors to political refugees. Only the Haitians have been treated differently, only the Haitians.

□ 1930

Could it be the fact that the Haitians are black that has elicited this special inhumane treatment? I think we should take a close look at the situation where we are detaining people on the high seas because they are black. Clearly they are political refugees. There is no more clear definition of a political refugee than a person who is fleeing from bullets and bombs of his own government.

The military has taken over in Haiti. They have murdered at least 1,000 people in the process of the takeover and since the takeover. They are hunting down people in their own homes. They are shooting people at random in some cases in the streets. This is a military government which considers 70 percent of the people to be their enemy. After all, 70 percent of the people of Haiti voted to put Aristide in, and if the military junta is against Aristide, that means that they really consider 70 percent of the people to be their enemy. So 70 percent of the people are being persecuted, they are being oppressed, and clearly they deserve to be treated as political refugees in this country. We are not doing that.

The value system of this administration is blurred and confused in many respects, and here in foreign policy, where usually it is so clear, the value system is again blurred. We ought to take a look at the value system of this administration. It is blurred and confused at the least, and at worst the sense of morality of the present administration is completely out of control.

Let me digress for a minute and talk about the sense of morality of this administration on domestic matters. Today we considered a banking bill which had the full support of the administration. Fortunately it was voted down, the second time a banking bill has been voted down which was called reform, but it did very little to demand any responsibility from the banks, while it demanded from the American taxpayers a commitment of $70 billion, $70 billion was demanded to bail out the commercial banks. That is what was in the bill that we voted down today.

This is supported by the administration. They are very generous in the allocation of $70 billion to the banks. We have already been generous and allocated $200 billion to the savings and loan associations. That much money has been committed to the savings and loan associations that squandered the money, stole it, and in various ways misused the trust, and we as taxpayers have been forced through the Federal Guarantee Deposit Program to replace that money. Unfortunately, this administration is so generous that large amounts of money that we never insured, large amounts of deposits that were not insured under the Federal Guarantee Program, because they were over the amount of $100,000, we are also using taxpayer money to replace that money. Depositors who have millions of dollars in the bank, foreign sheikhs, various millionaires who had millions of dollars deposited in various banks not covered by the deposit insurance, we have generously, a handful of people in this administration have generously decided to give them the money back, beyond the law, beyond the commitment of the taxpayers, beyond the commitment of the voters. Nowhere in law are we obliged to cover billions of dollars' worth of uninsured deposits. Yet the administration is very generous to bankers and millionaires.

That same administration has shown a very mean spirit in fighting a Family Leave Act, a bill that would allow people to take time off from work if they are having a baby, adopting a baby, or if someone in the family is sick and requires help by the wage earner. The person who takes the time off would not receive a dime from the taxpayers. The cost of the program to the taxpayers would be zero. The person taking time off would not receive a dime from his employer, because it is unpaid leave, and yet we had that bill on the floor yesterday for the fourth time in 5 years. For 5 years the past administration or the present administration has fought a Family Leave Act which would provide help for new parents and help for people who are taking care of sick and ill relatives. That mean spirit is there, right beside the generosity of $70 billion for the banks, commercial banks, and $200 billion for the S&L's. It is a confused set of values.

The unemployment bill was passed finally today. We scored. I am happy to report to the American people we finally did something for the average American out there. An unemployment bill was finally voted out, but it was vetoed twice by this administration. It was vetoed twice. We squabbled and we debated endlessly about giving to the unemployed extended benefits from a fund that was created for that purpose. The money was there. It belonged to the unemployed, and yet we insisted that we cannot unbalance the budget or tamper with the budget in any way because it might upset the carefully synchronized budget agreement.

We did not talk about a budget agreement when it came time to make a commitment of $70 billion to the commercial banks. In fact, the commercial banks have already gotten $5 billion of that $70 billion, and we have already definitely committed another $30 billion that they can go to. The additional $40 billion is in a bill to be authorized by Congress because they want our stamp on it. If we do not authorize it, I have a sneaking suspicion that in the same fashion that the Treasury Department has given up the $5 billion and the $30 billion, they will go ahead and take the $40 billion while the taxpayers sit by helpless while this raid on the Treasury goes on.

So this warped sense of values, this meanness toward the average American has now extended into foreign policy, and we are not willing to treat all political refugees the same. Political refugees have always been welcomed, but not the Haitians. The Haitians, every time they are in trouble, have difficulty in having the same standards applied to them. For years the Government of the United States has insisted that anybody who comes fleeing from Haiti automatically is trying to take advantage of a better economic situation in this country, they are looking for an opportunity for employment, they are looking for an opportunity to increase their income. That has been the policy for years. Basically it has gone unchallenged, and it has prevailed.

But now we have a clear situation where we have to label the people who are fleeing guns and bombs, the people who are fleeing an illegal, criminal government made up of soldiers who were not elected by anybody, made up of soldiers who deposed the President who had been elected by 70 percent of the voters, they are clearly political refugees when they are fleeing bombs and guns. People cannot sleep in their homes at night. They say they go out in the fields and in the hills because they are afraid that during the night while they are sleeping the soldiers will come. During the day people who walk the streets innocently in search of food or doing other shopping may find themselves caught in a hail of bullets, and at least 1,000 have been shot down.

So if that is not fleeing oppression, if that is not fleeing political persecution, then what is? So desperate are they that they risk being drowned at sea. They leave in sailboats, they leave in small boats, they come in all kinds of situations. But they are Haitians, and, therefore, they are not welcome.

Haiti, on the one hand, has been dominated for the past century by the United States and its various governments. Haiti cannot make a move without the approval of this Government. On the other hand, Haiti has been grossly neglected. Haiti has never been given the kind of foreign aid, Haiti has never been treated in the same manner as other governments are treated with respect to respect for its democratic efforts. This government has always interfered in Haiti. We would not dare to have allowed any other government to move into Haiti and give assistance or have an influence of this kind that America has always enjoyed in Haiti. We have always insisted that we must be top dog in Haiti.

□ 1940

The French have a relationship with Haiti. The Haitians speak French. There is a long history. Haiti was once a French colony. It was the second nation to set itself free in this hemisphere. They fought the French, and they won their own freedom.

Nevertheless, longstanding tradition has existed where the French and the Haitians have been very close, but we have always refused to allow the French to have too much influence in Haiti, because it is just off the shores of the United States. We have dominated, the U.S. Government has dominated, and influenced whatever has happened in Haiti, good or bad, over the last 100 years. So the situation that the Haitians find themselves in is not totally to their making. They live in the shadow of the United States, and they have to abide to a great degree by our policies.

One of the unfortunate things that has happened is that even as we in this country, our various Presidents and administrations, have insisted that Haiti must have a democratic government, and Haiti must establish more democratic traditions, we even finally got around to removing "Baby Doc" after we allowed his father to rule for many decades, and even after Haiti complied, and they fought pretty hard. The Haitian people deserve a Nobel Prize for their efforts to establish democracy.

First, they fooled everybody by establishing a constitution, a first-rate constitution, democratic principles, democratic government, magnificently structured democratic institutions, a supreme court, a parliament, a president. They surprised everybody by producing a constitution, by voting for that constitution, and establishing it.

Then they surprised the world by setting up elections and beginning the process of elections, but the military at that time came out, and on election day, they mowed people down in the streets. It was the beginning of the counterattack by the military who saw certain privileges that they had enjoyed and certain power that they held, including the power to act in collusion with drug dealers and make a lot of money off of drug transmission through Haiti, they saw it threatened, so they began at that point to fight the establishment of democracy in Haiti. The Haitians persisted, and in one election after another, they finally reached the point where, by an overwhelming 70 percent, they elected Jean-Bertrand Aristide as the President of Haiti.

On September 30, 1991, President Jean-Bertrand Aristide was overthrown by the same bunch of military bandits and thugs who had fought democracy from the very beginning.

Gen. Raoul Cedras, the leader of the coup, announced that he was in charge. Nobody elected him, but he was in charge. He alleged that the President, Aristide, was overthrown for being undemocratic and perpetuating human rights violations. Here is the thug, murderer, criminal, bandit, taking over illegally and charging the President elected by 70 percent of the people with being undemocratic and with violating human rights. Can you think of anything more absurd?

The problem is that despite the fact that it was absurd, it was given some credence by the U.S. Government. Our U.S. Government, the State Department through various spokesmen, vacillated for days. They put out statements like they were upset by Aristide's violations of certain human rights. They never noted the fact that the people who had taken over from Aristide had murdered 300 people, and the number was growing. They never noted that fact during all of their statements.

In the weeks following the coup, the troops that were loyal to the military junta patrolled the streets, and especially in poor neighborhoods of the capital. The smallest two cities, they just sprayed the crowds with machineguns and rifle fire at random.

As I said before, the military looks upon all of the people, the 70 percent that elected Aristide, as being the enemy. The National Coalition for Haitian Refugees estimates that more than 200 persons were murdered in the first few days after the coup.

At this point, sources in Haiti that I have been in contact with through my district have estimated that 1,200 people have been killed at least.

Silvio Claude, the president of the Haitian Christian Democratic Party, was attacked by a crowd earlier, a crowd of people who were angry, and killed.

President Cedras claimed that Aristide gave the order for Silvio Claude and others to be killed, and yet there is no way to link that to President Aristide.

Supporters of Aristide go into exile, away from Haiti, they go into hiding on the island, they go into the bush every night, they are doing everything possible, and many have gone to Venezuela, to other countries.

On October 7, the Haitian legislature, under pressure from the Organization of American States to take some kind of action, moved to select Joseph Nerette, a Haitian supreme court justice, to be Haiti's provisional president. The pressure from the OAS was not to select a new provisional president. They were pressing them to accept the lawfully elected President, President Aristide, back, but because of the fact that the armed military, the bandits with guns, forced and threatened and intimidated the legislature, they put in President Nerette as the provisional president. They also selected Jean-Jacques Honorat, a former human rights activist, as the Prime Minister.

The great problem here is that instead of condemning the action of the army, its threatening and intimidating the legislature to do what it should not have done, the U.S. Government gave some credence, and the State Department spokesman gave some credence to this action by praising people like Jean-Jacques Honorat as being a great human-rights activist and a person with substantial credibility.

It does not matter what kind of credibility Honorat or Nerette may have. The important fact for this Nation and for all people who care about democracy, for the OAS, for the United Nations, for every civilized nation, is that Honorat and Nerette were not elected by anybody. Only Aristide was elected. Only Aristide received 70 percent of the vote. So it does not matter what kind of credentials they have.

We certainly would not want President Bush deposed by a Nobel Prize winner or somebody else with some great credentials in human rights and try to justify that because of that person's credentials.

We finally moved to impose a trade embargo, joining with the OAS and insisting that that trade embargo be enforced. There is some serious doubt about how well we are enforcing that trade embargo.

You know, the army was trained by the United States. The army is paid by the United States. They are still strong. Somebody must be paying them somewhere. We wonder about the effectiveness of this embargo, how little money is flowing for things like payment to the armed forces.

Despite this international embargo, the military grows stronger each day. It has shut down radio stations, and radio stations are the main source of news for the people in Haiti, because they are mostly illiterate.

Soldiers are searching the homes every day of leading Haitian businessmen and economists who opposed the coup. Very few businessmen opposed the coup. Most of the businessmen, most of the professionals were in favor of the coup, and the U.S. Government, the State Department spokesmen, have pointed that out, that after all Aristide should have done more to court the businessmen; he should have done more to court the professionals.

Well, he was elected by 70 percent of the people. Most of the people of Haiti are dirt poor. Haiti is not only definitely the poorest country in the Western Hemisphere, Haiti is probably one of the poorest countries in the world. The poor have been oppressed by these professionals and the middle class for centuries.

Why should the poor who elected Aristide now be subjected to a government which is favored by the businessmen and the professionals who have always oppressed them?

There is some good news to report in all of this. Finally, the OAS delegation that has been frustrated since September 30 has decided to do something which is quite creative. They have called on the parliament of Haiti to meet with them outside of Haiti since the military refuses to allow an orderly meeting within the country. They are going to have a meeting somewhere outside of the country and attempt to establish negotiations between the parliament and President Aristide.

While we can look forward, I hope, in the next few days to some relief of this situation and a return to the lawfully elected Government of Haiti, we cannot forget that at this moment there are more than 700 people who were on boats seeking to escape who were picked up by the Coast Guard and who have been kept on ships, some for as many as 3 weeks. I am happy to report that we received information today that at least 400 of these people have now been discharged from the Coast Guard cutters onto the base at Guantanamo Bay in Cuba.

□ 1950

We are using the U.S. base at Guantanamo to set up temporary shelter and provide food and clothing for the Haitian refugees who had been detained on boats for several weeks.

I cannot stress too much the inhumanity of this situation. The thing got so bad that Coast Guard intercepted Haitians who were found on a boat that had already docked in the United States, the Coast Guard and the INS forced the captain of the ship to accept the Haitians back on the ship and they told the captain of the ship that it was his responsibility to see to it that none of those Haitians remained in the United States, that they be returned to Haiti.

The captain of the ship, following the orders he had been given by the INS, the Immigration and Naturalization Service, and the Coast Guard, decided to chain the black Haitians to the deck of the ship in order for them not to escape.

In 1991 in the United States of America, we had black people chained like slaves on ships in a United States port as a result of an order given by the U.S. Government.

When confronted with this fact, of course, the INS said, "We didn't chain them. They were chained by the captain of the ship."

It is like Adolf Hitler saying, "Well, I didn't order people into the crematoriums. I didn't actually gas them. I privatized the gasing operation. I had private industry fill the gas chambers. I contracted out to a private consulting firm to lead people into the gas chambers. We had no responsibility."

Such outrages took place on the shores of the United States, largely because these people happened to be black. We find no other explanation. There are no precedents in the history of the country of refugees fleeing political persecution, being treated as the Haitians are being treated.

This is a racial issue. It has to be confronted head on as a racial issue.

We have a resolution that has been drafted by Congressman RANGEL that was introduced on October 10, House Concurrent Resolution 220:

> *Resolved by the House of Representatives (the Senate concurring)*, That the Congress strongly condemns the unconstitutional seizure of power by the military junta in Haiti and supports the Bush administration's refusal to recognize the coup and strongly supports the Organization of American States efforts * * *.

And it also calls upon the Attorney General to suspend all deportation and exclusion proceedings for Haitians from the United States pending a resolution of the deep political and military crisis in Haiti.

Let me repeat. Suspend all deportation and exclusion proceedings for Haitians pending a resolution of the deep political and military crisis in Haiti as called for by the Inter-American Commission on Human Rights.

It also calls on the United States to designate Haiti under section 244(A)(b)(1) of the Immigration and Nationality Act relating to temporary protected status.

It calls upon the U.S. Coast Guard to begin a coordinated search and rescue at sea operation with respect to Haitians fleeing Haiti, stop the interdiction and the refoulment of Haitian boat people, bring Haitians rescued at sea to the United States for temporary safe haven and save those Haitians who flee the violence, the persecution and anarchy of their homeland, as called for by the Inter-American Commission on Human Rights.

It calls upon the Aristide government upon its restoration to respect and promote the human rights of all Haitian citizens.

What this resolution is calling for is nothing new. In all other cases of the Hungarian freedom fighters, of people fleeing chaos in the war in Lebanon, Palestine, all over the world as people are fleeing to this country for temporary relief, we have granted it. Only in the case of the Haitians have we not acted to provide temporary relief for persecuted political refugees. It is a racial issue. The Haitians are black.

I call upon all the organs of communication, television, radio, newspapers, to stop their blindness, to cease their blindness and deal with what is happening on the high seas between Haiti and the United States.

Why, New York Times that prints all the news that is fit to print, why have you not reported on the status of Haitian refugees on Coast Guard cutters on the high seas?

Why, Washington Post, are you generalizing about what is going on in Haiti while you ignore the drama of the inhumane treatment of people on the high seas? Why?

I call upon organizations in the United States which are concerned about human rights or international organizations, like Amnesty International, every organization concerned about the rights of human beings should also be concerned about the rights of Haitians. They should all be concerned about the establishment of concentration camps on the high seas in U.S. Coast Guard cutters.

Mr. FALEOMAVAEGA. Mr. Speaker, will the gentleman yield?

Mr. OWENS of New York. I yield to the gentleman from the American Samoa.

Mr. FALEOMAVAEGA. Mr. Speaker, I have been listening with great interest to the comments of the gentleman from New York and I really appreciate the fact that the gentleman has brought this very important issue to the forefront, not only to share with our colleagues, but certainly with the general public concerning the people of Haiti.

I think it is a shame that there seems to be some kind of an exception made as far as our policy is concerned where we are not giving the same opportunities to those Haitians who should be considered as refugees, to be given the same opportunity as you would refugees coming from other countries of the world.

I wanted to ask my friend, the gentleman from New York, about the refugees coming out of Cuba. They are the same general area, and yet we seem to be giving greater treatment to the refugees coming out of Cuba than we are those coming out of Haiti. I would ask my friend if he could comment on that.

Mr. OWENS of New York. Mr. Speaker, the Cuban refugees were given an open door to enter the country. The refugees from Salvador, from Nicaragua, wherever there was deemed to be Communist conspiracy or violence generated by Communists, the door was thrown wide open.

Haiti has never catered to communism. It seems to be they ought to be praised for never allowing communism to take root on their soil. It seems they are unfortunate in that respect, however, because the policies of our Government would have been very difficult toward Haiti if they had a Communist party or a Communist movement, but Cubans fleeing from communism are given an open door and allowed in in large numbers. Hungarian freedom fighters are given an open door.

This is part of the greatness of our country. I have no quarrel with it whatsoever. My problem is why do we suddenly become blind when the persecuted political refugees are black Haitians?

Mr. FALEOMAVAEGA. Well, Mr. Speaker, I want to commend the gentleman from New York for his honesty and his deliberations in bringing this to the forefront and letting the Members of this Chamber know about this inequity. I consider this a total inequity. These are not just Haitians. They are human beings and they certainly are seeking the same opportunities, the same benefits and the same things that all human beings would like to share, especially with the prosperity of this great Nation of ours.

I certainly would like to commend the gentleman from New York for bringing this special order to the attention of the Members and especially to the American public.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman for his comments.

Congress will have a chance to indicate whether they are going to act in complicity with the inhumane policy of the administration, because the resolution that has been proposed by Congressman RANGEL, we hope to have on the floor of the Congress next week. That is a simple resolution which can be summarized by saying, for God's sake, let us treat the Haitians as we treat all other political refugees anywhere else in the world.

I want to end my comments by calling upon the NAACP, the Urban League, Trans-Africa, the Urban Coalition, all the organizations which are primarily concerned with the well-being of African-Americans in this country or people of African-American descent everywhere. They sometimes give more attention to South Africa, to Zambia, to Zaire and places which are thousands of miles away than they give to Haiti, which is just off the shores of the United States. These organizations must redouble their efforts to fight racism in our foreign policy. The policy toward Haiti is clearly a reflection of racism out of control in our foreign policy. We must treat the Haitians as we treat political refugees everywhere else.

RECONCILIATION, NOT APOLOGIES, WITH JAPAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, there has been a great deal of debate lately in the Congress about Japan's economic predominance and its strained relationship with the United States.

In Japan, there is also burning debate about what its future role should be as a responsible member of the international community.

Mr. Speaker, as we commemorate the 50th anniversary of the bombing of Pearl Harbor—and the entry of the United States into the events of World War II—let us take a moment to reflect on the significance of those events and Japan's reemergence as a preeminent economic power.

Mr. Speaker, the great events that brought the cold war to a close, and the 50th anniversary of Pearl Harbor prompts reflection on where the United States and Japan have been, how much we have accomplished, and were we ought to be going.

Mr. Speaker, it can be said that our relations are more uncertain today than at any time since World War II. Strains between our two countries have grown substantially in recent years as Japan's economic and technological power has developed enormously, relative to that of our country. Japan today is a major economic and technological power. Consequently, there is broad support in the United States for a more assertive and forceful United States policy toward Japan. But Congress faces a wide range of opinions on how strongly and in what ways the United States should press for change.

There are those who argue that greater pressure is needed to push the Japanese out of past practices that are seen as detrimental to United States interests. On the other side are those who argue that escalating United States pressure tactics will not, by themselves, appreciably meet United States interests in our relations with Japan.

Mr. Speaker, I understand that much of our frustration has a lot to do with the declining state of our economy—and the shift of much of that blame has been directed toward Japan. I am not saying that Japan is blameless for some of the problems we are facing—but given the interdependence we have with each other, it is imperative that we look at the problems we are facing in a fair and rational manner.

For example, while our trade deficit with Japan is still high—it has actually declined from $56 billion in 1987 to around $40 billion today. One might also note that our country last year alone conducted a $310 billion trade relationship with the Asia-Pacific region, out of which the United States exported in excess of $110 billion worth of goods to this region, and Japan has been our leading trade partner in the process.

Much has also been said about Japan closing its markets to American goods; however, I think it is important for us to point out that with the exception of Canada, we export more to Japan than any other country in the world.

There is also a lot of consternation in our country about the flight of American companies to those countries offering cheap labor—and aggravating the problems of unemployment in this country.

Mr. Speaker, unemployment is a major problem facing our country at this moment, but we cannot in all fairness point the finger just at Japan for this. In fact, wages in Japan are as high as our own—in some instances, they are higher.

If anything, Japanese companies such as Honda, Sony, Toyota, and others have relocated major components of their manufacturing facilities to the United States.

I am disappointed that the President has decided to cancel his visit to Japan and other parts of Asia, originally planned for next month. Given the fact that he has visited Europe several times this year, this cancellation sends a clear signal to our allies in the Asia/Pacific region, that in our foreign policy, they continue to take a back seat to Europe and the Middle East.

I understand that the President is planning to travel to Hawaii to commemorate the 50th anniversary of the attack on Pearl Harbor. This is an emotional issue and a heavy price was paid by both the United States and Japan.

Following the surrender of Japan after World War II, the United States began a massive plan of reconstructing Japanese society. It was the goal of General MacArthur and President Truman to turn our enemies into allies—dictatorships into democracies. To that end, our policy of reconstruction has succeeded beyond anyone's imagination.

I am extremely concerned about the attitude of some who would turn the 50th anniversary of Pearl Harbor into an opportunity to rekindle old wounds.

Of particular concern to me is the rhetoric in some circles who demand that Japan formally apologize for Pearl Harbor and World War II.

Mr. Speaker, I ask those who take this position to examine our own record before we cast aspersion on the actions and motives of others.

Did we apologize to the American Indian for the annihilation of some of their tribes? Did we apologize to the native Hawaiians for the loss of their land and culture? Did we apologize to the U.S. citizens of Japanese ancestry who were wrongfully incarcerated during World War II? Did we apologize to the Japanese for the thousands of women and children killed by our atomic bombs dropped on Nagasaki and Hiroshima?

Mr. Speaker, we should never forget the courageous men and women of our country who fought and died at Pearl Harbor. As a veteran myself, I know something about the horrors of war and the terrible price it extracts from mothers and fathers and children. But now is the time for reconciliation—not recrimination or apologies.

Mr. Speaker, I am saying that the United States and Japan should work toward improving our trade relations. This can only be done by working with the Japanese toward a more trusting relationship, one step at a time. This is the same process Secretary Baker has used to get a meaningful peace plan for the Middle East.

This cannot be done if we demand apologies from the Japanese. The negotiation process which must take place in the coming years requires that U.S. officials and negotiators be aware of the sensitivities involved. I sincerely hope the President reconsiders his decision to not visit Japan and other parts of Asia. He has the capacity to heal the wounds of that war so long ago and move us along the path of reconciliation.

Senator DANIEL INOUYE of Hawaii, a highly decorated American veteran of the Second World War, has spoken eloquently on his expectation that President Bush should meet with the Japanese leaders to discuss the problems of our past and the potential for the future, and then return to the United States to pay tribute to those who died in the war. I wholeheartedly agree with the distinguished Senator from Hawaii.

It would take an act of great political courage for the President to set aside the destructive views of some of his more conservative advisors and listen to his heart—it is time to do the right thing, and not listen to the voices that preach hatred, bigotry, and vengeance.

As I call upon the United States to do the right thing, I also call upon Japan, to meet its responsibilities. For example, if Japan is to be treated as a coequal, it must share the responsibilities of a major economic power. This means that Japan must open up more of its markets for American goods and play a larger role to protect the international sealanes within 1,000 miles of its borders.

Mr. Speaker, the whole world will focus on what our leaders will do and say during the commemoration of the 50th anniversary of the surprise attack on Pearl Harbor.

Mr. Speaker, it is my sincere hope that next month on December 7 will be an occasion whereby our leaders and the leaders of Japan will sit down together and to meet with the spirit of reconciliation, and one of serious reflection not only of the past—but to put the past behind us, and to work together toward the future and for the betterment of not only our two countries, but for the world as well.

Mr. Speaker, I submit the following articles for the RECORD, which I believe will be of benefit to my colleagues.

Mr. Speaker, I yield back the balance of my time.

[From the Washington Post, Nov. 10, 1991]

REFORGING U.S. TIES WITH JAPAN

America's economic pain, side by side with Japan's huge successes, creates an uneasy backdrop for the 50th anniversary of Pearl Harbor next month. Trade and other tensions have been increasing, and although there are people of goodwill on both sides, the ongoing debate tinged with anger and emotion, is likely to get worse.

Although Japan—in the end—contributed $13 billion (more than any other American ally) to the costs of the Persian Gulf War, its initial aloofness lowered American esteem and convinced many Americans that Japan preferred to benefit from global affairs without sharing the burdens.

"What has been called America's most important single foreign relationship, once central to regional peace and global prosperity, has lately turned unhealthy, and even nasty," writes Richard Holbrooke, former assistant secretary of state for East Asian affairs, in the current issue of Foreign Affairs.

Thus, it's unfortunate that President Bush—in a knee-jerk reaction to the stunning GOP loss in the Pennsylvania senatorial election—canceled his projected two-week trip to Japan and elsewhere in Asia. He has been ignoring this growing center of global economic power while concentrating on the Soviet crisis and on the Middle East.

Reaction in Tokyo was predictable: The new prime minister, Kiichi Miyazawa, was embarrassed, and other Japanese officials were saying publicly, according to the Daily Japan Digest, that "Washington takes Asia too lightly."

My view is that if Bush felt impelled to sacrifice some globe-trotting time, he would have done better to cancel his Rome NATO trip (who needed it?) and keep his dates in the Far East: The Pacific Basin could be as important to the United States' economic welfare in the next 50 years as was Europe in the last half century.

There is near unanimity that the end of the Cold War provides a basis—and a need—for a brand-new American approach to Japan. But there is no agreement on what should be done. At one end of the spectrum, hawks such as Rep. Richard Gephardt (D-Mo.) persist in the notion that the Japanese can be made "more like us" by beating them over the head with oppressive sanctions designed to reduce their trade surpluses. * * *

The best-known is Shintaro Ishihara, author of "The Japan That Can Say No," who promotes narrow Japanese nationalism. Ishihara would have Japan ditch its alliance with the United States and assert military and economic independence.

Others search for more subtle ways of revamping and strengthening the U.S.-Japan relationship. In an article last year in Foreign Policy magazine, Selig S. Harrison of the Carnegie Endowment and Clyde V. Prestowitz Jr., president of the Economic Strategy Institute, argued that ever since the Truman administration, U.S. presidents "have subordinated U.S. economic interests to perceived geopolitical requirements."

Since the Soviets are no longer a military threat to the West, the United States can now challenge any disturbing Japanese trade actions on a case-by-case basis, focusing exclusively on the need to assure survival of strategic American industries, Harrison and Prestowitz suggest.

Harrison, a former Tokyo bureau chief of The Washington Post, said in a letter to me: "I think the line that we take is the best way to sort things out so that the destructive type of 'Japan-bashing' ... is redirected."

The Commission on U.S.-Japan Relations for the Twenty First Century, headed by former Honeywell Inc. chief executive Edson W. Spencer, said in its final report published last week that Japan, long a junior partner, should be expected to play an enhanced role in both the Pacific Basin and global arenas.

The commission, composed of friendly business executives, academics and former American government officials, emphasizes American as well as Japanese mistakes that helped sour the relationship in recent years. Nonetheless, it called on Japan to drop more trade barriers and to erase a major source of anger and impatience here—the near total rejection of foreign investment in Japan.

Holbrooke offers a very sophisticated perspective. He recognizes errors made on both sides. His criticisms of Japan are to the point, without the hostility displayed by Dutch journalist Karel van Wolferen, author of "The Enigma of Japanese Power." Nor is Holbrooke forgetful of America's postwar generosity to Japan that helped it get on its feet at the end of the war in 1945. ***

He is frank to acknowledge that "there may still be an underlying racism, not always conscious, in the attitudes of some Americans toward Japanese." This is touchy ground. When I made the same observation recently about American racism at a Capitol Hill seminar, I was vigorously attacked by a member of Congress in the audience who said he was offended by the mere suggestion that Americans could be racist. Emotions ran high.

Citing research done by Prof. John Dower, a student of Japanese-American relations, I said: "Let me talk about an area that troubles me. There is a racist problem on both sides of the Pacific. The war exacerbated anti-Oriental prejudices that had long been part of American society. I talk to many people today who simply cannot put Pearl Harbor behind them. [Yet] if you ask about [the atomic devastation of] Hiroshima and Nagasaki, you get blank stares."

These deeply ingrained American feelings, coupled with Japanese resentment of what they consider to be unfair, do not bode well for the relationship. Holbrooke is not optimistic, because he believes it will be tough for many Americans to accept a more aggressive Japan. Japan has made enormous economic strides and will make more. Sometime shortly around the start of the 21st century, it will have a bigger economy than the United States—in absolute terms, not merely on a per capita basis.

That's devastating for the psyche of some Americans, taught in grade school to think we're always the biggest and the best. (Bush and Vice President Quayle still hammer away at that theme, and anyone who questions it is unpatriotic!) But the reality is different. Said Holbrooke: "Japan seems to be better at the very things on which Americans once prided themselves: quality products, hard work, sacrifice, strong family structure, a sense of national unity and patriotism."

The announced Democratic candidates for president recognize this dilemma, but most of them serve up variations on a protectionist theme, distanced only by nuance from Gephardt's. The Democratic proposals represent a yearning for the good old days, when Japan was content to be little brother to Big Brother. * * *

It doesn't suit the '90s. Can we move toward a relationship of two equals, as Holbrooke suggests? Only if we lock the door on the Ishiharas, Gephardts and the rest of the hard-liners.

[From the Washington Post, Nov. 12, 1991]

BAKER HOLDS TALKS WITH JAPAN'S PREMIER—TRADE, SECURITY DISCUSSED AT TOKYO MEETING

(By Don Oberdorfer)

TOKYO, Nov. 11.—Secretary of State James A. Baker III and Japanese Prime Minister Kiichi Miyazawa began today to reconfirm the U.S.-Japanese relationship in the post-Cold War era, affirming the need for close cooperation on regional and global affairs, but touching only lightly on the differences between their nations.

The symbolic beginning of U.S. relations with Japan's new government, which has been in office for less than a week, came in a 50-minute meeting in the prime minister's official residence.

Miyazawa, a colleague of Baker from the time each man was head of his country's treasury, set a businesslike tone at the outset of the discussion by announcing that he would speak to the secretary of state in Japanese and through an official translator although he can speak near-perfect English. A Japanese official present said Baker laughed at this decision by his old friend.

Each side began the discussion by making a number of requests of the other. Baker, who is on a nine-day tour of Asia, asked for Japanese help on problems regarding China, North Korea and the Middle East, as well as international economic problems and such bilateral issues as exports of auto parts to the United States and a Japanese contribution to the U.S. super-collider research program. Miyazawa asked for U.S. help in solving the issue of four Japanese islands that have been occupied by the Soviet Union since World War II and for U.S. forbearance on the touchy issue of Japanese barriers to rice imports.

Noting the importance of ties between two nations that together account for 40 percent of world economic output, Baker said in a speech here today that "nothing is more fundamental to the security of the region, to global economic growth, and indeed to the effectiveness of the post-Cold War international system than the U.S.-Japan relationship. "Baker quoted approvingly the frequent assertion of former U.S. ambassador to Japan Mike Mansfield that the U.S. relationship with Japan is "our most important bilateral relationship, bar none."

"There are always some problems between Japan and the United States," Baker was quoted by Japanese officials as saying to Foreign Minister Michio Watanabe. But he went on to say, according to this account, that "we have the mechanisms to solve them; we are going to solve them."

In his talk with Miyazawa, Baker said that a trip to Asia by President Bush, which was called off last week, will be rescheduled "before long." U.S. briefers refused to be specific about timing in discussions with reporters, but an official traveling with Baker said the presidential trip here is expected to take place within the next two months. Bush's sudden postponement of the long-planned Asian journey has come under fire in the region.

Regarding the North Korean nuclear weapons program, which Baker described in today's talks as the most serious security problem in East Asia, Miyazawa agreed to pursue four-power discussions involving the Soviet Union and China as well as Japan and the United States in an effort to deter further weapons development by Pyongyang. A U.S. briefer said Japan will not normalize relations with North Korea until Pyongyang agrees not only to international inspection but also to make no further effort to reprocess spent nuclear fuel into weapons material.

On the subject of Indochina, Baker was told Japan is ready to host an international conference here next year to raise funds for the restoration of war-torn Cambodia. Baker had requested that Japan offer major financial and human assistance to Cambodia. The Reuter news agency reported that Miyazawa had received parliamentary backing to send troops to Cambodia as part of a U.N. peacekeeping force there.

In a move that goes beyond existing U.S. policy, Japan has decided to offer substantial foreign aid to Vietnam, unofficially reported to be more than $100 million, now that the war in Cambodia is on its way to settlement. Baker asked for Japanese help on the issue of U.S. servicemen missing in action from the Vietnam War, in Washington's view a continuing barrier to normalization of U.S.-Vietnamese relations.

On economic issues, Baker told Miyazawa it is of "utmost necessity" to successfully conclude the stalled Uruguay round of international trade negotiations, especially in view of the continued large trade imbalance between the U.S. and Japan. The Japanese prime minister, in turn, spoke of the "difficult problem" that exists in allowing imports of rice to the Japanese market, one of the unresolved issues in the trade negotiations.

A Baker aide described the meeting with Miyazawa as "not a negotiating session" but an opportunity to compare notes and begin a policy discussion with the newly installed Japanese government.

[From the Washington Times, Nov. 12, 1991]

JAPAN PURSUES ITS YEN FOR NEW ROLE IN WORLD

(By Warren Strobel)

TOKYO.—The United States recognizes Japan's desire for a greater international role and hopes to entice it into a global partnership with Washington, a senior U.S. official said yesterday.

For example, Tokyo wants to participate in the proposed multinational phase of Middle East peace talks, said a senior official traveling with Secretary of State James A. Baker III.

Mr. Baker meets with Japan's new government headed by Prime Minister Kiichi Miyazawa today on the first leg of three-nation tour that includes stops in South Korea and China.

Tokyo's willingness to get involved in Middle East peace efforts represents the latest example of Japan shedding its reluctance to use its clout abroad, said the official, who asked not to be named.

The not-yet-scheduled multinational Middle East meetings would deal with regional problems—some of which, like water use, refugees and economic development, could benefit from Japan's huge financial resources.

Mr. Baker is scheduled to make a major policy address today before the Institute of International Affairs in Tokyo.

But his first order of business will be to address the bitter disappointment of Japanese leaders over President Bush's cancellation last week of a visit to Asia later this month.

Mr. Bush has promised to reschedule a visit to Japan before the 1992 presidential election, but for now, Mr. Baker will be the senior U.S. official to meet Japan's new prime minister, Mr. Miyazawa.

The secretary of state will be engaging leaders who are accelerating a trend in which Japan cautiously leaves behind its aversion to being a world player in anything but an economic sense.

Japan is "looking for a new role or a way to position itself in the world," a search that has become more urgent with the collapse of Soviet power, the senior U.S. official said.

Calling Mr. Miyazawa "a strong internationalist," the official told reporters aboard the secretary of state's Air Force jet that the new Japanese Cabinet will set a "more activist international policy."

The new prime minister favors legislation that would allow Japan to send troops abroad in support of U.N. peacekeeping operations. That is something Japan's constitution, dictated by the United States after World War II, now forbids.

In a speech last week three days after taking office, Mr. Miyazawa said Japan is committed "to an exclusively defensive posture and not becoming a military power such as might threaten other countries."

Aside from military matters, U.S. officials have begun discussing the idea of a new trans-Pacific compact with Japan.

Its main focus, at least for now, would be on free-trade, both through international negotiations known as the General Agreement on Tariffs and Trade and in bilateral talks over Japan's trade surplus with the United States.

U.S. officials view the initiative as a logical counterpart to Washington's alliances in Europe, which have also been refashioned by the end of the Cold War, and to its trade talks with the European Community.

Mr. Baker flew to Japan from The Hague in the Netherlands where he and Mr. Bush attended a meeting of the 12-nation EC.

The secretary of state is also expected to address continuing trade tensions between the United States and Japan.

Japan accounts for about two-thirds of the U.S. trade deficit of nearly $40 billion.

In South Korea, beginning tomorrow, Mr. Baker will discuss security concerns on the Korean peninsula, where North Korea is thought to be developing nuclear weapons. Foreign ministers from China and Japan will also be there.

The centerpiece of Mr. Baker's trip is certain to be his stop in China Friday. He will be the highest ranking U.S. official to visit Beijing since the June 1989 massacre of prodemocracy demonstrators in Tiananmen Square.

[From the Washington Times, Nov. 12, 1991]

JAPAN'S FAST-PACED ECONOMY ADJUSTS TO LIFE IN SLOW LANE

(By Paul Blustein)

TOKYO, NOV. 11.—In the first nine months of this year, corporate bankruptcies in Japan surged by 64 percent, to more than 7,300.

But the job market here is so robust that 200 of those bankruptcies resulted from companies that couldn't find enough workers to stay in business.

Welcome to what the Japanese call a recession. Like a lot of other things, the concept has a different meaning here than it does in the United States. Where an American recession translates into joblessness and falling living standards, in Japan it means that economic growth is slowing to rates that most other industrial nations consider normal.

Without doubt, Japan's economy is decelerating sharply, a development long anticipated by forecasters as a result of the major increase in interest rates that began here in late 1989. And some of the latest headlines make the situation seem dire indeed.

Housing starts fell 27 percent in September, the steepest dive in five years. The nation's vaunted auto and electronics industries are taking some unaccustomed knocks: For the first time in its history, Toshiba Corp. sold fewer computers in the six months ended Sept. 30 than the same period a year before, and Toyota Motor Corp. sales plummeted by more than 10 percent in October, its worst month since 1986.

Government forecasters have begun echoing private economists' assessments that growth in the July-September quarter probably was slightly negative. The new government of Prime Minister Kiichi Miyazawa is clamoring for lower interest rates, as are many business leaders—and the Bank of Japan, which cut its benchmark discount interest rate to 5.5 percent in July, is widely expected to ease credit again shortly.

But what this all amounts to, according to a general consensus among economists and business executives, is an economy that is falling short of its own extraordinary growth standards rather than one that is falling apart.

"When you have been driving at 100 miles per hour, if you show down to 70, it seems so slow," said Makato Yoshie, senior managing director at Mitsui Taiyo Kobe Bank.

Even the most pessimistic forecasters, such as those at Salomon Brothers (Asia) Inc., see little chance of a severe downturn.

"Japan has averaged more than 5 percent growth for the last four years," said Robert Feldman, one of the firm's Tokyo economists. "And if it falls to, say, 3 percent this year, is that so terrible? Even 3 percent is not bad by industrial country standards."

What's more, he added, the hardest hit sectors are those that were thriving as a result of the "bubble" in land and stock prices during the late 1980s.

So while the big stories on the American economy concern laid-off workers who still haven't found jobs in the sputtering recovery, the bit stories on the Japanese economy concern problems such as the dismal market for fine art or the dwindling demand for luxury imported cars.

Real estate and stock market speculators have been put out of commission by the plunge in land and share prices and the recent financial scandals. At Takashimaya, the swank department store chain, "bubble goods"—jewelry and artwork priced at more than $75,000—accounted for about $3 of every $100 worth of merchandise sold; this year, such stuff is barely moving at all, according to store officials. But overall sales are continuing to climb at a respectable 3 percent to 4 percent a year.

This is precisely what Japanese monetary authorities were aiming for when they began tightening credit two years ago. Bank of Japan governor Yasushi Mieno has shown grim determination to burst the land and stock price bubbles in order to quell inflationary pressures.

Not that the squeeze is being confined to nonessential sectors such as jewelry. The outlook is for substantial profit declines in virtually every Japanese industry this year, "and we don't see any upturn in the near future," said an official at Toyota, which has been jolted by the poor sales performance of its new model Corolla. At the same time, Japanese companies feel compelled to continue spending huge sums on expensive, automated factories and equipment in order to maintain market share and cope with the nation's labor shortage.

The impact of the slowdown also is being felt far from Japan's shores. The decline in land and stock values has dealt a blow to the previously invincible financial position of the nation's giant banks, resulting in a marked tendency to restrict overseas lending.

But despite the slackening pace of growth, "the economy is not moving down in any way that has any momentum," said Patricia Kuwayama, an economist at J.P. Morgan & Co.'s Tokyo office.

One big reason for the lack of grass-roots panic is the labor shortage, the result partly of a two-decade-long decline in the birth rate. About 1.34 job offers currently await the average job seeker, and while that figure is down from a peak of around 1.47, it still means that a Japanese who happens to work at a firm that goes bankrupt doesn't have to worry much about finding another position.

Still, in a country where the typical white-collar worker exhibits great interest in following the national economic statistics, the slowdown has struck a nerve.

At Nihon Kotsu, a taxi and limousine company that ferries executives around the restaurants and hostess bars of the Ginza, the limo business is off about 10 percent this year, and Noritaka Hyashi, a company official, is anxious to get back to the good old days of the late 1980s. In language similar to that being directed at Federal Reserve Chairman Alan Greenspan in the United States these days, he said, "The discount rate must be cut 1 percent—half a percent is not enough. Japan's economy has lost its aggressiveness."

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mr. HUNTER, for 60 minutes, today.

Mr. WALKER, for 30 minutes, today.

Mr. HANSEN, for 5 minutes, today.

Mr. GRANDY, for 5 minutes, today.

Mr. GOSS, for 5 minutes, today.

Mr. RHODES, for 60 minutes, on November 18.

Mr. HASTERT, for 60 minutes, on November 18.

Mrs. BENTLEY, for 60 minutes each day on Nov. 18, 22, 23, 24, 25, and 26.

Mr. NUSSLE, for 5 minutes, today.

Mr. BOEHNER, for 5 minutes, today.

(The following members (at the request of Mr. CARDIN) to revise and extend their remarks and include extraneous material:)

Mr. MCDERMOTT, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. RIDGE.

Mrs. ROUKEMA in two instances.

Mr. DUNCAN in two instances.

Mr. CLINGER.

Ms. ROS-LEHTINEN in five instances.

Mr. KLUG.

Mr. IRELAND.

(The following Members (at the request of Mr. CARDIN) and to include extraneous matter:)

Mr. KANJORSKI.

Mr. HARRIS.

Mr. COLEMAN of Texas.

Mr. PEASE.

Mr. JACOBS.

Mr. MATSUI.

Mr. LEHMAN of Florida.

Mr. TRAFICANT.

Mr. WEISS.

Mr. VISCLOSKY.

Mr. STARK.

Mr. JOHNSON of South Dakota.

Mr. BROWN.

Mr. ENGEL.

Mr. PALLONE, in two instances.

Mr. KENNEDY.

Mr. PANETTA.

Mrs. BOXER.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a Joint Resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 215. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 25, 1991, as "National Military Families Recognition Day."

BILL PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 3350. An act to extend the United States Commission on Civil Rights.

ADJOURNMENT

Mr. FALEOMAVAEGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Friday, November 15, 1991, at 10 a.m.

OATH OF OFFICE—MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 State. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose or evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 102d Congress, pursuant to the provisions of 2 U.S.C. 25:

LUCIEN E. BLACKWELL, Second, Pennsylvania.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2359. A letter from the Deputy Secretary of Defense, transmitting the report of the Defense Environmental Response Task Force, pursuant to Public Law 101-510, Section 2923(c)(1) (104 Stat. 1821); to the Committee on Armed Services.

2360. A letter from the Under Secretary of Defense, transmitting Selected Acquisition Reports [SARS] for the quarter ending September 30, 1991, pursuant to 10 U.S.C. 2432; to the Committee on Armed Services.

2361. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Italy for defense articles and services (Transmittal No. 92-09), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2362. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 92-11), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2363. A letter from the President, Overseas Private Investment Corporation, transmitting the annual report in compliance with the Inspector General Act Amendments; to the Committee on Government Operations.

2364. A letter from the Chief Judge, U.S. District Court—Eastern District of Pennsylvania, transmitting a report on their civil justice expense and delay reduction plan; to the Committee on the Judiciary.

2365. A letter from the Commodity Credit Corporation, Department of Agriculture, transmitting the annual report on monetization programs for U.S. fiscal year 1990, pursuant to 7 U.S.C. 1431(b)(9)(B); jointly, to the Committees on Agriculture and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; with amendments (Rept. 102–89, Pt. 2). Ordered to be printed.

Mr. GORDON: Committee on Rules. House Resolution 281. Resolution waiving all points of order against the conference report on the bill (H.R. 2100) to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and against the consideration of such conference report (Rept. 102–316). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 3768. A bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ANNUNZIO:

H.R. 3769. A bill to impose a ceiling on credit card interest rates; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MICHEL (for himself, Mr. THOMAS of California, Mr. GINGRICH, Mr. LEWIS of California, Mr. EDWARDS of Oklahoma, Mr. HUNTER, Mr. MCCOLLUM, Mr. WEBER, Mr. VANDER JAGT, Mr. ARCHER, Mr. SOLOMON, Mr. DICKINSON, Mr. ROBERTS, Mr. LIVINGSTON, Mr. BARRETT, and Mr. GUNDERSON):

H.R. 3770. A bill entitled, "The Fair and Competitive Election Act"; to the Committee on House Administration.

By Mr. BROWN (for himself, Mr. LEWIS of California, Mr. MCCANDLESS, and Mr. COX of California):

H.R. 3771. A bill to amend title 28, United States Code, to establish two divisions in the Central Judicial District of California; to the Committee on the Judiciary.

H.R. 3772. A bill to amend title 28, United States Code, to provide for the establishment of an additional place of holding court in the Central Judicial District of California; to the Committee on the Judiciary.

By Mr. COLEMAN of Texas:

H.R. 3773. A bill to direct the Administrator of the Environmental Protection Agency to establish an office in a community in the United States located not more than 10 miles from the border between the United States and Mexico; to the Committee on Merchant Marine and Fisheries.

By Mr. DERRICK:

H.R. 3774. A bill to amend the Social Security Act to improve procedures for the determination of disability under titles II and XVI of such act; to the Committee on Ways and Means.

By Mr. DONNELLY:

H.R. 3775. A bill to amend the Internal Revenue Code of 1986 to require recomputations of depreciation determined under the income forecast method, and for other purposes; to the Committee on Ways and Means.

By Mr. ENGEL (for himself, Mr. HYDE, Mr. SCHEUER, and Mrs. LOWEY of New York):

H.R. 3776. A bill to amend the Airport Noise and Capacity Act of 1990 to exempt noise and access restrictions on aircraft operations to and from metropolitan airports from Federal review and approval requirements under that act, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. IRELAND (for himself, Mr. LAUGHLIN, Mr. FASCELL, Mr. BROOKS, Mr. LEHMAN of Florida, Mr. BAKER, Mr. YOUNG of Florida, Mr. ANDREWS of Texas, Mr. SHAW, Mr. BILIRAKIS, Mr. LEWIS of Florida, Mr. GIBBONS, Mr. BENNETT, Mr. PETERSON of Florida, Mr. JOHNSTON of Florida, Mr. STEARNS, Mr. GOSS, Mr. BACCHUS, Mr. SMITH of Florida, Mr. PARKER, Mr. HUTTO, Mr. THOMAS of Georgia, and Mr. MCCOLLUM):

H.R. 3777. A bill to amend the Federal Water Pollution Control Act to provide for the improvement and protection of the environment of the Gulf of Mexico; jointly, to the Committees on Public Works and Transportation, Merchant Marine and Fisheries, and Science, Space, and Technology.

By Mr. JONES of North Carolina (for himself, Mr. DAVIS, and Mr. STUDDS):

H.R. 3778. A bill to amend title 46, United States Code, to clarify treatment of unobligated amounts allocated to States for State recreational boating safety programs, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. JONTZ:

H.R. 3779. A bill to amend title 38, United States Code, to eliminate the $2 copayment requirement for medication furnished certain veterans on an outpatient basis by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. LUKEN:

H.R. 3780. A bill to limit the amounts obligated or expended for fiscal year 1992 for travel expenses for officers and employees of the Federal Government; jointly, to the Committees on Government Operations, House Administration, and the Judiciary.

By Mr. MATSUI (for himself, Mr. JENKINS, Mr. MOODY, Mr. VANDER JAGT, Mr. SCHULZE, Mr. MCGRATH, Mr. KANJORSKI, Mr. OWENS of Utah, and Mr. WEBER):

H.R. 3781. A bill to amend the Internal Revenue Code of 1986 to repeal all occupational taxes relating to the production or sale of distilled spirits, wines, and beer; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Mr. MURTHA, Mr. MCHUGH, Mr. OBEY, Mr. FASCELL, Mr. BONIOR, Mr. TORRICELLI, Mr. GEPHARDT, Mr. HAMILTON, Mr. SOLARZ, Mr. WEISS, Mr. STUDDS, Mr. LEVINE of California, Mrs. BOXER, Mr. GREEN of New York, Mr. RAVENEL, Mrs. MORELLA, and Mr. SHAYS):

H.R. 3782. A bill to promote peace and reconciliation in El Salvador; to the Committee on Foreign Affairs.

By Ms. OAKAR (for herself and Mrs. LLOYD):

H.R. 3783. A bill to require States to enact laws which require physicians and surgeons to inform individuals who have breast implant surgery of the risks associated with and the potential complications arising from such surgery in order to qualify for Federal funds under titles V and XIX of the Social Security Act and title XIX of the Public Health Service Act; to the Committee on Energy and Commerce.

By Mr. OWENS of Utah:

H.R. 3784. A bill to amend the Atomic Energy Act of 1954 to prohibit the disposal of nonbyproduct material at certain mill tailings disposal sites and to amend the Federal Land Policy and Management Act of 1976 to restrict for purposes of environmental protection land conveyed under the authority of that act, and for other purposes; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. OWENS of Utah (for himself and Mr. BEREUTER):

H.R. 3785. A bill to require authorizations of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. PEASE:

H.R. 3786. A bill to prohibit the importation of goods produced abroad with child labor and for other purposes; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. SHARP:

H.R. 3787. A bill relating to the tariff treatment of certain springs and leaves for springs of iron or steel; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 3788. A bill to amend the Internal Revenue Code of 1986 to exempt certain personal service corporations from restrictions on deducting accrued year-end regular periodic compensation payable to owner-employees; to the Committee on Ways and Means.

By Mr. STUDDS:

H.R. 3789. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to establish liability for removal costs and damages that directly result from ocean dumping; to the Committee on Merchant Marine and Fisheries.

By Mr. VISCLOSKY:

H.R. 3790. A bill to amend the Public Works and Economic Development Act of 1965 to direct the Secretary of Commerce to conduct a study on methods of facilitating the reuse of idle industrial manufacturing facilities in the United States; jointly, to the Committees on Banking, Finance and Urban Affairs and Public Works and Transportation.

By Mr. WILLIAMS:

H.R. 3791. A bill to assist Plentywood School District No. 20 in Plentywood, MT, in replacing its high school which was destroyed by fire; to the Committee on Education and Labor.

By Mr. YATRON:

H.R. 3792: A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the allied invasion of Normandy, better known as D-Day, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HALL of Ohio:

H. Con. Res. 340. Concurrent resolution condemning the massacre of East Timorese civilians by the Indonesian military; to the Committee on Foreign Affairs.

By Mr. WEISS (for himself, Mr. BEREUTER, Mr. BURTON of Indiana, Mr. DYMALLY, Mr. PAYNE of New Jersey, Mr. YATRON, Mr. WOLPE, Mr. KENNEDY, Mr. FEIGHAN, Mr. BLAZ, and Mr. HOUGHTON):

H. Con. Res. 241. Concurrent resolution expressing support for Zambia's transition to democracy; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 318: Mr. Lagomarsino.

H.R. 373: Mr. Lewis of Georgia, Mr. Stokes, and Mr. Washington.

H.R. 430: Mr. Davis.

H.R. 722: Mr. Weiss.

H.R. 723: Mr. Weiss.

H.R. 840: Mr. Nagle and Mr. Bilbray.

H.R. 890: Mr. Campbell of California.

H.R. 967: Mr. Allen.

H.R. 1063: Mr. Moody.

H.R. 1072: Mr. Fish.

H.R. 1073: Mr. Fish.

H.R. 1190: Mr. Moody.

H.R. 1200: Mr. Frost, Mr. Fascell, Mr. Hoyer, Ms. Oakar, Mr. Neal of Massachusetts, Mr. McMillen of Maryland, Mr. Obey, Mr. Hutto, Mr. Bustamante, Mr. Feighan, and Mr. DeLay.

H.R. 1218: Mr. Markey.

H.R. 1335: Mr. Torres and Mr. Poshard.

H.R. 1345: Mr. Hunter.

H.R. 1346: Mr. Andrews of New Jersey.

H.R. 1414: Mr. McCollum.

H.R. 1460: Mr. Rose.

H.R. 1473: Mr. Feighan and Ms. Snowe.

H.R. 1495: Mr. Visclosky.

H.R. 1502: Mr. Guarini, Ms. Horn, Mr. Jontz, and Mr. Sarpalius.

H.R. 1523: Mr. Miller of Washington.

H.R. 1527: Mrs. Lloyd, Mr. Vander Jagt, Mr. Upton, and Mr. Klug.

H.R. 1918: Mrs. Collins of Illinois, Mr. Bevill, Mr. Shays, Mr. Peterson of Florida, and Ms. Norton.

H.R. 2083: Mr. Weiss, Mr. Lowery of California, Mr. Moody, Mr. Peterson of Minnesota, Mr. Ackerman, and Mr. Kennedy.

H.R. 2115: Mr. Boucher.

H.R. 2185: Mr. Parker.

H.R. 2237: Mr. Anthony.

H.R. 2368: Mr. Johnson of South Dakota, Mr. Smith of Oregon, and Mr. Schaefer.

H.R. 2415: Mr. Beilenson.

H.R. 2419: Mr. Lipinski.

H.R. 2530: Mr. DeFazio.

H.R. 2565: Ms. Slaughter of New York and Mr. Taylor of North Carolina.

H.R. 2598: Mr. Swett, Mr. Montgomery, and Mr. Gilman.

H.R. 2600: Mr. Ramstad.

H.R. 2643: Mr. Riggs.

H.R. 2695: Mr. Roe, Mr. Baker, Mr. Coughlin, Mr. Emerson, Mr. Weldon, Mr. Shaw, Mr. DeLay, Mr. Skaggs, Mr. Sensenbrenner, Mr. Stallings, and Mr. McMillen of Maryland.

H.R. 2715: Ms. Kaptur and Mr. Martinez.

H.R. 2854: Mr. Gordon.

H.R. 2876: Mr. Doolittle, Mr. Ballenger, Mr. Coughlin, and Mr. Boehner.

H.R. 2966: Mr. Myers of Indiana, Mr. Ramstad, Mr. Boehlert, and Mr. McNulty.

H.R. 3030: Mr. Stearns, Mr. Jacobs, Mr. Ewing, Mr. Santorum, Mr. Yatron, Mr. Mollohan, Mr. Barrett, Mr. Doolittle, Mr. Andrews of Texas, and Mr. Rohrabacher.

H.R. 3070: Mr. Bustamante, Mr. Bonior, Mr. Paxon, Mr. Serrano, Mr. Smith of Texas, Mr. Manton, Mr. Neal of North Carolina, Mr. Pastor, and Mr. Gallegly.

H.R. 3142: Mr. Quillen and Ms. Norton.

H.R. 3146: Mr. Sundquist.

H.R. 3164: Mr. Cunningham, Mr. Marlenee, Mr. Peterson of Minnesota, Mr. Duncan, Mr. Martin, Mr. Fazio, Mr. Browder, Mrs. Lloyd, Mr. Horton, Mr. Owens of Utah, Mr. Feighan, Mr. Erdreich, Mr. Cox of California, Mr. Davis, and Mr. Glickman.

H.R. 3166: Mr. Dicks, Mr. Montgomery, Mr. Washington, Mr. Hubbard, Mr. Panetta, Mr. Carper, Mr. Machtley, Mr. Hunter, Mr. Roybal, Mr. Lancaster, Mr. Packard, Mr. Andrews of Maine, Mr. Feighan, Mr. Emerson, Mr. Kasich, Mr. Bennett, and Mr. Spence.

H.R. 3252: Mr. Ackerman.

H.R. 3253: Mr. Stark, Mr. Ravenel, Mr. McDermott, Mrs. Collins of Illinois, Mr. Annunzio, and Mr. Dwyer of New Jersey.

H.R. 3373: Mr. Vander Jagt, Mr. Richardson, Mr. McMillan of North Carolina, Mrs. Schroeder, Mr. Upton, Mr. Studds, and Mrs. Meyers of Kansas.

H.R. 3429: Mr. Vento, Mr. Levine of California, Ms. Norton.

H.R. 3464: Mr. Ackerman and Mr. Paxon.

H.R. 3473: Mr. Hayes of Illinois, Mr. Martinez, Mr. Markey, Mr. LaFalce, and Mr. Erdreich.

H.R. 3504: Mr. McCloskey and Mr. Anthony.

H.R. 3506: Mrs. Schroeder.

H.R. 3511: Mr. Ackerman and Mr. Manton.

H.R. 3516: Mr. Riggs.

H.R. 3553: Mr. Lipinski and Mr. Costello.

H.R. 3561: Mr. Shays, Mr. Ramstad, Mr. Ballenger, Mr. Petri, Mr. Taylor of North Carolina, Mr. Jacobs, Mr. AuCoin, Mr. Bateman, Mr. Riggs, Mr. Boehner, Ms. Molinari, Mr. Kyl, Mr. Oxley, and Mr. Gallegly.

H.R. 3619: Mr. Fish, Mr. Bennett, Mr. Lancaster, Mr. Paxon, Mr. Ramstad, Mr. Lipinski, and Mr. Lewis of Georgia.

H.R. 3627: Mr. Ireland, Mr. Kolter, Mr. Peterson of Florida, Mr. Kopetski, Mr. Blaz, Mr. Ramstad, Mr. Wilson, Mrs. Collins of Illinois, Mr. McNulty, Mr. Sisisky, Mr. Armey, Mr. Jontz, Mr. Rangel, Mr. Perkins, Mr. Gilman, Mr. Hancock, and Mr. Abercrombie.

H.R. 3640: Mrs. Boxer, Ms. Norton, and Mr. Traficant.

H.R. 3669: Mr. Dicks, Mr. Dellums, Mr. Feighan, Mr. Towns, Mr. Engel, Mr. Mrazek, Mr. Yates, and Mr. Torres.

H.R. 3677: Mr. Hyde, Mr. Kyl, and Mr. Levin of Michigan.

H.R. 3678: Mr. Zimmer.

H.R. 3681: Mr. Peterson of Florida, Mr. Guarini, Mr. Roe, and Mr. Moody.

H.R. 3725: Mr. AuCoin, Mr. Petri, Mr. Bacchus, and Mr. Johnson of South Dakota.

H.R. 3748: Mr. Owens of New York, Mr. Wyden, Mr. Flake, Mr. Frank of Massachusetts, Mrs. Collins of Michigan, Mr. Ackerman, Mr. DeFazio, and Mr. Mfume.

H.R. 3750: Mr. Dooley, Mr. Kennedy, and Mr. Neal of Massachusetts.

H.J. 212: Mr. Oxley, Mr. Reed, Mr. Chapman, Mr. Valentine, Mr. Volkmer, Mr. Hyde, Mr. Dixon, and Ms. Horn.

H.J. 326: Mr. Bereuter, Mr. Gallegly, Mr. Bilirakis, Mr. Nichols, Mr. Leach, Mr. Houghton, Mr. Sawyer, Mr. Bevill, Mr. Nussle, Mr. Allard, Mr. Hunter, Mr. Sisisky, Mr. Mollohan, Mr. Gallo, Mr. Hall of Texas, Mr. Thomas of Wyoming, Mr. Staggers, Mr. Traficant, Mr. Cooper, Mr. Luken, Mr. Ortiz, Mr. Skeen, Mr. Roth, Mr. Franks of Connecticut, Mr. Chapman, Mr. Moakley, Mr. Machtley, Mr. Lent, Mr. Baker, Mr. Livingston, Mr. Pursell, Mr. Ramstad, Mr. Weber, and Mr. Fish.

H.J. Res. 359: Mr. Emerson, Mr. Hobson, Mr. Lancaster, Ms. Norton, and Mr. McDermott.

H.J. Res. 367: Mr. Lagomarsino, Mr. Jontz, Mr. Ray, Mr. Santorum, Mr. Dannemeyer, Mr. Applegate, Mr. Wilson, Mr. Bateman, and Mr. Paxon.

H. Con. Res. 182: Mr. Martinez, Mr. Rangel, Mr. Frost, Mr. Lipinski, Mr. Dwyer of New Jersey, Mr. Evans, Mr. Bevill, Mr. de la Garza, Mr. Ritter, Mr. Downey, Mr. Skeen, Mr. Scheuer, Mr. Clement, and Mr. Spence.

H. Con. Res. 188: Mr. Coughlin.

H. Con. Res. 192: Mr. Montgomery, Mr. Clement, Mr. Fuster, Mr. McMillen of Maryland, Mr. Hutto, Mr. Andrews of Texas, Mr. Fawell, Mr. Rogers, Mr. Coughlin, Mr. Petri, Mr. Hefley, and Mrs. Johnson of Connecticut.

H. Con. Res. 224: Mr. LaFalce, Mr. Edwards of Oklahoma, Mr. Kasich, and Mr. Vander Jagt.

H. Con. Res. 225: Mrs. Morella, Mr. Machtley, and Mr. Doolittle.

H. Con. Res. 235: Mr. Waxman, Mr. Kopetski, and Mr. Gejdenson.

H. Res. 215: Mr. Coughlin.

H. Res. 233: Mr. Cunningham and Mr. LaRocco.

H. Res. 271: Mrs. Unsoeld, Mr. Kennedy, Mr. Miller of California, Mr. Scheuer, Mr. Engel, Mr. Levine of California, and Mr. Wheat.

SENATE—*Thursday, November 14, 1991*

(Legislative day of Wednesday, November 13, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Thus saith the Lord, What iniquity have your fathers found in me, that they are gone far from me, and have walked after vanity, and are become vain?—Jeremiah 2:5.

Eternal God, the prophet Jeremiah reminds us that we are incurably religious. If we forsake the true God, we must find a substitute even if that substitute is self. Turning from You, O God, we make pleasure or power or wealth—or self—our god. Seeking total satisfaction in that which is emptiness, we find ourselves empty. Not only is there in us a predisposition to forsake You, but we discover we grow into the image of the god we worship. Worshipping hollow gods, we become hollow souls. Help us, Lord, to forsake the emptiness of life when we follow false gods, limit ourselves to temporal and secular realities, and deprive ourselves of the transcendent, eternal, infinite Giver of life and liberty.

May we consider the word of the great scientist, Pascal. "There is a God-shaped vacuum in every heart which only God can fill." When stress and futility frustrate us, help us to turn our hearts toward the living God and experience hope and the "peace of God which passes understanding * * *."

In Jesus' name who is Life and Light incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 14, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, the Senate will later this morning recess to permit Senators to go over to the House Chamber to participate in a joint meeting for the purpose of hearing an address by the distinguished President of Argentina, and upon return, the Senate will resume consideration of the banking bill. That is an important and complex measure.

Following discussion with the managers of the bill last evening, I announced that we expected a long session today in an effort to make good progress on that bill. Senators should be prepared for a lengthy session, well into the evening today, as we attempt to dispose of some of the many amendments to that bill which Senators have indicated they intend to offer.

I strongly encourage Senators who have amendments to be here when we return to the bill shortly after noon so that we do not have another day in which we spend all of the afternoon hours waiting for Senators to come to offer amendments, and then find we are here late into the evening with Senators complaining about being here late in the evening. That is a decision that is made by Senators themselves. If no one will come to offer an amendment during the daylight hours, inevitably we are in here very late at night considering those amendments.

So how late we are here will be determined by Senators themselves. And I am determined that we are going to make substantial progress on that bill. I encourage again Senators to be present during the time of the afternoon and offer amendments.

Mr. President, I understand that a number of Senators are to be recognized under the unanimous-consent agreement pertaining to the morning hour. I see several present. It is my understanding that the Senators from Pennsylvania and Ohio wish to proceed on a matter unrelated to clean air, and that the other Senators are to discuss clean air.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:15 a.m. this morning. The Senator from Pennsylvania [Mr. WOFFORD] is permitted to speak up to 10 minutes; the Senator from Ohio [Mr. GLENN] is permitted to speak for up to 10 minutes; the Senator from Vermont [Mr. LEAHY] is permitted to speak up to 10 minutes; the Senator from Nevada [Mr. REID] is permitted to speak for up to 15 minutes. The majority leader or his designee will control the remaining time until 11:15 a.m.

The Senator from Pennsylvania is recognized for 10 minutes.

NATIONAL HEALTH INSURANCE

Mr. WOFFORD. Mr. President, 1 week ago, the people of Pennsylvania sent me back to this body with a powerful message—a wake-up call—to the White House, the Congress, and the Federal Establishment.

However sweet it tastes, I know it was not the victory of a single candidate. It was the triumph of an idea whose time has come: a general proposition with a cutting edge issue.

The issue is the need for national health insurance. And the general message for which I am the messenger is that this is the moment in the life of a great nation to look homeward with what Lincoln called "the better angels of our nature."

The time has come to take care of our own people and our own problems, with the same energy and resources and sense of urgency we apply to challenges overseas.

I say that as someone who has been concerned most of my life with the challenges facing the people of Asia, Africa, and Latin America.

But as I look at the changes in the world around us and at the needs of the American people, I know that the time has come to bring the spirit of the Peace Corps home—for as John Kennedy said, "We cannot be strong abroad if we are weak at home."

The people of Pennsylvania have spoken—loud and clear—that it is time for action to help the middle class. It is time for action to get our economy moving again. It is time for action to breathe new life into the American dream:

The dream of owning your own home if you save;

Of helping your children go to college if they study;

Of moving up to a better job if you work hard; and

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Of being able to see a doctor if you are sick.

In this last decade, that dream has become harder and harder to fulfill for more and more working Americans, as well as for those Americans without work.

"Dream" is the wrong word. Affordable health care should be recognized—recognized in our law—as a fundamental right for all Americans, not a privilege.

The Constitution says that those accused of a crime have the right to a lawyer. But millions of Americans cannot afford to see a doctor when they are sick.

If criminals have a right to a lawyer, working people ought to have a right to a doctor. Yet even those with health insurance are often one pink slip, one serious accident, one preexisting condition from no health care—or bankruptcy.

A poll taken for the Kaiser Family Foundation immediately after last week's election showed that 75 percent of all Pennsylvania voters felt the high cost of health care was the biggest problem for themselves and their family.

Even without the election returns from Pennsylvania, it should be clear to all by now that in the matter of health care, as in other critical problems facing the country, the time for business as usual has long passed.

Our people are tired of hearing the excuse that a problem like affordable health care is too complex or too expensive for their Government to solve.

The savings and loan scandal is complex. Bailing out the S&L's is outrageously expensive; hundreds of billions of dollars before we are through. But the Government did not hesitate.

Sending half a million American troops half-way around the globe to rescue Kuwait was complex. But we took action.

When it comes to defending the health of America's families, all we have heard for years is how difficult and complex this problem is. Complexity is the last excuse of those who want to do nothing. People in Pennsylvania are tired of all the excuses. They want action.

Four weeks ago, on the floor of this Chamber, I called upon the President and this Congress to move on comprehensive reform of our health care system. And I urged that, since there is no national health care plan for the American people, we should cut off the free health care benefits we enjoy in Congress.

I ask that my colleagues join me in passing Senate bill 1830, to require that we pay full market value when using the services of the Office of the Attending Physician. That may help remind us of the costs of health care faced by our fellow citizens. And spur us to action on national health insurance for all.

At that time, I also sketched out 11 principles and 7 specific proposals that I believe must guide any plan to make health care affordable and available to everyone, especially our middle-class families who have been hurt the most by inflation in health care costs.

I ask unanimous consent that these principles and proposals be printed in the RECORD at the end of my remarks today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered

(See exhibit 1.)

Mr. WOFFORD. Already, there are a number of good ideas and specific bills on the table. It is my hope that the points I presented to the Senate, and to the people of Pennsylvania, will be useful guides as we examine and develop these proposals in the months ahead.

Let me add that I do not believe people in Pennsylvania will be satisfied with half-measures which merely tinker with the system we have now. They know we pay more for health care than any other nation on Earth, and yet are getting less and less for our money.

They are wading through the paperwork and redtape of a staggering health care bureaucracy. They have seen their taxes and their premiums driven up by the need to pay for the growing number of uninsured.

I do not believe that the people of my State, or yours, will be satisfied with solutions which do not go to the heart of the problem. And that problem is not simply that there are some 35 million uninsured in this country. It is that most of our middle-income families know that they could join the ranks of the uninsured at any time; and that what coverage they do have still leaves them with doctor bills they can no longer afford to pay.

I am concerned that the White House and my colleagues on the other side of the aisle still do not get it. The administration still thinks that insurance company executives are the ones who can best solve the problems those companies have themselves helped create.

And on the day after the election last week a number of Republican Senators stood in this Chamber and spoke about their own health care proposal.

We should welcome them to this effort. If we are to overcome the inertia of a White House unable or unwilling to take action, we will need a bipartisan resolve from Congress and our people.

Unfortunately, the Republican Senators' proposal is still treating the symptoms of the disease instead of curing the causes. Most important, it fails to guarantee every American the right to affordable health care. And, it does nothing fundamental to contain the skyrocketing costs of health care.

Until we bring these costs under control, health care will continue to burden or bankrupt our businesses, our families, our State and local governments, and our entire economy.

What is more, the Republican proposal does not address the long-term care needs of our Nation's families, and especially our older citizens.

Worse still, the Republican proposal fails to guarantee that the costs of expanding access under the current health care system will not be put on the backs of already overburdened middle-class families.

The proposal from our fiscally conservative Republican friends comes with a huge price tag for the Government and our taxpayers—at least another $150 billion over the next 5 years. They seem to have concluded that the problem is not that we spend too much, but that we spend too little.

The fact is that we can only guarantee health care for all Americans without increasing the burdens of middle-class families if we are willing to remake and reform our health care system from top to bottom. As the Philadelphia Inquirer said in an editorial entitled "Diagnosing the Vote" this past Sunday: "Voters have seen the social costs of treating the Nation's medical care problems with a policy of creeping incrementalism."

I ask unanimous consent that the full editorial be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WOFFORD. We have to stop treating our health care system as though we are roping a herd of 1,500 cattle, one at a time. We can only realize the savings we need by building a strong fence.

We need real comprehensive reform, not adjustments that masquerade as change. The Republican proposal provides nine new sets of tax credits and tax deductions. It starts from the premise that instead of fewer rules, less paperwork, and a system that is easier to understand—we need more forms, a longer tax return, and more worries.

Mr. President, I do not believe this is the course we should set for the American people. People are already buried in the forms and the bills and the bureaucracy of our health care system.

Luckily, we have alternatives. My Democratic colleagues have already presented proposals which do a better job in facing up to the real problems and providing practical solutions.

I believe those proposals go a good way toward addressing the comprehensive reform we need. Each Democratic proposal recognizes and grants to all Americans the fundamental right to see a doctor when they are sick through a system with guaranteed, universal coverage.

Democratic proposals also have mechanisms to control costs. And many proposals ensure that every American gets coverage for a core set of benefits which ensure that they will be protected from the most devastating health care costs.

These benefits begin to shift our focus from treating sickness toward promoting wellness. The benefit packages allow Americans to enjoy a greater degree of low-cost preventive care.

Finally, my Democratic colleagues have proposed useful ideas to carve away redundant paperwork and redtape. So, the work of reforming our health care system is well begun. We still have a long way to go. Let us continue to think through and hammer out a health care plan that achieves the fundamental reform required.

I am proud to be able to join in this work, with a mandate for action from the people of Pennsylvania—a mandate to work night and day until we enact a practical plan for comprehensive national health insurance.

EXHIBIT 1

[From the CONGRESSIONAL RECORD, Oct. 17, 1991]

A RIGHT, NOT A PRIVILEGE: MEETING THE CHALLENGE OF AFFORDABLE HEALTH CARE FOR ALL AMERICANS

Mr. WOFFORD. Mr. President, back in his 1960 campaign, John Kennedy used to say, "My opponent tells you we never had it so good; I say we can do better."

Thirty years later that same choice faces America. But today the crisis that most threatens our future is not in some faraway place—not in Moscow, or Havana, or Berlin—but right here at home. That crisis is as near as the closest doctor's office. It is as frightening as a child's cry of pain.

It is a health care crisis that is bankrupting our families, our businesses, our communities and our whole economy. And the solution is not to be satisfied with things as they are, but to work and fight for change.

There is an old saying that if you have your health, you have got just about everything. But in our country today, it would be more accurate to say, if you need health care, you stand to lose just about everything.

Some people seem to think we have a pretty good health care system as it is. I disagree.

They should listen to the people I have been listening to. They tell a different story. They cannot wait while this administration decides if they should do something to make health care more affordable and available.

On a visit to Philadelphia's Methodist Hospital recently, I spoke with a young woman in a wheelchair named Linda Sherk. She is a 24-year-old Lancaster resident who dropped her insurance coverage because she could no longer afford it. She had to wait a year and a half to have a disc removed from her back so that she could save up enough money for the operation. Instituting national health insurance "is something that needs to be done," she told me. "A lot of people can't afford health care now."

What would this administration say to Linda Sherk? Almost 2 years ago in his State of the Union Address, the President pledged that his Domestic Policy Council would put forward a health care plan. We are still waiting.

And now the latest we hear from the White House is that we cannot have a health care plan until after the next Presidential election. What is the message to the millions of Americans who lie awake at night, afraid of being one accident, one illness, one injury away from ruin? Do not get sick before November 1992.

We spend some $650 billion a year on health care—that is more than twice the Pentagon budget. We spend $30 billion a year in Pennsylvania alone. Americans not only spend far more than other nations, costs are also rising at a much faster rate. If we continue on the present course, by the year 2000 we will spend an estimated $1.6 trillion on health care, or 16 percent of our projected gross national product.

No other industrialized nation pays as much of its income for medical care as we do. And yet we seem to be getting less and less for our money. In 1989, Japan spent $1,035 per person on health care; Germany spent $1,232; Canada spent $1,683. While we in the United States spent $2,354.

Think about that: We are the only major country—except South Africa—that does not have some kind of national health insurance system to make sure that everyone can afford to see a doctor when they are sick. But we still spend so much more.

The numbers are staggering—especially when you see what health care costs working families and employers. The average cost to business of health coverage jumped from $2,600 per employee to over $3,100 in 1990 alone. At the present rate of growth, the average health care premium will top $22,000 per worker in the year 2000.

The fact is that doing nothing is really a health-care inflation plan for the American people.

Businesses will pay more and will find it harder and harder to compete with foreign companies that do not face such exorbitant health care costs. Chrysler estimates that health care costs the company $700 for every car it builds in the United States, but only $223 for every car it builds in Canada. No wonder we are losing jobs to Germany and Japan and Mexico.

As I found as Secretary of Labor and Industry in Pennsylvania, a growing number of labor disputes turn on the issue of who pays for health benefits and how much—and whether there is any room left for a wage increase.

There is a good reason for this: What American businesses spend on health services today is about equal to their entire after-tax profits. That is double the amount of only a decade ago.

The New York Times recently reported that 3 of 10 workers say that they have stayed put in a job they wanted to leave because they were afraid of losing health insurance benefits. This kind of job lock is hostile to the core American value of economic opportunity and upward mobility. It also means that our Nation's work force is less flexible, and therefore less productive, than those of our competitors.

I have also witnessed, in our Pennsylvania Job Centers, how so many people are afraid to move off of welfare into the work force because they will lose Medicaid coverage. These days an entry-level job rarely provides decent health benefits.

So it is not a matter of altruism, but simple economics: We cannot maintain the unfairness, inefficiency, and staggering expense of our current health care system.

Sometimes it seems as though the only place they do not know we have a health care crisis is right here on Capitol Hill. And so my call for action begins right here.

When a Member of Congress gets sick, he or she does not sit in a waiting room at a doctor's office. Members of the House and Senate can go to the Office of the Attending Physician of the Capitol. There they get free medical care, physicals, blood tests, x rays, lab work, even free prescription drugs.

But they do not get a bill or the half a dozen different bills most people get when they go to a hospital or clinic. It is unacceptable that politicians with free taxpayer-provided health care are delaying or opposing health insurance for working people.

That is why I have just introduced a bill to cut off all the special health benefits for Members of Congress, until Congress passes a health plan for the country, because I think health care is a right for all Americans, not a privilege for the powerful.

Under my plan, Members of Congress will still be allowed to participate in the Federal Employees Health Benefits Plan, just as other Federal workers do. But until they pass a health care plan for working people, Members of Congress will no longer be able to live by the credit card company's slogan: "Membership has its privileges."

Once we put Congress in the same boat as the American people we will be amazed at how fast they can accomplish this bailout.

That is exactly what happened with the Social Security System. In 1981 Social Security was in deep trouble. In 1982, Congress included itself in the system, and in 1983, lo and behold, the Congress had put Social Security back on sound financial footing.

The next step, it seems to me, is to take action. And action Congress must take. There are certain principles that I believe must guide any plan to make health care affordable and available to all American families.

First. Health care must be recognized as a fundamental right. Our Constitution gives criminals a right to a lawyer. Working people should have the right to a doctor when they are sick.

Second. All Americans must be covered. We need to return to the American belief that programs must serve all the people, not just a targeted few. No one can be canceled, cutoff, or cut out.

Third. National health insurance must save the country money. Any acceptable system of national health insurance should save at least $50 billion a year in administrative overhead, duplication, redtape, and bureaucracy, money that is being wasted today.

Fourth. National health insurance must lower costs for our Nation's working families. Every time your family writes a check for health coverage, part of that check goes to pay for advertising, marketing, underwriting, and other nonpatient care costs. We must reduce those costs and pass the savings on to working families.

Fifth. National health insurance must lead to lower costs for businesses that already provide health insurance. Under the present system, thousands of responsible companies are picking up the tab for those who provide no health insurance. Including all employers will make the system fairer, as well as cheaper.

Sixth. National health insurance must embody the American values of freedom of choice and competition, and it must contain free market principles that improve the quality of care. People must have the right to choose their own doctor and hospital. The system must also have competition built into it to ensure good service and avoid do-nothing government bureaucracy.

Insurance companies must have a new role in a national health insurance system, a role in which they compete for customers based on the quality of the service they provide, and not on the quality of the jingles in their commercials.

Free market principles will raise the level of treatment people can expect. In throwing out the bathwater of inefficiency and skyrocketing costs, we do not have to throw out the baby of free-market choice as well.

Seventh. A national health insurance system must control medical inflation. Health care costs tripled from 1980 to 1990, and experts estimate that they will nearly triple again during this decade. Cost control is essential.

Eighth. National health insurance must address the need for long-term care. Older Americans today face policies which force them to spend their life savings in order to qualify for Medicaid-financed nursing care, and they must wade through a maze of co-insurance policies—many of them unnecessary—in order to feel secure about their coverage. A new system of national health insurance must provide a safety net for long-term care.

Ninth. The new system must use existing public resources more efficiently. Federal, State, and local governments already spend about $260 billion on health care—42 percent of all health care spending. In a comprehensive system, our Government dollars will be used more effectively, especially by focusing on low-cost preventive and routine medical care that the uninsured and underinsured often neglect.

Tenth. National health insurance must spread the burden fairly. A system built on the proven principles of Social Security and Medicare can work, but only if everyone pays their fair share. Under the current system, those with health insurance are paying more than their fair share to subsidize those with no health insurance. We cannot afford any more free riders.

Eleventh. There must be no new taxes on working families. We do not need them. We already have the most expensive health care system in the world. The most important reason we need national health insurance is to lighten the burden on working families. Taxing them any more would be unfair and unnecessary. These principles should guide policymakers as we develop a plan for national health insurance.

Let us turn now to the task of putting those principles into practice. Of course, the administration's Domestic Policy Council had 3 years to study the problem and take action; yet, it has done nothing fundamental about this problem. The government finds billions to help the Kurds and Kuwaitis, to bail out the S&L's and defend Western Europe and Japan. But when it comes to helping working Americans, they say the cupboard is bare. That attitude is proof positive that this administration just does not get it.

Our people know the problem is not that we spend too much for health care; we spend too wastefully. The people of Pennsylvania want to send a message to Washington. We want action on national health insurance, and we want it now.

We in this Chamber need to hear that message and act on it. After about 160 days in this Chamber, I have come to realize what Bismarck meant when he said that making laws was like making sausage—it is a grinding process. Many good ideas have already been put on the table by my colleagues, and there will be more to come.

Today I propose seven key ingredients, in addition to the general principles I have just mentioned. I believe these form the heart and soul of a sensible plan for meeting America's health insurance needs.

First, any workable plan must eliminate unnecessary insurance company costs, such as marketing and underwriting. That is one of the reasons that Medicare delivers health care to millions of Americans with less than 3 percent of its cost used for administration, while private insurance companies waste over 12 percent of their cost on administration and overhead.

Second, medical inflation should be controlled by the establishment of a national medical expenditures board. The board would play much the same kind of role that the Federal Reserve plays in our banking system. In the same way that the Fed controls our money supply, a health Fed would help us control our investment in medical care.

Third, a successful plan should reform insurance practices and establish a system of qualified insurance carriers. In order to be a qualified insurance carrier, a company must accept all Americans who seek coverage; eliminate experience rating; cease the practice of canceling policies on people who get sick, and abolish the preexisting condition rule, which tells millions of Americans that when they need insurance the most, they cannot have it.

Fourth, a successful plan would require all insurance carriers to provide comprehensive benefits, including a substantial period of completely covered long-term care.

Fifth, national health insurance should put an absolute limit on out-of-pocket expenses, so that never again will an accident or an illness be a one-way ticket to the poorhouse.

Sixth, all employees should be required to participate.

Seventh, the system should be administered by a nonprofit corporation, which would deal directly with private insurance companies to maximize economies of scale and minimize duplication, waste, and redtape. Individuals and companies that are currently paying premiums to a host of different insurance companies, and so are required to wrestle with a myriad of different forms and requirements, would pay their premiums to a central corporation.

These 11 general principles and seven specific policies can serve as a guide to the fundamental reform we need.

To those who ask first what it will cost, I say they are asking the wrong question. The point is: How much will it save us, especially in the long run?

Let me say this more strongly: National health insurance must not require new Government spending or taxes on working families, because the problem is not that we spend too little; the problem is that we waste too much. But here is how we can spend $50 billion less than the $650 billion a year we are now spending.

Start with the $260 billion that Government already spends on health program, redirect it into our comprehensive system so we can get better care for the same amount of money. Second, add $50 billion cut from the defense budget, which even the President says he wants to cut by $40 or $50 billion. Together, these two sources alone would provide $310 billion, more than half the total cost of a national system.

That leaves $290 billion which would still come from businesses and individuals. That may sound like a lot. It is until you realize that they are spending $390 billion right now, $100 billion more.

Under the current system, families then have to spend about $215 billion a year in skyrocketing premiums, copayments, deductibles and bills for care that insurance companies refuse to cover. At the same time, American companies are paying about $175 billion to provide health benefits to their employees. That is, those companies which can still afford it. We could cut the amount that families spend by $95 billion; reduce the amount business as a whole spends by about $5 billion. Everyone would be spending less, and we could finance this plan without any new Government spending. But the result would be better health care, for more people, for less money.

In his inaugural address, President Bush surveyed our domestic challenges, wrung his hands and sighed: "we have more will than wallet." But in this instance we have too much wallet and too little will. Our challenge is to generate that will.

From Allentown to Aliquippa I have seen that will. We in this body need to discover that will, make it our own, seize this moment and turn national health insurance into an idea whose time finally has finally come.

Health care is a right, not a privilege. And it is time for us to turn that right into a reality for all Americans.

Mr. President, I want to take this opportunity to clarify the health plan I have outlined. I am proposing a national health system which would allow this country to save $50 billion on health care costs by cutting administrative waste, asking everyone to pay their fair share and improving the way we manage patient care.

Under our current system, as a nation we spend $650 billion on health services each year. After instituting the reforms I am proposing, we would spend a total of $600 billion and provide better care for more people for less money. In addition to the savings detailed above, I believe we can redirect about $50 billion in unnecessary defense spending to health care.

The $50 billion in defense savings and the $50 billion in reduced health costs would, under the system I am proposing, be passed on to business and working families who together would spend $100 billion less than they do now.

Mr. President, I yield the floor.

EXHIBIT 2

[From the Philadelphia Inquirer, Nov. 10, 1991]

DIAGNOSING THE VOTE: THE WOFFORD WIN SHOWED THAT CONCERN ABOUT HEALTH CARE HAS BECOME A FEVER

With a clarifying wallop much like the sound of a two-by-four smacking a mule between the eyes, Harris Wofford's Senate victory last week got the attention of the participants in the nation's stalled health-care debate.

No more, as a rejected Dick Thornburgh learned, is it enough to say there aren't easy answers. No more, as President Bush declared before jetting to Rome, will the White House sit out the gathering storm. ("We are working, as you know," he confided, "on the health-care issue * * *") No more, as Senate Republicans announced after years of silence, will they let Democrats hog the mike on this issue.

On Thursday, the Republicans even cranked out a proposal to cover America's 34 million uninsured at a five-year cost of $150 billion. The GOP didn't include a way to pay the bill, the chief complaint Mr. Thornburgh had leveled at the Democrats, but last week wasn't a time for details. It was a time for reckoning.

Reckoning, for starters, with the middle class' anxiety that whatever its benefits may be now, they could be gone tomorrow—lost in a layoff, canceled by insurers, priced beyond reason, or so reduced that a serious illness could wipe out a life's savings.

There was also the realization that, without government intervention, the medical-insurance complex won't get a grip on itself. (By last year, the cost of health coverage was increasing at 21 percent a year—a rate that would boost the average cost of an ordinary benefits package to $22,000 annually by the decade's end.)

It was a time of reckoning, too, with an ethos that has tolerated far too many citizens without any insurance—more than 1 million in Pennsylvania alone. It was a time to quit fooling ourselves. "At least Wofford opened his mouth about it," opined an Allentown restaurant owner who's spending $4,800 a year on premiums for himself and his wife.

The Thornburgh campaign scoffed and tinkered: 90 percent of Pennsylvanians have got insurance, the ex-governor said; many workers could lose their jobs if employers were required to pay for health insurance; Canada's widely touted universal care system required long waits for elective surgery.

But voters have seen the social costs of treating the nation's medical care problems with a policy of creeping incrementalism. They have seen the increased costs to businesses, and the way the costs of treating the uninsured were ultimately passed along to the insured. They saw how the current system already forced Pennsylvanians to endure painful waits for surgery, without getting any of the benefits of the Canadian type of coverage plan. Mr. Wofford told of a woman in Lancaster who'd had to wait for 18 months to have a disc removed because it took her that long to save up for the operation.

The election didn't settle which way to go, of course. That question remains: Are beefed-up managed-care plans enough? Can private insurance companies cut wild administrative costs? What benefits are all Americans entitled to? Ought American medicine shift from its costly emphasis on extending the final years of life to preventive care? What budgetary limits will the populace tolerate? What constraints on building and buying equipment can hospitals be persuaded to accept?

One question got answered, though. That was whether this country can afford to remain the only industrialized nation (except South Africa) without national health insurance. Last week, Pennsylvania's vast middle class—the group Princeton sociologist Paul Starr calls "the insulated majority"—answered "no." Its insulation has worn frighteningly thin.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Ohio [Mr. GLENN] is now recognized for 10 minutes.

THE HEALTH CARE CRISIS

Mr. GLENN. Mr. President, I rise today, along with several of my colleagues, to address this issue which weighs heavily on all of our minds and weighs on our wallets, also, and that is our current health care crisis.

I think there are few issues that are of more importance to the citizens of this country than ensuring that every American family is able to see a doctor when they get sick.

Just last week, we saw what an important role this issue did play in the Pennsylvania Senate election just addressed by my friend and colleague, Senator WOFFORD, who understood these concerns, who understood the need for a solution. He put forward the principles which he said would guide his actions. What was the result of that? Well, the people of Pennsylvania responded by sending him back to the Senate to go to work on a solution which he has already started to address here this morning.

The fears and frustrations that Pennsylvanians expressed at the polls last week reflect and reinforce what my constituents in Ohio are saying, more and more, that our health care system is not all that fair. Something must be broken, because you do not always have access, regardless of what your economic means may be.

I believe that no Americans should ever have to choose between putting food on their table or making a trip to the doctor. When someone is seriously ill, no American should have to confront a health care system that says, "Your money or your life."

Mr. President, I feel very strongly about this for another reason. My dad was a plumber in the small town of New Concord, OH, in the town where I grew up. He had the plumbing shop, worked all his life, saved a very modest amount, and retired. He was looking forward to retirement, owned the home, the car, so on.

He came down with cancer 2 years after he retired, and all my parent's money went in the first couple of years. They did not lose the home. Annie and I did not have a lot of money at that time, but we had enough that we could help out, which we did, so my dad did not lack for medical care. But I saw firsthand, in my own family, what can happen when you are hit with big doctor bills, and it is catastrophic. We call it catastrophic illness, and that is exactly what it is.

The time has come to finally fashion a health care program that gives all Americans the insurance they need and removes the fear of financial ruin once and for all. It is time for comprehensive health care reform in America, and it is time that the people's representatives lead that effort.

We have all heard the statistics, that up to 37 million Americans are completely uninsured, of which 80 percent are working people and their families. And 60 million Americans are underinsured. This means that one out of every three Americans have too little or no health insurance at all.

This issue is not only a concern for those unfortunate Americans without coverage, because this issue affects us all, including the 230 million Americans—that is the good news, the 230 million Americans who do have insurance. But costs are skyrocketing, and it is becoming increasingly difficult for businesses small and large to offer health care coverage. People who do have health insurance often feel locked into a particular job for fear of losing their insurance..

So the good news may be the 230 million Americans who are insured, but the bad news is rising health care costs. The 230 million people with insurance are becoming increasingly fearful that their policies will not provide adequately for their medical needs. And I hear that expressed over and over. So I think we understate the problem and the concern across the country if we only refer to the 37 million Americans without any insurance at all.

People read statistics, reports, and countless studies on this topic. Americans know we now spend just under $700 billion a year on health care. Since 1980, the amount has risen over $400 billion. If America continues in that same trend, by the middle of the next century we will have 100 percent of our gross national product going into health care.

Americans know also that per capita health care costs for the average person have more than doubled since 1980.

Americans know that in a recent study comparing the primary health care systems of 10 industrialized nations, the United States ranked dead last even though we spend far more per capita. We have the best medical technology, we have the best research, we have some of the best facilities but our system is enormously expensive along with it.

The result of all this is that polls now show Americans want radical and fundamental changes in our health care system. A June Wall Street Journal-NBC poll found that by a better than two to one margin, Americans favor requiring all employers to provide health care coverage. That is controversial as to how you pay for it. Should it be on employers, more out of general revenue, how are we going to do this? That is something we have to decide, and I do not know the answer to that yet.

An April Gallup survey of our Nation's top CEO's shows that 91 percent favor a fundamental change or rebuilding of our health care system. Mr. President, Americans are standing up and they are speaking out. My office has been flooded with calls and letters on this subject. When I travel in my home State of Ohio, health care is the No. 1 topic on people's minds and if I do not bring it up in a meeting I am addressing, someone will, and they want to know my views on it.

So the question is no longer whether America needs a change in its health care system. The question now is what this change will be, and the biggest question is how we pay for it. That still has to be decided.

That is why I am pleased to join our distinguished majority leader, Senator

MITCHELL, and other colleagues in the upcoming series of field hearings which will highlight the need for national health care reform. I am especially pleased that I will be hosting one of these hearings for Senator MITCHELL and his group which will be held in Cleveland, OH, on Wednesday, December 11.

The Cleveland hearing will focus on access to health care. We will hear from citizens and community experts about who the uninsured are and what it means to be uninsured. We will hear from health care providers and businesses and local Government officials about what is being done and what needs to be done to ensure that all citizens are able to get the proper medical care they deserve.

It is my hope that the information we gain in these hearings across America will help in crafting a comprehensive plan for fixing our health care system, and that we do it fairly; fairly for the people who are to be served and fairly for those who will have to pay the money. That is the taxpayers of this country. I realize the meetings will not produce instant solutions, but it is time for us to pull together as Americans to find the answers to the tough questions that plague our health care system. So let the dialog begin.

EXTENDED UNEMPLOYMENT BENEFITS

Mr. GLENN. Mr. President, in the small amount of time I have remaining, I would like to address briefly a different subject. I want to take this opportunity to express my support for passage of extended unemployment benefits. While the Nation has been mired in recession, the President missed two previous opportunities to help those who are unemployed, through no fault of their own, to meet their mortgage payments and feed their families. This help is long overdue and I welcome this agreement.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont [Mr. LEAHY] is permitted to speak for up to 10 minutes.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolution.")

CLEAN AIR ACT ANNIVERSARY

Mr. MITCHELL. Mr. President, 1 year ago Friday, the 1990 Clean Air Act amendments were signed into law.

After a decade of struggle, Congress passed comprehensive legislation to provide cleaner air for all Americans.

Enactment is the start of a lengthy process to achieve the necessary emissions reductions required by law. The Federal Government must promulgate regulations. States and affected industries must implement those requirements. States and the Federal Government must enforce them.

EPA Administrator Reilly, EPA Assistant Administrator Rosenberg, and their staffs have worked diligently to issue regulations to clean up the air. While I have some concerns, I applaud their hard work.

EPA estimates it has proposed or promulgated regulations that, once implemented, would reduce two-thirds of the air pollution to be controlled by the 1990 amendments.

Many of the deadlines adopted in the law were enacted into law after consultation with EPA and the White House. The deadlines are tough, the requirements many.

But the problem is urgent. A majority of Americans live in areas where it is unsafe to breathe the air. Children, pregnant women, and the elderly are all at increased risk of heart and lung damage due to exposure to air pollution.

In order to combat a variety of health and environmental ills, we enacted legislation to control precursors of acid rain and urban smog, air toxics, and ozone-depleting chemicals.

The struggle to implement this important law is not without its difficulties, however.

Regarding acid rain, I am concerned that the Administration may not live up to the commitment made to me personally that the NO_x control provisions of the acid rain title achieve a 2-million-ton reduction in NO_x emissions.

This was key to our reaching agreement on NO_x controls and was accepted by the House in the final bill. I expect to see regulations that achieve the full 2-million-ton reduction.

The proposed WEPCO regulation in my view would allow far too many increases in emissions without effective emissions control. This is particularly the case for NO_x emissions, which could increase substantially under this rule. We did not carefully negotiate NO_x reductions for acid rain to have them undermined by another regulation.

The law provides flexibility to keep current with scientific data. We are missing important opportunities to protect the planet through our inaction. Section 606 of the law, for example, requires the EPA Administrator to accelerate phaseout of ozone-depleting chemicals, if on the basis of credible scientific information such acceleration is necessary to protect human health and the environment.

We have such information. We must move more quickly to protect the ozone layer.

The United States faces the risk of becoming as isolated on ozone depletion as it is on global warming by failing to phase out production of chlorofluorocarbons more quickly than the year 2000 deadline of the Montreal protocol.

EPA has accomplished much, usually after lengthy debate with White House staff.

I urge the President to work with us to protect public health and the environment by assuring fair and full implementation of the Clean Air Act, an historic achievement of last year.

The ACTING PRESIDENT pro tempore. The Senator from Montana [Mr. BAUCUS] is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent to proceed in morning business for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ONE-YEAR ANNIVERSARY OF CLEAN AIR ACT AMENDMENTS OF 1990

Mr. BAUCUS. Mr. President, the majority leader has addressed the 10-year anniversary of the Clean Air Act and the 1-year anniversary of the passage of the Clean Air Act amendments of last year. The Senator from Tennessee [Mr. GORE] will speak on the same issue and it is the same issue I wish to address as well.

The majority leader worked long and hard—he is really the principal person in the Senate responsible for it—the successful passage of the Clean Air Act amendments last year. The Senator from Tennessee was very helpful and many others were as well and we are speaking today on that anniversary.

Mr. President, as I said, 1 year ago tomorrow marks the culmination of a decade long struggle to protect the health of American people because on November 15, 1990, President Bush signed the 1990 Clean Air Act Amendments into law. That simple act was a climax to years of debate, many hours, many weeks, many months of very intensive negotiations, a time that we were finally able to pass legislation which is probably the most important environmental legislation this country, this Congress will have passed in about 50 years and could well be one of the most important pieces of legislation that truly effects Americans in a decade.

The resulting law will do more to protect the lives of millions of Americans than any other environmental legislation we have considered. Air pollution is as pervasive as it is serious. In too many areas the quality of our air is so bad it is literally unsafe for most Americans to inhale. Children, pregnant women, and the elderly are all at particular risk and those living near chemical plants face a higher risk of developing cancer and other diseases. Air pollution damages our forests, kills our streams, and clouds the beautiful vistas in our national parks. It corrodes our buildings, our automobiles, our bridges, and other machinery. The magnitude and the complexity of the problem is so large it demands, and resulted in, a very comprehensive solution. That comprehensive solution was the Clean Air Act amendments passed last year.

Not only, however, is the act comprehensive, it is realistic. It acknowledges, for instance, that we cannot eliminate air pollution overnight. It takes time. So the act reaches into the next millennium to seek solutions to the most vexing air pollution problems we have.

It is said that each problem represents an opportunity and that is the case with the Clean Air Act. As we reduce emissions, we develop and refine control technologies that will not only help us achieve our goals but can also help us to develop new technologies that we can export to other nations.

The act has transformed us into world leaders in controlling air pollution and the benefit to us is not only cleaner air and healthier bodies and a healthier environment but more jobs for American workers. In fact, the pollution control industry is one area of the economy that remains vigorous and which we should continue to enhance and help.

The 1990 amendments comprised the most comprehensive environmental legislation ever passed by Congress. They address ozone and carbon monoxide nonattainment, mobile source controls—that is automobiles and trucks and other mobile sources primarily—airborne toxins, acid rain that is primarily generated by electric utilities and ozone depletion caused by a lot of sources. To assure that the reductions actually occur, the act provides for permits and enforcement procedures. A year ago, we achieved a dramatic milestone in the fight for clean air.

Since then, it has been the job of the Environmental Protection Agency, the lead agency, to turn statutory language and congressional intent into real emissions reductions. Where are we today, Mr. President, 1 year after the speeches and 1 year after all the photo opportunities?

Bill Reilly, the Administrator of the Environmental Protection Agency, has moved with unprecedented speed to issue regulations and guidelines. Many of the deadlines that we have set in the act have been met and others soon will be met. These accomplishments are the result of enormous personal commitment on the part of Administrator, Bill Reilly and also on the part of Bill Rosenberg, Assistant Administrator for air and his people working for him. However, despite their efforts, I am seriously concerned that some deadlines will be missed. Most importantly, I am concerned about the content of some of the proposals.

The extensive involvement by other agencies, that is, agencies other than the Environmental Protection Agency, and extensive involvement by the White House staff has impeded progress in many areas. There appears to be an intensive search on the part of some for interpretations of the law that require less action and thus less emissions reductions than would be the meaning of the statute on its face.

I am concerned about such interpretations because they call into question the commitment of some in the administration to the goal for healthier air for all Americans.

In some cases, these efforts amount to a reneging on the spirit as well as the letter of the law. In others, it is an abrogation of agreements for full and fair implementation of the act.

Implementing the law from the standpoint of "how little can we do" undermines the public's faith in it. Worse yet, it undermines the commitment the President made to protect the public health from air pollution.

Implementation should be about fulfilling the law's directives. Instead, for some it has become a chance to rewrite the statute. It is an opportunity to regain with regulations what they lost at the bargaining table.

For example, considerable time and effort was spent in trying to define "repowering" of electrical powerplants. The statutory language was clear, as was the intent of the provision. Instead, the EPA's limited resources were diverted to a costly excursion beyond the statute boundaries. Other works suffered as a result of this detour. Indeed, other issues may have suffered as well.

I am concerned that similar detours may be occurring on the permits rule, which has not yet been released. An enforceable, workable permits regulation is central to the control of urban smog, airborne toxins, acid rain, and ozone-depleting chemicals. Permits are the backbone of the Clean Air Act and the implementing regulations, therefore, deserve careful scrutiny.

I hope that the permits regulation will be released soon and that it will be more consistent with the intent of Congress and more balanced than the last permits rule to emerge from the White House and the Council on Competitiveness reviews.

The motor vehicle inspection maintenance [I-M] regulations, it appears, are not going to be issued on time. The EPA admits that, but the motor vehicle inspection and maintenance in this program may provide one of the single largest sources of reductions in emissions that cause urban smog.

Because they are such a large source of reductions, the delay in issuing these I-M regulations places affected States in an untenable position.

The EPA has an obligation to both meet its deadlines and to provide for a full measure of reductions from inspection and maintenance programs. The States are reasonably relying on a strong Federal program in this area, and they cannot proceed with any measure of effectiveness, as they develop their State implementation plans, until we know whether or not the EPA and the Federal Government are living up to their end of the bargain by issuing the proper and full I-M regulations.

The acid rain provisions were among the most hotly contested parts of the bill. Part of the agreement with the administration was that the nitrogen oxides control requirements would achieve a 2-million-ton reduction of NO_x emissions. Controlling NO_x emissions is essential to controlling both acid rain and ozone formation.

I, and other Senate conferees, expect the administration to live up to this bargain by promulgating regulations that achieve the full 2-million-ton reduction.

A full review of the implementation of the Clean Air Act requires more time than I have now. In order to provide a more thorough discussion of these matters, my Subcommittee on Environmental Protection will hold a hearing in February to review the EPA's, as well as the administration's, clean air record for the first time after enactment.

The hearing will focus on EPA's efforts, as well as those of the White House and other agencies, in implementing the act. I will be looking at the amount of time the White House takes to review the EPA proposals, as well as the content of any changes they put into those proposals. I will be assessing whether regulations are issued on time and whether they can be implemented and enforced.

A program that does not work betrays the enormous effort that went into creating that program.

In preparation for this hearing, the first in a series, I am requesting that the General Accounting Office review clean air regulations to determine whether they achieve their projected emissions reductions; whether they can be readily implemented by States and localities, and whether they are enforceable.

The EPA's implementation record, on the whole, is commendable. It is easy in this town to criticize every action taken or not taken. And while the EPA has made some errors and mistakes in the past year, I believe that, on balance, it has done a good job with the Clean Air Act.

I am, however, far more concerned about the effect the White House and the Council on Competitiveness are having and what they are doing, in slowing down or changing proposed regulations and guidelines. I am concerned about the instructions that President Bush and Vice President

Quayle may or may not be giving to their staff as they oversee and change the EPA's regulations.

Mr. President, the fight for cleaner air is far from over. Congress took the first step, a major step, a very important step. But successful implementation of the act will be the true test of an environmental President.

I yield the floor.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business on the same subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIRST ANNIVERSARY OF THE CLEAN AIR ACT AMENDMENTS OF 1990

Mr. GORE. Mr. President, I pay tribute to the leadership of my colleague, the Senator from Montana [Mr. BAUCUS] who has just spoken, and who led the Senate to pass the Clean Air Act amendments and has been a stalwart on all of the related issues.

I enjoyed the opportunity to work with him, as I did on the matter that was on the floor 2 weeks ago. I wanted to say that before he left for the Environment Committee. I wish to join him, also, in acknowledging the leadership of the majority leader, Senator MITCHELL, who for a period of many years has pushed the Clean Air Act amendments forward and, of course, prior to becoming majority leader was chairman of the subcommittee which handled all of that legislation, and has been the single most important reason why the Senate was able to pass a Clean Air Act amendment. I want to associate myself with the remarks of Senator BAUCUS to that effect.

And, as did Senator BAUCUS, I want to comment on the upcoming anniversary, tomorrow, of the Clean Air Act amendments and the original law, because tomorrow the Bush administration will attempt to show the country that, contrary to popular opinion, the President does in fact have a domestic agenda. The crown jewel of that agenda, the law the Senate passed here, the Clean Air Act amendments, was signed into law just 1 year ago. But before we break out champagne down there at the White House to celebrate, let us stop to look at what the administration's real agenda is with regard to clean air.

Having signed the Clean Air Act amendments into law, it seems apparent to me that President Bush is now intent on stonewalling them into irrelevance in many important areas. The environmental President is all talk and no action, all photo op and no policy, all promises, all broken. Of course, President Bush is not going to do the dirty work himself. But he does not have to when Vice President QUAYLE is eager to perform that task.

There are many directives under the Clean Air Act amendments that the administration has simply ignored—ignoring the law that Congress passed and that the President signed with much fanfare. I want to discuss those in just a moment. But for those regulations EPA has tried to complete—and I want to agree with Senator BAUCUS, that the Administrator of the EPA, Bill Reilly, has been devoted to this task. He has a talented staff, and they have really pushed hard to try to implement the law well. But where the EPA has proposed regulations, the Vice President and his Council on Competitiveness, speaking for the White House, have stalled progress and in some instances have completely undermined the law and reversed the intent of the law.

Let us consider the permitting requirements under the act, one of the more blatant examples of the administration's policy of undercutting the law. These regulations spell out how industry will meet the pollution reduction requirements of the act and are the most important proposed rules that have been issued up until now.

But Vice President QUAYLE, in his campaign to protect the polluters and ignore the law, took the rules that EPA Administrator Reilly sent to the White House and carved out enormous loopholes, opening the door for the polluters to raise their pollution levels, while at the same time closing the door to citizens and courts seeking to review the industry's actions.

Vice President QUAYLE's efforts reflect the policies of an administration committed to undermining the important provisions of the Clean Air Act.

Again let me point out, as we all know, that Vice President QUAYLE is not the boss in this administration. President George Bush is the one whose preference for stonewalling sets the course and determines the policy. And it is not only Vice President QUAYLE carrying out the President's obstructionist campaign. The Department of Energy has also been working to undermine the EPA's efforts.

Most recently, DOE pushed for revisions to EPA's proposed plan on powerplant emissions that will allow the plants to pump an extra 3 million to 4 million tons of pollution into the air.

What about the provisions of the Clean Air Act designed to protect the stratospheric ozone layer? I spoke here on the floor of the Senate not many days ago about this, but here on the eve of the anniversary of the Clean Air Act I want to underscore the importance of section 606 of the Clean Air Act.

I hope that those who listen to the President tomorrow celebrating the anniversary of the Clean Air Act will ask him: What about section 606? Section 606 of the Clean Air Act says this, Mr. President: It says when new evidence is made available showing that the threat to the stratospheric ozone layer is even worse than was known when the act was passed, the administration is required under law to accelerate the phaseout of the dangerous chemicals that are destroying the stratospheric ozone layer.

Well, on not one but on two occasions since the act was passed we have had just that kind of information. In April we learned that the ozone layer is disappearing, according to the new evidence, some 200 percent faster than ever measured before or predicted. Then, just last month, an international team of scientists reported that the depletion is occurring at nearly all latitudes and during all seasons of the year, including the spring and summer when we are most exposed to the Sun's ultraviolet rays, and when growing crops are at a critical time in the growing season.

Administrator Reilly appreciates the significance of these new findings. In fact, when the first new report came out in April he said the results were startling, and the implications for policy were clear. And he said, if I heard him correctly, that the phaseout of these dangerous chemicals ought to be accelerated. But he has not complied with the law because the White House has prevented him from doing so.

I am not quoting him there on that. He has not said that publicly or to me privately, or anyone else privately as far as I know.

But when the administrator says the evidence is startling, we need to speed up the phaseout, and then nothing happens, I think the conclusion is obvious that the White House is standing in his way. There are fingerprints which are unmistakable.

When I brought a resolution to the floor of this body last April calling for the expedited phaseout of these dangerous chemicals, it was the White House that insisted a hold be put on that measure.

Perhaps our environmental President, prepared to celebrate the anniversary of the Clean Air Act tomorrow, decided that the stratospheric ozone layer does not get much publicity and is not that important anyway, so it does not matter. Maybe he decided that since most of the American children who will get skin cancer and those who will die as a result will not suffer the tragedy until long after he has left the White House; maybe it does not matter, it does not affect next year's election, so forget about it.

That would be in keeping, Mr. President, with President Bush's approach to that particular issue. After all, this is the President whose Interior Secretary once went out to view pollution from mill-tailings in a scenic area, and actually suggested that it could be dealt with by spray painting the mill-tailing pile the color of the surrounding landscape.

You think I am making that up? That is true. That is true. Paint it over. It is kind of the Roger Rabbit approach to environmental protection: Just paint the landscape the color of the beautiful natural surroundings and hide the pollution.

Mr. President, it is true that section 606 of the Clean Air Act, the anniversary of which is tomorrow, does not get a lot of public attention. But when the President comes out to celebrate the anniversary, I just wish somebody would ask him why he is ignoring the legal requirement of the law that these dangerous chemicals be phased out.

There was an article in the Financial Times last week, Mr. President, and I would like at the conclusion of my remarks to ask unanimous consent to put it in the RECORD. But let me again tell my colleagues what the Financial Times found in the populated area of Patagonia, which has ozone depletion much worse than we do here because it has happened first in the southern latitudes. It is proceeding here. I hope it never gets as bad here as it is there. But let me tell you what the Financial Times found when they went down there to look.

Hunters now report being able to go out and pick up rabbits instead of having to hunt them because a lot of them are blind, and others have bulging eyes and do not run away from the hunters. Fishermen report getting blind salmon out of the streams. Farmers report this spring—and it is springtime down there—you know, of course, the seasons are reversed and this is their springtime—that buds on the trees are deformed.

One of the comedians on "Saturday Night Live," A. Whitney Brown, had a line a couple of years ago about some of these global environmental issues. He said it sounds like you are taking a nature hike through the Book of Revelations. Well, when you talk about blind rabbits and blind salmon and deformed buds on the trees, it can sound pretty outrageous and scary.

But, Mr. President, our civilization has changed the relationship between the human species and the ecological system of this planet. And one of the changes that is begging for our attention first of all is our introduction of these extremely dangerous chemicals into the atmosphere of the Earth which destroy the stratospheric ozone layer and let a lot more dangerous ultraviolet radiation hit the surface. Why is it happening first above Antarctica? The chemistry of the atmosphere is different there.

It is colder there because of 10,000, 12,000 feet of ice on a continent the size of the United States and Mexico, 90 percent of all the ice in the world. The atmosphere is cloudier there. The so-called polar stratospheric clouds go higher in the atmosphere, and ice crystal made up of water and nitrogen form way high in the sky, and these dangerous chemicals come into contact there with the stratospheric ozone and the depletion process takes place much faster there as a result.

But the Sun does not come up in Antarctica until the middle of September, and before the Sun comes up, it is coldest of all. And the winds which whip around Antarctica hold the air in a kind of a bowl, and that chemical brew is waiting there until the Sun comes up. And when the Sun comes up in the middle of September, the Sun's rays slice into this chemical brew and touch off the reaction which burns up the ozone layer.

Then, 2½ or 3 months later, the air has been heated by continual sunlight enough so that the winds slow down and the bowl in effect breaks up and the air escapes into the rest of the atmosphere. And the ozone-thin air then mixes with the ozone-rich air of the rest of the world and dilutes it. Bubbles of this ozone hole break off and float northward, almost like lenses through which the ultraviolet rays continue to strike the surface unimpeded.

In Queensland in northeastern Australia, 75 percent of all the men and women who reach the age of 65 have skin cancer today; 75 percent there, and in other parts of Australia, in the Southern Hemisphere, it is common to require children to wear hats and neck scarves and cover up to hide from the Sun on the way to and from school.

Well, it has happened first there in Antarctica, and the ozone hole there is now 3 times the size of the United States of America. But it is happening here, too, and the environmental President is doing nothing about it. So tomorrow, on the anniversary of this act, I just wish somebody would say: Mr. President, last April, we heard new evidence that this process is taking place 200 percent faster than we thought before. And in October we heard that it is now happening here in the United States in summertime, when the Sun's rays are much more dangerous, and you have done nothing about it, even though the law you are celebrating tomorrow requires you to.

There will be a photo op, and he will say: See, I have a domestic agenda. I canceled my trip to Japan, and I came back here to have a photo opportunity here in the United States.

The air in this Chamber, Mr. President, as I have said on prior occasions, has 600 percent more chlorine atoms in each breath we are taking than it did when this Chamber was built, than it did when I was born, because of these same chemicals that we are putting into the atmosphere that the President does not want to phase out faster because there is opposition; it will cut into corporate profits. The adjustment may be painful.

But the air we are breathing, the air in the White House tomorrow, every breath he takes during his photo op will have 600 percent more chlorine atoms than it did when he was a Member of the House of Representatives.

So, Mr. President, I really think that this celebration tomorrow needs to be put into context. The Clean Air Act was an achievement by this body, but the President is failing to comply with important provisions of the act and he is undermining many other important provisions.

The Clean Air Act, to take another example, requires the administration to issue regulations so that new automobiles be built with canisters to trap the toxic chemicals released every time a car is refueled. The Administration has thus far refused to act on it. And to implement the provisions of the act that are designed to reduce industrial emissions of toxic gases, the administration has put forth a proposal that allows industries to qualify for a 6-year extension by simply reducing moderately toxic chemicals, rather than the highly toxic chemicals that are identified in the law.

So, Mr. President, for all the hoopla we no doubt will hear tomorrow, the truth is that rather than implementing the act, the White House is busy eroding the act, and jeopardizing the environment and the health of the citizens of this country in the process.

On the international environmental front as well, the President's record is simply deplorable. The Clean Air Act specifically requires this phaseout of the dangerous chemicals destroying the ozone layer, which I mentioned a moment ago. But there is also the much larger and more serious problem of global warming, and there the United States is, of course, the leading contributor to the problem. We alone are responsible for some 25 percent of global emissions of carbon dioxide, the principal greenhouse gas. The air in this Chamber, again, has between 20 and 25 percent more greenhouse gases, including not only carbon dioxide, but ethane and other molecules which trap heat—20 to 25 percent more greenhouse gases everywhere in the atmosphere in the world than existed 40 to 50 years ago.

We alone, however, even though we are responsible for a quarter of that additional increase, we alone among all the industrial countries in the world refuse to address the problem, refuse to reduce our consumption. The President said he is moving on that because the phaseout of the chemicals that destroy the ozone layer, by the year 2000, not on the accelerated schedule, will reduce the global warming problem.

New scientific studies that came out last week by the President's own science adviser, cited publicly, said: "No, that is not right. That does not reduce the greenhouse effect." So, the President is doing nothing. When is he going to do something on this to live up to this ludicrous and now laughable label of the environmental President?

All of our major trading partners, all of the other major industrialized countries of the world have recognized the seriousness of the continued dumping of greenhouse gases into the atmosphere, and all of them have committed to action.

The American people have a right to expect that George Bush might be among the leaders in this campaign. Who can forget his campaign pledge to confront the greenhouse effect with the White House effect? What a great line in that speech in the fall of 1988. Anybody who believed that was a sucker.

You know how Charlie Brown tries to kick the football and Lucy pulls the football away. Every time the President of the United States, George Bush, comes out and says, "I am the environmental President," as he will do tomorrow in this photo op, anybody who believes it is just like Charlie Brown trying to kick that football, because he does not mean it. Or at least he sure has not demonstrated it yet.

The President has dragged his feet on whatever he has done. He has been forced, kicking and screaming, to even consider the issue. And on the greenhouse effect, he has done nothing, absolutely nothing. His representatives have launched an endless campaign to subvert the efforts and leadership of other nations.

The White House issued a memo on Earth Day 1990, when a lot of people were talking about global warming, saying the best approach is to emphasize the many uncertainties and cast doubt about whether this problem is real or not.

He has not received any praise from other countries, as you might expect on this issue. But rather, has been condemned by many of them. Britain's Prime Minister, John Major, otherwise an ally of the President, wrote a very tough letter, made a very tough speech, saying that the world expects the United States of America to offer some leadership on this issue, and the United States of America has not done it because the environmental President wants to do nothing on this. Dutch Minister Hans Alders—the list goes on. Even some of these little island nations whose very existence is jeopardized by global warming have urged the President of the United States to stop obstructing the world's ability to act on this.

So, Mr. President, when we look closely at the record, it is clear the White House has very little to celebrate tomorrow on this anniversary of the Clean Air Act. Rather, tomorrow is a day for the people of this country to express outrage at Mr. Bush's cavalier indifference to the many threats to our health and environment that his policies allow.

The environmental President cannot keep counting on photo ops and postcard backgrounds. It is time to get past the promises and the PR and get down to work.

Mr. President, the majority leader will later address this same subject, as will my distinguished friend and colleague, the Senator from Connecticut.

I ask unanimous consent at this time to have printed in the RECORD the article from the Financial Times to which I referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Financial Times, Nov. 6, 1991]

RABBITS BLINDED BY OZONE HOLE

Last month satellites from NASA measured the biggest ozone hole ever recorded over the Antarctic. It now extends more than 21m square kilometers, which is more than four times the size of the US, and is affecting parts of southern Australia, New Zealand, Argentina and almost half of Chile.

Antarctica loses about 70 per cent of its ozone cover as a result of a photochemical reaction—involving chlorofluorocarbons—which is triggered by the first rays of the spring sun. The ozone hole allows increasing levels of cancer-causing ultraviolet rays to reach the earth.

Although Antarctica's ozone levels recover in summer, scientists note that the springtime hole is getting bigger, appearing earlier and lasting longer.

Moreover, strange things have begun to happen in southern Chile. Fishermen are catching salmon that are blind. Peasants report that wild rabbits have developed bulging eyes and must be suffering from impaired vision because they are so easily caught. Rodelfo Mancilla, a sheep farmer in Tierra del Faego, says his animals are also going blind.

Some tree buds this spring are showing deformed growth, while certain types of marine algae are secreting a red pigment never seen before.

In Punta Arenas, there is fear and concern over the invisible bombardment of ultraviolet-B radiation. Nobody leaves home without protective hats or sunglasses. Doctors are being besieged by patients with allergies, eye irritations and skin complaints.

"These bizarre occurrences have no clear explanation," says Bedrich Magas, a researcher at the University of Magallanes in Punta Arenas, "but they coincide with the thinning of the ozone layer which allows 20 times more ultraviolet radiation to reach the earth."

With a manned radiometer, Magas has recorded the same intensity of radiation that is found in the Caribbean in summer. "Southern Chile does not have a tropical habitat, it cannot take this kind of punishment," he says.

Magas believes there is an urgent need for a serious scientific study on the impact of UV-B radiation in southern Chile. "This region would be an excellent laboratory to study the effects of ozone depletion," he explains.

In Santiago, Sergio Cabrera, associate professor of molecular biology at the University of Chile, is trying to raise funds for a three-year study on the effects of UV-B radiation on humans and its consequences for fishing, forestry and agriculture. He is still $11,000 (£6,000) short of being able to afford a US-made spectroradiometer that measures ultraviolet radiation.

He says Chile has no information on the amount of radiation it receives. Yet these data are crucial for a country that works on a model of economic development heavily dependent on the export of fruit, fishmeal and cellulose.

Research conducted in Australia and the US has shown that UV-B radiation stunts growth in plants. It is lethal in the early stages of life because it can destroy the genetic information contained in reproductive cells.

It is a cruel irony that southern Chile receives the highest levels of UV-B radiation during spring, when plant and animal life are at their most vulnerable.

Ultraviolet rays can also penetrate depths of 20-48 metres into the ocean. Again, scientists in the Antarctic have observed that UV-B rays affect the growth and reproduction of phytoplanktons, the back of the marine food chain. The red pigment noted in some marine algae is believed to act as a protective screen against excessive radiation.

Humans have no such natural defenses, and exposure to UV-B radiation can cause skin cancer, cataracts and immuno deficiencies. The blindness of sheep and rabbits in southern Chile may be caused by the high levels of radiation.

Scientists believe that Chilean agriculture will soon have to start selecting UV-resistant seeds for its crops, as not all plants appear to have the ability to create pigment shields against harmful radiation.

This kind of genetic engineering is expensive, and it raises the ethical question of why Chile, a developing country with limited resources, should pay for the consequences of crop destruction caused by the industrialized world.

The potential damage is enormous, as the effects of UV-B radiation are cumulative and the ozone hole will continue to grow for decades after all CTC production stops.

CLEAN AIR ACT AMENDMENTS

Mr. BURDICK. Mr. President, I rise today with a number of my colleagues to acknowledge the first anniversary of the enactment of the Clean Air Act Amendments of 1990. The Committee on Environment and Public Works played a major role in shaping this monumental series of amendments. The committee continues to play a vital role in making certain the 1990 amendments are implemented properly.

The Environmental Protection Agency has done a commendable job in the past year setting in motion the regulatory process which will implement the Nation's clean air policy well into the 21st century. EPA has confronted, in my opinion, an unprecedented amount of bureaucratic infighting with the White House Council on Competitiveness, the Office of Management and Budget, and other agencies, particularly the Department of Energy.

Unlike many recent statutes, the Clean Air Act Amendments of 1990 were subject to lengthy debate and explicit compromise. The legislative history is clear regarding congressional intent. I did not fully agree with some of the compromises we reached, but there is little doubt about our intent. Now many of the same agencies who participated in those historic negotiations and who were part of the agreement want to rewrite history. Not in the open. Not under the glare of public disclosure of the Administrative Procedures Act. This is very unsettling, and I look forward to the oversight hearings the committee will conduct in the new year.

Mr. President, we will not meet our clean air goals by issuing press releases or sound bites. I have often commended the President for his leadership in breaking the clean air logjam in 1989. Because of his support, the first comprehensive rewrite of the Clean Air Act in over a decade became a reality. I for one give the President his due. But I will not stand by and see clear congressional intent undermined by executive branch infighting.

Many of these contentious issues were subject to lengthy congressional discussion. EPA should implement the law without interference from the Vice President or other departments. We have made significant progress in the past 12 months, but much has yet to be done. We should get on with the task. The American public deserves nothing less.

FIRST ANNIVERSARY OF THE CLEAN AIR ACT AMENDMENTS

Mr. LIEBERMAN. Mr. President, I rise to join with the majority leader and my colleagues, including the distinguished Senator from Tennessee, who has just spoken on this expression of celebration and yet agitation over the first anniversary of the passage and signing by the President of the Clean Air Act. This truly was one of the monumental accomplishments of the U.S. Government in recent years, a difficult piece of legislation because, like so much we try to do in the area of protecting our environment, it involved and involves change.

We have come to an understanding in this country—the people often ahead of the politicians—that if we are going to protect the natural environment that the good Lord has given us, if we are going to protect our health from the assaults that pollution visits on us, then we are going to have to change our ways. And, yes, we would like to believe that individual and group and corporate self-starting efforts would make all this change occur. But unfortunately, human nature being what it is, people and institutions so often resist change even if they know it is in their interests. And that is where the law has to step in and lead the way.

I think the work that was done in this Chamber and the other body and the White House to work together with the forces—sometimes against the forces—that were resisting change to build a consensus that enabled us to pass the Clean Air Act was truly one of the finest hours of the American Government in recent years, certainly with regard to domestic problems.

The President celebrates the adoption of the Clean Air Act when he describes the domestic accomplishments of his administration over the past 2 years. But I think what we are saying today by way of agitation to join the celebration is that the passage of the Clean Air Act 1 year ago tomorrow was not the end of the fight for cleaner, healthier, safer air. It was just the beginning of the fight because, as we know, there is a gap between the expression of goals and ideals and standards in a law and the reality of enforcement and implementation and realization of those goals and ideals and standards in actual practice.

In that distance between the ideal of the law and the reality of the enforcement, we have seen in the last year some good attempts by EPA to realize the intention of Congress in adopting this law. But we have seen too many attempts by those who fought change here when the Clean Air Act was before this Chamber and lost to the forces of change and now have tried, through the back door of the administrative process, to frustrate the clear and overwhelming desire of people of both parties in the Congress and clearly the desire of the great majority of the majority of the American people to have clean air.

This is not the time to redebate the Clean Air Act, Mr. President, but let us just state it very briefly. When we got together, all of us, to adopt the Clean Air Act, we did not do it for reasons of cosmetics, as nice as it is to have clean air. We did it because the health and safety of the American people are on the line.

I remember those statistics that we all agreed to. Thousands of people are suffering every day in this country because of polluted air and suffering in a real sense, particularly those who have some respiratory problems, the older, the younger among us. Some of the harshest numbers that were presented to us by very credible authorities—the Office of Technology Assessment of this Congress, let alone some of the health advocacy groups outside of the Congress—show that there are thousands of Americans who are dying prematurely because of dirty air. And what that means is that thousands of people in this country are dying earlier than they otherwise would because of the effects of some of the toxics that are in the air as a result of our inability to change. And that is why we needed the law.

Mr. President, I want to focus on a few points that I think have been very disappointing and agitating over the last year in which we were supposed to begin to enforce the Clean Air Act. I particularly want to highlight, at the beginning, the role that the Vice President's Council on Competitiveness has played as, apparently, the place where those who resist change go after the case seems to be over here in Congress or the President has signed a bill, that is where they go for yet another, in my opinion, extralegal attempt to frustrate the changes the American people so much want to protect their environment and their health.

I do not know the full record of the Council on Competitiveness. It may well be doing some things that are helpful to make America more competitive in the world. But I can tell you that, in the competition for clean air, the Council on Competitiveness has been nothing but a detriment. In the competition for better health for American people, the Council on Competitiveness has put us in a losing and not a winning position. And in the competition that is so much on the minds of the American people—and American businesses that pay so much for health care costs—and that is for health care costs, the Council on Competitiveness has put us, not in a winning, but a losing position by attempting to frustrate the purposes of the Clean Air Act, which are to make people healthier and, therefore, to reduce health care costs.

Specifically, one of the regulations under the Clean Air Act concerns the permit program. That program is the cornerstone of the effort to regulate some of the major sources of pollution—chemical plants, oil refineries, and other stationary sources of pollution, as opposed to the mobile sources, such as vehicles. The permit is supposed to spell out the obligation of a factory, of a facility, under the Clean Air Act.

And I can tell you, as a former attorney general of the State of Connecticut, that the permit is a critical element in building a case for an enforcement action against some entity that is polluting. Without an effective permit program and an enforcement program that goes along with it, there is a danger, a real danger, that the provisions of the Clean Air Act are simply going to be words on a piece of paper.

Now EPA's permit rule; that is, the rule that it issued to carry out the creation of this permit that is in the Clean Air Act, when that rule was finally issued by EPA, more than 100 changes were included from EPA's previous draft.

Many of those changes resulted from comments on EPA's original proposal from the Council on Competitiveness. And I can tell you, Mr. President, in my own evaluation none of the more than 100 changes from EPA's original desired rule strengthened this permit program. Almost all of them weakened it and many, in my opinion, are in clear conflict with the expressly stated terms of the Clean Air Act.

The changes recommended by the Council on Competitiveness are actually set forth in a memorandum to EPA's Assistant Administrator for Air and Radiation, Bill Rosenberg.

Who are these folks at the Council on Competitiveness? And why are they playing such a critical role in influencing what EPA is doing? We do not know much about them. But I do know that the Council on Competitiveness and those who work there are not employees of the U.S. Environmental Protection Agency, which is the agency that we in Congress have delegated the authority to issue regulations under the Clean Air Act. The folks at the Council on Competitiveness are not confirmed by the U.S. Senate and are not accountable to the Environment and Public Works Committee which has oversight authority for the Clean Air Act.

Nor are they procedurally responsible, in the sense that the record on the EPA permit rule contains no details concerning the people or industries who may have spoken to or lobbied the Council on Competitiveness to give them the basis for requesting these more than 100 changes in the permit rule.

As I understand it the Council on Competitiveness has no statutory basis. It is not even created under an executive order. It was announced in a press release from the White House. I believe, in this case, the Council on Competitiveness, acting outside of the ordained legal administrative process of our Government to carry out the Clean Air Act, has gone too far.

There is some good news, and I want to give credit where it is due. EPA's Office of General Counsel, looking once again at that permit rule, put its foot down, and it said in a recent memo that it had concluded that it was highly unlikely that a court would uphold the permit rule as it was changed in response to the requests of the Council on Competitiveness; that some of its provisions were actually, as I have suggested, illegal and in violation of the clear intent of Congress.

It is my understanding, and I hope it is true, that the EPA has now gone back to the White House and said save us from these changes that the Council on Competitiveness have asked us to put into this rule. I applaud our friends at EPA for doing that. I am upset at the undermining of this critical provision of the Clean Air Act that the Council on Competitiveness has been involved in, and I hope EPA will prevail here.

The chairman of the Senate Committee on Government Affairs, the Senator from Ohio [Mr. GLENN] has introduced legislation which I am privileged to be a cosponsor of, which is aimed at making this Council on Competitiveness and other White House entities that seem to operate in the shadows instead of the sunshine of Government more accountable to the public. I think it is great, active leadership by the Senator from Ohio. I hope we can act quickly on this bill because it is clear that the Council on Competitiveness and the White House intend to be actively involved in a wide range of EPA's regulations under the Clean Air Act, including regulations on acid rain, vehicle inspection, and standards for air toxics.

Very briefly—and I am not going to go into any detail on this—I have two other points which trouble me on EPA's implementation of the Clean Air Act. One is their refusal to require centralized testing systems for automobile inspection and maintenance programs, which have clearly been shown to be the most effective in the States that have tried these.

EPA's own studies show that emissions from cars on the road still average three to four times the emission levels of cars as they come off the assembly line. This is a tremendous area of potential reduction in the threat to our health from dirty air, and it is clear, also, in EPA's own staff analysis, that centrally operated programs are estimated to be just about 100 percent effective while the decentralized programs are about 50 to 75 percent effective. These are just numbers but they are numbers that translate into cleaner air and better health.

The third area of concern that I have is that EPA has failed to meet the deadline in the Clean Air Act requiring the issuance of regulations for onboard emission control systems. Tomorrow, on the 1-year anniversary of the passage of this act, is the deadline. Clearly they are not going to meet that deadline. We acted in, I think, a strong and decisive fashion to try to end a decade-long dispute over how to approach this question of refueling emissions, which contribute so significantly to smog in our air.

I want to say this is an inaction by the administration that has very serious consequences, not just for the quality of air, but for those thousands of our neighbors and constituents who operate gasoline service stations who will be forced to bear the full costs of controlling the refueling emissions if EPA fails to issue the so-called on-board regulations.

In proposing his own version of the Clean Air Act, now more than 2 years ago, President Bush held fourth the promise that all Americans would breathe healthy air. The Congress enacted a law which strengthened President Bush's proposal and gave the authority to EPA to implement rules which would make the President's promise of clean air a reality. But, unless EPA acts strongly and decisively, without interference from the White House or the Vice President's Council on Competitiveness, this law will really not protect the American public, and millions of Americans will continue to suffer the adverse health effects of air pollution. In short, there will be a tremendous gap between the promise of the Clean Air Act and the reality of the air that all of us breathe.

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH] is recognized.

THE FIRST ANNIVERSARY OF THE CLEAN AIR ACT AMENDMENTS AND LESSONS LEARNED

Mr. WIRTH. Mr. President, I associate myself with the comments of the distinguished Senator from Connecticut who has been so deeply involved in this issue since his welcome arrival here, adding his voice to the cause of clean air, and so many of the other important environmental issues that we face going into the 21st century.

We are, today, celebrating the first anniversary of the passage of the Clean Air Act, a landmark in environmental legislation of which we should all be very proud.

This was an extraordinary complex bill addressing a very important set of problems in our country, centering on the need to ensure that all Americans have clean and healthy air to breathe.

The clean air bill that was reported out of the Environment Committee to the Senate floor was very controversial. It started, as we remember, in the summer of 1989 with the President's announcement in the White House of a very, very ambitious bill, surrounded as it was by a focus on alternative fuels and alternative fuel vehicles. Unfortunately, the President's initial commitment to alternative fuels and alternative fuel vehicles was gutted on the way out of the White House. The pressures, I guess, from the industry groups were too great to handle.

When the legislation came to the Senate floor, a broad coalition of Senators opposed it for a variety of reasons and threatened to filibuster, and that kept the bill from moving forward. After that were the famous negotiations. Senator MITCHELL, the architect of the bill, and Senator BAUCUS, its manager, persevered, kept at it and worked with the opponents of the bill and worked out an agreement which I think led to a very significant step forward in environmental protection.

That agreement was controversial itself. When the Senate took up that agreement, Senator Wilson—now the Governor of California—and I attempted a substitute which was significantly more aggressive in controlling auto emissions and in promoting alternative fuels.

Senators MITCHELL and BAUCUS opposed that amendment, to hold together the agreement they had with the opponents of the initial bill, the committee bill. And they prevailed and moved forward, and, even after conference with the House, ended up with what is still a very strong bill.

The agreement reached in that bill will reduce acid rain emissions by some 10 million tons a year, using an innovative market-driven system of tradable emission permits. It was that market-driven permit system that really broke the logjam leading up to the Clean Air

Act. We had been in a terribly difficult position for 4 or 5 years, incapable of reconciling all the various issues predominantly because of a lack of consensus on how to address the problems with acid rain.

Senator John Heinz and I worked together through a program called Project 88 to develop the outline for a tradable permit system. We held a conference on that proposal soon after we published the initial Project 88 report in the summer of 1989. That conference, which was held at the Smithsonian's Renwick Gallery, included leaders from the White House staff and from the Congress, and we helped put together there an understanding of ways in which economic forces, market forces can be harnessed to create more cost-effective environmental programs.

I cite that, Mr. President, and I will come back to that in a few minutes, because I think there is a very important precedent there that we can use in relating to the UNCED process in Brazil addressed earlier by Senator GORE.

First, though, I would like to talk about the relation between the clean air bill and our energy policy. The clean air bill put new emissions requirements on automobiles and set up a program to force the development of even cleaner alternative fuel vehicles.

Clearly, we have a major opportunity here, Mr. President, in the area of alternative fuels. If we are going to be serious as a country about limiting our dependence on imported oil, it is absolutely imperative that we make the transition as rapidly as possible to domestic fuels, and obviously the fuel of transition for a long period of time is going to be natural gas.

The President restarted the clean air debate with a very ambitious set of proposals for alternative fuels and alternative fuel vehicles in the bill he announced in the summer of 1989. That was lobbied very, very hard by the auto industry and the oil industry, and they succeeded in changing much of that.

But the importance of the initial goal remains. We have to move our transportation system away from this crazy dependence on imported oil, and toward the use of natural gas, ethanol, and other domestically produced fuels.

Any Member of this body who stands up in front of his constituents and tells the truth ought to be loudly criticized for not doing more. What is that truth? That truth, Mr. President, is that we have in this country a source of fuel that can replace imported oil and it is clean, it is abundant, it is cheap, and it is domestic. That fuel is natural gas.

Now why do we continue to import all of this oil into the county, increasing our dependence on imported oil, increasing our balance of payments problem, and leading to greater instability in terms of our relationships around the world, as we saw in the Persian Gulf? Why do we continue to do that when we have a source of fuel right here at home? Natural gas.

The President of the United States recognized that in the summer of 1989 with his very ambitious program for alternative fuel vehicles, and I praised him for that then. I look back with some sense of melancholy that we never got the program that he had started out but, again, the automobile companies and the oil companies were successful in weakening it.

Some of that proposal appeared in the clean air bill, not nearly as much as should have, but we began to get a glimmer of what would be possible and what we ought to be doing long-term in terms of making a transition from oil to other fuels. The Clear Air Act Amendments of 1990 were a key step in that direction. It is not as strong as it would have been but is certainly better than where we were before.

The Clear Air Act amendments started our cities planning how to make their growth compatible with a clean environment in the future, and we set new requirements for the control of toxic emissions, an issue addressed by the distinguished Senator from Connecticut. We achieved that, Mr. President, with a commitment to act on this issue that we refused to abandon in the face of substantial controversies.

I mentioned the threat of filibuster the bill faced as it emerged from committee. In fact, this was overcome. The Environment Committee leaders worked with the people who objected to the bill, worked out an agreement on substance and procedure which led us to the final bill. That was not easy. There were strong feelings on both sides, but the Senate kept the overall goal in mind, worked out an agreement, and eventually passed it with more than 90 votes.

As I pointed out, that bill did not do everything that every Member wanted. There certainly were a lot of things in it that I thought should have been added. It did not do everything the Environment Committee wanted it to do. But they agreed to change their proposals and agreed to defend the changes—even from amendments to return to the positions they advocated in committee.

What did we learn from the process when we looked at this a year later? There are significant problems in terms of writing the regulations. Previous speakers have addressed those. I hope the Council on Competitiveness does not end up gutting this wonderful accomplishment of a very complicated piece of legislation. Let us hope Mr. Reilly holds firm. Let us hope the progressive forces in the administration are the ones who win and not the ones out to gut environmental protection.

That battle we know is going on right now, and we should add our voices on the side of the progressive forces in the White House who really do want clean air.

But we should not forget how we passed this bill a year ago. We can learn from that, and we should.

Last week we had a very bruising battle on the floor on the energy bill, related predominantly to discussions of the Arctic National Wildlife Refuge and proposals to set new standards for auto mileage. A group of us had one idea of what an energy bill ought to include. The distinguished chairman of the committee and others had a different view. We had that battle out here on the floor, and we have now come to very broad agreement not to drill in the Arctic National Wildlife Refuge. That is now off the table. That was the fight that we had 10 days ago.

I believe it is now time, Mr. President, to come back and look at the other parts of that energy legislation. There are still some problems with various parts of that bill but I think we can learn from what happened with the Clean Air Act. After you go to one point and it does not work, you make the adjustments needed to gain consensus and come back.

I think we have the opportunity with the energy bill to make some very, very important steps forward. We have done one already, saying we are not going to drill in the Arctic National Wildlife Refuge. We have removed the greatest weight from around the neck of that bill. Now it is time for us to move ahead and move ahead rapidly.

What I would like to do is to include in the RECORD highlights of some of the very progressive items that are in the other 14 titles of the bill. There are some very significant points in that legislation, including provisions on energy conservation that, according to the American Council for an Energy Efficient Economy, would save by the year 2000 some 7.5 quads of energy, an enormous amount of conservation. Under these provisions, we could conserve some 43 quads of energy by the year 2010. That is a very, very significant savings. We can strengthen those provisions of the bill as well. But we do have here a vehicle that has strong elements of conservation in it.

Mr. President, I ask unanimous consent that a listing of highlights of the legislation related to energy conservation be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHLIGHTS OF ENERGY CONSERVATION IN S. 1220

TITLE I

Sec. 1202: Directs DOE to prepare a national least-cost energy plan.

TITLE IV

Sec. 4100: Alternative Fuel Fleets—requires government and private vehicle fleets in all U.S. cities of more than 250,000 people to convert to non-petroleum fuels.

TITLE V

Sec. 5101–5104: Expansion of renewable energy export programs;

Sec. 5201: Expansion of renewable energy joint ventures (amendment to the Fowler bill of 1989)—includes biofuels, geothermal, solar water heating, opportunities to replace diesel fuel oil with photovoltaics, wind, biofuels and fuel cells; includes a program for training lesser developed nations in the operation and maintenance of renewable energy and energy efficiency systems; establishes a program to create utility-scale photovoltaic energy joint-ventures; authorizes an interest rate buy down program for renewable energy acquisitions.

TITLE VI

Sec. 6101: Building Energy Efficiency Codes—establishes a federal energy efficiency standard for buildings, applies to all new homes purchased with federal mortgage assistance, all new federal buildings;

Sec. 6102: Home Energy Rating Systems—establishes a national program to establish uniform guidelines for home energy rating systems;

Sec. 6103: Manufactured Housing Standards—

Sec. 6104: Industrial Energy Efficiency Program—establishes a program to demonstrate new, energy saving processes in the most energy-intensive industries.

Sec. 6105: Report on reducing energy intensity

Sec. 6106: Guidelines for Industrial Audits

Sec. 6107: Energy Efficiency Window Labelling

Sec. 6108: Energy Efficiency Information—directs the Energy Information Administration to develop expanded data on energy efficiency;

Sec. 6109: Energy Efficiency Labelling for Lamps—(amendment in nature of substitute agreed to with industry, will establish specific energy efficiency standards for lamps);

Sec. 6110: Commercial and Industrial Equipment Standards—sets standards for small package air conditioning and heating equipment and utility distribution transformers; establishes a labelling program for commercial office equipment; * an amendment has been agreed to with industry to establish energy efficiency standards for motors and to expand the HVAC standards provision;

Sec. 6111: Energy Efficiency Standards for Showerheads

Sec. 6201-6203: Federal Energy Management—requires all federal agencies to make cost-effective (based on a 10-year payback) energy efficiency improvements; requires DOE to develop a demonstration plan to encourage federal use of newly developed technology; requires DOE to determine the power of the federal government to generate markets for emerging energy efficient technology.

Sec. 6301: Utility Incentives for Energy Efficiency—requires states to consider methods of ensuring that investments in energy efficiency are as profitable as investments in energy supply;

Sec. 6302: Conservation Grants to States—provides incentive funding to States that undertake proceedings to comply with Sec. 6301;

Sec. 6303: Power Marketing Authority Energy Efficiency—requires all power marketing authorities to develop least-cost planning programs;

Sec. 6304: TVA Energy Efficiency—requires least-cost planning procedures by TVA;

Sec. 6501-6507: State, Local and Tribal Energy Assistance—establishes a program to assist state, local and tribal governments in encouraging energy efficiency;

TITLE XVI—STRATEGIC PETROLEUM RESERVE

Directs the President to enlarge the reserve to 1 billion barrels.

ESTIMATED ENERGY SAVINGS OF ENERGY EFFICIENCY PROVISIONS OF S. 1220

Proposal	Savings in 2000 (quads/yr)	Savings in 2010 (quads/yr)	Cumulative Savings—	
			93–2000 (quads)	93–2010 (quads)
CO_2 goals/nat'l least-cost plan	NA	NA	NA	NA
Building codes	0	0.1	0.1	0.1
Home ratings	.2	.6	.9	5.4
Manufactured housing	0	.1	.1	.7
Industrial research centers	....	.1	....	.6
Industrial auditing	0	.1	.2	1.0
Window labelling	.1	.2	.2	1.7
Product standards	>.7	>1.1	>2.8	>12.0
FEMP	0	.1	.1	.4
Regulatory reform	.8	2.3	2.6	16.4
Grants/training	0	.2	.1	1.5
PMA/TVA efficiency	.1	.3	.4	2.6
Total	1.9	5.2	7.5	43.3

Source: Alliance to Save Energy and American Council for an Energy Efficient Economy estimates, April 1991.

Mr. WIRTH. Mr. President, the Clean Air Act Amendments of 1990 was an incredibly complex bill addressing a very important problem in our country—the need to ensure that we have clean and healthy air to breathe.

The bill that was reported out of committee to the Senate floor was very controversial, and there was a broad coalition of Senators who opposed it, for a series of different reasons, and that kept the bill from moving forward.

Yet Senator MITCHELL, the architect of the bill, and Senator BAUCUS, its manager, persevered, and kept at it, and worked with the opponents of the committee bill and worked out an agreement which led to what I think was a significant step forward in environmental protection.

We came to agreement on reducing acid rain emissions by 10 million tons a year, using an innovative, market-driven regulatory system. I am particularly proud of the role I played, working with our late colleague John Heinz, in promoting that tradeable permit system through Project 88, our joint study of ways to harness economic forces to create more cost-effective environmental programs.

The clean air bill also put new emission requirements on automobiles, and set up a program to force the development of even cleaner alternative cars and fuels.

We started our cities planning how to make their growth compatible with a clean environment in the future, and we set new requirements for the control of toxic emissions.

And we did that, Mr. President, with a commitment to act on this issue that we refused to abandon in the face of substantial controversies. Instead, the Environment Committee leaders met with the people who objected to their bill, and worked out an agreement on substance and on procedure that led us to the final bill.

That was not easy, Mr. President. There were strong feelings on both sides. But the Senate kept the overall goal in mind, and worked out an agreement that eventually passed with more than 90 votes.

That bill did not do everything every Member wanted. No bill does. It certainly did not do everything the Environment Committee wanted to do. They agreed to lay some of the items they wanted in that bill aside, and they agreed to defend the bill against amendments to add those items—items they had voted for in committee.

Mr. President, I hope that we can learn from our successes. The Senate recently took up energy legislation, which I and others opposed. The motion to take up that legislation was defeated. There was substantial opposition to that bill—far stronger than the proponents of the bill had believed.

Some Members of this body have said that that was the death of energy legislation—that that vote put it in its coffin.

I hope that's not the case, Mr. President. I hope we persevere on energy legislation, as the Senate did with clean air, and that the Energy Committee's chairman and ranking member work with the majority leader and the minority leader, and take up the challenge of changing that bill so that it, like clean air, is transformed into a bill that can be passed by an overwhelming majority.

Is there a magic formula for doing that? No, I don't think there is. But I do strongly believe that if we set aside the very controversial proposal for drilling the Arctic Wildlife Refuge, we will have removed the greatest weight from proceeding with this bill, and can work through some of the other controversial proposals in the bill either before or during floor action, and end up with a bill that makes significant progress in addressing key energy policy questions facing our country.

The Clean Air Act Amendments of 1990 was a great success, Mr. President. I hope that we can learn from our success there, and that we can duplicate it in the still-pending arena of energy policy.

Mr. President, there is also a very significant substantive relation between the energy bill and the clean air bill. I would argue that the clean air bill was a first step, and the energy bill is a second step toward completing an overall package.

Two other notes, and I will be brief, Mr. President.

The first one is another lesson to be learned from the Clean Air Act. Senator Heinz and I developed Project 88, a study focusing on using how do we harness market forces for the purposes of solving some of our environmental issues.

I think we ought to seriously consider sitting down with the administration as to how this might be done at the Conference in Brazil in the summer of 1992. The UNCED Conference, probably the most important world summit on the environment ever to take place, will happen without, so far, any great deal of enthusiasm from the administration.

We have an obligation to lead around the world. The President has spoken very eloquently about that. I think we now have an opportunity to follow up that eloquence with action.

What might we do? I think we might be able to take the idea of Project 88, the idea of forging and harnessing market forces and carefully see how we might apply those to the Brazil Conference, so that we do not look at the Brazil Conference as a threat to our economic well-being, but rather as a tremendous economic opportunity. The opportunities abound, and let me touch on just a few of those ways in which we in the United States could use the Brazil Conference not only for doing the right thing globally but to do the right thing for our own economy.

For example, why not, working with our pharmaceutical companies, set up a whole program for prospecting in the rain forests? We have prospected in the past for gold, silver, and copper. We ought to be prospecting now in the rain forest for biological compounds. Some 25 to 50 percent of the pharmaceutical industry is already dependent upon compounds found in nature, with most of those coming out of the rain forest. There is a tremendous opportunity for cooperation between our highly successful pharmaceutical industry and those countries in which these remarkable compounds are found. This is a great opportunity for us.

Another great opportunity is there in the area of timber. We in the United States are still operating on something of a colonial mentality, shipping much of our timber overseas where it gets milled and processed and the value gets added and shipped back to the United States. Why not stop doing that, start adding that value in our own country.

A third opportunity is technology transfer. The United States has to be as aggressive as the Japanese on energy efficiency. The Japanese are planning major transfers in technology. If that is going to happen, Mr. President, we should be seeking to use the Brazil Conference to forward our own agenda for the use of our technology by developing nations. The UNCED process can in such simple areas as pharmaceuticals, timber, and technology be a great economic opportunity.

So I would hope, Mr. President, that we would learn from the Clean Air Act, that in the UNCED process there is a significant opportunity as well.

Finally, Mr. President, let me note this week is also the 2-year anniversary of the raid by the Federal Bureau of Investigation on the Department of Energy's Rocky Flats Nuclear Weapons Plant. We have seen tremendous problems in our nuclear weapons complex, identified most starkly by that raid 2 years ago on Rocky Flats. We have now come to understand, Mr. President, that major changes can and should be made in this complex. The armed services authorization bill that will soon come to the floor, the conference report, has major changes in it related to Rocky Flats. I urge my colleagues to support those changes.

I yield the floor. I thank the Chair.

Mr. ADAMS. Mr. President, I ask unanimous consent that we might proceed for 1 additional minute.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

JUSTICE FOR WARDS COVE WORKERS

Mr. ADAMS. Mr. President, last night, I introduced S. 1962 entitled, "The Justice for Wards Cove Workers Act." Original cosponsors of this bill include Senators SIMON, AKAKA, INOUYE, HARKIN, and KENNEDY. The bill is endorsed by a wide range of organizations, including the Leadership Council on Civil Rights, the Japanese-American Citizens League, the National Congress of American Indians, the National Asian Pacific Bar Association, the Philippine Heritage Federation, the Organization of Chinese Americans, and others.

This is companion legislation to H.R. 3748 introduced yesterday in the House of Representatives by Congressman JIM MCDERMOTT and 28 cosponsors. I understand the House Judiciary Subcommittee on Constitutional Rights is marking up H.R. 3748 today.

The purpose of this legislation is simple: To repeal the blatant special interest amendment to the Civil Rights Act of 1991 that would exempt the Wards Cove Packing Co. from coverage under that landmark legislation.

Last week, the interests of all Americans were held hostage to the special interests of one corporate entity.

With this bill, I intend to ask my colleagues to examine the validity of Wards Cove's exemption on its own merits. I am convinced that given that scrutiny, the Wards Cove amendment will fall.

I hope my colleagues will consider the irony of our having passed legislation that makes the Senate itself culpable under the law, while carving out a special exemption for just one company in the Nation from the effects of the Civil Rights Act of 1991.

Over the last 2 years, a great deal of lobbying and persuasion has been offered on behalf of the Wards Cove Packing Co.

Until last week, little or nothing was heard from or on behalf of the other side in that dispute.

Frank Atonio and 2,000 other past and present cannery workers who are the plaintiffs in this case deserve to have this matter settled in our court system, not on the floor of the U.S. Senate in the rush to pass a civil rights bill President Bush is willing to sign.

Mr. President, the great American poet Langston Hughes once asked:

What happens to a dream deferred?
Does it dry up,
Like a raisin in the sun?
Or fester like a sore—
And then run?
Does it stink like rotten meat?
Or crust and sugar over,
Like a syrupy sweet?
Maybe it just sags,
Like a heavy lead.
Or does it explode?

For the cannery workers at the Wards Cove Packing Co., the dream deferred is one of hope for the future in an industry whose employment practices Supreme Court Justice Stevens said, "bear an unsettling resemblance to aspects of a plantation economy."

Our duty is to see that their dream deferred is not crushed under the weight of a special interest amendment that stands as an insult to the very civil rights we sought to restore in the Civil Rights Act of 1991.

SELF-RELIANCE SCHOLARSHIP PROGRAM

Mr. LIEBERMAN. Mr. President, I rise today to speak to my colleagues about the need to enact such an innovative program as soon as we can, so that this and future generations of young people will not be frozen out of their chance to acquire higher education and fulfill their American dreams.

I am a cosponsor of the legislation, which was introduced by my friend and colleague, the Senator from New Jersey, BILL BRADLEY. It it called the Self-Reliance Scholarship Program.

Over the past several months, I have been traveling around Connecticut speaking to my constituents about their very real financial concerns, and what I hear again and again is the fear that they will not be able to afford to send their children to college. In fact, as tuitions continue to rise and student aid becomes increasingly more difficult to get, more and more Americans cannot afford to send their kids to good colleges and universities.

Middle-income families, in particular, find themselves between a rock and a hard place. They make too much money to qualify for most existing grant and loan programs, but, with the average cost of tuition at a private university now over $16,000 a year, they cannot come up with the money for higher education on their own. In 1970, the average family could send a child to college for less than 28 percent of their annual income. Now college costs 38 percent of what they make each year. Add to that the bigger bite of mortgages, car payments, insurance, and utilities, and we can easily see why higher education is fast becoming a luxury that working middle-class families cannot afford.

But college is not a luxury for the American economy. We, as a society, cannot afford to deny so many of our young people a college education. In an increasingly competitive, global economy, America needs more, not fewer, educated workers. We must find ways to provide as many students as possible the opportunity to pursue higher education.

The Self-Reliance Scholarship Program is intended to fill the economic void between what families have, and what college costs. This innovative plan will make more funds available to students for college and graduate school, while making it easier for them to repay their loans after they graduate—and much more difficult for them to default.

Millions of American families—families who are presently cut out of existing student loan programs—will have access to self-reliance scholarships, and they will not have to fill out complicated financial disclosure forms. Everyone attending a college or university will be eligible for up to $10,000 a year. Students can choose to repay the loan over a 10-, 15-, or 25-year period, and they can also choose the level of their repayments, as a percentage of their income ranging from 1 to 5 percent. The amount owed will be automatically collected by the IRS as part of the payroll deduction system. Defaults will be dramatically curtailed because this student loan is not dependent on the graduate writing out a check each month—the money comes out just like income or social security withholding.

Having payments based on a percentage of income also means that a graduate having a tough time finding a job will not be overburdened by student loan payments. And a student who wants to go into teaching will not have to move to Wall Street in order to meet the high monthly amount owed on his or her loan.

The Self-Reliance Scholarship Program will also enable adults with families to return to school to complete their education or upgrade their skills. Right now, it is very difficult for adults to go back to school, because they have to balance the costs of raising a family, owning a home, and meeting all the other financial responsibilities of family life. By providing them with access to funds and a loan repayment system which is tailored to their income level, the Self-Reliance Scholarship Program allows them to return to the classroom and improve their ability to compete in today's job market.

The Self-Reliance Scholarship Program makes sense, because it swings open the doors of colleges and universities across this country to millions of working middle-class families who cannot now afford them, and who are not now eligible for other forms of assistance. It makes sense because it gives students a choice in how to repay their loans. And it makes sense because it will cut down on the default rate, and will become self-supporting.

Millions of Americans want their kids to go to college, but they are afraid it will not happen, because of the cost. The Self-Reliance Scholarship Program is the answer to their fears. America needs this program for its children, and for its future.

SAVE OUR FARMERS

Mr. DIXON. Mr. President, these are tough times for American agriculture. Throughout most of the eighties and now into the nineties, farmers have been fighting the onslaught of financial ruin.

Farmers in my State of Illinois and across the Nation have suffered enormous losses in 1990 and 1991. Once again, the effects of flooding, freezes, and drought have left crops and livestock throughout the country in a devastated condition.

We are all familiar with the early and mideighties—marked by economic downturn and a crisis in agricultural credit. This was followed almost immediately, in 1988, by the most severe drought this Nation had witnessed in over 50 years. With back-to-back natural disasters occurring almost every year since, producers, agri-businesses, and rural communities are struggling to survive—finding themselves almost at the brink of financial collapse.

In my State of Illinois, drought has resulted in serious damage to our corn, soybean, and wheat crops. Out of 102 counties, Mr. President, 89 have been declared a disaster for our winter wheat crop; 86 have been declared a disaster for our corn and bean crops. Counties normally yielding 175 bushels of corn per acre are currently harvesting as low as 20 bushels per acre. Counties accustomed to a yield of 50 bushels of soybeans per acre are now reaping yields as low as 20 bushels per acre.

Mr. President, we have reached the critical juncture. Farmers throughout our country desperately need disaster assistance—and they desperately need it now. Every day that action is delayed jeopardizes the livelihoods of thousands of our Nation's farmers.

It is this Senator's belief that Congress missed a golden opportunity to provide our producers with adequate and timely relief at the end of the last fiscal year in September. We failed to provide our farmers with targeted assistance to make it through another year marked by devastating conditions far beyond their control.

While I understand the desire to craft an all encompassing bill—and I would welcome greater levels of relief—we must face and operate within our budgetary restraints. Adequate assistance, provided when vitally needed, Mr. President, is much more important than generous assistance offered when producers have gone bust.

We must not delay any longer—we must proceed in a quick and timely fashion. Producers must be given the assurance that although their crops may fail, we will not allow the American farmer to fail.

Mr. President, for farmers who were just beginning to recover financially, this drought could force them back to the serious situation from which they just escaped. Those farmers who are still in trouble could very well lose everything. We cannot allow this to happen.

I urge my colleagues to bring this vital disaster relief package to the Senate floor, pass it immediately, and send it on to the President to sign into law. Now is the time for Congress to act—now is the time to help those farmers who are in truly desperate need.

TRIBUTE TO AMBASSADOR THOMAS PICKERING

Mr. COHEN. Mr. President, we are experiencing today what Alvin Toffler described as the age of future shock—where time is accelerated by events. If we spend just a few hours away from our news sources, we may miss the latest coup or the signing of the latest accord. Like first-time parents, we look to the birth of the post-cold-war world with a mix of excitement and anxiety. Once labor has begun, we know there is no turning back; we know that the future is ours to bear, but also ours to enjoy.

In this great era of challenge and change, the United States is fortunate to have a man the caliber of Thomas Pickering serving as our Ambassador to the United Nations. As described in a recent article in the Washington Post, Ambassador Pickering is viewed by many as the most successful of any U.S. representative to the United Nations in that organization's 45-year history. He played a pivotal role during the crisis in the Persian Gulf. He has worked earnestly to enhance the United Nation's role as a broker of peace in those regions of the world plagued by ethnic and political violence. He has enhanced significantly cooperation among members of the Security Council. Indeed, the future of the post-cold-war world is bright when placed in the hands of individuals like Thomas Pickering.

On a personal note, I would point out that both the Ambassador and I are graduates of Bowdoin College in Brunswick, ME, which helps explain his long record of success. I am sure the distinguished majority leader, another Bowdoin alumnus, would agree.

Mr. President, I ask unanimous consent that the recent article from the Washington Post on Ambassador Pickering be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 12, 1991]

A WORLD OF DIFFERENCE AT THE UNITED NATIONS

(By John M. Goshko)

UNITED NATIONS.—The name, Thomas Reeves Pickering, doesn't spark the instant recognition that those of his superstar predecessors did, names like Adlai E. Stevenson and Henry Cabot Lodge.

Nor does he hold the Cabinet rank accorded almost all of Washington's United Nations ambassadors over the past 40 years. That has meant having no long black limousine at his beck and call and no imposing suite of State Department offices for use on visits to Washington.

He also has had to do without direct access to the president and Secretary of State James A. Baker III, reporting instead to an assistant secretary of state. In fact, it is no secret in diplomatic circles that Baker and Pickering are not each other's favorite people and that Baker has lobbied, apparently successfully, for President Bush to ease Pickering out of the U.N. post next year by offering him a prestigious ambassadorship elsewhere.

At the United Nations, Pickering is viewed by many diplomats and international civil servants as probably the most successful of the 19 people who have represented the United States at the United Nations since 1946.

He might not make the policies pursued by the United States in the world body. But as the agent and advocate for the world's only remaining superpower, he is viewed by many at the United Nations as crucial to U.N. efforts to play a more meaningful role in international affairs.

Such efforts include, for starters, the biggest peace-keeping operation in U.N. history to help end Cambodia's bloody civil war. The United Nations has also just mediated an agreement for ending another protracted civil war, in El Salvador. It is looking for ways to resolve the Greek-Turkish dispute over Cyprus and, more generally, to control the kind of ethnic strife that threatens to tear apart countries like Yugoslavia.

According to many here, Pickering has played a big part in getting each of these initiatives off the ground, establishing a pattern for future U.S. ambassadors to keep breathing new life into an organization that much of the world stopped regarding seriously years ago.

Pickering's chance to show what the United Nations can do began on Aug. 2, 1990, when Iraq invaded Kuwait. That put the focus of world attention on the Security Council, where the United States is one of five permanent members along with the Soviet Union, Britain, France and China. Prodded and cajoled by Pickering, the council became the springboard of the international campaign to force Iraq out of Kuwait.

As Pickering is quick to point out, he was far from alone in his efforts. Bush was on the phone constantly to other world leaders during the Persian Gulf crisis to elicit their support, and Baker made several trips abroad to shore up the backing of other council members.

PERSIAN GULF RESOLUTIONS

But, U.S. officials note, Pickering advised the administration from the outset that it should seek a U.N. mandate for all its actions, and he worked with the ambassadors of the four other permanent members to oversee the laborious, word-by-word drafting of the resolutions that would provide the basis for U.S. policy. He then negotiated with the representatives of the council's other members to ensure they would be approved by top-heavy margins.

It was a task that consumed most of Pickering's efforts right up to the early hours of Feb. 28, when Iraq, reeling from a devastating U.S.-led ground offensive, notified the United Nations that it was ready to accept unconditionally all the resolutions in exchange for Bush's promise of a cease-fire. In the months since, Pickering has managed the successful U.S. campaign to preserve the council's unity to keep pressure on Iraq to dismantle the formidable military machine it has been building secretly.

Physically, it is hard not to notice Pickering, a tall, earnest man of 60 with a cordless telephone pressed constantly to his ear as he lopes along the U.N. corridors or dodges through traffic on Manhattan's East End Avenue, which separates the U.S. mission from the United Nations. Still, he has seemed almost invisible by comparison to most of his predecessors.

He lacks the oratorical brilliance of a Stevenson and has carefully avoided the kind of headline-grabbing pronouncements that embroiled such previous U.S. ambassadors as Andrew Young and Jeane J. Kirkpatrick. Instead, Pickering is regarded by his colleagues here as a man who believes that diplomacy is best practiced in private.

Some close to Baker, however, see Pickering as a self-promoter and not a team player, although he rarely gives interviews to the news media and says little of substance when he does.

Some State Department officials minimize reports of a Baker-Pickering conflict, saying that the proposal to replace Pickering next year is simply part of an effort to make the U.N. post similar to other ambassadorships by rotating it at three-year intervals. Nevertheless, many familiar with the inner workings of Bush's foreign policy apparatus feel Baker wants someone else in the U.N. post.

As a professional diplomat, Pickering has served many presidents and secretaries in his 33-year career. That has included back-to-back stints in two of the most difficult ambassadorial assignments of the 1980s: El Salvador and Israel. He came out of them as one of only three Foreign Service officers with the rank of career ambassador, the diplomatic equivalent of a five-star general.

Former defense secretary Harold Brown, for whom Pickering worked early in his career, called him "just about the brightest young fellow I've ever seen." To King Hussein of Jordan, another country where Pickering served as U.S. envoy, he was "the best American ambassador I've ever dealt with."

It was to Pickering that then-Secretary of State George P. Shultz turned in 1983 when President Ronald Reagan, pursuing his goal of combating leftist guerrillas in El Salvador, was on the verge of replacing the U.S. ambassador there with an obscure, retired Air Force officer favored by rightist ideologues. Shultz, aware the move would have a devastating effect on Foreign Service morale, persuaded Reagan that he should send instead "the cream of America's career diplomats."

Over the next two years, Pickering vigorously promoted Reagan's hawkish, anti-communist policy. But he also pushed so vigorously to convince the Salvadoran government and military to curb killings by rightwing "death squads" that Reagan had to send a special envoy to deter rightist Salvadoran politicians from a plot to assassinate Pickering.

When Bush, the only president to have served as a U.N. ambassador (1971-73), decided in late 1988 to send Pickering to the United Nations, he confessed that his experience did not lead him to expect much from the world body. In his 1987 campaign autobiography, "Looking Forward", Bush wrote: "Like most Americans who had idealistic hopes for the United Nations when it was created in 1945, I'd undergone a sea change in attitude by the early 1970s. As 'the last best hope for peace,' the U.N. was another light that failed."

The Security Council, originally intended as the center of U.N. power, had bogged down in U.S.-Soviet rivalries that paralyzed it for four decades. Gradually, the United Nations, its membership swelled by Third World countries, became a forum for strident rhetorical attacks on the United States.

However, at the time Bush became president, the first stirrings of Cold War thaw had opened the way for the United Nations to take a leading role in efforts to resolve such disputes as those in Afghanistan, Namibia, Central America, the Western Sahara and Cambodia.

Still, no one dreamed that 1½ years later, the gulf crisis would rekindle hopes that the world body finally might be ready to become, as Bush and Soviet President Mikhail Gorbachev have suggested, the basis for a "new world order" that relies on the United Nations for collective security and settlement of regional disputes.

"It wasn't that way when I first got here." Pickering recalled in an interview. "The Soviets were only just beginning to emerge from their confrontational, Cold War stance, and our goal was to convince them that we could reach a new era where the pressure is on everyone to find negotiated solutions."

He did that by slowly welding the "perm five" ambassadors into what is perhaps the most exclusive club in the diplomatic world. From what had been a group that met only periodically, the permanent five members of the Security Council became what a longtime senior member of the U.N. secretariat calls "the equivalent of an inner cabinet" within the 15-nation council.

WOOING THE SOVIETS

In addition to strengthening ties with his British and French colleagues, Pickering set out to woo the Soviets. They proved responsive, partly because economic necessity was forcing Moscow to reconsider its foreign policy priorities and partly because a strong positive chemistry developed between Pickering and Yuli Vorontsov, the Soviet U.N. ambassador. The Chinese, who traditionally tend to be loners at the United Nations, also were drawn along by that momentum.

The permanent five's resulting ability to hammer out agreements and then sell them to the larger Security Council membership became most evident during the gulf crisis. Of the 12 council resolutions that provided the basis for U.S.-led military action, all but one originated among the five senior council members.

Pickering also has had considerable success in reconciling U.S. policy goals with Security Council actions involving Israel's tough line toward occupied territories and growing demands by Arab governments and their allies that the U.N. intervene on behalf of the Palestinian inhabitants of the territories.

"The problem is how to get resolutions that are in line with U.S. policy aims, including criticizing Israel where we think it necessary, but that are not so one-sided as to require a U.S. veto," Pickering said.

"Our approach has been to ask the others. 'Do you want to make a futile gesture, or do you want to look for a compromise that will avoid a veto?'" he said. "Invariably we've been able to persuade the others to work out a resolution we can live with. We haven't had to veto a resolution dealing with the occupied territories since May 1990."

The resolutions that have emerged frequently have provoked anger in Israel. But as Pickering noted, they have been in line with the Bush administration's positions, which have been critical of Israel's building of Jewish settlements in the territories and its frequent resort to force to quell Palestinian unrest. And they have succeeded in sidelining efforts to interject the United Nations into the conflict in ways that could have derailed Baker's initiative that recently brought about the historic Middle East peace conference in Madrid.

The Security Council's reassertion of power has diminished the influence of other U.N. organs, including the General Assembly, which long has been the chief forum of Third World members. Pickering, aware of their frustration, has sought to convince them there is a role for countries of every size in the evolving United Nations.

"They should not see the General Assembly as a debating society that no one listens to," he said. "There should be a division of labor where the General Assembly sets the U.N.'s policy agenda for the future, while the Security Council deals with threats to international peace and security."

THOMAS REEVES PICKERING

Born: Nov. 5, 1931, in Orange, N.J.

Education: A.B., Bowdoin College, 1953; M.A., Fletcher School of Law and Diplomacy, Tufts University, 1954; M.A., University of Melbourne, 1956; Foreign Service Institute, 1964–65.

Career Highlights: Political officer, U.S. Arms Control and Disarmament Agency, 1961–64; Deputy chief of mission in Dar es Salaam, Tanzania, 1967–69; Deputy Director, Bureau of Politico-Military Affairs, Dept. of State, 1969–1973; Executive secretary and special asst. to the Secretary of State, 1973–74; Ambassador to Jordan, 1974–78; Ambassador to Nigeria, 1981–83; Ambassador to El Salvador, 1983–85; Ambassador to Israel, 1985–88; Ambassador to the United Nations, Dec. 1988–Present.

THE VISIT OF PRESIDENT MENEM

Mr. HELMS. Mr. President, today President Carlos Menem of Argentina has come to address a joint session of Congress. His visit represents a highly significant turnaround in the fortunes of his country. Argentina has long been blessed with abundant natural resources, a talented and educated population, and a brilliant history—marred only by its inability to pursue workable and useful economic policies and a stable political system.

President Menem's presence here today marks his country's emergence from the archaic socialist and statist ideas that have so greatly harmed its people. No one suggests that all of Argentina's problems have been solved, but President Menem has shown the leadership that gives not only Argentina, but all friends of Argentina, hope for the future.

President Menem of Argentina has implemented what is, in effect, a dramatic revolutionary program in his country. He has addressed the structural problems inherent in the Argentine Government and economy, and departed from the traditional statist solutions which have characterized past Argentine practice. At the same time, he has recognized the changing nature of the international arena, and has moved to reposition Argentina diplomatically within the developing world order.

Mr. President, partly because of its geopolitical position in this hemisphere, partly because of its economic potential, the developments in Argentina should be watched closely by the United States, and should spur our own thinking about developing regional policies to cope with the evolving international arena.

In order to understand how dramatic and remarkable President Menem's leadership is in effecting these changes, it is important to understand Argentine history and to understand the historic position of President Menem's Justicialist Party within Argentina.

The Justicialist Party forms part of the Peronist movement, the largest political organization in the country. It was founded by Gen. Juan Domingo Peron as a vehicle for his ideas of social justice and exaggerated nationalism. Moreover, it has always supported an activist agenda by the state and antibusiness labor policies. Indeed, it has been an active player in the conspiracy to drive Argentina back into the middling ranks of the Third World both economically and politically.

Mr. President, Argentina's continuing crisis symbolizes many of the problems which face Latin America as a whole. The country has a very fragile democratic tradition, and at the same time a finely balanced civilian-military relationship. In many ways, it has been hamstrung by the very powerful nationalist, statist tradition as crippling of private enterprise and national competitiveness as the Marxist-Leninist states. The response in the past has been to implement wage and price controls without attempting to get at the structural problems involved because of the political costs of such action.

Mr. President, the fact that President Menem has emerged from this political milieu shows the strength of the free market, anti statist ideas which have swept the globe. What is of even greater interest is that his Government demonstrates that viable economic and governmental reform can develop within a democratic context in Latin America.

President Menem has shown that structural changes can be made, and that the Argentine voters are politically mature in knowing that quick fixes are not sufficient in dealing with the problems of the country.

During President Menem's short tenure he has brought inflation down to manageable levels with his convertibility program, undertaken a genuine and systematic effort to reform the Government through his so-called state rationalization agenda. Most importantly, as of October 31 of this year, by Presidential decree, he has reversed a half century of Argentine economic policy and deregulated the economy. He lifted restrictions on the supply of goods and services, on the labor market, on the capital markets, on foreign trade, and on professional fees, among other signal reforms.

President Menem's foreign policy has also changed in a dramatic, pro-U.S. fashion. Under his direction, Argentina contributed constructively to the developing international order. Argentina has decided to leave the Non-Aligned Movement, and has brought its foreign policy into closer agreement with the United States.

Argentina was the only country in Latin America to help the United States in the Persian Gulf war. She contributed two warships to the naval blockade of Iraq, joined with the United States in condemning Cuba's human rights violations, and has proceeded in a reasonable and accommodating manner in resolving its dispute with Great Britain over the Malvinas Islands.

Given this combination of economic reform and diplomatic renewal, Argentina presents the United States with the opportunity to make an historic response in the redefinition of its foreign policy objectives, not merely with regard to Argentina, but to the entire Western Hemisphere. This is leading toward a positive reinterpretation of the Monroe Doctrine, taking into account the changing circumstances of the late 20th century.

Traditionally, the Monroe Doctrine has been a defensive doctrine, designed to protect the hemisphere from aggressive extra-hemispheric powers. One of the policy assumptions was that the nations of this hemisphere were in a position of weakness, and that weakness could be exploited to the detriment of those nations and to the jeopardy of U.S. security interests.

The United States declared that it could unilaterally invoke the Monroe Doctrine at any time to counter foreign aggression, and this policy has been one of the fundamental tenets of the U.S. historic geopolitical security strategy.

At the same time, it was not a true alliance strategy, and did not formulate a concrete attitude toward politics within the hemisphere, yet other U.S. hemispheric policies did not fill this vacuum either. The Good Neighbor Policy and Alliance for Progress initiatives could still be better characterized as AID programs, without any real quid pro quo attached to them.

Mr. President, the United States has sometimes had difficulty perceiving the potential of Latin America, and the result has been that there have been missed opportunities in improving relations. While Latin America has never been in a position to harm U.S. interests materially, neither has the U.S. relationship with Latin America been as beneficial as it could have been.

What the Menem initiatives show is that Latin American countries can emerge from their structural weakness and reconfigure their geopolitical position. But what it also shows is that the United States has much more to gain by developing a viable alliance strategy with the Latin Americans, in which, instead of relations being characterized by a protective patronizing relationship, they develop into a secure alliance system in which the United States can facilitate modernization such as has taken place in Argentina.

This alliance would be based on a shared fight against statism, the development of strong democratic institutions, and significant, structural market reform.

Mr. President, the United States could capitalize on the developing relations with Argentina to augment its security and the security of the Americas and develop this security posture into a true alliance strategy. Such an alliance strategy would work not just to keep extra-hemispheric powers from exploiting weak democracies and Communists regimes such as Cuba, but promote the internal political, economic, and cultural development of the hemisphere, turning it into an entity which projects democratic and capitalist strength.

Mr. President, the visit of President Menem underlines these opportunities, and points the way to a stronger relationship between our two countries.

TRIBUTE TO LUIS A. FERRE, RECIPIENT OF THE MEDAL OF FREEDOM

Mr. THURMOND. Mr. President, I rise today to pay a tribute to a great American, former Governor of Puerto Rico Luis A. Ferre. On November 18, President Bush will honor Governor Ferre with our Nation's highest civilian citation, the Medal of Freedom.

It is certainly appropriate for Governor Ferre to receive this prestigious award. His life is a testimony to the highest ideals—dedication to public service, unswerving support for higher education and the advancement of science, a strong commitment to the arts and humanities, and an abiding love for his fellow man.

Mr. President, Luis Ferre is the quintessential self-made man. In his lifetime he has been an extraordinary success as a businessman, an elected official and a patron of the arts. He is literally revered in Puerto Rico by people of every generation, all of whom know him as an individual of the highest character and capacity.

In a variety of ways, Luis Ferre's life has been dedicated to enriching the lives of others. After earning a master's degree from the Massachusetts Institute of Technology [MIT], Ferre achieved great success as the vice chairman of the Puerto Rican Cement Co., a post he rose to after serving first as a junior engineer. The student center at MIT bears his name today, an enduring symbol of his leadership in the field of engineering and his support for his alma mater.

An accomplished musician and lover of the arts, Governor Ferre is also an alumnus of the prestigious New England Conservatory of Music in Boston, from which he received a doctor of music degree in 1975. Governor Ferre also holds doctor of laws degrees from Harvard University and Amherst College, both in Massachusetts.

Governor Ferre's love and art and music—and his generous sponsorship in the field of education—are recognized internationally. The museum of art which he founded in his hometown of Ponce, PR, is renowned worldwide for its fine collections of Spanish, Puerto Rican, and European art. In addition, he is a skilled concert pianist, who has performed with some of classical music's greatest contemporary composers and artists.

His support of the arts, through the Luis A. Ferre Foundation, is well-known, as is his lifelong commitment to education and literacy. His contributions have been recognized by several Presidents, who have appointed him to special advisory committees on the arts and humanities. Most recently, Governor Ferre was named as a member of the Presidential task force on private sector initiatives.

In addition to his other endeavors, Governor Ferre has distinguished himself in public service. In 1968, he was elected President of Puerto Rico's new Progressive Party, an organization he helped establish. He served as Governor of Puetro Rico from 1969 to 1972, and as president of the Puerto Rican Senate from 1977 to 1980. In addition, he has served with distinction as a member in both the Puerto Rican House of Representatives and the Puerto Rican Senate, and he is a well-known advocate of statehood for Puerto Rico.

Mr. President, the list of Luis Ferre's accomplishments goes on and on. He is a widely published author, member of a variety of prestigious boards of directors, and the founder of libraries and hospitals. He currently serves as chairman of the Republican Party of Puerto Rico, and is a longtime personal friend of President and Mrs. Bush.

Luis Ferre is an individual of great accomplishment and dedication, and I would like to take this opportunity to congratulate him on being honored with the Medal of Freedom.

HOTELS IN CHINA EQUIPPED BY SLAVE LABOR

Mr. HELMS. Mr. President, the Far East Law Library of the Library of Congress has brought to my attention a Communist Chinese news article which reveals that slave laborers produced some of the equipment supplied to both Secretary Baker's guest house in Beijing and one of the leading hotels in Beijing where the press will be staying as they cover the Secretary's visit with Communist Chinese leaders.

I ask unanimous consent that the summary translation prepared by the Far East Law Library be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[Translation by the Far East Law Library, the Library of Congress, Nov. 14, 1991]

According to the "Legal Daily News" (Fanzhi Ribao, the most important legal newspaper in China), published in Beijing, of October 31, 1990, the prison of Jinzhou in Liaoning Province furnished the electric equipment, including the complete high-voltage switchgear, to the Diaoyutai State Guest House (in Beijing) and the Great Wall Hotel, a United States-China joint venture.

The same sort of electrical equipment was also installed in the Great Hall of the People, the Mao Zedong Memorial, the Beijing International Airport, and the Zhongnanhai, the walled compound containing the residences and offices of China's highest leaders.

The prison also is known as the New Life Switch Factory, and is a principal enterprise of the National Ministry of Machine Building and Electronics Industries.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,434th day that Terry Anderson has been held captive in Lebanon.

TRIBUTE TO STELLA ABERNATHY PIERCE

Mr. HEFLIN. Mr. President, Stella Abernathy Pierce, known affectionately as Miss Stella by those who have known and worked with her over the years, retired from her position as circuit clerk of Chambers County, AL, on September 1 of this year. She was appointed to that position in 1964 and served there with distinction for the next 27 years.

I had the pleasure of working with Stella Pierce during my tenure as chief justice of the Alabama Supreme Court, when she proved to be an outstanding clerk and a consummate professional.

She served with me during the period of the State court modernization effort, to which her many contributions proved invaluable.

Stella Abernathy began her career with the Farm Security Administration's Dadeville, AL, office during the early 1940's. In 1942, she married Martin L. Pierce, and together they became proud parents of three children. In February 1964, she was appointed circuit clerk of Chambers County, after working with that office for 11 years. She ran for election to the office later that year, and won over three male opponents in the primary. She ran unopposed in subsequent elections until 1988, when she was reelected by a substantial margin.

During her years as circuit clerk, Stella Pierce sat on numerous statewide committees and participated in many organizational activities, including Pilot International and the Prison Task Force, where she served with Chief Justice Torbert. She was always available with advice and assistance for new clerks all over the State, and in 1973 and 1974, she was president of the Alabama Circuit Clerks and Registers Association. She was instrumental in keeping all community clubs in her area informed on county and State judicial matters.

Mr. President, Miss Stella Pierce is one of those dedicated, tireless, and energetic professionals who always got the job done, and in so doing, inspired those around her to do their very best. She never sought recognition or praise for her accomplishments; she simply derived satisfaction from serving others and from always giving 100 percent to any task or project she took on. I congratulate and commend Stella Pierce on many jobs well done, and wish her all the best for a happy and fulfilling retirement. I ask unanimous consent that a poem written in her honor by her sister, Sara A. Yancey, as well as a resolution passed by the Chambers County Commission, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAFAYETTE, AL, *August 25, 1991.*

[Tribute to my sister, Stella A. Pierce, on her retirement as clerk and register of the Circuit Court of Chambers County, AL]

MISS STELLA

The circuit clerk says she must leave,
The time has come to go,
We'll miss her help—her pleasant voice,
The lady we all know
As "Miss Stella."

She came to work in 1953,
Her children were all small,
John Williams filled the seat as clerk,
And you could hear him call
"Miss Stella."

Then in January 1964,
John Williams was laid to rest,
Judge Hooton didn't hesitate,
To appoint the very best—
"Miss Stella."

Her job she did efficiently,
She ran the office well,
When you needed something done,
You only had to tell
"Miss Stella."

The country and State will miss her,
The courthouse won't be the same,
But the rotunda and the marble halls
Will forever echo the name—
"Miss Stella."

SAKIE
(Sara A. Yancey).

A RESOLUTION HONORING STELLA A. PIERCE

Whereas, Stella A. Pierce has served the people of Chambers County as Deputy Circuit Clerk from February to August of 1951, when she moved with her beloved Luther to Greenville, Alabama and thereafter, upon her return, from July of 1953 to February 1, 1964, and

Whereas, she was appointed Circuit Clerk on February 1, 1964, and has served continuously as Circuit Clerk and

Whereas, Miss Stella will begin her well deserved retirement on September 1, 1991, and

Whereas, Miss Stella has served in various capacities in the Alabama Circuit Clerks Association including president, and

Whereas, Miss Stella has also served the State of Alabama by her active participation on numerous committees and commissions concerned with the State's judicial system, and

Whereas, Miss Stella is the senior elected public official in Chambers County, and

Whereas, Miss Stella's advice and counsel have been sought and respected by Circuit Clerks from all over the State of Alabama, and

Whereas, Miss Stella has always represented Chambers County with intelligence and quiet dignity: Now, therefore, be it

Resolved, That the Chambers County Commission recognizes and honors Stella A. Pierce for her many years of service to the citizens of Chambers County and for her example of what a public official should be; and be it further

Resolved, That this Resolution be spread upon the minutes of the Chambers County Commission and that a copy be given to Stella A. Pierce.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF ARGENTINA

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate will now recess subject to the call of the Chair and proceed to the House Chamber for a joint meeting.

Thereupon, the Senate, at 11:16 a.m., recessed subject to the call of the Chair, and the Senate, preceded by the Assistant Secretary of the Senate, Jeri Thomson; the Executive Assistant to the Sergeant at Arms, Patty McNally; and the President pro tempore, ROBERT C. BYRD, proceeded to the Hall of the House of Representatives to hear the address by the President of Argentina.

(The address delivered by the President of Argentina to the joint meeting of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

At 12:43 p.m., the Senate, having returned to its Chamber, reassembled and was called to order by the Presiding Officer [Mr. SHELBY].

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

A bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions.

Mr. RIEGLE. Mr. President, we are resuming consideration now of the banking reform bill, and we will be going late into the evening tonight, as was announced yesterday.

Mr. President, as we take up, again, consideration of the bill, I want to take a moment to explain how I intend to proceed today. As I mentioned yesterday, discussions have been taking place between myself, Senator GARN, other Senators, and the administration, regarding the three issues that I believe to be the most difficult in this bill; namely, potential securities activities by banks; the same with respect to insurance activities by banks; and interstate banking and branching.

I know that various Senators feel strongly about those issues. We are also keenly aware of the majority leader's intention to adjourn before Thanksgiving and of the time that is necessary between now and then to pass this bill in the Senate, take it to conference with the House, and bring it back here to the Senate.

So, in order to ensure that we pass this urgent legislation before the end of the session, those of us responsible for managing this have sought to resolve these difficult issues through negotiation and compromise to the maximum extent possible. I again thank my colleague from Utah, Senator GARN, for his great help in that respect.

I can now report that agreements have been reached with the administration to remove the Glass-Steagall provisions of the bill, and on how also to resolve the insurance issues. We are continuing to have discussions on the interstate banking provisions.

So, first, today Senator GARN and I will jointly introduce an amendment to remove the securities activities provision from the bill. While I believe the provisions of that area of the bill are sound, balanced, and would strengthen safety and soundness by establishing a statutory framework of bank securities activities, I, at the same time, recognize that a number of Senators have strongly held differing views on this subject. The fact that the administration does not want to pursue that issue further at this time makes further effort in this area inappropriate, as things stand. So we will deal with that item first.

Next, we will then turn to the insurance area where, once again, the administration, Senator GARN, and I, in conjunction with other Senators, have reached agreement on an amendment. I know that Senator ROTH has outstanding issues and concerns in that area and, I am sure, will want to be recognized later.

After that, we will move to consideration of interstate banking. Following that, I hope that we can then move consideration of the consumer provisions and, having completed that sequence, go to the various amendments that Senators indicated yesterday they may offer. Senator DOMENCI, particularly, indicated late in the day yesterday that he had some amendments to offer. When we move through the sequence just described, whether he first or someone else depends on who is on the floor at that time.

I want to remind Senators that if they intend to offer amendments, it would be very helpful and would expedite the process if they could indicate that to us, so we could make every effort to try to be accommodating in the time schedules.

AMENDMENT NO. 1340

(Purpose: To strike certain portions of title VII of the bill, and for other purposes)

Mr. RIEGLE. Now, as I have indicated, I will offer an amendment jointly with Senator GARN, the ranking member, to remove the provisions of the bill regarding securities activities of banks and bank affiliates.

I send that to the desk at this time.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. GARN, proposes an amendment numbered 1340.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 409, line 11, strike all through page 415, line 25.

On page 495, before line 1, insert the following:

"(2) SINGLE BORROWER LENDING LIMIT.—A State branch or State agency shall be subject to the same limitations with respect to loans made to a single borrower as are applicable to a Federal branch or Federal agency under section 4(b).".

On page 495, line 1, strike "(2)" and insert "(3)".

Beginning with page 532, line 14, strike all through page 537, line 13, and insert the following:

Subtitle B—Regulation of Foreign Banks and Subsidiaries

SEC. 621. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) SECTION 5.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(d) STATE NOT REQUIRED TO LICENSE BRANCHES AND AGENCIES OF FOREIGN BANKS.—Nothing in this Act shall be construed to require a State to maintain laws or procedures for the establishment or operation of a State branch or a State agency by a foreign bank.".

(b) SECTION 8.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by adding at the end the following new subsection:

"(f) EQUIVALENT CAPITAL AND OTHER FINANCIAL REQUIREMENTS.—

"(1) DETERMINATION REQUIRED.—In reviewing any notice under section 4 of the Bank Holding Company Act of 1956 by any foreign bank or company controlling a foreign bank to which this section applies, the Board shall disapprove the notice unless it determines that the financial resources of such bank or company, including the capital level, are equivalent to those of a domestic bank holding company that would be permitted to engage in such activities, after consultation with the Secretary of the Treasury regarding capital equivalency.

"(2) CRITERIA FOR DETERMINATION.—In making the determination in paragraph (1), the Board shall—

"(A) take into account differences in domestic and foreign accounting standards; and

"(B) assure that competitive equivalence between domestic and foreign banks is maintained.

(c) SECTION 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(e) GUIDELINES ON EQUIVALENCE OF FOREIGN BANK CAPITAL.—Not later than 180 days after enactment of this subsection, the Board and the Secretary of the Treasury shall jointly publish in the Federal Register and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report—

"(1) analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Basle Committee on Banking Supervision, foreign regulatory capital standards that apply to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks; and

"(2) establishing guidelines for the adjustments to be used by the Board in converting data on the capital of such foreign banks to the equivalent risk-based capital and leverage requirements for United States banks for purposes of determining whether a foreign bank's capital level is equivalent to that imposed on United States banks for purposes of determinations under sections 5(a), 8(f) and subsection (c) of this section.

An update shall be prepared annually explaining any changes in the analysis under paragraph (1) and resulting changes in the guidelines pursuant to paragraph (2).".

On page 568, lines 13 and 14, strike "AND AFFILIATIONS".

Beginning with page 568, line 15, strike all through page 606, line 3 and insert the following:

SEC. 1138. RESTATEMENT AND REORGANIZATION ON SECTION 5136 OF THE REVISED STATUTES.

Beginning with page 626, line 18, strike all through page 628, line 10.

On page 628, line 11, strike "(c)" and insert "(b)".

Beginning with page 629, line 1, strike all through page 662, line 11.

Relocate section 716, as amended and redesignated as section 1138 above, to page 796, immediately after line 17.

On page 662, line 12, strike "Subtitle D" and insert "Subtitle A" and redesignate sections 761 through 763 of the bill as sections 711 through 713, respectively.

On page 669, line 16, strike "Subtitle E" and insert "Subtitle B" and redesignate sections 771 through 774 of the bill as sections 721 through 724, respectively.

Mr. RIEGLE. Mr. President, for several decades now the Glass-Steagall Act separated banking activities and investment banking or securities activities. In recent years, however, I think the effectiveness of the law has been significantly eroded. Loopholes in Glass-Steagall now allow bank affiliates to engage in securities activities. In fact, bank affiliates are already underwriting corporate debt and equity. To date, the Federal Reserve has allowed 37 bank holding companies to engage in securities activities. While these activities have occurred through case-by-case decisions by regulators, that has been done without any general guidelines or restrictions having been set forth by the Congress. I think, as this pattern continues, we have an obligation to act in this area, and we attempted to do so in the bill that we brought to the floor.

So, in my view, the best policy would be to enact a statutory framework that would allow these activities to take place with proper safeguards that could protect insured deposits. The bill, as brought to the floor, was designed to carry out this policy.

I must recognize, as I say, Mr. President, that other Senators have concerns about the securities provisions in the bill, particularly the firewalls area. As I mentioned yesterday, an amendment was offered during the committee's markup of the bill that would have removed some of the limited exceptions to the firewall provisions actually contained in the bill reported by the committee. That amendment was defeated in the committee very narrowly, by just one vote, 11 to 10. A number of the Senators who voted for that amendment, which, of course, failed in the committee, ended up voting against reporting the bill at all, citing that provision. So some Members had strongly held feelings in that area.

In light of the tight time constraints under which we are operating, and the extensive debate also that would likely occur on this issue, and in view of the administration's belief that this section should be deleted, Senator GARN and I are now jointly offering the amendment to remove the securities activities provisions from the bill.

I yield to my colleague.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I never would have believed that I would be joining the chairman or anyone else in removing the changes in Glass-Steagall, that I would voluntarily give up—because I have spent my entire career in the Senate, almost 17 years, all of those years on the Banking Committee—attempting to reform the banking system of this country.

What is not mentioned when we talk a great deal about the S&L crisis and the current banking crisis and the need for taxpayers dollars to bail out the S&L's and to ask for increased premiums from the bankers for the bank insurance fund, what never really is talked about—we talk about various reasons that it happened, real estate prices, fraud, abuse, all sorts of different reasons—but what really is never addressed is that we have a system that is outmoded and old fashioned and is primarily operating under laws that were passed in the 1930's and were certainly valid at that time.

But when I look at just how technology has changed over those years—and I am a depression baby, born about the time Glass-Steagall was passed—we can walk downstairs to the subway and I can draw money out of my bank account in my bank in Salt Lake City just by pushing a few buttons. We have computer technology that is absolutely amazing. When Glass-Steagall was passed we did not even have jet airplanes. If anybody would tell me when I was in college I would have an opportunity to be an astronaut and fly in space I would not believe it. I still have a difficult time believing that I had an opportunity to orbit the Earth 109 times.

So I only illustrate just a few things to let people know how we live and how dramatically different this economy is. And yet when we wonder why we are no longer competitive internationally and why just a few years ago 7 out of the 10 largest banks in the world were United States banks, and now 10 out of the 10 largest banks are Japanese, I feel more sadness than anger that Congress has gone through these 17 years for various and sundry reasons and is unwilling to modernize that structure. We are going to do it again.

So no one regrets more than I what the chairman and I are doing to remove Glass-Steagall, repeal sections of this bill. Despite the controversy in the Senate over these provisions, there is no doubt in my mind that we have the votes to pass it here in the Senate.

I think we have the votes to pass most of the bill the chairman and I fashioned in the Senate. What was done in the House of Representatives is simply unacceptable, and we are facing the reality that even if we passed our provisions in this area, that in going to a conference with the House there is certainly no way that we can expect them to just yield to our provisions. And certainly it is unacceptable to us and the administration to yield to what they did in their bill.

So, we are simply recognizing reality, not what we would like to do but recognizing reality of the situation. So, although I am a cosponsor of this amendment with the chairman, I just wanted to let the Senate know how disappointed I am that it is necessary to do that, and that once again the Congress of the United States will fail to exercise good public policy judgment and try to help some of the basic structural problems that have caused many of the losses that we are experiencing in both banks and S&L's.

The real unfortunate side of that is that in the future the chairman and others will be back dealing with additional bailouts. I do not think you have to be too bright to figure out that we not only cannot guarantee that the amounts we are talking about for the bank insurance fund and for the RTC are enough, but as I have watched these estimates over the years from everybody, from two different administrations, from the GAO, from the CBO, from outside experts, from the various regulatory agencies, there is not one single instance in the last 5 years when any of them have been right. And, unfortunately, in varying degrees all of the estimators, no matter how expert they are, and even the worst critics of Congress and our actions, were low in their estimates.

So let us be realistic about it. We are going to have to come up with more money in the future than we are talking about, whether we like it or not. I think that is guaranteed. And the best way we could help minimize those losses is by passing comprehensive banking legislation.

So what we are doing today and what we will probably finally end up with is a much narrower bill than we started out with. We will guarantee that the losses to the banking insurance fund and to the thrift industry will go up. And I guess then we will go on looking for scapegoats. We will try to blame regulators, whoever we can, bad S&L operators, dishonest bankers. And it does not mean there is not some of that blame that is deserved. But I think fundamentally we are paying a price for a Congress that for a decade and a half has been unwilling to offer and to make changes in the basic structural system under which our banks, securities and insurance firms, and S&L's operate.

I will not be here. As everyone knows I am not running for reelection. Maybe one of the reasons, beyond the primary reason of wishing to spend more time with my family, is the fact that I see that Congress is unwilling or incapable of acting on a number of public policy issues. We just do not seem to be able to make the tough decisions.

I used to be optimistic all the time but I am not anymore. When you work on the same subject for 17 years and in this 17th year once again you have to admit failure, that Congress will not act—and I am not standing here saying that the comprehensive banking bill should be designed in my image or that I have all the answers, that this should be passed just as I think it should be.

Certainly there is a great deal of room for differences of opinion on how comprehensive banking legislation should be performed. I recognize that. But just to ignore it, and once again give up and say we cannot exercise those judgments, make the tough decisions, and fashion a comprehensive banking bill, I really do not understand. But it is a sad commentary on the Congress of the United States when we have tens and tens of billions of dollars the taxpayers are going to have to pay because we have been unable to address this issue for 17 years.

I hope that in the future, when I am a private citizen again, that I can pick up the newspaper and read that the chairman and Congress have finally come to their senses and have passed some good legislation that will help resolve the fundamental problems that have created these great losses for the taxpayers.

Mr. RIEGLE. Mr. President, let me just add an additional word. We have labored hard and long on this title of the bill. There are 11 titles in this bill. With this amendment we have sent to the desk we are going to strike 1 of the 11 titles. So this is a very broad and comprehensive bill. But this section, I want to say before we act on it, was worked out with great care, and the Senator from Utah and I spent an enormous amount of time, as did the committee, on this issue. We had hearings at length. We had expert opinions. We had debate. We had discussions. We had an active give and take during the markup process in the committee.

There was an amendment offered in the committee that, as I said, was argued back and forth that was settled by a margin of one vote on that issue. But I want the RECORD to show that in this Senator's view the provision that is in the bill is a solid provision. I think a provision is needed because, by regulation and by regulatory decision if you will, and by rulings of the court, we have had now this activity occuring that in effect breached the longstanding Glass-Steagall laws.

I think it is more important that we codify and put a regulatory structure around that that is solid and sound and that is clearcut than to just leave it as it is. So, I want to just finish my part of this discussion by saying that I think this provision in the bill is carefully written, it is sound, and perhaps even more importantly, that if you take that provision in conjunction with all of the other strengthening aspects of this bill in the area of examination practices, early intervention, capital standards, limitation on other kinds of risky investment activities, risk-based deposit insurance, you have to think of each of these sections in and of themselves but then you must step back and think about each of them in combination with the rest. And in this area, this section stands the test of being a sound and freestanding basis, but also sound in combination with all the other elements which tighten up and strengthen the banking system as the bill came out of the Senate Banking Committee.

So, it is with considerable reluctance that I see this section coming out, in light of developments that Senator GARN has mentioned, with the view that has prevailed on the House side and now the view in the administration that they would prefer that this section not be in the bill at this point. So we will be back to visit this issue another time and it may be after the Senator from Utah has finished his service here. He will be here another year and it may well be sometime in the next 12 months this issue will come back around. No one can say one way or the other at this point.

But I can say this, that there will come a time when this section is going to have to be taken up and acted upon, because this problem has not been dealt with sufficiently by simply leaving it to the regulatory process without specific legislative guidance and structure from the Congress. We ought to write the law in this area, and sooner or later we will.

In any event, the amendment is there and I ask that we act upon the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1340) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, we are just finishing the language on the insurance section. We will be offering that within a matter of a few moments. I am going to suggest the absence of a quorum and then we will shortly remove the quorum call and move to the insurance issue.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBB). The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. Mr. President, we are prepared now to go forward with the compromise language on the insurance provision of the banking bill, and I want to just describe for a minute, the key features of the insurance compromise that has been worked out with Senator GARN, the administration, other interested Senators, and myself.

Generally, the compromise does not fundamentally alter the insurance provisions adopted by the Banking Committee in the bill before the Senate, but it does alleviate some of the harsh consequences that those provisions would have had for some banks.

First of all, in terms of the issue of closing the town-of-5,000 loophole, as it is called, the following would apply. Current law permits a national bank with a branch in a town of less than 5,000 people to use that branch to sell insurance nationwide. This loophole has been a source of very considerable controversy over the years.

The bill reported by the committee would have closed this loophole by allowing such branches to sell insurance only in rural areas of the States in which they are located. It does not grandfather banks that currently sell insurance on a broader scale.

Under the compromise that I will be sending forward, all national banks and branches that currently sell insurance under the town-of-5,000 authority will have a limited grandfather. They will be able to sell insurance in the county in which they are located and in adjacent counties, provided they do not sell in incorporated towns with populations of more than 30,000 people.

National banks and branches that are not grandfathered will be able to sell insurance only in rural areas within 7½ miles of the area in which they are located, but within such areas they may sell in incorporate towns of populations up to 12,500. Under the bill as reported, they would not have been able to sell in anyplace with a population of more than 5,000.

Obviously, this structured compromise is based on an exchange back and forth between parties on either side of this issue, and so it is constructive to try to reach a balance that seems reasonable.

With respect to limiting incremental powers authority, the current law permits national banks to engage in certain insurance activities under the incremental powers clause of the National Bank Act. In recent years, the OCC has issued several rulings that have construed the incremental powers clause broadly to encompass several traditional insurance products, such as variable and fixed-rate annuities. Some of these rulings are currently being challenged in court.

The bill reported by the committee would have effectively eliminated the incremental powers authority. It permits national banks to sell insurance only as authorized by State law for State-chartered banks in the State where the national bank is located. The bill did not grandfather any insurance activities that are currently being conducted under the incremental powers authority.

The compromise that we will be sending forward allows national banks to engage in any insurance activity that was being conducted under the incremental powers authority by a national bank as of the date May 1, 1991, regardless of whether State law makes the activity permissible for State-chartered banks. The compromise does not affect pending litigation that will decide whether certain activities that were being conducted under the incremental powers clause as of that date do or do not constitute insurance activities.

The bill reported by the committee also tightly limited the ability of banks to use confidential customer information acquired in the course of their banking activities for the purposes of selling insurance. The compromise essentially retains these limits but with modifications that will make compliance with them less burdensome for the banks.

AMENDMENT NO. 1341

(Purpose: To modify the insurance provisions)

Mr. RIEGLE. I now send the amendment to the desk, and yield to my colleague from Utah.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. GARN, proposes an amendment numbered 1341.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 669, line 17, strike all through page 676, line 17, and insert the following:

SEC. 771. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a) REPEAL OF OBSOLETE PROVISION.—Chapter 461 of the Act of September 7, 1916 (39 Stat. 753; 12 U.S.C. 92 note), as amended, is further amended by striking "That in addition to the powers vested by law in national banking associations" and all that follows through "filing his application for insurance.".

(b) NEW PROVISION FOR INSURANCE ACTIVITIES OF NATIONAL BANKS.—The Revised Statutes are amended by adding the following new section after section 5136 (12 U.S.C. 24):

"SEC. 5136B. INSURANCE ACTIVITIES OF NATIONAL BANKS.

"(a) IN GENERAL.—A national bank may not provide insurance as principal, agent, or broker except pursuant to this section or section 5136 of the Revised Statutes.

"(b) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE ACTIVITIES PERMITTED FOR STATE BANKS.—

"(1) IN GENERAL.—A national bank or any of its branches may provide insurance as principal, agent, or broker in the same manner and to the same extent that a bank chartered in the State in which the national bank or branch is located is permitted to provide insurance as principal, agent, or broker.

"(2) BANK CHARTERED IN THE STATE DEFINED.—For purposes of paragraph (1), the term 'bank chartered in the State' does not include any organization that is excluded from the definition of 'bank' in section 2(c)(2) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)).

"(c) AUTHORITY FOR NATIONAL BANKS TO ENGAGE IN INSURANCE AGENCY ACTIVITIES IN SMALL TOWNS.—

"(1) IN GENERAL.—A national bank may provide insurance as agent or broker in any small town in which the bank or any of its branches is located.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided pursuant to paragraph (1) in a small town in which a national bank or branch is located may only be provided to—

"(A) an individual who is a resident of or employed in the small town;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the small town;

"(C) a person who is engaged in business in the small town and has a business office in such town, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the small town, or

"(ii) services or products provided in or from the small town; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the small town; or

"(ii) personal property that is principally located or used in the small town.

"(3) GUARANTEES PROHIBITED.—No national bank that provides insurance pursuant to paragraph (1) may—

"(A) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the bank by the insurance company for which the bank is acting as agent; or

"(B) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(5) SMALL TOWN DEFINED.—For purposes of this subsection (c), the term 'small town' means—

"(A) any place with a population not exceeding 5,000 (as shown by the preceding decennial census); and

"(B) any contiguous rural area, including rural communities, within 7.5 miles of the borders of a place described in subparagraph (A), except to the extent such contiguous rural area includes any part of an incorporated city or town that has a population exceeding 12,500 (as shown by the preceding decennial census).

"(d) AUTHORITY OF NATIONAL BANKS TO CONTINUE CERTAIN AGENCY ACTIVITIES.—

"(1) IN GENERAL.—A national bank or branch providing insurance pursuant to the provision repealed in section 771(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 may continue to provide insurance as agent or broker from any place in which the national bank or branch was located on May 1, 1991, if—

"(A) the national bank or branch was actually providing insurance from that place as of May 1, 1991;

"(B) the insurance insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the national bank or branch was actually providing as of May 1, 1991; and

"(C) the insurance is provided only in the contiguous region to the place in which the national bank or branch is located, except that such insurance may not be provided in any county in which the national bank or branch was not actually providing insurance as of May 1, 1991.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided in a contiguous region of a national bank or branch pursuant to paragraph (1) may only be provided to—

"(A) an individual who is a resident of or employed in the contiguous region;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the contiguous region;

"(C) a person who is engaged in business in the contiguous region and has a business office in such contiguous region, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the contiguous region, or

"(ii) services or products provided in or from the contiguous region; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the contiguous region; or

"(ii) personal property that is principally located or used in the contiguous region.

"(3) CONTIGUOUS REGION DEFINED.—For purposes of this subsection, the term 'contiguous region' means the county in which the national bank or branch is located and any county bordering on the county in which the national bank or branch is located, except for—

"(A) any incorporated city or town with a population exceeding 30,000 (as shown by the preceding decennial census); or

"(B) any metropolitan area, as determined by the Office of Management and Budget.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(e) STATE DEFINED.—For purposes of this section, the term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act."

(c) NATIONAL BANK INSURANCE ACTIVITIES THAT ARE INCIDENTAL TO BANKING ACTIVITIES.—The paragraph designated the "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)), as redesignated by this section, is amended by adding at the end the following: "A national banking association may engage in activities pursuant to this paragraph that constitute providing insurance as principal, agent, or broker, but only if such activities were lawfully engaged in by one or more national banks before May 1, 1991. For the purposes of the previous sentence, activities were not lawfully engaged in before May 1, 1991, to the extent that they are finally adjudged as unlawful under laws in effect on May 1, 1991. A national banking association providing insurance pursuant to this paragraph shall comply with the laws governing the provision of insurance of the State in which such banking association is located, unless such State law is preempted by Federal law.".

SEC. 722. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES OF BANK HOLDING COMPANIES.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following new section:

"SEC. 13. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES.

"(a) IN GENERAL.—No bank holding company may permit any subsidiary bank, or any subsidiary of that bank, to provide insurance as agent or broker beyond the borders of the State in which the subsidiary bank is principally located, unless—

"(1) the statutes of the host State expressly authorize a bank principally located in another State to provide insurance in such host State, by language to that effect and not merely by implication;

"(2) the insurance is provided through a branch of the subsidiary bank, so long as the branch—

"(A) is located in the State in which the insurance is provided;

"(B) is otherwise authorized by State or Federal law to provide such insurance; and

"(C) is engaged primarily in banking activities, not insurance activities;

"(3) the insurance is provided pursuant to subsection (d) of section 5136B of the Revised Statutes, except that such insurance may not be provided—

"(A) in any place in the host State that is more than 7.5 miles from the place in which the national bank or branch is located; or

"(B) any incorporated cities or towns with a population exceeding 12,500 (as shown by the preceding decennial census);

"(4) the insurance—

"(A) insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the subsidiary bank or any subsidiary of that bank was providing as of May 1, 1991, beyond the borders of the State in which the subsidiary bank is principally located, and

"(B) is not provided pursuant to a statute enacted by a State after May 1, 1990;

"(5) the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by the bank holding company and any subsidiary (including the subsidiary bank) in the event of the death, disability, or involuntary unemployment of the debtor; or

"(6) the insurance is placed on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(b) DEFINITIONS.—

"(1) PLACE IN WHICH INSURANCE IS PROVIDED.—For purposes of this section, the place in which insurance is provided includes the place in which an individual who purchases such insurance is domiciled.

"(2) PRINCIPALLY LOCATED DEFINED.—For purposes of this section, the State in which a bank is principally located is—

"(A) the State in which the bank is chartered; or

"(B) if the bank is a national bank, the State in which the bank has its main office.

"(3) HOST STATE DEFINED.—For purposes of this section, the term 'host State' means a State in which a bank provides insurance other than the State in which the bank is principally located.".

"(c) Nothing in this section shall be deemed to affect the ability of a bank holding company to engage directly or indirectly, in insurance activities that are permissible under section 4(c)(8).

SEC. 773. SAFEGUARDS FOR SALE OF INSURANCE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting the following new section at the appropriate place:

"SEC. . SAFEGUARDS FOR SALE OF INSURANCE BY INSURED INSTITUTIONS.

"(a) PROMINENT DISCLOSURE THAT INSURANCE PRODUCTS ARE NOT FEDERALLY INSURED.—Pursuant to regulations issued by the Corporation, an insured depository institution shall prominently disclose in writing to each of its customers that insurance products sold, offered, or recommended by the insured depository institution are not deposits and are not insured by the Corporation, and, to the extent applicable, are neither guaranteed by nor otherwise an obligation of an insured depository institution.

"(b) NO FAVORING OF CAPTIVE AGENTS.—No insured depository institution may, directly or indirectly—

"(1) require as a condition of providing any product or service to any customer, or any renewal of any contract for providing such product or service, that the customer acquire, finance, or negotiate any policy or contract of insurance through a particular insurer, agent, or broker;

"(2) in connection with a loan or extension or credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such institution; or

"(3) impose any discriminatory requirement on any insurance agent who is not affiliated with the insured depository institution that is not imposed on any insurance agent that is affiliated with such institution.

"(c) NO SOLICITATION OF CERTAIN INSURANCE BEFORE PROVIDING LOAN COMMITMENTS.—

"(1) IN GENERAL.—No insured depository institution may, directly or indirectly, solicit the purchase of any insurance required under the terms of any proposed loan or extension of credit from such insured depository institution to a customer before the customer has received a written commitment with respect to such loan or extension of credit.

"(2) EXCEPTION FOR INSURANCE REQUIRED FOR CREDIT AGREEMENT.—Nothing in this section shall prevent an insured depository institution from placing insurance on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(d) RESTRICTIONS ON USE OF NONPUBLIC CUSTOMER INFORMATION.—

"(1) IN GENERAL.—No insured depository institution may use, directly or indirectly, any nonpublic customer information for the purpose of providing insurance, except with the prior written consent of the customer.

"(2) EXCEPTION FOR CREDIT-RELATED INSURANCE.—For purposes of paragraph (1), the term 'insurance' does not include insurance—

"(A) provided to assure the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(B) provided on real or personal property obtained by or on behalf of an insured depository institution in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(C) provided to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit.

"(3) RECORDS OF CUSTOMER CONSENT.—Any insured depository institution that obtains the consent of any customer to disclose nonpublic customer information shall maintain appropriate records or other evidence of such consent.

"(4) DEFINITIONS.—

"(A) CUSTOMER DEFINED.—For purposes of this section, the term 'customer' means any person who, after January 1, 1992, establishes a credit relationship with an insured depository institution.

"(B) NONPUBLIC CUSTOMER INFORMATION DEFINED.—For purposes of this section, the term 'nonpublic customer information' means information obtained from an individual by an insured depository institution in connection with a loan or extension of credit, but does not include—

"(i) customers' names and addresses (unless a customer has specified otherwise);

"(ii) information that could be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business; or

"(iii) information that is customarily provided to unaffiliated credit bureaus or similar companies in the ordinary course of business by insured depository institutions that do not provide insurance.

"(5) ADDITIONAL RESTRICTIONS.—The Corporation may, by regulation or order, prescribe such additional restrictions and requirements as may be necessary or appropriate to avoid any significant risk to insured depository institutions, protect customers, and avoid conflicts of interest or other abuses.".

SEC. 774. INSURANCE UNDERWRITING IN BANK RESTRICTED.

(a) IN GENERAL.—Section 24 of the Federal Deposit Insurance Act (as added by section 211(a) of the Act) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) INSURANCE UNDERWRITING.—

"(1) IN GENERAL.—No insured State bank or any of its subsidiaries may provide insurance as principal except to the extent that a national bank could lawfully provide insurance as principal as of May 1, 1991.

"(2) CONTINUATION OF EXISTING ACTIVITIES.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on July 15, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(3) EXCEPTION FOR CERTAIN FEDERALLY REINSURED CROP INSURANCE.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, that was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

(b) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect 90 days after the date of enactment of this Act.

(2) TRANSITION RULE.—An insured State bank or subsidiary of an insured State bank that, as of the date of enactment of this Act, was lawfully engaged in any activity prohibited by this section may continue to engage in that activity during the period ending one year after that date of enactment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. GARN].

Mr. GARN. Mr. President, I join Chairman RIEGLE in offering this amendment to modify the insurance provisions in the bill reported by the Banking Committee.

I would note that no one has been more critical of the independent insurance agents in this debate than I, both privately and publicly, as evidenced in the Washington Post and other news media this week. And so, while I join with the chairman, I must say that I am not pleased with the compromise or the original legislation.

But the comprehensive legislation sent to the Congress by President Bush would have authorized the affiliations between commercial banks and insurance companies.

The administration's proposal was clearly proconsumer in that it would have driven down the cost of financial services through enhanced competition.

Unfortunately, the committee succumbed to special-interest pressures to protect insurance agents, in particular, from the rigors of competition.

While this managers' amendment will not make the legislation as proconsumer and procompetitive as the administration's original proposal, this compromise is an improvement over the language reported by the Banking Committee.

Most importantly, this amendment will give national banks parity with State banks. This will maintain the preeminence of State law in the insurance area.

The American Bankers Association has stated that this is a substantial improvement over the language reported by the Banking Committee.

The insurance agents have stated that this managers' amendment is an acceptable compromise and they will support it through conference.

At this point in the legislative process, with the limited time remaining, I have concluded that this is the best we can do.

So let us suggest that this is not liked by the insurance agents, not liked by me, not liked by the administration, but under the circumstances of what was originally in the bill, I think it is a good compromise, when the ABA said it is an improvement, I say it is an improvement, and the insurance agents are willing to go along.

So I hope that it will be adopted, considering that it is better than the existing situation and a good compromise under the circumstances.

The PRESIDING OFFICER. Is there further debate?

Mr. GARN. Mr. President, if I could just see if he is on his way, the Senator from Delaware wished to speak on this amendment. I have called to have him come over. If we could only hold long enough to check and see if he is in fact on his way over.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, while we are waiting, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time upon receipt from the House, turn to the consideration of H.R. 3575, the unemployment compensation bill, and that it be considered under the following limitations: That there be 60 minutes for debate on the bill, with the time equally divided and controlled between the majority leader and the Republican leader, or their designees; that no amendments or motions be in order; and that when the time is used or yielded back, the Senate, without intervening action or debate, proceed to third reading and vote on final passage of the bill; that upon passage of H.R. 3575, the Senate companion measure, S. 1945, be indefinitely postponed.

I further ask unanimous consent that this agreement may be vitiated by either leader, if the House amends the bill with anything other than a substitute as provided for in the House rule, as adopted by the House on November 13.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader?

Mr. FORD. Mr. President, reserving the right to object, I understand that my position probably will be to no avail, but I cannot let the opportunity pass. This new formula that has been put out hurts five States and five States badly. Kentucky happens to be one of them; we are dropped from 13 weeks down to 6 weeks. We have 15 States that are unchanged. We have 19 States that only lose a week. We have States that go from 7 to 13 weeks. Two go from 7 to 20.

I cannot understand, when you talk about Alabama, Arkansas, Kentucky, Louisiana, and Nevada, that those are the only States that have not had improvements but lost 7 weeks compared to other States that make quite an improvement in their position, or only lose 1 week. I feel like just objecting, and I do not want to do that, because I have respect for those who have tried to put this together. But I do not recall any of this side being in on these negotiations. It is kind of a "take it or leave it, we are going home for Christmas" sort of attitude.

There is a proviso in there, and I hope the House will amend the bill that came out of the Rules Committee, so we will have an opportunity to vitiate this unanimous-consent agreement.

I am here to represent Kentucky, and I have some people that are in just as bad a shape, if not worse, than a lot of people in States that went from 7 to 13 weeks. And two went from 7 to 20 weeks. I do not understand how you can develop a formula that just picks out a small group and puts it to them.

I am going to have to object to this unanimous-consent agreement, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Objection is heard. The absence of a quorum has been suggested.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. DIXON. Mr. President, may I say to the distinguished managers, I understand they are waiting for someone to come over here on this particular issue. May I make a short statement on the bill while we are doing this?

Mr. RIEGLE. By all means. Please do.

Mr. DIXON. I thank my friend, the distinguished chairman of the committee.

Mr. President, I voted to report S. 543 from the Banking Committee favorably to the Senate floor. While I disagree with some of its provisions, I honestly thought it was generally a good bill. One major feature of the bill that I thought was particularly important and badly needed was title VII reforms of the Glass-Steagall Act.

At the turn of the century, banking dominated America's economy and our corporations. Now the situation is reversed. The banking industry's share of the financial services market in this country has dropped from 40 percent to 29 percent in the last 16 years. Mr. President, the best corporations now get much of their money from the securities markets instead of from the banks. Our banks are now losing business to foreign banks both abroad and right here at home. Foreign banks now have 14 percent of the U.S. market, and they have over 25 percent of the big California market—foreign banks—while the share of overseas markets controlled by our banks continues to steadily decline.

They also face toughening competition from a variety of other competitors. For example, General Motors Acceptance Corporation is now the largest originator of auto loans, many American farmers get their mortgages from insurance companies, and AT&T, Sears, and American Express all issue credit cards.

Technology, communications, and our economy in general have all changed in fundamental ways since the time that most of the structure of our banking laws was enacted. And the result is that our financial system has changed, and our banks have been unable, because of regulatory constraints, to respond effectively to those changes.

The result of that is a banking system that is steadily more risky and steadily less profitable, one that is increasingly becoming the financial services provider of very last resort. People now talk seriously about taking their money out of federally insured bank CD's or checking or savings accounts, believe it or not, and putting the money in the money market mutual funds—so it will be safer.

Let me repeat that for my colleagues because I can hardly believe it myself. Some constituents of mine actually talk about taking their money out of institutions covered by the deposit insurance system, putting it into uninsured mutual funds because they are now less confident about their ability to get their money when they need it in the bank. That seems to me a devastating indictment of our regulatory system. It makes it clear that bank regulation is out of date and that it prevents banks from competing effectively.

The title VII Glass-Steagall reforms were the centerpiece of the Banking Committee's efforts to bring banking law more in line with economic reality. I am well aware, Mr. President, that the Glass-Steagall reform provisions of S. 543 have generated considerable controversy. However, it is worth remembering that these provisions were in the main based on the Proxmire Financial Modernization Act that was reported by the Senate Banking Committee in 1988 by an overwhelming vote of 18 to 2 and which passed the Senate that year, right here in the Senate, by the even more overwhelming margin of 94 to 2.

Mr. RIEGLE. Will the Senator yield at that point just for a brief observation?

Mr. DIXON. Yes.

Mr. RIEGLE. I want to commend the Senator from Illinois for his leadership in this area on this bill because it has not only been this time around in this section and in other sections but going back to the compromise during the Proxmire bill that the Senator from Illinois was instrumental in producing that compromise at the time. It was a good provision. It carried overwhelmingly here in the Senate.

I think the provision in this bill, as I said just prior to the Senator's coming to the floor, is a solid, sound provision. My preference was to keep it in the bill. The situation did not allow for that to happen. But in any event, I want to commend the Senator for his leadership on this issue because it is not just recent leadership; it extends back over a period of years.

Mr. DIXON. I thank the distinguished manager and the distinguished chairman of the committee. Nothing I say here has anything to do with either my affection for him or for the ranking member, men that I think tried very earnestly to get a better bill.

But I want to conclude my remarks so that my position is understood on this. The Glass-Steagall Act, passed during the Great Depression, was designed to keep banks out of the securities business. It was based on the assumption that bank securities activities contributed to the stock market crash and to the collapse of the banking system.

That assumption, however, does not hold up under the analysis with the exception of the activities of the Bank of the United States where out and out fraud was involved. There is no record, none, of unique bank abuses of the securities powers they enjoyed during the twenties. While there were large numbers of bank failures in the twenties and thirties, the vast majority of these failures were small, rural, undercapitalized banks, and the failures had nothing to do with bank security activities.

Glass-Steagall suffers from a disease much more debilitating than faulty assumptions. The simple truth is that it no longer works. Banks are engaging in a growing variety of securities activities. Banks or their affiliates can and do underwrite and deal in commercial paper, mortgage bonds, industrial bonds, municipal revenue bonds, and even corporate equities. They can provide some mutual fund services, and they can offer their customers discount brokerage services. They are handicapped in their ability to perform many of these activities in our country, but these handicaps are breaking down. The bottom line is that banking organizations are already growing participants in the securities markets.

Savings and loans have also been in the securities business for a long time. Thrifts have been able to affiliate with securities firms since 1982. It was only in 1987 that any firewalls between savings institutions and their securities affiliates were enacted. A number of securities affiliates were enacted. A number of securities firms are now affiliated with savings and loans, and, in spite of the collapse of a major part of the industry, the thrift industry, there is no evidence at all that securities activities conducted by affiliates contributed in any way to the savings and loan crisis. That was demonstrated in the 1989 bill when neither the administration nor any Member of the Congress moved to end the abilities of thrifts to affiliate with securities firms.

Since both banks and thrifts have been conducting securities activities through affiliates for some time now, the Glass-Steagall barrier is therefore already in tatters, and there is no reasonable chance that it can be reestablished. Given that situation, it is time to recognize that the past is gone and to bring the law into conformity with economic reality.

It was technological changes and changes in the markets—economic reality—that created the pressure for banks to get back into the securities business, and it is time for the law to catch up with those changes.

Title VII, as reported, gave well-capitalized banking organizations, and only well-capitalized banking organizations, the opportunity to participate in the securities business, and gives qualified securities firms reciprocal rights to own banks while protecting the insurance fund and the safety and soundness of the banking system.

Importantly, Mr. President, it did not deregulate. What the bill did is to permit bank holding companies—not banks themselves—to own affiliates that can engage in a variety of securities activities. These securities affiliates, however, would be fully subject to every bit of securities regulation that applies to all of the rest of the securities industry. To provide further protection, the reported bill mandated tough statutory standards and regulations governing the transactions between a banking affiliate of a bank holding company and a securities affiliate. These standards were designed to further ensure that only sound, well-capitalized bank holding companies are able to operate securities affiliates. These provisions would protect banks, and, therefore, protect the deposit insurance fund, from the risks attributable to activities of the securities affiliates, and ensure that banking organization securities affiliates would not have unfair competitive advantages over other securities firms.

Mr. President, there has been some controversy involving the title VII firewalls, because they are different in some respects from the firewalls in the 1988 Glass-Steagall reform legislation that was approved by the Senate by the overwhelming vote of 94 to 2. While there have been some changes to make the firewalls more workable and, to a very minor degree, more flexible, the reported bill, taken as a whole, was significantly more protective of bank safety and soundness than the 1988 legislation was. In addition to the extensive title VII firewalls, there were numerous other provisions, mainly in title II, that strengthened bank safety and soundness—to the credit of the chairman, ranking member, and others who did this—and reduced the risks of the bank being adversely affected by any activities of the securities affiliates.

Here are some of the major new protections that were not included in the 1988 bill: Higher capital standards; prompt corrective action, which includes restrictions on transactions with affiliates, including securities affiliates; risk-based deposit insurance premiums, so that banks acting in riskier fashions will pay more. I modestly say that something I contributed to this bill, Mr. President, was annual on-site examinations.

Listen to that. The ranking member, the chair, this Senator, and others worked for annual on-site examinations. Does not everybody in America know that all those thrifts would not have gone down the chute if we had annual on-site examinations during that decade they were getting in trouble? Annual on-site examinations of financial institutions in the country.

Next is accounting reforms; cross-guarantees that require a bank holding company, by statute, to act as a source of strength for its affiliated banks; expanded disclosure requirements; and enhanced authority for the FDIC to deny insurance over concerns about a bank's safety and soundness.

Finally, it is worth keeping in mind that the reported bill only allowed the Federal Reserve Board to make very limited exceptions to the firewalls, and only then if all affiliated banks were well-capitalized, and the Fed found that the exception would not cause any appreciable risk to the insurance fund.

Mr. President, I do not claim that Glass-Steagall reform represented some kind of economic pot of gold for the banking industry that will solve all of their problems. But I do believe that this structural reform will help over the long term, that our financial services industry must be restructured if it is to compete effectively with its international competition, and that it is long past time to begin that restructuring process.

Despite the need, it is now apparent, Mr. President, that we are not going to begin that restructuring process. I was absolutely stunned to find out that the reason we are not is because the Treasury Department reluctantly went along with the Senate's decision to drop these provisions from S. 543.

Mr. President, I will shortly conclude. I am certainly not at all reluctant to yield the floor to the distinguished majority leader to ask unanimous consent to take up a bill as important as the extension of the unemployment compensation benefits bill which is significantly important to working people all over America.

Let me set the record straight, Mr. President. It was the Department of the Treasury that forced the Senate to drop Glass-Steagall reform from the bill. The Treasury made it clear that it was not prepared to have a conference on a banking bill go past the first of this year, even if Congress passed interim funding legislation to meet the FDIC's recapitalization needs. And it was Treasury that decided what was in the bill was no longer important. What was important to the Treasury was declaring victory now, even if the victory is an empty meaningless one, and even if the victory bill is no longer really a reform bill, and this bill has come to that.

Treasury made it clear that they wanted Glass-Steagall out, and so Glass-Steagall reform will no longer be part of the bill this year.

I am told Treasury argued that a conference that included Congressman JOHN DINGELL, who is my friend, may I say, and I respect him, would be difficult and lengthy, so their recommendation was to give up on Glass-Steagall before ever even going to the conference.

Frankly, Mr. President, I think that is a disgrace. I assert the votes were here in the Senate to keep Glass-Steagall reform in this bill, until the Treasury took away the necessary votes on the other side. And I think that it would have been possible to get a sound, progressive Glass-Steagall reform title, I believe, out of a House-Senate conference—if we had been willing to take the time to try a little.

Some have argued that opposition from some of the Democrats is responsible for the loss of Glass-Steagall reform. But the Democrats that were opposed to reform were opposed in January at the beginning of the year. Their opposition is not new or sudden. But Treasury had been counted on as a supporter of Glass-Steagall reform and not an opponent, which makes their premature capitulation on this issue all the more appalling.

I want to say, in conclusion, that the truth ought to be known. The Chair and the ranking member, a lot of people fought to get a good bill. I assert as a matter of sound judgment as a man that served on that committee since I came here, that we had a good bill, that to the credit of the Chair and the ranking member of different political persuasions we have brought from the committee a very significant improvement in the law of this country respecting financial institutions.

It is in my view a major retreat of the administration, which came to my office innumerable times over the year, to now back away from this. We could have taken this to conference and got a bill that the administration and the Senate would have been proud of. Instead of backing off and we are sending out of the Senate a bill that, after it is modified in the conference, will be of no great moment at all.

I regret it. I do not say that critically to the Chair and the ranking member, men whom I respect, men whom I have deep affection for, or as a reflection for that matter on any individual. But the judgment call that said you ought not to go to a conference and fight for a good bill was flawed, and I was not a party to the negotiations. But I want to make it clear that I resent what has occurred here.

I understand that we are in the closing days. I understand the concerns. We could have taken this over to the next year. We could have fought on this issue for a long time. And I think public support in the country would have been there for us. And I think we could have gotten a better bill. I am finished.

(Mr. AKAKA assumed the chair.)

Mr. GARN. Mr. President, will the Senator yield?

Mr. DIXON. I yield.

Mr. GARN. I hesitate to rise because I do not disagree with a thing the Senator from Illinois said on the substance. He was not here when I made my opening statement about how sorry I felt, because he has been working on this for several years, but I have spent an entire Senate career. And I stated as forcefully as the Senator how disappointed I was that we were taking this section out, that I did not like it, that I was sorry that we will pay the consequences in the future. So I will not repeat anymore, other than to say that I do not disagree.

But as good a friend as the Senator from Illinois is, I cannot let it stand to let him say that the administration, the Treasury demanded that this come out. That was not true. It was a mutual agreement between the chairman and me and Treasury. And, as a matter of fact, when we were about to do this last night and the chairman said, "Are you sure Treasury is on board?" I said, "I don't know." It took a few minutes to contact them and find out, and I finally got the word back they said, "Yes, we do not like it, we obviously, like you Senator, would like to keep this in."

So I only correct the record at least as far as having been involved in those negotiations that the administration does not want this out any more than the Senator does, any more than I do, any more than the chairman does.

Mr. DIXON. Then I think it is a miracle. We are taking out a provision that made a balanced bill, and this bill is not a balanced bill anymore. If the Senator is telling me the administration did not want it, he is telling me Treasury did not want it, and if I am telling him, well, I think the votes are on the floor to keep it in, then I say to the Senator we have done violence to the work after a good portion of his service and the distinguished chairman's service and this Senator's service. And I was there in all those rooms during all those lengthy hours. I even smelled the Senator's sandwich that time in Senator Proxmire's office that almost drove us all out. And I am here to tell the Senator it was a good bill and we have done violence with the bill and we are ending up with a bill that involves very little and is not evenly balanced and is fraught with problems, and I do not think we have done a service.

Mr. GARN. I say I do not want to disagree with the Senator because he described it accurately.

Mr. DIXON. If I describe it accurately, why are we doing it?

Mr. GARN. If the Senator will let me answer I will. It has to do with counting around here.

Mr. DIXON. With what?

Mr. GARN. Let me finish my whole statement and then maybe the Senator will understand what I am saying.

I do not expect the Senator to agree. But nobody in this body after 17 years, and the Senator did not hear my statement and I do not want to repeat it again, I condemned Congress for what we have not done. I went into the whole scenario, S&L and banking crisis, and how I did not like to do this.

Let us put the blame where it belongs. It belongs with JOHN DINGELL in the House. We had an opportunity.

Now I agree with the Senator, and I said to the chairman just a few minutes ago, after we did it, that I felt despite the opposition in the Senate we would pass the bill with this provision in it. So I agree with the Senator on that.

But we go to conference, and there is no way after the behavior of that Commerce Committee that we are going to end up with that provision in. As a matter of fact, I would be even willing to take that chance it we would end up with nothing.

But I would rather have no legislation than bad legislation. What JOHN DINGELL proposes in the House, and I have been to enough conferences in the last 17 years to know that I do not always get the Senate position, and I am willing to accept the House position, that was a very dangerous course.

We are in an argument that should not be taking place because the Senator and I agree completely and totally with every statement the Senator has said, except I tried to differentiate and say that if he wants to blame, he blames the chairman and me and Treasury, and not stand there and say the Treasury demanded this came out, because that did not take place.

Everything else we agree on, totally, completely. No one feels worse than I about the violence we are doing to this bill. If I could snap my fingers and change it and have a unicameral legislative body and do away with the House of Representatives I would, because I have spent 17 years of my life seeing bills pass.

The Senator talks about the Proxmire bill. OK. I was here in 1975 with FIA and 1976 with Tom McIntyre from New Hampshire and the House refused to go along with it. We did it in the late 1970's, finally in 1980 and 1982 the House reciprocated. In 1984 I had another bill that passed overwhelmingly that the House refused to go to conference. In 1988 it was the Proxmire bill.

So, yes, I understand what the Senator is saying. We have had a House that for 17 years has been unwilling to act and this Senate has over and over and over again. We acted on the FSLIC recap that would have saved tens of billions of dollars to the taxpayers in 1986; the House would not act on that. The Senator was here then.

So, I will get mad with the Senator and I will raise my voice just as high, but let us direct the wrath where the submarining is coming from is from the House of Representatives. That is why I like the Nebraska Legislature. They do not have two houses.

Mr. DIXON. Well, I say to my dear friend, if I could only respond—and I see the distinguished chairman perhaps on his feet prepared to contribute as well—but I want to say this: I happen to have no argument with JOHN DINGELL, who is a great Congressman and obviously an influential chairman of an important committee in the House. I am prepared to go to conference with JOHN DINGELL and in a very respectful way differ with him.

I do not want to send a message to America that we took an absolutely fine, well-balanced, vibrant bill—it might have needed a little repair work in a couple places; what bill does not?—and laid it down and gave it up because we would not go to the conference with the House. That is what I am told the administration's judgment was on this. And I tell you, frankly, that is what I am told all through the corridors and with everybody on staff and other people who know what is going on behind the scenes.

I want to go to conference. I want to respectfully fight with JOHN DINGELL. I want to respectfully say, "Mr. Chairman, here is my view." I want to have rollcall votes on all of this. And if the bill is no good, I want to flush it down the toilet.

But I do not want to give up here right now. That is what I have a problem with. We have a bill here that has that remnants of what was a doggone good bill. And I just think it is regrettable that we are going to let this happen because we do not want to go to a conference.

What is the matter with a conference? What is the matter with a good, down and dirty fight with our friends in the House about our differences?

And I want to point out to the ranking member that the Banking Committee on the House side emerged with a very good bill. There was some differences with us, yes. And I think I see the ranking member nodding. There was the essence of a great bill in the Banking Committee of the House and the banking bill of the Senate.

I tell you the frustration I had when we produced a bill 94 to 2 over here that died and was not considered in the House, we wasted all these years since. The labor of the ranking member and the chairman to their credit, not this Senator's, produced again a good bill. I contributed in little ways. There are pieces of that bill I love. I am telling you it is a good bill, and to abandon it is a sinful thing to do.

If we give up the fight when will there be a time, when will we have a time when there is a challenge in the financial community in this country that so cries out for a good bill, as this time? When will there ever be a better time with banks failing all over the country, with the FDIC fund broke, with bankers crying when they talk to us about their needs for opportunities to take care of the bottom line and service people down the line? When will there ever be a better time if we abandon the fight now? There is never going to be a better time.

There is no time my friend JOHN DINGELL will like it better. I respect him. He has a right to differ with this Senator. But I want to go to the conference and fight with him about it. That is all I am saying. I do not want to go to the conference and say, "Good morning, Mr. Chairman. Here is what we have left if you like it."

Mr. RIEGLE. If the Senator would yield to me, I would like to respond as well.

I understand his frustration, and I share his frustration. We worked too hard and too long on this section to get it right, and I think we got it right. I think it is a solid section on its own, freestanding. But also I think it is important to add to the remarks that the Senator from Illinois, you can take each section of this bill, the Glass-Steagall section which I think was carefully written, solid, sensible, but you have to take it in combination with all the other sections. In other words, all of these sections reinforce each other.

Mr. DIXON. I know that.

Mr. RIEGLE. The higher capital standard, the early intervention, onsite examinations each year. In other words, anyone who looks at the bill, in total, looks at what I call the symmetry of the bill, will see that each portion reinforces each other portion.

So I am quite happy to have each section measured by itself because I think it has to be strong and solid as a freestanding section. But in this particular bill, when you put all the sections together, they reinforce each other, which I think makes the point a different way than the Senator from Illinois has made it.

I have great respect for JOHN DINGELL. JOHN DINGELL is not only our colleague from the House, he is my colleague from my home State. The fact that we might have a difference on an issue, that is not surprising. I mean, probably everybody in here has differences on certain issues, perhaps even within this bill.

And so I, for one, have never thought that we could not work out our differences with JOHN DINGELL. That does not mean that it might not be contentious. But, you know, oftentimes issues are. I think here on the question of solving that problem, I have to say that I agree. I do not know when we are going to get it done, quite frankly. We have tried now on two or three occasions.

We have the good fortune in the Senate where the jurisdiction over securities and banking is within the same committee, namely, our committee. So we are able to take those issues up within a single committee's jurisdiction. In the House, the jurisdiction is divided and that has created tensions and conflicts that we are at least able to attempt to reconcile within our own committee and have done so.

But I want the Senator to understand that we worked this provision out and we upheld it in the face of an amendment in the committee by a vote of 11 to 10. I felt then, I felt yesterday, I feel now that this is a solid provision, solid in and of itself, even more solid when you wrap all the other titles around it.

Now there are 11 titles in this bill. Glass-Steagall is just 1 of 11 titles. But there are 10 others that come around and add reinforcing strength to it.

So, my own view is that I think the bill that we passed in the committee is the bill that we should pass on the floor. And if I had the votes with which to make that happen by myself, that is exactly what I would do.

Mr. DIXON. I thank my friend, the distinguished chairman.

I have expressed my views. I just want to say that the only thing that I would want to say to support what the chairman has just said is that this bill did have symmetry before. It did have. I regret that, in my view, it no longer has that.

I yield the floor.

Mr. RIEGLE. Mr. President, I understand that we are ready now to move on the insurance title that has been presented as a compromise from Senator GARN and myself.

Mr. ROTH. Mr. President, this bill drives a stake into the heart of the banking industry. Title I is evidence that banking is losing profitability. Real reform would make banks more profitable by allowing them to compete in the areas of securities and insurance. It would allow capital to flow from nonbanking issues.

But this legislation does none of that. There is not going to be any new capital or any new powers. In fact, yesterday we took steps to make sure that current profits would be reduced. We are not helping the banks; we are bashing the banks. This amendment deals with insurance. Basically, it is a rollback of current authority. It is not intended to help banks or to make banking profitable. It is intended to protect the insurance industry from competition. While diversification has always been considered good economic policy, the Senate has decided to hem in the banking industry by basically limiting them to real estate lending which no one else wants to do and which is the cause of the current crisis.

This amendment duplicates the detrimental provisions of the committee's bill. There are three major problems with the insurance provisions. First, the amendment violates one of the paramount principles governing our country—that we are one economic union. One State may not wall itself off from other States and impose barriers to interstate commerce. That is why we decided to have a Constitution. That is why Delaware was the first State to ratify it. To me it makes little difference if the principle of economic union is violated by a State or by the Congress. The evil is the same.

Nevertheless, the amendment prohibits the interestate sale of a bank's insurance products to residents of other States unless such other States expressly by State statute authorize the sale of out-of-State bank insurance products in their States. What this means is that a bank insurance product may not be mailed from Delaware to Kansas unless the Kansas Legislature adopts a statute expressly authorizing out-of-State bank insurance products to be sold in Kansas. As a practical matter, the enactment of such a statute would be highly unlikely. The proponents of this provision well understood that the walls they erected protecting local insurance agents from interstate competition would not be voted down.

Proponents of this provision suggest that their purpose is to protect the safety and soundness of banks that sell insurance. But they have yet to explain why it is safe to sell to customers in-State but unsafe to sell out-of-State.

The second major problem with the amendment is their outrageously anticompetitive effect. The amendment bans insurance underwriting by banks and restricts sales, as described above. The majority report argues that we already have enough competition in insurance, so much so that more competition would not lower prices to consumers.

The majority report also offers some friendly advice to banks that insurance is not a profitable activity. However, the purpose of a free economy is to allow the genius of all entrepreneurs to work toward making profits. It is not the proper role of Congress to preclude the next competitor from trying harder to do better.

Moreover, the risk of an insurance underwriter and of a banker are very similar. Banks take deposits. Insurance companies take premiums. Both promise a return of some sort. Both make investments, often identical investments. Both have failed not because they made bad deals with their depositors or their insured but because their investments went sour. Their risks are so similar that there is little to justify the separation of banking and insurance. The majority report's argument proves too much. It proves that bankers should not be in banking, since bankers should not be in any line of business where investments may fail.

If there are distinctions to be drawn between banking and insurance, it may be with respect to underwriting some forms of insurance, such as property and casualty insurance or liability insurance. But the legislation's prohibitions make no distinctions between these and other types of insurance. No such distinctions were made because the purpose was to protect the insurance industry rather than banks. No such distinctions were made because the insurance industry fears that banks will compete effectively in very safe forms of insurance, such as life insurance. No such distinctions were made because under current law, the safety of an insurance product is regulated by the State banking commissioner, the FDIC, and the insurance commissioner of every State in which the product is marketed. Safety is not the issue.

Sales of insurance by banks on a commission basis were also restricted. This is considered by most observers as relatively risk-free and safer—much safer—than banking itself. Yet that did not stop the committee from restricting banks in this area as well. No honest observer could disagree with the conclusion that the insurance amendments were drawn to protect the insurance industry from the banking industry rather than vice versa.

The third problem with the amendment is peculiar to Delaware. The committee report makes clear that the attack on Delaware was not inadvertent but premeditated and vindictive. That a Senate committee should take this action is regrettable, since the Senate was created as a forum to safeguard the statehood of sovereign States.

The Committee punished Delaware because, in the absence of Federal leadership in opening new horizons for banks to compete, the State enacted legislation which generally permits banks to underwrite and sell insurance in-State and nationwide.

Incidentally, the committee report suggests that Delaware law restricts in-State sales. The language quoted in the report was sponsored by the insurance industry, which opposes both intrastate and interstate competition from banks, to achieve that end. However, the provision, which was imposed as a condition on entry by out-of-State bank holding companies, has never been enforced because the banking commissioner believes that competition is not a detriment to banking, and, more important, the provision is vitiated by title III of this very bill.

The punishment imposed on Delaware is inappropriate in view of the fact that there has never been a bank failure in Delaware that has cost the FDIC a single penny. That punishment is twofold. First, whereas banks in other States that authorize insurance underwriting by banks are grandfathered with respect to their in-State customers, banks in Delaware are not. Second, while banks in other States that authorize bank sales of insurance nationwide are grandfathered, banks in Delaware are not.

There is no justification for these acts of intentional discrimination and revenge. Moreover, if the Committee believes as the report suggests that Delaware law restricts in-State competition, why did it withhold grandfather protection from Delaware banks underwriting insurance for in-State customers? It would appear that these acts of discrimination were simply gratuitous.

The Delaware legislation is a lawful attempt to modernize banking.

The Second Circuit Court of Appeals has so ruled in a unanimous decision. Delaware banks have invested large sums of money to acquire insurance companies and to make all necessary arrangements to conduct business. Many casual observers believe that marketing insurance nationwide requires the consent of only the home State. That is not true. Each individual insurance product must be precleared by the insurance commissioner of each State in which the product is to be marketed.

When a bank has run up such substantial startup costs, it is grossly unfair to thwart the opportunity to realize profits from legal activity. The committee accepted this argument and grandfathered all banks except those in Delaware. What purpose does such a vindictive discrimination serve?

In conclusion, so long as this legislation contains provisions like those described, which are so subversive of the purpose of bank reform, I remain unable to support the amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SIMON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I have to ask unanimous consent for a slight modification in the language on page 11 of the amendment that is at the desk.

On page 11, if the clerk would note, starting on line 5, on page 11, we need to strike lines 5, 6, and 7. And I will send that modification to the desk. But I want to explain it so that it is a part of the record.

I ask unanimous consent that those three lines be stricken from the amendment at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The question is on agreeing to the amendment, as modified.

The amendment (No. 1341), as modified, was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Let me indicate now that we are ready to move to the interstate section of the bill. I would like to invite Senator FORD from Kentucky, who has an amendment that he wishes to offer, if this is a time that he is available to us, to come and handle that issue, that he do so.

Also, let me indicate to Senator BUMPERS from Arkansas, who has an amendment as well in the interstate area, that this would be the time in which we would like to take those matters up.

We will pause here, briefly, with a quorum call with the hope that they will be able to come to the floor and we can engage that issue, and debate and vote on that issue, and settle that section of the bill.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, let me express my appreciation and gratitude to the distinguished chairman of the Banking Committee, Senator RIEGLE, as well as the distinguished ranking minority member of the committee, Senator GARN of Utah, for working as hard as they have, in this case over the last number of days, to work out many compromise agreements over some highly contentious provisions of the banking legislation. But it would be an understatement to leave it at that. In the case of Senator GARN, it goes back virtually 10 years, when he was the chairman of the full committee in the early 1980's, pursuing comprehensive banking legislation.

During his stewardship he fought, year after year, to try to produce comprehensive legislation to deal with financial services. Then, over the last year or so, under the stewardship of Senator RIEGLE of Michigan, we have pursued that issue further. I do not have it in front of me here at this particular moment, but I would suspect if you took the years under Senator GARN's stewardship as chairman of the committee, and the years of Senator RIEGLE's stewardship of the committee, to suggest that there were dozens of hearings on financial services would be understatement. I suspect that number would be dozens and dozens of hearings.

We have seen on two occasions comprehensive legislation passed in this Chamber only to die because the other body could not come to terms with it. That was regrettable in my view, because I think we took major steps forward. Much of the problem we see today very well may have been addressed had we dealt more effectively with financial services legislation in the earlier part of the 1980's. Instead, we find ourselves in the shape we are in, in the early part of the 1990's—still floundering around, in my view, trying to catch up with the realities of the marketplace and the kinds of problems we are going to face, in this case with an even more competitive environment globally when it comes to financial services.

I still believe there is time but not much time.

It is understandable, I suppose, to see how we may lose market share in certain industries in this country. None of us likes to see it, but I think intellectually we understand it, given wage rates, the availability of natural resources, the lack of a regulatory environment in certain countries that allow other nations to produce products that are substantially lower in cost than what we can produce, that have substantial fewer problems in term of environmental concerns—things we insist upon. I do not need to elaborate, Mr. President. Suffice it to say we understand how that happens in certain product areas.

What I think most people do not understand and refuse to accept—and they are right to do so—is that we are about to lose significant market share in financial services. This is not an area that America ought to be taking a second place to anyone in—to anyone. Yet, regrettably, that is just what is happening.

We are slipping, day by day, further behind. To lose market share in textile and shoes, even automobiles, as much as I do not like it, I understand it to some degree. But to lose market share in banking and insurance? We are falling behind the rest of the world in financial services? That ought to be unacceptable to everyone. Yet, mind you, our failure to move legislation here and work out provisions that would satisfy at least a majority of people seems to defy us.

What we have witnessed over the last several weeks in the other body particularly, I think, is highly regrettable. That is not to suggest I would like every provision in these bills. I do not, at all. But I understand we have to move forward here.

One aspect of this debate is, of course, the issue of insurance. Let me say to my colleagues what is obvious to most if not all of them: Insurance is an extremely important issue in my State. There are approximately 100,000 people out of a population of 3.5 million who work directly in the insurance industry in the State of Connecticut. We are extremely proud that in fact we are known as the insurance State in many quarters and that Hartford, CT, particularly, is known as the insurance capital of this country—in fact of the world. That has been the case in years past.

Travelers, Aetna, Cigna, Phoenix, are just examples—The Hartford—are examples of names that are well known to almost every American as the major insurance providers to millions upon millions of people in this country, and to millions and millions beyond our shores as well who rely on those products.

So I would like to take just a couple of minutes, if I could, and focus on the amendment that was just agreed to, by voice vote, dealing with a compromise on the insurance provisions.

Let me state at the outset, if he has not already, the distinguished Senator from Utah [Mr. GARN] is not particularly enthralled with this compromise. He has stated so publicly in other settings. I believe he would say so, if he has not already, on the floor of the U.S. Senate today.

I am not particularly enthralled with every aspect of this compromise. But each of us happens to believe, unless we work out some differences and move a major provision forward, then we run the risk of bogging down this legislation interminably and forcing this country to lose—as I said a moment ago, Mr. President—more and more market share in a global economy where financial services ought to be at least one of the things that the United States holds a paramount position in.

So, Mr. President, I rise in support of this compromise amendment on bank insurance powers. The amendment is the product of many long hours of negotiations among the staffs of interested Senators, the Members themselves, members of the Treasury Department, as well as independent insurance agents, and the American Bankers Association.

I think the product is typical of a good compromise. It leaves everyone a little better off and, as I said a moment ago, everyone a little unhappy about the result.

But it does not just do that. It also moves us forward. This does not just satisfy the interests, but it takes us a step, I think, in the right direction in dealing with insurance powers. Overall, I think this compromise strikes a fair balance among competing interests and represents good policy, most important, for the American public.

Let me outline very briefly what this compromise provides. First, it closes the Delaware loophole whereby a State, any one State, may authorize its State-chartered banks to be used as a conduit to underwrite and sell insurance throughout the Nation, driving every other State to decide whether or not they want that activity to be conducted within the borders of their own jurisdiction.

In the case of Delaware, not only does the law permit banks to use Delaware as a jumping-off point for interstate insurance activities, it even limits the insurance activities of banks owned by out-of-State holding companies in Delaware itself—sort of the height of a contradiction, Mr. President. Nonetheless, this legislation does shut down that loophole.

Section 543 in the compromise put an end to this loophole by eliminating the ability of States to authorize insurance underwriting for its banks, and by restricting interstate insurance agency activities to those other States that choose to permit such activities explicitly by statute.

Second, the bill closes the Comptroller's loophole, whereby a national bank located in a place with fewer than 5,000 people can market insurance anywhere in the Nation.

During the 3 years that the Banking Committee has been considering this issue we have yet to hear a Member of the Senate stand up and defend the Comptroller's decision, as the so-called town of 5,000 provision was clearly designed to permit banks to fill a possible vacuum in insurance availability in small towns but not to be used as a subterfuge to engage in a nationwide sales business. And that is exactly what happened.

But S. 543 does not simply reverse these rather creative efforts to circumvent banking law restrictions on the mixing of banking and insurance activities. Instead, the bill tries to strike a fair balance.

With respect to interstate insurance sales by banks, the bill for the very first time would authorize such sales if the host State—if Hawaii, as the State of the Presiding Officer, or Connecticut, or any other State into which the out-of-State bank would be selling authorizes such sales by enacting a statute.

We are not talking here about franchising McDonald's or some fast food operation. We are talking about engaging in a major financial activity. And it seems to me that States should have the right to determine whether or not, within their own jurisdictions they want that activity to go forward. But we are saying they can do that. All we are insisting upon is that the States authorize that activity.

With respect to national banks, the bill does not stop by simply closing the Comptroller's loophole. Instead, it establishes a notion of parity that will significantly expand the insurance powers of national banks.

It provides that national banks for the first time will be authorized to engage in any insurance agency activities that a particular State authorizes for its own State-chartered banks. That is a major, major reform—a major reform, Mr. President. Let me repeat it. It provides that national banks for the first time will be authorized to engage in any insurance agency activity that a particular State authorizes for its own State-chartered banks. In the roughly 17 States that today authorize such powers for State-chartered banks, this parity provision will result in a broad expansion of insurance powers for national banks.

Moreover, Mr. President, the compromise amendment will give national banks parity plus, and I put that in quotation marks. What I mean by parity plus is that national banks will not only get the same powers as State-chartered banks; they will also be permitted to sell insurance in places with populations of 5,000 people or less.

Further, the bill defines such places more expansively than elsewhere in banking law to include sales to people located within a 7.5-mile radius around such places, except to incorporated towns within that 7.5-mile radius that have populations in excess of 12,500 people.

I realize, Mr. President, that gets rather technical and arcane, but what we are trying to do is to guarantee that those activities can be conducted in those areas because there has been a need for it. You do not get local operations setting up in small towns. If larger operations do not franchise in those areas, people who are served by those communities or potentially will be served by those communities do not get those services. We accept and understand that. We want to see those national operations be able to conduct their business and to expand it further, because we understand there are rural populations.

But what we are trying to avoid, obviously, is when you get into larger communities where there would be a market and an opportunity for somebody to set up an operation, that you not expand these activities in those kinds of communities.

Someone might say: Why not 13,500? Why not 8.5 miles? Why not 10 miles? I have no argument with it except for the fact we tried to deal with fact situations as they arose around the country. Thus, the 7.5 miles and the population of 12,500.

In addition, the compromise amendment would grandfather insurance sales within the same area, but in this case permit the area to cross State boundaries and grandfather sales into contiguous nonurban/nonsuburban counties so long as such sales are not made to cities with more than 30,000 residents.

I think you may hear the distinguished Senator from Utah talk about this provision. My colleagues may understand it in explicit terms, because when you get a rural State like Nevada, outside of Salt Lake or outside of Orem and the Provo area, or Ogden, UT, you get down into the Nevada border areas where there are contiguous counties, where you do not have substantial populations, this kind of provision really does help to serve the people who live in those areas. I cite the Utah-Nevada example, but there are dozens of others around the country. My colleague, who joins us on the floor, may at some point want to describe factually what happens in those kinds of situations.

Mr. President, in sum, I believe that the committee has worked out a very fair compromise, as is reflected by the support of the insurance agents of this country, the thousands of them across this Nation who have small businesses and who depend upon this kind of legislation to make it possible for them to continue to operate, and a statement from the American Bankers Association that the compromise "is a substantial improvement over the provisions as originally drafted in S. 543."

Mr. President, I think the Banking Committee on both sides of the aisle, the Treasury Department, the insurance industry, and the American Bankers Association have all compromised substantially to construct a fair compromise. I will support this compromise vigorously, not only on the floor of the U.S. Senate, but through the conference as well.

Mr. President, I urge that our colleagues support this legislation, support this compromise as accepted, and be willing to reject all amendments that may be offered to it that would further water this down or change the compromise as it has been crafted.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANFORD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNEMPLOYMENT COMPENSATION BENEFITS

Mr. CHAFEE. Mr. President, very soon there will be a unanimous-consent request to bring up the unemployment compensation bill, the request being that there be no amendments permitted to it.

Mr. President, I just want to say that if that request is granted, those of us who are interested in particular tax measures will be unable to bring up those measures in the remainder of the time we have in the Senate, since we are going to adjourn very shortly. This will not permit me, if I should agree to that unanimous-consent request, to address two very important issues: First, the repeal of the so-called luxury excise tax on boats; and second, the extension of the expiring tax provisions.

I suspect that others might address the second one of those; namely, the expiration of the so-called extenders. I believe it is absolutely vital that the Senate address both of these issues, the repeal of the luxury tax on boats and the question of the extenders, before we adjourn this year.

I would like to address, Mr. President, the luxury excise tax on boats. This is not a soak-the-rich tax, as it was originally intended. Any boat that costs over $100,000, there will be a 10 percent tax on the balance over $100,000. The result has been a direct loss of jobs in my State.

Overall, in the total boat building industry, it is estimated that 100,000 jobs have been lost because of recession, and we can add another 19,000 because of this luxury tax. Dozens of small businesses, which characterize the recreational boat-building industry have declared bankruptcy.

Mr. President, in this Chamber, time after time, we take measures that impose onerous burdens on business, even though we might be in favor of those steps. What are we talking about? We are talking about things I supported, such as the new civil rights law, aid for disabled Americans, and the parental leave bill.

Unfortunately, Mr. President, we never seem to do something that helps business and industry create new jobs. We cannot pay for all these other programs unless we have jobs. If we could tackle this one provision, getting rid of the so-called luxury tax, we could put thousands of Americans back to work. If there ever was a misnomer, if there ever was falsehood in truth in labeling, it is calling this tax a luxury tax. You might think it hurts millionaires. It does not hurt them at all. It does, however, hurt hundreds of low- and middle-income Americans who build boats, many of them in my State.

I have waited patiently, Mr. President, for the Senate to consider a revenue vehicle from the House. I do not want to hold up the proceedings on this unemployment compensation legislation, but I believe we must repeal this luxury tax.

The bill we are about to consider is for helping Americans who lost their jobs. Is it not ironic that we consider legislation this afternoon to help Americans who lost their jobs, and at the same time we do not do anything about legislation that is causing these people to lose their jobs.

I wish the majority leader was on the floor, because if he was, these are the questions I would pose to him: Is there a possibility that we could reach a unanimous-consent agreement that two amendments be offered. First extending the expiring tax provisions, including mortgage revenue bonds, the R&D tax credit, the low-income housing credit, and a host of others; and second repeal of the luxury excise tax on boats?

Now, I know what the answer would be to that question, if I asked the majority leader. He would say no. I know that already. He would say, "We cannot have a Christmas tree. Why, if I grant you this privilege of coming forward with knocking out the luxury tax, in would come somebody else with another tax amendment."

Well, just look at it. The luxury tax that I wish to knock out applies to boats. In would come those from the areas where luxury cars are built or imported into this country, and somebody would move to knock that out. So I know what the answer is.

Now, the next question I would ask him is, if we cannot do that, are we going to be able to address these matters before the end of this session? And I suspect his answer would be he is not sure.

So I hope, Mr. President, that a lot of people in this Chamber will give some consideration to doing something about creating jobs. I am all for the unemployment compensation extension. It adds 20 additional weeks in my State, so I am for it. But I would like to do something about the people who lost their jobs, seeing that they can get them back and go back to work building boats once again.

Mr. DODD. Will my colleague yield?

Mr. CHAFEE. I certainly will.

Mr. DODD. I commend, Mr. President, the Senator from Rhode Island. I would like to associate myself with his remarks on both provisions he has raised. I think the issue regarding the so-called—I am glad he described it as such—luxury tax on boats suggests we are talking about——

Mr. CHAFEE. A total misnomer.

Mr. DODD. A total misnomer. In our part of the country, the New England States, this is a major industry, where literally thousands upon thousands of people's livelihoods and well-being are made and earned. This has been a devastating blow to that industry. My hope is that at some point, very shortly, we are going to be able to have an opportunity to redress that wrong. I suspect my colleague is correct that, given the importance of the extension of the unemployment benefit program, we are going to deal with that issue today and move forward. But he is correct that we are not really dealing with unemployment; we are just dealing with the victims of unemployment, and that a final answer will come in trying to get the economy moving again to reduce those numbers.

Second, Mr. President, on the tax credits, the research and development, the low-income housing, the education tax credits, this is a different set of issues. These are provisions which are in law. I ask my colleague from Rhode Island, Mr. President, if this is correct, these are provisions which are currently in law which will expire on December 31 or January 1, 1992, and that, if we fail to take some action before we leave here to extend these, even for 6 months or a year, pending the outcome of some tax legislation next year, many businesses, many industries, many individuals will not, of course, continue these particular programs without the advantages being provided.

So it seems to me that those issues are not deciding whether or not you want to provide a repeal of the luxury tax, so-called luxury tax on boats, but whether or not you want to extend existing provisions of the Tax Code which are currently providing a real employment incentive, or business incentive, for a large number of corporations and whether or not it might be possible for some unanimous-consent agreement to be reached on those particular provisions before we adjourn. I ask my colleague if that is not the situation.

Mr. CHAFEE. I want to say to my good friend from Connecticut, he is exactly right.

Let me just talk to one of the provisions, one of these so-called extenders. Currently, there exists in the law the so-called mortgage revenue bonds, wherein a State can issue tax-exempt bonds to provide mortgages for low-income Americans. Individuals who meet certain income requirements can borrow from that fund and thus get money at a lower interest rate than he would normally pay in a conventional mortgage. He will be able to either purchase a home or have a home built. Most likely, he will purchase a home. In the last 2 years, almost 50 percent of the mortgages in my State are pursuant to this mortgage revenue bond program.

Now, this expires. It does not do much good to say, "Oh, don't worry, we'll extend it sometime in March or April." If there is anything we need under the Revenue Code, it is definiteness, particularly when we think of my distinguished colleague from Connecticut. He comes from a high-technology State. One of the virtues of the Internal Revenue Code that is going to expire is the research and development tax credit. If a company invests more in research and development, they get a credit.

Now, what could be more encouraging to create jobs in this country, to keep us on the cutting edge of technology than this particular provision? This leads to jobs, however, it expires at the end of this year. If we go away from here without doing anything about it, business cannot make their plans. It is not enough to say to the business, well, maybe in June you will get it back.

Mr. DODD. If my colleague will yield further, he mentioned two, and I agree with both of them. On the low-income housing, those of us who care about low-income housing issues at all, the tax credits in that area have been one of few things left to provide any construction at all, or investment in low-income housing.

But one of the most important tax credit provisions that has been significantly utilized by business and industry is the education tax credit.

Today, with the skyrocketing cost of higher education, it seems to me critically important to encourage, as much as possible, industry, business, to encourage its employees to seek additional education, not only for themselves as individuals but to improve the business climate or the productivity of the individual companies for whom these employees work. We let that lapse and these students, who only are able to afford the higher education because of these tax credits, will end up dropping out of these institutions. The businesses cannot afford to subsidize those educations on their own, and we will lose a significant number of people who are improving themselves through higher educational opportunities. So I think my colleague's point about the extension is extremely important and worthwhile.

Mr. CHAFEE. The Senator is exactly right. The particular provision he was referring to works as follows. A company, Hewlett-Packard, sends one of its employees to Stanford for a graduate course. Under the existing law, that employee's tuition which is paid by Hewlett-Packard does not count as income to those people. It is what we call a tax-free fringe benefit.

Now, when this lapses, it means that the individual will have to pay income taxes on the tuition the company is paying. In other words, he is not getting the money; but is paying tax on a privilege without having the added income to pay the additional tax. Therefore, it discourages employees from taking these opportunities, and these are the opportunities we want to encourage employee to take. We want them to be right there ready to design the latest type of computers or equipment or software or whatever it is to help this country create more jobs.

I thank my friend from Connecticut.

Mr. DODD. I thank my friend from Rhode Island.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. RIEGLE. Mr. President, I now want to bring us to the area of the interstate banking and branching section of the bill. Senator FORD is present and will have an amendment to offer shortly, and I know Senator BUMPERS also wants to be part of that debate. I believe he also has an amendment that he wishes to offer.

Let me lay out a brief discussion leading into that. By way of background, the American banking system has been characterized by restrictions on both interstate banking and branching. These restrictions have resulted in a fragmented system of thousands of independently chartered banks. In fact, there are over 12,000 commercial banks now in the United States.

Witnesses before the Banking Committee testified that geographic restrictions tend to increase costs for banks. They increase inefficiency for their customers, and increase risks for the deposit insurance fund and the taxpayers. So removing the barriers is expected to create considerable benefits, both for the banking industry and for consumers and taxpayers generally.

Federal Reserve Board Chairman Greenspan summarized in his testimony: "What interstate banking promises is wider consumer choices at better prices and, for our banking system, increased competition and efficiency, the elimination of unnecessary costs associated with the delivery of banking services, and risk reduction through diversification"; namely, of course, geographic diversification.

So, first, eliminating geographic restrictions will permit greater diversification by banks and consequently greater protection to the deposit insurance fund. Geographic restrictions now in place make it difficult for banks to diversify their deposit bases and their loan portfolios. This tends to leave them more vulnerable to downturns in local economies where they do business. The Bank of New England was toppled in large part because of a decline in regional real estate values. Secretary of the Treasury Brady testified that "interstate banking permits banks to diversity and avoid being too closely tied to vicissitudes of local economies."

Former Deputy Treasury Secretary Robert Carswell told the Banking Committee that bank failures in the 1980's were concentrated in States with limited branching rights. Texas and Oklahoma have the largest number of bank failures in the Nation and had "among the most restrictive branching laws." Robert Litan, Senior Fellow at the Brookings Institution, said "it is no accident that in the 1980's most bank failures were concentrated in States with limited branching rights." He added that "the Nation would have suffered fewer bank failures in the 1980's had we long ago permitted nationwide branching that would have spread many banking risks more evenly throughout the banking system."

So removing the remaining restrictions on interstate banking will promote efficiency in the banking system, which in turn will help increase bank profitability and, thereby, also a buildup in the capital in those banks, better protecting the deposit insurance fund.

The counseling firm McKinsey & Co. has estimated that relaxing the current geographic restrictions could save the banking industry approximately $10 billion each year. That is a significant savings for an industry that had pretax earnings of only approximately $24 billion in 1990.

Interstate branching should increase bank profitability by reducing administrative expenses for banks that presently operate interstate through separately chartered subsidiary banks of a bank holding company. Operating efficiencies can be achieved by eliminating redundancies in multistate banking organizations made necessary by current law. Converting subsidiary banks to branches will eliminate the need for separate capitalization of each bank, separate boards of directors, and separate examinations and audits for each banking unit. Individual back-office and computer systems run by each subsidiary bank could also be consolidated. As I say, this would allow banks to increase their capital, protecting the deposit insurance fund. With $70 billion of taxpayers' money on loan to the bank insurance fund, a competitive, profitable banking industry is the best protection for the taxpayers.

Furthermore, removal of geographic restrictions will make American banks more competitive with foreign banks. Technological advances in the decades since passage of the McFadden Act have transformed banking into an international industry. Current restrictions inhibit American banks from competing with foreign banks in this market and abroad. In a 1990 survey conducted by American Banker, no

U.S. bank ranked among the 20 largest in the world. The largest American bank, Citicorp, ranked 21st. Just 5 years earlier, 3 U.S. banks were among the top 20.

The globalization of the banking industry means that many U.S. banks cannot afford to continue to tie their success to a limited geographic area. They cannot match their competitors while burdened with costly subsidiary structures. They cannot be strong global competitors without larger deposit bases in this country.

Actually, the restrictions on interstate branching are an American anomaly. The United States is the only industrial country that restricts bank branching. Indeed, by the end of 1992 European banks will be able to open branches across the continent. Securities and Exchange Commission Chairman Breeden recommends repeal of current restrictions on interstate branching. He noted that:

> It will soon be possible for a German bank to open branches from Ireland to Greece and from Denmark to Spain, operating largely under the supervision of German authorities. At the same time it will remain unlawful for a California bank to open branches in Florida and Connecticut.

FDIC Chairman Seidman told the Committee:

> The nation's archaic geographic banking restrictions will become even more obvious and unpalatable * * * as the European Community eliminates restrictions on branch banking. While European banks, and U.S. banking organizations with subsidiaries in Europe, make growth decisions based on market opportunities, banks operating in the United States will make growth decisions based to a large extent on what statutory loopholes can be found. * * *

We also believe that expanded branching will increase convenience and reduce costs to consumers by reducing concentration and increasing competition at the local level. Bank customers could be better served by dealing with the same bank in different States. American society is very mobile; people move, travel, and conduct business across State lines. Allowing banks to branch interstate would simplify financial transactions. Relaxation of branching restrictions also will enable banks to offer their customers access to more convenient and expanded services.

In short, Mr. President, relaxing geographic considerations will increase consumer convenience and industry efficiency. Greater efficiency in the banking industry will reduce strain on the deposit insurance fund and protect the taxpayers.

COMMUNITY BANKS NEED NOT FEAR INTERSTATE BRANCHING

Community bankers need not fear that competition from regional or money center banks will remove their ability to compete effectively. The experience of States that allow statewide branching suggests that large banks can expand their areas of operations and diversify their risks while small banks continue to fill an important niche in the marketplace. Former Deputy Treasury Secretary Robert Carswell recounted New York's experience as follows:

> Before New York removed its geographic branching restrictions and allowed any bank to branch anywhere in the State, there were predictions that independent banks would be driven to the wall and banking would be concentrated in the hands of a few large banks that would then squeeze and drain the local economies. It simply has not happened. Independent banks have done fine—providing services to old and new customers.

COMMUNITIES NEED NOT FEAR INTERSTATE BRANCHING

By the some token, communities need not fear that increased geographic opportunities will deprive them of needed capital. Banks have an obligation to promote economic growth and meet the credit needs in their communities, including low- and moderate-income neighborhoods. Accordingly, and this is very important, S. 543 ensures that the principles of the Community Reinvestment Act will be observed under the system of interstate banking.

To keep pace with the increasingly interstate nature of banking, title III amends the Community Reinvestment Act to require separate evaluations of a bank's record of performance in each State or metropolitan area in which it has branches. In considering acquisitions of banks, the Federal Reserve must review a bank holding company's compliance with State community reinvestment laws. S. 543 specifically provides that State community reinvestment laws will apply to all bank branches in the State, whether of in-State banks or out-of-State banks. In this way, banks will not be able to "vacuum up" funds in an area without reinvesting them in the community.

These measures are intended to ensure that banks operating across State lines continue to meet their obligations to the communities they serve in all the States in which they conduct business.

I might add that S. 543 also contains provisions designed to ensure that large banks not acquire undue financial power nationwide or in individual States. S. 543 contains specific concentration levels that restrict the largest banks from acquiring additional banks or branches.

Furthermore, under S. 543 the States retain their authority to decide how banks may branch within their borders.

"OPT OUT" VERSUS "OPT IN"

Let us keep these expected benefits in mind, Mr. President, as we consider the role the States should play in allowing banks to participate in interstate activities. No one suggests that the States should not play a role. S. 543 preserves this State role: S. 543 allows States to opt out of interstate branching.

Some Senators suggest this does not give the States a sufficient role. Senator BUMPERS, I understand, will suggest that all interstate branching should be contingent on States' opting in to interstate branching.

There is a problem with that approach and let me illustrate it. I need turn no further than the Bank Holding Company Act of 1956. In the Bank Holding Company Act of 1956, Congress allowed States to opt in to interstate banking. To be clear, let me explain that interstate banking allows a bank to be affiliated with a bank in another State, while interstate branching would allow a bank to open a branch in another State.

How did the banks use the opt in authority given them by the Bank Holding Company Act of 1956? Cautiously would be an understatement. It took 25 years, Mr. President, 25 years before the States began to allow out-of-State bank holding companies to acquire banks in their States. Once the trend got started, however, it picked up a lot of steam. In the last 10 years, the States have decided overwhelmingly to facilitate interstate banking. Currently, 48 States allow out-of-State bank holding companies to acquire banks in their individual States.

So, I do not think we can wait another 25 years for State legislatures to opt in to interstate branching. With $70 billion of taxpayers' money on loan to the bank insurance fund with the passage of this bill, we have to protect the taxpayers by taking actions that will reduce the risks to the fund. As the witnesses I have cited described, interstate branching will reduce these risks.

I am sensitive to States' concerns on these issues and so is the committee. This legislation respects the role of the States, but it requires the States to act: They have 3 years to opt out of interstate branching, if they so wish.

The amendment by Senator BUMPERS would go even further, by requiring that States opt in to all forms of interstate branching available under the compromise. This amendment places all of the benefits of interstate operation at the mercy of each of the individual State legislatures. Our bill allows State legislatures to step on the brake, slowing the development of interstate branching. But I think the Bumpers amendment would turn the situation around. Under the Bumpers amendment, we would have to rely on the State legislature to step on the accelerator: Unless and until they act, there will be no interstate branching period.

I think this gives the States an undue say over the development of the national economy. Such a state of affairs I think would compromise the cost reductions, diversification of risk, and increased convenience that the witnesses predicted from increased interstate operations. I do not think that amendment does represent the best protection for the taxpayers, who are now going to be loaning $70 billion to the bank insurance fund, or to consumers who would have to put up with those constraints.

So I think we have struck here the right balance between Federal and national requirements and States rights on the other side. Because the bill I think adequately protects the concerns of the States and of the community banks, I will urge my colleagues to stay with the committee bill, with the proposal that has been developed and advanced by Senator FORD, and to not go further in the direction that the Bumpers amendment would take us.

Mr. GARN. Mr. President, I am certainly unenthusiastic about any element of the Ford amendment. It is a major step back from the constructive approach to interstate banking proposed by the Treasury, which I strongly supported.

It is a significant step back from the more limited provisions reported by the Banking Committee. Rather than permitting de novo interstate branching as in the committee bill, the Ford amendment would require acquisition of an existing bank before conversion to a branch. It would also allow States the right to restrict or condition entry for out-of-State banks.

This is a costly approach to interstate branching, noteworthy mainly because it will maximize franchise value for existing banks and restrain competition.

Despite all that, I would be prepared to accept these restrictions as the price for authorizing our banks to branch interstate if the amendment did not introduce discrimination against foreign banks in the U.S. market by leaving current restrictions on foreign banks in place, excluding them from interstate reforms.

As a longtime proponent of national treatment as embodied in the International Banking Act, I cannot support this kind of discrimination.

National treatment is the policy under which foreign banks receive regulatory treatment equivalent to that accorded domestic banks. It has worked well as U.S. policy.

U.S. banks have established a substantial international presence based on market liberalization in many foreign markets. Foreign banks have provided much needed credit to our cities, for business investment and to finance U.S. exports.

The Ford amendment would overturn longstanding national policy by denying new interstate branching rights to a foreign bank.

My great concern is that the proponents of this approach believe that State discrimination is fair because foreign banks enjoy regulatory advantages compared to a U.S. bank.

This argument is certainly easy to understand, but I believe it is wrong. It is wrong because producing equal treatment in the complex world of international bank regulation is not a simple matter of identical rules. In fact, as Treasury has noted in its national treatment study, identical treatment can actually produce discrimination against foreign parties.

In my judgment, current rules for foreign banks, while not identical, produce an outcome that is roughly equal in terms of competitive opportunity.

Activities and operations of foreign banks are subject to U.S. regulations and oversight which is strengthened in this bill.

Foreign banks must maintain reserves in the United States and are required to have capital equivalent to that for U.S. banks.

The restrictions and requirements of the Bank Holding Company Act are applied to the foreign bank parent as if it were a U.S. holding company—this includes assessment of financial and managerial strength and adequate capital.

Any foreign bank that takes insured deposits must participate in the U.S. insurance system and pay premiums, and be subject to the requirements of the Community Reinvestment Act.

And the various regulatory and reporting requirements about which our banks complain apply to foreign banks as well.

This is broad, equal treatment that is fair to U.S. banks and has produced no complaints from the large U.S. banks that are direct competitors with the foreign banks.

Given this record of equal treatment I must oppose unfair and inequitable treatment based solely on the national origin of an institution, not its ability to conduct a safe and sound banking business. Not only is this result inequitable but I would argue further that it is dangerous.

It would be dangerous, first, because it would threaten the significant progress that has already been made in opening foreign markets and in supporting the growth and vitality of the U.S. capital market.

U.S. banks engage in a broad range of business all over the world. They maintain direct branches in all 12 EC countries which generate a significant plus for the U.S. current account balance. If we place discriminatory structural requirements on foreign banks, we risk retaliation against U.S. banks that would, at the very least, greatly restrict their participation in international markets.

In the U.S. market, the policy of national treatment has attracted business, capital, talent, and brain power to the United States.

A vigorous foreign banking presence is critical to New York's status as the world's most innovative and vigorous capital market.

In Florida, foreign banks play a critical role in financing trade. The American Banker reports that more than half of some $9 billion in commodity exports from Florida to Latin America were financed by Latin American banks, and that in some instances, those foreign banks are the only ones willing to step forward and provide trade financing.

A second danger would be that this proposal would undermine United States efforts to produce greater liberalization for United States banks and securities firms abroad in the Uruguay round and North American free-trade negotiations.

If the United States will not guarantee fair and equal treatment for foreign banks, and enshrines legal discrimination in Federal law, how can we argue for fair treatment abroad?

You can bet that the Canadians and the Mexicans will never open up to United States bank branches, an important component of any successful free-trade agreement. And you can bet that the European Community will begin to impose structural requirements on U.S. banks.

In fact, the issues goes well beyond financial services. We cannot expect to achieve market opening in agriculture and to strengthen international protections for intellectual property if we restrict our own market for financial services. In fact, we could produce a downward spiral of retaliation that would damage our economy as well as confidence in world capital markets.

The final danger I would like to cite is the damage this proposal could do to the competitiveness of our own financial services sector. It risks reducing foreign bank competition which is healthy for the U.S. financial system.

I find it especially frustrating that we may adopt this approach and run these risks when it is difficult to show that the legislation is even motivated by a realistic foreign threat.

Foreign banks do very little retail banking. International banks are most interested in wholesale banking involving large transactions with sophisticated customers. They are unlikely to want to compete directly with most small U.S. banks or enter States like Kentucky or Arkansas through branches.

To do their preferred form of business, foreign banks would be very unlikely to want to buy a local bank network, spin off its deposits, find a new financing source, and reconfigure it as a wholesale bank. It is hard to imagine a foreign bank taking advantage of the Ford amendment to open such an office. It would simply be too costly.

The bottom line is that this provision is unlikely to do anything to protect small banks in States without a foreign presence. U.S. banks will not be immune from foreign competition, which they should welcome. And the amendment risks broader damage to U.S. policy and the U.S. economy.

I urge my colleagues to oppose the Ford amendment and maintain the approach to equal competitive opportunity adopted by the Banking Committee that has been U.S. policy for the last 13 years as part of the International Banking Act.

Mr. President, over the years that I have been on the Banking Committee, one of the things that has disturbed me the most is our declining international competitiveness and, as a result of that, the fact that just a few years ago 7 out of the 10 largest banks in the world were United States banks and today 10 out of the 10 largest banks are Japanese, and the largest United States bank is not even in the top 25.

It is also evident that a large number of major loans in this country are being made by international banks because of the inability of our own financial institutions to compete. And there have been notable restrictions upon entry of U.S. banks into foreign countries.

Over the years, I have made several trips to Australia, Korea, and Japan and other countries, trying to jawbone their officials into being fair and equitable. Because in the area of banking and finance and securities, we are not second rate. The United States has always been the leader.

The Japanese cannot claim—and some people do—that the reason their automobiles have sold so well is because we had inferior quality over the years and therefore they gained market share. They simply cannot make that charge and make it stick in the area of financial services and banking. We have been the world leader. So what some of us have tried to promote over the years is national treatment. And that simply means that whatever the banking laws are in Japan, that United States banks be treated the same as Japanese banks. And that in the United States, in order to be fair, we say, all right, we will treat your banks the same as we treat our own.

That principle of national treatment, if it were put into effect on both sides, I think would certainly be very effective and be of great help to our institutions. So that is why I participated in the International Banking Act of 1978. I think it has generally served us well, although there are still many obstructions to national treatment in other countries, particularly in Japan.

But we are going to face, as the chairman pointed out, before long a united Europe where their banks branch across country lines, and yet we still have some States that do not allow their banks to branch at all, and States who do not allow branching across State lines. So I feel very strongly that interstate branching is a necessary reform and certainly, to have national treatment in our international relations is important. So I would favoring the Banking Committee approach.

I understand how Senator FORD feels, and I understand why. There are a lot of small bankers around the country and it is an irresistable argument; they say, "We do not want foreign banks in our State." I can understand that. I suppose most of the small bankers in my State would feel exactly the same way. But I do not know any international banks that want to go into the retail banking business in the smaller communities and States of this country. They are simply not interested in setting up that network. They are interested in the large loans.

In my own city, the owner of the Utah Jazz had a very difficult time trying to build a new arena. It was an unusual situation. He did not go to the city and say, "I have a successful franchise and if you do not build me a new arena I am going to move the Utah Jazz." He said, "No, I am going to find $60 million to borrow and I am going to build a new arena by myself without asking for the taxpayers' money to be involved."

Well, he tried every source he could and he could not find a U.S. bank that would loan to him. So finally we had a Japanese bank that made the loan to build the new Delta Center for the Utah Jazz in Salt Lake City. I will guarantee you that Japanese bank is not interested in retail branches in Salt Lake City or in Utah.

So I think, even though I understand their position, I think most of the banks, whether they are in Kentucky or Utah, that fear foreign competition are really talking about oranges and apples and you are not going to see that happen in retail branches where doing normal consumer type loans and consumer banking exists.

So when we are talking about the international banking provisions, I really think it is important to have maintained the Senate provision. Nevertheless, as we are dealing with several issues on this particular bill, the populist approach is going to win.

If you ask our colleagues on this floor to go away from the arguments of do not let foreign banks in to compete with my local banks, they are going to vote in that manner. So while I do not like the Ford amendment, it certainly is very preferable to the Bumpers amendment. And therefore I am saving my good friend and classmate of 1974 the reading of my entire statement—as a courtesy to him, I put it in the RECORD—and will reluctantly be willing to accept his amendment, not because I like it, but because it is far better than the Bumpers amendment, and would urge all of my colleagues, when Senator BUMPERS offers his second-degree amendment, to defeat it. Because I believe it would be very, very harmful to international banking relationships and make it virtually impossible for our banks to gain access to foreign markets.

Again I am talking about the large banks that deal in wholesale banking, not the retailers. Certainly in my State I have no huge banks that exist in the State, no money center banks. Virtually all of them are small. And if we pass either the administration's language or the language that was in the Senate bill, the independent bankers in Utah would not be affected by what we are doing. But nevertheless it is an argument that is unwinable, just as the argument last night was unwinable as far as whether we put interest rate ceilings on credit card interest. So I hope my colleagues will not support the Bumpers amendment and will support the Ford amendment as the lesser of evils.

Mr. FORD. Mr. President, I had hoped that my friend and dear colleague, the Senator from Arkansas [Mr. BUMPERS], would be here with his amendment which he will offer as an amendment to my amendment, and we could proceed with the debate on his amendment and expedite the completion of this piece of legislation. And so, Mr. President, I am withholding the introduction of my amendment for a few moments, hoping that he will be here. I have been here since about 1:30 or a quarter to 2, ready to introduce my amendment.

But, Mr. President, let me just make a few remarks.

I thank the distinguished chairman of the committee, Mr. RIEGLE, and the ranking member of the Banking Committee, Mr. GARN, who are both my friends. They have made statements in regard to my compromise amendment. The compromise amendment I think fits about as well as we can do it. Both of these fine gentleman have agreed to my amendment. They are very much opposed to the Bumpers amendment which will be offered in the second degree. And I might say, Mr. President, that basically the Bumpers amendment was defeated in the House by overwhelming numbers, 140-something to 250 to 260.

So politically that amendment will not fly when it goes to conference. But we have one in this compromise that I believe will.

Mr. President, today I am offering an amendment to title III of the banking reform bill which represents a true compromise in the area of interstate banking and branching. I have made significant changes to my amendment in the last 24 hours, so that I now believe my amendment can be accepted by the managers of the bill. I have worked with my colleagues on the Banking Committee from both sides of the aisle in an attempt to fashion a realistic and reasonable alternative to the Senate bill.

I ask my colleagues to consider this compromise as the best alternative on this complex issue. My distinguished colleague from Arkansas, Senator BUMPERS, has offered a second-degree amendment which goes much further than this compromise in many respects. Together, I believe we will be providing a range of choices for the Senate in the area of interstate banking and branching.

The issue involves competing concerns. It involves how best to advance the trend of interstate banking and branching in this country, while at the same time preserving important States rights and protecting the legitimate franchise interests of small community banks. I feel the current Senate bill fails to consider all of these interests.

Let me summarize briefly my original concerns with the Senate bill. First, I believe it fails to adequately consider States rights. It fails to let States continue to set reasonable restrictions on the terms and conditions of entry by out-of-State banks into their States.

Second, the Senate bill fails to take into account the legitimate franchise interests of small community banks throughout this country. Most States attempt to recognize these legitimate interests. Many States limit out-of-State entry to the acquisition of existing banks, preserving the franchise value of many small banks. I believe the Senate bill ignores these legitimate interests.

Third, I believe the current Senate provisions undermine our dual banking system. In many parts of this country, many feel the dual banking system is something to be maintained. State regulators regulate State chartered banks. The Comptroller of the Currency regulates national banks. And consumers get the benefits of a varied and competitive system. The Senate bill, however, imposes a uniform set of rules on all States regarding interstate banking and branching that is simply not necessary.

The Senate bill imposes a phased-in transition to interstate banking and branching which leaves very little discretion to States. After 1 year, bank holding companies can acquire existing banks in any other State. After 18 months, bank holding companies can begin to convert existing subsidiaries into branches of other out-of-State subsidiaries. After 2 years, bank holding companies can set up and buy brand new banks in any other State. Setting up your own new bank is referred to as "interstate banking de novo."

And after 3 years under the Senate bill, three types of branching activity would be allowed in any State unless a State opted out of all three. The three types of branching would involve bank holding company conversions of existing subsidiaries, direct branching by National and State banks, and direct foreign branching. The direct branching includes setting up brandnew branches, which is referred to as "interstate branching de novo."

Mr. President, interstate banking is a growing trend. I agree that we should allow it on a nationwide basis. But should we take all rights away from States to regulate this activity? We know that interstate affiliations have increased in recent years. Thirty-four States currently allow some form of nationwide interstate banking. Fourteen States allow interstate banking on a regional basis. Only two States do not allow interstate banking at all. But there are reasonable restrictions in the 48 States allowing interstate banking. There is no need to force a single set of rules upon the States.

Each State can currently restrict interstate banking by limiting it to the acquisition of existing banks. In other words, they prohibit "interstate banking de novo." This protects the legitimate franchise interests of small banks, some of which have been run by the same family and served the same community for generations. Why should we take this away from States? The Senate bill mandates interstate banking de novo. My original amendment gives this decision back to States. It allows them to continue to limit interstate banking to the acquisition of existing banks if they choose.

States can currently set a minimum age of existing banks to be acquired within their borders. In my State, for example, a bank must be 5 years old before it can be acquired by an out-of-State bank. The Senate bill takes this right away. Why should we take this away from States? My original amendment would allow this to continue.

States can currently set concentration limits on the percentage of deposits to be controlled by any single bank. In Kentucky, no out-of-State bank can acquire a Kentucky bank if it would control more than 15 percent of the banking deposits within the State. This is a reasonable restriction to prevent overconcentration. Why should we take this away from States? My original amendment would allow States to continue these restrictions.

When you consider interstate branching, there are other problems. Most of my colleagues now understand the difference between interstate banking and interstate branching. Interstate banking still requires a separate bank charter in the new State. This means separate capital requirements, a separate board of directors, and separate regulatory requirements. On the other hand, interstate branching does not involve a separate charter. Out-of-State banks could move directly into your State to set up branches. They would not have a separate charter. Although 48 States now permit some form of interstate banking, interstate branching is virtually nonexistent in this country. We are charting new waters for the most part.

The Senate bill provides an all-or-nothing choice. There are three forms of interstate branching under the Senate bill. A State must accept all three, or none at all. The first form involves combinations by bank holding companies. Second, the Senate bill allows direct branching by national or State banks across State lines. This involves either acquiring a branch, or establishing a new one. Again, under the Senate bill, if a State wants interstate branching, it must accept interstate branching de novo. It forfeits all rights to limit interstate branching to acquisitions of existing banks. Third, and perhaps most troubling, the bill allows direct foreign branching. This is an area which is currently left up to each State to regulate. Yet under the Senate bill, if you want branching, you must allow foreign branching.

One of the purposes of the Bank Holding Company Act is to regulate the acquisitions of banks. In general, banks do not buy other banks. You buy a bank through a bank holding company. Unlike the Senate bill, my original amendment attempted to preserve this structure, allowing interstate branching to occur only through the conversion of bank holding company subsidiaries. In this way, interstate branching de novo would not be allows. And other forms of branching would not be forced upon States in an all-or-nothing format. I also maintained the choice contained in the Senate bill for States to opt out of branching altogether within 3 years. I believe this requires States to address this issue without placing any unreasonable burdens upon them.

Mr. President, I made my colleagues on the Banking Committee aware of my concerns early on. I made them aware of the amendment I had prepared which attempted to give certain rights back to States and protect the franchise interests of small banks. We have discussed this in good faith. And I now believe I have modified my amendment in a way which the distinguished chairman and the distinguished ranking member of the committee will be able to accept.

So let me attempt to briefly describe the compromise which has been reached. The compromise will continue to allow nationwide interstate banking by acquisition beginning 1 year after the bill is passed. The compromise will not mandate interstate banking de novo. States will continue to be able to limit interstate banking to the acquisition of existing banks, protecting the franchise rights of small banks. States will be able to set a minimum age for any bank to be acquired, up to 5 years. The compromise will allow interstate branching to occur though the conversion of bank holding company subsidiaries, as under my original amendment that I sent out to my colleagues. States will have 3 years to opt out of this form of branching.

In addition, some wanted to allow States to go further and permit interstate branching de novo, directly by national and State banks. As part of the compromise, States will be allowed to opt in to this expanded form of interstate branching if their State legislatures pass a law allowing it. But if a State takes no action at all, it remains in the same position as under the original Ford amendment: nationwide interstate banking by acquisition only, and an opt out on interstate branching by acquisition. Foreign branching will continue to be left to each State.

Mr. President, I believe we have reached a fair and balanced compromise. It advances the trend of interstate banking and branching. But it also gives back to States certain important rights relating to the terms and conditions of entry. It allows States the choice of whether to permit interstate banking and branching de novo. And it leaves with States the decision on how to protect the franchise interests of small community banks within their borders. I believe it is a balanced approach. I believe it is a fair approach. And I believe it is a responsible way to move forward on the issues of interstate banking and branching.

Lastly, let me say a few words about the amendment by my colleague from Arkansas, who I respect very much. I respect what he is attempting to do. As I understand his amendment, it allows States the opportunity to opt in to direct branching by national and State banks. I want to make sure that my colleagues are aware that the compromise contained in the Ford amendment does exactly the same thing. It allows States to opt in to direct interstate branching. This is part of a well-balanced compromise, in my opinion. It is the other elements of the compromise that my colleague from Arkansas does not accept. He does not accept nationwide interstate banking. And he does not accept the authority provided for bank holding company conversions, subject to a State opting out.

I must say to my colleague that I respect his position, which I considered taking myself. But one of the main reasons I did not stick with a pure opt in approach is that I believe it has very little chance of actually becoming law. It has been rejected by a House subcommittee, the House Banking Committee, and, just a few days ago, a similar amendment was rejected overwhelmingly in the House, by a vote of 142 to 250.

So I would say to my friend from Arkansas that compromise is in the air. I believe that the compromise now contained in my amendment is reasonable and realistic. I believe it has a good chance of becoming law. I believe it is an improvement over the Senate bill, and it respects States rights in certain critical areas. I believe it will be acceptable to the managers of the bill, as I said earlier.

So I would urge all of my colleagues to support the compromise we have put together. Mr. President, the original Ford amendment is supported by State banking organizations from 33 States across this country.

Let me repeat that. The original Ford amendment is supported by State banking organizations from 33 States across the country.

I ask unanimous consent that a list of those States be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD as follows:

STATE BANKERS ASSOCIATIONS SUPPORT OF FORD AMENDMENT

Alabama: Jerry Spencer.
California: Larry Kurmel.
Connecticut: William J. Stanley, Jr.
Georgia: Joe Brannen.
Illinois: Bill Hocter.
Indiana: Bill King.
Kentucky: Ballard W. Cassady, Jr.
Louisiana: Charlie Worsham.
Maryland: John Bowers.
Massachusetts: Richard Driscoll.
Minnesota: Truman Jeffers.
Mississippi: J. Ben Woods.
Missouri: Max Cook.
Nebraska: George Beattie.
New Jersey: Bob Forrey.
New Hampshire: Gerald Little.
New York: Mike Smith.
North Carolina: Al Fuqua.
North Dakota: Jim Schlosser.
Oklahoma: Roger Beverage.
Oregon: Frank Brawner.
Pennsylvania: Jim Biery.
Puerto Rico: Arturo Carrion.
South Dakota: Jeff Rodman.
Tennessee: Bob Gilliam.
Texas: Bob Harris.
Virginia: Walter Ayers.
Washington: Bob Anderson.
West Virginia: Russ Keith.
Wisconsin: Harry Argue.

Mr. FORD. We have received input on the language of this compromise from the administration and many groups which are vitally interested in the issue of interstate banking and branching. I would urge my colleagues to support this compromise. I would urge them to support the efforts of many individuals who have tried to reach a middle ground on a very complex issue. And I would urge them to support a proposal which has a real chance of becoming law. This compromise, I believe, is our best chance.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I want to commend the Senator from Kentucky for his leadership on this. He has been at work on this now for some weeks, and has been very reasonable in terms of his discussions with all parties. I want to thank him, as the chairman of the committee, for the effort he has made.

He has said this is not precisely to his liking. I think all of us who were parties to the discussion would say the same thing. There may be parts of it each of us may have some reservation about, but taken as a whole it is a very solid blend that is reflected in this compromise.

I certainly am going to be supporting it. I know—although he will speak for himself—that the ranking minority member, Senator GARN, feels the same way.

Mr. DODD. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield to my colleague from Connecticut.

Mr. DODD. Mr. President, I thank my colleague for yielding. I am going to support the Ford amendment here, I must say, with a great deal of reluctance I would say to the chairman of the committee and to my good friend from Kentucky.

I do so, and would also state, if it is offered—and I presume it will be, that our distinguished colleague from Arkansas will be offering his amendment—I strenuously oppose that amendment. I am not enthralled by what is being proposed by my friend from Kentucky, but I also understand the realities.

If we do not accept his amendment, there is a good possibility that any hopes of any kind of interstate banking may fail entirely. I am saddened by that, because I think the chairman, along with many others, has crafted a good interstate banking provision here.

I take a particular sense of pride of authorship, having introduced, I think, the first interstate banking proposal in this Congress, much of that legislation being incorporated as part of this particular product.

But I think it is awfully shortsighted to suggest somehow that with 14,000 banks in this country, with capital being so stretched out as it is, with consumers radically different today than they were ever 10, 15, 20 years ago, with far less time on their hands, far more mobile, far more interested in being able to conduct their business in a far more expeditious way, that we are going to, in a sense, treat banks differently than we treat all other financial services. Insurance companies, securities firms—all these other businesses can do business across geographical lines in this country. We have always encouraged that, to promote profits by these institutions by going where the profits can be made.

We treat banks differently, and I realize this is a very emotional issue on a local level. There is fear these large financial center institutions are going to come in and dominate the environment economically. I think that may be true in some instances. But, frankly, the benefits of interstate banking, it seems to me, far outweigh the local liabilities that some see.

I feel there will also be a market for the community bank. There will always be a market. There are people who will always prefer to do business with a bank they know and the bankers they know. Even though there may be better rates and better deals financially with a larger financial center institution that may be in town, the local community banker is always going to have a market that that big bank will never get. I am satisfied there will always be a niche for them there.

But if you look at a study conducted by the noted banking consultant Lowell L. Bryan, of McKinsey & Co., he estimates that expected savings from interstate banking, using three different methods, and each time he came out with annual savings as a result of interstate banking of up to $10 billion. Considering that the total pretax earning of banks in 1990 was $24.5 billion, the impact on banks' bottom line obviously could be tremendous.

I ask unanimous consent, Mr. President, that pages 10 through 14 of Mr. Bryan's April 24 testimony before the House Financial Institutions Subcommittee be printed in the RECORD. I think he makes a strong case for the attractiveness of moving toward interstate banking.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTACHMENT B

[From Lowell L. Bryan's Apr. 24, 1991, testimony before the House Financial Institutions Subcommittee]

TREASURY'S REFORMS TAKE FIRST STEP TO MODERNIZE THE FINANCIAL SYSTEM

Secretary of the Treasury Nicholas Brady is to be commended for delivering a comprehensive reform and restructuring proposal to the Congress. Indeed, in some measure, the Treasury Department has drawn upon existing and different Congressional initiatives introduced by Chairman Gonzalez, Mr. Wylie, Mr. Barnard, Mr. Schumer and others to reform, restructure, and recapitalize the banking industry. While each special interest group obviously has its vocal complaints about particular aspects of the Treasury package, consumers across the country would be better off in the future and our financial system would be stronger if key aspects of the plan were adopted tomorrow. Here I refer to the Treasury Department's call to repeal the McFadden Act, the Glass-Steagall Act and the Bank Holding Company Act. Because my book, *Bankrupt: Restoring the Health and Profitability of Our Banking System*, covers extensively the need for Glass-Steagall Act and Bank Holding Company Act reform in Chapters 8 and 10 respectively, today I will concentrate on the urgent need to repeal geographic restrictions that predate the Great Depression.

ARTIFICIAL GEOGRAPHIC BARRIERS UNNECESSARY

The McFadden Act is an anachronism, a relic left over from days that have no relevance in the modern financial world. The 1927 legislation was a pure form of "protectionist" legislation, allowing states to protect their local banking organizations from competition from out-of-state national banks and banks which are members of the Federal Reserve System. During the roaring '20s, unit banking rules—effectively prohibiting intrastate branching as well—were also in vogue.

While the McFadden Act may have served local economic interests in days gone by, before the evolution of interstate banking, it serves no useful public purpose today. With the exception of gathering insured deposits, every other form of financial service to consumers and businesses alike is available on a nationwide basis today. Even reasonably close substitutes for deposits, for example, money market mutual funds, are only a phone call away, even if the consumer in Kansas wants a money market account in Boston.

Today, 33 states already allow interstate banking (12 without reciprocity, 21 with reciprocity) and 15 operate in regional compacts. Only 2 states—Hawaii and Montana—representing just 0.88 percent of domestic deposits—remained walled off from the rest of the United States by their own accord. If it is necessary to exempt these 2 states from a repeal of the McFadden Act to gain enactment of this reform, then it would be worth the political price paid, even if consumers in those states were disadvantaged. In my opinion, there are three key reasons why it makes sense to repeal the McFadden Act today: safety and soundness; cost rationalization; and consumer convenience.

SAFETY AND SOUNDNESS ENHANCED

The first benefit from reform of interstate banking and branching restrictions is improved safety and soundness. Geographic diversification, on both the funding and lending sides of a bank's balance sheet, would enhance the stability of commercial banks. Core deposits, one of the key strengths of any bank, could be spread across more diverse economic regions or locales, to ensure a broader funding base. Likewise, commercial and consumer loans could be equally diverse and result in a better distribution to withstand any economic downturn in a particular location, whether it is due to a plant closing, crop failure, or decline in commodity prices.

Perhaps the most interesting and authoritative perspective comes from the one government official who ultimately must oversee the payment for bank failures, FDIC Chairman Bill Seidman. He put it as well as anyone when he recently testified.

Interstate banking restrictions have contributed to the increase in risk in the nation's banking industry and to the decrease in banks' competitive capabilities. Banks have been hampered in attempting to lower risk through diversification. And banks have been constrained in expanding operations to match the expansion of banking markets that has been caused by technology and economic growth.

COST SAVINGS SIGNIFICANT

In retail banking, the states themselves have permitted some form of interstate banking in 48 states. What we now have, however, is a crazy quilt of complex regulation and law that is preventing the natural economic rationalization of the industry. Moreover, these laws add massive, unnecessary costs and result in inconsistent regulation.

In banking, the simplest method of curing this problem would be to eliminate the McFadden Act to permit interstate branching, as Mr. Wylie, Mr. Neal, Mr. Schumer, and others have suggested. In combination with the removal of the barriers to interstate acquisitions contained in the Bank Holding Company Act of 1956, this would eliminate, overnight, the major regulatory roadblocks and accelerate the economic rationalization of the banking industry. Such a move may be difficult politically, but it is essential if we want to restore the health and profitability of the banking industry.

We estimate that the full economic rationalization of the industry, triggered by McFadden Act repeal, could save up to 10 to 20 percent of the non-interest expense of the large banks engaged in interstate banking today. This amounts to an annual savings of roughly $10 billion a year—against 1990 pretax income of only $24.5 billion. No one should assume that these cost savings are automatic, because an aggressive commitment on the part of strong management is also required.

Our estimates for these sizable cost savings are derived three separate ways, ranging from the simple to the more complex. First, our estimates are based on the extensive client work that McKinsey & Company has done collectively over the years in the area of bank mergers and acquisitions and the resulting cost reductions that occur. I personally have been involved in three separate regional bank holding companies in different parts of the country. In recent McKinsey work related to large bank merger, we have undertaken pre-bid evaluations of potential operating synergies and also provided intensive assistance in achieving effective integration in the post-merger environment. Our work suggests that substantial synergies are available, not only in intrastate mergers, where you find overlapping headquarters, but also from interstate mergers as the force of economic consolidation—a natural process I prefer to think of as the economic rationalization of our banking system—picks up steam in the years ahead, spurred in part because of continued bank failures.

Much of the cost saving flows from the elimination of duplicate functions and other cost rationalizations such as branch consolidation, other line-of-business integration, elimination of duplicate staff functions, and operations/MIS integration. Done effectively, as much as half of the possible cost reduction can be achieved by the end of the first year and the remainder should be attained within 3 years, recognizing that some steps such as systems integration take longer.

Obviously, the actual level of cost reduction achieved in a specific merger will depend on a variety of factors. These include: the degree of market and business overlap; the relative size and health of the two institutions; the nature of banking in the state, in terms of branch banking versus unit banking; the types of institutions involved; and finally, the degree of top management commitment to achieving meaningful cost reductions.

Second, we have done extensive analysis of industry data and think we understand something about the key drivers of banks' costs. Perhaps one of the most important drivers of bank costs is scale economics in regional banks. Our work shows that large regional bank holding companies operate at a greater efficiency than small regional banks that amounts to roughly 1 percent of assets. Moreover, there are significant opportunities to consolidate money center banks that have overlapping markets and redundant capabilities. We believe it is conservative to use a 0.5 percent of assets rule of thumb to estimate the cost savings that could be realized through economic rationalization. In other words, cost savings of 0.5 percent of assets on the $2.1 trillion of assets in the largest 125 bank holding companies would yield $10 billion of annual profit improvements.

Third, to test this rule of thumb, we looked at potential rationalization on a bank-by-bank basis. Using this approach, we also came up with a $10 billion cost savings. For example, just 12 to 15 mergers built around solid performing players in markets where there is overcapacity could create annual cost savings in the range of $4 billion to $6 billion. If the cost savings from this kind of rationalization of the banking industry is capitalized, and applied to the industry, it could exceed 20 percent of the current stock market value of the banking industry, more than enough to offset the difference between the industry's market and book equity values, thereby significantly improving the health and profitability of the banks.

Moreover, smaller banks have little to fear from the kind of economic rationalization that repeal of the McFadden Act would trigger. Based on our experience, the costs of integrating small banks into large banks far outweighs the cost savings achieved. Simple economics, therefore, suggests that the thousands of community banks that today successfully serve their client base will not be swallowed up through acquisitions.

In summary, the $10 billion cost savings from McFadden Act reform and the concomitant benefits of economic rationalization of the industry will improve the industry's economic returns significantly and enable banks to improve their capital positions. As Federal Reserve Board Chairman Alan Greenspan recently testified:

> [The existing] system reduces the ability of many smaller banks to diversify geographically and raises costs for all banking organizations that operate in more than one state, *a curious requirement as we search for ways to make banks more competitive and profitable.* (Emphasis added.)

CONSUMER CONVENIENCE EXPANDED

The third reason to allow full interstate branching to provide greater consumer convenience. This benefit would be most obvious in contiguous states or metropolitan areas like the Virginia-Maryland-Washington, D.C. area where consumers cross state lines as part of their normal working life in the Nation's Capital. Many small bankers, however, are overly concerned about the impact of McFadden Act repeal on their individual businesses. For reasons I will explain, they should have few worries.

We have excellent and tested models of branching in several states, such as California, New York, and Ohio, where intrastate branching has been permitted for years. California, for example, has allowed branching since 1909 and currently has 481 banks—94 percent of which are local and community banks—serving almost 30 million people. In New York and Ohio, where intrastate branching also has been permitted for some time, local and community banks account for 79 and 74 percent of the banks respectively. So we have live examples of where small banks can coexist, and compete with their larger brethren—and where consumers are well served. in our experience, these banks already are cost-effective and add value to their communities precisely because they are not part of a large banking concern.

If large banks had wanted to gobble up small banks, it already would have occurred—in state—yet, we still have over 12,000 banks. The kind of economic rationalization that I see evolving, based on my experience, is among the top 125 bank holding companies, not among the community and local banks who already add value for their customers and have established their niche in the communities they serve.

ADDITIONAL REFORMS NECESSARY TO BUILD A PROFITABLE, COMPETITIVE FINANCIAL SYSTEM

While major portions of the Treasury Department proposal and other Congressional initiatives have great merit and could easily be melded into a significant reform package this year, additional reforms are necessary and critical to ensure a safer, more profitable, and competitive financial system going forward. The three major changes I believe that Congress needs to make go to the heart of the deposit anomaly, the credit anomaly, and the BIF recapitalization.

CURING THE DEPOSIT ANOMALY

All attempts to reform the deposit insurance system must be done at a time when there is understandable nervousness among the depositing public about the safety of their accounts. The collapse of state-sanctioned systems in Ohio, Maryland, and Rhode Island and the collapse of the old FSLIC fund in the 1980s, the looming insolvency of the FDIC and the daily headlines about problems with the banking system in the 1990s all contribute to the sense of unease, even if people understand that ultimately the U.S. Government—that is, the taxpayer—stands behind insured deposits. Now, the discussion of limiting the number of accounts has both consumers and bankers understandably concerned.

If policy makers are hesitant about moving too quickly on deposit insurance reforms because of the concern about the fragility of the system, then we should rethink that approach. This does not mean further retrenchment or delay. It does mean, however, a fresh approach.

Mr. DODD. Mr. President, another advantage of interstate banking is the increased stability it brings to the industry. One of the major problems that thrifts have faced during the 1980's was the inability to diversify their loan portfolios across wide geographic areas. As the economy of the Southwest rose and fell, so did the profits of thrifts in those regions. When energy prices plummeted, officials found themselves harvesting a bumper crop of failed savings and loans in Texas and Louisiana.

Interstate banking would enable banks to diversify their lending across wide geographic areas, as I stated. This would enhance their stability. A downturn in one area can be offset by upswings in other areas. I do not think we should lose sight of that advantage. Interstate banking would allow banks to diversify liabilities by enabling them to accept core deposits across various regions of the country. This would enhance their stability.

Finally, Mr. President, interstate banking has the potential to help alleviate the credit crunch that is hitting some regions of the country, particularly the Northeast, so hard. We are being clobbered, as I know you know and others of our colleagues know how hard the New England region is being hit by the credit crunch. I just suggest to my colleagues who know this already, it is being felt around the country, not as poignantly as we have felt it in New England over the last 2 years, but, believe me, it is coming.

We have lost, Mr. President, 96,000 jobs over the past year alone in my State. Business failures are up, in the first half of 1991, 220 percent over the first half of 1990. And in no small measure, Mr. President, that job loss, that business failure rate has been due to the fact that we have watched a significant credit crunch occurring with our lending institutions. Make no mistake about it, Mr. President, the credit crunch is very real. I do not want to take the time of this Chamber to go through anecdote of what has happened in my State and across my region. It has been profound and significant; $12.7 billion has been lost in the State of Connecticut alone in financial institutions in the last 18 months. Ten percent of the banks we have lost nationwide have come from my State alone because of the failure of the regulators, in my view, to deal efficiently and effectively with this problem.

At any rate, Mr. President, when Maine enacted the first interstate banking law in 1975, its primary goal was to provide for the infusion of credit into a capital-starved economy. In an article in the November 6 edition of the New York Times, Peter Passell points out that banks in New England continue to suffer from a capital shortage, which prevents them from making loans to creditworthy borrowers. Full interstate banking would open the doors, I believe, to banks in other areas of the country with the capital to make loans. In New England right now that would be manna from heaven.

Quite frankly, allowing States to opt in on interstate banking and branching is not really any improvement over current law. I have to believe we have had enough experience in regional compacts in recent years to realize the sky is not going to fall if we have full interstate banking.

Having said all that, Mr. President, I come back to the point I made at the outset. I have great respect for our colleague from Kentucky, and I realize his concerns and appreciate them. I also realize that if we do not accept what he has proposed here, we could end up with something far worse than we presently have. So I am going to support his amendment because I believe it gets us closer to interstate banking in providing the consumers in Kentucky and Connecticut and elsewhere the opportunity of having financial services where there is competition and there are better prices and better values to be made. That ought to be our bottom line. Our issue here is not to protect banks, whether they be State-chartered or financial center service institutions. Our job is to protect the people who use those services.

I think interstate banking is a great step forward in helping those people, the customers, the ones who go to the windows and need to borrow the money, know their deposits are safe and have a great deal of confidence in those institutions. Today, with 14,000 banks in the United States, or thereabout, in my view, until we pare that level down to a more realistic level, I think we are going to have problems with the credit crunch as we have seen in my part of the country. So I support the Ford amendment.

I see our colleagues from Arkansas has arrived on the floor. With a great deal of regret, his amendment, Mr. President, would go far too far in dealing with a problem that needs to be addressed head on.

Mr. President, I urge the adoption of the Ford amendment when it is offered.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, let me thank my genuine friend from Connecticut for his remarks. I understand he would prefer something different. We have been in this position more than once where he has had some legislation that you wanted very sincerely and found it just would not pass. We worked together to arrive at a compromise that was somewhat less than he wanted but more than we had. So as he stated, the Ford compromise is not everything he wants, but it is so much better than the alternative, which will be the Bumpers amendment. So I understand this feeling because we have worked together in the past and hope that we can continue to do this in the future.

AMENDMENT NO. 1342

(Purpose: To amend the interstate banking and branching provisions in the bill)

Mr. FORD. Mr. President, I see my good friend and respected friend from Arkansas is here. So I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] proposes an amendment numbered 1342.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. FORD. Mr. President, the distinguished chairman of the Banking Committee, the distinguished ranking member of the Banking Committee, and now my distinguished friend from Connecticut, Mr. DODD, have all had an opportunity to speak about the so-called Ford compromise, which we have discussed now for better than an hour. So rather than to delay anything, I see that my friend from Arkansas is here, I will yield the floor and allow him to offer his amendment in the second degree so we can move forward with, hopefully, the completion of the bill at an early hour tonight.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. DOMENICI. Mr. President, I wonder if the Senator from Arkansas will permit the Senator from New Mexico to speak for 2 minutes on another subject.

Mr. BUMPERS. I yield to the Senator from New Mexico for 2 minutes.

Mr. DOMENICI. Mr. President, I have been speaking with various Senators about an amendment that I will offer sooner or later that has to do with changing the mandates for appraisals in the banking system. We have a great delay in the financing of many homes and of businesses because appraisals are taking so long.

I just want to tell everyone that I never thought that I would have appraisers all across America calling Senators' offices saying they sure hope they do not vote for this amendment. But what they ought to be asked is: Are you afraid that you will not have any work if we change this amendment? Are you afraid that the appraisal profession, which is just on a tremendous growth path—we cannot even produce them fast enough in most of the States—but I assume that continuation is of national interest. I just hope Senators who have good friends in the appraisal business will ask the question: Why are they calling? I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 1343 TO AMENDMENT NO. 1342

Mr. BUMPERS. Mr. President, I send an amendment to the desk on behalf of myself, and Senators PRYOR, GRASSLEY, DECONCINI, ADAMS, KOHL, EXON, CONRAD, FOWLER, GRAHAM, WELLSTONE, SIMON, and HARKIN, and which I now propose as a second-degree amendment to the Ford amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself, Mr. PRYOR, Mr. GRASSLEY, Mr. DECONCINI, Mr. ADAMS, Mr. KOHL, Mr. EXON, Mr. CONRAD, Mr. FOWLER, Mr. GRAHAM, Mr. WELLSTONE, Mr. SIMON, and Mr. HARKIN, proposes an amendment numbered 1343 to the amendment No. 1342.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 1, line 5, strike all through page 24, line 2, of the amendment and insert in lieu thereof the following:

INTERSTATE BRANCHING.

(a) NATIONAL BANKS.—section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by adding at the end the following new subsections:

(i) INTERSTATE BRANCHING.—

(1) IN GENERAL.—Notwithstanding any other subsection of this section, a national bank, with the approval of the Comptroller of the Currency, may establish and operate a branch at any location in any State other than the State in which the main office of such bank is maintained if the establishment and operation of such branch in the State (in which such branch is to be located) is specifically authorized under the statute of such State, by language to that effect and not by implication.

(2) SUBJECT TO STATE LAW REQUIREMENTS.—The establishment and operation of any branch of a national bank under paragraph 91) shall be subject to any requirement, condition, or limitation established under or pursuant to the law of the State in which the branch is (or is proposed to be) located.

(b) STATE NONMEMBER INSURED BANKS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)0 is amended by adding at the end the following new paragraph:

(3) STATE NONMEMBER INSURED BANK BRANCHES IN OTHER STATES.—The Corporation may not approve the etablishment and operation of any branch of a State nonmember insured bank at any location in any State other than the State in which such bank is chartered unless—

(A) the establishment and operation of such branch in the State (in which such branch is to be located) is specifically authorized under the statute law of such State, by language to that effect and not by implication; and

(B) the establishment and operation of the branch is subject to any requirement, condition, or limitation established under or pursuant to the law of the State in which the branch is (or is proposed to be) located.

(c) LIMITATION ON AUTHORITY OF NATIONAL BANKS TO MOVE MAIN OFFICE TO ANOTHER STATE.—Section 2 of the Act entitled "an act to enable national banking associations to increase their capital stock and to change their names or locations." and approved May 1, 1886 (12 U.S.C. 30(b)), is amended by adding at the end the following new subsection:

"(c) LIMITATION ON AUTHORITY TO MOVE MAIN OFFICE TO ANOTHER STATE.—Notwithstanding subsection (b), a national bank may not change the location of its main office to any State other than the State in which such main office is located before such change if—

"(1) After the change, any branch of the bank would remain in the State in which such main office is located before the change; or

"(2) the bank is subject to the control of any bank holding company (as determined in accordance with section 2(a) of the Bank Holding Company Act of 1936)."

Mr. BUMPERS. Mr. President, I strongly support the Ford amendment. The reason I support it is because it provides that if we are going to get into the interstate branching business, anybody who wants to come to my home State of Arkansas and put in a branch bank will have to do so through acquisition. If Citibank, for example, or Continental Illinois, the big bank in the home State of the Presiding Officer, come to Arkansas to open branches, I do not want them to be able to put a mobile home across the street from a community bank in Arkansas and say, "Here we are; we are in the banking business; give us your money."

I want them to have to acquire a legitimate bank, meeting all of the requirements of the State of Arkansas before they start doing business in Arkansas.

I know that if somebody really desperately wants to do business in my State, the Ford amendment does in fact give the banks that are already in existence an opportunity to get a fair price if they decide to sell.

But, Mr. President, while I appreciate that portion of Mr. FORD's amendment, my amendment is far better. The bill says that unless the legislatures of our respective States opt out of interstate branching, under the terms of this bill we are automatically subjected to it at the end of 3 years.

I do not like that, and nobody on this floor ought to like it. Do you know who else does not like it? The Conference of State Bank Supervisors, Consumer Federation of America, National Association of Home Builders, the Independent Bankers Association of America, which probably has as many members in it, or more, as the American Bankers Association, which has remained neutral on the Bumpers amendment.

I have a letter here from the Independent Banking Council of California which more or less says:

> If you have been told that interstate branching is a wonderful thing, come out here and let us talk to you about what's happening in California.

So now, Mr. President, my amendment is very simple. I will address what I know the principal argument against it will be as well as the argument for it.

My amendment says that instead of requiring my home State of Arkansas to opt out of the bill, my State will have to decide to opt in. The argument against that is to say, "Well, Senator, I do not know where you are coming from. What difference does it make whether you opt out or opt in? It is the legislature's choice."

I will tell you what the difference is. If the bill in its present form passes without the Bumpers amendment at the end of 3 years every State in the Union, the legislature of which has not decided to opt out of the interstate branching requirements of this bill, will automatically be under the bill subject to all the terms and conditions set out in the bill and by Federal regulators.

Under my amendment, we retain for every State some control over the conditions under which they accept interstate branching.

Now, you ask, "Well, what conditions are you talking about?" For example, we might want to be able to say that if an out-of-State bank is going to branch in our State, it must have a certain amount of capital. We might want to say that the board of directors of branches in Arkansas must be Arkansas citizens. We might want to allow branching, but only on a regional basis.

Now, Mr. President, I am using my home State as an illustration. Just substitute the State of Mississippi or whatever other State you want because I am talking to all Senators.

We might want to say that we expect interstate branches to reinvest a certain percentage of assets in our State. Now, we would say that because if a branch came to Arkansas and had $10 million in capital and at the end of the first year it had $100 million, without some kind of restriction that branch could take the entire $100 million out of my State. That's money desperately needed because we are a poor capital State.

Mr. President, do you know what the empirical evidence is right now of what has happened where branch banking has been permitted? It has dried up capital for small business. If you do not believe that, ask some of the small business people in States where branch banking is permitted. The reason interstate branching has dried up small business loans is that these people who come into your States do not care about your State.

I am going to tell you right now, I feel so strongly about this I probably am going to vote against this bill if this amendment is not on it. I might be persuaded otherwise later, but right now I hope the legislature, if my amendment is not adopted, will opt out, at least in the economic environment that exists in this country right now.

Now, Mr. President, this is not the end of the world. We are interstate banking in this country right now. I want you to listen to this point. When we permitted interstate banking in this country, we allowed States to choose when to opt-in. Instead of all the chaos and confusion that would have resulted by forcing all States in at the same time, it is working reasonably well. If you adopt my amendment, you are allowing us to have an orderly transition from no interstate branching to nationwide interstate branching.

Now you might say, Senator, if you do not like the terms of this thing your legislature can opt out. That is true. But if they opt out, the 3-year grace period of this bill expires and later they want to opt-in, they lose a lot under this bill. They lose some incentives. They lose some rights.

My amendment allows States to opt-in, but at their leisure, not the discretion of the Senate Banking Committee or Congress. Let every State come in when they think it is in their best interests. Let every State opt-in when they feel the time is right; not when we feel the time is right.

Mr. President, I ask unanimous consent that letters from the National Association of Home Builders, the Independent Bankers Association of America, the California Bankers Council, the National Conference of State Legislatures, the National Governors Association, and the Consumer Federation of America—all of which strongly endorse the Bumpers amendment—be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection it is so ordered.

(See exhibit 1.)

Mr. BUMPERS. Mr. President, in 1980 there were only two States in the Nation that permitted interstate banking. Now there are 48 States that allow interstate banking.

I want to emphasize that point because States have been allowed to opt in at their leisure, and when they thought it was best for them. So far interstate banking has worked out very well. That is really all we are asking for on interstate branching. For the life of me, Mr. President, I do not know why anybody would oppose this amendment. I guess they do. But for the life of me I do not know why.

Competition is a fine thing. I am for competition in the banking business just like I am for competition in business. But I am also for fair competition. And the only way you can be guaranteed that competition in the banking business is going to be fair once you get interstate branching is to allow the States to decide the terms under which branches are allowed to enter.

There are some banks in this country that are called wholesalers. They are not interested in making small business loans. They are not really interested in making anything except mega-loans to mega-corporations.

Those are the banks that I worry about opening branches in my State and taking money out of my State. States should have the option of setting conditions to prevent deposit flight. Why do you think the National Conference of State Legislatures and the National Governors Association endorse the Bumpers amendment? It is too obvious to say.

Mr. President, I hope all the Senators in this body who have a lot of small communities and small banks in their States that are scared to death of this will seriously consider my amendment. Did you know that Arkansas banks had the highest return on assets of any State in the Nation last year? I do not want to destroy that. Arkansas banks are good, strong, viable banks. Arkansas bankers are solid, hardworking, and reliable. Our banks are not in trouble. They are not going under. I do not want to impose something like this on a system that "ain't broke."

Mr. President, I strongly urge my colleagues to think very seriously about this amendment. I hope you will support it.

EXHIBIT 1

NATIONAL ASSOCIATION
OF HOME BUILDERS,
Washington, DC, November 13, 1991.

DEAR SENATOR: When the Senate takes up S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, the National Association of Home Builders (NAHB) urges you to keep in mind the impact which the final legislation is likely to have on our nation's flagging economy. Certainly, such impact will hinge on what amendments are made to the legislation during the Senate's deliberations on the bill.

In order to ensure that S. 543 does not jeopardize any future economic recovery, NAHB urges you to take the following positions:

INTERSTATE BRANCHING

Sen. Bumpers plans to offer an amendment to permit the individual states to "opt in" to nationwide interstate branching. NAHB believes the states should be allowed to make this decision, rather than having interstate branching forced upon them by federal law. Sen. Bumper's amendment would make clear the right of states to determine the conditions under which interstate branching will be permitted within their respective borders.

NAHB supports the Bumpers amendment. In the event that the Senate fails to adopt such on "opt in" approach, however, NAHB believes that states should at least be able to "opt out" of any federally established interstate branching system. Sen. Ford plans to offer such an "opt out" amendment. NAHB would support the Ford amendment if the Bumpers amendment fails.

DEPOSIT INSURANCE

NAHB is concerned about the impact which a reduction in deposit insurance coverage would have on the levels of deposits now in our nation's insured depository institutions. Specifically, we are concerned that if present levels of deposit insurance coverage are scaled back, the result is likely to be a massive outflow of deposits from our nation's banks, further exacerbating the credit crisis we are already experiencing across the country.

S. 543 retains the existing deposit insurance coverage limit of $100,000 per accident. In the event that any amendment may be offered to reduce present deposit insurance coverage, NAHB would oppose such an amendment.

DIRECT RELIEF FROM THE CREDIT CRUNCH

Sen. Seymour may offer an amendment which will prohibit regulators from adversely evaluating loans or investments solely because they are in real estate. NAHB views this as essential for curbing some of the unduly harsh judgments which examiners have been making of banks' real estate-related loans, thus increasing the credit crunch. NAHB supports the Seymour amendment.

REDUCING THE RTC'S INVENTORY BURDEN

An amendment may be offered which would not only represent a solid step toward easing the credit crunch but would also reduce the burgeoning task facing the Resolution Trust Corporation as it attempts to dispose of all the institutions thrust upon it since 1989.

The anticipated amendment would extend the capital phase-in schedules mandated in FIRREA by up to five years, to give those institutions which are still viable, but which cannot yet meet FIRREA's capital requirements a realistic chance at attaining those levels. NAHB supports the amendment, and urges you to vote for it.

PROHIBITING NEW BRANCHES FROM SERVING SOLELY AS DEPOSIT TAKERS

Sen. Bryan may offer an amendment which would prohibit new bank branches from serving solely as deposit taking facilities for their parent bank. The amendment is intended to ensure that interstate branches meet the credit needs of the community and market area in which each branch operates.

NAHB is concerned about the potential consequences to local lending needs which could result from new interstate branching authority. NAHB believes the Bryan amendment would offer some protection for those in need of credit in an area served by an out-of-state bank branch. Therefore, NAHB supports the Bryan amendment, and asks that you vote for it if it is offered.

APPRAISAL REFORM

Sen. Boren may offer an amendment to extend the current December 31, 1991, deadline by which states must have appraiser licensing and certification systems in place. Because a sizeable number of states are still in the process of establishing their systems, NAHB feels that such a deadline extension is in order. Therefore, in the event Sen. Boren offers such an amendment, NAHB urges your support for it.

Thank you for considering NAHB's views on this important legislation.

Sincerely,

MARK ELLIS TIPTON,
President.

INDEPENDENT BANKERS
ASSOCIATION OF AMERICA,
Washington, DC, November 7, 1991.

Hon. DALE BUMPERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BUMPERS: Next week, the full Senate may begin debate on S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. The Independent Bankers Association of America (IBAA) encourages the Senate to enact only a narrow bill to recapitalize the Bank Insurance Fund, along with related supervisory and regulatory changes. One of our greatest concerns with the far-reaching bill is with Title III, which pertains to interstate banking and branching.

If a broader bill is considered, we understand that you will likely offer an amendment to Title III which would allow interstate branching only if a state chooses to "opt-in." The IBAA strongly supports the Bumpers amendment.

While it is highly questionable whether any form of interstate branching should be allowed, given the very negative experiences evidenced already in many parts of the country under interstate banking, at least the "opt-in" gives the states the ability to determine for themselves whether such arrangements are appropriate, rather than having a one-size-fits-all formula imposed on them from the federal government.

Under your amendment, a state could decide if it wants interstate branching, when it wants it, and under what conditions it may wish to permit it. This approach, unlike the opt-out in S. 543 and other variations of it under consideration, is the only realistic way to preserve the right of the state to determine if interstate branching is appropriate given its economic and social conditions.

The IBAA strongly supports the Bumpers amendment.

Sincerely,

GARY J. KOHN,
Legislative Counsel.

CALIFORNIA BANKERS COUNCIL,
November 6, 1991.

Hon. DALE BUMPERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BUMPERS: I am writing on behalf of the California Council of Bankers, representing over 200 California independent banks from urban, suburban, and rural areas of the state. As the Senate considers S. 543, the "Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991," we want to address an issue which is a highly controversial element of the banking bill—interstate banking and branching.

The Treasury Department continually refers to California as an example of the virtues of allowing banks to branch nationwide. Secretary Brady and others have suggested that the independent bankers of California are thriving under interstate banking.

This assertion has no real basis in fact. Interstate banking in California has only been in place since January, 1990. While it may be too soon to definitively judge its impact, certain trends have emerged.

Citicorp, the chief initiator of interstate banking legislation in California, has been unable to invest in California to the extent it had anticipated. Through its purchase of a savings and loan, however, Citicorp has considerably expanded its retail deposit taking operations in many areas of the state. This has caused difficulty for many small banks in those areas which are attempting to compete for deposits with this too-big-to-fail giant.

Interstate banking has certainly not improved the competitive position of California's independent banks.

It has also been no panacea for some of California's large banks. First Interstate Bank was supposed to enhance its strength by streamlining its interstate banking operations according to the freedoms in the new law. This has not happened.

The decision to allow interstate banking in California was made by our state legislature. We believe that any decision on interstate banking or branching is for the states to decide. That is why, should a broad banking bill be considered by the Senate (and we prefer only a narrow bill to recapitalize the Bank Insurance Fund with related regulatory changes), we endorse the Bumpers amendment which would allow states to "opt-in" to an interstate branching arrangement.

Thank you for considering our views.

Sincerely,

Charles Lewis, Chairman, California Bankers Council, President, Feather River State Bank, Yuba City, CA; Clyde Gossert, President, Commerce Bank, Newport Beach, CA, 1992 Chairman, California Bankers Council; Richard Mount, President, Saratoga National Bank, Saratoga, CA.

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
Washington, DC, November 4, 1991.

Hon. DALE BUMPERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BUMPERS: I am writing on behalf of the National Conference of State Legislatures to express our opposition to S.

543, the comprehensive bank deregulation bill. This legislation would substantially preempt the state role in regulating interstate bank branching and in regulating the activities of state-chartered banks. Enactment of S. 543, we believe, would harm the nation's economy.

I also write in support of an amendment to S. 543, to be offered by Senator Dale Bumpers of Arkansas, that would preserve state authority, by allowing states to "opt-in" to interstate bank branching. If the Bumpers amendment is not adopted, states will lose control over entry into their markets. This could result in economic disruption and an overly-centralized system of credit allocation that ignores community needs.

Under the provisions of S. 543, states also would lose much of their authority to regulate the investment powers of state-chartered banks. Investment by local banks is crucial to the growth of state and local economies. State regulation is an important means of ensuring this local orientation.

For these reasons, we urge you to vote against S. 543, unless it is recast as a narrow bill that simply recapitalizes the Bank Insurance Fund. And again, we urge support for the Bumpers interstate branching amendment.

Thank you for considering our views on this issue of central importance to our nation's economy.

Sincerely,

WILLIAM T. POUND,
Executive Director, NCSL.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, November 12, 1991.

Letter to Members of the U.S. Senate:

On behalf of the nation's Governors, we are writing to express our concerns regarding S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. We ask your support for amendments that would preserve the dual banking system.

States have used expanded bank powers to respond to business and consumer needs and to make state banks stronger. State banks have not failed as a result of additional powers. S. 543 would place severe limits on the ability of state banks to sell insurance, and prohibit insurance underwriting. It would also shift from the states to the FDIC the authority to grant additional powers to state banks. These changes weaken the dual banking system.

We are pleased that Senator Roth has indicated his willingness to withdraw language from the Senate Committee's bill affecting the way states tax federally-chartered banks. However, the applicability of state law to branches of national banks remains an important issue. State consumer protection, fair lending, community reinvestment and other laws should apply to national bank branches as they apply to today's interstate banks.

Senator Dale Bumpers is offering an amendment that would establish interstate branching on an "opt-in" basis that is consistent with policy adopted by the National Governors' Association. This is the approach that has brought the nation to interstate banking while protecting consumers' rights and being attentive to the needs of local communities and businesses. S. 543 contains two significant loopholes under the "opt-out" approach to interstate banking: undercapitalized banks and bank consolidation. These substantially weaken any state autonomy in this preemptive approach. We urge support for the Bumpers amendment.

The higher level of capital and the lower rate of failure of state banks attests to the success of the dual banking system. We urge you to continue this partnership and to make these changes to S. 543.

Sincerely,

GOV. JIM EDGAR,
Chairman, Committee on Economic Development and Technological Innovation.

RESOLUTION ON THE DUAL BANKING SYSTEM

ADOPTED FEBRUARY 5, 1991

The National Governors' Association reaffirms existing policy stating support for the continuation of the dual banking system. (Based upon NGA Policy A-3.) Traditionally state authority in the dual banking system has rested on state control of entry into the state and branching by either state- or federally chartered banks.

This action is taken in the context of the current debate on federal deposit insurance reform and banking reform at the federal level. States recognize the need to address problems in the U.S. banking industry. However, any reforms should recognize and retain the essential components of the dual banking system:

1. A healthy partnership between state regulators and federal deposit insurers;

2. State authority to continue to use state banking law to promote capital availability, strengthen economic development, and encourage community reinvestment; and

3. The ability of states to equitably tax state- and federally chartered banks.

Any deposit insurance reform proposals must apply equally to all depositors in institutions of all sizes. Otherwise it will increase existing inequities in the system to the detriment of many states.

Finally, it is imperative that any changes in federal banking laws be revenue-neutral on state budgets.

CONSUMER FEDERATION OF AMERICA,
Washington, DC, November 11, 1991.

SENATE FLOOR ALERT—S. 543—BANK REFORM

DEAR SENATOR: On Wednesday, or very soon, you may be asked to consider the Bank Reform Bill, S. 543.

Due to the House Floor votes on this bill, and subsequent action in the House Banking Committee in support of a narrow bill, we prefer seeing the Senate vote out a narrow bill that includes Title I, II, and V—funding, supervisory restrictions and needed consumer provisions alone. Bank powers and branching will only cause increased difficulty to a precarious bank crisis situation.

Please urge Chairman Riegle to mark up such a narrow bill immediately so that we can pass a bank reform bill this year and provide the regulators with necessary enforcement tools as well as working capital to close insolvent banks.

If the broad bill is brought to the floor, though, there are many amendments we need you to support or deny. They relate to branching, powers, and the consumer title. If you are called on to vote on a broad S. 543, Please support or oppose the following amendments:

Securities/Foreign Deposits:

(1) Vote Yes—Bryan amendment to create strong securities firewalls between banks and broker affiliates.

(2) Vote Yes—Simon amendment to move securities brokers off Bank Premises and stop confusing cross marketing so that consumers can't be confused into putting their savings mistakenly into uninsured accounts.

(3) Vote No—Vote down the McConnell amendment or other weakening amendments which will weaken the statute of limitation provisions concerning securities fraud prosecution and allow Michael Milken to escape liability for his actions.

(4) Vote Yes—Kohl Amendment to assess foreign deposits so they pay their fair share for the risk-free insurance coverage they will continue to receive under this bill. U.S. taxpayers shouldn't have to pay for foreign deposit coverage.

Interstate Branching:

(4) Vote Yes—Metzenbaum Amendment to improve safety and consumer protections with interstate branching by setting capital standards at a safe level for banks allowed to branch and by ensuring that branches do not become deposit taking offices only.

(5) Vote Yes—Bumpers Amendment to allow states to opt-in to interstate branching thereby preserving a more decentralized restraint over financial concentration.

(3) Vote Yes on Adams Amendment to promote small business disclosure;

Basic Banking/Government Check Cashing:

Vote No: Shelby/Mack/or Cochran amendments to strike all consumer title V or to strike basic banking and check cashing. Banks continue to increase fees on lowest balance customers. Basic banking/check cashing is needed in this era of consolidation to protect small balance account holders and those with little income.

In addition, please vote to hold the separation of banks and commercial ownership.

The fate of these amendments will be critical in determining the future financial system in this country. Financial concentration, as witnessed by the last ten years of mergers, will increase if branching and securities powers are allowed to proceed in the way which S. 543 has constructed. This concentration, though beneficial for the stockholders of some banks and particular investors around the world, is not beneficial for consumers in the United States.

There are other ways to allow our big banks to compete on the international level without destroying the community banking system that consumers need. We ask that you step back from this course of action, pass a narrow bill, and allow the system to improve through increased regulation and oversight.

Sincerely,

PEGGY MILLER.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I voted for the cloture motion because I believe we have to extend the lending authority. I am going to vote for the Ford amendment, but I hope the Bumpers amendment is accepted.

I listened to my friend and the distinguished chairman of the Banking Committee, who is one of the finest Members of this body, Senator RIEGLE, when he said we have a fragmented banking system today; and he is correct in that. I happen to think that is a good thing. Then he says that this fragmented system adds increasing costs to taxpayers. That, with all due respect to my colleague from Michigan, I question.

What we are going to do if we do not adopt the Bumpers amendment it seems to me is to have more and more large banks, and fewer and fewer small banks.

Now we have to ask ourselves a question: Where has all the loss been for the FDIC? Has it been in these small community banks? Well, we will have some small community banks go down the tube but the great loss has come from these big banks. And we are going to have more and more of these big banks.

Then the second question comes: What is the practical effect of concentrating this economic power? Let us just call it the Bumpers National Bank. He likes the title of the bank, if nothing else here now. It is the Bumpers National Bank, and they acquire branches all over this country, and they concentrate power.

They have a choice of making a $100 million loan to General Electric or 10,000 $10,000 loans. Which do you think they are going to do? Well, one loan for $100 million is obviously infinitely less paperwork than 10,000 loans, and probably involves less risk. But in terms of the U.S. economy, in terms of getting loans for homes, in terms of getting loans for small businesses, it seems to me those 10,000 loans are a way that we ought to be encouraging. General Electric after all can issue stock and get that $100 million. They have options. That small business does not. That small person who wants to get a mortgage does not.

Just in a general way whenever we face the choice of whether we should concentrate economic power or not concentrate economic power, I think our choice ought to be not to concentrate economic power.

I am not sure how I am going to vote on the final passage of this bill. But I do know how I am going to vote on the Bumpers amendment because I think the Bumpers amendment is clearly in the national interest.

I yield the floor, Mr. President.

Mr. GARN. Mr. President, unfortunately some of the arguments that I will make against the Bumpers amendment were made 2 or 3 times earlier today in different parts of this bill. I am sorry for the repetition but proponents of this amendment were not on the floor at the time. So I hope my colleagues will bear with me as I repeat some of the arguments against it.

Senator BUMPERS brings up all of these lists of groups and organizations that are supportive of this amendment. I would be surprised if they were not. I have spent a career on the Senate Banking Committee of 17 years attempting to the best of my ability to put together financial service reform; broad, comprehensive legislation.

And we have failed, as I said earlier in the day, over and over and over again, despite the fact that we have a bankrupt S&L industry that is costing the taxpayers tens of billions of dollars. We have an FDIC, for the first time, that is out of money, and we are asking for loan authority so we can hopefully avoid taxpayer bailout of the banks. Everybody knows the reality of that situation and the regulatory struggle in finding more money for the Resolution Trust Corporation. It is, without doubt, the worst financial situation that has ever occurred in this country, not only in size but in its consequences.

There are some in both parties and in both the House and the Senate, for at least the 17 years that I have been here, who have been trying to modernize that system for safety and soundness purposes, because we have a banking system and a financial system that still operates with 1930 laws. Some go back as far as 1869. Over and over again, we have failed to pass comprehensive financial institution legislation.

When I was a brand new freshman in 1975, Tom McIntyre, the Democratic Senator from New Hampshire, for some time before I got here, had been pushing comprehensive financial legislation. He succeeded 2 different years in the mid-1970's in passing the FIA, Financial Institutions Act. The Senate passed it by large numbers, and the House refused to go along.

Presidents Ford and Carter asked for modernization. I would not take the time if I had their speeches here; I would put them in the RECORD. Every one of the four Presidents I have served with have come to the same conclusion—that our basic financial structure was becoming noncompetitive and outdated in a modern society.

As I referred earlier to the computer. We are arguing about interstate banking. Who is kidding who? It has been here for years. We have merged a lot of troubled institutions across State lines. We have regional banking compacts all over the country. My own State of Utah, who opposed interstate banking for years, finally came to the realization that it makes sense for them, and in one day, it passed in both the House and Senate, was signed by the Governor. They said any bank who wants to come into our State, be our guest and come in.

I have heard the stories about independent bankers, about how the big money center banks would come in and take over our banks. Citicorp did come into the State of Utah, and they established retail branches; and after a couple of years, they closed them down and went back to New York, because they could not compete with the credibility and experience of those smaller banks who knew your grandfather, uncles, and aunts, and what your credit rating was without running it through a computer. It is also very evident that Citicorp has never done well in upstate New York. They tried to branch within their own State. They closed down most of their branches in upstate New York.

BankAmerica in California retracted all kinds of branches they used to have.

So I am not surprised that these various groups oppose. I guess what I am surprised at is that they have to come into the modern world, and they use the same old argument over and over again about these artificial boundaries.

My record will show that nobody has been a greater defender of the dual banking system or States rights than I. On legislation over the last decade and a half when people wanted to override State law, I always insisted that we allow the legislatures to make that final decision with an opt-out provision. If you do not like what we have overridden in your State, fine. Say you do not want it. And that is what was done in the Senate Banking Committee, even though it makes sense from a national policy standpoint to override State law, the legislation that Senator BUMPERS is trying to change does not do that. It simply says, if you do not like it, call your legislature together and opt out.

I realize, to be very candid about it, it is harder to opt out than it is to opt in if you do not want to. Because in an opt-in situation, it does not take much of a minority to get to a legislature and kill something. That is an easier process.

So from that standpoint, the Senator from Arkansas is correct. It makes it easier for States to block it.

But I want everybody to understand that there is a 3-year opt-out period. The States really do not like it. All that has to happen is that a majority of the legislature says we do not want it. But the overwhelming experience and all these arguments, all the affairs of the small bankers, 15 years ago, maybe we could understand; but today, using my own State as an example, it just has not taken place. Citicorp did not scare anybody in little old Utah that only has about one-fifth of the population in the whole of New York City.

If branch banking is not considered here—every Senator knows, as he comes through the subway, there is a machine down there. There are machines all over. All you have to do is put a card in it, and you can draw money on your local account, whether it is in Kentucky, Arkansas, or Utah. Technology has totally made State lines meaningless in terms of monetary transactions, things such as fax machine and computers. We now transfer millions of dollars in seconds all over the world in transactions that used to take days or weeks.

So I look at this mess we are in and, boy, have we heard a lot of speeches in the Banking Committee and on this floor about who is responsible for the mess. We can look at the bad guys and the fraud and the rip-off operators, and we can talk about the ups and downs of Texas oil prices, and why we lost so many S&L's and banks down there, and the real estate crunch. We can talk about how the 1981 Tax Act was overly generous to real estate so we built a lot of buildings that should not have been built. Then we have overcapacity and a drop in real estate cost, and the main cause is bad real estate loans.

We can talk about what the 1986 Tax Act did when we overreacted to 1981, and went too far the other way, and did away with passive losses, changed the capital gains tax, and others, what that did to incentive and investment, and we took away IRA's so people do not save as much now.

We talk about how the Japanese save more money than we do, and we do not have the capital available. We talk about the invasion of Japanese institutions into this country and Japanese automobiles. I guess all the reasons are valid. But nobody talks very much about the fundamental reason that we are in trouble in the banking industry in this country, and why we are losing market share.

As I said before, a few years ago, 7 out of the 10 largest banks in the world were U.S. banks. Today, 10 out of the 10 largest banks are Japanese. What is the answer to that? We have not modernized our system. We are becoming less and less competitive. It is not like the automobile industry because we did not produce as good a quality. We are the innovators. We are the best in the world in securities, insurance, and banking—the best. We are losing because of unfair competition. Over and over again, Congress has been unwilling to do something about it. That has been said before several times. In Bill Proxmire's last year in the Senate, we passed a bill 94 to 2, and the House would not deal with it. We passed one of my bills in 1984. The House would not deal with it. Congress, primarily, as a result of the House's unwillingness to go along, has failed totally to deal with structural reform and modernization of our system.

That is happening again. The chairman struggled for 2 years to put this bill together. One of the best sections, we had a debate with Senator DIXON earlier, and he is right; we should not take it out, but we have no choice. We made compromises on insurance to try and get this bill through.

So all these groups that the Senator from Arkansas talks about, I do not dispute their positon, but we have primarily been hamstrung over the years because of the special interest groups out there, every one of them, from any side of the argument—I do not care whether ABA, SIA, independent bankers or Consumers Federation—each one of them only sees their interest and they will not look at the collective interest of what a modernized banking system might do for them, what it might do in the international competition, and be preeminent in those areas. So bills fall apart for that reason, because each one of them is fighting for their piece of the puzzle.

This is another one, I am sure, that a lot of bankers will like. Arkansas and Kentucky bankers do. They do not want foreign banks in their State. Again I am being reptitious, but I do not think they have to worry much about foreign banks in their State. These big foreign banks do not want retail operations in Utah or in Arkansas. They are not going to come in and they are not going to be competitive. They are in the wholesale banking business. And it just does not make any sense to not have national treatment between foreign banks and our own banks.

Increased ability to branch will increase the safety and soundness of our banking system.

According to a Federal Reserve study, the failure rate of banks with branching networks during the depression was much lower than for banks with limited branches.

Geographic diversification makes it possible for banks to diversify their loan portfolios to a greater extent. This makes banks less subject to swings in regional economies.

Bank failures in the 1980's were concentrated in the States with limited branching rights.

The GAO found that 90 percent of the banks that failed in 1987 were in States that allowed only unit banks or limited branching. I want to repeat that. The General Accounting Office found that 90 percent of the banks that failed in 1987 were in States that allowed only unit banks or limited branching. They also found that branching restrictions may make a bank more vulnerable to adverse economic conditions.

The Senator from Illinois was here speaking in favor of the Bumpers amendment. All of us—or at least those of us who remember the great failure of Continental Illinois—Illinois did not allow a bank as large as Continental Illinois even to branch within Illinois. They did not have much of a retail banking operation in comparison with the total assets they were dealing in—hot, fast, overnight money in very large amounts. You can trace that Continental Illinois failure, which cost a lot of money, directly to the fact they were not allowed to expand and compete in a retail market.

So there is less opportunity to diversify risks. They are more vulnerable to economic downturns in particular communities.

The CBO recently released a study that concluded that:

> Nationwide interstate banking would enable banks to increase their geographic and industry diversification * * * such diversification should contribute * * * to reducing the probability of bank failure over the business cycle and thereby lead to a healthier and more stable banking system. * * *

Expert witnesses before the Banking Committee testified in favor of interstate branching.

GAO's Comptroller General Bowsher testified in favor of interstate branching.

Former Deputy Secretary of the Treasury, Robert Carswell, testified that when New York State permitted branching upstate by New York City banks, the small independent banks in the upstate region continued to thrive, and that local deposits were not drained out of the community. Instead, through increased competition, more and better services have been available to upstate residents.

Robert Litan of the Brookings Institution testified that "it is no accident that in the 1980's most bank failures were concentrated in States with limited branching rights." He also stated that "the Nation would have suffered fewer bank failures in the 1980's had we long ago permitted nationwide branching."

There is no evidence that increased branching will syphon off deposits from one area to another.

The banks with large branching networks have higher loan to asset ratios than banks without branches. In other words, the empirical evidence is that they use their branches to general loan business not to syphon off deposits.

In our financial system, deposits flow from one area to another anyway, through the Federal funds markets and interbank deposits.

The United States is the only industrialized country that restricts bank branching. By the end of 1992, European banks will be able to open branches across the continent. It will be possible for a German bank to open branches from Ireland to Greece, while it will be unlawful for a California bank to open branches in Florida and Connecticut.

S. 543 carefully preserves the rights of the States under interstate banking.

And I repeat: For good public policy we ought to just override. But we are not doing that.

The bill gives the States 3 years to "opt-out" of interstate branching.

It provides that State tax law shall apply to the branch of an out-of-State bank.

It provides that State laws regarding consumer protection, fair lending and community reinvestment shall apply, unless preempted by contrary Federal law.

It provides antitrust and anticoncentration protection so that an out-of-State bank cannot gain undue control over the banking business in any State.

S. 543 provides new CRA requirements to ensure State by State compliance with community reinvestment laws. Interstate branches cannot be approved without considering views of State regulators with respect to CRA compliance.

Well, all the usual groups I am familiar with, they are protecting their own turf. I guess if they do not, no one will.

Once in a while around this body we ought to look at the overall good of the country and overall strength and safety and soundness of the banking system, because if we continue to take the piecemeal approach to banking legislation, as I said earlier, the poor chairman of the Banking Committee and others will be back here struggling with additional bailouts in the future.

It is very much as if you have a bankrupt corporation and you decide you are just going to keep pouring money into it and keep it afloat without changing the management, without changing the structure of that business. When somebody goes into chapter 11, or any bankruptcy, they require them to reorganize before they let them come back into business. But what we continue to do is piecemeal banking legislation; deal with it in a 1930's structure, which may have been necessary—and I believe it was 50 years ago—but inappropriate for the 1990's. And we keep putting the tourniquets and the Band-aids and trying to stop the flow.

But amendments of this kind—and if we do not pass comprehensive banking legislation, Congress is guaranteeing that year after year they will have to appropriate more money for the RTC—and hopefully not—but maybe even appropriate taxpayers' money for the FDIC.

If that is the kind of legacy the Congress wants, then vote for the Bumpers amendment. Then continue to vote for all these other self-interest provisions. Do not deal with this Nation as a whole. And again, as I say, as a representative of a small State, and one who believes in the dual banking system, I will fight to protect it.

The passage of the interstate branching provisions that we have talked about, other than the Bumpers amendment, will further competition and it will not bring in big out-of-country banks. It will not take over these small domestic banks. There is no evidence of that at all.

I cannot appeal more strongly to my colleagues on this one: Do not fall for the populous approach, do not fall for little bankers coming in here telling you you are going to be ripped off. Look at the evidence for once, and do something that is protective of the future and the safety and soundness of these institutions so that you are not continually back here having to cast these miserable votes for another $70 billion or $80 billion for these bailouts. Because I tell you, that is what will happen. And I will be sitting around my pool in Salt Lake City retired, feeling very happy I am not here having to continue with this stupid piecemeal approach.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, when that day comes, we will all be here working away on these issues and thinking with great fondness about our colleague from Utah out there around the pool, and we will be envious and miss him very much.

He makes an important point here with respect to the issues he offered on the other side, and I want to add to those points.

When the Banking Committee took this legislation up we had a very keen concern and interest in this question of how you develop and interface a national banking system with the banking operations and activities and structure within each of the 50 States because there is this tension, the States' rights tension were banks within given States have a history and pattern separate and apart in many ways from what goes on through the national banking system across all 50 States.

But very significantly I want to say to the Senator from Arkansas that this was a concern of mine, and we have addressed that concern in this bill and we in fact now gone even further with the amendment of the Senator from Kentucky, Senator FORD, which I will mention in a minute.

The Senate bill specifically permits States to apply their own fair lending laws, laws that may be unique to that State, to apply those to banks that would operate in their States; allows those individual States to apply their community reinvestment laws, and to apply any other consumer protection laws that would affect their State and would have been drafted in their State to be able to apply to the banks that would be coming into their States.

Further, in the other area of the bill, we do not allow banks to go into other States with branching unless they meet very high capital requirements and are soundly managed. And so you screen out, right off the bat, if you will, bad banks or questionable banks from being able to do this, because they are not even eligible to go out and branch in other parts of the country.

Now, having put forward the Ford amendment, which I am supporting and which Senator GARN is supporting, what the Ford amendment does, the Ford amendment goes even further, and it allows States to prevent the kind of motor home branches, that the Senator from Arkansas talked about, that he is worried about coming in. Because in the area of that kind of branching, what is called de novo branching, just to set up a brand new branch in a State, in that instance, the States do have to opt in. That is one of the key provisions of the Ford amendment, is that that will not take place automatically. That is something that will only happen if the States themselves act affirmatively to cause it.

So, in a sense, we have put that alongside the fact that, with respect to a general branching provision, States would have to opt out after 3 years with respect to de novo branching, the sort of trailer home branch office problem that the Senator from Arkansas expresses the concern about. That is dealt with. That is taken care of, in my view, quite well by the Ford amendment. And that is one of the reasons why I am supporting the Ford amendment.

Now, he raises the question of the so-called vacuum cleaner effect. And that is when these big, powerful unseen banks from somewhere around the country come charging into Arkansas or some other State like a giant vacuum cleaner and vacuum out the savings of that area and take them to some other part of the country.

That has not been the experience that we have seen in States that allow interstate banking and where banks from other States have come in. That has not been the pattern that we have seen. And that is one of the reasons why, on the list of organizations supporting the approach that we have here, you have not only the General Accounting Office supporting it, you have the Congressional Budget Office supporting it, you have former Fed Chairman Volcker supporting it, Gerald Corrigan supporting it, the Brookings Institutions, a whole lot of very thoughtful groups and experts who have taken a look at it.

But our bill, in another section, specifically applies the Community Reinvestment Act requirements to the evaluation of any bank that wants to come into another State, and it evaluates their community reinvestment activities in each State in which they want to operate. So they do not, in effect, go into one State, take in deposits, and then walk away from the needs of that community. Because that would violate the community reinvestment aspect of the bill, and clearly that is not something that we would want or that we would permit.

But as I say, the States, if they wish, can go even further than that. If the State of Arkansas wants to lay down some additional provisions in that area that relate to the question of reinvestment within the State, they are entirely free to do so. That long list of State legislators, and so forth, if they feel the need to go and write additional law in that area, they are certainly welcome to do it.

Now, by changing this one issue from saying that at the end of 3 years the States would have to opt out, which is in the bill now, if they did not want to participate, he turns it around and says no, they would have to make an affirmative decision to opt in. As others have said, we had an experience with that many years ago with respect to other areas just in terms of straight interstate banking. It took about 25 years, when that trigger was put the way he is suggesting, for there to be much activity going on with respect to interstate banking.

So I do not think that is the way we want to do it. I think there is a very powerful argument that is to be made here that says geographic diversification really does have some value. The Senator from Illinois raised a point awhile ago about the issue of whether the big banks are the ones that have failed, and therefore, do we want to, in effect, find a way to prevent big banks from occurring, meaning to somehow limit them from expanding across the country.

What we have found is that, in terms of where the pattern of bank failures have been, they have tended to be in States where those banks were too concentrated in the local economies—Texas is the classic example, but now New England is another example—and where there was not any real geographic diversification in the investment practices of those institutions. They were kind of locked into a narrower piece of geography. When the economy of that area of the country went down, it took the banks with it. Now, not all banks; some were better managed than others.

But it is obvious if you can spread some of your risk out over a broader geographic base, that you can ride out a downturn in one area of the country by having part of your investment activity continuing to be strong in another part of the country that is in stronger shape at that time. So what the record shows is that greater geographic diversification actually prevents bank failures.

So I think what Senator FORD has proposed here by saying that States have 3 years to decide, once this bill passes in the form that it is now in, is they have 3 years to decide whether or not they want to opt out of allowing other banks to come in and branch within their States. But in terms of the second level of branching; namely, to come in and branch and start a brand new bank, we actually turn the test that way, to say that at that instance, the States would have to act, as Senator BUMPERS has suggested, in an affirmative way. They would have to opt in for that to take place.

And so in a sense, it goes halfway toward what he is talking about with respect to the new branches being set up that would not require the acquisition of an existing bank.

So if I may just finish—because I know the Senator from Connecticut has some thoughts he wants to add—this is probably the most important part of this bill that we are going to deal with now, looking both backward and forward, in terms of the issues that have to be settled. In order for the interstate aspect of this bill to work properly with the branching, together with all of the other provisions that are built into the bill, we have to strike a reasonable balance in this area.

The bill itself as drafted, I think, did that. We moved to accommodate the concerns of some in the form of the Ford amendment, which I am going to be supporting, and the Senator from Utah, the ranking minority member, is going to be supporting.

But I have to argue very strongly that we not move beyond that to the Bumpers amendment. And I say that without any disrespect to my good friend and colleague from Arkansas. But if we go that far, I think we tip the balance. I think we really set this bill up in such a way that it, I think, wounds the bill in a way that I think has to be prevented.

And so I hope that anyone who has questions about this would discuss it with us. I hope that the Members would support the Ford amendment and would oppose the Bumpers amendment, and that we settle the issue in that way.

Mr. DODD. Will my colleague yield very briefly?

Mr. RIEGLE. Yes.

Mr. DODD. Mr. President, I thank my colleague from Michigan for yielding.

Really, the arguments have been made here. I would like to point out a couple of things, if I could, because what I think we are dealing with is so much mythology about what the community bank is really like and what the real world encounters out there.

Let me just share with my colleagues some very specific facts on two myths that are being promoted here today: That small banks would be driven out of business in the States when you have interstate banking. That is a wonderful statement, and I assume it will have some resonance. But would you please just consider the facts?

All one needs to look at are some of the States that have already had full interstate banking for years. And some have. California has had it since 1909; almost the entire century they have had full interstate banking. At the end of 1990, there were 426 banks in business in the State of California; 238 of those banks had assets of less than $100 million, hardly what you call driving small banks out of business.

In New York, which has had full interstate banking for some time, at the end of 1990 there were 190 banks in the State of New York; 81 of those had assets of less than $100 million. So to suggest somehow, based on at least experience and data, that large financial center institutions coming into States drive out small banks, the experience in States that have had full interstate banking, that has not been the case. And I want to strongly suggest to my colleagues that while that argument has been made over and over again by those who are opposed to interstate banking, the facts do not support that conclusion.

Second, Mr. President, is the myth that the presence of these large financial center banks are going to suck out all of the deposits and use them to make loans to the Third World or some other location. Again, there is nothing that supports that conclusion or that myth.

In 1986, an economist at the Boston Fed concluded that community banks are currently bigger exporters, bigger exporters, of deposits in local communities, than are regional or money center banks. To quote from this report, regional money center banks "do achieve a rough parity in local sources and uses of funds. In contrast, the community banks obtain far more of their funds locally than they invest locally."

This is also intuitive, I would suggest to my colleagues. Smaller banks get the bulk of their funds from the local communities in which they are situated. But they often take in more than they can lend properly back into the local community.

So, they tend to buy Treasury bills with the rest of those resources. And, in contrast, larger banks tend to do less local lending, but they are also far less reliant on local deposits for their funds. So the suggestion somehow that large financial center institutions just take the money and run off to some other place is just not supported by any of the studies that have been conducted.

Last, Mr. President, I think it is so important in these debates and discussions—everyone sits here and talks about the banks, whether it be a community bank or a large financial center bank. How about someone talking about the people who use these institutions, that customer who shows up each day, goes there to make deposits or to borrow money, the people who depend upon these institutions for their business success, their expansion, for buying cars, buying homes? The people that depend upon these institutions are rarely discussed in these debates. It seems to me the customer, the consumer, ought to be calculated into these discussions.

It seems to me that by allowing interstate banking diversifying, encouraging some competition and providing consumers with a broader array of services, is what is in their interests. To suggest somehow we are not going to allow anybody in—you can come in as an insurance company, you can come in as a security firm, but you cannot come in as a bank—is just ludicrous on its face.

With all due respect to the Senator from Arkansas, who was offering an amendment here which goes far beyond what we crafted in the original bill, I hope our colleagues here look at the facts, look at the information, and draw intelligent conclusions. This is an essential feature of this legislation. If we lose the interstate banking provisions, even as crafted here by the Senator from Kentucky—and I support his amendment with reluctance, as he knows, but I also appreciate that without it we are probably not going to end up with any interstate banking provisions—but if we cannot even do that amount as we approach the 21st century with the entire rest of the world decades ahead of us in this area, it seems to me we are doing a great disservice to the people who depend upon these institutions: The small businesses, the individual consumers. They are not being figured into this debate. All we are talking about is the bankers: The community banker, the financial center banker. What about the person? What about the small business that needs to have strong institutions to be able to grow and expand and put people to work? I rarely have heard them mentioned in this debate, and they ought not be forgotten.

So I urge we support the Ford amendment and, with all due respect to the Senator from Arkansas, defeat the Bumpers amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky [Mr. FORD].

Mr. FORD. Mr. President, I thank all those who have supported the chairman and ranking member, the distinguished Senator from Connecticut, and others. But I am sorry the distinguished Senator from Arkansas just left the floor. If I were in trouble at home before a jury, I would not mind having the lawyer from Arkansas, Mr. BUMPERS, defend me—the distinguished Senator from Arkansas is arguing his amendment versus the bill; his amendment versus the bill. There are some things in the bill I do not like, and that is the reason I have come with a compromise. I wish you would look at the compromise and not argue against the items in the bill. Argue what you are arguing against my compromise.

Several of the things that the distinguished Senator from Arkansas wanted we have included in this compromise. We have tried our best to accommodate him. Now he is arguing his amendment versus the bill. The facts are, he ought to argue his amendment against the compromise. To bring the point a little bit closer, he wanted just to perfect my amendment, just to perfect it. That means there is not much in my compromise that he disagrees with.

So let us just look at the two types of branching in my compromise. I am trying to be helpful here. First, the direct bank branching by national and State banks. Our compromise provides for opt-in, just like the Bumpers amendment. There is no difference. Not a bit of difference in it.

Second, the conversions of bank holding companies' subsidiaries into branches. The compromise provides for an opt-out, only for this limited form of branching. That is all. That is all it does. So, why the difference? Bank holding company conversions require there must be an acquisition of an existing bank in your State. There is no danger of out-of-State banks flooding your State, no danger at all. My compromise attempts to strike a balance.

For interstate branching by acquisition of existing banks, the burden is opt-out. For setting up new branches in your State, so-called interstate branching de novo, the burden is opt-in. I believe this strikes a reasonable balance between the Senate bill and current law.

So, Mr. President, I hope we will look at the amendment versus the compromise rather than the amendment versus the bill, and be very careful when we look at the compromise. That has been accepted by those who put their heart and soul into the banking business, and the Banking Committee, as it relates to the chairman and my distinguished friend from Utah, Senator GARN.

So this amendment that is before us now is being argued against the bill and not against my compromise.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, the Senator from Connecticut, I think, got it half right. In his statement, he said one of the problems with this debate is that it has not started with the question of what is in the interests of the users of the system. We are talking about a financial service system. The purpose of the system is to serve. So, a touchstone for the evaluation of how well the system is operating—it is a diagnosis of any pathology, and prescriptions to resolve those concerns ought to be focused through the perspective of how does this impact on the users of the system?

I say half right because I believe there is another equally important question to ask and that is the question of what is it we are trying to accomplish here? What is the standard by which we will then apply those responses of a user-based analysis? One thing that has concerned me throughout the many months we have been debating this bill has been a sense of unreality and also a sense of disassociation from the history with which these measures have been considered. Today, November 14, 1991, is not the first day that the Congress of the United States has considered financial system reform. In fact, if you looked over the history of this body, financial institution reform would be one of the recurring questions throughout our Nation's history.

Just to mention two significant periods. First, Jacksonian. As you know, probably the best known issue in President Jackson's administration was his opposition to the renewal of the U.S. national bank. Why was he opposed to the renewal of the U.S. national bank? Was it because he favored some other set of banks or favored security dealers or had some special interest in insurance?

None of those were the reasons. The reasons were because Andrew Jackson understood who his constituents were and his constituents were small business people and farmers and he concluded that they were not being well served by the U.S. national bank.

So his opposition was not in order to referee a fight among bankers, but was because his conclusion was that the bank, as constituted, was not serving the interest of the users of the system whom he felt were most important to the Nation's future.

The second period was a half century later during the populist period. William Jennings Bryan's great gold speech was actually a banking speech, about monetary policy and how banks ought to be organized. William Jennings Bryant, again, was not speaking because he was representing one group of providers over another. His speech was directed at how the impact of the financial service system affected key users, again very similar to those that Andrew Jackson had talked about in the 1830's: Farmers, small business people, people who happen to have a lot of debt and he was concerned how the financial service system would allow them to manage that debt.

What has been a concern of the debate that we have been having over this bill is that it has been so devoid of human content, of how does all this make a difference to the users of the system?

I believe that in order to assess how this financial system reform should be concluded in terms of its impact on users, that we have to answer some basic questions. Two of those questions are: Does this bill provide adequately for the capital of those users who we think will be most important to the future growth of the American economy? And second, does the bill create an environment for innovation in financial services? That is, will it encourage new products and new relationships with emerging users?

Mr. President, I conclude that the best system in order to accomplish those objectives of providing capital for the businesses that are going to be most important to our future and to create an environment for innovation, is to encourage a system which has maximum decentralization and which places the ability to make those judgments as close to those who will be affected as possible.

My concern with the interstate branching provision as is being proposed is that it would propose to concentrate the decision in one national judgment as to what would be in the best interest of all parts of the country. I believe the essence of the Bumpers amendment is to decentralize that decision and to allow the 50 States to assess their own needs, to assess the question of which areas of users are going to be best served by a particular structure to allow the innovation that has been such an important part of our Federal system to operate in financial services as we hope it will operate elsewhere.

There have been a series of dangers suggested by continuation of a policy of decentralization. One of those dangers is that there will be a threat to the financial services system.

Mr. President, I think it is somewhat arrogant to assume that the States are less interested in how well and how secure their citizens are treated by the financial services industry than are we in Washington. I believe, to the contrary, that the States have a great interest in how their citizens are served through the system and that by the types of conditions which the amendment of the Senator from Arkansas would authorize would be able to exercise that concern.

Second, it has been stated that the current system puts too great a risk in the insurance fund. I agree that has been true to some degree with the way in which the insurance fund has been managed to date, and I anticipate that before the consideration of this bill is over, Mr. President, I and others will be offering some amendments that will attempt to make the insurance fund more secure.

One of the fundamental aspects of that greater security of the insurance fund is to delink the insurance fund from the regulatory system; that is, to manage the insurance fund as it is intended to be managed, an actuarially sound insurance system which will require such things as variation of premiums based on risk, early intervention where it appears as if that risk is about to mature into a real threat against the fund. Those are the types of things which should be done within the insurance fund itself. Those do not require the dismantling of the dual banking system and the elimination of the innovation and sensitivity which it brings to our financial services.

So, Mr. President, I believe that in answering the questions, what reform would be in the best interest of the users of the system, what system would most adequately provide capital for those sectors of the economy that are going to be most significant to our future economic growth, which approach would allow for the greatest creativity and innovation in financial services, I believe it is a system that maintains the dual banking system. I believe it is a system which allows interstate banking, but with the States continuing to exercise substantial control over the specific shape of that interstate branching.

I believe that those elements are the essence of the amendment offered by the Senator from Arkansas and, therefore, I urge its adoption. Thank you, Mr. President.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. Mr. President, let me make very clear at the outset that I support the Bumpers amendment. I think it is a very good piece of legislation. I think it ought to be adopted because it maintains the existing situation, which has worked very well.

But before I deal with my reasons for supporting the Bumpers amendment, I want to make a statement in a more general vein. The whole approach to banking legislation this year is based upon the proposition that the BIF must be recapitalized so that our savers can be protected. This is a recent occurrence giving rise to this banking bill. This is a concern we very definitely have to deal with, and I do not deny the necessity of dealing with it.

But if we look at other aspects of the bill that is before us, there are few that have not been around this town and around this institution for decades.

I think there are two underlying reasons for banking legislation that we ought to consider, which are directly related to the Bumpers amendment. Frankly, if it were not for these two underlying issues, we would probably not be dealing with banking legislation. I believe this because congressional attempts to deal with these things over the last several decades have usually ended in failure; bills have come to the floor of both bodies, but have not really been acted upon in any serious way.

The two propositions that typically drive banking legislation are, No. 1, that there are too many banks in this country, and No. 2, that big is beautiful.

I heard the first argument for the 4 years that I was on the House Banking Committee. Actually, it was an issue inside the beltway and in the money-centered cities of this country a long time before I served on the House Banking Committee, and it has been an issue since then—there are too many banks in this country.

The other issue driving banking legislation in this town is that big is beautiful. Big is beautiful. Stop to think in terms of the arguments used for this legislation, and the fact that we do not have any banks in America that are in the top 25 in size in the entire world.

Now, that issue is festering on somebody in this town. I do not really know who because I do not deal with these big bankers and the people who are behind the big banking legislation. I do not deal with them enough to know what they are thinking when they say we have too many banks and we have to do something about it. Inferential in these comments is that we have to reduce the number of banks, that big is beautiful. There is a hysteria around here that the biggest bank in the world ought to be a U.S. bank.

So, Mr. President, that thinking drives this legislation. Proponents think that you have to have the tools in this legislation to accomplish that goal—to establish the principle that big is beautiful. The goal is to have the biggest bank in the world be an American bank. Proponents want to reach this goal by reducing the number of banks in this country.

That goal has been behind the scenes for decades in this town. There are powers in this town that are working to see that we reduce the number of banks and that we make big American banks bigger.

Now, Mr. President, there may be too many banks in this country, but I happen to believe that, if this is true, a group of politicians should not be making this decision. The marketplace ought to make the decision. I repeat: If the United States needs bigger banks, the marketplace ought to make the decision, not politicians in this town.

Now, pardon me, Mr. President, if the statement I just made is an expression of market confidence; but I do have confidence in the marketplace. I believe it will accomplish this goal without interference by legislative bodies.

That is why Senator BUMPERS drafted his amendment, and that is why I support it. Of course, I know that the issue of interstate banking and branching is obviously a very complicated and contentious one. It is even controversial when it comes before State legislative bodies today. However most State legislatures have approved legislation for interstate banking, in spite of its controversial nature. But it is this concern that brings me to support this amendment by Senator BUMPERS.

As proposed by the Senate Banking Committee, title III would force legislatures to enact opt-out laws within 3 years if they wished to prevent branching into their State by out-of-State banks.

In my way of thinking, this is strictly backward from the way we should be doing things. This is the wrong way to do business. We ought to leave States empowered to determine how the business of branching is conducted within their State.

So I believe that the Bumpers opt-in approach is sounder public policy because it will allow the States to determine if, and when, the conditions are right for interstate branching. It will allow people closest to the scene to make that decision. It is clearly preferable to the opt-out approach in the present legislation, and there are several reasons that I am going to give for that belief.

One of the main reasons to support this amendment is that it will preserve the dual banking system of our Nation. Historically, State governments have had virtually exclusive authority to determine the internal structure of their banking industries. I believe this authority has been used wisely and rationally. It has allowed each State to determine banking policy consistent with its own needs—the needs of direction of capital and the needs of consumers. The opt-out language of the bill effectively prevents a State's control over its internal banking structure.

I know the suggestion is that if legislatures act in a timely fashion they will still be able to exert considerable control over this issue. But as a practical matter, out there in the real world of State legislative bodies, it is not going to be so easy. Consequently, the judgments made here by this body today are effectively going to be decisive for 50 State legislatures. State control is replaced by a scheme that says either accept the absolute Federal scheme or enact legislation within this 3-year window of opportunity.

The majority of States, including my home State of Iowa, have authorized interstate banking in varying degrees. Removal of the opportunity to control these policy decisions is a violation of States rights. Those who want more liberal State laws on the issues should argue their case in the senate and house of our 50 State legislatures, not here in the Senate.

A second reason to support Senator BUMPERS' opt-in amendment is to maintain local influence over bank policies. Interstate branching eliminates the local boards of directors and local bank officers that establish bank policies.

As proposed, this bill would allow national banks to branch nationwide. Branches, of course, are merely extensions of home offices of a bank, following the policy set by the home office in some big city far away. This means that policies are going to be less responsive to local needs and concerns. Branches could become simply deposit-collecting institutions and consequently, Mr. President, be less likely to grant loans to small businesses and farms of the local area.

Even with as little branching as we have in Iowa, I see the unwillingness of people to go the mile that they would normally go to take care of local needs when someone in Minneapolis, or Chicago, or Milwaukee, is making policy decisions for the local people.

Interstate branching is likely to substantially reduce local influence over these policies of out-of-State banks. Rural States will clearly act as host to branches rather than home offices and will suffer most from interstate branching. The opt-in approach of the Bumpers amendment is preferable because it will allow States to determine if, and when, the conditions are right for interstate branching.

Another reason to support this amendment is that it is clear and concise in its expectations. Only States are allowed to set banking policies within their borders. Both the amendment by Senator FORD and the original bill contain an imprecise opt-out approach which state on several occasions "unless preempted by Federal law." This qualification raises a multitude of questions regarding the interpretation and the potential effects of State law, particularly with respect to national and foreign banks.

Adoption of the amendment before us will eliminate these difficulties, and the need for expensive and time-consuming litigation to determine whether or not the State laws satisfy the opt-out requirements and other Federal qualifications.

There is one last reason to support this amendment. The opt-out approach of S. 543 and of the Ford amendment raises questions about State bank revenues. Under existing State law, out-of-State banks may acquire branches and the State tax liability is well established. Interstate branching would introduce great uncertainty to tax questions because branches cannot be taxed on the same basis as banks. There is no bank capital at branches. The capital is at the main bank.

Similarly, while deposits may be received at the branch, the deposits are actually transferred to, and held by, the home office. At this time of fiscal uncertainty for many State budgets, we do not need to pass legislation that creates more reason for doubt and concern.

Adoption of this amendment by Senator BUMPERS would enable States to delay the implementation of interstate branching laws until such time as they have confidence in the effect of such legislation on taxing authority and tax revenues. I realize that this is an issue that separates those who often agree. This is an issue that cuts across party lines, as has been demonstrated by this debate.

I think that our Federal Government ought to do what has been tested by time. That is to preserve our dual banking system, to let people who are closest to the scene make decisions on service to customers and service to local communities. Most importantly, it is crucial that we not get sucked up in this whole rationale that big is beautiful, and that we ought to have a political determination as to the number of banks in this country.

Mr. RIEGLE. Will the Senator yield on that point?

Mr. GRASSLEY. I am finished. I yield the floor.

Mr. RIEGLE. I appreciate it.

He has made that point twice about not having politicians decide this and presumably having the markets decide. The fact is under either approach the State legislatures in each State are going to decide whether it is opt out or opt in, and they are all politicians. They all run. They all get reelected. It is not going to be the marketplace per se deciding it. It will be politicians at that level of government. I do not want there to be any confusion about that, because they are the ones who are going to vote on this either way.

Mr. GRASSLEY. I do not disagree with what the Senator says regarding the issue of States determining whether branching ought to be opt in or opt out. But the floor manager has not disagreed with my basic premise that for decades one of the indisputable arguments regarding banking is that there are too many banks in America, and the number ought to be reduced.

I see the goal of this legislation, taking that point head-on and resulting in a reduced number of banks. Top administration officials have said that we can save $10 billion by reducing the number of banks. People in this administration have said indirectly that big is beautiful.

That philosophy is what we are lending credence to by passing this legislation that accomplishes that decades old goal.

Mr. RIEGLE. Let me just say to the Senator that is not my goal. I do not see that as the intended goal of the legislation by any means. The number of banks are going down in the country, but that is because so many banks are failing. There are some mergers too that are occurring. But I must say there have been more failures than there have been mergers. So the number of banks is being reduced because so many banks are going into bankruptcy.

What the legislation is designed to do—I have great respect for the Senator from Iowa; I respect the fact he may have a difference of opinion on the part of the bill—what we have tried to do here is change the banking system to tighten up the regulatory side, tighten up the operating standards, and at the same time make some alterations in the business prospects for banks so that banks can responsibly be profitable, raise capital, and increase their strength so they quit failing. Because what has happened now, so many have failed that the deposit insurance fund is empty. Now we have to come up with this $70 billion in the form of a taxpayer loan.

So we want to stop the pattern of loss. We do it two ways. One way is we do a better job of regulating the banks and intervening more promptly when they start to get into trouble. We keep down the certain trouble areas we have found that we think have led to this pattern of bank failures. But also, at the same time, we think some geographic diversification will help because part of the bank failure problems have come in the regions of the country where the banks were so concentrated in just one area that they cannot have enough geographic diversification in their activities to be able to ride out a severe slump in one area where we think they could have done so had they had operations somewhere else.

But make no mistake about it, I would not bring a bill to this floor that I thought was going to destroy small banks, rural banks, independent banks. I believe in small banks. I believe in independent banks and in rural banks. We have crafted this bill to make sure that not only are they going to be able to continue to operate, but they are going to have, in my view, a good future.

By the same token, banking enterprises that are going to be larger in scope—I do not have any beef here for big banks per se—but banks that want to have an affiliation throughout a region or across the country, as long as they have high capital standards, as long as they meet all of the requirements in each State, they have to do that, they have to have community reinvestment standards, and consumer protection, State by State. If they want to into those States and if Iowa says, for example, "Look, nothing doing. We want no part of this, no interstate branching in our State, stay out," then Iowa can say that. And no one can come in and operate through a branching system in Iowa if that is the view of Iowa.

So we have preserved the right of a State to make that judgment if they want to make it. I do not know how many States will do that. Most States now, as the Senator probably knows, have accepted interstate banking. I do not know how many will choose to do it. But we have given them the right to do that.

In fact, we go even further with that with the Ford amendment. We say with respect to all de novo branch—setting up a brand new branch where somebody in the Bumpers illustration, some out-of-State bank comes in, wheels in a trailer home, parks it across the street from an established local bank, hangs the sign on the door and says, "We are open for business," the State in that case not only would have the option of opting out of that arrangement, in that kind of de novo branching situation, to actually have to affirmatively allow that to happen under the Ford amendment unless an individual State, such as Iowa, wanted that to happen, that could not happen at all, period. There could not be any of that kind of de novo branching.

I am sensitive to the concerns the Senator raises. They are the same concerns I have. Michigan is not that different than Iowa in the sense of me wanting to be sure that the lending needs and the business needs of people in my State are going to be taken care of and not be swamped by some kind of an assertion that some huge wave of monster banks across the country is going to come in and tip over the normal banking relationships in my State. I would not bring a bill to the floor like that.

Mr. DODD. Will the Senator yield?

Mr. RIEGLE. Yes.

Mr. DODD. I wanted to discuss this with the Senator form Iowa. I was confused by one point the Senator raised. I want to associate myself with the remarks made by the manager of the bill regarding this proposal.

I heard my colleague form Iowa suggest that this ought to be a decision made by the marketplace, not by the politicians. I think that was the line, or something like that. Am I to understand that this amendment would allow people in Connecticut or Iowa to decide with whom they wanted to bank, rather than you and I deciding it here. For instance, we allow insurance companies to sell products all across the country, in each and every State. Securities firms do the same all across State lines, and so forth. It seems to me that if the market is to work in a pure sense, a bank in Connecticut could decide to go out, and if the State of Iowa committed to it, set up shop and compete within Iowa. Conversely, if an Iowa bank decides that Hartford, CT, would be a good place to do business, they could come to my State. It seems to me that those circumstances would work.

What I think I heard my colleague say is that, in effect, we ought not to allow a bank in Iowa to come to Connecticut and do business, or a bank in Connecticut to go to Iowa and do business, not even give it an opportunity to work, but just flatly say no, the only banks who can do business in Iowa are Iowa banks, and the only banks who can do business in Connecticut are Connecticut banks. It seems to me the marketplace then never has the opportunity to work. Correct me if I am wrong.

Mr. GRASSLEY. Mr. President, in the context of reserve powers of the State and the history of banking in the United States, my statement has to be taken in that context. And then, also, the second and most important point that I speak to is an attitude inside the beltway that is really decades old, going back to the time the Senator and I served in the House of Representatives, which is when I first became acquainted with it—research will tell you that it goes back further, and it has been in existence since then—of just the attitude of banking interests, regulators, financial decisionmakers, to any banks in this country.

I see this legislation as a political decision that we are making, that we are going to make it easier to reduce the number of banks. And that is our goal, to reduce the number of banks, for two reasons: One, because we have too many. And the other is that people are just overly imbued with this philosophy that we have to have the biggest banks in the world. So bigger is better. And that is where this legislation is going to lead us. In that context, the Senator heard me right.

Mr. WELLSTONE. Will the Senator yield?

Mr. GRASSLEY. I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. If the Senator would stay for a moment, I was going to give a separate kind of speech, but I do not think it makes sense anymore. Let me try, for the Senator from Connecticut, to spell out what I think the Senator from Iowa is trying to say about this idea that bigger is better. I think the concern that many of us have—and maybe it comes from the heartland—is about the sort of more and more concentration of economic power that we see also with branch banking. And we have heard a lot about the marketplace. But all too often it is a real stacked deck.

What I saw in my State—and I am sure the Senator from Iowa has seen this in his State—is during the mid-1980's, when farmers and small business people were being driven off the land, and small business was hurting, it was those community, locally owned banks that stayed with the farmers and the small businesses. They were the ones that lived in those communities. They were the ones who knew about their neighbors.

I think a concern that the Senator from Iowa and I have, as well, has to do with what is happening in this country, which is absentee decisionmaking, where more and more of the decisions being made about the economy of local communities and about people's lives are being made halfway across the country. I think our point is that, in the smaller towns and rural communities, what people are really asking for is a fair shake, and that means having their own control over their own economy, staying aware that capital is invested.

As I understand the Bumpers amendment, it does not say that the State of Iowa would let branch banking come in. It says that the State has to affirmatively say that it is all right, for example, for that to happen. I think that is a very reasonable proposition.

The Minnesota Bankers Association supports the Bumpers amendment. The Independent Bankers Association of America supports the Bumpers amendment. The National Governors Association supports the Bumpers amendment.

I think it is a very reasonable proposition, even with all of the statistics that have been presented, that people who live in the smaller towns have every reason to be worried about this concentration of more and more economic power. For my own part, I am very wary of it. But I think the Bumpers amendment is a reasonable compromise, because what it says is: Listen, this is going to happen, but opt in. The States have to affirmatively make the decision that interstate branch banking will take place in their States. That is a reasonable proposition. Let that kind of decisionmaking power be by those officials that are closest to the people there. So I think that is what the Senator from Iowa is trying to say. Correct me if I am wrong.

I have the same concern. There are a lot of good Senators on the other side of this question, but I just know from what I saw in my town of Northfield, MN, and from what I have seen in a lot of small towns around the State of Minnesota, there is a tremendous amount of concern that this really could be a nail in the coffin for a lot of our smaller banks that are independently owned.

We do not want to lose that, because those bankers have stood by the people in the community. They know the people in the community. And we very much would like to see that continue, because we think that is critical to the future of our smaller rural communities.

Mr. President, I ask unanimous consent that Miss Hanna Burra, who is an intern on my staff, be granted the privilege of the floor during the consideration of the votes with respect to S. 543.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, we keep saying over and over and over again that the States have to vote to opt in on branching by national State banks. Our compromise includes, covers, and accepts opt in. Your State legislature has the ability to say yes or no. They have to say yes. And then when we get into the conversions of bank holding company subsidiaries into branches, the compromise provides for an opt out only for this limited branching.

Now, we keep arguing against the bill again, and not against the compromise. If you want it all to go down then you vote for the Bumpers amendment to the compromise. Then you do not have a bill. You do not have interstate banking. Your legislature will not even have the opportunity to vote.

Then we will get international banks, and they are not covered. And they come in and drop into your town, biggest town, and they are not covered. You need compromise in order to make this fly. If you do not accept the compromise, you do not have a bill. That is all I am trying to say.

We have worked our hearts out. We stopped the setting up of new branches in the State on interstate branches de novo unless you vote for it. All of it has to be voted on by the legislature. So I believe we have struck a reasonable balance between the Senate bill and current law, and I just am trying to move it on, and I wish we would argue against the compromise rather than against the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I ask unanimous consent to address the Senate as if in morning business not to exceed 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK. Thank you, Mr. President. I thank the Members of the Senate for indulging me at this particular point in the debate. There is an issue going on in Florida that I think it is important I address.

FLEEING HAITIANS

Mr. MACK. Mr. President, in recent times, we have witnessed an astonishing movement away from socialism toward democracy and free market economies around the world. The United States has been the symbol of freedom the rest of the world has sought to emulate.

Freedom, by its nature, and for the sake of its preservation, must be afforded to everyone—black, white, yellow, old, young, disabled, man, woman—everyone.

Anything else is simply selective freedom. And in the case of the current treatment of Haitians fleeing an illegally formed military government, it is discriminatory and unacceptable.

With Haiti, we have forgotten about the universal principle of freedom for those fleeing government repression.

I must say that I am greatly disturbed by the rejection of Haitian people seeking freedom in the United States. Given our treatment of other refugees, Haitians have clearly been singled out.

I believe at a very fundamental level, the U.S. treatment of Haitians is morally wrong. It has already raised allegations of racism.

As a Senator from Florida, I have a unique sensitivity to the impact this view has on our State. The magnet effect is a very serious issue we must deal with as a Nation. But concern over the magnet effect is no justification for a discriminatory policy. The responsibility must not be Florida's alone. It must be shared. And, ultimately, it is a Federal responsibility.

To deny this responsibility and reject Haitians seeking freedom in the United States contradicts everything our great country represents. If we truly believe that freedom is the core of all human programs—and I do—the only humane response to the treatment of Haitians is moral outrage.

Thank you, Mr. President, and I yield the floor.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYERS PROTECTION ACT OF 1991

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Utah.

Mr. GARN. Mr. President, I hope we will be able to vote soon on this amendment. I would make only one closing comment in addition to my opening remarks. It needs to be understood very clearly—and the Senator from Kentucky has made this point several times—most of the debate in favor of the Bumpers amendment has been talking about the difference between that and what was in the bill.

The Senator from Michigan and I regret that we cannot retain language in the bill that we think is far superior and better public policy. The fact of the matter is, we did agree to a compromise with the Senator from Kentucky. While not to our liking, it is certainly much better than the Bumpers amendment.

So I think everybody, in considering their vote on the Bumpers amendment, should recognize that the bill language has been changed rather dramatically in the direction that the Bumpers amendment goes.

But the Bumpers amendment goes far too far, and I also would suggest that if the Bumpers amendment is adopted, we might as well forget about this bill.

It is my belief the Treasury Department and the administration feel so strongly that this is bad public policy—it is hard enough for them and me to accept the Ford amendment—that this would probably guarantee that whatever else was in this bill, that it would be vetoed. Some of us feel that strongly about it.

So I hope that my colleagues and staff who have been listening to this debate would recognize that the interstate branching provisions have already been dramatically modified by the Ford amendment, and the Bumpers amendment goes much further and simply should not be adopted. It is very bad public policy and essentially veto bait for this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I have just a brief comment I want to make. I know the Senator from Arkansas in a moment will want to make a closing comment with respect to his amendment. I want to state again that I am going to be supporting the amendment that is offered by Senator FORD and which, in my view, incorporates a good part of what Senator BUMPERS himself has undertaken to try to achieve.

I am not totally satisfied with the amendment that Senator FORD has offered, but I think it is a good compromise. I think it is a proper balance, and I appreciate the great effort he has made. He has worked on this now for 2 months to try to work this out, and everything has worked together to do it. There are portions of that amendment, including the applicable law section, that I hope can be addressed in the upcoming conference with the House. But as I say, I think it strikes a very useful compromise between the committee bill and the amendment offered by Senator BUMPERS, and so I am going to urge my colleagues not to support the Bumpers amendment.

Senator GARN and I will both be supporting the adoption of the Ford amendment, and we think it is a compromise that really will work and make this bill as strong as it can be.

The PRESIDING OFFICER. Is there further debate?

Mr. CONRAD. Mr. President, I rise to express my strong support for the Bumpers amendment regarding interstate branching.

Bankers and consumers in North Dakota have contacted me in strong support of the Bumpers amendment because of their concerns about the potential impact of unlimited interstate branching on local community banks and credit availability in rural areas. On the other hand, while its supporters tout the efficiency gains that would be associated with interstate branching, it is not at all clear to me that there will be significant benefits in many areas of the country. Given the questions regarding the benefits, and the potential danger to rural interests, I believe we must be very careful to ensure that individual States retain a great deal of control over decisions regarding interstate branching.

There are several reasons I believe that interstate branching could have a harmful effect on North Dakota. Today most credit is supplied in my State by community bankers. These bankers have been part of the community for years. They know the people and they know the local economy. They have been making loans to small businesses and farmers based on their personal knowledge of the community. What will happen to credit in these communities if it becomes controlled by a large out-of-State bank instead of local bankers? Mr. President, no one can know for certain, but this Senator is willing to bet that the flow of credit to small communities is likely to dry up. Given the current concern about a credit crunch, I am unwilling to take the risk of further restricting credit to large areas of the country.

Further, I am concerned about a related prospect. If interstate branches drive out community banks, there is a very real risk that deposits would flow out of States like North Dakota to a few money centers.

Proponents of interstate branching may argue that interstate branches would not be able to compete effectively against community banks; that small local banks would continue to control credit in local areas. They point to the intrastate banking experiences of California and New York to support their argument. But Mr. President, the California Council of Bankers has written me to state that intrastate banking has caused difficulties for many small banks.

Furthermore, Mr. President, this argument casts questions on the assertion that interstate branching will increase the profitability of banks. If they are unable to compete effectively, how can large banks increase their profitability through interstate branching? We cannot have it both ways. Either interstate branching will do little to improve the profits of large banks, or it will damage community banking.

The Bumpers amendment provides a reasonable balance between the concerns of States and the hopes of proponents by requiring States to explicitly opt-in to interstate branching. The opt-in approach will preserve the rights of States like North Dakota to decide for themselves if and when interstate branching will be in their interests. It preserves the balance between Federal and State regulation that has successfully regulated banking for most of this century. And it allows States to limit interstate branching, yet still allow them to permit it if substantial benefits do indeed emerge. This approach is especially important for States like North Dakota, in which the legislature meets only biennially. Under the opt-out approach, these States might have only one chance to act on interstate branching before it would automatically be allowed forever.

In conclusion, I urge my colleagues to give States the ability to protect their credit availability and the tradition of local community banking. I urge my colleagues to support the Bumpers amendment.

Mr. PRYOR. Mr. President, I am pleased to rise today in support of the amendment on interstate branching being offered by my very good friend and colleague from Arkansas, Senator BUMPERS. I commend Senator BUMPERS for offering this amendment which is very important to the bankers and all of the citizens of our State, and I am pleased to be a cosponsor of the amendment.

Mr. President, as this bill is currently written, a State will be open to interstate branching unless it specifically opts out of that arrangement. Thus, the presumption is in favor of interstate branching. I believe the presumption should instead be to maintain the status quo, and only have interstate branching if States explicitly request it. That is what the Bumpers opt-in amendment would do.

Nationwide interstate branching presents a particular problem for my State of Arkansas because if implemented under current conditions, the branches of out-of-State banks could be used to siphon deposits out of Arkansas for lending elsewhere, leaving my State devoid of the capital necessary for investment and economic growth. I know residents of other States have also raised this objection to allowing interstate branches in their States, but the problem is particularly threatening in Arkansas where our State usury law is the most restrictive in the country.

The effect of this restrictive usury ceiling is to make lending less profitable in Arkansas than in other States where bankers do not face such restrictive interest rates. Accordingly, bankers in Arkansas are generally forced to pay lower interest rates to their depositors.

Under present circumstances this usury ceiling is not such a problem, but if interstate branching is allowed, I fear the branches of out-of-State banks will come into Arkansas, offer higher interest rates than Arkansas banks facing the usury ceiling, and then lend the money out of State at the higher interest rates allowed elsewhere. Mr. President, this would be a disastrous situation for Arkansas. Deposits would leave the State chasing the higher interest rates available elsewhere, drying up the credit necessary to take care of consumer needs and keep the Arkansas economy going.

Consumers would be unable to get car and truck loans, families would be unable to get loans to buy houses, farmers would find it difficult to finance crop loans, and small businesses would face tremendous obstacles to finding credit to fund operations and expand their businesses. Mr. President, mine is not a wealthy State. We don't have a lot of high paying, high tech industries in our State. We don't have a lot of lucrative white collar jobs in our State. Arkansas is largely an agricultural State dependent on the shifting fortunes of farmers and related industries for its livelihood. We do not have indigenous sources of wealth to call on. If interstate branching is allowed, the resulting outflow of deposits from Arkansas will dry up credit and wreck the economy, leaving the State like a ghost town abandoned when its well ran dry.

The amendment being offered by Senator BUMPERS will protect Arkansas from this fate by preventing interstate branching unless the State particularly approves it. I believe this is as it should be, not only for Arkansas but for other States, because in addition to solving Arkansas' particular problem, the Bumpers opt-in amendment will provide greater State flexibility in the area of interstate branching.

My general philosophy is that unless some overriding national interest is present, it is usually best to provide the States and the localities the greatest amount of flexibility to decide what type of government and regulation they will have. Pushing decisionmaking authority down to the local level invigorates our democracy by putting the citizens closer to government and making them more responsible for the quality of their lives. Investing citizens in government's decision leads to better decisions, not only because the citizens believe that the decisions are their own, but also because citizens of the States and localities can take into account the unique conditions and needs presented by each different State. State and local flexibility gives citizens an alternative to the one-size-fits-all approach which characterizes solutions that come from Washington.

Beyond this general good government reason for supporting the Bumpers amendment, I believe an opt-in approach to interstate branching will allow us to test whether interstate branching really is the good idea its proponents say it is. As I understand it, one of the main arguments for interstate branching is that it will improve banks' efficiency which will presumably lead to lower costs and better services. By this reasoning, those who stand to benefit from interstate branching are the banks themselves, since they will have lower costs, and the customers of those banks, who will enjoy better services and perhaps lower costs passed on to them by the banks.

Well, Mr. President, we don't have any big banks in my State which are likely to become large interstate branching powerhouses, so interstate branching will not help the industry in Arkansas. As for the consumers, I say let them decide whether they think they will get better services and lower costs with interstate branching. If interstate branching is such a good idea, then the proof of the pudding will be in the tasting, and I guarantee you if it tastes good, the people of Arkansas will want some of that pudding.

Mr. President, interstate branching is not something like interstate highways. If Arkansas decides not to opt-in to interstate branching, it's not the same as if Arkansas decided not to have interstate highways, and a truck traveling from Tennessee to Oklahoma had to come off the big four-lane superhighway and travel along a bumpy two-lane road when it went through Arkansas. National banking can still take place without Arkansas and many other States, and if it is such a good idea, then all the States will want a piece of the action as well. If interstate branching is not such a good idea, or good only for certain States, then the opt-in approach will give the States the flexibility needed to take into account their individual needs and make the best decision for themselves. The flexibility that opt in gives us will lead to better decisions, and it will lead to a better, more democratic process. I urge my colleagues to support the amendment.

Mr. RIEGLE. Let me just reserve the right of the Senator from Arkansas, because I do think he wants to make a closing comment.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me try to clarify as best I can what I am attempting to accomplish here. My amendment and the amendment of the Senator from Kentucky are philosophically very different, I am attempting to preserve the role of the States in the banking system.

If my amendment is defeated and the Ford amendment passes, it will repeal the Douglas amendment to the Bank Holding Company Act, thereby mandating interstate banking. States have always had the right to choose whether and under what conditions to allow interstate banking. Under the Ford amendment they will not.

My amendment allows States to choose whether and under what conditions to allow interstate branching. The Ford amendment does not. The Ford amendment allows States to opt-in to de novo branching but forces them to opt out of branching accomplished through acquisition. I support part of what the Senator from Kentucky is trying to accomplish, but his amendment simply does not go far enough.

I do not understand why the committee insists on promoting interstate branching. Make no mistake about it, this bill promotes interstate banking and interstate branching. I want this body to remain neutral on that subject.

As I said in a private conversation a moment ago, you can say what you want to, but the National Conference of Legislatures, the National Governors Association, the National Home Builders Association, the Independent Bankers of America, and a number of other reputable organizations strongly support my amendment.

I can tell you that the Governors and the legislatures want the Bumpers amendment because they want to be able to control the financial destiny of their States. They do not want the U.S. Senate to be calling the shots.

Now, I want anybody here who believes that States should have the right to decide whether they want interstate branching to tell me why they have to opt out instead of opt in. I will tell you why. It is designed to keep the pressure on to accept interstate branching. If my State wants to go to interstate branching, fine. That is fine with me. But I do not want to scales tilted by the U.S. Senate or the Banking Committee.

As I said earlier, this is the same body which has passed a lot of bills to regulate S&L's in the past 10 years. I am telling you, I know there are a lot of sick banks in this country, but they are not in my State. I said earlier, we had the highest return on assets of any State in the Nation, and I do not want the U.S. Senate tinkering with Arkansas banks. I do not want them trying to force interstate branching into our system. If Arkansas wants to do it, fine. But I can tell you I think this bill is in trouble because it is tilted in favor of national banking.

The Senator from Utah said that this is an old, time-worn argument, and he is right. But, Mr. President, I find some of the oldest time-worn arguments to have the most merit. Old values never lose their impact. The Senator from Utah said that in this day of computers and fax machines, geographical boundaries do not mean anything. He is right. You can wire money out of Arkansas to New York in 1 second. That is what modern technology will do.

We had an S&L that went under in my State, taken over by an outfit that I will not name, and the first thing that happened was that all the money was flowing out of the S&L to another State. The money was used to finance deals in other States because Arkansas had a 10-percent limit on usury at that time. Now, the group that took over the S&L finally went belly up, too. But when you looked in the paper about where their money was being spent, a good, big, lion's share of it was leaving the State of Arkansas.

So, Mr. President, I do not want the U.S. Senate tilting toward interstate banking or interstate branching. I do not want them tinkering with healthy banks in my State. I do not want them tilting so that the legislature somehow or other feels constrained to take some action they might not otherwise take.

No one can give me one good reason, to vote against my amendment. All my amendment says is, if a State wants to get into interstate branch banking, they must opt in, and they may choose the conditions. They do not have to accept the conditions mandated by this bill.

So, Mr. President, if you defeat my amendment you are going to irretrievably alter the States' historical role in banking.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, we are still arguing amendment against the bill.

There is tax language in the bill that keeps money from flying. We have talked with a multi-State tax commission; they agree about this. You can talk emotion. I guess you argue the facts if the facts are on your side. If they are not on your side you argue the emotion. And if neither are on your side you talk loud. So I guess that is where we are now.

This is a compromise, Mr. President; a compromise. Two-thirds of what the Senator from Arkansas wants, he gets. We protect it, where his State has the ability to say what they want or not. I am somewhat concerned that we get lost in the maze of talking and not looking at the facts.

Since the chairman of the committee is not here and no one else wants to speak——

Mr. GARN. Will the Senator yield for just a quick comment?

Mr. FORD. Yes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. In the absence of the chairman and Senator FORD about to make a tabling motion, I join Senator FORD in that tabling motion so both sides of the aisle understand this is a bipartisan tabling.

Mr. FORD. Mr. President, on behalf of the chairman, Senator RIEGLE, Senator GARN, and myself, I move to table.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from Arkansas.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from California [Mr. CRANSTON], the Senator from Ohio [Mr. GLENN], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 39, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—55

Akaka
Bentsen
Bingaman
Bond
Bryan
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Daschle
Dodd
Dole
Domenici
Durenberger
Ford
Garn
Gorton
Gramm
Hatfield
Helms
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerry
Lautenberg
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mitchell
Moynihan
Murkowski
Packwood
Pell
Pressler
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Smith
Stevens
Symms
Thurmond
Warner

NAYS—39

Adams
Baucus
Biden
Boren
Breaux
Brown
Bumpers
Burdick
Burns
Byrd
Conrad
DeConcini
Dixon
Exon
Fowler
Gore
Graham
Grassley
Heflin
Johnston
Kasten
Kohl
Leahy
Mack
Metzenbaum
Mikulski
Nickles
Nunn
Pryor
Reid
Roth
Shelby
Simon
Simpson
Specter
Wallop
Wellstone
Wirth
Wofford

NOT VOTING—6

Bradley
Cranston
Glenn
Harkin
Hatch
Kerrey

So the motion to lay on the table the amendment (No. 1343) was agreed to.

Mr. FORD. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL. Mr. President, I rise today in support of the Ford amendment that will provide greater certainty to the banking system and maintain the rights of all States.

The comprehensive banking reform bill, S. 543, contains several measures that will allow banks and bank holding companies to expand in order to achieve greater efficiency and economic competitiveness. The Treasury, in their support of interstate banking, cites the need for geographic diversity in order to protect banks from regional economic slumps. The current legislation, however, steamrolls the rights of States. I believe that this Ford amendment strikes a responsible compromise between States rights and bank expansion.

The language, in the pending amendment, was crafted after careful deliberation with State banking associations nationwide, as well as the Kentucky Revenue Cabinet. This amendment empowers States, rather than the corporate boardroom, to make the decisions regarding interstate banking and branching. By giving States the opportunity to exempt themselves from interstate banking, this amendment will enable States to protect their tax policies, regulatory affairs, and most important the interests of their consumers.

Mr. President, this legislation is a responsible measure that will prohibit the blind and reckless expansion that would have an adverse effect on the industry. This amendment provides for interstate banking through the acquisition of existing banks. This will protect the value of the existing banks and protect against the proliferation of out-of-State banks in already competitive regions. States also will have the authority to set the minimum age of the bank to be acquired.

Mr. President, this amendment also addresses interstate branching. Under this amendment, banks would only be able to expand through the acquisition of an existing bank that could later be converted within a bank holding company. Interstate branching would begin 3 years after enactment, unless a State opts-out. In an age of high-speed electronic transfers and communication, it is inevitable that State borders be brought down to allow banks to expand efficiently and effectively. With proper State regulation and orderly expansion, interstate branching can occur safely and with no threat to consumer savings and investment.

Mr. President I believe the time has come to open up our banking system. However, States rights should be very much a part of the nationwide integration. States can provide a much needed regulatory function. State regulators can and should provide a critical service as they continue to monitor regional investment trends, bank concentration, community reinvestment levels, and critical economic information.

This amendment will also protect community banks from unfair competition from larger banks operating on a lower margin. Some residents of Kentucky have voiced their concern regarding the loss of the Main Street banks. Mr. President, this legislation will ensure the continuation of the services and flexibility offered by community bankers. These banks are critical to Kentuckians and that is why I support this legislation.

Mr. President I am also encouraged by the lead the Kentucky General Assembly has taken on this issue. In August of this year, the interim joint committee on banking and insurance in the Kentucky General Assembly passed a joint resolution stating that they opposed any legislation that "interferes with States' rights and diminishes the effectiveness of Kentucky's Department of Financial Institutions." I applaud the efforts of the Kentucky General Assembly and their proactive stance on interstate banking and branching. Mr. President I believe this legislation is what is right for the people of Kentucky and the Nation as a whole.

Mr. President I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the Ford amendment. Is there further debate?

Mr. RIEGLE. Mr. President, I am prepared to accept the Ford amendment, and I think I can make the representation that Senator GARN feels the same way. I suggest we settle that on a voice vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the Ford amendment.

Mr. CHAFEE. Mr. President, I recognize there is going to be a voice vote. I would like to be recorded as voting no.

The amendment (No. 1342) was agreed to.

Mr. FORD. I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, could I ask that we have order in the Senate now.

The PRESIDING OFFICER. The Senate will be in order.

Mr. RIEGLE. Let me yield to the majority leader.

Mr. MITCHELL. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate is not in order.

The Chair recognizes the majority leader.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT

Mr. MITCHELL. Mr. President, earlier today I propounded a unanimous-consent request to deal with the unemployment insurance bill, to which objection was expressed. Since then I have had the opportunity to consult with a large number of my colleagues and, while there are many who are deeply concerned about the provisions of the bill as received from the House, and will I believe express their concern and reservation, I now believe that we are in a position to gain approval of the agreement from our colleagues on this side of the aisle.

I have discussed this throughout the day right up until a few moments ago with the distinguished Republican leader and I wish at this time to inquire of him, before propounding the request, if he wishes to make comments or whether we can go forward; then I will propound the request.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. We will have order in the Senate.

Mr. DOLE. Mr. President, this bill does affect every State and every Senator, and I think it is important that we understand where we are.

The same bill we would vote on passed the House by a vote of 396 to 30. What we would like to do is to have a time agreement of 1 hour, with no amendments.

I think it is safe to say that at this point if we start amending it on the Senate side I would not want to predict what is going to happen on the House side.

I am also advised unless we finish this bill by noon, somehow get a handle on it, and have the regular enrollment, there will be delay of between 10 days and 2 weeks for checks going out across the country.

Any time you have a formula in this body, somebody does not like it. I did not like the highway formula. But I understand that. And maybe the next time we bring this up in June, whenever it is, some States will be getting 20 weeks, others may be getting six, others getting more.

I hope that on this side there will be no objection, but I am advised there will be an objection. Certainly that is anyone's right. But I hope the majority leader, if there is an objection, will proceed to the bill in any event.

I just have to say to my colleagues if we start amending this proposal, which is supported by the President, by the joint leadership in the House, and by the joint leadership in the Senate, and I think I can safely say the joint leadership on the Finance Committee—I do not see Senator PACKWOOD in the room—then I think all bets would be off.

Mr. MITCHELL. Mr. President, if I might add a comment. I thank the distinguished Republican leader for his comments.

This is a very difficult situation for all Senators, and for a lot of people around the country. The number of persons who have exhausted their unemployment insurance is very large and rising. It is imperative that we act, and act promptly on this measure.

For a variety of reasons, for which no purpose would be served in now rehashing or recounting them, we have not been able to get this done until now. Now the House has acted, as the distinguished Republican leader said, by a vote of 396 to 30.

There are many Senators concerned about some provisions in this formula allocating these benefits. I am advised that they represent an objective formula; that is, they were not prepared or skewed for political or other considerations.

I emphasize to all Senators that if you are displeased with the effect of this formula upon your State, be aware that if your State meets the criteria under the formula at any time in the future, next month or the month after that, that would result in an increase in the benefit level to a higher plateau than will occur.

There are many States, at least some States, which just fall short under one or the other of the alternative criteria set forth in the formula. Some States' economic condition is improving, and we all hope for that in our States. No one here hopes that the economic situation in his or her State deteriorates further for the purpose of increasing this level of benefit. We all hope it improves. If it does, after 13 weeks, a State may be dropped to a lower level. But an increase can occur at any time if the economic circumstances in the State are sufficient to meet the criteria in the bill.

They relate, of course, to the total unemployment rate, and alternatively to the adjusted ensured unemployment rate and what is called the exhaustion rate. That is the rate at which unemployed persons within the State have exhausted their benefits or are exhausting their benefits.

So I recognize the concern of many Senators, and it is an appropriate, a deeply felt and a personal concern, because there is not a Member of this Senate, I am certain, who has not met and talked with some unemployed people in their States and knows what they are going through.

But I want to say to Senators that if we cannot get this agreement and we cannot act on this bill, then there is a very real likelihood that there will be no benefits; that we will simply not be able to complete action on this bill because I think we all recognize that once the door is opened, and once amendments start to be offered in the Senate, there is no closing of that door.

There is no way that anyone in here can assure himself or herself or his or her constituents that there will be a finality to it. It might take a day. It might take a week. It might not be done.

Second, even if we do finish it in a day or a week, there is absolutely no assurance as to what will occur in the House if we then send back a revised bill. This is the product of an extensive and intensive negotiation.

As the distinguished Republican leader has said, the President supports this measure. We have no idea whether or not the President would support a revised measure that might be voted on by a majority in this House. If that occurs, then the unemployed would not only not be receiving their checks by Thanksgiving, but they might not be receiving their checks at all.

So I recognize that this is a most painful choice for Senators, confronted not with a decision about a good and a bad alternative, but confronted with a decision about what many Senators will regard as very severe and harsh alternatives in their individual circumstances.

But I urge and implore my colleagues to permit us to proceed so that we can get this bill done and at least get these benefit checks flowing; because, remember, under this bill, every State gets a minimum level of benefits of 6 weeks, every State. The alternative of no bill means that no State would get any benefit.

I emphasize: I do not know what will happen if we cannot get this agreement. I can speculate as to what might happen, and every Senator here has that vast experience and knows once we open the door on this no one can be sure where it will lead us or when we can close the door.

Everyone must recognize that there is at least the possibility—I cannot, I do not think anyone can assign a numerical weight to it—but there is at least the possibility that if we do not get this agreement and get this bill done tonight, or as soon as possible, that there may not be a bill.

It has been 4 months now. It has been a long, hard road to get to this point, and I hope very much that Senators will permit us to proceed.

If I might, now, Mr. President, put the request. Then I know several Senators have reservations which they want to express. Unless the distinguished Republican leader wishes to say something further, I will put the request.

UNANIMOUS-CONSENT REQUEST—H.R. 3575

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time turn to the consideration of H.R. 3575, the unemployment compensation bill, and that it be considered in the following limitations: that there be 60 minutes for debate on the bill, with the time equally divided and controlled between the majority leader and the Republican leader or their designees; that no amendments or motions be in order, and when the time is used or yielded back, the Senate, without intervening action or debate, proceed to third reading and vote on final passage of the bill; that upon passage of H.R. 3575, the Senate companion measure, S. 1945 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator BENTSEN.

Mr. BENTSEN. Mr. President, for 4 months we have debated this now to try to resolve this problem, with different viewpoints on what we are talking about regarding unemployment, IUR, and our insured unemployment rates. I have heard some of my friends talk about the various things between what we have done here and what they have now done in the House, and that they do not come off as well as they did in what we proposed.

Frankly, that disturbs me. I have never seen a bill yet as complicated as this where we passed something here, and it was identical on the other side, or vice versa. There are always variances and arguments, and they have had those in the Ways and Means Committee, and they have fought them out.

We have twice passed this by substantial margins—the first time, the President not funding it; the second time, he vetoed it, and we cannot override that veto. Four months. When we get this one done, if we do, there will be a lot of claims of victory on both sides.

But the people who will really benefit are the American worker, who is unemployed today, who is having a tough time making his mortgage payment, trying to hold onto his car. And we can get these payments started out there by Thanksgiving if we decide to resolve the differences and accept what the House has done.

When people talk to me about the variances, and they point one State out and say: But my unemployment rate is the same as theirs, and I get fewer weeks; why is that? Well, the reason for it is the insured unemployment rate. The more conservative your State is in qualifying people for unemployment compensation, the lower your insured unemployment rate is. And that is different from your total unemployment rate that the people keep citing here.

I, frankly, think we ought to be moving toward the total unemployment rate. The administration feels strongly otherwise. What you have seen is a compromise between the two in trying to resolve this. I firmly believe that if we do not resolve this tonight and get it done, if we try to send it back to the House with amendments, I think the whole thing will become unraveled. And those that lose will be all of our States.

I looked at this situation of a vote of 396 to 30 in the House. Remember, those people represent all of the States that we represent, and by an overwhelming majority, even with the differences in viewpoints, they have endorsed this kind of a compromise and sent it over to us, because they understand the emergency of this situation in wanting to get those funds out to that unemployed worker and get those checks in the mail. It is not going to get done, unless we can send this back, and not start the whole process over.

I urge you to let us get this bill passed tonight and send it back. If we start the amendments, I do not know where we stop in that regard. I can understand the concern, but remember what the majority leader said and what the minority leader said: If your conditions get worse at the expiration of that 13 weeks, you go up to the next tier. If your conditions improve and you have less unemployment, you are guaranteed those full 13 weeks and the benefits to the people in your State.

So there has been a lot of work, a lot of compromise. The President says he will sign this one. I strongly urge Senators not to object.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. ROTH. Reserving the right to object, Mr. President, and it is not easy for me to do so, as I strongly believe that we should have had in place long ago an extension to the unemployment benefits. Unfortunately, what we are being asked today is to adopt a package that is not a product of the normal process of the Congress, of the House or of the Senate. This proposal benefits many States very well, but others it severely handicaps.

I have heard a lot of talk about the word "fairness," and what is taking place in this country. Just let me say that if you are unemployed in the State of Delaware, with the unemployment rate it currently has—5 or 6 percent—or whether you are unemployed in Maine where it is higher, you are still suffering from unemployment.

The precedent has been set to give additional weeks where the unemployment is at a more severe rate, on the theory that it is more difficult for those people to secure a job. But in the package before us, we have a double whammy. Not only do we provide that States with greater unemployment will get greater weeks, but many States will get no reachback at all. As I understand this proposal, the reachback period goes back to March 1, 1991.

In other words, anyone who is eligible for reachback by having their benefits expire after March 1, and whose States are in the 13- or 20-week States, or States with at least a 3-percent adjusted insured unemployment rate, will retroactively get an extension of unemployment benefits. But if you do not reach that criteria, you get nothing.

Let me illustrate what this means in my little State of Delaware. If you have two people who lose their job working for the same company, and one lives in Pennsylvania and one lives in Delaware, and their unemployment benefits expire on November 1, the man or woman who lives in Pennsylvania would still get the unemployment benefits; whereas, the one who lives in Delaware would not. How do you explain that?

I cannot go home and say to those two individuals who work for the same company, who were dismissed at the same time, that one gets the benefits because he lives in one State, and the other does not, because he lives in another. Where is the fairness in this approach?

Frankly, Mr. President, I do not know how this formula was developed, or where, or when. But it seems to me that there is a very simple way to get out of this problem, because I am as anxious as the majority leader to get legislation enacted.

But we ought to treat our unemployed in a fair manner. So I hope that we can work out an amendment that ensures that all unemployed Americans would retroactively be treated the same.

Now, everybody says, if we do not do it tonight, the legislation does not become law. I do not know why that is the case. I think this is a matter of such importance we should not and cannot go home until it is enacted. I think it is more important that we get the law on the books, that we get a formula that treats our unemployed with fairness, with fairness whether they are in my State of Delaware or the State of Maine or Kansas. I just cannot in good conscience say, well, here is the package, I have to accept it, when it is so patently unfair to so many.

I just point out, Mr. President, that 18 different States, 18 different States, as I understand it, are not eligible for the reachback. They include, Colorado, Delaware, Hawaii, Indiana, Iowa, Louisiana, Minnesota, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Utah, Virginia, Wisconsin, Wyoming, and the Virgin Islands.

Mr. President, it is rare that I object.

Mr. BENTSEN. Mr. President, will my friend yield for a moment here?

Mr. ROTH. Without losing my right to the floor.

Mr. MITCHELL. I have the floor.

Mr. BENTSEN. I seek recognition.

Mr. MITCHELL. Certainly.

Mr. BENTSEN. Mr. President, my friend from Delaware has asked where does this come from. We debated this in the Finance Committee, and what we did was to go to the total unemployment criteria because I believe that is a fair reflection. But the administration, and Mr. Darman in particular, feels strongly about IUR. I have discussed this with him at length. And the trouble you run into with the variation in the treatment is, if you have a conservative State like the Senator's and like mine, it is more difficult to qualify for unemployment. And, therefore, you come in with a lower rating on your percentage of unemployed. And OMB is pushing that idea, insisting on that idea.

I am hopeful—and, fortunately, this is going through as an emergency, in fact, and I am hopeful that we can work this over some more next year and change the criteria and that we can come to an agreement with the administration on major changes that move to the TUR and, working with the Department of Labor, try to even out these numbers so we do not have as much variance as we now have with how conservative each of our States might be in the application of a criteria for unemployment compensation.

But I do not think that we can possibly resolve that thing with the House now with what has happened, and, having gone through 4 months of debate on this and having this body getting close to adjournment and, in turn, Thanksgiving coming before us and trying to get money out in the hands of those employees, I really, sincerely believe the whole thing will come unraveled and we will not get it done.

Mr. MITCHELL. If I may answer the Senator from Delaware, where does it come from? It comes from the administration. The change from the total unemployment rate to the insured unemployment rate that causes the adverse effect on Delaware that the Senator described was insisted on by the administration. The bill that Senator BENTSEN proposed did not have that, and it was vetoed, and that is the only reason why this is the language.

So I urge the Senator to recognize that and permit us to go forward. He does not have a beef with me or with Senator BENTSEN. His complaint is with the President, with Mr. Darman. We did not want the IUR, but it is part of a compromise. In a compromise, people get different things.

Mr. DOLE. I think every bill that has been introduced, not one had a reachback for every State.

Mr. MITCHELL. That is right. No bill has everybody getting reachback.

Mr. BENTSEN. We had bills introduced and passed here that had no reachback, that is right.

Mr. MITCHELL. No reachback. The change to the IUR, I hope the Senator will let us provide. I recognize he has a right to object. I hope he does not.

Mr. DOLE. Will the Senator yield?

Mr. MITCHELL. I yield. I want to get back to Senator ROTH because I promised him. I will yield to the Republican leader first. I yield to the Republican leader first and then to Senator ROTH.

Mr. DOLE. I yield.

The PRESIDING OFFICER. The Senator from Delaware [Senator ROTH] is recognized.

Mr. ROTH. Mr. President, I know there are others who want to speak, but I have to say that, whether or not what that illustrates, the fact is there are thousands of people in my State of Delaware who would not be eligible, whereas those living across the line would be eligible.

I am not trying to fix blame. I was not involved in how this formula was fixed. We can try to point the finger at somebody else, but, in the final analysis, what we enact here is the responsibility of the U.S. Senate and no one else. And what I am saying is that, yes, yes, before we go home we should enact legislation that will provide some money, so that those people can have a turkey on Thanksgiving Day. It is not going to do any good to correct it next year. The problem is here, now, today.

What I am trying to suggest is that there are ways, there are means that this could be made equitable. I do not know how anybody, in the sense of fairness, could object. All I am suggesting tonight is that we move the date forward so that all States are treated alike on reachback. Whether that be March 15 or April 1 or whatever, I am not certain. So we do not have to open it up to hundreds of amendments. We could have a unanimous consent, if we could reach agreement, that that kind of amendment would be accepted. But somehow you have to have some measure of fairness in the program.

I have great respect for our leadership, and I can understand that they are in favor of this program. The State of Maine gets 20 weeks, the State of Kansas gets 13, Oregon gets 13, Texas gets 13, but those of us who only get 6 weeks, most of us get no reachback. So our workers not only are getting fewer weeks in compensation, they are not eligible if it is retroactive.

I do not know how we can stand here and say that is fair to the American people. The unemployed person, whether he is in Louisiana or Ohio or Delaware or Wisconsin, is facing the same kind of serious problem.

So, Mr. President, I am not one to hold up the process of this Senate. I think my record is fairly clear on this. But I also feel I have a responsibility to my people in the State of Delaware. Under the circumstances, I do not see how I can agree to a unanimous consent on this at this time, and at the appropriate time I will object. But I know there are others who want to speak.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. I object.

Mr. PRYOR. Reserving the right to object.

Several Senators addressed the Chair.

Mr. MITCHELL. The Senator from Delaware has objected. Mr. President, I have the floor.

I will yield to the Senator from Ohio for any comments he wishes to make.

Mr. METZENBAUM. Mr. President, I thank the majority leader.

Mr. President, the Senator from Delaware makes a very persuasive argument, and, I am frank to say on behalf of myself and Senator GLENN, he did not have to persuade me, because I already feel that way, that our State is getting shortchanged. But I also believe that I am a realist, and the question really is whether a half a loaf of bread is better than no bread at all.

And in this instance we sent the President a bill that I thought was a good bill. The first time he signed it, and then he did not make it possible to get the money. That was a better bill for the people of Ohio and, I think, for many more States. The second time we sent him a bill, he vetoed it. We did not have the votes to pass it over his veto.

Now, as I understand it, this is a bill that is not that good. It does not do as well for the people of Ohio. It does not do as well for the people of Delaware. It does not do as well for a number of other States. But as I look at the picture at the moment, speaking on behalf of both Senator GLENN and myself, as I look at it, the question that appears obvious is this the only thing we can get, is it the best we can get? Do we get this or do we get nothing at all?

And my inclination would have been to object myself had the Senator from Delaware not done so, but I concluded that it did not make sense to do so; that there was not any sense to cut off your nose to spite your face. And although we were not getting as much as I think Ohio should be getting, there are a number of Ohioans who would be receiving benefits under this bill and, therefore, under the circumstances, I concluded, and JOHN GLENN, as well, concluded, that it did not make sense to object, and we would not have objected, and think that we ought to proceed with this bill, recognizing it is not what we think it should be.

Mr. MITCHELL. Mr. President, I yield to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I would like to take just a few moments on this bill. I did not know about the contents of this legislation until sometime in the middle part of this afternoon. I went to the majority leader, I discussed this with him. I told him that I might, in fact, put a hold on the bill. I did not know what I was going to do.

But since I have talked to the majority leader, and since I have done some research, and my staff has, Mr. President, I would like to share with my colleagues, for just a few moments, what is wrong with this piece of legislation.

First, this piece of legislation was not born in this body. It was born down the hall. It is a product of the House of Representatives, the other body. It is not a product of the U.S. Senate. But the House of Representatives, with only about 20 dissenting votes, roughly 2 hours ago, passed this bill. And, Mr. President, truly I believe what I am going to say very strongly. I believe that had the Members of the House of Representatives had ample opportunity to have seen what this bill includes and encompasses, I strongly believe that they may have voted against this piece of legislation.

If I might, Mr. President, let me tell you two or three things that are wrong with it. First, this bill violates the do-right rule. We were fortunate in our State to have a football coach named Lou Holtz. He is now at Notre Dame. He is probably one of the better known coaches in America or the world. Lou Holtz had the do-right rule. Sometimes if it is not written down whether an action is right or wrong, or whether there is some regulation against something, he always used the do-right rule. I can tell you Mr. President, this bill that we are considering tonight violates every aspect of the do-right rule.

The second thing that I think needs to be cleared up, and watching this debate I think it is very necessary that we do, this unemployment measure, unlike the unemployment measures that we have considered, does not use unemployment figures as we have used in the past. The last pieces of legislation that we have had used the total unemployment rates.

For example, at the present time, the unemployment rate in the State of Arkansas is 7.7 percent. All right. The unemployment rate in the State of Alaska, Mr. President, is 7.7 percent. Under this piece of legislation—think about this—the people in Alaska who are unemployed, are going to have unemployed benefits for 20 weeks. The people in Arkansas are going to have extended unemployment benefits, Mr. President, for 20 weeks? For 18 weeks? For 12 weeks? Mr. President, in Arkansas, the unemployed people are going to have these benefits for 6 weeks.

Mr. President, I can see my very good friend, the distinguished Republican leader from Kansas. He said this is a good compromise. This represents good government. We have to pass this bill so we can can go home Thanksgiving. He did not say that, but he might later on tonight; that we have to accept this bill, that we should not open it up to amendments.

Mr. President, if I were the distinguished Senator from Kansas, if I were the Republican leader of the U.S. Senate, I would be standing there at his desk and I would be saying that we should all vote for this bill. And let me tell you why. Unemployment in the State of Kansas, what do you think it is? It is 4.9 percent. What is it in Arkansas? It is 7.7 percent. How many weeks is Kansas going to get under this bill, Mr. President? You guessed it, 13 weeks. In Arkansas, what are we going to get? Six weeks.

There are five States, Mr. President, who are the big losers. There are about 23 or 24 States that are losers in other ways, such as in the reachback provision.

I once again say to you that if you go State by State, Mr. President, this is not a piece of fair legislation. And I think too often around here we say, well, we cannot work on Friday afternoon or, we cannot work on Saturday, we are going to go home for the weekend and we are just going to have to vote for this bill and just hope it works out for the best.

I think had this bill been made a part of negotiations with the Members of this body, with the chairman of the Senate Committee on Finance, with the majority leader, and those of us who are involved in these States that are getting hurt, I think we would see a fairer piece of legislation. Right now, Mr. President, we simply do not have it. And this bill, in my opinion, should be defeated, referred to a committee, sent back somewhere, anywhere, except voted on affirmatively at this point.

I think we could work out a better bill. I think we could use a better formula. I think we can use unemployment figures, Mr. President. I think we can go State to State, instance by instance.

We look at the State, for example, of Connecticut with a 6-percent unemployment. Once again, 7.7 in our State. What does Connecticut get? It gets 20 weeks of unemployment coverage. Arkansas gets 6 weeks.

Look at the States. Here is the list. See if you think this is a fair piece of legislation. Mr. President, it is unfair. And it should be defeated and we should adopt a new formula.

Mr. MITCHELL. Mr. President, I think it is important that the Senate keep in mind what this bill is, and what it intends to do. This is not a bill to provide basic unemployment benefits. That exists under separate legislation. This is a bill to provide extended benefits for persons who have exhausted their basic unemployment insurance benefits.

That being the purpose of the bill, it is therefore relevant to inquire as to the extent to which persons within a State have exhausted their benefits. That is not solely a function of the total unemployment rate. And therefore the use exclusively of that factor does not permit an accurate reflection or description of the problem which this legislation is intended to deal with.

The Senator from Arkansas quoted some figures. He did not quote other figures which describe the rate at which persons in the different States have exhausted their unemployment benefits.

I acknowledge that I did not write this formula, Senator BENTSEN did not write this formula, Senator DOLE did not write this formula, and it is conceivable that we, or any different group of people, would come up with a different formula.

But the fact of the matter is it is relevant, when considering extended benefits for persons who have exhausted their basic benefits, to attempt to determine how many people within each State have exhausted their basic benefits. That is one of the criteria in this calculation.

Mr. BUMPERS. Will the majority leader yield for a question?

Mr. MITCHELL. Let me just finish this comment, if I might.

And so, I think in fairness to those who did write this formula—and again I am not one of them—it is important that the Senate keep in mind the problem to which this bill is addressed, and the means by which this bill seeks to address that problem. And since you are dealing primarily, indeed, exclusively, with the problem of extended benefits for persons who have exhausted their basic benefits, a relevant fact is how many people within a State have exhausted their basic benefits, and are therefore, eligible for extended benefits. And that is the reason why the otherwise apparent anomalies referred to by the Senator from Arkansas have occurred.

I do not say that to dispute the thrust of his argument. It is obvious that when you have an unemployment rate of 7.7 percent you have a lot of people unemployed. It is not as obvious, just by citing that figure, what percentage of them have exhausted their basic benefits, and therefore should or should not be eligible for extended benefits.

And then the other factor is, of course, the adjusted insured unemployment rate, and that is in turn, dependent in part upon what a State does with respect to unemployment independently.

And, so, these are the factors involved. I merely cite them so that, without in any way wanting to dispute the Senator's concern, I make it clear that what we are talking about here is extended benefits of people who have exhausted them.

Several Senators addressed the Chair.

Mr. MITCHELL. I yield to the Senator from Texas because he really knows more about this than anybody in the Senate.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Texas is recognized.

Mr. BENTSEN. Let me make a point because I sympathize with what my friend from Arkansas is saying about how the provisions of this bill affect his State. Let us remember that we have used an insured unemployment rate to trigger benefits in the past. That is what has been done historically. That is where the administration is. They fell very strongly that IUR should be retained.

Previous unemployment bills we have passed have used IUR, or the insured unemployment rate, not the TUR or the total unemployment rate that you have been quoting.

I, personally, believe that the rate you have been quoting is a much more appropriate measure. And when we reported the earlier bill out of the Finance Committee, that is what we used. We relied on the total unemployment rate to trigger State eligibility for benefits. And we worked with the Department of Labor, to adjust the TUR to take care of month-by-month fluctuations by using a rolling 6-month average.

But, again, Mr. Darman strongly disagrees with that approach. As you noted when you were talking about Alaska, and comparing it to Arkansas—you are quite right, the total unemployment rate is 7.7 for each of the States. But when you look at this question of exhaustion of benefits, there is a difference. The rate of exhaustion of benefits in Arkansas is 26 percent. The rate of exhaustion of benefits in Alaska is 47 percent.

When you compare the insured unemployment rates of those two States, Arkansas is down to 3.7 percent, whereas Alaska is 6.5 percent. The reason that Arkansas is that low is because of the conservatism of your State in allowing people to qualify for unemployment compensation benefits.

I have the same problem in my State. Louisiana has the same problem. Delaware has that same problem. In every State where tough eligibility requirements are imposed on qualifying for unemployment compensation, you are going to find a low insured unemployment rate. That is why I feel so strongly we ought to be moving toward the use of total unemployment rates. And that is why we used TUR measure in the bill approved by the Finance Committee.

But what we have before us this evening is a compromise between the House leadership and the administration, which brings the insured unemployment rate measure back into play.

Mr. BREAUX. Will the majority leader yield?

Mr. MITCHELL. Senator BREAUX, then Senator GRAMM, then Senator CONRAD.

Mr. BREAUX. I would say, Mr. President, to the distinguished chairman of the Senate Finance Committee, I congratulate him on what he did when the bill left the U.S. Senate. We talked a lot about Thanksgiving. We talked a lot about turkey. It was very clear in this Senator's mind the biggest turkey around here this Thanksgiving is this piece of legislation.

I would like someone to explain to me, who negotiated this agreement—whoever that was—how we can have a bill that leaves the Senate that supposedly costs $5.4 billion and comes back at $5.3 billion? How did they save the $100 million? They saved it by reducing the tax under the Safe Harbor Act, basically for very wealthy individuals. We saved $100 million over in the House. What did we do with it when the bill came back to the Senate? We took it out of the hides of people who have been unemployed so long they are not even on the chart under this bill.

When the Senator from Texas talks about the insured unemployment rate and the total unemployment rate, do you think that makes any difference to the individual when you tell him you are just an insured unemployed so you do not count? That is what this bill says. If you are a person who has exhausted his unemployment benefits, if you have been on unemployment over 26 weeks, you are not getting a nickel presently, do you know what you get under this bill? Not a nickel. Because you have been unemployed too long. You have been unemployed for 6 months, folks. You are off the charts. You do not get anything.

So we saved the safe harbor tax bill $100 million basically for very wealthy people who have options on how they file their income tax, and we spent it by taking it out of the hides of the poor people who have been unemployed so long that some people say they should not even be counted.

Let me tell you what it does in Louisiana. Under the bill that left the House we would get 16,000 individuals who may have a chance to have turkey for Thanksgiving. Under this bill we get 2,000. And the basic reasoning is because the House changed the formula. We went from total unemployment to insured unemployed. Sorry, folks, you are out of luck because you have just been unemployed too long.

I think the basic point Members have to understand is that people who have exhausted their remedies in your States, who are not getting anything anymore, are not insured unemployed because you are not getting any unemployment compensation. Therefore, under this legislation, you are not counted. You do not get anything.

So, if you think there are some reasons why people are upset I think that is a very basic reason. We saved $100 million from the House bill, but look where we got it from. I think there are a lot of real ways we can work it out and we ought to try and do that.

Mr. MITCHELL. Mr. President, I am extremely sympathetic with the concerns expressed by the Senator. But I would just say, if people are upset about the provisions of this bill, imagine how they will feel if we cannot get a bill. The perfect is the enemy of the good. With 50 different States, with 50 different economies, with 50 different unemployment rates, with 50 different methods of assessing insured unemployment in each State level, with 50 different exhaustion rates, there is no way that any human being can write a bill that each Senator will look upon as perfect, and ideal, and what he or she wants. And the result, I say to my colleagues, is the very real possibility of no bill at all. And no benefits at all.

I know that is not what the Senators want. I know they want a better bill, and they want a better bill for their constituents, and that is what they should be doing. We are all here to fight for our constituents. Everybody understands that.

But ask yourselves if your constituents are going to be better off with no bill? If they do not understand the difference between the total unemployment rate and the insured unemployment rate in these circumstances—and there is no reason why anybody should, not very many of us really fully understand it—how are they going to understand that as a reason for no bill at all and no benefits?

I say to my colleagues, every statement made about the imperfection of this formula I accept as sincere. I accept them as an expression of concern for their States, and a very valid one, and appropriate one, and understandable one in a representative democracy. But I also say to my colleagues, I think our constituents are going to be even more upset, and concerned, and not comprehending, if we are not able to have any bill at all, which is what I fear might happen if this thing breaks down and we just get into an amendment process that may not end.

The Senator from Delaware described an amendment which he said would be fair and would take care of his problem. It would take care of his problem but would not take care of the problem of the Senator from Arkansas, so naturally he does not see the amendment of the Senator from Delaware as the end of it; he wants his amendment. And if he wants his amendment then another wants another amendment and of course, like pick-up sticks, taking one moves another and this could be just an endless process.

Mr. BENTSEN. Will the majority leader yield?

Mr. MITCHELL. Recognizing the deep hurt and deeply felt concern, I still hope we can get this done. Even though we have already had an objection.

Mr. BENTSEN. If we agree to make those kinds of adjustments in this bill then if every State that has lost anything in the process is held harmless then the cost of the bill will increase. Let me tell you we worked very hard to try to find ways to pay for this bill that we thought would be acceptable to most Senators. We raised some funds by accelerating tax payments for the wealthiest among us who were taking advantage of the float—in effect by not paying their estimated taxes on a pay-as-you-go basis but rather were postponing their tax payments into the forthcoming year. The administration has gone along with that proposal. But I do not know where we could pick up the additional money needed to restore to all States the level of benefits originally approved as part of the earlier bill.

I also see my friend from Delaware who on September 24, voted for legislation that would extend 6 weeks of benefits to his State without a reachback.

Mr. MITCHELL. Mr. President, I yield to the junior Senator from Texas.

Mr. GRAMM. I think that what has happened here is that Members are rushing to the floor as we reach the critical hour of trying to pass the bill that we've spent months working on, and applied a do-right rule without recognizing that this bill basically follows a pattern that we have always followed. The pattern is that each Senator asks is it unfair? It is, obviously, unfair if you look at it on an individual basis.

Let me make a couple points that I think are relevant.

First of all, if I am in Texas and I am the only person in my State unemployed, I am just as unemployed as somebody is in Ohio, and yet I am only going to get 6 weeks of extended benefits and they are going to get a multiple of that. How is that fair?

Mr. CONRAD. Will the Senator yield?

Mr. GRAMM. Let me make my point. The point is the system has always been structured in such a way as to give extended benefits to people who were in areas in States that had a lot of unemployment and it has a lot of people who were unemployed for a long time.

Now maybe that is unfair but that is not a problem with this bill. That is a problem with the underlying law. And if we want to correct it, we ought not try to correct it on this bill at the 11th hour when it is time for action.

Mr. MITCHELL. Mr. President, if the Senator will just yield. Let me make a comment.

The Senator's comment is correct and it reflects the fact that the principal objective of the unemployment insurance system is to serve as an economic stabilizer in times of economic downturn. It is not intended primarily to be a method for taking care of individuals who, through no fault of their own, encounter difficult economic circumstances, although that is an important secondary objective.

The reason for the disproportion cited by the Senator from Texas is that if you are going to have an economic stabilizer, it is obviously a relevant factor when you have one person unemployed in one State and thousands unemployed in an adjoining State. And so to achieve the economic stabilization intended by the program, you have a different level based upon the rate of unemployment in an area or a State.

I will yield back. I thank the Senator for his comment.

Mr. GRAMM. I thank the majority leader. Mr. President, going to the second point, a point viewed as an inequity here is basically a choice that States have made. My own State has the highest standards for getting unemployment benefits. Arkansas has very high standards. Kansas has fairly low standards.

What that means is under normal unemployment benefits, Kansas pays more per unemployed person than Arkansas. So when we extend benefits under this, since Kansas insures more people at a given level of unemployment, they have more people who are unemployed and who are insured and, therefore, the complaint that the Senator from Arkansas makes is not the fault of this bill, is not the fault of the Senator from Kansas, is not the fault of Kansas; it is the fault of Arkansas.

The point is each of our States has different benefit structures. Delaware has a different benefit structure than Ohio. Their voters chose it based on their willingness to put up their own money.

Now all of a sudden, we look at a bill that follows a formula which we have always followed, and we discover that States that have not been willing to put up as much money do not benefit as much, and that States that have extended unemployment benefit more from an extended unemployment bill than States that do not.

Mr. FORD. Will the Senator yield?

Mr. GRAMM. I will yield the floor, but let me finish my point.

Mr. FORD. I want to talk about your point.

Mr. GRAMM. I yield, yes.

The PRESIDING OFFICER. I am sorry, the Chair must bring to the attention of the Senate that the majority leader has the floor.

Mr. FORD. I apologize.

Mr. MITCHELL. I yield to the Senator.

Mr. FORD. The only point I want to make is the Senator makes a point about the rates and exhaustion and all that. But the Ways and Means Committee in setting up this formula, which none of our people had an opportunity to be involved in, they had the flexibility and the dollars to change the exhaustion rate from 33 percent down to 29 percent to take care of six States, to give them more money than they had, under the bill that was vetoed that we passed.

Now you are saying that we are all going by these rates. But, apparently, it is up to those in the committee to set the exhaustion rates—whether it is 33 percent or 29 percent. They had the dollars and the flexibility to take care of six States and you cut five States and cut them bad.

Mr. GRAMM addressed the Chair.

Mr. MITCHELL. I yield back now.

Mr. GRAMM. Let me say, I join the Senator from Kentucky in saying I wish the Senate had more involvement. Let me also remind him that the people who wrote the bill are 2 to 1 plus 1 from the party that I am not a member of.

But the point I am making is they had a task of coming up with a bill that we could pay for, and as a result, they made adjustments in the bill.

Now did they tilt it toward one State or another? I do not know whether they did or not. But the point I am making is that the issues that are being raised here, about these differentials, are largely the result of two things that this bill is not responsible for: First, you have a lot of States that have differential coverage for their workers—and the States made that choice, not the Federal Government.

Second, there is a difference between unemployment and insured unemployment, and then you have different levels of average unemployment within a State. My point is, whatever these final adjustments were in the Ways and Means Committee, 95 percent of what we are talking about is a result of the underlying law, and this effort should not be derailed because the underlying law is important. Maybe the underlying law ought to be rewritten.

But the point is we have a million people who did not get $1,009 per family last month because we do not have this bill passed. We can debate about why it was not passed, but the relevant point is we have a bill before us, it is paid for, it meets the standard the President set, the President will sign it into law, and we are here arguing about differences that largely are the result of differences in State law, not Federal law, that result from the underlying statute. This is a relevant point if and when we ever reauthorize this program. But I really do not believe that these points are relevant to the bill that is before us, and that is the point I wanted to make.

Mr. MITCHELL. I yield to the gentleman from North Dakota.

Mr. CONRAD. I thank the Senator.

I'll just say in response to my friend from Texas, I will tell you what it is relevant to, it is relevant to the people who are eligible for these payments who in some States are going to get them and in some States are not.

I would like to hear the explanation of how that is fair because I look at these formulas—I must say I do not see how anybody could walk away and say this is a fair formula. I certainly cannot go home to my people and say, you know, if you are down in Texas, you get reachback, but in my State, you do not.

We heard this explanation, "Well, it is based on the exhaustion rate."

The exhaustion rate in my State is 36.2 percent. It is greater than all States but 11, and there is no reachback in my State, but there is a reachback in almost all the other States.

I tell you, it defies any logic as to how it can be fair if we have one of the highest exhaustion rates which we heard as an explanation of how this formula works and yet we do not get any reachback.

I can understand, my State is a low level of unemployment State. We have a high exhaustion rate but overall low level of unemployment, and yet we do not get any reachback. I can understand, I guess, if we get fewer weeks of coverage, I can understand that. I could accept that. But I do not understand why my people do not get reachback and other States do.

I would like to look at the State of Kansas and compare it to my own State. In Kansas, they have an unemployment rate of 4.7 percent. My State has a rate of 4.2 percent. We have an exhaustion rate of 36.2; they have an exhaustion rate of 29.7. We get 6 weeks with no reachback, and they get 13 weeks with reachback.

How can anybody look us in the eye and say this is fair? I do not know who came up with this formula, but I really have to ask the question: How could they have come up with a formula that gives these kinds of results?

The Senator from Texas said Kansas has lower standards and Texas has tighter standards. That is not true. They both have an insured unemployment rate identical, 2.5 percent. The Senator from Texas said, well, Ohio is going to get more help than Texas, Texas is only going to get 6 weeks. That is not the way I read this. It is just the opposite. Texas gets 13 weeks with reachback, Ohio gets 6 weeks with no reachback. Ohio has 6.5-percent unemployment, the same as Texas.

I tell you, I really wonder how they conjured up a formula that could get these kinds of results. I understand the problem of getting a bill through here, how difficult that is. But I do not know how those of us who get the short end of this go home and say to our people, you know, if you are unemployed in North Dakota and you have exhausted your benefits, you somehow count differently than people in another State.

I hear the argument, well, it is to cover the total effects, to buffer the effects of an area that has been very hard hit. I tell you, you would be hard pressed to find an area harder hit than mine. We have had 4 years of drought and people have left the State; the only State in the Nation that has less people now than 30 years ago. If we want to talk about the impact of a downturn in economics, I tell you, you would be hard pressed to find a State that has been harder hit than mine. Yet we get no reachback and other States get it. I really do not understand how that can be fair.

Mr. BENTSEN. May I explain how the formula was applied? Let me once more say that this is not the formula that came out of the Finance Committee. But I can tell the Senator how it works and why you get the reachback. Your State has to have a 3-percent insured unemployment rate at a minimum. That is why you do not get it. And North Dakota's insured unemployment rate is somewhat less than that. North Dakota's rate is 1.6 percent. Now, let me state again that I do not want to be up here defending the insured unemployment rate as a measure because I have been opposing it all along and I have been for changing the formula. We did that in the Finance Committee, went to the total unemployment rate.

Mr. MITCHELL. Mr. President, I see the Senator from Delaware here. I know he has objected. I just feel constrained to say the Senator from Delaware voted for a bill, voted for a bill that had this level of benefits in it. That was the bill that Senator DOLE offered. Now he is objecting to letting us go forward with a level of benefits that is included in a bill for which he has already voted, the result of which may be no level of benefits for anyone.

I ask the Senator from Delaware if he would reconsider and let us go forward with this legislation.

Mr. ROTH. I would say to the distinguished majority leader, what is fair is fair, and there is no way, as a number of Senators on that side have said as well, that you could go back home and justify the fact that under this particular piece of legislation no one in my State to date would be eligible.

Mr. MITCHELL. But the Senator has already voted for a bill that provided just that.

Mr. ROTH. Whether I voted for it or not, being aware of the situation today, I cannot support it.

Mr. FORD. Mr. President, will the majority leader yeild?

Mr. MITCHELL. I will be happy to yield the floor.

Mr. FORD. Without losing his right to the floor.

Mr. MITCHELL. Yes, I yield to the Senator from Kentucky.

Mr. FORD. There are two or three things we need to consider, I think. One of the items, apparently if your State is conservative and you have been reasonably frugal, you get hurt. But if you have been liberal with your unemployment insurance, then you in this bill clean up.

Those of us who come from States that are conservative, we get hurt and get hurt very severely. And to change the exhaustion rate from 33 percent down to 29, you take care of six States and they get more under this bill than they did the bill that passed the Senate. And so I want to just point out to my friend from Texas, Mr. GRAMM, that this Senator was outnumbered, the party was outnumbered, but the administration was there with a wet pen—Mr. Darman was there. And so I think we really were outnumbered, and there was not an individual in this Senate who was there to debate the formula.

We are here defending basically what the administration is proposing. We are put in the position of defending that. I think that is wrong because we did not have an opportunity to visit the group to make a judgment as it relates to the formula.

I would hope we could maybe get Mr. Darman back up here and we can look at a formula that would be helpful. We voted against the Dole substitute and it is very difficult for us now to support a bill that comes from the House we already voted against.

I thank the majority leader.

Several Senators addressed the Chair.

Mr. MITCHELL. Mr. President, I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, I have gone back and looked at all the bills. In the Rostenkowski bill, there were 13 States without a reachback. In the Bentsen bill, there were 14 States without a reachback. There were more than that under my proposal. So I want the record to be clear in every proposal not every State had a reachback. It is based on a very complicated formula, and I have members of the Labor Department in my office monitoring. I think we may have some information for Senator CONRAD from North Dakota.

But just to try to clarify, I certainly share the concern of Senator ROTH, but I am also advised by the Labor Department they are going to be looking at these figures every week—every week. You do not wait 6 weeks or 13 weeks. Say I am out of work and exhaust my regular benefits. I am told now by the Labor Department people that if I am in my third week of extended benefits and the figures get worse, I can go on up to 13 weeks or I can go down. I think you can still get the minimum. But it is a rolling average. So some of those who may be in one tier may be going up if it gets worse in Arkansas or worse in Louisiana.

Mr. MITCHELL. Mr. President, if the Senator will yield, I believe that you cannot go down for 13 weeks.

Mr. DOLE. But you can go up.

Mr. MITCHELL. But you can go up at any time and during any period.

Mr. DOLE. I think that is correct. I want to make that point. Second, I want to make it clear it is understood if you work in a plant, the same plant, the same benefits apply, whether the plant is in Pennsylvania or Delaware. If you have one person living in Delaware, one living in Pennsylvania, working in the same plant, it is the plant that determines the level of benefits.

Let me make the other argument that if you do as Senator ROTH suggests, there are going to be 34 States that would be disadvantaged, 34 States that would probably lose up to 2 months of benefits. And so that again raises a question. Some States could lose up to 35 percent of their reachback benefits. Rhode Island, Oregon, New Mexico lose up to 30 percent. So every time you have a formula somebody at least appears to be disadvantaged.

Under this proposal there are 13 States that get better off than under the Bentsen proposal, but 9 States are worse off. And some are because of no reachback. Some fell down from 13 weeks to 6 weeks. But again, with a rolling average, I think we have tried to at least anticipate what might happen in some of those States where the unemployment may be changing very quickly.

As far as Arkansas is concerned, it does not meet the criteria for 13 weeks which is either a 4-percent AIUR or a 29-percent exhaustion rate.

If there was some implication that I drafted the formula, I did not draft the formula. I was not even in the Ways and Means Committee.

The total unemployment rate referred to by my friend, Senator PRYOR, does not enter in as a trigger except for the highest tier, and that is 20 weeks. So we use the adjusted insured employment rate because it is a more targeted measure of who is receiving benefits.

I would hope, Mr. President, I say to the majority leader—I understand he made all States equal, $130 million. Or you do it another way; you take it away from other States. I do not know where we find $130 million. I do not know that the House does. That only takes care of the reachback. It does not put people back into higher brackets.

It would be my hope that we could proceed with this measure, and if in the meantime somebody has an idea that everybody would sign off on, it would be great. I understand the House is in session tomorrow, but not for business. I hope I am wrong. I think that is accurate. So we are looking at next week.

If we do not finish action on this, I am told—I may be wrong; it certainly could be changed, I assume—by sometime tomorrow afternoon, then we are looking at maybe a week or 10 days' delay in getting checks in the mail.

I would certainly be pleased to join the chairman of the Finance Committee and others as we explore better ways to approach this. It is certainly going to be back up again.

But I hope our colleagues will let us proceed. Let us at least go on. If they have an amendment, we will vote on the amendment and try to complete action on the bill tonight.

Mr. MITCHELL. Mr. President, the Senator from Arkansas has been waiting a long time, and the Senator from Idaho. Let me yield to the Senator from Arkansas first.

Mr. BUMPERS. I thank the majority leader.

Mr. President, the Senator from Arkansas, my distinguished colleague, Senator PRYOR, has already said, as far as Arkansas is concerned, about all that needs to be said. I just want to relieve my system of a little venom over what I think is probably the worst crafted formula I have ever seen since I have been in the U.S. Senate. It just makes no sense.

Senator PRYOR has alluded to Lou Holtz' do-right rule. It is worse than that. It is worse than that. Let us take Connecticut, for example.

My good friend, Senator DODD from Connecticut, is here on the floor, and I am not picking on Connecticut. I am just saying when you talk about people exhausting benefits—one of the criteria in here is the percentage of unemployed people in your State who exhausted their benefits. In Connecticut, 37.8 percent of the people have exhausted their benefits. that is more than 29 percent. And so Connecticut is eligible for the full 20 weeks' not 6, as in my State, but 20.

Connecticut, for the past 6 months, has had an average unemployment rate of 6.2, and because they exceed the percentage of 29 percent of the people having exhausted their benefits, their people are going to get 20 weeks.

In Arkansas, where the average unemployment rate for the past 6 months has been 7.7, a full 1½ percent greater than Connecticut, the people in my State who have exhausted their benefits will get 6 weeks.

Mr. MITCHELL. Will the Senator yield for a brief correction, Mr. President?

Mr. BUMPERS. Yes.

Mr. MITCHELL. I know the Senator would want to be clear. The exhaustion rate, I am advised by staff, has no bearing on the eligibility of 20 weeks.

Mr. BUMPERS. What is that doing in the formula?

Mr. MITCHELL. The exhaustion rate is one factor to be considered in determining whether a State is eligible for 13 weeks. In order to be eligible for 20 weeks, the State must have either an insured unemployment rate of at least 5 percent, or a total unemployment rate of at least 9 percent.

So the exhaustion rate is relevant to determination of whether or not States are eligible for 13 weeks; it is not a relevant factor in determining whether a State is eligible for 20 weeks. That is the only two criteria: the insured unemployment rate of 5 percent, or a total unemployment rate of 9 percent.

Mr. BUMPERS. I thought the uninsured rate has to be 4 percent. I understood the minority leader said 4 percent.

Mr. MITCHELL. That deals with the question of eligibility for 13 weeks. If I might explain——

Mr. BUMPERS. I understand we are talking about categories of 6, 13, and 20.

Mr. MITCHELL. There are different criteria for determining eligibility for each of those different tiers.

Mr. BUMPERS. So if we had had three-tenths of 1 percent more people under the insured, what we call the unemployed insurance rate, if we would have had three-tenths of 1 percent more in my State, we would have gotten 13 weeks of benefits instead of 6? Is that correct?

Mr. MITCHELL. No, it is not. Let me go through it again. Let us focus first on the fact that all States get 6 weeks. Every State is eligible for the basic 6 weeks. If a State has either an insured unemployment rate of 4 percent, or an adjusted insured unemployment rate of at least 2.5 percent, and an exhaustion rate of at least 29 percent, those are two alternatives embracing three factors.

The first alternative has one factor only. It is the insured unemployment rate. And if it is 4 percent or more, then a State, right there, is eligible for 13 weeks.

If the insured unemployment rate is not 4 percent, then you look at a second criteria, and it embraces two factors. That is an adjusted insured unemployment rate of at least 2.5 percent, and an exhaustion rate of at least 29 percent.

Looking at the table which I believe the Senator has, Arkansas has an adjusted insured unemployment rate of 3.7 percent.

Mr. BUMPERS. So we qualify on that one.

Mr. MITCHELL. Thereby qualifying on that factor. However, it has an exhaustion rate of 23.3 percent, and thereby does not qualify, since those criteria require the State to meet both factors.

I would say to the Senator, as I tried to say to his colleague from Arkansas, since these figures are reviewed on a regular basis, if within the next month the exhaustion rate in Arkansas reached 29 percent, persons there would be eligible for the 13 weeks. So those are the criteria.

I emphasize again, for a 13 week period, no State's level of benefits can be reduced. But at any time, if the State's economic circumstances are such that they meet criteria that they do not now meet, specifically in Arkansas' case, for example, if the exhaustion rate goes from 26.3 to 29 percent, then it would be eligible for the higher level.

Mr. BUMPERS. Mr. President, let me say the explanation is helpful. While we are carrying on this colloquy, let me pursue it just a moment. These data, as I understood it, are September data. We are in the middle of November. So when it comes to the data and the update, that might benefit Arkansas and move us into the 13-week category from the 6-week category.

What data will be used in the next evaluation of the various States? Will it be October; will it be November? What will it be?

Mr. BENTSEN. It is a rolling average.

Mr. BUMPERS. When will the decision be made?

Mr. BENTSEN. A 6-month rolling average is used so that as time passes you drop off the month just passed and you add a month.

Mr. BUMPERS. My question is this: When does my State have the next shot at finding out whether it is going to reach the 13-week provision or not?

Mr. BENTSEN. Every month. You will drop off the month of 6 months ago, and you will add the new month. Every month, it will be reevaluated for you. It is a rolling 6-month average, and that is one of the changes that we approved in the Finance Committee as a part of our effort to see that the figures for State eligibility were more reflective of the situation in each State. We went to the total unemployment rate or TUR as a measure instead of the old insured unemployment rate or IUR.

Mr. BUMPERS. So we are going to go back——

Mr. BENTSEN. Each month, you drop one and add one. If the condition of your State worsens and you then qualify for the 13 weeks, there you are. Now, if the condition of your State improves during that 13 weeks, you do not lose the 13 weeks. You retain the full 13 weeks. If the conditions in your State get even worse, you might move on to the 20 weeks tier.

Mr. BUMPERS. Let me ask you: Are all the three criteria that are listed in this chart, which I think every Senator has on his desk—that is a 6-month rate; is it not? Is this an average of 6 months?

Mr. BENTSEN. That is right. It is a 6-month rolling average. What the bill attempts to do is to take care of some of the fluctuations that occur month to month. Major fluctuations month to month is one of the big arguments against using total unemployment rates.

Mr. BUMPERS. Can the Senator tell me what 6-month period that is?

Mr. BENTSEN. The last one, I am told by staff, is March to August for the TUR.

Mr. BUMPERS. Why did we choose March through August when we are here in the middle of November?

Mr. BENTSEN. Because it is the most recently available and reliable data. As the Senator knows, it takes time to collect data so the 6-month period used in this measure lags a little.

Mr. BUMPERS. Can the Senator tell me when—since we use August data for the last month of the 6-month period—the next evaluation will be made? Will it be made by the end of this month?

Mr. BENTSEN. I am told by staff that the data is normally available about the middle of each month. As soon as the Department of Labor have the data available, the 6-month rolling average is updated, giving States an opportunity, if warranted, to move to the next tier of benefits.

Mr. BUMPERS. That will be April through September then?

Mr. BENTSEN. That is correct.

Mr. BUMPERS. Add one and drop one off. Any time my State meets the criteria we talked about——

Mr. BENTSEN. You will move up to the next level, and then you would be locked into that new tier and would not drop back if all of a sudden your States' economic conditions improved. You would not lose the 13 weeks.

Mr. BUMPERS. We only have 6 weeks, so we will not lose anything.

Mr. BENTSEN. I was describing what would happen if you jump up to the next tier.

Mr. BUMPERS. If we qualify under the next determination for 13 weeks instead of 6 weeks, that cannot ever be reduced either; is that correct?

Mr. BENTSEN. That is what I am saying to the Senator. You get the full 13 weeks. After that 13 weeks has expired, if the economic conditions in your State have improved enough, then you will drop back down.

Mr. BUMPERS. All right. Let me close, Mr. President, by saying, if this were in the middle of the session, there would be 10 or 20 Senators here trying to kill this bill until we could make it a little more equitable. This is easy in the sort of rarified atmosphere of the U.S. Senate, but go back to Arkansas and try to explain it. It will not be so easy to explain, for example, to the number of people who exhausted their benefits what the adjusted insured unemployment rate is and all of those things. All they see is that we got cut from 13 weeks, under the good Senator's proposal, to 6 weeks. I do not relish going to 13, because that means there is more pain in my State, more people are exhausting their benefits. But I am comforted by the fact that at least we are going to get a reassessment of this thing every month and, if we qualify for more payments, you cannot take them away from us.

The reason I am not going to object to taking this up is that there is tremendous misery across America, and the fact that we feel put upon in our State, as does Alabama and a whole host of other States, because of this formula. I am just not willing to say to a lot of people, even in the State of Connecticut, that I want to keep them from getting their benefits.

Mr. DODD. If the Senator will yield.

Mr. BENTSEN. I say to the Senator from Arkansas, if it was in the middle of a session, I could not agree with him more, because we fought hard to move toward a total unemployment rate measure so we would not have this variation in eligibility among States, some of which are more liberal or conservative States with respect to extending unemployment benefits to their citizens. The Senator's State, my State, and Louisiana, take a very conservative stance, and so does Delaware on eligibility of unemployment benefits.

Mr. DODD. If the Senator will yield.

Mr. MITCHELL. Mr. President, I have the floor. Has the Senator concluded his questioning?

Mr. BUMPERS. I wanted to let the Senator from Connecticut ask a question.

Mr. DODD. I just wanted to say to my colleague from Arkansas that I join the distinguished chairman of the Finance Committee. I was not part of these formulas being drawn. But I am sure it is not the implication of my friend from Arkansas that because almost 100,000 people in the last 12 months lost their jobs in Connecticut—in fact, the unemployment rates arguably doubled—it would show up on the statistics, because they are kept so poorly for such a small number of people. Business failures are up 220 percent. It is the worst economy in my State since 1944. There is more unemployment than in the thirties, in terms of the economy. I regret that the Senator's constituents in Arkansas, because of formulations here, are not able to do better under the weeks. Certainly, the people in my State who are suffering should not be blamed because a formulation was drawn here and they are going to get a few more weeks of extended benefits. As I raise the question, that certainly was not his implication.

Mr. BUMPERS. If I could close, the thing that drives me up the wall about this formula is that it is like losing a football game on the last play of the game with an extra point kick. Here we meet two of the three essential criteria. In one we miss it by 2.3 percent. If we had had 2.3 percent more of our people that exhausted their benefits, I would not be on my feet right now. To suggest, for example, that there is anything fair about a bill that says because only 26.3, or whatever the figure is, of your people exhausted their benefits, if you just had 2.3 percent more exhaust their benefits, you would qualify for 13 weeks. That is insane. Thank you.

Mr. MITCHELL. I will yield to the distinguished Republican leader momentarily.

I have the greatest sympathy for the Senator from Arkansas. I agree with much of what he says. As he recognizes, wherever you draw a line, there is going to be someone close to it on either side—either side. If the line were at 26 or 27 or 25 percent, someone would fall just short and make the same argument. His point is well taken. It is extremely difficult under the circumstances, I know. But as the Senator recognizes, that is true of every formula. Whenever you establish a numerical standard and you have a variety of applicabilities, you are going to have someone who falls just short and someone who falls just over. Every Senator here has had hundreds of meetings with people over the notch babies with respect to Social Security—a similar situation. So I am sympathetic. That is my point.

I yield to the distinguished Republican leader.

Mr. DOLE. I promised the Senator from North Dakota I would check. I understand North Dakota does not make it to the higher tiers and reachback because it has a low insured rate, and I misspoke earlier. The criteria for the 13-week tier are, one, a 4-percent AIUR, or, two, a 2½ percent AIUR, and a 29-percent exhaustion rate.

Mr. MITCHELL. Four percent IUR; 2½ percent AIUR.

Mr. DOLE. Let me finish. You have an AIUR of 1.49 percent, even though you have a high exhaustion rate. To get the reachback for a 6-week level, you would have to have a 3-percent AIUR, and, again, with a 1.49, you do not meet that.

Mr. CONRAD. Will the Senator yield for a question?

Mr. DOLE. I would be happy to yield.

Mr. CONRAD. Whoever might have the answer, I would like to ask this simple question: How is it determined which States get reachback and which do not, given the fact that there are only 11 States with a higher exhaustion rate than ours, and we do not get the reachback? I do not understand the fairness.

Mr. DOLE. Three percent AIUR gives you the reachback. You have 1.49.

Mr. CONRAD. So the Senator is telling me that the exhaustion rate has nothing to do with whether or not you qualify for reachback.

Mr. DOLE. No. It does have. If you have 2½-percent AIUR and 29-percent exhaustion rate, which you may have under this rolling average. I think the States of Louisiana and Arkansas qualify very soon for a higher tier.

Mr. CONRAD. I just say to the Senator from Kansas that this is an immaculate conception, as near as I can tell. We have heard everybody say here they had nothing to do with the formula. The chairman of the Finance Committee had nothing to do with the formula. The majority leader had nothing to do with the formula. The Republican leader had nothing to do with the formula. It is the most cockamamy formula I have ever seen. It is not fair. I go down this list of States and compare States, and I look first at my own, of course. No reachback. My people do not get reachback, somebody else does.

Mr. MITCHELL. I am pleased to respond to the Senator's question if he will permit me. He asked the question how is eligibility for reachback determined. I am advised that eligibility for reachback exists when a State meets the criteria for 20 weeks of extended benefits, or meets the criteria for 13 weeks of extended benefits, or has an adjusted insured unemployment rate of 3 percent or higher. Those are the criteria.

Mr. CONRAD. I thank the majority leader. It is at variance with what the Republican leader said.

Mr. SYMMS. Mr. President, will the majority leader yield for a question?

Mr. MITCHELL. Let me permit the Senator from North Dakota to complete his statement and then I will be pleased to yield to the Senator.

Mr. CONRAD. I appreciate that, and I am certain that the answer from the majority leader is correct. What troubles me deeply is I do not know how I can go home and say to my people who have been through 4 years of drought, who have seen a dramatic drop in income in my State, that there is any fairness in this formula. I just do not see it. My people do not get reachback, but somebody else does. There is something here that just does not add up.

Mr. MITCHELL. Permit me to try again to respond as best I can. First, the unemployment insurance system was created primarily as an economic stabilizer. This country suffered through depressions in 1873, 1893, and the 1930's of increasing severity.

During the last of those great depressions, an attempt was made to create a structure which would slow down the downturn in the downside of the business cycle. All free economies operate on business cycles; periods go up and down. One of the ways to do that was to preserve purchasing power in those segments of the population which would otherwise lose them during times of economic downturn and the unemployment insurance system was created for that purpose.

The extended benefits program which is what we are dealing with here—we are not dealing with the basic unemployment insurance program—was added to that to deal with long-term economic downturns.

Now the point the Senator makes is well taken from a fairness standpoint. As was pointed out earlier by the Senator from Texas, if one person in North Dakota is unemployed, he or she is just as unemployed as if a million people in Texas are unemployed. But the system was never intended to provide the full extension of benefits for every single person for whom those benefits have been exhausted. Obviously that would be desirable.

However, the very obvious problem arises with which we have struggled mightily and with enormous difficulty to find a way to pay for it and get a political consensus on a program that costs just over $5 billion. Every person that you add to that adds to the cost and creates the problem of achieving the political support necessary to have it enacted into law.

I happen to agree with the point made by the Senator from North Dakota about the difficulty of a person or of a Senator explaining to a person unemployed why he does not qualify, or he does not qualify while someone in another State does, but the program is intended to address primarily those areas where the economies are in the worst shape.

I hope everyone here recognizes when we talk about the States qualifying for this like we are talking about a goody to be handed around, we hope and pray the States do not qualify for, but discouraging to me my State is eligible for maximum benefits because the economy is so bad.

Mr. CONRAD. Mr. President, if the Senator will yield, my State led the Nation in income decline in the decade of the 1980's, led the Nation in income decline. We are the only State in the Nation that has less population now than in 1930.

So if the program is designed to buffer those States that have been hardest hit, it is not working for my State because we get the fewest weeks, we get no reachback and it is not fair. And there is no way I can go home to the people that I represent and say I did not stand in the way of something like this. I know of no way to say to them honestly that I represented their interest.

Mr. MITCHELL. But, Mr. President, if I might respond, the unemployment insurance seasonal formulas have never taken into account income decline as a factor. If the Senator feels that it should be a factor, then I strongly urge the Senator to introduce legislation to change the basic system, to make the case through the legislative process, that in determining how to allocate unemployment insurance benefits a factor should be income decline. That is not now a factor. There may be a case for so doing.

But I submit to my colleague that it is not going to happen here and a possible consequence of not permitting us to proceed on this legislation is that nobody will get any benefits; nobody in North Dakota will get any benefits, nobody in Arkansas, nobody in Louisiana, nobody in Maine, nobody in Texas.

That is a possibility which I am trying to rule out. I am trying very hard to see to it that some people get some benefits. We have been struggling with this for 4 months. If there is one thing that comes out of this debate it is that a lot of Senators have different ideas about how the unemployment insurance system ought to be reviewed and revised. I think we ought to do that. The chairman struggled mightily with that this past year.

If the Senator feels that income decline, which is a relevant consideration in his State, in his mind ought to be included as a factor to allocating unemployment benefits, he should introduce legislation, and he may persuade me to do that.

Mr. BENTSEN. If I may make one point that has been said but not emphasized, this bill extends benefits beyond the basic 26 weeks and that is a half year in effect. So in the case of North Dakota, the unemployed would be eligible for 32 weeks of coverage.

I strongly believe the formula under which eligibility is determined ought to be changed. But that takes time. We tried to move toward this change in the Finance Committee bill, and we took care of month-to-month aberrations by using a rolling average. We are going to do more to improve the unemployment compensation program by working with the Labor Department, where there are good people to help us further adjust the State eligibility formula. But that will take time. I am hopeful we can make serious headway next year.

Mr. MITCHELL. The Senator from Idaho has been waiting. I want to say before I yield to him, I am going to put this request again. Frankly, I have learned a great deal from this debate. I hope other Senators have. I am hoping that after this debate and discussions Senators will recognize not just the importance but the imperative nature of proceeding, and that I will be able to get a request.

I just want everybody to know, and I want to give every Senator an opportunity to say what she or he wants to or ask a question. As soon as that is completed—I was going to use the word exhausted but I think it has been overused in this debate—then I am going to put the request again.

Did the Senator from North Dakota complete his inquiry because I do not want to cut him off?

Mr. CONRAD. I just wanted to make the comment for the Senator from Texas that I understand and appreciate the difference in 26 weeks and 6 weeks. The thing that I must say I am stuck on and I am going to have a very hard time getting unstuck on is that my people get no reachback. That I just find to be so totally unfair that I do not know how I can possibly justify, when I was sent to this body to represent my State and only 11 States, only 11 States have a higher level of exhaustion than mine and we do not get reachback and the other States do. I mean that is just wrong.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. MITCHELL. I yield.

Mr. SYMMS. I thank the majority leader for yielding.

I say to my friend from North Dakota, if I could have his attention, that his State can make changes at the State level to fall into this so he would get a better benefit. The Senator from Texas has been trying to make that point, both Senators from Texas I should say, and Senator DOLE and the majority leader.

It is easy for me to stand up here today because Idaho happens to be a State that falls into 13 weeks which, as Senator BENTSEN correctly pointed out, means 39 weeks of benefits for those who are unemployed—26 weeks plus 13. I think that it is so, the bill is paid for, and the President will sign it.

And I am sympathetic with those States that end up with 6 weeks. I am sympathetic. I hope something can be worked out to satisfy those Senators and those States. It may not be possible at this point.

I hope Senators will not object, but I want to point out that here we are at the closing end of the session trying to adjourn, Mr. President, talking about extending unemployment benefits. I tell you the unemployed worker in Rhode Island that was building boats 2 years ago would rather have a job building boats than an unemployment check. What did we do? We passed a luxury tax and killed their job. But the boat builders are out of business and they lost their jobs.

We should be looking at legislation to get employment checks in the mail. But, instead, all we can look at is unemployment checks. Something is very wrong here.

What happened when we tried to pass a capital gains tax cut in 1989? This Senate killed it under the leadership of our distinguished able colleague from Maine, so we could not pass it, could not help the economy.

When Senator MOYNIHAN offered a payroll tax cut which should have been coupled with the capital gains tax cut, not only did the Democrats kill it, the Republicans killed it. It is fairly obvious to this Senator, and it should be to others, that we have an antigrowth tax policy in effect. We are paying far too much of our labors to Government regulators who interfere with business. We refuse to talk about issues we should be talking about.

We need to get the R&D tax credit extended. We need to fix the passive loss rules so our real estate markets can recover. We should be debating on incremental investment tax credit like that introduced by Senator ROTH. I am sure there are other economic growth incentives we should be considering. I hope the majority leader can pass the bill and we can work something out for these six States to satisfy these Senators.

But I think what we should do in this Senate is start talking about some real growth packages and get something done here that will start the economy moving again. Until we do that, we can extend unemployment benefits from here until next Christmas and it will not solve the problem of climbing out of this recession.

There is confidence in the economy. The people in this country look here and say, the U.S. Senate is debating extending unemployment benefits and trying to help the people of this country, when they ought to be trying to do something to get the people involved in jobs and productive enterprises. And we are simply not going to do it until we face up and bury the political hatchet, pass a capital gains rate reduction, couple it to cut the payroll tax, and freeze the budget and all expenditures so that we could meet any needs that we have with respect to the expenditures that stay in the budget. Let's get on with it and let the private sector grow. That is what the real issue is, Mr. President.

I thank the majority leader for yielding. I wish him success, I am sure he will get this bill passed and the checks will be in the mail. There are several million people out there that do need the help right now, and I hope we can get it done.

Mr. MITCHELL. Mr. President, I yield to the Senator from Louisiana.

Mr. BREAUX. Mr. President, I would like to maybe ask a question, because I think the heart of the problem among some of us now is the fact we lost the reachback provision.

As the majority leader said, if we do not pass this bill there are going to be people out there who do not get any unemployment compensation. Well, the point is even if we pass this bill, all of those States that have lost the reachback provision for all of those citizens, they get zero, they get nothing. Probably the group that is unemployed that is hurting the most is those who are not getting unemployment compensation today. And this bill for those States ignores them.

Now I would say to the distinguished chairman, the bill that left here before was a good bill. We were here before. The President vetoed the unemployment bill on two occasions. that is why we are here tonight.

But it is my understanding that in the bill that went over to the House, they saved about $600 million from the estimated tax safe harbor provision. And one of the ways that they cut us in doing that was to have us loosen our reachback provisions.

Now I would estimate, having talked with some staff, that the reachback provisions cost maybe $150 million or so, if we reinstated those States that had the reachback provisions that lost them over in the House. Now what is wrong with us saying, go back to the estimated tax and the safe harbor and pick up the money that would allow those States that lost the reachback to be included?

I mean, we are paying for it. The President vetoed this bill because we did not pay for it. Why could we not send a bill back to the House that clearly pays for those reachback States? If it is $150 million and it is paid for, the President should not have a reason to object.

I think most of the heartache that we are hearing on the floor today is the fact that those States that were covered by the reachback provision have now been left out. We raised the money to pay for it. The House reduced it by $600 million and eliminated the reachback. If we could achieve that goal by merely raising approximately $150 million or so, I do not know what the figure would be, but if it is in that ballpark, why can we not just say to the House, go back to the estimated tax, the safe harbor provision, and get the money out of that provision to take care of all of these States.

I think it is a valid suggestion. I do not think that is out of proportion in the type of bill we are dealing with here. Are we so afraid of the House that if we send them anything back they are going to kill all of the provision for all of the States? I doubt that.

I mean, does anybody maybe have a comment on us going back and doing the reachbacks for the States that were lost by the House in an arbitrary action?

Mr. MITCHELL. I will, Mr. President, make this comment. There is no way once we start with one amendment that we can ensure that is the only amendment. The Senator from Louisiana likes that amendment, another Senator likes a different amendment, another Senator likes a different amendment, and we do not know then we may have no amendment.

I was for Senator BENSTEN'S bill. I was a cosponsor. I spoke for it. I voted for it. I fought for it. It got vetoed. That is the reality.

Now, we have had these negotiations. The administration wanted the lower level of benefits and there was a compromise. And this is the compromise. I do not like it. I prefer the original bill.

But I will just say to the Senator, maybe it would happen that way. Maybe if we just go to the bill, there would be maybe just one amendment that would be offered. Maybe that amendment would be approved. Maybe no other amendment would be offered. Maybe it would then go back to the House and they would say, fine, we will take this. And maybe then it would go to the President, and he would say, fine, I will sign this, even though it has been 4 months now of negotiations and we have no inclination that the President will sign anything other than that bill. That is the risk we would be taking.

Now, it could all happen that way, I do not dispute that. I do not rule out that possibility.

On the other hand, it could happen that it would not be limited to just that one amendment; that we do not know when we would finish the bill; that the House might not accept it, or, if they did, that President would not sign it. And then we would be at Thanksgiving with nobody getting any benefits, never mind reachback provisions. Nobody would get any benefits.

That is the risk. Each Senator has to decide for himself or herself whether that is a risk he or she is prepared to take.

I say for myself that, I would prefer the bill that we passed earlier. I fought as hard as I could for that bill. We passed the bill. The President vetoed it, and the veto was sustained. And that is where we are.

I do not like it. But I must deal with the situation as it exists, not as I wish it existed.

I say to the Senator, if someone has objection, as anybody has a right to do, then we are to make a judgment whether to go forward and take the risks attendant upon that of not having legislation enacted as opposed to this, which is imperfect, which does not have the most favorable formula in the world.

If I were king for a day I would not have written this formula. But I will say to you, that is true of every single formula that has come through the Senate since I have been here. I have not voted on a single formula in the Senate in the years that I have been here that is perfect, that suited me.

This is one of the products of representative government where we have diverse economic, political, social, and other conflicting interests. I just plead with my colleagues that, imperfect as this is, given the high risks of not approving this, I hope they will agree to let us go forward.

And I want to repeat, I cannot say to the Senator from Louisiana that it will not work out perfectly. His suggestion is an eminently reasonable one. It is reasonable to suggest a modest $150 million addition to accommodate the interests of several Senators who are concerned. That is a fair, reasonable request. I do not dispute the fairness of it. The alternative however is one which deeply concerns me.

Mr. GRAMM. Mr. President, I think maybe I can clear this up. When we voted on the Bentsen bill before that was vetoed, and the veto was sustained, there was no reachback for North Dakota in that bill. So there is no difference between the bill we are voting on now and the bill which I assume the distinguished Senator from North Dakota voted for with regard to reachback to North Dakota. That is not an issue.

The second issue—

Mr. CONRAD. Will the Senator yield?

(Mr. BREAUX assumed the chair.)

Mr. GRAMM. Let me finish, because I am not trying to get into a debate here. I am just trying to provide a little bit of enlightenment.

The second issue is this issue that was raised that somehow the House Ways and Means Committee did something arbitrary about reachback. Not so.

The House Ways and Means Committee did absolutely nothing about reachback. The reachback formula they used is the one that exists in permanent law. The House Ways and Means Committee did only one thing that we could call arbitrary and that is they adjusted the exhaustion rate from 33 percent down to 29 percent. And as far as I know, nobody here has talked about that tonight and why did they do it? Did they do it for some sinister reason? No. They did it to make this bill fit the amount of money we had available.

Let me make my point, and I will be through.

First of all, how are unemployment benefits set?

By the States. It does not have anything to do, as the distinguished Senator from Kentucky said, with which States are liberal and which States are conservative—as if States just give this stuff away. States pay unemployment benefits, not the Federal Government. The States do because the States set all benefit levels, they set all the duration levels, they determine who qualifies, they set the rate of benefit payments, and they set the tax rates to pay for it. The States do that.

So, is Kansas more generous than Texas?

Yes. And they pay for it because they have a higher tax.

Now, I want to try to see if I can make it clear to people. We have some States that cover only 25 percent of their workers with unemployment insurance. Those States include Colorado, Florida, Indiana, New Mexico, Oklahoma, South Dakota, Texas, Utah, Virginia, West Virginia, and Wyoming. The average for all States in the Union is between 39 and 40 percent.

Where does the insured unemployment rate come from?

It comes from two things: One, the number of people who are unemployed; and, second, the percentage of those people that are insured.

So many of the States that are represented tonight where their Members are saying "This is unfair," they are from States that have a low insurance rate in terms of how they cover.

That is not the Senator from Texas' problem. That is the underlying law which is the law of the land and which nobody in this bill has changed.

I did not single out North Dakota for any reason except it has been brought up. Let me just explain how all this is relevant to that. North Dakota has no reachback and North Dakota does not have a higher tier, not because this bill is different than the one that has already passed here twice, but because that is what the underlying law is. The underlying law says that the criteria for the 13-week tier are twofold: One, you have to have an insured rate of 4 percent—and that is adjusted. Normally, we do not even do that. But that is adjusted for the people who have already exhausted their benefits. Or you have to have a 2.5-percent exhaustion rate when the exhaustion is 29 percent.

So basically what it is saying is this——

Mr. MITCHELL. The Senator misspoke. He said 2.5-percent exhaustion rate. He meant, I believe, 2.5-percent adjusted insurance unemployment rate.

Mr. GRAMM. I thank the distinguished leader.

He is correct.

The point is basically this: States have differential benefits because in the law and the taxes which they adopted in their State, they chose to have a different program.

The State of the distinguished chairman of the Finance Committee and my State have among the lowest insurance rates. So given the number of people we have out of work, we are benefiting as little as any other State. That was a choice our State made.

Every State in the Union made the choice. And that is basically the point tonight. It is as if we, all of a sudden, on this one bill after 2 months of endless debate, are going to come in and completely change a system which, by and large, the States chose, the States adopted. And now, basically, we are abiding by the law as it has existed.

So, people are ready to object because their States do not do well when, in the case of Delaware, their State is under exactly the regulations as in the Dole provision, which was voted for. We have objections threatened by people from States who get exactly the same as they got under the Bentsen bill.

The point is, it is as if we have all shown up over here and seen that States are treated differently and we reject the notion that they would be. Maybe they should not be. But that is the way the law is, and the law is that way because States have made differential decisions.

I think, basically, having now let a month go by where 1 million families have not gotten over $1,000 apiece because we have not reached an agreement, and now, all of a sudden, to be criticizing what has been done here based on our objection to an underlying law which we have had a decade to amend, is just basically not fair.

So it is not a case that anybody is being cheated. It is just a case we all, tonight, have discovered what this law is and how it really works.

My suggestion, my prayerful plea is that now that we all know more about how the law works, that we go ahead and extend the benefits, send out the checks to these million families, and then if people want to sit down and amend the underlying law, let us do it. But let us not hurt 1 million families because we do not like a law we have had a decade to change and nobody has proposed to change it. I am not aware that there is a single bill that has been filed that would change this underlying law.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I want to yield to the Senator from Texas, and then let the Senator from North Dakota have a chance to respond, then the Senator from Idaho, and then the Senator from Arizona sought recognition.

Mr. GRAMM. I yield the floor.

Mr. BENTSEN. Let me say I agree with most of what my distinguished colleague from Texas says, but on one point I have to disagree. There is a major difference in the formula between what we passed out of the Finance Committee and what consideration we have under here. I really find myself in a very difficult position trying to defend this formula because I had nothing to do with it and, frankly, I do not think it is as good a formula as we developed in the Finance Committee.

What we had proposed is that if your State had 6-percent TUR, reachback was automatic. That was it, period. What the administration insisted be done here is to go to the IUR, use the smaller number, and adjust that number by a percentage of those who have exhausted their benefits. But every month we wait, another 300,000 people exhaust their benefits.

As much as I do not like to defend this formula—and much prefer what we passed in the Finance Committee because I think it is more fair—nevertheless, we are in a situation where we are about to adjourn. A further delay, after 4 months of debate on this situation would be a tragedy. And I think it is imperative that we resolve this issue, and that we do it now.

I think if we start to add amendments to this bill and we start to take care of the reachback problems and then we add new benefits for States like North Dakota that did not have any reachback in the first place and then add even more to accommodate the Senator from Delaware, I do not know where we stop or where we get the money to cover the additional costs. And I think that this bill will unravel.

Mr. MITCHELL. I yield to the Senator from North Dakota for such response as he wishes to make.

Mr. CONRAD. I thank the majority leader.

Mr. President, I would like to respond to the Senator from Texas who spoke first. He knows and I know this is not the same bill that we voted out before. Five States lost 6 weeks of benefits; 18 States lost 1, including my State; 14 States gained 6 or 7 weeks, including the home State of the Senator from Texas.

I tell you, for the first time I have had a chance to look at this final agreement and what it does, State by State. And it is not fair.

I look at my own State—only 11 States have a higher rate of exhaustion than mine and there is no reachback. People say, "Well, it's because the States had some formula, they have some law." Nonsense. We applied a formula to the State law and we came up with that result. We could have applied a different formula to that same underlying set of facts and come up with a different result—absolutely.

So when I am told that, No. 1, this bill has not changed; it has changed. No. 2, this is not fair. And it is not just because of underlying State law, it is because of a formula that was adopted right here in Washington, and it is not fair.

When I look at State after State, aside from my own—look at the State of Oklahoma and compare that to Kansas. Oklahoma has a higher rate of unemployment, they have a higher level of exhaustion, and yet they only get 6 weeks with no reachback, and Kansas gets 13 weeks and reachback.

I tell you, as I look down these States, and I look at the formula and look at the results of this bill—this is not the same bill we had here before, this bill—it is not fair.

Mr. MITCHELL. Mr. President, I yield to the Senator from Idaho.

Mr. CRAIG. I thank the majority leader for yielding.

Mr. President. We had a bad bill before us some weeks ago. We were frustrated in our inability to pay for it in a way that would not bring about a greater deficit, and now we have a bill before us where that struggle has ultimately been concluded. And I wish we could move it rapidly.

Now I have an amendment. I would like to offer an amendment. I wish there were others that could. This is probably the wrong time to do it. It probably slows the process and ultimately puts us into next week and we miss that threshold that has been talked about.

But let me tell you why I would like to offer my amendment. We are worried about finances. We are worried about how to pay for this provision. In the bill that came over from the House is a unique provision. They reached everywhere to find some money, and here is where they found some. "Notwithstanding any provision of State law, authorizes the Secretary of Education or State guaranty agencies to garnish the disposable pay of any individual to collect the amount owed by the individual if he is not currently making required repayment."

What are we talking about? We are talking about garnishing private citizens' pay for delinquency on payment of guaranteed student loans. That is where they get some of the revenue. Here is the unique catch-22: But if you are a Federal employee who has a delinquent student loan, you are scot-free; you do not get garnished. Did any of you know that? Right here, in the bill we are debating tonight, we are considering. True statement. We are going after the private citizen but there are $285 million out there——

Mr. MITCHELL. Will the Senator yield? Did he know that when he voted for the bill that contained that specific provision?

Mr. CRAIG. Did I know it? I did not vote for this——

Mr. MITCHELL. You voted for this bill that had that provision.

Mr. CRAIG. No; that is not true. This provision was put in over in the House and it has just come to us. Now there is the problem.

Mr. MITCHELL. I apologize. I was under the impression it was part of a provision in the Dole bill.

Mr. CRAIG. This is the unique problem we are talking about tonight. There is $285 million out there that we could have some access to if we were to garnish all citizens of this country, private and Federal employees alike. We chose not to do that except in unique and special occasions.

Now my colleague from Arkansas, who has talked tonight, has agreed to hold hearings on my garnishment bill that 140-plus Members of the Congress, House and Senate alike, are cosponsoring. But if we are really interested in revenue, doggone it, you would think we would be fair and you would think we would be balanced. But we are not fair and we are not balanced in whom we garnish to pay it. That is reality. That is the amendment I would like to offer.

There is about $265 million out there in debt owed to our Government by its own employees who cannot be garnished.

Mr. President, the majority leader has been courteous in extending me time just to make a point.

Mr. MITCHELL. Take whatever time the Senator wants.

Mr. CRAIG. It is a valuable point. We struggle to find money to pay for this most important provision and now we have some kind of balance and in it we create these stumbling blocks, chuckholes, and catch-22's. And we have one tonight, $265 million worth.

Did you know that in bad debt alone, each year, Federal employees walk away from $1.25 billion? And that is $300 million in lost taxable revenue, lost taxable revenue to those to which the debt is owed. That is reality.

We are not going to deal with that tonight. There is a simple provision we could deal with, but we will not do that because it would require opening this legislation up to allow additional amendments. I recognize what would happen if we did that. I have heard my colleagues from Texas. I heard the majority leader and the Republican leader speak of the unlikeliness then of being able to put this all back together.

I think I have been able to make my point and my point is that there is a major loophole here that we really ought to be fair about and we are not fair about it. We are going to deal with it and I really believe that next year in this Congress we will finally recognize that they ought to be treating Federal employees the same way they treat private citizens on the ability to garnish their pay when they refuse to pay, and especially in those areas where those people, our Federal employees, have borrowed the money from the very Government who pays them their salaries and they will not pay their debt. You would think that ought to happen. I thank the majority leader for yielding.

Mr. MITCHELL. The Senator from Texas.

Mr. GRAMM. Mr. President, I would like to hit a couple of points and I would like to be brief. The distinguished Senator from Texas said this bill is different, and it is different, because the distinguished Senator from Texas in the previous two bills used total unemployment rate and, to the best of my knowledge, that is not the formula we have traditionally used.

But every point that I made with regard to the issues that have been raised here was valid based on permanent law, and also it was valid in terms of where States fall even under the distinguished Senator's bill. My point being that under the distinguished Senator's bill, North Dakota, for example, did not have a reachback under the formula that was voted on before. It did have 7 weeks before. That is true. It only has 6 weeks now. But so does every other State in that category. And, again, why did the House do that? The House did that to try to shoehorn the bill into the available funding.

Mr. CONRAD. Will the Senator yield?

Mr. GRAMM. So does every State in that category so far as I am aware. And if I am wrong, I hope I will be corrected.

Mr. CONRAD. Will the Senator yield?

Mr. GRAMM. I do not have the power to yield, but I would like to——

Mr. CONRAD. Were not 14 States given an increase of 6 to 7 weeks? Is that not the case? Were not 14 States given an increase? Let us talk about shoehorning. Let us talk about who got shoehorned in and who got shoehorned out. That is what this debate is about, who got shoehorned in and who got shoehorned out.

Mr. GRAMM. If I may finish.

Mr. MITCHELL. I yield to the Senator from Texas.

Mr. GRAMM. I am not trying to get into an argument with people. I am just trying to make it clear the bill voted on twice by the Senate did not have reachback for 14 States. One of those States was North Dakota. That is not my fault. I did not write the law.

The second point I would like to make is it is true that States in that category only get 6 weeks whereas they got 7 weeks before. But basically the reason for that is due to the adjustment that was made for budgetary purposes.

The second point has to do with Oklahoma versus Kansas. The reason that Oklahoma gets less payments than Kansas does is that Oklahoma has one of the lowest levels in terms of percentage of workers insured of any State in the Union because they chose to do that. Kansas, on the other hand, has a much higher rate. And as a result, the insured unemployment rate in Kansas is 2.5 percent and is 2.2 percent in Oklahoma. But who chose that? Oklahoma chose that. That is my point.

The final point I want to make is that in terms of Government employees, I think we ought to treat them like everybody else. But as the person who was the author in the House of this guaranteed student loan collection program, the one area where we put a program into effect was Government employees. So I do not know exactly what the program is, but we have had a program in that area.

We have never, ever been able to get the ability to garnish the people who default on guaranteed student loans. My view is we ought to grab them by the wallet. We ought to get that money, and this gives us an opportunity to do it.

I am not trying to defend any program. The only point I am making is that the concerns we are raising tonight are basically with the underlying permanent law, not with what has been brought before us. The only change that I am aware of in that has been changing the exhaustion rate. It has exhausted us all, and I hope we can vote on it and go home.

Mr. MITCHELL. Mr. President, I yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, there is one common thread that runs through all the arguments and that is this is not a perfect bill and it is palpably plain that we are not going to find a perfect bill, but we have a duty to move ahead.

As I return to my home State to open house town meetings, I find it impossible to explain to my constituents who are unemployed and have no unemployment compensation what is happening in the Congress of the United States. If I go home week after next and try to explain what has happened on the floor tonight, I will not be able to do so. There just is not enough time to explain to America what is happening on the floor of the U.S. Senate. It really is a disgrace that we cannot come to terms and pass some legislation. It is not going to be perfect. We have not passed a perfect bill in the 11 years I have been here, and there have been a lot of occurrences that have not suited me as a Pennsylvania Senator. But we are also U.S. Senators and the time is past that we ought to come to some action.

I saw the statement by the distinguished Senator from Texas [Mr. BENTSEN] in July, about his intention to move forward on unemployment compensation.

I called him up and said I want to be on your bill. And I could not understand, Mr. President, why on that Thursday night, August 1, we did not pass an unemployment compensation bill when Senator DOLE had proposed a bill, not as expansive or as expensive but which had a way to pay for it.

Then we returned after the recess, and I recall the day well when I had a brief colloquy with Senator SARBANES and Senator MITCHELL and Senator BENTSEN about why we had not passed the Dole bill on August 1, and the point was made by Senator MITCHELL that we had reachback. I raised the issue that reachback was fine, theoretically, but if you did not get the money until October and you needed it in August, it was theoretically sound only.

Senator BENTSEN said, well, under his bill, Pennsylvania got 13 weeks and under the Dole bill only 6 weeks. I replied to my friend from Texas, why did we not take the 6 weeks and come back for the other 7 weeks later?

If we have some problems here tonight, Mr. President, I think we ought to pass this bill and come back and correct it at a later time. We can make the modifications at a later date. It would be just unconscionable for us to go for recess and not pass this unemployment compensation bill.

There are hundreds of thousands of people waiting for their checks. The figure has been recited on the floor tonight that there are 300,000 additional people who are out of unemployment compensation each month. We have very serious problems in this country. I want to leave as much as the next Senator does. But I have grave reservations about our departing before Thanksgiving without doing something on the economy. But that is another subject.

Everybody in this Chamber knows that America is watching us and watching our ineptitude and laughing at the inability of the Congress of the United States to act. I hope we can move on this bill this evening, and I hope we can yet do something on the economy before we recess for the balance of the year.

I thank the Chair and yield the floor.

Mr. MITCHELL. Mr. President, I thank the Senator for his comment, but I am constrained to say that maybe people are laughing at our ineptitude, but on this subject we have twice passed bills that have not become law because the President has refused, on the firsthand, to declare the emergency, and the second to veto it.

So I recognize that there is a lot of self-criticism here, and much of it is warranted, and a great deal of criticism of Congress among the American people, much of it warranted. But on this issue, we have twice passed legislation in this Congress. It has not become law. We are struggling now to come up with a bill that will become law.

I thank my colleague.

Mr. SPECTER. Mr. President, if I may respond just briefly, I do not disagree with what the distinguished majority leader has said, and I voted to override the President's veto. But I think that there is a pox on both ends of Pennsylvania Avenue, a pox on both Houses, and a pox on both parties, and we have to act in a way which is constructive.

Mr. MITCHELL. Mr. President, I yield to the Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the majority leader for yielding. It is important that I correct the RECORD because the majority leader mentioned, when I was discussing the student provision, it had been a provision in the Dole bill, and I said it came from the House bill. We debated the Dole bill, which I voted for on August 1. It is in the RECORD. They took, then, that provision in the Dole bill and put it in the House bill and brought it back over. We have checked it. I checked it with my colleague from Texas.

They are similar—not similar—but they are the same provisions. What we would have to do, that is important here, in the provision that came over from the House, is add another bit of language that speaks to the common law question, because what we are dealing with is a problem of common law. This does not deny Federal employees, but the courts will not touch it because of the division of common law that we would have to speak to if we wished to gain about $265 million of additional revenue.

I thank the leader for yielding.

Mr. MITCHELL. I thank my colleague for making that correction. I yield to the Senator from New Hampshire.

Mr. SMITH. I thank the majority leader for yielding.

I think the majority leader knows our economies are quite similar. Our States abut, and in some cases his residents live 100 feet from mine, literally, and both are in the same predicament if they are unemployed, in terms of the lines that they may have to wait in to receive benefits, if indeed there are any offered.

New England, as you know, Mr. President, is in deep recession. I think, as we look at this, it is really an issue of fairness. Under this legislation, Mr. President, New Hampshire is the only State in New England that does not get either 13 or 20 weeks of extended benefits. Vermont gets 13, Connecticut, Maine, Massachusetts, and Rhode Island will get 20. New Hampshire gets six.

This is not fair. New Hampshire's total unemployment rate is higher than Connecticut's and roughly the same as Vermont's. There is no reason why we should not get 13 weeks as originally proposed. I might also point out that of the 20 States with a total unemployment rate higher than 7 percent, only 5—New Hampshire, Alabama, Arkansas, Kentucky, and Louisiana—do not get either 13 or 20 weeks.

If this legislation is adopted now as it stands, an unemployed worker in Arizona, for example, would be entitled to 13 weeks of extended unemployment benefits despite the fact that Arizona has a total unemployment rate of 4.9. An unemployed worker in New Hampshire, however, on the other hand, will only be entitled to 6 weeks, even though our unemployment rate is two points higher than that of Arizona. That is not fair, pure and simple.

Mr. President, if I could just have the attention of the majority leader, I know he is trying very hard to get this thing passed, and I watched the Senator this evening as he has tried to do that. I think he is sincerely trying to do it. I understand why the Senator does not want to open it up for amendment.

I would suggest we deal with the reach back provision and the extension of 13 weeks to the five or six States that are affected here, ask for unanimous consent on those two points, and see if maybe we could move it from there. And I would say if it is a question of offset, Senator GRAMM previously mentioned the student loan cheaters, or perhaps making it up in some foreign aid moneys.

There are some in this body who were prepared to give $1 billion to the Soviet Union a short time ago, and surely we could find a couple hundred million dollars for our people. It satisfies the concerns of almost every Senator who spoke against it.

I ask the Senator if he could see fit to ask for unanimous consent, including those two points in one amendment. At that point, I will yield back.

Mr. MITCHELL. Mr. President, if I might respond, the Senator from New Hampshire complains that New Hampshire is only getting 6 weeks here and is not getting 13 weeks. Previously, the Senator from New Hampshire voted for a bill that gave New Hampshire 6 weeks and against a bill that gave New Hampshire 13 weeks.

Mr. SMITH. I would like to respond to that, if the Senator will yield.

Mr. MITCHELL. I just point out here, we are saying that New Hampshire is going to get the level of benefits here under the bill for which the Senator voted, and he is saying he wants a higher level of benefits, when he voted against the bill which gave a higher level of benefits to New Hampshire.

Now, that is the situation we are finding ourselves in. It is not as though we started this process this evening. We have been at this for 4 months. We voted on at least three bills in the Senate.

Now, what has happened, of course, is this. Because Senator BENTSEN'S bill established a benchmark for benefits, and then we now get a compromise bill from the House after Senator BENTSEN'S bill was vetoed, and which the Senator voted to sustain the veto of the bill that gave New Hampshire 13 weeks, after that bill was vetoed and now we have a compromise that provides a different level of benefits, everybody looks at the level of benefits in the Bentsen bill and compares it to the benefit level in this bill and says well, my gosh, if my State gets any less now than they got in that bill, this must be unfair.

That would be true if this were the only context. How can the Senator complain about fairness when he voted against the bill to give his State a higher level of benefits that he now says he wants?

Mr. SMITH. If the Senator will yield.

Mr. MITCHELL. Yes, I will yield.

Mr. SMITH. I rose, Mr. President, in the spirit of cooperation and in a sincere effort to try to resolve this thing. I regret very much that we are going back into partisanship. But since we have, let me respond.

Senator DOLE'S bill which I voted for, which was an alternative, was a responsible measure that had offsets so that we would not add to unemployment in the country by adding more money to the deficit, which is why I sustained the President's veto. And now instead of playing politics, we ought to come to a compromise that answers the concerns of everyone, and go home and let the unemployed get the benefits they deserve in a responsible way that does not add to the deficit and does not throw more people out of work. Because ultimately the best cure for unemployment is a job.

I thank the Senator for yielding.

Mr. MITCHELL. The only problem with that is that the Senator just suggested an amendment that would add costs to the bill.

There have been weeks of negotiations trying to reach a level of benefits less than the Bentsen bill, more than what the President wanted, that the President would agree to sign. That is what this has been about. This is not partisanship. We repeatedly publicly stated we favor the level of benefits in the Bentsen bill. We fought for that. We lost. The President vetoed it, and the veto was sustained with the help of the Senator from New Hampshire.

But now we have a lower level of benefits overall. Some stay, some go down. The Senator is quite correct. The reason for that is because we had the veto, and now we are trying to struggle to try to come up with a responsible compromise. The amendment of the Senator from New Hampshire would increase the cost of it. We have no assurance, in the first place, no suggestion how we would propose to pay for that; second, we have no assurance that the House will accept it; third, we have no assurance the President will sign it.

This is a compromise. It is imperfect. But I hope that the Senator from New Hampshire will let us go forward and get this bill passed and, if there is something in here that he or other Senators think is unfair, try to change it and produce legislation.

I think the Senator from Pennsylvania was absolutely correct. We had a long time to go—months. We wanted benefits to be flowing in August. That was not to be. Now it is November.

We are trying hard to get these benefit checks and help people by Thanksgiving. We are not going to get them there by Thanksgiving if we do not pass this bill, and we may not get them there at all if we do not move this bill promptly.

So, Mr. President, I thank the Senator for his comment. I just say that I am sympathetic to the people of New Hampshire. Many are my friends, and they are all my neighbors. I am sympathetic to a lot of concerns in here.

I do not stand here and say this is a perfect formula; this is an absolutely fair formula. I think the Senator from Texas rightly pointed out it is a product of a combination of factors, to some degree State choices with respect to the basic unemployment law.

So I hope that we are going to be able to get the approval now to proceed.

I do not want to cut anybody off. We have been here now discussing this for I do not know how long; it seems like forever. But I am now going to propose the unanimous-consent request again. I again urge my colleagues to let us proceed. The product of this debate has been, and I say it with certainty, a high level of knowledge about this unemployment process and a willingness on the part of Senators to let us go forward with the compelling, overriding, and, I believe, persuasive reason that unless we do this we run the risk of nothing happening. I think, Mr. President, then we would be irresponsible. I cannot say that will happen. It is conceivable that, if we open this up and have amendments, we would have a perfect bill which everyone would be happy with, the House would pass quickly, the President would sign. I cannot rule that possibility out. I think it unlikely.

I think the best, most prudent course at this time, the responsible course at this time, is to let us proceed to pass this bill tonight under this time agreement.

So, Mr. President, I renew my request, as I said I would.

UNANIMOUS-CONSENT REQUEST

I now ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time turn to the consideration of H.R. 3575, the unemployment compensation bill, and that it be considered under the following limitations: that there be 60 minutes for debate on the bill, with the time equally divided and controlled between the majority leader and the Republican leader or their designees; that no amendments or motions be in order; and that when the time is used or yielded back, the Senate, without intervening action or debate, proceed to third reading and vote on final passage of the bill; that upon passage of H.R. 3575, the Senate companion measure, S. 1945, be indefinitely postponed.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Reserving the right to object, Mr. President, it is with greatest reluctance that I will object. I say to my distinguished friend and majority leader that it seems to me that there are other ways out of this difficulty.

If we open it up, he may be right; there may be so many amendments it will be hard to get something done. But I have seen, time after time, the leadership seek agreement on amendments that take care of what I think are the legitimate concerns that have been expressed today.

As I said, in the interest of fairness, I do not know how I can go back to my State of Delaware and say there is no reachback for them when there are for others.

We have already heard one suggestion as to how funds may be secured to help pay for extending the reachback to all of the States. If that is not satisfactory, perhaps there are other possibilities. I think we could go back to some of the financial proposals that were contained in Senator DOLE's bill.

But I just find it extraordinarily difficult to understand how legislation comes in today that no one here apparently had anything to do with, and yet we are all expected to accept it irrespective of what it does to those in some of our States. Nineteen States secure no reachback.

I urge the leadership to try to find some way that we can agree on an amendment, two amendments, whatever it takes, and then seek unanimous consent on that basis. But under the circumstances, I must object.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I have the greatest respect for the Senator from Delaware, Mr. President. And we will, of course, take his recommendations into account. But I feel constrained to say that the Senator from Delaware objects tonight on the grounds that Delaware does not have reachback in this bill. Yet, he says, how can I go back to Delaware doing that?

Well, I would ask the Senator from Delaware, how has he been going back to Delaware? The Senator from Delaware voted for a bill which have no reachback provisions for Delaware. He voted against the bill which had reachback provisions for Delaware. So now he says, "How can I go back to Delaware when a bill does not have reachback provisions for Delaware?"

My answer is, has he been going back to Delaware in the past several weeks? And the answer is, of course. It just points up the problem we have.

This bill is not out of context. This is a culmination of a long process. It has been very difficult for everybody. I say with the greatest respect and admiration, since the Senator has already voted for a bill which did not contain reachback provisions to Delaware and voted against the bill which did contain reachback provisions for Delaware, on what basis does he object to this bill, which did not contain reachback provisions for Delaware?

Mr. ROTH. Will the Senator yield?

Mr. MITCHELL. Certainly.

Mr. ROTH. Let me point out that there was a reachback for none of the States. What we are talking about is fairness, fairness in the way we treat the unemployed and do not discriminate in favor of some and against others.

My concern is how can I go back to Delaware and say, in the case of Pennsylvania, New Jersey, Maryland, that they will all secure reachback, but Delaware does not? And the same question arises with 18 other States that are in the same category.

I am not here to just argue, but what I want to suggest is that we try to seek, either through the committee or by these informal conferences which we normally have, to arrive at some kind of approach that will take care of what I think are the legitimate concerns of any number of Senators that have spoken tonight.

Mr. BENTSEN. Will the Senator yield?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. Yes, certainly.

Mr. BENTSEN. When my good friend from Delaware says that he voted for a bill with no reachbacks, he is not correct. Six States qualified for reachback as I recall, but not Delaware, and the Senator chose to vote for that proposal.

Mr. ROTH. In that case, I would point out, there was a very small pot of money and it was limited, I think, to those with the 20 weeks. But in any event—

Mr. BENTSEN. There is no question but what there was still an inequity in the treatment of other States including the Senator's State, or at least the acceptance by the Senator that some States could have a reachback and his did not.

Mr. ROTH. Well, I agree with that, and I think this is an entirely different proposition, something we have only seen today.

It does seem to me that it could be made much more equitable. I find it very hard to permit legislation that goes ahead and really gives a double whammy. Many States getting 13 and 20, I do not object to that as the precedent of the past. But it seems to me that the fact that we are saying to our people when we go back to our States, those of us in the 19 States who do not get reachback, that I am sorry, those of you whose compensation already expired, you are not covered; you get nothing. And, really, it is just a shame that Congress has not been able to agree sometime earlier so that the legislation was in effect.

I am not blaming either the Democrats or Republicans. I think the American people are disenchanted because we cannot arrive at reasonable approaches that satisfy their needs.

Mr. GRASSLEY. Mr. President, I, too, am very concerned about this particular bill. I, as much as anyone else, want to do what we can for the unemployed. Unfortunately, under this bill, 16,000 Iowans who have exhausted their benefits, will not be helped. Saying this bill addresses the unemployment problem is a gross overstatement.

Senator ROTH has made a fair and reasonable offer. I believe that those of us that are most concerned with this bill are concerned with the reachback provision. I think we can accept the variations in weeks, even though that may not be totally fair. However, the reachback provision is completely unfair. If we could have an agreement that would include one and only one amendment to apply the reachback provision to all States, then I think we could pass this bill quickly.

Even if the bill is held up a few days, since it won't immediately affect many of my constituents, my State will be better served in the long run. I don't see why we can't come up with an agreement that will apply the reachback provision in an equitable manner.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

END ILLEGAL STATE SPONSORED TERRORISM

Mr. MOYNIHAN. Mr. President, today the United States took an important step toward bringing justice to the criminals who directed the cold-blooded murder of the passengers on Pan Am flight 103 over Lockerbie, Scotland. The Justice Department has announced the indictment of two Libyan officials for planning this crime. This announcement performs two vital functions. First, it initiates a process of bringing to justice the mass murderers who perpetrated this outrage. There is much more to be done. We should not permit those who ordered and financed the operation to escape. But it is a start.

Second, it sends the message that state terrorism is a violation of law for which there are remedies. If the new world order of which President Bush has spoken is to stand for anything at all, it must stand for the proposition that the rule of law will be enforced and terrorists will be brought to account under law. I welcome these indictments both for the purpose of bringing justice to these individual criminals and for the purpose of attacking international lawlessness sponsored by states.

These indictments cannot repair the damage, cannot erase the suffering of those who lost innocent loved ones because of this crime. But I know that more than anything else, these family members want the truth to be told and justice to be done. That process has begun.

Like many others, I am somewhat surprised, however, that the administration has stated so unequivocally that Syria and Iran were not involved in this crime. The administration has stated emphatically that Syria and Iran remain state sponsors of terrorism, along with Lybia. The links between the criminal, terrorist groups sponsored by these three states are difficult to trace and, of course, money is fungible. I do hope that, in the days to come, the administration will remain open to evidence that contradicts its declarations this afternoon. If Syria and Iran were even partially responsible for this outrage, they should be held accountable.

Mr. DOMENICI. Mr. President, I want to congratulate my colleague from Rhode Island, Senator CHAFEE, for leading the Republican Health Task Force through many months of hard work on health care issues, and I am proud to be a cosponsor of the bill that was put forward by the task force and introduced in the Senate last Thursday.

Its never easy to get Senators to agree on a significant proposal, much less on one that is so complex. Yet, the task force proposal now has 22 cosponsors, a clear indication of Senator CHAFEE's able leadership and the significance of this new entry in the health care debate.

In announcing my cosponsorship of this bill last Thursday, I said I would comment more specifically on a couple of sections of the legislation today. In particular, I am going to focus on increased funding for community health centers, medical liability reform, and how to finance this proposal.

COMMUNITY HEALTH CENTERS

On Monday, November 4, I introduced S. 1912, which would double the funding for community health centers and the National Health Service Corps over a 5-year period.

I am very pleased that the Republican Health Task Force proposal includes similar funding increases for these programs.

Community health centers are simply the most cost-effective primary health care delivery system available. We can provide comprehensive primary and preventive care to an uninsured individual for under $90 each year in Federal spending. It would cost $625 per person, or 600 percent more, to provide similar services to these persons through the Medicaid Program.

Like S. 1912, the Republican task force proposal authorizes significant expansions in health center funding in each of the next 5 years, sufficient to cover some 7.5 million more Americans by 1996. The bill also expands funding for the National Health Service Corps to ensure a growing pool of physicians is ready and willing to work in underserved areas.

MEDICAL LIABILITY REFORM

I believe it is absolutely essential that we reform our medical malpractice laws if we are going to control health care costs.

In June, I introduced my own proposal, S. 1232, with the endorsement of former Surgeon General C. Everett Koop. That bill is cosponsored by Senators DANFORTH, RUDMAN, CHAFEE, and GRAMM, and was referred to the Finance Committee.

The evidence is certainly there to support reform. The costs of defensive medicine, though hard to pinpoint, are certainly in the tens of billions of dollars each year. Doctors are ordering countless unnecessary tests and performing unnecessary procedures to protect themselves from lawsuits. And it is no wonder. Eighty percent of the lawsuits filed have no evidence of negligence. The number of malpractice lawsuits per 100 physicians more than doubled in the 1980s, from 3.2 to 7.4, and malpractice insurance premiums increased 15.1 percent annually.

I am very pleased that this Republican health care proposal recognizes that reform is needed in this area, but I am somewhat concerned that the current proposal will not fix the problem.

In my proposal, I advocate mandatory, binding arbitration for nearly all medical malpractice cases, with some judicial review to make sure cases are decided fairly and impartially. Binding arbitration and other forms of dispute resolution will deliver more consistent, more timely, and more efficient decisions for both patients and health providers. Over time, these improvements will reduce the pressure on physicians to practice defensive medicine.

In the Republican task force proposal, arbitration and other forms of alternative dispute resolution are voluntary on the part of patients and health providers. I am concerned that a voluntary approach will not get the job done because lawyers will simply advise their clients to bypass arbitration and go straight to court. Doctors would then still face expensive court litigation and inexpert juries, and, consequently, would likely continue their unnecessary defensive practices.

Nonetheless, I am very encouraged that this bill acknowledges the significance of the medical liability problem, and I plan to work with my colleagues in the coming weeks and months to enact a proposal that will truly slow the growth of health care costs.

COST CONTAINMENT AND FINANCING

Most health care reform proposals advanced in Congress to date have two noticeable and glaring omissions: real cost containment and financing provisions. That is no accident. It is very easy to promise the American people more health care. It is much tougher to tell them how you are going to control costs or how you are going to pay for it.

I am very pleased that the Republican Health Task Force proposal includes some tough cost containment provisions, including medical liability reform and incentives to use managed care health plans. However, like the proposals offered by most Democrats, this one does not yet include financing provisions.

There should be no doubt that Republican Senators are committed to fully financing any new health care spending. At the same time, it should also be clear that some financing proposals are acceptable while others are not.

Some Democrats would like to pay for their grandiose health care plans by raising taxes in ways that are completely unrelated to our health care system. They would simply pour money from new sources into expanding access without any consideration for cost containment. This approach will lead to higher proportions of our Nation's GNP going to health care spending and will threaten long-term economic growth.

It is critical that we finance wider access to health care in ways that simultaneously encourage cost containment.

Last week, Senator DOLE suggested one approach that I believe has merit. Under current law, employer-paid health insurance premiums are completely tax free—they are fully deductible by the employer and excluded from taxable income to the employee.

This tax subsidy costs the Treasury some $65 billion annually, including about $13 billion for persons with incomes over $75,000 per year. And the subsidy encourages some employers to offer generous health plans in lieu of higher plans in lieu of higher salaries, which in turn leads to less cost-conscious consumption of health care.

Senator DOLE suggested that we could set a reasonable limit on the amount of health insurance that can be excluded from taxes. Workers could still get comprehensive health insurance paid by their employers, but employers and employees would have a greater incentive to economize on marginally beneficial health care.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

THE INEQUITY OF THE UNEMPLOYMENT BILL

Mr. CONRAD. Mr. President, I want to say for the record that had the Senator from Delaware not objected to the request of the majority leader, I would have. I would have objected on the same basis. This is not fair. It is not fair to my State; it is not fair to every other State that does not get reachback. And the reason it is not fair is because a worker in North Dakota who has lost his unemployment benefits is no less hurting than a worker in Texas, or a worker in any other State that does have a reachback provided for in this legislation.

The point was made that the previous package did not have reachback for some of the States, and that is true, there is a much smaller number of States. Beyond that, we had a different overall package. We had more weeks for certain States. But as we went through the process, there was a change, and it was a dramatic change. Five States lost 6 weeks of benefits; 18 States lost 1 week of benefits, including my own; yet, 14 States got added 6 to 7 weeks of benefits.

We hear some on the floor here tonight telling us, well, this all had to be done in order to fit the budget. Well, some people won and some people lost, and those of us who lost are not satisfied. We were elected to come here and represent our States. We were elected to come here and fight for our people. And when I look at the result, it is so unfair to my people, so unfair to my State, that I have an obligation to stand on this floor and fight.

I look at the States that got hurt, and I look at the States that got help. Do you know what I see, Mr. President? I see the small States, the States with only one Member of Congress; they are the ones that tended to get hurt. States like Wyoming, Utah, South Dakota, North Dakota, and States that are small population States like Hawaii and Delaware, they got hurt.

Who got helped? The big population States, the ones with lots of Members of Congress.

Well, one reason we have a U.S. Senate, Mr. President, is because every State gets two. Every State gets two. And our job in the U.S. Senate is to make certain that our people are treated fairly. This is not fair. I do not think anybody could come to this floor and suggest otherwise.

Mr. President, a worker in North Dakota, or a worker in Delaware, who has been unemployed for more than 26 weeks and has run out of benefits is just as in need of help as a worker in Texas, or New Jersey, or Pennsylvania, and we deserve to get the same kind of treatment.

Mr. President, that is what this fight is all about. Are the small States going to get the same kind of treatment as the big States? Are those workers in our States who are hurting and have been unemployed, who have lost incomes, who do not know if they can provide for their families, are they going to be treated the same way? Or are they going to read in the paper that somebody who is out of work in Texas somehow gets treated a lot better than somebody who is out of work in North Dakota?

I tell you, that is not fair. If it means we have to stand here and fight the rest of this night, then so be it. I thank the Chair and yield the floor.

EXTENSION OF BENEFITS IS LONG OVERDUE IN RHODE ISLAND

Mr. PELL. Mr. President, we soon will move yet again to consider the extension of unemployment benefits. For Rhode Islanders, this help is long overdue.

The President blocked two bills that would have provided States like Rhode Island with 20 additional weeks of unemployment benefits, and this has delayed these benefits for 5 months.

The new proposal supported by the administration has only minor changes from earlier versions that were rejected by the White House.

This latest bill will provide 20 weeks to hard-hit States like Rhode Island. I do not understand why it took so long for the White House to help the victims of current economic conditions.

Under the current bill, nine States qualify for a full 20 weeks of extended unemployment benefits: Rhode Island, Alaska, Connecticut, Maine, Massachusetts, Michigan, Mississippi, New Jersey, and West Virginia.

All other States will receive either 6 weeks or 13 weeks of extended benefits. The number of weeks a State may receive these extended benefits is based on the State's unemployment rate. Because Rhode Island's unemployment is so high, 9.6 percent, Rhode Island is eligible for the full 20 weeks.

This program will take effect as soon as Congress passes this benefits package and the President signs the measure. Checks will be sent to eligible Rhode Islanders very soon after the President gives his final approval.

Rhode Islanders who have exhausted their unemployment benefits as far back as last March will be eligible for this program. These extended benefits will also be available to Rhode Islanders that run out—out of unemployment benefits as late as July 4, 1992.

The total cost of the program is about $5.2 billion. As far as I am concerned, it is money well-spent. My only regret is the way in which this legislation is financed.

In particular, I have serious reservations about including provisions with respect to the student loan program, some of which have very little to do with producing revenue to finance this important legislation.

To put it bluntly, matters such as the required credit checks, advance confession of judgment by borrowers, garnishment of wages, and the provision of additional borrower information should not be a part of this bill.

They belong, if they belong at all, in the higher education reauthorization bill, which is precisely where we included those we believed were necessary and were good public policy.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. RIEGLE. Mr. President, we have been working long today on the banking reform bill, and we had just finished a section on interstate banking, and then the debate ensued that I think has just now concluded with respect to the extended unemployment benefits.

I know there are additional amendments that we need to deal with, with respect to the banking bill. I do not know at this hour, 5 minutes to 9, if Members this evening are still ready and prepared to bring amendments to the floor. I certainly would welcome any such amendment that anyone wants to bring.

I am of the view myself—the House tonight did not pass its banking bill, which is a different bill in its general construction than the one that we have. So, obviously, they will have to undertake another effort—and I am sure they will—to develop and pass a bill in the House. We have our own responsibility here to move our bill forward, and it is my intention to do so. So I am going to, on the basis of this announcement, wait for Members who have amendments that they want to offer to consider coming over and offering those tonight.

The Senator from Vermont suggests that we go to third reading, and that is a very attractive idea, but there are amendments that Senators have indicated they want to offer. I am respectful of that, and I want them to be able to bring their amendments to the floor and have them voted up or down.

Mr. LEAHY. Mr. President, if the Senator will yield, I understand that, once more, we are in the Dracula form of legislation: no votes unless it is dark. But it has been dark now for several hours, and we have not had one vote.

I make a parliamentary inquiry, Mr. President. If the banking bill is before us, if there is no amendment pending, if we are not in a quorum call, and no Senator seeks recognition, what is the regular order?

The PRESIDING OFFICER. The Chair states, if there are no amendments to the bill presently pending, then the committee substitute could be adopted to the bill, and third reading would be in order.

Mr. LEAHY. I thank the Chair. I appreciate what the distinguished Senator from Michigan—who has a great deal of experience in this body and in the other body, and is one of our most respected chairmen—has said about protecting the Senators' rights, and each of us appreciate his attempt to do that.

But I might say that if we are going to follow the Dracula rule of legislation, everybody I would hope would bring over their amendments tonight because the next time I believe sunset is around 6 o'clock tomorrow evening before we might vote yet again. I suspect that the distinguished Senator from Michigan would prefer we do all those votes tonight and not to have the whole day Friday set aside and start voting again Friday night.

It is of course the distinguished chairman's call, but might I ask, Mr. President, if I might ask the distinguished chairman from Michigan, if it turns out we get to around 11 or 12 o'clock tonight and nobody has brought an amendment forward, thus indicating maybe there are not any, would it be his intention then to go to third reading?

Mr. RIEGLE. Mr. President, I would want to discuss that with the ranking minority member, who is not on the floor at the moment. I certainly want to talk with the leaders on both sides without making that decision.

But as the Senator from Vermont, my good friend, knows I do want to protect the rights of Senators who have indicated they want to offer an amendment to this bill. Of course, I think in fairness to the Senators the debate that took place with respect to the extended unemployment benefits bill I think lasted probably a lot longer than anyone anticipated when they first started. As a result of that, I know some Senators have gone. There is an important gathering that is occurring over at the Library of Congress tonight in honor of former Gov. Averell Harriman, so I know some of our colleagues have gone over to that particular event.

So I think giving notice now that the debate has ended on extended unemployment compensation benefits would give Members in their offices and other places the signal that we are here and ready to go and take up any amendment that anyone has.

In fact, I should also indicate that we are right now in this period of discussion in a period that has been designated for morning business, that the majority leader put us into at the end of the extended unemployment compensation debate, so that he could go and confer with other Senators on what might happen next on the extended unemployment benefits issue.

So, as soon as a Member arrives who is prepared and willing to offer an amendment I will consult with the majority leader and it would be my intention then to ask that the period for morning business be set aside and we then move immediately to the bill itself.

Mr. DODD. Mr. President, will the Senator yield?

Mr. LEAHY. I believe I still have the floor. I yield the floor with the permission of the Senator from Michigan.

Mr. RIEGLE. I thank the Senator.

I yield to the Senator from Connecticut.

Mr. DODD. Mr. President, if the distinguished manager of the legislation will yield, I have an amendment I am offering on behalf of myself, Senators CHAFEE, LIEBERMAN, RUDMAN, SMITH, as well as Senator KENNEDY, and we have been prepared to offer that amendment now, the Small Business Recovery Act amendment.

I just ask the ranking manager of the legislation whether or not he would be willing to entertain an amendment at this time?

Mr. RIEGLE. I am interested in having the Senator offer his amendment. If the Senator would suspend for just a moment I want to go in and indicate to the majority leader that we are going to proceed because I did not get a chance to speak to him before he left the floor.

Mr. DODD. If the manager will yield, maybe what I can do is begin to explain and I will not offer the amendment. I will utilize the morning business time to describe the amendment that we will offer once we get out of morning business so we will not waste our colleagues' time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

SMALL BUSINESS RECOVERY ACT AMENDMENT

Mr. DODD. Mr. President, at the appropriate time when we get back on the bill, whenever that might occur, I intend to offer an amendment on behalf of myself, Senators CHAFEE, LIEBERMAN, RUDMAN, SMITH, and KENNEDY, to the banking reform legislation.

Mr. President, this amendment is entitled the Small Business Recovery Act. It is an amendment that has been crafted by those of us who are from the New England States. We hope it will enjoy the support of our colleagues across the country.

It deals with the credit crunch issue which we have been feeling a tremendous amount of pressure over the last couple of years.

This is a bipartisan proposal. I must tell the Chair, Mr. President, that we have worked in a very bipartisan fashion over the last couple of years trying to get the administration to come up with some ideas on how we might avoid the kind of credit crunch problems we have been facing and which we now know other regions of the country are facing as well.

So this legislation is not specifically designed for the New England States. In fact, it ought to have significant appeal across the country as a way of trying to avoid some of the problems that we faced in our own region.

I would note for my colleagues that yet another institution today in Connecticut, the Connecticut Savings Bank, failed, was declared insolvent, taken over by the Center Bank in Connecticut, but 20 branches of that bank; that is one more institution in a State that has lost a number of them over the last number of months.

Ten percent of all the bank failures in the United States have been in the State of Connecticut, with asset losses of some $12.7 billion, to give you some idea in a State of 3.5 million people. So our economy is paying a dear price for these problems. But Connecticut is not unique.

As I say, there is a problem that is being felt elsewhere with growing frequency.

So, Mr. President, I will explain this amendment briefly to my colleagues, and then we get back on the bill, I can offer the amendment and invite comment from our colleagues who may be interested in knowing more about the legislation.

As I said earlier, Mr. President, we have been facing significant problems. We lost over 96,000 jobs in the State of Connecticut in the last 12 months. Business failures for the first half of 1991 are up 220 percent from the first half of 1990. Thousands of people have exhausted their unemployment benefits. And I regret, along with other colleagues, that we were unable to get unanimous consent on the extension of unemployment benefits this evening. I hope that will not be the case much longer, so that we can provide this needed relief for so many families across the country.

I did not engage in the debate a few moments ago, but I have tremendous sympathy with my colleagues who did stand up here who under the formulas did not get the weeks that they felt they should have received in dealing with the legislation.

At any rate, the credit crunch has contributed significantly to our economic woes. I am not going to go into anecdotal detail about the credit crunch problem. Suffice it to say that we had had countless meetings with manufacturers, retailers, people in the service sector, people involved in the building trades, people involved in commercial real estate, residential real estate, every aspect of the financial and business community, and the consensus is virtually unanimous that the credit crunch has had a profound effect on our inability to get back on our feet economically.

At any rate, this particular amendment that I will be offering is not a panacea at all for the credit crunch but it may alleviate some of the sting that the credit crunch has caused.

In his October 30 statement before the Small Business Subcommittee, Dick Syron, who was the president of the Federal Reserve Bank of Boston, outlined very succinctly I believe, Mr. President, the ways in which the current bank capital problems aggravate the credit crunch and cloud the prospects for recovery. Mr. Syron also focused on the fact that small businesses have been hit particularly hard. I would like to quote him if I could. He said:

> * * * Without substantial capital infusions, poorly capitalized institutions may not lend aggressively as economic activity picks up in the region. While firms with access to national credit markets or to banks outside the region are insulated from many of these problems, small businesses dependent on local lenders are likely to face continued restrained credit conditions.

And that is exactly what has happened in our region of the country.

It should go without saying that small businesses, as we all know—it was said on countless occasions here—of course, are the backbone of our economy. The largest area of employment comes out of the small business sector, and if small businesses, of course, cannot get credit they cannot grow, and if they cannot expand, of course, they cannot create jobs. And one of the reasons that we are debating tonight extension of unemployment benefits is because frankly we watched more people lose their jobs who never lost them in the past.

So this amendment, while not a panacea, we think based on conversations with our lenders, our small business, and the larger industry community in the New England States, we think this idea may just provide the needed shot that these lending institutions must have if they are going to extend the credit to particularly the small businesses that need some help.

As I said the Small Business Recovery Act is an innovative way of injecting capital into banks. It builds upon the Small Business Administration's Loan Guarantee Program, but gives it a new twist. Under our program, the guarantee would be for 75 percent of the value of a new stock issue of a small bank, with the total amount of the offering limited to $5 million.

The act utilizes the SBA's expertise in assisting small business. And it carefully targets small business by restricting eligibility for the guarantees to banks with $1 billion or less in assets. Moreover, banks would have to have a history of lending to small business to be eligible, and would be required to establish a small business loan pool in exchange for the guarantee.

Mr. President, I am aware that some concerns have been raised about this amendment, and I would like to take a moment to address them. In particular, I would like to respond to the notion that this guarantee program will put more taxpayer money at risk.

The cosponsors attempted to address that concern in this legislation in several ways. In the first place, we made it clear that brain-dead banks need not to apply for the guarantees—the bill restricts eligibility to those with capital of 3 percent or higher, which is a significant amount and would eliminate those banks that are hanging by a thread or have failed.

In addition, the bill sets up a fee structure to foot the bill for any guarantees that are activated. We would hope that would not be the case. Banks would pay an origination fee of half a percent, and an annual fee of 2 percent. Purchasers of the stock would pay a one-time fee of 2 percent. The Congressional Budget Office who we asked to analyze this amendment scores the amendment as budget neutral. Because we anticipated that there would be those who would ask what the budgetary impact would be, we asked for an analysis and we were told that it is budget neutral.

Moreover, we are not putting SBA in the business of bank regulation. In making decisions about which banks to cover with the guarantee, the SBA would rely upon the Federal bank regulators, who examine the institutions and who are best positioned to determine the long-term viability of particular banks that might want to qualify for this program.

Mr. President, in closing, I would just say that the people of my State and throughout the New England region are in desperate need of help, and they need it fast. And that is why we were sent down here, of course, to provide help when we could. Not to ignore their problems, but to see to that we provide some creative ideas and proposals that might alleviate some of the difficulties they face.

As I said at the outset, this amendment is not a panacea for our problems. It would be foolish to suggest so. But it may just be a way in which we can constructively, without budget impact, provide some help to these institutions and provide the needed capital that would allow them to open the credit window and to expand activities for our business.

Passage of the Small Business Recovery Act would offer a ray of hope to those in our region and across the country that are facing these hard times. We hope that we will not pass up the opportunity to pass such a positive proposal that could make a significant difference to many of this institutions and, of course, their customers, the businesses that must depend upon them.

I see my colleague from New Hampshire, and I am glad to yield to him.

Mr. SMITH. I thank the Senator from Connecticut for yielding.

I rise in support of his amendment. As the Senator knows, I am a cosponsor of the bill. And I want to commend him for his leadership on this. He has discussed the bill in great detail. I will not repeat all the points about it. But it is important to point out that this bill does create a pool of capital for qualified small businesses in New England. It is a creative solution. We need somebody to come up with some creative solutions, and this is one.

It is not a panacea, as the Senator has said, but it is an attempt to make a start in trying to help the small businesses and to help create this pool of capital.

As the Senator from Connecticut well knows, we have had some terrible economic times in New England. Speaking for New Hampshire, less than a month ago, over 100 banks and/or bank branches were closed in 1 day by the FDIC in a State with little over 1 million people. That is a dramatic impact.

There are people out there with loans who are in a performing status, that is, people are making the payments on those loans, and those loans are being called even though the payments are being made. That is how severe the situation is in New England. We need help. This bill is a good step in the right direction.

I thank the Senator for his leadership on it. I am pleased to be a cosponsor of it and look forward to its passage.

Mr. DODD. I thank my colleague.

Mr. President, if I may, I would like to read briefly a letter, dated November 14, 1991, from Robert Reischauer, who is the Director of the Congressional Budget Office. We asked for the budgetary impact of this proposal. He responds by saying:

> DEAR SENATOR: At your request, the Congressional Budget Office has estimated the cost of a program similar to the one authorized by S. 1753, which would allow the Small Business Administration to guarantee a portion of the cost of stock or debentures issued by qualified banks. As you specified, we used the following parameters provided in your letter: $500 million in total stock issues; 75 percent federal coverage; 0.6 percent origination fee; 2 percent annual premiums paid by banks; 2 percent purchaser payment, due upon purchase; 6-year guarantee; and all fees based on the total amount of the issue, not only on the insured amount.
>
> CBO estimates that receipts from fees would cover the costs of the program, which would result from the failure of participating banks. This estimate is based on an estimated loss rate of about 15 percent. On this basis, we estimate that such a program would result in no net additional cost to the federal government, when valued using the procedures specified in the Federal Credit Reform Act of 1990.

Mr. President, I read the text of the letter for those who might be interested about the fundamental threshold question: Does this have a budgetary impact?

Mr. President, I gather we are still in morning business here.

I see my senior colleague from New Hampshire is here as well, Senator RUDMAN. He is a cosponsor of this legislation and may want to comment on this. But, if not, I would be willing to yield the floor at this point and wait for us to get back on the bill and then try to abbreviate the debate so we can consider the amendment.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

THE SMALL BUSINESS RECOVERY AMENDMENT

Mr. CHAFEE. Mr. President, a few minutes ago, my distinguished colleague from Connecticut, Senator DODD, discussed a piece of business that at the proper time we from New England will be presenting. It is called a small business recovery amendment.

Everybody knows that in the past few years, things have been very difficult for the Nation's small business community. The engine of growth in the 1980's was clearly small business, and that is being hardest hit by the current economic downturn. I am especially concerned about the lack of credit availability for small businesses.

More than 50 percent of the jobs in my State are created and the employees are employed by small businesses. So when small businesses are unable to secure loans for either expansion or for maintenance of their current operations, it has a very severe impact on our State's economy.

In addition to that, we in Rhode Island have been going through literally a crisis, Mr. President, since the January collapse of the State's private deposit insurer. Thirteen of our State's financial institutions have been closed for about 11 months, thus drying up a very valuable source of credit. To make matters worse, even the State's largest and healthiest banks have been forced to tighten their lending requirements in order to comply with Federal regulations. As a result, the small business community is being squeezed. Sound, healthy profitable companies are finding it difficult to obtain credit.

How can we ease this credit crunch? I have been grappling with that question for months, as have my fellow Members of the New England congressional delegation. We have hosted meetings with Secretary Brady. Indeed, he came to our State last spring to witness firsthand the business problems that we face. Accordingly, Mr. President, we crafted this amendment to help reinvigorate a portion of the Nation's small business community.

The small business recovery amendment would establish a $500-million loan guarantee program directed toward reenergizing small businesses in States that have been hardest hit by the credit crunch. This legislation would permit the Small Business Administration to guarantee the purchase of stock at certain community banks around the Nation. This guarantee would be limited to $5 million per institution, and that institution would have to dedicate the loan capacity of that investment to bona fide small business investments and development.

Some people might wonder why would anyone want to invest in a small community bank these days. A 75-percent SBA guarantee is a strong incentive. The investor knows that in the worst-case scenario, he would lose just 25 percent of his investment. On the up side, the investor would stand to gain fully from any stock appreciation. So it is a relatively low risk investment.

I have discussed this proposal with the Chamber of Commerce in my State and various State bankers associations. Everyone seems excited about the plan. At least eight Rhode Island banks would stand to benefit from the plan, from Westerly to Woonsocket. Eight institutions reaping to total of $40 million in new investment would be a shot in the arm to these banks and to the small business communities.

This amendment is not going to end the credit crunch. It is not going to cure every ailment that is now plaguing the small business community. But it is an important step forward.

I might say, Mr. President, many of us have pointed out on this floor that constantly we vote for good measures which impose added burdens on industry and business. I voted for them, and they are good measures. I do not care whether it is the Americans with Disabilities Act, or whether it is the Civil Rights Act, or whether it is parental leave legislation. They are all good, but they all impose additional burdens on business and industry, where we look to create jobs.

So this legislation does something on the other side, Mr. President. It encourages investment in small banks, with those banks being committed to make loans to small business and thus make credit available. It is no giveaway program. This has been discussed with the FDIC; it has been discussed with the Secretary of the Treasury; it has been discussed with the Deputy Secretary of the Treasury, Mr. Robson; it has been discussed, obviously, with the SBA. And each of these institutions and groups and individuals feel it would be a good step forward.

So, Mr. President, I and the others would be prepared to answer any questions about details. We have not yet presented the legislation because this is not the proper time. But we will subsequently, shortly, and certainly before the adjournment of this session, present this legislation which we believe will be a big step forward.

I want to thank the Chair.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to proceed as in morning business for no more than 7 minutes.

The PRESIDING OFFICER. The Chair informs the Senator from Connecticut that we are in morning business.

SMALL BUSINESS RECOVERY ACT AMENDMENT

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise this evening to join with my colleagues from Connecticut and Rhode Island to offer support for what we are calling the Small Business Recovery Act, which will be offered as an amendment to the banking bill.

Mr. President, this amendment deals directly with a problem of tremendous concern to people in States like Connecticut, but one that is also a concern for people and will increasingly be throughout the country, and that is the simultaneous battering by a recession and a credit crunch.

Connecticut and the Nation are suffering one of the worst recessions in recent memory. Unemployment continues to rise and businesses continue to fall. The facts are painfully clear, and I will give some regional effects.

In 1990, business failures in New England increased by 138 percent over the previous year. That compares to a nationwide increase of about 27 percent.

From 1989 to 1990, commercial and industrial loans dropped by 2.8 percent nationally, but in New England they dropped by 15.3 percent.

Mr. President, what has become clear is that the credit crunch is devastating any hopes that we might have for recovery soon.

There was a recent article in the Wall Street Journal that described the credit crunch as the "domestic equivalent of Saddam Hussein—an enemy that won't go away." The Wall Street Journal is not alone in this description. President Bush has called the credit crunch "a roadblock to recovery." Chairman Alan Greenspan stated that "The economy is moving, but it's moving against a 50-mile-per-hour headwind, which is the credit crunch." And Michael Boskin, who is the chairman of the President's Council of Economic Advisers, said, "The serious problem of availability of credit in the United States is probably the single biggest threat to a sustained recovery."

Mr. President, for the past 18 months, our approach to this problem has been to reduce interest rates, a move which I would guess most of us fully support and will continue to support. Federal Reserve Bank interest rates are now at their lowest point in the past 18 years, but banks are not lending. As one homebuilder in Connecticut said to me, "I don't care if the interest rate is 1 percent; if the banks are not lending money, what good does it do me and the economy?"

The gap between the cost of funds charged to banks and the rates charged to borrowers is, in fact, widening, and the money supply is not growing. In this case, Mr. President, interest rate reductions are simply not enough.

That is why the time has come for us to take proactive steps to get banks back in the business of lending money. There is no question that the loss of bank capital is a major cause of the credit crunch. In fact, Dick Syron, who is the President of the Federal Reserve Bank of Boston, calls the current problem not so much a "credit crunch" as a "capital crunch."

In testimony before the Small Business Committee a few weeks ago, Mr. Syron said, "Banks interested in improving their capital-to-asset ratio have only three choices: They can retain more earnings; they can shrink their assets; or they can increase equity by issuing new stock." Unfortunately, none of these options are particularly viable, and in most cases small businesses and consumers will pay the price.

Mr. President, this amendment will provide one additional constructive option. It authorizes the Small Business Administration to partially guarantee new capital investments in sound, small commercial banks or mutual community banks. SBA participation would be for amounts up to 75 percent of the issue price. The capital would be repurchased if the banks fail within 6 years of the issue date.

Mr. President, this amendment would serve two purposes. First, it would aid in the recapitalization of economically sound smaller banks, using private capital with a partial Federal guarantee, and therefore would provide much needed and long awaited relief to one of the primary causes of the credit crunch, which is the lack of bank capital.

Second, this program focuses directly on lending to small firms. Small businesses, after all, are the most vulnerable in a tight credit market and are most affected by the credit crunch. The fact is that the larger firms can still find banks that will lend them money. Under this amendment, capital raised by security sales would be placed in a loan pool for the purposes of making small business loans. Participating banks must also establish a small business outreach program.

Mr. President, this amendment is absolutely self-financing. And that is part of what I hope will make it attractive to the overwhelming majority of Members of the Senate. Through a self-insured fee structure, participating banks and purchasers pay a designated premium into an earmarked fund. In fact, the Congressional Budget Office has ruled that this fund will completely cover any losses realized from this program.

This amendment provides banks with a mechanism to attract private capital by using a partial Federal guarantee. This is not a bailout, it is not open bank assistance, and it is not an accounting gimmick. This is a self-help program in which Government merely acts as a catalyst.

The amendment is pragmatic and straightforward. It targets small banks on their way up, not those on their way down. The leverage potential of the program is enormous. Under present law, for each dollar of capital added, a bank may add $12 in assets. Now, since this amendment limits the amount of capital raised under the program to $5 million per bank, the leverage of this capital could provide up to 12 times the investment—$60 million per bank—much of which will lead to small business lending.

And finally, this program is not a free-for-all, nor is it permanent. Banks may not participate as a matter of right. They have to be approved by the appropriate Federal agencies as banks that are solid and on their way up instead of banks that are weak and on their way down. The program is capped at $500 million and expires at the end of 6 years.

Mr. President, the credit crunch is truly strangling the Nation's economy and impeding our recovery. Without capital, banks cannot provide credit. Without credit, businesses cannot grow. And without business growth, jobs cannot be created or protected. It is as fundamental as that. This is not a panacea, but it will get us moving in the right direction.

I hope before long, when this amendment is introduced, the Senate will overwhelmingly adopt it.

I thank the Chair. I yield the floor. I suggest the absence of a quorum.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold his request.

Mr. LIEBERMAN. I will, indeed.

The PRESIDING OFFICER. The Senator from Iowa.

POW/MIA HEARINGS

Mr. GRASSLEY. Mr. President, last week the new Senate Select Committee on POW-MIA's held hearings for approximately 30 hours, and they did that over the course of 3 days. The final of these initial hearings will occur tomorrow morning. The hearings have been, in my view, quite successful and surprisingly so to me because, Mr. President, I must admit that at first I had reservations about the utility of the committee's work starting with hearings. And I had expressed those reservations to my colleagues on the committee, including Senator KERRY, the chairman, and Senator SMITH, the vice chairman. I did this for fear that precious time would be diverted from the investigation aspects of the committee's work.

Now, Mr. President, having sat through the 3 days of testimony from administration officials and critics alike, I can now say that these hearings were not only useful but constructive and very enlightening as well. What is more, the committee has established an extensive record and, most importantly, established a baseline from which to begin our investigation that will take us the next 13 months.

Accordingly, then, Mr. President, I wish to commend to my colleagues here in this body the efforts of Chairman KERRY, of Massachusetts, and Vice Chairman SMITH for their leadership, but also all the people who serve on the committee with me as well as a lot of work the staff has done so far, for very thorough preparation, also for an evenhandedness of approach and accommodation of thoughts, both Government officials and private citizens alike who wished to express their views.

Of course, this is one of the most volatile, emotional issues that I have experienced in my years in public service. There has been a great deal of discontent for many years out there in the countryside, the grassroots of America, over the way our Government has handled the POW-MIA issue. I personally have experienced frustration felt by many of my own constituents over the years. The principal problem is my constituents simply cannot get their questions answered. Most importantly, when they ask the Government for answers to questions they have not been able to get those questions answered.

Mr. President, this investigation process, that started with the hearings last week, is the Government's 12th investigation into this issue. Eleven times the Government has looked into the signatures, and 11 times the American people are still not satisfied. Why is this?

Why is this? Why in the world are we starting a 12th investigation? What can possibly be learned that was not learned by the other 11 efforts? The 11th of these was concluded this past May. This was the inquiry of the Senate Foreign Relations Committee minority staff.

That inquiry in which I participated, even though I am not a member of that committee, is the first such effort by any Government entity that concluded the Government has mishandled the POW-MIA issue. There is a fundamental reason why the 11th inquiry is at odds with the first 10. It is a simple matter of oversight and information.

Of the first 10, 7 of these investigations were done by the executive branch, and 3 by congressional committees. The seven executive branch inquiries were not all thoroughly reviewed by Congress and the three congressional inquiries were not based on all pertinent data available to the U.S. Government on this issue.

So for its part Congress, which of course represents the people of this country, has not had the ability prior to the Select Committee, the formation of this Select Committee on POW-MIA, to really resolve this issue, to get thoroughly into it.

Legitimately you might ask how do I know that?

I spent 4 days at the Pentagon a year ago in September with professional committee staff; I might say professional committee staff that has 68 years of history of intelligence analyzing and intelligence gathering. We poured over hundreds of live sighting reports, inclusive of raw intelligence data.

Apparently I was the first Member of Congress to have seen this raw intelligence data. At least that is what we were told by DOD officials at that time. Prior to that time, it seems like Members of Congress and their staffs had only reviewed summaries. The summaries represent, of course, the conclusions of each case. How can a proper evaluation take place if all that anyone might evaluate are just conclusions?

What about the data and the reports from which the conclusions are drawn? They are the most important part in making a determination of whether or not our Government has thoroughly handled this.

At the end of my 4th day sifting through these files I came away with two definite impressions. First, there are major discrepancies in follow-up deficiencies in these reports. When you read the summaries, plus the live-sighting reports and the raw data, the live-sighting reports and this raw data, and I might even add plus the casualty files, there are all kinds of inconsistencies and illogical conclusions drawn. I have suggested to my colleagues on the select committee, in the strongest terms that I can, that we get access to and review all of this data. I think that our committee will do this.

The second impression I had from my 4 days there at the Pentagon about 14 months ago was that we needed a lot more resources and manpower to review and evaluate these files than either I or any of the three staffers I was with had time for. It was at that point that I knew an entire committee would be needed. That is why I joined Senator SMITH as an original cosponsor to create the select committee which this Senate has since created.

Now that the committee has been established, the next question is what will it take to resolve this issue, hopefully, to answer our constituents questions, finally, once and for all?

First, we have to have a new attitude. That goes for Congress, it goes for the executive, it goes even for the media. It is a little bit like John Locke, the British philosopher, in using the term "tabula rasa," when he called for a fresh approach in determining what the human mind is capable of knowing or what maybe the human mind is not capable of knowing. "Tabula rasa" basically means blank slate. He said in a sense, let us wipe the slate clean. That is what we need here and now as we go into this 1-year investigation. We have to start with an attitude that has a clean slate.

Those who have preconceived notions, those who have biases, those who have agendas—and there is all of this somewhere in our country, somewhere in our Government on this issue, some of that even maybe in this Congress—but these all must be set aside. This should include the public at large which would do well to send a clear message to Vietnam and Laos that we do not seek retribution, that returning any men that may be imprisoned there would get good will from all of us, including CHUCK GRASSLEY as a U.S. Senator.

Second, the committee needs access to information. This access should be full, and it should be complete. Let it be known that the committee in particular, and the Senate as a whole, will not hesitate in pursuing access to all pertinent data. Once this information is provided it must receive an unbiased and a professional evaluation.

Third, this is probably the most difficult thing, but we have to be prepared after 18 years if we find evidence that we have left soldiers behind to admit that. We have said as a Government, the U.S. Government, we said it countless times in the past, that there is no credible evidence to show that we left soldiers behind.

What if the evidence points to the contrary? Are we prepared to back it up? Sometimes, as in human nature, people can get too close to a situation and not know it. Their judgment becomes clouded. They are unable to see the forest for the trees. Perhaps that is what has happened in this case. Perhaps this issue needs new blood and a fresh viewpoint and even a fresh attitude.

There is no reason to point fingers. There is no reason to demand accountability. Let us find out the truth, and fix the system if it needs fixing. Leo Tolstoy once wrote about how sometimes we let truth elude us. He said we often put too much faith in the system and we lose sight of the truth. "Truth," Tolstoy said, "is like a lizard." The system is like the tail of that lizard. We grab at the tail, but the lizard sheds his tail, and we have the tail in our hand and off goes the lizard to grow another tail.

We are left then in a sense grasping the system and we are not grasping the truth. We have to be in pursuit of the truth.

Perhaps I believe that analogy is appropriate in this case. Perhaps we have defended a system that assumed from the beginning that we left no one behind. That system pursues the discovery of bones and the discovery of crash sites, but that same system cannot seem to handle evidence to the contrary. When confronted with the possibility of live Americans still captive, the system defends itself with knee-jerk denial.

I certainly do not know if this is the case, Mr. President, but I expect that in the course of the next year we will find this out.

Ultimately we have to get answers for our constituents and of course the public at large. If we fail to answer their questions, then we will have a 13th and a 14th investigator. We are going to have as many investigations as is necessary to get the answers to the questions being asked from the grassroots, of us in the Congress. I for one want this committee to provide those answers.

You know, we may never give the people the answers they want, but we ought to be able to give them answers to their questions and we ought to be able to back up those answers with facts and evidence. From last week's hearing there were two very significant revelations.

First, the administration signaled, and signaled this for the first time—a willingness to open up, acknowledging that mistakes have been made in the handling of this issue in the past. In the context of tabula rasa, which I referred to earlier, this shows good will, and it shows cooperation on the part of this administration.

Second, at least one current U.S. official told the committee last week that there is evidence that we left men behind. I would like to quote from the transcript of an exchange between Senator REID of Nevada and Mr. Bill Bell, who now heads our Government's new office in Hanoi. I will read from that transcript.

Senator REID asked this question of Mr. Bell: "Did any of you have any information or any knowledge, or belief, that there were Americans alive in Vietnam after Operation Homecoming terminated?"

Mr. Bell said: "Yes, sir."

Senator REID then asked: "Would you tell me, Mr. Bell, upon what you base your statement?"

Mr. Bell's response: "Well, sir, at the time of the POW release, I don't think there was any hard evidence to indicate that. But I think after we began to interview refugees, and based on the investigations that we've conducted in the field and overall, I think we can say that with certainty now."

I say parenthetically, that means we have left some soldiers over there.

Senator REID said: "How many examples do you have that you can give the committee?"

Mr. Bell: "Possibly 10 or less, sir."

Mr. President, if this statement is corroborated, it contradicts the statements made by U.S. officials ever since 1973. And that official statement was that there are no more living POW's in Southeast Asia.

These two developments, plus the body of information collected by the committee during the hearings, now constitute the point of departure for our investigation.

Mr. President, now we begin the task of uncovering the paper trail that will help resolve this issue of whether or not there are any POW's left in Vietnam. In my view, Mr. President, we have had a successful beginning. It is my hope that my colleagues who are not on this committee will keep abreast of the committee's activities during the coming year.

Once again, I had some doubts about whether or not we ought to start having these hearings, but I commend Chairman KERRY for his idea, and I think these hearings have been a very good baseline to commence our work, and I am glad that we held those hearings.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DASCHLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Are we still in morning business?

The PRESIDING OFFICER. The Senator is correct.

SMALL BUSINESS RECOVERY ACT AMENDMENT

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be an original cosponsor of the Dodd-Chafee-Lieberman amendment to the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act.

I want to say to Senator DODD that when we finally get to this, when it is called up as an amendment to the banking bill, I would like to speak a few moments on it. But for now let me merely say that I believe this is a new and innovative approach to getting more money in the hands of small banks, that is money from the outside, and then creating a pool so that they can loan to small businesses. I think most of it will go to small communities. The banks will be small by definition, and we will protect ourselves because there will not be a very large fund. The way it is drafted, it seems to me that the risks are minimal and the chances of money getting into small business hands for their use is very, very good.

So I think overall this is a good approach. I hope that it will be adopted and, even if we have to go to conference with a different House bill, I hope that they would go along with something like this because small business needs loans, needs capital, and smaller banks need equity, and this will assure them of equity because we will be guaranteeing 75 percent of a certain amount of equity for a number of small banks across the land, the sum total of which will be a half billion dollars, and that will then be a pool from which those banks will loan money to small businesses under Small Business Administration rules.

Normally, I do not like to add more regulatory schemes to the equity market of banks and onto the small business acquisition of loans, but it does seem to me that someone here has hit upon a rather innovative way and a way that is rather risk-proof and certainly less risky than many of the financial institutions that we have heretofore insured. I think this one will bring good benefits to the small business people of America.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, regrettably earlier this evening some Senators objected to proceeding promptly to the unemployment insurance bill under a proposal which would have prohibited amendments and permitted us to complete action on the bill today.

I regret that very much, because I think it raises questions about our ability to conclude this matter at all, thereby leaving open the possibility that the millions of unemployed families so desperately in need of benefits may not receive any benefits at all.

I hope that does not occur, and we will do our very best to see that it does not occur. In the interim, we have attempted to gain consent to proceeding to the bill this evening. The argument made by several Senators was that they wanted a chance to offer amendments to the bill. Obviously, the only way they could do that is if we take up the bill. However, objection was made to that.

I consulted with the Parliamentarian and the staffs of both the majority and the minority and have been advised and conclude that if we go through the required parliamentary steps we can get to this bill sometime during the night, probably around 2 a.m., and the bill would then, of course, be before the Senate and available for amendment.

That struck me and strikes me as unnecessary and unwise, and therefore following consultation throughout this period with all of the interested Senators, I will now shortly propound a unanimous-consent request that will permit us to take up the bill at 9:30 a.m. tomorrow and to do so under an agreement in which there would be only four amendments in order to be set forth as I read the proposed agreement.

I hope very much that we will be able to get this agreement and if we do, I will make a brief statement regarding where we stand and how we intend to proceed with respect to these amendments and with respect to the bill generally after that.

Accordingly, Mr. President, I now ask unanimous consent that when the Senate completes its business this evening, it stand in recess until 9:30 a.m. tomorrow, Friday, November 15; that following the prayer, the time for the leaders be reserved for their use later in the day and the Senate then proceed to the consideration of H.R. 3575, the unemployment insurance bill received today from the House; that in consideration of this bill the only amendments in order be the following: Two amendments by Senators ROTH and CONRAD dealing with the reachback provisions of the bill; one amendment by Senators BREAUX, JOHNSTON, and others dealing with the criteria for eligibility for the three tiers of benefit payments; and one amendment by Senator SMITH applying the total unemployment rate as one criterion for eligibility for a 13-week level of benefit payments; and that no motions to commit be in order with respect to this bill.

The PRESIDING OFFICER. Is there an objection? The Chair hears none, and it is so ordered.

The text of the agreement is as follows:

Ordered, That at 9:30 a.m. on Friday, November 15, 1991, when the Senate resumes consideration of H.R. 3575, the Unemployment Insurance Bill, the Senator from New Hampshire (Mr. Smith) be recognized to offer an amendment applying the total unemployment rate as one criteria for eligibility for 13 weeks unemployment compensation, on which there shall be 30 minutes debate, equally divided.

Ordered further, That upon the expiration of yielding back of that time, the Senate proceed to vote on, or in relation to, the Smith amendment.

Ordered further, That the following amendments be the only other amendments in order:

Two Roth/Conrad amendments, dealing with the "reachback" provisions of the bill;

One Breaux/Johnston/and others amendment, dealing with the criteria for eligibility for the three tiers of benefits payments;

Ordered further, That no motions to commit be in order.

Mr. MITCHELL. Mr. President, let me say now that Senator DOLE, Senator BENTSEN, and I, and I hope an overwhelming majority of Members of the Senate will oppose all of these amendments. An agreement has been made. Approval of any of these amendments will break that agreement and raise the possibility that there will be no bill to provide unemployment benefits to those who need them.

I recognize and am sympathetic with the concerns expressed by Senators who objected to proceeding this evening and want to alter the bill in a manner they deem fair and appropriate. But I believe as I have said all along that it is imperative that we act and act promptly.

It is my intention that we complete action on this bill if at all possible this weekend. If that means a session all day tomorrow, all day Saturday, then we are going to have a session all today tomorrow and all day Saturday. Every Senator should be aware of that. Every Senator should adjust his schedule accordingly.

We could have proceeded on this bill this evening. We were precluded from doing so by Senators who, exercising their rights under the rules, prohibited us from doing so. That means we must do on Friday what we could have done Thursday. That means what we must do on Saturday what we could have done on Friday.

That is not my preference. But it is a course of action that has been forced upon us as a result of these circumstances.

I emphasize that I am deeply sympathetic with the concerns of those Senators who have objected to this bill and the various provisions in it. And I understand their concern and their desire to fight for the people of their States. But we have to get this bill passed. We are not going to get this bill passed, we are not going to have an agreement, if any of these amendments are offered.

We are considering alternative methods to accommodate the concerns of Senators. We have been unable to reach agreement on any of them now.

I just want to say to Members of the Senate, and I will repeat this again tomorrow when we vote on these amendments, this is an imperfect bill. I have been in the Senate 11 years, and I have not seen a perfect one yet.

But we have been at this for 4 months. Millions of Americans are in pain, suffering, and necessity. If we break this agreement now—not my agreement, but this agreement—if we break this agreement now no one can predict the consequences, and we cannot rule out the possibility of no bill at all.

So we will proceed tomorrow morning. We will proceed until we finish this bill. I hope very much that we will be able to finish the bill in a reasonable amount of time tomorrow, and if not tomorrow, then on Saturday.

Mr. President, I yield to my distinguished colleague, the Republican leader.

The PRESIDING OFFICER (Mr. EXON). The Republican leader is recognized

Mr. DOLE. Mr. President, let me first say, I understand the Senator from New Hampshire is willing to accept 30 minutes equally divided on his amendment. That would be helpful.

Mr. MITCHELL. Mr. President, in that event, would the Senate agree to amend; to get a unanimous-consent agreement now limiting the time for that to 30 minutes?

Mr. DOLE. Thirty minutes equally divided on the amendment?

Yes.

Mr. MITCHELL. Might I propose to the managers and to the Senator from New Hampshire that we lock that in for 9:30, and vote on that first.

Mr. President, I now ask unanimous consent that, when the Senate resumes consideration of the bill, the Senator from New Hampshire be recognized to offer his amendment; that there be 30 minutes of debate equally divided on the amendment; and that, at the conclusion of or the yielding back of that time, the Senate vote on or in relation to that amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I want to thank the Senator from New Hampshire for his courtesy. I think that will get things rolling tomorrow.

I want to underscore what the majority leader has said. Certainly, any time we have a formula bill on this floor, whether it is highways or any other bill where States receive money from the Federal Government or benefits of any kind, surface transportation, some of us do not like the formula. As I recall, I was excited about the formula on the Surface Transportation Act.

I understand and I am sympathetic with those who raise questions, and I certainly have no quarrel with that. But the majority leader has made a statement that ought to be affirmed, I hope by a great majority of us.

If we want to get a bill tomorrow; the House is not doing any business tomorrow. So if we amend it, it is going to go to conference sometime next week. We had a visit with the Speaker by conference phone this evening. There are a lot of things that are going to be happening next week.

It just seems to me that those of us, including the executive branch of Government, as imperfect as this bill may be to some, have concluded that we have an agreement here. We made an agreement. It does not satisfy everyone. But, hopefully, it will satisfy a majority so we can get all of these amendments after—we had all the debate tonight I would think. There cannot be much left to be said about the amendments. But we have had the debate.

I hope we can conclude action on this bill by noon tomorrow, because there is still as I understand it, if we can hand enroll it, get it to the President tomorrow, there is still a chance some of these checks would go out before Thanksgiving.

So I just want to reaffirm the statement by the majority leader. If you support the President, if you support the leadership, you support the House side, and having dealt with the House side when they send something over here and we amend it, send it back, they are not going to like that. We may go to conference, they may strip it, and then we are right back where we were.

I have been visiting with officials from the Labor Department, who are certainly honorable people, trying to figure out some way we could address the concerns of the Senator from Delaware, the Senators from North Dakota, Louisiana, Arkansas, and Kentucky. They do not know of any way. But they are still looking. It is not that we have any disagreement with our colleagues. There has been an arrangement, a deal, whatever, and we need to carry it out; get the checks in the mail.

So I am willing to help the majority leader. I will urge my colleagues on this side to dispose of these amendments as quickly as possible, pass this bill, and send it to the White House.

Mr. BENTSEN. Will the leader yield at this moment?

Mr. President, I find myself in an extraordinary position in trying to defend a formula which I am not really totally sold on. I would much prefer total unemployment criteria to determine whether we should give assistance or not which is much more uniform in its application. We would not get the kind of variances from the States as to how they qualify people for unemployment compensation.

But it is interesting how far they have gone in the direction of what we were doing in the Finance Committee because we were talking about $5.4 billion in the way of benefits. And we are at about $5.2 billion. That is substantially more than the administration was ready to support in the past. So they have gone a long way in our direction on that one.

We have seen the House move to take what I have proposed insofar as getting those people who had the highest incomes and had substantial increases of incomes carry most of the burden in paying for the unemployment benefits. So they have moved in our direction on that one.

But they have done variances within States. I understand that. I share the concern of my friends from North Dakota, Kentucky, Louisiana, and Arkansas.

In the future I will be working as chairman of the Finance Committee to see that we move more and more in the direction of total unemployment to be used as a criteria for benefits in the future.

I hope very much that we can move this along and get these funds out, as they should be after 4 months of debate; that we can get them out to the unemployed who desperately need them.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I think all of us regret that we have to take this much time on this piece of legislation that is so important. I regret that it has come to this but, I just happen to recall a saying that I heard a long time ago, you arrive at a certain point or a certain age, that a fight knowing that you are going to fail is better than no fight at all.

Now we have announced that everybody is going to stick together and beat these three or four amendments. But one thing I can assure my people back home is that I tried. It may not be sufficient, may not be adequate, but I am going to try.

I think that if you look at the formula, you can sing any song you want to with it. Not a Member of this body participated in the agreement.

Now they say they have an agreement we have to stick by. I do not understand it. We were not in on it, and we have an entitlement bill here. Do you know what entitlement is? If you go from 6 to 13 weeks, where are you going to get the money? Your entitlement. Where do you get the entitlement money? It is just like all the rest of the guesses around here. We guess wrong and we have a bigger deficit. If you are going to guess wrong and you are going to have a bigger deficit, why in the world, then, can some of us not talk to the leadership and say let these States that have been hurt be helped? It just does not make sense to me that five States can be hurt, basically. I hope that some will join with those five States tomorrow and help some. But we understand this, and I go back on this particular item that fight knowing you are going to lose is better than no fight at all.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, this is in extension, you may say, of the remarks of the distinguished chairman from Texas, the chairman of the Finance Committee, who stated that he hoped that they would amend the law, and that the unemployment rate as against the insured rate would be used as a measure of the statute.

May I make a simple comment, as a sometime Assistant Secretary of Labor, that the reason we use the insured rate today is simply when this statute was enacted in 1935, there was no such thing as an unemployment rate. We did not have the technology to sample the population and come up with an overall rate. We could only count, and the counting was the best thing available.

It was a decade later—actually it was not until 1948 that we were able to publish an unemployment rate. But we now have done it for 40 years with reliable statistics, which is a better one than an actual count. A sample is better than a census.

The Senator from Texas is right. As a member of the committee, I hope that we might proceed in that manner and, just possibly, this might help to clarify for Senators this not immediately obvious distinction.

Thank you.

Mr. CONRAD. Mr. President, I just want to thank the majority leader for his extraordinary patience and thank my other colleagues, as well.

We waged this fight tonight because we felt very strongly and very deeply that the final bill which has been offered to us is not fair. It is very hard to accept that someone who has run out of benefits in one State is treated one way; someone who has run out of benefits in another State is treated another way. And, at least, perhaps, by making this fight, we have raised the sensitivity of others, and that there will be a broader understanding the next time this fight needs to be waged.

I also very much appreciate the remarks of the chairman of the Finance Committee that there is a more fair formula. We had a better formula out of the Senate, and that is a formula that he will support for the future. Hopefully, too, there will be people who understand some States are not being treated as well as others. If there is an opportunity in the future, that should be rectified.

I yield the floor.

CLEAN AIR ACT IMPLEMENTATION

Mr. LAUTENBERG. Mr. President, I am pleased to join Senators MITCHELL, BAUCUS, LIEBERMAN, and others to highlight the anniversary of the new Clean Air Act.

Passage of the Clean Air Act Amendments last year was one of the most important environmental events in our Nation's history. It broke the 10-year deadlock in cleaning up the Nation's air.

The Nation owes its gratitude to the distinguished majority leader, whose persistence and leadership made it possible to enact this important law.

We can all take pride in our legislative work. But, Mr. President, much of the real work remains to be done—to promulgate regulations, and to change the way America lives, and does business—to clear the air.

EPA has a big job—to issue the rules and the guidance needed to meet the goals of the law. EPA has been moving forward. But, Mr. President, I do have concerns that in some respects, EPA is dropping the ball.

The Nation's health is at stake. The future of our environment is at stake. This is not a place to accept anything less than 100 percent.

Air pollution may be causing up to 50,000 premature deaths per year. The American Lung Association estimates air pollution exposure is costing Americans $100 billion every year in additional health care costs. Roughly 150 million people, including all New Jersey citizens, live in areas that fall short of public health standards for either smog or carbon monoxide.

The Clean Air Act would control acid rain—acid rain that is hurting our precious forests and lakes. Rain in New Jersey has been measured at levels at least 70 to 80 times more acidic than natural rain. That is threatening New Jersey streams and lakes and our pinelands. Excessive levels of nitrogen are also threatening New Jersey's coastal waters.

The Clean Air Act finally clamps down on toxic air pollution. Toxic air emissions were 2.4 billion pounds nationwide in 1989 and 30 million pounds in New Jersey, according to right-to-know data. New Jersey ranks near the top of States in air toxic emissions per square mile. And total air toxic emissions may be up to five times higher when we account for sources of emissions not included in right-to-know programs.

EPA says that air toxics cause close to 3,000 cancer deaths a year. It also causes respiratory disease and birth defects. Air toxics may also contribute to the toxic pollution of coastal waters off New Jersey.

When we passed the clean air amendments last year, we made the tough decisions necessary to rid our air of smog, carbon monoxide, air toxics, and acid rain.

We gave EPA clear direction. We gave EPA the tools to get the job done. Now, EPA has to go out and use them.

I am concerned that, in a number of areas, those tools are sitting on the shelf.

We gave EPA the tool to control air pollution from gasoline fueling. It is a big problem. When we fill'er up, we pollute the air with vapors that escape from the gasoline. Those vapors contribute to smog. For 14 years people battled over how to solve the problem. Automakers said, control it at the nozzle. Service station owners said, control it in the car.

Last year's Clean Air Act amendments settled the issue. We told EPA in no uncertain terms to issue regulations within 1 year that required cars to have onboard vapor control systems. The regulation was supposed to be finished tomorrow. But the EPA has hardly begun.

Onboard systems will cost the automakers $25 a car. And motorists will save more than that in fuel costs, as vapors that used to be lost are captured and burned.

Mr. President, the Clean Air Act gave EPA no discretion. EPA is required to act. But EPA is dragging its heels. It is time they get going.

Mr. President, EPA has also failed to issue guidance for enhanced inspection and maintenance programs which the act requires some States, including New Jersey, to implement. These programs will ensure that existing vehicles are not polluting the air. But without this guidance, States are stuck.

They do not want to go one way, and then have EPA tell them they should have gone in another. States need to get their programs up and running if they are to achieve their clean air responsibilities.

Mr. President, the anniversary of the Clean Air Act is a time to renew our commitment for the American public. For them, the new Clean Air Act is still a promise. A promise we need to fulfill—to see that our air is free from poisons, irritants, and toxics.

So I call on the EPA to do the whole job to protect our health and environment. I intend to work with Senator MITCHELL, Senator BAUCUS, and other Environment Committee members to see that EPA does just that.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 384, Gregg Ward, to be an Assistant Secretary of Energy;

Calendar No. 385, Susan J. Crawford, to be a judge of the U.S. Court of Military Appeals;

Calendar No. 386, Robert E. Wiss and Herman F. Gierke, to be judges for the U.S. Court of Military Appeals;

Calendar No. 387, Maj. Gen. James R. Clapper, Jr., to be lieutenant general; and

All nominations reported today by the Committee on Labor and Human Resources, except for the nomination of Carolynn Reid-Wallace.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed en bloc, are as follows:

DEPARTMENT OF ENERGY

Gregg Ward, to be an Assistant Secretary of Energy.

U.S. COURT OF MILITARY APPEALS

Susan J. Crawford, to be a judge of the U.S. Court of Military Appeals.

Robert E. Wiss and Herman F. Gierke, to be judges of the U.S. Court of Military Appeals.

IN THE ARMY

Maj. Gen. James R. Clapper, Jr., to be lieutenant general.

STATEMENT ON THE NOMINATION OF GREGG WARD TO BE ASSISTANT SECRETARY FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS FOR THE DEPARTMENT OF ENERGY

Mr. WALLOP. Mr. President, on November 13, 1991, the Committee on Energy and Natural Resources favorably reported the nomination of Gregg Ward to be Assistant Secretary for Congressional and Intergovernmental Affairs for the Department of Energy by a vote of 19–0.

Mr. Ward began his career in Washington, DC, in 1972 in the Office of Legislative Affairs at the Department of Justice. His career path took him next to HUD to be special assistant to the regional administrator, then to a trade association as director of governmental affairs. From 1983 to 1985, he served as Director for Congressional Affairs at EPA. After leaving EPA, Mr. Ward served as executive vice president for Vote America, then as government relations director for a law firm, and most recently as group vice president for external affairs at the American Institute of Architects. He holds a bachelor of science degree in industrial relations from the University of North Carolina at Chapel Hill.

Mr. President, I believe Mr. Ward's experience has prepared him well to take on the responsibilities of DOE's Congressional Affairs Office; and I urge my colleagues to join me in supporting his confirmation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

INJUNCTION OF SECRECY REMOVED FROM TREATY WITH URUGUAY

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty with Uruguay on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 102–19), transmitted to the Senate on November 13, 1991, by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the Government of the United States of America and the Government of the Oriental Republic of Uruguay on Mutual Legal Assistance in Criminal Matters, signed at Montevideo on May 6, 1991. I transmit also, for the information of the Senate, the Report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of modern criminals, including members of drug cartels, "white collar criminals," and terrorists. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: (1) the taking of testimony or statements of witnesses; (2) the provision of documents, records, and evidence; (3) the execution of requests for searches and seizures; (4) the serving of documents; and (5) the provision of assistance in locating, tracing, immobilizing, seizing and forfeiting proceeds of crime, and restitution to the victims of crime.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *November 13, 1991.*

NOMINATION OF CAROL T. CRAWFORD, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION

Mr. MITCHELL. Mr. President, I ask unanimous consent, as if in executive session, that when the Senate considers the nomination of Carol T. Crawford, to be a member of the U.S.

International Trade Commission it be considered under the following time limitation:

One hour for debate on the nomination to be divided as follows: 20 minutes for Senator ROCKEFELLER; 18 minutes for Senator PACKWOOD; 10 minutes for Senator RIEGLE; 5 minutes for Senator DANFORTH; 5 minutes for Senator DOLE; and 2 minutes for Senator SPECTER.

That if any Senator does not use his allotted time, it be yielded back to the floor managers, the chairman and ranking member of the finance committee; that upon the use or yielding back of time the Senate, without any intervening action, vote on, or in relation to the nomination.

I further vote unanimous consent that if the nomination is confirmed the Senate then proceed to the immediate consideration of the nomination of Janet A. Nuzum to be a member of the U.S. International Trade Commission; that the nomination be deemed confirmed without debate; that the motions to reconsider be tabled en bloc; that the President be immediately notified of the Senate's action and that the Senate return to legislative session; that the Senate Finance Committee then be discharged from further consideration of H.R. 3624, a bill regarding the appointment procedures of the U.S. International Trade Commission; that the Senate proceed to its immediate consideration; that the bill be read a third time and passed and that the motion to reconsider be laid upon the table and that the preceding occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That upon the disposition of the nominations of Carol T. Crawford and Janet A. Nuzum, the Senate return to legislative session, that the Senate Finance Committee then be discharged from further consideration of H.R. 3624, a bill regarding the appointment procedures of the U.S. International Trade Commission, that the Senate proceed to its immediate consideration, that the bill be read a third time and passed.

Ordered further, That the motion to reconsider be laid upon the table and that the preceding occur without any intervening action or debate.

TRANSFER OF A VESSEL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1973, introduced earlier today by Senators FORD and MCCONNELL, regarding the transfer of a vessel to Warsaw, KY.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1973) to authorize the Secretary of Transportation to transfer a vessel to the City of Warsaw, Kentucky.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FORD. Mr. President, today I am introducing a bill to allow the Department of Transportation to transfer a vessel to the city of Warsaw, KY. This ship will be part of the National Defense Fleet and has no current usefulness to the U.S. Government. The type of ship will be determined by what is currently available from the Department of Transportation.

The Federal Maritime Commission has informed me that no other Liberty ships are available. If this legislation becomes law, then Warsaw will receive a ship from the group that is commonly referred to as "Victory ships."

Warsaw, KY will finance the costs associated with moving the ship to Warsaw. The ship will be docked next to the Warsaw City Park and will be used in the promotion of tourism. The ship will not be used for transportation.

The PRESIDING OFFICER. Are there amendments to the bill?

If not, without objection the bill is therefore deemed read three times and passed.

So, the bill (S. 1973), was deemed read three times and passed, as follows:

S. 1973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO CONVEY VESSEL.

Notwithstanding any other provision of law, the Secretary of Transportation may convey to the City of Warsaw, Kentucky, without consideration, for use by the City for the promotion of economic development and tourism, all right, title, and interest of the United States in a vessel which—

(1) is in the National Defense Reserve Fleet on the date of the enactment of this Act;

(2) has no usefulness to the United States Government; and

(3) is scheduled to be scrapped.

SEC. 2. CONDITION.

At the request of the City of Warsaw, Kentucky, the Secretary of Transportation is authorized to deliver the vessel referred to in section 1—

(1) at the place where the vessel is located on the date of the approval of the conveyance;

(2) in its condition on that date; and

(3) without cost to the United States Government.

SEC. 3. TERMINATION OF AUTHORITY.

The authority of the Secretary of Transportation under this Act to convey a vessel to the City of Warsaw, Kentucky, shall expire 24 months after the date of the enactment of this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

CONTINUATION OF EMERGENCY REGARDING EXPORT CONTROL REGULATIONS—MESSAGE FROM THE PRESIDENT—PM 96

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

On November 16, 1990, in light of the proliferation of chemical and biological weapons, I issued Executive Order No. 12735 and declared a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*). Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on the anniversary date of its declaration unless I publish in the *Federal Register* and transmit to the Congress a notice of its continuation.

The proliferation of these weapons continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, particularly in light of recent discoveries regarding Iraq's chemical and biological weapon stockpiles and delivery capability, and because negotiations are still underway to conclude a comprehensive global ban on chemical weapons. Therefore, I am advising the Congress that the national emergency declared on November 16, 1990, must continue in effect beyond November 16, 1991. Accordingly, I have extended the national emergency declared in Executive Order No. 12735 and have sent the attached notice of extension to the *Federal Register* for publication.

Section 204(c) of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)) contain periodic reporting requirements regarding activities taken and money spent pursuant to an emergency declaration. The following report is made pursuant to these provisions.

In my report of June 21, 1991, I reported that three export control regulations under the Enhanced Proliferation Controls Initiative (EPCI) had been published, one in proposed rule form. On August 15 this proposed export control regulation entered into force with its publication in the *Federal Register* as an interim rule.

This regulation imposes a requirement for export licenses when an exporter knows or is informed by the United States Government that the export is destined for the design, development, production, or use of chemical or biological weapons. This regulation also imposes an export license requirement for U.S. persons who knowingly provide assistance to such projects, as well as for U.S. persons who participate in the design, construction, or export of whole chemical plants that make chemical weapons precursors.

The United States made a number of approaches during this period to foreign governments on chemical and biological weapons proliferation issues. Our partners in the Australia Group were approached to urge the completion of a common control list of dual-use chemical production equipment that has potential chemical weapons applications. In addition, the United States discussed chemical and biological weapons proliferation issues with several emerging supplier nations.

The Australia Group has continued to examine the question of common controls on dual-use chemical production equipment. The Group also is considering the requests of additional countries to join it.

The United States played a leadership role in the Biological Weapons Convention (BWC) Review Conference in September 1991 that reaffirmed the BWC as the critical international measure against biological weapons. Highlighting the need for compliance with the BWC, the United States was instrumental in proposing and ensuring the adoption of a package of confidence-building measures to increase the transparency and openness of biological activities and in achieving agreement to an enhanced process for international consultation and cooperation in areas related to the BWC.

Finally, the October 17, 1991, report regarding expenditures under the declaration of the national emergency declared by Executive Order No. 12730 on September 30, 1990, to deal with the lapse of the Export Administration Act also included measures related to the Enhanced Proliferation Control Initiative. Pursuant to section 401(c) of the National Emergencies Act, I hereby report that there were no additional expenses directly attributable to the exercise of authorities conferred by the declaration of the national emergency in Executive Order No. 12735.

GEORGE BUSH.

THE WHITE HOUSE, *November 14, 1991*.

MESSAGES FROM THE HOUSE

At 4:45 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3575. An act to provide a program of emergency unemployment compensation, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 7:44 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 215. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 25, 1991, as "National Military Families Recognition Day."

REPORTS OF THE COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. 754. A bill to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program (Rept. No. 102-214).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 640. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes (Rept. No. 102-215).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

A.E. Dick Howard, of Virginia, to be a member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of two years;

Donald A. Laidlaw, of New York, to be Deputy Under Secretary for Management, Department of Education;

B. Robert Okun, of the District of Columbia, to be Assistant Secretary of Legislation and Congressional Affairs, Department of Education;

Carolynn Reid-Wallace, of the District of Columbia, to be Assistant Secretary for Postsecondary Education, Department of Education;

Norman Kelison, of Iowa, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 1995;

Ben-Chieh Liu, of Illinois, to be a member of the National Commission in Libraries and Information Science for the remainder of the term expiring July 19, 1993;

Carol K. DiPrete, of Rhode Island, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 1996;

Marshall Jordan Breger, of the District of Columbia, to be Solicitor for the Department of Labor;

Ellis B. Bodron, of Mississippi, to be a member of the National Council on Disability for a term expiring September 17, 1993;

Donald R. Livingston, of Georgia, to be General Counsel of the Equal Employment Opportunity Commission for a term of 4 years;

Charles Szu, of California, to be a member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring February 4, 1996;

Theodore M. Hesburgh, of Indiana, to be a member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1995;

Elspeth Davies Rostow, of Texas, to be a member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1995;

Chester A. Crocker, of the District of Columbia to be a member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1995;

Mary Jane Maddox, of Texas, to be Deputy Director of the ACTION Agency;

Roberta Peters, of New York, to be a member of the National Council on the Arts for a term expiring September 3, 1996;

Robert G. Breunig, of Arizona, to be a member of the National Museum Services Board for a term expiring December 6, 1993; and

Lorraine Mindy Meiklejohn, of Colorado, to be a member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1995.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BUMPERS, from the Committee on Small Business:

Paul H. Cooksey, of Virginia, to be Deputy Administrator of the Small Business Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DECONCINI:

S. 1964. A bill to extend most-favored-nation treatment to the products of Armenia; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. DIXON, and Mr. MCCONNELL):

S. 1965. A bill to amend the Clean Water Act to provide global environmental protection incentives and enhanced competitiveness of domestic business; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. THURMOND, Mr. DECONCINI, Mr. MCCONNELL, Mr. METZENBAUM, Mr. GRASSLEY, Mr. HEFLIN, Mr. SIMON, Mr. SPECTER, Mr. DIXON, Mr. DURENBERGER, Mr. KASTEN, and Mr. HATCH):

S. 1966. A bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes; to the Committee on the Judiciary.

By Mr. BOREN:

S. 1967. A bill to amend certain provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 regarding appraiser certification and licensing; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PACKWOOD:

S. 1968. A bill to put an end to congressional perks and privileges; to the Committee on Governmental Affairs.

By Mr. THURMOND:

S. 1969. A bill to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 1970. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. ROBB, Mr. FORD, Mr. LAUTENBERG, and Mr. WARNER):

S. 1971. A bill to amend the Metropolitan Washington Airports Act of 1986 to modify the composition of the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY:

S. 1972. A bill to amend the Public Health Service Act to provide grants for the establishment of State demonstration projects for comprehensive health care reform, and for other purposes; to the Committee on Finance.

By Mr. FORD (for himself and Mr. MCCONNELL):

S. 1973. A bill to authorize the Secretary of Transportation to transfer a vessel to the city of Warsaw, KY; considered and passed.

By Mr. THURMOND:

S.J. Res. 231. Joint resolution to designate the month of May 1992 as "National Foster Care Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO (for himself, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. HELMS, and Mr. SPECTER):

S. Res. 220. A resolution expressing the sense of the Senate that the President of the United States should pursue by any and all means necessary to apprehend for trial Lamen Khalifa Fhimah and Abdel Basset Ali Megrahi as charged in the Justice Department indictment for their roles in the destruction of Pan Am Flight 103 and the murder of 189 Americans aboard; to the Committee on the Judiciary.

By Mr. PELL (for himself, Mr. WALLOP, Mr. CRANSTON, Mr. DURENBERGER, Mr. KERRY, Mr. KENNEDY, Mr. MURKOWSKI, Mr. SIMON, Mr. HELMS, Mr. DODD, Mr. SASSER, and Mr. LEVIN):

S. Con. Res. 77. A concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI:

S. 1964. A bill to extend most-favored-nation treatment to the products of Armenia; to the Committee on Finance.

EXTENSION OF MOST-FAVORED-NATION STATUS TO THE PRODUCTS OF ARMENIA

• Mr. DECONCINI. Mr. President, today, the democratically elected President of the Republic of Armenia, Levon Ter-Petrossyan, is in Washington, where he will meet with President Bush and congressional leaders. The primary purpose of President Ter-Petrossyan's visit is to gain United States support for Armenia's independence.

I strongly endorse this goal and urge the administration to recognize Armenia as an independent state and to establish diplomatic relations with the Government of Armenia. This ancient people has maintained its sense of nationhood through the centuries, in the course of which it has endured many disasters and horrors, especially in 1915. After seven decades of stifling centralized control by the Kremlin, Armenia has declared independence, after a referendum on September 21, 1991, in which Armenians overwhelmingly voted for independence. And Levon Ter-Petrossyan was elected President by a landslide in Armenia's first-ever popular Presidential election on October 16.

Mr. President, independent Armenia promises to be a welcome addition to the growing number of democratic countries in the international community, committed to human rights and a free market system. We must not allow misguided hopes of salvaging a discredited and obsolete Soviet Union to blind us to new realities: The former republics of the U.S.S.R. are determined to join the body of nations as independent states, pursuing their own foreign policies, entering international organizations, and developing relations with other countries. The United States already has a long and honorable tradition of ties with Armenia, and our country should be in the forefront of the growing calls for recognition of the independence of this proud people.

Accordingly, this bill urges that the United States grant most-favored-nation [MFN] status to Armenian products.•

By Mr. GORTON (for himself, Mr. DIXON, and Mr. MCCONNELL):

S. 1965. A bill to amend the Clean Water Act to provide global environmental protection incentives and enhanced competitiveness of domestic business; to the Committee on Finance.

GLOBAL CLEAN WATER INCENTIVE ACT

• Mr. GORTON. Mr. President, this Nation imposes perhaps the most stringent environmental standards in the world. Until now, these efforts have been molded by a vision that is limited by the artificial boundaries of state. The environmental concerns confronting the planet today demand that we progress beyond this stifled and anachronistic perspective to address the responsibility of environmental protection on a global level.

Under the weight of this responsibility, however, it becomes evident that a dichotomy exists. Through our own efforts to improve the environment, we drive up costs to U.S. businesses. In doing so, we may force those same businesses to locate in other countries where the costs of pollution control measures do not equal our own. If we drive our polluting industries to other countries, we have done nothing to improve the global environment and have only harmed our economic future.

In the coming year, Congress will consider amendments to the Clean Water Act. This act, as it stands now, presents American companies with a terrible dilemma: Either continue to operate under strict U.S. environmental standards and suffer in the international marketplace or move the business overseas, continue to pollute and replace American workers with foreign workers. That dilemma is the reason that American businesses, on whom the burden will fall most heavily to meet these new standards, ask us: Can we meet these standards and also remain competitive with our international counterparts who are not subject to these standards?

I believe, Mr. President, that the bill that Senator DIXON, Senator MCCONNELL, and I are introducing to amend the Clean Water Act is a solution to this terrible dilemma. We can pass a strong Clean Water Act that promotes global environmental protection while allowing American businesses to compete in the international marketplace.

The first part of this bill calls for the imposition of import fees on all goods imported from countries that do not impose water pollution standards as stringent as those imposed by the United States. The fee imposed will equal the difference between the costs borne by U.S. businesses in complying with the Clean Water Act and any costs borne by the foreign producer associated with water pollution reduction.

The bill also directs the U.S. Trade Representative to negotiate a GATT amendment that allows any country to impose duties on another country's goods that derive from processes that do not comply with U.S. clean water standards.

Without this legislation the global environment will continue to be polluted by nonregulated foreign businesses. Without this legislation, foreign polluters will undersell our businesses on comparable products as a result of savings made by not incurring pollution control costs. Without this legislation foreign polluters selling products here will not be required to pay pollution control costs American businesses pay.

With this legislation we can take a long first step toward establishing global clean water standards. The President has made it clear, and I agree, that the United States has an obligation to provide global leadership to promote pollution control in addition to continuing our economic and political leadership. This legislation enhances global environmental protection by providing an equitable mechanism through which all countries can pay pollution control costs while maintaining economic competitiveness.

Still, there will be critics of this proposal. Free trade theorists argue against any import restrictions. As a general principle I support free trade and free markets. President Bush, however, has expressed his support for trade that is both free and fair. Again, I agree.

Let's consider free and fair trade. People everywhere will benefit from the passage of our Clean Water Act. With this in mind, is it fair that only our businesses and our workers pay for the global benefit of making water cleaner? Does free trade theory require that U.S. companies choose between moving to foreign countries or staying here and raising the price of U.S. produced goods with the result that foreign polluters avoid those costs in their products and thus have a competitive advantage over regulated U.S. companies? With this legislation, all Senators must decide whether free trade theory is more important than economic fairness, the health of our citizens, and global environmental protection.

This bill sets new standards for environmental responsibility by moving toward a global perspective of environmental protection. In doing so it promotes free trade and protects the health of Americans and people everywhere. I believe that these are worthy goals. I now look to my fellow colleagues in the Senate for their support.

Mr. President, I ask unanimous consent that a copy of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1965

Be it enacted by the Senate of the United States of America,

SECTION 1. This Act may be cited as the "Global Clean Water Incentive Act".

SEC. 2. FINDINGS.—The Senate finds that—

(1) global water pollution has adverse health affects on United States citizens and adverse affects on the Earth's environment;

(2) businesses in the United States are disadvantaged in international markets due to the costs of reducing water polluting discharges, resulting in the potential loss of jobs for working Americans;

(3) foreign polluters, who are not required to pay pollution control costs comparable to those paid by businesses in the United States, should not be allowed to undersell United States businesses on comparable products as a result of savings made by not incurring pollution control costs;

(4) an import fee will reduce the incentive for domestic businesses to eliminate domestic jobs by siting business facilities in foreign countries;

(5) an import fee will equalize international competition and prevent unfair competitive advantage being gained by water-polluting foreign industries that are not required to meet water pollution standards comparable to the Clean Water Act;

(6) an import fee will ensure that the prices of foreign goods produced by water-polluting industrial processes reflect the same costs incurred by domestic businesses meeting water quality standards under the Clean Water Act;

(7) the United States has an obligation to provide global leadership to promote pollution control while at the same time continuing its economic and political leadership; and

(8) this Act will enhance global environmental protection by providing an equitable mechanism through which all countries can pay pollution control costs while maintaining economic competitiveness.

SEC. 3.—At the appropriate place in the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), insert the following section:

"SEC. . GLOBAL ENVIRONMENTAL PROTECTION.

"(a) The Secretary of Commerce shall implement on January 1, 1993, a schedule of fees that would be—

"(1) imposed on any product imported into the United States that has been subject to processing, or manufactured from a process, that does not comply with the water quality standards prescribed under the Clean Water Act; and

"(2) in an amount adjusted annually equal to the differential between the cost incurred by businesses located in the United States in meeting such water quality standards and any expenditures made by foreign businesses to reduce water-polluting discharges.

"(b) The Secretary of Commerce shall make the revenues derived from any of such fees available to fund programs that enhance the export of products of the United States, the costs of which are increased by the Clean Water Act."

SEC. 4.—At the appropriate place in the Federal Water Pollution Act (33 U.S.C. 1251 et seq.), insert the following section:

"SEC. . NEGOTIATIONS.

"The United States Trade Representative shall take steps to initiate for negotiations an amendment to the General Agreement on Tariffs and Trade that would allow any country to impose additional duties on the importation of products of any foreign country that does not comply with water quality standards comparable to those prescribed under the Clean Water Act."•

• Mr. DIXON. Mr. President, I am pleased to join my friend from Washington, Senator GORTON, in introducing the Global Clean Water Incentive Act. I believe this legislation will send a powerful message to our foreign trading partners that if they want our markets they must help clean our environment.

Clean water is a global responsibility, and we are deceiving ourselves if we think that the United States alone can do the job. We are undermining our own economy if we allow foreign competitors to escape the costs paid by U.S. industries to reduce water pollution.

The bill we are introducing requires foreign industries selling products in the United States to either meet the stringent environmental controls that we require of our manufacturers or pay a fee that matches the costs borne by our industries for environmental compliance.

Some will argue that such a provision would violate the GATT agreement. That is why the legislation we are introducing today also directs the U.S. Trade Representative to negotiate a GATT amendment allowing any country to impose duties on another country's goods that do not comply with comparable clean water standards.

It simply does not make sense for U.S. industries to shoulder the costs of global environmental protection while nonregulated foreign businesses continue to pollute the world, and are consequently rewarded with an increased share of the U.S. market. We cannot, therefore, accomplish our environmental goals if we do not keep U.S. business competitive.

Congress is currently considering reauthorization of an amendment to the Clean Water Act. If we do not include a provision like this in the Clean Water Act, we will be giving our foreign competitors another advantage in an increasingly competitive global market.

There are two goals that this legislation will help us reach. I want the world to get the message that environmental protection is a world-wide responsibility. I also want to keep the international trade playing field level. We will never have a healthy environment with a sick economy. The truly life-threatening pollution in the economically weak states of Mexico, Poland, and the Soviet Union stands as proof of this fact. Therefore, let us not put ourselves in a position that allows countries that are not respecting the environment to injure our economy.

If, as a result of our own progress in environmental protection, we begin shutting down our heavy industries, is there anyone here that would deny that those industries will continue operating somewhere else in the world? Are we satisfied to simply stop pollution here, only to send it to some poor Third World country that would jump at the chance to increase its exports of manufactured goods? I promise you that other nations that manufacture goods that can no longer be economically manufactured in this country will do so without the strict controls that we already require today.

The reality is that we live in both a global economy and a global environment. Can we really accomplish our environmental goals if we do not keep U.S. business internationally competitive? I submit that we cannot.

If we allow ourselves to become uncompetitive, we will send American jobs overseas. This will result in a loss to the American economy, with no net gain to the global environment. We must ensure that developing nations do not continue to compete with U.S. businesses while simultaneously sacrificing the environment.

Protecting our environment will certainly serve the long-term interests of this country. We must not, however, proceed blindly, without regard for the long-term effects on American competitiveness that will result from our own efforts at environmental protection. I urge my colleagues to support this legislation.•

By Mr. BIDEN (for himself, Mr. THURMOND, Mr. DECONCINI, Mr. MCCONNELL, Mr. METZENBAUM, Mr. GRASSLEY, Mr. HEFLIN, Mr. SIMON, Mr. SPECTER, Mr. DIXON, Mr. DURENBERGER, and Mr. HATCH):

S. 1966. A bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes; to the Committee on the Judiciary.

NATIONAL CHILD PROTECTION ACT

• Mr. BIDEN. Mr. President, I rise today to introduce legislation to confront what I believe is one of the most threatening dangers confronting the Nation—the tragedy of child abuse.

The national extent of child abuse and neglect has grown to shocking epidemic proportions:

More than 2,500,000 reports of child abuse and neglect are made each year.

Nationwide, arrests for offenses against children rose faster than for any other crime from 1989 to 1990—and five times faster than for all major crimes.

Between 1985 and 1990, the Nation saw a 31-percent increase in the reported incidents of child abuse—greater than for murder, rape or robbery, and three times the increase in child abuse in the previous 5-year period—1980 to 1985.

Many abused children are victimized in their homes, but there is a large and growing number of children being victimized outside the home.

Today, about 6 million preschool children are in a day care program for some or all of their day. By 1995, at least 8 million preschoolers will be in day care.

This rapidly growing rise in children being cared for outside their homes must be met by an expanded national effort to protect these children. This is the goal of the National Child Protection Act I introduce today.

Earlier this week, the Senate Judiciary Committee convened a hearing to discuss this proposal—with television personality and child abuse activist Ms. Oprah Winfrey, and several child abuse experts. Ms. Winfrey brought to the committee a plan that was the foundation for the National Child Protection Act of 1991.

The idea behind the National Child Protection Act of 1991 is simple: We must do everything we can to detect convicted criminals before they are hired as child care workers, not after another tragedy takes place.

If enacted, this act will help build the State and National systems necessary to prevent convicted criminals from being hired as child care workers. Data the Judiciary Committee released at this week's hearing revealed that, in just the past year, similar systems in just 6 States identified more than 6,200 individuals—convicted of serious criminal offenses, such as sex offenses, child abuse, violent crimes and felony drug charges—seeking jobs as child care providers.

How many children would have been put at risk if these convictions had not been detected? How many children are at risk today because they live in States without checks to identify convicted criminals? To both questions, of course, the answer is too many.

If a comprehensive, nationwide system was in place, it is likely that it would block literally thousands of dangerous criminals from obtaining jobs in the day care field.

The key provisions of the National Child Protection Act I introduce today include:

Specific timetables so that accurate, up-to-date information on child abuse convictions are available on a national basis within 3 years;

Twenty million dollars in direct Federal assistance to help States improve criminal justice records; and

Measures to protect the rights of all—speeding access to background check information, providing appeal procedures to correct inaccuracies in these checks, and confidentiality protections for information contained in criminal records checks.

I would like to credit Senator DECONCINI, who in 1984, along with Congressman GEORGE MILLER, wrote the first law calling for national criminal background checks for child care workers. In addition, Senator SPECTER was also involved in developing such systems when he proposed the Juvenile Detention Employees Act of 1983.

The Crime Control Act of 1990, signed into law last year, extended similar background check requirements for Federal day care services. Senator REID and I wrote this legislation, which is helping to protect the thousands of children served every day in Federal agencies' day care centers. Today, we must have such a system available to all.

Earlier this year, Senator MCCONNELL introduced background check legislation—a measure that was included in the crime bill passed by the Senate in July of this year.

And, today, based on the testimony Ms. Oprah Winfrey brought before the committee, we have added a new, best-yet proposal to those that have come before.

Senator DECONCINI, Senator SPECTER, Senator REID, Senator MCCONNELL, myself, several other Senators, and many Congressmen have devoted countless hours to this important issue. After all these efforts, we cannot delay any longer.

Today, I am pleased that I am joined in introducing the National Child Protection Act by several cosponsors to this legislation—Senators THURMOND, DECONCINI, MCCONNELL, METZENBAUM, GRASSLEY, HEFLIN, SIMON, SPECTER, DIXON, and DURENBERGER.

By 1995, 8 million preschool children will spend all or part of their day at a child care center. It is the right of each of these children to be safe and secure. It is the expectation of every parent that their child will be protected from harm. And, it is the responsibility of us all to ensure these rights and guarantee these expectations.

I urge my Senate colleagues to support the National Child Protection Act of 1991.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis of the National Child Protection Act of 1991 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Child Protection Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) more than 2,500,000 reports of suspected child abuse and neglect are made each year, and increases have occurred in recent years in the abuse of children by persons who have previously committed crimes of child abuse or other serious crimes;

(2) although the great majority of child care providers are caring and dedicated professionals, child abusers and others who harm or prey on children frequently seek employment in or volunteer for positions that give them access to children;

(3) nearly 6,000,000 children received day care in 1990, and this total is growing rapidly to an estimated 8,000,000 children by 1995;

(4) exposure to child abusers and others who harm or prey on children is harmful to the physical and emotional well-being of children;

(5) there is no reliable, centralized national source through which child care organizations may obtain the benefit of a nationwide criminal background check on persons who provide or seek to provide child care;

(6) some States maintain automated criminal background files and provide criminal history information to child care organizations on persons who provide or seek to provide child care; and

(7) because State and national criminal justice databases are inadequate to permit effective national background checks, persons convicted of crimes of child abuse or other serious crimes may gain employment at a child care organization.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this Act;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, legal residence address, a brief description of the child abuse crime or offenses for which the person is under indictment or has been convicted, and any other information that the Attorney General determines may be useful in identifying persons under indictment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system established under title XXVII of the Biden-Thurmond Violent Crime Control Act of 1991;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 4. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized agency of a State shall report child abuse crime information to the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS TO THE NATIONAL CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis to the national criminal background check system;

(B) establish guidelines for the reporting of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this Act; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of child abuse crime case dispositions in computerized criminal history files for all child abuse crime cases in which there has been an entry of activity within the last 5 years; and

(B) continue to maintain such a system.

(c) EXCHANGE OF INFORMATION.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of information and technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this Act.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim of a crime.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 3, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator

shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 5. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and other criminal justice recordkeeping systems and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), including procedures for carrying out the purposes of this Act.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime;

(ii) is not certain to include arrest information; and

(iii) should not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a)—

(i) at a minimum, state whether the background check information set forth in the identification document required under subparagraph (A) is complete and accurate; and

(ii) be limited to the information reasonably required to accomplish the purposes of this Act;

(F) that no qualified entity may take action adverse to a provider, except that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care, on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge; and

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the providers;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis a background check.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this Act, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this Act and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) RECORDS EXCHANGE.—The Attorney General may exchange Federal Bureau of Investigation identification records with authorized agencies for purposes of background checks under subsection (a) and may by regulation authorize further dissemination of such records by authorized agencies for such purposes.

(e) REGULATIONS.—(1) The Attorney General shall by regulation prescribe such other measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 6. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 4 of the National Child Protection Act of 1991 with the Attorney General for the purpose of implementing the National Child Protection Act of 1991.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the creation of computerized criminal history files for the purposes of this Act;

(B) for the improvement of existing computerized criminal history files for the purposes of this Act;

(C) to improve accessibility to the national criminal background check system for the purposes of this Act; and

(D) upon establishment of the national criminal background check system, to assist the State in the transmittal of criminal records to the national system for the purposes of this Act.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1992, 1993, and 1994.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 4 of this Act.

NATIONAL CHILD PROTECTION ACT OF 1991—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

This section provides the short title of the Act, "The National Child Protection Act of 1991."

SECTION 2. FINDINGS AND DECLARATIONS

This section identifies the vast extent of child abuse, including the rise of child abuse crimes in recent years. In addition, the rising number of children in day care and other childcare facilities outside the home leaves record numbers of children vulnerable to abuse.

This section also points out the national need to screen potential childcare workers to prevent convicted child abusers from being hired.

SECTION 3. DEFINITIONS

SECTION 4. REPORTING BY THE STATES

This section establishes procedures to speed the reporting of child abuse crime information by States to a national criminal background check system.

Subsection A. In General: States shall report child abuse crime information to the national criminal background check system.

Subsection B. Procedures: Within six months of enactment, the Attorney General examines each State's criminal justice recordkeeping systems, establishes guidelines about the format and content of the child abuse crime information to be reported to the national system, and develops a timetable for providing this information to the national system.

Within 3 years after enactment of the Act, each State is to be providing accurate, up-to-date information on child abuse crimes to the national system.

Subsection C. Exchange of Information: Establishes contacts among States, national advocates for abused children, and national child abuse prosecution experts.

Subsection D. Annual Summary: Provides for an annual statistical summary compiled by the Attorney General of child abuse crimes reported to the national system.

Subsection E. Annual Report: Provides for an annual summary compiled by the Attorney General outlining each States' progress in reporting child abuse crime information to the national system.

Subsection F. Study of Child Abuse Offenders: Provides for a Justice Department study of convicted child abusers, as well as of the other types of crimes which are indicative of a potential to abuse children.

SECTION 5. BACKGROUND CHECKS

This section establishes procedures for background check requests and responses.

Subsection A. In General: State procedures are to permit childcare organizations to contact a state agency to request background checks, the state agency will review state and federal criminal records for reports of convictions or pending indictments—for child abuse crimes, sex offenses, violent crimes, and drug felonies—and report the results to the childcare organization.

Subsection B. Guidelines:

Sec. 1. The Attorney General shall establish guidelines for State background check procedures.

Sec. 2. Guidelines established under Sec. 1 shall require:

(A) Childcare organizations may request a background check only after the potential employee has signed a statement including: information identifying the employee; employee's criminal record, if any; notification that a background check may be requested; notification of the employee's right to challenge the accuracy of a background check report; and notification that the childcare organization may deny unsupervised access to children until the results of the background check are known.

(B) State-established procedures permit employees to have access to background check reports, as well as appeal procedures to correct inaccuracies in background check reports.

(C) The State-designated office conducting the background checks will review federal, state and local criminal recordkeeping systems and respond to the request within 15 business days.

(D) The response to a background check request must inform the childcare organization that criminal history information may be incomplete and that background checks should not be the sole basis for determining the fitness of a potential childcare employee.

(E) The response to a background check request will, at minimum, indicate whether the information provided by the potential employee is correct; and be limited to the information reasonably required to carry out the Act.

(F) Employees' challenge of the accuracy of a background check must be resolved before the childcare organization can take action adverse to the employee, except that the employer may deny unsupervised access to children until the appeal is resolved.

(G) State-established procedures ensure that background check reports are provided only to: childcare organizations identified by States; authorized representatives of childcare organizations; the subject of the background check; law enforcement authorities; or those designated by a court.

(H) Background check information provided to childcare organizations shall be confidential, except as provided by paragraph (G).

(I) State agencies responsible for conducting background checks shall not be liable for failure to prevent a childcare organization from taking action adverse to a potential employee on the basis of a background check.

(J) State agencies responsible for providing criminal history information shall not be liable for failure to prevent a childcare organization from taking action adverse to a potential employee on the basis of a background check.

Subsection C. Equivalent Procedures: The Attorney General may certify that State licensing procedures are the equivalent of those included in this Act; though the procedures established in this Act are in effect for all childcare organizations not subject to the State licensing procedures.

Subsection D. Records Exchange: The Attorney General may exchange FBI identification records with States to facilitate background checks.

Subsection E. Regulations: The Attorney General shall establish any other regulations required by other measures of this Act.

SECTION 6. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION

This section provides $20 million for grants to States to computerize child abuse crime information and permits the Attorney General to withhold federal law enforcement grants from States not in compliance with timetables for computerizing child abuse crime information.

Subsection A. Improvements in State Records and Systems:

Sec. 1. States may use funds from formula grants provided under Section 509(b) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 for improving State record systems pursuant to the purposes of this Act.

Sec. 2. The Attorney General shall distribute $20 million to States for creating or improving computerized criminal history files; with preference to States with the lowest percent currency of case dispositions in computerized files.

Subsection B. Withholding State Funds: The Attorney General may reduce, by up to 10%, a State's allocation under Title I of the Omnibus Crime Control and Safe Streets Act of 1968 if that State is not in compliance with the timetable for entering child abuse crime information in the national systems.●

Mr. THURMOND. Mr. President, today, I rise to join with Senator BIDEN and many other distinguished colleagues to introduce vitally important legislation for our Nation's children. The measure will assist in identifying convicted child abusers who prey upon children by seeking employment, or other activities, where youngsters can be taken advantage of—like day-care centers or scout troops. This important legislation is entitled the "National Child Protection Act of 1991." It would, for the first time, establish comprehensive national procedures to ensure that those working with children in organized activities do not have criminal records as child abusers or perpetrators of other serious crimes.

Mr. President, the protection of innocent children from abuse is a vastly important matter of national concern which must be addressed. Frankly, I can think of no crime more deserving of our national attention and harsh punishment than the molestation or abuse of a child. Sadly, whether sexual or physical, child abuse takes the youth and innocence away from our children, in addition to often ruining their lives. Those who violently prey upon childhood innocence must be caught, prosecuted, and sentenced to tough criminal penalties. Yet, as we will hear today, society must also take steps to decrease the likelihood that these vicious criminals will have access to our children.

Mr. President, as we consider this issue, some recent statistics are disturbing. Reported child abuse and neglect cases are on the rise. It is estimated that there are more than 2.5 million reported cases of suspected child abuse every year. Furthermore, statistics provided to Congress by the National Center for Missing and Exploited Children clearly demonstrate that child molestation is widespread: Child Help USA estimates that one in three girls and one in six boys will be sexually abused before the age of 18. More than half of sexually abused children are victimized before they reach 7 years of age. Without question, this is a critical problem which must be vigorously addressed.

Mr. President, the tragedy of child abuse and molestation is further complicated by the fact that child sex offenders are oftentimes serial offenders. In other words, these heinous criminals repeat their brutal acts over and over again. A National Institute of Mental Health study found that the typical attacker molests an average of 117 children. Despicably, these offenders often seek employment that will give them access to children.

In response, many organizations and individuals have worked tirelessly to make the prevention of child abuse a priority. In addition, Members of Congress, including Senators MCCONNELL and DURENBERGER, have worked to increase the Federal Government's role in this area. The legislation we are introducing here today has grown out of all these efforts and includes recommendations brought to our attention by Ms. Oprah Winfrey and others. This measure makes the screening of child care providers a national priority. A recent Judiciary Committee hearing on this legislation indicated that there is widespread support for this measure.

In closing, Congress must take every step to do all it can to help the States in their unyielding effort to prevent child abuse and molestation. We must continue to work together—employers, parents, socialworkers, and Government—to improve the quality of life for our most precious and vulnerable resource, our children.

For these reasons, I urge my colleagues to support this important measure.

By Mr. BOREN:

S. 1967. A bill to amend certain provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 regarding appraiser certification and licensing; to the Committee on Banking, Housing, and Urban Affairs.

APPRAISER CERTIFICATION AND LICENSING

• Mr. BOREN. Mr. President, today I am introducing a bill which amends the Financial Institutions and Recovery Act of 1989 to address the current crisis in real estate markets throughout the country created in part by the implementation of a nationwide State licensed and certification real estate appraiser system.

The existing law requires that such a system be in place on a State by State basis for licensing and certifying real estate as of January 1, 1992. In view of the continuing unavailability of real estate related credit in certain areas of the country, and the problems associated with establishing such a nationwide system in a relatively short period of time, this bill extends the trigger date for the full operation of the system until December 1992. After this date all States must have a fully operational real estate licensing and certification system in place.

While many States are successfully establishing a system, there will not have been sufficient time to certify and license enough real estate appraisers to adequately handle the increased number of transactions requiring a licensed or certified appraisal by the deadline. The extension would encourage real estate lending activity for residential transactions by providing additional time for States to license and certify an adequate number of real estate appraisers.

Even those States which will be able to comply with this deadline, will still likely experience a shortage of appraisers in rural areas. FIRREA recognizes this problem by granting the Appraisal Subcommittee—a subcommittee of the Financial Institutions Examination Council—the ability to waive the requirement that all transactions have a licensed or certified appraisal. This bill clarifies and provides the subcommittee with additional guidance by completely exempting rural areas from the requirement.

This bill gives States the authority to determine the experience requirements needed to take the exam. It prohibits the Appraisal Subcommittee from mandating that experience be a necessary part of the qualification criteria. The 2,000-hour requirement prevents individuals who do not have prior experience from gaining it because they did not initially possess a license.

Finally, the bill establishes a threshold below which a licensed or certified appraisal is not required. Currently, the Federal Reserve has a $100,000 threshold while the other two regulatory agencies are considering a change from 50,000 to 100,000. This amendment would require all agencies to have a uniform threshold of $100,000. This threshold does not jeopardize safety and soundness and might help consumers by reducing the cost of appraisals.

In summary, Mr. President, I believe that these changes will make real estate credit more available during this tough economic period.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSACTIONS REQUIRING THE SERVICES OF A STATE CERTIFIED APPRAISER.

Section 1113 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(1) by inserting the following before "In determining":

"(a) IN GENERAL.—";

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(3) by inserting the following new paragraph before paragraph (2), as redesignated:

"(1) Federally related transactions having a value of not more than $100,000 shall not require the services of either a State certified or licensed appraiser;"; and

(4) by adding at the end the following new subsection:

"(b) MODIFICATIONS TO THRESHOLD LEVEL FOR FEDERAL TRANSACTIONS.—The amount set forth in subsection (a)(1) shall be—

"(1) increased on an annual basis by the percentage increase in the calendar year average in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics, and

"(2) modified by each Federal financial institutions regulatory agency and the Resolution Trust Corporation if the agency or the Resolution Trust Corporation makes a determination in writing that such modification is in the public interest based on—

"(A) the availability of certified or licensed appraisers to perform appraisals in connection with Federally related transactions, or

"(B) the costs associated with such appraisals.".

SEC. 2. CERTIFICATION AND LICENSING REQUIREMENTS.

Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) EXPERIENCE REQUIREMENTS.—The Appraisal Subcommittee shall not require or recommend a State requirement that an individual be an experienced real estate appraiser in order to be licensed as an appraiser for purposes of this title.".

SEC. 3. MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

Section 1118 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347) is amended by adding at the end the following new subsection:

"(d) RECOGNITION OF LICENSING BASED ON APPRAISER EXPERIENCE.—The Appraisal Subcommittee shall not refuse to recognize a State's appraiser certification or licensing policies, practices, or procedures solely because the State does not include a requirement that an individual be an experienced real estate appraiser in such policies, practices, or procedures.".

SEC. 4. RECOGNITION OF STATE CERTIFIED AND LICENSED APPRAISERS.

Section 1119 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348) is amended—

(1) in subsection (a)(1), by striking "July 1, 1991" and inserting "December 31, 1992";

(2) in the first sentence of subsection (b)—

(A) by inserting "or the use of such person" after "person";

(B) by inserting "or any geographic political subdivision thereof" after "in a State"; and

(C) by striking "inordinate" and inserting "significant";

(3) in the second sentence of subsection (b) by striking "inordinate" and inserting "significant"; and

(4) by adding the following new subsection at the end:

"(d) APPLICATION TO RURAL AREAS.—

"(1) IN GENERAL.—Nothing in this title requires the use of certified or licensed appraisers in rural areas.

"(2) DEFINITION.—As used in this subsection, the term 'rural areas' means any area—

"(A) not within the geographic boundaries of any metropolitan statistical area (as defined by the Office of Management and Budget), or

"(B) not within the geographic boundaries of an incorporated city or town with a population greater than 25,000 according to the most recent decennial census.".•

By Mr. PACKWOOD:

S. 1968. A bill to put an end to congressional perks and privileges; to the Committee on Governmental Affairs.

DISCONTINUATION OF CERTAIN CONGRESSIONAL PERKS AND PRIVILEGES

• Mr. PACKWOOD. Mr. President, the American people demand reform and it is time for Congress to respond. The news of certain Members of the House of Representatives bouncing checks in their personal accounts without penalty does not reassure the American people about their public servants. I have heard from a number of Oregonians outraged over these reports, and I agree with them. Confidence in public officials is a critical component of any working democracy. It is now up to Congress to change its ways and reinstate the public's faith in their leaders.

Today, I am introducing legislation to reform and limit congressional perks and privileges. My bill is virtually identical to section II, of H.R. 3555, introduced by Representative BENNETT of Florida. The bill would repeal and prohibit privileges and gratuities for Members of the U.S. House of Representatives and the U.S. Senate. It would make it illegal to furnish for Members of the House or Senate, at the expense of the Federal Government, any of the following items free or at reduced costs: meals, flowers, plants, pictures, picture frames, haircuts, medicine, hospital care, or ambulance services. These perks end up costing the Federal Government—and, in the end, taxpayers—thousands of dollars.

Section II of my bill would severely limit the amount of franked mail Congress can send to people. The bill prohibits all mass mailings and requires that franked mail sent from a congressional office must be in response to a letter or inquiry received from individuals. It is obvious that franking privileges have gotten out of hand. For example, in 1989, the Senate received 40 million pieces of mail and sent out over 226 million pieces. This imbalance needs to be addressed.

Congress should lead by example. In order to counter the claims that we are a privileged class, we must do away with the perks that have come to be associated with Members of Congress. This bill does just that.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERKS AND PRIVILEGES.

Effective on the date of the enactment of this Act, it shall be illegal to furnish to any Member of the House of Representatives or the Senate, at the expense of the Government, any of the following items free or at reduced costs.

(1) Medicine.
(2) Hospital care.
(3) Ambulance services.
(4) Meals.
(5) Flowers.
(6) Plants.
(7) Pictures.
(8) Picture frames.
(9) Haircuts, or other items, services, or privileges, except official office expenses, such as—
(A) office supplies, and
(B) stationery.

SEC. 2. ABUSE OF THE FRANK.

Section 3210 of title 39, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (5)—

(i) by striking "or" at the end of subparagraph (B)(iii);

(ii) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(iii) by adding at the end the following new subparagraph:

"(D) mail matter that does not constitute a response to an inquiry, comment, or other communication received from a person mailed to that person or to another person who has responsibility with regard to the subject matter of the inquiry, comment, or other communication."; and

(B) in paragraph (6)—

(i) in subparagraph (A) by striking "mail—" and all that follows through the end of the subparagraph and inserting "mail."; and

(ii) by striking subparagraphs (B), (C), (D), and (F) and redesignating subparagraph (E) as subparagraph (B);

(2) in subsection (b)(1) by striking "of this section" and inserting "and not declared to be nonfrankable under subsection (a) (4) or (5)"; and

(3) by striking subsection (d).•

By Mr. THURMOND:

S. 1969. A bill to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution; to the Committee on the Judiciary.

EXTENSION OF THE COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION

• Mr. THURMOND. Mr. President, I am introducing today, at the request of former Chief Justice Burger, legislation which would extend the life of the Commission on the Bicentennial of the U.S. Constitution for 6 additional months at no addition cost to the taxpayer.

Under current law, the Commission's corporate life will end on December 31, 1991. The Commission will be working right up to the end of the year with events culminating on December 15, the 200th anniversary of the ratification of the Bill of Rights. In order to have time to properly close up shop, archive material, and tie up loose ends, Chief Justice Burger has requested that the statutory life of the commission be extended for 6 additional months with no additional appropriation.

In order to properly finish the task assigned to the Commission by Congress, I urge my colleagues to join me in support of this extension of the bicentennial Commission which, I reiterate, is at no additional expense to the taxpayer.•

By Mr. DURENBERGER:

S. 1970. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

HMONG VETERANS NATURALIZATION ACT OF 1991

• Mr. DURENBERGER. Mr. President, today I am introducing legislation that will relax certain immigration and naturalization requirements for Hmong veterans who served with United States forces during the Vietnam war. The bill would also relax requirements for spouses or widows of Hmong veterans.

This act recognizes the extremely important contributions and sacrifices made by thousands of Hmong and other Laotian highland groups who served in CIA-directed special guerrilla units in the Vietnam war from 1961 to 1978.

The Hmong and other highland peoples served bravely and sacrificed dearly during the war. Between 10,000 and 20,000 Hmong were killed in combat and over 100,000 had to flee their homeland in order to survive.

Although the Hmong served admirably in support of United States efforts in the Vietnam war, many of those who did survive and made it to the United States are separated from other family members and are having a difficult time adjusting to life here. Family reunification remains a vexing problem for the Hmong, one that concerns this Senator greatly.

This Hmong Veterans' Naturalization Act of 1991 will make an important contribution to efforts at reuniting families. The act will make it easier for those who served in the special guerrilla units to attain U.S. citizenship by waiving the English language and residency tests.

The single greatest obstacle for the Hmong in becoming United States citizens is passing the English test. Why is this so? Principally because the Hmong language is verbal, not written. Plus, formal education is rare in the highland regions of Laos where the Hmong come from. Written characters for Hmong have only recently been introduced, and whatever chances most Hmong may have had for learning the written language were disrupted by the war.

In addition to the language requirements, this bill would also waive the residency requirement for those who served, to speed up the process of family reunification. Current law permits aliens or noncitizen nationals who served honorably during World War I, World War II, the Korean war, and the Vietnam war to be naturalized regardless of age, period of residence, or physical presence in the United States. There is a well-established precedent of relaxing naturalization requirements for military service.

The Hmong served the United States for 17 years. They suffered and sacrificed a great deal in that service. This bill recognizes the brave contribution of the Hmong people and the extreme difficulty that the Hmong have in learning English.

It is the hope of this Senator that my colleagues will join me in supporting this legislation. It gives appropriate recognition and assistance to a group in our society that has earned it in serving U.S. interests when it mattered for us.•

By Mr. HOLLINGS (for himself, Mr. ROBB, Mr. FORD, Mr. LAUTENBERG, and Mr. WARNER):

S. 1971. A bill to amend the Metropolitan Washington Airports Act of 1986 to modify the composition of the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes; to the Committee on Commerce, Science, and Transportation.

METROPOLITAN WASHINGTON AIRPORTS ACT AMENDMENTS OF 1991

Mr. HOLLINGS. Mr. President, today, I am introducing legislation that addresses a problem confronting Washington National and Dulles International Airports. Under the current law, Congress established a nine-member Congressional Board of Review, on which I serve. The Supreme Court decided this year that the Board is not constitutional. The legislation I introduce today, along with Senators ROBB, FORD, LAUTENBERG, and WARNER, seeks to correct the defect noted by the Supreme Court.

Identical legislation was introduced on November 13 in the House of Representatives, by Congressman OBERSTAR, and cosponsored by Congressmen ROE, HAMMERSCHMIDT, MINETA, CLINGER, LEHMAN, and PAYNE. Congressmen MINETA, HAMMERSCHMIDT, and LEHMAN serve with me on the Board of Review.

The legislation seeks to prevent the ongoing construction at these airports from being stopped. National Airport was used by some 15.8 million passengers last year and had a total of 313,400 operations. National Airport is an airport with which Members of this body are all too familiar.

In 1985 and 1986, I fought long and hard over the transfer of Washington National Airport and Dulles Airport from its owner, the Federal Government, to a regional authority. I stood on this floor and was willing to stay on the floor to discuss the matter at great length.

Ultimately, legislation was proposed and enacted that allowed these airports to be leased to a local authority for 50 years. The legislation created two bodies: an 11-member Airports Authority Board of Directors, comprised of 11 appointed representatives, with 5 from Virginia, 3 from Washington, 2 from Maryland, and 1 at large; and a Board of Review to oversee the Airports Authority. There was much justification for such oversight, considering the huge value of these airports and the Federal investment in them.

As part of the original legislation, specific actions undertaken by the Airports Authority had to be submitted to the Board of Review, and those actions were subject to a veto by the Board of Review. Those actions included the authorization for the issuance of bonds, approval of an annual budget, changes to regulations, appointment of a chief executive officer, and approval of a master plan. The legislation also, and most importantly, specifically stated that if the Board of Review were determined to be unconstitutional, the Airports Authority could not take any of the actions that were subject to Board of Review disapproval.

The compromise reached in the original legislation balanced the needs of Virginia, Washington, DC, and Maryland, which has a substantial investment in Baltimore-Washington Airport. Noise concerns also were addressed by statutorily limiting the number of operations at National Airport. The Department of Transportation gave up control of federally owned airports, BWI's concerns were addressed, noise problems at National Airport were mitigated, and Congress, through the Congressional Board of Review, was to be able to oversee decisions concerning Federal property.

The Supreme Court on June 17 of this year in Metropolitan Washington Airports Authority versus Citizens for the Abatement of Aircraft Noise [CAAN] found the Board of Review to be unconstitutional. As a result, under the law those actions of the Airports Authority that were subject to disapproval by the Board of Review cannot be addressed by the Airports Authority, thereby threatening to close down ongoing construction and design work because the Airports Authority cannot issue any more bonds to pay for such work.

Many of you may remember the original problem that the transfer legislation sought to cure: the airports were desperately in need of repair, and because they were federally owned, they were ineligible for Federal airport grants. All funds for the airports had to be appropriated by Congress, and thus were subject to other budgetary priorities. No long-term planning or commitments were being made. We all had to wade through the mess on our way home. Our constituents coming to visit the Nation's Capital also had to wade through it. Simply put, travel through the airports was less than a pleasant experience.

Until the Supreme Court's decision, long-term planning and the multimillion-dollar face lift for these airports were moving along relatively well. The Airports Authority was able to get permission to issue bonds and has, in fact, sold about 500 million dollars' worth of bonds to pay for the $1.6 billion capital development plan. The Supreme Court's decision has crippled the ability of the Authority to obtain additional funds to continue necessary projects. At National Airport, the lack of funding will prevent the construction of a new terminal, including a connection to the Metro; the construction of two additional parking structures; and the rehabilitation of the existing terminal. It also has been estimated that if construction is brought to a halt at National and Dulles Airports, the airports may end up paying an additional $39 million to stop and restart the capital development plan projects.

It is bad enough that the Federal deficit continues to grow at an unprecedented rate. I have spoken many times about the Federal budget and deficit mess; I urge my colleagues not to spread that disease to this Airports Authority. The $39 million can be spent on a host of other worthwhile projects and should not go to closing down and restarting projects merely because Congress fails to act responsibly.

As for the specific provisions, the legislation will retain a Congressional Board of Review, but will not provide the Board of Review with veto power over decisions by the Airports Authority Board of Directors. The Airports Authority Board of Directors will be required to submit specific actions for review by the Board of Review, which then will make recommendations to Airports Authority Directors. If the Airports Authority does not agree with the Board of Review's recommendations, a written report to the Board of Review will be required.

The action must then be submitted to the Congress, much like the process used for matters relating to the District of Columbia. Congress then will have 60 days to decide whether to disapprove the action. Expedited procedures will be used, debate will be limited, and amendments will be prohibited.

I urge my colleagues to act quickly on this measure so that it can be enacted before Congress adjourns.

Mr. ROBB. Mr. President, I rise in support of two great American airports, and in especial support of the people of Virginia and our neighbors in Maryland and the District of Columbia.

In a sense, National and Dulles Airports have been victims of their own success. Their main terminals were never intended to serve the number of people visiting Washington today. The ancillary facilities put into service to cope with the increase in passenger traffic have helped, but National and Dulles have become patchwork airports.

These two airports have always been in a category of their own. Because both National and Dulles began life as federally owned and operated facilities, the Congress has had a historical interest in their well-being. That's why, when the day-to-day operation of the airports was turned over to local control in 1986, Congress created a Board of Review to oversee the Metropolitan Washington Airports Authority.

It's no secret that when the Airports Authority assumed management control, a lot of people expected it to fall on its face. I believe that the Authority's achievements have been a pleasant surprise to many, and its performance has just continued to improve over time.

As part of its ongoing effort, the Airports Authority has put together a comprehensive master plan to renew

National and expand Dulles, retaining the strengths of the old facilities while bringing the airports squarely into the modern age. The centerpiece of that master plan is the $1.6 billion Capital Development Program, already underway, which is bringing new terminals and parking facilities, better public transit access, and improved accommodation for aircraft to both airports.

There's just one problem with that scenario. The Supreme Court ruled that the Airports Authority's management structure—particularly the makeup of the board of review—is invalid. Because of that, the Authority is losing its ability to issue the bonds which make the Capital Development Program possible. Unless Congress takes immediate action to rectify this flaw it helped create, the bulldozers will stop, the progress will be arrested, and the thousands of passengers these airports serve every day will be greatly inconvenienced.

Therefore, in keeping with Virginia's interest in the airports and Congress' special responsibility for them, I'm pleased to introduce a solution to that problem. The Metropolitan Washington Airports Act Amendments of 1991, which I have just sent to the desk for myself and Senator WARNER—and which were introduced yesterday in the other body by Representative JIM OBERSTAR—will restore the Airports Authority's bond-issuing ability by revising the composition of the Authority's board of review to meet the Supreme Court guidelines. Those interested in the airports' operation should be aware that this bill does only one thing. It ensures that the Capital Development Program will continue, allowing Dulles and particularly National to more comfortably handle the existing level of traffic.

Senator WARNER and I would like to recognize the assistance of our colleagues, Senators FRITZ HOLLINGS, WENDELL FORD, and FRANK LAUTENBERG, in bringing this legislation forward. And this bill would simply not exist without the devoted efforts of Congressman JIM OBERSTAR. He has been a friend of National for many years, and the people of the National Capital area are in his debt. Congressmen NORM MINETA and JOHN PAUL HAMMERSCHMIDT were also instrumental in coming up with a solution to National's biggest challenge. And at the center were the people of the Metropolitan Washington Airports Authority, who have turned skeptics into supporters with their performance.

This year is the 50th anniversary of National Airport, and we celebrate her rebirth, and the development of Dulles as a worthy partner. This bill will give National and Dulles a new management style to complement their physical renovation, and will mean that millions more Americans will arrive in their national capital through modern, state-of-the-art airports.

By Mr. LEAHY:

S. 1972. A bill to amend the Public Health Service Act to provide grants for the establishment of State demonstration projects for comprehensive health care reform; to the Committee on Finance.

STATE CARE: STATE-BASED COMPREHENSIVE HEALTH CARE ACT

Mr. LEAHY. Mr. President, every day millions of Americans suffer a common fear and that fear, whether they are ill or not, is that they will not have the resources to pay for needed medical care. In my home State of Vermont, 45,000 people, 15,000 of them children, had no health insurance last year, and this year we expect that number to grow. Across the Nation, the numbers are staggering. Between 32 and 37 million Americans have no health insurance. Some 60 million more are underinsured.

In a rural State like Vermont, the problem is not just cost, it is access to care. In Essex County, we have only one dentist. We are losing obstetricians in many parts of the State, and the rural family doctor is becoming a thing of the past. Seeing a doctor is becoming too expensive for many. Too many mothers and fathers have to spend sleepless nights wondering if they should spend their limited budget on food or on the doctor because they cannot do both. Too many are forced to use the emergency room for their children's care. Why? Because they cannot afford regular checkups at the pediatrician's office. And too many have to wait until their children are sick enough to require attention by the doctor instead of taking them for preventive checkups.

The consequences, we know, can be tragic. Any one of us who has been a parent realizes what it means. We know that a child's ear infection gone untreated can lead to deafness; that a minor eye infection can lead to blindness.

It is not right that the richest, most powerful Nation in the world fails to provide for its families. It is not right that the United States and South Africa are the only two industrialized nations in the world that do not provide universal health care. Part of the untold story in health care is that 3 of 10 Americans say that they or someone in their household have at some time stayed in a job they wanted to leave. They stayed in that job only to keep the health benefits.

The Democratic leaders in the House and Senate have spelled out a number of detailed options to solve the Nation's health care crisis, but unfortunately at a time when the country desperately wants leadership from the White House, the administration has refused to back any plan.

We know what the administration is against. We just don't know what they are for. The administration cannot hide. They cannot sit in their windowless Washington offices reading polls and debating the political risks of health care. Americans cannot wait until Inaugural Day 1993 for a new administration that cares about health care. Because of the administration's intransigence it may take months before the deadlock over health care is broken. But the millions without health care cannot wait for the White House to act. They need health care now. For many, it is literally a case of life or death.

Universal health care is our long-term goal. I do not think any one of us in this body should rest until we have achieved it. But in the absence of a national plan, we need to help those States who want today to care for their citizens.

There is an interim step to help us move forward at a time when the administration stands in our way. Today, there is a growing unrest among the States to get moving on health care reform. Burgeoning health care costs, and particularly the growth of Medicaid, are busting State budgets. The Governors in this country are rightfully angry. They want the Congress to remove the obstacles that prevent them from moving ahead.

So today I am introducing legislation to create State Care which I hope will be seen as a fresh idea in the debate. It recognizes that there are no magic solutions to the health care crisis, and the premise of it is simple. It makes sense to test ideas on the State level before making national policy. What might work and be needed in our own State of Vermont might not work in the State of Texas with its large migrant worker population, or in the States of Nevada or Montana, California, and Illinois. Each of us have special problems that we can deal with on our local level.

This approach has worked in the past. We did this with Social Security. Mr. President, 24 States had parts of the Social Security law on the books before the national act passed in 1935. Child labor laws were once thought of as radical.

In 1912 Congress passed national standards on child labor laws, but before that 28 States had put child labor laws on their books. With both Social Security and child labor legislation, ideas started in the States and were tested and refined before Congress transformed them into national policy. The model has worked before and it can work again in health care.

To move forward State Care would remove Federal obstacles that block States from addressing the needs of their citizens and give States up to $2 million to set up demonstration projects of universal health coverage and cost containment.

To be eligible for State Care demonstration grants, States will present a plan that assures health coverage to all residents; implements cost containment provisions; and, defines a package of benefits for all.

Each State Care demonstration State will create a commission to make recommendations to the Governor and legislature on meeting the guidelines. Legislatures would approve the plan with changes, if necessary.

There is no magical solution to our health care problems. And State Care does not require a specific health care plan. The States will have flexibility. Single-payer, pay-or-play, or other broad-based systems could be implemented and phased in over 6 years.

To implement the demonstration grants, approved States will receive waivers to allow more flexible use of Medicaid, Medicare, and other Federal health funds. Also, States will receive a limited exemption from ERISA, allowing them to include self-funded employee welfare benefit plans in insurance reform efforts.

This legislation has not been created in a vacuum. Over the last year I have been working with the National Governors' Association, with the many Vermonters who participated in my eighth annual human services forum this past June, and others to craft it. It also has the support of my Governor, Howard Dean. Governor Dean is a practicing physician, I believe the only Governor in this country who is. He specializes in family medicine.

I remember when I was young, Mr. President, growing up in Montpelier, VT. I learned that the American dream was simple. Those that work hard will get ahead, will have the resources to provide for themselves and their family. To many Americans that dream rings hollow today. My mother and father had a small printing business in Montpelier and used to tell the rest of us that each generation makes it better for the generation after them.

I want every American mother and father to go to bed each night and know that they will be able to take care of their children if they get sick. I want every American to have comfort in knowing that his or her health care needs will be taken care of no matter what the cost.

I want the American dream to ring as true today as when I was a child.

Mr. President, I yield the floor.

Mr. President, I ask unanimous consent that the text of the bill and a letter from Dr. Howard Dean, the Governor of the State of Vermont, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Care: State-Based Comprehensive Health Care Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) up to 37 million Americans are without health insurance;

(2) more than half of Americans without health coverage work full-time;

(3) health care costs the average American more than $2,400 a year;

(4) a single serious illness can financially devastate all but the wealthiest families; and

(5) as with social security and child labor protections, States can lead the way in testing ideas for national application.

(b) PURPOSE.—It is the purpose of this Act—

(1) to test ways to provide a more equitable and rational system of health care;

(2) to permit States to provide universal health coverage for their citizens using existing federal funding; and

(3) to permit States to test effective cost-containment procedures to assure better health care.

SEC. 3. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

Title XXII of the Public Health Service Act (42 U.S.C. 300bb–1, et seq.) is amended by adding at the end thereof the following new part:

"PART B—STATE UNIVERSAL HEALTH COVERAGE AND COST CONTAINMENT DEMONSTRATION PROJECTS

"SEC. 2211. UNIVERSAL HEALTH CARE ADVISORY BOARD.

"(a) IN GENERAL.—A Universal Health Care Advisory Board, hereinafter in this part referred to as the "Advisory Board," shall be established to make recommendations to the Secretary regarding the approval, funding and administration of 10 State demonstration projects designed to provide health coverage to individuals residing in such States.

"(b) VOTING MEMBERS.—The Advisory Board shall be composed of citizens of the United States as follows—

"(1) one individual who shall be an expert in the field of health care appointed by the President based on recommendations by the Secretary;

"(2) eight individuals, appointed by the Congress, who shall have expertise in the field of health care, of whom—

"(A) two shall be appointed by the majority leader of the Senate;

"(B) one shall be appointed by the minority leader of the Senate;

"(C) two shall be appointed by the Speaker of the House of Representatives; and

"(D) one shall be appointed by the minority leader of the House of Representatives; and

"(3) two individuals who shall be the Chief Executive Officer of a State, or designee, each of whom shall be from a different political party.

"(C) CHAIRPERSON.—The Secretary, or the Secretary's designee, shall be chairperson of the Advisory Board but shall not vote on any matters except in the event of a tie vote.

"(D) VACANCIES.—An individual shall be selected to fill a vacancy on the Advisory Board in the same manner as the member of the Advisory Board for which such individual is to be selected to replace was selected.

"(E) MEETINGS.—The Advisory Board shall meet on a regular basis at the call of the Chairperson, or on the written request of at least three voting members. A majority of the Advisory Board shall constitute a quorum.

"(F) EXECUTIVE DIRECTOR.—The Advisory Board shall select an executive director who shall serve at the pleasure of the Advisory Board and implement decisions of the Advisory Board and perform other administrative functions. The Executive Director is authorized to hire, at the direction of the Advisory Board, such staff as may be appropriate.

"(G) DUTIES.—The Advisory Board shall—

"(1) review each application for a grant, request for waivers, request for funding for each planning or demonstration grants, and make recommendations to the Secretary to approve, modify or disapprove such applications, requests or plans;

"(2) make recommendations and reports to the appropriate Committees of the Congress regarding improvements in health care and cost-containment;

"(3) make recommendations to the Secretary regarding the implementation of this Act; and

"(4) make recommendations to the Secretary regarding the content of applications for assistance under this part, the content of plans of operation described in section 2214, and application procedures for planning and demonstration grants; and,

"(5) shall carry out any other activities related to this Act that are necessary and appropriate.

"SEC. 2212. STATE HEALTH CARE AUTHORITY.

"(a) ESTABLISHMENT.—A State that desires to receive a grant under section 2215, shall establish a State Health Care Authority as provided in subsection (b) which shall prepare and submit to the State legislature a comprehensive recommendation for the State plan described in section 2215(c).

"(b) COMPOSITION.—The Authority established under paragraph (1) shall be composed of individuals appointed by the Chief Executive Officer of the State from among representatives of—

"(1) health care provider organizations;

"(2) consumer organizations;

"(3) the State health department;

"(4) the State legislature;

"(5) insurance providers operating in the State;

"(6) low-income advocacy organizations;

"(7) senior citizens organizations;

"(8) small business entities and self-employed individuals;

"(9) other organizations determined appropriate by the chief executive officer.

"(c) REPORT OF STATE HEALTH CARE AUTHORITY.—The Authority established under subsection (a) shall prepare and submit to the Chief Executive Officer of the State and the legislature of the State, a report containing a copy of the proposed State plan and a description of the benefits to which all residents of the State would be entitled under the plan.

"(d) APPROVAL.—The legislature of such State referred to in subsection (c) shall approve the plan contained in such report or modify such plan as the legislature considers appropriate.

"(e) NOTIFICATION OF ADVISORY BOARD.—The Chief Executive Officer of a State shall notify the Secretary and the Advisory Board upon the final approval of the report submitted under subsection (3) and shall make the benefits package described in such report part of the State plan submitted under section 2215(c).

"SEC. 2213. PLANNING GRANTS.

"(a) IN GENERAL.—The Secretary shall establish procedures permitting the Chief Executive Officer of any State to apply for a grant to enable the State to analyze—

"(1) its need for a better health care system,

"(2) the types, extent and variety of health care provided in the State,

"(3) the State's potential to benefit from conducting a demonstration project under this Act, and

"(4) a variety of health care proposals consistent with the purposes of this part and to analyze their impact on residents of the State.

"(b) Limit on States; State Diversity.—No more than 15 States shall receive planning grants under the authority of this section. The Secretary, to the extent practicable, shall approve applications from States presenting a wide variety of characteristics including States—

"(1) from a variety of geographic areas of the United States;

"(2) with a high percentage of the total population living in rural areas;

"(3) with a high percentage of the total population living in urban areas;

"(4) with a large ethnic diversity, and with a low ethnic diversity; and

"(5) which demonstrate some particular need for such assistance, an especially useful or novel approach to health care, or an opportunity to gain valuable information regarding the provision of health care.

"(c) Approval of Planning Grants.—In deciding on which applications to approve, and the amount of each planning grant, the Secretary shall consider—

"(1) the recommendations of the Advisory Board;

"(2) the ability of the State to benefit from being issued a planning grant;

"(3) the factors listed in subsection (b) and such other factors as the Secretary determines appropriate.

"(d) Amount of Grants.—The amount of any planning grant awarded under this section shall not exceed $2,000,000 per State.

"(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $30,000,000 for each of the fiscal years 1992 through 1996.

"SEC. 2214. APPLICATION FOR DEMONSTRATION GRANTS.

"(a) In General.—The Secretary shall award demonstration grants to ten States to enable such States to design and implement "State Care" demonstration projects to provide health coverage to individuals residing within each such State.

"(b) Application.—To be eligible to receive a demonstration grant under this part, a State shall prepare and submit to the Secretary and the Advisory Board an application and State plan meeting the requirements of subsection (c) at such time, in such manner, and containing such information as the Secretary may require, in consultation with the Advisory Board.

"(c) State Plan.—A State that desires to receive a "State Care" grant under this section shall establish a state health care authority as described in section 2212 and shall prepare and submit, as part of the application a State health care plan that shall—

"(1) provide that such plan will be in effect in all political subdivisions of the State

"(2) provide that such plan will ensure that all individuals residing within the State have access to health coverage through—

"(A) a single State administered health plan;

"(B) a plan that requires employers to provide coverage for their employees through a private health insurance plan or a public insurance plan; or

"(C) any other plan approved by the State and determined appropriate by the Advisory Board;

"(3) describe the manner in which the State intends to provide access to the coverage required under paragraph (2) and States are encouraged to include in such plan insurance market reforms, medical malpractice reforms, managed care plans, low-income cost-sharing protections, and an emphasis on preventive health services;

"(4) identify all Federal, State or local programs that currently provide health care services in the State and describe how such programs would be incorporated in the health coverage system implemented by the State under this section and States are encouraged to provide for the consolidation of all Federal, State, and local programs that provide health care services in the State;

"(5) provide that the State will develop and implement health care cost containment procedures;

"(6) provide assurances and agreements as required by the Secretary in consultation with the Advisory Board, including

"(A) an assurance that the care and services provided under the plan will comply with the requirements of this part; and

"(B) an assurance that providers of services and insurance policies will meet licensure, certification, and other appropriate standards as established by the State;

"(7) provide that the State will prepare and submit to the Secretary and the Advisory Board, such reports as the Secretary of the Advisory Board may require to carry out program evaluations;

"(8) establish budgetary procedures to ensure that a Statewide health care budget is established with respect to the services and annual expenditures provided under the program established in the State under this part and may establish—

"(A) a capital budgeting system to encourage the efficient distribution of funds; and

"(B) budgets for physician and hospital expenditures and may conduct negotiations concerning provider reimbursement rates through the State Health Care Authority established under section 2212;

"(9) establish quality control procedures which may include—

"(A) the development and implementation of a system for the use of standardized insurance claim forms;

"(B) procedures to ensure that health care providers in the State provide services consistent with practice guidelines developed by the Agency for Health Care Policy and Research; and

"(C) a program to make information available to educate the general public concerning the availability of comprehensive health insurance in the State; and

"(10) shall detail the procedures to be used to phase-in the State plan in the event the State determines that it needs a transition period, which period shall not exceed six years from the date of approval of the State plan.

"SEC. 2215. APPROVAL OF "STATE CARE" DEMONSTRATION GRANTS.

"(a) Factors.—The Secretary, based on the recommendations of the advisory Board and the factors described in subsection (b), shall approve within three months of receipt applications submitted by States that meet the requirements established under this part and shall waive to the extent necessary to conduct each "State Care" demonstration project any of the requirements of the Federal laws listed in section 2216(a).

"(b) Diversity.—To maximize the variety of health care demonstration projects, the Secretary shall also give a preference to States presenting a wide variety of characteristics including States—

"(1) from a variety of geographic areas of the United States;

"(2) with a high percentage of the total population living in rural areas;

"(3) with a high percentage of the total population living in urban areas;

"(4) with a large ethnic diversity, or with a low ethnic diversity; or

"(5) which demonstrate some particular need for such assistance, an especially useful or novel approach to health care, or which present an opportunity to gain valuable information regarding the provision of health care.

"(c) Special Rules.—If more than ten States are expected to meet the requirements of this section, the Secretary shall in consultation with the Advisory Board, publish additional considerations that shall be used to limit the number of participating States to ten.

"SEC. 2216. FUNDING.

"(a) Waivers.—The Secretary upon approving the application of a State to conduct a "State Care" demonstration project under this part shall waive to the extent necessary to allow the State to conduct such a demonstration project any provisions of federal law contained in the following Acts, titles, or laws;

"(1) title XVIII of the Social Security Act;

"(2) titles XIX and XXI of the Social Security Act;

"(3) title V of the Social Security Act;

"(4) the Public Health Service Act; and

"(5) any other Federal law authorizing a Federal health care program that the Secretary, after considering recommendations of the Advisory Board, identifies as providing health care service to qualified recipients.

"(b) Transfer to State of Federal Health Care Expenditures for Services Covered Under "State Care."—

"(1) Payments of federal funds.—Notwithstanding any other provision of law, if a State is approved to participate in a "State Care" demonstration project under this part, the Secretary shall provide that, instead of any payments made under the Federal programs, Acts, titles, or laws listed in subsection (a) with respect to residents or providers of health care in the State, the total of such payments shall be transferred to the State to be used for implementation of the "State Care" demonstration plan and this total shall be referred to as the "base amount" for the State.

"(2) Inflation adjustments.—The "base amount" for each State shall be adjusted annually based on changes in the Bureau of Labor Statistics index for medical care costs.

"(3) Basis.—The payments referred to in paragraph (1) shall be made on such a periodic basis as approximates the periodic payments made under the programs authorized under the Acts and laws set forth in subsection (a).

"(c) State Incentive.—In addition to the base amount, as adjusted annually, the Secretary shall pay to each State 50 percent of the costs associated with implementation of an approved "State Care" plan to the extent that such costs exceed the base amount. The Secretary is authorized and required to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging the obligations under this part and for providing the 50 percent match required by the preceding sentence. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds for the sale of any securities issued under Chapter 31 of Title 31 of the United States Code and the purposes for which such securities may be issued under such Chapter are extended to include the purchase of notes issued by the Secretary hereunder. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

"SEC. 2217. DUTIES OF THE SECRETARY.

"(a) IN GENERAL.—The Secretary shall expeditiously carry out the requirements of this part, work closely with the Advisory Board established in section 2211, and shall provide such assistance to States as may be appropriate to further the purposes of this part.

"(b) ADVISORY BOARD RECOMMENDATIONS.—In each instance in which the Secretary does not adopt or otherwise follow the recommendations of the Advisory Board the Secretary shall—

"(1) explain in writing the basis for each such deviation and provide a detailed explanation of the circumstances to the Advisory Board and the appropriate Committees of the Congress; and

"(2) delay implementation of the decision of the Secretary for at least 30 days after issuing the written explanation required in paragraph (1).

"SEC. 2218. RELATION TO OTHER LAWS.

"(1) ANTITRUST LAWS.—Notwithstanding any provision of antitrust laws, it shall not be considered a violation of the antitrust laws for a State that receives a grant under this part to develop or implement a single-payer health care plan in accordance with a State plan approved under section 2215.

"(2) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—The provisions of any "State Care" plan approved by the Secretary under section 2215 shall supersede any provisions the Employees Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), with respect to any provisions relating to the State's authority to include self funded employee welfare benefit plans in a health insurance reform effort implemented pursuant to this part.

"SEC. 2219. EVALUATION.

"The Secretary, in consultation with the Advisory Board, shall prepare and submit to the appropriate Committees of Congress, periodic reports that shall contain—

"(1) a description of the effects of the reforms undertaken in States that receive "State Care" grants under this part; and

"(2) an evaluation of the effectiveness of such reforms in—

"(A) providing universal health care coverage for individuals in such State; and

"(B) reducing or containing health care costs in the State; and

"(C) improving the quality of health care provided in the State.

"SEC. 2220. DEFINITIONS.—As used in this part the term 'antitrust laws' means—

"(a) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, commonly known as the "Sherman Act" (26 Stat. 209; chapter 647; 15 U.S.C. 1 et seq.);

"(b) the Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717; chapter 311; 15 U.S.C. 41 et seq.);

"(c) the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes, approved October 15, 1914, commonly known as the "Clayton Act" (38 Stat. 730; chapter 323; 15 U.S.C. 12 et seq.; 18 U.S.C. 402, 660, 3285, 3691; 29 U.S.C. 52, 53); and

"(d) any State antitrust laws that would prohibit the activities described in section 2215(c)(1)."

SEC. 4. CONFORMING CHANGES.

Title XXII of the Public Health Service Act (42 U.S.C. 300bb-1 et seq.) is amended—

"(1) by striking out the title heading and inserting in lieu thereof the following:

"TITLE XXII—GROUP HEALTH PLANS AND STATE UNIVERSAL HEALTH COVERAGE AND COST CONTAINMENT PROGRAM

"PART A—REQUIREMENTS FOR CERTAIN GROUP HEALTH PLANS FOR CERTAIN STATE AND LOCAL EMPLOYEES"

"(2) in section 2201(a), 2203 and 2207, by striking out "title" and inserting in lieu thereof "part"; and

"(3) in the matter preceding paragraph (1) of sections 2204, 2205 and 2208, by striking out "title" and inserting in lieu thereof "part".

STATE OF VERMONT,
Montpelier, VT, November 12, 1991.

Hon. PATRICK LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR PATRICK: I am writing to express my strong support for the "State Universal Health Coverage and Cost Containment Act of 1991." I heartily commend you for introducing this bill, which will, if passed, be a tremendous help to states like Vermont in their efforts to increase access to health care coverage and control health care costs.

As you know, I intend to present a proposal to the General Assembly in January that will put Vermont on the road toward a more equitable and rational system of health care financing and delivery. I believe there is broad-based support for reform initiatives among Vermont legislators, business groups, health care providers and consumers. However, while we can begin to lay the foundation for a better health care system this year, key components of reform will require more time, new state resources and waivers that allow us flexibility in our use of federal funds. Enactment of your legislation would facilitate this process by providing badly needed grant funds to finance key initial reform steps and by simplifying the federal waiver process.

I am pleased that the "State Universal Health Coverage and Cost Containment Act" does not compromise the ability of states to be flexible in designing new health care financing and delivery systems. States must be able to tailor reforms to their individual needs. Vermont's health care system and the needs of its population are often very different from those of other states, and our reform efforts must recognize and respond to that uniqueness.

Thank you for introducing this important legislation. Please do not hesitate to let me know how I can aid its passage.

Sincerely,

HOWARD DEAN, M.D.,
Governor.

By Mr. THURMOND:

S.J. Res. 231. Joint resolution to designate the month of May 1992, as "National Foster Care Month"; to the Committee on the Judiciary.

NATIONAL FOSTER CARE MONTH

• Mr. THURMOND. Mr. President, I am pleased to introduce today a Senate joint resolution which would designate May 1992 as "National Foster Care Month."

It is acknowledged that a family environment with loving and caring parents is the ideal situation for children. However, in the United States there are hundreds of thousands of foster children who, through no fault of their own, have been deprived of this normal home relationship involving love, shelter, and other needs that are the basic necessities of all children. Foster parents volunteer their time, energy, and material resources 24 hours a day, 7 days a week, to help enable these children to develop into mature, responsible, and productive adults.

Our Nation's foster parents have a long and proud tradition of reaching out to those children who need them most. We need to publicly recognize these efforts and call attention to the vital needs of all foster children in the United States. Acknowledgment of the valuable contributions of foster care parents will provide for greater public awareness of and community support for these Americans.

Mr. President, I urge my colleagues to join me in supporting this joint resolution.•

ADDITIONAL COSPONSORS

S. 24

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 24, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion from gross income of educational assistance provided to employees.

S. 68

At the request of Mr. THURMOND, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 68, a bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 196

At the request of Mr. COATS, the name of the Senator from Connecticut [Mr. DODD] was withdrawn as a cosponsor of S. 196, a bill to grant the power to the President to reduce budget authority.

S. 377

At the request of Mrs. KASSEBAUM, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 377, a bill to amend the International Air Transportation Competition Act of 1979.

S. 846

At the request of Mr. PRYOR, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 879

At the request of Mr. DASCHLE, the names of the Senator from Tennessee

[Mr. SASSER], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 1125

At the request of Mr. PRYOR, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1125, a bill to provide incentives to health care providers serving rural areas, to provide grants to county health departments providing preventative health services within rural areas, to establish State health service corps demonstration projects, and for other purposes.

S. 1175

At the request of Mr. KERRY, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1175, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoners or taken captive by a hostile foreign government or its agents or a hostile force before April 25, 1962, and for other purpose.

S. 1533

At the request of Mr. BRYAN, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 1533, a bill to establish a statute of limitations for private rights of action arising from a violation of the Securities Exchange Act of 1934.

S. 1673

At the request of Mr. HEFLIN, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1673, a bill to improve the Federal justices and judges survivors' annuities program, and for other purposes.

S. 1738

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1738, a bill to prohibit imports into the United States of meat products from the European Community until certain unfair trade barriers are removed, and for other purposes.

S. 1742

At the request of Mr. LEAHY, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1742, a bill to authorize grants to be made to State programs designed to provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods, from farmers' markets, and to increase sales at the markets, and for other purposes.

S. 1774

At the request of Mr. BRYAN, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New York [Mr. D'AMATO], the Senator from Washington [Mr. ADAMS], the Senator from Montana [Mr. BAUCUS], the Senator from North Dakota [Mr. BURDICK], the Senator from South Dakota [Mr. DASCHLE], the Senator from Connecticut [Mr. DODD], the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 1774, a bill to establish a silver congressional commemorative medal for members of the U.S. Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1776

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1776, a bill to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants.

S. 1793

At the request of Mr. JOHNSTON, his name was added as a cosponsor of S. 1793, a bill to restrict United States assistance for Serbia or any part of Yugoslavia controlled by Serbia until certain conditions are met, and for other purposes.

S. 1827

At the request of Mr. BOND, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1827, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House.

S. 1932

At the request of Mr. BUMPERS, the names of the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 1932, a bill to amend the Internal Revenue Code of 1986 to provide a capital gains tax differential for individual and corporate taxpayers who make high-risk, long-term, growth-oriented venture and seed capital investments in startup and other small enterprises.

S. 1962

At the request of Mr. ADAMS, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1962, a bill to amend the Civil Rights Act of 1991 to apply the act to certain workers, and for other purposes.

SENATE JOINT RESOLUTION 194

At the request of Mr. GRAMM, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of Senate Joint Resolution 194, a joint resolution to designate 1992 as the "Year of the Gulf of Mexico."

SENATE JOINT RESOLUTION 198

At the request of Mr. AKAKA, the names of the Senator from Texas [Mr. BENTSEN], the Senator from California [Mr. CRANSTON], the Senator from Texas [Mr. GRAMM], the Senator from Michigan [Mr. LEVIN], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 198, a joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

SENATE JOINT RESOLUTION 211

At the request of Mr. D'AMATO, the names of the Senator from Maine [Mr. MITCHELL], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 211, a joint resolution designating October 1991 as "Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 214

At the request of Mr. RIEGLE, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 214, a joint resolution to designate May 16, 1992, as "National Awareness Week for Life-Saving Techniques."

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from South Carolina [Mr. THURMOND], the Senator from Tennessee [Mr. SASSER], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 229

At the request of Mr. BYRD, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Nevada [Mr. BRYAN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. LEVIN], the Senator from Texas [Mr. BENTSEN], the Senator from Maryland [Mr. SARBANES], the Senator from New Mexico [Mr. DOMENICI], the Senator from Ohio [Mr. GLENN], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 229, a joint resolution designating the month of May, 1992, as "National Trauma Awareness Month."

SENATE RESOLUTION 196

At the request of Mr. HATCH, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Resolution 196, a resolution expressing the sense of the Senate that the Soviet Union should immediately begin a prompt withdrawal of Soviet Armed Forces from the Baltic States and undertake discussions with the Governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal.

SENATE RESOLUTION 204

At the request of Mr. D'AMATO, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Resolution 204, a resolution expressing the sense of the Senate that the United States should pursue discussions at the upcoming Middle East peace conference regarding the Syrian connection to terrorism.

SENATE RESOLUTION 211

At the request of Mr. SASSER, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Resolution 211, a resolution expressing the sense of the Senate regarding human rights abuses in China against writers and journalists.

SENATE RESOLUTION 213

At the request of Mr. GORE, the names of the Senator from South Dakota [Mr. PRESSLER], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Resolution 213, a resolution expressing the sense of the Senate regarding United States policy toward Yugoslavia.

At the request of Mr. JOHNSTON, his name was added as a cosponsor of Senate Resolution 213, supra.

SENATE CONCURRENT RESOLUTION 77—CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS BY THE INDONESIAN MILITARY

Mr. PELL (for himself, Mr. WALLOP, Mr. CRANSTON, Mr. DURENBERGER, Mr. KERRY, Mr. KENNEDY, Mr. MURKOWSKI, Mr. SIMON, Mr. HELMS, Mr. DODD, Mr. SASSER, and Mr. LEVIN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring),

(a) FINDINGS.—The Congress finds that—

(1) on November 12, 1991, Indonesian security forces killed 20 to 60 and injured as many as 100 people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dill, East Timor;

(2) Indonesian soldiers also beat several foreign journalists, including two Americans from The New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia in violation of international law illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately 600,000 died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report evidence of human rights abuses, including torture, arbitrary arrest and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totalled $50 million in FY 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the President should suspend immediately all International Military Educational Training program funds to the Indonesian government;

(2) the American ambassador to Indonesia should immediately visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request a report by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, to be made available as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Rapporteur for East Timor to assist in the resolution of the East Timorese conflict, providing for self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Executions of the situation in East Timor and elsehwere in Indonesia;

(6) the American policy of de facto acceptance of Indonesia's incorporation of East Timor should be reassessed until the Secretary General of the United Nations and the governments of Indonesia and Portugal and the East Timorese have arrived at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor; and

(7) the President should request that the Government of Indonesia establish an independent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

• Mr. PELL. Mr. President, today I rise to introduce a concurrent resolution with the cosponsorship of Senators WALLOP, CRANSTON, DURENBERGER, KERRY, KENNEDY, MURKOWSKI, SIMON, HELMS, DODD, SASSER, and LEVIN condemning the massacre of East Timorese civilians by the Indonesian military on November 12, 1991.

Since 1975, when Indonesia illegally invaded the former Portuguese colony of East Timor that distant island has suffered under foreign rule. An estimated 100,000 people out of a population of approximately 600,000 died from the war and accompanying famine and disease. Although open warfare declined under the heavy fist of the Indonesian military, resistance by the predominantly Roman Catholic population continued.

Yesterday, we learned to our dismay the lengths to which the Indonesian military is still willing to go in order to contain even the most peaceful of protests. On Tuesday, 20 to 60 people were killed with automatic weapons and an additional 100 were wounded when the Indonesian military opened fire in front of a church on a group of East Timorese attempting to lay flowers on the grave of a youth killed by Indonesian forces last October 28.

Two American journalists who attempted to intercede in the massacre were brutally beaten by the Indonesian security forces. Let me quote from the female American reporter: "They beat me and dragged me over and started slamming me with rifle butts and kicks and punches." The other journalist from the New Yorker magazine recounted how, "looking down the road, I saw body after body, and the soldiers kept firing at those who were still standing."

Indonesia has demonstrated that it is out of step with a changing world bent on greater respect for human rights and self-determination. The violence in East Timor casts serious doubt on Indonesia's ability to be a civilized nation or to be a credible spokesman for the nonaligned movement in a changing world environment.

The resolution I am introducing today calls for a suspension of American military aid to Indonesia as the only credible response to this atrocity. In fiscal year 1991 these funds totaled $1.9 million.

In addition this resolution calls for an investigation by the American Ambassador to Indonesia and additional investigations by the U.N. Commission on Human Rights.

I also believe it is time for our policy of implicitly accepting Indonesia's incorporation of East Timor be reviewed. It is clear that the East Timorese do not willingly accept Indonesian subjugation. As we have seen elsewhere in the world, the tide of self-determination is rising. The East Timorese deserve the right to decide their future under the aegis of a U.N.-sponsored referendum which would determine their association with Indonesia. As long as a people feel repressed, they will resist.

I urge my colleagues to join in cosponsoring this resolution.•

Mr. MITCHELL submitted the following statement on behalf of Mr. CRANSTON:

• Mr. CRANSTON. Mr. President, I rise today to join Senator PELL in introducing a resolution condemning the brutal slaughter of East Timorese civilians by the Indonesian military.

I am shocked and incensed by this horrendous massacre of religious mourners. I am equally appalled by the beating of several foreign journalists who were observing the funeral procession. This unprovoked attack on innocent civilians exemplifies the systematic violation of human rights that the Indonesian Government has conducted in Indonesia and East Timor over the past two decades.

As chairman of the East Asian and Pacific Affairs Subcommittee, I call upon the administration to do all it can to press the Indonesian Government to find and prosecute the perpetrators of this act of barbarism. I hope the investigation that the Indonesian Government has promised will occur, and that it will be thorough and conducted by an independent commission.

This resolution calls on the administration to suspend all International Military Educational Training [IMET] funds to the Indonesian Government. I strongly support such action.

Earlier this year I and four of my colleagues asked the General Accounting Office to look into the role of U.S. security assistance programs in the postcold war era. A GAO team is scheduled to visit Indonesia the 15th of this month, as part of that investigation.

Our security assistance programs have, as part of their mandate, the promotion of democratic government and human rights. Indonesia has, over the past few years, received millions of dollars in military education and training grants, which have educated hundreds of army officers.

As a result of this most recent tragedy, I have today asked the GAO to take a hard look at Indonesia's participation in IMET to see whether human rights and respect for democratic rule have indeed been at the forefront of our training message. If we are to spend hard-earned taxpayers' dollars, I believe it is essential that our overseas efforts be fully consistent with our stated goals.

This resolution also calls on the President to request the Indonesian Government to permit U.N. Personnel to report on human rights violations such as torture and summary and arbitrary executions in East Timor and elsewhere in Indonesia. U.N. access to East Timor is also critical for determining the restrictions on freedoms of expression, movement, and assembly there.

Mr. President, the United States must reassess its position of de facto recognition of Indonesia's incorporation of East Timor. We must encourage the Governments of Indonesia, East Timor and Portugal to propound an internationally acceptable solution to the continuing conflict in East Timor. Repression, violence, and slaughter are not the answers to East Timorese's legitimate grievances.

East Timor has only been open to the outside world since 1988. Since then, travel within the country is still tightly restricted, and a number of its districts remain off limits to visitors. I believe that it is important for the United States to foster a dialog with the people of East Timor. I would encourage my colleagues to visit East Timor. We must not remain strangers to this small island or the struggles of its people.

Mr. President, I ask my colleagues to join in supporting this resolution and in sending a strong message to the Indonesian Government that flagrant human rights abuses will not be tolerated. The eyes of the world community are on East Timor.•

• Mr. RIEGLE. Mr. President, I rise to express my deep sadness over recent events in East Timor. Two days ago, Indonesian security forces opened fire on a group of more than 1,000 East Timorese mourning the deaths of 2 men, allegedly killed by the Indonesian Armed Forces on October 28. While reports vary, it appears that anywhere between 20 and 180 people died in the melee.

Two American journalists, Allan Nairn of the New Yorker and Amy Goodman of WBAI radio in New York City, who observed the funeral procession, not only witnessed the attack on the unarmed civilians, but were beaten by Indonesian troops. Mr. Nairn recalled, in an interview with the New York Times from his hospital bed on November 12, that the atmosphere in Dili, the capital of East Timor, had been very tense since October 28. He stated that while the funeral service was filled with emotion, it was conducted peacefully until security forces killed dozens and dozens of mourners by firing automatic weapons into the crowd.

This sad event, however, is only one of many tragedies endured by the East Timorese people over the last 16 years. In 1975, after three centuries of colonial rule, Portugal gave up East Timor. Following Portugal's withdrawal, Indonesia invaded the eastern portion of the island of Timor. The brutal assault on this small Connecticut-sized region resulted in Indonesia's annexation of East Timor as the 27th province in its sprawling archipelago. In the 5 years of fighting and widespread disease and famine that followed Indonesia's military appropriation of the eastern half of the island, more than 100,000 of the territory's 700,000 indigenous residents lost their lives.

While, today, East Timorese no longer die by the thousands, international monitoring organizations document a continuing pattern of political repression and human rights abuses. In its 1991 report, Amnesty International revealed that "torture and ill-treatment of political detainees and criminal suspects were widespread and reportedly caused several deaths." This situation was described by Human Rights Watch in their World Report 1990 as "a sharp turn for the worse."

Although Indonesia has made a limited effort to improve socioeconomic conditions on the island, to date, their efforts have not succeeded. Jakarta has not addressed the basic problem on East Timor. Unless the East Timorese have the opportunity to exercise their rights of self-determination, political conflict is bound to continue.

I, therefore, have joined as a cosponsor of a resolution introduced by Senator PELL which urges that the United States reassess the policy of de facto acceptance of Indonesia's incorporation of East Timor until the Secretary General of the United Nations, the East Timorese people, and the Governments of Indonesia and Portugal arrive at a resolution of the problem. This resolution is also important because it urges the President to send United States Ambassador to Indonesia John Mongo to East Timor and to press the U.N. to investigate reports of human rights violations on East Timor. Finally, because the attack on the mourners was carried out by troops wielding American weapons—M-16 rifles—the resolution urges the President to suspend immediately all International Military Educational Training Program funds and economic support funds to Indonesia.

The East Timorese people have endured enough. No longer should they be denied basic human rights and the ability to determine their own future. Mr. President, the United States values its relationship with Indonesia. These ties, however, will be strained unless the Indonesian Government respects the basic human rights of the East Timorese.•

SENATE RESOLUTION 220—RELATIVE TO APPREHENSION AND TRIAL OF THOSE RESPONSIBLE FOR THE DESTRUCTION OF PAN AM FLIGHT 103

Mr. D'AMATO (for himself, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. HELMS, and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 220

Whereas Lamen Khalifa Fhimah and Abdel Basset Ali Megrahi have been indicted by the Justice Department for conspiracy to destroy a United States aircraft and kill 189 United States nationals in violation of Title 18 USC 2331 and 2, and 18 USC 371;

Whereas the above named individuals have been indicted for causing the destruction of a United States carrier plane, Pan Am Flight 103, used in foreign commerce, over Lockerbie, Scotland on December 21, 1988, in violation of Title 18 United States Code Subsection 32(a)(1), 34, and 2; and Title 18 USC 844(i) and 2;

Whereas the meticulous investigation by the Federal Bureau of Investigation, the Justice Department and the various other agencies involved in the events, has led to these indictments;

Whereas authorities from Scotland, the United Kingdom, Switzerland, Malta, Germany, Sweden, and France have participated in the almost three year investigation of the destruction of Pan Am Flight 103;

Whereas the families of the victims of Pan Am Flight 103 have suffered untold grief at the loss of their loved ones: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President of the United States should pursue by any and all legal means the apprehension for trial in the United States, Lamen Khalifa Fhimah and Abdel Basset Ali Megrahi who have been indicted by the Jus-

tice Department for their roles in the destruction of Pan Am Flight 103 on December 21, 1988;

(2) the President should offer rewards for information leading to the arrest and return to the United States for trial for the above named individuals as part of the State Department's Terrorism Information Reward Fund, under Title 22 USC 2709; and the Justice Department's Terrorism Information Reward Fund, under Title 18 USC 3071;

(3) the President should pursue the apprehension of the above named individuals even if force is necessary under the Ker-Frisbie Doctrine;

(4) notwithstanding the indictment of the above named individuals, the investigation of the bombing of Pan Am Flight 103 must continue to be vigorously and intensively pursued in order to bring to justice the individuals who ordered, directed, and paid for the commission of this terrible crime, no matter where they may be located.

AMENDMENTS SUBMITTED

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

RIEGLE (AND GARN) AMENDMENT NO. 1340

Mr. RIEGLE (for himself and Mr. GARN) proposed an amendment to the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions, as follows:

Beginning on page 409, line 11, strike all through page 415, line 25.

On page 495, before line 1, insert the following:

"(2) Single Borrower Lending Limit.—A State branch or State agency shall be subject to the same limitations with respect to loans made to a single borrower as are applicable to a Federal branch or Federal agency under section 4(b).".

On page 495, line 1, strike "(2)" and insert "(3)".

Beginning with page 532, line 14, strike all through page 537, line 13, and insert the following:

Subtitle B—Regulation of Foreign Banks and Subsidiaries

SEC. 621. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) Section 5.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(d) State Not Required To License Branches and Agencies of Foreign Banks.—Nothing in this Act shall be construed to require a State to maintain laws or procedures for the establishment and operation of a State branch or a State agency by a foreign bank.".

(b) Section 8.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by adding at the end the following new subsection:

"(f) Equivalent Capital and Other Financial Requirements.—

"(1) Determination required.—In reviewing any notice under section 4 of the Bank Holding Company Act of 1956 by any foreign bank or company controlling a foreign bank to which this section applies, the Board shall disapprove the notice unless it determines that the financial resources of such bank or company, including the capital level, are equivalent to those of a domestic bank holding company that would be permitted to engage in such activities, after consultation with the Secretary of the Treasury regarding capital equivalency.

"(2) Criteria for determination.—In making the determination in paragraph (1), the Board shall—

"(A) take into account differences in domestic and foreign accounting standards; and

"(B) assure that competitive equivalence between domestic and foreign banks is maintained.

(c) Section 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(e) Guidelines on Equivalence of Foreign Bank Capital.—Not later than 180 days after enactment of this subsection, the Board and the Secretary of the Treasury shall jointly publish in the Federal Register and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report—

"(1) analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Basle Committee on Banking Supervision, foreign regulatory capital standards that apply to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks; and

"(2) establishing guidelines for the adjustments to be used by the Board in converting data on the capital of such foreign banks to the equivalent risk-based capital and leverage requirements for United States banks for purposes of determining whether a foreign bank's capital level is equivalent to that imposed on United States banks for purposes of determinations under sections 5(a), 8(f) and subsection (c) of this section.

An update shall be prepared annually explaining any changes in the analysis under paragraph (1) and resulting changes in the guidelines pursuant to paragraph (2)."

On page 568, lines 13 and 14, strike "AND AFFILIATIONS".

Beginning with page 568, line 15, strike all through page 606, line 3 and insert the following:

SEC. 1138. RESTATEMENT AND REORGANIZATION OF SECTION 5136 OF THE REVISED STATUTES.

Beginning with page 626, line 18, strike all through page 628, line 10.

On page 628, line 11, strike "(c)" and insert "(b)".

Beginning with page 629, line 1, strike all through page 662, line 11.

Relocate section 716, as amended and redesignated as section 1138 above, to page 796, immediately after line 17.

On page 662, line 12, strike "Subtitle D" and insert "Subtitle A" and redesignate sections 761 through 763 of the bill as sections 711 through 713, respectively.

On page 669, line 16, strike "Subtitle E" and insert "Subtitle B" and redesignate sections 771 through 774 of the bill as sections 721 through 724, respectively.

RIEGLE (AND GARN) AMENDMENT NO. 1341

Mr. RIEGLE (for himself and Mr. GARN) proposed an amendment to the bill S. 543, supra; as follows:

Beginning with page 669, line 17, strike all through page 676, line 17, and insert the following:

SEC. 771. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a) Repeal of Obsolete Provision.—Chapter 461 of the Act of September 7, 1916 (39 Stat. 753; 12 U.S.C. 92 note), as amended, is further amended by striking "That in addition to the powers vested by law in national banking associations" and all that follows through "filing his application for insurance.".

(b) New Provision for Insurance Activities of National Banks.—The Revised Statutes are amended by adding the following new section after section 5136 (12 U.S.C. 24):

"SEC. 5136B. INSURANCE ACTIVITIES OF NATIONAL BANKS.

"(a) In General.—A national bank may not provide insurance as principal, agent, or broker except pursuant to this section or section 5136 of the Revised Statutes.

"(b) Authority for National Banks To Engage in Insurance Activities Permitted for State Banks.—

"(1) In general.—A national bank or any of its branches may provide insurance as principal, agent, or broker in the same manner and to the same extent that a bank chartered in the State in which the national bank or branch is located is permitted to provide insurance as principal, agent, or broker.

"(2) Bank chartered in the state defined.—For purposes of paragraph (1), the term 'bank chartered in the State' does not include any organization that is excluded from the definition of 'bank' in section 2(c)(2) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)).

"(c) Authority for National Banks To Engage in Insurance Agency Activities in Small Towns.—

"(1) In general.—A national bank may provide insurance as agent or broker in any small town in which the bank or any of its branches is located.

"(2) Limitations on permissible customers.—Insurance provided pursuant to paragraph (1) in a small town in which a national bank or branch is located may only be provided to—

"(A) an individual who is a resident of or employed in the small town;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the small town;

"(C) a person who is engaged in business in the small town and has a business office in such town, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the small town, or

"(ii) services or products provided in or from the small town; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the small town; or

"(ii) personal property that is principally located or used in the small town.

"(3) Guarantees prohibited.—No national bank that provides insurance pursuant to paragraph (1) may—

"(A) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the bank by the insurance company for which the bank is acting as agent; or

"(B) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(5) SMALL TOWN DEFINED.—For purposes of this subsection (c), the term 'small town' means—

"(A) any place with a population not exceeding 5,000 (as shown by the preceding decennial census); and

"(B) any contiguous rural area, including rural communities, within 7.5 miles of the borders of a place described in subparagraph (A), except to the extent such contiguous rural area includes any part of an incorporated city or town that has a population exceeding 12,500 (as shown by the preceding decennial census).

"(d) AUTHORITY OF NATIONAL BANKS TO CONTINUE CERTAIN AGENCY ACTIVITIES.—

"(1) IN GENERAL.—A national bank or branch providing insurance pursuant to the provision repealed in section 771(a) of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 may continue to provide insurance as agent or broker from any place in which the national bank or branch was located on May 1, 1991, if—

"(A) the national bank or branch was actually providing insurance from that place as of May 1, 1991;

"(B) the insurance insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the national bank or branch was actually providing as of May 1, 1991; and

"(C) the insurance is provided only in the contiguous region to the place in which the national bank or branch is located, except that such insurance may not be provided in any county in which the national bank or branch was not actually providing insurance as of May 1, 1991.

"(2) LIMITATIONS ON PERMISSIBLE CUSTOMERS.—Insurance provided in a contiguous region of a national bank or branch pursuant to paragraph (1) may only be provided to—

"(A) an individual who is a resident of or employed in the contiguous region;

"(B) an individual to whom the bank or branch has provided insurance as agent or broker, without interruption, since such individual ceased to be a resident of, or ceased to be employed in, the contiguous region;

"(C) a person who is engaged in business in the contiguous region and has a business office in such contiguous region, so long as such insurance is provided either with respect to—

"(i) an employee (including an owner-employee) who resides in or is principally employed in the contiguous region, or

"(ii) services or products provided in or from the contiguous region; or

"(D) any other person, if the insurance is issued with respect to—

"(i) real property located in the contiguous region; or

"(ii) personal property that is principally located or used in the contiguous region.

"(3) CONTIGUOUS REGION DEFINED.—For purposes of this subsection, the term 'contiguous region' means the county in which the national bank or branch is located and any county bordering on the county in which the national bank or branch is located, except for—

"(A) any incorporated city or town with a population exceeding 30,000 (as shown by the preceding decennial census); or

"(B) any metropolitan area, as determined by the Office of Management and Budget.

"(4) COMPLIANCE WITH STATE LAW.—A national bank or branch providing insurance pursuant to this subsection shall comply with the laws governing the provision of insurance of the State in which the bank or branch is located, unless such State law is preempted by Federal law.

"(e) STATE DEFINED.—For purposes of this section, the term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act."

(c) NATIONAL BANK INSURANCE ACTIVITIES THAT ARE INCIDENTAL TO BANKING ACTIVITIES.—The paragraph designated the "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)), as redesignated by this section, is amended by adding at the end the following: "A national banking association may engage in activities pursuant to this paragraph that constitute providing insurance as principal, agent, or broker, but only if such activities were lawfully engaged in by one or more national banks before May 1, 1991. For the purposes of the previous sentence, activities were not lawfully engaged in before May 1, 1991, to the extent that they are finally adjudged as unlawful under laws in effect on May 1, 1991. A national banking association providing insurance pursuant to this paragraph shall comply with the laws governing the provision of insurance of the State in which such banking association is located, unless such State law is preempted by Federal law.".

SEC. 722. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES OF BANK HOLDING COMPANIES.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following new section:

"SEC. 13. INTERSTATE INSURANCE AGENCY ACTIVITIES OF BANKING SUBSIDIARIES.

"(a) IN GENERAL.—No bank holding company may permit any subsidiary bank, or any subsidiary of that bank, to provide insurance as agent or broker beyond the borders of the State in which the subsidiary bank is principally located, unless—

"(1) the statutes of the host State expressly authorize a bank principally located in another State to provide insurance in such host State, by language to that effect and not merely by implication;

"(2) the insurance is provided through a branch of the subsidiary bank, so long as the branch—

"(A) is located in the State in which the insurance is provided;

"(B) is otherwise authorized by State or Federal law to provide such insurance; and

"(C) is engaged primarily in banking activities, not insurance activities;

"(3) the insurance is provided pursuant to subsection (d) of section 5136B of the Revised Statutes, except that such insurance may not be provided—

"(A) in any place in the host State that is more than 7.5 miles from the place in which the national bank or branch is located; or

"(B) any incorporated cities or towns with a population exceeding 12,500 (as shown by the preceding decennial census);

"(4) the insurance—

"(A) insures against the same types of risks as, or is otherwise functionally equivalent to, insurance that the subsidiary bank or any subsidiary of that bank was providing as of May 1, 1991, beyond the borders of the State in which the subsidiary bank is principally located, and

"(B) is not provided pursuant to a statute enacted by a State after May 1, 1990;

"(5) the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by the bank holding company and any subsidiary (including the subsidiary bank) in the event of the death, disability, or involuntary unemployment of the debtor; or

"(6) the insurance is placed on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(1) PLACE IN WHICH INSURANCE IS PROVIDED.—For purposes of this section, the place in which insurance is provided includes the place in which an individual who purchases such insurance is domiciled.

"(2) PRINCIPALLY LOCATED DEFINED.—For purposes of this section, the State in which a bank is principally located is—

"(A) the State in which the bank is chartered; or

"(B) if the bank is a national bank, the State in which the bank has its main office.

"(3) HOST STATE DEFINED.—For purposes of this section, the term 'host State' means a State in which a bank provides insurance other than the State in which the bank is principally located.".

"(c) Nothing in this section shall be deemed to affect the ability of a bank holding company to engage directly or indirectly, in insurance activities that are permissible under section 4(c)(8).

SEC. 773. SAFEGUARDS FOR SALE OF INSURANCE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting the following new section at the appropriate place:

"SEC. . SAFEGUARDS FOR SALE OF INSURANCE BY INSURED INSTITUTIONS.

"(a) PROMINENT DISCLOSURE THAT INSURANCE PRODUCTS ARE NOT FEDERALLY INSURED.—Pursuant to regulations issued by the Corporation, an insured depository institution shall prominently disclose in writing to each of its customers that insurance products sold, offered, or recommended by the insured depository institution are not deposits and are not insured by the Corporation, and, to the extent applicable, are neither guaranteed by nor otherwise an obligation of an insured depository institution.

"(b) NO FAVORING OF CAPTIVE AGENTS.—No insured depository institution may, directly or indirectly—

"(1) require as a condition of providing any product or service to any customer, or any renewal of any contract for providing such product or service, that the customer acquire, finance, or negotiate any policy or contract of insurance through a particular insurer, agent, or broker;

"(2) in connection with a loan or extension or credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such institution; or

"(3) impose any discriminatory requirement on any insurance agent who is not affiliated with the insured depository institution that is not imposed on any insurance agent that is affiliated with such institution.

"(c) No Solicitation of Certain Insurance Before Providing Loan Commitments.—

"(1) In general.—No insured depository institution may, directly or indirectly, solicit the purchase of any insurance required under the terms of any proposed loan or extension of credit from such insured depository institution to a customer before the customer has received a written commitment with respect to such loan or extension of credit.

"(2) Exception for insurance required for credit agreement.—Nothing in this section shall prevent an insured depository institution from placing insurance on real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit document.

"(d) Restrictions on Use of Nonpublic Customer Information.—

"(1) In general.—No insured depository institution may use, directly or indirectly, any nonpublic customer information for the purpose of providing insurance, except with the prior written consent of the customer.

"(2) Exception for credit-related insurance.—For purposes of paragraph (1), the term 'insurance' does not include insurance—

"(A) provided to assure the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(B) provided on real or personal property obtained by or on behalf of an insured depository institution in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(C) provided to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit.

"(3) Records of customer consent.—Any insured depository institution that obtains the consent of any customer to disclose nonpublic customer information shall maintain appropriate records or other evidence of such consent.

"(4) Definitions.—

"(A) Customer defined.—For purposes of this section, the term 'customer' means any person who, after January 1, 1992, establishes a credit relationship with an insured depository institution.

"(B) Nonpublic customer information defined.—For purposes of this section, the term 'nonpublic customer information' means information obtained from an individual by an insured depository institution in connection with a loan or extension of credit, but does not include—

"(i) customers' names and addresses (unless a customer has specified otherwise);

"(ii) information that could be obtained from unaffiliated credit bureaus or similar companies in the ordinary course of business; or

"(iii) information that is customarily provided to unaffiliated credit bureaus or similar companies in the ordinary course of business by insured depository institutions that do not provide insurance.

"(5) Additional restrictions.—The Corporation may, by regulation or order, prescribe such additional restrictions and requirements as may be necessary or appropriate to avoid any significant risk to insured depository institutions, protect customers, and avoid conflicts of interest or other abuses.".

SEC. 774. INSURANCE UNDERWRITING IN BANK RESTRICTED.

(a) In General.—Section 24 of the Federal Deposit Insurance Act (as added by section 211(a) of the Act) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) Insurance Underwriting.—

"(1) In general.—No insured State bank or any of its subsidiaries may provide insurance as principal except to the extent that a national bank could lawfully provide insurance as principal as of May 1, 1991.

"(2) Continuation of existing activities.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on July 15, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(3) Exception for certain federally reinsured crop insurance.—Notwithstanding paragraph (1), an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, that was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

(b) Effective Date; Transition Rule.—

(1) Effective date.—The amendment made by this section shall take effect 90 days after the date of enactment of this Act.

(2) Transition rule.—An insured State bank or subsidiary of an insured State bank that, as of the date of enactment of this Act, was lawfully engaged in any activity prohibited by this section may continue to engage in that activity during the period ending one year after that date of enactment.

FORD (AND BOREN) AMENDMENT NO. 1342

Mr. FORD (for himself and Mr. BOREN) proposed an amendment to the bill S. 543, supra, as follows:

Beginning with page 362, line 7, strike all through page 395, line 25, and insert the following:

TITLE III—INTERSTATE BANKING AND COMBINATIONS

SEC. 301. INTERSTATE BANKING.

(a) In General.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended—

(1) by striking "(d) Notwithstanding any other provision of this section, no" and inserting the following:

"(d) State Boundaries.—

"(1) In general.— Except as provided in paragraph (2), no"; and

(2) by adding at the end the following:

"(2) Approvals authorized.—

"(A) Acquisition of existing banks.—Beginning 1 year after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, the Board may approve an application under this section to permit a bank holding company that is adequately capitalized and adequately managed to acquire any voting shares of, interest in, or all or substantially all of the assets of an existing bank located outside of the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later.

"(B) Existing banks.—For purposes of this paragraph, a bank that does not open for business and has been chartered solely for the purpose of acquiring any voting shares of, interest in, or all or substantially all of the assets of an existing bank shall be deemed to be an existing bank and to have been in existence for the same period of time as the bank to be acquired for purposes of subparagraph (A).

"(C) Community reinvestment compliance.—In determining whether to approve an application under subparagraph (A), the Board shall consider the applicant's record of compliance with applicable Federal and State community reinvestment laws.

"(D) State law.—A transaction approved under subparagraph (A) may occur without regard to whether such transaction is permitted under the law of the State in which the bank to be acquired is located.

"(3) Concentration and other limits.—

"(A) In general.—The Board may not approve an application under paragraph (2)(A) if—

"(i) the applicant controls, or upon completion of the acquisition would control, more than 10 percent of the insured depository institution assets of the United States, as determined under regulations of the Board;

"(ii) the applicant controls, or upon completion of the acquisition would control, 25 percent or more of the insured depository institution deposits in the State in which the bank to be acquired is located, as determined under regulations of the Board, except that a State may waive the applicability of this subparagraph; or

"(iii) the acquisition will result in the applicant directly or indirectly controlling a bank that has been in existence for a shorter period of time than is prescribed by the law of the State in which such bank is located in effect on the date the application is filed with the Board, only if such State law—

"(I) does not prescribe a period of more than 5 years; and

"(II) does not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(B) Equal application of law.—In the case of a State referred to in subparagraph (A)(iii) that has in effect on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 a law that specifies a time period described in subparagraph (A)(iii) applicable to out-of-State banks, such State law shall apply to in-State banks until such time as the State either repeals such law or amends such law to apply equally to in-State and out-of-State banks.

"(C) No effect on antitrust laws.—Nothing in this paragraph shall be construed to affect the applicability of Federal or State antitrust laws that do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(4) Definitions.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the same meaning as in section 37 of the Federal Deposit Insurance Act; and

"(B) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

SEC. 302. CONVERSION OF BANKS TO BRANCHES.

(a) In General.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

"(h) Interstate Combinations.—

"(1) In general.—

"(A) Combinations authorized.—Subject to paragraphs (6) and (7), on or after June 1, 1993, a bank holding company having subsidiary banks located in more than 1 State may combine 2 or more of such banks into a single, resulting bank by means of a merger, consolidation, or other transaction.

"(B) Surrender of charter after combination.—On the date on which a combination authorized by this paragraph becomes effective, the charters of the banks (other than that of the resulting bank) that have been combined in accordance with subparagraph (A) into the resulting bank shall be surrendered to the regulatory authority that issued the charters.

"(C) Effect of state prohibition of combinations.—If, during the period beginning on June 1, 1993, and ending on the expiration of 3 years after the date of enactment of this subsection, a combination authorized by subparagraph (A) is effected in a State that elects to prohibit interstate combinations under paragraph (6), then that State may require such branch to be promptly converted back into a bank as it existed prior to such combination.

"(2) Applicability.—A combination under paragraph (1) may only be effected in the case of a merger, consolidation, or other transaction that is undertaken—

"(A) by a bank holding company that is adequately capitalized and adequately managed; or

"(B) by a bank holding company, subject to all other provisions of this subsection, that is critically undercapitalized if—

"(i) the transaction is approved as part of a capital restoration plan required under section 37 of the Federal Deposit Insurance Act;

"(ii) such plan contains not less than 1 element in addition to the transaction; and

"(iii) the transaction will result in a demonstrable and material improvement in the financial condition of the bank holding company.

"(3) Activities of the resulting bank.—

"(A) Additional branches.—Following any combination effected under paragraph (1), the resulting bank may establish, acquire, and operate additional branches at any location where the resulting bank or a combined bank could have established or acquired and operated a branch under the applicable Federal or State law if it had not been a party to such combination.

"(B) Intrastate branching.—Except as expressly provided in this subsection, nothing in this subsection shall be deemed to amend, repeal, or preempt, either expressly or by implication, any Federal or State law relating to the establishment, acquisition, or operation of intrastate branches by national or State banks.

"(C) Conditions.—Prior to granting approval to effect a combination under paragraph (1), the appropriate Federal banking agency shall consider the bank's rating under the Community Reinvestment Act of 1977 and the views of the appropriate State bank regulatory authorities regarding the bank's compliance with applicable State community reinvestment laws.

"(D) Imposition of shares tax by host states.—In order to assure that an out-of-State bank contributes a fair share to a host State's revenues, if any branch of an out-of-State bank established pursuant to paragraph (1) or subparagraph (A) of this paragraph continues in operation, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by any host State or political subdivision thereof based upon an allocation of net income, capital or net worth, and other factors employed in computing such value pursuant to an allocation method adopted by the host State's taxing authorities, if such method does not unconstitutionally discriminate against out-of-State banks or bank holding companies.

"(4) Activities of branches.—A State bank that establishes a branch or branches in accordance with paragraph (1) or subparagraph (A) of this paragraph may not conduct any activity at such branch or branches located in the host State that is not permitted for banks chartered by the host State.

"(5) Applicable law.—

"(A) In general.—

"(i) National bank branches.—Any branch of a national bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a national bank having its main office in that State.

"(ii) State bank branches.—Any branch of a State-chartered bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a bank chartered under the laws of such State and having offices only in such State.

"(B) Filing requirement.—

"(i) In general.—A host State may require any bank having its main office in another State that wishes to establish a branch within the host State as a result of a combination authorized by paragraph (1) to comply with filing requirements that—

"(I) are not discriminatory in nature; and

"(II) are similar in their effect to those that are imposed on a corporation having its main office in another State that is not engaged in the business of banking and that seeks to engage in business in the host State.

"(ii) Failure to comply.—The host State may preclude any bank referred to in clause (i) from establishing or operating a branch within the host State as the result of a combination authorized by paragraph (1) if that bank or its branch materially fails to comply with the filing requirements established by the host State.

"(6) State election to prohibit interstate combinations.—

"(A) In general.—Paragraph (1) does not apply to a bank holding company, the principle place of business of which is located in a State that has enacted, during the period beginning on January 1, 1990, and ending on the expiration of 3 years after the date of enactment of this subsection, a law that applies equally to all out-of-State national and all out-of-State State banks and that expressly prohibits interstate branching or the interstate combinations authorized under paragraph (1).

"(B) Effect of prohibition.—A bank located in a State that has in effect a prohibition described in subparagraph (A) may not be combined, and shall have no authority to be combined under paragraph (1), with a bank located outside of that State.

"(7) State election to permit interstate combinations.—

"(A) Combinations prior to june 1, 1993.—A combination under paragraph (1) may be undertaken before June 1, 1993, if each of the States in which 1 or more banks that are to be combined into a single, resulting bank is located either has in effect on the date of enactment of this subsection or enacts prior to June 1, 1993, a law expressly permitting interstate combinations by national and State-chartered banks. A State described in the preceding sentence may impose other conditions on the branch of the resulting bank located in that State if—

"(i) the conditions do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies; and

"(ii) the imposition of the conditions is not preempted by Federal law regarding the same subject.

"(B) Combinations after june 1, 1993.—A State that originally elected to prohibit interstate combinations as described in paragraph (6) may elect at any later time to permit interstate combinations authorized under paragraph (1) if such State enacts a law expressly permitting interstate combinations by national and State-chartered banks.

"(8) Limitations.—Nothing in paragraph (1) affects the applicability of Federal or State antitrust laws that do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(9) Reservation of certain rights to states.—Nothing in this subsection limits in any way the right of a State to—

"(A) determine the authority of State banks chartered in that State to establish and maintain branches; or

"(B) supervise, regulate, and examine State banks chartered by that State.

"(10) Definitions.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the meaning given such term by section 37 of the Federal Deposit Insurance Act;

"(B) the term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

"(C) the term 'combined bank' means any bank participating in a combination under paragraph (1), other than the resulting bank;

"(D) the term 'critically undercapitalized' has the same meaning as in section 37 of the Federal Deposit Insurance Act;

"(E) the term 'host State' means the State in which a bank establishes or maintains a branch other than the State in which the bank has its main office and is engaging in the business of banking;

"(F) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

"(G) a bank shall be deemed to be 'located' in the State in which it was chartered or, in the case of a national bank, the State in which its main offices are located; and

"(H) the term 'resulting bank' means a banking subsidiary of a bank holding company that has resulted from a transaction effected under paragraph (1) involving the combination of 2 or more subsidiary banks of the bank holding company located in 2 or more States.".

(b) Taxation.—

(1) State franchise or other nonproperty taxes.—The amendments made by

this section and section 301 do not in any way affect, limit, impair, or preclude the right of any State or political subdivision of a State to impose a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax as provided by section 3124 of title 31, United States Code.

(2) STATE METHODS OF TAXATION.—Subject to the provisions of subsection (h)(3)(c) of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended by section 302, nothing in this section or section 301 shall be construed to either—

(A) prohibit or restrict any State or political subdivision of a State from applying any tax or method of taxation to a State bank or a national bank or branch thereof when such tax or tax method is otherwise permitted by or permissible under either the Constitution of the United States or any other Federal law; or

(B) allow any State or political subdivision of a State to apply any tax or method of taxation to a State bank or national bank or branch thereof when such tax or tax method is otherwise prohibited or restricted by either the Constitution of the United States or any other Federal law.

(c) CONFORMING AMENDMENT TO THE NATIONAL BANK ACT.—Section 5155(c) of the Revised Statutes (12 U.S.C. 36(c)) is amended in the first sentence by striking "A national banking association" and inserting "Except as provided in section 3(h) of the Bank Holding Company Act of 1956, a national banking association".

SEC. 303. AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT AND THE ACT ENTITLED "AN ACT TO PROVIDE FOR THE CONSOLIDATION OF NATIONAL BANKING ASSOCIATIONS".

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended—

(1) in the first sentence of paragraph (1), by striking "No State" and inserting "Except as provided in section 3(h) of the Bank Holding Company Act of 1956, no State";

(2) by adding at the end the following:

"(3) COORDINATION OF EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—A host State bank supervisory or regulatory authority may examine a branch chartered by a State other than that host State that resulted from a combination effected under section 3(h) of the Bank Holding Company Act of 1956 for the purpose of determining compliance with host State laws regarding banking, taxation, community reinvestment, fair lending, consumer protection, and permissible activities and to ensure that the activities of the branch—

"(i) are conducted in a manner that is consistent with sound banking principles; and

"(ii) do not constitute a serious risk to the safety and sound operation of the branch.

"(B) ENFORCEMENT.—In the event that a host State bank supervisory or regulatory authority determines that there is a violation of the law of the host State concerning the activities being conducted by the branch of a State bank or that such branch is being operated in a manner not consistent with sound banking principles or in an unsafe and unsound manner, such host State bank supervisory or regulatory authority may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch in question were a bank chartered by that host State.

"(C) COOPERATIVE AGREEMENT.—The State bank supervisory or regulatory authorities from 1 or more States are authorized to enter into cooperative agreements to facilitate State regulatory supervision of State-chartered banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(D) FEDERAL REGULATORY AUTHORITY.—

"(i) INTERSTATE AGREEMENTS.—Nothing in this subsection limits in any way the authority of the appropriate Federal banking agency to examine any bank or branch of a bank for which the agency is the appropriate Federal banking agency.

"(ii) REVIEW OF INTERSTATE AGREEMENTS.—If the appropriate Federal banking agency determines that the States have failed to reach an agreement under subparagraph (C), or that such an agreement fails to adequately protect the Federal Deposit Insurance Fund, the appropriate Federal banking agency shall not defer to State examinations of the out-of-State branches.

"(4) DEFINITION.—For purposes of this subsection, the term 'host State' means the State in which a bank establishes or maintains a branch, other than the State in which the bank is chartered and engaging in the business of banking.".

(b) NATIONAL BANKING ASSOCIATIONS.—The Act entitled "An Act To provide for the consolidation of national banking associations", approved November 7, 1918 (12 U.S.C. 215 et seq.) is amended—

(1) in the first sentence of subsection (a) of the first section, by inserting ", or in any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is located," after "located in the same State";

(2) by inserting before the period at the end of subsection (d) of the first section ", except that the applicability of State law to an interstate acquisition or interstate combination undertaken in accordance with section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of those sections";

(3) in the first sentence of section 2(a), by inserting "or in any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is located," after "located within the same State,";

(4) in the sixth sentence of section 2(d), by inserting before the period ", except that the applicability of State law to the transaction undertaken pursuant to section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of those sections"; and

(5) in paragraph (4) of section 3, by inserting "or within any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(2) or 3(h) of the Bank Holding Company Act of 1956 is located," after "within the same State,".

SEC. 304. ACQUISITION OF NEW INTERSTATE BRANCHES BY NATIONAL AND STATE BANKS.

(a) ACQUISITION OF NEW INTERSTATE BRANCHES BY STATE BANKS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following:

"(3) ACQUISITION OF NEW INTERSTATE BRANCHES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a host State may, expressly by statute and not merely by implication, permit all out-of-State national and State banks that are adequately capitalized and adequately managed to establish a branch in the host State other than by merger, consolidation, or other similar transaction. Such branch shall be operated in accordance with section 3(h) of the Bank Holding Company Act of 1956 and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section.

"(B) DEFINITION.—For purposes of this paragraph, the term 'host State' means the State in which a bank establishes a branch under subparagraph (A).".

(b) ACQUISITION OF NEW INTERSTATE BRANCHES BY NATIONAL BANKS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) by inserting after subsection (c) the following:

"(d) INTERSTATE BRANCHING BY NATIONAL BANKS.—

"(1) APPROVALS AUTHORIZED.—Notwithstanding any other provision of law, the Comptroller of the Currency may approve an application under this section for a national bank to establish a branch in a State other than the State in which its principle place of business is located if the host State expressly permits, by statute and not merely by implication, all out-of-State national or State banks that are adequately capitalized and adequately managed to establish such a branch. Such branch shall be operated in accordance with section 3(h) of the Bank Holding Company Act of 1956, and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section.

"(2) DEFINITION.—For purposes of this subsection, the term 'host State' means the State in which a national bank establishes a branch under paragraph (1).".

SEC. 305. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) IN GENERAL.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding the following subsections:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c) of this section; and

"(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

"(2) MULTISTATE METROPOLITAN AREAS.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency may prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c) of this section. If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

"(3) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) of this subsection shall—

"(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) of this section separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such area; and

"(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

"(4) DEFINITIONS.—For purposes of this section:

"(A) DOMESTIC BRANCH.—The term 'domestic branch' means any branch office or other facility of a regulated financial institution with the ability to accept deposits located in any State.

"(B) METROPOLITAN AREA.—The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area identified by the appropriate Federal financial supervisory agency.

"(C) STATE.—The term 'State' has the same meaning as provided in section 3(a) of the Federal Deposit Insurance Act.".

(b) SEPARATE PRESENTATION.—Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended by adding at the end the following sentence: "A written evaluation shall contain the information required by subparagraphs (A) and (B) presented separately for each metropolitan area in which an insured depository institution maintains one or more domestic branch offices.".

SEC. 306. STATE TAX COMPLIANCE.

Section 5240 of the Revised Statutes (12 U.S.C. 484) is amended by adding at the end the following:

"(C) Notwithstanding subparagraph (A), lawfully authorized auditors, examiners, and other representatives acting on behalf of the State agency or agencies charged with the administration and collection of taxes imposed by a State or political subdivision thereof, may, to the extent necessary, review the books, records, and accounts of a depository institution, chartered under Federal law and located in that State, to determine any State or local tax liability and to ensure compliance with the tax laws of the State or political subdivision thereof.".

SEC. 307. USE OF NAMES IN HOST STATE.

(a) BANK HOLDING COMPANY ACT OF 1956.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended by section 302, is amended by adding at the end the following:

"(i) USE OF NAMES IN HOST STATE.—

"(1) IN GENERAL.—A bank holding company that seeks, directly or indirectly, to acquire or establish a bank in a host State shall provide the Board with the name or names under which the bank will operate in the host State.

"(2) PROHIBITION AGAINST SAME OR SIMILAR NAMES.—A bank holding company may not operate a bank in a host State if the proposed name of the bank is—

"(A) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(B) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(3) SUBSEQUENT USE OF SAME OR SIMILAR NAME.—Upon application by any person or institution that is adversely affected, the Board shall revoke permission of a bank holding company to operate a bank in a host State if the bank holding company uses or changes the name of, or uses an additional name for any of its banks in the host State, and the new or additional name is described in subparagraph (A) or (B) of paragraph (2). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

"(4) DEFINITION.—For purposes of this subsection, the term 'host State' means the State in which a bank holding company establishes or acquires a bank other than the State in which the operations of the bank holding company's banking subsidiaries were principally conducted on July 1, 1996, or the date on which the company became a bank holding company, whichever is later.".

(b) NATIONAL BANKS.—Section 5155(d) of the Revised Statutes (12 U.S.C. 36(d)), as added by section 304, is amended by adding at the end the following:

"(3) USE OF NAMES IN HOST STATE.—

"(A) IN GENERAL.—A bank that seeks, directly or indirectly, to acquire or establish a branch in a host State shall provide the Comptroller of the Currency with the name or names under which the branch will operate in the host State.

"(B) PROHIBITION AGAINST SAME OR SIMILAR NAMES.—A bank may not operate a branch in a host State if the proposed name of the branch is—

"(i) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(ii) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(C) SUBSEQUENT USE OF SAME OR SIMILAR NAME.—Upon application by any person or institution that is adversely affected, the Comptroller of the Currency shall revoke permission of a bank to operate a branch in a host State if the bank uses or changes the name of, or uses an additional name for any such branch in the host State, and the new or additional name is described in clause (i) or (ii) of subparagraph (B). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

"(D) DEFINITION.—For purposes of this paragraph, the term 'host State' means the State in which a bank establishes or acquires a branch other than the State in which the bank has its main office and is engaging in the business of banking.".

(c) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(3)), as amended by section 304, is amended by adding at the end the following:

"(C) USE OF NAMES IN HOST STATE.—

"(i) IN GENERAL.—A bank that seeks, directly or indirectly, to acquire or establish a branch in a host State shall provide the appropriate State regulatory authority with the name or names under which the branch will operate in the host State.

"(ii) PROHIBITION AGAINST SAME OR SIMILAR NAMES.—A bank may not operate a branch in a host State if the proposed name of the branch is—

"(I) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(II) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(iii) SUBSEQUENT USE OF SAME OR SIMILAR NAME.—Upon application by any person or institution that is adversely affected, the appropriate State regulatory authority may revoke permission of a bank to operate a branch in a host State if the bank uses or changes the name of, or uses an additional name for any such branch in the host State, and the new or additional name is described in subclause (I) or (II) of clause (i). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

BUMPERS AMENDMENT NO. 1343

Mr. BUMPERS (for himself, Mr. PRYOR, Mr. DECONCINI, Mr. ADAMS, Mr. KOHL, Mr. EXON, Mr. CONRAD, Mr. FOWLER, Mr. GRAHAM, Mr. WELLSTONE, Mr. SIMON, Mr. HARKIN, and Mr. GRASSLEY) proposed an amendment to amendment No. 1342 proposed by Mr. BUMPERS to the bill S. 543, supra, as follows:

At page 1, line 5, strike all through page 24, line 2, of the amendment and insert in lieu thereof the following:

"INTERSTATE BRANCHING.

(a) NATIONAL BANKS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by adding at the end the following new subsections:

(i) INTERSTATE BRANCHING.—

(1) IN GENERAL.—Notwithstanding any other subsection of this section, a national bank, with the approval of the Comptroller of the Currency, may establish and operate a branch at any location in any State other than the State in which the main office of such bank is maintained if the establishment and operation of such branch in the State (in which such branch is to be located) is specifically authorized under the statute of such State, by language to that effect and not by implication.

(2) SUBJECT TO STATE LAW REQUIREMENTS.—The establishment and operation of any branch of a national bank under paragraph (1) shall be subject to any requirement, condition, or limitation established under or pursuant to the law of the State in which the branch is (or is proposed to be) located.

(b) STATE NONMEMBER INSURED BANKS.—Section 18(d)) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d) is amended by adding at the end the following new paragraph:

(3) STATE NONMEMBER INSURED BANK BRANCHES IN OTHER STATES.—The Corporation may not approve the etablishment and operation of any branch of a State nonmember insured bank at any location in any State other than the State in which such bank is chartered unless—

(A) the establishment and operation of such branch in the State (in which such branch is to be located) is specifically authorized under the statute law of such State, by language to that effect and not by implication; and

(B) the establishment and operation of the branch is subject to any requirement, condition, or limitation established under or pursuant to the law of the State in which the branch is (or is proposed to be) located.

(c) LIMITATION ON AUTHORITY OF NATIONAL BANKS TO MOVE MAIN OFFICE TO ANOTHER STATE.—Section 2 of the Act entitled "an act to enable national banking associations to increase their capital stock and to change their names or locations." and approved May 1, 1886 (12 U.S.C. 30(b)), is amended by adding at the end the following new subsection:

"(c) Limitation on authority To Move Main Office to Another State.—Notwithstanding subsection (b), a national bank may not change the location of its main office to any State other than the State in which such main office is located before such change if—

"(1) After the change, any branch of the bank would remain in the State in which such main office is located before the change; or

"(2) the bank is subject to the control of any bank holding company (as determined in accordance with section 2(a) of the Bank Holding company act of 1936)."

BOREN AMENDMENT NO. 1344

(Ordered to lie on the table.)

Mr. BOREN submitted an amendment intended to be proposed by him to the bill S. 543, supra, as follows:

At the appropriate place in title XI, insert the following new sections:

SEC. 11 . TRANSACTIONS REQUIRING THE SERVICES OF A STATE CERTIFIED APPRAISER.

Section 1113 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(1) by inserting the following before "In determining":

"(a) In General.—";

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(3) by inserting the following new paragraph before paragraph (2), as redesignated:

"(1) Federally related transactions having a value of not more than $100,000 shall not require the services of either a State certified or licensed appraiser;"; and

(4) by adding at the end the following new subsection:

"(b) Modifications to Threshold Level for Federal Transactions.—The amount set forth in subsection (a)(1) shall be—

"(1) increased on an annual basis by the percentage increase in the calendar year average in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics, and

"(2) modified by each Federal financial institutions regulatory agency and the Resolution Trust Corporation if the agency or the Resolution Trust Corporation makes a determination in writing that such modification is in the public interest based on—

"(A) the availability of certified or licensed appraisers to perform appraisals in connection with federally elated transactions, or

"(B) the costs associated with such appraisals.".

SEC. 11 . CERTIFICATION AND LICENSING REQUIREMENTS.

Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) Experience Requirements.—The Appraisal Subcommittee shall not require or recommend a State requirement that an individual be an experienced real estate appraiser in order to be licensed as an appraiser for purposes of this title.".

SEC. 11 . MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

Section 1118 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347) is amended by adding at the end the following new subsection:

"(d) Recognition of Licensing Based on Appraiser Experience.—The Appraisal Subcommittee shall not refuse to recognize a State's appraiser certification or licensing policies, practices, or procedures solely because the State does not include a requirement that an individual be an experienced real estate appraiser in such policies, practices, or procedures.".

SEC. 11 . RECOGNITION OF STATE CERTIFIED AND LICENSED APPRAISERS.

Section 1119 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348) is amended—

(1) in subsection (a)(1), by striking "July 1, 1991" and inserting "December 31, 1992";

(2) in the first sentence of subsection (b)—

(A) by inserting "or the use of such person" after "person";

(B) by inserting "or any geographic political subdivision thereof" after "in a State"; and

(C) by striking "inordinate" and inserting "significant";

(3) in the second sentence of subsection (b) by striking "inordinate" and inserting "significant"; and

(4) by adding the following new subsection at the end:

"(d) Application to Rural Areas.—

"(1) In general.—Nothing in this title requires the use of certified or licensed appraisers in rural areas.

"(2) Definition.—As used in this subsection, the term 'rural areas' means any area—

"(A) not within the geographic boundaries of any metropolitan statistical area (as defined by the Office of Management and Budget), or

"(B) not within the geographic boundaries of an incorporated city or town with a population greater than 25,000 according to the most recent decennial census.".

BROWN AMENDMENT NOS. 1345 AND 1346

(Ordered to lie on the table.)

Mr. BROWN submitted two amendments intended to be proposed by him to the bill S. 543, supra, as follows:

Amendment No. 1345

On page 279, between lines 10 and 11, insert the following:

"(o) Reporting of Credit by Directors and Officers.—A director or officer of an insured depository institution or of a depository institution holding company that is not publicly traded shall report annually to the board of directors of that institution or holding company any credit extended to such director or officer which is secured by shares of the depository institution or holding company.".

Amendment No. 1346

At the appropriate place in the bill, add the following new section:

"SEC. . IMMUNITY.

"Title 18, United States Code, is amended in section 6001 by inserting 'the Board of Governors of the Federal Reserve System,' after 'the Atomic Energy Commission,'."

DODD (AND OTHERS) AMENDMENT NO. 1347

(Ordered to lie on the table.)

Mr. DODD (for himself, Mr. Chafee, Mr. Lieberman, Mr. Rudman, Mr. Smith, and Mr. Kennedy) submitted an amendment intended to be proposed by them to the bill S. 543, supra, as follows:

On page 796, immediately after line 17, insert the following:

Subtitle C—Small Business Recovery

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Small Business Recovery Act of 1991".

SEC. 1152. FINDINGS AND PURPOSES.

(a) Findings.—The Congress makes the following findings:

(1) In general.—Economic recession, coupled with asset devaluation of the banking industry, has led to a severe tightening of available credit for small business concerns. Community banks cannot meet Federal capital and asset standards without calling in existing good loans or ceasing to extend credit to qualified borrowers, particularly small business concerns, thereby further constricting the available credit and constraining economic activity and recovery.

(2) Capital shortages.—In the wake of recent concerns over the safety and soundness of banks and thrifts and the economic recession, community banks are finding it increasingly difficult to attract new capital needed to meet Federal and State requirements and promote economic growth and expansion.

(3) Effect on small businesses.—Small business concerns now employ nearly 60 percent of the United States work force, and are expected to generate 50 percent of all new jobs through the year 2000. Since small business concerns are also the primary providers of employee training, restricting small business startup and growth could have profound implications for overall growth in national productivity and for research and development.

(4) Small business financing sources.—Community banks have historically been, and remain, the primary source of small business debt capital. Other sources of small business financing, such as venture capital markets, public markets, or institutional investors, such as pension funds or insurance companies, are not viable alternatives for many small business concerns.

(5) Credit demand.—As the Nation begins to recover from the recession, demand for credit will become even greater, thus exacerbating the credit crunch during the initial stages of economic recovery.

(6) Infusion of private capital.—Banks must have a significant infusion of private capital in order to effectuate a long-term economic recovery.

(b) Purposes.—The purposes of this subtitle are—

(1) to infuse private capital into banks under a pilot program that would also reinvigorate lending to credit-worthy small business concerns, thereby easing the credit crunch, stimulating job growth, and promoting economic recovery;

(2) to provide loans to small businesses by facilitating the creation of a self-insured pool of private capital, protected by a Small Business Administration guarantee, to be used by community banks for loans to small business concerns; and

(3) to strengthen smaller community banks by increasing their available capital levels, which have been dramatically reduced over the past 3 years.

SEC. 1153. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Administration" means the Small Business Administration;

(2) the term "approved securities" means any eligible security that has been approved for sale by the Administration under this subtitle;

(3) the term "eligible securities" means any new issue of preferred or common stock issued by a qualified commercial bank or any new debenture issued by a qualified mutual savings bank;

(4) the term "eligible State" means a State in which, during the period between January 1, 1989 and December 31, 1989 the total number of banking institutions located in the State experienced an overall decrease in tier 1 bank capital;

(5) the term "Panel" means the Regional Small Business Recovery Panel established under section 1157;

(6) the term "qualified financial institution" means any commercial bank or mutual savings bank that—

(A) has total assets of less than $1,000,000,000;

(B) has an equity capital to asset ratio of not less than 3 percent, nor more than 8 percent;

(C) has held a charter issued by the Comptroller of the Currency or a State banking authority for not less than 3 years; and

(7) the term "small business concern" has the same meaning as in section 2 of the Small Business Act.

SEC. 1154. AUTHORIZATION.

(a) IN GENERAL.—The Administration is authorized to enter into agreements to participate, on a guaranteed basis, in the purchase of eligible securities issued under this subtitle by a qualified financial institution that is located in an eligible State.

(b) LIMITATIONS.—

(1) PRIOR APPROVAL OF SALE.—A sale of eligible securities must be registered and approved, prior to the sale or offering, by the Administration in accordance with section 1155.

(2) COMPLIANCE WITH APPLICATION AND APPROVAL REQUIREMENTS.—A qualified financial institution must fully comply, prior to the sale or offering, with the requirements of section 1155.

(3) PARTICIPATION AMOUNT.—Participation by the Administration in the purchase of eligible securities by a qualified financial institution in the form of a guarantee under subsection (a) shall not exceed the lesser of—

(A) 75 percent of the initial offering price of the approved securities; or

(B) $3,750,000.

(4) PARTICIPATION LIMIT.—The Administration's total participation in the purchase of eligible securities in the form of a guarantee under this subtitle may not exceed $375,000,000.

(5) DURATION OF PARTICIPATION.—The term of a guarantee by the Administration, authorized under subsection (a), shall not exceed 6 years from the date of the initial offering of approved securities.

(c) TYPES OF SECURITIES.—Eligible securities issued in accordance with this subtitle may be either of the preferred or common stock type in the case of a commercial bank, or a debenture in the case of a mutual savings bank. Prior to being offered for sale, all eligible securities issued in accordance with this subtitle shall—

(1) be classified as tier 1 capital by the primary Federal or State regulator of the qualified financial institution; and

(2) be approved by the Administration.

SEC. 1155. APPLICATION PROCESS AND PARTICIPATION CRITERIA.

(a) LOAN POOL AND OUTREACH PROGRAM.—Prior to receiving a guarantee under this subtitle, a qualified financial institution shall—

(1) establish a small business loan pool, equal to the dollar amount of the approved securities guaranteed by the Administration, which shall be utilized for extending loans to small business concerns; and

(2) establish a small business outreach program designed to increase the institution's overall lending to small business concerns.

(b) APPLICATION.—A qualified financial institution that proposes to issue approved securities that are guaranteed in accordance with this subtitle shall submit an application and business plan to the Panel for review, including—

(1) a detailed description of planned uses of additional capital resulting from the sale of approved securities;

(2) a detailed description of the type and terms of the proposed securities offering, the planned price of the issue, and any other information relating to the securities sale;

(3) a detailed description of past and present levels of the applicant's capital, including the applicant's capital to asset ratio and any applicable risk-based ratio;

(4) documentation of the applicant's past and present lending patterns to small business concerns;

(5) the applicant's balance sheets for each of the 5 years preceding the date of application; and

(6) certification that the sale of eligible securities will not violate any past or pending State or Federal regulatory rulings or orders.

(c) PARTICIPATION FEES AND ANNUAL PREMIUMS.—

(1) INSTITUTION'S PARTICIPATION FEE.—Upon approval by the Administration of an application and business plan under subsection (a), based on the recommendation of the Panel, each qualified institution shall—

(A) pay a participation fee equal to 0.6 percent of the total dollar amount of any issue of approved securities that are guaranteed under this subtitle; and

(B) pay an annual premium equal to 2 percent of the total dollar amount of any issue of approved securities during each year for which a guarantee is provided for such issue under this subtitle.

(2) PURCHASER'S PARTICIPATION FEE.—Upon the sale of any approved securities guaranteed under this subtitle the purchaser of the securities shall pay a participation fee equal to 2 percent of the total purchase price of the approved securities.

(3) FEES AND PREMIUMS TO BE PAID INTO TREASURY.—The participation fee and annual premiums required under paragraph (1) shall—

(A) be paid into the Treasury of the United States in accordance with section 1159; and

(B) be used to defer the costs of any repurchase by the Administration of approved securities under section 1156.

(4) FEE SCHEDULE.—Fees established under this subsection shall be payable immediately upon the sale of approved securities and at 12-month intervals thereafter (as applicable).

(d) DISCLOSURES.—Each qualified institution that offers approved securities for sale that are guaranteed in accordance with this subtitle shall fully disclose to the Administration the identity of all holders of such securities and the quantity of such holdings.

(e) COMPLIANCE WITH APPLICABLE LAW.—Any application or business plan submitted in accordance with this section, must conform to the requirements of all applicable State and Federal banking laws and regulations for approval.

(f) PARTICIPATION BY INSTITUTIONS LOCATED IN ELIGIBLE STATES.—The Administration shall establish procedures to ensure that guarantees provided under this subtitle are reasonably distributed among applicants located in all eligible States.

(g) DISPOSITION.—Upon satisfaction of all requirements of this section and after evaluating the recommendations of the Panel, the Administration shall approve or disapprove of all applications submitted in accordance with this section.

SEC. 1156. REPURCHASE BY ADMINISTRATION.

No claim may be made for the repurchase by the Administration of approved securities issued in accordance with this subtitle unless—

(1) the qualified financial institution has issued a declaration of insolvency;

(2) the primary regulator of the qualified financial institution has declared the institution to be insolvent;

(3) the Panel has determined that by the end of the 12-month period beginning on the date on which an institution becomes insolvent, there is little likelihood—

(A) that the holders of approved securities will recover not less than 75 percent of the initial investment cost of the approved securities through the complete liquidation or sale of the institution's assets; and

(B)(i) that the holders of approved securities will recover not less than 75 percent of their initial investment through a merger or sale agreement with another federally or State-chartered financial institution; or

(ii) that the approved securities will retain not less than 75 percent of their initial investment cost through a merger or sale agreement with another federally or State-chartered financial institution; and

(4) such claim is made not more than 6 years after the date of the initial sale or offering of the securities.

SEC. 1157. ESTABLISHMENT OF REGIONAL SMALL BUSINESS RECOVERY PANEL.

(a) ESTABLISHMENT.—There is established a Regional Small Business Recovery Panel which shall be composed of—

(1) the Administrator of the Small Business Administration;

(2) the chairperson of the Federal Deposit Insurance Corporation;

(3) the chairman of the Board of Governors of the Federal Reserve System;

(4) the Comptroller of the Currency; and

(5) the Secretary of the Treasury.

(b) APPOINTMENT OF DESIGNEE.—Any member of the Panel may appoint a designee to serve on the Panel to the same extent and with the same authority as the original member.

(c) DUTIES.—The Panel shall—

(1) evaluate all applications submitted in accordance with this subtitle, and recommend to the Administration the approval or disapproval of such applications;

(2) evaluate the type of proposed debt or equity security and, in consultation with the primary regulator of the qualified financial institution, determine whether or not eligible securities should be classified as tier 1 capital; and

(3) evaluate claims for the repurchase of approved securities by the Administration and recommend the repurchase of approved securities under section 1156 in appropriate cases.

(d) FACTORS FOR CONSIDERATION.—In carrying out its duties under subsection (c), the Panel shall consider, among other appropriate factors—

(1) the relative strength of the qualified financial institution at the time of applica-

tion (as compared to other similarly sized financial institutions in the same geographic area);

(2) the present capital position, equity to asset ratio, and any applicable risk-based ratio of the institution, particularly as compared to other similarly sized institutions in the same geographic area;

(3) whether or not participation by the Administration under section 1154(a) would substantially improve the capital position and strength of the qualified financial institution;

(4) whether or not the qualified financial institution would be able to secure equity capital (in the case of a qualified commercial bank) or debt capital (in the case of a qualified mutual savings bank) without participation by the Administration;

(5) the degree to which the qualified financial institution has demonstrated an historical commitment to small business lending;

(6) the degree to which external national, regional, and State economic conditions have had a negative impact on the institution and the valuation of the institution's assets;

(7) the management of the qualified financial institution; and

(8) the qualified financial institution's compliance with all applicable State and Federal laws and regulations.

(e) EXAMINATION AUTHORITY.—To carry out its duties under this section, the Panel is authorized to review all bank examiners' reports and related regulatory materials of a qualified financial institution.

SEC. 1158. CONSULTATION AND REPORT.

(a) REPORT.—Not later than 2 years after the date of enactment of this subtitle, the Administration shall submit a report to the Congress evaluating the progress of the Administration in achieving the purposes of this subtitle, particularly with regard to—

(1) the small business loan pools established in accordance with section 1155(a);

(2) the types, terms, and amounts of loans made by qualified financial institutions in accordance with this subtitle;

(3) the functioning of the Panel; and

(4) the impact of guarantees provided under this subtitle on community lending to small business concerns.

(b) CONSULTATION.—Prior to submitting the report required by subsection (a), the Administration shall consult with individuals from the private sector representing each eligible State, small business concerns, and the financial services industry, for the purpose of making the evaluations referred to in subsection (a).

SEC. 1159. ESTABLISHMENT OF FUND.

There is established in the Treasury of the United States the Regional Small Business Recovery Fund. All fees and premiums referred to in section 1155(c) shall be paid into the fund, to be used to defer the costs of program defaults in connection with any repurchase by the Administration under section 1156, to the extent approved in an appropriations Act.

SEC. 1160. REGULATIONS.

The Administration, in consultation with the chairperson of the Federal Deposit Insurance Corporation, the chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of the Treasury, shall promulgate appropriate regulations to implement this subtitle.

AUTHORIZATION.—This bill is subject to appropriations as required under section 504(b) of the Budget Enforcement Act of 1990.

NOTICE OF HEARING

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on trade and business opportunities for small American companies in Eastern Europe, the Baltic States, and the Republics of the former Soviet Union. The hearing will take place on Thursday, November 21, 1991, at 9:30 a.m. in room 428A of the Russell Senate Office Building. For further information, please call Ken Gleuck at 224-4041 or Ken Dortzbach at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, November 14, at 9:30 a.m., to hold a hearing on "Healthy Schools, Healthy Children, Healthy Futures: The Federal Government's Rule in Promoting Child Health Through the Schools."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, November 14, at 2 p.m., for a hearing on the nominations of H. Edward Quick, Jr., to be a Commissioner of the Postal Rate Commission; and Kathleen Day Koch, to be Special Counsel, Office of Special Counsel.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, Subcommitee on Conservation and Forestry be allowed to meet during the session of the Senate on Thursday, November 14, at 2 p.m., to hold a hearing on S. 767/H.R. 35, the Western North Carolina Wilderness Protection Act of 1991 and S. 1949 the Chattahoochee National Forest Protection Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSUMER

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 14, 1991, at 9:30 a.m. on S. 1088, the Tobacco Product Education and Health Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 14, 1991, at 9 a.m. on the nomination of Mary Sheila Gall to be a Commissioner of the Consumer Product Safety Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, November 14, 1991, at 2 p.m., to hold a hearing on the nominations of Anne C. Conway, U.S. district judge for the Middle District of Florida, Monti L. Belot, U.S. district judge for the District of Kansas, Sam Sparks, U.S. district judge for the Western District of Texas, Edith Brown Clement, U.S. district judge for the Eastern District of Louisiana, and David A. Faber, U.S. district judge for the Southern District of West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, November 14, 1991, at 10 a.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., November 14, 1991, to receive testimony on S. 1625, a bill to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IT'S NO "EDUCATIONAL PORK BARREL"

• Mr. SIMON. Mr. President, one of the better things that has happened in the Washington, DC, area for some time was the selection of Joseph D. Duffey as the president of American University.

Not only will he provide excellent leadership for that fine university, he also will be on the scene here to enrich and enliven our political dialog.

That is illustrated well in his comments that appeared in the Washington Post on the editorial page under the title, "It's No 'Educational Pork Barrel.'"

It is a response to a column written by Robert J. Samuelson that was not up to the usual high quality of Samuelson's writings. Each of us who writes, just as each of us who speaks, sometimes hits high points and sometimes hits low points. The Samuelson column, unfortunately, was not a Samuelson high point.

The Joe Duffey response and its significance to decisions we will have to make in the next few months in higher education is important.

This Nation has to do a better job in providing opportunity for Americans to pursue higher education.

The only addition I would make to the Duffey comments is that, when he points out that only 7 percent of those who borrow from 4-year colleges default in their first year out of school, 18 percent do from community colleges, and one-third of those in proprietary institutions do. What should be added is that of the three categories, the 4-year institutions help those who are poorest least, the 2-year institutions are better on this, and the proprietary schools are the best of the three categories. That does not mean that there are not some pretty bad apples in the proprietary field. Unfortunately, that has been caused largely by the weakness of administration in the Department of Education. Through the accrediting process, they could have saved literally billions of dollars to the Federal Government by insisting on proper accreditation. It is ironic that critics of institutions of higher education, like former Secretary of Education, William Bennett, were so massively derelict in their duties in terms of using the law to make sure our resources were spent properly.

And I should add that a proposal that has been made by my colleague, Senator DAVID DURENBERGER, of Minnesota, and me, to change the way we provide student loans could virtually eliminate the student loan default problem.

In any event, the Joe Duffey column is a superb one, and I ask to insert it into the RECORD at this point.

The column follows:

IT'S NO EDUCATIONAL PORK BARREL

(By Joseph D. Duffey)

Robert J. Samuelson has recently argued that students seeking loans to help finance their higher education should be required to pass a national, standardized test ["School Reform Fraud, Cont'd," op-ed, Oct. 23]. In presenting his case, he described federal student financial aid, especially the loan programs as a kind of "educational pork barrel."

Samuelson makes a number of assertions that need closer examination. He charges that "more than 90 percent of our 3,400 colleges and universities essentially have 'open admissions' policies: anyone with the money and a high school diploma can go," that assistance to students provided by federal funds amounts to about $20 billion annually and that defaults in the student loan program cost the federal government $3.6 billion in fiscal 1991.

Samuelson does not have his facts straight. Perhaps that is why he has come to a simplistic solution to the "education crisis."

First, American higher education is many things: four-year universities, liberal arts colleges, two-year community colleges and a vast array of proprietary, profit-making schools selling training in everything from cosmetology to electronics. About 15 percent of the public four-year institutions and 10 percent of the private colleges have open enrollment policies. The selectivity of the remainder varies enormously. It is true that 90 percent of two-year public colleges are open-door institutions. But that is how our system guarantees a "second chance" to practically everyone in the United States.

What about Samuelson's implication that federal student assistance amounts to something like $20 billion annually? Not true. In fiscal 1991, actual federal spending on student assistance (including grants for the very needy, work-study, loan subsidies and defaults) amount to about $11 billion. These funds leverage nearly $12 billion from the private sector, and Samuelson has confused these two sources of student aid.

When he writes about $3.6 billion in defaults last year in the guaranteed student loan program, Samuelson cites the right figure. However, most of the responsibility for this situation cannot be laid at the feet of the nation's colleges and universities. According to figures from the U.S. Department of Education, about 7 percent of the students who borrow at four-year colleges default in their first year out of school. The proportion of community college students who borrow is quite low, but about 18 percent of them default. Obviously these numbers are too high, and Congress and the Bush administration are considering how to lower them.

The major problem with respect to student loan defaults lies in proprietary, profit-making institutions. One-third of the students who borrow to attend proprietary institutions default on their loans in the first year. Why is this rate so high? At least part of the reason is that some unscrupulous trade school operators market student loans to unsophisticated youngsters and to adults on public assistance. Many of these students wind up dropping out of school within days or weeks of enrolling without even knowing they have a federally guaranteed loan.

Is Samuelson on the right track when he argues that we should insist that students looking for federal aid pass a test showing they can do college work? Most colleges and universities already do that. The test is usually in three parts—the high school record of courses taken and grades achieved over four years, an admissions test (normally the Scholastic Aptitude Test or the American College Test) and personal evaluations from teachers, counselors and admissions interviews.

Samuelson's understanding of college admissions practices is flawed. Most colleges and universities have admissions standards that apply to all students and that must be met before aid is awarded. The standards are far from perfect. Many students find them too rigorous. But imperfect though they be, they are preferable to a one-day test to determine the futures of hundreds of thousands of young people.

Samuelson appears not to understand or care about the fact that the system of postsecondary education in the United States is designed to keep options open for as long as possible for as many students as possible. Not everyone can attend an Ivy League institution, but virtually anyone can find a program suited to his or her interests and abilities. There is a sound reason for keeping options open. Many young people don't find their academic footing until after they leave high school. In this system, there is still room for the "late bloomer."

But perhaps the most important thing to bear in mind is that federal policy on student aid has always been designed with the idea of leveling the playing field so that children of the poor can compete on an equitable financial footing with the children of the wealthy and well-to-do.

When Samuelson trashes financial aid programs to students as nothing more than "educational pork barrel," he does a disservice to Congress, the national ideal of equity of opportunity and the prospect for our future.

STOP THE FORCED RETURN TO THE VIETNAMESE DUNGEON

• Mr. D'AMATO. Mr. President, I rise today to oppose the forced repatriation of Vietnamese nationals from Hong Kong back to Vietnam.

Since the end of the Vietnam war, over 1.5 million Vietnamese boat people have fled their country under harsh circumstances in rickety boats, risking their lives to escape the harsh political rule of the Vietnamese Communist dictators. Now, 59,000 boat people, who fled to Hong Kong seeking temporary asylum, are being forcibly returned to Vietnam by British authorities.

On Saturday, November 9, 1991, the first 59 Vietnamese refugees were returned by British authorities. Many of these unfortunate refugees were dragged kicking and screaming onto the plane. Some were restrained in their seats. Others were even sedated. This is an absolute outrage. Why are the British forcing these poor people to return, against their will, to Vietnam? How can we sit back while they deny freedom to the boat people? The forced deportation of the Vietnamese boat people is a reprehensible policy that must end immediately.

If sent back to the totalitarian regime of Vietnam, the boat people will encounter rampant human rights abuses. The refugees will be subject to forced resettlement, political reeducation, forced labor, and discrimination in a wide variety of areas including employment, education and social services.

The United States, built on the tenets of freedom and democracy cannot allow those who seek these inalienable rights to be thrown back into this barbaric nation. The British authorities in Hong Kong must stop the forced return of the Vietnamese boat people to the brutal Communist Vietnamese system. The world community has a responsibility to protect the lives of the Vietnamese boat people. The British cannot be allowed to send these people back into the dungeon of oppression called Vietnam.●

UNITED STATES-MEXICO-CANADA TRADE

● Mr. McCAIN. Mr. President, today I participated in a conference, sponsored by the Heritage Foundation, on the North American Free-Trade Agreement. I ask unanimous consent that the full text of my address be included in today's CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR JOHN MCCAIN

I am grateful for the invitation to participate in this important conference, and for the opportunity to briefly associate myself with one of the many valuable contributions that the Heritage Foundation has made to an informed public debate on the North American Free Trade Agreement [NAFTA].

Let me begin by citing some statistics that are no doubt familiar to all of you. In 1990, exports accounted for 88% of GNP growth in the United States. The United States exported $394 billion in merchandise in 1990. Reliable studies estimated that every $1 billion in U.S. exports creates 20,000 jobs. In other words, nearly 8 million American jobs are export-dependent.

Despite such documented evidence of international trade's critical relationship to the prosperity of Americans, the observation of an astute 19th Century British statesman is as true today as it was when it was made nearly 170 years ago. "Free trade," wrote Lord Macaulay, "one of the greatest blessings a government can confer on a people, is in almost every country unpopular."

For proof of that observation's enduring relevance we need look no further than the recent Pennsylvania Senate election in which opposition to a free trade agreement with Mexico figured so prominently in the winning campaign. The fierce opposition to the extension of fast track authority waged by organized labor and other protectionist quarters of the American body politic was another indication of how apprehensive many Americans are about the consequences of free trade.

This conference and others like it play an important role in disseminating information that will refute much of the patented nonsense that currently misinforms the national debate on free trade. We will have to be even more persistent in proclaiming the virtues of free trade, and in directly relating the benefits of free trade to average American households if we are ever to consign Lord Macaulay's lament to the ash heap of history. Permit me to again resort to familiar statistics to illustrate the case for free trade which we are obliged to make.

The conclusion of the NAFTA would place the United States in the center of a market of 360 million consumers, with a collective output of $6 trillion, a market much larger and much richer than the European Community. The recent explosive growth of our exports to Mexico, more than doubling in the last four years, portends much greater growth in a fully free trading relationship with our southern neighbor. The Commerce Department estimates that 538,000 American jobs are related to our exports to Mexico. Half of those jobs are a direct consequence of the trade liberalization policies that Mexico has undertaken since 1986.

As I stated, the best tonic for popular apprehension about free trade is a simple, direct connection of the benefits of free trade to the economic welfare of individual Americans. To most Americans the Uruguay Round of the GATT negotiations is little more than some obscurely threatening process with an exotic name. But if the one-third cuts in global tariff and non-tariff barriers which the United States envisioned for the Round were effected over the next ten years, they would generate a $1.1 trillion increase in our GNP. On average, that amounts to a $16,700 real income gain for every American family of four.

That is the kind of message our advocacy of free trade should highlight, if we are to counter the simple sloganeering of protectionists who condemn the NAFTA for putting "American jobs on a fast track to Mexico."

Regrettably, in difficult economic times it is easier for us to take counsel of our fears than our aspirations. Most Latin American leaders are reforming their countries' historically insular economic policies and appealing for the formation of a hemispheric free market. It is ironic that many political leaders in the U.S. have premised their opposition to NAFTA on the kinds of fears that have informed the economic nationalism that Latin Americans, at our urging, are now abandoning.

The specter of thousands of American jobs heading south is, of course, the most widely used instrument of terror in the anti-free trade arsenal. However, fears that a NAFTA would make Mexico a superior competitor to many U.S. industries or cause a large displacement of U.S. production to Mexico are misinformed.

Lower wages and weaker occupational safety standards do not guarantee competitive advantages to a country. If that were so, India would be a better competitor than Japan, and Portugal a better competitor than Germany. There are a great many factors other than low wages and lax enforcement of safety regulations that contribute to an industry's competitiveness: productivity, technology, access to multiple transportation, quality of product, to name a few.

Indeed, when the AFL–CIO is lobbying for higher wages for American workers, one never hears them admit that higher wages will result in less competitiveness for the industries affected by the increases.

Certainly, Mexico will attract more foreign investment and production in a free trade environment, but the level of U.S investment in Mexico in 1990 represented 3.8 percent of all U.S. direct investment abroad. Were U.S. investment in Mexico to triple it would represent only 0.7 percent of current investment in the United States. Most importantly, the economic growth engendered in Mexico by a free trade agreement would expand investment opportunities in Mexico without necessarily decreasing those opportunities in the United States.

What most fearmongers of NAFTA's impact on American labor ignore is that new investment in Mexico will benefit both the U.S. and Mexican economy. Obviously, a richer Mexico means healthier markets for goods produced in the United States and consequent job creation in those firms exporting to Mexico. But production-sharing with Mexico will increase U.S. competitiveness in sectors like the automobile and electronics industry that suffer the most from non-regional competitors.

Japanese manufacturers have long understood the advantage that co-production with lower cost countries provides in penetrating foreign markets. Japanese electronics firms employ over 10,000 people in Tijuana and export over four million t.v.s to the U.S. every year from Mexico.

The imperative for creating a North American free market should not be replacing a multilateral trading system with a system of protected regional blocs. But the United States obviously cannot afford to ignore threats from bloc formation elsewhere in the world. The difficulties attending the Uruguay Round certainly enhance the attractiveness of regionalism.

But regionalism should not and need not be an end in itself. A NAFTA need not violate GATT principles or raise external barriers to North American markets. Indeed, the very prospect of a North American Free Trade Agreement has energized South American governments to reform their trading practices in pursuit of a hemispheric free market. The President's Enterprise for the Americans Initiative is intended to capitalize on such sentiment.

We should note, also, that many of the most recent additions to GATT membership have come from Latin America. They can be expected to add weight to U.S. appeals for greater liberalization of European and Asian trading practices.

In a NAFTA, the United States seeks to develop a regionalism that is consistent with Article 24 of the GATT permitting free trade and customs unions under certain circumstances, and that liberalizes trade beyond what can be achieved currently in a multilateral framework. The prospect of the world's leading economies abandoning efforts to liberalize the whole of the international trading system is disturbing. But the presumption that nations would rather raise neighborhood fortresses than build bridges to markets the world over is, I hope, incorrect.

Seventy-four percent of U.S. trade is conducted outside North America. Sixty-five percent of Japan's trade is conducted outside of Asia. Admittedly, 70 percent of the European community's trade is conducted within the EC. Nevertheless, most nations still recognize that resorting to regional discriminatory practices will not stimulate the levels of economic growth that would be derived from regionalism that comfortably coexists with and contributes to a healthier global trading system.

The rationalization of production between the three largest North America markets should reinforce that message to our European and Asian trading partners. Production-sharing within North America will make the U.S., Mexico and Canada more formidable global competitors, displace U.S. imports from non-regional countries and displace U.S. investments in those countries. These are the same advantages that Japan finds in Southeast Asia, and Germany finds in Portugal.

When the nations of North America seize similar opportunities,we will create jobs and raise income and living standards in all three societies. We will also considerably strengthen our hand in promoting greater global liberalization of trade and capital flows.

In closing, let me define briefly what larger mission I believe the formation of a North

American free market serves. Twice in this century the United States has fought in world wars to defend a notion of how people should be governed.

When our aspirations for a world of free, independent nations were betrayed first, by the rise of the Third Reich, and next, by the enslavement of half of Europe, we did not adapt our views to accommodate the disappointment of our dreams. We persevered confident of the enduring truth that just government is derived from the consent of the governed. We did not abandon our aspirations to accommodate changing circumstances. We sustained our advocacy and changed the world.

The United States should be no more inclined to modify our advocacy of free trade than we were our advocacy of free elections. That is especially true when trade as a source of national wealth has risen in importance as rapidly as communism has declined as an alternative to capitalism. A North American Free Trade Agreement is merely the most recent reaffirmation of values the United States has been dedicated to since our inception as a nation. Its successful conclusion requires us only to be guided by our vision, not our fears.●

CUBA

● Mr. GRAHAM. Mr. President, yesterday at the United Nations in New York the world witnessed how the international community is beginning to treat totalitarian oppressive governments.

Fidel Castro's Cuba was forced to withdraw a resolution calling for the end of the United States trade embargo against that repressive regime.

This was a watershed event and illustrates just how isolated Castro has become. Most Latin American nations who in the past might have supported Cuba said they would either abstain or vote against Cuba's resolution.

The Western Hemisphere is sending a clear message that they are fed up with Castro and his repression of the Cuban people. They are sick and tired of his long-standing support of attempts to subvert democracy. And they are outraged by his establishment of the island of Cuba as a training base for terrorists the world over.

Yesterday was an international wake-up call for Fidel Castro. The world no longer is impressed by his theatrics; neither are his people. His economy is crumbling and the misery of the Cuban people increases daily.

The historic moment has finally arrived. Castro's time has come and gone. He is a historic dinosaur unaware that the world has passed him by.

He alone must accept responsibility for oppression and suffering of the Cuban people. Castro already has the blood of the Cuban people on his hands. He risks having a lot more on his hands if he continues to cling to power.

We all share the hope that yesterday's U.N. action brings us one step closer to the day when the Cuban people will live in freedom and peace.●

DESALINATION

● Mr. SIMON. Mr. President, soon the Senate will be voting on a bill that I have introduced calling for an expansion of research in the area of finding less expensive ways of converting salt water to fresh water.

The world's population is growing dramatically. Our water supply is not. And because of what, there are States within the United States facing serious water shortages—California and Florida being the most dramatic examples—and the irony is that States facing serious water shortages often are right by the huge water supply of an ocean. It is still too expensive to use the ocean water in large quantities because of the complications of converting salt to fresh water.

But it is not simply in the United States, it is in much of the world. It is in the Soviet Union. It is in North Africa. It is in the Middle East.

When Senator MITCHELL and several of us went to the Middle East in December of last year, prior to the outbreak of hostilities in the Middle East, in visiting leaders in the Middle East, one of the major topics of concern was water. The first topic brought up by Prime Minister Shamir, was the issue of water.

I mention all of this as background to a recent statement from the Arab League secretary general saying that water is a major problem that has to be faced. If we do everything else to achieve peace in the Middle East, but do not find less expensive ways of converting salt water to fresh water, all of our efforts may be in vain.

I disagree with the Arab League secretary general on his comments in Jerusalem in this news release, but what he has to say about water is extremely important. It illustrates that water may be the tension point for the future.

At this point, I ask to insert into the RECORD the news item from the MENA news service in Cairo.

The article follows:

ARAB LEAGUE HEAD ON MIDEAST PEACE, WATER ISSUE

CAIRO, October 23 (MENA)—Arab League Secretary General Dr. 'Ismat 'Abd-al-Majid has reiterated the (a durable and just peace) in the Middle East must be based on the principle of exchanging land for peace and on UN Resolutions 242 and 338, because these represent international legitimacy which calls for recognizing the Palestinian people's rights, including their right to sovereignty over their homeland.

He said Israel immediately must begin to halt the building of settlements in the occupied Arab territories as a goodwill gesture toward the peace conference. He asked: Otherwise, over what will it negotiate?

In an interview with AL-MUSAWWAR to be published in Friday's edition, he emphasized that East Jerusalem, as is the case with other occupied Arab territories, should be subject to negotiations, because Jerusalem concerns all heavenly religions.

He stressed the need to support the Lebanese Government in its effort to extend its full authority over all the Lebanese territories and to work toward implementing Security Council Resolution 425, which calls for Israel's withdrawal from Lebanese territories.

He noted that the Middle East region will face a new challenge, that of water. He said there are certain powers whose primary concern is to seize Arab water sources to serve their own goals at the expense of pan-Arab water security. He warned against attempting to seize Arab water sources, saying this is a flagrant challenge to the current regional peace efforts and could turn the region once more into a hotbed of conflict over water resources.

He pointed out that the call by some non-Arab countries for some type of cooperation on rationing and providing water to the region's countries merely is commercial in nature and does not consider security and national dimensions.

Abd-al-Majid noted that the water issue is a vital one which needs a defined future Arab strategy. He referred to his call for an Arab League water conference of the countries concerned.●

FREEDOM FOR THE UKRAINE

● Mr. D'AMATO. Mr. President, I rise today in support of Ukrainian independence.

On August 24, 1991, the Ukrainian Parliament declared independence. On December 1, 1991, the citizens of the Ukraine will vote to reaffirm their independence in a referendum. Ukraine will finally breathe the air of freedom after more than 70 years of totalitarian rule by Moscow. For this reason, Senator DECONCINI and I introduced Senate Concurrent Resolution 65 calling on the President to recognize the independence of the Ukraine.

The Ukrainian people have long suffered under the boot of Soviet communism. Millions perished in the forced famine of 1932–33. Millions perished in the gulags of Siberia. And millions perished in World War II. Now is the time that the citizens of Ukraine escape the repression that is their history. Freedom must be theirs.

Yet, the fight ahead will be long and hard. The Ukraine must pull itself from the ashes of 74 years of Communist economic ruin. Ravaged by mismanagement of dogmatism, Ukrainians know well that democracy and free market principles will be the only way to achieve a workable economy.

As this great nation becomes sovereign, it will be a power in the new world order and become the fourth most populous nation in Europe. With independence, comes great responsibility—responsibility I am sure the Ukraine will handle with dignity.

Within the Ukraine live people of many cultures. The Ukraine must establish itself as the guarantor of peace and freedom for these cultures. This, I know they can accomplish.

It is a new world in which we live, and one which will witness the birth of many new nations. As the Ukraine marches forth to freedom, let her hold her head high with the knowledge that freedom has won and that a free Ukraine lives. They have my support.•

KILLINGS IN EAST TIMOR

• Mr. WALLOP. Mr. President, yesterday the Washington Post reported that as marchers proceeded through the streets of Dili, East Timor, Indonesian security forces opened fire on the crowd, killing between 20 and 60 people and wounding many others. The marchers were Roman Catholics, arriving at a ceremony to lay flowers on the grave of a young man killed by Indonesian troops on October 28.

Perhaps not all of my colleagues know where East Timor is or what the significance of this small island is. East Timor was formerly a colony of Portugal. When Portugal's far-flung empire receded in 1975, East Timor was left a vulnerable enclave. Civil war broke out shortly thereafter, but after weeks of struggle, one faction won. Indonesia responded with cross-border attacks. In desperation, East Timor declared independence on November 28, 1975. Nonetheless, the Indonesian army launched a full-scale invasion 10 days later and annexed East Timor the following year. With few notable exceptions, the world turned a blind eye to Indonesia's brazen aggression in 1975. Indonesia set about expelling foreigners, journalists and the International Red Cross so that no one from the outside world might witness the brutalities that followed. In the ensuing 10 years, as many as 200,000 East Timorese were killed—a full third of the population.

Although Indonesia's General Suharto, still ruling after 26 years, recently decided to open East Timor to foreign visitors as a way to demonstrate normality, the Indonesian army threatens those who dare to dissent, those who dare to raise their voice for independence. I cosponsored with Senator PELL and others a resolution on human rights in East Timor. I have also circulated a dear colleague letter on the issue. And because of my concern, members of a congressional delegation who traveled to East Timor over the August recess attempted to convince me upon their return that my information was out of date, that things in East Timor have improved vastly. I was told that I was "all wet" to raise concerns over human rights in East Timor now. Could they have so much anxiety about upsetting a strategically important regime that they are willing to overlook the kind of abuses we've seen in East Timor? Indonesian forces using razor blades to cut the faces of young East Timorese dissenters? Reports from Amnesty International in recent months detailing torture, beatings, and other serious abuses of East Timorese?

In closing, Mr. President, I would only say that the Administration would serve America's principles well by raising its voice against this brutal aggression in East Timor. The United States could be an effective force in this region by seeking ways to insure that the Indonesian Government cooperate with private organizations, both secular and religious, that are in a position to help address problems in East Timor. Additionally, I would hope that the United States would be alert to any diplomatic openings that may present themselves in the future, with an eye toward a political solution which might end the needless suffering and bring about true self-determination for the people of East Timor. I do understand the value of close relations with Indonesia, but I believe that it is precisely because of our close relationship that Indonesia will be responsive to our concerns.•

HONORING BEULAH HIGH SCHOOL: THE NATIONAL BLUE RIBBON SCHOOL AWARD WINNER

• Mr. CONRAD. Mr. President, I rise today to pay tribute to Beulah High School, one of this Nation's blue ribbon schools. North Dakota is known nationwide for its excellent schools, and Beulah High School has been recognized for being among the very best of the best.

As a blue ribbon school, Beulah High School has met very high standards. These high standards can be seen in the leadership, the teachers, and the students. There is a sense of unity and shared purpose among students, parents, faculty, and the community. There is a climate at Beulah High School that fosters effective teaching. Each student is given the opportunity to reach his or her potential, promoting responsible and impressive individuals. In addition, Beulah High School has a commitment to continuing improvement at the school.

On each and every one of these points, Beulah High School received an "A". This school is not doing an average job educating its students, and it's not doing a good job. Beulah High has proven that it is doing an excellent job educating the young people of the community.

Mr. President, I would add that being named a blue ribbon school is not just an award for the high school, it is an award for the entire community. Making a school the best requires the work of the whole community. Beulah has made that effort, and this award recognizes that the community has been successful.

I want to close by congratulating Beulah High School once again for winning this blue ribbon. It is much deserved.•

THE ORTHODOX CHURCH GAINS POWER IN A POST-MARXIST WORLD

• Mr. SIMON. Mr. President, if our friends in Turkey fail to understand why there is some reluctance on the part of the European Community to admit Turkey, the article in the New York Times titled, "The Orthodox Church Gains Power in a Post-Marxist World" written by their religion editor, Peter Steinfels, is a good illustration of the problem.

As the Steinfels article says:

> Turkey continues to bar the Patriarchate from running a seminary and theological faculty for foreigners, from expanding its operations, from publishing and from traveling freely.

The Patriarchate they refer to is that of the leadership of the Orthodox church, and what of course is nettlesome to the Turks is that a good portion of the Orthodox church is Greek Orthodox. The continued ties between the Patriarchate and the Greeks remain a source of concern for the Turks, but the reality is that their failure to give full religious freedom to everyone in Turkey simply strengthens the ties between the Patriarchate and Greece.

Peter Steinfels' article points out:

> Many Orthodox Christians find it strange that Patriarch Aleksy [the Primate of the Russian Orthodox Church] should now have more freedom of action in Moscow than Patriarch Bartholomew has in Istanbul.

Turkey has been a friend of the United States, and no one wants to diminish that friendship.

But we also recognize that friendship will have much stronger ties and be better for both of our countries, if Turkey gives full religious freedom to all of her citizens and, also, moves to resolve the Cyprus question.

I ask to insert the Peter Steinfels' article into the RECORD at this point.

The article follows:

THE ORTHODOX CHURCH GAINS POWER IN A POST-MARXIST WORLD

(By Peter Steinfels)

For many Americans, Eastern Orthodox Christianity, with its bearded bishops and solemn rituals, its Byzantine iconography and ornate churches, is the very model of an ancient, other-worldly rite. But for all its traditionalism, Orthodoxy has become an important new force in Christianity as East and West stumble into the post-Communist era.

After decades of persecution, Orthodox Christianity has emerged in much of the former Communist world as an alternative, though by no means the only one, to a badly discredited Marxism. From Russia to Romania, Orthodox churches are being called upon to serve as sources of moral teaching and national identity.

And for some Westerners, Orthodoxy keeps alive a liturgical and mystical sensibility that Roman Catholicism and Protestantism often lost in their Reformation-era polemics and struggles with modern rationalism.

Whether Eastern Orthodoxy can meet its new challenges depends in great measure on two people: His All Holiness Bartholomew I, enthroned a week ago in Istanbul as Ecumenical Patriarch of Constantinople, and Patriarch Aleksy II of Moscow, who arrived on Friday for a 10-day visit to the United States.

Bartholomew wields no organizational authority over the 14 national Orthodox churches, which follow the same beliefs and practices but are otherwise self-governing. But he still retains the place of honor—first among equals—in the ranks of Orthodox leaders, a primacy deriving from the role of Constantinople, the "second Rome" founded by the Emperor Constantine in 330 as the new Eastern capital of the Roman Empire.

From this Eastern Greek-speaking half of the Empire, Orthodoxy's theology, liturgy and spirituality spread to the Balkans and Russia. After the Turks conquered Constantinople in 1453, renaming it Istanbul, Orthodoxy's center of gravity shifted to Russia, where theologians began to hail Moscow as a third Rome.

A NEW VIGOR

Now both of these Romes, which have frequently been rivals themselves, are entering a time of renewed vigor. Bartholomew is 51 years old, a widely traveled veteran of interfaith discussions, well-versed in theology and fluent in several languages. Aleksy, barely a year in office, challenged the legality of the attempted Soviet coup in August, breaking the Russian Orthodox Church's long habit of political submissiveness.

A chief aim of Patriarch Aleksy's American visit will be to organize humanitarian aid to the Soviet republics and to mobilize support for a church that is rich in faith but stripped of material resources and trained leaders. In Moscow, there have been additional appeals for the church to teach religion in thousands of schools and provide chaplains for hospitals, prisons and army units. Beyond such immediate concrete needs, Orthodox Christianity must help Russia and other republics come to terms with the Communist past—including the church's own spotty record of collaborating with government officials and endorsing government policies.

THE PLURALIST THREAT

Orthodoxy will also have to deal with religious pluralism, certainly less painful a condition than persecution but perhaps as threatening for churches that have enjoyed a special cultural status in their societies but are now experiencing the proselytizing of Western evangelicals and Eastern sects.

At the same time, Orthodoxy may be in danger of further splintering by nationalist rivalries. In the Ukraine, two rival Orthodox churches and a Catholic church that follows Orthodox liturgy but recognizes the Pope vie for dominance and often for the same church property. Like the shooting war in Yugoslavia between Orthodox Serbs and Catholic Croatians, the conflict strains relations between Orthodoxy and Roman Catholicism. Patriarch Aleksy, who is also unhappy about the recent naming of Catholic bishops for regions of Russia, has emphatically rejected an invitation to bishops to attend a "Eurosynod" of Eastern and Western European Catholic bishops at the end of November in Rome.

Relations between Orthodoxy and the largely Protestant World Council of Churches are also shaky. Last February at the Seventh Assembly of the World Council in Canberra, Australia, Orthodox participants were disturbed by political presentations that seemed to equate the Holy Spirit with the spirits of nature, of ancestors or of social movements. The Orthodox warned that they might withdraw from the body if it deviated from basic Christian beliefs, ending an important encounter between two very different forms of Christianity.

Patriarch Bartholomew, who has a degree from the Jesuit-run Pontifical Gregorian University in Rome and many years of experience working with the World Council of Churches, is well prepared for this kind of religious diplomacy. But his greatest challenge may be diplomacy with the Turkish Government. Over the centuries there have been repeated conflicts between Turkish rulers, whether Ottoman Sultans or modern regimes, and the Patiarchate, which has historically led the Greek Orthodox community and has borne the brunt of Greek-Turkish conflicts, including the current one over Cyprus.

Today, the Patriarchate operates out of a small enclave in Istanbul and faces an uncertain future because of Turkish nationalism, Muslim fervor and a dwindling Orthodox population in Turkey. Under international treaties only Turkish citizens can be chosen Patriarch and Turkish authorities can veto candidates.

Orthodox fears that Turkey would veto Bartholomew proved unfounded. But Turkey continues to bar the Patriarchate from running a seminary and theological faculty for foreigners, from expanding its operations, from publishing and from traveling freely.

Many Orthodox Christians find it strange that Patriarch Aleksy should now have more freedom of action in Moscow than Patriarch Bartholomew has in Istanbul. Periodically there is talk of moving the Patriarchate to Switzerland or another neutral site. Chambessy, just outside of Geneva, is already the site of a Patriarchal liaison office to the World Council of Churches. There a small staff is laying the groundwork for the first ecumenical council of the Orthodox church to meet in over a thousand years; this could be for Orthodoxy what the Second Vatican Council was for Roman Catholicism.

Disagreements and obstacles have caused so many delays that some Orthodox leaders speak as though they don't expect this Great Council to convene any time soon. "But we need to have it done," said George Karcazes, a Chicago lawyer and former head of Orthodox Christian Laity, a group pressing for reform and unity in Orthodox churches. "As young a man as Bartholomew could breathe new life into that process."•

SALUTE TO SIDNEY O. DEWBERRY

• Mr. WARNER. Mr. President, I rise today to pay tribute to a most exemplary citizen of our State, Mr. Sidney O. Dewberry of Arlington, VA, who has been chosen as the recipient of this year's Founders Award by the Northern Virginia Community Foundation. This prestigious award is given annually in recognition of outstanding community service and dedication to the betterment of the northern Virginia community.

The Northern Virginia Community Foundation was established in 1978 as a nonprofit community endowment whose funds are used to support the arts, education, health care, youth programs, and various civic improvements for the benefit of the citizens in the northern Virginia area.

This year's award recipient has a long history of dedicated service to his community. As managing partner of Dewberry and Davis, an award-winning architectural, engineering, planning, and surveying firm, Sidney Dewberry has played an integral role in the development and civic improvements that have taken place in northern Virginia. Mr. Dewberry has worked to promote certain educational initiatives, including the establishment of the Dewberry and Davis Institute, a comprehensive in-house training and employee development program recognized by the Virginia Senate Productivity Awards Board, and the new George Mason School for Urban Systems Engineering.

Professional and community service achievements remain the hallmark of Sidney Dewberry's illustrious career. His continuous dedication to the betterment of northern Virginia serves as a reminder to us all that each individual can make a difference in making a better life for ourselves and our children. I offer my sincere congratulations to Sid and his family upon his being chosen as the recipient of the 1991 Founders Award.•

JERRY ROBERTSON, HOOSIER HERO

• Mr. COATS. Mr. President, I rise to honor the efforts of an individual who serves as an inspirational example to all Americans. Jerry Robertson is a 14-year-old boy from Indianapolis, IN, who has proven that children really can make a difference when given a chance. Jerry is the fifth recipient of the Hoosier Hero award that I sponsor to recognize citizens who have made an outstanding contribution to Indiana history or life.

Jerry Robertson has dedicated himself to improving the lives of those around him. He devotes countless hours of his time volunteering for a variety of worthwhile community service programs. Jerry serves as the youngest advisory board member ever for the Indianapolis Chapter of Youth As Resources. This program challenges youth to identify problems and needs, and to develop solutions to deal with those issues. Youth As Resources offers funding for programs organized by kids.

Youth As Resources is only one of Jerry's activities. He also works for the Wheeler Boys and Girls Club. Jerry serves as a role model for the younger children whose activities he helps supervise at the club. In addition, he is committed to helping his neighbors in other ways, such as assisting with town meetings established to empower the community and volunteering at the Indianapolis Children's Museum.

Jerry Robertson is a shining example of the Hoosier spirit of voluntarism and generosity. He demonstrates the potential that all children possess when given the chance to contribute to the community. The future lies in the hands of our children, and it is crucial that we recognize Hoosier Heroes like Jerry, who as kids are already accepting the challenges of tomorrow.●

BRING BACK THE WPA?

● Mr. SIMON. Mr. President, some years ago, I first introduced a bill calling for a guaranteed job opportunity for all Americans.

It would be a substantial move away from our present welfare system, paying people to be productive rather than nonproductive. At the same time, it would screen them as they come in for jobs. If they can't read and write, they would get into a literacy program. If they have no marketable skills, we would get them into a training program.

It would pay people for 4 days a week at the minimum wage, who are out of work 5 weeks or longer.

We ought to be moving in that direction.

I'm pleased to say the Peoria Journal Star recently ran an editorial saying that we ought to be moving in that direction.

I ask to insert the article into the RECORD at this point.

The article follows:

[From the Peoria Journal Star, Oct. 8, 1991]

BRING BACK THE WPA?

"We have a choice of paying people for doing nothing or paying people for doing something. It makes infinitely more sense to pay people for doing something, to let them be productive, to let them know and feel that they are needed and contributing toward a better society."—Illinois Senator Paul Simon in "*Let's Put America Back to Work,*" 1987.

Former Caterpillar employee Jon Bierman was devastated in the mid-1980s when the company fired him from his $60,000-a-year marketing job in the midst of a reorganization.

In his mid-40s and unemployed for the first time, Bierman couldn't find replacement work for more than a year, even at half his previous salary.

"It's not just the money, either," he told Illinois Senator Paul Simon in 1987. "It's being busy and feeling like you're doing something."

Such are the hopelessness and despair that infect people who find themselves without a job, no matter how accomplished they may have been at one time.

With about 7 percent of Illinoisans unemployed and 11 percent on some form of welfare this year, Simon has long been an advocate of resurrecting some of the Depression-era work programs—such as the Works Progress Administration (WPA) and the Civilian Conservation Corps (CCC)—that helped build America's infrastructure 50 years ago.

Given the phenomenal growth of America as a welfare state, the degree to which poverty breeds more poverty and crime, the growth in the pool of unskilled labor in the U.S. coupled with the diminished demand for such labor, and the strain on local governments that are trying to maintain a sagging infrastructure with fewer real dollars every year, America cannot afford NOT to listen to Simon.

Over the last 20 years, public aid expenditures in Illinois have skyrocketed 312 percent. The number of public aid recipients has risen 43 percent during that time, to an estimated 1.3 million this past year, the highest number since the Great Depression. Meanwhile, public aid as a percentage of total state expenditures has risen from 20 percent in 1982 to 34 percent today.

Thirty-three million Americans are poor; one in five are children, one in three black. It's a travesty.

The average public aid recipient in Illinois is a single mother with two children. She makes $367 in cash assistance per month, $277 in food stamps. If she were working, that would come to about $4 per hour, not much for a family of three.

Given that minimum wage is only $4.25 per hour, what incentive is there to work?

First, Simon's "Guaranteed Job Opportunity Program" would pay more without endangering food stamp assistance. It would make a job available to every high school graduate 18 or older, paying them minimum wage for 32 hours a week (leaving one day to look for another job) or 10 percent above welfare or unemployment compensation, whichever is highest. His plan also would provide limited health care coverage, but makes no mention of day care, an essential component.

The real advantage to Simon's plan is not the money but the message. Getting something for nothing is so counterproductive in the way that it chips away, year after year, at one's dignity and self-worth. It sets an awful example for children who grow up never having seen a parent go off to work. Sitting home waiting for a check does nothing to develop a skill, does nothing to build a resume, does nothing to make the individual feel like a contributor rather than a drain on a community's resources.

Besides that, there is so much to do that goes undone in every community. In Peoria countless jobs could be created—cleaning up Springdale Cemetery; building a riverfront bike path; developing Fort Crevecoeur; helping police the housing projects; assisting as aides in schools, nursing homes and day care centers; rehabilitating blighted inner-city neighborhoods; picking up litter.

Yes, converting a welfare system to a job system would be expensive. But workers would be providing valuable services, producing tangible goods and developing skills and pride that would only stimulate, not depress, an economy sagging under the weight of doing too much for too little in return.

A nation as wealthy as the United States ought to be able to guarantee a job opportunity for every American.●

THE DEPARTMENT OF JUSTICE FINANCIAL FRAUD REPORT

● Mr. THURMOND. Mr. President, I rise today to call the Senate's attention to the Department of Justice's efforts to uncover and prosecute those who commit crimes against our Nation's financial institutions. The Department recently released its 1991 report on its antifraud efforts, entitled "Attacking Financial Institution Fraud." The report graphically analyzes the Department's ever-increasing success and also includes anecdotal information about some significant cases.

For example, of the 2,295 defendants charged in major fraud cases, over 96 percent have been convicted. The report shows that 661 S&L crooks have been brought to justice and convicted of their illegal acts. Over 30 percent of these S&L convictions are presidents, directors, and other major figures responsible for the damage to the S&L's.

Mr. President, I recommend that my colleagues review this important report which outlines our Nation's effort to effectively prosecute those who brought the financial services industry to the brink of disaster.

I ask unanimous consent that the executive summary of this important document be printed in the CONGRESSIONAL RECORD.

The material follows:

[U.S. Department of Justice, Office of the Attorney General]

ATTACKING FINANCIAL INSTITUTION FRAUD—EXECUTIVE SUMMARY

(Fiscal Year 1991 Report; Contains September 1991 Report)

Where financial fraud is concerned, it takes a discerning line and determined spirit to distinguish the incompetent from the fraudulent, the unlucky from the unlawful . . . and understand that in the cold numbers of a ledger can be found the tragedy of an embezzled pension or the heartache of stolen savings.

We will not rest until the cheats and the chiselers and the charlatans spend a large chunk of their lives behind the bars of a federal prison. —PRESIDENT GEORGE BUSH.

JUNE 22, 1990.

FOREWORD

To the Senate and the House of Representatives of the United States of America in Congress Assembled.

In this, the eighth report by the United States Department of Justice under Section 2546 of the Crime Control Act of 1990 (CCA), Public Law 101–647 (November 29, 1990), the Justice Department combines its September monthly report with our Fiscal Year 1991, year-end report. I am also pleased to include, for the first time, statistics on our efforts in the prosecution of major bank and credit union cases beginning in October 1988. I think you will agree that this Department has achieved a spectacular record of success in prosecuting financial institution fraud.

For those who have followed the progress of our reporting efforts closely, there has been a steady, and I believe remarkable, improvement in the quality and quantity of the information that we have been able to provide. That information and the bottom line underscores this Department's commitment to the mission set by the President in June 1990. Since October 1, 1988, the Justice Department has prosecuted almost 2300 persons for major financial institution crimes involving almost $10 billion in losses to federally insured institutions.

By broadening our reporting abilities beyond savings and loan (S&L) cases to include all major financial institution frauds (FIF), we sought to paint a more complete picture of our financial institution effort in Fiscal Year 1991 with reports on bank and credit union prosecutions. By collecting and analyzing data for the entire FIF program beginning in Fiscal Year 1989, we hope to establish a baseline of productivity before the resource enhancements of Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) and the Crime Control Act of 1990 (CCA) and allow a true assessment of our growth. Such an assessment can be seen in the major S&L prosecutions where we have been able to report on a 116 percent increase in defendants charged since our first report in September 1990. I look for even greater increases in the years to come as the newly provided resources are integrated, trained and applied to the enormous task of prosecuting these complex cases and recovering assets wherever possible.

This report contains graphic analysis of our ever increasing success, as well as statistical and anecdotal information about some of our more significant cases. Highlights of Fiscal Year 1991 include:

Passage of the CCA.

Appointment of Ira H. Raphaelson, of Illinois, as Special Counsel to the Deputy Attorney General for Financial Institution Fraud pursuant to the CCA.

Development of formal and informal lines of communication between the Department through the Special Counsel and the appropriate regulatory and law enforcement components.

Establishment of the Senior Interagency Group to enhance our efforts.

Development of a case reporting system for major S&L cases and enhancement of that system to include major bank and credit union prosecutions.

2,295 defendants charged in major FIF cases since October 1, 1988.

1,770 defendants convicted in major FIF cases in that same time period (96.7 percent conviction rate).

1,085 defendants charged in major FIF cases in Fiscal Year 1991 alone.

855 defendants convicted in FY 1991 in major FIF cases (95.2 percent conviction rate).

77.4 percent of those convicted sent to jail.

871 major S&L crooks charged between October 1, 1988 and September 30, 1991.

661 major S&L crooks convicted in the same period (93 percent conviction rate).

Allocation of additional attorney and support resources provided by FIRREA and the CCA to 75 of the 93 U.S. Attorneys Offices around the country where caseloads indicated additional support was needed. In allocating the CCA lawyers, our numbers were not significantly different from the recommendations of the General Accounting Office. Where they were, qualitative rather than statistical analysis of the relevant programs dictated the result.

Creation of the New England Bank Fraud Task Force by the Attorney General and six U.S. Attorneys to deal with existing inventories and to serve at the ready for any cases developed by the expanded FDIC liquidation office in Boston.

Design and implementation of an ambitious training program for the newly acquired and applied resources.

Formulation of special civil FIF units in eight pilot districts to do forfeiture and collections work.

I am proud of the record of accomplishment outlined in this report and the dedicated efforts of the many professionals within this Department, as well as those in the Treasury Department and the law enforcement and regulatory agencies who helped bring this record about. We are dedicated to consistently improving that effort in the coming year.

Respectfully submitted,

WILIAM P. BARR,
Acting Attorney General.

U.S. DEPARTMENT OF JUSTICE MAJOR FINANCIAL INSTITUTION FRAUD PROSECUTIONS, FISCAL YEARS 1989–91

[October 1, 1988 to September 30, 1991]

The following information describes prosecutions of "major" frauds against financial institutions covered by FIRREA and the Crime Control Act of 1990.[1]

[Dollar amounts in millions]

Description	S&L's	Banks	Credit unions	Total
Information/indictments	524	977	54	1,555
Estimated loss	$7,442	$2,365	$65.6	$9,872.6
Defendants charged	871	1,351	73	2,295
Defendants convicted	661	1,054	55	1,770
Defendants acquitted	[1]49	10	1	60
Conviction rate (percent)	93	99	98.2	96.7
Sentenced to jail	401	675	46	1,122
Sentenced w/o jail	106	216	5	327
Percent sentenced to jail	79	75.7	90	77.4
Fines imposed	$12.645	$4.733	$2,050	$17.38
Restitution ordered	$372.092	$289.048	$7.618	$668.758

[1] Includes 21 defendants acquitted in United States v. Saunders, N.D. Florida, Case PCR90–03087.

Note.—"Major" is defined as (a) the amount of fraud or loss was $100,000 or more, or (b) the defendant was an officer, director, or owner (including shareholder), or (c) the schemes involved multiple borrowers in the same institution, or (d) case involved other major factors.

U.S. DEPARTMENT OF JUSTICE MAJOR FINANCIAL INSTITUTION FRAUD PROSECUTIONS, FISCAL YEARS 1989–91

[October 1, 1988 to September 30, 1991]

The following information describes prosecutions of "major" frauds against financial institutions covered by FIRREA and the Crime Control Act of 1090.[1]

[Dollar amounts in millions]

Description	S&L's	Banks	Credit unions	Total
Information/indictments:				
Fiscal year 1989	117	167	7	291
Fiscal year 1990	193	336	13	542
Fiscal year 1991	214	474	34	722
Total	524	977	54	1555
Estimated loss:				
Fiscal year 1989	$473	$215	$.581	$688.58
Fiscal year 1990	$2,094	$254	$43.5	$2,391.5
Fiscal year 1991	$4,873	$1,895	$21.5	$6,789.5
Total	$7,442	$2,365	$65.6	$9,872.6
Defendants charged:				
Fiscal year 1989	187	223	9	419
Fiscal year 1990	335	439	17	791
Fiscal year 1991	349	689	47	1085
Total	871	1,351	73	2,295
Defendants convicted:				
Fiscal year 1989	112	149	5	266
Fiscal year 1990	259	377	13	649
Fiscal year 1991	290	528	37	855
Total	661	1,054	55	1,770
Defendants acquitted:				
Fiscal year 1989	2	1	0	3
Fiscal year 1990	11	3	0	14
Fiscal year 1991	[1]36	*6*	*1*	*43*
Total	49	10	1	60
Conviction rate (percent):				
Fiscal year 1989	98.2	99.3	100	98.8
Fiscal year 1990	95.9	99.2	100	97.8
Fiscal year 1991	88.9	98.8	97.3	95.2
Total 3-yr. overall	93	99	98.2	96.7
Sentenced to jail:				
Fiscal year 1989	42	94	2	138
Fiscal year 1990	179	202	5	386
Fiscal year 1991	180	379	39	598
Total	401	675	46	1,122
Sentenced w/o jail:				
Fiscal year 1989	6	34	1	41
Fiscal year 1990	54	88	2	144
Fiscal year 1991	*46*	*94*	*2*	*142*
Total	106	216	5	327
Percent sentenced to jail:				
Fiscal year 1989	87.5	73.4	66.6	77
Fiscal year 1990	76.8	69.6	71.4	72.8
Fiscal year 1991	79.6	80.1	95.1	80.8
Total	79	75.7	90	77.4
Fines Imposed:				
Fiscal year 1989	$.406	$1.256	....	$1.662
Fiscal year 1990	$4.427	$1.761	....	$6.188
Fiscal year 1991	$7.812	$1.715	$2,050	$9.529
Total	$12.645	$4.733	$2,050	$17.38
Restitution ordered:				
Fiscal year 1989	$30.996	$43.479	$.106	$74.581
Fiscal year 1990	$199.573	$92.860	$.602	$293.035
Fiscal year 1991	$141.522	$152.438	$6.909	$300.869
Total	$372.092	$289.048	$7.618	$668.758

[1] Includes 21 defendants acquitted in United States v. Saunders, N.D. Florida, Case PCR90–03087.

Note.—"Major" is defined as (a) the amount of fraud or loss was $100,000 or more, or (b) the defendant was an officer, director, or owner (including shareholder), or (c) the schemes involved multiple borrowers in the same institution, or (d) case involved other major factors.•

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[1] This information was supplied by the 93 offices of the U.S. Attorneys and from the Dallas Bank Fraud Task Force. Numbers may be adjusted due to monthly activity, improved reporting and the refinement of the data base.

THE LABOR/HHS/EDUCATION APPROPRIATIONS CONFERENCE REPORT

• Mr. ADAMS. Mr. President, last week the Senate voted on the Labor/Health and Human Services/Education and related agencies appropriations conference bill. This bill is a landmark document. The health, education, and social services so many Americans use and need are found in it. But despite these gains, all of the health, education, and social services needed by Americans will not be fully met. I will continue to fight to refocus our spending priorities away from unnecessary weapons systems to critical needs in the daily lives of all Americans.

As chairman of the Subcommittee on Aging, I have constantly pursued more funding and improvements in the Federal programs that serve older Americans. This is one of our Nation's fastest growing populations. We have provided much-needed increases in these programs and I am especially pleased that this bill shows strong support for the ombudsman, elder abuse, and intergenerational programs that have a significant impact on the lives of older Americans.

I have stated on many occasions that education should be one of our highest national priorities. This bill provides education programs with an increase that is double the rate of inflation. This is an important investment. It means more American children, especially disadvantaged children, will have educational programs that make them first in the world. Americans will have higher literacy rates. More youth will be able to afford higher education.

In addition, the bill makes significant strides in ensuring that more low-income children have access to quality child care and to Head Start. My State of Washington has been diligent in its efforts to provide the highest quality child care and preschool education. This money will allow them to expand on those efforts so that every child will be ready to learn when they go to school.

The increased funding for the Alcohol, Drug Abuse, and Mental Health Administration block grants is long overdue. These grants are instrumental in fighting the war on drugs and alcoholism that plagues our Nation. Last year, the number of women receiving drug treatment was 548,000—about 30,000 are drug-using pregnant women. But 4 million women, of which 250,000 are pregnant, need treatment and are not receiving it. This money will help prevent the physical and mental injuries to women and their children caused by drugs and alcohol abuse.

I also commend the chairman of the subcommittee on the increases in the Low-Income Home Energy Assistance Program. Without these funds, low-income American families are forced to choose between food, heat, and rent. This is unacceptable. The increase of funds for the LIHEAP program will allow many of the poorest families and older Americans reverse that situation.

Mr. President, as a member of the Subcommittee on Labor/HHS/Education appropriations and the Committee on Labor and Human Resources, I wish to lend my support for the bill. I will continue to fight for a higher budget allocation for these programs next year.•

RETIREMENT OF JOHN W. SHAUGHNESSY, JR.

• Mr. DODD. Mr. President, I rise today to remark upon the career and contributions to my State of a man who has been a loyal friend to my family, a leader in Connecticut's Democratic Party and a tireless advocate for the rights of the working man and woman for the better part of the last three decades. John W. Shaughnessy, Jr., will retire this year from Southern New England Telephone Co. after 43 years of dedicated service. His political acumen, extensive knowledge of government and deft negotiation skills characterized John's renowned effectiveness in his roles as government relations specialist and union leader with Connecticut's telephone company. Guided in his professional life by the principle that our system of government only succeeds in its original design by the active participation of its citizenry, above all, John is and will continue to be, active in his citizenship.

Indeed, the hallmark of John Shaughnessy's life has been his commitment to the political process and the well-being of the community. Representing over 60,000 members during his more than 20 years as president of the Connecticut Union of Telephone Workers and the Telecommunications International Union, John spearheaded a major restructuring of TIU which resulted in its recognition by AT&T as an independent international union with bargaining power equal to the two national unions, IBEW and CWA. His personal code of loyalty and integrity did not falter during the AT&T divestiture of 1982 which witnessed John fighting harder than ever to safeguard the newly won autonomy of the TIU.

John's vision as union leader expressed itself in innovative proposals for enhancing the voice of labor in the corporate decisionmaking process. His concern for the quality of life and belief in the ideal of the workplace as a cooperative, productive environment for all participants typified John's nonadverserial philosophy of effective democratic governance. In fact, John has harnessed his prodigious energies and resources on behalf of a long list of worthy causes. A longtime civic activist serving on a wide range of social service, electoral and business related commissions, task forces and panels, John now heads the National Kidney Foundation of Connecticut.

John Shaughnessy's reputation for honesty and commitment has become legendary and precedes him into every role of public leadership and service he has played in the political process. Unimpressed by the condemnations or congratulations of the pollsters and political pundits, he has stood behind the campaigns of countless candidates for public office, including that of my father, U.S. Senator Thomas Dodd, and that of U.S. Representative BARBARA KENNELLY. Fearlessly determined to forge his ideas of good and effective government into the great American alchemy of debate, not only has John thrown his name into the political ring in his own right, which lead to his tenure as major of East Hartford from 1965 to 1967, but also on behalf of those candidates who were fortunate to have earned his allegiance.

First, and foremost, John Shaughnessy is a friend, whatever the vicissitudes of fortune. His enduring sense of commitment and responsibility to democratic ideals derives from the strength of his personal relationships. A family man and a life-long resident of East Hartford, John's roots run deep in a community known for producing influential political leaders. Named "Irishman of the Year" by the Irish-American Home Society last year, John Shaughnessy represents the proud creativity and tenacity of his ancestry, enriched by the uniquely American tradition of industry and cooperation. For all those noble efforts and those which are sure to come, our State and indeed our Nation owe John Shaughnessy a debt of gratitude.•

SANCTIONS AGAINST SERBIA

• Mr. JOHNSTON. Mr. President, I ask that I be added as a cosponsor of S. 1793 and Senate Resolution 213, measures that support the Croatians and Slovenians as they strive for independence.

I have followed closely the disturbing turn of events in Yugoslavia since Croatia and Slovenia declared their independence in June. The actions taken by the Serbian Government against these ethnic groups are appalling.

The forms of torture performed by the Serbs are so gruesome they are unspeakable. The Croatians and Slovenians have been the victims of continued atrocities by the Serbians for too long.

Many parts of Yugoslavia, especially Croatia, have been left devastated from the fighting of the last few months between the Communist Serbian Government and these groups seeking independence. The Tanjug news agency reports that more than 1,700 soldiers, as well as civilians, on both sides of this conflict have lost their lives during this time of Serbian aggression.

Since June 25, 1991, when both Slovenia and Croatia declared their independence from Yugoslavia the Communist Serbian Government has only escalated the fighting and violence in these areas. The Slovenes and the Croats have similar goals on becoming sovereign states within a new Yugoslav confederation, or failing that, seceding from Yugoslavia. Yet, the Serbian Government does not approve of any plan, including that of the European Community, which would create a loose association of states replacing Yugoslavia.

Particularly in civilian areas of Croatia, fighting has continued to intensify despite aggressive efforts by the European Community to put a ceasefire in place. Regrettably, most now realize words of persuasion simply will not end the intransigence of the Serbian Government which seems committed to a course of destruction and total devastation. Recognizing this, on November 8, the European Community issued sanctions against the Serbian Government and an oil embargo is also being discussed by the United Nations.

I applaud President Bush's decision to take a more active role in trying to end the senseless violence which is ripping Yugoslavia apart by duplicating the European Community's actions. We must not sit on the sidelines and merely express our concern about this tragic situation. We must take action now which will show the Serbian Government, especially their Communist leader, Slobodan Milosevic, that we mean business.

I support sanctions against Serbia because I believe that this is the only way to fully express our severe disapproval of their actions toward the Croatians and Slovenians. I stand firmly behind these brave men and women as they strive for self-determination and hope the firm message sanctions will send will be heard and a meaningful cease-fire put in place so that negotiations can begin to create a new framework for peace.•

SOVIET JEWRY

• Mr. CRAIG. Mr. President, in this time of easing East-West tensions and rising hopes for greater freedom in the Soviet Union, there remains a group of people who are still being denied a basic human right: the freedom to emigrate. I am here today to share with my colleagues the case of Yosef Roginsky, a Soviet Jewish refusenik.

Mr. Roginsky, a resident of Leningrad, is separated from his wife and child, who now reside in the United States. They were allowed to emigrate in April of this year. He is a chemical engineer/senior researcher, and previously worked at the Chemical and Oil Production Institute. His work there was considered to be of a confidential nature, and his application for emigration has been refused a number of times on the grounds of state secrecy.

Mr. Roginsky quit working at the institute in 1979, Mr. President. It is outrageous that this man should continue to be separated from his family because of a job he held over 12 years ago. In this time of change in the Soviet Union, there is little change in the fate of the over 500 known Jewish refusenik cases that remain—and there is little change in the fate of Mr. Roginsky.

It is my understanding that there have been some verbal reports indicating Mr. Roginsky will soon be released, but nothing official has occurred. Therefore, I would like to take this moment to urge the Soviet Government to demonstrate that glasnost is for everyone. If there is going to be real change in the Soviet Union, then the rights of these refuseniks must be addressed.

It is my hope that, through the efforts of my colleagues and the Congressional Call to Conscience, Mr. Roginsky and the other Soviet Jewish refuseniks will be released before the end of the year.•

AUTOMATED TELEPHONE CONSUMER PROTECTION ACT

The text of S. 1462, a bill to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes, as passed by the Senate on November 7, 1991, is as follows:

S. 1462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Automated Telephone Consumer Protection Act".

SEC. 2. RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.

(a) AMENDMENT.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 228. RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

"(B) to dial such numbers.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line.

"(3) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

"(b) RESTRICTIONS.—

"(1) REGULATIONS.—The Commission shall prescribe regulations to make it unlawful for any person within the United States—

"(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

"(i) to any emergency telephone line (including any '911' line and any emergency line of a hospital, medical physician or service office, health care facility, or fire protection or law enforcement agency) or to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

"(ii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or radio common carrier service, or any other service for which the called party is charged for the call;

"(B) to initiate any telephone call to any residence using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes;

"(C) to send an unsolicited advertisement by a facsimile machine; or

"(D) to use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are seized simultaneously.

"(2) PRIVATE RIGHT OF ACTION.—A person who has received more than one telephone call from the same entity, or delivering the same or a similar message, in violation of regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State an action in such person's own name to enjoin such calls, an action to recover for actual monetary loss or receive $500 in damages for each violation, whichever is greater, or both such actions. The court may, in its discretion, increase the award for monetary loss to an amount not to exceed three times the actual monetary loss up to $1,500 for each violation, or to increase the award of damages to an amount not to exceed $1,500 for each violation, if the court finds the defendant willfully or knowingly violated such regulations.

"(3) CALLS TO BUSINESSES.—In the course of its rulemaking proceeding to prescribe regulations under paragraph (1), the Commission shall consider prescribing regulations to allow businesses to avoid receiving calls made using an artificial or prerecorded voice message to which they have not given their prior express consent.

"(4) EXEMPTIONS AND OTHER PROVISIONS.—In the course of its rulemaking proceeding to prescribe regulations under paragraph (1), the Commission shall also determine whether and to what extent the regulations should include exemptions and other provisions to address special circumstances, consistent with the public interest, convenience, and necessity.

"(c) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) PROHIBITION.—It shall be unlawful for any person within the United States—

"(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards; or

"(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

"(2) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which—

"(A) is manufactured after 6 months after the date of enactment of this section, and

"(B) can be used for the distribution of unsolicited advertising,

clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business, other entity, or individual. The Commission shall exempt from such standards, for 18 months after such date of enactment, telephone facsimile machines that do not have the capacity for automatic dialing and transmission and that are not capable of operation through an interface with a computer.

"(3) ARTIFICIAL OR PRERECORDED VOICE SYSTEMS.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

"(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business, other entity, or individual; and

"(B) any such system will automatically release the called party's line within 5 seconds of the time the system receives notification that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

"(d) STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

"(1) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

"(2) the use of automatic telephone dialing systems to transmit prerecorded telephone solicitations; or

"(3) the use of artificial or prerecorded voice messages.

"(e) ACTIONS BY STATES.—

"(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls to residents of that State in violation of the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. The court may, in its discretion, increase the award for monetary loss to an amount not to exceed three times the actual monetary loss up to $1,500 for each violation, or to increase the award of damages to an amount not to exceed $1,500 for each violation, if the court finds the defendant willfully or knowingly violated such regulations.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such regulations. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) DEFINITION.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "and 225" and inserting in lieu thereof ", 225, and 228".

TELEPHONE ADVERTISING CONSUMER RIGHTS ACT

The text of S. 1410, a bill relating to the rights of consumers in connection with telephone advertising, as passed by the Senate on November 7, 1991, is as follows:

S. 1410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Advertising Consumer Rights Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individual privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING.

(a) AMENDMENT.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 228. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

"(B) to dial such numbers.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line.

"(3) The term 'unsolicited telephone solicitation' means a telephone call by a live person for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services which is transmitted to any person without that person's prior express invitation or permission. Such term does not include calls or messages made by or on behalf of a tax exempt nonprofit organization.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

"(b) RESTRICTIONS.—It shall be unlawful for any person within the United States by means of telephone—

"(1) to make any unsolicited telephone solicitation in violation of the regulations prescribed by the Commission pursuant to subsection (c);

"(2) to send an unsolicited advertisement by a facsimile machine; and

"(3) to make any call (other than a call made for emergency purposes or made with the prior consent of the called party) using any automatic telephone dialing system, or an artificial or prerecorded voice—

"(A) to any emergency telephone line or pager (including any '911' line and any emergency line or pager of a hospital, medical physician or service office, health care facility, or fire protection or law enforcement agency) or to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

"(B) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or radio common carrier service, or any other service for which the called party is charged for the call.

"(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

"(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving unsolicited telephone solicitations to which they object. The proceeding shall—

"(A) further define 'unsolicited telephone solicitation' consistent with subsection (a)(3);

"(B) compare and evaluate alternative methods and procedures, including the use of telephone electronic databases, telephone network technologies, special directory markings, industry and company based 'do not call' systems, and any other alternatives, individually or in combination, for protecting such privacy rights, in terms of their cost effectiveness and their other advantages and disadvantages;

"(C) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

"(D) consider whether such methods and procedures may apply for local telephone solicitations, such as those of small businesses or holders of second class mail permits; and

"(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

"(2) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

"(d) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) PROHIBITION.—It shall be unlawful for any person within the United States—

"(A) to initiate any communication using a telephone fascimile machine, or to make any telephone call using any automatic telephone dialing system that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system (to make any telephone solicitation) in a manner that does not comply with such standards; or

"(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of each transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

"(2) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which—

"(A) is manufactured after 6 months after the date of enactment of this section; and

"(B) can be used for the distribution of unsolicited advertising,

clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business. The Commission shall exempt from such standards, for 18 months after such date of enactment, telephone facsimile machines that do not have the capacity for automatic dialing and transmission and that are not capable of operation through an interface with a computer.

"(3) ARTIFICIAL OR PRERECORDED VOICE SYSTEMS.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

"(A) to the extent not otherwise prohibited by law, all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, other entity, or individual initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business, other entity, or individual; and

"(B) any such system will automatically release the called party's line within 5 seconds of the time the system receives notification that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

"(e) PRIVATE RIGHT OF ACTION.—A person who has received more than one telephone call from the same entity, or delivering the same or a similar message, in violation of this section or regulations prescribed under this section may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State an action in such person's own name to enjoin such calls, an action to recover for actual monetary loss or be awarded $500 in damages for each violation, whichever is greater, or both such actions. The court may, in its discretion, increase the award for monetary loss to an amount not to exceed three times the actual monetary loss, or to increase the award of damages to an amount not to exceed $1,500 for each violation, if the court finds the defendant willfully or knowingly violated such regulations.

"(f) ACTIONS BY STATE ATTORNEYS GENERAL.—

"(1) AUTHORITY OF ATTORNEYS GENERAL.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or $500 in damages for each violation, or both such actions. The court may, in its discretion, increase the award for monetary loss to an amount not to exceed three times the actual momentary loss, or to increase the award of damages to an amount not to exceed $1,500 for each violation, if the court finds the defendant willfully or knowingly violated such regulations.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section and regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such provision. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of this section or regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) DEFINITION.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.

"(g) STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

"(1) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

"(2) the use of automatic telephone dialing systems to transmit prerecorded telephone solicitations; and

"(3) the use of artificial voice or prerecorded messages.

"(h) PREEMPTION OF INCONSISTENT INTERSTATE COMMUNICATIONS LAWS.—This section preempts any provisions of State law concerning interstate communications that are inconsistent with the interstate communications provisions of this section.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "and 225" and inserting in lieu thereof ", 225, and 228".

VETERANS COMPENSATION IMPROVEMENT ACT

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time turn to the consideration of Calendar 211 S. 775, a bill to increase the rates of compensation for veterans with disabilities, and that the bill be considered under the following time limitation:

One hour for debate on the bill and committee substitute, equally divided between the chairman and the ranking member, or their designees;

That no amendments or motions be in order, except for a modification of the committee substitute to be offered by the chairman, or his designee;

That when all time is used or yielded back the Senate vote on the committee substitute, as modified, if modified; the bill be read a third time and a vote occur on passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows.

Ordered, That the Majority Leader, after consultation with the Republican Leader, may at any time turn to the consideration of S. 775, a bill to increase the rates of compensation for veterans with disabilities, with one hour for debate on the bill and committee substitute, to be equally divided between the Chairman and the Ranking Member, or their designees.

Ordered further, That no amendments or motions be in order, except for a modification of the committee substitute to be offered by the Chairman or his designee.

Ordered further, That when all time is used or yielded back, the Senate vote on the committee substitute, as modified, if modified, the bill be read a third time, and a vote occur on passage of the bill.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that on tomorrow the Journal of proceedings be deemed approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, we interrupted the Senate's consideration of the banking bill to proceed to the unemployment insurance bill. At the time it was my hope—now obviously proven to have been a futile hope—that we could complete action on the unemployment insurance bill this evening and return to consideration of the banking bill.

It now appears likely that we will be on the unemployment insurance bill for some time at least tomorrow, and in the intervening time the House has acted to defeat banking legislation. The distinguished chairman of the Banking Committee has suggested that we return to consideration of the banking bill upon completion of the unemployment insurance bill and I have assured him that we will consider that matter tomorrow. It is my intention to discuss that with him and consult, as is my regular practice, with the distinguished Republican leader and then make a judgment in that regard.

I share the view of the distinguished Senator from Michigan that we are going to have to act on banking and RTC legislation this year, and we simply have to decide what the best way is to proceed. We made good progress on the bill and were within striking distance of completion when it was interrupted for this matter.

I know the Senator from Michigan is most anxious that the unemployment insurance matter be resolved, and he was of course supportive of attempting to complete that. I know he also wants to complete action on the banking bill. I hope we will meet to discuss that the first thing tomorrow morning.

Mr. RIEGLE. If the Senator will yield, I want to thank him for his comments. I think today we managed to resolve the major items on the bill. There are some additional amendments. Senators are waiting, when appropriate, to bring those up, and we will dispose of those. So I think we want to maintain our momentum. I appreciate the consideration of the majority leader.

Mr. SIMPSON. Mr. President, I just want to thank the majority leader for his extraordinary patience once again—that is certainly a trademark of his—and his steady demeanor in working through what is a very frustrating thing, I know, for him. I hope we can accomplish our goal tomorrow, which could easily have been accomplished tonight. I thank him for that equanimity and steadiness.

Mr. MITCHELL. I thank my colleague for his kind comments.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 11:21 p.m., recessed until Friday, November 15, 1991, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 14, 1991:

THE JUDICIARY

FRANCIS A. KEATING II, OF OKLAHOMA, TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

IRA DEMENT, OF ALABAMA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA VICE TRUMAN M. HOBBS, RETIRED.

JOSEPH E. IRENAS, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

TONY MICHAEL GRAHAM, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DONALD J. STOHR, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

WILLIAM B. TRAXLER, JR., OF SOUTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA VICE CLYDE H. HAMILTON, ELEVATED.

U.S. COAST GUARD

VICE ADM. MARTIN H. DANIELL, JR., U.S. COAST GUARD AS COMMANDER, PACIFIC AREA, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

REAR ADM. ROBERT T. NELSON, U.S. COAST GUARD AS VICE COMMANDANT, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 14, 1991:

DEPARTMENT OF ENERGY

GREGG WARD, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS).

THE JUDICIARY

SUSAN J. CRAWFORD, OF MARYLAND, TO BE A JUDGE OF THE U.S. COURT OF MILITARY APPEALS FOR THE TERM OF 15 YEARS TO EXPIRE ON THE DATE PRESCRIBED BY LAW.

THE FOLLOWING NAMED PERSONS TO BE JUDGES OF THE U.S. COURT OF MILITARY APPEALS:

ROBERT E. WISS, OF ILLINOIS, FOR THE TERM OF 7 YEARS TO EXPIRE ON THE DATE PRESCRIBED BY LAW.

HERMAN F. GIERKE, OF NORTH DAKOTA, FOR THE TERM OF 13 YEARS TO EXPIRE ON THE DATE PRESCRIBED BY LAW.

AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES R. CLAPPER, JR., [redacted] U.S. AIR FORCE.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

A.E. DICK HOWARD, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM OF 2 YEARS.

DEPARTMENT OF EDUCATION

DONALD A. LAIDLAW, OF NEW YORK, TO BE DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION.

B. ROBERT OKUN, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY OF LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

NORMAN KELINSON, OF IOWA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1995.

BEN-CHIEH LIU, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR THE REMAINDER OF THE TERM EXPIRING JULY 19, 1993.

CAROL K. DIPRETE, OF RHODE ISLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1996.

DEPARTMENT OF LABOR

MARSHALL JORDAN BREGER, OF THE DISTRICT OF COLUMBIA, TO BE SOLICITOR FOR THE DEPARTMENT OF LABOR.

NATIONAL COUNCIL ON DISABILITY

ELLIS B. BODRON, OF MISSISSIPPI, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1993.

EQUJAL EMPLOYMENT OPPORTUNITY COMMISSION

DONALD R. LIVINGSTON, OF GEORGIA, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF 4 YEARS.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

CHARLES SZU, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING FEBRUARY 4, 1996.

U.S. INSTITUTE OF PEACE

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE FOR TERMS EXPIRING JANUARY 19, 1995:

THEODORE M. HESBURGH, OF INDIANA.

ELSPETH DAVIES ROSTOW, OF TEXAS.

CHESTER A. CROCKER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1995.

ACTION AGENCY

MARY JANE MADDOX, OF TEXAS, TO BE DEPUTY DIRECTOR OF THE ACTION AGENCY.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ROBERTA PETERS, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1996.

ROBERT G. BREUNIG, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1993.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

LORRAINE MINDY MEIKLEJOHN, OF COLORADO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1995.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

TRIBUTE TO WORLD WAR II VETERAN JOHN F. BARNACLE

HON. BUD CRAMER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. CRAMER. Mr. Speaker, during this time as we honor the brave women and men who have served their country, I would like to bring to the attention of the House the diligent work of John F. Barnacle of Huntsville, AL. Mr. Barnacle is working to secure a posthumous awarding of the Silver Star medal for Lt. Reaford C. McCraw for conduct occurring on or about February 24, 1944.

Mr. Barnacle was a sergeant—450th Bombardment Group of the U.S. Army during World War II. For many years, Mr. Barnacle has been retracing history. He has reconstructed a record illustrating the work of his crew and especially his lieutenant, Reaford C. McCraw, during a mission to bomb the Messerschmidt assembly plant at the Obertraubling Airdome near Regensburg, Germany.

Let me recite for you Mr. Barnacle's story. In February 1944, as Lieutenant McCraw's unit participated in a raid on the Obertraubling aircraft factory at Regensburg, Germany, Lieutenant McCraw's unit came under heavy attack. Because of aggressive fighter opposition, Lieutenant McCraw's ship was heavily damaged. According to Mr. Barnacle, against all odds, Lieutenant McCraw exercised great airmanship and guided the B–24 bomber back to home base amidst heavy enemy fire.

As Mr. Barnacle notes:

> By his courage, resourcefulness, coolness, and dedication and devotion to duty and country, Lieutenant McCraw safely brought his crew and ship back against seemingly impossible odds. By this action, Lieutenant McCraw has reflected great credit upon himself and has upheld the highest traditions of the United States Army Air Force.

The story does not end here. The recommendation papers for Lieutenant McCraw, it appears, were not acted on due to loss or inadvertence. Now, 47 years later, Mr. Barnacle has reconstructed, to the best of his ability, the information that would have been submitted to the Department of the Air Force. The Department of Defense is in the process of preparing a full report on this situation.

Mr. Speaker, for his tireless work and dedication, Mr. Barnacle should be recognized. He is a veteran who risked life and limb for his country. He is working to accomplish that which he feels is right. The House of Representatives should know his story and his efforts.

For the benefit of Members, I am inserting in the RECORD Mr. Barnacle's reconstructed version of the original recommendation for the Silver Star Award for 1st Lt. Reaford C. McCraw, 0–745714, as submitted on or about February 24, 1944, and supporting documentation:

VETERAN'S SPECIAL MISSION—JOHN BARNACLE ACCOMPLISHES FINAL WORLD WAR II ASSIGNMENT

(By Bob Mayes)

Everything seemed normal as 40 American B-24 bombers—"Lumbering Liberators"—taxied down the runway at the U.S. Air base in Manduria in the southern heel of Italy on the morning of March 17, 1944.

Installations on Schwechat Airdome in Vienna, Austria, were the target of what was expected to be a routine Allied forces bombing mission.

One of the planes never made it, developing engine problems over Yugoslavia and having to turn back. A courageous young pilot, Lt. R.C. McCraw of Fayetteville, Ark., struggled mightily to stabilize the wounded aircraft, ordering the other crew members to bail out while he rode the plane to his death.

Staff Sgt. John F. Barnacle, the ball-turret gunner, was one of the nine men who parachuted to safety. After a few hours on the ground he was found by Tito partisans who fed, clothed and hid him, eventually taking him through the underground and back to safety.

For 45 years, the retired Redstone Arsenal worker has thought about that mission and contemplated another mission in Europe he would like to undertake: to return to Yugoslavia to thank his rescuers.

But the timing never seemed right, what with work, family and finances. Finally, at a reunion of the 450th Bomb Squadron in October 1988 in Boston, as he listened to patriotic speeches and saw other World War II veterans weeping unashamedly, Barnacle realized the time had come.

Working through proper diplomatic channels and enlisting the aid of Navy veteran Steve Gaylembush of Endicott, N.Y., Barnacle realized his dream. On Sept. 16 in New York, he boarded a Belgrade-bound plane to spend a week in Yugoslavia, visiting dignitaries and the villages he spent time in during his rescue.

"It was the trip of a lifetime," says the 70-year-old Barnacle. "It was a lot more than I expected. I went over there with one purpose: to thank the people for helping me and for possibly saving my life.

"The people were just unbelievable. They were warm and friendly and would do anything in the world for you. They really treated me like I was some sort of a hero."

As morning turned into afternoon on that snowy day almost half a century ago, Barnacle wasn't concerned about being a hero—he was only concerned about survival as engine after engine on the B-24 sputtered and quit.

At Lt. McCraw's instruction, Barnacle bailed out as the plane plummeted in the sky over Zagreb in north-central Yugoslavia. For the next 48 to 72 hours he had no idea of the fate of his fellow crew members.

Landing in snow drifts of 4 to 6 feet in enemy-occupied territory, Barnacle knew that of the three things that could happen to him two were bad: he could be found and taken prisoner by Yugoslavian Chetniks, who were friendly with the Axis powers; he could be found outright by the Germans, who might shoot him on the spot; or he could be picked up by the Allied-aligned Tito partisans.

Slightly disabled by a groin injury suffered in the jump, Barnacle was unable to move well. In the distance was a village, but he hesitated to go to it, fearing he would run into Germans. After wandering for a few hours, a peasant farmer named Duro Novakovic—a Tito partisan—found him.

Novakovic took him to a one-room farmhouse in the village of Sanski Most, where he was sheltered for several days. Eventually, Barnacle was reunited with his crew in the village. The wreckage of the plane was discovered a few days later, and the men buried McCraw in a simple grave near the crash site.

Guided by a Yugoslavian Army officer, the group walked 40 miles to the village of Lusci-Palanka where it was rescued, the sounds of German gunfire echoing in the countryside, by a C–47 sent under the cover of darkness.

The ordeal lasted about 30 days, but it has stayed with Barnacle for a lifetime. So it was with great anticipation that he planned for this trip, not really knowing what he would find or how he would be received.

He needn't have worried.

Gaylembush, the old Navy man, had befriended a Yugoslavian lad named Misa Merkovic during the war. Merkovic had grown up to become an actor, the head of Belgrade television and radio and was living, as a man with considerable influence, in semi-retirement in the Yugoslavian capital.

"I had hoped to see the family that rescued me," says Barnacle. "I was hoping the father would be alive, but I had no idea if he would be. Just before I left I got word that he had passed away and that the mother had passed away only a couple of months before."

That was his only disappointment.

Upon arriving in Belgrade, Barnacle met with the charge d'affaire (second in command) at the U.S. Embassy. That evening he was guest of honor at a cocktail party attended by several Yugoslavian dignitaries, including the general who leads the League of Yugoslavian War Veterans.

The following day, Barnacle went to Marshal Tito's estate, where he was given special permission to lay a wreath on the late premier's tomb and to inscribe a message of thanks to the Yugoslavian people in a memorial book.

Barnacle was to leave the next day, by private car, for a trip to the Bosnia province in which Sanski Most and Lusci-Palanka are located. Unfortunately, the car was unavailable. But when De Milorad Unkovic, mayor of Belgrade, heard of Barnacle's plight, he made a stunning offer.

"It was going to cost me $700 to rent one," says Barnacle. "But when the mayor heard about this, he said, 'No way, you take my personal car and my chauffeur, and they're at your disposal for the whole week.'

"We drove 900 miles round trip and it didn't cost me a penny, not even gas—the mayor of Belgrade picked up the entire tab."

It was an emotional but satisfying journey, as Barnacle, Gaylembush and the small dele-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

gation visited Sanski Most, Lusci-Palanka, Bos-Petrovac and Drvya. Villages literally rolled out the red carpet for Barnacle, showering him with hospitality and token gifts. Diplomatic greetings were exchanged, proclamations were read, ceremonies were held.

One of the villages he visited is in the process of establishing a war museum, whose curator told Barnacle it would display his picture and certificate he presented to the town. The museum also asked Barnacle for a uniform, which he hopes someone in North Alabama will donate.

Perhaps the highlight of the trip was the overnight stop made in Sanski Most.

Of the five members—mother, father, two sons and daughter—of the Novakovic family that rescued him, only the daughter, Sofia, remains in Sanski Most.

"Sofia remembered, not my face, but the incident," says Barnacle. "She was only 13 years old at the time. I also met her cousin, Bosica, who was also 13 at the time and who also remembered the incident. Bosica had found my parachute and they reminded me about a lot of the things that happened while I was there.

"I met several of the men who were in the area at the time and I also got to visit the site of the farmhouse where I had stayed. It was partially torn down but it was being rebuilt.

"It was a very emotional time for me."

Several days later, Barnacle boarded a New York-bound plane at the Belgrade airport, bringing with him warm memories and new friendships that will remain with him the rest of his life.

For almost half-a-century the dream remained just that. But this Saturday, when John Barnacle celebrates Veterans Day, the burden of properly thanking his Yugoslavian friends will have been lifted.

Mission accomplished.

NARRATIVE STATEMENT

(Reconstructed version of the original recommendation for the Silver Star Medal award for 1st Lt. Reaford C. McCraw, O-745714, as submitted on or about 24 February 1944.)

Reaford C. McCraw, O-745714, First Lieutenant, Air Corps, 720th Bombardment Squadron (H), 450th Bombardment Group (H), Army of the United States. For gallantry in action against the enemy. On 22 February 1944, Lieutenant McCraw was the pilot of a B-24 aircraft that was scheduled on a particularly dangerous mission to bomb the Messerschmitt Assembly plant at the Obertraubling Airdome near Regensburg, Germany. This Obertraubling Aircraft Factory, which was a high priority target and very heavily defended, produced 50 percent of the Messerschmitt aircraft production and one-third of Germany's single-engine fighters. The Group made a successful run on the target despite heavy, accurate, and intense anti-aircraft fire over the target, and the presence of numerous enemy aircraft in the target area. Nine of our B-24s were holed; Lt. McCraw's ship received extensive damage to the wings and fuselage. A considerable amount of damage was inflicted upon the Obertraubling Aircraft Factory which significantly curtailed production of ME 109 fighter aircraft. As the group formation executed a 180-degree left turn after completing the bomb run, Lt. McCraw's plane experienced mechanical problems and loss of supercharger in Nr. 2 engine. Lagging far behind the formation, the aircraft was highly vulnerable to attack by enemy fighters. Despite all valiant efforts to catch up with the group formation, Lt. McCraw's ship was swiftly attacked by approximately 35 to 40 ME 109 and FW 190 fighter aircraft. Some marked with yellow cowlings and white spinners. The German pilots were very aggressive, first attacking the lone bomber in formations of 6 to 8 planes from 4, 5, and 7 o'clock, high to level, then breaking off in pairs and attacking from all angles, high and low. Continuing their relentless pursuit with incessant and savage attacks, the enemy fighters raked the B-24 with numerous bursts of machine gun and cannon fire. During the running aerial battle, which lasted nearly 90 minutes, the B-24 suffered extensive critical damage. The enemy fighter attacks tore gaping holes in the wings, flaps, fuselage rudder and holed the propellers, and damaged the electric, hydraulic, and oxygen systems; rendering the heating, flaps, brakes, and gun turrets inoperative. During the entire battle Lt. McCraw displayed great bravery and coolness under the extreme stressful conditions and demonstrated superb flying ability. He executed many evasive action maneuvers in an attempt to avoid or lessen the fusillade of bullet and cannon fire that was raking his ship.

During the onslaught, the Liberator gunners fought off waves of attacking enemy fighters, damaging several of them. The top turret dome was completely shot away by 20mm cannon fire seriously wounding the flight engineer/gunner; the right waist gunner was also wounded by 20mm cannon fire, and the tail gunner suffered severe frostbite to the hand. They continued to fight their attackers until their turrets became inoperative due to electrical failure, or their ammunition was expended, or they were overcome by their wounds and passed out. Although the B-24 gunners accounted for (but not confirmed) five (5) enemy ME 109 fighter aircraft: 1 destroyed, 1 probable-destroyed, and 3 damaged. During the brief spans between enemy fighter attacks, Lt. McCraw turned control of the aircraft over to the co-pilot, and then administered first aid and comfort to the seriously wounded top turret gunner, and also to the wounded crewmen in the waist and tail. As Lt. McCraw was returning through the bomb bay to the cockpit and as he neared the flight deck, for some unaccountable reason, the co-pilot lost control of the aircraft and the B-24 plunged into a sudden steep dive pinning Lt. McCraw, with extreme force, against the metal bomb rack supports and catwalk. Exercising near-superhuman strength against tremendous G force, and with sheer determination, Lt. McCraw pulled himself forward onto the flight deck, clambered into the cockpit, and grasped the control wheel. Literally wrestling with the controls, and with the combined effort of the co-pilot, he successfully regained control of the ship, pulled out of the dive, leveled off and stabilized the aircraft, after dropping several thousand feet to an altitude where oxygen and walk-around bottles were no longer necessary.

The tenacious German pilots did not easily give up their quarry as another formation of 8 to 10 enemy fighters suddenly dropped out of the clouds and attacked the crippled bomber in formations 4 to 5 plane assaults. Although these German pilots did not seem to be as aggressive as the first group encountered, nevertheless they continued their attacks from 4 to 6 o'clock, high to level, firing short bursts, then abruptly peeling-off upwards into the clouds and executing short turns encircling for a repeat attack. Realizing the gravity of the situation and knowing that the gunners no longer had the capability to defend the crippled ship without ammunition and operative turrets, Lt. McCraw took immediate evasive action, diving the plane in a steep controlled spiral, giving the enemy pilots the impression that the B-24 was in an uncontrollable dive. Several of the enemy fighters did pursue, waiting to administer the COUP DE GRACE. Fortunately the aircraft had reached the west coast of Yugoslavia and was over water. Realizing the urgency of the moment at hand, Lt. McCraw, in order to avoid further attack by enemy fighters, without hesitation took the B-24 aircraft down close to the surface of the water and skimmed across the Adriatic Sea "ON THE DECK" back to Italy, and limped back to home base in Manduria. At this point, the enemy fighters broke off pursuit. Lt. McCraw's expertise and airmanship were again demonstrated by safely landing the crippled B-24 without flaps, brakes, or hydraulics, and with the visible gas gauge reading empty. After the crew cranked the landing gear down by hand and manually lowered the nose wheel Lt. McCraw safely made a "hot" landing (approx. 120 mph), decelerating the speed of the B-24 by dragging the tail along the entire length of the landing strip. The aircraft stopped just short of a row of trees at the far end of the airstrip with the engines sputtering simultaneously to a stop—out of fuel.

By his courage, resourcefulness, coolness under fire, and dedication and devotion to duty and country, Lt. McCraw safely brought his crew and ship back against seemingly impossible odds. By this action, Lt. McCraw has reflected great credit upon himself and has upheld the highest traditions of the United States Army Air Forces. Residence at appointment: RR2, Fayetteville, Arkansas.

Note: Citation for Silver Star award recommended for approval by Squadron Commander, Captain Gordon T. Colley, O-412089.

TOXIC TRICK OR TREATMENT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. PALLONE. Mr. Speaker, a startling report has recently been issued that alerts us to the trick of discharging toxins to public sewers. The trick is that more often then not, toxins are not treated. This report issued by the U.S. Public Interest Research Group and the National Law Center justify the need to move toward strong enforcement and pollution prevention measures as Congress reauthorizes the Clean Water Act.

Some 5.7 billion pounds of toxic chemicals were released from this Nation's largest facilities according to 1989 EPA records. Over one-half billion pounds were reported being discharged to our public sewer systems. Our sewage treatment facilities were not designed to treat hazardous waste and thus most of these toxins were released with little treatment into our Nation's waters, air, or was deposited into sewage sludge residue. The following table lists the top 25 States discharging toxics to sewage. I am not proud to see New Jersey as second in rank and first in percentage of toxic releases heading directly into our ill-equipped public sewers.

TABLE 1.—TOP 25 STATES DISCHARGING TOXICS TO SEWERS

State	Transfers to public sewage in pounds	Total releases and transfers in pounds	Percent to POTW
1. Missouri	76,552,047	163,105,846	46.9
2. New Jersey	61,234,010	124,333,859	49.2
3. Illinois	58,494,457	247,813,608	23.6
4. California	46,990,077	168,825,335	27.8
5. Texas	36,278,806	792,810,307	4.6
6. Virginia	34,703,601	134,592,526	25.8
7. Ohio	28,352,514	358,677,545	7.9
8. Tennessee	21,095,980	263,400,319	8.0
9. Wisconsin	16,962,170	99,963,906	17.0
10. Pennsylvania	16,422,194	194,216,839	8.5
11. Florida	16,316,273	192,044,588	8.5
12. New York	15,828,947	126,275,855	12.5
13. Indiana	15,588,959	255,023,626	6.1
14. Michigan	14,949,316	220,137,364	6.8
15. Massachusetts	11,261,427	56,214,698	20.0
16. Georgia	9,395,020	117,888,623	8.0
17. Oregon	7,437,233	31,499,505	23.6
18. Iowa	7,029,849	55,143,195	12.7
19. Puerto Rico	6,124,664	26,826,844	22.8
20. North Carolina	5,530,011	135,058,190	4.1
21. Minnesota	4,868,630	81,932,154	5.9
22. Arizona	4,043,101	50,764,830	8.0
23. South Carolina	3,822,788	86,615,836	4.4
24. Kansas	3,569,475	185,131,051	1.9
25. West Virginia	3,421,488	58,992,213	5.8

Source: 1989 EPA TRI data.

This table illustrates why I joined together with Senator LAUTENBERG and the Clean Water Network in introducing H.R. 3429, the Clean Water Enforcement and Compliance Act. This legislation will empower public treatment works to combat this toxic tide by requiring that these plants have inspection and administrative penalty powers.

The solution is not found in this legislation alone. Estimates have been made by the Office of Technical Assessment [OTA] that reported releases only represent 5 percent of all releases. Unreported discharges account for much of the remaining 95 percent.

Unreported discharges included releases from the sewage treatment works themselves and other industrial sources. My colleague GERRY SIKORSKI has introduced legislation, H.R. 2880, which would close the data gaps and require more toxics users to report use and release of these toxics. Enactment of these bills would give us a more complete picture of what is ultimately discharged through our sewage systems and into the environment.

EAGLE BRANDS HONORED AS 1 OF TOP 10 HISPANIC BUSINESSES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to recognize Eagle Brands which was recently selected as 1 of the 10 most important Hispanic businesses in Dade County by the Greater Miami Chamber of Commerce and the Hispanic Heritage Council.

Along with the other businesses, Eagle Brands was presented with this award at the Omni International Hotel at a luncheon honoring these distinguished firms. The businesses were selected from a list of the 100 most important Hispanic firms in the United States which was published in Hispanic Business magazine.

Greater Miami Chamber of Commerce president-elect, Carlos Arboleya said that these firms were selected for their efforts for the Hispanic community and for their contribution to the economic development of Dade County.

Accepting the award for Eagle Brands was the company's director, Carlos Manuel de la Cruz, who said that this award is a reminder of the work of the Hispanic community in the United States, and in particular Dade County.

I would like to take this opportunity to thank Eagle Brands for the contributions it has made to the economy of south Florida, providing economic opportunity, economic development, and employment for the people of the Miami area.

IN HONOR OF LOIS BAKER—A BEACON OF LIGHT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mrs. ROUKEMA. Mr. Speaker, I rise today to pay tribute to a dear friend and one of northern New Jersey's most distinguished citizens, Mrs. Lois Baker of Ridgewood, NJ. I ask my colleagues to join with me and the Volunteer Center of Bergen County as we honor Lois Baker tonight for her never-ending hours of selfless dedication to our communities.

When President Bush speaks of a thousand points of light, it is of Lois Baker that he speaks. But Lois is much more. She is a beacon of light to those less fortunate and to the communities whose quality of life have been enhanced as a result of her enlightened leadership.

For 25 years, the Volunteer Center of Bergen County has served clients referred from over 300 human service and cultural agencies in Bergen County. It provides assistance to seniors and disabled homeowners, guidance for abused and neglected children and their families and visitations to nursing homes residents. Supporting the volunteers who gives so unselfishly of their time are 24 major corporations that provide not only financial contributions but volunteers from the workplace.

Lois Baker joined the Volunteer Center board in 1967 and served as the president of the organization from 1968 to 1970. Through her continued support, guidance and leadership, the center has grown and prospered to serve countless numbers of individuals.

In addition to the countless hours and boundless energy given to the Volunteer Center, Lois works with the Red Cross, the Woodlea Group Home, the Family Counselling Service, and the American Cancer Society. She has contributed her vast creative abilities to the beautification projects at the Ridgewood Stable and in Ridgewood Project Pride.

Lois Baker has carved out a distinguished career for herself as a reporter for the Ridgewood News and an executive for Becton Dickinson. Using her professional skills, she has informed and enlightened our community and mobilized public opinion for the good of all. Her tireless efforts certainly make an impact.

Mr. Speaker, the name of Lois Baker is synonomous with voluntarism. Her enthusiasm, perseverance, and creativity make projects work—from beginning to end. Lois never says "It can't be done." Lois says, "It will be done!" Always modest about her own accomplishments, Lois is quick to praise other dedicated volunteers who give unselfishly of their time, and often receive little recognition for their efforts.

Lois Baker is a true friend. One who stands shoulder to shoulder with you through good times and bad times. She is one about whom I have never heard a negative word or criticism. She is loved and respected by all who know her. I am proud and honored to have Lois Baker as a friend.

I ask my colleagues to join me in saluting Lois Baker as she is honored by the Volunteer Center of Bergen County. Ridgewood, Bergen County and the entire State of New Jersey are fortunate to have the benefit of her generous spirit.

THE USE OF PUBLIC LANDS FOR DEVELOPMENT OF WASTE MANAGEMENT FACILITIES

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. OWENS OF Utah. Mr. Speaker, today I am introducing legislation to confront a sorry phenomenon which has occurred in my State and which may be occurring in others—the use of public lands for the development of waste management facilities. My concern has developed particularly in relation to incinerators and landfills which are intended primarily for out-of-State wastes. I believe that it is grossly unfair to ask any State to bear an excessive waste management burden imposed by others. Certainly, States do not deserve to be targeted for waste dumps and incinerators simply by virtue of the fact that they include large areas of public land.

In Utah, public lands have unfortunately been used to facilitate the development of commercial incinerators and landfills with capacities which far outstrip the State's own needs. My legislation would give Utah, and States which may share our problem, a crucial opportunity to scrutinize landfills and incinerators which are associated with the use or acquisition of public lands and ask, "Is this really right for our State?" It would also allow States to ask the same question with respect to any new facilities which may be proposed for location on public lands. This would not be merely rhetorical questioning on the part of the State. Under the terms of my legislation, the State's specific approval would be necessary in each instance if public lands are to be used to facilitate sites which would accept out-of-State waste.

I find it deplorable that Utah's beautiful open spaces have become magnets for toxic refuse and garbage from other States, and even other countries. My legislation would offer a chance to turn this ugly situation around by allowing the State to unequivocally say no to the use of public lands for facilities which are meant to handle out-of-State wastes.

I am pairing this provision with legislation which I introduced previously which also gives States certain authority over out-of-State radioactive wastes. This earlier bill, which is incorporated into today's bill, deals specifically with the disposal of radioactive waste at uranium mill sites and with the disposal of uranium mill tailings themselves. Again, the legislation provides the State with the authority to make the final decision when out-of-State wastes are involved.

It is critical, in my view, that we launch as many life rafts as possible for States which are threatened with drowning in imported wastes. This bill would provide such a life raft to help Utah and other States which encompass public lands or which are host to uranium mill sites. As such, it represents a piece of the increasingly important interstate waste puzzle, and I look forward to further debate over the issues which it raises.

RIVERSIDE UNIFIED SCHOOL DISTRICT CELEBRATES ITS 120TH YEAR OF SERVICE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. BROWN. Mr. Speaker, I rise today in proud recognition of the Riverside Unified School District as it celebrates its 120th year of service to the students of Riverside. I would like to take this opportunity to share the history of the school district; a history which attests to its continued commitment to meeting the educational needs of Riverside's rapidly growing population.

The colony of Riverside was established in 1870 and public schools have been maintained in the community since 1871. The present Riverside Unified School District, through its previous elementary and high school constituent districts, dates from the establishment of the Riverside city charter in 1907.

In the spring of 1871, the first public school opened in a private house in Riverside. The first teacher of this school was a widow with two children. The house was located on Eighth Street near Mulberry and was known as the "Pink House." the following summer, the first schoolhouse was built on Sixth Street at a cost of $1,300 and attendance had risen from 10 to 20 students by the time the school was completed.

By the 1800's the school district had 137 students and in 1902 opened a new high school with 371 students. By 1950, the high school had a total enrollment of 2,055 as contrasted with the present high school enrollment of over 8,900 students.

The unified district was created on July 1, 1963, from the old Riverside School District, K–6, a portion of the original Riverside High School District, 7–12, and the one school Highgrove School District.

Today, Riverside Unified School District has grown to over 32,000 students, 38 schools, and is the 15th largest school district in the State of California. Dr. Paul D. Houston is superintendent.

Riverside Unified School District adheres to the motto of the school district's superintendent, Dr. Paul D. Houston: "Education * * * Investment in the future."

O.L. DANIEL CELEBRATES HIS 100TH BIRTHDAY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. DUNCAN. Mr. Speaker, a distinguished Tennessean, Mr. O.L. Daniel, will be celebrating his 100th birthday on November 19, 1991. Mr. Daniel has spent most of his life in the Second District of Tennessee and has become one of our most popular and well-respected citizens.

Mr. Daniel has been a member of First Christian Church in Knoxville since 1934 and continues to attend faithfully every Sunday. The congregation will be the host of a birthday celebration in his honor on Sunday, November 17. I look forward to personally attending this event.

As a young man, Mr. Daniel attended telegraph school. He then went to work at the age of 16 for the L&N Railroad. He was employed as a dispatcher for 58 years until his retirement in 1964.

During his tenure with the railroad, Mr. Daniel was called to serve his country in World War I. He is a fortunate man to have been a part of so much of our Nation's history.

I am proud to have the opportunity to pay tribute to Mr. Daniel as he reaches such an important milestone in his life. If we had more citizens like O.L. Daniel, this country would be a much better place in which to live.

STAYING CONSIDERATION OF THE NAFTA WILL NOT STEM THE TIDE OF DOMESTIC CONCERN

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. PEASE. Mr. Speaker, I would like to submit for the RECORD a copy of an article that appeared in the Saturday, November 9th edition of the Washington Post. In this article, it is alleged that the administration has decided to delay bringing the North American Free-Trade Agreement [NAFTA] to Capitol Hill until after next year's Presidential election. As many of us are no doubt aware, this represents a marked shift in timing, since up until very recently Mr. Bush's trade negotiators were indicating that they hoped to complete the United States-Mexico FTA negotiations by early 1992.

The senior administration official quoted in the attached article stated that the reason for the new timetable was merely that it is taking longer than anticipated to iron out the terms of the free-trade agreement with Mexico and Canada. Some of us believe that there's another, perhaps more significant cause for the delay.

The American public has apparently caught on to the connection between United States trade initiatives such as the United States-Mexico FTA and lost jobs in the domestic manufacturing sector. HARRIS WOFFORD's defeat of former Attorney General Richard Thornburgh evidences this revelation, at least on the part of the people of Pennsylvania. Two of the issues upon which Mr. WOFFORD built his campaign were the President's veto of Democratic bills to extend unemployment compensation and the exporting of American jobs under the United States-Mexico FTA.

Whether the United States-Mexico FTA is submitted to Congress in 1992, 1993, or whenever, the bottom line on the fate of the NAFTA is this: Unless the agreement is crafted with real consideration of the workers who will be negatively affected by the pact, congressional passage is far from being "in the bag."

[From the Washington Post, Nov. 9, 1991]

WOFFORD VICTORY SPARKS JITTERS ON TRADE POLICY

(By Stuart Auerbach)

The Bush administration is showing increased nervousness about its trade policies in the wake of the overwhelming victory Tuesday of Sen. Harris Wofford (D-Pa.), who attacked a trade agreement with Mexico as leading to the loss of American jobs to low-wage Mexican workers.

As the result of an internal review Wednesday, administration officials have concluded that negotiations on the agreement will not be completed until after next year's election, a senior official disclosed yesterday.

The administration also went to unusual lengths Thursday night to point out to reporters that Secretary of State James A. Baker III and U.S. Trade Representative Carla Hills will take tough positions on trade problems with China in meetings next week.

And in Rome yesterday, President Bush deflected questions about postponing a scheduled visit to Japan with the assertion of the domestic importance of maintaining close ties with a country that is such a major trading partner.

Bush said the relationship is important to Michigan, where U.S. automakers complain that Japanese imports compete unfairly in this country and that Japan blocks American sales of farm states and high-technology companies there.

Although some administration political operatives suggested this week that negotiations on a free-trade pact with Mexico should be delayed until after next year's election, the senior official insisted that the delay is not due to political reasons.

"It's just taking longer. We want to have a good solid agreement rather than rush though it," the official said.

But the fact that administration officials even considered delaying one of President Bush's major economic proposals—a pack knitting together the United States, Canada and Mexico in a North American free-trade agreement—indicates the level of concern among Republican stategists over charges that the White House has neglected the economy while pursuing foreign policy interests.

While business organizations applauded it as a positive force for the economy, the plan was attacked by labor as a move that would cost U.S. jobs and benefit Mexico.

Labor was heavily involved in the Wofford campaign, which focused on a populist agenda stressing the country's economic woes, the need for a national health insurance program, the president's veto of Democratic bills to extend unemployment compensation and the exporting of American jobs under the free-trade pact.

Many key Bush advisers, notably Baker and Commerce Secretary Robert A.

Mosbacher, say they believe that a North American free-trade agreement would be a political as well as economic plus for the president, allowing him to cut into the Democratic hold on Mexican-American voters in such pivotal states as California, Illinois and Texas.

The sensitivity over the links between trade and politics also is seen in connection with Baker's highly controversial visit next week to Beijing, the first by a top administration official since the 1988 Tienanmen Square massacre of pro-democracy students. Hills, meanwhile, will be conferring with her Chinese counterpart, Trade Minister Li Lanqing, at a meeting of Asian nations in Seoul.

Two White House agencies—the National Security Council and the Office of the U.S. Trade Representative—sought reporters out Thursday night to emphasize the tough stance Baker would take on trade disputes with the Chinese leaders.

China's trade practices, however, have become a political issue as a result, in part, of that country's growing trade surplus with the United States—expected to reach $14 billion this year, second only to Japan.

A TRIBUTE TO ERNEST SAUNDERS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, in an article entitled, "81-year-old Great Grandfather Worries About Son in Saudi Arabia," Derek Joy writes about Ernest Saunders, who was concerned about his 44-year-old son in the gulf war, Milton Saunders. I commend the following article to my colleagues:

Wars and rumors of wars happen not to be uncommon causes of concern for Ernest Saunders.

The storyline becomes painfully clear when one considers American involvement in the number of wars and military conflicts during Saunders' lifetime, which spans 81 years.

Saunders was but a youngster when World War I was fought. He served with the 3292nd Quartermaster Battalion in the Pacific Theater in Okinawa during World War II. Then came the Korean and Vietnam conflicts. And now, the war in the Persian Gulf.

Like clockwork, three significant days punctuate Saunders' life within a three-week period. And sadly, being a World War II veteran, Saunders worries some about the safety of his eldest son, Milton Saunders, a U.S. Army non-commissioned officer who has been assigned to Saudi Arabia since last October.

This marks the third tour of duty in a combat zone for the younger Saunders following his choice of the military as a career. There were two tours in Vietnam. And now, he is a member of the American military forces in Operation Desert Storm.

"I don't think he should be over there," said Ernest Saunders, while speaking of his son. "He served two tours of duty in Vietnam. They should have let him serve his last six months at his Fort Hood (Tex.) duty station.

"In fact," the octogenarian continued, "I don't think we should be in that war. It's not helping us a damn bit. That's a fight for oil, and I don't think we should be fighting for oil. But I agree with stopping Hussein before he gets to be a bigger problem."

There is a bit of historical irony in this tragedy of war.

Ernest Saunders was born in Key West, the only son and youngest of five children in his family. The family moved to Miami when he was 4.

Adulthood, inevitably came, including marriage to Murlean Outen, who died in 1984, which produced five sons and four daughters. The first child was born a year before America was drawn into World War II.

"I wasn't thinking about the war. I was laughing and having fun. Nobody I knew was thinking about the war until the Japanese bombed Pearl Harbor," Saunders said, recalling Dec. 7, 1941, as if it were yesterday. "Then people started talking."

The call came. Saunders remembers registering for the draft at Booker T. Washington High School. But unemployment led him to Detroit, Mich.

"They had told us to notify them if we left town. I didn't. They thought I was a draft dodger. But they realized I wasn't, so they assigned me to Fort Custer in Battlecreek (Mich.)," Saunders recalled.

Then came basic training at Fort McClellan, Ala., and a short tour at Camp Stonham near Oakland, Calif., before a 30-day trip by sea to Okinawa.

"That was like the end of the world. Nothing but deserts, mountains and rattlesnakes," Saunders said, a memory that came back when one of his 14 grandsons served in Okinawa with the U.S. Marine Corps several years ago.

None of his 10 granddaughters have served in the military. Nor has either of his four great grandsons and great granddaughter.

But four of his five sons have served in the military. And only one, Milton Saunders, has served in a combat zone—three times!

"My family doesn't think he should be over there. Everybody is concerned about him. First thing, he's is too old. He should be back in the States," Saunders said firmly.

For Milton Saunders, 44, is not old when compared to his father's 81 years. Still, it is not exactly the figure of youth for combat duty.

The memories become clearer now. And the potential for danger intensifies with those memories.

"We were bringing supplies from the beachhead to the white soldiers who were involved in some heavy fighting. We saw the clouds of smoke in the air. People were asking what was it," said Saunders.

It was later discovered that the atomic bomb had been dropped on Japan. The news brought a sigh of relief from the soldiers serving with Saunders. That attack on Japan came only days before Saunders unit was scheduled to be transferred to Japan.

"When we found out about how much damage the atomic bomb did to Japan, everybody was glad we didn't have to go. We had seen a lot of killing. A lot of soldiers were buried in Okinawa. It's a shame they never came back," said Saunders, who is the lone survivor of his military outfit.

According to Saunders, Buckner Bay in Okinawa was the burial ground for countless American soldiers during World War II. He ponders the likes of another Buckner Bay in the Middle East.

Then came the trip home, a little more than a year later, Milton Saunders arrived as a post-war baby born to be in combat. Three tours of duty now says so.

The interim held other changes.

It was not until the end of World War II that Saunders learned Blacks could at long last vote in Miami.

"I couldn't vote when I turned 21," Saunders remembers. "It wasn't until after I got out of the Army that we could vote. Blacks couldn't get anything back then."

He also sees some changes. He said he does not think a military draft should be reinstated.

Meanwhile, Saunders and his family fret over more destruction wrought by war in the Persian Gulf. He labors with such thoughts as a result of his war-time experiences in a combat zone. And surely, like any other American parent, he is deeply concerned for the safety of his eldest son.

I am pleased to recognize Earnest and Milton Saunders, and their families, and I commend Derek Joy for bringing attention to some of the feelings of one gulf war family.

NORTH AMERICAN FREE TRADE AGREEMENT

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. COLEMAN of Texas. Mr. Speaker and Members, today I am introducing legislation which would direct the Environmental Protection Agency to establish an office along the United States-Mexico border to address the critical problems which exist in this region of the country. As we consider the negotiations surrounding a North American Free Trade Agreement, this legislation helps to address and implement the environmental concerns which have been raised with respect to the agreement.

I have the privilege of representing the 16th Congressional District of Texas. My district includes the city of El Paso, an urban center with a population of 515,000 residents directly on the border. Across the border is Ciudad Juarez, Chihuahua, the largest Mexican border city with a population of well over 1 million residents. The environmental problems which exist in this area represent the myriad of issues which occur along the border.

The serious environmental and public health problems in the area are inherent to the border and not found anywhere else in the country. People from both nations are affected due to the geographic proximity of communities on both sides of the border. I have been working to address these problems since I was first elected to Congress in 1982.

The United States-Mexico border region will be disproportionately affected by a trade agreement, and an agreement would aggravate the health and environmental problems which exist in this area. Environmental problems are recognized as directly responsible for the higher rates of communicable diseases along the border, particularly when compared with the rest of the country. The incidence of gastrointestinal diseases and Type A hepatitis are two to three times higher in the border area than in the rest of the Nation, and in El Paso County alone there are more cases of tuberculosis than in 19 individual States. Other problems include infestations of disease-carrying mosquitoes due to inadequate control measures, open dumping of solid wastes and other refuse, and most recently the threat of cholera.

In addition, border communities are also burdened in their attempt to provide services to residents of "colonias," the term used to refer to communities where residents lack basic services such as running water and sewage collection facilities. According to estimates by the Congressional Research Service, hundreds of thousands of people live in conditions similar to those of developing nations.

With respect to clean air, the international border between our two cities and two countries is artificial; El Paso and Ciudad Juarez residents breathe the same air. A number of factors contribute to poor air quality in the area, factors also faced by other border cities. These include a rapid growth in industry, foreign vehicles without tailpipe emissions controls, and long lines of vehicles at international bridges that contribute to emissions. In fact, it is estimated that 60 percent of the ambient air contamination in the El Paso area is caused by vehicle emissions.

The border region has been neglected for too many years while other economically depressed areas of the country, such as the Mississippi Delta and the Appalachian region, have received valuable Federal assistance. The United States and Mexico have made some progress toward alleviating some of the area's environmental problems; however, much more needs to be done if the region is to benefit from the proposed agreement. The legislation to establish an EPA border regional office would facilitate the implementation of initiatives to alleviate the Free Trade Agreement's impact on the border.

An Environmental Protection Agency Regional Border office could also be given the task of implementing some of the recommendations made by the EPA and its Mexican counterpart, SEDUE, in their integrated environmental plan for the Mexico-United States border area. The plan is currently flawed because it makes a perfunctory analysis of the border's problems and it fails to target critical problems. More importantly, it does not commit any Federal funds to implement its recommendations. The border needs a real and substantial Federal commitment if it is to bear the impact of the President's desire to enter into a Free Trade Agreement.

Presently, the EPA has offices in Dallas, Denver, and San Francisco. I submit that it must be physically located on the border to truly understand the problems inherent in a binational atmosphere. It would help to demonstrate the commitment necessary to address the critical issues of the region. The Government of Mexico recently announced an expanded Federal presence of its representatives along the northern border. I believe it would be helpful for the United States to do the same.

I hope that my colleagues will join me in supporting this important initiative.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS—DMITRI BERMAN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. LEHMAN of Florida. Mr. Speaker, I am proud once again to participate in the Congressional Call to Conscience Vigil for Soviet Jewry. Independence and democratization are the just rewards for years of seeking basic freedoms in the Soviet Union and, in the past 5 years, dramatic changes have taken place that will alter the course of history. While these changes have produced favorable results such as the increase in the approval of emigration visas, they also pose significant challenges to the international community. One of these challenges is to eradicate the appalling human rights violations that still occur in the Soviet Union.

Despite efforts to call attention to the plight of Soviet Jews, there remains a foundation of institutionalized anti-Semitism that has characterized the Soviet Union's treatment of its Jewish population since before the Stalinist era. Moreover, there are still thousands of Jews, like Dmitri Berman, who are being denied their basic civil and human rights. Bringing attention to his case will remind the world once again that in spite of the changes that are taking place in the Soviet Union, some things still remain the same.

Dmitri Berman worked in a factory in the Ukrainian town of Nikolayav. He was arrested on August 1, 1988, and charged with the murder of a Ukrainian sergeant. Since then, Berman has been brutally beaten by prison officials of the Nikolayav city prison and held in a psychiatric facility where he was forced to take mind-altering tranquilizers.

On October 9, 1989, the District Local Court in Nikolayav sentenced Dmitri to 10 years in a prison labor camp. The sentence came as a result of a "confession."

On July 22, 1990, the case was dismissed due to lack of evidence against Berman, and he and his family applied for exit visas in order to emigrate to Israel.

The applications for exit to Israel were approved and the family was scheduled to leave the Ukraine on January 4, 1991. During the final preparation for this trip, his papers were confiscated and he was told that his criminal case had been reopened for further investigation and that the 1990 appellate court decision dismissing his case had been canceled. This is an obvious aberration of international human rights as well as that of Soviet law.

Dmitri sought asylum in the Canadian Embassy in an effort to avoid the inhumane treatment that he had previously experienced in the prison and in the hospital. In September 1991, Soviet officials assured the Union of Councils that Dmitri's case would be resolved and he and his family would be permitted to immigrate to Israel.

As of October 11, 1991, there has been no change in the status of Dmitri's case. Indeed, his case has been caught up in a whirlwind of technical and legal jargon that has prevented the investigations of the U.S. State Department as well as that of Western lawyers. The end result has been to prolong Dmitri's physical and psychological isolation in the Canadian Embassy and to prevent his passage to Israel.

It is necessary to bring this clear and obvious violation of Dmitri Berman's rights to the attention of the influential members of the international community. It is the duty of the United States to use its great voice and urge Boris Yeltsin and Mikhail Gorbachev to act on behalf of the Berman family.

It is such a travesty to see the great suffering of one man and his family lost in the maelstrom of the political turmoil in the Soviet Union. The pain and anguish that he and his family have suffered has been unnecessarily prolonged for almost a year now. Dmitri Berman and his family seek only safe passage to Israel, and I strongly urge that, on humanitarian grounds, we work to make this happen as soon as humanly possible.

IN CELEBRATION OF THE 35TH ANNIVERSARY OF THE UNION BENEFICA MEXICANA

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. VISCLOSKY. Mr. Speaker, in 1956, the Union Benefica Mexicana [UBM] was formed through the union of three existing organizations—Benito Juarez, Union de Trabajadores, and Cuahtemoc. Today, 35 years later, northwest Indiana continues to benefit from the services and programs offered by the members of the UBM.

On November 16, 1991, a dinner-dance will be held at the UBM Hall in East Chicago, IN, to commemorate the 35th anniversary of the UBM's existence. This celebration will recognize and commend the sacrifices of UBM members so that their rich Mexican heritage is preserved and shared with future generations.

The UBM membership has dedicated itself to enhancing the quality of life for all the residents of northwest Indiana by offering annual scholarships, sponsoring activities for area youth and senior citizens, and hosting the largest annual ethnic parade in northwest Indiana to celebrate the Fiestas Patrias or Mexico's independence from Spain.

Mr. Speaker, the members of the UBM are proud of their heritage, and I am proud to let the House of Representatives know of the dedication and commitment of the UBM membership to benefit our community. Their work and their decision to serve the people is highly commendable and I ask my distinguished colleagues to join me in recognizing the achievements and contributions of the UBM as well as the individuals who have served the UBM and the people of northwest Indiana.

REPEAL OF SPECIAL OCCUPATIONAL TAX ON ALCOHOL

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. MATSUI. Mr. Speaker, I rise today to offer legislation that will provide tax relief for hundreds of thousands of small businesses all across the country.

After Congress passed the Budget Reconciliation Act in 1987, small business retailers learned that, as part of this package Congress had revived a little known measure, known as the Special Occupation Tax on Alcohol [SOT].

This tax—the SOT—is imposed on all businesses that sell, manufacture, or distribute alcohol. While it dates back to the Civil War, the tax was not a major issue until it was increased by more than 1,000 percent in 1987.

The SOT affects any type of establishment that may sell alcohol, including those who only sell beer, such as campground operators, fraternal groups like the Elks lodge, convenience and grocery stores, ball park beer stands, and others. Their liability for the SOT soared from $54 to $250 annually per store location.

The tax also affects businesses selling beer, wine, or spirits, such as seasonal restaurants, neighborhood taverns, florists that deliver wine with their flowers, supermarkets, and others. Their SOT liability leaped from $54 to $250 annually per store location.

Mr. Speaker, the tax increases did not stop there. Wholesalers saw their tax double from $225 to $500, and producers, such as small wineries, watched their tax increase from $110 to $1,000.

Perhaps this SOT liability does not sound like a great deal of money. But it is especially burdensome when you consider that small business owners usually own/operate more than one establishment. There are many examples where these business—whether a chain of food stores, several wineries, or a group of restaurants only open during the summer months—pay thousands of dollars each year.

There has been periodic, but consistent, criticism of this tax, which actually predates the 1987 rate increase. As early as 1976, the General Accounting Office [GAO] called for repeal of the SOT based upon its review of the costs and benefits. After the 1987 rate increase, an OMB study documented a serious disparity between those who paid the taxes and those who received the benefits. Last year, GAO once again studied the tax and found it inequitable and inefficient.

The agency which administers the tax, the Bureau of Alcohol, Tobacco and Firearms [BATF], has also questioned the efficiency of this tax as it has found the SOT difficult and expensive to collect. Despite BATF's diligent efforts for the last 2 or 3 years, they still have no idea how many retailers ought to be paying the tax. The estimated number of SOT taxpayers is now 550,000, but less than 2 years ago that number was 750,000 and before that, it was 660,000.

For these and other reasons, I am introducing legislation which calls for a repeal of this tax. Small business owners have a maze of taxes, regulations, and other local, State and Federal requirements. The last thing they need is an antiquated tax for which they receive absolutely no benefits.

A successful and modern tax policy must be based on fairness, equity, and efficiency. The SOT does not meet any of these goals and it is time that we say goodbye to this onerous tax and provide some relief for our Nation's retailers.

IN HONOR OF THE 70TH BIRTHDAY OF MARJORIE PLATT

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. LEVINE of California. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the public service of Ms. Marjorie Platt, and in congratulating her on the occasion of her 70th birthday.

Marjorie claimed Los Angeles as her home after moving there with her parents from Baltimore, MD, at the age of 4. A fast rising retail market success, Marjorie became one of the youngest buyers ever at the May Co. Stores of Southern California. It was also at the May Co. that Marjorie met her husband, executive Herman Platt, a Los Angeles native.

Yet, over the years, as Marjorie worked to build her retail career, she remained devoted to her family and community. She and Herman have raised 5 children, who have in turn brought them 16 grandchildren and 4 great grandchildren. Marjorie considers her family her greatest achievement, and it is because of their inspiration that she has devoted such a tremendous amount of time and energy to the community.

Marjorie's community service career began in 1946 when she became a Community Chest volunteer. This was followed by presidential positions with both the Junior and Senior Associates of Vista Del Mar Child Care Agency, as well as a place on the executive board of Vista Del Mar. In the 1970's, Marjorie opened the Vista Del Mar Thrift Shop, and she still actively raises money to support Vista Del Mar.

Marjorie has also conceived and chaired several fundraising events for Sinai Temple and the University of Judaism, and endowed the Herman and Marjorie Platt Art Gallery of Contemporary Art at the University of Judaism. Marjorie's generosity and love for the arts has made her a major supporter of the Los Angeles County Museum of Art, the Museum of Contemporary Art, and the Los Angeles Music Center as well.

It is a pleasure to share the accomplishments and charitable work of Marjorie Platt with my colleagues. I ask that they join me in extending to Marjorie birthday greetings and best wishes for continued success in all of her future endeavors.

SHELDON BEYCHOK AND THE POLITICS OF RACE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. DYMALLY. Mr. Speaker, Sheldon Beychok, prominent leader in Louisiana, has written Members of the Congressional Black Caucus soliciting funds for his DemoPac.

In 1986, Beychok led a racist campaign against Faye Williams, the Democratic nominee in the Eighth District, Louisiana, and supported the Republican nominee.

I have responded to Mr. Beychok's letter, and submit, for review, his letter of solicitation.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 12, 1991.

Dr. Sheldon D. Beychok,
Attorney At Law,
Baton Rouge, LA

DEAR MR. BEYCHOK: I am in receipt of a copy of your letter which you sent to Members of the Congressional Black Caucus in which you stated, and I quote, "I am a Jew and I am frightened . . ." because of the nomination of David Duke for Governor of Louisiana. Mr. Beychok, you have every reason to be frightened!

In 1986, you sowed the seeds of this racial discord, which you are now experiencing in Louisiana. You are the one, Mr. Beychok, as Chairman of the Louisiana Security Political Action Committee and as a member of the Executive Committee of the American Isreal Political Action Committee (AIPAC) who led the most racist, sexist, bigoted attack against Attorney Faye Williams, an African American woman and the Louisiana Democratic nominee for Congress in the Eighth District. Four months earlier, you had received a letter from Congressman Mickey Leland detailing Ms. Williams' position on Israel.

If I may recall the circumstances which led to your racist behavior, you and representatives of your organization, the AFL–CIO and Ms. Williams met and agreed to sign the AFL–CIO statement on Israel. You also agreed to meet the next week for the signing ceremony. Two days before the meeting, you sent a check to the Republican nominee for Congress, who allegedly was a member of the White Citizens Council.

That was bad enough, but you proceeded to show your bigotry by sending a telegram to every person in a leadership position, to the media, and to elected officials in Louisiana stating that Faye Williams had a PLO sympathizer in her campaign.

What was Faye Williams' crime? She had hired her law schoolmate as her campaign manager. He just happens to have been born in Jordan, but by no means was he a terrorist of any kind.

Now you claim you are "frightened", "harassed" and under "siege", and you are asking for funds for your DemoPac.

You have every reason to be concerned about all of the issues mentioned in your letter, because, Mr. Beychok, you are reaping the seeds of racial discord, racism and bigotry which you planted in 1986.

Sincerely,

MERVYN M. DYMALLY,
Member of Congress.

BATON ROUGE, LA.

I am sure you know by now that David Duke is running for Governor of Louisiana, and that he and former Governor Edwin W. Edwards will face each other in the general election on November 16, 1991. I am sure you also know of David Duke's Nazi and Klan past. What you may not know is that 45% of whites voted for David Duke in this election, and in the general election of 1990, running against incumbent Senator J. Bennett Johnston, Duke received 44% of the vote (6 out of 10 white votes cast).

We Jews in Louisiana only number about fifteen thousand. There are ten times that many Jews in some neighborhoods in cities and states in which you live. We are unable to shoulder the financial burden of helping to beat David Duke ourselves.

I am not an alarmist. As many outside Louisiana know, I have been a part of the politics of this state for a quarter century, and I understand the realities of a political race. This is different, however. I am a Jew and I am frightened. The parallels and similarities between the career of David Duke and Hitler are absolutely astonishing. I am not suggesting that the election of David Duke will spur a holocaust in Louisiana, but I am suggesting that we Jews in this state will not sleep quietly while he is in the Governor's mansion. Duke, like Hitler, was arrested as a young man for his neo-Nazi activities; Duke, like Hitler, has repackaged himself and has brushed off his neo-Nazi, anti-Semitic and racist activities as "youthful indiscretion." But we know that as recent as two years ago he was selling anti-Semitic literature out of his state legislative office, and that in private conversations with others, he has stressed that the focus of his hatred is on Jews. You should also know that the Governor of Louisiana appoints the head of the State Police and other department heads who are intimately involved in the daily lives of our citizens.

We are frightened. We are harassed. We are under siege. There are too few of us to carry the burden.

Very truly yours,
SHELDON D. BEYCHOK,
Attorney at Law.

1986

1. Telegram from Sheldon Beychok Re: Faye Williams' Campaign Manager: "Sam Burgan is listed on Faye Williams' stationery as per [sic] Campaign Manager. Please forward his background details since it has been alleged that he is a 'Palestinian Arab'."

2. Williams' Response to Beychok: "Faye Williams' Campaign Manager, Mr. Burgan, is an American born in Jordan. Her National Coordinator is Jewish. Her position on Israel is strong. Is there a further problem?"

3. Beychok's Telegram to Media, Elected Officials and State Leaders: "Please publically [sic] withdraw support and endorsement of Faye Williams, Candidate for Congress in 8th Congressional District. She is a PLO sympathizer. The President of the U.S. has called the PLO a terrorist organization who are murderers of women and children."

HOFFMANN-LAROCHE, RECIPIENT OF THE 1991 HELEN KELLER INTERNATIONAL AWARD

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mrs. ROUKEMA. Mr. Speaker, I rise today to call the attention of my colleagues to a very special humanitarian award presented this week, the 1991 Helen Keller International Award, and one of its honored recipients, Hoffmann-LaRoche's Sight and Life Task Force.

My colleagues, the tragedy of avoidable blindness, caused by nutritional deficiency and disease, afflicts tens of millions of people in the developing world, most of them young children. Helen Keller International, a nonprofit agency dedicated to preventing unnecessary blindness, periodically honors leaders in this critical effort whose extraordinary contributions merit special recognition.

The prestigious Helen Keller International Award for 1991 was presented in a ceremony at the United Nations on November 13, and its three distinguished recipients are being recognized here in the Capitol this evening. Under the auspices of the House Select Committee on Hunger, tonight's recognition stands as an effort to call attention to this serious problem, and the need for all of us who care about the world's health to take action.

I am particularly proud to recognize one of tonight's recipients, from my own State of New Jersey, Hoffmann-LaRoche, and the nonprofit effort it funds, the Sight and Life Task Force. In its commendations, the Sight and Life Task Force was recognized for "the exemplary role it has played in preserving the health and vision of millions of children at risk of nutritional blindness." This humanitarian program is dedicated to the eradication and prevention of vitamin A deficiency as a public health problem in the developing world. Since its founding in 1986, Sight and Life has donated more than 7 million capsules of vitamin A for administration to children in developing countries. The tragic facts are that vitamin A deficiency affects as many as 10 million children every year. It causes 500,000 to go blind, and half of those who lose their sight eventually die. Hoffmann-LaRoche's efforts to prevent this tragedy could not be better directed.

Yet I must make clear that Hoffmann-LaRoche's recognition today by Helen Keller International is but one jewel in the crown of service the company has exemplified throughout this century. One of the world's leading health care companies, Hoffmann-LaRoche has remained at the forefront of biomedical knowledge through all the great advances of the 20th century, from the first synthesis of vitamins in the thirties to the first biotechnology products of the eighties.

Today, with more than 17,000 employees, Hoffmann-LaRoche remains dedicated to preserving and enriching human and animal life through the most advanced methods of prevention, diagnosis, treatment, and care. Hoffmann-LaRoche has rightly earned an international reputation for biomedical innovation, complemented by a commitment to corporate social responsibility. Every day, human and animal health is served through Hoffmann-LaRoche's initiatives in patient information, math and science education, drug abuse prevention, environmental protection, and support of community and voluntary health organizations. From its humble beginnings and throughout its history, Hoffmann-LaRoche has maintained a fundamental commitment to innovative research and development, and the improvement of quality of life the world over.

Today we recognize the success of an effort such as the Hoffmann-LaRoche Sight and Life Task Force, which offers an example of what can be achieved when the business, academic and medical communities collaborate with private voluntary organizations, government agencies, and others in the fight to save peoples' sight, lives, and health. I salute the continued good work of Hoffmann-LaRoche, and encourage others to follow their lead.

SAM BRENNER'S MEMORIAL DAY TRIBUTE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to commend the Memorial Day speech of Mr. Sam Brenner, president of the World Federalist Association of Greater Miami. Mr. Brenner spoke at length about world peace and a new international cooperation. I take this opportunity to place in the CONGRESSIONAL RECORD his speech which Mr. Brenner delivered in the town of Surfside on May 26, 1991. The speech follows:

Fellow human beings: In the name of humanity, I greet all of you! We are gathered here by these shores, to memorialize the dead of all wars. It is fitting to also remember the victims of man's inhumanity to man * * *. We did not perfect the League of Nations into an effective organization to have prevented a Hitler from ever happening. And we were engaged with Iraq in war because we did not perfect the United Nations into a true world order to have prevented Saddam Hussein from ever happening. * * * The time has come and is long overdue to reform the United Nations to be able to disarm all the nations, including our own! We needn't fear for we will be equitably and proportionately represented in the world peace-keeping force. And our government should subsidize conversion to peaceful pursuits for that portion of the military not needed for this force, as its size fluctuates to the demands of the times. We must insist on reforming the United Nations to apply international law impartially to all nations; to have adequate dispute settlement mechanisms with a court system with compulsory jurisdiction; to move away from the war system through internationally verified disarming of national armed forces, including the elimination of all weapons of mass destruction; to have a strong standing United Nations peace-keeping force capable of ensuring the security of all nations; to have a representative world parliament with an equitable voting system; to have regional courts of human rights to protect the human rights of all citizens; and to have internationally supervised elections where needed to allow all people the right to choose their own form of government. With such a reformed United Nations there would have been no Gulf War! * * * I know what course we must take and that is to reform the United Nations into a world federation, which is world federalism! World federalism will give us liberty and life! * * * Only if we reform the United Nations into a true world order will we be worthy of those we memorialize today. They preserved the living, and it is for us, to preserve the peace!

I applaud Mr. Brenner for his time and vision directed at establishing world peace and new international cooperation.

INTRODUCTION OF THE FISCAL ACCOUNTABILITY ACT OF 1991

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. OWENS of Utah. Mr. Speaker, today, I introduced the Fiscal Accountability Act of 1991. This legislation sets out a 10-year, five-Congress schedule for the review and reauthorization of all Federal programs, with the exception of entitlements, administration of justice, and interest on the Federal debt.

Ironically, it was about a decade ago that this sunsetting concept first arrived in the Congress. Since that time, the size of the Federal deficit has nearly quadrupled. The Federal debt has tripled. At the end of the much-decried Carter administration, Federal debt constituted 26 percent of GNP—nearly its lowest level since World War II. But by the end of the Reagan administration, that figure had nearly doubled to 47 percent. When evaluating the cause of our budgetary woes, there is plenty of blame to go around. But the need for fiscal restraint has never been more apparent.

Specifically, this act requires that these programs, including those now permanent, be specifically reauthorized in accordance with the schedule outlined in the bill. Importantly, it also provides that a point of order would lie against consideration of an appropriation for any program not so reauthorized.

Incorporated is a rigorous review process, undertaken by the congressional committees of jurisdiction with, should the relevant committee so desire, the cooperation of instrumentalities such as the GAO, CBO, and CRS. Entitlement programs, though not subject to sunset, are subject to that same review. Furthermore, it does not undermine a committee's prerogative to review or reauthorize a program when it deems appropriate.

This is not a partisan issue, but an issue of accountability. In the early Reagan years, similar legislation received broad bipartisan support from Members across the ideological spectrum. Ironically, it is the Reagan years that underscore the need to add an element of accountability to the reauthorization process. Will it result in dramatic cuts in spending? Not enough to balance the budget. But it will further the ability of the Congress to identify wasteful spending and extensive overlapping of agency responsibility. It is a systematic means of preventing and weeding out wasteful spending that can alleviate many of the proposed after-the-fact rescissions that further undermine public confidence in the budget process.

Americans increasingly are coming to demand that the Congress justify how it handles each taxpayer's dollar. Implementation of this act would provide the Congress a systematic mechanism for doing so. We must take serious steps to reduce the deficit, and this bill should be a part of any serious solution. The gentleman from Nebraska [Mr. BEREUTER] has joined me as an original cosponsor of legislation. I urge my colleagues on both sides of the aisle to do the same.

BRINGING FEDERAL COURT TO THE INLAND EMPIRE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. BROWN. Mr. Speaker, today I am introducing two additional bills to bring Federal court facilities to Riverside and San Bernardino Counties in southern California. I am especially pleased, too, that these bills enjoy bipartisan support as my colleagues, JERRY LEWIS, AL MCCANDLESS, and CHRIS COX, have agreed to cosponsor this badly needed legislation.

With the introduction of this legislation, we have now put before the judges of California's central judicial district, the administrative office of the courts, the Judicial Conference of the United States, and the House Judiciary Committee, all of the options for bringing Federal court to the Inland Empire. I am very hopeful that at least one of these bills can be enacted during the second session of the 102d Congress next year.

Why is it so important that Federal courts be brought closer to our constituents?

First of all, southern California has experienced a population explosion in recent years, and the center of population is shifting inland very rapidly. Between 1980 and 1990, the population of Riverside County increased 76.5 percent and San Bernardino County's population increased 58.5 percent, to a total of 2,600,000. Furthermore, these two counties are projected to have a population of 4,400,000 within 15 years. While the phenomenal growth has been beneficial to our region in many ways, it has brought with it a host of problems, chief among them being a dramatic rise in violent and drug-related crime.

Second, as a result of population growth, the freeways connecting the Pacific coast and the inland areas are overwhelmed. Consequently, Federal offices along the coast are very difficult to reach for many residents of San Bernardino and Riverside Counties. It is wasteful and unreasonable to expect law enforcement officers, attorneys, and other principal parties involved with Federal and civil cases to sit in rush hour traffic 5 hours a day to commute just 40 miles to appear in court in Los Angeles or Santa Ana.

Third, local government officials and area bar associations tell me that Federal cases go unreported and unfiled simply because it is so hard for people to get to the existing courtrooms. The inaccessibility of Federal facilities ought not be the key determinant of whether a crime is reported and prosecuted.

I look forward to working closely with my colleagues on the House Judiciary Committee to clear the way for enactment of some form of this enabling legislation next year. President Bush and this Congress are striving to pass crime control legislation that will toughen penalties for many different types of Federal crimes and provide additional funds to State and local law enforcement authorities who are struggling bravely to curb crime and drug trafficking. Surely, it would be a serious miscarriage of justice, at the same time, not to provide the necessary Federal court facilities in high population centers to assure that crimes will be punished.

INTRODUCTION OF THE CHILD LABOR DETERRENCE ACT OF 1991

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. PEASE. Mr. Speaker, in 1986, the International Labor Organization [ILO] reported the number of working children under the age of 15 to be at least 200 million worldwide. In some Asian countries, children constitute as much as 15 percent of the work force. Worse yet, that percentage rises to 17 percent in some African countries and as high as 26 percent in some Latin American countries.

Millions of children, especially in developing countries, can be found working in such dangerous industries as mining, metal works, glass, and fireworks manufacturing, commonly without any protection or awareness of the health risks. Often these children are the victims of burns and cuts; many are maimed and left miserably handicapped; and many more contract diseases that lead to death or to incapacitation for life. In 1987, Cox Newspapers in a series called "Stolen Childhood" and the Christian Science Monitor in a series called "Children in Darkness" documented in detail the heart-wrenching consequences and scope of global exploitation of children in the workplace.

Here are a couple of examples of what they found:

> In Thailand, thousands of young peasant girls work seven days a week inside hole-in-the-wall Bangkok factories called shophouses for less than seven cents an hour.
>
> Shadab is 9. Since he was 6, he has spent 12 hours a day, six days a week, squatting in semi-darkness on damp ground, polishing little pieces of metal on a high-speed grinding wheel. In the lock factory where he works, the gloom is only broken by a few narrow shafts of light entering through holes in the brick walls, and by a single light bulb. The air is visibly, palpably thick with metal dust, the temperature about 120° F. The bare floor is damp with acid that sloshes from big vats onto the ground.
>
> The factory where Shadab works is in Abigash, 80 miles southeast of New Delhi. It employs nine people, five of whom are under 12. The adults are paid more than three times as much as the children, though many of their tasks are the same.

Earlier this year, the Wall Street Journal carried a front-page story about the life of Vincente Guerrero, a 12-year-old Mexican boy, who had just graduated from sixth grade and who is now working full-time in a shoe factory. I ask that that article be reprinted at the conclusion of my statement. Many Americans were shocked to learn that anywhere from 5 to 10 million Mexican children are employed illegally, and often in hazardous jobs, according to the Mexican General Assembly.

The misery associated with international trading of products made by exploited children goes on out of sight and, almost always, out of mind. Once in a great while, the well-to-do American consumer is jolted upon learning that the beautiful, hand-knotted rug that he bought for $449 at Macy's was made by 7-year-old Moroccan girls who are lucky if they are paid 90 cents a day.

That children are working and sometimes must, is unacceptable, but that they should be forced to work under conditions demonstrably dangerous to their health and safety is reprehensible and must be stopped in all countries, regardless of differing stages of development. A 1987 World Health Organization [WHO] study has found that compared with adults, children tend to react differently and more severely when exposed to chemical substances and physical agents at work. There is a growing body of research evidence indicating that the exposure limits recommended for adult workers are not adequate for protecting children. Surely, no children should be exposed to extremely toxic chemicals or to dangerous physical agents like ionizing radiation.

To hear some people talk, we should not be disturbed that imports entering the American marketplace are sometimes made by children working under barbaric conditions. We are told nothing can be done to stop the suffering and, besides, it is none of our business. Still others, knowing in their hearts that they are profiting from something very wrong, seek to forestall U.S. action and tell us to wait for multilateral action. Some of the same bad actors then proceed to quietly frustrate any consensus for international action at the GATT or elsewhere.

I am fervently opposed to the exploitation of children in the workplace. Moreover, I do not believe it is fair to ask American workers to compete with imports made by brutalized children slaving away under medieval working conditions.

Sadly, the number of children working and the scale of human suffering increase every year, despite the existence of more than 20 ILO conventions on child labor and innumerable pieces of high-sounding national legislation in many countries which purportedly prohibit the employment of children under the age of 15. Something else clearly must be done to effectively stop the exploitation of children in the workplace.

I think a key to effective action is drying up trading markets for goods made by exploited children.

America should push for the rules of international trade to be changed to pointedly discourage child labor, especially in industry and mining. The basic human rights of children deserve at least as much GATT protection as is already provided to the intellectual property rights of businessmen and to the capital investments of financiers. Simple fairness and due regard for American workers require that we settle for nothing less.

But I also recognize that securing international agreement to outlaw trade in goods made by exploited children will not be easily attained. While the need to act is widely recognized, the political will to do so has been sorely lacking. That is precisely why the United States should break the long stalemate and move expeditiously to enact legislation to prohibit imports made by children exploited in the workplace. Toward that end, I am pleased to join with my distinguished colleague, TONY HALL, in sponsoring the Child Labor Deterrence Act of 1989.

In shaping U.S. trade policy to discourage the exploitation of children in the workplace, our bill follows a few straightforward guidelines. First, it should be acknowledged that child labor cannot practically be eradicated overnight. Rather, priority should go in the near-term to stopping the most egregious forms of exploitation of children in the workplace around the world. In our opinion, the widest possible international consensus can be mobilized around the proposition that children under 15 should not be allowed to work in industry or mining. This approach would prevent younger children from being put to work in occupations where they would be in the greatest danger of traumatic injury or occupational disease.

Second, the U.S. Department of Labor has both the commitment and the expertise to compile and maintain a list of foreign countries that condone child labor in industry and mining for the production of exports. Identifying such countries each year and releasing that information to the Congress and to the general public will alert U.S. importers to be on the lookout to avoid trafficking in child labor products from any of the listed offenders.

Third, rather than placing the onus solely upon the U.S. Government to make certain that manufactured products imported into America are not made by exploited children, that responsibility should be placed primarily upon the importers themselves. Our bill simply requires that U.S. importers, as a condition for bringing a manufactured product into the American marketplace, certify in writing that such product was not made by children under the age of 15. Under this approach, eligibility to import would be treated as the privilege that it is and basic standards would need to be upheld if an importer wants to retain the privilege. In the course of doing business, it is reasonable to expect foreign producers and importers not to undermine the international trading system by trafficking in manufactured products made by exploited children.

Fourth, stiff civil and criminal penalties would be imposed upon importers who knowingly violate the prohibition against bringing into the U.S. market manufactured products made by exploited children. Those tempted to violate the import ban would be running the risk that investigators from inside or outside the U.S. Government at any time will uncover evidence that could be brought to bear in administrative review proceedings and/or a court of law.

Fifth, the United States should push for multilateral action to redress the commercial exploitation of children. The President should propose to the U.N. Economic and Social Rights Committee that the Convention for the Rights of the Child, which is to be submitted this year to the General Assembly of the United Nations, include a worldwide ban on trade in products, in whole or in part, made by children under age 15 who are employed in industry or mining.

In conclusion, we recognize that to avoid chaos and global instability, the international trading system must operate according to basic rules of fairness. The fact that current GATT rules assiduously protect property rights, while basically ignoring the rights of working people—including children—is a tragic commentary on contemporary priorities. But we have the capacity to change this situation. Access to the American marketplace is powerful leverage that should be used positively to encourage foreign producers and importers to treat children with dignity, rather than contempt. We cannot accept the bizarre reasoning and skewed priorities whereby international rules and U.S. import laws now protect endangered animals and plants, but remain silent on imports made by children shamelessly exploited in the workplace.

TRIBUTE TO MRS. PAT BLEAZEY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. DUNCAN. Mr. Speaker, Mrs. Pat Bleazey, a kindergarten teacher at Lanier Elementary School in my district, had been featured as one of the "Great Teachers" in an article in Better Homes and Gardens.

To be recognized as 1 of 10 teachers from across the Nation in a leading publication like this is certainly a great honor.

I know Mrs. Bleazey personally, and I would like to commend her for her contribution to her students, her community, and to the teaching profession.

Good teachers serve this Nation in just as vital a way as do members of our Armed Forces or others who sometimes receive more recognition.

I would like to call to the attention of my colleagues an article about Mrs. Bleazey which was published recently in the Daily Times of Maryville, TN.

KINDERGARTEN TEACHER GETS "A"

(By Melanie Tucker)

In a day when home visits are virtually nonexistent, kindergarten teacher Pat Bleazey still makes the rounds in the Lanier Community, getting to know the families on their grounds.

Bleazey has been an educator for the past 16 years and has made it her job to see that she gets to know her students' parents, brothers and sisters, grandparents. She often gets introduced to their pets and favorite stuffed animals.

In the November issue of "Better Homes and Gardens," Bleazey was one of 10 teachers across the United States included in an article entitled, "10 Great Teachers And Why They Get A's."

"I like to see my students in the home environment and see how they relate to their parents," Bleazey said. "The line of communication is opened up more on their own turf."

"Better Homes and Gardens" contacted Keith Geiger, president of the National Education Association, for names of teachers qualified to receive this recognition. Bleazey said she was contacted last spring by the magazine and then recontacted and told she would be included in the article.

Bleazey said she is uneasy getting this much attention when there are so many wonderful teachers that could have been included. She is likewise uneasy about giving her opinion on what a "good teacher" is, saying she bases her teaching on caring for the children.

"You have to care about the children," Bleazey said. "You have to work with parents too—they are a greater influence in their lives than we are ... And you have to let the children know you care about them."

During her 16-year teaching career, Bleazey has been very active in state and national education groups. She was a member of the board of the National Education Association for a three-year term and is currently serving on a NEA committee. She is also on a committee of the Tennessee Education Committee and a lobbyist and active Blount County Education Association member and member of the contract negotiating team. She has been on the TEA board for the past six years.

Bleazey said she is considering running for vice president of TEA.

This educator comes from a family of school teachers. Her grandmother, Carrie Wilkinson Henry taught for 35 years at Walland, Everett and Maryville. She also had a great aunt who taught 50 years in the Maryville school system.

"I knew I wanted to be a teacher. I love people and I love children." Bleazey said. "I come from a family of teachers."

Bleazey's children are both grown and have no desire to become teachers, she said. She has a son, John, who is in the Army and a daughter, Catharine, who attends the University of Tennessee. Bleazey's husband John is administrative director at Blount Memorial Hospital.

The main goal Bleazey has set for herself is to always try to improve and to stay in teaching for 30 years.

Bleazey is very concerned about oversized classes and said she hopes the state legislature passes and funds the Better Education Plan this year. She currently has 26 children in her class and said the situation has reached a critical stage.

"I don't think we can make it another year like this," she said.

According to Bleazey, education has improved in the last 10 years, but she said she is "disappointed it hasn't changed more." She said the lack of adequate funding on the state level is very frustrating.

Before Bleazey came to Lanier, she taught at Chilhowee View and Rush Strong. Being in the Lanier Community for the past 14 years, Bleazey said she has seen a lot of her "little kindergartners" grow up.

One of those is Bethany Kerr, a former student and now senior at William Blount High School. Bethany's mother, Sylvia Kerr, is Bleazey's assistant, starting out as a parent helper those many years ago when Bethany was first entering school.

One of the advantages of going out and meeting the parents in the home is Bleazey can recruit parent helpers. She relies a great deal on the extra help and encourages not only parents but grandparents to come into her classroom.

One volunteer, Carol Kron, has been coming into Bleazey's class for the past 11 years. Another one, this one a grandmother, Verdie Spence, is in her third year of parent volunteering.

This year, Bleazey has also been fortunate to have a great-grandmother, Bessie Patton at her side. And one of the helpers who has become very popular with the children is a grandfather, Jim Crowder. Crowder is handicapped due to a motorcycle accident 12 years ago, but he volunteers whenever he can with overwhelming approval and excitement from Bleazey's students.

The kindergarten curriculum has gone from being what is developmentally appropriate to becoming more structured, and Bleazey said now the trend is back to being developmentally appropriate. Whatever the case, Bleazey said this first step into school is one of the most important. Children develop their attitudes about school that will carry with them through the years, she said.

More than anything, Bleazey said the young children need to develop a good self-concept and a good feeling about school.

"The most important thing to me is to give them a good start," she said.

A TRIBUTE TO MS. CHERYL CLIETT

HON. PETE PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. PETERSON of Florida. Mr. Speaker, I rise today to salute the work of an extraordinary teacher in my district and the extraordinary educational program that she has helped to set up at Sealey Elementary, recognized in 1990 as a blue ribbon school by the U.S. Department of Education.

I want to express my sincerest congratulations to Cheryl Cliett, a teacher at Sealey Elementary School in Tallahassee, FL, for winning the 1991 Presidential Award for Excellence in Science and Mathematics Teaching for Elementary Teachers. Ms. Cliett has long been recognized as one of the outstanding innovators in elementary education in the Tallahassee area. It is at long last that she has finally received the recognition on the national level that she so richly deserves.

I met with Ms. Cliett in my office on October 3, 1991. We discussed a number of ideas she has regarding various educational issues, including her extremely creative program that is being carried out by Sealey Elementary: Common Cents for Education.

Mr. Speaker, the Common Cents Program—that is cents with a "C"—is one of the most ingenious educational initiatives I have ever seen. It actively involves students, teachers, parents, and the entire community.

The program began in October 1990 when the teachers at Sealey, realizing that the best way to involve students in the educational process is to make learning real and exciting, voted unanimously to make "cents in a million ways" the school's major curriculum project.

Common Cents for Education is an educational project, not a fundraiser, although it does involve the collection of 1 million pennies. The quest for 1 million pennies has immersed the entire school in hundreds of curriculum-rich activities designed to help students work together to achieve a goal. Pennies collected for the project will ultimately be used to purchase children's books for the local public library.

Sealey has established the following goals for the Common Cents for Education project:

To motivate the entire Sealey community—students, teachers, parents, partners, and staff.

Integrate this project into all curriculum areas.

Share the benefits of the project with the community by purchasing books for the school media center and local public library.

Create a rich educational environment which fosters active problem solving.

While students collect pennies, teachers plan penny-oriented lessons that include nearly every possible curriculum. Students learn math through study of graphs, estimation of weight, diameter, mass, and density, averages, and many different types of challenge problems. They can learn science by learning how pennies are made and studying the metal content. They can learn history and social studies through lessons on economics, coins from around the world, and the Bicentennial of the U.S. Mint. In fact, penny-oriented lessons at Sealey have included language, arts, music, business, and even computer-generated activities like spread sheets, newsletters and data base applications.

Mr. Speaker, Common Cents for Education has grown to encompass a broad range of activities designed to involve the entire community. Local businesses have enthusiastically supported the project by donating containers, setting up collection sites, and organizing various public relations activities.

The unique characteristic of this project is the implementation of a schoolwide thematic approach to learning which integrates all areas of the elementary curriculum.

Mr. Speaker, the future of our country lies with our children. We must seek ways to improve the educational process nationwide. This type of innovative program is essential to that goal. I call upon all of my colleagues to examine this program for possible application in their congressional districts. It is an innovative step toward a better education for our children.

I salute Ms. Cliett and all her colleagues at Sealey Elementary School in Tallahassee, FL for their efforts in making learning fun and exciting for the students, while greatly enhancing the quality of their education. They are proving that with a little ingenuity, incredible progress can be made in education.

LEGISLATIVE PRESSURE IS A MUST IN THE FIGHT FOR IMPROVEMENT OF CHINA'S HUMAN RIGHTS POLICY

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. PEASE. Mr. Speaker, Secretary Baker is scheduled to be in Beijing for 3 days beginning tomorrow, November 15. This trip constitutes the highest level visit by a Bush administration official since the Tiananmen Square killings of June 1989.

Those of us who were involved in crafting the House legislation on conditional extension of most-favored-nation [MFN] status for China are waiting expectantly for the results of Mr. Baker's face-to-face with the leaders of the People's Republic of China [PRC]. I am particularly interested in the Secretary's efforts toward securing a commitment from the Government in Beijing to pursue a human rights policy that comes closer to internationally recognized norms.

That said, however, I feel strongly that the House and Senate should go ahead with the business of negotiating a compromise conference report that would condition extension of MFN status—beyond June 1992—upon the Chinese Government's meeting certain requirements. While I will fully appreciate any headway that Mr. Baker can make through diplomatic channels, as a House conferee on H.R. 2212, Congresswoman Pelosi's conditional MFN vehicle, I am not willing to trust the policymakers in the PRC to the extent that I would discontinue my work toward getting conditional MFN legislation passed during the 102d Congress.

If Chinese officials promise Secretary Baker the world, great. I feel strongly, however, that regardless of what transpires over the next 3 days, the U.S. Government needs legislation in order to ensure that officials in Beijing will be held to any promises they make. After all, talk is cheap, but MFN is worth a whole pile of money to the Chinese, about $10.4 billion, to be exact, for last year alone.

A TRIBUTE TO MOSAIC

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to pay tribute to a wonderful traveling exhibit on the Jewish experience in Florida called MOSAIC. This Jewish year 5752 marks the 500th anniversary of the expulsion of the Jews from Spain, and the arrival of conversos in the Americas.

MOSAIC is a celebration of the Jewish experience in Florida from 1763 to present day. Highlighting ethnicity as part of America's multicultural experience, important aspects of Jewish life such as family and synagogue, interethnic relationships, contributions to the development of Florida, and the group's acculturation into society through the decades are explored. The exhibit is rich in photographs and artifacts collected from families throughout the State, and oral histories revealing special memories complete the exhibit.

The exhibit has been hosted by Miami, Sarasota, Jacksonville, and Pensacola, since its inauguration in 1990 and over 100,000 people have seen it. In January 1992, MOSAIC will be presented in Tallahasse, and both Governor Lawton Chiles and Secretary of State Jim Smith will be participating in the ribbon cutting ceremony. The exhibit will travel to seven other sites in Florida from 1990 to 1992, including Sarasota, Jacksonville, Pensacola, Orlando, Palm Beach, and Fort Lauderdale.

MOSAIC is an official project of the National Christopher Columbus Quincentenary Jubilee Commission and is a joint project of the Judaic Studies Program of the University of Miami, the Samuel and Helene Soref Jewish Community Center in Fort Lauderdale, and the Central Agency for Jewish Education. Supporters of MOSAIC include the Florida Department of State and the Florida Endowment for the Humanities.

I wish to recognize Dr. Henry Green, the project director of MOSAIC; Marcia Kerstein Zerivitz, the statewide coordinator and director of development of MOSAIC; Patricia Wickman, the project curator; J. Andrew Brian, the exhibit director; Dr. Abraham Gittelson, director of education; and Laura Hochman, director of community programming. Their work and dediction to MOSAIC is tremendous and provides a great educational benefit to the history of our country.

INTRODUCTION OF THE GULF OF MEXICO PROTECTION AND RESTORATION ACT OF 1991

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. IRELAND. Mr. Speaker, today I am introducing the Gulf of Mexico Protection and Restoration Act of 1991, legislation intended to ensure that the Gulf of Mexico remains one of the world's most productive ecosystems. I am joined in this effort by the members of the Florida delegation as well as Representatives of other Gulf States.

The Gulf of Mexico is a resource at risk. Environmental abuse is putting the gulf's vast recreational and economic resources in serious danger. This body of water is a treasure, whose riches are shared in some degree by the United States and Mexico, the nations of the wider Caribbean and the entire world.

The Gulf of Mexico is the ninth largest water body in the world. In spite of its size and the large population base around its coastline, the gulf may be the most ignored body of water. The coastline is shared by five States: Florida, Louisiana, Mississippi, Alabama, and Texas. It seems as though it is viewed as an endless body of water with limitless resources needing very little protection. Bits and pieces of information are slowly painting a picture that is quite different—many areas in the gulf are suffering from overuse, habitat losses, nutrient overenrichment, toxins and pesticides impacts, public health problems, shellfish bed closures, and declining fisheries. To ignore this picture, though blurry, would be fatal, for losses in the gulf will indeed have widespread national implications.

The gulf is important for any number of reasons and the justifications for this initiative are extraordinary:

Two-thirds of the contiguous United States drains into the gulf. The Mississippi River drainage is the single overwhelming source of pollutants from at least 11 States ranging from Minnesota in the north to Louisiana in the south.

The gulf produces approximately 40 percent of the U.S. commercial fish yield. The gulf shrimp fishery is the most valuable fishery in the United States. Yet, at any given time 57 percent or 3.4 million acres of shellfish beds are permanently or conditionally closed.

The gulf provides critical habitats for 75 percent of migratory waterfowl traversing the United States.

The gulf's coastal wetlands comprise about half of the national total wetlands, and are being reduced at a rate of 50 square miles per year in the area around the Mississippi delta.

One-sixth of the U.S. population now lives in Gulf Coastal States.

Ninety percent of the U.S. offshore oil and gas comes from the gulf. Yet, funding to protect the gulf against water quality damage is the lowest in comparison with other major water body programs.

Approximately 45 percent of U.S. shipping tonnage passes through gulf ports, including three of the top five commercial ports in the country. Vital maintenance activity produced 60 million cubic yards of dredged material in 1986, and 70 percent of this was deposited in the waters and coastal areas of the gulf.

The Gulf of Mexico's Texas and central Florida beach resorts are at the core of a tourism industry that grosses $5 billion per year, yet erosion is causing the coastline to recede as much as 5 feet per year in some areas.

Marine debris washes up on gulf shores at rates as high as 2 tons per mile, threatening tourism, fisheries, and marine mammals.

In short, the Gulf of Mexico provides an impressive wealth of resources to the United States and presents comparably great responsibilities to the Nation. The continued health and productivity of the gulf must, therefore, become a national priority.

To date the efforts to develop information and provide basic protection for the gulf have been piecemeal. Throughout our history the Gulf of Mexico has been perceived as having limitless resources. However, the increase in population, the demand for recreational access and development, increased seafood consumption, and the startling statistics concerning the rate of loss of natural habitats have combined to produce the stark realization that what the gulf can supply is indeed limited. Conflicts have arisen among the users of the gulf: Between recreational and commercial fishermen; between land developers and conservationists; between oil and gas extractors and fishermen; between those who use coastal waters to disperse wastes and those downstream or lower who use those waters for other purposes, such as drinking water or oyster production.

Several years ago to address these concerns, the Environmental Protection Agency initiated what is known as the gulf initiative. This regional program was originally intended as a mechanism to improve coordination among the myriad of local, State, and Federal agencies and efforts which impacted the gulf. However noble this effort, it does not measure up to the efforts we are making to protect and preserve other national bodies of water such as the Chesapeake Bay or the Great Lakes.

Earlier this year EPA announced it would increase discretionary funding for its Gulf Program from $1.4 million in fiscal year 1991 to $6.3 million in fiscal year 1992—a 350-percent increase. In comparison, we have authorized $13 million a year on the Chesapeake Bay and $11 million on the Great Lakes. The Gulf of Mexico is certainly no less a national treasure.

The legislation I am proposing is an amendment to the Clean Water Act which we will be considering for reauthorization next year. It establishes the "Gulf of Mexico Management Program," and mandates that the Administrator of EPA develop and begin implementation of a comprehensive plan to improve and protect the water quality of the Gulf of Mexico.

The plan should include the following elements: Collection of information on the gulf, coordination of Federal and State efforts to improve the water quality and determination of the impact of man-induced and environmental changes on the resources of the gulf.

In addition, EPA is directed, in preparing the plan, to consult with the relevant Federal agencies which may include the Army Corps of Engineers, the Department of Agriculture, Department of the Interior, Department of Commerce, the Coast Guard and others, as well as the Gulf States. I might add, Mr. Speaker, that this program is not intended to eliminate the efforts of other Federal agencies dedicated to preserving the environmental integrity of the gulf.

In addition, the legislation calls for the establishment of a policy board, a technical steering committee, and a citizens advisory committee comprised of five representatives from each of the Gulf States.

The research program provides for grants to be made available, for use in developing baseline data, to State agencies, nonprofit research organizations, or universities which meet certain eligibility requirements.

The bill authorizes $30 million in fiscal year 1993 and such sums as are necessary in future years.

The bill is intended to provide much-needed national focus and attention on the profound needs and resources of the Gulf of Mexico. The exact structure of the program is left to the discretion of the Administrator of the Environmental Protection Agency. Building on the Gulf Initiative Program, I believe EPA is capable of quick starting this program of national economic and environmental significance.

I know my colleagues are aware that we recently adopted legislation proclaiming 1992 as the "Year of the Gulf of Mexico." The level of support for that proposal, quickly adopted by the House, is indicative that the time has come to focus attention at the highest levels on concerted action to preserve the Gulf of Mexico.

Legislation similar to that which I am proposing has already been introduced in the Senate. While different in some respects the purpose is the same. In addition, I understand Members of both House and Senate are preparing proposals to provide a mechanism for consultation and cooperation with the Government of Mexico and other affected countries on the issue of the water quality of the gulf.

Mr. Speaker, it is very clear the time has come to make the Gulf of Mexico one of our national priorities. With the involvement and cooperation of the Federal Government, the Gulf States and the impacted communities, I believe we can take great strides toward preserving and protecting this cherished body of water for the enjoyment of generations to come.

TRIBUTE TO THE HISTORIC FIFTEENTH STREET PRESBYTERIAN CHURCH

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Ms. NORTON. Mr. Speaker, I rise today to commemorate in the official record of the Nation one of the District's most distinguished churches—the Fifteenth Street Presbyterian Church—on the occasion of its 150th anniversary.

The Fifteenth Street Presbyterian Church was founded by the Reverend John F. Cook, whose freedom from slavery was bought by his aunt when he was 16. In 1969, the Reverend John L. Pharr, Sr. became the 12th and current pastor. The church's extraordinary tradition of service to the community has continued. Reverend Pharr has worked with the Model Inner City Community Organization [MICCO] and Uplift House. The church made housing available to For Love of Children [FLOC] and cared lovingly for the foster families placed there. During the pastorate of the Reverend Pharr the former structure was replaced by a new church building with an education wing.

Throughout its 150 years, the church members have continued to share the conviction of John F. Cook, the schoolmaster and pastor, that education must be available to African-Americans. The recognition that continues to be made of the young people of the church on completion of all levels, from elementary school to graduate degree, has passed on to each generation of the church family the importance and the value of education. Faith and trust in God have not diminished over the years, and the congregation continues its long tradition of fostering Christian brotherhood in the Washington community.

Mr. Speaker, I ask that this body join me in congratulating this remarkable church on the occasion of its 150th anniversary knowing that its future is as promising as its history has been brilliant.

DICK THE BRUISER LEFT A HARD-HITTING LEGACY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. JACOBS. Mr. Speaker, most people in Indianapolis were saddened at the death of our friend Richard Afflis, also known as Dick the Bruiser.

The Afflis family is well known in our community for nobility. I suppose it's no secret that professional wrestling involves a lot of professional acting as well as athletics. And our friend Dick the Bruiser was superb at both.

DICK THE BRUISER LEFT A HARD-HITTING LEGACY

Richard Afflis, 62, better known as "Dick the Bruiser" within the arena of professional wrestling, died Sunday in Largo, Fla.

Mr. Afflis, "the world's most dangerous wrestler," lived in Indianapolis. His death came just three weeks after a Southern Indiana match that proved to be the final encounter of his 35-year career.

"Bruiser" received his nickname in the early 1950s when he was an offensive lineman with the Green Bay Packers professional football team.

Afflis held the distinction of "world champion" five times in the Worldwide Wrestling Association and the National Wrestling Alliance.

Recently, he appeared in commercials for Kroger Co. and Indiana Bell that urged residents to recycle their telephone directories.

"He just wouldn't quit," said Chuck Marlowe, a free-lance sportscaster who was commentator for Bruiser's matches for TV's now-defunct "Championship Wrestling" from 1957 to 1970.

"But he enjoyed physical contact. He couldn't have done anything else but football and wrestling," Marlowe said.

Afflis attended Shortridge High School two years and graduated from Lafayette Jefferson High School.

He attended Purdue University and graduated from the University of Nevada-Las Vegas. He later was a bouncer in Las Vegas before hitting the big time in pro wrestling.

During his prime in the mid-1960s, Bruiser reportedly earned $100,000 a year—the first pro wrestler to do so. By contrast, World Wrestling Federation champion Hulk Hogan earned $150,000 for a one-night appearance last August.

"Bruiser would walk down the aisle in Chicago, and the people would chant: 'We want blood!'" recalled Bobby "The Brain" Heenan, who worked with Bruiser from 1965 to 1974. "He would give them blood all right—not his, but mine! He was the toughest man I ever met in my life."

But others knew Bruiser as kind and gentle. He regularly lent his support to campaigns for such charities as the Muscular Dystrophy Association.

Memorial contributions may be made to the Muscular Dystrophy Association, Wheeler Rescue Ministries or Roudebush West 10th Street Veterans Affairs Hospital. Contributions also may be made to any other organization benefiting the mentally ill or developmentally handicapped.

Flanner & Buchanan High School Road Mortuary is handling arrangements. No plans for services or calling have been made.

Survivors—wife Louise "Rhea" Iacono Afflis; daughter Michelle R. Replogle; son Karl W. Afflis; nine grandchildren.

DISABILITY DETERMINATION ACCURACY ACT OF 1991

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. DERRICK. Mr. Speaker, today I am introducing legislation that seeks to improve accuracy in the early stages of the Social Security disability determination process and significantly reduce the length of time it takes deserving beneficiaries to collect payments. Though a great percentage of claimants who appeal their cases do receive their benefits—with backpay—a minimum of 14 months after beginning the claims process, these are people who cannot afford such a lengthy wait. They are unable to work. While the appeals process is dragging out, their bills are piling up, their resources dwindling.

The major reason benefit denials are reversed by administrative law judges [ALJ's] at a later stage in the appeals process is because ALJ's make differing assessments of claimants' ability to work than Disability Determination Services [DDS] workers do in the earlier stages of the process. In large part, the problem is DDS workers are making only paper reviews of claimants' cases. Indeed, some feel that inaccurate work-capability assessments by DDS workers are solely the result of the DDS worker never having seen the claimant personally. While the DDS decision team does include medical professionals, no member of that team ever examines the claimant personally prior to estimating the claimant's capacity to work.

The measure I am offering, the "Disability Determination Accuracy Act of 1991," agrees, in principle, with the idea that claimants should be examined in person in the early stages of the determination process, prior to any denial of benefits based on their ability to do work. However, this measure reflects a higher standard of accuracy because examinations would be performed by qualified medical professionals of the claimants' choosing who meet strict reporting criteria. These reports would be used as the basis for assessing claimants' ability to perform substantial gainful activity. Because these examinations could be performed immediately prior to a DDS-level denial and by qualified medical professionals meeting strict—but fair—reporting criteria, DDS workers would be making their decisions on the basis of current, medically reliable data.

The standard of accuracy I am seeking, however, could not be achieved under the current system with the above changes alone. Many DDS workers acknowledge that they are often rejecting claims because of bureaucratic technicalities that would hold accuracy hostage even in cases where the data being reviewed are current and medically reliable. For this reason, the legislation I am offering would free DDS workers to give medical reports their due weight in deciding how capable claimants are of performing substantial gainful activity. Further, this measure would require that where DDS workers dispute the assessments of medical professionals in this regard, they must offer a detailed explanation of how they arrived at a decision counter to that of the examiner. By allowing DDS to workers to approve deserving claimants despite bureaucratic technicalities and requiring adequate explanations in cases where these workers dispute substantial medical evidence, a still greater level of accuracy would be achieved.

Accuracy in the early stages of the determination process would be further improved by reforms this bill offers to bring about wider physician participation. The "Disability Determination Accuracy Act of 1991" would allow claimants 45 days to choose a physician qualified to perform the examination used to determine their ability to work. Moreover, all physicians who perform these examinations would be reimbursed at a fair market rate—with provisions to prevent excessive charges. Adequate reimbursements would encourage wide participation by the medical community, bringing fresh faces and perspectives to the process. Here, too, accuracy is the objective.

I urge my colleagues to give this measure serious consideration and to commit themselves to resolving the twin problems of needless, lengthy appeals and less than accurate decisionmaking in the disability determination process. Those Americans affected by the sluggishness of this process are among our least fortunate. In the name of justice and compassion, let's act on this problem.

A TRIBUTE TO THE WOLFSONIAN FOUNDATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to pay tribute to the Wolfsonian Foundation, which was established in 1986 by art collector Mitchell Wolfson, Jr., who believes that these unique museum study and exhibition centers, in Miami, FL, and Genoa, Italy, will serve as resources for their local and national viewers as well as for the international museum and scholarly community. The Wolfsonian Foundation states that these initiatives are focused on the study and appreciation of the design, decorative and architectural arts and reflect the same creative approach that shaped the formulation of the Mitchell Wolfson, Jr., collection.

The Mitchell Wolfson, Jr., collection estimated at nearly 60,000 objects of art and rare books dates from the late 19th to the mid-20th centuries. Mr. Wolfson states that his collection encompasses furniture, sculpture, paintings, books, graphics, and other works on paper, as well as an extensive archive relating to the period.

Through a series of academic study and fellowship programs, national and international traveling exhibitions and scholarly initiatives, the foundation believes that they will be promoting public education and awareness of the social, historical, technological, political, economic, and artistic material culture of Europe and America in the period 1885 to 1945.

The Wolfsonian Foundation's International Exhibitions Program will organize and travel throughout the United States and Europe exhibitions drawn from the Mitchell Wolfson, Jr., collection. The foundation suggests that they will actively support the efforts of other museums worldwide to stimulate interest in and appreciation of the arts of this period by making its collections available for loan and research.

I would like to recognize Mitchell Wolfson, Jr., for his outstanding contribution to the community and I wish him much success with the Wolfsonian Foundation.

NORTH DADE SOCIAL SECURITY OFFICE: WORKING TO MAKE THINGS BETTER

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. LEHMAN of Florida. Mr. Speaker, thousands of my constituents in northeast Dade County depend on the benefits they have earned under Social Security in order to make ends meet. I rise today to recognize the efforts of the people who keep Social Security working in our community: The management and employees of the North Dade Social Security office.

The vast majority of Social Security cases never come across my desk, because they are properly handled by Social Security on a timely basis. However, we do hear about the mistakes that Social Security makes because we encourage our constituents to let us know when they experience problems. When we contact the North Dade Social Security office, we deal with dedicated, skilled public servants who know the law, know the system, and are guided by a desire to get things right. I have visited these fine people and talked with them myself, and I can say from firsthand experience that it is this willingness to listen and to resolve any problems that distinguishes the personnel of this office.

Mr. Speaker, I would like to congratulate the following employees of our North Dade Social Security office and their manager, Errol J. Simmons, for a job well done. You have made a big impact—and a favorable impression—on our community.

LITTLE RIVER STAFF

Woodel, Carol; Chea, Theresa; Rosenberg, Neil; Adams, John; Cohen, Jeanette; Eichler, Elaine; Harris, Mary; Milkes, Sara; Lefkowitz, Raquel; Spann, Pamela; Toboz, Lillian; White, Elaine; Dorce, Jean; Ford, Arletha; Hernandez, Blanca I; Kricun, Leslie; Belizaire, Windy; Seralena, Alex; Libby, Rose.

HIALEAH STAFF

Machado, Raul; Allen, Haydee; Bello, Estela; Bello, Maria; Bello, Noel; Bustillo, Gilda; Magwood-Ward, Ann; Carvajal, Sandra; Castro, Luz; Dixon, Lester; Fleming, Grace; Fontanez, Sylvia; Fuentes, Felix; Fuentes, Naida; Fundora, Sylvia; Garcia, Angela; Garcia, Hilda; Giron, Carlos.

Hernandez, Charles; Lopez-Ricon, Dalia; Perez, Pedro; Peruyera, Celso; Robles, Jeannette; Rodriguez, Regla; Silva, Lydia; Sustache, Doris; Triana, Celia; Villar, Eulalia; Mir, Amada; Pena, Emilia; Rivera, Elizabeth; Holloman, Sandra; Washington, Veronica; Gonzalez, Gloria; Roberts, Janice; Banks-Dawkins, Johnnie Mae; Mateo, Grecy.

MIAMI NORTH STAFF

Simmons, Errol J.; Delise-Stessel, Stephanie; Fassig, Elizabeth; McCray, Alphonso; Mish, Gloria; Clark, Dorothy; Filippini, Carol A.; Bernstein, Marilyn; Branch, Charles; Clarke, Marcia; Drake, Sandra; Edwards, Eva; Felder, Betty; Houser, Michael; Jacome, Marcello; Martinez, Raquel.

McAuliffe, Patricia; McPherson, Pat; Nemeroff, Barbara; Reckley, Maria; Robinson, Carlton; Thompson, Freenis; Travieso, Juan; Waring, Susan; Cox, Gloria; Holmes, Annette; Moore, Carolyn; Tutt, William; Davis, Claire; Kakanis, Johanna; Urquhart, Vernon; Vera, Martha; Tarver, Leona.

STATEMENT BY DOBROSLAV PARAGA, PRESIDENT OF THE CROATIAN PARTY OF RIGHTS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. TRAFICANT. Mr. Speaker, major cities in Croatia are being destroyed by the Yugoslav Federal Army and thousands of people are dying daily despite 12 cease-fires. Today, I would like to enter into the CONGRESSIONAL

RECORD a statement by Dobroslav Paraga, president of the Croatian Party of Rights and human rights advocate. This statement speaks of the present crisis situation in Croatia and is a reaffirmation of Croatia's desire for independence and commitment to democracy. Please print the enclosed statement here.

CROATIAN PARTY OF RIGHTS,
November 12, 1991.

MR. PRESIDENT,
MEMBERS OF THE HOUSE,
MEMBERS OF THE SENATE,
Washington, DC.

My dream is for Croatia to become for its citizens the America of Europe guaranteeing all its peoples, whatever their ethnic background, "life, liberty, and the pursuit of happiness." It was because of my belief in the United States and what it stands for that I came to Congress for help in realizing these goals. I was deeply honored when on August 4, 1989, the Senate of the United States in the 101st Congress adopted the following resolution:

SENATE RESOLUTION 169

Resolution supporting the efforts of Dobroslav Paraga to bring about increased respect for human rights in Yugoslavia

Whereas Dobroslav Paraga, who has twice been adopted as a prisoner of conscience by Amnesty International, has endured hardship for openly calling on the Yugoslav Government to honor its commitments under the Helsinki Accords to respect the fundamental human rights of all the citizens of Yugoslavia;

Whereas Dobroslav Paraga has been tried on three occasions by Yugoslav courts, the initial charge being that, in 1980, he, along with a Jewish Croatian student, Ernest Brajder, authored a petition opposing torture in Yugoslavia and calling for the release of political prisoners;

Whereas as a result, both men were arrested and, three days later, Ernest Brajder died under what the Department of State calls "mysterious circumstances";

Whereas in 1986, Mr. Paraga sued the Government of Yugoslavia for injuries, both physical and psychological, inflicted on him by prison authorities during his imprisonment;

Whereas the regime and court in Zagreb denied him a fair and just trial, an account of which was set forth in the Department of State's annual Country Report on Human Rights Practices for 1987;

Whereas the Yugoslav Government forbade Mr. Paraga in 1987 to speak out publicly in any way about his experiences as a political prisoner;

Whereas in violation of that order of silence, Dobroslav Paraga has come to the West to speak out about human rights abuses in Yugoslavia; and

Whereas, upon his return to Yugoslavia, Dobroslav Paraga risks imprisonment again because of his open criticism of the Yugoslav Government's human rights abuses: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Government of Yugoslavia, in recognition of the provisions of the Universal Declaration of Human Rights, should guarantee its citizens fundamental human rights and freedoms;

(2) the Yugoslav Government should grant unconditional amnesty to all political prisoners;

(3) the Government of Yugoslavia should dismiss the charges currently pending against human rights activist Dobroslav Paraga, allow him and his family to return to their home in Croatia, and end all forms of harassment against him and his family;

(4) the Government of Yugoslavia should conduct an investigation into the death of Ernest Brajder, who, according to the Department of State, died under "mysterious circumstances", and should make its findings public.

Although an identical bill was introduced in the House of Congress, House Resolution 240, with the following 36 cosponsors, Broomfield, Pursell, Gilman, Smith (NJ), Traficant, Lipinski, Courter, Yatron, Hayes (IL), James, Kolter, Scheuer, Gallegly, Porter, Schuette, Mrazek, Henry, Bilirakis, Dellums, Miller (WA), Lantos, Hefley, Hubbard, Levin (MI), de Lugo, Bates, Kleczka, Frost, Fawell, Fazio, Hyde, Feighan, Burton (IN), Hall (OH), Lancaster, Machtley, and Brown (CA), two years have passed since Senate Resolution 169 was adopted and not one step has been taken by either the "democratic" government of Yugoslavia or the new "democratic" government of Croatia to attempt to fulfill any aspect of this resolution. Even worse, the very same people that were responsible for the arrest of Ernest Brajder and myself in 1980, and the subsequent death after three days of interrogation of Ernest Brajder, have now received promotions in Mr. Tudjman's government. Although neither the communist government of Yugoslavia nor the leftovers of communism who are in power in Croatia will fulfill their duties and conduct an investigation into the death of Ernest Brajder much of what I have accomplished since his death has been done in his name and memory because I know that had he lived he would have continued to fight at my side for a better life for his fellow Croatians. In my continuing investigation of Mr. Brajder's death I have confirmed that he was in fact thrown to his death at the investigative detention center in Zagreb. In the meantime Mr. Zdravko Mustač who was at that time Chief of the Secret Police for Zagreb is now Special Adviser to President Tudjman's Cabinet for National Security.

On September 21, 1991 Ante Paradžik, the vice-president of the Croatian Party of Rights, and I were supposed to speak at a political rally in the town of Krizevci. At the last moment I was detained in Zagreb and Ante Paradžik left to attend the rally with a driver and a passenger. Besides being the vice-president of the Croatian Party of Rights Ante Paradžik was also the vice-president of the Association of Croatian Political Prisoners as well as also having been the president of the Croatian Student's Union in 1971 during the events of "Croatian Spring". He had been in prison for his political activities and he was well known as an outspoken critic against corruption and communism. On his way back to Zabgreb Ante Paradžik's car stopped at five road blocks. Upon stopping at the fifth road block the MUP (Ministry of the Interior police) officer came to within one yard of the car as if he were going to step up to it to ask for identification. Instead he stopped, took three stops backwards, assumed a battle stance and started firing at Ante Paradžik with an automatic AK-47 rifle. Two other MUP officers also started firing at the car which was at a complete standstill and from which not one shot was fired. There were over fifty bullets fired at the car. The car was rifled from all sides, even the roof. Ante Paradžik was killed. Branko Perković, the driver, was wounded. Ivan Oršanić, the passenger, miraculously escaped injury.

The official statement issued by MUP within hours of the death of Ante Paradžik stated that Paradžik's vehicle did not stop at the last two check points, that shots were fired from Paradžik's car at the MUP officers and that the MUP officers returned fire to defend themselves. Not one official from MUP nor the Minister himself will admit responsibility for issuing that statement. Investigation has shown that Paradžik's car was fully stopped and that not one shot was fired from Paradžik's car. MUP also possesses tape of police radio conversations. Transcripts of the tape show that an order was issued to "kill", "shoot", MUP shot and killed him. Ante Paradžik was assassinated. Who was responsible?

My life's work has been dedicated to helping achieve equal liberties for everyone be they Croatian, Albanian, Lithuanian or any other people. When Iraq occupied Kuwait, and while Yugoslavia was repairing Iraqi jets, the Croatian Party of Rights was the only political organization in Croatia or former Yugoslavia to formerly express our position in support of the United States with the following letter of January 15, 1991 offering volunteers and recorded in the Congressional Record of January 18, 1991:

MR. PRESIDENT,
Members of Congress.

Dear Honorable Representatives of the People of the United States of America: While dramatic changes are still occurring daily in Eastern Europe and an unavoidable confrontation has developed in the Middle East I wish to personally thank you on behalf of the people of Croatia on your courageous assumption of world leadership to ensure that fundamental human rights and liberties are available to all.

As President Havel stated to me when I met with him in Prague on October 29, 1990—"if there are human rights violations going on anywhere, then human rights are threatened everywhere."

Your support of the freedom seeking peoples of the world, from Lithuania to Kuwait and beyond, is instrumental in the achievement of this goal and nowhere do we understand this more than in Croatia.

While we Croatians have not yet completed our transition to democracy and independence I can personally testify that had it not been for the U.S. Senate passing Senate Resolution 169 on August 4, 1989, supporting my efforts to bring about increased respect for human rights in Yugoslavia that I would now not be writing to you as the President of the Croatian Party of Rights from our offices in Zagreb but rather from one of the jail or prison cells where I had previously been incarcerated and tortured for circulating a petition asking for amnesty for all political prisoners in Yugoslavia in 1980.

Although we in Croatia have democratic political parties we do not yet have "government of the people, by the people, for the people." While we are patiently changing this we will not allow ourselves to be identified by the actions of those who still rule us but do not represent us.

On September 18, 1990, Associated Press ran a report on Iraqi jets being serviced by Yugoslavia in Croatia which Senator Dole noted with a request for an investigation in the Congressional Record of October 24, 1990, entitled "What are Iraqi Military Aircraft Doing in Yugoslavia?" And then on January 11, 1991, Reuters reported that Iraqi agents or terrorists may already be in place in Europe having infiltrated through Yugoslavia.

We have all watched these terrifying experiences unfold into dramatic statements of man's inhumanity to man and we've all wondered why and when will it end. The people of Croatia know how difficult it is, if not impossible, to end armed aggression and oppression without help and we feel that it is our duty to express ourselves to the people of the United States and the world community by volunteering our services to actively participate with the following declaration:

"DECLARATION

"We, the people of Croatia, join in this opportunity to stand, and side, with our friends, the United States of America and other governments of the world who in this time of world crises have courageously assumed the burden of leadership in full implementation of the United Nations Resolutions; and whereas the Federal Government of Yugoslavia, and its offspring Governments in the Republics of Yugoslavia, have chosen a position of non-commitment; we feel that this international effort to stop the brutal aggression of Saddam Hussein demands the active support of all who care about preserving freedom and the rights of human beings to live peacefully within their own country.

"We, the undersigned, in our desire to actively participate, shoulder to shoulder, with other nations of the world, hereby, volunteer our services to the multinational forces united in resolve to secure the justice which will alone result in lasting peace, as well as extending our commitment to a multinational peace keeping force to preserve this new world order."

Presently the people of Croatia are expressing themselves by individually signing this declaration just as over 500,000 Croatians have signed a petition for independence from Yugoslavia over the course of the last six months. Maybe someday soon the nation of Croatia will once again be able to express itself as a country in such an honorable commitment as is this participation in achieving the unalienable rights of all people—life, liberty, and the pursuit of happiness.

Because I believe in a Croatia that looks towards a democratic future in the world community, the repeated linking of my party, the Croatian Party of Rights, with "Nazi" or "Fascist" sympathies are particularly distressing to me personally. Such charges coming from Milošević, Tudjman and Delich-Bentley are completely baseless. They go against everything I have dedicated my life in working for—the rights for all citizens of Croatia no matter what their ethnic background to live under a democratic government responsible to the people. In 1989, upon returning to the United States after being a guest of honor of Milošević, Ms. Delich-Bentley reported her findings on Yugoslavia, recorded in the Congressional Record, where she stated that there was no repression in Kosovo, and that there were no political prisoners in Yugoslavia—only five or six terrorists in prison. I have spent over ten years dispelling lies such as those and I have every intent in dispelling lies linking fascism with myself or the Croatian Party of Rights.

The Croatian Party of Rights has led the fight to save Croatia from an aggressor, Serbia, which attacked us on our own soil and the world has been agonizingly slow in recognizing this aggression. If we had just stood by as Tudjman ordered us to do, Croatia would no longer exist. I could not advise my party members to not put up a fight while our fellow Croatians were being murdered by the thousands and one third of our land was being stolen. I do not agree with the Tudjman-Milošević-EC solution for Ilok—that is the evacuation of Croatian people and giving the city to Serbia. This same solution of evacuation and handing over territory is proposed for Vukovar and Dubrovnik. We refuse to accept this solution. If it is within our power Vukovar and Dubrovnik will not fall.

I am proud of the members of the Croatian Party of Rights and what we have been able to accomplish in the face of overwhelming odds in this war in which any rational person can instantly see through the manipulations of Tudjman-Milošević and the EC. A quick analysis shows that Tudjman and Mesić are the two top men in the Croatian Democratic Union party (HDZ). Tudjman is the president of the HDZ and therefore Mesić is subordinate to him in their party. On the other hand Mesić is the president of Yugoslavia and therefore Tudjman as the president of Croatia is subordinate to him. In the meantime Tudjman is Commander in Chief of the Croatian army which is at war with the Yugoslav army whose Commander in Chief is Mesić. Milošević though controls the Yugoslav army. Or is it the Yugoslav army that controls Milošević?

How can the world community even consider giving credibility to any of the above mentioned parties by actually endorsing negotiations, conferences and agreements with them? I am not at all surprised that none of the twelve agreements by and between them has held. Is anybody? Is it not time to address the demise of Yugoslavia realistically?

If it had been in my power to peacefully assure Croatia's independence, it would have been, in every case, my first choice. What is currently happening in Croatia is a tragedy for all its citizens, in particular, and for humankind, in general, Serbia is at war to preserve its position of privilege and Croatia is at war fighting for its existence. The Yugoslav experiment is dead and all the former republics need to progress into democracy and rid themselves of the leftover of communism. Serbian claims of Croatia's plans for genocide against Serbs may turn out to be bitterly ironic if the reports of heavy losses among their own troops are true. The only reason Serbs are being killed in Croatia is because they have attacked Croatians on their own soil. Serbian leaders will have a lot to answer to their people for when the true cost of its war of aggression and occupation against Croatia is made clear. All those lives lost, on both sides, and for what—to keep pawns in office who do not have the best interest of their people at heart.

The people of Croatia have expressed their desire to be independent and democratic. I have dedicated my life to human rights which by definition are non-discriminatory. The Croatian Party of Rights is commited to serving the people of Croatia to enable them to achieve this dream of independence with democracy based on fundamental human rights. We welcome the input and help of everyone who is interested in bringing independence, peace, democracy and human dignity to Croatia.

DOBROSLAV PARAGA,
President,
Croatian Party of Rights.

TRIBUTE TO ERVIN O. SCHMIDT

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. KENNEDY. Mr. Speaker, it is my great pleasure to recognize the life of a brave and unique American. Ervin O. Schmidt is the only World War II veteran who was present both at the beginning of the war, when his ship was sunk at Pearl Harbor, and at the end, on the U.S. submarine that sank the last enemy ship.

During Veteran's Day this week, and the 50th anniversary of the bombing of Pearl Harbor next month, it is a time for honoring and remembering all those who gave their lives, or years of their lives, to defending our country. As we honor our veterans during these commemorative ceremonies, it would be difficult to find a veteran whose service was more symbolic than Ervin Schmidt's.

Mr. Schmidt was aboard the U.S.S. *California* at Pearl Harbor, alongside the *Arizona,* when both were sunk on December 7, 1941. He was pulled from the water by a motorized launch, but in the confusion after the attack, he was listed as missing in action. His family held a funeral for him before the report of his survival reached them.

After 4 years of Pacific battles on both surface ships and submarines, he was a member of the hundred or so crew on the U.S.S. *Torsk,* a submarine operating in the Sea of Japan. A truce was imminent, so the *Torsk* sought to avoid further contact with enemy ships. After being pursued, the *Torsk* finally sank its pursuer—the last sinking of the war. Mr. Schmidt was the only man aboard the U.S.S. *Torsk* who had been at Pearl Harbor.

Both before and after the war, Mr. Schmidt's life details many elements of the American dream. He emigrated from Germany with his family in 1923 when he was 7 years old. Ervin grew up on a farm in Wisconsin, worked in the Civilian Conservation Corps in the late 1930's, and then joined the Navy in 1940. He met and married his wife during the war. When the war was over, the Schmidts lived in the Pacific Northwest with their four children. Despite financial hardship, the family went camping every summer, skiied in the winter on Salvation Army skis that cost 50 cents a pair, and remained active in their church and in the Boy Scouts of America for decades. They raised one son to become an Eagle Scout and a Harvard graduate.

Mr. Schmidt is now 75 years old and in good health. He climbed Mount Rainier regularly until the last few years. He remains active in the Submarine Veterans of World War II and in the Pearl Harbor Survivors Association and plans on being in Honolulu in December for the Pearl Harbor Commemoration. His service to his country and his exemplary life stand as a tribute to veterans everywhere.

As part of our Nation's efforts to remember and honor our country's veterans from all wars, I am honored to have the opportunity to recognize Ervin Schmidt and his brave and loyal service to our Nation. I join my colleagues today in saluting Mr. Schmidt and honoring all our American Veterans, on behalf of a grateful Nation. We, as Americans, can never thank them enough for their selfless efforts on behalf of the ideals of freedom and democracy.

UNEMPLOYMENT BILL SHORTCHANGES MANY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Ms. KAPTUR. Mr. Speaker, today the Congress has passed extended unemployment benefits for millions of Americans after two previous Presidential vetoes. As I vote for this bill, however, I am truly outraged that because of White House demands, my own State of Ohio is one of those States that will be severely shortchanged on benefits under this narrow bill. No worker who has fallen off unemployment benefits since March will be covered. Only workers who now drop off benefits can qualify. At one point this summer the unemployment rate in one of the counties in my district reached 10.4 percent. If that unbelievably high percentage was not disturbing enough, the stories I hear from my constituents every week are downright tragic. Many people in my district have been looking for work for months with no luck. It's frankly hard to find a job when factory after factory is closing or laying off workers. There are no jobs whatsoever to be found.

I do not look forward to telling those unemployed workers in my district that have been without work for months that they will not qualify for an additional 6 weeks of benefits. I do not look forward to telling them that unless they were lucky enough to lose their job after the cut off that they will not receive additional benefits. It sickens me that hundreds of men and women in my district that have been waiting for the President to sign a bill since August have waited without gain.

This is the third unemployment compensation bill the Congress has passed since August. The President vetoed the other two bills that would have provided reach-back benefits to people in my district who have fallen off their unemployment benefits since last spring. The accounting trickery that was employed to get the President to finally sign a bill is unfair and cheapens the entire process. The closed-door negotiating that went on to get a bill signed means that those unemployed men and women and their families in my district that have been waiting for additional benefits will suffer tremendously during a time of year that should be joyous.

It was only the national political polls that got this President to finally agree to a bill. He still believes there is no recession. During his recent fundraising swing to several cities in the United States, the political message was clear—Americans are hurting and it's affecting his ranking in the polls. So now we have his bill—albeit too late for thousands of working men and women—to stop the barrage of negative press stories. But, in fact, it is a bill that will provide unemployed workers in my area with only 6 weeks of benefits.

I will vote reluctantly for this weak bill because it is all we have. In the next 9 months at least 70,000 Ohioans can be helped. But thousands will not be helped. My heart goes out to those residents of the Ninth District of Ohio who should but will not receive benefits under this plan. We here in Congress simply do not have sufficient votes to override a Presidential veto and sign a bill that treats all our unemployed workers with decency and compassion.

TIME FOR U.N. ACTION IN YUGOSLAVIA

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. PANETTA. Mr. Speaker, the shelling of Croatia continues. The people of Dubrovnik, shelled repeatedly over the past 2 weeks, have been deprived of food, water, and medicine for 43 days. Vukovar has endured months of constant and lethal bombardment. Dubrovnik's centuries-old and world-renowned historic sites are bombed daily. We can no longer ignore the facts of the situation: the Serb-dominated federal army and Serb querillas will not halt their attacks on Croatia until they are faced with serious material reprisal.

Mr. Speaker, I implore the President to take this matter before the United Nations Security Council to urge its adoption of trade sanctions against Serbia, including a ban on oil exports to Serbia, pending that republic's acceptance of a permanent and enforceable cease-fire and negotiations toward a resolution of the conflict. The President ought to take this opportunity to make a strong declaration of the United States' categorical opposition to the federal army's sieges and shelling of Croatia's border cities. He should underscore that declaration by committing the resources of the only superpower in the world to the resolution of the Serb-Croat conflict, the imposition of an enforced cease-fire backed by United Nations peacekeeping forces and the immediate provision of relief to Dubrovnik and Vukovar, protected—if necessary—by peacekeeping forces of a United Nations coalition.

We are hundreds of lives too late, Mr. Speaker, and every day of inaction on the part of the Bush administration adds to the toll. I would urge my colleagues to join me in pressing the administration to act quickly with the concurrence of the European Community, and I strongly urge the President to bring this crisis before the United Nations Security Council, immediately.

INTRODUCTION OF LEGISLATION CLOSING TAX LOOPHOLES AFFECTING THE MOTION PICTURE INDUSTRY

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. DONNELLY. Mr. Speaker, on June 25, I introduced H.R. 2748, legislation designed to close two tax loopholes affecting the movie industry. At the time, I said that the motion picture industry has benefited from tax breaks available to no other taxpayer, and that it is time to put an end to these loopholes for multimillion dollar corporations.

Since the introduction of this legislation, I have been informed that the motion picture industry has already discovered new loopholes they could take advantage of if H.R. 4748 were enacted. Today, I am introducing legislation which ends these new loopholes as well.

As I said on June 25, we have an obligation to our constituents to assure tax fairness. My new legislation takes an important step in that direction, and I urge support for it.

A technical description of my legislation is attached:

TECHNICAL DESCRIPTION OF LEGISLATION CLOSING TAX LOOPHOLES AFFECTING MOTION PICTURE INDUSTRY

SECTION 1. RECOMPUTATION OF DEPRECIATION DETERMINED UNDER INCOME FORECAST METHOD

Present Law

Taxpayers may claim depreciation deductions for the costs of assets used in a trade or business or for the production of income. In general, the costs of producing intangible assets (such as a film or videotape) may not be depreciated using accelerated methods of depreciation.

The Internal Revenue Service has ruled that films and videotapes may be depreciated using the "income forecast" method of depreciation (see, e.g., Rev. Rul. 60–358, 1960–2 CB 68, amplified by Rev. Rul. 64–273, 1964–2 CB 62). The Courts have generally upheld this depreciation method (see, e.g., *Abramson* v. *Commissioner*, 86 TC 360).

Under the income forecast method of depreciation, the cost of producing an intangible asset is multiplied by a fraction, the numerator of which is the income for the year from the asset, and the denominator of which is the total income estimated to be derived from the asset.

In 1971, the Internal Revenue Service ruled that the estimate of income from a television series or a film made for television released after 1970 does not have to include any estimated income from domestic syndication of the series or film. (Rev. Proc. 71–29, 1971–2 CB 568).

If a taxpayer (such as a motion picture producer) under-estimates total income, or is not required to include in the estimate of total income future royalty payments, depreciation deductions are artificially high. This, in turn, creates a mis-matching of income and expense.

Present law does not contain a recapture or look-back method for the income forecast method of depreciation.

Explanation of Proposal

Under the bill, taxpayers determining a depreciation deduction for films using the income forecast method of depreciation would be required to include income from subsequent television exhibition or syndication of a film in the estimate of total income. Thus, the bill is intended to overrule Rev. Proc. 71–29. In addition, taxpayers claiming a depreciation deduction calculated by using the income forecast method of depreciation would be required to pay (or would receive) interest based on a look-back or recalculation of depreciation.

The look-back method would be applied in any "recomputation year" by comparing depreciation deductions which would have been claimed using the actual income from the property plus estimated future income from the property, determining the underpayment or overpayment of tax, and applying the overpayment rate of section 6221 of the Internal Revenue Code.

The term "recomputation year" means the third taxable year after the property is placed in service and any subsequent year if the actual income from the property exceeds the sum of the estimate of future income used in the prior recomputation year plus 5% of the actual income used in such prior year.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1991.

SECTION 2. TREATMENT OF CERTAIN ROYALTY PAYMENTS UNDER SUBPART F OF THE INTERNAL REVENUE CODE OF 1986

Present Law

The United States exerts jurisdiction to tax all income, whether derived in the U.S. or elsewhere, of U.S. citizens, residents, and corporations. In the case of income earned by a U.S.-owned foreign corporation, no tax is generally imposed until the income is distributed to U.S. shareholders. This principle of deferral does not apply, however, to "subpart F" income.

Subpart F income is generally passive income of a controlled foreign corporation, and is taxed currently to U.S. shareholders (regardless of whether it is distributed). Subpart F income includes foreign base company income, which in turn includes foreign personal holding company income.

Foreign personal holding company income includes dividends, interest, rents, royalties, and annuities. However, rents and royalties derived by the taxpayer in the active conduct of a trade or business, received by a person not related to the controlled foreign corporation, are not treated as foreign personal holding company income. Thus, under present law, rents or royalties earned from the active conduct of a trade or business are not subpart F income, and are not subject to current U.S. taxation until the income is repatriated to U.S. shareholders.

Under current law, it may be possible for a controlled foreign corporation (CFC) to avoid current U.S. taxation by conducting business in a country outside of the country under the laws of which the CFC is controlled or organized. An example might include a corporation established in the Netherland Antilles to control European distribution rights to a movie produced by a U.S. motion picture company. Royalties earned by such a corporation in France, for example, would escape U.S. taxation unless and until the income was repatriated to U.S. shareholders.

Explanation of Proposal

Under the bill, only "same country rents and royalties" derived in the active conduct of a trade or business would be excluded from the definition of foreign personal holding company income. A rent or royalty would only be "same country" rents or royalties if it was derived from property not developed or produced by, or acquired from, a related person outside the country in which the CFC is organized, or received by the CFC for the use of such property within the country of organization.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1991.

LAWMAKERS ABOVE THE LAW

HON. SCOTT L. KLUG

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. KLUG. Mr. Speaker, Milton Freedman wrote several years ago about the lie of equality in the Communist nations. He said:

> Russia is a country of two nations: a small privileged upper class of bureaucrats . . . and a great mass of people. China, too, is a nation with wide differences.

Though he was writing about societies far away, he could have been writing about one as close to home as Capitol Hill, because we've also set ourselves up as the lawmakers above the law. We have made ourselves a privileged class, both exempt from the laws which we impose on the Nation, and deaf to the Nation's appeals for reform. Within the last 5 legislative days we have passed two major pieces of social legislation, the Civil Rights Restoration Act and the Family and Medical Leave Act. Despite the very high-minded rhetoric that accompanied passage of both bills, we just say no when it comes to putting ourselves under their provisions. We say that what's good for the goose isn't quite so good for the gander. The American people are sick of it and they should be.

Mr. Speaker, I'm introducing a bill today which would take a bite out of the congressional gander's privilege. It's a bill which will place Congress and the judicial branch squarely under title VII of the Civil Rights Act, and give congressional and judicial employees the same guarantees against workplace discrimination and harassment that other American workers have. The Congressional and Judicial Equal Employment Opportunity Act isn't new. It's been introduced in each of the last three Congresses. I hope that this Congress, the 102d, will have the integrity to do what previous Congresses have not done, and pass this legislation. Let's practice what we preach.

INTRODUCTION OF LEGISLATION AMENDING THE AIRPORT NOISE AND CAPACITY ACT OF 1990

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. ENGEL. Mr. Speaker, today I am introducing legislation in response to the Federal Aviation Administration's September 25 ruling on aircraft noise and access restrictions. The FAA's final rule established a Federal program for reviewing airport noise and access restrictions on the operations of stage 2 and stage 3 aircraft, disregarding basic local jurisdictional rights on quality of life and noise abatement issues.

The FAA rulings came as a result of specific provisions in the Airport Noise and Capacity Act of 1990 and is a major element of the national aviation noise policy required by that statute. Unfortunately, the Administration's pronouncement is a misguided effort that will result in many sleepless nights for thousands of Americans.

My legislation will amend the Airport Noise and Capacity Act of 1990 to exempt noise and access restrictions on aircraft operations to and from metropolitan airports from the new Federal Review and Approval Program. This change in the program's application will allow local officials to adopt stricter noise abatement policies and oversee a faster phaseout of noisy stage 2 aircraft than the FAA mandates. However, in instances where local metropolitan airport and airline officials attempt to relax noise abatement and access restrictions, the FAA guidelines and phaseout time table must be followed. This provision will protect local citizens' rights from unfair contracts between airport and airline officials.

By waiving metropolitan areas from the FAA review process, we are allowing localities to decide what noise abatement policy is best for them. The bill opens the doors and empowers local citizens to speak out and participate in the local policymaking process, rather than being spoon-fed the noise abatement policies that the Administration is trying to sell.

My legislation is specifically addressed to apply to metropolitan areas for two reasons: First, urban areas are serviced by a greater amount of air traffic and are, therefore, subject to a larger noise abatement problem; and second, urban areas have a significant concentration of people and, therefore, deafening localized airplane noise pollution affects the daily lives of millions of people.

In addition, the bill contains assurances that operations of aircraft which do not comply with stage 3 noise levels will not be concentrated at one or more nonmetropolitan airports. Simply, this provision will prevent airlines from taking the stage 2 aircraft assigned to metropolitan airports and transfer and concentrate them in a few nonurban aircraft facilities.

Finally, the legislation contains a provision which will prohibit local airport officials from collecting a passenger facility charge or receiving grant monies authorized by the Airport and Airway Improvement Act of 1982 if they do not comply with the revised Aircraft Noise and Access Restriction Program.

I invite my colleagues to cosponsor this critical piece of legislation. Federal regulators cannot be allowed to infringe on the rights of localities to control quality of life and noise pollution ordinances.

ACCOUNTING CHANGE FOR PERSONAL SERVICE CORPORATIONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. STARK. Mr. Speaker, today I rise to introduce a bill which makes an accounting change to the Internal Revenue Code to permit certain accrual method, calendar year personal service corporations [PSC's] to currently deduct the last regular periodic compensation payable to employee-owners.

Under current law, accrual method corporations are entitled to deduct compensation for services performed during the year, if the compensation is paid no later than 2½ months following the end of the corporation's taxable year. However, accrual method personal service corporations [PSC's] may currently deduct accrued compensation payable to employee-owners only if such compensation is paid prior to the end of the corporation's taxable year. Employee-owners include all employees who own any stock of the corporation.

Current law was enacted to prevent owners of a flow-through entity such as a partnership from manipulating their income to get the benefit of a deduction at the entity level in 1 year while deferring income on their individual tax returns until the following year.

The impact of current law goes far beyond deterring manipulation by owners in control. Employees owning even one share of stock in a widely held personal service corporation can cause the loss of a current deduction for compensation earned by those employees at the end of the year. Clearly, any PSC with employee-owners who do not own a controlling amount of stock should not be penalized with the loss of a normal accrual accounting deduction.

The Department of the Treasury reviewed this issue at a hearing before the Select Revenue Measures Subcommittee of the Committee on Ways and Means on October 12, 1989. According to the testimony presented by Assistant Secretary Kenneth W. Gideon:

> The administration does not object to allowing accrual method PSC's to currently deduct the last semi-monthly (or biweekly) payment of regular periodic compensation payable to employee-owners, even though such payment is made following the end of the PSC's taxable year. The small amount of deferral that would be allowed by such a change would not undermine the purpose for the general limitation on deductions for accrued but unpaid compensation payable to employee-owners.

Mr. Speaker, it is my hope that this accounting anomaly can be corrected without delay.

The text of my bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION BY PERSONAL SERVICE CORPORATION OF CERTAIN ACCRUED YEAR-END COMPENSATION PAYABLE TO OWNER-EMPLOYEES.

(a) IN GENERAL.—Section 267 of the Internal Revenue Code of 1986 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by adding at the end thereof the following new subsection:

"(h) YEAR-END REGULAR COMPENSATION PAID TO OWNER-EMPLOYEES OF PERSONAL SERVICE CORPORATION.—

"(1) IN GENERAL.—In the case of a qualified personal service corporation, the last sentence of subsection (a)(2) shall not apply to qualified compensation to be paid by such corporation to any employee who is not a key employee (as defined in section 416(i)).

"(2) QUALIFIED COMPENSATION.—For purposes of paragraph (1), the term 'qualified compensation' means compensation payable to an employee for his payroll period ending at the close of such corporation's taxable year if—

"(A) such payroll period is a semi-monthly or shorter period,

"(B) such employee is regularly paid on the basis of semi-monthly or shorter payroll periods, and

"(C) such compensation is solely for hours of service performed or is such payroll period's ratable share of such employee's annual basic rate of compensation.

"(3) QUALIFIED PERSONAL SERVICE CORPORATION.—For purposes of paragraph (1), the term 'qualified personal service corporation' means any personal service corporation (within the meaning of section 441(1)(1)) using an accrual method of accounting for its last taxable year ending before the date of the enactment of this subsection."

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1990.

AIDS CAN HAPPEN TO ANYONE

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. JOHNSON of South Dakota. Mr. Speaker, AIDS is a killer that has ruthlessly struck time and again and has claimed the lives of thousands of Americans. With each death I fear many people become a little more desensitized: Most people cannot relate to the passing of a person they do not know with anything more than just a distant regret. AIDS-related deaths are even more distant because it is commonly perceived as a disease that mainly strikes gays and drug users. The deaths just become statistics which have no direct bearing on our daily lives.

Now, Mr. Speaker, we have a common friend who has fallen victim to the HIV virus which causes AIDS. Earvin "Magic" Johnson has come to be viewed as a hero to kids and adults around the world. He is given credit for being one of the stars of the NBA who brought professional basketball to its current level of popularity. To Laker fans he was the key to their ascension to seven finals and five world titles over the last 12 years. Countless numbers of individuals were touched by his work off the court with various charities, disadvantaged children, and the United Negro College Fund.

In typical fashion, Magic Johnson will not let this disease stop him from doing anything he wants to do. He will probably continue on in some capacity with basketball, hopefully even going on to realize his dream of owning an NBA team. He will certainly go on to become a very visible and vocal spokesman for AIDS prevention. But maybe the brightest silver lining in this very dark cloud is this: Suddenly the emotional pain that is part of this disease has new meaning to people all over the world. We have learned it can happen to anybody. We have learned to feel compassion for others who are likewise afflicted because we have now learned how it feels when it happens to a friend.

IN HONOR OF THE INAUGURATION OF ASIANA AIRLINES SCHEDULED SERVICE BETWEEN LOS ANGELES AND SEOUL, KOREA

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. LEVINE of California. Mr. Speaker, I rise today to extend my heartiest congratulations to Mr. In Sung Kwang of Asiana Airlines and to Mr. Seong Yawng Park of the Kumho Business Group on the occasion of the inauguration of Asian Airlines scheduled service between Los Angeles and Seoul, Korea.

As a member of the southern California congressional delegation, it is my honor to welcome Asiana Airlines to Los Angeles, its first U.S. destination point. I am certain that the introduction of Asiana Airlines to the United States will be invaluable to the promotion of stronger cultural and economic ties between the United States and Korea. We are fortunate to have this organization as the harbinger of an age of increased cultural sensitivity and awareness.

As the 21st century approaches, the importance of strong relations between the United States and the Pacific rim countries becomes increasingly evident. Since its inception in 1988, Asiana Airlines has looked toward the future with a steadily increasing fleet of advanced aircraft and extension of its routes. The airline maintains the highest standards of safety and customer service, and will clearly be one of the leading airlines of the Asia-Pacific region in the next century.

It is my pleasure to ask my colleagues to join me in congratulating Asiana Airlines and its parent company, the Kumho Business Group, on the successful extension of their international routes, and to send best wishes for continued success.

A CONGRESSIONAL SALUTE TO MOBILE OIL CORP.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. ANDERSON. Mr. Speaker, on November 15, 1991, the Harbor Association of Industry and Commerce will present the "Salute to Industry" Award to Mobile Oil Corp. It is with great pleasure that I rise today to pay tribute to this renowned corporation.

Mobil Corp. is one of the largest industrial companies in the world; employing over 68,000 people and conducting business in more than 100 countries. In 1989, the company had earnings of $1,809 million on revenues of more than $56 billion and has paid an annual dividend for the past 87 years.

Mobil can trace its origins to the Vacuum Oil Co., which was founded in 1866 by Hiram Bond Everest and Matthew P. Ewing. Another predecessor, Standard Oil Co. of New York [Socony], was established in 1882. The two companies merged in 1931 to form Socony-Vacuum Corp., which became Socony-Vacuum Oil Co. in 1934, and Socony Mobil Oil Co. in 1955. During the corporation's centennial celebration in 1966, the name was changed to Mobil Oil Corp. Mobil Corp. was formed in 1976 as a holding company for Mobil Oil Corp. and the newly acquired Marcor, Inc.

Mobil's vast business concerns are guided by a strong corporate environmental policy. This policy was established in 1956, a full 14 years before the birth of the U.S. Environmental Protection Agency. Today over 650 professional employees work full-time on environmental, health, and safety activities. The corporation has spent more than $780 million worldwide to help protect and improve the environment. They hold annual Environmental, Health, and Safety Compliance Reviews to provide senior management overview and input. In addition, each of Mobil's operating divisions conducts audits of its own operations. They test and screen raw materials, processes, and products through a state-of-the-art Environmental and Health Sciences Laboratory to ensure that they are safe for handling and use by employees and customers.

Mobil's wide range of interests, Mobil Chemical Co., Mobil's Mining and Minerals Division, and Mobil's Research and Engineering Division, are surpassed only by the cultural activities they sponsor locally and nationally. Their grants make possible the award winning Masterpiece Theatre, Mystery television series, and other PBS quality programs. They support museum exhibits, free concerts, and youth job and sports programs. Most recently, they sponsored the USA/Mobil Indoor and Outdoor Track and Field Championships, the USA/Mobil Grand Prix, the Mobil 1 Invitational at George Mason University, the international IAAF Mobil Grand Prix, and the Mobil Cotton Bowl Classic. The Mobil Foundation, Inc., supports select tax-exempt hospitals, health agencies, and environmental, educational, civic, art, and cultural organizations.

My wife, Lee, joins me in congratulating this worthy recipient for its outstanding service and significant economic contribution to our community and the world.

PEARL HARBOR COMMEMORATIVE MEDAL

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. CLINGER. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to the 32 recipients of the Pearl Harbor Commemorative Medal that live in the 23d Congressional District of Pennsylvania.

Created last November, this award honors the military veterans of Pearl Harbor and civilians who were wounded during the attack. The award is given in conjunction with the 50th anniversary of Pearl Harbor and each of the recipients has been invited to the Pearl Harbor Survivors ceremony to be held in Hawaii this December.

Throughout our Nation's history, Pennsylvania has proudly answered the call to protect our homeland as well as our interests abroad. On December 7, 1941, a day President Roosevelt proclaimed would "live in infamy," over 700 Pennsylvania servicemen were stationed at Pearl Harbor. They exemplified a tradition of military service and patriotism among Pennsylvanians that has continued ever since and was most recently seen during Operation Desert Storm.

I am especially proud of the 32 servicemen in my congressional district. Representing all four branches of the military, these men fought valiantly as they joined our Nation's long list of military heroes. They certainly deserve the honor this commemorative medal represents. My hat is off to these individuals and their families and I am pleased to see that they are being recognized on this 50th anniversary for their honorable service to the United States.

PRESENTATION OF CONGRESSIONAL ARTS CAUCUS AWARD TO ACCLAIMED FILM DIRECTOR MARTIN SCORSESE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. WEISS. Mr. Speaker, it was truly an honor today to pay tribute today to one of this country's greatest artists and without doubt one of the most outstanding filmmakers of all time, Martin Scorsese. Anyone who has seen Mr. Scorsese's films—including professional critics and certainly general audiences—recognizes his dazzling technique and the artistry of his productions, from "Taxi Driver" to "Raging Bull" to "Goodfellas" to, we expect, his latest film "Cape Fear."

But Martin Scorsese's films are more than accomplishments in film art. They speak to the very essence of good and evil, to the inner workings of men's souls, and to the myths and realities of the American dream.

In presenting this arts caucus award to Martin Scorsese, we honored not only an extraordinary filmmaker, but an artist who has held to his vision and has focused attention on the preservation and protection of films as the surest representations of our culture and our time.

Mr. Speaker, the Arts Caucus was also delighted to welcome to the caucus the leaders of the American Film institute [AFI], including its fine Director Jean Firstenberg and chairman of the board Gene Jankowski. The AFI—which has begun preparations for the celebration of its 25th anniversary next year—is the only national cultural organization devoted to the art of film and television. Its outstanding programs and activities over the past quarter of a century have played a significant and important role in preserving the heritage of film and television, identifying and training new talent and increasing recognition and understanding of the moving image as an art form—I might add, one of America's most important art forms.

At a press conference this afternoon, I was pleased to join with Senator JEFFORDS, Mr. Scorsese, Ms. Firstenberg and Mr. Jankowski in announcing the final passage of a House and Senate concurrent resolution marking the 100th anniversary of film. The House version, House Concurrent Resolution 161, had garnered 216 House cosponsors and was passed this past Tuesday, November 12. It is particularly meaningful that passage of the legislation coincided with the presentation of the arts caucus award to Martin Scorsese—an American filmmaker who, like other American filmmakers before him, has simply transformed the art of the motion picture.

The resolution acknowledges that movies are a distinctly American innovation and a treasured American art form. The art and science of motion pictures was developed through the work of numerous creators in the United States—including Thomas Edison—and was perfected through many American inventions. Today, motion pictures are our finest ambassadors to the world, conveying values, beliefs, styles and attitudes.

The resolution calls for exhibitions, festivals, educational programs and other forms of observance for the 100th anniversary celebration to be held in 1993 and calls on the Nation's media arts centers to have a leadership role in coordinating these activities and other related events.

REUSE AMERICA'S INDUSTRIAL MANUFACTURING FACILITIES ACT OF 1991

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. VISCLOSKY. Mr. Speaker, industrial manufacturing facilities have been abandoned throughout the United States as a result of changes in the marketplace, new technologies, environmental concerns, and bankruptcies. From my congressional district in northwest Indiana, to the northeast and the south, facilities sit empty where once thousands of Americans worked. Today, I am introducing the Reuse America's Industrial Manufacturing Facilities Act so we may begin to breath new life into these empty buildings which could be reused for new enterprises, creating badly needed jobs, and contributing tax revenues.

Currently, instead of reusing old facilities, many of which are located in the center of communities, new ones are built in outlying areas because of concerns that include environmental cleanup and retrofitting. Idled facilities are looked upon as waste, rather than as a national resource which should be tapped.

Numerous obstacles impede reuse, however, and these should be identified and addressed. The legislation I offer today would require the Department of Commerce to study methods for encouraging reuse of industrial buildings, and report its findings to Congress within 18 months. I hope my colleagues will join me in this effort that will put people back to work, clean up our environment, and reduce the demands on our transportation systems.

TRIBUTE TO OKITAMI KOMADA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. MATSUI. Mr. Speaker, I rise today to salute Mr. Okitami Komada who this year will be honored by the Asian Business League of southern California as the 1991 Outstanding Business Person of the Year.

Mr. Komada is president and chief executive officer of Mitsui Fudosan (U.S.A.), Inc., a wholly owned subsidiary of Mitsui Real Estate Development Co., Ltd. He is currently overseeing the completion of the $200 million, 52 story Figueroa at Wilshire Tower, which is 82 percent leased and will become the Western headquarters of Mitsui Fudosan (U.S.A.), Inc. in March 1991. Other downtown Los Angeles projects include the AT&T Center at 611 West Sixth Street and the hotel development site for the Halekulani/Los Angeles at Eighth and Figueroa.

Running a succesful corporation is always a challenge. Business men and women shoulder awesome responsibility: they strive to maintain a successful business; keep their employees happy and productive; comply with burdensome governmental regulations and paperwork; stay ahead of their competition; and provide leadership for their community. Mr. Komada has not only met these challenges, but has far surpassed them.

In addition to his many professional achievements, Mr. Komada has been involved in numerous civic organizations. In 1989–90 as chairman, Mr. Komada pioneered the first fund raising campaign of the Japan Division of the United Way. He currently serves on the boards of the United Way, the Central City Association, and the UCLA Urban Council.

Mr. Speaker, it is truly an honor to salute the many accomplishments of Mr. Okitami Komada. I ask my colleagues to join me in congratulating him on his award and in wishing him many years of continued success.

FAMILY AND MEDICAL LEAVE ACT, H.R. 2

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. DICKS. Mr. Speaker, on Wednesday, November 13, I was unavoidably detained and unable to reach the House floor to cast my vote on final passage of H.R. 2, the Family and Medical Leave Act. I strongly supported this legislation, and if I had been present I would have voted "aye" on passage.

OPPOSE UNLIMITED, UNREPORTED HONORARIA TO STAFF

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. KANJORSKI. Mr. Speaker, in the very near future the House is expected to consider, under the suspension of the rules, H.R. 3341, a bill to allow the acceptance of an unlimited amount of money in honoraria by the overwhelming majority of employees of all three branches of the Government, including the staff in each of our own congressional offices.

I urge my colleagues to vote against this bill as it is now drafted.

In its current form, H.R. 3341 has several serious shortcomings. There is no limit on the amount of honoraria an employee may receive. There is abolutely no disclosure requirement for the vast majority of Government employees, including most congressional staff.

Rushing H.R. 3341 through on suspension may be a disaster waiting to happen—a disaster which is easily avoidable by fine tuning the bill. If considered under normal procedures, rather than under suspension, I intend to offer amendments to incorporate important safeguards against abuse.

There are a number of problems with H.R. 3341. To begin with it lifts the current prohibition on the acceptance of honoraria by Federal employees without establishing any overall cap. The only limitation is a $2,000 per event maximum; however, a Federal employee may receive an unlimited number of honoraria checks for $2,000 during a calendar year.

While it is true that the outside earned income of senior Federal officials is limited, under separate statute, to 15 percent of the rate of pay of an executive level II employee—approximately $18,645—there is no limitation on the maximum amount of honoraria which the overwhelming majority of employees of all three branches of the Government may receive in honoraria, including the staff of each and every Member of this body.

I propose capping the maximum amount of honoraria that any employee may receive at $18,645, or 15 percent of the rate of pay of an executive level II employee.

Another problem with H.R. 3341 is that it does not require disclosure of the receipt of large amounts of money in honoraria. I strongly believe that lifting the ban on honoraria for employees should be coupled with an honoraria disclosure requirement for any employee who receives large amounts of money in honoraria during a year. H.R. 3341 contains no honoraria disclosure requirement—except for senior Federal employees who already must file a financial disclosure statement.

I recognize that in most instances the amount of money received by Federal employees in honoraria is small. Under the amendment I would propose, the Federal employee who receives a small payment for a speech to the local garden club would not be required to file any sort of disclosure.

My amendment would require disclosure of aggregate honoraria receipts over $500 during a calendar year; however, honoraria payments of less than $200 would not count toward the $500 threshold. As such, my amendments would not create an unnecessary or undue burden upon either the Government or most employees.

Without the safeguards I propose—capping total honoraria receipts and requiring public disclosure when an employee accepts significant amounts of money in honoraria—the adoption of this legislation could further fuel the public perpception that special interests are using money to obtain special treatment.

H.R. 3341 allows congressional staff and the staffs of sensitive executive agencies like the FBI, the Justice Department, and the IRS, as well as other Federal employees, to receive virtually unlimited amounts of money in honoraria payments. As such, it has the potential to further undermine the already low public inspection of the Congress and the Federal Government.

Mr. Speaker, without changes, H.R. 3341 has the potential to create serious new perception problems for every Member of Congress. Remember our recent experience with the check cashing problems at the House bank. Most Members had sufficient funds to cover all their checks; nevertheless, we were all smeared by the media's treatment of the problem.

If you think that was a problem, just wait until it is revealed that some staffer in someone else's office received huge sums of money in honoraria. There will be a backlash that we will all feel.

Some may argue that if we do not want members of our staffs to accept honoraria, all we need to do is individually adopt office policies which prohibits its acceptance. There are several problems with this. First, if we do not require honoraria disclosure, individual Members may never know, until it is too late, that their staff is receiving honoraria. Second, it is not clear to me that we may appropriately limit lawful independent activities of our staff. This is exactly the type of limitation which has resulted in Congress being referred to as the "last plantation."

Unless we make the kinds of modifications I propose to H.R. 3341, we will be inviting future problems, at the very least in terms of public perceptions. Unfortunately, if the bill is brought up under suspension, the only way these necessary changes may be made to H.R. 3341 will be to defeat it in its entirety.

It has been argued that Federal employees were inadvertently included in the honoraria ban. In addressing that problem, let us make sure that we do not inadvertently create new problems which we will undoubtedly regret in the future.

Mr. Speaker, I urge my colleagues to join me in modifying H.R. 3341 and to ensure that the House does not act capriciously on this time bomb waiting to explode.

NOW IS THE TIME FOR DAIRY LEGISLATION

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. RIDGE. Mr. Speaker, I rise today to express my concern over the lack of dairy assistance that my farmers need. On two occasions H.R. 2837, the Milk Management Inventory Act, has been introduced to the House of Representatives and on two occasions it has died. I support passage of an equitable plan that guarantees long-term price relief based on market factors. Such passage is essential to the health of Pennsylvania's dairy industry.

No longer can Pennsylvania, the fifth largest milk producing State in the Nation, continue to exist under present conditions. There are 13,200 dairy farms within the Commonwealth. The families that live on these farms produce 7 percent of our Nation's milk. It is high time that we take a holistic approach and move forward in assisting our hard working farmers. Yes, the basic market price of milk has increased this summer. Yes, prices have increased some this fall. And yes, prices are certain to plunge again next spring, devastating more family dairy farms.

Many of my colleagues have worked hard toward constructing a bill that is acceptable to dairy producers, farmers and consumers. It is time for Congress and the administration to find the elusive common ground that will ensure our farmers a fair market price for the products which they produce.

CARLEEN BATSON WALLER—A LIFETIME OF SERVICE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. CLEMENT. Mr. Speaker, I rise today to pay tribute to Carleen Batson Waller—a lady whose dedication and service to her family, church, community and society warrant special praise and recognition.

A Nashville, TN, native, Carleen Waller attended West End High School and graduated from Vanderbilt University. She has spent her entire life selflessly devoting her time and energy to involvement in community, civic and political affairs. Her service has enriched our community, and made Nashville a better place to live and work.

Carleen's involvement with Belmont United Methodist Church and various church-related and Christian organizations has been exemplary. She has served as district president and vice-president of the Womens' Society of Christian Service. She served as president of the Tennessee Conference of United Methodist Women and in a variety of church-related offices and organizations. She also served on the board of directors of the Bethlehem Center, Wesley House centers and United Methodist Neighborhood centers.

Additionally, Carleen has served as a delegate to both the general and national United Methodist Conferences. She served 4 years as president of Church Women United in Nashville.

In 1976 Carleen became the first woman ever appointed to serve on the Metropolitan Development and Housing Agency [MDHA] in Nashville. In 1978 she became the first woman to chair the agency, and the first woman to chair any major metropolitan agency or commission in Nashville, a position she still holds today.

Under Carleen's guidance and direction, MDHA has become one of the finest public housing agencies in the United States. Through her efforts, MDHA has managed to develop excellent public housing programs throughout the metropolitan area that have become role models for programs throughout the country. MDHA has been honored as the best housing agency for a city its size in the United States, in large part due to the guidance and efforts of Carleen Waller.

She is a charter member of the Board of Directors of Affordable Housing of Nashville, Inc., and its present vice-chair. She is a member of the Center City Committee, Metro Arts Commission, Nashville area HUD Advisory Council, a graduate of Leadership Nashville, the State Legislative Chairperson of the Business and Professional Women and a member of the Women's Political Caucus.

Her past activities include serving as president or member of four community center boards, founding member of the Women's Campaign Fund and participant in five national Democratic conventions.

Mr. Speaker, when it comes to the word involvement, in Nashville you automatically think of Carleen Waller. This great lady is a humanitarian, public servant, Christian leader, family woman and a role model.

Carleen is presently experiencing some medical problems and I want to take this opportunity to wish her and her family my best wishes. I ask my colleagues in the U.S. House of Representatives to include Carleen in their prayers. Her record of public service and commitment to our city, State and Nation is one we should all view with admiration.

TRIBUTE TO TUSCALOOSA ACADEMY FOR 25 YEARS OF EDUCATIONAL EXCELLENCE

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 1991

Mr. HARRIS. Mr. Speaker, today, I wish to congratulate Tuscaloosa Academy in Tuscaloosa, AL, on their 25th anniversary year. Tuscaloosa Academy was founded in 1966 as a college preparatory school with the purpose of providing quality education for the children and youth of Tuscaloosa.

Tuscaloosa Academy is located on a 33-acre site near the Black Warrior River, north of downtown Tuscaloosa. The modern physical plant was completed in 1972 and now includes classrooms, an assembly hall, two computer science labs, a gymnasium, administrative offices, music and art studios, two science labs, a bookstore, a stadium, a fieldhouse, and baseball, soccer, and football fields.

For 25 years it has been the desire of Tuscaloosa Academy to provide its students with a platform on which to build individual character, responsible citizenship, the desire for knowledge, and sound moral values.

The academy combines a stimulating atmosphere with emphasis on academics as well as extracurricular activities to create a well-rounded student. The academy presently has an enrollment of 465 students with a student/teacher ratio of 12 to 1. For the second year in a row, Tuscaloosa Academy has won the Excellence in Education Award presented by the Alabama independent school association. Also, on this, their 25th anniversary, Tuscaloosa Academy's athletic program has brought home State championships in basketball and tennis.

I want to recognize the leadership of headmaster, Dr. Robert E. Dowda, for providing a place where teachers and their students can thrive. I commend Tuscaloosa Academy on their 25th year of educating the youth in Tuscaloosa, AL.

HOUSE OF REPRESENTATIVES—*Friday, November 15, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, remind us that while our lives are made up of the scurrying and flurry that afflict every person, help us to see the clear differences between the important and necessary and the passing and the transient. Teach us to do the tasks that need to be done, but also enable us to see what truly is lasting and those eternal values that make us human. Whatever our situations, O God, may we see the power of faith, the necessity of hope, and the perfection of love. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas [Mr. GONZALEZ] please come forward and lead the House in the Pledge of Allegiance.

Mr. GONZALEZ led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REPORT ON CURRENT ACTIVITIES OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Mr. SPEAKER. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I am here in continuation of a pledge I made at the beginning of the session, in January 1989, when I had been elected as chairman of the Banking Committee. I promised then to report to the full membership periodically as to the intents, purposes, and actions of that committee. I want to report on where we are after last night's vote on the Federal Deposit Insurance Corporation's refinancing and reform.

There are some who believe that what went on last night was something disorderly and unpleasant, and I want to say to my colleagues that I for one was very happy and am very happy this morning, because what it means to me is that the full, open, democratic processes, untrammeled by any authoritative mandate, saw its play in full force in this great assembly known as the U.S. House of Representatives.

I point to the closeness of the issue and the vote, for example. We had gone to the Rules Committee just 2 days before or the day before and had requested a rule on a bill that had been abbreviated somewhat from the one that had been defeated last week. The Rules Committee in its wisdom amended the actions of the Banking Committee, which had approved the shortened form. But it is not so short. There are inaccuracies in designating some of these efforts.

As a matter of fact, I will just say by explanation that what has been labeled rather loosely and inaccurately as a narrow bill is one that, had the Committee on Banking 10 years ago acted on it and passed it out of the committee—forget about going to the House—would have been at that time considered a major achievement on the part of the Banking Committee. But, of course, we are living in different times and under different circumstances.

I say that I am proud because everybody has had a full say. Members of the committee and nonmembers of the committee have all had open debate. We had only those circumspections that the Rules Committee in its wisdom in granting the particular kind of rule to govern the debate saw fit to give us.

Mr. Speaker, the forum we have is our committee, known as the Committee on Banking, Finance and Urban Affairs, and it is a committee that is numerous in membership. It is a 52-member committee. When I try to explain this to businessmen, to bankers, or to ordinary citizens, they seem to be puzzled, and they ask, "How can you ever get anything done?"

My explanation is this: I say, "You have to put it in perspective. You have to imagine that I am presiding over half of the U.S. Senate, plus two." Then everybody smiles and says, "I get you."

Well, I am proud of the committee. I am proud of every one of its members, majority and minority. They have been faced with problems that have accumulated unperceived, apparently unperceived, but some of us who have been on this committee for 30 years have foreseen problems, and we have forwarned. We are on record. But it is no satisfaction to say, "Well, I told you so." That has never been any satisfaction to me. But we also realize that unless one is considered infallible, it is difficult to say, "Hey, look, I'm the only one that is right. I am predicting that this is going to happen. Beware."

It takes time. There is not a citizen of the United States up until very recently who did not go along with the thesis that everything was fine, despite the massive accumulation of debt in the private sector; that is, among us, just the people, the most massive accumulation of debt ever in the corporate world, the greatest massive corporate debt in the history of any country or combination of countries, and then the governmental debt, the most massive, incredible debt that one would ever believe.

And yet, what power, what voice could have arisen to warn us, like the prophets of old coming out of the desert, like Nathan the Prophet warning King David and reminding him of his sins? Why, it is impossible. We live in a day and time in which it seems that unless we are immersed in the midst of a big crisis, there seems to be no reaction.

Those of us who have had this great privilege of representation in various capacities—in my case, from the lowest legislative level to the State legislature and then to the National Legislature in 30 years—realize that this process is a great one. It works. As long as there is no elbowing and shoving and pushing, it works.

What we saw last night was, for instance, a vote on a very substantial amendment. In fact, it was the only really substantial amendment that the Rules Committee allowed, the so-called Wylie amendment, named after Congressman CHALMERS WYLIE, the ranking member, the minority leader of the committee, and it ended up with a vote of 210 to 208. But why? Because there is so much at stake.

If you go out on the street and throw out a hundred dollars, you are going to have a mob.

☐ 1010

Well, if you have billions of dollars, why, you know you are going to be probed. You are going to have a legislative mob action. It is to be expected.

But what we saw last night and what we saw last week was this process emerging in full bloom, showing that the saving sap of this tree of American democracy in our parliamentary representative form of government is healthy, it is acting, it will work, and it will come out.

So immediately last night, and with the great help of this great public servant designated in our world as the legislative counsel, Mr. Jim Wert, who worked until long after the House had finished its legislative business in order to refashion the bill that I introduced last night, right shortly before adjournment, known as H.R. 3768. This one incorporates everything that has to be done in title I, the refinancing of the Bank Insurance Fund, which is a must, and which I will come back to in more specific terms in a few minutes.

It also contains all of the other amendments that have had no controversy, no dissidence. It has across the board, across party line consensus.

I have also scheduled and announced a meeting of the Banking Committee at 9 a.m., Tuesday next for the purpose of what we call marking up, that is, shaping and amending if the members are going to do it. By now I think there is a consensus on all sides that this will be the minimal, and that this should be able to get the near unanimous consent of the members of the committee.

We also will have at 10 a.m., provided that our markup on this bill proceeds as I think it will, we also have announced at 10 o'clock a session to mark up the so-called RTC refunding. This brings to mind why since April and May, after having gone through another very difficult refunding of the RTC in March, and realizing that the signs were clear that there was going to be nothing but dire weather forecasts in the future as we went into these funding and refunding mechanisms, and everybody, not realizing that the basic thing at issue is the safety and soundness of the unique and which I have said now is the distorted and corrupted deposit insurance system, deposit insurance fund system.

It was obvious, certainly since 1986, and even before that. In fact, in August of 1979 I took this forum, a special order. There was no TV. I have never addressed anybody but my colleagues in these special orders, because this is a privilege that historically has its incipiency from the very beginning, almost, in which members of a numerous body such as the House of Representatives will be given this privilege of enlarging on some subject matter or theme that the limitations of debate will not allow that member. So you have special orders.

In fact, earlier today I read one request, and it says upon the completion of all legislative business and any other special orders heretofore ordered, Member X requests to be heard for any time, from 5 minutes, 2 minutes, or 1 minute, up to 1 hour, but not to exceed 1 hour. Then that Member has that opportunity.

Now, I have made use of that privilege since the first week I came to Congress, after I was sworn in after the special election in November of 1961, 30 years ago. I have made use of that.

At that time, and for years, quite a number of years after that, let me explain to my later arriving colleagues, you could submit your statement or speech in writing without taking the forum in a special order and it would be printed in the RECORD as if you had delivered the speech.

I was advised by some of the more senior Members, why are you taking the floor to speak? Why don't you just submit it?

My reply was this privilege was given with the understanding that a Member would have a chance to enlarge on this subject matter or issue. Yes, you can submit it in writing, but I think that is an abuse. Because if any Member wishes to contradict or enlarge on that subject matter, he can have a chance by hearing the Member express himself when and where he wants to come in and interject himself and enlarge on the subject matter.

A Member may or may not want to read it the next day. There is really no purpose for it then, other than the satisfaction of seeing it in print, and maybe for some purpose of reproducing that to circulate it in the constituency as a speech delivered on the House floor, when as a matter of fact it was not.

Well, it was not but just some 15 years ago that you had abuses. Speeches were submitted and Members were saying "I didn't submit that speech. Somebody did that for me in a malicious way."

Then the rule was enacted that we would have to initial or sign anything submitted.

Then we did universal power to revise whatever we had spoken. We could delete, we could amend, we could enlarge. We could revise or extend, which is the famous phrase we use here in our procedures.

That is why when I speak here, the reporter of debates takes it down, and I do not bother to get a copy to correct anything. I am going to trust that reporter, who is very skillful. You have the most skillful reporters of debate anywhere in the world.

That is the way it goes. I do not try to go back and say I am going to strike this because I do not like it now. You had abuses of that. You had a great contention here in a partisan way, so the rules were further amended, and that is that if you submit something during the course of debate and you have not actually uttered it during debate, it will appear in a different type, a smaller type, than if you had actually spoken those words on the floor.

Well, that is fine. I think all of those things are improvements and refinements. They were made necessary only because of the abuse of the privilege.

I think that once we had the advent of television coverage of the House proceedings, it is great. The House was the first body up here to do that. It is great. It gave the people out there far removed from the scene some idea of the processes. That is good.

But I think we abuse it when we direct our speeches to that absent audience, rather than to where it is meant to be, to our colleagues, and that is what I have done.

I do not know that there is any other Member or combination of Members that has made use of the special order more than I have. But there is no record that one can point to and say that I have abused that by using this forum as a political stump, because I have said that is wrong, that is an abuse. I think people would resent that, and I think people do. I think a citizen would say, "Well, HENRY, if you want to make a political speech, why don't you wait until the election and come back here and make it on the stump?"

I agree with that. That is why I don't. I believe that the purpose of the special order, which then entails the entire mechanism and apparel of this body, you have to have the clerks, you have to have a presiding officer, you have the reporter of debate, but that entails costs. But it should be, in my opinion, and that is the way I tried to direct it, for the use of reporting to my colleagues, and either advising or explaining or enlarging on an action of a committee or subcommittee that one has responsibility for as the chairman.

Now I want to go back to what I said earlier. What the Members can see, as the citizens back home do, is that we now have a conjunction of events that I feared. In April and May I presented to the Committee on Banking the idea that even though the administration through the Secretary of the Treasury had submitted a very, very substantial bill, a very all-inclusive bill, most of which in those areas in which you would have innovative and far-reaching recommendations, such as commercial enterprises, purchasing, and going into the banking industry, I said those are going to be issues that will require comprehensive hearings.

□ 1020

Some Members said, "We have had hearings for years." Well, we have and we have not. We certainly had not had hearings on the particular recommendations the Secretary of the Treasury was asking for in this bill.

So I said, "Gentlemen, my suggestion is this, that we prepare, because we know that the bank insurance fund is headed for insolvency, if it is not there already."

If there is anything the people back home want to be feeling safe about, it is the safety and the soundness of the bank where they have their small or large deposit. The fact that the Government is telling them, "If you have up to $100,000, you are insured."

In that speech that I referred to earlier in August 1979, I brought out that actuarially, arithmetically, and with the insured amount at that point in the Senate jacked up from $40,000 to $100,000 and with the corruption of the system, the Congress has never passed the statute saying that the regulator, whether it is the Federal Reserve Board or the insurance fund, the FDIC or at that time the FSLIC, the Home Loan Bank Board insurance fund, savings and loan, so called, had the right to pay out more than that insured amount. Yet they have done it.

I tried to get my chairman at the time to have hearings and call the regulators and say, "Under what proviso of the law are you doing this?"

Then comes 1984, 1985, 1986. In 1986, the chairman of the Home Loan Bank Board at that time told me, I was not chairman then, I was ranking member, but who pays attention to ranking member?

He wanted to meet with me. And he said, "Listen, this is serious. You have spoken out and you have agreed with the recommendations I have been making, but even my administration is very critical. Let me tell you that the insurance fund is on the verge of insolvency and it has got to be refunded somehow."

Well, the rest is history. But again, what happened? Going back to 1984 and the then-chairman of the Federal Reserve Board announcing the too-big-to-fail doctrine in the case of the Continental Illinois Bank. What was the story there?

I said it then. I made a special order speech and said, "Since when?" In fact, I used the words from Shakespeare, "Of what meat doth this Caesar eat that he is so powerful?"

He told me, when he appeared before the Committee on Banking, Finance and Urban Affairs, and I had 5 minutes and I said, "How far are you going to go, in effect nationalizing, every time, one of these big banks?"

He said, "I will use every resource of this country." That is in the record. It was incredible. I have been referring to that since then.

And I kept urging that we have a hearing on why the Federal Reserve Board was utilizing more than $6 billion, in effect nationalizing the Continental Illinois Bank. I said this, I said, "If this had happened in another country, we would say that country had nationalized the bank."

Over the years the bank has cost over $12 billion. But why, why did it happen?

First, not much attention was paid to it. The press was not anywhere around. If it was, it probably was not aware of the issue, though it should have been. Some of the foreign press correspondents, particularly the British, were. They were writing the facts. Reuters, which was the one that sent the dispatch to Japan and Germany saying the Continental Illinois is in trouble, causing the Japanese, the Germans principally, and other Europeans in 3 days to take out $8.3 billion of that foreign money out of Continental Illinois. That was the immediate cause of its collapse.

I said, "Hey, the handwriting is on the wall. How far has this penetration come?" Nobody cared.

We were having prosperity. Remember? Remember the speeches here on the floor just 2, 3 years ago, the Reagan prosperity? But what was that prosperity? It was a fool's gold prosperity. It was illusory.

Some of us took the floor and said that. We were immediately accused of being partisan. But nobody bothered to read the record when I spoke out in 1979, and it was not Reagan who was President. It was a Democratic President, President Jimmy Carter. And I was pointing out by then that given the first bank to indicate we were going to go into very troublesome waters was the Franklin National Bank. That was one of the first Federal Reserve Board bailouts.

What was not known until just recently, when I had the staff, a great staff. We have had half of the staff resources that, say, my companion colleagues on the Committee on Energy and Commerce have. We have one-half. We have some young, intrepid, courageous, honest, and dedicated. And I have tried to channel their great talents, and we did.

Last year this very young man went in, brought out statistics that even some of those that had written books had not been able to elicit from the Federal Reserve Board.

First, from the regulators who were indulging in the same practices that the Home Loan Bank Board had been before 1989, in these long-term, so-called conservatorships that were draining about $20 million a day of that insurance fund. We brought out that they were paying out 99 percent of all deposits.

Well, who were they? The average American has no more than $8,750 in his bank account. But the commercial banks alone have $3 trillion in insured deposits. Where do they come from?

Well, they come from passthrough accounts. Who does that involve? The moment we start touching that, we get all of the banking interests coming in and saying, "Hey, wait a while. You cannot do this to us."

But that is what the S&L's did, after 1982. They were playing with that insurance fund instead of their own money, and this is where we are today. We cannot have $3 trillion of insured deposits in the commercial banking system alone and have a broke insurance fund and say that "you have insurance." That is obvious.

But that has not come through even now. The perception as to the depth, complexity, scope, scale of this immense problem is still not perceived, either by the industry or by the press or by the general membership in both bodies of this great Congress.

□ 1030

Yet we will get there. It has taken a little time to exert the leadership to infuse confidence in the Committee on Banking, Finance and Urban Affairs. I am proud of what the committee has done. It has turned around, and even though it is a many-membered body of 52 we have worked legislation. Two years ago we produced in one bill in 8 months what it took three Congresses and four different bills in the 1930's to do plus more, something that the country has not faced and in which we are wallowing in the midst of now known as the great real estate ownership overhang that the RTC was to be charged with managing and disposing of. These are great challenges.

Now, we have a lot of things that we can learn even from, say, other countries. Germany, for instance, in its merger, and I do not know that I would call it a reunification, with its problems of trying to privatize the otherwise socialized economy of East Germany has created what is known as Truehandsdhnstalt. This is the equivalent of our RTC. You think they do not have problems, too? Of course. But somehow or other, despite the complexity, they have come around and have created a very, very substantial and not only creative but a very interesting and up to now fairly successful experiment.

In our case, we are still in the throes. We have, as I said, this conjunction of events. My biggest fear, and that is the reason I solicited the understanding and I advanced the recommendation to the committee that we travel on a more immediate but narrower package, but not so narrow as to not contain the absolute reforms in accounting, for instance, that the GAO tells us is absolutely necessary. I put 100 percent of the recommendations of the GAO on accounting in this bill. It is in H.R. 3768 which I introduced last night.

If we do not have accounting reform I do not care what we do. The reason is that we have had a failure, a breakdown. What this country is undergoing, whether it is strong enough to shake the ground yet that perceptibly, is not only a financial but a moral earthquake. We have had a breakdown in standards of basic morality in the private world, the business world, the accounting world. We had hearings 28 days after I was elected chairman of this committee. We had hearings and we had two of the principal accounting firms, one of which had been the accounting firm or whatever they called it, independent examiner, of the so-called Vernon S&L down in Texas. Their chief accountant sat there and looked at us straight in the eye and said, "Yes, we checked those books." I said, "Yes, but you gave them a clean bill of health. Didn't you see that they were having these big orgies in Las Vegas, orgies that outdid the Romans in the worst period of Roman orgies, all paid for by the S&L?" "Yes, but that was not our job." I said, "Didn't you see that they had 100 limousines, 50 airplanes, executive airplanes, all paid for actually by the insurance fund?"

That is what they were depending on, because after all, as it has ended up, when the hurricane hit, and let us call it a hurricane in that case, but we really have an earthquake also at the same time, why, Uncle Sam ended up with all the junk and we ended up with the worst world possible. We boast on having a free economy but we have ended up with the worst world.

I have said that since 1988, and the Home Loan Bank Board of Dallas developed their so-called Southwest Plan. I was bitterly attacked in June 1988 for criticizing that plan. Why did I criticize it? Because they were fantasizing that they could stitch together these dead institutions that were losing money every day, put them together, put them under a sort of a management conservatorship so they would be advertising not only in my hometown papers but these entities that were dead as doornails and should have been closed down, paid out.

The Home Loan Bank Board said, "We cannot do that because we do not have the insurance fund money to do it with," which is what they are saying now in the case of the banks. There are a lot of banks that should be closed down right now that are not because they do not have the money with which to do it and pay out the insurance fund.

Up to now if any of my colleagues want to know what is at stake, go ask the Members who have had big banks fail: Northeast, the Bank of New England. They will tell you that every one of their constituents had their money paid out in insurance. But if that were to happen today I would like to see that. I would like to see them pay 30 cents on the dollar. You do not have to be a space scientist or mathematician to figure that one out.

It all goes back to the fact that every one of us back home contributed to it. We were all riding that merry-go-round. Who cared whether the money markets, mutual money markets of the 1970's were insured or not. They now represent about 23½ percent of the total deposits out there that are uninsured. "Oh, but they are paying 8 percent, 8¼," when these other institutions were paying less than 7, or 7 at the most. So everybody was an instant financier and nobody was going to pay attention. Everybody was riding that merry-go-round.

But there is no such thing as perpetual motion, in merry-go-rounds or anything else. And when that merry-go-round stops either we drop that 50 cents or dollar, whatever it is today, so it will go again or it just cannot. The point of no return is here and now.

I have so much faith in the processes, but I know that given the talent that I respect, and I do not know any Member of this body that I know and have had a chance to know that I do not personally like and that I totally respect. We may not agree, we may be at great differences in ideas, but I respect the integrity of the beliefs and the arguments. Because I have seen that even where you have this sort of thing, after all, democracy is not neat and sweet. Democracy is disorderly. It is earthy. It is like Carl Sandberg said, that democracy is not a respecter of and it does not venerate and it is not a venerating process. Of course not. It is the hurly-burly of free life. It is the people proving that the faith of this country, upon which this country is predicated, is that we the people of this country know how and can govern ourselves; that we do not have to have some select individuals that, in the words of John Adams, referring to George Washington, meant.

You know, if you think that everything was real nice and polite, you have not read history. John Adams detested George Washington.

□ 1040

He said, "There is the tall Virginian who thinks that he, like the Ancient Hebrew judges, has been chosen to lead by their height," in other words, because George Washington was tall. He said, "And here he is coming down to us as if heaven-sent, booted, spurred, and ready to ride on the hapless back of mankind." That is what John Adams said of George Washington.

And, of course, last night we heard a lot of things by bankers as a class. We heard pros and cons about what could and could not be trusted, but that is good. Everybody had their say.

We did the same thing in the committee to begin with. Once the committee said, "Mr. Chairman, no, we think we ought to give the Treasury's package a run," I said, "Fine, I will recommend to the subcommittee that I am referring this to the Subcommittee on Financial Institutions," very ably chaired by the gentleman from Illinois [Mr. ANNUNZIO], that they use the Treasury's bill as what we call the markup vehicle, and when they came out, we had a full committee. We had the amendatory process. We had 150 amendments offered, and everybody had his chance, and we went through them all where sometimes some would say, "Well, you know what, I changed my mind. I am not going to offer it." But we had over 150.

So we went through that. In June, after this House had adjourned on Wednesday, June 27, I called the committee back, and some were sayings, "How dare you do this. We want to go home. Why can this not wait until we come back after July 4?" I said, "Because time does not allow it, and I am going to call a meeting," and at 8 p.m. on that Wednesday, I said, "Gentlemen, now, the House is not going to be in session tomorrow, and it is certainly not going to be in session on Friday, but we can finish this. We have gone through all of these amendments, and we just have about 1/15 of the total number," and to their everlasting credit and glory, the overwhelming majority, preponderant majority, of that committee stayed there, and we passed the bill out in the morning of June 29.

But I had warned, I said, "Gentlemen, we had better have this other bill that I recommend as a standby." So they had said, "What do you recommend?" I said, "I recommend you also pass this one," and they did so. We were prepared. I foresaw that if the issue of refinancing the bank insurance fund, even though at this time it cannot truly be called a taxpayer's bailout, what it is is a modernization and upgrading of the line of credit that the FDIC has always had with the Treasury except it has been limited to $5 billion, and in view of the fact that never before had you had this many banks in trouble, this bill would call for that line of credit to be increased from 5 to 30, but with the proviso that in the resolving of these institutions and the sale and the acquisition of the moneys resulting from the sale of the assets, they would be allowed an additional 40, but that is to come from asset sales, making it a total of 70.

So there has been a lot of misconception. Usually the arguments I have heard here that are based on misconception are those that are from Members not members of the committee, so I can understand that. But this option was given, and the committee, in its wisdom, and that is why I say I have nothing but admiration and respect for my colleagues on this committee, and it is a great committee. You have great members, new members and veteran members, and I would never say that I was anything but less smart than most of those there. I would never deceive myself into thinking that.

I have had the advantage, yes, of observing and experience and membership for 30 years. That is certainly to be credited, if one learns from experience, and I think I have, but it does not in any way diminish the great admiration I have for this membership.

We passed those two bills out on June 29. I foresaw that if we came back and were here involved in this multiple referral which the Treasury bill called for, where it had to go to four other committees, I knew that it would be a matter of time, and we did not have time, because we were also told that by the end of the fiscal year, that is, September 30, the RTC would be requesting 70, maybe more, billion dollars in order that it could complete its work of resolving the S&L's that have gone under. So we did not stop there.

I immediately instructed, and the chairman of the Subcommittee on Financial Institutions, the gentleman from Illinois [Mr. ANNUNZIO], got together, called a meeting. they came out with an RTC funding.

I have called for a meeting to mark up this bill that I just introduced last night which has all of those amendments and what not and titles that nobody has ever dissented from or has an argument about on both sides in or out of the committee, but also at 10 o'clock I have called for a markup of the RTC funding bill that has been approved by the subcommittee.

It is very difficult to tell people whose perceptions are pretty well congealed, and you cannot blame, and how do people, and how does a citizen en masse in a collective body formulate what anybody would call a collective ethos or opinion? Well, they have to depend on their sources.

Our system is predicated on the fact that those of us that are charged with representation on a very localized level should be as accessible, and I say this, as the telephone to that constituency in that district. The citizen has his Congressman. The U.S. Senator, that is the whole State. The President and Vice President, that is the whole country.

But when you look at the records of the Constitutional Convention in Philadelphia, you will see that when this was conceived that it was intended, in fact, you had a big debate about whether the Members of the House should have 2 or 3-year terms. The 3-year-term motion died by one vote.

I have seen all kinds of movements since then. I remember President Johnson being enamored with the idea that we should have a constitutional amendment so that the Members of the House should have 4-year terms rather than 2. So one day they convoked a meeting at the White House; I was there, and he threw this out. I got up and I asked one question. I said, "How are these 4-year terms to be considered? Are they to be coincidental and contemporary with the quadrennial, or the 4-year, Presidential election year?" He said, "Oh, yes."I said, "It will not fly. You will have destroyed the basic constitutional concept as to the nature of this House and its representation." They wanted the Members to come back every 2 years to stand review.

You have heard about term limitation. Well, I have heard that before. The best term limitation is what the people have now, and that is that every 2 years that Representative has to come to the people and pass review. Now, if the people do not care or they do not bother, well, that is something else. In that case, we are not talking about a system that is predicated on the people caring. My experience is that people care, and the people need leadership. They need it. That is why they elected you.

□ 1050

Franklin Roosevelt used to say that the biggest job of a 20th-century President was not only to lead this great army of American people and together confront the common problems facing the American people, but also to educate.

He put it this way. He said, "Educate, educate, educate," and that is our job. Our job is to try to discern and explain to the people these very complicated issues that sometimes defy our own understanding, but which after debate and consideration we should have some grasp of what we are voting on, and the people expect that, but if they are not given a choice, then truly how can we demand anything? We cannot.

My experience has been, I would not be here today if the people had not had—just plain ordinary folks from all walks of life, not just from one particular section of the country, and I am one of those from the beginning when I could have beat those ethnic and racial tom-toms to death, refused. I never have made a pitch on that basis. I would be insulting the people I know in the group from which I emerged, so I never have and I never will. I would rather not have office.

And what happened? Despite great odds in my first congressional race, President Eisenhower went down there 5 days in a row against my candidacy.

I did not have funds. I never have had much funds. Today if I were to have to go out and raise the average that it takes to lose with today in my State of Texas, I would not know how to do it; but the people are there, and if you are in touch and if you communicate and the people do not answer, there is nothing you can do, except to accept their verdict.

My experience and my witness is that the people are there when given a choice, that they can tell the difference between talking a fight and fighting a fight.

With that faith, I will tell my colleagues, and I urge my colleagues that when we meet Tuesday morning and I first intend to meet with the majority Members of my side to make sure that we have their consensus, then we will have that markup at 9 a.m., God willing, on next Tuesday, and when we come out of there, I would like to see approval of this, go to the Rules Committee and have the Rules Committee give us a rule that will allow us to come here and register what up to now has been the consensus.

Now, it is going to take again, I would not want to see it done, if necessary, OK, but I would like to see it done on a bipartisan basis. This is where we are working and I want to report to my colleagues today. That is what we are doing.

We have probably the most perilous moments to confront our Republic under this form of government. It is more than just a coincidence that as we celebrate the 200-plus years of this Constitution, and therefore this form of government, we should be in our time and in our generation, though I represent a generation of greater age than the average today, and therefore consecrated as I am to keeping faith with the people who made it possible for me to serve, despite some of these odds, that I act in such a way as to never diminish one iota the heritage that I benefited from and transmitted undiminished to those who follow, because we do not know whether we are going to succeed in our time now in maintaining the hope and the promise of the greatest democratic experience in the history of mankind. That is on our shoulders right now.

God is no respecter of nations or individuals.

There have been many times I have taken the floor, going back to 26 years ago, and saying why should we think that we are more intelligent, that we are more graced and blessed than the great German people at the time Hitler rose.

I recall in my salad days, I studied engineering before I studied law. I went through engineering, and the great schools at that time were the German schools of engineering and technology, culture, German musical conservatorships were the outstanding in the world.

How could that have happened in Germany? I would ask that question and pose it.

I say, you know, we are doing the same thing we did after World War I and I pointed out economically, financially, statistically, how again the markets were going like they did after World War I.

I remember those student days, even the presalad days, as if they were today.

I remember such things as the Dawes plan for reparations, the Hoover moratorium on the payment of debts in 1930, the Locarno disarmament conventions or meetings, and the treaty, the 5-5-3 naval agreement, the ratio of 5-5-3, the United States, Great Britain, and Japan, Germany prohibited from having this, that and the other; but it was soon apparent, and in 1932 when the pocket battleship, *Deutschland* came to Corpus Christi, TX, I happened to be one of those who visited it, because I worked. Since I was 10 years of age, I have worked at something or other every one of those years since then. I started working with a German druggist, Ernst Von Helms, who had the old reliable pharmacy at the corner of North Forest Street and Cadwalter, half a block from the home where I was born.

I started working with him when I was 10. Today they call him a refugee. At that time they called him an emmigre.

A great intellectual from Mexico had come to San Antonio, visited the home. My father was in charge of the only Spanish language daily newspaper published in the United States for 40 years, and so that became the attraction for these intellectuals.

This one soon left for the University of Brussels, Belgium, to be a teacher. One of his sons was near my age, and he left a 20-inch bicycle. With that, I delivered for Mr. Von Helms after school, I was in grammar school, from about 3:30 to about 6:30.

I was the only one that lasted with Mr. Von Helms more than a month. He was a very unusual character. He was an ex-German ship captain on the *North German Lloyd Liner* off the coast of Japan for 30 years. When the war broke out, he was trying to bring his ship back to Hamburg and a British and a French cruiser spotted him, chased him, and he came up to Baltimore to avoid capture and was interned. It was while he was in internship that he studied pharmacy and then ended up in San Antonio after the war.

He said he liked me because I never touched anything that was not mine. He would always say, "Honesty is the best policy."

I learned how to work, and I will forever be grateful, but I also learned about the pride of nationality and race and that old cry that rose in Germany and it will again, you cannot avoid it, "blut und boden," blood and soil.

□ 1100

So at this time while we are here gathering around, fumbling around, muddling through on a domestic situation, we now have forces external to our shores like we did after World War I and beginning with the aftermath of the Wall Street break in 1929.

I remember that happened, and it was not until 2 years later that you felt the effect. This is what I said in 1987, when we had the Wall Street stock market crash, I said it will take 2 or 3 years before you know, and that is what is happening now.

So we are confronted with a myriad of promises, piled on top of massive debt, and the biggest danger of all, as I see it and tried to speak out on this in 1979 when the summit economic meeting at Bonn proclaimed for the first time the emergence of the European Currency Union [ECU], the EMS [European Monetary System] now to be the EMU [European Monetary Union] with a common currency.

Now, the ECU is now worth about $1.30.

Now, we have massive debts. There is nothing to keep the consortium of nations, whether it is the Group of 7 or the Group of 10, to pool their international reserves, nationalize their currency, as they are on the verge of doing, and the dollar then is substituted as the international reserve unit.

What does that mean? That sounds like a lot of talk. It is not.

What it means is that for the first time in our history, and we are the only nation blessed with that, we will have to pay that massive debt in somebody else's currency. That is the real threat.

I have taken it up with the Chairman of the Federal Reserve Board; "No." I have spoken with international bankers, and they all say, "Well, maybe some day in the far-distant future, if the United States is in an unstable situation."

I say, "Why can't that happen next year?" They cannot really tell you.

Well, I will tell you; I have got the answer. It can happen, and we are not prepared. We are the only country that has paid its debt in its own currency, but as of 1985 we became a debtor nation for the first time since 1914. Now, you cannot escape that. We have to go back to our basics, we have to go back to Ralph Waldo Emerson. He says,

> Always pay, for first or last you must pay your entire debt. Persons and events may stand for a time between you and justice, but it is only a postponement. You must pay, at last, your own debt. If you are wise, you will dread a prosperity which only loads you with more.

And that is exactly what has been happening in the eighties and up to now. We have deceived and deluded ourselves into thinking that we can go into prosperity with heavy burdens of debt, and that is wrong.

Now, we first have to reform ourselves here. Now, I think it starts with us.

You know, my mother always said, in Spanish because when I went to school I did not know a word of English, but she would always say: "If you want others to respect you, you first have to respect yourself." And that is what I will tell my colleagues; we respect ourselves, we respect the institution, we have mutual respect, and we will have the respect of the people.

THE LOUISIANA GUBERNATORIAL ELECTION

The SPEAKER pro tempore (Mr. BLACKWELL). Under a previous order of the House, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 60 minutes.

Mr. TAUZIN. Mr. Speaker, the Nation will be focused, as they have probably not for a long time, upon the State of Louisiana and the voters of our State who will cast probably the most important political decision of their lives.

Tomorrow in Louisiana our citizens go to the polls and choose between two candidates seeking election as Governor of our State; one, David Duke, a Republican, representing a past filled with associations with the Nazis and the Ku Klux Klan; the other a former three-time Governor of our State, who has been much maligned, even once indicted on Federal racketeering charges.

There are many around this country who have watched with fascination the politics of our State and wondered, and have asked us here on the floor, "What is going on in Louisiana? What on Earth is happening there? How have you come to this?" Also, what does it mean for our Nation, not just Louisiana?

This morning a Fox Television Network call-in poll is beginning to produce its results nationwide. They are interesting numbers.

The Fox Network has asked voters to call in from around the country and answer a simple question: Would you vote for David Duke if he were running in your hometown?

Mr. Speaker, 36 percent of the callers are saying "yes;" 64 percent are saying "no."

Now, 36 percent of Americans are saying they would vote for David Duke if he were running in their hometown.

Thirty-six percent of the American public, bothering to call in, are saying that they believe in, support, would endorse with their votes, a message in the person of David Duke.

Let me try first of all to explain to you as best I can the circumstances in the State of Louisiana which have given rise to this peculiar and extraordinary, fascinating election that is occurring tomorrow.

There is a debate here in America as to whether or not we have a recession going on. I happen to think it is pretty clear we are in a recession. But when it was first described this Nation might be in a recession, there was general applause in Louisiana. People in Louisiana felt recession would be an improvement over what we have been through in the last 8 or 9 years. In Louisiana we have been in a depression. In Louisiana, 8 or 9 years ago, in 90 days the oil and gas economy of our State fell apart. When Sheik Ahmani began to execute policies in OPEC that dropped the price of oil from a high of $35 all the way down to $8 a barrel, it devastated the oil and gas patch of America's Louisiana, Texas, Oklahoma, Arkansas, New Mexico in particular.

Some of the States of that oil patch have recovered fairly well; Louisiana never did. We have watched as our people have suffered economically for 8 or 9 years now.

We appealed to this Congress for help. Yesterday this Congress, this

House, adopted an unemployment compensation bill. The Senate debates it today.

Most of the members of the Louisiana delegation voted for it; I did. There were some who felt a little hard about voting for it because of the treatment Louisiana workers have gotten for 8 or 9 years, when they begged for help and relief and did not get it from this Congress; when there were trade bills going through this Congress and we asked for the simple courtesy of including Louisiana workers for trade adjustment assistance, the simple courtesy of recognizing that the workers of Louisiana who are unemployed, were unemployed because this Nation had embarked upon a policy of depending upon cheap foreign oil instead of utilizing the labor of the men and women of Louisiana who had traditionally supplied energy for this country. We had asked for the simple courtesy of extending to us foreign trade adjustment assistance, allowing our workers a chance to get retrained so that they might undertake other jobs when the oil and gas industry fell apart. This Congress did not include foreign trade adjustment assistance for Louisiana's workers in the trade bill. To the credit of this House, we included it; unfortunately, when the bill went to the conference committee, the Reagan administration insisted that it come out or it threatened to veto the bill.

So it came out in conference. And the workers of Louisiana never received the courtesy or the help of this Federal Government in getting retraining when it was Federal Government policy that put them out of work in the first place. So there are angry workers in Louisiana still unemployed.

□ 1110

We have watched for 8 or 9 years as our children have had to leave the State of their birth to go and find work somewhere else. I have watched in my office over the last 8 or 9 years as so many young people came through looking for work, looking for opportunities because opportunity had deserted them in Louisiana.

In large measure the oil and gas depression in Louisiana is still a result of Federal policy. It is still a result of tax policy that tells oil and gas companies, "If you really want to make money, go and drill and produce oil and gas somewhere else, not in America." The foreign income earned tax credit that is awarded major oil companies for producing oil in Saudi Arabia or Iraq or Iran, wherever they can, is typical of that tax policy. The removal of all the incentives we had in our tax policy to encourage a home-grown energy production in the tax bills of 1981 and 1986 is typical of the tax policy that has devastated the economy of Louisiana.

So our workers are unemployed and frustrated, and their children have left home. We have watched as families have separated, and two-income homeowners have become no-income homeowners. We have watched indeed as the State has wallowed in a depression for, oh, too long without any help.

We have watched as this Nation has debated an energy policy this year and just recently rejected a national energy strategy in the other body that would have opened up oil and gas development again in America. It would have opened up an ANWR that would have produced jobs in Louisiana. That has been rejected again. We have watched as this country has spent $65 billion to fight a war in somebody else's oil field when we would not invest in our own in America. We have watched as Louisiana men and women in greater numbers per capita than any other State in the Nation defended an oil field in the Persian Gulf because they were out of work in the oil fields of America. And we wonder why there is anger and frustration in Louisiana.

We have watched as environmental policy, shaped here in this Congress and in America, has continued the devastation of energy-producing States, an environmental policy that continues to make it much more difficult for us to produce energy at home for our people.

We have watched, for example, as the Endangered Species Act protects a turtle more than it does a Louisiana shrimping family. I have watched in the last several months as shrimper families have been devastated by this Federal policy that insists that they carry TED's in their shrimp nets that look like a baby carriage, and that has an opening that lets the shrimp out of their nets, thus devastating their income and their capacity to earn for their families.

I have watched as those families have gravitated to David Duke and his message: If you are out of work and unemployed and you are hurting, then somebody else is at fault.

To the extent that there is someone else at fault here, he is right. This Government has let down the shrimping families of Louisiana. It has let down the employees of the oil and gas industry of Louisiana. It has let down our State economically terribly, and our citizens are angry and frustrated and mad.

I tell the Members this because in Louisiana David Duke's message is a powerful one. Forget for a second where he comes from. Forget for a second what he is personally. Forget for a second, if you can, his roots in the Klan and his roots in neo-Nazism in America, and listen to his message alone, and you may understand why 36 percent of Americans today say they would vote for David Duke if they were given a chance.

Ray Strother, who does a lot of public and political campaign consulting in our States—he handled my first campaign for Congress in 1981, and he is a mentor, by the way, to Jim Carville, the genius who produced the victory in Pennsylvania for Senator WOFFORD—did some focus groups during this first primary for Governor in Louisiana. He examined in these focus groups what the fascination was with David Duke and his message. He found some interesting results. What he found in the focus groups was a thing called white victimization. What he found in the focus groups was a feeling among the white population in our State, in Louisiana—and probably this is true around the country when you look at this 36-percent figure coming through on the Fox poll—that there was this thing called white victimization. He found where unemployed, frustrated, angry citizens who did not have anything left in their retirement accounts, who could not afford health insurance, who watched as their children could not get jobs and who could not afford to give them education any more and they could get no help from the Federal Government except a big tax bill annually, were looking for somebody to blame. Then David Duke came along and said, "It's not your fault you are unemployed, it's not your fault you can't save money, and it's not your fault your children can't get an education. It is somebody else's fault." And he points to blacks and he points to Jews, he pointed originally to Catholics, and he points to anybody else he can, and he says, "Somebody else is at fault, not you." David Duke says, "I sympathize with you. You are a victim in America, and you need somebody to sympathize with you."

And so people sympathize with that group of disaffected voters in our State and around America, and they get their support.

David Duke warns this crowd of unhappy, frustrated, angry voters, and he gives them the notion that "Somebody cares about you, and it is not your fault you are suffering. It is somebody else's fault."

The seeds of disaffection, of anger, and of frustration in Louisiana are beginning to be planted around this country as the recession builds. Let us not kid ourselves. Look at the Fox numbers. Thirty-six percent of Americans say they would vote for David Duke if they had the chance to do so. The seeds are planted. There is anger, and there is frustration as the recession builds around America and as it reaches the same kind of proportions—and hopefully it never will—that we have felt in Louisiana, and David Duke's message becomes even more powerful.

Parts of his message make a lot of sense to many people. Parts of his message make a lot of sense to me. What he is telling us, for all the wrong reasons, is that we have not paid enough attention to the fact that this Government here in Washington takes too much of the money of hard-working Americans and misspends it so badly. That is a good conservative message, one that I share, one that most folks in Louisiana and many people in America believe.

What he says is that when we spend it on social programs, we do not get our dollars' worth, and he is right. This Congress a couple of years ago called for welfare reform and passed a bill saying that when we spend money and when we reallocate tax dollars from one class of citizens to another, we ought to get our dollars' worth, that we ought to help people out of poverty rather than condemning them to cycles of poverty, and he is right to that extent. He is right that we have not dealt with it.

On the one hand, the hard right in our country wants to abandon the poor in our country and repeal all those social programs. On the other hand, the liberal left which created the programs say, "We built them. They are our programs, and we are going to defend them even if they don't work." His message is that somebody needs to come in and fix them. He is saying it for the wrong reasons but his message is valid.

He is saying to us in America in his message that voters deserve something better than what we are getting out of government, and he is right. If you are unemployed and you are hurting, the message rings awfully true and awfully strong.

In Louisiana there are really four classes of voters out there. There are voters, let us face it, who would vote for David Duke because of what he is. There are racists and bigots in Louisiana just as there are all across America.

□ 1120

Some will vote for David Duke because they like the notion of his past. There are many who will vote for David Duke tomorrow who will vote for David Duke in spite of his past, not because of it, but because they like his message enough to vote for him and believe in his message enough to vote for him.

Then there is a third class of voters in Louisiana who will vote against David Duke because of who he is, but who still like his message. There are a large group of those, and I suspect there are a large group in America who feel the same way.

Then there are a large group who will vote against David Duke tomorrow and for his opponent because they are against him and his message. There are four classes of voters.

I have been asked to predict the outcome. I think from all the indications we have seen, that voters in Louisiana are going to do the responsible thing tomorrow, they are going to do the right thing. They are going to reject David Duke, the individual, whether they like his message or not, and they are going to elect Edwin Edwards our Governor.

To those who are concerned about that, who wonder as USA Today says that we may elect a charlatan as our Governor, let me assure you that Edwin Edwards possesses extraordinary gifts and talents.

I was a member of the State house in 1972 and served in the State house for the first 8 years of his first two administrations. In most of those years, when he paid attention and worked hard at it and believed in it, he was a good Governor.

In the first several years of his administration he gave our State a new constitution. We had not had one since 1921. He reorganized executive branch into a more streamlined and efficient organization.

He extended to our legislature in Louisiana something no Governor had ever done, certainly not since Huey Long. He gave us a thing called independence. He allowed our legislature to elect its own leaders, instead of anointing them. Our legislature took the ball. We reformed the processes. We opened our hearing rooms. We began to even give notice before we handled the bills, believe it or not. We threw the lobbyists off the floor of the house. They used to walk around freely before that.

We built a legislature with some integrity and independence when that was thought to be impossible in 1972, all under Edwin Edwards' guidance and help.

The point I am making is that he came in in 1972 as a reform Governor and served us well and performed well as Governor. He has the talent, the capability, and he has the experience to do it.

There are those of us tomorrow who will say to him we are taking a chance on you, because we have to. If we are to do the responsible thing, we are going to ask you to be responsible now and lead our State out of this mess we are in. He has the talent and the capability to do it, if he wants to. He says he wants to. We are going to take him at his word tomorrow.

I think Louisiana tomorrow will do the right thing and responsible thing. I think we will reject David Duke.

But I do not want you to think that is the end of the story. Make no mistake about it, there is a David Duke under the sheets in every hometown in America waiting tomorrow to rise, waiting to take that message he runs on, which is a powerful message, and built upon it a political platform.

Make no mistake about it. As this recession builds, the seeds are planted for more and more David Dukes in America. Some will come with the wrong background and for the wrong reasons and will make political hay out of the work he has already done.

Make no mistake about it. If this country does not begin addressing soon the roots of unemployment, the roots of poverty, the problems with our welfare system, the problems with the basic questions of equality in our land and fairness, David Dukes are going to rise in your community too.

Thirty-six percent of Americans say they are ready to vote for him now. Make no mistake about it, Louisiana is not special. What is happening in our State is not unique and strange and odd. It can happen in every community in America today. If we do not deal with this recession soon, it will happen in every community in America today.

It is time for this Congress to stop bickering about whether there is a recession now and how to deal with it, and stop bickering about whether we are going to have a Republican solution or a Democrat solution.

I will never forget the line in the President's last inaugural speech that got the most applause here in the west wing of the Capitol. President Bush in his inaugural said "It is time to stop the bickering and to get to work for America."

People applauded. People stood up and cheered. And we have been doing little else but bickering ever since.

There ought to be a growth policy for America, bipartisan in nature, that we gather around; a policy that reduces taxes for the middle class and encourages them again.

There ought to be a bipartisan policy in this Congress to reform welfare and to make it work again, to take people out of that awful system and give them a chance.

There ought to be a policy in America that does not have us bickering over how much unemployment we ought to be paying people, but how in fact to fashion a policy that creates employment for our citizens.

There ought to be a policy in America that says to our trading partners we will not let you trade in America until you are fair with America. We ought to come together in a bipartisan way and say that, in a real way that could make a difference.

If those shrimping families I talked to you about in Louisiana believed we would do something about the fact that Mexico slaughters endangered turtles and imports shrimp into our marketplace and destroys the economics of our shrimping families, and we do nothing about that unfair kind of trade practice, if we did something about it, maybe those shrimping families would believe again and have faith again in government, rather than running to David Duke for help.

If we did something in America that said to our Oil Patch we are going to encourage you again to go to work to produce energy for America, instead of relying upon cheap foreign oil from persons and countries we cannot depend upon, if we understood in America that there are ways and means for us to develop an energy policy compatible with our environmental concerns, that we do not have to vote to send our kids to battle in foreign lands, rather we could put them to work in the oil fields of our country, maybe then the unemployed in our State would find employment and would not be running to David Duke for help.

Maybe in America if we built a progrowth tax policy that encouraged people to save money, encouraged people to invest in our Nation, encouraged people to earn money, maybe then people across America would not be saying that 38 percent of them would run to David Duke for help.

Maybe if we got down and really talked about the basic questions of how do we establish real true equality and fairness in our land, we would not have the David Dukes trying to divide us on the basis of race and religion and ethnic origin. Maybe we could come together as a family, productive again in this country. Maybe we could take on the world as we once did.

I suppose what I am telling you in a nutshell is do not be surprised at what has happened in Louisiana. Do not be shocked by it. Do not be fascinated by it. Be warned by it. It can happen in your community, too.

We ought to stop it in Louisiana by putting people back to work and by treating citizens fairly and by lowering taxes in America, by giving citizens a dollar's worth for the dollars we take from them, and creating a fair trade situation where our workers in America would have a real chance to employ their families and educate their children.

Maybe if we did that we could prevent what is happening in Louisiana, and what is going to happen in your communities, too.

Maybe if we quit bickering in this Congress and start working together in a more bipartisan way, maybe the respect for this institution will build, too. Maybe Americans will start appreciating Congress, instead of constantly denigrating it. Maybe Americans would end up with a greater respect for this body than it has for its individual Members. I would love to see that today, because I believe in this body more than I do its individual Members.

Maybe Americans would avoid what is slowly happening in our country, as characters like David Duke gain ground, gain ground at the expense of harmony and peace and productivity in our country.

The warning flag is up in Louisiana. Take heed, please. We are going to do our best tomorrow to do the right and responsible thing. We are going to try to come back strong in our State. We will need the help of this Congress. We will need the help of this Nation.

But as we come through it, know that it can happen to you. Know that it can happen to America, as it happened to Germany. Know that it can happen, and then let us work to make sure that it does not.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GONZALEZ) to revise and extend his remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

(The following Member (at the request of Mr. TAUZIN) to revise and extend his remarks and include extraneous material:)

Mr. TAUZIN, for 60 minutes, today.

ADJOURNMENT

Mr. TAUZIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 31 minutes a.m.), under its previous order, the House adjourned until Monday, November 18, 1991, at 12 noon.

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose or evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 102d Congress, pursuant to the provisions of 2 U.S.C. 25:

Hon. GEORGE ALLEN, Seventh District, Virginia.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2366. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(b); to the Committee on Foreign Affairs.

2367. A letter from the Chairman, Merit Systems Protection Board, transmitting a report entitled, "Balancing Work Responsibilities and Family Needs: The Federal Civil Service Response," pursuant to 5 U.S.C. 1205(a)(3); to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1304. A bill to amend the Communications Act of 1934 to regulate the use of telephones in making commercial solicitations (Rept. 102–317). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3635. A bill to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes; with an amendment (Rept. 102–318). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. Report on S. 1475. To amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such act, and for other purposes (Rept. 102–319). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

H. Res. 258. Referral to the Committee on House Administration extended for a period ending not later than November 19, 1991.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mrs. SCHROEDER introduced a bill (H.R. 3793) to allow certain individuals seeking part-time employment to be eligible to receive unemployment compensation, to require that certain questions relating to employee benefits and total number of hours worked at different jobs be included in the current population survey, and to protect part-time and temporary workers relating to pension and group health plans; which was referred jointly, to the Committees on Ways and Means, Post Office and Civil Service, and Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 516: Mr. BOUCHER.

H.R. 710: Mr. WILLIAMS and Mr. DARDEN.

H.R. 951: Mr. MRAZEK.

H.R. 1356: Mr. FALEOMAVAEGA.

H.R. 1389: Mr. **Upton**.
H.R. 1414: Mr. **Mfume**.
H.R. 1427: Mr. **Shays**.
H.R. 2410: Mr. **Bilbray**.
H.R. 3063: Ms. **Norton**, Mr. **Horton**, Mr. **Jontz**, Mr. **Jefferson**, Mr. **Kolter**, Mr. **Kopetski**, Mr. **LaFalce**, Mr. **Rangel**, Mr. **Walsh**, and Mr. **Towns**.
H.R. 3393: Mr. **Kolter**, Mr. **Lehman** of Florida, and Mr. **Eckart**.
H.R. 3528: Mr. **Jontz** and Ms. **Norton**.
H.R. 3753: Mr. **Stearns**.
H.R. 3783: Mrs. **Byron**, Mrs. **Patterson**, Mr. **Downey**, Mr. **Wolf**, Mrs. **Boxer**, Mr. **Pickle**, Mr. **Bacchus**, Mrs. **Morella**, Mrs. **Schroeder**, and Mr. **Levine** of California.

SENATE—*Friday, November 15, 1991*

(Legislative day of Wednesday, November 13, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable BROCK ADAMS, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Happy is he that hath the God of Jacob for his help, whose hope is in the Lord his God: Which made heaven, and earth, the sea, and all that therein is: Which keepeth truth forever * * *.—Psalm 146:5–6.

God of our Fathers, "from whom, to whom, through whom are all things, to whom be glory forever and ever," in these explosive, unpredictable days we thank You that when all else fails, we may hope in You. When we have done all we can in response to human need and national confusion, we recall the truism that "Man's extremity is God's opportunity." Tragic the one whose hope is limited to the visible, the tangible, the temporal, whose only optimism comes from hope-so wishful thinking. Happy the one whose hope is in a transcendent God, Author, Sustainer, Consummator of history. We accept the fact, gracious Father, that we are responsible to exercise our gifts and abilities to their maximum. But when we have reached our limitations, we see beyond and hope in Him for whom "nothing is impossible."

As adjournment beckons midst the pressure of unfinished business and the inexorable ticking of the clock, grant to the Senators and their staffs vision and hope beyond their best to the sovereign Lord of history.

In the name of Jesus, the wisdom of God, and the righteousness of God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 15, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BROCK ADAMS, a Senator from the State of Washington, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ADAMS thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, under the agreement reached last evening, the Senate will now return to consideration of the unemployment insurance bill. The Senator from New Hampshire will be recognized to offer his amendment under a 30-minute time limitation.

Therefore, Senators should expect a vote on or in relation to the amendment of the Senator from New Hampshire in approximately 30 minutes. And thereafter, under the agreement, three other amendments are possible, and we hope to be able to proceed with those as soon as possible this morning.

I thank my colleagues and I yield the floor.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 3575, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3575) to provide a program of emergency unemployment compensation, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Hampshire [Mr. SMITH] is recognized to offer his amendment, on which there shall be 30 minutes of debate divided in the usual manner.

The Senator from New Hampshire [Mr. SMITH] is recognized.

AMENDMENT NO. 1348

(Purpose: To provide a "hold harmless" provision for severely impacted states which would be hurt by this bill)

Mr. SMITH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself and Mr. RUDMAN, proposes an amendment numbered 1348.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 20, strike the period and insert in lieu thereof a comma and the following:

"or

"(C) if the average rate of total unemployment in such State for the period consisting of the most recent 6-calendar month period (for which data are published before the close of such week) is at least 7 percent. Notwithstanding any other provision of law, the discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (as adjusted under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985) are decreased by decreasing the discretionary spending limit with respect to fiscal years 1992, 1993, 1994, and 1995 for the international category (under section 601(a)(2)(C)(ii) of such Act) in such amounts in new budget authority and outlays as the Director of the Congressional Budget Office determines to be necessary to offset the provisions of this amendment: *Provided*, That none of the reductions required under this section shall be achieved through reduction of—

"(1) domestic discretionary spending; or

"(2) assistance to the Camp David Accord countries, in recognition of the fragile, ongoing efforts to achieve peace in the Middle East."

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SMITH. Mr. President, I submit this amendment on behalf of Senator RUDMAN and myself.

I yield myself such time as I may consume.

Mr. President, this amendment is quite simple. There is nothing complicated. Do Senators want to support American workers or do Senators want to support foreign aid? Do Senators want to support extended benefits for the American unemployed or do they want to support assistance for foreign nationals? That is the issue. That is the only issue before us with this amendment.

In the absence of this amendment, five States which would have received 13 weeks of benefits under the earlier proposal would have their extended benefits slashed to 6 weeks. Let me take a moment to list those five States and their current average total unemployment over the past 6 months: Alabama, 7.4 percent unemployed; Arkansas, 7.7; Kentucky, 7.3; Louisiana, 7 percent; and New Hampshire, 7.1 percent.

As you can see, Mr. President, we are talking about substantial numbers of people out of work. Those five States are all among the 20 States with the highest levels of unemployment in the country, the highest levels. Yet they are getting the least number of weeks' benefits.

The bill before us tells the people of Alabama, or the people of Kentucky, or the people of New Hampshire, "Tough luck. Other States with lower unemployment rates get 13 weeks; you only get 6 weeks." That is what we are saying.

You do not have to be an expert to realize that this is blatantly unfair, this proposal. My amendment would take those five States I have listed and place them on the 13-week tier of benefits. That is all it does. There is nothing complicated about it. It does not hurt any other State. It does not hurt any person in any other State. Those five States, all with unemployment levels of over 7 percent, would get the assistance they need and deserve, as would the individuals in the other 45 States.

We do not take away a dime. We do not take away a week from any individual in any other State. Therefore, I cannot understand why Senators from other States, the other 45 States, could not see fit to support this proposal.

My amendment has an offset to pay for the provision. The amendment cuts foreign aid. We are not talking about breathtaking, huge amounts of money in the terms of the U.S. Government talking about big money. It is probably in the neighborhood of $100 to $200 million. That is a lot of money, but not in terms of what the Government budget is. This $200 million comes from foreign aid. We are asking you to take that money and give it to American workers in these five States, just like you gave to the American workers in the other 45 States.

This amendment would require CBO to determine the necessary offset and to make the appropriate reductions in the international budget category. This is exactly the Mitchell language on foreign assistance. Let me repeat that: This is the Mitchell language on foreign assistance, word for word. It prohibits reductions in domestic discretionary and to the Camp David accord countries, including Israel and Egypt. My amendment does not reduce benefits for any other State.

I do not understand why the majority leader, who has indicated an opposition to this amendment, would be opposed to it now when, in fact, the other 45 States, including Maine, have these benefits. We are not taking away a nickel or a week of benefits from any of those States. He supported 13 weeks for New Hampshire and Kentucky, et cetera, before. Why would he not do it now, since it does not cost his State or any other State anything? And it also takes the money from foreign aid, which he also supported.

Mr. President, over the past several weeks, I have heard scores of political speeches from Members of the Senate on foreign aid. The theme is always the same: The President has a jobs program for every country but America. Here is the chance to vote to provide jobs for America at the expense of foreign aid.

I suggest to my colleagues the amendment gives them the opportunity to put their money where their collective mouths are. If you vote for this amendment, you vote to cut foreign aid and provide needed additional benefits to Americans out of work.

If you oppose the amendment, you tell those people in Nashua, NH; Lexington, KY; or Little Rock, AR, that, despite all the rhetoric, you do not put Americans first. You cannot put Americans first in rhetoric and not back it up with your vote. I am asking you to back up the rhetoric with a vote today. It is important. A person in New Hampshire or Kentucky or Arkansas who is unemployed, who needs that benefit and the offsets in here, is just as important as the people in Maine or California, just as important.

Do you want to give the money to the Far East or the Northeast? That is the question. We are devastated by this recession. We need help, and we deserve it under the terms of this bill. Should we give the money to Turkey for Thanksgiving or provide a turkey for our folks on Thanksgiving and Christmas? Or should we consider just eliminating the holiday season because the benefits for New Hampshire and Arkansas and the other States listed here run out at Christmas? So you are going to give them a Merry Christmas, a real Merry Christmas. I think the choice is clear, and I ask my colleagues to support my amendment. At this point, Mr. President, I reserve the remainder of my time and yield to my colleague from New Hampshire, Senator RUDMAN.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire [Mr. RUDMAN] is recognized.

Mr. RUDMAN. Might I inquire how much time my colleague has left?

The ACTING PRESIDENT pro tempore. Eight minutes, twenty-five seconds.

Mr. RUDMAN. Mr. President, I am not going to take very much of that time, and I want to address this more fully later in the morning when we have more time to talk about it.

Mr. President, I have had an opportunity overnight to look at this legislation and do a little bit of comparison with where the power is in the Congress and where the benefits are in this bill. I want to say to my friend from Texas, the distinguished chairman of the Senate Finance Committee, I am well aware of the fact he is not an architect of this proposal. I am also aware that the majority leader is not an architect of this proposal. What I am about to say does not apply to them.

Mr. President, if the Securities and Exchange Commission had jurisdiction over these negotiations, the entire room would be indicated for insider trading. I have never in my life seen such a remarkable coincidence of benefits and clout, and it is quite obvious—and I say this more in sadness than in anger—that this administration bought some votes with the people who controlled the outcome of what happened in the other body.

I can fully understand the Speaker and the other leadership there being very concerned about this coming back to the House. If this comes back to the House of Representatives, they are going to be excoriated by their own Members. I talked to several Congressmen who voted for this turkey who had no idea of what's in it and, in fact, it was misrepresented to them.

I do not expect that the Smith-Rudman amendment is probably going to attract a lot of votes this morning, but I daresay before this day is out that some other initiatives just well may. But, Mr. President, it is a long road without a bend. I want to serve notice on the distinguished chairman of the Finance Committee and the distinguished Republican leader, who is now on the floor, that there are a series of "must pass" appropriations bill coming down the pike this next week, and, if we fail here today, we are going to keep trying, and I daresay when enough Senators and Congressmen recognize what has been done here, it is going to be changed.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from New Hampshire has 5 minutes, 56 seconds. The Senator from Texas has 15 minutes.

The Senator from Texas.

Mr. BENTSEN. Mr. President, I understand the frustration of my colleague. He is quite right, I did not help bake this cake, and I do support the TUR approach to it. I think that is much more representative, and that is what we brought out of the Finance Committee. But I say to my friends, it is late in the day and, if you have ever bargained with the Ways and Means Committee, you know how much time it takes. The reason I have come to the point of supporting this compromise is that we have bargained for 4 months over this thing. We have sent legislation to the President twice. Once he would not fund it, and the second time he vetoed it, and in that veto, in the bill we brought out of the Finance Committee, we had 13 weeks of benefits for New Hampshire—13 weeks for New Hampshire. My two distinguished friends from New Hampshire voted against it—against it. My two friends from New Hampshire voted for the administration measure that gave them 6 weeks, and when it came time to override the veto—and we only missed by 2 votes; 65 votes we had—my 2 friends from New Hampshire voted against overriding the veto. If they had voted to override that veto, they would have their 13 weeks. But they chose not to do that. A little late coming to the party.

What we are talking here is providing supplemental benefits to unemployed workers who have exhausted their 26 weeks of basic unemployment benefits. The administration prefers the IUR approach for the supplemental benefit formula. Mr. Darman strongly prefers that. That is what has dictated the compromise that came over from the House. That means it is set, really, by the variance among States as to how conservative they might be in allowing people to qualify for such benefits, insured benefits. That is true of your State because you are conservative in that approach. That is true of Louisiana, Arkansas, Texas, and other States. One of the ways to correct that is changing the eligibility within your own State. You have that kind of control. But as you have had tough times, you have narrowed the eligibility, and my State has done the same thing.

That is, I believe, the major reason why OMB prefers that approach. It means less expenditures. The President has said in the New York Times, according to what I read yesterday, "I feel that the deal you've been able to hammer out is a good one, and I think it is something I can enthusiastically support." So the President is for that compromise. He has spoken out for it. But twice—twice—when we sent legislation to get these benefits out to these unemployed folks who are hanging on the ropes, trying to retain some dignity, trying to meet the payments on the house and on the car, and trying to keep food on the table, the President has felt it was not an emergency. Now he apparently does. And this bill is funded and funded in a way he approves.

Let me state something about formulas. I have never seen one that is just as I would have drafted it. But the one that we brought out of the Finance Committee, I felt, gave us equity. When the House takes up a bill we have, it is a rare day indeed when they endorse it totally without change.

But remember what they have done this time. We were talking about $5.4 billion in benefits and the administration was talking about something half of that and then raised it some. In this instance they have agreed to $5.2 billion in benefits, very close to what we brought out of the Finance Committee, very close. They took the TUR on the 20 weeks in a blend with the IUR, and that is the first time the administration has moved in that direction. So much of what they have done is very close to what we brought out of the Finance Committee. But then they cut the lowest tier of benefits from 7 weeks to 6 weeks, and they made some other variant in the formula using the exhaustion of unemployment benefits. But overall, much of what we have done in the Finance Committee has been preserved. Now, if we try to unravel that, if we start adding amendments and we approach the Thanksgiving season, we go back to Ways and Means and try to work these out, I do not know where it stops.

I look at all of these States, some of them big delegations, who have been cut from 13 to 6 weeks of benefits. The House Members voted for it. Now if we take care of some of these others, we then have to watch what House Members come back for and what they want, and the process, I am afraid, becomes unravelled.

After 4 months of not being able to get agreement, now we have something the administration would agree to. Frankly, even though I prefer our approach in the Finance Committee, I think this is the best we can get, and I think we ought to take it to be sure that money gets out to the unemployed, who have been having a tough time hanging on.

I retain the remainder of my time, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator reserves his time. Who yields time?

Mr. PACKWOOD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire has control of the time. Does he yield to the Senator from Oregon?

Mr. PACKWOOD. Mr. President, I am on the other side.

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 8 minutes 3 seconds.

Mr. BENTSEN. I yield 4 minutes to the distinguished ranking member of the Finance Committee.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. PACKWOOD. I thank the Chair and I thank my distinguished leader of the Finance Committee.

Mr. President, I was one of the few Republicans that joined with the chairman of the Finance Committee on the first bill we had. I thought it was a fair approach. The argument from the administration was we did not pay for it. The argument from our side was we have paid for it. We had an $8 billion surplus in the unemployment compensation fund, taxes we had collected for an emergency, and the emergency was here. People could not make house payments, their car payments. Those are emergencies to everyday people.

They may not seem like emergencies when we are talking about a multi-, multi-, multi-trillion-dollar economy and a trillion-dollar budget, but to the average Jane and Joe it was an emergency. We lost that fight. The President vetoed it. The veto was sustained. We lost the second go-round.

The Chairman and I finally said all right, the President has the votes to sustain a veto. If we are going to do anything for these poor people, we are going to have to reach a compromise. We have reached a compromise with the administration. They will accept this bill. And now the argument is raised—it was not raised on the first bill, it was not raised on the second bill—there are disparities between the States and within the States, and clearly there was in the past. I have disparities within my own State.

I would be delighted if one day we did devise a formula which says that within a State if you have a county with 15 or 20 percent unemployment and where it is going to be much tougher to find a job in that county, you might get greater benefits than somebody who comes from an area in the State with 5 percent unemployment. We have not done that yet.

But always in the past we have had differences in lengths of benefits between States with high unemployment and low unemployment, realizing that on average it will work out to be fair. But on average some people are not quite treated the same, just as the Senator from Delaware mentioned his problem with people living in Pennsylvania and living in Delaware and being treated differently.

I have people who work in Portland, OR, but live in Vancouver, WA, or I have people who work for a large new prison that California built in northern California very close to the Oregon border but live in Oregon and work in California, and differences occur.

Those issues were never raised when we went through the first bill and it was vetoed, went through the second bill and it was vetoed. They are being raised now. I think the chairman is right; if this bill is held up because of those issues, there is not going to be any unemployment compensation bill this Christmas, and those people who cannot make their house payments now, cannot make their car payments now, are going to be out of luck. They are going to be out of luck because we could not agree in the Senate—not the House; they have agreed—over relatively minor differences. And because we could not agree, we are going to say "A plague on all of you. Happy Thanksgiving and Merry Christmas."

I hope that would not be the attitude of this body at this time. The chairman has indicated he is willing to look at reforms in the way benefits are determined next year. We are not going to do that this year and the choice is now do we want to make sure that decent people who are out of work have something to tide them over the next few weeks or do they have nothing. That is the only issue before this Senate today.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator yields the floor. The Senator from New Hampshire [Mr. SMITH].

Mr. SMITH. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes 53 seconds.

Mr. SMITH. I yield myself such time as I may consume.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. SMITH. I can understand the comments of the Senator from Oregon; his State has the reachback provision and his State also has gone from 7 to 13 weeks unemployment. So let the RECORD show that the Senator has every reason to be quite supportive of the bill and not supportive of my amendment.

I am also somewhat surprised my friend from Texas would decide in opposition to this amendment that he must punish the people of New Hampshire because we voted with fiscal restraint in support of the President's veto. He mentioned Senator RUDMAN and myself as being two Senators who were responsible for sustaining of the veto, and that is true.

So the logic is, I say to my friend from Texas, that you are going to punish New Hampshire and Arkansas and Kentucky. Let the RECORD show you are not punishing New Hampshire or Arkansas, et cetera. You are punishing the people on the unemployment line. That is who you are punishing.

It is time to drop the politics. We voted for a fiscally responsible bill, the Dole alternative. We now have a fiscally responsible bill and everybody should be treated fairly under it. That is the issue.

Let us say something else. Over the past several weeks I have been hearing in this Chamber a lot about putting America first. Well, let me show you how you are putting America first when you vote against this amendment. Ethiopia votes with the United States 7 percent of the time in the United Nations, 7 percent of the time. It has one of the most dismal records of human rights violations in the world.

The Somalian Democratic Republic ended 17 years of one-party rule under guerrilla forces. It voted with the United States 11 percent of the time in the United Nations.

Sudan, with one of the most ruthless policies in the world, votes with the United States 9 percent of the time. Kenya, Uganda, I can go on down the list. Those nations I just mentioned collectively last year received $325 million in U.S. foreign aid, and you are saying that that $325 million in foreign aid in more important than the people in New Hampshire and the people in Arkansas and the people in Kentucky. You are saying it is more important.

Rhetoric is one thing, but putting your vote down is another. I am tired of listening to the kind of talk that has been going on in this body. It is unfair, and the people here know it is unfair, and the people in New Hampshire know it is unfair and we are not going to forget it. It is unfair.

We have a fiscally responsible bill. It is the Mitchell language, the exact Mitchell language on foreign aid. We have not changed it. We have not changed a thing in this amendment. We are not taking a dime from Texas or a dime from anybody in any of the 45 States. It is not 5 States versus 45. That is not the issue. It is not the issue, 5 States versus 45. It is fairness, that the people on the unemployment lines in New Hampshire and these other four States are just as important as the people in the other States. That is the issue.

You are either going to vote for foreign aid for Somalia and Kenya or you are going to vote for American workers. That is the issue. Now, let us see if you have the courage to do that. I do not want to hear any more rhetoric in this body about putting America first if you cannot support this amendment.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator has yielded the floor. Who yields time?

Mr. BENTSEN. How much time do we have?

The ACTING PRESIDENT pro tempore. The Senator has 4 minutes 14 seconds.

Mr. BENTSEN. I yield as much time as the minority leader desires.

The ACTING PRESIDENT pro tempore. The minority leader, the Senator from Kansas, is recognized.

Mr. DOLE. Mr. President, I thank my colleagues. I certainly do not disagree with the argument just made by my colleague from New Hampshire. In fact, I have suggested in the past we take a look at foreign aid—not just freeze it, cut it.

It was not a very popular move by some who were recipients. I suggest that if in fact we pursued the Mitchell approach of foreign aid paying for unemployment benefits that I had a lot of other ideas on how we could save additional foreign aid by not fencing off any particular countries, treating every country alike, so you did not have first-class and second-class countries. We are not doing that.

Let me say we are sort of where we were last night when we went home about midnight. We have some people who are not satisfied with the compromise. Under the compromise there are two criteria to qualify for 13 weeks: 4 percent AIUR, or 2½ percent AIUR and a 29-percent exhaustion rate. Everybody did not fall in that category.

I did not make that determination. The Senator from Texas did not make that determination. It was made arbitrarily; 29 percent. So four or five additional States at the last moment were picked up.

The additional criteria of the Senator from New Hampshire based on the total unemployment rate—States with a total unemployment rate of 7 percent also would qualify for a 13-week tier.

We said several times last night this is not a perfect bill; this is a compromise on a short-term program.

There are 23 States in the category of 6 weeks: 5 get reachback, 18 do not. Senator SMITH's amendment would take 5 States and move them up to 13 weeks; 18 States still get left behind. So it may be then fair for 5 more States but unfair for the 18 States who were left behind.

I think what we are discovering is every time we have a bill with a formula on this floor somebody is not treated fairly. Sometimes it is actual, sometimes it is factual, sometimes it is perception, and sometimes it may not be real.

So it would seem to me that there is a more fundamental problem with the amendment. We never used the total unemployment rate as a measure for unemployment benefits. It is an untargeted measure—a broad measure that includes those who have little work experience and those who voluntarily quit their jobs.

The TUR comes from a Census Bureau sample of households. The question these households are asked is quite simple, "Who is not working in your household right now?" Needless to say this approach gives data on all aspects of the unemployed.

For example, a student could be included in this count if he or she decided to take a semester off. I do not think we intend students would enter into our decision to extend unemployment benefits.

The IUR, on the other hand is a reliable measure taken from the State records. The rate reflects those who are actually receiving benefits. It is a ratio of the number of workers receiving benefits to the number of workers that a State insures. It is the only measure we have ever used. It is the only measure we have found reliable to date for this purpose.

It does not mean we should not look at other measures. I think there ought to be a study. We had it in our bill for a study. I think the Labor Department can probably make that study if it is requested by the distinguished chairman of the Finance Committee and Senator PACKWOOD on whether we ought to use IUR or TUR. That would be very helpful the next time we address this matter which I assume will be in effect in a few months.

Finally, let me say this: There was an agreement reached. To some it is not a fair agreement. The agreement was that we made an agreement that there would be no amendments. That was signed off on by the President of the United States. The President of the United States still sticks by that agreement.

I have been asked to oppose all amendments, even those coming from my side, and the other side, because we think we have an agreement that will help millions of unemployed workers. And if we can still finish this bill by noon today or shortly thereafter, there is some chance that some workers will be getting checks before Thanksgiving.

So notwithstanding the equities pointed out by my friend and colleague from New Hampshire, Senator SMITH, and my friend Senator RUDMAN from New Hampshire, on behalf of myself and Senator MITCHELL I am going to be constrained to move to table this amendment. This is where leaders sometimes take the heat. It is unfortunate.

But we need to get this bill passed. We need to keep our agreement with the House. We need to keep our agreement with the President of the United States. He is going to sign this bill. If we start loading it up with amendments, there will be a number if we go to conference, I am certain the House will find a number of things they should have taken care of and they will want to raise in the conference. Who knows when and if we will have an unemployment bill.

Mr. President, I thank my colleague from New Hampshire. I certainly do not blame him for making the case. He has done an excellent job. Both of my colleagues from New Hampshire have done an excellent job. But at the appropriate time I will move to table the amendment.

The PRESIDING OFFICER (Mr. AKAKA). The Republican leader's time has expired.

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute 30 seconds.

Mr. SMITH. I yield 30 seconds to Senator RUDMAN.

Mr. RUDMAN. Mr. President, I want to say while the Senate Republican leader is on the floor that to me it is unbelievable, I am addressing this to their side of the aisle, that this party and this President would be party to an agreement that places a disincentive on frugality.

This proposal rewards States that have liberalized their unemployment compensation, and it penalizes States like New Hampshire which have been frugal and careful in making sure that Federal dollars are dealt with carefully. I thought that was what we stood for, and how we support this I do not know.

The PRESIDING OFFICER. The junior Senator from new Hampshire is recognized for 1 minute.

Mr. SMITH. Mr. President, in responding to the Republican leader who has been very fair to me, I am not quite getting his need to oppose the amendment. I think though it is important to point out with due respect to the leader that the last time I looked we were not constitutionally designed to be a rubber stamp for the House of Representatives or the President of the United States.

The President of the United States is going to sign this bill with this language in it, and the House of Representatives is going to to approve this bill with this language in it for the very simple reason is it does not take a nickel away from anybody else. Let us make no mistake about it when you come down here to vote. You are either going to vote for Kenya, Somalia, Uganda, who vote with the United States about 7 to 10 percent of the time in the United Nations, or you are going to vote for American workers wherever they are. That is the issue pure and simple. And there is nothing else that can cloud this. That is the issue.

Thank you, Mr. President.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, on behalf of myself and the distinguished majority leader, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay on the table the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] and the Senator from North Carolina [Mr. HELMS] are necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 74, nays 21, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—74

Adams
Akaka
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Bryan
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Hatfield
Inouye
Jeffords
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Seymour
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—21

Biden
Breaux
Brown
Bumpers
Conrad
Craig
DeConcini
Ford
Grassley
Heflin
Hollings
Johnston
McConnell
Nickles
Pryor
Roth
Rudman
Shelby
Smith
Symms
Wallop

NOT VOTING—5

Cranston
Harkin
Hatch
Helms
Kerrey

So the motion to lay on the table, the amendment (No. 1348) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, we have three more amendments to deal with on this bill under the order agreed to last evening. I hope that those Senators who expressed a desire to offer amendments and who are accommodated in the order will come forward now and offer their amendments so that we can proceed, debate and vote on those amendments, and act finally on this bill.

We are going to stay here until we do that, and obviously the sooner the better for all concerned, most especially the millions of unemployed who are awaiting our action. So I encourage prompt presentation of amendments by those Senators who have expressed a desire to do so.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I rise to express my very, very strong reservation to this bill. I, along with colleagues here in the Senate, have voted twice this year to help people who have lost their jobs through no fault of their own. They may be unable to make mortgage payments or even to feed their own family. The President has turned down two opportunities to provide this much, much needed help.

I feel that this bill is unfair to the people of my State. Mr. President, there are over 350,000 workers in the State of Ohio alone who are unemployed. Over 53,000 of those workers have exhausted their unemployment benefits—53,000 people. Earlier legislation provided a reachback, a retroactive provision, to allow those whose benefits have already expired to receive assistance.

I even have concern over the fact that some workers will have longer benefits than others. Some States will receive up to 20 weeks of extended unemployment, while others will receive only 6 weeks. Now, that seems hard to swallow from one State to another. I would argue, if you are unemployed, it makes little difference how many others in your State are unemployed; you are just as unemployed, have just as many bills, and have just as many difficulties.

For the people involved, this is not a recession, it is a depression. The administration likes to say the recession is over, so that takes care of the problem. If you are unemployed and your benefits have run out, you do not know where to turn. You do not know what to do. You do not have somebody who can help take care of your family. To you, it is the Great Depression, and you are in just as dire straits as people were back in those days.

So when we talk about recession, it is a depression to those who are unemployed and have lost their benefits. It is, indeed, the deepest of depressions.

I also recognize that States have different criteria for the allocation of benefits which must be considered in any Federal allocation. However, I believe that we must provide fairness for unemployed Americans—fairness. And to be treated differently just because of some arbitrary State line just does not make any sense.

Let me give a graphic example of the inequity of this bill, and that is the Jeep plant, located in Toledo, OH. Toledo, OH, has a very high unemployment rate. They run up around 11, 11½ percent. I do not know what the current figure is in the last few days, but they are much higher than our national average.

That plant employs workers from Ohio, of course. But Toledo, as most people are already aware, sits almost on the border between Ohio and Michigan. And so there are many workers from Michigan who drive across the border, just a few miles. Many of them live closer to the plant than do the Ohio workers.

But how can I go back and explain to those people, to unemployed Ohioans from that plant, that they do not get additional help, and that their coworkers, the people who work side by side, shoulder to shoulder, on that production line, the people who happen to reside maybe 3 or 4 or just a few miles away over in Michigan get the benefits, but the people that live in Ohio do not? That is very hard to justify. I cannot accept that. And I think that is just flat not right in this bill.

How do you go back and tell somebody we have a compromise? Well, it is all according to the formula here. We have to remember, this is according to the formula. You qualify for 6, 13, or 20 weeks, and you qualify for something that is 7 percent here and something there. It is a very complex formula.

To the guy who is trying to pay his bills at home, that does not help much, I will tell you that he cannot get the same help that a coworker gets standing right beside him because of a State line that happens to lie in between their homes, where the kids and the family are. We cannot justify that, as I see it.

These people have exhausted their benefits. They will not be eligible for benefits. Yet, those who live over in Michigan, just across the State line, will. The same thing can be said in other areas of the country. I am not trying to make it all an Ohio issue. Any State like that, where there is employment back and forth across the State line, is going to face this problem.

And how do you face those people and their families, and say one person gets it and one person does not, and they work side by side at the workplace? The bill does not define where the workplace is, and it does not make any allowance for this, and I do not know that it could. It is administered through the States. But somehow this has to be corrected. That just is flat not fair.

And I do not expect the people of Ohio to understand it, because I cannot understand it. How do we engender confidence in Government, and come away from this distrust in Government, when we see ourselves dealing so unfairly back and forth with individuals who work in the same plant, the same factory? That just does not make any sense.

I know that a great deal of effort has been made to bring this compromise to the floor. But I cannot let this go without calling attention to the inequity of this bill.

I also realize 85,000 Ohioans, on the other hand, will receive much-needed benefits from this bill. Senator METZENBAUM spoke so eloquently here on the floor last night, and I appreciated his remarks. He indicated that he did not want to cut off our noses to spite our face, and I concur with that.

Are we to say that no one in the future will get unemployment benefits and vote against this whole thing, throw it out and go back to where we were before? In spite of the recession, are we not going to help the people of this country? The President vetoed it, but is that the best we could do for the people of this country? Is the only way we could help was to include these inequities? Are people to live with that because of some artificial formula put together here in the Congress that even we have trouble understanding?

Imagine what the person on the line in Toledo is trying to explain back and forth to each other, or discuss with a coworker who is going to get it and he is not, and they say: "Well, it is a formula."

That is nice. It is a formula. That does not pay the bills. Formulas do not pay the bills. Formulas do not put food on the table. And that is the inequity of this bill.

So we could tell the President, if this passes—and I presume it will—that this Thanksgiving, there are 53,000 Ohioans who are going to be left out. It is going to be a skinny Thanksgiving for them, I will tell you that. They will have little to be thankful for this Thanksgiving. They get left out, while people next door get this, because we have some formula that we worked out—that I did not, I can guarantee you that—but somebody worked out over in the House of Representatives.

We have the formula that sets up the different tiers and qualifications. And yet, people working in the same plant get treated differently, even though their hardship is the same or even worse, maybe, in the places where they do not get it.

So I regret very much that we had a veto on the first two proposals we sent over to the President, which I think would have been much more fair than this. But now we are supposed to either take it or leave it.

Our Hobson's choice is, do we take the benefit for 85,000 Ohioans who can, as of the date of enactment, get their unemployment benefits extended and just leave those 53,000 without, or do we lose the benefits for everyone?

I just have to register my strong opposition to this. I think if there is anything that deals with fairness to our people, this is it. So we are faced with a very disgusting choice here, as far as I am concerned. Do we in effect deal unfairly with 53,000 Ohioans and those in other States who will have this unfairness visited upon them, or do we go ahead and vote to extend the unemployment benefits which will help a great many people across the country, I do not know who was involved or what rationale was used when they were trying to effect this compromise with the White House, and I find it very, very unfair, and I want to register my opposition to this. I am sorry we had to go this route.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak on another subject as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURAL TRADE

Mr. PRESSLER. Mr. President, I had the privilege of attending, in Rome, a meeting of the U.N. Food and Agricultural Organization this past weekend and also attended some of the meetings in relationship to President Bush's meeting with NATO Ministers. Many topics were discussed, but one of them was agricultural trade. There was a report in the International Herald Tribune that our trade negotiators had offered a major concession by proposing that the European Community cut its subsidies by 35 percent over the next 5 years. That is opposed to the previous position of the U.S. trade negotiators to reduce export subsidies 90 percent over a 10-year period.

I am very concerned that this may hurt our ranchers and farmers and our negotiating position. Let me say, first of all, I believe the GATT treaty is very important. It is important to agriculture because two out of every three bushels of U.S. wheat are exported to other nations under GATT. It is very important to the world trading economy. In the 1990's we can have a booming world economy, a prosperous world economy, if we have free trade. But free trade does not mean unfair trade. Usually, to some countries free trade means access to the markets of others but not access to their own markets.

Presently, we do not have access to a lot of European markets. For example, soybeans have sold for $18 a bushel in the Common Market. If our soybean producers could have had more access to that market, they would be getting about three times as much per bushel for their soybeans. But we are barred from competing.

Also, the European countries have found a number of nontariff barriers to keep our beef out, saying our beef has hormones in it. We can raise it with or without hormones, however that was not part of the agreement. That was an excuse that was brought in later.

There are European complaints about the cleanliness of our meatpacking plants. In fact, a lot of independent surveys indicate that our plants are cleaner. But we can meet those standards.

The point is, these are nontariff barriers. They are created after on agreement is signed, and they are keeping American products out of Europe. United States Trade Representative Carla Hills and the administration have, quite correctly, held up the GATT agreement, the Uruguay round, over the past few years because the Europeans have been unwilling to lower their subsidies for agricultural products. They have been unwilling to lower their export subsidies. And this has resulted in unfair competition.

The United States has lowered its agricultural subsidies for 10 years. Each year in the farm bill there has been a reduction in subsidy levels. We have lost a lot of family farmers because of that. We have lost a lot of small towns. I do not support that at all. But the facts are there. The United States has been doing what it is supposed to do under the GATT Trade Agreement. However Europe has not. I might also say that Australia and new Zealand have also reduced their subsidies.

Now we are faced with this report that was headlined in the International Herald Tribune, "U.S. Softening on Farm Aid Spurs GATT Hopes."

Indeed, we should be willing to negotiate, but I hope we are not softening on this key point just to get an agreement. Because if we have a bad agreement, it will be very harmful to our balance of payments. This does not affect just farmers and ranchers; it also affects our balance of payments because farm products are one of our chief export group.

Mr. President, I ask unanimous consent to have this article, "U.S. Softening on Farm Aid Spurs GATT Hopes", printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the International Tribune, Nov. 11, 1991]

U.S. SOFTENING ON FARM AID SPURS GATT HOPES

(By Tom Redburn)

PARIS.—The United States and the European Community have significantly narrowed their long-standing differences over farm subsidies, officials said Sunday, improving the chances of completing the current round of international trade negotiations by early next year.

In a meeting between President George Bush and EC leaders in The Hague on Saturday. American officials for the first time sharply scaled back their demand that Europe virtually eliminate support for its agricultural producers within a decade.

"The Hague summit unblocked negotiations on the critical issue of agriculture," a top EC trade official said. "There is much still to be done in Geneva, but we are at least finally within the same ballpark."

Both sides agreed, however, that major differences remained that could still torpedo the deal they have repeatedly pledged to complete.

Moreover, while the climate for a trade agreement has improved in Europe and in Japan, where leaders are talking about finally breaking the taboo against rice imports, political support for the White House's freetrade stance is deteriorating in Congress as Democrats sense that Mr. Bush is vulnerable on domestic economic issues.

The multilateral Uruguay round of trade talks, which began five years ago under the aegis of the Geneva—based. General Agreement on Tariffs and Trade, bogged down largely because of the inability of the European Community to reach an accommodation with the United States and other major grain exporters over the reduction of its costly system of farm supports.

The talks, which aim at extending the rules for global trade to services, protection of intellectual property and other areas, broke up in disarray last December in Brussels because of Europe's unwillingness to go beyond token cut in farm subsidies.

In recent days, however, Germany has signaled a willingness to press for major changes in the Community's Common Agricultural Policy, opening the way for Europe to reach a compromise with its trading partners.

"I think our talks did mark the narrowing of differences and the commitment to work to get that round concluded this year." President Bush said at a news conference Saturday. "The United States and the European Community have made progress in just the last few days."

Jacques Delors, the EC president, also expressed confidence the trade talks are near a breakthrough "For the first time, I am reasonable optimistic about the possibility of reaching an agreement," he said. "This is a very important signal to the world economy."

The talks, which also included Secretary of State James A. Baker 3d and the U.S. trade representative, Carla A. Hills; the Dutch prime minister, Rudd Lubbers, and the Community's chief trade negotiator, Frans Andriessen, lasted nearly four hours, well beyond the time originally scheduled.

And in contrast to most previous-high-level EC-U.S. meetings, where trade issues were often relegated to a few minutes of empty rhetoric after extensive debate on political matters, the GATT dispute dominated the discussion. Indeed, despite concern over the civil war in Yugoslavia, officials said about 85 percent of the meeting was devoted to trade issues.

"We are willing to show flexibility to bring this round to a successful conclusion," the two sides said in a joint declaration. "The remaining gaps will not be easy to close, but we are both committed to do so."

On Friday in Geneva, GATT's director-general, Arthur Dunkel, vowed to begin an intensive round of trade negotiators Monday aimed at settling most outstanding issues by the end of November.

The Bush administration offered a major concession in the talks on Saturday by proposing that export subsidies be cut by 35 percent over the next five years, followed by a review aimed at further reductions in the following five years. That is a far cry from it original demand that Europe commit itself to eliminate 75 percent of its farm supports and slash export subsidies by 90 percent within a decade.

The European position on agricultural subsidies was previously based on an overall reduction of no more than 15 percent to 20 percent from current levels. But that position is also undergoing revision as EC officials finally acknowledge that they must overhaul their farm program to achieve a broad trade liberalization agreement, which would allow greater access by other countries to Western Europe's sheltered market.

"We're no longer pretending that agricultural reform and the GATT negotiations are completely separate," a senior EC negotiator said, "The two are clearly two faces of one reality."

Mr. Delors spelled out the connection. "We intend to produce less, to import more, and to export less," he said, referring to farm products. "If we produce less, we put less pressure on the world market and this is a contribution to the GATT round."

An American official said the Bush administration, wanted to complete the trade talks as quickly as possible in hopes of ramming an agreement through Congress well in advance of the presidential election next fall.

"We're prepared to defend a trade agreement on the grounds it will help the economy," the official said. "If the Democrats want to fight it, we think we'll have the high ground in the debate."

Mr. Bush vowed in a speech to the Dutch parliament to resist narrow nationalism at home and abroad. "Shrill voices on both sides" of the Atlantic "peddle protectionism," he said. "We must guard against the danger that old Cold War allies become new economic adversaries—cold warriors turned trade warriors."

Mr. PRESSLER. Mr. President, at the meeting I attended in Rome, nearly every European diplomat in attendance predicted the United States is about to drop its demand that Europe cease its agricultural protectionism to the levels we have been demanding. That has been a fear of all the farm State Senators and, indeed, every Senator from a State that produces agricultural commodities.

We are in a situation in which we must be very careful as we proceed in these negotiations. I know that Carla Hills overall has done a good job. But I hope that the White House does not compromise on farm subsidies with Europe. I sent a strongly worded telegram to the President of the United States and Carla Hills with my observations. In part I said:

> Allowing the EC to continue its protectionist agricultural subsidy programs means that South Dakota farmers and ranchers will continue to face unfair competition. Every farmer and rancher in South Dakota knows that higher grain, dairy, and meat prices depend on better access to foreign markets. Unfair competition limits U.S. farm exports. EC export subsidies deprive our producers of billions of dollars in foreign sales.

Mr. President, I ask unanimous consent to have the telegram I sent the President printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

President GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Nearly every European diplomat in attendance at the food and agricultural organization meeting of the United Nations predicts the United States is about to drop its demand that Europe cease its agricultural protectionism. If this is true, I am very disappointed and will fight any GATT changes that hurts our farmers and ranchers.

The excessive European Community (EC) subsidies have led to the dumping of EC agricultural surpluses on world markets. This has meant lost markets and lower prices for South Dakota farmers and ranchers. All along the administration has promised it will insist on fair treatment for our farmers. The administration should not back down now in the eleventh hour of negotiations.

Allowing the EC to continue its protectionist agricultural subsidy programs means that South Dakota farmers and ranchers will continue to face unfair foreign competition. Every farmer and rancher in South Dakota knows that higher grain, dairy, and meat prices depend on better access to foreign markets. Unfair foreign competition limits U.S. farm exports. EC export subsidies deprive our producers of billions of dollars in foreign sales.

The United States has reduced its agricultural subsidies over the past five years, while the European Community has increased its subsidies. We must keep pressure on the EC to make major reductions in their export subsidies in order to expand agricultural markets worldwide.

Sincerely,

LARRY PRESSLER.

Mr. PRESSLER. Mr. President, if you drive north of Rome or into Friuli Province in northern Italy, you see huge cornfields and soybean fields. That was not true a few years ago. In fact, when I was a student at Oxford in the 1960's, I took a trip to see some parts of Italy. In those days it was all vineyards. As a result of the Economic Community's subsidies, you now drive up to Umbria Province, or Tuscany, and you feel like you are driving in eastern South Dakota or Iowa because of the number of cornfields and soybean fields. They can grow soybeans in Italy and get $18 a bushel under their subsidy program. Our farmers get $6 or $7 or $8 a bushel for growing soybeans. Our farmers would like access to the European market. We would like the opportunity to compete. The subsidy system of the Common Market is severely hurting agriculture in the United States, and that is contrary to what our trade agreements intended.

There is another article from the Washington Post, "U.S., EC End Major Impasse Over Agricultural Subsidies." But that has not been cleared through our major farm organizations. This is a move that came as a surprise to this Senator.

Mr. President, I ask unanimous consent to have the article from the Washington Post printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 13, 1991]

U.S., EC END MAJOR IMPASSE OVER AGRICULTURAL SUBSIDIES

(By Stuart Auerbach)

The United States and the European Community have forged a crucial compromise over the issue of agricultural subsidies that opens the way to a major overhaul of worldwide rules governing trade, U.S. and EC officials said yesterday.

Under the compromise, reached Saturday at a summit meeting between President Bush and EC leaders at The Hague in the Netherlands, the EC dropped its outright refusal to reduce subsidies to farmers, while the United States scaled down the level of subsidies it would consider acceptable, the officials said.

The officials stressed that the summit compromise set the framework for an accord but that hard bargaining is still expected over key details.

The farm trade issue has dominated the Uruguay Round of free-trade talks that are designed to modernize the General Agreement on Tariffs and Trade (GATT), the main accord regulating world trade. Major farm-product exporting nations have refused to conclude agreements in other key sectors until Europe agrees to end its farm subsidies.

This has stalled negotiations over such critical trade issues as reductions in tariffs, protections for patented products from piracy and rules to open service industries such as banking, insurance and engineering to international competition.

GATT officials said negotiations intensified this week as a result of the positive signs from the weekend's U.S.-EC meeting. "There is a definite feeling now on our side that there has been quite a bit of movement," although "there still are major differences to be ironed out," said a senior EC official in Washington.

The official also said the agreement Saturday was "balanced" in their areas, including a U.S. pledge to include telecommunications in an agreement on trade in services. U.S. telecommunications companies have complained that such a move would give European rivals access to the American market, while barriers remain in Europe.

At Saturday's summit, officials said EC Commission President Jacques Delors linked a more cooperative European stance on agriculture to U.S. willingness to end barriers against European service industries, such as restrictions on foreign ownership of U.S. airlines and radio and television stations.

U.S. Trade Representative Carla A. Hills said Saturday's high-level session at The Hague was one of the few days of real negotiations on agricultural trade since the Uruguay Round began in 1986.

The U.S.-Europe talks continued in Rome last night at a meeting between Agriculture Secretary Edward R. Madigan and the EC's farm commissioner, Ray MacSharry. "I see signs now of some movement on all sides which makes me cautiously optimistic," Madigan said, according to news agency reports.

Hills declined yesterday to outline the shape of a possible farm agreement, but European and U.S. sources said cuts in subsidies are likely to be smaller than the Bush administration originally demanded and would be spread over five years instead of 10. They said the agreement is likely to include a clause to review the agreement after five years, which could lead to further cuts in the subsidies.

European sources said that it appears to be the kind of package that would be accepted by the farm ministers of the 12 EC nations—included France and Ireland, the major holdouts among the Europeans—when the ministers meet next week.

While the United States and Europe are moving closer on the farm issue, Secretary of State James A. Baker III intensified U.S. pressure on Japan and South Korea to end their bans on imports of rice and other farm products.

In Tokyo Monday, Baker urged Japan to take a leadership role in the GATT talks instead of waiting for other countries to make concessions first. While Japan has not moved officially, its new prime minister, Kiichi Miyazawa, has dropped hints that the Japanese may propose some opening of their rice markets in the GATT talks—especially if Europe appears willing to negotiate away its subsidies.

So, Mr. President, in conclusion, the era we are in is one of international trade. My State has companies who have exhibited their industrial products at the Canton Trade Fair in China. We export the majority of the wheat grown in our State. We are very interested in the GATT trade system. I define myself as a free trader. But free trade means that we have access to Japan's or Europe's markets and they have access to ours.

We need access to Europe's markets and they to ours. In the 1950's our country started the practice of being very generous to these countries. We are trying to help them rebuild with the Marshall plan, and other programs. We gave trade concessions to a lot of countries around the world. They have never gotten over it. They all think free trade is sell anything, do anything in the United States, have banks here, own property here. But when our businessmen want to own property in a foreign country or open a bank there, or sell wheat, some excuse is found. They will sign trade agreements, but later add nontariff barriers.

Here we are talking about the GATT Agreement. We have been promised in this body by the Carter administration, by the Reagan administration, and the Bush administration that our negotiators will insist that Europe lower its agricultural subsidies and its export subsidies and that our people will have access to those markets before we go forward with changes in the GATT system.

Some have said we need the GATT Treaty so much that we should just make a compromise and let it go. That would break faith with farm State Senators. It would break faith with not only farm State Senators but also urban Senators because jobs and prosperity in the United States are very important.

So, Mr. President, I am alarmed if Carla Hills and her group are going to compromise on insisting that European subsidies be lowered. I am alarmed if this is being done without consultation with the Congress and without consultation with our leading industry and farm groups.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, might I inquire what procedure we are operating under. Are we in morning business?

The PRESIDING OFFICER. We are on the bill, H.R. 3575.

Mr. LOTT. Which is the unemployment benefits bill?

The PRESIDING OFFICER. That is correct.

Mr. LOTT. I seek to be recognized to speak on this bill.

The PRESIDING OFFICER. The Senator is so recognized.

Mr. LOTT. Mr. President, I fully understand the concern and frustration of the Members of this body whose States do not do as well as they might have earlier under other formulas to provide these benefits. I certainly sympathize with States like Alabama, Arkansas, Kentucky, Louisiana, and New Hampshire. I would feel the same way if my State was in a position where they were not getting sufficient benefits or as many benefits as they might have earlier.

I was very much attracted this morning to the amendment offered by the junior Senator from New Hampshire [Mr. SMITH] that would have taken some funds out of the foreign affairs account and use that to make up the difference of what these States are losing as compared to the earlier proposals. When I see a sister State like Louisiana that now would only get 13 weeks of benefits as opposed to 20 that they might have gotten earlier, or have it reduced from 13 to 6 in some category, that bothers me.

Having said that, we have messed with this issue now for weeks. My own State of Mississippi has the second highest unemployment rate in the Nation. We have people who are unemployed, who have been unemployed for a long time, whose benefits have run out. And these are not people who are just sitting around waiting for their benefits to come in. I know of personal instances where men and women had good jobs, they have been trying to get another job and they cannot get another job. They need help just to live, just to get by until they can find another position.

So I want to commend the leadership for trying to find a way to accommodate the concerns of our colleagues who do not feel they are being treated as fairly as they should be under this proposal. But I do not think at this juncture we can do it. If we do not pass this package as we are considering it in the form that it now exists, if we do not get it done today, I think we should stay here and do it tomorrow because this has been delayed long enough. We need action and if we do not get it done, it will not get to the President in time for his signature. We do have a bill he will sign, and if it does not get to him in time for his signature in short order, then people will not get these benefits next week or the next week and it will be sometime after that.

So I hope, even though I sympathize very strongly with those who are concerned about the provisions now in this bill as it affects their States, like Kentucky and Louisiana, I urge my colleagues, let us get this passed because there are people who are hurting. And while some of those States that do not do as well under this formula—I recall they do get some benefits—and depending on circumstances, maybe we could further address their problem depending on what happens with the economy.

Let us pass this bill now and then let us do something that will not just address the problem of unemployment benefits, let us do something that would maybe help get the economy moving so these people can have jobs. On behalf of people in my State, I urge that we pass this legislation and we do it today. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, let me respond to my friend from Mississippi. Let me just show my colleagues the headline in my State this morning. "Claims by Unemployed at 6-Month High. Sixth Highest in the Nation." Ten percent of all the first-time claims filed last week came from my State and my State was cut under the bill from 13 weeks to 6 weeks, but we want to see it done before Thanksgiving. My people would much rather have 13 weeks and get it a couple weeks after Thanksgiving than have 6 weeks and get it the week before Thanksgiving. You try to figure that out.

This is unfair. They went in there and took a schedule and a percentage and it went from 33 percent down to 29 percent to get the bulk of States.

You know something, it is awful smart politically to cut the first primary State in the Nation, New Hampshire. And now we have competition. Mr. Buchanan is in. It is going to be interesting, him going up there saying this State was cut. It went from 13 weeks down to 6 weeks. We better think about this a little bit because this fellow is going to fight for his State.

I intend to stay here and do the best job I can to see that Kentuckians win here and do not lose. Pass this bill, get it out: That is the pressure they are trying to put on. I do not intend to let the pressure move me one iota. If we can work out a compromise, that is well and good. If we cannot work out a compromise, then I am going to use what means I have to be sure that we stay here Saturday, that we stay here Sunday, and discuss the unfairness, the unfairness of this particular compromise that we are trying to jam through here now. Do it.

I do not blame my leadership. They were not there. They were not called in. They did make a phone call down the hall and they agreed to it. That was the end of it. So I think that we better take a step back and try to be fair to all Americans.

Sixty-five thousand Kentuckians will be affected by what we do here. The difference is between 65,000 getting 6 weeks or 13 weeks. The misery is not going to ease up if we just give them 6 weeks and I am not sure about 13 weeks. When you consider unemployment in Kentucky is at a 6-month high, we had 10 percent of the unemployed new files last week, 65,000 people, which I feel are the finest people on Earth, but you may not agree with that, are affected.

I just say it is time we take another shot at this one. We will have an amendment that my colleagues can vote for that pays for itself. If that is the problem you have, we will take care of that. We will do that before the day is over. We will see how good we are, how strong we are, how much we want to help, how fair we want to be.

I think it is time we start looking not at politics but reality. If you want to talk politics, I will talk politics with you. I understand politics. I understand it well. If I was at the White House, I sure would not want to cut New Hampshire. I yield the floor.

Mr. LOTT. Mr. President, I rise to respond to some of the comments just made by the distinguished senior Senator from Kentucky. In my remarks—maybe he did not hear them—I said I understand how the Senators from Kentucky, Arkansas and Louisiana feel. I empathize with them.

We have this problem in my own State. But I did not at all raise the question of partisan politics when I was making my statement. I was saying I have a State that is desperate, I have people who for weeks have not been getting any benefits. Let us find a way to get this job done. Let us not let it go over to next week. I am perfectly prepared to stay Friday and Saturday.

I know how the Senator feels. He is doing just what he should do; he is fighting for his people. He says I am not mad at our leadership; they were not there. I am beginning to wonder who was there, who developed this package, where did it come from?

It was not written in New Hampshire. To infer that it is a mistake by the President to sign this bill because it affects New Hampshire, the first State in the primary, look, the President is not going to sign anything that we do not pass in this body first. So this is not an opportunity that we should use to talk about the Presidential campaign next year.

Let us find a way to try to get this job done because we have been messing around with it for weeks, and weeks, and weeks. They have on the other side of the Capitol, the administration. Nobody can be absolved of blame.

Meanwhile, there are people in my State, and in the State of the Senator from Kentucky, who are hurting. I really do not like this solution because I do not like what it did to Kentucky and Louisiana. But in the meantime, I have people in my State, the second highest unemployment level in the Nation, the poorest State in the Nation, men and women who I have talked to who are not getting any benefits and have not been for weeks.

They are saying to me, do not tell me about Republican, Democrat, House, or Senate, who did what, who shot John. Tell me what you are going to do to help me get some food. That is all I am asking.

I understand how the Senator feels. Frankly, I would like to try to find a way to help him. To get up and start talking about New Hampshire primaries next year when we are talking about people unemployed now, I do not understand that.

Mr. FORD. Mr. President, since the comments were directed to me, I would like to reply to my friend from Mississippi because he does not give any quarter, and I hope I do not either. But, No. 1, we will have an amendment this afternoon that pays for itself, and I want to see how strong the Senator is to help us. That is No. 1. We will give the Senator a chance. It will pass here if he will help us. That is all I want, just a little help.

Second, the political aroma is pretty thick out here. The Senator knows it is. We get into who did it and who did not do it, and whether it was the House side. The Senator wants to put all that aside. It is the first time I have heard that in a long time around here—put it all aside.

Let us do what is right. OK, let us do what is right. Let us help these five States. We will put politics aside. We will just be Americans for a change. I would like to have that one time. But if you look at the five, you are writing off Kentucky, writing off Louisiana, writing off Arkansas, writing off Alabama, and writing off New Hampshire.

I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I will take a moment because I know there are a number of negotiations that are ongoing among a number of Members who have amendments to this bill.

I have an amendment which I will alert the Members of the Senate to that I think is a very reasonable. It is very rational. I think the administration should support it because it pays for itself.

When the bill left the Senate, Mr. President, under the leadership of the chairman of the Senate Finance Committee, we had a bill costing $5.4 billion.

The bill that is now before the Senate that the House wrote—and no one wants to take credit for writing this piece of legislation. I do not know who the actual author is from the Senate, but something happened after that bill left the Senate. It came back $100 million less expensive.

I do not know how they did it, but they managed to take States that have very high unemployment, all averaging over 7 percent, and they reduced their benefits from 13 weeks down to 6 weeks. And even more importantly, what they did was to say to those States that have people who have been unemployed over 26 weeks, who are not getting any check whatsoever, we are not going to count you anymore. Not only are you not going to get an additional week, you are not going to get an additional 6 to 13 weeks. You are not even going to get an additional 1 day of compensation. The House bill says we are not going to count the people who have expended the unemployment compensation.

Mr. President, that is inequitable. That is wrong.

We have an amendment that I will be presenting, I understand, after the Senator from Delaware [Mr. ROTH] offers his amendment that addresses these problems in a way that I think is fair and one that the administration should accept.

There have been some concerns that, well, by offering the amendment we open a floodgate. That is no longer valid because we have a restriction on the number of amendments that can be offered. There are only two or three, and that is one of the package. It does not open a floodgate for other financial amendments to be offered. It is very restrictive.

Second, some say it will cost too much and the President will veto and we do not pay for it. That is ridiculous. My amendment has a method of payment which I think is very fair, equitable, and in fact produces more than it costs.

Mr. President and Members, when the amendment is offered, I would hope Members who have some concerns about amendments being offered would say it is no longer a legitimate concern.

I do not want to get into the politics of it. I think the better argument is one of fairness and one of equity. We are trying to help unemployed people. How can we ignore literally thousands and thousands who will receive not 1 day additional unemployment even though they have been unemployed for 6 or 7 months in many of these States? So our amendment addresses those States that are dropped from 13 to 6 weeks and lost their reachback provisions in a way that pays for it and it pays for it in the same manner that the House of Representatives in fact arranged to pay for the rest of the program.

It is interesting to point out—I just mention it at this moment—one of the ways that this bill pays for itself is by the changes that were made in the people who file their estimated tax. Estimated tax allows a wealthy taxpayer to make a choice. He can either pay 100 percent of what he paid last year or he can pay 90 percent of what he will make in the current year he is filing. That is a very generous provision for some very wealthy people.

Under the leadership of Senator BENTSEN, they decided to raise some money by restricting that by saying if your gross income goes up by $30,000 or more, the House changed that figure to $40,000 or more, you are restricted in using that safe harbor tax provision. My amendment simply changes that $40,000 back down to $30,000. And Joint Tax tells us that that raises $300 million. Our program to include these new States is a cost of $155 million.

So, Mr. President, we bring equity to this legislation and we pay for it in the same manner that the rest of the bill is being paid for. I do not know how anyone in the administration can argue that we are going to leave hundreds of thousands of individuals without any unemployment compensation so we can take care of those people whose incomes increase over last year by $40,000 or more. Is that fairness? Is that equity? I do not think anyone can sell that in an election year, or in any other year anywhere, nor should we attempt to do so.

So, Mr. President, at the appropriate time, I think following the Senator from Delaware, I will offer the amendment which is as I have just now described it.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, at the appropriate time I am joining my colleague, Senator BREAUX, from Louisiana, in proposing this amendment.

Mr. President, I strongly urge our colleagues to look at this amendment fairly and dispassionately and give us a chance.

As the bill came from the House, Mr. President, it went in exactly the opposite direction from fairness. It sounds like a complicated formula when you talk about insured unemployment rate as opposed to total unemployment rate.

What this bill did is what the bill as it came from the House did—base your benefits on the insured unemployment rate. What that means is the poorest States like Louisiana, which has been in a deep depression—not a recession, a depression—and which has had to restrict the number of people on the insured unemployment rolls, had to restrict that because we did not have the money to pay for it.

So our total unemployment rate is high, 7 percent. But our insured unemployment rate is low because we did not have the money to pay for it. So this bill comes along and makes a bad thing worst by saying, in effect, the poorest States are those who get less benefits. It is going in exactly the opposite direction.

There is another provision here, Mr. President, that talks about exhaustion rates. In other words, if you have exhausted your unemployment benefits at some far distant time in the past, months ago, then you are not eligible to go back and reach back and get those benefits.

Again, the employees who need it worse, who have been unemployed for the longest period of time, under this formula are not eligible to get those benefits. So the poorest States are penalized; the poorest employees—that is, those who have been unemployed for the longest period of time—are totally penalized.

Mr. President, it is a catch-22 if I have ever seen it. When you go down this list, you look at my State of Louisiana with 7-percent unemployment, our number of weeks went from 13 to 6 weeks. Whereas, pick another State, say for example the State of Kansas: Kansas went from 7 to 13 weeks. We went down and they went up. Yet we have almost twice the unemployment rate that Kansas has.

Kansas only has 4.7 percent and we have 7 percent. How did it happen? Because of the manipulation of the insured unemployment rate and the exhaustion rate. Again, those employees who need it the worst are those who do not get it. The States that are the poorest are those that are penalized.

So what our amendment does, Mr. President, is go back with those and correct it for these States that have the high unemployed rate. If you have a 7-percent unemployment rate under our amendment, Mr. President, then you are going to be able to get the 13 weeks. It recognizes that those States with—I believe, it is six or seven States—7 percent unemployment rates would be eligible then to receive the 13 weeks.

We understand it only costs $150 million to do this. We raised $300 million, not by penalizing people but by having them pay a portion of the tax which they ought to pay anyway, in effect by closing a loophole against the most wealthy taxpayers.

Mr. President, I urge our colleagues to do this. I cannot imagine that the House would turn this down. I mean why would they turn it down. Because it is complicated? No. It is a very simple amendment. It does not take a lot of negotiation. It pays for itself.

Is the White House going to turn this down?

Mr. President, I cannot believe that the White House would say it is right for the poorest employees and the poorest States to be penalized under this formula. I just simply cannot believe that the White House would do that.

I believe—and I have been beseeched by my colleagues, Mr. President, to realize—that if we pass this amendment, it will quickly be approved by both the White House and the House of Representatives because there is no reason in logic for delay or politics not to approve it. It is one of these amendments which is a targeted amendment to help a tremendous injustice done by this bill as received from the House.

I urge at the appropriate time for my colleagues to be for the amendment to be introduced by my colleague from Louisiana, Mr. BREAUX.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from North Dakota [Mr. CONRAD].

Mr. CONRAD. Mr. President, there is only one problem with the fix that they are talking about. It is right, in terms of principle, that those States that were dealt with unfairly, most unfairly, be included. But it does not deal with 12 other States whose workers are denied the reachback provisions.

I defy anyone to stand on the floor and explain why a worker in a State that has exhausted his benefits should be denied reachback in one State but allowed it in another, because that is exactly where we are headed here today.

We are going to have a situation in which a deal is going to be made. The problem with it, if it is not altered, is that it is going to be an unfair deal. It is going to be unfair to the workers in States that are not allowed to reach bank, to workers who are in precisely the same set of circumstances in two different States. Let me give an example.

If you are in the State of Texas and you have exhausted your unemployment benefits, and you did that in prior months, once this legislation is passed, it will reach back and give that worker benefits, additional benefits, that he would have had had the legislation been in place last March.

But if you are a worker in North Dakota and 17 other States who exhausted their benefits, you are not going to have the privilege of reaching back and recapturing what you would have had had this legislation been in force.

Mr. President, I know of no way to justify that to the worker who is in North Dakota, and tell him, "Sorry, you lose," the worker in Texas, "You win."

We are going to have situations if this is not changed where the worker on one side of the State border is allowed to reach back, recapture benefits, and the worker on the other side of the border is not.

Mr. President, we had an intense debate last night. One reason that I found myself reacting strongly to what we were handed is because it is so clearly unfair. How can anybody justify a formula that says to the State of Louisiana that has 50 percent more unemployment than the State of Kansas, your workers get 6 weeks of additional benefits, but Kansas gets 13 weeks of additional benefits, and to add insult to injury, the worker in Louisiana cannot reach back, and the worker in Kansas can reach back. How can anybody say that is a fair formula?

We heard a lot of explanations of this formula last night, Mr. President.

We were told, well, it is all based on State law, and if your States were not in such tough economic straits, such difficult budget situations and, therefore, so tight with unemployment, you would get better benefits. What kind of explanation is that, Mr. President? What kind of explanation is that?

Let us be truthful here. This result comes from mirroring a formula that was devised here and applying it to State law. It is not just based on State law. Oh, no; it is based on a formula that was concocted here.

The last time I felt this upset about walking in on a deal was when I caught a fellow in an organization I used to belong to back in my State trying to cook the books. He was trying to embezzle money. When I walked in and saw the results of the formula that was conducted here in Washington, and saw the clear unfairness of it, I had the same feeling, because really what has happened here is a small group of people went off in a room, they baked the cake, they cut the cake, and they put it on their plate. That is what happened here.

If you look down the list of the difference between what happened in the Senate proposal and what came back, five States lost 6 weeks of benefits: Alabama, Arkansas, Kentucky, Louisiana, New Hampshire. And the proposal that is now coming from the Senator from Louisiana is to take care of those five States.

Eighteen additional States lost 1 week. My State is included. And a number of States—I think 12 in number, perhaps 14—got added benefits. They got 6 or 7 weeks of added benefits.

We heard the argument here on the floor last night that the reason this bill was done in the way it was, was that it had to fit into the budget. It had to be shoehorned into the budget. I made the point last night that some were shoehorned in, and some were shoehorned out. Because this was not just a matter of fitting the budget. Some people were given added benefits, and some people had benefits taken away. And based on a formula that, frankly, is a very simple formula, it is pure political power. That was the formula that was used: pure political power.

If you wonder how one might make that assertion, just look down the list of the States that got added benefits: Georgia; there is a Republican leader from Georgia. Illinois; another Republican leader from Illinois, and the chairman of the tax writing committee in the House; Maryland, which has a joint tax committee chairman; New Jersey, which has a member of the Finance Committee; Oregon, which has a ranking member of the Finance Committee; Texas, the home State of the President; Washington, the home State of the Speaker of the House.

If anybody wonders where this formula came from, it came from a room in which people decided they were going to cut a deal, and it was a deal that was good for those who were in the room, and everybody else got cut in order to take care of the ones that were in the room.

That is what happened here. Now we are going to have a proposal before us to take care of a handful of those States. We are going to take care of five or six of them—we will see in a minute what happens—and leave the others hanging out there, and cut their benefits in order to increase the others.

Well, Mr. President, if there was some rationale or some justification for that, I guess I could understand it. But I must say that I have a very difficult time understanding how it is fair for an unemployed worker who has exhausted his benefits in some State to be able to get a restoration of those benefits, while in other States they are denied.

We will hear the argument that unemployment insurance was designed not just to take care of the unemployed worker, but to buffer the economic downturn that occurs in an area that has a high rate of unemployment. That is an indication that they need to be buffered more than a State with a low level of unemployment.

Let me just say that the problem with the theory, Mr. President, is twofold. No. 1, the unemployed worker who is in a State that is taken care of is hurt just as much as the unemployed worker who is in a State that has a higher level of unemployment. The worker in North Dakota is having just as much trouble paying his rent, taking care of the doctor bills of his family, putting food on the table, as the worker in Texas who has run out of his unemployment benefits. That is problem No. 1 with that theory.

Problem No. 2 is the assumption that the pure unemployment number is an indication of how hard hit an area is economically. Mr. President, I do not know of a State that has been harder hit economically in the last 10 years than my State. The evidence is clear. My State, the State of North Dakota, led the Nation in personal income decline in the last 10 years. We led the Nation in personal income decline—not exactly the category in which you would like to lead the Nation. No. 2, my State is the only State in the Nation that has less people now than we had in 1930. The only State.

Mr. President, we want to talk about economic hurt and hard economic times. We have had 4 years of drought. We have the lowest farm prices in 50 years. And half of my State's economy is dependent on agriculture.

Now we get to an issue like this one, and because our State has been hard hit, because we are operating on the same budget that we had 10 years ago—that is hard to believe, is it not? That is the case in my State. We are operating on the same budget we had 10 years ago. So certainly they have tough standards for unemployment. They have tough standards in every category of spending. And because we have been hard hit, we are penalized and told, well, your workers who have exhausted their benefits—by the way, there are only 11 States that have a higher level of exhaustion than mine—run out of luck if they run out of their benefits. They are not going to get reachback. But workers in other States are going to get reachback. Why? Well, they say because of this formula.

Well, Mr. President, this formula gives a result that says to Louisiana, which has 50 percent more unemployment than Kansas: You get 6 weeks and no reachback. Kansas, with far less unemployment, gets 13 weeks and reachback.

There is no way of defending that formula on the floor of the Senate. We could go through State after State and talk about what kind of a result this formula has come up with.

Mr. President, there are 18 States that are told their workers are second class; they do not get reachback. My State is 1 of the 18. And the reason that those 18 States' workers are disadvantaged is to give additional benefits to those States that are already better off under this formula.

As I say, we have a situation where the people went into a room, baked a cake, cut the cake, and put it on their plate. And that is why this Senator was so exercised last night when I started studying this table of the deal that we will hear a lot about the rest of the day.

We will hear: A deal is a deal; a deal is a deal. We will also hear that none of the leadership in the Senate were involved in this deal. Last night, the majority leader said he was not involved in the deal. The chairman of the Finance Committee said he was not involved in the deal. The Republican leader said he was not in on the deal.

If none of the leadership is in on the deal, how can it be a deal? Why is it a deal?

But we will be told over and over today: Vote against any of these amendments, because a deal is a deal.

Maybe it is, if you are included in the deal. But how this can be fair eludes this Senator.

Mr. BREAUX. Mr. President, will the Senator yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. BREAUX. Mr. President, I think the Senator is making some very valuable points. If we are trying to take care of unemployed people, but somehow we are telling those people back in our States that those of you who have been unemployed the longest, who have run out of any compensation benefits, we are not going to help you at all. I do not know what our message is to those people, by not reaching back and picking up those people who are so desperate that they have exhausted their 26 weeks of unemployment, and they have not been given unemployment maybe for a week or a month or maybe 6 months. Because they are not getting any unemployment anymore, that now that Congress passes a bill that provides 6 or 13 weeks extra, that they are not going to get any part of that, not going to get 1 day extra or 1 week extra? Is that what we would tell the people?

I say, do you have any kind of explanation for the logic that went into whatever came back from the other body that brought us this package?

Mr. CONRAD. The Senator from Louisiana is correct.

The only thing I could say to the people of my State is: Yes, there was a formula working here. The formula would be something like this. If your State begins with the letter G, and you have a Republican leader, you are in on the deal; your workers are taken care of.

If your State begins with the letter I, and you have the chairman of the tax writing committee in the House and a Republican leader in the House, you are in on the deal. If your State begins with the letter K, and you have the Republican leader in the Senate, you are in on the deal.

If you are from a State that begins with the letter O, and your Representative here is the ranking member of the Finance Committee, you are in on the deal. If your State begins with the letter T, and the President calls your State home, you are in on the deal. If your State begins with the letter W, and you have the Speaker of the House, you are in on the deal.

This is the formula that was at work here.

Mr. BREAUX. Mr. President, will the Senator yield?

Mr. CONRAD. Mr. President, it is not right. It is not right. The worker who has lost, who has gone beyond his extended benefits, his basic benefits in a State like mine has got just the same problem as the worker in these States. This cannot be defended.

Mr. BREAUX. Mr. President, will the Senator yield?

Mr. CONRAD. I yield.

Mr. BREAUX. Mr. President, to respond, apparently the Senator said the formula was an alphabetical formula that was used in arriving at these charts we now have.

Mr. CONRAD. It is certainly not a mathematical formula, Mr. President. I direct the Senator to his own State. One of the things that exercised me as I came on the floor last night and I started looking down this chart was, first of all, of course, my own State. We do not have high levels of unemployment in my State. Mr. President, when you are unemployed in my State, because the State has been through such very difficult times, you leave. You do not stay. And yet we are denied reachback and other States are given it. That is not fair.

But, in addition to the treatment of my own State, as I looked over this chart, it became more and more clear to me that this formula is a fraud, because what we are supposed to be doing here is helping unemployed workers. If that is what we are doing, how can it be that a State like Louisiana, that has 50 percent more unemployment than the State of Kansas, the State of Louisiana gets 6 weeks of additional benefits and not reachback, and Kansas gets 13 weeks and reachback? How can that be justified? It cannot be.

As I looked down, I saw Oklahoma. In Oklahoma, they have about the same level of unemployment as Louisiana: 6.7 percent. Kansas has only 4.7 percent. And yet Oklahoma gets 6 weeks and no reachback; Kansas gets 13 weeks plus reachback. How can that be justified? It cannot be.

This formula, as I have said before, was concocted in a room in which the people who benefited baked the cake, cut the cake, and put it on their plate. And if what we are doing here is trying to represent the interests of all Americans—I am not just working on behalf of my State, although obviously, that is my first responsibility—but as I look down this chart, this thing cannot be defended. It is not fair.

I say to my colleagues, and certainly the Senator from Louisiana, I know there is a move to take care of your problem. I hope that your problem is taken care of. But I must say, I also plead for the people in my State who have run out of their benefits. They deserve a reachback, just like every other State's workers.

Mr. President, I know what is happening now. There is a meeting off the floor here somewhere. They are going to take care of another five or six States. I can tell you right now what I suspect is going to happen.

Momentarily, they will come back and there will be a love hug on the floor here, and we will find out that despite what we were told last night—that no amendments could be accepted or the whole deal will go down—in just moments, they will come out and they will say: Well, you know, actually there will be one amendment. We will take care of Alabama; we will take care of Arkansas; we will take care of Kentucky; we will take care of Louisiana; we will take care of New Hampshire.

Yes, that is the first primary State. Of course, their workers will be taken care of. But the other 12 States that do not have reachback, or the other 13—I would guess, by the way, they will probably add the State of Delaware. That will take care of Mr. ROTH. They will take care of those six States. They will tell the other 12 States' workers: You lose; you lose.

There will be no moral justification for what is being done. There will be no sense of fairness for what is being done. It will be a formula; it will be the three P's: pure political power. That is the formula that is at work here. And it is wrong. If we are going to deal with this problem, we ought to deal with the unemployed workers in every State. We ought to deal with them in the same way.

I do not disagree that those States that are most severely impacted ought to have more weeks, ought to have more weeks of additional coverage. But this reachback provision, Mr. President, the way it discriminates, there is absolutely no way to defend it. And if need be, we will have to talk for a while today, and at least plead with our colleagues to take notice of those who have been very badly hurt.

I am hopeful that colleagues will listen. We heard last night a very academic discussion of why it is that some States should be given additional benefits. We were told that unemployment benefits are not designed just to take care of the unemployed worker; they are designed to buffer those areas that have been especially hurt by an economic downturn.

I can accept that rationale, Mr. President. That makes some sense. The only problem with it is it does not deal with States that have been especially hard hit.

I see the Senator from Oklahoma going through. I tell you, the State of Oklahoma is being hard hit. They have been very hard hit. Let us just go down the list of other States that have the minimum level and no reachback for their level, minimum number of weeks and no reachback.

The State of Colorado. I tell you the State of Colorado has been hard hit. I was out there and saw what happened to the S&L industry in the State of Colorado. They were selling condominiums that were built and offered for $100,000 apiece. Now they are selling them for $20,000.

The State of Delaware. The State of Delaware has no reachback. They are surrounded by States that have reachback but they did not quite make the cutoff, the artificial formula that was designed to take care of those that were in on making the deal.

The State of Hawaii. The State of Hawaii has a low level of unemployment. They are a State that perhaps has not been as hard hit.

The State of Indiana. The State of Indiana, another rural State. A lot of rural States show up on this list, like Iowa. I can tell you, the State of Iowa has been hard hit, just like my State. We are suffering from the lowest commodity prices in 50 years—adjusted for inflation, the lowest commodity prices in 50 years.

My State led the Nation in personal income decline. I guess that Iowa would be in the top 10 of income decline as well. But their workers are told, "No reachback for you." Of course, they do not have anybody in the leadership in Congress.

Louisiana. We talked about Louisiana before, very unfairly treated.

The State of Minnesota, another agrarian-based State. Their workers are told, "You don't get the reachback."

Nebraska. Nebraska, another State out in the heartland of the country. Somehow these heartland States that have been hurt very badly in terms of an agricultural economy, an agricultural base, they are all told, "Sorry, your workers don't get reachback."

New Hampshire. Now they are probably going to take care of New Hampshire. New Hampshire is the first primary State, and we have already heard the argument that they are making to the White House right now. "Gee, you guys really want to stick it to the people in New Hampshire and not give them reachback when that is the first primary State?" Oh, it is OK to stick it to North Dakota; we do not have an early primary. It is OK to stick it to Colorado; it is OK to stick it to some of these other States. But they are going to take care of New Hampshire, I suppose.

North Carolina is another rural State. They do not get reachback.

North Dakota.

Ohio. This one really baffles me. The State of Ohio, 6.5 percent level of unemployment. Kansas has 4.7; 6.7 level of unemployment in Ohio; 4.7 in Kansas. And the State of Ohio gets 6 weeks and no reachback and Kansas gets 13 weeks and reachback. That is another example of the unfairness of this formula, a formula that was concocted in some back room somewhere and brought out here by the people who baked the cake and cut the cake and put it on their plate. There is another perfect example in Ohio.

Oklahoma, 6.7 percent level of unemployment—6.7 percent. And yet they get 6 weeks and no reachback. Kansas, with a much lower level of unemployment, does much better.

South Dakota. Surprise, surprise, only one Member in the House of Representatives, just like North Dakota. Surprise, surprise, South Dakota, their workers are told, just like what the workers in North Dakota are told, "You lose. If only you were across the border, if only you were down in Texas, then we would give you reachback. If you exhausted your benefits back there in March, why then we would be here to restore your benefits."

Utah. I do not know how many Members of Congress Utah has over in the House. Utah, maybe they only have one Representative. Maybe that is the way the formula works.

Virginia. The State of Virginia; they are not one, no reachback applies in Virginia. Your workers do not get any reachback. The distinguished occupant of the chair, I imagine, has some feelings on the fairness of that. They have 5.9 percent unemployment in that State.

It is interesting because Maryland, which is right next door, has the same rate of unemployment as the State of Virginia, 5.9 percent, and yet in Maryland they are going to get 13 weeks of extended benefits and a reachback. But right next door in Virginia, the same level of unemployment, you get 6 weeks and no reachback. It is going to be real interesting to see how that is explained to the workers in Virginia.

How is that fair? Right across the border, the person who has exhausted their benefits, a job labor market that has the same rate of unemployment, and the person in Maryland gets 13 weeks and reachback and the worker in Virginia gets 6 weeks and no reachback. This formula is not fair. There is example after example.

The State of Wisconsin; there is another one. No reachback for the Wisconsin worker. Right next door, in Michigan, they get reachback, but not over in Wisconsin. Somehow that Wisconsin worker is less worthy of getting help from the Federal Government. Somehow that worker in Wisconsin is supposed to make do. I do not know how they are supposed to feed their families. I do not know how they are supposed to take care of the rent. I do not know how they are supposed to take care of their obligations. The Federal Government decides that the one in Wisconsin, he is on his own; the one in Michigan, he gets help.

And the State of Wyoming. Wyoming is a State like mine, a rural State, been very hard hit. In fact, I think Wyoming is one of the least populous States in the country. They only have one Congressman. So I guess the idea was, well, we will just go down this list, and we will take benefits from some of these folks and give it to others.

And maybe we ought to look down the list of who are the winners and who are the losers in this deal. The States that lost 6 weeks of benefits from the previous package were Alabama—boy, that is a wealthy State.

Arkansas. There is another State that is certainly doing well.

Kentucky. We just heard the distinguished Senator from Kentucky talk about what is happening in that State with unemployment claims and benefits.

Louisiana. I think everybody in the country understands the hard times that Louisiana has been through. That is a State that is based on an energy economy. Energy prices have collapsed. Louisiana has had high rates of unemployment, real economic hurt. One of the results is we see a rise of someone like the current candidate for Governor down there. But benefits are taken away from them.

New Hampshire.

Those States all lost 6 weeks of benefits.

Eighteen States lost 1 week: Colorado, Delaware, Hawaii, Indiana, Iowa, Minnesota, Nebraska, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Utah, Virginia, Wisconsin, and Wyoming.

And who are the winners? Well, the winners, States that gained 6 or 7 weeks are: Alaska; Arizona; Georgia—now Georgia, that is a surprise, a Republican leader from Georgia; Idaho; Illinois, there is another surprise—you have a Congressman who is head of the tax writing committee on the House side, another Republican leader in that State; Maryland; Missouri; Nevada; New Jersey—New Jersey got 13 weeks added; Oregon; Texas—the President hails from Texas; Washington, the State of Washington—the Speaker is from Washington. Those people got added benefits while the 18 States that I listed lost benefits, lost a week. Five States lost 6 weeks of benefits.

And they tell us this is a formula and this formula was designed to interact with State law and so it is sort of an immaculate conception. We heard last night nobody really had anything to do with this ultimate result. It just miraculously somehow appeared out here.

Nobody wants to be associated with it because it is indefensible. But, Mr. President, there is a way of fixing this. There is a way of fixing it.

There is a way of fixing it that says to every worker in every State, you get reachback, and it does not cost a dime more than the package that is in front of us now. The way to fix it is to have an amendment that takes from those who have gotten the biggest additional benefit package, those States that have 20 weeks or more, and take some of that money and give it to those States whose workers do not get reachback. That would be fair.

Mr. President, Senator ROTH has prepared such an amendment, which is one of the two amendments that he and I have reserved to offer here today. I very much fear what is about to happen is that Mr. ROTH's State will be taken care of, along with the five other States I have listed here. Because if you look at this chart, if you go to 6.9 percent on the total unemployment rate you will take care of the five States that lost 6 weeks of benefits. And lo and behold, you will take care of the State of Delaware. That will be a neat package. That will take care of the problem for six States. And that will leave just 12 of us, 12 States whose workers are told you do not get any reachback.

Those 12 States—two Senators per State, 12 States, that is 24 votes. I think they have that one figured out. We will get 24 votes, there will be 76 votes to take care of the rest of it. And we will go back home and explain the formula, the three P's—pure political power—and how it is when we are supposed to be writing a bill to take care of the unemployed people, people who have been hurt, that we have been fairly treated.

I do not really know any way to make that argument. I know if I give up this floor perhaps the Senator from Louisiana will offer the amendment. It will take care of six States.

I just hope that some of my colleagues who are in States that are on the list of the 18 are listening. I hope they realize what the result of this formula is. I hope they would like to see a more fair result, because we are going to have an opportunity to vote on amendments today that will make this a more fair result.

Mr. President, I hope with that description people are alerted to what the issue is here today and that others will join this fight.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. President, I certainly identify with and agree with the concerns that have been raised by the Senator from North Dakota. There is no justification that I can understand that says that people who have exhausted their unemployment benefits somehow are not to be considered in the unemployment compensation bill, and that is what this bill actually does.

We talked a lot last night about how important it was to rush through and get this bill passed because of the Thanksgiving holidays and we can just not imagine families who are not able to have a Thanksgiving festival, a celebration, and have turkey with the family because the father or mother or perhaps even both members of the family are out of work.

I suggested last night, and I think it is correct, the biggest turkey around this city during this holiday period is this bill that is now pending before the Senate. I think we can make it better. I think we can make it address the concerns that are legitimate concerns.

I want to take just a minute to describe the amendment I will be offering, I think, after the distinguished Senator from Delaware and the Senator from North Dakota present their amendment.

There were five States that had 13 weeks of extended unemployment benefits when this bill left the Senate.

Somehow when it came back from the House, those five States were reduced from 13 weeks to 6 weeks. Two of those five States even additionally lost their reachback provisions to pick up those people who had lost all unemployment benefits for a period of time.

My amendment is going to be very simple. It is going to say that any State that has a total unemployment rate of 7 percent or more is entitled to at least 13 weeks of unemployment extended compensation. That is what those States had when the Senate first passed the bill, and I think it is fair and equitable that if you have a State that has 7 percent or more total unemployment rate over a 6-month period, that those States have a 13-week extended unemployment.

One of the big arguments has been the President will not sign a bill that just increases the deficit. Mr. President, my amendment has a method which is solid, which makes sense, that pays for reinstating those States which were cut from 13 weeks to 6 weeks. Let me take just a minute to explain it.

This whole bill this time is being paid for by three methods. No. 1 is to permanently extend the .2 percent surtax that people pay for the Federal unemployment tax program. We extend that to make it 1 year of extension, and that is part of the package.

The second way is to provide for the tax offset program for those students who have not paid back their student loans, allowing the Federal Government to garnish any tax refund that they receive. That is the second way that this bill is paid for. We are not touching either one of those.

The third way this bill is being paid for is the big-ticket item, and that is to make some changes in the estimated tax requirements, whereby people who filed their estimated tax under current law, if they have a large increase in their earnings in 1 year, can file under what we call a safe harbor tax provision.

In other words, they can pay 100 percent of the taxes that they owed the previous year instead of paying 90 percent of the tax that they owe in this year. For those wealthy individuals who have very large increases in income in 1 year, they generally always use this safe harbor provision.

Senator BENTSEN had a provision when the bill was adopted that restricted the use of that safe harbor tax filing provision to those individuals who make $30,000 of increased income in 1 year. In other words, if you made over $30,000 more income this year than you made last year, you could not use this safe harbor tax provision; you had to actually pay taxes on what you earned this year.

When this bill went over to the House and they had these negotiations, that provision was changed. They raised that cap from $30,000 extra income to kick you out of the safe harbor up to $40,000 in a year of extra income, which would prohibit you from using the safe harbor provision.

My amendment, in order to bring those States that went down from 6 weeks back up to 13 weeks and ensure they are entitled to the reachback provisions, simply readopts the Bentsen language. That says anybody who makes over $30,000 of extra income over last year in any 1 year, that that person cannot use the safe harbor tax provisions.

The Joint Tax Committee tells us that provision raises $300 million, which is, incidentally, which would pay the cost of bringing the States that had 6 weeks back up to 13 weeks, and guaranteeing that those would have the reachback provisions.

This program has $70 million of excess funds in it already.

What I am saying is that the Breaux amendment clearly addresses an inequity for these States, where they were reduced from 13 weeks to 6 weeks. It addresses it by bringing them back up to 13 weeks. And, in addition, it does it in a way that pays for itself.

By reducing that $40,000 provision down to $30,000, we raise $300 million. Our program only needs $155 million to pay for itself. If we reduce that standard from $40,000 to $35,000, we would generate $155 million. So the Breaux proposal, by reducing that cutoff point from $40,000 down to $30,000 generates $300 million in new money, more than enough to pay for correcting the inequity.

As I pointed out, if it was reduced merely down to $35,000 as the cutoff point, that still raises exactly what is needed to pay for the cost of the program.

So for those Members who say the President will not sign this, I think it is important to note that he said the reason he did not sign the other bill is because it did not pay for itself. Clearly, the Breaux amendment more than pays for itself. So that reason, that argument is eliminated.

I cannot imagine anyone standing on the floor of the Senate and saying I oppose the Breaux amendment which takes care of literally thousands and thousands of unemployed citizens. I am not going to support it because those very wealthy individuals who have increases in their income in a year of more than $30,000 may be slightly affected.

Mr. President, we are talking about equity and we are talking about fairness. I do not think a single Senator would be comfortable saying I am protecting very, very wealthy individuals who have had the great fortune of earning over $30,000 more than they did the year before, that we are going to protect them at the expense of unemployed citizens.

So I think as a matter of fairness and a matter of equity, it clearly, I think, makes the argument for adoption of the Breaux amendment, which incidentally is cosponsored by a number of my colleagues, including Senator JOHNSTON from Louisiana, Senator WENDELL FORD from Kentucky, Senator SMITH from New Hampshire, Senator RUDMAN from New Hampshire, I know Senator PRYOR and Senator BUMPERS from Arkansas and I would expect there would be a number of other Members who would be cosponsors of the Breaux amendment.

So, Mr. President, I will conclude by just saying I understand the order to be the Senator from Delaware [Mr. ROTH] would offer his amendment, joined I am sure by the Senator from North Dakota [Mr. CONRAD] and then I would offer my amendment following in that order.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I must tell my friend and colleague from Arkansas I will not speak all that long.

I wish to compliment Senator PRYOR. I heard his comments and he made some outstanding comments concerning the inequities in this bill, and also Senator CONRAD from North Dakota, and Senator ROTH from Delaware. I think they pointed out some real flaws in this bill, and it needs to be changed.

I know now the majority leader and Republican leader are working on making some changes. I really hope they consider the advice that has been put forward by many in saying we need to have reachback for all States. When we talk about reachback, I think a lot of people do not understand what that means. What we are talking about is making up for some inequities in who receives and who doesn't receive extended benefits if a person's benefits have expired.

Many States would get a reachback of 20 weeks, some States would get a reachback of 13 weeks, some States would get a reachback of 6 weeks and some States, including Oklahoma, would get no reachback. I find that to be grossly inequitable.

I looked at my State, and our maximum benefit is $212 a week. That is probably about average in the country. I have tried to find that out, and we have not found it out, yet. But for ease of computation, I will use $200 a week. It means I have something like 8,000 insured unemployed workers in Oklahoma who will not get anything, but if they happen to live in any of the other 31 or 32 States, they would.

They are just as unemployed, their employer has been contributing to the unemployment system for years, but they would not get the reachback.

If they happen to qualify for the 6 weeks, that is $1,200. If you look at some other States with 20 weeks if it was $200, they would get $4,000. Why would an unemployed worker in Maine get $4,000 and one in Oklahoma get zero? Why would one in Kansas get $2,600 over 6 weeks and one in Oklahoma would get zero? I find that to be really inequitable. They may even work for the same employer.

This bill really needs to be changed. We really have to make the changes concerning the reachback. If we do not, we are going to be giving thousands of dollars of checks to workers all across the country except for a few States.

There is a lot of discussion as to how much this costs. I just asked the Department of Labor. They said $130 million. CBO said it is going to cost $790 million.

I do not know how much it is going to cost. I know the cost already in the bill is several billion dollars for States to get 20 weeks and 13 weeks and 6 weeks. So we are going to give them several billion dollars for the reachback but we are not going to give the $130 million for the States that do not qualify. And that is not fair.

I have heard people say we have been working on this for months and we need to pass it now, and if we do not pass it now we are not going to be providing the benefits. Frankly, I do not think that much serious work has been done on this for months.

I think a lot of people were interested in playing politics. They said if the President had not vetoed this these people would be receiving the benefits and maybe all the States would receive the reachback. But the fact is the President did veto it. I happen to think the President was right.

I heard a lot of people yesterday castigate the President for vetoing those two previous unemployment extensions. I think the President was exactly right. Those bills would have done nothing but increase the deficit. Many of us are concerned about the fact that we had a deficit last year of $268 billion and we did not want to add $6.5 billion to it. That is the reason why this Senator sustained the veto, and I would do it again tomorrow. I think the President was right.

So let us pass a bill, let us pass a bill today, but let us pass a bill that is fair and equitable for all people throughout the country. Let us discriminate against workers in 18 or 19 States by saying, "You do not get a reachback, because your benefits exhausted on November 17. You will not get $1,000, $2,000 or $3,000 in benefits as workers will in countless States." We have 10 States that qualify for 20 weeks. All of them will get reachback. If they average $200 a month and they have been unemployed for 20 weeks beyond the 26 weeks, they are going to get $4,000. Workers in Oklahoma will not receive anything.

We are glad that you live in Alaska, Connecticut, Maine, Massachusetts, Michigan, Mississippi, New Jersey, Rhode Island, West Virginia, and Puerto Rico. Puerto Rico is not a State but, yes, we will give you a check for 20 weeks.

But I am sorry, in Oklahoma, no, you do not get it; North Dakota, you do not get it; Colorado, you do not get it; Delaware you do not get it. You do not get a reachback. We are just going to give benefits to 31 States and Puerto Rico. Puerto Rico is not a State but we are going to give them reachback but we are not going to do it for 19 States.

It just happens, if you look at the geographical distribution, most of these States are Southern States or Midwestern States. Maybe they are more conservative States for different reasons.

My State happens to have an unemployed rate of 6.7 percent. That happens to be the national average. I have 92,700 people unemployed right now and 8,000 of them would qualify for this reachback but will not because of this formula that somebody put together in a very hurried fashion and in a fashion that has been changing.

I have one chart that shows November 14 and a few States are counted one way, and another chart, November 13, and a few States are counted one way there. As a matter of fact, each day's chart changes. So a few States do a little better as the formulas go.

Senator CONRAD happens to be exactly right, if you are going to have reachback for any State you ought to have reachback for every State. If you do not, you have a gross inequity amongst this country, and I do not think that is right. That is not fair. So in our rush to move forward, I hope that we consider fairness and equity. That happens to be a couple of things that many of us would like to think that we stand for.

In our rush to pass this bill today, if we do not have reachback for all States, I hope my colleagues understand that many States will be providing benefits for 6, 13, or 20 weeks to unemployed workers whose benefits expired after February 28, 1991. But in my State and 18 other States only the unemployed whose benefits expired after November 16 will receive extended benefits. In my State, that will be 8,000 unemployed people will not receive their $200 check for 6 weeks.

That is not fair. That is not equitable. We need to make those changes before we pass this bill today.

Mr. BUMPERS. Mr. President, we are sent here, every one of us, to represent our respective States. Sometimes we win and sometimes we lose for our States, but we often have a lot of formulas.

When I was Governor of my State, we used to assume that since we had 1 percent of the population in the country, under normal circumstances we would get 1 percent of the money, under any formula coming out of Congress. That worked.

I have always been chagrined about the highway trust fund formula which I thought seriously discriminated against my State. Under the Byrd amendment to the highway bill, we were able to correct the situation so that my State received nearly 100 percent of what it paid in. We are a poor State and we make a big effort.

But now I have watched all of these funding formulas come through here on highways, on mental health, on Medicaid, you name it—I have been here 17 years, been to a State fair and two goat ropings, and I have never seen anything to equal this formula.

You have to ask yourself, what on earth were the formula writers thinking about? You might just for openers start off asking why on earth do you have to get 6, 13 or 20 weeks? You have a 7-week disparity in the three categories, each one. Why? Why could not some States be entitled to 9, 10 or 12 weeks? In this day of supercomputers, I would think that some kind of a formula could be put in a supercomputer, a button pushed, and every State would come out exactly the same, that is, prorata wise.

What is the relevance of the adjusted insured rate and the total rate? Those of us who have been fighting for unemployment compensation extended benefits were fighting not for a formula but to help unemployed workers put food on the table.

What is the difference between a person in Mississippi or Connecticut who has used up his benefits and a person in my State who has used up his unemployment benefits? Because we did not hit that magic 29 percent figure of employees who had expended all of their benefits because we lacked 2.3 percent, we only get 6 weeks?

How would you like to be the senior Senator from Arkansas who has to go home and tell people who are out of a job and may have been out of a job for some time, that they are only going to get 6 weeks of benefits because we just did not have enough people who used up their benefits?

I have looked over this formula, and it seems so unnecessarily complicated for openers, to say nothing of the unfairness of it.

Item two on this so-called compromise proposal says all States get at least 6 weeks. Thirteen States, that is, States with an adjusted insured unemployment rate of at least 4 percent or an adjusted IUR of at least 2.5 percent, and an exhaustion rate of at least 29 percent, get at least 13 weeks, and 10 States, that is, States with an adjusted IUR of at least 5 percent or a total unemployment rate of at least 9 percent, get 20 weeks.

What if Mississippi had an 8.9-percent unemployment rate instead of 9? By having a 9-percent unemployment rate, Mississippi qualifies for 20 weeks. If they only had an 8.9-percent unemployment rate, they would get 13 weeks. I am not sure if they would not get just 6 weeks. What kind of nonsense is this?

Now, Senator BREAUX is again to be congratulated on not just proposing an equitable remedy, but paying for it. If the President wants to veto this, I am anxious to hear his rationale. As the junior Senator from Louisiana has appropriately remarked, the President said he was vetoing the first ones because we did not pay for them. Senator BREAUX says, well, here is a more equitable formula and I am paying for it. So what rationale will the President use to veto this?

Incidentally, it helps Members of his own party.

Mr. CONRAD. Will the Senator yield for a question?

Mr. BUMPERS. I will be happy to yield.

Mr. CONRAD. The amendment that is being discussed by the Senator from Louisiana does deal with 5 States, perhaps 6—now I have just heard maybe 7 States—of the 18 that are not given reachback. Without question, those States, in my judgment, including the Senator's home State, deserve to have reachback.

But as a principle, would the Senator from Arkansas agree with me that really every State's workers ought to have reachback applied? Does that seem like a reasonable principle?

Mr. BUMPERS. Well, of course, it does. I would guess that 80 percent of the Members of this body assumed, during all the brouhaha about extended unemployment benefits during the past month, that in every State unemployed workers who had utilized all of their benefits were going to get 20 weeks.

What is the difference where an unemployed worker who has used up his benefits is located? That is what I am saying. That is what makes this thing crazy.

Mr. CONRAD. Might I ask the Senator another question?

Mr. BUMPERS. Absolutely.

Mr. CONRAD. We have been told that if you apply reachback to all the States, that costs $700 million, and therefore it cannot be done.

In fact, we were told last night, any amendment is a deal breaker—any amendment, any change. They will resist all amendments.

Now, this morning, all of a sudden, there is a little change, a little different atmosphere. Now we are being told, well, maybe five or six States can be taken care of.

I just ask the Senator from Arkansas will not it just be fair if we are going to take care of some of those States to take care of all the States that are excluded from reachback if we have a way of paying for it?

Mr. BUMPERS. Come up with the amendment. I would like to see how we are going to pay for it. I can almost promise I will vote for it.

Mr. CONRAD. If I might continue, I ask the Senator, I have the amendment right here. It pays for it by extending garnishment to Federal employees. This bill that we have in front of us provides for garnishment, but it exempts Federal employees. That is going to be hard to justify around the country. Once again, there is special privilege for Federal employees. But if we extend that garnishment to Federal employees and extend it in three areas, student loans, HUD, one other, we would raise more than enough money to take care of reachback for every State. We treat the workers in every State who have exhausted their benefits in the same way.

I just would ask the Senator in principle if that is not a reasonable approach.

Mr. BUMPERS. First of all, I think all people ought to pay their just debts. I have learned, though, by experience, not categorically to commit myself to something unless I have had a chance to look at it. You learn early on here that things are not always as they seem.

But I applaud the Senator for coming up with something creative, as he obviously has, in an effort to change this formula and help the people of his State.

If I may, just let me close, and I will yield the floor to the Senator.

Last night there was some mention made here about some States making a much greater effort and contributing more money. I am not sure of this. But for the edification of my colleagues as to how these unemployment taxes are paid let me offer an example. When I was in business, the maximum amount that anybody paid was 2.7 percent. The Federal requirement was a minimum of 3-percent payroll tax. If you were a new business and you were just starting out, you had to pay 2.7 percent and the State paid three-tenths of 1 percent for a total of 3 percent.

You had to do that for 4 or 5 years, and at the end that time if nobody had filed a claim against your business, your rate went down. And it went down for every year that you had a favorable experience; that is, a year in which no employees alleged they were entitled to draw unemployment compensation on your business.

In my own business, I got down, I believe, to three-tenths of 1 percent. In the 18 years I had a retail outlet I never had one claim filed. So for the last 8 or 10 years I was in business I was at the very lowest rate.

But here is my point. The States' contribution to these unemployment compensation funds has nothing to do with what we are talking about here. Some States, make more generous contributions to increase the amount an employee receives in unemployment compensation on a weekly basis.

I can remember when unemployment compensation in my State was around $35, $40 a week. Today it averaged $133 a week. The maximum amount is $230 a week.

But the point is, some States—California, Connecticut, maybe Ohio, make a much more generous contribution to the unemployment fund in order to pay a higher rate.

People used to go from Arkansas to California to get jobs. If they lost the job, they came back home to Arkansas where wages were much lower than they were in California, and they drew unemployment compensation under the California system. They received more money than they could make working in Arkansas.

So all I am saying is that I have heard that some States are more generous in what they pay into the fund. But that has nothing to do with this. What that has to do with is the weekly compensation that an employee receives. It has nothing to do with how many weeks.

Mr. President, I have vented my spleen on this. This is the second time now. I know that negotiations are going on right now on the Breaux amendment. I hope they will be fruitful.

I hope my colleagues are really concerned about the Breaux amendment, and its adoption. So far as I am concerned, I do not have anything to do this weekend. I would just as soon stand behind this desk this entire weekend to talk about the craziest formula I have ever seen come to this floor. I know not one single Senator who participated in its creation. As somebody said last night, we are not a unicameral system. So for the House to send us a fait accompli in a formula like this and say "Here it is, take it or leave it; if you do not like it, the President will veto it," is unconscionable.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, my State, Ohio, is one of seven States that is suddenly ineligible for reachback benefits under the compromise unemployment bill. Make no mistake about it: The elimination of the reachback provision will create havoc in my State.

During 1991, 100,000 Ohioans exhausted their unemployment benefits. Under the so-called compromise bill—which it has already been pointed out, no Member of the Senate was involved in negotiations and it was the White House that was dictating the terms and the House agreed to them—none of those individuals will be eligible for extended unemployment benefits. That may be some 50,000, 60,000, or 70,000 people or more in my State. These are decent American people. These are people who work and gave of themselves and now need the unemployment compensation benefits to maintain their dignity; to provide food for their families. It is unconscionable that they will not be provided needed assistance.

The sad part is that twice before Congress passed legislation, legislation that I supported, that would have covered these very individuals. They were covered in these bills because they deserve to be covered. Now the issue is between the House and the Senate, but the real problem in this instance is the President of the United States. The President has put us in this position. This is not a congressional issue. This is a situation created by one person alone: the President of the United States.

We passed the bill, and then the President refused to release the funds because he felt that the recession was not an emergency.

I urge the President to take a look at those emergencies for which he has already released funds and see whether unemployed workers in this country do not qualify every bit as much as those for whom funds have already been released.

The second time the President flatout vetoed the bill. Since then he has finally spent a few days in this country. Welcome back, Mr. President. Apparently he now realizes that the economy of the United States is a wreck.

I just had some people in my office who asked how I felt the economy was, and when we were going to come back. I am frank to say to you that I do not think the economy is going to come back that rapidly. I think the economy is going to get worse before it gets better. This is not the time for us to be cutting back on unemployment compensation.

But there is no question about who is to blame for the failure to provide desperately needed unemployment assistance. It is not the folks who cooked up this unfortunate formula; it is not the Members of Congress who have been working on this problem for months now. The blame belongs right at the White House door. That is where it belongs. That is where it is. The President has put us in this position.

Up until 2 weeks ago the President refused to support any extended unemployment benefit legislation.

Believe it or not, the President had the audacity to call it garbage—garbage. That was back when the President was packing for the Far East, just before his all-important poll numbers started heading south.

Now we are being told that it is the 11th hour, and too late in the day to make any changes in the bill. We are told this is the only bill that the President will sign. I have been in this body 16 years, and never have I served with any President—I think there have been five different Presidents with whom I have served—who has ever attempted to govern as has this President with respect to a constant threat to veto legislation. It is almost a song that he sings. Every piece of legislation we are considering, we are told in the committees, well, if you pass it with this provision in it, the President will veto it. And the President has certainly exercised that right time and time again.

But I say to the President of the United States that this economy of ours does not need more vetoes. It needs more cooperation, more coordination, in working with the Congress to help the economy of this country. I want the President to know that his idea of an unemployment bill does not help everyone who needs help. We are failing in a moral duty to provide a bit of dignity and a measure of decency for these unemployed workers and their families.

There is no reason that we cannot provide the assistance. I voted for the previous unemployment bills that would have helped Ohioans who are in need of extended unemployment benefits. And I will vote for any amendment that helps Ohio's unemployed. If those amendments fail, and those Ohioans lose out, then I will have to look those people in the eye and tell them that we fought and lost.

I indicated last night that if there was a compromise, and it was the only thing to be done, I would not be the person who objected. Others did, and I commend them for it. Now we are at a point where objections have been made, and we are in an effort to see if we can craft a compromise bill. The unemployed workers of Ohio are entitled to consideration. They demand consideration. This Senator demands consideration for them.

George Bush will not have to look those unemployed workers in the eye, because they do not attend the $1,000-a-plate dinners where the President is spending his time these days. But the President ought to know that he is the one that is responsible for the pain that is being caused those people today. If we cannot work out something, it is the President's fault that we have been unable to do so.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent that, if Senator ROTH would decide not to join me in offering the Conrad-Roth amendment or amendments, I be permitted to offer the amendment in his stead.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. CONRAD. I thank the Chair.

Mr. President, I make a parliamentary inquiry.

As I understand it now, I would be allowed, if Senator ROTH removed himself from the Conrad-Roth amendment, to offer two amendments. Would I be able to offer either of those amendments—either or both of those amendments—in the second degree?

The PRESIDING OFFICER. In reading the unanimous-consent agreement, since there is no specificity in the accord concerning the Senator's amendments, it is the understanding of the Chair that the Senator from North Dakota would be within his rights in offering amendments to any degree.

Mr. CONRAD. Perhaps I could just make certain that I understand, Mr. President.

So, at this point, if Senator ROTH removes himself from the Roth-Conrad amendments, this Senator would be able to offer two amendments with respect to the reachback, and either or both could be offered in the second degree; is that correct?

The PRESIDING OFFICER. I believe the Senator to be correct, with the obvious caveat, which the Senator knows, that the Senator would not be able to amend his own amendment.

Mr. CONRAD. I thank the Chair.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I have been listening with keen interest to the remarks of my fine colleague from North Dakota, and others, who have concerns with the final formula, or lack thereof, that had come about and has brought the Senate to the impasse that we have at the present time. I do not know how to work our way out of this.

I realize and recognize that for far too long, for too many weeks, if not months, because of the insensitivity to the issue of the unemployed by the President of the United States, we find ourselves in this hard-fought clash today, with competing interests of various States involved.

I do not believe we should leave here this week until we have done something. The facts of the matter are that many people in the United States today—not of their own making—have found themselves not only out of work, but the unemployment benefits in place have also run out. Therefore, above everything else, and above every other consideration, I think we have to move ahead and do something.

Once again, I point out, Mr. President, that if it were not for the irresponsible and unrealistic opposition by the President of the United States, we would not be in this impasse today. Rather, we would have passed the previous unemployment extension bills that were approved overwhelmingly by the House and the Senate, only to be vetoed by the President of the United States who, these days, is so far removed from reality that, recently, on one of his latest trips abroad, he said in Italy that he did not think we were in a recession.

Well, there are few people in the United States today who do not recognize that we are in a recession. If you do not believe so, ask the millions of people that are out of work. If you do not believe so, ask the people standing in the unemployment lines.

Mr. President, if you do not believe that we have a serious situation economically on our hands today, then whether you are President of the United States, a Member of the U.S. Senate, or a Member of the House of Representatives, you just do not know what is going on in America today.

I have taken a look at the measure that is in front of us. It is not nearly as fair. It is not nearly as reasonable as the other measures that have previously been suggested and passed by both the House and the Senate.

Therefore, what we find again today, because of the illogical interference by the President of the United States, we have a major problem on our hands today that would not have been here had we had a President that was more understanding and would listen and get away from the proposition that he is king of the world and king of the United States rather than President of the United States.

From a parochial standpoint, I find myself in league with my friend from North Dakota, my friends from Oklahoma, and other States that have been shortchanged in this measure before us. Shortchanged, I say, evidently without any input whatsoever from Members of the U.S. Senate or the leadership of the U.S. Senate.

What we have, again, is a classic case of the House of Representatives, who over the years have been pork barrel specialists, taking advantage of a situation. Whoever is responsible for the putting together of this faulted formula, whether it was done by seniority, whether it was done with backdoor deals, or whether it was done just by accident, it seems that certain States with great influence in the policymaking decisions came out very, very well.

TERM LIMITS

A side issue, Mr. President: There is a hue and cry in America today for term limits. As most Members in this body know full well, this Senator has been for and has supported term limits through a constitutional amendment process for many years. Maybe eventually that will come to pass.

The facts of the matter are that a constitutional amendment is the only way it can be done fairly. Yet, today we have all kinds of activities in lots of States, not the least of which was in the State of Washington in the elections in the last 10 days, where all the polls showed that the people of Washington State were about to set term limits not only on their State officials but also including their Members of the House of Representatives and their Members of the U.S. Senate.

For reasons still not fully understood, the people of the State of Washington finally woke up. And I hope that the people of Nebraska and the people of all of these other States that are on this populist kick to individually and unilaterally try to limit the terms of their Members of the House of Representatives and their Members of the U.S. Senate would begin to understand what they are doing to shoot their State and themselves in the foot, if not in the head or in the pocketbook, with that issue.

Simply said, Mr. President, it is my view, and I say this as a former Governor of the State of Nebraska where we have term limits on Governor and we have term limits on our State Treasurer—and it is fully within the responsibility of the people of the State of Nebraska if they want to put term limits on any of their elected State or local officials. But for the State of Nebraska, the State of Washington, the State of Colorado, or any other State to unilaterally put term limits on their Representatives in the House of Representatives and the U.S. Senate without all of the other Members of those two bodies being on the same level playing field is weird, and yet we have lots of so-called informed columnists today saying that is the thing to do.

It is not the thing to do, and there could be no more evidence of that than what we are wrestling with here right now today, and that is that seniority in the House of Representatives and seniority in the U.S. Senate does indeed play a very key role with the matter of fairness of legislation that is passed. And this formula that we are wrestling with here today could not be a better case in point.

I say that to demonstrate how I think it is important that we bring to awaken the people of the individual States as to how this place operates and how it works. Until we have everybody playing on the same level playing field with the same limit on terms and apply them to Nebraska, Washington, California, and New York, those States that do unilaterally put into place term limits, even if it is held constitutional, we are playing a dangerous game at their own peril.

THE HIGHWAY BILL

Mr. President, I would like to make one further remark about the difficulty that we have right now. Once again, we have a House of Representatives which is irresponsibly fooling around with the allocations and the earmarkings on the highway bill that was passed here in the Senate last June and was not acted upon in the House of Representatives until the last 2 weeks. I predict that there is a good chance that, after we finish this battle on this formula, we could find ourselves in another extended debate in the next few days on the highway bill that is now in conference between the House and the Senate.

Once again, the House of Representatives is making demands, including a gasoline tax increase, as embodied in the House bill. That is one of the best kept secrets in the United States today. We have a bill that is being conferenced right now that I am fearful will come back to the U.S. Senate with a gasoline tax increase, and few, if any, will know anything about it until after the fact.

In addition, I suspect that we may well see some rather dramatic changes in the allocations of the States, and I think most of the Members of the U.S. Senate felt they were fairly dealt with when we passed our version of that highway bill.

So it may be that this debate that we are having today on the allocation of a few million dollars on the important matter of extended benefits for the unemployed may be repeated unless that conference comes forth with a wiser decision than I am afraid they are working on right now. We could have a fight all over again simply because of the influence, simply because of the seniority, simply because of some of the high-powered brokers that find themselves in key positions in some of these discussions.

Mr. WARNER. Mr. President, if the Senator will yield, I just left that conference 2 minutes ago, and I wish to assure my good friend from Nebraska, as a conferee working with others, we have strong leadership in both the House and the Senate. The problems that the Senator from Nebraska addresses are being addressed. I see the Senate standing steadfast in many areas which I hope will meet the goals of the Senator from Nebraska.

Mr. EXON. Since the Senator from Washington does not have the floor, let me ask another question of the Senator from Virginia in this regard. It is my understanding—and please correct me if I am wrong—that there is being considerable attention given to including the gas tax extension increase in the bill that is likely to come back here. Is that right or wrong?

Mr. WARNER. Mr. President, at this time I would not wish to address a single detail. There are agenda items on each.

I might say to my friend, I am a Senator from Virginia, not from Washington. To the best of my knowledge we have not gotten persons from the District of Columbia as Members of this body yet.

Mr. EXON. Do I take it, then, having involved himself in the debate, the good Senator from Virginia, whom I know very well and work with, is not able to answer the question as to whether or not the gasoline tax increase will be included in the measure that will come back to the Senate for consideration?

Mr. WARNER. Mr. President, the Senator is correct. It is an item, and we will be meeting all weekend, meeting every morning at 9:30, Saturday and Sunday, and the Senator is welcome to attend.

Mr. EXON. Mr. President, I thank the Senator. I have been very much interested in their deliberations. If I thought I could be helpful by being there, I would, and I may be.

Mr. President, I simply say, to finish my remarks in this regard, that I happen to very much feel that the allocation formulas are particularly oppressive and unfair to certain States.

I hope that some changes can be a made along the lines suggested by my friend from North Dakota and others.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I will be very brief. My colleague from Virginia has also been waiting to speak.

I want to associate myself with the remarks that have just been made by the Senator from Nebraska and earlier the Senator from North Dakota. All of us feel very strongly that it is time for us to have emergency action on dealing with the problems of the unemployed in this country.

We always are prepared to declare emergencies and deal with the problems of people in other countries. We have people in our own country that are facing very, very serious problems indeed. And I join with my colleagues in saying that we should not leave the Senate Chamber, we should not complete our work for this week until we have dealt with the problems of the unemployed at home.

A couple of weekends ago when I was in my own hometown of Seminole, OK—a community of about 8,000 that has gone through a very tough economic time, an unemployment rate above 10 percent, in the heart of an energy-producing region that has been now in a virtual depression for the past 7 or 8 years—we had an early cold spell, the first snowfall in my home community since 1913. As I was driving across our small community two weekends ago, I encountered a man on a street corner holding a sign: "I'll work for food for my family." He had two small children in the car with him. He was out with a very lightweight coat standing in that very cold weather, the wind chilling him, pleading for an opportunity to work so that he could feed and shelter his family for that day.

I stopped and talked with him about the difficulty that he was having in finding work. It was obvious to me that this was a proud person who wanted to work, who wanted an opportunity to work, but there simply are no jobs to be found. I feel very strongly that we must reach out and help people like my constituent who was facing those problems. All across the country there are thousands and thousands of people in those circumstances desperate not only to take care of themselves but desperate to take care of their families. And many of these families do have small children. So it is time for us to determine that we will not cease our work until the needs of these individuals are met.

Mr. President, having said that, I think we should also be prepared to take as long as our discussion might take today and this weekend, if necessary, to make sure that this proposal that comes back is fair. This Senator is prepared to discuss this matter at length if we do not come back with a fair proposal.

I have just as much compassion for the unemployed person standing on the street corner—and I am told that in Detroit, for example, there were perhaps 5,000 that were not able to find places in the shelters for the homeless because they were already overcrowded recently. I have just as much compassion for that unemployed person, that family in Detroit, as I do in Seminole, OK. I have just as much compassion for that unemployed person in New York or New Jersey or Florida as I do in Texas or Louisiana or my own home State.

But I would say, Mr. President, that it would be a travesty for us to pass a bill which takes care of the unemployed in some regions of the country but turns its back on the real needs of those in others. It would be absolutely wrong for us to sit still and to remain quiet and to agree to a proposal that does not take care of the people in our own home communities and our own home States who also have these needs.

In some ways, the original formula penalizes a State like mine, which has a lower insured unemployment rate, adjusted unemployment rate, because we are very careful and conservative about those that we deem to be qualified. It is also because we have had such a prolonged economic downturn that our uninsured rate is lower than it otherwise would be. We have not just been in a depression suffering for the last year or two, as some parts of the country. We have been suffering for 8 years. There is not another State in the Union that has lost, for example, more financial institutions, more jobs, has had a greater deflation of the value of all of its property, farmland and houses and buildings, a depression rate of 50 percent in many cases, where homes are only worth 50 percent of what they were in 1983, as has been true in my State.

Other States around us have suffered as well. I see the distinguished Senator from Louisiana on the floor. He has had a very similar circumstance in his State. The State of Texas has had a very similar tragic experience over the last 7, 8, 9 years in which we have really be in a terrible depression.

Mr. JOHNSTON. Will the Senator yield?

Mr. BOREN. Yes, I am happy to yield.

Mr. JOHNSTON. Since he mentioned the State of Louisiana, the State of Louisiana began with double-digit unemployment in 1982. It continued in 1983, where we were up at 11.8 percent, continued in 1984, 1985, and by 1986 we were up to 13.1 percent unemployment; by 1987, 12 percent unemployment, still in double digits in 1988. And we feel like we are very fortunate to be down to 7 percent now. That is because many of our people have left the State or are not making application for unemployment and are not counted in the statistics.

I appreciate the Senator giving me a chance to talk about our plight which is very much like Oklahoma.

Mr. BOREN. I certainly understand what my colleague is going through in Louisiana. Our experiences really mirror each other.

As the Senator from Louisiana said, it is because this depression in our States has lasted so long that many of our people are not even counted in the statistics anymore because they have long ago exhausted their benefits. And when you look at the rate of those that have exhausted benefits, it is very high in States like Oklahoma and our neighboring States. They have long ago fallen through the cracks and are out of the statistics because they have been hurting for so long.

What an injustice it would be if we write a bill here that excludes the people who have been suffering in this country the longest, excludes them from a reachback provision and reduces the percentage of benefits they would get because this rate undercounts those that have suffered the longest in this country. It absolutely would not be fair.

So I say, Mr. President, there is no reason in the world why we cannot write a fair bill. We have been sent here to do the job. We ought to stay here until we get the job done. But we should not rush through a bill that does not take care, on an equal basis, of all the people in this country that are suffering.

This Senator will not seek any special advantage for an unemployed person in the State of Oklahoma over an unemployed person who is suffering in another State. But, at the same time, this Senator will not stand silent and allow a bill to be passed which treats those in my State who are suffering in a way that is inferior to the way that others are being treated in other States. It does not recognize their needs on an equal basis. That is not right. It should not happen. The unemployed in Oklahoma, the unemployed in Louisiana, the unemployed in North Dakota are suffering just as much as the unemployed people in any other State. They deserve equal treatment and we should stay here until they get equal treatment.

Mr. WARNER. Will the Senator yield on that?

Mr. BOREN. I am happy to yield.

Mr. WARNER. Mr. President, a person in Virginia who is afflicted with unemployment, who is experiencing hunger and pain, that pain is no less, Mr. President, than the pain of an individual in another State. And I agree with the Senator. Flat bellies in Virginia are just as painful as flat bellies in Rhode Island. And we shall not leave here this weekend until we have adjusted this inequity. I join the Senator in that.

Mr. BOREN. I thank my colleague from Virginia. I am glad to hear that there are others on this floor that are equally as determined that we are not going to complete action on this measure until we take care of those that are suffering across this country on an equal basis.

I yield the floor.

Mr. CONRAD. Will the Senator yield?

Mr. BOREN. I am happy to yield.

Mr. CONRAD. Mr. President, on the question of the reachback, the Senator from Oklahoma has been very articulate and outspoken about the need for equivalent and fair treatment for everyone. The argument that was made last night, I would just like to hear the reaction of the Senator from Oklahoma—when I raised this issue last night I was told: Your objection, your concern about the people in Oklahoma, North Dakota, Virginia, Iowa, and Wisconsin, is irrelevant. It is irrelevant, they claim, because unemployment is designed not just for the unemployed worker. In fact that is not even the highest priority, they told us last night. It is to buffer a region from an economic downturn and, therefore, only those States that have the highest levels of unemployment ought to get the reachback.

I made the argument it seemed to me it is pretty relevant to the worker because the worker in North Dakota, Oklahoma, Virginia, Wisconsin, or Iowa who is in this position has the very same problem paying his rent, putting food on the table for his family, as the worker in the State that gets the reachback. And it seemed to me that when they talk about places that have suffered economic hurt, Oklahoma would be pretty high on the list—just like my State of North Dakota.

I would just like to hear the reaction of the Senator from Oklahoma that it is a buffer in this economic downturn and somehow our State—because it has already been so hard hit we do not have much in the way of benefits—we get hit twice?

Mr. BOREN. Mr. President, I agree completely with what the Senator from North Dakota has said.

Sometimes I think it would be wise for those who make these kinds of arguments on the floor of the U.S. Senate if they could step back and quit thinking about the fact they are talking about statistics or formulas. They are talking about real people, human beings who have real problems.

They are talking about people like the man I talked with on the street corner 2 weeks ago on that cold day who was trying to figure out how he was going to feed his family that day: Two hungry children in the car. I would like to hear that argument made to him. I would like to hear it explained to him, that this program was not really designed to help him in his desperate need, and that he should not be so worried about whether or not he is going to feed his two children tonight. He should be more worried about some kind of regional impact. I would like to see how he would react to that kind of argument.

I think that is one of our problems here all too often. We sit here and we talk about statistics, and we talk about formulas. We are so removed from the real problems of the American people who are struggling to feed their families we forget we are talking about real human beings.

I wonder how many of us would be willing to accept that kind of argument if we did not know how we were going to feed our two small children tonight? I wonder how many of us would be willing to accept that kind of argument?

So I say, Mr. President, I agree strongly with the Senator from North Dakota.

I also would say in addition, the way in which regional hardship here is also being figured is wrong in itself. I know from serving with the Senator from North Dakota and from our joint work together on the Agriculture Committee, I know well what his State has gone through. I know what has happened to the small communities and the population loss. I know what has happened to the value of land. I know what has happened to the farmers in his State and many rural States—and mine is another one—where unemployment figures have never adequately counted those in real economic distress and hardship in the rural areas. You may have farmers who are losing their homes, losing their farms, going out of business, not knowing what they are going to do, and they never show up as an unemployment statistic.

We have lost 150 banks, approximately, in my State. We have been absolutely devastated. To hear the argument that somehow there is a formula, and just because we have suffered longer we should not be expected to get as much help—maybe the theory is, since you have suffered so long you may have just gotten used to suffering, so we will forget about you. That is just not right.

Let us not forget as we continue with this debate, we are not talking about pork barrel politics. We should not be. We should not be talking about regional favoritism. We should be talking about meeting human needs, and the needs of the hungry and the needs of the homeless are the same without regard to where that person happens to live in this country, or what race that person might be, or what sex that person might be, or what religion that person might be.

We are talking about meeting the needs of our human family, and we ought to get on with that task on a fair and equal basis.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I compliment the Senator from Oklahoma. He gave the set of remarks I wished to give.

But I do rise to call the attention of my colleagues to a gross inequity in the payment of extended unemployment benefits under this bill.

Because of the relatively low unemployment rate in Virginia, and indeed we are grateful for that, those who have exhausted their benefits prior to November 16, 1991, will receive no help from this legislation. It is true that every State will get a minimum of 6 weeks' benefits. However, in Virginia and 18 other States, the unemployed worker must still be receiving unemployment insurance on November 16 to qualify for additional benefits. In the majority of States, unemployed workers may qualify for retroactive payments if their benefits have been exhausted at any time since March 1, 1991.

The chronically unemployed in my State have the same problem in feeding their families and keeping a roof over their heads as unemployed workers in other States. A difference in unemployment rates elsewhere matters little to individual men and women who are struggling to make ends meet.

As I said earlier, a hungry, a flat belly in the Commonwealth of Virginia is no less painful than a hungry, a flat belly in other areas of this country. I shall work steadfastly with others to make this bill equitable to all.

Mr. CONRAD. Will the Senator yield for a question on that subject?

Mr. WARNER. Yes.

Mr. CONRAD. I do not know if Senator is aware, perhaps he is, of the kind of fatal flaw that is in the formula we have been presented with. A perfect example is the home State of the Senator from Virginia, contrasted with a bordering State of Maryland.

The State of Virginia has a 5.9-percent unemployment rate. So does the State of Maryland. But Maryland workers would get 13 weeks of additional benefits and reachback. A Virginia worker would get 6 weeks, and no reachback.

I just ask the Senator from Virginia how that strikes him? Is that any kind of a fair formula?

Mr. WARNER. Mr. President, it is unfair. Last night across national media, again, was the leadership of this Congress saying checks will be in the mail by Thanksgiving. But down in the fine print of this proposed bill is an inequity toward my State which adjoins Maryland. You cannot tell me a check will go to Maryland and will not go to Virginia, so long as I am privileged to be a Member of this body.

To reiterate, Mr. President, I call the attention of my colleagues to a gross inequity in the payment of extended unemployment benefits under this bill. Because of the relatively low unemployment rate in Virginia, those who have exhausted their benefits prior to November 16, 1991, will receive no help from this legislation.

It is true that every State will get a minimum of 6 weeks of benefits. However, in Virginia and 18 other States, the unemployed worker must still be receiving unemployment insurance on November 16 to qualify for additional benefits. In the majority of States, unemployed workers may qualify for retroactive payments if their benefits have been exhausted at any time since March 1, 1991.

Mr. President, the chronically unemployed in my State have the same problems in feeding their families and keeping a roof over their heads as unemployed workers in other States. A difference in unemployment rates elsewhere matters little to individual men and women who are struggling to make ends meet.

If this bill is enacted as it has been presented, we will be playing a cruel hoax on hundreds of thousands of unemployed workers. For the people in my State, we will not be helping those who need help the most—those who have already exhausted their benefits.

Unemployed workers receiving benefits today at least have a little income. Thankfully, should their benefits expire in the next several months, they will be eligible for an additional 6 weeks. I do not know about other Senators and other States, but the constituents who are writing me have already run out of help—and there is no help for them under this bill.

The so-called exhaustees have been hearing for months that help is on the way from Washington. They have tried to understand the requirements of the budget summit. They have tried to be patient while partisanship has played its hand. We now have a self-financing bill which complies with the Budget Act, and the two sides have finally joined together.

I know the leadership on this bill has worked long and hard on this. I appreciate the fiscally responsible way in which it was drafted. With all due respect, however, the reachback provision is patently unfair.

The reachback date of March 1, 1991, should be brought forward so that all States would be eligible, on an equal footing, for a degree of retroactivity. Keep the $5.1 billion package intact. Do not tamper with the hard fought financing scheme. Leave the tiers of 6, 13, and 20 weeks alone.

There must be a way, however, to simply move up the reachback from March, and in the process reserve critical funding, and then allow exhaustees in all States to benefit.

Mr. President, allow me to recognize the leadership of the Senator from Delaware [Mr. ROTH] on this very important matter of fairness. I strongly request the managers of the bill to work with those of us receiving only half-a-loaf under this most pressing piece of legislation.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I want to put this whole unemployment compromise and debate into some kind of perspective but particularly a perspective for the State of Wisconsin.

Under the current proposal, the proposal before us, 18 States, including the State of Wisconsin, do not receive reachback benefits.

What does that mean? What are reachback benefits?

This means that the unemployed in 18 States, including Wisconsin, only receive extended benefits when unemployed workers exhaust their benefits after November 17 of this year. All the other States are provided reachback to cover those individuals who have exhausted their benefits any time after the 28th of February.

How many people in Wisconsin does this affect? How many people have fallen through the cracks between February and November when this would take effect?

We now estimate, according to the Governor's office in Wisconsin, that there are between 10,000 and 15,000 workers who would, if this so-called compromise passed, suffer in Wisconsin.

Under this compromise, approximately 44,000 to 50,000 workers in my State would receive benefits. With reachback—with Wisconsin being treated exactly like the winning States, the bill would reach between 53,000 and 67,000 people in Wisconsin.

What would Wisconsin workers gain or lose?

We are talking about 6 weeks of benefits and those benefit checks could be sent out within 10 days or 2 weeks from today if we pass the legislation today—6 weeks of benefit checks, checks in the neighborhood of $200 to $250 per individual per week. This is important not just because the holiday season is coming. It is important because of the problems of equity and inequity.

We would have between 10,000 and 15,000 Wisconsin citizens, who unfortunately lost their jobs and are falling through the cracks because of a formula. They would not receive the exact same benefits that an individual unemployed in Illinois would receive, an individual unemployed in Texas would receive, or an individual unemployed in Michigan would receive. Two surrounding States, the State of Texas and most other States across the country, would receive these additional benefits, the so-called reachback benefits denied the unemployed in Wisconsin.

Right now, people are calling up my offices in Wisconsin saying, when are we going to receive these benefit checks? How is this all going to work?

How can I tell people calling me that workers in Illinois and Michigan and Texas and in 29 other States that they are going to get one set of benefits and you are going to get a different set? Can I sit back and say this is the result of a formula developed in the House of Representatives—a formula that includes all sorts of things like AIUR's and TUR's and ER's? How can people know about all these formulas?

These happen to be, Mr. President, the adjusted insured unemployment rate, the total unemployment rate, and ER stands for the exhaustion rate.

But forget about all these rates. Unemployed workers in Wisconsin would be getting a raw deal if this so-called compromise passes. That is why I am a cosponsor of the Roth-Conrad amendment, and that is why I believe we ought to fight for equity, not just for Wisconsin, but for all of the other States that right now are being left behind.

Wisconsin has a relatively lower total unemployment rate. But if you stop and look at Janesville, Beloit, Racine, Eau Claire, those unemployed need and deserve the exact same benefits other States will receive.

I am a sponsor of the Roth-Conrad amendment which will provide all States with the same reachback benefits, and that is only fair. Wisconsin workers deserve the same as the workers of these other States. Right this minute, we have negotiations taking place on this subject. I can only hope that the negotiations going on will, in turn, produce an equitable solution, and that all States will receive the same reachback benefits, not just a few.

And if it means we stay here all night tonight and work into tomorrow, Saturday, and on to Sunday and even in to next week, the issue of equity for Wisconsin workers is an issue that we must fight for.

I do not know where this formula came from or how it was devised in the House of Representatives. I do not know what the position of our Wisconsin congressional delegation has been. But the point is we now are here in the Senate. Each State has two votes, and we believe that we can move toward a solution that will be fair. We are not seeking an advantage, special deal, or a special kind of carve out. We are simply saying treat all unemployed workers the same all across this country.

Right this moment, there will be between 10,000 and 15,000 families in the State of Wisconsin who will not receive 6 weeks of benefits of roughly $200 to $250 per week unless and until we prevail with this compromise. And it is worth it. It is worth it to spend the time, to fight for those families who deserve exactly the same benefits as people throughout the rest of this country.

I thank the Chair.

Mr. CONRAD. Will the Senator yield for a question?

Mr. KASTEN. I will be pleased to yield to the Senator.

Mr. CONRAD. The Senator may be aware that there is an attempt being made to put together a deal and the outline of the deal at least just hours ago was to add 5 or 6 more States, give them reachback, but to leave the other 12 States who are denied reachback for their workers, leave us out.

I was just wondering if that strikes the Senator from Wisconsin the way it strikes the Senator from North Dakota as just being unfair?

I would be interested in the reaction of the Senator from Wisconsin.

Mr. KASTEN. I say to the Senator from North Dakota that, first of all, I hope that is not the case. And, second, I hope that if it were the case, and even if Wisconsin and North Dakota were in the 5 or 6 winners and the other 12 were being left behind, that we would not recognize this issue here as necessarily an issue of one State against another; this is an issue of equity we are trying to establish.

My hope is that all of us will be here fighting for equity across the board—not to leave 12 States behind, not to leave even 1 State behind. We are talking about equity and whatever reachback provisions there are, and if part of this compromise is the reachback dates have to be altered somewhat, if part of this compromise is funds have to come from another source, if part of this compromise is something else has to be worked, the key here is that just as all States are represented in this body equally, all States across this country and all unemployed workers across this country should be treated equally. Whether they are from North or South Dakota, from Wisconsin or Illinois, from California or Texas. All unemployed workers are equal in their despair and in their pain right now. They deserve our help and our support.

Mr. CONRAD. Will the Senator yield for a further question?

Mr. KASTEN. I will be pleased to yield to the Senator.

Mr. CONRAD. The work that we have done is to develop two amendments. One amendment would give reachback to all of the States, the workers from all of the States, to treat them all equal, and it would pay for it by taking from those States that have been given the most generous benefits, those with 20 weeks or more, or 20 weeks and reachback, and redistribute the money so every State gets reachback. That is one approach.

The second approach is to say that Federal employees would be subject to garnishment if they owe on their student loan or if they owe HUD. They would be subjected to garnishment, not the permissive garnishment but a required garnishment, and that would pay for it.

I would like to know if the Senator from Wisconsin has a feeling about those two proposals, whether or not those would meet the fairness test the Senator outlined earlier.

Mr. KASTEN. I say to the Senator that either or both or a combination or those two proposals would meet the fairness test that we are trying to work to outline here, as would a change in that February date, from my point of view. They key here is equity across the board, and that we ought not to be singling out one set of unemployed workers for reachback and leaving behind another set of unemployed workers and disallowing them those benefits.

I thank the Senator.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

Unfortunately, for tens of thousands of unemployed Americans, this bill we are now considering is a fake solution because, if they have already exhausted their benefits in certain States, this bill will not help those unemployed people one bit.

My State of Iowa, Mr. President, is one of those unfortunate States that is denied reachback assistance for exhaustees. In my State, I believe there are some 16,000 people who will not be getting the help that congressional leaders and even the President and now, of course, the press happen to be indicating that they would get, because the impression is out there, if you are unemployed and lose your benefits, you are going to get help from this legislation.

There are proposals which I strongly support and are fair and reasonable approaches to this serious problem.

The people from the 18 States without reachback deserve better treatment than in this legislation before us. They are just as unemployed as those in States which do get benefits. Unemployed people in every State should be getting reachback protection.

It is almost inconceivable to me, Mr. President, that a bill would have been negotiated to help the unemployed and the result is that it does not help those who have been unemployed the longest and who I believe would fall into the category of people who need the help the most.

Of course, no one in this body is willing to claim any authorship of this legislation. It seems as if it was cooked up in the other body, passed overwhelmingly before most people knew what was in it, and sent over here on some sort of take-it-or-leave-it approach.

Now, if you do business that way, this body, the Senate of the United States, is going to be basically an irrelevant commodity in the debate.

If this happens, Mr. President, this is certainly another sad commentary on the way we do things around here.

Some have argued that some of the past proposals did not have reachback for some States. So, they might ask, what is all the fuss about? I think the comparison is very misdirected.

The earlier proposals, as we all knew, if we want to be perfectly honest and candid with each other and the American public, were not going to become law, and the issue at that time dealt with whether or not we were going to pass a responsible bill that was paid for, a pay-as-you-go unemployment comp bill, instead of increase the deficit, which is too often the easy way out around this Congress.

At this very moment, we are considering a bill that will become law and is going to be paid for. Now, the issue that has been so much better addressed by most of my colleagues who have been talking this issue, they express it in terms of fairness, and I agree and associate myself with those comments. I am basically saying that what we have before us is not fair. I think it can become a fair proposal.

There is a lot of discussion going on right at this very moment away from the eyes of the public and press that are geared toward that. I hope those talks are successful because I would like to pass this legislation. I would like to pass it as quickly as we can. It is my hope that equity instead of expediency will for once rule the day and that fairness will prevail.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFRICA

Mr. SIMON. Mr. President, the news from Africa, in general, is good in terms of human rights, in terms of the spread of democracy, in terms of having an independent judiciary and not arbitrarily arresting people. It was not too many years ago when people said, "Well, you cannot expect that in Africa." It is the same kind of a put-down that now you occasionally hear from Arab and Muslim countries, "Well, you cannot expect that." The reality is that human aspirations are the same no matter where they are. People in Africa and in the Middle East ultimately want the same freedoms you and I have.

But in the midst of generally good news in Africa, we have disturbing developments in Zaire and Kenya. Last night in Kenya, President Moi ordered the arrest of a great many people who wanted to peacefully assemble to protest the one-party government there in Kenya.

In August, I was in Kenya with Senator Chuck Robb, and the two of us met with President Moi and had a very blunt conversation with him. I remember, particularly, we had just come from Eritrea, and I said, if you are to ask me which country will have a multiparty system, independent judiciary, and not detaining people arbitrarily, Eritrea or Kenya, I would have said Kenya. But, in fact, it is Eritrea that is moving in that direction.

In our conversation with President Moi, we were very blunt in saying that you are either going to lead the forces for change or you are going to be run over by the forces for change. Unfortunately, President Moi is resisting change, and that can only, ultimately, result in bloodshed in Kenya. Kenya has tremendous potential, and President Moi is, himself, a person of considerable talent. But those talents have to be used to permit the people of Kenya to have freedom and not suppress that freedom. One of the people arrested last night is Oginga Odinga, an 80-year-old Vice President of the country, who wanted to join in the peaceful protest of what was going on.

I think we have to send a strong message, and I am pleased to say that our Ambassador to Kenya, Smith Hempstone, made it very clear that we do not approve of what is taking place. I think we have to make that message clear in other ways also.

And then, the other place where there is a problem is in Zaire. We have cozied up to President Mobutu, a dictator in Zaire, because we saw this as an East-West conflict, and he was on our side. He is right next to Angola, and he helped us in terms of assisting Dr. Savimbi. My own belief was that we should not have gotten involved in that Angola civil war. But that is history.

Right now, there is a serious situation in Zaire, and President Mobutu ought to leave the country, let an interim government be established there, and make sure that the people have a chance to come to the streets. The people in Zaire are going to come to the streets, either to celebrate relief from a dictator or they are going to come into the streets with massive bloodshed. And we ought to be encouraging, in every way possible, that they come into the streets to celebrate a transition to a free government.

Within the last 48 hours in Zaire, one of the few independent voices that can still speak up, is Archbishop Mosango, of the Roman Catholic Church in that country. A group of commandos—is about all I can describe them as—led by uniformed men from the military came in to attempt to grab the archbishop. His bodyguards prevented that from happening, but one of his bodyguards was seriously wounded.

There is a calm in the capital of Zaire today, but it is the calm before a storm. And we ought to do everything we can to prevent that storm from occurring.

Again, our stance ought to be clearly and firmly on the side of human rights for people, whether they live in Minnesota, Illinois, Maine, or whether they live in Zaire or Kenya. Sometimes we are forceful in standing up for human rights; sometimes we are not. I want us to stand up firmly, clearly, positively, for human rights in Zaire and Kenya.

Mr. President, I yield the floor.

CONCERN OVER DECISION OF AIR FORCE TO ACQUIRE NEW UNIFORMS

Mr. COHEN. Mr. President, I want to take a few moments to indicate my concern and, I might even say, consternation about a recent announcement by the Air Force to spend an estimated $1.5 million for the design of a new Air Force uniform.

According to Air Force News, Capt. Cathy McGinn, who is the Air Force clothing branch chief, is quoted as saying, "We believe we have the best Air Force in the world. As demonstrated in Desert Storm, air power has come of age, and we believe the time is right for the United States Air Force to have a distinctive uniform that reflects our profession."

Mr. President, I believe we have the best Air Force in the world. There is little doubt in my mind that air power, as demonstrated in Operation Desert Storm, has truly come of age. And I am proud of the men and women who served in the Persian Gulf, and those men and women in blue clearly and convincingly lived up to that motto to fly, to fight, to win. I have commended them for their courage and dedication and the contribution they made in carrying the Nation to victory in Operation Desert Storm.

But I might be missing something here. I do not exactly get this. I have enormous difficulty making a connection between the heroic and successful efforts of our Air Force members in the Persian Gulf and the need for new service dress uniforms, the design of which is going to cost $1.5 million.

I have yet to be persuaded that the Air Force needs to have a uniform that is any more distinctive than the current issue. I do not have any difficulty distinguishing the Air Force from the Army or from the Navy or the Marine Corps. And I find it difficult to understand why there is such a compelling need now to have such a distinction drawn in the minds of the American people.

Mr. President, our Nation has fallen on very difficult times. The outlook economically certainly is cold and gloomy and it is blue. The Air Force, like other services, is cutting back. It is involuntarily reducing officers as well as enlisted men who are not eligible for retirement. And during these times in which many Air Force families are going to be displaced, I do not believe the leadership of the Air Force should be contemplating a new blue suit.

While that new uniform may be attractive, although I have difficulty distinguishing it from the uniforms being worn by USAir pilots, nonetheless while it may be attractive and it may be more comfortable, I think the Air Force ought to be addressing only its most pressing problems and placing resources in essential services such as personnel support and health care and not in designing new uniforms when the old ones have served them well for so many years.

I understand that the Air Force employs a tooth-to-tail ratio that is commonly used to determine the composition of Air Force programs. Tooth represents the most essential programs and elements, and tail represents the less essential elements. While many acquisitions may fall into either the tooth or tail categories depending on the user, there is little doubt in my mind that the acquisition of a new service dress uniform is clearly a tail.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIRGINIA AIRPORT MODERNIZATION

Mr. WARNER. Mr. President, I rise today to commend the members of the Commerce Committee, Chairman HOLLINGS, Senator FORD, Senator DANFORTH and other Senators—indeed, Senator ROBB, my colleague from Virginia—who have been working on getting the legislation necessary to enable two airports, National Airport and Dulles Airport, both located in my State, to continue with their modernization program, a program which is absolutely essential to the lifestyle of every single Member of the Congress.

The House of Representatives has, in committee, framed a bill which appears to be satisfactory to the House. I anticipate it will be voted on by the House and passed in a matter of days. That bill has been introduced in the Senate by Chairman HOLLINGS, Senator FORD, and my colleague Senator ROBB and myself. Senator ROBB has put a lot of time on this subject since he was a member of the Commerce Committee, and I commend him.

Those of us in favor of this legislation, and I am confident all Members of this body basically are in favor of going ahead with the modernization program of these two key airports—but the realities are that some Senators, within their rights, are looking at this piece of legislation as a means—perhaps the word is too weak, "means"—as leverage to resolve problems they have in their respective States with respect to air service from the Nation's Capital to their States. I do not fault them for exercising their rights, but I wish to say I will join Senator ROBB and other Senators in seeing that this bill is passed by this body, such that it can be joined with the House bill and become law before we depart, whenever that departure date may be.

I wish to inform all my colleagues, the Senator from Virginia, having the privilege of being a conferee on the highway bill, I have taken it upon myself to discuss with other conferees, the leadership of the conference and House and Senate conferees, about the probability of putting this legislation as an integral part of the highway bill, in order to assure its passage and that it become law. I fully intend to do that.

It is my hope that perhaps the Senators on the respective committees in the Senate; namely, the Commerce Committee, and the House, can work out some accommodation to pass this bill in the normal course.

But, absent that, this Senator is steadfastly going to work to get that bill into the highway bill such that it becomes law, and the modernization programs of these two airports will go forward. Otherwise, contracts will be severed as early as December, and the inconvenience associated with this modernization now—which is quite extensive—will be experienced for an indeterminate period of time because of the inability of the authority as a consequence of the Supreme Court decision to get the requisite financing to go forward with this vital modernization program.

So in a sense of fairness. I am here to announce to the U.S. Senate today, that I and others will work for passage of this bill prior to our departure, and that my role as a part of that effort will be to introduce it into the highway conference bill so that it is sure to become law.

Prompt enactment of this legislation is critical to prevent the improvements underway at Washington National and Dulles from coming to an abrupt halt.

In 1985, I served on a Commission appointed by Secretary of Transportation Elizabeth Dole to make recommendations of how to manage the modernization of the airports of the National Capital. The Commission was known as the Holton Commission after the Chairman Linwood Holton, former Governor of Virginia. Upon my recommendation, the Holton Commission adopted the so-called Warner plan for a review board to oversee the activities of the airport authority. Under the Warner plan, no Member of Congress would have served on the review board.

The recommendations of the Holton Commission resulted in the enactment of legislation to lease Washington National and Washington Dulles International Airports to a newly created agency, the Metropolitan Washington Airports Authority. The authority was jointly created by the Commonwealth of Virginia and the District of Columbia to finance the reconstruction of National and the expansion of Dulles.

Unfortunately, the Congress refused to go along with the Warner plan for the Review Board. If it had, we would not be back here today enacting this legislation.

At the time the 1986 legislation was debated some in Congress opposed the airport transfer on the basis that a local airport authority—particularly a brand new one—might unduly favor local interests over the interests of airport users. The act, therefore, required a Board of Review, made up of Senators and Members of Congress, that could veto decisions of the new Authority's Board of Directors.

On June 21, 1991, the Supreme Court of the United States found this provision of the law unconstitutional. It considered the Board of Review an arm of Congress, and therefore held that its veto power violated the separation of powers principle.

Because of the Supreme Court decision, the Airports Authority may no longer issue bonds for projects at National Airport. It cannot amend its master plans, its regulations, or even adopt an annual budget. By January 1992, the authority will run out of money for the program at National and begin to shut down projects.

The practical result will be to leave National partially renovated forever, with a large hole in the middle of the property where the new terminal is to be built. Airport users will continue to be confused, inconvenienced, and indeed stunned that this is the airport of the Nation's Capital.

The Washington Metropolitan Airports Authority, chaired by the former Governor of Virginia, Linwood Holton, has done an outstanding job since 1987 in managing the airport and planning and funding its improvements. If allowed to move forward, I am confident that the result will be two modern airports to serve the Nation's Capital efficiently.

Mr. President, the main provisions of the legislation are as follows:

Establishment of a new, constitutional Board of Review, with a congressional review procedure adopted from the District of Columbia Home Rule Act.

Oversight of the Authority by the Congress in a conventional manner. If the Board of Review and the Authority cannot agree, it will be referred to the President pro tempore and the Speaker of the House, and thereafter to the Senate Commerce Committee and the House Public Works Committee.

Disapproval of Authority actions would be by joint resolution of the Congress.

Mr. President, this legislation has been drafted in consultation between the Senate and House Aviation Subcommittees. It is not perfect legislation, but I believe it will withstand constitutional muster and it will allow the airport improvements to go forward.

Time is short, Mr. President, and this legislation deserves our expeditious approval.

TELEPHONE ADVERTISING CONSUMER RIGHTS ACT

Mr. PRESSLER. Mr. President, last week the Senate passed S. 1410, the Telephone Advertising Consumer Rights Act. I introduced this legislation in response to the national outcry over the explosion of unsolicited telephone advertising. Many consumers in my home State of South Dakota are simply tired of the nuisance of unwanted telephone solicitations. New technologies when combined with the telephone now give modern door-to-door salesmen an unrestricted ability to invade the privacy of our homes at any time. It is time we liberated Americans from obnoxious phone calls.

Unlike other communications media, the telephone commands our instant attention. Junk mail can be thrown away. Television commercials can be turned off. The telephone demands to be answered.

People are increasingly upset over this invasion of their privacy by unrestricted telemarketing. In fact, the consumer backlash that has arisen from the cost and the interference of unsolicited telemarketing calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. We have heard the complaints of consumers.

This past June, we held hearings in the Commerce, Science, and Transportation Committee on S. 1410. During these hearings, we received testimony from consumer advocates, private citizens, and representatives of the telemarketing industry. The testimony we received was clear. The Federal Government needs to act now to provide uniform legislation to protect consumers.

The primary purpose of this legislation is to develop the necessary ground rules for cost-effective protection of consumers from unwanted telephone solicitations. These rules should allow responsible telemarketers to reach consumers who are most responsive to this form of solicitation, while eliminating the cost and time of contacting those individuals who would be least responsive.

To accomplish this balanced approach, the Senate has passed legislation that directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls.

One such proposal the FCC would consider is the use of a telephone electronic database that would allow consumers to have their phone numbers protected from unsolicited advertising. This type of consumer protection has already been used with great success in the State of Florida. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange.

Some objected to the original legislation because of the extent to which it outlined the safeguards necessary for the creation of a national database. It is important to note that this substitute bill does not mandate the creation of an electronic database. Rather, it gives the FCC flexibility in deciding the best approach to handling this problem. Personally, and in the eyes of many others, it appears that an electronic database clearly offers the most promising protection for consumers. However, we recognize that newer technologies may arise in the future. For this reason, the Senate legislation directs the FCC to consider a number of alternatives.

The purpose of this legislation is to prohibit cold calls by any telemarketer to the telephone of a consumer who has no connection or affiliation with that business. Responsible telemarketers have told me that they will save both time and money by contacting only people who are most likely to respond positively to such solicitations.

S. 1410 also addresses problems arising from computerized calls. Due to advances in auto-dialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers. This results in calls to hospitals, emergency care providers, unlisted numbers, and paging and cellular equipment.

There have been many instances of auto-dial machines hitting hospital switchboards and sequentially delivering a recorded message to all telephone lines. In some cases, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phones inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, the Senate legislation requires auto-dialer machines to release the phone line automatically after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number or address of the person or business initiating the call.

This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising—the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. The Senate bill requires that auto-dial fax machines clearly mark on all transmissions the date and time of transmission, the identify of the sender, and the telephone number of the sending machine.

While our legislation will not end all unsolicited calls, it will allow consumers to choose how their telephones are used and requires vendors to respect that decision. The balanced approach taken by the Senate, should ensure a robust telemarketing industry while giving consumers relief from unwanted telephone solicitations.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

The Senate continued with consideration of the bill.

Mr. KOHL. Mr. President, we often play political partisan games down here and often times we do not help the country.

We have been playing political games with aid to the unemployed for 3 months now; 3 months in which people have run out of benefits, run out of money, and run out of patience with our political games and legislative inaction.

This week we finally decided that it was time to stop playing games and do something. So the White House agreed to a proposal and everyone started talking about getting extended benefit checks to people in time for Thanksgiving. But while the speeches were being made, the proposal was being changed. Suddenly some States were doing a lot better than they had before—and some States were doing a lot worse.

In my own State of Wisconsin, we no longer have look-back coverage, which means that as many as 10,000 people in my State who have already exhausted their unemployment benefits are not going to be helped by this bill. They would have been helped by the first bill that Senator MITCHELL introduced. And they would have been helped if we had passed any bill 3 months ago. But in this bill they are not being given anything. Not anything.

Now, Mr. President, that is not fair. It is not fair to play around with the formula. It is not fair to punish people because we failed to act 3 months ago. It is not fair—and it is not acceptable.

We may soon have an amendment before us to deal with this problem. It restores the look-back provision so that all of the people this bill is designed to help—the people who are now exhausting their benefits, the people who will be exhausting their benefits, and the people who have already exhausted their benefits—will be helped. To do anything else, Mr. President, is intolerable.

This bill is based on the belief that people are suffering because of the recession. They want to work but, because of the economy, they cannot get jobs. It is not their fault. So we want to give them some extra help—some extra time while we wait for the promised economic recovery. There is no logical justification for helping some of these people and not others. There is no rational justification for saying that the people who used up their regular unemployment benefits months ago should get less help than people who are just now exhausting their benefits at this time. There is no possible justification for making the unemployed pay for the months of stalemate and inaction created by the President's unwillingness to act.

So, Mr. President, I support efforts to restore a look-back provision and cover people who have already exhausted their benefits. I understand that there may be a limited look-back already contained in the bill as a result of various State laws. I also understand that the limited look-back will apply to my State. But that is not enough, Mr. President. It is not enough to give limited relief to people who have unlimited trouble.

So I urge my colleagues to correct this problem equitably and completely. It is the only fair thing to do. On behalf of the 10,000 people in my State—and the hundreds of thousands of people in other States throughout this country—I urge my colleagues to support a comprehensive effort to resolve this problem.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

THE ECONOMY AND HIGHWAY CONSTRUCTION

Mr. BUMPERS. Mr. President, I will be very brief. I will just take a minute to talk about something of importance to me while some of the Senators are negotiating on the extended benefits for the unemployment compensation issue.

Everybody is talking about what we ought to be doing about the economy, and you can get almost as many suggestions as people you ask. But I feel absolutely confident that one thing we can do to stimulate the economy would be to dump a very sizable portion of the highway trust fund into road and bridge construction. I feel sure that every State in the Union is like Arkansas and has tremendous numbers of projects that it could fund immediately if it had the money.

Now I am not talking specifically about the fact that the conference committee between the House and the Senate on the transportation bill seems to be stalled. I am talking about the fact that the highway trust fund has around $12 billion in it right now. Spending the surplus funds would probably require a budget waiver. However, bear in mind that this trust fund money is there because each time a person buys a gallon of gasoline, they pay 14 cents a gallon in Federal tax which goes directly into that trust fund, and it cannot be spent for anything else except for 2½ cents which goes to deficit reduction under last year's budget agreement.

So while this surplus might slightly exacerbate or mask the deficit in the short term, in the long run, bear in mind, the money is to be paid out for highways, highway construction, and mass transit. It cannot be used for anything else, and ought to be used now.

For every billion dollars you put into highway construction Mr. President, you create 52,000 jobs. For every billion dollars you put into defense, you create 30,000 jobs. So bear in mind you get almost twice the benefit from putting a billion dollars into highway construction than you would putting it into defense.

I am not sure what my position will be on all these various tax bills that are being floated around here by Senator BENTSEN, Chairman ROSTENKOWSKI, and others. I want you to know I have some serious reservations about the advisability of a tax cut, not because I would not relish the idea of putting more money into the pockets of the middle class in this country but because this economy is showing no signs of recovery.

The announcements yesterday regarding retail sales, in my opinion, are a harbinger of the tremendous lack of confidence the people of this country have in our future and our economy. This is frightening when you consider that two-thirds of the gross national product of this country is generated by consumer spending. Consumer morale is at an all-time low, and they are not spending because they do not have any confidence in the future. The economy is not going to be jump-started until the Government takes some affirmative action. And because of this deficit, we are very limited.

In the old days—and I refer even back to the Carter days as the old days in my book—during the Carter-Nixon-Johnson years, the Government was always coming up with programs to turn a stagnant economy around and get it going again.

Now there are economists who say that even though the deficit is staggering, we ought to spend money to get the economy going in the certain knowledge that a stimulated economy will generate revenues that will more than offset the cost of doing it. That is not a new argument, and I am not sure it is a valid argument. But the one thing I do know is that we have $12 billion in the bank that cannot be spent for anything else, and we ought to put massive amounts of highway money from the trust fund into the hands of the States, right now.

And so, Mr. President, I hope, No. 1, that the conference committee that is now conferencing on the transportation bill will be able to reach an agreement and get that bill back to us so that we can at least start putting the money in the pipeline that would normally go into the pipeline.

But I believe that we, as Democrats and Republicans, ought to formulate a plan to dump a very significant amount of that $12 billion into the economy. If you could put $5 billion into the economy tomorrow, Mr. President, and create jobs for 260,000 people, I daresay you would not have to spend $5.2 billion on these extended benefits under the unemployment compensation laws of the country.

The reason we have to pay so much is because we have people idle who have expended all of their benefits. And when I go home—as I do virtually every weekend of the year, and have for 17 years—and talk to people in my State—and I have always tried to be a good listener as well as an educator, and I think a legislator has an obligation to also be an educator and on occasion tell people things that they would rather not hear—but I can tell you the message back home is loud and clear. It is jobs, and it is fair treatment for the middle class.

The Philadelphia Inquirer has done a three-part series on what happened in Pennsylvania that ought to be mandatory reading for every Member of the U.S. Congress. There are all kinds of documented stories coming out today of the travesties of the past 10 years and the terrible consequences they have put on the middle class in America.

So, Mr. President, since there was nobody else here, I spoke really longer than I intended to. But in my opinion, If I were king and could do it today, I would put a tremendous amount of that highway trust fund to work immediately. And bear in mind—I want to repeat one more time—that money cannot be spent for anything except highways. What are we holding it for?

Mr. EXON. Will the Senator yield for a question?

Mr. BUMPERS. I am happy to yield.

Mr. EXON. I have been listening with keen interest to my friend and colleague from the State of Arkansas. I salute him for making the clear and concise comments that he just made, because it is important that we try and place things in perspective.

However, there is one part of the statement that the Senator from Arkansas made that I think was an inadvertent error, and I wanted to call that to his attention and ask him whether he does not agree.

I agree with everything that the Senator from Arkansas has said. It would help the economy if we would release the $12 billion that is in the highway trust fund. But I believe I heard the Senator from Arkansas say that that $12 billion highway trust fund money was in the bank and it could not be spent for anything else.

I think the Senator from Arkansas, if I heard him correctly, knows full well that, unfortunately, that $12 billion is not in the bank, and that is one of the great problems we have with all of these trust funds, including the Social Security trust fund, the highway trust fund that he referenced, the airport trust fund, and all of the other trust funds. The money is not in the bank. There is simply an IOU from the Federal Government in lieu of cash in the bank. And therefore the money is not in the bank available to be spent after the authorization of the Congress and the appropriation of the Congress.

Is it not correct that that money is not in the bank, in the traditional sense?

Mr. BUMPERS. Well, the Senator is right. The only thing we have in the bank in this country is a $3.5 trillion debt. Obviously, I did not intend to mislead anybody with that statement. It was simply a way of saying that that money, even though it is an IOU from the Federal Government—because we do use those trust funds to build bombers and everything else is in an account down at the Treasury. And it is an account that, when the Federal Government does pay it—which it does as this money comes in—cannot be spent for any other purpose, as the Senator well knows. But the Senator, technically, is absolutely correct, it is not in the bank, as I wish it were.

Mr. EXON. I thank my friend from Arkansas.

Mr. BUMPERS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, as we await action on this unemployment bill, I think it is appropriate to consider where we are as a nation, how we got here, and how we get out of this problem. It is an unusual confluence of events, Mr. President.

This Saturday, in my State, David Duke has a serious chance to be elected Governor. I understand he is better known, according to the polls, than the Presidential candidates already announced—other than President Bush.

In Mississippi, a candidate was elected—to be sure not with his baggage—but on many of his issues.

In Pennsylvania, a candidate was elected whom I consider to be one of the finest candidates I have seen in a long time but on a new platform of programs that appeal to the middle class who feel disenfranchised.

So, in effect, politically, what we have, Mr. President, is a confluence of events where the people of this country say "We have had enough. We want a change. We want the middle class to be recognized."

At the same time here we are on the floor debating an unemployment compensation bill to deal with these tremendous difficulties which ordinary Americans have.

There are high rates of unemployment. My State has had double digit unemployment for almost a decade. Now, at 7 percent, we are much better off than we have been. We have come from a deep depression in Louisiana to a deep recession, and we call that progress. But it is really not progress, it is just sustained lethargy in the economy and difficulty for people and the kind of situation that breeds a David Duke.

But how did we get here, Mr. President, the greatest Nation in the world? Back in the sixties the soaring ambitions of this country were that we could do anything, we could defeat anybody militarily, we had all the power economically, we were the greatest manufacturer, our automobiles were desired all around the world—how did it happen?

Mr. President, it happened, I believe, because Americans do not think long term. Americans think short term. We have always been compared with the Japanese because the Japanese think long term. You know, they will sit there, year after year and suffer a little loss because they are building market share for the long term. They are thinking long term. Americans think, in corporate America, of the next quarter—at least not longer than the next year. Politicians think of the next election. And the consequence is that over the long term, the Japanese get the markets, Americans get the recession. Americans get the unemployment. And then we come in and try to jury-rig some kind of system to alleviate, in the short term, the difficulty.

Mr. President, Americans ought to learn to think long term. And we can if we can get a little maturity in our politics, in our media—and do not think the media does not share a large responsibility for the shape we are in. Because the media tends to exaggerate the problems of the day.

What are the problems of the day according to the media? The House has some bank accounts; people take trips; or that long litany of perquisites or whatever it is—right or wrong, and I do not defend all of those things—that is not the problem with America. Mr. President, the problem with America is we do not think long term.

I will go in, this afternoon, to talk with a group of Senators about energy policy. One part of this problem is energy policy because what we have done is to think always short term. What is the price of gasoline today? If you can fill up your tank at a reasonable price today, there is not a problem. Notwithstanding the fact that a year ago we had a half-million Americans in the gulf fighting a war, there is not a problem today.

I do not believe we are going to be able to come together with an agreement on energy policy. I just do not think we can. Because the different parts of it offer a little discomfort for people. The homebuilders do not like building standards. Some of the utilities do not like the fact that they would have to compete. Some people do not like nuclear energy. Some people do not like the fact that you would have natural gas moving more quickly. There are endless objections to all of the disparate parts of our energy policy bill. But all we can come together on is opposition.

When it comes to trade, this country has been made a patsy on trade for so long it is amazing we cannot wake up. We have our friends in the Far East—the Japanese and others—who keep taking advantage of this country, continually, year after year after year, taking advantage of us while we lose markets to them while they restrict our products, and we let them open up our markets. There is not any fairness to it; there is not any balance to it; there is not any equity to it. And in the great American tradition of hope, we keep hoping they are gong to do better and they never do. And we keep losing our markets.

In education, yes, we are for strong education and we are for all those good things, but we are not willing to make any sacrifice at all. We are not willing to think long term for education. We are not willing to spend the money on education that needs to be spent. If people are comfortable with our system, that is where we stand. If it costs any money on education, do not do it. If it is within our present ability to pay and it is comfortable, do it. That is America when it comes to education. And we all know that it is a worldwide, international economy, and we are losing out.

Mr. President, we are all environmentalists now. We have learned that. If there is anything we have learned it is that we are all environmentalists. We have not just learned it politically, we feel that. But we serve the environmental cause and never think what it is going to cost. Maybe it is unwise to even talk about the cost of environmentalism. But do not ever think there is not a cost. If you do not want to drill anywhere in America and you want to import all your oil, you are going to have to pay the price. Right now, 62 percent of the imbalance of trade is because of imported oil—62 percent.

What is our response?

I am afraid the only response this Senate can make to the energy crisis is to put off limits the Outer Continental Shelf. In other words, put off limits Florida, California, probably the east coast. Maybe that ought to be done.

But it is not much of a response to the energy crisis to say put things off limits. So we are paying a price, Mr. President.

We must also think about the legacy of Ronald Reagan in our difficulties now. When I think about how we solve our problems, I think about the great communicator who has sown the seeds of making things much more difficult. Ronald Reagan came in as the ultimate outsider, even though he had been in control of this Government for 8 years. The skill, the political skill of this man to be able to be an outsider who ran the Government, how he could do that, I do not know, but he did it beautifully and he made the American people feel that somebody else was running the Government—as far as the blame—that he was the leader who made us feel proud and who made us feel good, who made us proud of America again, who made a strong America, who asserted its freedoms all around the world; but in terms of the economy, in terms of domestic policy, he was not to blame. It was that Democratic Congress in spite of the fact that he had the reins for 8 years.

What he sowed were the seeds of the impossible dream, the impossible dream being that you can have greater benefits with lower taxes. That is what he said explicitly to the American public; that if you can just do away with the $700 toilet seats and the waste and the perks and all of those things, that everything is going to be OK. Unfortunately, that contributes a lot to the anger out there.

Down in my State, with David Duke now, they do not remember explicitly the words of Ronald Reagan, but what they do remember is that there is an easy solution out there. If the Congress would just stop the bank accounts and reduce salaries and up the price of haircuts and throw those out who are in and bring a new crowd in, that somehow things will be OK. That is really the angry feeling and that you can get something for nothing. Somehow that feeling has been sown by President Reagan. I like President Reagan in many ways, and indeed he did a lot to restore the American spirit.

But, Mr. President, I guess ultimately what the American public must do to get out of this situation—and I do not mean the next 6, 7, 12 or 18 weeks, referring to the different amounts of unemployment insurance—what we have to do for the long term is think about the long term, is be willing to make some sacrifices for the long-term, to be able to understand that good education does not come free, it does not come without study and without longer hours in school; that trade policy involves being tough, and consistently tough, as well as being fair and open; that energy policy involves doing a whole group of things, not something simple like putting a solar array in your backyard.

We have tried all those things and we know they do not work; that competitiveness means a whole series of things, including education, including good environmental policy; that in substance, Mr. President, it does not come cheap or easy; that there are no simple solutions out there.

Who was it? H.R. Mencken said for every complicated problem there is a simple solution, and it is always wrong. In this case, the simple solutions are always wrong and the quick fixes, like this bill which we are considering now and which I hope we will amend as many of us from some of the more impacted States are talking about, whether we do this or not, it is a quick Band-Aid for a bleeding sore. It is not the ultimate solution.

Mr. President, we must think long term. We must mature as a nation. We must get a news media that does not just look to the sound bite but looks to the wisdom of things, who helps us as a nation solve problems and not just sell newspapers. Frankly, it is not as much the newspapers as it is the television who is at fault now, because they are the ones who are seeking the quick sound bite as opposed to the deep analysis.

Mr. President, I hope this country will come to its senses and think long term.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. BROWN. Thank you, Mr. President. I wish to address H.R. 3575, the unemployment compensation bill, and I ask unanimous consent to print in the RECORD the budget effect of this compromise proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 3575—BUDGET EFFECTS OF COMPROMISE PROPOSAL

[In millions]

	Fiscal year—					5-year total
	1992	1993	1994	1995	1996	
Outlays:						
EUC benefits	4,845	0	0	0	0	4,845
Ex-servicemembers	105	115	120	120	125	585
School employees	20	20	20	20	20	100
Job search assistance	0	2	0	0	0	2
Rail UI	10	0	0	0	0	10
Gross outlays	4,750	137	140	140	145	5,342
IRS debt collection	−1,100	−160	−160	−160	−160	−1,740
GSL compromise	−15	−25	−25	−25	−25	−115
Net outlays	3,665	−48	−45	−45	−40	3,487

H.R. 3575—BUDGET EFFECTS OF COMPROMISE PROPOSAL—Continued

[In millions]

	Fiscal year—					5-year total
	1992	1993	1994	1995	1996	
Revenues:						
Estimated tax	2,600	0	0	0	0	2,600
School employees	0	20	20	20	20	80
FUTA extension	0	0	0	0	878	878
Total revenues	2,600	20	20	20	898	3,558
Deficit effect[1]	1,065	−68	−65	−65	−938	−71

[1] In addition, the Labor–HHS appropriations bill will provide approximately $160 million of funding to States for administering these benefits.

Note.—Assumes a 7.5-month program from Nov. 17, 1991 to July 4, 1992.

Mr. BROWN. Mr. President, the Congressional Budget Office has not come forward with a financial analysis of the bill that is before us. That is a bit unusual because, of course, our entire budget process is dependent upon this Congress respecting the limits that are set forth in the budget agreement. Included in those is an effort to limit the size of the deficit in the current year and future years.

What appears to be taking place is that a bill is now offered to us that violates the budget agreement in a very significant and dramatic way, and the Congressional Budget Office does not yet have an official estimates.

I think for those who are not familiar with the budget process, you may appreciate the situation that we are in. We have a budget. It does limit the deficit that this country is burdened with. But to make a point of order against the pending bill or an appropriation, one has to have the Congressional Budget Office do an estimate that certifies that it is indeed a violation of the budget.

This bill clearly violates the budget. The sheet that I have just introduced into the RECORD is a statement of the financial impact of the bill as put together by the Ways and Means Committee in the House of Representatives. I have no reason to believe that this will not be identical to or very similar to the conclusions reached by the Congressional Budget Office. It shows over a billion dollars added to the deficit in this current fiscal year, a clear violation of the budget. But no point of order can lie against this bill for its violation of the budget until the Congressional Budget Office acts.

Thus, if they fail to act—and they have not acted thus far—we may well violate the budget, violate our own rules, and have opened another loophole in the budget. The loophole is simply this: If you do not like the facts, if you do not like the reality, all you need do is not put the report out. If you do not get the report out, you cannot make a point of order, and if you cannot make a point of order, you cannot see that the Budget Act is followed.

This is a hat trick. This is a charlatan's move. This is hiding from the truth.

Mr. President, at the appropriate time, I will make a point of order against this bill. I do believe that it is certainly possible to amend this bill so it does comply with the Budget Act. The shortfall in this fiscal year is about a billion dollars, a little more than that.

We are funding unemployment figures retroactively, going back by simply adjusting the amount as we go backwards in time. I think we have the ability to make this fall within the budget.

The point I guess I want to make for this Chamber is that if we are concerned about the long-term economy, destroying the Budget Act is not the way to accomplish that goal; it is not the way to improve our long-term economy.

Pulling tricks that have this Congress avoid its responsibilities and ignore the budget will not help the economy long-term. It will hurt it. What it sends to all the markets around the world is a message that this U.S. Senate has no intention of living by any budget, no matter how generous, in terms of its increased spending. And, believe me, this budget that we operate under is generous in terms of increased spending.

We are talking about a deficit this year that is in the neighborhood of $360 billion, nearly $1 billion a day. I cannot believe that there is a Member of this body who can come to the floor and say the problem with the budget we operate under is that the deficit is not high enough; there is not enough stimulus in this budget for the economy.

That is not the problem with the budget. The problem with the budget is that we have sent a message to the world that we are not willing to live within any limits. I think acting on this bill—without ensuring that it complies with the budget—will hurt the economy, not help it. It will reinforce the image, that the Congress has gathered from financial markets around the world, that we simply do not care and are not going to be guided by principle; that we simply are not committed to making sure that our budgets end up making sense.

So while our rules to not permit a point of order to lie against the bill at this point, because we do not have the report of the Office of Management and Budget, I want the RECORD to clearly reflect that should that report become available, I intend to make that point of order, and that I have requested the Office of Management and Budget and the Congressional Budget Office, more particularly—because theirs is the report that makes the difference here—to develop that report as quickly as possible.

Mr. President, there is one other item that I would like to share with this body. Many remarks that have been made in the last hour, I think, have made some valid points. First, that a bill which provides jobs for people, not just compensation, is far preferable to what we are passing today. I believe that is true.

The distinguished Senator from Arkansas had made the point about highways, that those are real jobs on tasks that need to be done. I think he is right. I think he makes a valid point. I am one who believes that far superior to simply a handout is a job where someone earns their way, develops skills, and contributes to our economy. It is unfortunate that that alternative has not been taken at this juncture.

Others have suggested that there is not a better solution in terms of looking at our budget. I must say I do not believe that. I believe this Congress can, and should, make dramatic reductions in spending that will improve our economy in the long run. I do not want that simply to hang out in vague terms. Let me be specific.

We are spending money to join the coffee cartel this year, nearly $1 billion. Anybody who thinks that makes sense has insight that I do not yet possess. Why is it in the interest of American consumers to pay money to belong to an organization, the purpose of which is to increase the price of coffee to American consumers? I am not sure that we have really examined all the alternatives. I do not think it is in America's interest to belong to the coffee cartel. It cost us $800,000 to $900,000 this year to belong. It could cost a billion more to American consumers if we reach agreement.

We have a honey program that in the past has cost nearly $100 million a year. It is an embarrassment to anyone who has to defend that program, yet we carry it on.

We have a dairy program designed to increase the price of milk to women and children in this country. What benefit is that? Is that program such a wonderful program that we can stand here with pride and say we will take the public's money to spend on that program? Anyone who believes that, simply come and listen to the representatives of the dairy States—and Colorado has a lot of dairy. But anyone who believes that, come and listen to the representatives of the dairy States talk about the state of the dairy industry right now. If decades of the dairy program have been so good to this country, why is it simply a disaster in the dairy business right now? The simple fact is the program does not work, and yet we continue to fund it.

We have a tobacco program. More precisely, we have a program that helps subsidize the production of tobacco, and at the same time we have a program to urge people not to use it. Anyone proud of that dichotomy? I do not think so. I know we have supposedly made the tobacco program revenue-neutral, but it is not the case. We have in the neighborhood of $1 billion that is used in financing the problem now. We could recover that if we would end the program.

Foreign aid; both sides of the aisle have come up with recommendations of how we could take money out of the foreign aid program. Apparently everyone agrees, but no one will do it. Are there low priorities in the foreign aid program? I believe there are, and we could save money that way, and I think it would help the American economy.

Defense; both sides of the aisle from time to time have identified areas in defense. But I believe there are some potential savings in defense, and that ought to be realized.

I do not mean to exhaust the long list of alternatives, but the point is very clear. If we are serious about getting jobs for America, there is a better way to do it than a bill that breaks the budget. If we are serious about making America's economy strong, what we need to do is go back and examine the waste in our economy that is fostered by this very Congress. Eliminate that waste and I believe we will be on the right track towards strengthening America's economy and providing true jobs.

When it comes to President Reagan—President Reagan, I guess, is getting a little tough time on this floor today. But I do know one fact that his critics have not addressed, and I hope they will take the time to address it. Since President Reagan's program took full effect in 1982, this country has gained 23 million new jobs. Let me repeat that: We have gained 23 million jobs since 1982.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. BROWN. If I could just finish this statement.

Mr. FORD. All right.

Mr. BROWN. I will do it very quickly.

Since 1982, I do not think you can attribute all those jobs to President Reagan, but I think it is not fair to look at the record of this country since 1982, when we have produced more than half of all the jobs in the industrialized nations around the world—I think it is a mistake for us to look at this experience. and not have some pride in the kind of economic record that has come about from that.

I yield to my friend from Kentucky.

Mr. FORD. Mr. President, can the distinguished Senator from Colorado give me the breakdown of the jobs that were created? At one time, the overwhelming percentage of those were so-called fast-food, service jobs, and minimum wage. They were not the kind of jobs that would pay $9, $10, $12 an hour, that sort of thing.

Can the Senator give me a breakdown on those?

Mr. BROWN. Mr. President, the distinguished Senator makes a very valid point. Indeed, many of those 23 million jobs were jobs that were not the high-paying jobs, that were basic service jobs, although my understanding is that many of them were better paying jobs as well. And I will be happy to supply to the Senator a breakdown.

Mr. FORD. And of course, what you have to realize is that you have been having a $200 billion party almost annually since 1982. And you can always look good when you are spending $200 billion that you do not have in the bank. So we have had——

Mr. BROWN. We are spending $360 billion——

Mr. FORD. This year.

Mr. BROWN. This year.

Mr. FORD. That is right.

Mr. BROWN. That we do not have in the bank, and things are looking pretty bad.

Mr. FORD. That is right, Mr. President. I am just saying for 10 years we have spent $2 trillion. Give me $2 trillion; I can take you to a pretty good 10-year party.

Mr. BROWN. I think the Senator's point is a very valid point.

Mr. President, I yield back.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise in opposition to the bill as it is formulated. It does tremendous damage to my State, as well as to four other States, limiting them to 6 weeks of extra unemployment benefits.

My State has an unemployment rate of 7.4 percent. If the Nation as a whole today had a 7.4 percent rate of unemployment, we would be talking about approaching a depression, not a recession. The U.S. figure is 6.8 percent unemployment. It is a figure that means we are in a recession, and it is very gloomy. The predictions pertaining to how long this recession will last are uncertain.

And many people are saying it is going to be a long, hard effort to try to get out of this recession. A person that is unemployed, whether he be in a State that has 6 percent unemployment or 7.4 percent unemployment, is unemployed. He cannot go to the grocery store and buy what he wants to buy to help his family. He may have to cut back on the milk in regards to his children's needs.

It seems to me that the way this bill is formulated, making many distinctions, is entirely wrong. My good and distinguished friend from Arkansas, in speaking, used the words of a football coach to "do right." It is what we ought to be doing. In my judgment this bill is to "do wrong." I think that we ought to make every effort to correct it.

The unemployment figures in my State are 7.4 percent, which means that there are many that have drawn all of their benefits and no longer are a statistic or no longer drawing unemployment benefits. We have seen that those that are no longer drawing benefits have to go to programs like the Food Stamp Program. Our Food Stamp Program is increasing. The numbers applying and drawing food stamps have been drastically increasing over the last 6 months.

This bill with its many discrepancies—like Kansas with a 4.7-percent unemployment rate yet being entitled to 13 weeks of benefits under this bill; my State, where we have a 7.4-percent unemployment rate, we are only entitled to 6 weeks—how do we work this thing out? There are efforts being made. I have been talking to people and doing everything I can to correct the "do wrongs" that are in this bill, do wrongs pertaining to reachback as well as to the matter of weeks of benefits involved.

I certainly hope everybody will give consideration to this. We need to extend the benefits. We need a bill that can pass and that can pass as soon as possible. So we need a bill with a formula in it that is fair and does not "do wrong."

So I urge my colleagues to give careful consideration to this, and see if we cannot work this matter out.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

First of all, let me just echo the words of the Senator from Alabama. I thank Senator CONRAD, from North Dakota, and Senator FORD, from Kentucky, and other Senators for raising very important questions about the basic fairness of this bill to extend unemployment benefits.

For 6 months now, I say to Senator HEFLIN, we have been dithering about extending unemployment benefits to people out of work. Congress has passed two separate versions, but the President has refused to approve any benefits. What that means is that in the State of Minnesota—there is the irony—we now have people who have been out of work waiting 6 months for 6 weeks of benefits. But the problem is, with no reachback provision, the very workers in Minnesota who have been waiting 6 months for 6 weeks of benefits will not be eligible for those benefits. That is why I thank Senator CONRAD, from North Dakota, for taking the lead on this.

I want an unemployment benefits bill passed. It is really difficult to go home and explain an action on an issue as complex as these benefit formulas here in the House or in the Senate. I can understand full well why the House moved so fast on this. But the Senate is to be a deliberative body. Sometimes, as someone who is so impatient and wants to see change, I get frustrated with that. But I will tell you, every once in a while the emphasis should be on deliberation. Sometimes we should step back and ask the question: Is this fair? Can we do better? I am confident that in this case we can—and we must.

I met with 40 unemployed workers in Minnesota last weekend. Some of them have been middle-level managers, some of them have been white-collar workers, some of them were bakers. I think that in the case of almost every single one of those workers, if we did not have a reachback provision, not a single one of them would be able to get extended benefits. I would have to go back and explain to them that the problem is they were unemployed a long time ago, waiting and waiting and waiting for us to take action, but because we did not take action, there is no reachback; they are not eligible; only those who ran out of benefits after we passed this legislation would be eligible under the House-passed version. It is just impossible to explain that to people.

Here is what people know. They know they are out of work. They know they have run out of benefits. Several of them said they were competing for $5 and $6 jobs with their children and losing out to the children. I am supposed to tell them that when we pass this extension of benefits it will not apply to them? I cannot do that.

In the U.S. Senate each State has two Senators. The system is designed to ensure that small States have the same representation as larger ones and when we work out these formulas and agreements we do it fairly and treat people consistently. I think we have a ways to go in that regard on this bill.

I want to see a bill passed which extends unemployment benefits. I want to see that more than anything. And I am hopeful we can work out an agreement so that I can go back to my State and be proud of what we have done, and tell unemployed workers in Minnesota that we will indeed be able to provide you with some real extended benefits assistance.

Of course, I remind my colleagues that this is only a modest first step. The next step is to focus on our economy, to do better for family farmers and small businesses, to get serious about capital investment, to help people go beyond this immediate relief to obtain a job at a decent wage so that they can support themselves and their families. I urge my colleagues to develop a more comprehensive package that provides broader extended benefits and that covers unemployed workers in Minnesota and elsewhere who have already waited far too long. I look forward to working with the Democratic leadership today—and for the next few days if neccessary—to develop and approve such a benefits package.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. D'AMATO. Mr. President, the banking bill was held out as an opportunity to help deal with some of the economic problems that we have and give some viability to the financial institutions, to strengthen certain provisions so as to protect the taxpayers.

It gave this Senator an opportunity to focus in on an area that for the past 5 or 6 years has been treated with indifference. Why do I say for 5 or 6 years? Because, in 1985, Mr. President, this Senator offered an amendment to deal with the extraordinarily high interest charges that were placed on consumers through the credit cards. This Senator was given hearings on his legislation. This Senator was promised by the financial institutions, by those in Treasury and other areas, that good competition would bring about the kind of results that would lower interest rates to the consumers, that there was an education process that was necessary. I subscribed to giving an opportunity for that to take place.

Mr. President, it is 6 years later. What have we seen take place? We have seen a lack of competition in the area of rates as it relates to credit cards and interest that are charged. We have seen interest rates go down extraordinarily low as it relates to the prime interest rate, as it relates to the discount rate; that is, the rate at which the Government makes available funds to banks, at 4.5 percent.

I think you have to go back to something like 1973, to find a lower rate. In other words, when the banks go to borrow money, they are paying rates lower than they have since 1973. CD's today are paying extraordinarily low rates—some less than 5 percent.

While the cost of borrowing money to the banks has gone down, we have seen an amazing situation in this country. We have seen that, indeed, instead of interest rates coming down for credit cards, they have gone in the other direction; they have gone up. Mr. President, I suggest that it is simply wrong. I suggest that not only is it wrong, but it is an opportunity which the banks have used to turn enormous profits that go into the billions of dollars at the expense of working middle-class taxpayers.

Mr. President, large money center banks have billions and billions of dollars of losses that the taxpayers of this country are going to have to come in and bail out and, in some cases have already done it. They have loaned it to countries they had no business loaning to. They loaned to lenders they never should have.

Who is there? It is the taxpayer who gets stuck with it. What are they doing now? In order to bail out these loans, they are coming once again to middle-class taxpayers with these extraordinary charges.

You know, I have been criticized, and that is part of this business and, my gosh, that is fine. I look at the Wall Street Journal today and they say this is horrendous. They say: Senator CONRAD and Senator D'AMATO, imagine them shaping this country's credit policies. I have to say something. We do a heck of a lot better job than the fellows over at Treasury.

Maybe we would be a little more responsive to the needs of working middle-class families and to the economy, and maybe recognize there is a recession now, and you should not come together in the collusive activity to deprive the marketplace of free and fair competition, because what I am about to show you I think demonstrates quite clearly that there is no free and fair competition.

I would be the first to say I would agree with the Wall Street Journal and with the economic professors who say: Let the economy work, let the free marketplace work, let there be fair and free competition, and you will see interest rates come down, and you will see people go to those institutions that offer the best rates. Mr. President, that is not the fact.

I think that the U.S. Justice Department should look into this amazing coincidence; it is amazing that 7 out of 10 of the top credit card issuers charge the identical rate of interest, even to the decimal point. Citicorp is 19.8. Well, there is competition. The Treasury Secretary said let there be competition. Do you fellows not regulate? I agree with him. The Chase Manhattan is 19.8. MBNA is 19.8. Bank of America, which is on the coast, a big bank, charges 19.8. Centurion, Optima, we have a break here, 16.25. First Chicago is 19.8. The Bank of New York is 16.98. Manufacturers Hanover is 19.8. Here is someone who says, hey, listen, we grab anyone that you fellows will not take. We charge 21.

I would like to think that the American people have a right to know how is it—and this Senator would like to know, and I wonder where the Justice Department is as it relates to determining how you can have 7 out of 10 charging interest rates down to the last decimal point being the same? And the absurdity of the people in the Treasury coming forth and the Secretary of the Treasury's office saying, "we oppose a floating cap."

By the way, what is the rate that we propose? Almost 7 percent over prime. Prime rate, for the people who are not aware, is the rate of interest which banks loan to their preferred customers. They make money on that. So when they are loaning at 7½ percent, they are making money, not losing money.

We said go on up to 14 points. The cost of money 4½ to 5 percent, they are making three times what it cost them; 300 percent. We say go ahead, that is fine. Under the cap, there should be fair competition. We are not suggesting to you that there are not companies that are charging fair rates. Some credit unions that issue credit cards are charging 13 and 14 percent, and that is where we say free and fair competition would be.

We do not have that. These credit card companies should have to justify how this kind of interest rate was determined. I think the Justice Department should be sure these rates were not established through collusion and price fixing. My suggestion is not that they have been. I am suggesting to take a look at the facts and tell me how it can be.

We have a recession. It is a tough recession. I think for us to turn our backs on the offer of political expediency and the pressure being brought to bear by the large financial institutions would be a terrible shame and a betrayal of what we should be about. This is not about political pandering. This is about seeing to it that the middle-class working families of America, the little guy, is listened to.

I have heard all of the arguments like: If you put in some kind of limitation, you would destroy credit to America. Nonsense. Are we really saying that working middle-class Americans are going to have to pay the bailout for the bad loans made abroad; that some of these institutions are in such bad shape that this is the only area where they can make billions of dollars where there is no competition? Are we really going to say that many of these credit cards will be pulled back because people really are not creditworthy, and therefore they are going to restrict their credit? Does that mean to say that because there are credit cards being sent to everyone, regardless of whether or not they have the ability and should be getting credit, that the millions of people who are good, hardworking, decent people and who should enjoy good credit are going to have to pay extraordinarily high rates?

That is what is happening. We are paying; working middle-class families are paying for people who are bad credit risks. What kind of free economic system is this? If you want to make that judgment based on their ability to pay, based upon their risk, that is one thing. I want to say that we have a stacked deck here. It is our job to knock down that wall, to see to it that the free economic system works.

I hear all of the free marketeers come up here and say to me: You want to try to regulate the economy. No, I do not want to try to do that. I want to see that that ebb and flow, as it relates to the free market system, is allowed to go and that it does not have these artificial barriers right down to the very decimal point that killed competition and makes a mockery of it.

Let me tell you what is taking place now. We have a full court press. This is a stack of faxes that my office has received here in Washington, and it came over directed by Citicorp from their various offices, and the people are being told instructions: All officers and staff are to sign a copy of this letter and fax it today to their Senator. Then they list the various fax numbers. This is what Citicorp has done. I have another 500 of these in my New York office. And literally, as we speak, the fax machine is tied up with these ridiculous letters, the same one coming:

> DEAR SENATOR: I urge you to vote against S. 453. It will hurt consumers and banks alike, and will have a devasting impact on the U.S. economy.

The purpose is that it relates to trying to see to it that there is free and fair competition.

My legislation should not be required. I will tell you that. I think it is absolutely a shame that we have to reach that point to see to it that there is real competition, that we have to offer legislation like this.

Let me ask you, How is it that the President of the United States has to say lower your credit charges? How is it the people could say if you are going to pass this legislation that somehow you are not going to have people making purchases?

Let me suggest to you that as a result of this kind of rate, 19.8 percent and higher, that there are $7.5 to $10 billion over the 14 percent mark that are being paid to the banks, to the credit card companies, and they are not purchasing goods and services; that is $7.5 to $10 billion that could go into the economy, that could buy goods, household wares, and services that people need. That is what the economy needs.

It does not need usurious rates that are going to deprive the economy of that kind of economic stimulus that will put people to work. Why is it that someone who has a mortgage can obtain a mortgage on a $100,000 home at 9.5 percent, 10 percent, but if that same person goes to make a $50 purchase he or she are going to be required to pay 20 percent? The same person, same credit rating, 20 percent.

Because you know why? He or she does not have the ability really to shop around, not if you have this kind of price structuring and this kind of tiering. To come in here and say you can go down and find a bank 1,500 miles from where you live offering a wonderful rate. People are supposed to know that. Where we see advertising, I bet the big bankers are running out to post their advertisements to show people they are willing to advertise.

Then we hear the nonsense they are going to restrict and pull bank credit cards if this legislation passes.

Let me suggest to you this is an opportunity for us to show that we are going to stand up for what is right. I think that we have an obligation to see to it, notwithstanding some of the large money center banks may have some real difficulties, that they make fair and reasonable profits but if they do not fairly compete as the law requires there be action brought against them.

I defy us to see any other industry that could get away with this kind of situation. The Federal Trade Commission or Justice Department would be down on their back. How is it this has been allowed to take place? I think we better stand up and do what is right.

I have no illusions, no illusions about the tremendous pressures that are being brought upon Members of this body, Members of the Congress, and the administration and the tales of woe that are being spilled out and how it is we are going to let the politicians get in and destroy the free market system. I am going to suggest to you that we have no free market system where this kind of market manipulation is taking place. I suggest to you it is an aberration.

And as a matter of fact people can fool around with the figures and numbers. When it really comes down to it, each of us know what is taking place. There is a bailout. This is a bailout because of the bad loans that were made. And who is bailing them out? The little guy, working middle-class families, the guys who need the credit. Is the free market system free competition? Not on your life. Not when 8 out of 10 are charging more than 19.8, and 7 of them are changing exactly the same.

You know, credit card issuers are upset at my amendment and maybe part of why they are so upset is because they have been found out. We are finally questioning their tactics and asking them to justify their high rates. I have yet to hear a convincing argument that consumers should be charged almost four times for the cost of the funds that the banks purchase.

Maybe it is about time we told the emperor that he has no clothes and right now the emperor is desperately trying to cover himself up and we all know that he has already been exposed. I think Members of this body, and hopefully the Members of the House understand it, and I do not think that we should back down because there are those who are going to say this is nothing but politics.

The Senators and I know what this is. Maybe it is an attempt on our part to do what is right. How dare people say that is because something is right and it may make sense to the public and therefore it should be questioned?

It seems to me that if something is popular, if something is right, if something is justified, then we should undertake to do that which is right. Let us do the right thing because it is the right thing to do, not because it is simply popular.

In this case, if there is an additional benefit let us give that benefit of the doubt to the little guy, to the consumer, and let us begin to show him that we do care, because I think there is a cynicism in this country that was depicted in the last election that says, institutions do not care, at the State level, at the local level, and certainly at the national level. They have their special interests that they protect.

I would suggest that this situation depicts that we at the very best have been asleep at the switch, and if we are going to turn our back and allow this situation to continue then at the very best we could be accused of indifference, and I think in most cases we could be accused of yielding to the special interests of the large money center banks and those who they are able to reach with their great power.

I yield the floor.

Mr. CONRAD. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. CONRAD. Mr. President, first of all, by way of introduction, I just say I was proud to join the Senator from New York, the Senator from Connecticut, in offering the amendment to restrict the interest on the credit cards. We have heard ever since we successfully agreed to that amendment in an overwhelming vote on the floor of the Senate, 74 to 19, with the leadership of the Senator from New York, that somehow we are interfering in the market. Interfering in the market—that is the charge that is being leveled against it.

I am certain the Senator from New York has had the big banks contacting him just the way they come in and contact me. And they have been throwing up their hands in hysteria saying, my God, look what you have done now. You are going to restrict us to only 14 percent on these credit cards—down from 19.8 percent that almost all of them are charging—and they say you are interfering in the market.

I just asked the Senator from New York, would these numbers not suggest, these numbers that show 7 of the 10 biggest issuers are all charging an identical rate of 19.8 percent, and indicate that the market is not working and that perhaps the reason it is not working is because consumers are captives to the credit cards that they currently have, and that these people who have a $2,000 or $3,000 outstanding debt cannot go to a lower-interest credit card? Would that not suggest itself as the reality of the marketplace?

Mr. D'AMATO. I think my friend and colleague has absolutely touched upon what takes place in millions of American homes, that there was no real opportunity initially, that the rates were all uniform, and that once a person is paying this extraordinarily high rate, and by the way again to the very decimal point, 19.8, no attempt at competition, that it becomes impossible for them to move to obtain a lower credit rating at some other institution carrying that huge debt. So they are saddled, they are stuck.

I would also suggest that what we are attempting to do is to break down this wall and allow the free marketplace to operate because we have put a cap that moves up and down tied to a very relevant figure, the cost of money. What is the cost of money? What is a fair return? Is a fair return 300 percent, 200 percent.

As a matter of fact, we have provided a huge margin, a huge margin. People in almost every industry including the bank industry would be delighted to make that kind of a profit.

So, I think one of the very telling points that my colleague makes is the fact that what we are attempting to do is tear down this wall and allow that free market system to operate.

And I also think it is unfortunate that we had to put forth this legislation, that this situation was allowed to come to be, that the Treasury Department and others should have been looking at what was taking place and say, hey, fellows, this is not fair and free competition. You are not competing for these dollars. You are happy to have this captive market.

I thank my friend for the observation that was made and for his support.

Mr. CONRAD. If I might just ask one further question: We have now seen the big credit card issuers engage in scare tactics, at least that would be my terminology. I read in the paper this morning that if our legislation becomes law after having been passed in the Senate, 60 million people will lose their credit cards.

Sixty million people are going to have their credit cards taken away if the credit card companies cannot charge 19.8 percent interest. I just ask the Senator from New York his reaction to those scare tactics.

(Mr. BRYAN assumed the chair.)

Mr. D'AMATO. Well they are exactly what the Senator from North Dakota indicated; they are scare tactics. They are not tied to anything reasonable. Those people who already have credit and who are good payers, who are most of the people of this country, will continue to get that credit because there is still a big profit that can and will be earned at the 14-percent level. And that is tied again to that IRS rate.

The fact is that they may have better practices be more discriminate as it relates to the manner in which these credit cards are doled out. It is like giving someone a quick fix. It is like getting them entrapped on drugs.

One of the most incredible drugs, the addictive propensities which are incredible, is crack. Do you know I have been told that some youngsters are induced to take that first drug that first time and the drug is given to them or given to them for a $1 or $2; addictive propensities are such that thereafter there was a tremendous crash.

Let me suggest to you that is the same kind of manipulation that has taken place all too often, that youngsters who have no jobs and people who do not have the ability to make a reasonable opportunity to pay back are given this addictive drug. And for someone to suggest that is good for the economy for people who should not be induced to go out and run up charges at 20 percent interest—and why? Because the 50 and 60 million hardworking middle-class Americans who do pay are going to pick up the expenses because the charges are so high.

That is wrong. Why should they be paying an extra $10 billion in charging this interest. By the way, the total interest is well over $20 billion. But $10 billion. Then we have $7.5 to $10 billion that would be working, middle-class families' money that they could keep. They could either save it, spend it, buy goods and services.

This is also going to create jobs. We often hear that a billion dollars in the economy produces anywhere—depending upon if it is defense or other oriented—anywhere from 30,000 to 50,000 jobs. If you have $7 billion—take the low figure—$7 billion at 30,000 jobs, we are talking about a lot of man-years, a lot of jobs that are going to be created if we want to get out of an economic recession.

Then we hear this gibberish that comes from some economist in the Treasury Department that somehow the higher interest rates are good. I cannot believe it. I was at lunch with the President. I think I was. He said banks ought to lower their interest rates. Now what is this? Do you mean when the President said you ought to lower your interest rates, that is good; when Congress then comes and puts on a floating cap, that is bad?

If the President recognized the interest rates were too high, how is it, now that we have adopted this, that somehow we are doing a disservice? Why is that? Who is talking politics and who is talking about what is right?

So Citicorp, you cannot make a profit any other way, you are running this into the ground, you are loaning millions of dollars to crooks and despots throughout the country. The American taxpayers had to bail you out. Now, when we say, hey, knock it off, we become the villians and you send thousands of these pieces of garbage over here. The guys says, send them to your Senators. Same letter. And I will go upstairs in my room and I will have another pile, 300 more coming over the fax machine, the same thing. And this is supposed to convince us.

Then they call every stockbroker who scrutinizes these things and say "You know what? You are going to lose your piece of action. We will not be able to do this." So they call up and say "Alfonse, what are you doing? What are you doing?"

Stand up at some point in time for the people of this country. Give them a break. Do not continue business as usual.

What do I think is going to take place? Well, I have to tell you. It will be interesting to see whether or not this system is going to stand up and do what is right.

I am not suggesting this because of the pride of authorship. I know the Senator from North Dakota was a cosponsor and worked on this legislation with me. He is not going to say it has to be exactly this bill. But do not come and give the people a piece of baloney with a study. Do not say we are going to study this, we are going look at this, we are to see. And do not let these people who say, "Oh, we don't want to regulate capital"—what do you think has been going on here? They regulated it. They kept it controlled.

It is not a free market. My uncle Louie could do better at pretending that was a free market. He would have changed a couple of decimal points. He would have made one 18.89.

They have numbers like the "4" that says if you have preferred credit we are going to do something, we are going to give you a little lower rate.

I thank my colleague and my friend for being strong and supportive. It is going to be a real test of all of the institutions, the institutions of Government. And, sure, this may be a popular measure, but you know that does not mean it is any less right to say that we should not permit usury, because that is exactly what this is. This is usury.

Mr. CONRAD. I thank my colleague.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama [Mr. SHELBY] is recognized.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. SHELBY. Mr. President, I rise today to join the chorus of voices in this body calling for fairness in the process by which our Nation's long-term unemployed receive extended benefits.

This unemployment measure, unlike its predecessors, does not meet the shortterm needs of those individuals it is designed to help. It does not meet these needs because an arbitrary set of requirements were introduced as the criteria for receiving additional benefits. Some States, like my own State of Alabama, faired much better, under the previous set of criteria. Individuals in other States will receive additional extended benefits under the plan before us today. Certain States that have identical unemployment rates receive different rates of extended benefits. Individuals in 18 States that do not meet certain criteria receive no reachback provisions. None of this is fair or makes any sense.

We are presented with a bill based on criteria such as the adjusted rate of insured unemployment, the exhaustion rate, the rate of total unemployment, rounding, and reachback.

How am I going to explain to my constituents in Alabama that under this plan they will only receive an additional 6 weeks of unemployment benefits, instead of the 13 weeks that they would have received under passed legislation, because the exhaustion rate in Alabama was not high enough?

How am I going to explain to my constituents in Alabama that the adjusted rate of insured unemployment was not high enough?

How am I going to explain to my fellow Alabamians that they are only going to receive 6 weeks of unemployment compensation because the requirements for 13 weeks of additional unemployment benefits are different than the requirements for 20 weeks of additional benefits?

How am I going to explain to my constituents that even though the unemployment rate in Alabama is higher than in New York, they only receive 6 weeks of additional benefits, while New Yorkers receive 20 weeks?

How am I going to explain to the people of Alabama that they will only receive 6 weeks of additional benefits when their neighbors in Georgia and Florida, receive 13 weeks of extended benefits and their neighbors in Mississippi receive 20 weeks of additional benefits?

Mr. President, the simple fact is that I am not going to be able to convince, and I would not try to convince, the people of my State Alabama that this is a fair process before us. And it is not a fair process.

Now is the time we must make an extra effort to help individuals and families who have become the victims of this dismal economic climate. Extending unemployment benefits may make the difference between having food on the table or not, paying the rent or mortgage on time or not, putting gas in the car or not. For a family struggling to make ends meet, the extension of unemployment benefits may be the one thing that enables them to stay above the poverty line.

Mr. President, we will not be able to assist these victims unless we change the formula by which these standards have been arrived at. Let us make this a fair process.

Mr. President, we will not be able to assist these victims in my State and others unless we change the formula by which these standards have been arrived. I hope during this debate today we are going to be able to change this equation. We need to make this a fair process.

Several Senators addressed the Chair.

Mr. SHELBY. I will be glad to yield to the Senator from Alabama.

Mr. HEFLIN. I want to ask a question of the distinguished Senator from Alabama. The bills we passed before provided in each instance, in two instances, for 13 weeks of additional benefits for Alabama. Then this bill comes down and provides only 6 weeks.

Mr. SHELBY. That is exactly right.

Mr. HEFLIN. When the White House got involved in this, and they came up with this agreement, it changed the 13 weeks of benefits that we previously had in the two other proposals to only 6 weeks. Is there any real reason why that should have occurred?

Mr. SHELBY. I believe, if the Senator will let me answer, I believe that people have been tinkering with the formula. We passed this and we had 13 weeks. A lot of us were led to believe this was a fair formula that we have. But once you examine it, you see the discrimination. And it certainly discriminates against my State and yours, and a lot of others.

This measure is not fair. We have to change it.

Mr. HEFLIN. I thank the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. LAUTENBERG] is recognized.

ABORTION RIGHTS IN THE MILITARY

Mr. LAUTENBERG. Mr. President, I rise to report on an injustice that was done last night to American service women and military dependents living overseas. What we saw was a sorry exhibit of unconcern about women's rights if they are in the military.

We have seen the most callous disregard of rights provided by law for those who have volunteered—because that is the only way they get into the service now—for those who have volunteered to serve their country, serve it overseas, as well as those military family dependents who are with them.

The Defense appropriations conferees voted last night to drop a provision that would have overturned a 1988 Department of Defense directive that prevents servicewomen and military dependents from receiving privately financed abortions in overseas military medical facilities. This action was taken at the behest of the President and was an enormous disservice to our servicewomen and military dependents.

By the way, there are 65,000 women serving abroad and 400,000 dependents. Last night, they were told that they are not able to have the same services available to them as those service people who are here stateside or any other citizen of this country.

I have heard a lot of comments about this so-called military abortion provision. This issue here is not the legality of abortion. Roe versus Wade is the law of the land. The issue here is whether or not a servicewoman who is stationed overseas leaves her constitutional rights at the U.S. border when she is shipped overseas to defend our country.

It does not matter whether it is the Persian Gulf or Europe or Japan or any other theater in which we operate.

In countries like the Philippines, Panama, and Saudi Arabia, abortion is not permitted. A servicewoman who seeks to terminate a pregnancy in those countries must either try to obtain an unsafe, back alley abortion or travel all the way back to the United States or some other country to receive these health services.

Mr. President, the only way that this individual can get a flight back to the United States, or to another country, is an on-available-seat basis. So that means that a woman who may be in the first trimester who wants to rid herself of a pregnancy may be forced to wait into the second trimester, or from the second trimester into the third trimester, at which point the law changes. It is terribly unfair.

What happens if this is a child of a military family who may want to have a mother or a father accompany her? Or what happens if there is a complication?

Mr. President, what we have seen is the military gets involved in abortions if there is a botched abortion in a back alley someplace. Then the military hospital takes over and provides the care. So that really involves the Government in the abortion process.

Mr. President, during the conference, no conferee chose to defend the Department of Defense policy. That is because it is indefensible and was arbitrarily changed in 1988 without any direction from Congress or warning to the public. The only objection to this provision in conference was that the President was threatening to veto the entire Defense appropriations bill over this provision.

Let me repeat, the President stated that he would block expenditures designed to ensure our national security over a provision that would allow servicewomen to exercise their constitutional rights overseas; that he would, in fact, veto a bill appropriating $300 billion—necessary to pay service people's wages, to provide the equipment that they need, to provide the food, to provide the medical care—he would veto that bill over the question of whether or not a servicewoman or dependent is entitled, at their own expense, to have an abortion in a safe, clean, and effective medical facility. This is not typical Bush administration government by veto, this is government by threat of veto.

The current DOD policy either forces servicewomen to obtain unsafe, back alley abortions or forces them to take leave and try to get space available to travel back to the United States or some other country to exercise their U.S. constitutional rights. If it were not for this arbitrary DOD directive, servicewomen and military dependents could receive privately funded—again, they pay for it—reproductive health care at safe, accessible U.S. military medical facilities overseas.

But in order to receive safe reproductive health care, servicewomen must wait and try to travel all the way back to the United States, even though it is available right on the base. This is disgraceful. Can you imagine if DOD policy forced servicemen with prostate cancer or another health problem to take leave and try to get a space available to travel back to the United States to receive appropriate medical care even though it was available right on the base? What a cry we would hear throughout the country.

The U.S. military initially built U.S. medical facilities on our overseas bases because our service members are often stationed in countries where safe health care is not available. However, because of the 1988 directive, servicemen can receive all types of medical care at these facilities but servicewomen cannot.

Mr. President, this is a disturbing turn of events. This body passed the DOD appropriations bill by an overwhelming margin. The House had this provision in its authorization bill. The Senator from Colorado [Mr. WIRTH] had a cloture vote on this floor that obtained 58 votes, two short of cloture; but 58 votes, a significant majority, to correct this policy.

Mr. President, it is disturbing, but I speak for myself, and I know that I also speak for Senator WIRTH, when I say we are going to continue to work hard to overturn this directive to restore the rights of the woman who serve us so valiantly, wherever asked, once they enlist, to make sure that they have at least the same rights available as any other citizen in this country.

THE HIGHWAY BILL

Mr. BAUCUS. Mr. President, I would like the Senate to stand back for a moment and ask itself why we are here today; why we have not yet passed the unemployment compensation benefits extension?

When we ask ourselves that question, the answer is fairly clear; namely, that there are some inequities in the provision before us. The Senator from North Dakota, the Senator from Alabama, the Senators from Louisiana have all spent a good amount of time on the floor trying to correct those inequities, trying to correct those deficiencies because their States were unfairly provided for when the agreement was put together by certain people, most of them not Senators, most of whom were Members of the other body, a select few and with the administration involved.

That is why we are here. We are trying to correct a problem, the problem being that when the extension of unemployment compensation benefits package came back to the Senate, it took care of some States disproportionately. There was not an equal distribution around the country. To put it candidly and frankly, those who were in the room, in on the agreement, took care of themselves to some degree, and to a large degree, those who were not, were left out.

That is why we are here today. I very strongly commend the Senators who are protecting their States because they were not in on the agreement. They are not asking for more than their fair share. They do not want to take advantage of other States. They just do not want to be taken advantage of themselves. I commend them for their efforts and standing up for their people.

Why do I say all this? I say all this because I want the Senate to also be aware of another similar development that may put us in this same position, and I hope we can avoid it. What is it? It is the highway bill. The highway bill is now in conference. The Senate passed its highway bill; the House passed its highway bill. The Senate-passed highway bill, by a very large margin, recognized a very important principle.

What is that principle? The principle is that States should receive Federal highway dollars to a large degree, and there are a lot of components in the formula, but to a large degree depending upon the level of that State's financial contribution itself to the highway program. The principle being, those States that contribute more of their taxpayers' dollars to the Federal highway program should also, because they contribute their share, receive more Federal dollars to the Federal highway program for Federal highway construction and maintenance in their State.

It is a revision that was offered by and large by the chairman of the Appropriations Committee, Senator BYRD from West Virginia, and it passed this body by a vote of 89 to 9. It is very important, Mr. President, particularly to sparsely populated States, particularly States in the West. The national level of effort average per capita is about $130 per person. That is, if you look around the country and determine what each State contributes to the Federal highway program, on average it is about $130 per person that the people in those States contribute to the Federal highway program.

In the State of Montana, my State, we contribute about $300 per person. The same is true in other sparsely populated States. That is, the sparsely populated States contribute a lot, more than the national average, of their own dollars that they raise in those States than do the urban States.

Highways are critical to our States. They are more critical to our States than even to the most urban States because it is the only form of transportation. We do not have any rail transportation, no passenger rail transportation in the Western States to speak of. Oh, a little bit. It is minuscule. It is nothing. We have some air service, but with deregulation of airlines that, too, is spotty and mixed. We are a highway State, as are most Western States.

So I very much hope that the conferees continue to respect the Senate position which passed the Senator BYRD level-of-effort provision by a vote of 89 to 9. I very much hope the conferees respect that position.

I also am speaking because there is a proposal that has been floating around in the last day—I just came across it several hours ago—a proposal to virtually emasculate the level-of-effort provision and replace it with a formula which essentially provides that States get Federal dollars in proportion to the miles of highways that they devoted to the Federal system before the interstate highway system was enacted. That obviously benefits Eastern States, the States that were more highly developed prior to the passage of the Federal highway system back in the fifties and it obviously discriminates against those States that were developed later into Western States and certainly against those States that did not contribute as many miles at the time.

That is a formula, Mr. President, which is irrelevant to the 1990's, totally irrelevant because we want a national Federal highway system, one that binds our country together, one that reflects the realities of the present, not some crazy formula based upon something that occurred 40 years ago, but the present.

So I urge the conferees, when they bring back the Federal highway conference report to this body and ask this body to ratify that report, that they bring back a conference report that is one that is fair to all States, one that is proportionately fair to Eastern urban States as well as to Western rural States. We in the West are not asking for more than our fair share. We are just asking that we not be discriminated against. And just as the Senators from Alabama, Louisiana, North Dakota, and others are standing here on the floor today in very direct opposition to the extension of unemployment compensation benefits because the formula was put together in a room that discriminated against them, western Senators and Senators from rural States will also be on the floor in very strong opposition to the conference report if it, in effect, helps certain urban States and discrimination against rural States.

I very much hope that we do not find ourselves in that position again Because just as it is happening now, Senators are protecting their States because they are discriminated against, it will happen again. Senators will stand on the floor and protect their States because they are discriminated against unless we get a conference report that is fair. I have the utmost confidence in our conferees that they will only bring back a conference report that does that, but is fair.

I urge Senators to be looking at what is happening, to look at those formulas and, if they are upset with those formulas, to tell our conferees, tell the House conferees as well, so we can come back and adopt a conference report expeditiously and not go through all the rancor that otherwise we will go through. I thank the President for recognizing me at this point. I yield the floor.

NEED TO ACT ON THE TRANSPORTATION BILL

Mr. DIXON. Mr. President, I have several letters here with me. All of them urge Congress to act quickly on a transportation bill. I have one letter from a Mr. Ray Morrissey, who is concerned that failure to pass a transportation funding bill will jeopardize the ability to complete major expressway reconstruction projects now underway in the Chicago area, making already bad traffic congestion much worse. I have another, from Donna Foy, the executive director of the Carbondale Business Development Corp., that states that the economic survival of southwestern Illinois depends heavily on the money provided in this bill. I have another, from Roger L. Yarbrough of Urbana, that talks about the impending employee layoffs in this community if this bill does not pass soon.

I think the people clearly know what they need. They know our highways and transit systems need repair. They know we are in a recession. They know we need Federal action to help stimulate the economy. In short, they know we need to enact a transportation bill that improves our infrastructure and provides jobs—and we need to do it now.

Unfortunately, I cannot yet tell my constituents when we will have a final bill to send to the President for his signature. We are less than 2 weeks away from the scheduled end of this session of Congress, and yet there is still no final bill in sight. Meanwhile, the recession is continuing, States are running out of highway and transit funds, and our people are suffering.

I think we need to listen to our constituents. I think that it is imperative that we act quickly to demonstrate to them that we know how important this bill is:

For our infrastructure, which desperately needs repairs and improvements; and

For our economy, which badly needs the boost.

We need to act to let our constituents know that we want to provide jobs, and make no mistake, this $100 billion-plus Transportation bill, in addition to being a highway and transit building program, is a critical jobs program and an antirecessionary bill.

The bill provides for over $120 to $150 billion in highway and transit projects—that means road construction projects like the $450 million reconstruction of the Kennedy Expressway project in Chicago and the $123 million rehabilitation of the Clark Street Bridge in the East St. Louis area. This translates into hundreds of thousands of jobs—jobs for contractors, jobs for suppliers, jobs for support services, jobs for the ordinary person. I would like to point out these jobs are well-paying jobs, the kind of jobs that can support a family.

My constituents know what they need, people all over the country know what they need, but we are not providing it. We are debating over a bill that is critical to our infrastructure and critical to our economy. Debate is good and necessary, but the time for debate is ending. Now is the time for action.

The current surface transportation law expired on October 1. It is now already November 15, 46 days into the new fiscal year. The States cannot tolerate these kinds of delays, the public cannot tolerate these kinds of delays.

The public does not understand why we do not yet have an agreement, and frankly, Mr. President, neither do I.

Congress is criticized for failing to make decisions. If we cannot get an agreement on this bill soon, it will be a textbook case of everything that the public thinks is wrong with our Government.

I implore the Transportation conferees and the administration to reach an agreement—now. I entreat them to meet around the clock if necessary to reach an agreement. It is time for Congress to act. This legislation is supposed to be a top priority for both Congress and the White House. It is time to act like it. It is time to resolve the issues that remain to be resolved. It is time to pass a final version of the bill and to get it signed into law. It is time to work with the sense of urgency that this situation demands.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. BRADLEY] is recognized.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. BRADLEY. Mr. President, retail sales fell in October. The number of people applying for new unemployment benefits rose to its highest level since May. Automobile sales are slumping, companies are laying off workers. Two nights ago at a fund raiser in St. Louis, MO, the President of the United States said once again that there is no recession.

Franklin Roosevelt once said, "Better the occasional faults of a Government living in the spirit of charity than the consistent omissions of a Government frozen in the ice of its own indifference."

Mr. President, the administration's approach to the financial problems of real Americans shows no signs of melting the ice. That is why we have this unemployment compromise before us, because the President of the United States said that this is the only approach that he will accept.

In Washington, complex formulas and brinksmanship with unemployment benefits put together by a small group of people may look like smart politics. We have been told time and again this morning that this is the only bill the president will sign, and if it is changed he will again veto it. No doubt that the veto will be upheld by the same people complaining now about the formulas. The President will once again be able to claim a political victory—smart politics in Washington.

In the rest of the country people are having trouble paying their bills, finding jobs—millions of people. Millions more are worried about losing their jobs, paying for health insurance, and they do not think that things are going to get a lot better. They are not interested in winners and losers, the inside games. They want us to do something. They see an administration frozen in the ice of its own indifference on unemployment benefits, on health care, on education, on moving the country ahead. And they are right. This is not the Senate's bill. This is not the legislation for which we twice have voted. This is the President's bill advanced by an administration consistently more interested in scoring political points than addressing national problems. And he will win and proclaim a great victory on this bill. But I hope that everyone in this country who does not feel as if they are winning right now will remember whose win this is.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I commend the leadership and the Senators who are working hard to improve this legislation and work out a fair compromise.

At long last, we are close to a final agreement on providing extended unemployment benefits to hundreds of thousands of working men and women who desperately need help. Most important, the agreement preserves the essential benefits of our previous bills that President Bush refused to sign, and it includes a satisfactory compromise to offset the revenue cost involved.

The agreement provides up to 20 weeks of benefits for States like Massachusetts, which have been hit hardest by the continuing recession and where the need for benefits is greatest. The legislation also reaches back to provide extended benefits to workers in Massachusetts and other States where benefits have already run out.

In addition, other injustices in the earlier bills have been corrected. I am particularly pleased that this bill includes railroad workers. They were unfairly left out of the previous two bills. This issue has concerned many of us for many months, especially Senator METZENBAUM, Senator EXON, Senator WELLSTONE, and Senator CONRAD. I commend the efforts made by Senator BENTSEN and the majority leader to provide equal treatment for these workers. Sometimes, as railroad workers well know, a squeaky wheel does get oiled. A gross injustice has now been remedied. For thousands of unemployed railroad workers across the country, this legislation means a ray of hope at Thanksgiving.

In many other ways, this legislation will help ease the pain of the recession and years of economic stagnation. It is the minimum that we should be doing for working Americans in the face of the troubles they are enduring through no fault of their own. In addition to providing overdue financial assistance, these benefits will put immediate spending power back into the economy—over $400 million in Massachusetts alone during the next year.

This new stimulus will be helpful in fighting the recession and reviving the economy, but it is far from sufficient to achieve our goal. Make no mistake, the recession is not over. People are still hurting. Small businesses cannot get the credit they need to survive, let alone grow and create jobs.

Contrary to the rosy scenarios that continue to emanate from the White House, the economy is not recovering, and Government must do more. The administration is hamstrung by its ideology. Laissez faire is not an acceptable policy when the economy is faring badly. When the economy is heading for a plane crash, you cannot leave it on automatic pilot. We need economic leadership from the White House. The American people cannot live by foreign policy alone. Waiting for George is more frustrating than waiting for Godot.

With this legislation, we are reducing the human costs of the recession. But we are not taking adequate steps to restore prosperity.

Yesterday, it was announced that new weekly claims for unemployment insurance hit their highest level in 6 months. The Nation is not creating jobs. Companies continue to lay off workers.

Retail sales declined in October, because hard-pressed consumers do not have money to spend. Underscoring this point, in early November, sales of American-made cars and trucks fell by 14 percent, compared to the same period last year.

All you have to do is pick up the morning newspaper and read the advertisements, with their tone of panic and desperation, as department stores offer bigger and bigger sales, begging their customers to come back.

According to a Wall Street analyst, these new economic data represent a "nightmare on Main Street." Even Wall Street now recognizes the problem. Why is the administration so out of touch?

This economy is sinking into deeper and deeper trouble for two reasons—Ronald Reagan's economics and George Bush's neglect—and it is time for Congress and the White House to stop pretending that everything is going to be all right. That is what Herbert Hoover said in the early 1930's, and the Nation turned to Franklin Roosevelt.

In Congress, many of us have recognized this problem for some time. We have been calling for immediate action to turn this economy around and do what it takes to revive our economic strength.

Perhaps this legislation marks a turning point, and Congress will be able to work with the administration to address the Nation's other serious unmet needs, including tax relief for working Americans and the forgotten middle class, health care, and education. But most of all we need a comprehensive economic plan to stop the recession now—no ifs, ands, or buts.

The American people do not need sound bites, photo opportunities, campaign tactics, and public relations—they need action to restore the vitality of our economy, action that will put this country back on the right track. Families cannot feed their children on sound bites and cheerleading from the White House. They cannot cash a photo opportunity at the bank. They cannot buy a car or pay the mortgage without a job.

For the good of the nation, we all need to work together to develop the long-term measures that will revitalize our economy and our country. And the time to start is now.

The passage of this legislation is important in its own right, because unemployed workers need this immediate assistance. But its larger significance may well be as a down-payment on a brighter future, a sign that other urgently needed measures are on the way, and that America is finally moving onto the right path.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, parliamentary inquiry. What is the business before the Senate?

The PRESIDING OFFICER. The Senate is considering unemployment compensation business.

Mr. DODD. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. The Senator may have that privilege.

SENATE ACTION AND THE STOCK MARKET DECLINE

Mr. DODD. Mr. President, I do not have the exact number in front of me at this point, but I have just watched the news that the market today closed in excess of 100 points down in the last hour, raising some legitimate concerns about whether or not we may be looking at a similar situation we saw several years ago when the market declined substantially on a Friday, only to fall more precipitously on the following Monday.

We are getting already, you might imagine, instant analysis as to the rationale for that particular decline. I do not think anything emerged that would give an absolute certainty as to what the rationale for it is. Some have suggested that legislation that was adopted on the floor of the U.S. Senate yesterday regarding credit card interest rates, lowering that to a maximum I think of 14 percent, may have caused some of this problem.

I know my colleague from New York, and others who sponsored that legislation, feel very passionately about it and are concerned about the cost of credit card rates to consumers.

I should say I, along with I think about 79 other Members of this body, supported that amendment yesterday. I would say as one Member of this body and one member of the Banking Committee, if in fact we are able to complete action on the banking reform bill at some time next week, that I would hope that we would be able to modify that particular proposal to reflect some very legitimate concerns that have been raised about the impact of the legislation.

Certainly lowering interest rates for consumers has an appealing ring to it. I certainly found it appealing. There may be other implications, however, that we may have to take into consideration that could have a negative impact on the overall economy of the country.

I am told here, now, reading from the Associated Press, the stock market is tumbling in the closing minutes of trading Friday. The Dow Jones average of 30 industrials dropped 104.21 points by 3:49 p.m.

I tell you, Mr. President, I watched the close at 4, and actually that number is higher than 104. I think more in the 120 range was the actual closing number.

At any rate I at least suggest for my part that we will have to take a very close look at the credit card legislation and try and ease the concerns of those who may be wondering over the weekend whether or not that particular proposal is going to stand, as we hopefully go to conference with our House Members dealing with the banking legislation.

Let me also suggest that some other action is taking place here in the Senate in the last 24 hours that I hope would be a source of some encouragement to those who invest in the market who are wondering whether or not the Congress is listening at all to the economic concerns being raised across the country.

I was pleased to join with Senators DANFORTH and BAUCUS in the last 24 hours in our efforts to seek the signatures of our colleagues on a letter that we have submitted to both the majority leader and the minority leader asking for the possible consideration of a tax measure that would extend 12 credits, tax credits that have been in place in some cases for decades, that have proved invaluable in terms of economic growth in this country.

I report that without a great deal of time, because it was only during several recorded votes here we were able, actually, to solicit the support of our colleagues, and I note the Presiding Officer was one of those Members I was able to talk to about this matter, and he joined with 65 others of us in a letter to the majority and minority leaders asking that these extensions of these credits be raised before we leave, before we adjourn this session of the Congress, so that on December 31, these credits would not expire under the Internal Revenue Code as they will if we do not extend them.

I will enumerate. These credits include the employer-provided education assistance credit, group legal services, health insurance deduction for the self-employed, mortgage revenue bonds and mortgage credit certificates, qualified small issue manufacturing bonds, foreign allocation for research and development, research and experimentation tax credits, low-income housing tax credit, targeted jobs tax credit, the business energy tax credit for solar and geothermal property, orphan drug tax credit, and minimum tax exception for gifts of appreciated tangible property.

Those are the 12 credits, Mr. President, that are in place now that have proved to be tremendously helpful in the past.

As I pointed out a moment ago, several of them have actually been a part of the Internal Revenue Code for decades. These would all expire on December 31, if we do not take some action in the next several weeks to allow—at least we would hope—a 1-year extension with the thought in mind that at some point next year a tax bill may come before the Congress, in which case we could address these issues and consider, in some cases, a permanent tax credit or a tax credit of some limited duration.

An extension of these credits I believe, Mr. President, is absolutely vital to our efforts to not only protect jobs in this country, but far more importantly, to stimulate our economy and encourage investment in our industries in this Nation. Families and businesses hard hit by the pressures of this recession certainly are looking to us and to the President to try and come up with some specific answers that will not just come up with an unemployment insurance bill to take care of people who have lost their jobs; what they really want to know is what are we going to do to make it possible for people to go back to work so that the issue of extended unemployment benefits does not become the issue, but rather how do you put people to work. No greater social program was ever created in the mind of man than a job. It is the best social program that one ever was able to manufacture or create.

Our hope is that with some of these credits being extended beyond December 31, we will be able to stimulate some economic activity in this country.

Mr. President, why is the legislation important? Obviously, passage of a bill to extend these credits, as I mentioned, that have been a problem for some time, would send, I think, a very strong message to our markets and to investors, not to mention to the industry and working families, that we are serious about doing our part to get the economy moving.

More importantly, Mr. President, we cannot afford to let lapse incentives for growth, construction, research and development, job creation, and educational opportunities in the middle of a recession. In some parts of our country, as we have heard explained eloquently over the last 2 days, talking about unemployment insurance, our economy has been particularly devastated. These tax credits have already proven to be an effective incentive for growth and investment. To let these credits lapse, obviously, would be a great disservice to business and to the families who depend upon jobs for economic solvency.

Mr. President, there are consequences of not acting on this measure before the end of the year. Let me enumerate, if I could, a couple of them. We will fail to encourage much needed research and development activities that stimulate growth and help make us competitive. It is estimated that an extension of this credit would increase spending on research and development by $25.7 billion over the next 4 years.

That is how effective that particular credit has been. And at a time when we need to encourage businesses to innovate, to be more creative, more imaginative, to try new ideas, it seems to me to take away the tax credit that makes it possible for these industries to invest in these more innovative approaches would be the worst possible message we could be sending. So this tax credit should be extended, in my view, as 1 of the 12.

Second, we will abandon our effort to encourage the construction of low-income housing. The homebuilders of this country estimate that the credit would preserve some 620,000 units of housing in the next decade and encourage the production of 640,000 new low-income rental units over that same period of time.

This credit, Mr. President, it is estimated, now that it has been in place for some time, creates 100,000 jobs a year in the homebuilding industry. Again, I presume that if we do have a tax bill next year, that people will want to extend this tax credit. But to allow it to lapse for a year at a time when we find millions of people out of work seems to me the wrong signal, the wrong message. To extend this credit, to try and at least see that there are an additional 100,000 jobs out there in that industry I think would be extremely worthwhile.

Third, Mr. President, companies, of course, would have to stop paying for their employees to pursue further educational opportunities. One of the very important tax credits in this package of 12 is the incentive for employers to invest in the education of their employees. Some might say, let the employees pay for it themselves.

I point out to my colleagues that 71 percent of all of the people who have been advantaged by this educational tax credit have family incomes of less than $30,000 a year. These people will not be able to take advantage of higher educational opportunities to improve their skills, to give them the kind of training that they should have to meet the more demanding jobs of the coming years if we do not provide this particular, or continue this particular credit in existence.

So for these reasons, Mr. President—I have only cited 3 out of the 12; the others, I think, are fairly self-explanatory. But the research and development, the low-income housing, the educational credits—I think every single Member of this Chamber, without exception would want to be on record supporting the extension of these particular credits, particularly at this moment.

Obviously, there is the danger that if you bring a tax bill to the floor—and obviously, one has to originate in the House—but certainly the chairman of the Ways and Means Committee and the members of that committee and the leadership are going to ask a very obvious question: If we bring up this package which everyone agrees to, do we not run the risk of turning this into a Christman tree in the waning hours and days of this particular session, and find a lot of ideas that may not be so good attached to a bill where there are proposals that everyone would like to support?

That is a very legitimate question. Hence, the letter that we have sent to the majority leader and the Republican leader, signed by 66 Members of this body, says that we are willing to forego any other tax provision, as tempting as it may be, and we would oppose any other provision that would be attached to these 12 extensions if you bring this bill to the floor of the Senate, if it would be originated in the House.

The House, of course, under their rules can design a package which would prohibit any amendments to it. We do not have that system in the Senate, of course, where amendments can be offered to any particular proposal that comes forward in the absence of a unanimous-consent agreement or the ability to defeat those amendments. Sixty-six of us have said we are willing to reject those amendments if, in fact, you will bring up a tax bill that will provide for the extension of these 12 credits.

So we would hope that the leadership might consult with the leadership of the other body, Mr. President, to consider over the weekend or possibly the early part of next week whether such a proposal as this could be brought forward before adjournment occurs.

In light of the news this afternoon about the drop, the significant drop in the Dow Jones average, it seems to me that we need to send an important signal that we are concerned about economic incentives; we are concerned about economic growth and expansion. These particular credits, I think, could provide that kind of a signal. And a clear message from this body, a clear message from other Members to those markets, to those investors, that this is something we think is important and would like to accomplish before our adjournment, I think would help in that regard.

I would point out the obvious other question is, how do you pay for this? There are about 17 different ideas that are already being explored as a way of providing the revenues for these extensions. We believe that that is not a terribly difficult question to answer. Senator DANFORTH, who serves on the Senate Finance Committee, along with, Senator BAUCUS, have been working with members of the committee, the chairman of the committee, and others, to come up with a revenue offset for the extension of these tax credits.

So I hope that we will get to this, and I will close on the note that I opened with, Mr. President. I would also, at least speaking for my own part—I cannot obviously speak for the Banking Committee or members of the Banking Committee. But if, in fact, our action regarding credit cards has contributed in any significant way, which I think is worth exploring, then we will have to take a look at that proposal. And if modifications are required, then I for one would certainly be willing to consider modifications to that proposal if, in fact, it will ease the concerns of those who make the investments in our markets, to try and restore some confidence over the weekend so that come Monday, we will see the market regain the losses that it suffered today, and be put more on a stable and steady track.

Mr. President, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, before I get on the topic that I am to speak on and that I know also is of interest to Senator DODD, I just want to commend him of his leadership.

Take an item like low-income housing tax credit. In the city of Chicago, 69 percent of the people who live below the poverty line are spending more than 50 percent of their income for housing. That is just an astronomical figures. And this low-income housing tax credit builds about 1,700 units a year in Chicago. That is not a lot of units. But it is sure better than nothing for a community that is desperate for that housing.

So I commend my colleague for his leadership on this, as he has shown leadership on so many things.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. SIMON. Mr. President, I am speaking on the one provision that starts on page 46 of the bill that is before us on unemployment compensation. I was startled to learn—and the Presiding Officer, as a former president of Duke University, will be interested to learn this—that part of the way we pay for this is to cut back on guaranteed student loans. The proposal is that for any loan applicant who will be 21 years of age in July of the award year, there will have to be a credit check, for which the applicant will pay $25, and if that credit check is negative, then you are denied the chance for a guaranteed student loan unless you get a cosigner on that student loan.

Now, obviously, the cosigner has to be someone who has a good, established credit rating. Otherwise, the lender is not going to provide that loan. We are talking about people who are struggling to get by. We are talking about people who frequently may have had an experience that is not a good experience in getting credit. For us to come along and say we are going to save money by depriving people of an opportunity to go to college, that is like saving money by building a house and not putting a roof on it.

I do not want to hold up this bill because it is so important that we get help to those who are not receiving unemployment compensation, and I do not know that the full impact of this. It is obvious that no one knows the full impact of it. It is interesting the estimate by CBO is that we will save $15 million the first year. The estimate by OMB is that we will save $850 million the first year. And to save $850 million, my friends, you would have to eliminate one-third of the student loans.

This, obviously, just does not make sense, and I am sure that Senator KENNEDY and Senator PELL and others, Senator KASSENBAUM and Senator DODD, who is on the floor right now, who has been a leader in education, will want to get legislation in right away to correct this because this does not make sense at all.

Let me add, for those who want to then correct a credit rating, Consumers Union has found that mistakes are made in 49 percent of all credit reports. Credit bureau consolidated information services in 1989 looked at 1,500 credit reports and found errors in 42 to 47 percent of the reports. The credit bureau industry has testified that of the 9 million consumers who requested copies of their reports in 1 year, 3 million—one-third—updated and found mistakes in their reports.

Now, let us say that John Smith or Jane Smith finds a mistake in a credit report after going through all of this. First of all, John Smith or Jane Smith may just give up going to college. But to correct a credit report, on the average, means writing, contacting a credit bureau, an average of slightly more than five times, and it takes an average of 6 months to correct a flawed credit report.

I want to help people who are unemployed. We have to do something. It is a national disgrace that only one-third of the unemployed are receiving any kind of unemployment compensation. I do not know if we have had a record that bad since the time unemployment compensation started. But to believe that we can save money for the unemployed by denying an opportunity for people to go to college, that is the most shortsighted kind of policy I can imagine.

I am going to vote for the legislation, but I want to see this thing corrected and corrected quickly. I do not know who is right. CBO says we will save $15 million a year. OMB says we will save $850 million a year. That eliminates one-third of the students who are on the loan programs. I do not know who is right, but I think we may be skirting on something which is very dangerous to the future of this country. We ought to be talking about how we can expand the opportunity for people to go to college, not how we restrict it.

Mr. President, I see my colleague from Alabama on the floor. I yield the floor.

Mr. HEFLIN. Mr. President, I rise again to discuss this unemployment benefit bill that is before us. I have been working off the floor with various people trying to bring about a correction to this bill in regards to reachback and in regards to the number of weeks of benefits that would be paid, particularly in view of the fact that, my State of Alabama, which in all other bills that have been proposed until this compromise bill—so-called compromise bill—was worked out with the White House—was left with only 6 weeks.

They say we have to go ahead and pass this bill and pass it today. We do not know what the House will do. We do not know yet whether the President will sign a changed bill. Well, the bill is provided in a manner where there are offsets and revenues, and, of course, it is coming out of a trust fund.

We are told that we have to go ahead and pass this bill right now, without any change and without really taking care of those States which are being deprived of their just rights. They are arguing that congressional inaction would threaten to deprive benefits or delay benefits to the unemployed workers in the United States, to these victims of this recession, that these people would be without their Thanksgiving turkeys because Congress failed to act.

That argument, first, does not make a lot of sense to me. I do not believe many of these unemployed people are going to be eating turkey regardless of whether or not this bill passes. They will have a Thanksgiving celebration. They will give thanks for being Americans, and they will give thanks for what they have. I do not think it will be turkey. It may be something less. It might be Spam or something else that they are able to buy because unemployment benefits are not nearly to the extent of what wages they would have received if they had been employed.

But, on the other hand, what is so magical about having this bill pass 10 days before Thanksgiving? If the money comes in 2 days late or 1 day late, they still know that it is coming. The major thing is to give them the assurance that they are going to get additional extended benefits, that they will get a fair amount of benefits and that those benefits are on their way. Whether they arrive in their first check on the Wednesday before Thanksgiving I think is really immaterial. That is some sort of political pie in the sky about which the politicians are talking.

We can get a good bill that is fair, that treats the unemployed the way they should be. And if it is signed on Wednesday of next week or Thursday of next week, then they know that the benefits are coming. They are going to know that there has to be paperwork and other things.

So I do not think this magical date of trying to get everything passed today or tomorrow or the next 2 or 3 days is as important as trying to get a fair bill.

I would like to remind my colleagues that this body has twice passed unemployment compensation legislation this year; one was passed months ago, in August. And if it was some magical delivery date at that time, it could have been Labor Day. Labor Day, of course, is a very important day that we celebrate in America for the working men and women of this country. If they had known a few days before Labor Day that they would get extended unemployment benefits, it would have meant something to them as they celebrated Labor Day.

Then we passed a bill in October. Halloween came along. It is not as significant as Labor Day or Thanksgiving. But to me this bill is a trick-or-treat bill. It is tricking a lot of people in a lot of different States, particularly in my State, who think they are going to get a lot in regards to unemployment compensation benefits but they are really being cut back from the extended benefits from 13 weeks to 6 weeks. Meanwhile, some States are being treated when they have something like a 4.7-percent unemployment rate yet they will receive 20 weeks of benefits. They are still unemployed. They need benefits too. But those States are not in the same situation as my State where we have a 7.4-percent rate of unemployment.

We see that of course this bill comes along and it is called a compromise bill. But, in my opinion, the only reason to call it a compromise bill is because it compromises the ability of many Americans, including Alabamans, to receive the benefits that they need to weather the storm of unemployment. The storms of unemployment are with us now. They are going to be with us in November, and they are going to be with us in December. I hope that we can bring an end to this downward trend of recession, start bottoming out and coming out of it, and moving forward. But we are in a recession.

This bill also, when you think about the Congress passing previous bills months ago while people were suffering a great deal, comes somewhat late, especially for the 20,000 Alabamans in my State who have exhausted their benefits since the end of February. Had the President signed either of the two bills Congress sent to him earlier this year, we would not be worried about getting checks to these people by Thanksgiving.

Congress has not failed with regards to unemployment compensation. We have twice passed by overwhelming votes bills to give extended benefits but they have not been signed. They have not become law because the administration was opposed to them. Now they say they have worked out a compromise. It does not cost as much money. Why does it not cost as much money? The reason is that people in my State who are unemployed are not receiving what they are entitled to receive.

My constituents, in my judgment, are entitled to receive the benefits just as much as people in any other State. They should not be the ones to suffer the consequences of the administration's failure to sign a bill on a previous date. My constituents need a fair bill and a fair benefits formula. They need fair reachback provisions, and they deserve for the President to sign such a bill.

I urge that we go ahead and work out some sort of an agreement on this, pass a reasonable fair bill, and do what is right with regard to this issue. I think the message of such a bill passing the Congress and the President agreeing to sign it will be sufficient in regards to Thanksgiving. I do not think there is anything magic about Thanksgiving though. If it takes to next Wednesday or Thursday to pass the bill and have it signed, if it is a fairer bill than one that is here, I think we will benefit all over the country, particularly in my State.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I wanted to take this occasion, with the distinguished Republican leader, to report to the Senate on the status of the legislation now pending, the unemployment insurance reform legislation, which is of critical importance and on which we have now been engaged since yesterday.

I have been meeting throughout the day, almost continuously with Senator DOLE, Senator BENTSEN, and a large number of other Senators, all of whom are interested in and concerned about the legislation and, of course, the effects on their States.

We have been attempting to determine if there is some way in which this matter can be resolved that would be acceptable to all or a large majority of Senators, as well as to the House leadership and the administration.

It has been an extremely positive, good faith, informative process for all concerned. As I indicated, for almost the entire working day, Senator DOLE and I have been in almost a continuous meeting with Senator BENTSEN, with others coming in and participating from time to time. It is our hope that we will be able to reach an agreement on which we can proceed this evening.

We are not yet at that point. We hope to be there soon, but some further time will be required. But I am hopeful at this time we will be able to reach such an agreement. If we are able to reach an agreement, it is my intention to continue and to complete action on this legislation this evening.

If we are unable to reach agreement, it is my intention to remain in session and consider the matter under the previous order reached last evening governing the consideration and disposition of this matter.

Therefore, in either event, the Senate will continue this evening in consideration of this matter. It is, of course, unusual to have a session on a Friday evening and possibly on a Saturday, but the importance of the legislation and the critical need throughout the country which it addresses combined to require our continuing in session for that purpose.

During the day, there have been a number of statements made on that and other measures. In the last hour or so, there have been no Senators seeking the opportunity to address the Senate and, therefore, it is my intention to recess the Senate subject to the call of the Chair with the expectation and understanding that the recess will not be a lengthy one and that we are going to return to this matter this evening in any event.

If we reach an agreement, or if we do not reach an agreement, we have to proceed with this bill, one way or the other. And we, therefore, anticipate that votes may occur. We do not know that, but that remains a very real possibility and therefore Senators must be prepared to remain to participate in that further debate and discussion.

I apologize to all Senators for the inconvenience which this causes to them, but we are in the closing days of this session, and as all Senators are aware, when important matters come up and require extensive deliberation from time to time inconvenience must be anticipated.

Mr. President, the distinguished Republican leader was here and had to leave to take an important phone call. Since we discussed this privately just prior to this statement by me, I am confident that he shares the views which I have expressed and would likewise urge his colleagues to remain available for the possibility of further Senate activity on this matter this evening.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 5:20 p.m. recessed subject to the call of the Chair; whereupon, the Senate reassembled at 5:34 p.m. when called to order by the Presiding Officer [Mr. FORD].

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, I am concerned that the recent extension of the unemployment insurance benefits, while very helpful to workers who are impacted by the spotted owl decisions, will not be adequate to address their situation, as was the provision in the bill vetoed by the President several weeks ago.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I agree with my friend from Washington that the extension of unemployment benefits will not sufficiently assist the plight of dislocated timberworkers in Oregon.

The provision in the previous bill that gave special consideration to dislocated timberworkers was very important to Oregon.

It would have directed valuable resources to provide dislocated timberworkers in Oregon with: First, job counseling; second, job retraining; and third, needs-related assistance.

I recognize that even this assistance will not fully address the timber problem in the Northwest. However, we must assist these dislocated timberworkers who need help now.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I thank my colleagues and this certainly is an important concern in the States of Oregon and Washington.

I understand the Senator's concerns and I have at this time a letter from the Department of Labor suggesting that it also understands the situation and will give special attention to this situation. It has additional resources available to assist these workers through the Dislocated Worker Adjustment and Assistance Act. Specifically, resources are available under the special Secretary's National Reserve Account which provides additional funds for retraining and other readjustment services. This assurance, in my view, is the functional equivalent of the provision in the earlier bill to which the Senator from Washington refers.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPUTY SECRETARY OF LABOR,
Washington, DC, November 14, 1991.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: We are aware that many of the timber workers who may be displaced as a result of decisions to protect the Spotted Owl will need additional services beyond those immediately available through the recent extension of Unemployment Insurance benefits. The Department recognizes this situation and stands ready to react quickly and give special consideration to any request to provide additional assistance for these workers. Resources are available under the Secretary's National Reserve Account of Title III of JTPA.

Sincerely,
DELBERT L. SPURLOCK, Jr.

Mr. DOLE. Mr. President, I will briefly quote from the letter:

> We are aware that many of the timber workers who may be displaced as a result of decisions to protect the Spotted Owl will need additional services beyond those immediately available through the recent extension of Unemployment Insurance benefits. The Department recognizes this situation and stands ready to react quickly and give special consideration to any request to provide additional assistance for these workers.

I think it makes it clear. If further clarification is needed, I understand it can be made available.

Mr. GORTON. I thank the distinguished Republican leader.

Mr. PACKWOOD. And I thank the distinguished leader, also.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, I move we stand in recess subject to the call of the Chair.

The motion was agreed to, and at 5:37 p.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 5:56 p.m., when called to order by the Presiding Officer [Mr. BINGAMAN].

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am pleased to report to Senators that we have reached agreement on the disposition of the unemployment insurance legislation, an agreement that I believe will not only be accepted but highly desirable from the standpoint of most, if not all, Senators.

The agreement is the product of intensive discussion over the past 24 hours between myself, the distinguished Republican leader, Senator BENTSEN, and a number of other Senators. During that time we have remained in close contact by telephone with House leadership on both sides of the aisle, and I believe that we have reached an agreement that will, most of all, be acceptable to the millions of Americans who we all agree need these important benefits.

Under the agreement the Senate will shortly vote on—and I hope and believe pass—the House bill that is now pending before us, that is H.R. 3575, the bill which the Senate has been considering since yesterday. There will then be a unanimous-consent agreement under which the Finance Committee will be discharged from further consideration of a House bill now in that committee, and there will be a substitute amendment to that bill offered by Senators BENTSEN, DOLE, myself, and others, which will provide for the following:

This bill will replace the House bill's three-tier system of 20, 13, and 6 weeks of extended benefits with a two-tier system of 20 and 13 weeks. The nine States with total unemployment rates of at least 9 percent or adjusted insured unemployment rates of a least 5 percent would still receive 20 weeks of extended benefits. The 41 other States would receive 13 weeks of extended benefits.

Compared to the House-passed bill, this will enable 23 additional States to offer 13 weeks of extended benefits rather than 6 weeks. As under the House-passed bill, if a State's economic situation worsens, and its total unemployment rate increased to 9 percent, or its insured unemployment rate increased to 5 percent, it would then move up to the 20-week tier.

The Senate bill will also extend reachback coverage to all States. Under the House-passed bill, 18 States would not have qualified for reachbacks. This amendment will allow unemployed Americans who have exhausted their benefits, regardless of where they live, to qualify for 13 weeks of additional benefits. Reachback for those States in the 20-week tier would continue to be 20 weeks.

The additional cost of this amendment would be offset through, first, excess savings in the House passed bill; and second, moving the bill's expiration date from July 4, 1992, until June 13, 1992.

Mr. President, I believe this to be a very sound and responsible solution to the problem which we have confronted in the past day of debate on this matter. It extends benefits to a large number of Americans who need them, simplifies the system by providing a two- rather than a three-tier system, and provides all States with a minimum of 13 weeks as opposed to the previous minimum of 6 weeks. It is paid for, and the cost is offset by the changing of the bill's expiration date from July 4, 1992, to June 13, 1992.

It is, as I said, the product of numerous discussions. We have moved through several phases in these talks, and all of the participants were acting in good faith and made positive and significant contributions to the discussion. Primary among them were, of course, the distinguished Republican leader, and the distinguished chairman of the Finance Committee, Senator BENTSEN, both of whom have been leaders in this effort for some time.

I am now going to yield to Senator BENTSEN, and then to Senator DOLE. Following those remarks, I am going to propound the unanimous-consent request, to which I earlier referred, which will govern the disposition of the second bill. It is my expectation that there will be a rollcall vote on the pending bill, H.R. 3575. Under this unanimous-consent agreement, there will then be 20 minutes for debate on the second bill, or more specifically the substitute amendment to the second bill, and we hope we can pass that by voice vote. There has been no request for a rollcall vote on that one. We do have a request for a rollcall vote on the first bill.

So Senators should be aware that I will momentarily propound the unanimous-consent request. If approved, that will be followed by a rollcall vote on the first bill. That will then be followed by 20 minutes of debate, and there will be a voice vote on the second bill.

I thank all of my colleagues, especially Senators BENTSEN and DOLE. I yield now to Senator BENTSEN.

Mr. BENTSEN. Mr. President, I think this is really a major breakthrough. Frankly, I am delighted with the outcome and to have watched the majority leader and the minority leader working toward this solution, along with the assistance of others. To get the kind of cooperation we have had from the chairman of the Ways and Means Committee, and in turn the Speaker of the House, and the minority leader in the House, has been very heartening indeed.

We had people saying here that you would have one State next to another, and one would have reachback and the other would not. Where is the fairness in that? We have resolved that. They are talking about reachback for all States. We are talking about 13 weeks of benefits for all States.

My hope is that this economy will finally begin to improve, and that we will not face this problem when June 13 rolls around and this program finally ends, that we will see the economy well on the road to recovery. If we do not, then we will face up to this problem once again.

But what we have seen here is a very encouraging answer to people that are having a tough time making the mortgage payments and keeping the car and trying to keep food on the table. We will have the checks in the mail before Thanksgiving, in many instances, and that will be a happy Thanksgiving indeed. I congratulate the majority leader and minority leader for an extraordinary job.

Mr. DOLE. Mr. President, let me underscore what has been stated by the majority leader and the distinguished chairman of the Finance Committee. The total cost of these changes is only $95 million. Still, that leaves a surplus of about $28 million in the bill. That was accomplished primarily by terminating the program on June 13, rather than on July 4.

Let me also indicate that this conforms with the President's request, first, to be short-term, and that it be paid for in each year, and that there be no new taxes to finance the program. So we have met those requirements.

We have explained this program to the Director of the Office of Management and Budget, Mr. Darman. He has no objection to the program.

But let me indicate what occurred to me as we went through the day trying to decide whether we ought to have five States, seven States, or eight States; every time you slice somewhere, there was somebody one-tenth of 1 percent below who says, "Why leave me out?" So it occurred that maybe we can just move everybody up into that bracket, and that was done.

Now the following States, instead of receiving 6 weeks, will receive 13: Alabama, Arkansas, Kentucky, South Carolina, Tennessee, Colorado, Delaware, Hawaii, Indiana, Iowa, Louisiana, Minnesota, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Utah, Virginia, Wisconsin, Wyoming, and also the Virgin Islands.

So I hope that people are satisfied with what has come out of a fairly long discussion.

Again, I salute those who raised this on the floor last night. I did not care much for it at the time, but this is the Senate of the United States, and that is what it is for. That is why we have unlimited debate, and that is why we give Senators an opportunity to express their disagreements.

I am not going to suggest that this is the best policy, because in a lot of cases it is very bad policy. We have another one that Senator PACKWOOD and others will look at regarding IUR, TUR, all of these things that ought to be addressed. But this is a temporary program, so it seems to me that we have reached the right conclusion.

The only chance that somebody might be reduced is if they talk too long tonight. We were here until midnight last night. We do not want to hear the debate again. The leaders are prepared to put our statements in the RECORD.

It seems to me that for those who had questions, this has been resolved in their favor. There has been one 6-week period that has not been resolved, and that relates to those who talk at length on this particular measure. Hopefully, we can resolve this and have the vote. A number of Members have conflicts and need to be on their way.

I want to congratulate those who have been working throughout the day, including the officials, the Labor Department, our staffs, and other Senators who have come to visit with me personally, and who I know also visited with the majority leader. We believe this is a good solution, and the leadership is in agreement. We think the chairman of the Ways and Means Committee is in agreement, and we hope they can address this, and the second bill will pass tonight, next week.

Mr. MITCHELL. Mr. President, if I could just say that we have all been in a lot of negotiations; in fact, it seems like that is essentially what those jobs consist of is constant negotiation, but this was one of the more informative, instructive, good faith, and I think productive discussions which we have had.

This final result is a product of ideas contributed by a number of different participants. I think the real genius of this compromise is that it provides a level of benefits that is greater than any legislation that has been so far considered at a time when it is most needed but pays for that by reducing the length of the program.

And so what we all hope, frankly, is that even these benefits will not be needed, that we are going to have a recovering economy and that people who would otherwise qualify and receive these benefits will be getting the jobs that they want and are seeking and that, really, is the ultimate solution.

No one should be under any illusion that we are here solving the problems of the American economy. We are dealing with a very specific problem. I think it is a good and fair compromise solution in the best sense of that word by all concerned.

I would like, Mr. President, if I might, before the Senator makes any remarks, to put the unanimous-consent request.

Mr. DOLE. Mr. President, if I could just make one comment. I think there is one more caveat in all agreements that is important we do. If we sent this second bill or substitute to the House and they load it up with a lot of things that are not paid for, I think there has been sort of a gentleman's agreement of not going to try to embarrass the White House or the President. His rule of thumb is if you pay for it that is fine, if you stay within the guidelines. I think that is the understanding we had. We think we suggested some good things to the House we hope they take the package we send them, but if it should come back without being paid for, a lot of extra bells and whistles, I hope then we will have the same bipartisan cooperation.

Mr. MITCHELL. Mr. President, let me assure the Republican leader that that will be the case, and as he knows, I have already stated to the leadership in the House—I spoke directly to the minority leader, the Speaker, that what we hope is that they will simply pass this legislation without any changes. We think it is a good compromise. We think it improves the product that they sent over to us in the best spirit of both parties on acting on an important problem.

Our effort is exclusively to get this done and get it done for the benefits flowing as soon as possible.

So the distinguished Republican leader has my assurance in that regard should that occur.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, sufficient time having elapsed since notice of this was provided to all Senators, I would like now to ask unanimous consent that immediately upon disposition of H.R. 3575, the Finance Committee be discharged from further consideration of H.R. 1724, a bill to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary; that the Senate proceed to its immediate consideration; that the only amendment in order to the bill be a substitute amendment to be offered by Senators BENTSEN, MITCHELL, DOLE, and others; that no motions to recommit be in order; that there be 20 minutes for debate on the bill, including the substitute amendment; that when all time is used or yielded back, the Senate, without any intervening action or debate, vote on the substitute amendment, proceed to third reading and final passage of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. BROWN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, the bill before us violates the Budget Act. At the request of mine, the Congressional Budget Office has examined the measure it reflects $1.2 billion deficit this year, $1.225 billion deficit this year.

My understanding is that a point of order lies for violation of the Budget Act, and you have an opinion by the CBO. By moving away from the bill that is before us, we will move away from the CBO opinion that we have. The amendment itself we do not have an opinion on. My impression is that that it also violates the budget as a matter of fact it expends more money and will have a higher deficit the first year.

Mr. President, it is not my intention to delay the proceedings. I think distinguished majority leader, the distinguished Republican leader have done a great service by putting together a compromise. It is my concern that we violate the budget, that is a concern I will express in the way I vote not in expressing an objection at this point.

But I do want to make one thing clear that I think is appropriate. My understanding is that a point again will lie for a violation of the Budget Act when a conference report comes back. At that point it would be my intention to request CBO to examine it, to see whether or not the conference report violates the budget. If it does, I will make that point of order. If, of course, the House accepts what the Senate has done, which I think our leaders has expressed the hope that they do, I would not have that opportunity.

With that, hopefully, encouragement that the House go along with the Senate's good work, I reserve my objection.

The PRESIDING OFFICER. Is there further objection?

Mr. FORD. Mr. President, reserving the right to object, and I will not object.

Yesterday afternoon, I felt about as bad as I felt in the 17 years that I have been in the U.S. Senate when I had to object to a motion by my good friend and majority leader. Tonight, I feel so much better because at that time when I objected yesterday, we had 83,000 identifiable Kentuckians that were eligible for the extension of the unemployment compensation. It could be 155,000.

I thank my friends, Senator MITCHELL, Senator BENTSEN, Senator DOLE, and all those who have worked so hard from those five small States to every State now in the Nation has been taken care of.

So I do not object, and I thank my friends.

Mr. BREAUX. Mr. President, reserving the right to object, I will not object—only to say that when this bill was in the Senate yesterday, I called it the biggest turkey in Washington. I can only say the turkey has been brought back into the kitchen with much work of many chefs and it is much improved, now brought back to the table so people will be able to enjoy the fruits of Thanksgiving.

I want to say without the leadership of the majority leader and the Republican leader and the chairman of the Finance Committee, this never would have been a possible deal. This train was on track and it was headed very fast. Had it not been stopped in the willingness of the leadership to sit down and really work in a bipartisan spirit to bring to us tonight a package that really will be a very meaningful piece of legislation for literally hundreds of thousands of Americans, I not only do not object, I certainly enthusiastically support the compromise.

Mr. RUDMAN. Mr. President, reserving the right to object, and I will not object, and I will be very brief.

I thank the majority leader, my friend from Maine, Mr. MITCHELL, and the Republican leader, Senator DOLE.

I also express concern to Senators CONRAD, BREAUX, JOHNSTON, ROTH, and certainly Senator BENTSEN.

When this legislation came here last night, it was obvious it was not in any sense what the U.S. Senate tried to do with the kind of situation we were dealing with here as an emergency. If there had been a hurricane in South Carolina or a drought in North Dakota, this Senate generally stands together in the interest of all the people. We did not in this case.

I found it interesting this afternoon a capital newspaper in New Hampshire said New Hampshire was doomed along with four other States because of this legislation. Luckily, we have leadership in the body that pays attention to our needs collectively. I thank our leadership because without the leadership on both sides we could not clear this. I express the appreciation of the people in my State.

Mr. President, if I could also add my colleague, Senator SMITH, has stood tall, as he usually does, 6 foot 6, but particularly tall on this issue, and I thank him.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, reserving the right to object, and I will not object, I just want to point that out that what we are talking about tonight is a matter of fairness, a matter of equity. We are talking about the treatment of men and women who had jobs but lost them due to no fault of their own because they cannot find work. They are heads of households, families with children, who face a bleak Thanksgiving.

So I think we are all appreciative of the fact that by working together—and certainly it was not easy for me to object to the unanimous consent on the compensation originally.

I am indebted to the leadership of Senator DOLE, to Senator MITCHELL, and my chairman for what they have crafted today because I think this ensures equity to all who are so concerned. I thank them.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, reserving the right to object, and I will not object. This does represent a significant victory. Reachback for everyone who has exhausted their benefits is far more fair than what we had when this process started, and I thank the majority leader for his patience, the chairman of the Finance Committee, the Republican leader for helping to work through this problem. I also want to recognize Senator FORD for objecting yesterday and Senator ROTH for objecting last night so we could reach this result.

I yield the floor.

Mr. GRAMM. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to thank everybody for working out the compromise. I had not planned to speak, but so many have taken that opportunity that I want to take a moment to thank the President. I want to thank the President for courageously standing up to political attempts to embarrass him, to bust the budget, send interests rates up, send the deficit up, and to put more people out of work.

Tonight, at long last, we have done what we should have done to begin with: We have passed a bill that extends benefits and that pays for it and I rejoice in that and I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I cannot permit that statement to go without response. I categorically reject the assertion. It is absolutely incorrect and ought not to go unchallenged. We believe the opposite to be true. We have reached a compromise here. No other statement made this evening has been of that caliber, and I just do not want anyone to think that statement represents the sentiment of all Senators. It does not. There is no point in prolonging this. We can debate this afterward. But I, for myself, and I believe for our colleagues, do not share the sentiment expressed.

Mr. President, I would like now, if we could, to get the agreement and then proceed to vote, get the yeas and nays.

Mr. DOMENICI. Mr. Leader, might I just take 30 seconds?

Mr. MITCHELL. Certainly.

Mr. DOMENICI. The Senator from New Mexico is aware of the technical point of order that the Senator from Colorado said he would have made. But the point of it is that if there is going to be any effect, it is what OMB says, and they do not say it would have any.

They say it would not have any budgetary effect. For that reason I did not join him either in the comments or in raising the point of order.

I thank the majority leader.

Mr. MITCHELL. Mr. President I renew my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on H.R. 3575.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, 1 year ago, we were rushing to adjournment. Late in the session, the Senate was presented with a Halloween trick, the so-called budget summit agreement. We all recall the wonderful rhetoric accompanying this package. It would reduce Federal spending. It would keep the economy growing. And, the small price we had to pay was new taxes. It was a horrible idea, but Congress so desired to be politically safe that we acquiesced, and agreed to the leadership package. This Senator voted against the proposal because it was bad for the President, it was rotten fiscal policy, and it stifled the economy.

The budget agreement has been even worse than I imagined last October. The economy not only slowed down, it dived into a recession. The Federal budget continues to be a disaster—we may have a record deficit next year. And, the President has lost his leverage with Congress to enact an economic growth tax package. One of the results of Congress' mismanagement of the economy is that American workers have been hurt. Unemployment in many regions of the country is the highest in over a decade.

This year, it is too late for any tricks, but we are staring at a turkey as we prepare for a Thanksgiving adjournment. Once again, a leadership package has been devised. Forget the budget agreement, there will be new spending. Forget that higher taxes stifle economic growth, there will be new taxes.

The increase in unemployment and the slowness in the economic recovery has created havoc for many Americans. American workers need help. They do not need more backroom deals. We have to get the economy moving, we need an economic growth package. I have sponsored a growth program. I would like to offer it today. But, it is obvious that such an amendment would upset what some consider to be a balanced package.

There is nothing balanced about this package. We force the unemployed to continue their dependency rather than promoting opportunities to return to work. And, we impose new tax burdens on those who some contemptuously refer to as the wealthy. Well, the people in Wyoming who will face this tax burden are the ranchers, farmers, small business men and women, and the independent energy producers who use the quarterly withholding procedure. These are not wealthy Americans, these are hard working, job producing Americans. And, now we are going to do it to them again. This is perhaps politically correct, but it is not very visionary.

We are all sensitive to the needs of the unemployed. Unfortunately, the action we are about to take is of little solace to those who want to work, who are tired of public benefits. A more appropriate course is to stimulate new job creation by an economic growth policy. This proposal does not do that, and I must vote in protest against the agreement.

A "YES" VOTE—UNDER PROTEST

Mr. HOLLINGS. Mr. President, I strongly favor an extension of unemployment benefits, and I believe that we should pay for these extended benefits appropriately: By tapping the $8 billion surplus in the extended unemployment trust fund. I will vote "yes" on the Rostenkowski compromise because this is the last chance to secure urgently needed benefits for 3 million long-term unemployed Americans, including South Carolinians. But I strongly object to the dishonest financing mechanism embodied in this bill.

This bill capitulates to the administration's wishes by brazenly ignoring the surplus in the trust fund. It mandates, instead, that we raise new revenues. This is double taxation, pure and simple. Working Americans have already paid for these extended unemployment benefits, and now this bill asks them to pay a second time.

Why does the administration refuse to spend the $8 billion in the extended unemployment trust fund? The reason is that the Treasury has already borrowed and spent every dime of that $8 billion on the deficit. The sad truth about the extended unemployment trust fund is that there is no trust and no fund.

The larger problem here is that the administration has been systematically embezzling from the unemployment trust fund, the Social Security trust fund, and every other Federal trust fund in order to mask the size of the deficit. To date, the administration has borrowed—embezzled, to be more accurate—a grand total of $864 billion from the various trust funds, including $269 billion from the Social Security trust fund. And they have no plan whatsoever for repaying those borrowed funds.

So the Rostenkowski plan establishes an exceptionally dangerous precedent. It says, "Sorry, we have already spent the trust fund monies on the deficit, so if you want to receive your benefits you will have to raise new revenues, you will have to submit to double taxation."

To see just how dangerous this precedent is, consider the Social Security trust fund. We have been racking up huge surpluses in order to fund the baby boomers' retirement in the next century. But those surpluses exist strictly as a bookkeeping entry, because the administration is spending every dime on the deficit today. The administration has already borrowed $269 billion from the Social Security trust fund, and by the year 2000 borrowing from the Social Security trust fund will exceed $1 trillion. When the baby boomers retire and apply for Social Security benefits, they are going to be told the same thing that unemployed workers are being told today: "Sorry, we have already spent the trust fund money. If you want your benefits, we are going to have to reimburse the trust fund by raising new revenues."

This is fraud on a monumental scale. If there is any virtue in this bill it is that we are finally blowing the cover off the administration's practice of embezzling from the trust funds.

Mr. BENTSEN. Mr. President, the development of this bill has been a long and arduous process which could not have been accomplished without exceptional work on the part of several key staffers. I want to commend especially the following individuals for their contributions—Margaret Malone, whose grace under pressure has been exemplary; Sam Sessions, without whose creative work on the deficit offsets we would not be here tonight; Ron Davis, a staffer who is new to the Finance Committee and who spent the last 4 months in a highly pressured course of on the job training; George Tyler of the Joint Economic Committee, who followed closely the changing economic landscape; Hank Gutman of the Joint Committee on Taxation; Chris Peacock, who kept the press up to date on the progress of our negotiations; Douglas Fredrick of Senator PACKWOOD's staff; Rick Samans with Senator RIEGLE; Grace Reef with the majority leader; and Lee Price, with the Joint Economic Committee, who also made major contributions to the success of this effort. Finally, Mr. President, I want to extend special thanks to the staff of the Joint Tax Committee, the Congressional Budget Office, the Legislative Counsel's Office, and the Department of Labor for their indispensible work in making certain that the provisions we considered here tonight were properly crafted and that their costs to the Treasury were fully offset.

Mr. GLENN. Mr. President, I rise to make additional comments regarding the extension of unemployment benefits. My home State of Ohio continues to fight this recession. Ohio, of course, was hit very hard by the last recession and many industries have not fully recovered. In fact, some of those industries will never employ the number of workers that they once employed. This recession has only added to the difficulties of many families.

The Federal Government has yet to respond to the unmet needs of our unemployed workers. Clearly, the massive increase in the national debt during the last decade has limited our ability to provide the necessary help to many American families. But, the administration has yet to provide the necessary leadership to move the economy forward. The President tells us that it's a good time to buy a new car or new house. For unemployed Ohioans this seems to be an unlikely prospect.

The Congress has tried to provide needed help. Twice we have passed bills to extend unemployment benefits. Twice the President has effectively denied those benefits.

Today we have another bill before us. It makes many improvements to our current system of benefits. It does provide extended benefits to many Americans. It provides retroactive reachback to some Americans whose benefits are already exhausted. It also includes ex-servicemen, school employees, job search, and railroad workers provisions.

The problem is that the formula to provide additional benefits does not fairly distribute those benefits among the States. It is not fair to Ohio. We simply are unable to justify the distribution of benefits under this bill.

Through the efforts of many Senators who have expressed their concerns about the unfairness of the legislation, the Senate will now consider an alternative package of unemployment benefits. This alternative will provide two tiers of benefits: 20 weeks of benefits for those States with a 9 percent unemployment rate, 13 weeks to all other States. The reachback provisions are provided to all States.

This is a much improved provision. It provides fairness. By directly facing the inequity of the bill, I believe the Senate has provided a great public service. By directly facing the unfairness in the bill, 53,000 Ohioans will receive these needed benefits. The original package provided 6 weeks of benefits to Ohioans and no reach-back provision. This new provision will provide Ohioans 13 weeks of extended benefits and a reach-back provision equal to all other States.

Mr. President, I am very pleased that the Senate was able to take a second look at this legislation and substantially improve its content.

Mr. COHEN. Mr. President, today the Senate has the opportunity to vote to ensure that America's long-term unemployed workers receive a desperately needed extension of their unemployment benefits.

I have been in support of the extension of unemployment benefits since July, when Congress first debated this critical issue facing the millions of Americans who have lost their jobs. I voted for several proposals in recent months and weeks, which would have provided much-needed relief to many unemployed Americans. Unfortunately, these measures were either defeated or vetoed. Today we have, hopefully, reached, an agreement that is acceptable to all of the parties involved.

Mr. President, we have reached a critical point in our economy. Jobs are being lost every day and the number of people applying for unemployment benefits continues to rise. The unemployment rate in my own State of Maine has risen from 6.1 percent in August to 6.7 percent in September. In New England winter is approaching and families are desperate for funds to heat their homes and keep food on their tables.

As we approach the season of giving thanks, it is indeed appropriate, and long overdue, to send the millions of Americans, who have exhausted their unemployment benefits, the checks they have been so desperately waiting for.

It is my great hope that today we may put an end to this debate and begin the process that will bring this long awaited compromise into law.

Mr. CHAFEE. Mr. President, I am pleased to support the measure before us, H.R. 3575, to provide emergency unemployment compensation benefits to the many long-term unemployed across the country. This legislation is critical for the thousands of workers around the country, and especially in my home State of Rhode Island, who cannot find jobs and who are having trouble making ends meet for themselves and their families. This bill provides help to those who really, try as they may, simply are not able to help themselves at this time. Nowhere has the frustration due to the floundering economy been more evident than in my home State.

This past year has been a real struggle for businesses in my State. Nearly every signal of the State's economic health is blinking red. New construction, employment, consumer confidence, and manufacturing are all down, revealing that Rhode Island is in the midst of a lingering recession. Small businesses are being hit particularly hard.

The total unemployment rate in Rhode Island is one of the highest in the country, second only to Puerto Rico. And, unfortunately, it continues to rise. Last month, our total unemployment rate was 9.2 percent. This month it went up to 9.6 percent, and the Rhode Island Department of Labor does not anticipate that rate going down in the near future. Clearly, the situation in Rhode Island, like most of New England, is desperate.

That's the bad news. But, the good news is this measure will provide individuals in my home State with up to 20 extra weeks of benefits. The Rhode Island Department of Employment and Training estimates that potentially 19,000 people will be eligible for these emergency benefits, and that each individual will receive approximately $208 per week. Most importantly, the first checks will be in the mail by Thanksgiving, and will carry them through the holidays.

Nothing is ever cheap around here, and this proposal, like many critical programs, is costly—$5.1 billion to be exact. I am particularly pleased that we have found a way to pay for this measure. First, it closes the loophole for wealthy taxpayers who make quarterly income tax payments. Second, it maintains the unemployment tax at its current level instead of allowing it to drop as scheduled. And finally it withholds tax refunds from people who have defaulted on student loans. Providing these benefits is the humane thing to do, and paying for them is the responsible thing to do. So, I am glad that we are able to accomplish both goals in the measure before us today.

In closing, Mr. President, let me just commend my colleagues on both sides of the aisle and in the administration who have worked so hard to get an agreement. It is a good agreement, and I support it.

Mr. WOFFORD. Mr. President, once again I support legislation to extend unemployment benefits for Americans who are hardest hit by this recession.

I have been working for an extended benefits bill since I came to the Senate last May. Nearly 3 million Americans—and at present estimates 50,000 Pennsylvanians—need the help that these benefits will provide until they can find new jobs.

One of the powerful messages sent by the voters of my State last week was that they want action from Washington in getting this economy moving again—including extended benefits. The people of Pennsylvania said that they are tired of business as usual in Washington. And the saga of extended unemployment benefits legislation is a good example of why they are so frustrated with business as usual. We have needed an agreement on extended benefits for many months. Finding a compromise should never have been such a drawn out and difficult process.

The President should never have vetoed two earlier bills which would have delivered these benefits to the people who needed them last summer. And this Congress should never have taken so long to act in the first place.

Currently, workers are entitled to only 26 weeks of unemployment compensation. This legislation would provide workers who qualify for extended benefits—the long-term unemployed—with 13 or 20 additional weeks of compensation, depending upon the unemployment rates in their State.

This is a modest extension—especially when it is compared to the 49 weeks of compensation available during the 1982–83 recession. Workers are asking no more than the compensation they have earned. The extension of unemployment benefits is badly needed and long overdue.

Although I strongly support the extension of benefits, I am only reluctantly supporting this legislation. Because, in addition to extending unemployment benefits, this bill also needlessly increases business taxes. The fact is that these benefits have already been paid for. Employers and workers have already contributed to a trust fund for the specific purpose of providing extended benefits.

The fund contains nearly $8 billion. Even after the extended benefits are paid, the trust fund would end the 1992 fiscal year with a balance of $3.5 billion. And even if we use the fund as it was intended, the Department of Labor estimates that it would still reach its statutory ceiling of $9.03 billion by the end of fiscal 1994.

Why raise new revenues when there are already funds specifically earmarked to help workers who have exhausted their benefits? Why make our employers pay for the same thing twice? The reason is that the administration is using the unemployment trust fund to hide the true size of the budget deficit. This budgetary trick is being used at the expense of working families and their employers.

The unemployment trust fund, like all Federal trust funds, was created to serve a specific purpose—to provide insurance to working Americans who lose their jobs, and cannot find new work, because of a recession. Working Americans and their employers pay into the trust fund—and working Americans should be able to use it when they need it.

It is a disgrace that this recession has been allowed to drag on, month after month, while the President sits back and simply waits for things to get better. Worse than no action at all, the President twice vetoed earlier bills that would have provided these extended benefits when they were really needed. Mr. Bush may be satisfied that the recession is over, but millions of Americans do not live by the technical niceties of macroeconomics. They have to pay the bills, struggle to save, and sometimes come up a little short at the end of the month.

Every day, another 2,000 workers are laid off from their jobs. But this administration does not call it an emergency. We recognize emergencies all over the world. In recent legislation, President Bush has requested American tax dollars to help the Kurds and people in Egypt, Turkey, Sudan, Angola, Bangladesh, and Ethiopia. And yet he ignores the human emergencies we face here at home. More than 2.8 million working Americans have exhausted their benefits in the last 12 months. By the end of 1992, it is estimated that 3.4 million will have exhausted their benefits.

I support this legislation because it will help put food on the table for millions of American families who are suffering from this recession. But I hope that this will only be the first of many actions we need to move our economy off dead center and to finally help middle-income Americans who've been so badly hurt by a decade of Washington policies and Washington priorities which have rigged the economic game against them.

Mr. President, I yield the floor.

Mr. DURENBERGER. Mr. President, like many of my colleagues, I have recognized the need for extended unemployment benefits for the Americans who have experienced long-term unemployment and whose basic benefits have been exhausted. Over the past several months, I have supported proposals and introduced my own legislation which I believed would address this problem in an effective and responsible manner.

In September, a House and Senate conference committee took legislation which I had supported and, after working behind closed doors, produced a product which was only a shadow of the original bill. The President expressed his support for some type of extended unemployment benefits, but also outlined what provisions he could not accept. In spite of his efforts to work out an agreeable solution, a bill was foisted upon the President which represented precisely what he said he could not accept. As he promised, the President vetoed that bill. And I don't blame him.

In a sense of cooperation, the President outlined the basis for a compromise which was acceptable to him. The response was to brush aside the President's hand and send him a bill which went 180 degrees in the wrong direction. The Congress tried to shove something it created down the throat of the President. In my judgment, Mr. President, the unwillingness to include all parties in the negotiation process demonstrated a distinct lack of good faith.

After the President's veto, which I supported, I offered an alternative bill, S. 1789. This legislation tried to bridge the gap between the Congress and the administration in an attempt to end the political bickering which caused inexcusable delays in getting benefits into the hands of Americans in need.

The legislation which I offered in September would have delivered better benefits to more States than any of the legislation which had been considered by the Congress up to that date. The first bills to address this problem would have provided 7, 13, or 20 weeks of benefits. Minnesota would have received 7 weeks under this approach. Under my legislation, 8 weeks would have been given to Minnesota and most other States and 15 weeks would go to those States hardest hit by the recession.

Mine was not the only approach to compromise. The Republican leader also offered an alternative which I supported. Of course, neither of these bills were permitted to come to the floor. They were offered by the minority. But they were fair and they were responsible.

In an effort to reach a compromise, the White House and the leadership in the House of Representatives worked out and passed the deal which we have been debating since yesterday. The legislation which we received from the House, H.R. 3575, for many States, including my own, represented a step backward.

The end result, Mr. President, was that the compromise which was achieved in H.R. 3575 came at the expense of the long-term unemployed in a handful of States, rather than sharing the burden nationwide. This type of so-called compromise took the view that a person who has run out of benefits in one State must be less strapped, less hungry, and less unemployed than people in other States. Compromise entails give and take from both sides. H.R. 3575 only took from one side.

A good many of my colleagues including myself, Mr. President, after supporting earlier bills, discovered that the approach of H.R. 3575 was not to their liking. Either their States would have received fewer weeks of benefits or would have lost eligibility for a reachback giving benefits to all of the unemployed in their States.

We cried "foul." And we were heard. A compromise has been achieved which will ensure that the unemployed in all States will be eligible for a reachback. Now all Minnesotans whose benefits have run out since last March would be eligible to receive meaningful benefits, not just those whose expired after enactment of this final proposal.

The real tragedy is that this important lesson has come at the expense of the unemployed of this Nation.

I sincerely hope, Mr. President, that the Senate will take this very valuable lesson to heart and realize that this system works best when all parties are included in negotiations and when compromise is embraced at all points of the process.

No one in this process is blameless. At various points, the administration has resisted the Congress, the House has proceeded without the Senate, and the majority blocked consideration of the alternatives offered by the minority. I hope, Mr. President, these differences and disagreements are now behind us.

I am pleased to be able to enthusiastically support this arrangement. Most importantly, Mr. President, these enhanced benefits for all States are accomplished without casting fiscal responsibility to the wind. It respects last year's budget agreement, includes many important policy provisions regarding financing and triggers, and gets the relief flowing.

To the people in my State of Minnesota, I am very happy to report that their wait has been worth it. Unemployed Minnesotans will not only get their much needed benefits, but will receive them retroactively and at a higher level than previously expected. With timely adoption of this legislation, checks will be on their way before Thanksgiving.

To all Minnesotans, I am pleased to report that all these benefits are paid for—from current funds, not deficit financing loaded on our children. This legislation will ensure that all Minnesotans have something to be thankful for.

Finally, Mr. President, we are about to cast a vote in a manner that some members of the American public will not quite understand. We will be voting on H.R. 3575, legislation that I have indicated I cannot support. However, this will enable the President to sign an extended benefits unemployment bill today. But that legislation will be superceded by the compromise that will provide enhanced benefits to the unemployed people of this country.

Mr. President, I will cast my vote in favor of H.R. 3575 only because I am assured that the compromise engineered by the chairman of the Finance Committee, Senator **BENTSEN**, and the Senate leadership will supersede this bill.

Mr. BYRD. Mr. President, I am pleased that the long impasse over providing extended unemployment benefits has finally ended. Twice before, in August and in October, Congress sent an emergency extended unemployment benefits bill to the President. Twice, he refused to designate the spending in those bills as emergency spending. Twice, he refused to extend a helping hand to those workers who are experiencing long-term unemployment as a result of current economic conditions and who have exhausted their unemployment benefits.

Today, we have an opportunity to pass a bill that the President will sign. We have an opportunity to pass a bill that will, at long last, provide those who are suffering most with the helping hand they so desperately need and deserve.

According to the latest labor market statistics, there are nearly 8.6 million men and women in our Nation who want to work but who cannot find work. Another 6.3 million Americans are working only part-time because they cannot find full-time jobs, even though they want to work full-time. Finally, at last count, another 1.1 million have simply left the labor force because they no longer believe they can find a job. These workers have become discouraged, so discouraged that they have given up looking for a job. They no longer are counted among the unemployed, at least not officially. But they are out there—out of work, out of luck, and out of hope.

Should we be surprised? In 1988, candidate George Bush promised the American people that, if elected, he would create 30 million jobs in 8 years. Yet, in almost 3 years since President Bush took office, barely a quarter of a million jobs have been created in the United States.

Despite the repeated assurances of the Bush administration that this would be a short and shallow recession, there are more than 750,000 fewer Americans employed today than there were 1 year ago. More than 1.1 million Americans have been unemployed for 27 weeks or more. In other words, more than one out of every eight unemployed workers in America has been without work for more than 6 months.

Adding to the tragedy of the current unemployment situation is the fact that our unemployment compensation system—a system designed as a safety net for those workers who lose their jobs through no fault of their own—is failing to do its job. Although 8.6 million Americans are out of work, less than 40 percent are eligible for unemployment insurance. West Virginia has the highest unemployment rate in the Nation. Thousands of workers in West Virginia have exhausted their unemployment benefits since the beginning of the year. Yet, unemployed workers in my State are not eligible for extended unemployment benefits.

Too many unemployed Americans are falling through the holes in the unemployment insurance safety net. Providing a meaningful program of extended unemployment benefits is long overdue. We cannot act too quickly to provide those who are suffering most with a helping hand. The legislation before us will accomplish that goal. I commend the chairman of the Finance Committee for his efforts in putting this bill together, and I urge my colleagues to pass this legislation so that unemployed workers across our Nation will finally receive the help for which they have been waiting so long.

Mrs. KASSEBAUM. Mr. President, the terms of the compromise call for raising the funds to pay for the extension of benefits through a variety of means. While this indicates some measure of fiscal responsibility on our part, it also illustrates one of the more troublesome aspects of our current fiscal policy.

Throughout this debate, reference has been made to the unemployment trust fund, and the moneys in that fund which have been set aside to pay for unemployment benefits. To many, the term "trust fund" and the talk of money that has been set aside implies that this is money that has been put into a special vault, and that it will be held in this special vault until it is spent on the purpose for which it was collected.

In reality, however, the Federal Government has no special vault for its trust funds. It puts all its revenues into the same general fund and then pays all its bills from this one general fund.

With our Government operating at a deficit, this means that we are not only spending all the revenue we collect and put into the general vault, but that we are actually spending more than we are collecting. As a result, there is no leftover in the general vault that can be tapped when it is needed. There are simply IOU's from a government in the red.

The money that was raised for the unemployment trust fund is being spent to finance the Government and mask the deficit. The fact of the matter is, this trust fund—and others like the aviation and highway trust fund—are nothing more than an accounting charade. We have a passbook entry at a bank that is so broke that it would have to borrow money to pay out our account.

I am aware that the alternative to this financing is to declare another emergency and increase a deficit already likely to be a third of a trillion dollars next year. However, I also believe that the trust funds should be used for the purpose for which they were intended—in this case unemployment benefits—instead of being used to mask the true extent of our spending.

It is interesting that one of the financing mechanisms in the bill proposed to finance these benefits is extending the surcharge on the Federal unemployment tax. Ironically, the reason this tax was levied in the first place was to pay for the very kind of benefits we are not proposing.

Now we want to continue making employers pay this surcharge, so we can maintain the level in the trust funds in order to offset spending in other areas. In my view, this makes little sense. If we allow the surcharge to expire, we would thereby reduce the marginal cost of labor, which might have the happy result of more new jobs.

I would also note that another way we are funding the extension is to make a number of changes in the Federal Student Aid Program. The Senate Labor and Human Resources Committee recently reported legislation reauthorizing the Higher Education Act. This legislation takes a number of important steps to address the problem of student loan defaults, and that measure is the appropriate vehicle in which to address such changes.

Among other things, this proposal would garnish the wages of individuals who default on their student loans. Although many think we will be garnishing the wages of doctors and lawyers, the stark reality is that those individuals whose wages are going to be garnished are mostly those with outstanding loans from schools from which these individuals never received a degree or the skills necessary to obtain worthwhile jobs.

I am not saying that student loan defaults should not be repaid. However, Senators should understand that this will not be painless revenue we are going after. The student loan defaulters we are going after are for the most part not the country club doctors—but rather unwed mothers trying to raise a family on a minimum wage job. Garnishment, rightly or wrongly, is going to impose severe hardships on these people.

Mr. President, the compromise may be the best we can do, but we should be straightforward with the American people. We should not talk about trust funds or money that is set aside. In the future, if we are going to raise taxes, we should simply tell people that is what we are doing and not lead them to think we will put the money in a special vault to be spent on some special purpose.

• Mr. KERREY. Mr. President, twice in the last 3 months, Congress has sent the President legislation extending unemployment benefits for jobless workers. Unfortunately, the President blocked both of these attempts to aid those who have lost their jobs as a result of the recession.

While I regret the time it has taken for the President to finally agree with the Congress on the need for this important measure, I am pleased that he has at least consented to sign this most recent unemployment compensation package.

The economic downturn has hit hardest those workers who have been laid off and are unable to find work—not because they lack the skills or motivation to work, not because they would rather accept unemployment benefits than work, but simply because they are unable to find employment to support their families and pay their bills. Extended benefits should be available to these individuals.

While the unemployment rate has remained relatively stable since March, the number of individuals exhausting their Federal benefits has grown dramatically. Unemployment associated with the recession has resulted in 300,000 jobless workers exhausting their benefits every month. We simply cannot neglect our responsibility to respond to Americans who, through no fault of their own, need temporary assistance.

The most recent unemployment compensation package will provide up to 20 weeks of benefits to the over 3 million jobless workers and veterans in this country who have exhausted their current benefits.

President Bush believes that the recession has bottomed out and that the economy is on an upswing. He should tell that to the 42,000 working Americans who have put in applications for unemployment insurance over each of the past 4 weeks.

Although I am discouraged that it has taken this long to win approval of what seems to me to be a question of basic fairness, I am hopeful that this bill will assist hard-working American families. People should not be forced into bankruptcy because of an economic downturn. These extended benefits should help workers make ends meet until the condition of the labor market improves.•

Mr. BIDEN. The compromise unemployment benefits extension package before the Senate is a great improvement over what was originally sent from the House. It is fairer to all unemployed workers, regardless of the State they live in. The changes reflect that the hardship of workers who have lost their paying jobs is no less in one State than it is in another.

Senator ROTH deserves great credit for the improvements in this bill. The determined efforts of Senator ROTH showed that a fairer program was indeed possible, and could be accepted by the administration and Congress.

Most of all, I am pleased that months of efforts in Congress have finally paid off with an extension of unemployment benefits that are so sorely needed. Workers who have lost their jobs during this stubbornly long-lived recession are in desperate need of this assistance, and it is time the Federal Government acted to make that assistance available.

Mr. ROCKEFELLER. Mr. President, unemployed workers and their families are struggling because of the lingering recession. They need and deserve extended unemployment benefits to see them through such harsh economic times.

For months, I have fought side-by-side with my Democratic colleagues in pushing for action to extend unemployment benefits. But our efforts were blocked by President Bush, who failed to consider the needs of Americans as an emergency.

I strongly disagreed with the President's veto and blockage of previous legislative initiatives to provide extended benefits to the unemployed. Congress acted in August to provide benefits, but President Bush refused to use his authority to release benefits. In October, President Bush used his veto pen to deny benefits to the unemployed again.

In November, President Bush has finally decided to work with Congress on a compromise proposal to provide benefits to the unemployed.

I suspect that recent polls and election results from Pennsylvania have helped convince the President to work with Congress to develop a compromise on unemployment benefits. Whatever the reason, I am pleased that the President has finally agreed to extend benefits to those in need.

In West Virginia, as many as 12,300 unemployed workers could potentially qualify for the extended benefits program. These are workers who have exhausted their regular benefits, but unfortunately have not been able to find a new job yet.

The number of West Virginians qualifying for extended benefits will change. Approximately 300 West Virginians exhaust their regular unemployment benefits each week. Now instead of being cut off, West Virginians can qualify for extended benefits.

After months of fighting in the Senate, I am pleased that there is good news for West Virginians who have been struggling. This bill is not perfect, but the needs are urgent and we simply push forward to provide benefits. This compromise has been worked out painstakingly. The House should adopt it. The President should sign it into law as soon as possible. West Virginia families who have been devastated by the recession have waited too long already.

The long-term solution for unemployment must be a commitment to invest in our economy, and create good jobs. Every day, I work to protect the jobs we have in West Virginia. I am committed to strengthening our country's competitiveness so that workers in West Virginia, and across our country, have more opportunities. For now, action to extend unemployment benefits is a critical short-term effort to help families make ends meet over the next few months.

Mr. LEVIN. Mr. President, I am pleased that the Senate will be acting today to pass an extension of unemployment benefits, and I am relieved that, at last, the President has agreed to sign an unemployment bill which will provide benefits to hundreds of thousands of workers who have exhausted or will exhaust unemployment benefits.

We have been a long time in getting to this point. Too long. I would like to to think that the President finally has heard the voices of desperation throughout the country and that these have overcome the sterile statistics on the GNP that some of his advisors had used to convince him that the recession had ended. I would like to think that, although I would not be surprised that the voters of Pennsylvania might have had something to do with his turnabout as well.

I have heard those voices in Michigan, and I have been hearing them for a long time. In a very real sense, these are some of the continuing victims of the Reagan administration: an administration that burdened our economy with debt, weakened our trade policy with indecision, and decapitated our unemployment compensation system with a meat ax. When all of this was taking place, the American people were assured that even a more limited government would take care of the truly needy through a social safety net. Well, today we are acknowledging that the social safety net has gaping holes and many people are falling through it.

In my trips throughout Michigan I have met some of those victims. In Flint, MI, I met with Ron Eastwood, Tim Townsend, and Sharon McGough. Ron Eastwood is a construction electrician who has seen his $20,000 savings disappear to pay his bills after more than a year of unemployment. In previous recessions and slowdowns, he has managed to find work in distant areas, but not this time. He said that he feels like he has been hit over his head with a bat and that he has seen his dreams disappear.

Tim Townsend is a computer field engineer who has been out of work for 8 months. Sharon McGough has worked steadily for 15 years. Now, she has a new number to think about. She is on 52 different employment lists, hoping for a break and for a job. She told me that she prays for an extension of unemployment benefits and that it hurts to find out after all these years that the Government can disregard its own people.

In Grand Rapids, I met with three more victims of the recession. Bob Fotis has been a sheet metal worker for 26 years and is exhausting his savings. John Davis is a pipefitter with a wife and two children whose benefits ran out in June. He told me that his family can only take hard times for so long. Tim Caron told me that 150 people apply for every job that is advertised. He said:

> I fly the flag on the Fourth of July. I stand behind my country. But where is the help we need for our own people. It makes you wonder.

These people and many, many like them in Michgian will be helped by this legislation. Contrary to the bill originally endorsed by the President, this legislation on the floor today qualifies Michigan, a high unemployment State, for the top level of benefits, which is 20 weeks. It also provides benefits to tens of thousands of those in Michigan who are unemployed and who have already exhausted their benefits. They would have been left with nothing by the bill which the President originally endorsed.

I want to thank all of those who were instrumental in making this bill possible. It is not ideal. But, it is real, just as the suffering in the country is real.

Mr. WELLSTONE. Mr. President, we have before us a final agreement on a comprehensive package of extended benefits to unemployed American workers. This package of two bills will help hard-working people who need help. I urge my colleagues to support them.

I have worked in recent weeks to ensure that any benefits package enacted by the Senate provides the widest possible coverage to unemployed workers in my State, including those who have exhausted their benefits in the last 6 months, and I am grateful we have been able to build upon the House-passed version, developing a fairer and much more comprehensive package of benefits to workers in my State and across the Nation. Taken together, the two bills provide for unemployed Minnesotans a full 13 weeks of benefits and reach back to cover unemployed workers there who have exhausted their benefits in recent months.

I will vote for the first bill with the understanding that, as Majority Leader MITCHELL, Finance Committee Chairman BENTSEN, and Minority Leader DOLE have announced, the additional benefits provided in the second bill will be considered immediately by the House and sent to the White House for signature. I understand that the President has agreed to sign both bills. With this understanding, I enthusiastically endorse the overall agreement. It is time to move these bills together and get them signed into law and get extended benefit checks into the hands of unemployed workers—hopefully before Thanksgiving.

The long-term unemployed have waited much too long for these benefits, pawns in a game of political chess played by the Bush administration. For over 6 months, the administration has dithered, vetoing each attempt by this Congress to rush critical benefits to unemployed workers as the recession has deepened. But now, following the upset election of our colleague Senator WOFFORD, the administration has shown a new willingness to work out a compromise. I urge my colleagues to support this package, now paid for through a complex set of tax law changes and collection rules. And I urge the President to reconsider his persistent refusal to release these critical funds and sign both of the bills we will pass tonight: The original benefits bill and the measure, developed here in the Senate, which supplements benefits provided for in that original bill.

When I was back in Minnesota last weekend, I visited with unemployed workers—some 50 or 55 years old—who were frustrated, frightened, and anxious about prospects for the future. And let there be no mistake—this is not just a blue-collar problem. It cuts across class, income, and occupational boundaries. Many of these older workers—ironworkers, dislocated middle managers, white collar professionals, store clerks, bank tellers, bread bakers—complained that they were competing with their own children for $5 and $6 an hour jobs. During that same visit, I spoke with an unemployed, divorced woman recently forced to turn her kids back over to her former husband because she could no longer care for them.

These are not isolated stories. This is not anecdotal evidence. Every single day my offices get calls from long-term unemployed workers, desperate for jobs, and wondering in the short term if and when benefits would be extended, so they could feed their kids, heat their homes, and otherwise care for their families. For many in America, the situation is equally grim, and many are angry.

In that discussion, I found one of the things people were most frustrated and angry about was the administration's unwillingness to accept even a small package to extend unemployment benefits. Why, they ask, with $8 billion sitting in the UI trust fund—paid into the fund precisely for this purpose—was the President still refusing to release these benefits? The only answer I could offer was that he stubbornly refuses to recognize the urgency of the current recession, and the need for relief.

I have so strongly supported each successive unemployment bill because I believe they offered a first, concrete step toward enactment of a series of recession-relief measures designed to counter the painful effects of the economic downturn which continues to batter American workers. Over the last few months, the majority leader has outlined a comprehensive program of such measures, including tax relief for low and moderate income workers, and investments in our Nation's crumbling infrastructure, in health care, in expanding education and job training opportunities, and in approving the billions in construction funding included in the highway bill—any one of which, or several in combination, would provide the economic stimulus necessary to put this country back on its feet and enable us to compete in global markets.

In Pennsylvania last week, the people's cry for such programmatic initiatives was heard loud and clear: we need help now. These efforts, along with increased public investment and strengthened incentives for growth, are critical elements of such a recession-relief package.

This agreement extends Federal unemployment compensation benefits from 13 to 20 weeks past the current 26 weeks allowed, depending on the unemployment rate in each State. With this measure, approximately 1.6 million Americans who have exhausted their benefits would be eligible for additional benefits. Unemployment railroad workers would also benefit from this proposal, by provisions I and Senators KENNEDY, METZENBAUM, EXON and others insisted be included in the bill. Senate Finance Committee Chairman BENTSEN and Ways and Means Committee Chairman ROSTENKOWSKI included these provisions to provide authority for the Railroad Retirement Board to pay extended unemployment benefits to railroad workers covered by a separate system under the Railroad Unemployment Insurance Act. Following the debacle with the Presidential Emergency Board recommendations, the strike, and the new Board's unconscionable refusal to ignore every single union objection to the original Board's findings and conclusions, the least we could do is ensure that these benefits are also extended to this special category of American workers.

There are no indicators that the current recession has bottomed out—indeed several suggest it is worsening—and there is still a serious need for congressional intervention to help those who have borne the brunt of this recession. Since we started these discussions months ago, the state of the economy has deteriorated, with no significant improvement in sight. And this is especially true in the unemployment area. Again today we saw new figures released by the Bush administration which underscore the problem: retail sales down, jobless claims up, earnings in a slump.

According to the Department of Labor, over 3 million workers will exhaust their benefits this year, with an additional 3.4 million exhausting benefits next year. In June of this year alone, the number of unemployed workers climbed to 8.7 million; 2.2 million more than in June last year. The nationwide unemployment rate has risen to 7 percent, the highest in almost 5 years.

In recent months, another 300,000 workers exhausted their 26 weeks of benefits, leaving them in a double bind, without a source of income in the midst of an ever-tightening labor market. Even though some of my colleagues claim the recovery is just around the corner—claims which I note have been muted in recent weeks—we all know unemployment is a lagging indicator. If past recessions are any indication, workers will continue to exhaust their unemployment benefits well after the recession is technically over. In the last recession, long-term unemployment did not peak until at least 6 months after the recession was over.

Finally, I remind my colleagues that while the comprehensive benefits contained in these two bills address temporarily the emergency needs of unemployed American workers, we must not lose sight of the urgent need to overhaul the underlying unemployment insurance system. During this recession only 40 percent of the unemployed have received unemployment insurance benefits. The system is not working. I urge my colleagues on the Senate Finance Committee to consider seriously proposals for genuine, thorough reform designed to reverse its deterioration.

I would like to commend Chairman BENTSEN, Majority Leader MITCHELL, Minority Leader DOLE, and Senators CONRAD, FORD, and others who worked so long and hard to develop this agreement and engineer its enactment. But this whole process has taken too long, and American workers have suffered needlessly for months, because of the President's previous intransigence. I again urge my colleagues to support these two bills, and bring this episode to a swift and decisive close. Millions of unemployed workers need extended benefits now.

Mr. SANFORD. Mr. President, I am extremely pleased that the Senate has now resolved its temporary impasse over the Federal Supplemental Compensation Act, H.R. 3575. This bill will offer extended benefits to millions of unemployed workers throughout the country who have exhausted their regular unemployment insurance coverage. The impasse was serious, because as we debated, workers went without this vitally important benefit. Therefore we heard much during the past 2 days about how we should go ahead and pass this bill as it stood, that we didn't have time for debate or change. The President said that he wanted to sign a bill as soon as possible. The minority leader stated that we must move on with this legislation right away so that we could have the checks in the mail before Thanksgiving. But under the original proposal—the one that we were being urged to rush through Congress—tens of thousands of North Carolinians would not have gotten checks—not before Thanksgiving, not after Thanksgiving, not any time. And why was that? Certainly the fault did not lie with the group of Senators claiming we must address the problems in the original legislation. We should not be blamed for wanting to craft a bill that is more beneficial to the unemployed in our States. Rather, blame for the delay in passing an unemployment insurance bill must lie with the President. The reason that tens of thousands of unemployed people in my State have not been getting benefits up until now is because President Bush has not allowed them to. First, in August, the President refused to release funding for a strong unemployment insurance bill, claiming at that time that the recession was ending. Then in October, as the recession lingered on, the President coldly vetoed yet another bill. If President Bush had accepted either one of those bills, workers in North Carolina and throughout the country would be receiving benefits by now. And they would now be making car payments, house payments, maybe doing a little Christmas shopping. But because the President would not support our two earlier bills, extended unemployment insurance had not been able to play its important role as an economic stimulus and stabilizer. Thankfully, we have finally corrected that situation.

Yesterday we were told that the President and the Republican leadership were willing to enact a bill, but that we must accept the bill as it was, with no amendments, so that we could speed the process! A group of us, however, was unwilling to accept that. We knew we could do better for the people of our States. We knew that all unemployed workers should be treated fairly, regardless of where they lived. I knew that the people of North Carolina should receive retroactive benefits. There is no reason that an unemployment insurance extension bill should cut out those individuals who have been unemployed the longest. These out-of-work Americans, unable to find jobs in today's troubled economy, are precisely those most in need of an economic shot in the arm. And all States need the economic boost of extended benefits, for a substantial period of time and reaching back to cover those who have exhausted their UI benefits earlier in the year.

We have now passed a bill which will extend UI benefits for an extra 13 weeks in North Carolina. In addition, Tarheels whose benefits expired any time since March of this year will be eligible for reachback benefits. I am proud and pleased to have been a part of crafting this extremely important legislation. This bill serves the people of North Carolina well.

The PRESIDING OFFICER. The bill, H.R. 3575, is deemed read the third time. The question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Montana [Mr. BAUCUS] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

On this vote, the Senator from Utah [Mr. HATCH] is paired with the Senator from Wyoming [Mr. WALLOP]. If present and voting, the Senator from Utah would vote "yea" and the Senator from Wyoming would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 91, nays 2, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—91

Adams
Akaka
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn

Gore
Gorton
Graham
Gramm
Grassley
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—2

Brown
Conrad

NOT VOTING—7

Baucus
Cranston
Harkin
Hatch
Kerrey
Metzenbaum
Wallop

So the bill (H.R. 3575) was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TERMINATION OF CERTAIN PROVISIONS OF THE TRADE ACT TO CZECHOSLOVAKIA AND HUNGARY

The PRESIDING OFFICER. Under the previous order, the Finance Committee is discharged from H.R. 1724. The Senate will now proceed to its immediate consideration. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Who yields time to the Senator from Oklahoma?

Mr. DOLE. I yield 3 minutes to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank the Republican leader, Senator DOLE. I wish to compliment Senator DOLE and also Senator MITCHELL and others, but particularly Senator ROBB and Senator CONRAD and others, who really spoke up and talked about the inequity of the bill that we had before us, the bill that did not allow 18 or 19 States to have reachback, the bill that had many States receiving 6 weeks and other States, adjacent States, receiving 13 weeks. That bill was not fair. It was not equitable. But we fixed it. I think the legislative process has come up with a much better product, the product that we will pass in the next 15 or 20 minutes.

Mr. President, I compliment my colleagues and particularly those who had the courage to stand up before the train that was rolling down the tracks last night and to decry the fact that it was not a fair bill nor an equitable bill. I think, as a result of the efforts of many of us, we have made significant improvements. We have a bill that is much more fair to all concerned, a bill that is paid for, a bill that will be signed, a bill that will help provide needed relief to countless thousands throughout the United States.

Mr. MITCHELL. Mr. President, I yield to the Senator from North Dakota 3 minutes.

Mr. CONRAD. I thank the majority leader.

I thank the Senator from Oklahoma, who spoke up at a critical time this afternoon to help us get a fair result, and this is a far superior result than what we were presented with last night. I want to make clear that I voted "no" on the bill we just voted because it was the old formula. Now we are about to have a voice vote on the new formula, which is a dramatic improvement.

I thank also Senator FORD, of Kentucky, because, if he had not had the courage to stand up and object yesterday afternoon, we would have been presented with a fait accompli, and we would have had a much less fair result, which would have resulted in a situation in which there was reachback for some States, and 23 States would not have had it. We would have had a situation in which some people who had exhausted their unemployment benefits would have received an additional 6 weeks, some would have had an additional 20 weeks. That was not fair. The reachback provision affected 3,800 people in my State. They would not have received help even though they exhausted their benefits, even though in some States they would have had the reachback provisions, and that was not fair.

I also want to thank the two Senators from Louisiana, Senator BENNETT JOHNSTON and Senator JOHN BREAUX, who joined in the effort to make certain that there was a fair result here today, and to many others who chipped in as well, Senator BOREN, of Oklahoma, who spoke forcibly this afternoon; Senator WARNER, of Virginia; Senator GRASSLEY, of Iowa; Senator KASTEN, of Wisconsin; Senator KOHL, of Wisconsin, all of whom contributed to saying the original formula was unfair and ought to be changed; and to my friend from Minnesota, Senator WELLSTONE, who joined in the effort as well.

This was truly a team effort to get a fair result, and it could not have happened unless the leadership had been willing to hear our plea, hear our complaint, and respond to it. So I conclude by thanking the majority leader, Senator MITCHELL; the chairman of the Finance Committee, Senator BENTSEN; and the minority leader, Senator DOLE, for their patience and work today to achieve a fair result.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I yield back the remainder of my time.

Mr. DOLE. I yield back my time.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF CERTAIN ENROLLMENT REQUIREMENTS—H.R. 3575

Mr. DOLE. Mr. President, I ask the pending business be laid aside so that I might send to the desk for immediate consideration a joint resolution.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 232) waiving certain enrollment requirements with respect to the bill H.R. 3575.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The joint resolution is as follows:

S.J. RES. 232

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HAND ENROLLMENT AUTHORIZATION.

(a) WAIVER OF CERTAIN LAWS WITH RESPECT TO PRINTING OF ENROLLED BILL.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of the bill H.R. 3575 of the One Hundred Second Congress.

(b) CERTIFICATION BY COMMITTEE ON HOUSE ADMINISTRATION.—The enrollment of the bill shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

SEC. 2. SUBSEQUENT PREPARATION AND CERTIFICATION OF PRINTED ENROLLMENT.

(a) PREPARATION.—

(1) IN GENERAL.—Upon the enactment of the bill following its presentment to the President in the form of a hand enrollment

pursuant to the authority of section 1 of this resolution, the Clerk of the House of Representatives shall prepare a printed enrollment of the bill as in the case of a bill to which sections 106 and 107 of title 1, United States Code, apply.

(2) LIMITED STYLISTIC CORRECTIONS.—The printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style of printed laws, include corrections in spelling, punctuation, indentation, typeface, and type size and other necessary stylistic corrections to the hand enrollment. The printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(b) TRANSMITTAL TO PRESIDENT.—The printed enrollment prepared pursuant to subsection (a) shall be signed by the presiding officer of each House of Congress as a correct printing of the hand enrollment and shall be transmitted to the President.

(c) CERTIICATION BY PRESIDENT; LEGAL EFFECT.—Upon certification by the President that the printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment, such printed enrollment shall be considered for all purposes as the original enrollment of the bill and as valid evidence of its enactment.

(d) ARCHIVES.—The printed enrollment certified by the President under subsection (c) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing the bill for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

(e) HAND ENROLLMENT DEFINED.—As used in this section, the term "hand enrollment" means the enrollment, as authorized by section 1, of a bill for presentment to the President in a form other than the printed form required by sections 106 and 107 of title 1, United States Code.

Mr. DOLE. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

AMENDMENT NO. 1349

(Purpose: To provide modifications to the Emergency Unemployment Compensation Act of 1991)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. MITCHELL, Mr. DOLE, Mr. BIDEN, Mr. BOREN, Mr. BREAUX, Mr. BUMPERS, Mr. CONRAD, Mr. FORD, Mr. GRASSLEY, Mr. HEFLIN, Mr. JOHNSTON, Mr. KASTEN, Mr. KOHL, Mr. METZENBAUM, Mr. NICKLES, Mr. PACKWOOD, Mr. PRYOR, Mr. RIEGLE, Mr. ROTH, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. WARNER, Mr. PRESSLER, Mr. RUDMAN, Mr. SMITH, Mr. DURENBERGER, Mr. COATS, Mr. LUGAR, and Mr. WIRTH, proposes an amendment numbered 1349.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . MODIFICATION OF THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991.

(a) TWO-TIER APPLICABLE LIMIT.—

(1) Section 102(b)(2)(A) of the Emergency Unemployment Compensation Act of 1991 is amended by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) In the case of a 13-week period, the applicable limit is 13."

"(2) SPECIAL RULES.—A 20-week period shall begin in any State with the 1st week for which emergency unemployment compensation may be payable in such State under this title if, on the basis of information submitted to the Committee on Ways and Means of the House of Representatives by the Department of Labor on November 7, 1991, the requirements of subsection (c)(2) are satisfied by such State for the week which ends October 19, 1991."

(2) Section 102(d) of the Emergency Unemployment Compensation Act of 1991 is amended to read as follows:

"(d) 13-WEEK PERIOD.—For purposes of this section, the term '13-week period' means with respect to any State any period which is not a 20-week period."

(3) Section 102(f)(3)(A) of the Emergency Unemployment Compensation Act of 1991 is amended to read as follows:

"(A) IN GENERAL.—If any individual exhausted such individual's rights to regular compensation (or extended compensation) under the State law after February 28, 1991, and before the first week following November 16, 1991 (or, if later, the first week following the week in which the agreement under this Act is entered into), such individual shall be entitled to emergency unemployment compensation under this Act in the same manner as if such individual's benefit year ended no earlier than the last day of such following week."

(4) Section 102(g)(2) of the Emergency Unemployment Compensation Act of 1991 is amended to read as follows:

(5) Section 106(a) is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(6) Sections 102(f)(1)(B), 102(f)(2), 106(a)(2), and 501(b) (1) and (2) of the Emergency Unemployment Compensation Act of 1991 are each amended by striking "July 4, 1992" and inserting "June 13, 1992".

(7) Section 501(a) of the Emergency Unemployment Compensation Act of 1991 is amended by striking "July, 1992" and inserting "June, 1992".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the provisions of and the amendments made by the Emergency Unemployment Compensation Act of 1991."

Mr. BENTSEN. Mr. President, I understand all time has been yielded back on this side.

Mr. DOLE. All time is yielded back on this side.

The PRESIDING OFFICER. The Senator is correct. Is there objection to the adoption of the amendment?

Is there objection to adoption of the amendment and to its consideration as a substitute? The Chair hears none.

Mr. BENTSEN. It is not a substitute.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment.

The amendment (No. 1349) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I have a list of cosponsors, and I ask unanimous consent they be considered as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 1724), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. I particularly want to thank the distinguished ranking member of the minority on the Finance Committee, who assisted us time and time again in bringing this to a final, successful conclusion.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, let me also extend my thanks to not only those mentioned by the distinguished chairman of the Finance Committee, but also members of my staff, Sheila Burke, Nina Oviedo, Bob Jones, Mary Ann Wyrsch, and other members; officials of the Labor Department; and other staff members from other Senators on our side of the aisle who were very helpful.

Also, the minority leader of the House, Congressman MICHEL; and Chairman ROSTENKOWSKI; the Speaker, BILL ARCHER, the ranking Republican on the Ways and Means Committee; and other members of the Ways and Means Committee who provided bipartisan support.

I also want to thank Mr. Darman, the OMB Director, who has been working with us throughout, and I also want to indicate that I have talked to President Bush. As I understand, the enrolled bill is now on its way by car to Camp David, where the President will sign it as soon as it arrives. So there is a chance the checks could be in the mail in some States, maybe four or five States, as early as next week.

There will be some—assuming the House will take action on the bill being sent over now on Monday or Tuesday of next week—there will be some administrative problem, but I think it will probably be resolved very quickly.

Mr. President, as indicated by the chairman of the Finance Committee, I think we have reached the right result. We offer each State a reachback to March 1. We give all States 13 weeks; that is, all except those who were in the original bill who were getting 20 weeks, and for those States who had severe unemployment, they will continue, the same States will receive the 20 weeks.

We have always advocated a two-tier system, and this certainly will save administrative costs and a lot of headaches on the part of the Labor Department, and I think they will be pleased. So the bottom line is it is a true compromise. We took from both sides. More importantly, they are both responsible packages, both paid for, and, hopefully, our unemployed can start getting their checks very soon.

I think it has been said, but as we said last night a deal is a deal. I think the record should reflect that many of our colleagues disagreed with that, and I think, had we persisted, we might have prevailed. We might have upheld the original deal, but it would have taken a great deal of work, maybe a cloture vote or two, maybe not even completing action until sometime next week.

So my view is we have reached the right result. I am not saying the policy is the best.

The Senator from Delaware argues that the unemployed citizens in his State are being unfairly treated relative to the surrounding States. However, the surrounding States have much more severe measures of unemployment.

Let us take the exhaustion rate. Delaware's rate is the third lowest in the country at 16.7 percent; Pennsylvania is 28.8 percent; New Jersey is 48.1 percent; Maryland is 34.6 percent; and New York is 43.5 percent.

By another measure, the insured unemployment rate, all surrounding States have much higher levels than Delaware's which is 2.1 percent; Pennsylvania is 3.42 percent; New Jersey is 3.58 percent; Maryland is 2.76 percent; and New York is 3.39 percent.

I am sure that the Senator is pleased that as few people in his State have exhausted benefits and that they have found additional employment. I am sure that he would not want to make the argument that these data support providing retroactive eligibility, a provision which is designed to address States more severely impacted.

North Dakota has a very strange situation that is not explained by simply looking at the statistics. Their total unemployment rate is very low compared to the national average. In September, it was only 3.5 percent while the Nation as a whole was on average close to 7 percent. Similarly their insured unemployment rate is quite low—1.1 percent—the fourth lowest in the country. This is largely the result of the decision of the State to have a very constrictive law—limiting those who qualify and how long they can collect. But the biggest factor in North Dakota is the seasonal shift in their employment patterns.

Through most of the year the number of unemployed in the State is quite low by all measures. However during the winter, unemployment rates rise, dramatically distorting the estimates of the number of exhaustees in the State.

The reachback provisions are designed to pick up people who have been unemployed for a long period of time—in the case of North Dakota—a significant percentage of the exhaustees would have already returned to work.

From a policy standpoint, there are probably things that need to be corrected in any future bills. This is a temporary bill. It is paid for. And I think, all things considered, it is the right result.

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader and share the view that he expressed. I am convinced that had we not reached this agreement, we would have prevailed on the agreement. I think it would have been difficult, time-consuming, and we certainly would not have completed action today. It would have been sometime next week, and it would have been in a circumstance in which many Senators felt that the people in their States were not treated in the most fair and responsible manner.

Therefore, notwithstanding the fact that we would have prevailed, in my judgment, had the matter been contested, I believe that the result, providing a better, more fair, and more comprehensive distribution of benefits at an earlier time in the process, compensated for by reducing the length of the program slightly at the other end, was not only a more fair but, I think, a sound policy judgment because, in my view, the time for the expenditure of these funds and their availability to the individual involved is better now than next June when we all hope the economy will be recovering, and, indeed, this may be one step—no one knows how large or small—toward that end.

So I believe it is a good end, and I have said privately to the distinguished Republican leader and will say so publicly, it could not have happened without his constructive effort. There is no doubt in my mind about that. He and I and Senator BENTSEN have spent almost the entire past 24 hours meeting and discussing this matter, and it was a genuinely constructive and good-faith effort. At several crucial points the distinguished Republican leader made the critical suggestion or decision or agreement to enable us to move forward. It was a process of evolution throughout that period of time with ideas being contributed from all sides, resulting in this package.

I believe, Mr. President, that one of the benefits of this package is that this represents the broadest level of benefits of any of the bills that have been considered up to this point.

The irony of this situation is that there has been talk about what level of benefits ought to be accorded. There have been very different legislative proposals advanced. The one approved, and I hope promptly enacted into law, in all respects represents the broadest level made available to the largest number of people in the largest number of States at the earliest time. I think, therefore, if one views this in terms of the two objectives of the unemployment insurance program, that is, as an economic stabilizer to preserve purchasing power at times of economic downturn and to provide assistance to individuals in need, this program, the ultimate result of our efforts, meets those two objectives better than any of the previous efforts offered on either side. I think it is a classic example of the product of free, vigorous, competitive debate and consideration in a democratic society does produce the best result. So I think we can all look upon this as a valuable experience.

I want to repeat my statement made earlier, in response to a question by the distinguished Republican leader, that, so far as I am concerned, I will do everything possible to encourage the swift enactment of this package and will join in resisting any effort to do anything that might cause failure of this program or to create political embarrassment for anybody. We have now come a long, hard road. It has been very difficult. We are right now at the verge of getting this job done, and I think we all have an interest in getting it done. It has been one of many efforts in which we have been engaged and I think this one has been successful.

Mr. SARBANES. Will the leader yield for a comment, while both leaders are on the floor?

Mr. DOLE. If I could just say one thing, first of all, I wanted to make certain the RECORD reflected that I appreciate the majority leader's comments, and I wanted to say that that is the way we have tried to conduct our business, in a fair and open manner without any partisanship and the way it was done today because we had a problem on both sides. Whenever you have a formula, as I have said many times the last 24 hours, somebody is going to be on the fringe and somebody is going to feel that they were not treated fairly. I must say, as a matter of fact, some are going to get a pretty good windfall because of this latest formula, but at least, in their mind, it is fair. In the minds of the unemployed in each of those States, it is fair, and we still preserve the 20 States where they are really hit in some of the severe areas, so I think we have done the right thing.

But certainly the majority leader, in calling the meetings and extending the opportunity to make progress, was of great help, and it would not have happend without his patience. Again, I think even those who raised questions last night on both sides of the aisle certainly deserve credit. We may ourselves raise questions. They may be managing the bill the next time around, and I think they will understand.

But I think the important thing is we have had an evolution here in the last couple of months. We have had a lot of partisan rhetoric on both sides. The point is now the bill is on its way for signature. I am willing to sort of give everybody credit right now. I think there will be time for maybe partisan differences a little later. But I would like to see the second bill passed and signed, and I hope that can be done very quickly. It seems to me, if it can be done quickly enough, it might save a lot of administrative hassle for the Department of Labor.

So again I want to thank the majority leader and others who participated throughout the day.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I will not delay our adjournment this evening, but I would be remiss if I did not point out to our colleagues also and to the American people that the day has been, in my opinion, a fairly graphic demonstration of what can be accomplished when people of good will and concern on both sides of the aisle recognize a very serious inequity.

In my 17 years in the Senate, I must say, I have never felt as put upon as I did last evening when that extension of unemployment compensation benefits came over to the Senate. I, frankly, was incredulous that it was in the form it was and that it did as much damage to my State—not necessarily damage to my State, but compared to other States, Arkansas was one of the five States that took the biggest hit. And so naturally Senator PRYOR and Senators from other States, Senator FORD, from Kentucky, who is on the floor, could hardly believe that this was about to happen to our States.

We came here, all of us, to represent our States as best we could. We consider the national interest paramount to everything. Sometimes our States have to take a subordinated position to the national interest. We understand that. But when you are dealing with a situation, as we were, where the whole country is suffering from the recession and an unemployed person in Arkansas is suffering just as much as an unemployed person in California, Connecticut, Mississippi, or wherever but we are being treated quite differently, it was absolutely imperative that we assert ourselves in the strongest possible way. This morning the Breaux amendment began to set things in motion.

The majority leader deserves great credit, as does the Senator from Texas, Mr. BENTSEN, for heeding our cries and starting the negotiating process, and all is well that turns out well. I simply hope that all of this goes through without a hitch, and I believe that it will. Too many people deserve credit to name all of them, but I am just pleased that my State is a beneficiary of today's negotiations, as is Alabama, Kentucky, New Hampshire. I guess we are most indebted to New Hampshire, Mr. President.

But, having said that, I want to thank everybody who had any role in curing this gross inequity without our having to try to conduct a filibuster on a bill that should go through here to alleviate an awful lot of suffering and pain across the Nation.

Mr. President, that concludes my remarks. As I say, I thank the majority leader and the minority leader and everybody else. I especially thank Senator BREAUX, from Louisiana, for crafting what was a very creative amendment this morning that set this whole thing in motion.

I yield the floor, Mr. President.

Mr. SARBANES. Mr. President, it is with a great deal of focus, now that we have at last cleared this unemployment insurance bill on which we have had problems for the last 2 days.

I want to commend the majority leader and the Republican leader for their very instructive efforts in resolving the problems that existed here as we looked at how this legislation is going to work State-by-State. I think they have come up with a really positive and constructive solution.

We ought also to recognize that the end result of all of this, and what is happening, is that the unemployment benefits will now flow—assuming the signature of the President on these two pieces of legislation—to the American people who desperately need them and that this pressing problem has been addressed.

It has been a long path to get there. I hope to address it at somewhat greater length later in the session. But I want to again thank the majority leader for his strong leadership for many months in this effort; the chairman of the Finance Committee, Senator BENTSEN, who had the jurisdiction of the committee and brought it forth.

I also want to mention my colleagues, Chairman SASSER of the Budget Committee and Chairman RIEGLE of the Banking Committee, who followed this issue very closely through these many months, along with many, many others in this body as we finally have provided unemployment benefits, something that we have done in previous recessions which we had not done in this recession, to enable millions of people across the country to meet their obligations and hopefully give them some opportunity to work their way out of this situation.

I think the majority leader.

Mr. MITCHELL. Mr. President, I thank my colleagues very much for his very valuable contribution to this. He has been one of the leaders in this effort, calling attention to the problem, suggesting solutions to the problem.

I think it is fair to say that but for Senator SARBANES' leadership there would not be an unemployment compensation bill enacted in the Senate this evening.

So he deserves the gratitude not only of the people of his State but of the people all over the country.

CABLE TV REREGULATION

Mr. MITCHELL. Mr. President, over the past several weeks, I have had several conversations with the Republican leader and many other Senators regarding S. 12, the cable television regulation bill.

As I have stated here on the floor, and publicly in other forums, it has been my intention to bring the cable bill to the floor during this first session of the 102d Congress.

Even now, Mr. President, as we are just a few days away from completing our business this year, I would like to try to schedule the cable bill. However in my discussions with other Senators, I have been advised that several Senators would engage in extended debate and utilize all of the parliamentary tools available to them under the rules of the Senate to delay action, delay action and make it impossible for the Senate to take up the bill. And therefore it has become apparent that it would be impossible to complete action on the bill in this session.

Mr. President, it is my hope that we will shortly be able to get consent giving the majority leader authority to move directly to the cable TV bill shortly after the Senate returns for the second session of the 102d Congress. It is my intention to proceed to that bill hopefully with consent on or about January 27 of next year. That would be within a week after the Senate returns for the second session.

I have discussed this with a number of Senators, and I believe that this is a satisfactory method of handling this legislation.

Personally, I would like to bring it up this session. But it simply is not possible to complete action on it given the statements by several Senators of their intention to filibuster the bill, and to prevent the Senate from first getting to it and completing action on it.

While we certainly could get to it in this session under the rules, it would take so long to do so that I am convinced that it would be impossible to complete action on it this session under the rules. Therefore, I believe the best resolution is to get consent to authorize the majority leader to proceed to it at any time after the Senate covenes for the second session early next year, and that, if I do get that consent, I intend to proceed to it on or about January 27 of next year. If I do not get consent, then we will proceed to it in any event simply having to go through the required procedures under the rules with respect to a motion to proceed.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. MITCHELL. Yes, sir.

Mr. DOLE. I think, to say very quickly, it may be on Monday we may be able to give the majority leader the consent he has requested. I share the views he has expressed. I wish we could have brought it up this year, but it is going to take some time. We have some very strong objections from a number of Senators on both sides. But I think by Monday we may be in a position to give consent to the request.

Mr. MITCHELL. I thank the Republican leader for that statement.

Mr. HOLLINGS. Mr. President, I thank Senator MITCHELL, the majority leader, for scheduling S. 12, the cable bill, for floor consideration as soon as possible when Congress returns in January. Senator INOUYE, the chairman of the Communications Subcommittee, and Senator DANFORTH, the ranking member of the Commerce Committee, and I have worked with many Members to craft a bill that addresses the problems of rate increases and poor customer service while at the same time ensuring the continued growth of the cable industry. Consideration of this legislation is long overdue, and I look forward to the debate in January.

Mr. INOUYE. Mr. President, I rise today to commend the majority leader, Senator MITCHELL, for his efforts to reach an agreement to bring S. 12, the Cable Television Consumer Protection Act of 1991, before the full Senate as soon as Congress returns in January. This bill reflects a great deal of work and consideration by Senator DANFORTH, the author of this measure, Senator HOLLINGS, the chairman of the committee, and many other Members. I believe that this is one of the most important consumer bills before the Congress and that it is imperative that the Senate consider it promptly upon its return next year.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitting to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

DORENE KAY HANSON AND THE SPIRIT OF LAKE KAMPESKA

Mr. PRESSLER. Mr. President, I would like to take this opportunity to recognize Dorene Hanson of Watertown, SD. Dorene's achievements are a fine example of the vigorous spirit of voluntarism in South Dakota.

Dorene was awarded the Lake Kampeska Day Spirit Award for 1991. This award recognizes a volunteer who displays the most spirit in the celebration of Lake Kampeska Days in Watertown.

Lake Kampeska is one of the largest of many ancient glacial lakes located in the northeast corner of South Dakota. Lake Kampeska provides an excellent setting for all types of recreation. The Lake Kampeska Days celebration, which began in 1981 to promote and enhance water sports, celebrated its tenth anniversary this year.

I congratulate Dorene on her achievements and wish her the best in her future endeavors. Dorene is the daughter of Donald and Joyce Hanson of Bison, SD.

Mr. President, I request that a letter from Daniel Crouse, secretary-treasurer of the Lake Kampeska Days Committee, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 30, 1991.

DEAR SENATOR PRESSLER: South Dakota is the land of great faces—great places. One of the things that makes South Dakota a great place to visit is a three day mid-July celebration known as Lake Kampeska Days.

Watertown, South Dakota is the home to Lake Kampeska. One of many glacial formed lakes located in the northeast corner of South Dakota. Lake Kampeska provides a great place for all types of water activities. Lake Kampeska Days was originated in 1981 to promote and enhance these water sports, and to provide a place for local people to exhibit their talents. The weekend includes a sailboat regatta, volleyball tournament, Miss Lake Kampeska beauty pageant, skydiving demonstrations, jet ski races, and a one-mile swim sponsored by the American Red Cross.

Also during this three day celebration, the Lake Kampeska Day Spirit Award is given to recognize the volunteer efforts of an individual during the Lake Kampeska Days weekend. The person may be a contestant, spectator, advertiser or anyone who displays the most Kampeska Day spirit. This award began in 1989. This years Lake Kampeska Days Spirit Award was given to Dorene Kay Hanson. Dorey as we all know her, dedicated her time to producing an award winning volleyball tournaments. Her tireless efforts provided audiences with endless entertainment. Dorey, was really a life saver for us on the Lake Kampeska Days Committee. It was great to be able to turn the volleyball tournament over to someone like her and knowing that it would be done and done right!

Also Lake Kampeska Days celebrated its tenth anniversary in 1991. The event continues to expand and improve each year thanks to the support of people like Dorene Hanson. Combined with the business community and enthusiastic participation of the local service organizations, Lake Kampeska will be able to celebrate another wonderful 10 years.

Senator, thank you for your time in reading this letter. We appreciate all you have done for South Dakota and for the support of all the activities in the great state of South Dakota.

DANIEL "BUCK" CROUSE,
Secretary-Treasurer, Lake Kampeska Water Ski Club, Inc.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,435th day that Terry Anderson has been held captive in Lebanon.

EAST TIMOR RESOLUTION

Mr. PELL. Mr. President, I regret that Senator RIEGLE was inadvertently left off as an original cosponsor of Senate Concurrent Resolution 77, a resolution condemning the massacre of East Timorese civilians by the Indonesian military. Senator RIEGLE's statement on East Timor demonstrates his ardent support for human rights and the East Timorese people. I am glad to correct the RECORD to reflect this.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider nominations:

Calendar 405. Paul H. Cooksey, to be Deputy Administrator of the Small Business Administration; and

The following nominations reported today by the Committee on the Judiciary:

David R. Hansen, to be U.S. circuit judge;

Lacey A. Collier, to be U.S. district judge;

Wayne R. Andersen, to be U.S. district judge;

Sue L. Robinson, to be U.S. district judge;

Paul R. Matia, to be U.S. district judge;

Richard Cullen, to be U.S. attorney; and

Jerry G. Cunningham, to be U.S. attorney.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

SMALL BUSINESS ADMINISTRATION

Paul H. Cooksey, of Virginia, to be Deputy Administrator of the Small Business Administration.

THE JUDICIARY

David R. Hansen, to be U.S. circuit judge;
Lacey A. Collier, to be U.S. district judge;
Wayne R. Andersen, to be U.S. district judge;
Sue L. Robinson, to be U.S. district judge;
Paul R. Matia, to be U.S. district judge;
Richard Cullen, to be U.S. attorney; and
Jerry G. Cunningham, to be U.S. attorney.

STATEMENT ON THE NOMINATION OF JUDGE DAVID R. HANSEN OF IOWA

Mr. GRASSLEY. Mr. President, it is with great pride that I support the confirmation of Judge David R. Hansen of Iowa to a newly created position on the U.S. Court of Appeals for the Eighth Circuit. Judge Hansen has established an exemplary reputation as a judge in Iowa, having served for 10 years in the Iowa district court and 5 years as a Federal trial judge in the northern district of Iowa. Many members of the Iowa bar consider him to be one of the finest Federal judges ever to have served in the State. The President has definitely chosen the best person for the job.

I am also glad that my home State is getting a second Iowan on the court of appeals, for such representation is long overdue, given Iowa's contribution to the caseload and proportion of the population in the eighth circuit. I thank my colleagues for ensuring this would be the case with last year's Judicial Improvements Act. Along with District Judge Longstaff, who was sworn in earlier this month, the hard-working Judge Hansen should be able to make a significant contribution to clearing the backlog in Iowa's Federal courts.

I thank the chairman of the committee on the Judiciary, Senator BIDEN, and the ranking member, Senator THURMOND, for their swift attention to Judge Hansen's confirmation. I wish the best for Judge Hansen and his family, and look forward to reading the thoughtful appellate opinions he will soon be authoring.

STATEMENT ON THE NOMINATION OF LACEY A. COLLIER

Mr. MACK. Mr. President, it is with pleasure that I rise to strongly support Judge Lacey Collier's nomination to the U.S. District Court in the Northern District of Florida.

After serving over 20 years in the U.S. Navy, Judge Collier attended the Florida State University School of Law. During law school, he was a member of the Florida State Law Review and served as the notes and comments editor. Judge Collier graduated with honors from law school in 1977. Subsequent to taking the Florida Bar, he was invited by the Florida Supreme Court to deliver the acceptance speech on behalf of those who took the February 1978 Florida bar examination.

From 1977–84, Judge Collier worked as an assistant State attorney in Pensacola. He has served on the State Judicial Circuit Court since his appointment in 1984. During his tenure on the circuit court, he has been active on the Florida Supreme Court Committee on Standard Jury Instructions and as a member of the faculty of Florida New Judges College.

Judge Collier enjoys widespread support in his community and has earned the respect of the local bar association. I have received more than 500 letters and phone calls highly praising Judge Collier, not only as an outstanding jurist, but also as a civic leader, devoted citizen, educator, public speaker and family man. In one letter after another, Judge Collier is described as having made "a very definite and positive impact upon his community, both as a judge and as an interested member of the community." In tribute to this fine gentleman, Judge Collier in 1989 was the recipient of the Pensacola/BIP Professional Leader of the Year award.

To assist me in identifying qualified individuals for judicial vacancies in my State, I established a judicial advisory commission to make recommendations to me. The commission highly recommended Judge Collier for my consideration. The commission found him to be a superb candidate for the U.S. district court and I wholeheartedly concur.

Last week, Judge Collier appeared before the Senate Judiciary Committee and this morning the committee voted unanimously to forward Judge Collier's name to the full Senate.

I urge the Senate to confirm Judge Collier's nomination as U.S. district judge in the Northern District of Florida.

Thank you, Mr. President.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:40 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3508. An act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; and

H.R. 3709. An act to waive the period of Congressional review for certain District of Columbia acts.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 161. A concurrent resolution expressing the sense of the Congress that the American public should observe the 100th anniversary of moviemaking.

ENROLLED BILL SIGNED

At 7 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled bill:

H.R. 3575. An act to provide a program of emergency unemployment compensation, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3709. An act to waive the period of Congressional review for certain District of Columbia acts; to the Committee on Governmental Affairs.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The President pro tempore [Mr. BYRD] announced that on today, November 15, 1991, he had signed the following enrolled bill and joint resolution, which had previously been signed by the Speaker of the House:

S. 374. An act to settle all claims of the Aroostook Band of Micmacs resulting from the Band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes.

H.J. Res. 215. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 25, 1991 as "National Military Families Recognition Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, which were referred as indicated:

EC-2129. A communication from the Secretary of the Senate, transmitting, pursuant to law, a full and complete statement of the receipts and expenditures of the Senate, showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in my possession from April 1, 1991, through September 30, 1991; ordered to lie on the table.

EC-2130. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, selected acquisition reports for the quarter ended September 30, 1991; to the Committee on Armed Services.

EC-2131. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on alternative Peacekeeper missile test plans; to the Committee on Armed Services.

EC-2132. A communication from the President of the United States, transmitting, pursuant to law, a report on the status of efforts to obtain compliance by Iraq with the resolutions adopted by the United Nations Security Council; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-230. A joint resolution adopted by the legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"ASSEMBLY JOINT RESOLUTION NO. 36

"Whereas, Integrated pest management is important to the future of California's agricultural industry and the environment; and

"Whereas, Insect pests, such as the Lygus hesperus, cause great damage to the California cotton industry, at a cost of as much as $645 million a year; and

"Whereas, The application of insecticides on cotton would be reduced if biological control techniques could be implemented for pest control; and

"Whereas, An efficacious, nonchemical Lygus hesperus control program in the San Joaquin Valley will greatly enhance prospects for the biological control of cotton, seed alfalfa, and safflower insects in California and serve as a model for future pest control in complex cropping systems; and

"Whereas, The proposed New Mexico State University research project, the Integrated Management of Lygus hesperus in the San Joaquin Valley, would biologically control Lygus hesperus with augmentative releases of the Anaphes iole wasp, implement an insect evaluation system, and establish an insect control program based on the data from the evaluation study; Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California finds and declares that the Integrated Management of Lygus hesperus in the San Joaquin Valley is an essential part of the development of California's integrated pest management program and California's cotton pest control program in particular; and be it further

"*Resolved*, That the Legislature of the State of California finds and declares that the Integrated Management of Lygus hesperus in the San Joaquin Valley is an essential part of the development of California's integrated pest management program and California's cotton pest control program in particular; and be it further

"*Resolved*, That the Legislature of the State of California proclaims its full support for the United States Department of Agriculture to fund the Integrated Management of Lygus hesperus research project in the San Joaquin Valley; and be it further

"*Resolved*, That the Chief of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Department of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-231. A joint resolution adopted by the legislature of the State of Illinois; to the Committee on Appropriations:

"HOUSE JOINT RESOLUTION NO. 68

"Whereas, Abraham Lincoln was one of our country's most important presidents, a great leader, idealist, and dedicated public servant; and

"Whereas, His life story, which takes him from a log cabin to the White House, embodies the American promise of opportunity and the idea of equality and inspires school children and scholars alike all over the world; and

"Whereas, The National Park Service has completed a feasibility study for an Abraham Lincoln Research and Interpretive Center to be located near the Lincoln Home Historic Site in Springfield, Illinois; and

"Whereas, The proposed Research and Interpretive Center would provide a unique facility designed to bring together many historic resources to present the comprehensive story of the life of Abraham Lincoln for students, researchers, and the general public; and

"Whereas, The U.S. Congress has been asked to appropriate funds to allow completion of planning, utilities work, site acquisition and preparation, and initial construction of the interpretive facilities, in fiscal year 1992: Therefore, be it

"*Resolved, by the House of Representatives of the Eighty-Seventh General Assembly of the State of Illinois, the Senate concurring herein*, That we urge the United States Congress to approve the pending appropriation request to initiate development of the Abraham Lincoln Research and Interpretive Center in Springfield, Illinois; and be it further

"*Resolved*, That suitable copies of this preamble and resolution be presented to each member of the Illinois Congressional Delegation."

POM-232. A joint resolution adopted by the legislature of the State of Illinois; to the Committee on Banking, Housing, and Urban Affairs:

"HOUSE JOINT RESOLUTION NO. 50

"Whereas, The states have regulated banking institutions since the early days of our nation's history; and

"Whereas, The traditional authority of the states would be challenged by several proposals currently being discussed and advanced in Congress; and

"Whereas, Proposals which threaten the vitality of the dual banking system would reverse long-standing and successful relationships between the states and the national government; and

"Whereas, The dual banking system has fostered creativity and innovation at the state level which has often led to the development of banking products, services and laws which ultimately benefit citizens nationwide; and

"Whereas, These state-originated innovations include interstate banking, NOW accounts, expedited funds availability, Savings Bank Life Insurance, truth-in-savings laws, disclosure of community reinvestment ratings, electronic funds transfers, and credit card disclosure laws; and

"Whereas, State legislatures and state banking departments are best able to evaluate and respond to the needs and characteristics of local markets, businesses and communities; and

"Whereas, The dual banking system has ensured that the states have the authority and flexibility to respond to specific local needs, changes in technology and increased competition from both foreign businesses and non-banking corporations; and

"Whereas, State regulation has cultivated a responsive and desirable diversity in the size and type of financial institutions which serve the country, such as the existence of both stock and mutual institutions; and

"Whereas, The General Assembly and the Illinois Commissioner of Banks and Trust Companies have always emphasized the need to maintain a safe, sound and healthy banking industry; and

"Whereas, The State of Illinois has been, and continues to be, a leader in instituting banking laws and policies which have had a positive national impact, carefully utilizing its authority to regulate and grant powers to state-chartered banks; and

"Whereas, The Illinois Commissioner of Banks and Trust Companies regulates state-chartered banking assets in the State, overseeing state-chartered commercial banks and guaranteeing their financial integrity; and

"Whereas, The citizens, industries and businesses of the State of Illinois and the entire nation benefit from the dynamics of the dual banking system and its unique and complimentary system of state and national banks and regulators, which is similar to our system of government; and

"Whereas, Congressional proposals which hinder the dual banking system would limit these benefits; therefore, be it

"*Resolved by the House of Representatives of the Eighty-Seventh General Assembly of the State of Illinois, the Senate concurring herein*, That the Illinois General Assembly affirms its continued support for and commitment to a strong and viable dual banking system; and be it further

"*Resolved*, That the Illinois General Assembly pause in its deliberations to express its strong opposition to any proposals which would weaken or eliminate the dual banking system; and be it further

"*Resolved*, That the Illinois General Assembly urge the Illinois Congressional Delegation and Congress as a whole to prevent or defeat any such proposals; and be it further

"*Resolved*, That suitable copies of this preamble and resolution be presented to each member of the Illinois Congressional Delegation."

POM-234. A joint resolution adopted by the legislature of the State of Illinois; to the Committee on Commerce, Science, and Transportation:

"HOUSE JOINT RESOLUTION NO. 20

"Whereas, Foreign investment in Illinois represents international confidence in the State's economic future; and

"Whereas, Exports represent 12.6% of the State's total output of goods and services, up from 7.2% in 1985; and

"Whereas, Foreign firms employ a large number of people in Illinois, creating employment opportunities and considerable revenue for State and local governments; and

"Whereas, Illinois' ability to attract foreign investment fell from third place among the 50 states in 1985, to sixth place in 1987; and

"Whereas, The United States Department of Commerce and the President's Trade Representative have displayed considerable negotiation skills during the General Agreement on Tariffs and Trade (GATT) talks; and

"Whereas, Success in the GATT talks will result in considerable economic growth for Illinois firms, producing greater employment opportunities in the State; and

"Whereas, Illinois is in competition with 49 other states who are committing significant amounts of time, energy, and money to attract a greater share of foreign direct investment; and

"Whereas, Competition between states for foreign investment results in excessive incentive packages being awarded to foreign firms that would have located in the United States regardless of incentives; Now, therefore, be it

"*Resolved by the House of Representatives of the Eighty-Seventh General Assembly of the State of Illinois, the Senate concurring herein*, That we do hereby urge the Congress of the United States to propose a system of coordination and cooperation between the 50 states in matters relating to incentives to foreign firms; and be it further

"*Resolved*, That copies of this preamble and resolution be presented to members of the Illinois Congressional delegation."

POM-235. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION NO. 4

"Whereas, Over 7,200 miles of hazardous liquid pipeline exist in this state; and

"Whereas, The State Fire Marshal has full safety regulatory and enforcement authority over intrastate hazardous liquid pipelines; and

"Whereas, The State Fire Marshal acts as an agent for the federal Department of Transportation over hazardous liquid interstate pipelines within this state; and

"Whereas, As agent for the federal Department of Transportation, the State Fire Marshal has not been extended full enforcement authority over interstate pipelines; and

"Whereas, The pipeline rupture and fire on May 25, 1989, in San Bernardino, which killed two persons, injured dozens, and destroyed 10 homes, occurred on an interstate pipeline; and

"Whereas, Due to staffing constraints, the Office of Pipeline Safety in the federal Department of Transportation relies almost entirely on pipeline safety engineers employed by the State Fire Marshal to conduct inspections and otherwise ensure the safety of hazardous liquid pipelines within the state; and

"Whereas, Uniformity in pipeline safety regulations is important to the operation of interstate pipelines, and this uniformity is most likely to be achieved if federal pipeline safety requirements are considered sufficient by the states to prevent hazardous liquid pipeline disasters and to protect the public safety; and

"Whereas, It is important that the federal government take all appropriate action, in cooperation with state and local jurisdictions, to prevent hazardous liquid pipeline disasters and protect the public's safety; now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Hazardous Liquid Pipeline Safety Act of 1979, as amended, (49 U.S.C. Sec. 2001 and following) to authorize the federal Department of Transportation to extend to its state agents, such as the State Fire Marshal, full enforcement authority over interstate pipelines within a state; and be it further

"*Resolved*, That the Hazardous Liquid Pipeline Safety Act of 1979, as amended, be further amended to include provisions applicable to interstate hazardous liquid pipelines which achieve at least an equal level of structural integrity and operating safety as that provided for by Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code which, among other things, requires practices such as periodic examination and inspection of intrastate pipelines; and be it further

"*Resolved*, That the Hazardous Liquid Pipeline Safety Act of 1979, as amended, be further amended to authorize the federal Department of Transportation to require that an operator of a hazardous liquid pipeline, which will be newly constructed, notify the federal department or its state agent not less than 30 days before construction begins; and be it further

"*Resolved*, That the Hazardous Liquid Pipeline Safety Act of 1979, as amended, be further amended to require that, if an existing line is to be replaced or relocated in substantially the same structural configuration and it will be located within the existing right-of-way, or within a reasonable proximity of the existing right-of-way, or within a reasonable proximity of the existing right-of-way, but this replacement or relocation does not constitute new construction, the operator shall not later than the day that construction commences, provide the federal Department of Transportation or its state agent with a route map detailing the location of the replaced or relocated hazardous liquid pipeline; and be it further

"*Resolved*, That the Hazardous Liquid Pipeline Safety Act of 1979, as amended, be further amended to authorize the federal Department of Transportation to delegate to state agents, during major pipeline emergencies where public safety is threatened, the authority to order the shutdown of a hazardous liquid interstate pipeline; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the State Fire Marshal."

POM-236. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION NO. 8

"Whereas, On January 13, 1991, the army of the Union of Soviet Socialist Republics launched a severe and unprovoked assault on the independent state of Lithuania; and

"Whereas, This attack has reportedly killed many Lithuanian citizens and injured over 100 persons; and

"Whereas, The use of military troops to forcibly impose the will of the Soviet central government on citizens otherwise lawfully engaged in peaceful activities is totally contrary to the basic principles and goals of perestroika, glasnost, and democracy; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the California Legislature respectfully memorializes the President and Congress of the United States to likewise condemn the brutal predawn assault on the citizens of Lithuania that occurred on January 13, 1991, and to carefully review all forms of United States assistance presently being given to the Union of Soviet Socialist Republics; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-237. A resolution adopted by the Eastern Regional Conference of the Council of State Governments supporting the development of electronic telephone directories; to the Committee on Commerce, Science, and Transportation.

POM-238. A resolution adopted by the City Council of Seattle, Washington stating that high level nuclear wastes should not be moved through the Puget Sound are by water or land transportation; to the Committee on Energy and Natural Resources.

POM-239. A resolution adopted by the Eastern Regional Conference of the Council of State Governments opposing any attempt to weaken wetlands protection; to the Committee on Environment and Public Works.

POM-240. A joint resolution adopted by the Legislature of the State of Illinois; to the Committee on Finance.

"HOUSE JOINT RESOLUTION NO. 1

"Whereas, No American should be discouraged from working; and

"Whereas, Unfortunately, one group in our society is penalized severely for attempting to be productive citizens; and

"Whereas, The Social Security earning limits discriminate against older workers between the ages of 62 and 69; and

"Whereas, A worker in this age category loses $1 to $3 in Social Security benefits for every $2 or $3 of income exceeding the federal earning limits of $7,080 or $9,720; and

"Whereas, This penalty may amount to a steep 33% marginal tax rate; and

"Whereas, Nearly one million older workers lose some or all of their Social Security benefits as a result of the earning limits; and

"Whereas, The government should be encouraging all Americans to work and add to the nation's output; and

"Whereas, Studies have shown that as many as 700,000 older Americans have left the labor force due to the earning limits; and

"Whereas, The output of goods and services would increase by as much as $15.4 billion if those Americans were working; and

"Whereas, Government revenues would also rise by $4.9 billion, exceeding the cost of providing full Social Security benefits to these workers; and

"Whereas, These older Americans are the nation's most underused resource; and

"Whereas, The Freedom to Work is a fundamental right that should be enjoyed by all Americans; and

"Whereas, The repeal of the Social Security earning limits is essential if all Americans are to enjoy the Freedom to Work; therefore, be it

"*Resolved*. By the House of Representatives of the Eighty-seventh General Assembly of the State of Illinois, the Senate concurring herein, that the President of the United States and the United States Congress are hereby urged to repeal the Social Security earning limits by some measure such as the Older American Freedom to Work Act which is designed to encourage older Americans to be a vital part of our nation's work force; and be it further

"*Resolved*, That suitable copies of this preamble and resolution be presented to the President of the United States, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and each member of the Illinois Congressional Delegation."

POM-241. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION NO. 21

"Whereas, To promote safety of life and property at sea and the protection of the marine environment, the International Standards of Training, Certification and Watchkeeping for Seafarers were established in 1978; and

"Whereas, This international convention on crew standards has been ratified by 78 nations, including all the major maritime nations in the world with the exception of the United States; and

"Whereas, Foreign flag vessels carry 95 percent of all waterborne commerce into the United States; and

"Whereas, Ratification by the United States of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers would provide the United States Coast Guard with the authority to enforce crew standards on foreign flag vessels in United States waters; now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to ratify the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as established in 1978; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Secretary of Transportation, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Commandant of the United States Coast Guard."

POM-242. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION NO. 11

"Whereas, Saddam Hussein, the military dictator of Iraq, is a murderous tyrant bent on the violent conquest and domination of his Arab neighbors, who further seeks to determine the future of Israel and the Middle East as a whole; and

"Whereas, The brutal character of this man, Saddam Hussein, first became evident when, as a 14-year-old boy, he killed his first person; years later, after his rise to power, he ordered his troops to exterminate Kurdish villagers of his own nation, mercilessly slaughtering thousands of innocent civilians with poison gas; and

"Whereas, In July of 1990, Saddam Hussein, after amassing thousands of his troops on the border of his neighbor, Kuwait, assured the world that he had no designs on his neighbor; yet, only days after making those assurances, did, in fact, on August 2, 1990, ruthlessly invade this tiny, defenseless country, sending his tanks and army into the streets of Kuwait City, in order to annex his neighbor and seize vast reserves of petroleum and the property of the people of Kuwait, thereby shattering their precious right to live, work, and raise their children in peace and security; and

"Whereas, Saddam Hussein, through the troops under his command in Kuwait, is responsible for unspeakable acts of savagery, and has torn babies from their incubators and shot children in front of the eyes of their helpless parents; and

"Whereas, With 530,000 troops lodged in southern Iraq and Kuwait, Saddam Hussein posed and continues to pose an ominous threat to the Saudi Kingdom and world peace; and

"Whereas, On August 7, 1990, in response to this naked aggression and in order to prevent the further invasion which was imminent, the President of the United States ordered American troops into Saudi Arabia to establish a "Desert Shield" of defense; and

"Whereas, It became clear to virtually all of the civilized world, including Iraq's Arab neighbors, that Saddam Hussein, being in possession of chemical, biological, and other weapons of mass destruction, was also seeking nuclear capability; that, in addition to outright subjugation of any vulnerable neighbor, his clear design was to gain decisive leverage over world oil markets, thus threatening the stability of world peace and all free peoples; and

"Whereas, For the first time in history, this recognition brought about the coming together and mutual resolve of the United States, the Soviet Union, and the United Nations, which, through its Security Council, demanded the unconditional withdrawal of Iraq and the restoration of the legitimate government of Kuwait; and

"Whereas, The United Nations did further authorize the use of military force against Iraq if it refused to comply by January 15, 1991, and, in the interim, the world body did further establish a financial and trade embargo and blockade of Iraq, in an attempt to bring about the peaceful end of Iraq's occupation and aggression; and

"Whereas, President George Bush initiated reasonable means to seek the peaceful adherence of Iraq to the United Nations' resolutions, only to be rebuffed by a determined and intransigent Saddam Hussein; and

"Whereas, The Congress of the United States, after three days of open, somber debate, did, on January 12, 1991, grant to the President the authority to take any action he saw necessary, including the commitment of U.S. Forces into combat, to bring about the compliance by Iraq to the United Nations' resolutions, after the January 15 deadline has passed; and

"Whereas, On January 14, the diplomatic tether reached its end when U.N. Secretary-General Javier Perez de Cuellar could not persuade President Saddam Hussein to begin a pullout of Kuwait by January 15; and

"Whereas, On January 16, after five and one-half months of economic sanctions and diplomatic efforts, Saddam Hussein had refused to withdraw and the liberation of Kuwait had begun; with the authorization of Congress, the President ordered U.S. forces, in conjunction with our Arab and European allies, to unleash a massive bombing attack in an effort to force Iraqi armed forces from occupied Kuwait; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That we take to heart these words that were indelibly spoken two decades ago by President John F. Kennedy, that, "we will bear any burden, pay any price, meet any hardship, support any friend, oppose any foe, to assure the survival and the success of liberty"; and be it further

"*Resolved*, That this Legislature supports the resolute actions taken by President George Bush in pursuit of a policy crucial to the peace of the world; and be it further

"*Resolved*, That this Legislature condemns the brutal and unprovoked attacks on the State of Israel by Saddam Hussein, causing enormous suffering and death to innocent Israeli men, women, and children; and be it further

"*Resolved*, With great pride, we—the people of California—do rightfully and dutifully honor those patriotic young men and women of our armed forces who are carrying out their mission with professional excellence and exemplary bravery, so that others might be free and that world peace will be assured; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-243. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

ASSEMBLY JOINT RESOLUTION NO. 2

"*Whereas*, The Antarctic provides habitat for a broad diversity of fish and wildlife, including many rare and endangered species; and

"*Whereas*, Ninety percent of all the ice in the world, which contains seventy percent of all of the fresh water on Earth, is located on the Continent of Antarctica; and

"*Whereas*, The cold waters surrounding Antarctica absorb more carbon dioxide from the atmosphere than all of the rain forests combined; and

"*Whereas*, The Antarctic may well be worth far more to humanity intact, than it could ever be worth as a source of natural resources development; and

"*Whereas*, California recognizes that it is in the interest of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord; and

"*Whereas*, California acknowledges the substantial contributions to scientific knowledge resulting from international cooperation in scientific investigation in Antarctica; and

"*Whereas*, California agrees that the continuation and development of that cooperation on the basis of freedom of scientific investigation in Antarctica is in the best interest of science and the progress of all mankind; and

"*Whereas*, The governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America signed an agreement on December 1, 1959, to support and implement the Antarctic Treaty for the purposes of preserving the Antarctic environment and its heritage; and

"Whereas, The primary purpose of the treaty is to protect the exceptionally pristine Antarctic ecosystem of water, air, land, flora, and fauna; and

"Whereas, It is in the best interest of Californians to ensure that Antarctica is managed in the interest of all humankind, in a manner that conserves its unique environment, preserves its value for scientific research, and retains its character as a demilitarized, nuclear-free zone of peace, without harmful consequences to the local and global environment; and

"Whereas, There are currently 24 Antarctic Treaty Consultative (voting) Parties, and 14 NonConsultative (nonvoting) Parties; and

"Whereas, Treaty business is conducted in biennial meetings of the parties; and

"Whereas, The biennial meeting commenced in Santiago, Chile, on Sunday, November 18, 1990, continued through Friday, December 7, 1990, and considered the following protective measures: basic principles, institutions, decision making, monitoring, dispute settlement, marine pollution, waste disposal, protected areas, tourism, and environmental impact assessments; and

"Whereas, An agreement was reached to begin negotiations on a new instrument for the comprehensive protection of the Antarctic environment, and the principle of a prior environmental impact assessment before any human activity could take place was adopted; and

"Whereas, Nonagreement was reached regarding mineral activities, but a consensus to continue the various protection measures and the voluntary constraint of countries with respect to mineral activities was reached; and

"Whereas, The Consultative parties have agreed to continue negotiations on the drafting of a new international instrument for the conclusive protection of the Antarctic environment and dependent ecosystems at another meeting commencing in Madrid, Spain, on Monday, April 22, 1991, to continue through Tuesday, April 30, 1991; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the State of California memorializes the President and the Congress of the United States to direct the Secretary of State to enter into continued negotiations with the Antarctic Treaty Consultative Parties at the convention in Spain to conclusively designate Antarctica as an environmentally protected region and further recognize the region as a protected global ecological commons; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States and to the Secretary of State."

POM-244. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION NO. 41

"Whereas, A myriad of children are abducted from their families against their will, either by strangers or family members violating custody decrees, each year; and

"Whereas, The rising incidence of crimes against children, child abduction in particular, has left many families feeling vulnerable and afraid; and

"Whereas, On an average, 10 children have disappeared each day across the country in the last seven years; and

"Whereas, There are 1,710 active files on missing children in California; and

"Whereas, There have been over 481,000 attempted abductions and over 26,000 actual abductions nationwide since 1984; and

"Whereas, Of the children that have been abducted, 17,481 have been located alive, 225 have been located deceased, and 9,039 remain missing; and

"Whereas, In 1981, six-year-old Adam Walsh was kidnapped as he looked at toys in a Florida toy store and was later found brutally slain; now therefore, be it

"*Resolved*, by the Assembly and the Senate of the State of California, jointly, That we commit ourselves to the pursuit of policies that will protect our country's most precious resource, our children; and be it further.

"*Resolved*, That the Legislature condemns any crimes against innocent children, causing emotional or physical abuse, or death; and be it further

"*Resolved*, That the Legislature, sharing a common concern for children, recognizes National Missing Children's Day, May 25, 1991, as a day to cherish and protect children, and to pray for each and every child who has been met with harm; and be it further

"*Resolved*, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-245. A joint resolution adopted by the Legislature of the State of California; to the Committee Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 7

"Whereas, The Federal Food and Drug Administration is responsible for the safety, efficacy, and labeling of nonprescription drug products; and

"Whereas, Over the last decade, the Food and Drug Administration has permitted more prescription drugs to be switched to over-the-counter classification than in the entire previous history of United States government regulation of drug products for consumers; and

"Whereas, A number of these drugs can have serious side effects when taken incorrectly or in combination with certain other drugs; and

"Whereas, The vision-impaired and the elderly are the most susceptible to contraindication risk associated with overmedication and the combination of certain drugs; and

"Whereas, These risks can be minimized by improving the readability of drug labels, particularly the information regarding dosage and contraindication risks; and

"Whereas, The Legislature at its 1989–90 Regular Session passed, and the Governor signed, Section 26637.5 of the Health and Safety Code which encourages drug manufacturers who sell nonprescription drugs in the State of California to improve the readability of nonprescription drug labels; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California hereby proposes that the Federal Food and Drug Administration promulgate and enforce regulations which improve the readability of all nonprescription drug labels; and be it further

"*Resolved*, That the Legislature of the State of California respectfully memorializes the Congress and the President to enact legislation which would address the concerns set forth in this measure; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this measure to the President and the Vice President of the United States, the Speaker of the House of Representatives, the Chairpersons of the House and Senate Committees on Aging, and to each Senator and Representative from California in the Congress of the United States."

POM-246. A joint resolution adopted by the Legislature of the State of California; to the Committee Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 17

"Whereas, California has a longstanding policy commitment to ensure that every person wishing to benefit from higher education would have access to an education through the California Community Colleges, regardless of how he or she fares in high school; and

"Whereas, California's commitment to an accessible community college system was institutionalized in the comprehensive 1960 Master Plan for Higher Education, and has been repeatedly reaffirmed and reinvigorated in periodic reviews of the Master Plan; and

"Whereas, California law prohibits a community college from denying any student access to the institution based on the results of a standardized test; and

"Whereas, California law further establishes a student matriculation process which serves as an effective means for assessing a student's ability to benefit from higher education and providing that student with necessary guidance counseling; and

"Whereas, Public Law 101–508 and implementing regulations of the United States Department of Education require all students at colleges and universities to possess a high school diploma, or its equivalent, or pass an independently administered standardized exam approved by the department; and

"Whereas, Any college which does not comply with these regulations will lose all eligibility for federal funding under Title IV of the Higher Education Act; and

"Whereas, As a result of these regulations, nearly 136,000 first-time community college students would have to be tested annually in California, and a disproportionate number of these students come from an ethnic and economic status for whom the community colleges represent true economic opportunity; and

"Whereas, Communities of color are rapidly becoming the majority in the state and a large percentage of these are Latino, African-American, and other minorities; and

"Whereas, The high school completion rate for Latinos and African-Americans is a mere 54 percent and almost 60 percent of all Latinos in postsecondary education are enrolled at community colleges; and

"Whereas, California's 107 community colleges could lose more than $271 million in federal aid, including $151 million in direct aid to financially eligible students, if they are unable to comply with the new federal policy; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California memorializes the President and the Congress of the United States, to immediately set aside the Department of Education regulations conditioning institutional eligibility for federal postsecondary education aid upon the possession of a high school diploma or passage of a standardized test by all students at an educational institution; and be it further

"*Resolved*, That the California Legislature further memorializes the Congress to expeditiously pass, and the President to sign, legislation allowing California to maintain its commitment to ensuring access to higher education through the community colleges free of any federally imposed admissions test; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Education, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM-247. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 22

"Whereas, Historically the United States was founded upon the principle that all people are created equal; and

"Whereas, In practice, discrimination against individuals based solely upon their color, religion, gender, or national origin has been an unfortunate part of this country's history; and

"Whereas, Some of the ways this discrimination has manifested itself is in the areas of housing, job opportunities, and education; and

"Whereas, For most of our country's history, it has been difficult for minorities to achieve equal opportunities and change has been slow in coming; and

"Whereas, The Constitution of the State of California explicitly states that no citizen may be granted privileges not granted to another; and

"Whereas, The citizens of the State of California are committed to the ideals of democracy and justice advanced by our Federal and State Constitutions; and

"Whereas, In 1963, the Reverend Dr. Martin Luther King, Jr. wrote from the Birmingham jail, "Injustice anywhere is a threat to justice everywhere;" and

"Whereas, The Civil Rights Act of 1964 dramatically strengthened laws preventing discrimination in employment and injustice in other areas, and was a landmark in this country's efforts to ensure equality to all citizens; and

"Whereas, In a series of recent decisions addressing employment discrimination claims under federal law, the Supreme Court of the United Sates cut back on the scope and effectiveness of civil rights protections; and

"Whereas, Existing protections and remedies under federal law are not adequate to deter unlawful discrimination or to compensate victims of discrimination; and

"Whereas, It is incumbent upon the California Legislature to request that the Congress restore the civil rights protections which were so dramatically limited by these recent Supreme Court decisions, and to strengthen the existing protections and remedies available under civil rights laws, in order to provide more effective deterrence of discrimination, and adequate compensation for the victims of discrimination; and

"Whereas, There is a bill currently moving through Congress, House Resolution 1, that is designed to restore and strengthen the civil rights laws banning discrimination in employment and to accomplish other purposes; and

"Whereas, This bill, the Civil Rights Act of 1991, would restore the prohibition against racial discrimination in the creation and enforcement of contracts, restore the burden of proof of unlawful employment practices in disparate impact cases, clarify the prohibition against impermissible consideration of race, color, religion, sex, or national origin in employment practices, facilitate prompt and orderly resolution of challenges to employment practices that carry out litigated or consent judgments or orders, grant all protected classes the same right to recover damages for intentional employment discrimination, and restore strong civil rights enforcement; now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of California, jointly,* That existing protections and remedies available under federal civil rights laws should be strengthened to provide more effective deterrence and adequate compensation for victims of discrimination; and be it further

"*Resolved,* That the Legislature of the State of California respectfully requests the President and the Congress of the United States to pass House Resolution 1, the Civil Rights Act of 1991, which responds to recent decisions of the Supreme Court of the United States by restoring the civil rights protections that were limited by those decisions; and be it further

"*Resolved,* That the Chief Clerk of the Assembly shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-248. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Labor and Human Resources:

"HOUSE RESOLUTION NO. 252

"Whereas, A $24-million federal program that helps rural hospitals is in jeopardy; and

"Whereas, Rural health care transition grants from the Department of Health and Human Services are given to help hospitals change their menu of services; and

"Whereas, Between 1980 and 1988, two hundred rural hospitals were forced to close their doors; and

"Whereas, Congress should consider tailoring the program to benefit weak rural hospitals that have a chance of survival; and

"Whereas, These grants should also be used to strengthen emergency services or to train emergency medical personnel; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Seventh General Assembly of the State of Illinois, That we urge Congress to support rural health care transition grants and to consider tailoring the program to help weak rural hospitals stay in business; and be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the Speaker of the U.S. House of Representatives, the President of the Senate, each member of the Illinois Congressional delegation, and to the Director of the General Accounting Office."

POM-249. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Labor and Human Resources:

"HOUSE RESOLUTION NO. 893

"Whereas, There is a demonstrated need to expand and coordinate international faculty and student exchange programs throughout the State of Illinois to ensure accessibility, especially for minority students and faculty members, at public institutions of higher education; and

"Whereas, There is a lack of coordination and poor distribution of opportunity among all student and faculty exchange programs at public institutions of higher education; and

"Whereas, The largest concentration of minorities in Illinois is located in the Chicago area, with Northeastern Illinois University being strategically positioned in the community with respect to those minority concentrations; and

"Whereas, There is a need for a central office for international faculty and student exchange programs that will guarantee their accessibility to all students and faculty, and particularly to minority students and faculty members, at public institutions of higher education; and

"Whereas, An international faculty and student exchange program with African and Caribbean nations will promote good will and harmony within, and foster understanding and the sharing of educational concepts and principles among African and Caribbean nations; and

"Whereas, It is the role of public institutions of higher education in Illinois to provide the best education possible for the citizens of this State, and a multi-cultural international student and faculty exchange program, with emphasis on Africa and the Caribbean, will be of major assistance in the effort to provide that education: Therefore be it

"*Resolved, by the House of Representatives of the Eighty-Seventh General Assembly of the State of Illinois,* That Northeastern Illinois University. Center Inner City studies is strongly encouraged to establish an international faculty and student exchange program with various African and Caribbean nations; and be it further

"*Resolved.* That the Illinois Board of Higher Education support, through its resources, the development of the African and Caribbean Exchange Program in efforts to seek funding support from the federal government and private philanthropic organizations; and be it further

"*Resolved.* That the President and Faculty Senate of Northeastern Illinois University assume responsibility for reallocating and developing resources as necessary to support and implement the African and Caribbean Exchange Program; and be it further

"*Resolved.* That suitable copies of this resolution be presented to each member of the Illinois congressional delegation, to the members of the Illinois Board of Higher Education and to the Presidents of all public institutions of higher education in this State."

POM-250. A resolution adopted by the Senate of the State of Michigan; to the Select Committee on POW/MIA Affairs:

"SENATE RESOLUTION NO. 218

"Whereas, In the apparent move toward full diplomatic and trade relations with the nation of Vietnam, it is essential for our government officials not to lose sight of the fact that, for thousands of American families, our war in Indochina has never ended. A total of almost 2,300 Americans are still listed as missing or unaccounted for in this region; and

"Whereas, The recent publication of a snapshot that may be a picture of three United States servicemen who have been missing for as many as twenty-five years has rekindled speculation that there are, indeed, many Americans still held prisoner in the region. The photo, while much uncertainty surrounds it, raises many legitimate questions, including speculation as to how seriously the cause of identifying and locating POW/MIAs has been pursued; and

"Whereas, Just as the United States is united in its gratitude and respect for the men and women who now have returned from the Persian Gulf, our country must remain united on the issue of accounting for every American lost in our war with Vietnam. For the thousands of Americans who continue the nighmare of uncertainty each day, we owe nothing less than our full and committed effort; now, therefore, be it

"*Resolved by the Senate*, That we hereby memorialize the Congress of the United States not to establish full relations with Vietnam until there is a true accounting of all POW/MIAs from the war in Indochina; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States Senate, and Speaker of the United States House of Representatives, and the members of the Michigan Congressional delegation."

POM-251. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Rules and Administration:

"SENATE JOINT RESOLUTION 91S2-2

"Whereas, The Smithsonian Institution has expressed interest in expanding the National Air and Space Museum; and

"Whereas, A number of sites have been suggested as possible locations for the Smithsonian National Air and Space Museum Extension; and

"Whereas, H.R. 3281, the "National Air and Space Museum Expansion Site Selection Act of 1991", has been introduced in the United States House of Representatives; and

"Whereas, Companion legislation will soon be introduced in the United States Senate; and

"Whereas, This legislation sets forth a fair and equitable site selection process through which all potential sites, including but not limited to Washington, D.C., may be proposed and considered on their merits according to criteria relevant to the needs of the public and the efficient operation of such a facility; and

"Whereas, Denver's Stapleton International Airport has many inherent advantages over other suggested sites and is particularly well suited to serve as the site of the National Air and Space Museum Extension; and

"Whereas, Stapleton International Airport could form the basis for a highly competitive proposal under any objective set of criteria; and

"Whereas, Locating the National Air and Space Museum Extension at Stapleton would save the taxpayers of the United States well in excess of one hundred million dollars; and

"Whereas, Locating a branch of the Smithsonian Museum in the western United States would enable millions of new visitors to experience, first-hand, the treasures of the Smithsonian; and

"Whereas, The Smithsonian National Air and Space Museum Extension would provide an unparalleled educational resource for the people of Colorado and of the western United States in general; and

"Whereas, The Smithsonian National Air and Space Museum Extension would attract over a million out-of-state visitors per year, many of whom would take advantage of their visit to tour Colorado and other western states; and

"Whereas, Stapleton International Airport is at present the only site in the western United States under consideration; now, therefore,

"*Be It Resolved by the Senate of the Fifty-eighth General Assembly of the State of Colorado, the House of Representatives concurring herein*:

"(1) That the General Assembly supports the establishment of a fair and equitable process for the selection of a site for the Smithsonian National Air and Space Museum Extension.

"(2) That the General Assembly urges the adoption of H.R. 3281 and its companion legislation in the Senate.

"(3) That the General Assembly applauds and supports efforts to secure the location of the Smithsonian National Air and Space Museum Extension at Stapleton International Airport, and urges the Regents of the Smithsonian Institution to give this uniquely qualified site their favorable consideration.

"(4) That upon the passage of H.R. 3281 and its companion legislation, the General Assembly will work with the City of Denver, the county of Adams, the administrators of Stapleton International Airport, Air and Space West, Inc., and other persons and entities, both public and private, to assist them in their efforts to prepare a competitive and comprehensive proposal for consideration under this legislation.

"*Be It Further Resolved*, That copies of this resolution be transmitted to Governor Roy Romer, to the Regents of the Smithsonian Institution, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the chair of each of the committees considering H.R. 3281 and its companion legislation, to the Mayor of the City and County of Denver, to Air and Space West, Inc., and to the congressional delegation representing the State of Colorado in the Congress of the United States."

POM-252. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs:

"ASSEMBLY JOINT RESOLUTION NO. 15

"Whereas, Over 470,000 American men and women have been uprooted from their families and peacetime careers to sacrifice their time and risk their lives for their country; and

"Whereas, People of different philosophies and views on the United States government's military policies undertaken in the Persian Gulf nevertheless, unite in respect for the sacrifices suffered by America's men and women serving in Operation Desert Storm; and

"Whereas, Those sacrifices also were borne stateside by military dependents whose reservist parents were called to active duty, and who were forced to leave behind their children, often with inadequate child care; and

"Whereas, The veterans returning from Operation Desert Storm deserve the appreciation of their government in the form of improved opportunities in housing, education, and health care; and

"Whereas, The veterans of this war deserve not only praise today, but the benefits of important services now, and when they return home from battle; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California proclaims its commitment to honor the individual men and women who will return as veterans of Operation Desert Storm; and be it further

"*Resolved*, That the Legislature hereby states its commitment to pursue, and urges the Congress of the United States to consider enacting, a series of benefits to aid those California residents serving in support of Operation Desert Storm, including, but not limited to:

"(1) Provision of child care for military reservists and national guard members while called to active duty away from home.

"(2) Eligibility for the CAL-VET home loan program.

"(3) Conformity with recently passed federal law by exempting military pay from state income taxation.

"(4) Creation of a system to assure adequate health care and counseling for returning veterans.

"(5) Waiver of tuition and fees at state colleges and universities for those returning veterans who desire educational advancement; and be it further,

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations, with an amendment in the nature of a substitute and an amendment to the title:

H.J. Res. 157. A joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 102-216).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1179. A bill to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants (Rept. No. 102-217).

S. 1187. A bill to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes (Rept. No. 102-218).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

William Pelham Barr, of Virginia, to be Attorney General.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Richard Cullen, of Virginia, to be U.S. attorney for the Eastern District of Virginia for the term of 4 years;

Jerry G. Cunningham, of Tennessee, to be U.S. attorney for the Eastern District of Tennessee for the term of 4 years;

David R. Hansen, of Iowa, to be U.S. circuit judge for the Eighth District;

Paul R. Matia, of Ohio, to be U.S. district judge for the Northern District of Ohio;

Lacey A. Collier, of Florida, to be U.S. district judge for the Northern District of Florida.

Wayne R. Anderson, of Illinois, to be U.S. District Judge for the Northern District of Illinois; and

Sue L. Robinson, of Delaware, to be U.S. district judge for the District of Delaware.

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 102-7. The Convention for the Prohibition on Fishing With Long Driftnets in the South Pacific (Exec. Rept. No. 102-20).

Treaty Doc. 102-4. Amendment to the Montreal Protocol on Substances that Deplete the Ozone (Exec. Rept. No. 102-21).

TEXTS OF REPORTED RESOLUTIONS OF ADVICE AND CONSENT TO RATIFICATION

Resolved (two thirds of the Senators present and concurring therein) That the Senate advise and consent to the ratification of the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, done at Wellington on November 24, 1989 (the "Wellington Convention"), and Protocol I, done at Noumea on October 20, 1990, to the Wellington Convention, subject to the following understandings:

1. That the United States signed the Convention in its own name and on its own behalf because a portion of its exclusive economic zone is located within the Convention Area. It is the United States understanding that upon becoming a party to the Convention the United States will be obligated to prohibit driftnet fishing in all areas of its exclusive economic zone within the Convention Area, and to prohibit all United States nationals and vessels documented under United States laws from fishing with driftnets in the Convention Area.

2. That Article 3 provides for measures consistent with international law to restrict driftnet fishing activities by vessels within areas under a party's fisheries jurisdiction. It is the United States understanding that the measures in Article 3 will only be applied when consistent with navigation and other international transit rights under customary international law and as reflected in the 1982 United Nations Convention on the Law of the Sea.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of an Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted at London on June 29, 1990, by the Second Meeting of the Parties to the Montreal Protocol.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. GORE and Mr. HATFIELD):

S. 1974. A bill to establish a program to increase the level of science and technology cooperation between the United States and Latin America; to the Committee on Foreign Relations.

By Mr. SPECTER:

S. 1975. A bill to establish a dislocated workers educational training demonstration program; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself, Mr. AKAKA and Mr. SIMON):

S. 1976. A bill to amend the Immigration and Nationality Act to provide for prompt parole into the United States of aliens in order to attend the funeral of an immediate blood relative in the United States and to deny parole status to aliens who are excludable from admission into the United States; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. HOLLINGS and Mr. DANFORTH):

S. 1977. A bill to amend the Federal Aviation Act of 1958 to permit the Secretary of Transportation to authorize certain foreign investment in United States air carriers in excess of 25 percent; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE:

S. 1978. A bill to amend title XVIII of the Social Security Act to remove the payment limitation imposed under such title with respect to the furnishing of psychiatric services in a nursing facility; to the Committee on Finance.

By Mr. MCCONNELL:

S. 1979. A bill to provide greater certainty in the availability and cost of liability insurance, to eliminate the abuses of the tort system, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. DANFORTH and Mr. HOLLINGS):

S. 1980. A bill to amend the Federal Aviation Act of 1958 to permit the Secretary of Transportation to authorize certain foreign investment in United States air carriers in excess of 25 percent.

By Mr. DOLE:

S.J. Res. 232. A joint resolution waiving certain enrollment requirements with respect to the bill H.R. 3575; considered and passed.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. GORE, and Mr. HATFIELD):

S. 1974. A bill to establish a program to increase the level of science and technology cooperation between the United States and Latin America; to the Committee on Foreign Relations.

INTER-AMERICAN SCIENTIFIC COOPERATION ACT

• Mr. BINGAMAN. Mr. President, today I rise to introduce the Inter-American Scientific Cooperation Act of 1991. This legislation is aimed at increasing our scientific and technological ties with nations of Latin America. The United States is a world leader in science and technology. In order to maintain and strengthen our leadership, the United States needs to reevaluate our current process for science and technology cooperation. Unfortunately, cooperative efforts between the United States and one of our most important partners, Latin America, have declined in the past 20 years. This bill seeks to reverse this trend by establishing a strong alliance in joint research and education between Latin America and the United States.

Recently, our relationship with Latin American nations has been highlighted by debates over fast-track status for United States-Mexico free trade negotiations, and over a Western Hemisphere free trade zone. We need to develop a foreign policy with our Latin American neighbors which is consistent and which is desirous of supporting and developing common interests in science and technology. Our economic competitiveness has been declining and we need new international markets for our exports. It is good policy for us to forge scientific and technological partnerships with Latin America now, as a basis for establishing economic markets later.

This bill seeks to establish a strong alliance in joint research and education between Latin America and the United States. The rapid rate of advancement in science and technology has made it difficult for Latin American countries to keep abreast of these global changes.

We are a part of a global, changing economy and the impact of this economy on such areas as the global environment is only too slowly, too painfully being recognized. For example, we are only beginning to understand the potential climactic consequences of acid rain and global warming. These are not isolated national problems but problems that are international in scope and will need cooperative efforts between developed and underdeveloped nations as we attempt to overcome them. This bill is a step toward reinvigorating cooperation between the United States and Latin America.

As the Latin American nations strive to increase the standard of living for their people and as we strive to become more economically competitive with other industrialized nations in Europe and Asia the need for cooperation between the nations of Latin America and the United States becomes evident. The United States would not only aid Latin America but would also benefit from expanded trade and investment relations. Unique natural environments and conditions in Latin America also make Latin America a critical area for research opportunities for U.S. scientists.

As a result of the political and economic turmoil in Latin America in recent years, these nations have had an extremely difficult time in developing their scientific and technological resources. In addition, a new generation of advanced technologies, microelectronics, biotechnologies, new materials, and new energy technologies, present a new set of challenges and problems for science and technology activities all over the world. Hence, the rapid rate of advancement has made it difficult for Latin American countries to keep abreast of the latest global scientific developments.

Cooperation between Latin America and the United States has declined. As a result, Latin America has looked to Europe and Japan for scientific and technological training. This trend, in conjunction with the increased emphasis on science and technology in the national development plans of many Latin America nations, will mean a loss of United States influence if we do not act to reassert our interest in this area. Such a reawakening of United

States-Latin American cooperation is not only possible but imperative. The bill I am introducing today is but one step, albeit an important step, in establishing the proper relation for cooperation.

Increased science and technical cooperation would not only aid Latin America but would also benefit the United States. Unique natural environments and conditions make Latin America a critical area for research opportunities for U.S. scientists. For example, to thoroughly investigate such topics as the deforestation of the Amazon Basin and its contribution to global climate change and species diversity, U.S. scientists need stable working relationships with Latin American scientists and access to these environments.

The new inter-American scientific cooperation program within the NSF would consist of several elements. The first is an expansion of funds. At present, NSF funds joint research projects between the United States and Latin America through its international division, with funding under $1 million. This bill would expand the scope of joint research activities with an authorization of $10 million in fiscal year 1992 and up to $10 million in fiscal year 1993.

The bill would also increase the number of Latin American exchange students eligible to study in the United States. Since the peak year of 1982, enrollment of Latin American students in the United States has dropped by 31 percent; Latin American students tend to elect to study in Europe and in Japan. This trend has been fostered by several factors including the Latin American debt crisis, devaluation of currencies, decline of oil revenues, rise in the cost of education in the United States, improvement in indigenous opportunities, and increased opportunities in other Latin American countries, Europe and, Japan.

In order to reverse these trends, the bill establishes the Inter-American Scientific Educational Development Exchange to provide graduate and postdoctoral fellowships, both for Latin Americans studying in the United States and for United States students who wish to study in Latin America. There will be an exchange of information and technical assistance between the scientists and engineers of both countries interested in establishing data bases and computer linkages.

These exchanges are investments in our political future. As part of the future leadership in their homelands, these students will play key roles in determining the political and economic alliances that the region will make in the next century. This type of communication link is critical for strengthening the Latin American scientific infrastructure.

This act encourages the use of debt for science exchanges to finance cooperative scientific research projects. A United States-Mexico Binational Science Endowment is authorized under this act. The endowment is established exclusively for scientific and educational purposes. The endowment will be funded through debt for science exchanges, as well as, direct governmental or nongovernmental contributions.

Mr. President, the viability of the U.S. economy is inescapably linked to the world economy; America no longer occupies the position of dominance it once did. A successful Latin America will be fundamental to world economic growth and thus to our own. No other nation has closer ties to and greater interest in Latin America than the United States. Increased cooperation in science and technology is an important way for the United States to help Latin American nations grow and prosper. It is my sincere hope that my colleagues will support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Inter-American Scientific Cooperation Act of 1991".

SEC. 2. FINDINGS AND DEFINITIONS.

(a) FINDINGS.—The Congress finds that—

(1) Latin America shares a wide range of scientific and technological concerns with the United States, and the diversity of Latin American countries and their needs in science and technology are significant;

(2) the need for science and technology cooperation with Latin America has increased significantly since the 1970's, but mechanisms for cooperation have decreased since many countries in Latin America graduated from programs sponsored by the Agency for International Development;

(3) Latin American scientists and engineers have increasingly looked to Europe and Japan for advanced training and research, and this trend, in conjunction with the emphasis on science and technology in Latin American national development plans and the increase in science and technology cooperation among Latin American nations, may result in a loss of mutually beneficial commerce and scientific cooperation between Latin America and the United States;

(4) investment by the United States in the Latin American science and technology infrastructure and participation of United States scientists and engineers in short-term and long-term assignments in Latin America can further improve relations between the United States and Latin America, and bring many benefits to the United States, including scientific access, enhanced trade and investment relations, and the opportunity to contribute to economic growth and democratization in the hemisphere;

(5) science and technology cooperation with the United States and advanced training and research in the United States can bring many benefits to Latin America, for example, in developing Latin American countries cooperation can contribute to the strengthening of basic science and technology infrastructure, and in industrially advanced Latin American countries, cooperation can increase opportunities in many scientific disciplines and in the frontier scientific fields;

(6) considerable progress in science and technology cooperation can be made with relatively modest investments;

(7) a Free Trade Agreement with Mexico should be accompanied by the creation of new opportunities and mechanisms for scientific cooperation and research on issues of mutual interest to the United States and Mexico;

(8) the return to democracy in a number of Latin American countries provides renewed vigor for freedom of scientific inquiry, cooperation, and progress, as well as a focus for the reversal of the decline in science and technology cooperation between the United States and Latin America.

(b) DEFINITIONS.—For the purpose of this Act—

(1) the term "debt-for-science exchange" means the cancellation of a portion of a Latin American nation's debt to a United States commercial bank through secondary market purchase of this debt at discounted rates by a non-Federal organization, in exchange for contribution of an agreed-upon proportion of this canceled debt's original value by the debtor nation to a specified scientific research program or endowment;

(2) the term "Director" means the Director of the National Science Foundation;

(3) the term "Latin America" means Mexico, the Caribbean basin, Central America, and South America; and

(4) the term "Program" means the Inter-American Scientific Cooperation Program established under section 3.

SEC. 3. ESTABLISHMENT OF THE PROGRAM.

The National Science Foundation shall establish an Inter-American Scientific Cooperation Program aimed at increasing the level of science and technology cooperation between the United States and Latin America. The National Science Foundation, in establishing this Program, shall identify and cooperate with private and governmental funding bodies, both in Latin America and in the United States. The Program shall include the following elements:

(1) ENCOURAGEMENT AND FUNDING.—Encouragement and funding of project development interchanges and joint research projects between United States and Latin American scientists and engineers. Interchanges and joint projects funded by the National Science Foundation shall, whenever possible, include cost sharing from sources within the Latin American countries whose citizens participate in such interchanges and projects. The Director shall determine the amount of cost sharing which is required.

(2) INTER-AMERICAN SCIENTIFIC EDUCATIONAL DEVELOPMENT EXCHANGE.—(A) Establishment in accordance with section 13 of the National Science Foundation Act of 1950 (42 U.S.C. 1872) of an Inter-American Scientific Educational Development Exchange (hereafter in this paragraph referred to as the "Exchange"). The Exchange's activities shall include—

(i) graduate and postdoctoral fellowships in science and technology for Latin Americans to study in the United States and for United States citizens to study in Latin America;

(ii) collection and dissemination of information to Latin Americans on other avenues for advanced study in science and technology in the United States; and

(iii) United States assistance to Latin American institutions, at the institutions' request, for development of courses, seminars, and curriculum in science and technology.

(B) In awarding fellowships under this paragraph, the Exchange shall give priority to candidates who are professionally active scientists or engineers and whose institutions give assurance that a position will be available to such individuals after completion of the fellowship. Fellowships for Latin Americans shall, whenever possible, include cost sharing from sources within the country of origin of the recipient. The amount of cost sharing required shall be determined by the Director.

(3) INFORMATION AND TECHNICAL ASSISTANCE.—Exchanging information and technical assistance between United States and Latin American scientists and engineers interested in establishing data bases and computer linkages.

(4) EQUIPMENT.—Providing information to enable the routing of scientific equipment between the United States and Latin America, including information with respect to matching equipment with need, identifying technical maintenance requirements, and meeting customs regulations.

(5) RESEARCH PROGRAMS.—Promotion of research programs which utilize unique natural environments or existing or potential centers of scientific research excellence in Latin America.

SEC. 4. UNITED STATES-LATIN AMERICAN DEBT-FOR-SCIENCE EXCHANGES.

(a) IN GENERAL.—The Program shall encourage the use of debt-for-science exchanges to finance cooperative scientific research projects. The Director shall act, in accordance with section 13 of the National Science Foundation Act of 1950 (42 U.S.C. 1872), and in cooperation with other Federal agencies and appropriate non-Federal organizations, to make funds available to non-Federal organizations, including colleges and universities, for such debt-for-science exchanges.

(b) DEBTOR NATION CONTRIBUTION.—Availability of such funds shall be contingent upon indication by the debtor nation of intent to contribute, in local currency, dollars, or both, no less than 75 percent of the full face value of the purchased discounted debt, or an amount at least 20 percent greater than the generally prevailing purchase price of the debt at current market conditions, for support of—

(1) cooperative projects, as described in section 3; or

(2) binational or multinational endowments for the long-term support of cooperative research projects with the United States, including the endowment established under section 5.

(c) NON-FEDERAL MATCHING FUNDS REQUIREMENT.—Federal grants made under this section shall be equally matched by non-Federal contributions.

SEC. 5. UNITED STATES-MEXICO BINATIONAL SCIENCE ENDOWMENT.

(a) ESTABLISHMENT OF THE ENDOWMENT.—

(1) IN GENERAL.—The Director, in consultation with the Director of the Office of Science and Technology Policy, shall appoint a 5-member Board of Governors (hereafter in this section referred to as the "Board") as the United States representatives of a United States-Mexico Binational Science Endowment (hereafter in this section referred to as the "Endowment"). The United States appointees to the Board shall possess considerable expertise in areas of United States-Mexico cooperation in science and technology, and not more than 2 appointees shall be full-time employees of the United States Government. The Director, or his designee, shall serve as an additional, ex officio member of the Board. The President shall direct the Director to work with appropriate representatives of the Government of Mexico to arrive at mutually agreeable binational membership, structure, and operation of the Board.

(2) STRUCTURE AND OPERATION.—The structure and operation of the Endowment shall be determined exclusively by the Board, consistent with subsection (b).

(b) TERMS OF THE ENDOWMENT.—

(1) IN GENERAL.—The Endowment shall be an independent, nongovernmental, nonadvocacy, not-for-profit organization, organized and operated exclusively for scientific and educational purposes.

(2) DESIGN.—The Endowment shall be designed to receive funds from debt-for-science exchanges, as well as direct governmental or nongovernmental contributions, in dollars or Mexican pesos, and shall support, from the interest income generated on such funds, scientific research or educational projects conducted cooperatively by United States and Mexican scientists or educators, of potential benefit to both nations.

(3) CHARTER.—The Board shall adopt a charter for the operation of the Endowment, which should include provisions—

(A) to protect the Endowment's principal from loss of value due to inflation;

(B) to define the range of scientific and educational activities to be funded by the Endowment;

(C) to define criteria for application, merit review, and awarding of funds from the Endowment which encompass, at a minimum, consideration of scientific merit, strength of collaborative arrangements, and potential benefit to both the United States and Mexico; and

(D) to keep administrative costs to a minimum.

SEC. 6. REPORT.

(a) IN GENERAL.—Each year at the time of submission to the Congress of the President's budget, the Director shall submit to the Congress a report which—

(1) details activities conducted pursuant to this Act during the preceding fiscal year;

(2) includes a description of how activities of the Program relate to other ongoing and prospective National Science Foundation activities in Latin America;

(3) describes plans for the current and upcoming fiscal years' activities;

(4) recommends priorities for cooperation in terms of scientific disciplines and geographic regions; and

(5) recommends necessary legislative or administrative changes in the Program.

(b) SPECIAL RULE.—Every two years, the report described in subsection (a) shall include a description, analysis, and compilation of funding data for all federally funded research and development activities carried out in, or in cooperation with, Latin American nations.

SEC. 7. FUNDING.

(a) IN GENERAL.—The Director is authorized to make available not more than $10,000,000 of the funds authorized to be appropriated pursuant to section 101 of the National Science Foundation Authorization Act of 1988 for each of the fiscal years 1992 and 1993 to carry out this Act.

(b) DEBT-FOR-SCIENCE EXCHANGES.—The President is authorized and encouraged to make available $5,000,000 of the amounts appropriated under part I of the Foreign Assistance Act of 1961 for fiscal year 1992 to carry out the Program for the purpose of funding debt-for-science exchanges described in section 4 of this Act as part of a United States contribution to the Endowment described in section 5(b)(2) of this Act.●

By Mr. SPECTER:

S. 1975. A bill to establish a dislocated workers educational training demonstration project; to the Committee on Labor and Human Resources.

DISLOCATED WORKERS EDUCATIONAL TRAINING DEMONSTRATION PROGRAM

Mr. SPECTER. Mr. President, the future of any country that depends on the will of its people is damaged whenever large numbers of its citizens are unemployed. Unemployment wastes lives and deprives men and women of their full share in the American dream. On the other hand, how well we develop and employ valuable human resources determines how much we can accomplish as a nation.

Sadly, more than 86,000 workers in my home State of Pennsylvania lost their jobs last year as a result of either plant closures or general reductions in the work force.

We cannot accept this situation.

Our first imperative as a nation should be to help those individuals, in Pennsylvania and the rest of the country, reenter the work force.

Unfortunately, the Federal Dislocated Workers Assistance Program operated through the Job Training Partnership Act was able to assist less than one-tenth of the 86,000 workers in need of retraining.

I am now introducing legislation that will establish a new program to help retrain dislocated workers. This legislation, which is modeled after a program currently operating at the Community College of Allegheny County in Pittsburgh, would encourage institutions of higher education to address this problem. Under the program, $50 million would be authorized to demonstrate effective and innovative approaches to preparing dislocated workers for reentry into the work force.

Instructional programs would be fashioned to suit the individual goals, background, aptitude, and skills of the participants. Programs would incorporate both credit and noncredit courses. Participants could enroll in credit courses that lead to 1-year certificate or 2-year associate degree programs, noncredit offerings would include academic skills improvement, job skills training, and career and personal development.

To the extent possible, each participant's tuition, fees, and books would be paid for by Federal and State student aid. The remaining costs would be covered by a Federal/State matching grant.

Participants who qualify for unemployment compensation benefits or public assistance would be eligible to continue to receive these forms of assistance while enrolled in the program.

I look to this legislation to support new training ventures—ones that will demonstrate the potential of retraining as a way to keep the labor force adaptable and, above all, to get our people back to work.

I urge my colleagues to join me in sponsoring this important measure.

By Mr. INOUYE (for himself, Mr. AKAKA, and Mr. SIMON):

S. 1976. A bill to amend the Immigration and Nationality Act to provide for prompt parole into the United States of aliens in order to attend the funeral of an immediate blood relative in the United States and to deny parole status to aliens who are excludable from admission into the United States; to the Committee on the Judiciary.

PROMPT PAROLE OF ALIENS IN ORDER TO ATTEND THE FUNERAL OF A BLOOD RELATIVE

• Mr. INOUYE. Mr. President, today, I introduce a bill, along with Senators AKAKA and SIMON, which amends the Immigration and Nationality Act to allow the prompt parole of aliens into the United States for the purpose of attending the funeral of an immediate blood relative.

The proposed measure is similar to H.R. 3345, but includes a provision that addresses potential abuse. Under the provisions of this bill, an alien is required to provide a certified copy of the death certificate of the relative. The parole period shall not exceed 30 days except under circumstances specified by the Attorney General. In addition, the bill denies parole status to aliens who are excludable from admission into the United States. Further, the Attorney General is required to report to Congress any violations or abuses of the immigration law resulting from the parole of aliens into the United States.

While current statutes provide for the administrative parole of aliens into the United States to attend funerals of immediate family members, oftentimes, aliens from certain countries are without justification delayed or denied timely entry by embassy officials. To remedy this injustice, this bill mandates expeditious entry into the United States to any alien who can prove the death of an immediate blood relative with a death certificate. Accordingly, I urge my colleagues to support this bill.•

By Mr. MCCAIN (for himself, Mr. HOLLINGS, and Mr. DANFORTH):

S. 1977. A bill to amend the Federal Aviation Act of 1958 to permit the Secretary of Transportation to authorize certain foreign investment on United States air carriers in excess of 25 percent; to the Committee on Commerce, Science, and Transportation.

FOREIGN INVESTMENT IN AIR CARRIERS

• Mr. MCCAIN. Mr. President, at midnight Wednesday, Midway Airlines grounded its planes. As a result of the souring of a proposed merger with Northwest, Midway ran out of cash and was forced to shut down. The loss of Midway, one of the two remaining post-deregulation carriers, means that we are now that much farther away from fulfilling the promise of airline deregulation.

When Congress passed the Airline Deregulation Act in 1978, the American consumer was promised that free competition and open entry would provide better service and lower fares. For the first few years of deregulation, new airlines flourished, and the promise was fulfilled. Since the mid-1980's, however, we have seen increasing concentration in the industry, rising barriers to entry, and a lessening of competition.

Consider the litany of airlines that are no longer here or are in financial straits: Braniff and Eastern are out of business; today, it appears that Midway will join them; Pan Am has been broken apart and is a mere shell of its former glory; and Continental, TWA, and America West are all seeking reorganization under court protection.

Mr. President, we must attempt to help the airline industry remain competitive and prevent the failure of airline deregulation. The legislation which I am proposing today, a modification in the permissible level of foreign investment in U.S. airlines, will help troubled carriers survive and provide procompetitive benefits to air travelers.

Secretary Skinner has identified the need for capital as the No. 1 problem facing the airline industry today. The effects of the gulf war and the recession have combined to burden the industry with record losses and cut off additional capital to all but the strongest carriers. Given the financial problems in the airline industry, some have suggested that the Government bail out failing carriers. I cannot agree with that. Instead, I am proposing a modification in the law governing foreign investment to increase the permissible level of foreign investment from 25 percent to 49 percent. This change will open up the ability of airlines to obtain investment capital not only from domestic sources but also internationally.

Frankly, Mr. President, America West, an airline very important to Arizona, can benefit from increased access to foreign capital. America West, founded in 1982, is the embodiment of what airline deregulation is about. With its low costs and motivated employees, America West has raised the level of competition throughout the entire airline industry. The loss of America West would mean more concentration, higher fares, and fewer travel options.

In addition, America West plays a key role in Arizona's economy. It is one of the largest private employers in the State, with nearly 10,000 employees. America West also provides the State with world-class air service and connections, contribution to Arizona's business environment.

Mr. President, I do not come easily to the proposal to allow increased foreign investment in our domestic aviation industry. It is troubling to me to come to the conclusion that the future of the U.S. aviation industry—historically, the world's leader—depends on foreign investment for survival. Yet, the alternative, more failed airlines, lost jobs, and less competition, is unacceptable.

To ensure that any foreign investment does not harm U.S. interests or the long term future of the domestic airline industry, this legislation includes several protections. First, while the legislation allows up to 49 percent foreign investment in a U.S. airline, no single foreign investor may own more than 25 percent of the investment. Second, the Secretary of Transportation must approve any total level of foreign investment above the current statutory limit of 25 percent. Before approving such higher levels of investment, the Secretary must determine that: Reciprocal investment rights are available for U.S. citizens; no foreign person involved in the transaction is substantially owned or controlled by a foreign government; competition in the domestic airline industry will be enhanced by the transaction; and the foreign investment will not adversely affect the national security interests of the United States or unfairly disadvantage U.S. aircraft manufacturers.

Mr. President, if we want to salvage airline deregulation, now is the time to act. This proposed change in the foreign investment statute will not correct all of the problems of airline deregulation. The legislation will, however, provide additional capability for distressed airlines, including America West, to survive the current period and fulfill the promise of deregulation.•

By Mr. CHAFEE:

S. 1978. A bill to amend title XVIII of the Social Security Act to remove the payment limitation imposed under such title with respect to the furnishing of psychiatric services in a nursing facility; to the Committee on Finance.

REMOVAL OF PAYMENT LIMITATION FOR PSYCHIATRIC SERVICES IN A NURSING FACILITY

• Mr. CHAFEE. Mr. President, today I am introducing the Medicare Mental Health Improvement Act. This legislation will assure that Medicare beneficiaries, who reside in nursing homes, will get needed mental health care. Problems with untreated, or inappropriately treated, mental illnesses and behavioral problems are far too common in our nursing homes today.

Due to inequities in Medicare payment for mental health treatment, patients who reside in nursing homes have limited access to psychiatric and psychological services. All too often, when nursing home residents need mental health counseling and treatment, the common response of the attending physician is to prescribe psychoactive drugs. These medications often have unpleasant side effects such as leaving patients confused and causing them to loose their sense of balance. As a result, patients often fall and must be treated for serious physical injuries.

How can we improve access to these services? Under current law, Medicare treats physicians' services to nursing home patients as outpatient care. While most Medicare outpatient services require patients to pay for 20 percent of the charge, patients must pay for 50 percent of outpatient mental health services. For many Medicare patients, particularly those who live in nursing homes, this requirement is a major financial burden, which worsens if they need followup treatment. For others, who may have serious mental illness, the copayment is uncollectible, and further discourages providers from treating nursing home residents.

The legislation that I introduce today would simply bring Medicare payments for outpatient mental health services for nursing home residents in line with reimbursement for other types of outpatient services. Under my proposal, copayments for mental health services for nursing home residents would be reduced from 50 to 20 percent.

Specialized consultation and treatment for mental illnesses has been proven to help, dramatically, patients who suffer from depression, and illness affecting one in three nursing home residents. This treatment can minimize the need for patient restraints and psychoactive drugs. Benefits of this treatment include more precise diagnosis, careful review of drug regimens, and better identification and treatment of depression. Patients will benefit from careful consideration of nondrug options for treatment, training for nursing home staff on how to better handle behavioral disturbances, and assistance to families to better understand the problem and assist in decisionmaking. One may also see resulting cost-savings for the Federal Government through decreased hospital admissions resulting from the use of inappropriate drugs.

In short, treatment can result in better quality of life and well-being for nursing home patients, staff, and their families. I urge my colleagues to join with me in cosponsoring this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF PAYMENT LIMITATION FOR PSYCHIATRIC SERVICES FURNISHED IN A NURSING FACILITY.

(a) IN GENERAL.—Section 1833(c) of the Social Security Act (42 U.S.C. 13951(c)) is amended—

(1) by striking "(c) Notwithstanding" and inserting "(c)(1) Subject to paragraph (2), notwithstanding"; and

(2) by adding at the end thereof the following new paragraph:

"(2) With respect to expenses incurred in any calendar year in connection with the treatment of disorders described in paragraph (1) in a skilled nursing facility there shall be considered as incurred expenses for purposes of subsections (a) and (b), 80 percent of such expenses.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to items and services furnished on or after January 1, 1992.•

By Mr. MCCONNELL:

S. 1979. A bill to provide greater certainty in the availability and cost of liability insurance, to eliminate the abuses of the tort system, and for other purposes; to the Committee on the Judiciary.

LAWSUIT REFORM ACT

• Mr. MCCONNELL. Mr. President, I rise today to propose a tax cut. A tax cut that requires no offset to conform with the Budget Act. A tax cut that will not increase the deficit, in fact, I submit that it will ultimately reduce it by stimulating economic growth.

Mr. President, I am speaking of the lawyer's tax—the liability crisis.

The lawyer's tax is insidious. It is added to virtually every product sold in this country. It is a regressive tax. It is 95 percent of the cost of a child vaccine—95 percent. It is one-third the cost of stepladder. It is $300 added to the cost of having a baby delivered.

The lawyer's tax is the stealth tax. Americans do not see it every month in their paycheck stubs. They do not fill out a 1040 form every year to make sure they paid enough, or to get a refund. There is no refund.

But the tax is there, Mr. President, and it's hitting our Nation hard. Direct litigation costs and higher insurance premiums cost this country $80 billion every year. The total cost of the lawyer's tax, including costs incurred trying to avoid it, is $300 billion every year—$300 billion.

It is no wonder that America has 70 percent of the world's lawyers—it is one industry that is thriving. Too bad we can't export it.

Mr. President, no other country wants this industry. It spreads like a plague, killing innovation, productivity, and the ability to compete in the world marketplace. The lawyer's tax is a terrible drag on the U.S. economy. A study commissioned by the Department of Commerce found that many foreign competitors have product liability insurance costs that are 20 to 50 times lower than American companies.

A survey conducted by the conference board representing 3,600 organizations in more than 50 nations concluded that because of liability concerns: 47 percent of U.S. manufacturers have withdrawn products from the market; and 25 percent have discontinued some form of product research.

A University of Texas study of the lawyer's tax found that it reduced the U.S. gross national product 10 percent below its potential during the last decade.

I have spoken of the trade deficit-lawyer surplus. The University of Texas study illustrates this phenomenon—a startling finding that economic growth is inversely related to the number of lawyers. At one end of the scale, high economic growth, are countries such as Japan, Hong Kong, and Singapore. At the lower end of growth are the countries where lawyers account for nearly 5 percent of white-collar workers: Chile, Uruguay, and the United States.

Japan, who some feel is conquering us economically, is not doing it with lawyers. They are beating us with engineers and scientists. Japan has 116 scientists and engineers for every lawyer. The United States has five scientists and engineers for every lawyer. The U.S. scientists and engineers are having to load up on liability insurance to protect themselves from that lawyer.

Mr. President, I have heard eloquent speeches decrying unemployment in this country. Here's a chance to do something constructive about it. We can make our country more competitive in the world marketplace by cutting the U.S. lawyer tax through comprehensive tort reform. Decrease the lawyer's tax, increase competitiveness, and increase jobs. That's economic growth.

Mr. President, here's how my lawyer's tax cut, the Lawsuit Reform Act of 1991, works:

First, it abolishes the doctrine of joint and several liability, so that a defendant's share of the damages is proportional with his share of responsibility for causing the harm;

Second, it requires the loser of any civil action covered by the bill to pay the legal costs of the winner, up to a reasonable limit, unless the loser is legally indigent;

Third, it prohibits a person from suing others if the person was under the influence of illegal drugs or alcohol and this condition was over 50 percent responsible for their injury;

Fourth, it provides that awards for damages in product liability suits will be offset by payments from workers' compensation by payments from workers' compensation programs, and allows for a right of subrogation; and

Fifth, it limits the statutory liability of local governments under 42 U.S.C.

1983 except in bona fide constitutional rights cases; and

Sixth, it promotes alternative means of dispute resolution.

These are not the end all-be all of tort reform. They are six reasonable provisions which embody basic fairness.

Trial lawyers will vigorously dispute this, of course. They will be particularly critical of the loser-pays provision, a commonsense law found in virtually all the European countries that we will be competing against as part of the EEC after 1992. As L. Gordon Crovitz noted in an article for the Wall Street Journal last month:

> The reform most threatening to contingency-fee lawyers would have the U.S. join the rest of the world with the loser-pays rule in most federal lawsuits. Under this system, the party that loses a lawsuit—plaintiff or defendant—would have to pay the other side's lawyer. This might make it harder for lawyers to find plaintiffs willing to part with a large fraction of their award as a contingency fee, especially in cases where the liability is clear and the only question is how large damages will be.
>
> This method of financing cases could also make defendants less likely to settle bad cases just to avoid crippling legal costs. Instead of paying lawyermail in so-called strike suits to get rid of an abusive lawsuit, defendants could go to trial, win and get their legal costs reimbursed.

Walter K. Olson, a senior fellow at the Manhattan Institute, is a renowned scholar on this issue and observes that: "America is the only major country that denies to the winner of a lawsuit the right to collect legal fees from the loser." Mr. Olson also discusses at length an issue this bill does not address: contingency fees. He states, "In virtually every other country, society has deemed that lawyers, like doctors, should be shielded from the temptations of the contingency fee."

Mr. President, there is an argument to be made for limiting contingency fees. This bill does not do it. This bill does not cap damages. This bill does not do a lot of things that are a bigger threat to trial lawyers than the reforms I have proposed.

Mr. President, I offered a modest amendment to the civil rights bill to ensure that victims of discrimination are not gouged by plaintiffs lawyers. I sought to limit plaintiff attorney fees to 20 percent of the total judgment in cases brought under that bill. One-fifth of the cut, under my amendment, could have gone to lawyers. Opponents said that was not enough, lawyers would not take these cases because they would not be sufficiently lucrative.

I made the point that there is no shortage of lawyers in this country. Our Nation is crawling with lawyers, nearly 800,000 and counting. The lawyer-density in the United States is phenomenal compared to our principal trading partners. Japan has 11 lawyers per 100,000 population; Britain, 82; Germany, 111; and the United States has 281 lawyers per 100,000 population.

Cutting the lawyer's tax is not easy. However, it is a worthy endeavor and I intend to pursue it. Walter Olson conveys well the gravity of the liability issue and the rationale for reform:

> Lawyers are delegated certain quasi-governmental powers to invoke compulsory process. In particular, they can initiate lawsuits that impose huge unrecompensed costs on what frequently turn out to be innocent opponents. As we know from the case of pollution, the opportunity to impose costs on other people is likely to be overused unless it is regulated or priced in some way. In no way does it violate individual rights to demand of those who seek to wield this coercive power that they submit in exchange to certain rules to prevent its overuse.

Mr. President, not surprisingly, the Association of Trial Lawyers of America [ATLA] disagrees. I have repeatedly introduced comprehensive tort reform legislation to restore balance to our civil justice system. I first introduced the Lawsuit Reform Act, including the loser-pays provision, more than 2 years ago. These efforts have landed me on ATLA's most wanted list, a distinction of which I am quite proud.

Mr. President, I have no illusion over the reception this bill will receive in some quarters. The trial lawyer lobby is single-minded, and well-funded. No Federal tort reform, period. To that end, ATLA's PAC poured $1.5 million directly into congressional races last year. ATLA's indirect contributions, soft money, are difficult to ascertain but I suspect they were considerable. They certainly were in my 1990 race.

ALTA went to the extreme of breaking the law in my last race, funneling $100,000 into the Kentucky Democratic Party to buy ads against me. Basically, ATLA put a contract out on me—and anyone else who opposes their self-serving monopoly.

What so offends ATLA is that I have worked to restore balance and reason to the civil justice system. I have worked to abolish joint and several liability, penalize frivolous suits, and provide less expensive and faster ways to resolve legal disputes. This is what ATLA finds so offensive. Clearly, in this instance, the special interest of ATLA does not coincide with the public interest to put sanity back into the civil justice system.

Fortunately, Mr. President, not everyone shares or serves ATLA's agenda. The Lawsuit Reform Act is the creation of a broad-based coalition consisting of volunteer organizations, health care providers, education associations, local governments, law enforcement organizations, professional groups, and small businesses. These groups share a common affliction—a civil justice system run amok.

The Lawsuit Reform Act protects both the victims of wrongful injuries—who have a right to fair compensation—and the victims of wrongful lawsuits. While I would like to do more, these six provisions would go a long way toward restoring balance and reason to our Nation's civil justice system. A civil justice system that currently is crushing America's volunteer spirit, driving up health care costs, reducing educational opportunities, cutting essential services of local governments, and making America less competitive in the world marketplace.

The civil justice system—the lawyer's tax—is costing America jobs. It is costing consumers billions. And it is robbing Americans of products that, although better than existing products, do not have an established legal history and therefore are too risky to put on the marketplace.

So-called consumer advocates will say all these lawsuits are necessary to project Americans from shoddy products. They will say all these lawsuits have made America a safer place.

Mr. President, plaintiffs receive only 43 percent of the total judgments and awards. Lawyers and courts get the majority of the money. This system does not serve plaintiffs, defendants, or consumers. It serves lawyers.

These self-proclaimed consumer advocates have based much of their opposition to tort reform on a contention that lawsuits make this country safer. There is evidence that they are wrong, that the liability craze is actually making our country less safe. Earlier this year, a team of scientists, engineers, physicians, and lawyers examined the impact of U.S. liability laws on safety and innovation. Their report, "The Liability Maze," was issued by the Brookings Institution. The report found little statistical evidence that lawsuits had actually led to the development of safer products. In fact, it said we may be less safe.

Most pharmaceutical firms have stopped making vaccines, because of liability. Thirteen American companies were working on contraceptive devices 20 years ago, now only one takes the liability risk. Some companies even have stopped AIDS research, because of the liability risk.

Having decimated America's general aviation industry. Having ravaged the pharmaceutical industry, and obstetricians, some lawyers have taken on another threat to the American way of life: Milli Vanilli.

Milli Vanilli—the lip-synching duo that sold millions of albums and garnered a Grammy Award. It was a situation tailor-made for late-night talk shows hosts. Now, it appears it was a jackpot for America's class action lawyers as well. They are going to get their piece out of this "Entertainment Tonight" headliner—possibly hundreds of thousands of dollars out of it.

A number of greedy class-action lawyers across this country have solicited teenage clients through their offices and friends, any child who had purchased a Milli Vanilli album. These children were told that they could get a couple weeks allowance worth out of the suit if they were plaintiffs. While the child plaintiffs get a few bucks, their lawyers stand to make thousands.

Walter Olson, a previously mentioned expert on the liability system told a reporter for the Wall Street Journal in regard to this situation: "The whole legal pretense is that these cases arose from spontaneous consumer grievances * * *" but, in fact, "the lawyers are doing what they accuse the record company of doing—getting people to lip-synch for them."

Mr. President, while the courts spend time and resources trying to sort the Milli Vanilli class-action mess out, needy plaintiffs suffering debilitating injuries who have legitimate cases are forced to wait in line. That's not justice, it's a travesty.

It is a travesty that a special interest group can so effectively block any reform to restore balance and reason to our Nation's civil justice system. The civil justice system has changed in recent years—for the worse. It is time we put it back on course. David Gergen wrote to this effect in U.S. News & World Report a couple of months ago:

> Over the past quarter century, however, courts and state legislatures have rewritten the rules so that a lawsuit is no longer an option of last resort but a weapon of choice, a reach for the jackpot. Plaintiffs collected only for out-of-pocket costs and only when the other party was negligent: now they often sue for every emotional pain and gouge anyone with a deep pocket, regardless of culpability. The system demeans everyone it touches. Plaintiff attorneys assert they are just protecting the rights of their clients. But even legitimate claims—and to be sure, there are many—serve mainly to enrich the lawyers.

The liability system—the lawyer's tax—does not serve plaintiffs. It does not serve consumers. It serves lawyers. If we persist in doing nothing to address gross abuses of the system; if we continue to let a powerful special interest group dictate our agenda; then we will have done a disservice to the American people.

The Lawsuit Reform Act protects victims of wrongful injuries as well as victims of wrongful lawsuits. It will speed up justice by weeding out frivolous suits and inject some sanity, reason and balance to our Nation's civil justice system.

Mr. President, this bill is long overdue.●

ADDITIONAL COSPONSORS

S. 308

At the request of Mr. MITCHELL, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 308, a bill to amend the Internal Revenue Code of 1986 to permanently extend the low-income housing credit.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 1597

At the request of Mr. HATFIELD, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1597, a bill to amend the Public Health Service Act to provide grants to entities in rural areas that design and implement innovative approaches to improve the availability and quality of health care in such rural areas, and for other purposes.

S. 1623

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1623, a bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

S. 1627

At the request of Mr. FORD, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1627, a bill to amend section 615 of title 38, United States Code, to require the Secretary of Veterans Affairs to permit persons who receive care at medical facilities of the Department of Veterans Affairs to have access to and to consume tobacco products.

S. 1725

At the request of Mr. DIXON, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1725, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the first voyage to the New World by Christopher Columbus and to establish the Christopher Columbus Quincentenary Scholarship Foundation and an Endowment Fund, and for related purposes.

S. 1736

At the request of Mr. SASSER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1736, a bill to amend title XVIII of the Social Security Act to provide for improved quality and cost control mechanisms to ensure the proper and prudent purchasing of durable medical equipment and supplies for which payment is made under the Medicare Program, and for other purposes.

S. 1793

At the request of Mr. D'AMATO, the names of the Senator from Maine [Mr. COHEN], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 1793, a bill to restrict United States assistance for Serbia or any part of Yugoslavia controlled by Serbia until certain conditions are met, and for other purposes.

S. 1810

At the request of Mr. ROCKEFELLER, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Kentucky [Mr. FORD], the Senator from Maryland [Mr. SARBANES], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1810, a bill to amend title XVIII of the Social Security Act to provide for corrections with respect to the implementation of reform of payments to physicians under the Medicare Program, and for other purposes.

S. 1813

At the request of Mr. DOLE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1813, a bill to amend the Higher Education Act of 1965 to improve access to post secondary education for students with disabilities.

S. 1829

At the request of Mr. D'AMATO, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1829, a bill to expand the exclusion of service of election officials or election workers from social security coverage.

S. 1842

At the request of Mr. DASCHLE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1842, a bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists services.

S. 1862

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1862, a bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

S. 1886

At the request of Mr. MCCONNELL, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Tennessee [Mr. GORE], the Senator from Tennessee [Mr. SASSER], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1886, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

S. 1894

At the request of Mr. ROTH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1894, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance during the implementation and phase-in of the North American Free Trade Agreement, and for other purposes.

S. 1920

At the request of Mr. KASTEN, the names of the Senator from Idaho [Mr. CRAIG], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1920, a bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for children, to provide tax incentives for economic growth, and for other purposes.

S. 1930

At the request of Mr. GORTON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1930, a bill to amend title 10, United States Code, to revise certain time limitations for the awarding of medals and other decorations, to revise the time limitation applicable to requests for corrections of military records, and for other purposes.

S. 1966

At the request of Mr. BIDEN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1966, a bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes.

SENATE JOINT RESOLUTION 173

At the request of Mr. DOLE, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Connecticut [Mr. DODD], the Senator from Wisconsin [Mr. KASTEN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Nevada [Mr. REID], the Senator from Wyoming [Mr. SIMPSON], the Senator from Virginia [Mr. WARNER], the Senator from Michigan [Mr. LEVIN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Missouri [Mr. DANFORTH], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. D'AMATO], the Senator from Iowa [Mr. GRASSLEY], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Ohio [Mr. GLENN], the Senator from Georgia [Mr. FOWLER], the Senator from Wisconsin [Mr. KOHL], the Senator from Alabama [Mr. SHELBY], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 173, a joint resolution designating 1991 as the 25th Anniversary Year of the formation of the President's Committee on Mental Retardation.

SENATE JOINT RESOLUTION 198

At the request of Mr. AKAKA, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from North Carolina [Mr. SANFORD], the Senator from California [Mr. SEYMOUR], the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Virginia [Mr. ROBB], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 198, a joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

SENATE JOINT RESOLUTION 210

At the request of Mrs. KASSEBAUM, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from New York [Mr. D'AMATO], the Senator from South Dakota [Mr. PRESSLER], the Senator from Kansas [Mr. DOLE], the Senator from North Dakota [Mr. CONRAD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alabama [Mr. HEFLIN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. MOYNIHAN], the Senator from Indiana [Mr. LUGAR], the Senator from Arkansas [Mr. PRYOR], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Illinois [Mr. SIMON], the Senator from North Carolina [Mr. SANFORD], the Senator from Florida [Mr. GRAHAM], the Senator from California [Mr. CRANSTON], the Senator from Indiana [Mr. COATS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from South Dakota [Mr. DASCHLE], the Senator from New Jersey [Mr. BRADLEY], the Senator from Alabama [Mr. SHELBY], the Senator from Utah [Mr. HATCH], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Michigan [Mr. LEVIN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint Resolution 210, a joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day."

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Montana [Mr. BURNS], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 228

At the request of Mr. D'AMATO, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of Senate Joint Resolution 228, a joint resolution to designate the week beginning February 23, 1992, as "National Manufacturing Week".

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. HATCH, the names of the Senator from Tennessee [Mr. GORE], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Concurrent Resolution 17, a concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the names of the Senator from Alabama [Mr. SHELBY], the Senator from North Dakota [Mr. CONRAD], the Senator from North Carolina [Mr. SANFORD], the Senator from Nebraska [Mr. EXON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Connecticut [Mr. DODD], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. PELL, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Delaware [Mr. BIDEN], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Hawaii [Mr. AKAKA], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Concurrent Resolution 77, a concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military.

SENATE RESOLUTION 66

At the request of Mrs. KASSEBAUM, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Resolution 66, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 213

At the request of Mr. GORE, the names of the Senator from Illinois [Mr. DIXON], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Resolution 213, a resolution expressing the sense of the Senate regarding United States policy toward Yugoslavia.

SENATE RESOLUTION 220

At the request of Mr. D'AMATO, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Resolution 220, a resolution expressing the sense of the Senate that the President of the United States should pursue by any and all means necessary to apprehend for trial Lamen Khalifa Fhimah and Abdel Basset Ali Megrahi as charged in the Justice Department indictment for their roles in the destruction of Pan Am Flight 103 and the murder of 189 Americans aboard.

AMENDMENT NO. 1347

At the request of Mr. DODD the names of the Senator from New Mexico

[Mr. DOMENICI], the Senator from Rhode Island [Mr. PELL], the Senator from Massachusetts [Mr. KERRY], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Amendment No. 1347 intended to be proposed to S. 543, a bill to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions.

AMENDMENTS SUBMITTED

EMERGENCY UNEMPLOYMENT COMPENSATION

SMITH (AND RUDMAN) AMENDMENT NO. 1348

Mr. SMITH (for himself and Mr. RUDMAN) proposed an amendment to the bill (H.R. 3575) to provide a program of emergency unemployment compensation, and for other purposes, as follows:

On page 9, line 20, strike the period and insert in lieu thereof a comma and the following:

"or

"(C) if the average rate of total unemployment in such State for the period consisting of the most recent 6-calendar month period (for which data are published before the close of such week) is at least 7 percent. Notwithstanding any other provision of law, the discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (as adjusted under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985) are decreased by decreasing the discretionary spending limit with respect to fiscal years 1992, 1993, 1994, and 1995 for the international category (under section 601(a)(2)(C)(ii) of such Act) in such amounts in new budget authority and outlays as the Director of the Congressional Budget Office determines to be necessary to offset the provisions of this amendment; provided, that none of the reductions required under this section shall be achieved through reduction of—

"(1) domestic discretionary spending; or

"(2) assistance to the Camp David Accord countries, in recognition of the fragile, ongoing efforts to achieve peace in the Middle East.".

TERMINATION OF CERTAIN PROVISIONS OF THE TRADE ACT WITH RESPECT TO CZECHOSLOVAKIA AND HUNGARY

BENTSEN (AND OTHERS) AMENDMENT NO. 1349

Mr. BENTSEN (for himself Mr. MITCHELL, Mr. DOLE, Mr. BIDEN, Mr. BOREN, Mr. BREAUX, Mr. BUMPERS, Mr. CONRAD, Mr. FORD, Mr. GRASSLEY, Mr. HEFLIN, Mr. JOHNSTON, Mr. KASTEN, Mr. KOHL, Mr. METZENBAUM, Mr. PACKWOOD, Mr. NICKLES, Mr. PRYOR, Mr. RIEGLE, Mr. ROTH, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. WARNER, Mr. PRESSLER, Mr. RUDMAN, Mr. SMITH, Mr. DURENBERGER, Mr. COATS, Mr. LUGAR, and Mr. WIRTH) proposed an amendment to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, as follows:

At the appropriate place insert the following new section:

SEC. . MODIFICATION OF THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991.

(a) TWO-TIER APPLICABLE LIMIT.—

(1) Section 102(b)(2)(A) of the Emergency Unemployment Compensation Act of 1991 is amended by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) In the case of a 13-week period, the applicable limit is 13."

(2) Section 102(d) of the Emergency Unemployment Compensation Act 1991 is amended to read as follows:

"(d) 13-WEEK PERIOD.—For purposes of this section, the term '13-week period' means with respect to any State any period which is not a 20-week period."

(3) Section 102(f)(3)(A) of the Emergency Unemployment Compensation Act of 1991 is amended to read as follows:

"(A) IN GENERAL.—If any individual exhausted such individual's rights to regular compensation (or extended compensation) under the State law after February 28, 1991, and before the first week following November 16, 1991 (or, if later, the first week following the week in which the agreement under this Act is entered into), such individual shall be entitled to emergency unemployment compensation under this Act in the same manner as if such individual's benefit year ended no earlier than the last day of such following week."

(4) Section 102(g)(2) of the Emergency Unemployment Compensation Act of 1991 is amended to read as follows:

"(2) SPECIAL RULES.—A 20-week period shall begin in any State with the 1st week for which emergency unemployment compensation may be payable in such State under this title if, on the basis of information submitted to the Committee on Ways and Means of the House of Representatives by the Department of Labor on November 7, 1991, the requirements of subsection (c)(2) are satisfied by such State for the week which ends October 19, 1991."

(5) Section 106(a) is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(6) Sections 102(f)(1)(B), 102(f)(2), 106(a)(2), and 501(b) (1) and (2) of the Emergency Unemployment Compensation Act of 1991 are each amended by striking "July 4, 1992" and inserting "June 13, 1992".

(7) Section 501(a) of the Emergency Unemployment Compensation Act of 1991 is amended by striking "July, 1992" and inserting "June, 1992".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the provisions of and the amendments made by the Emergency Unemployment Compensation Act of 1991."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 15, 1991, at 9:30 a.m. on global change research: ozone depletion and its impact.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, November 15, 1991, at 10 a.m. to hold an executive business meeting.

The meeting agenda follows:

U.S. ATTORNEY GENERAL

William P. Barr, of Virginia, to be Attorney General of the United States.

U.S. CIRCUIT JUDGES

David R. Hansen, of Iowa, to be U.S. circuit judge for the Eighth Circuit.

U.S. DISTRICT JUDGES

Lacey A. Collier, of Florida, to be U.S. circuit judge for the Northern District of Florida.

Wayne R. Andersen, of Illinois, to be U.S. district judge for the Northern District of Illinois.

Sue L. Robinson, of Delaware, to be U.S. district judge for the District of Delaware.

Paul R. Matia, of Ohio, to be U.S. district judge for the Northern District of Ohio.

U.S. ATTORNEYS

Richard Cullen, of Virginia, to be U.S. attorney for the Eastern District of Virginia.

Jerry G. Cunningham, of Tennessee, to be U.S. attorney for the Eastern District of Tennessee.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on November 15, 1991, beginning at 9:15 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate, S. 1869, the San Carlos Indian Irrigation Project Divestiture Act of 1991, and to meet on S. 1607, the Northern Cheyenne Reserved Water Rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Friday, November 15, 1991, at 9:30 a.m. in room 216 of the Hart Senate Office Building to continue to examine the Government's process of investigation of POW/MIAs which is currently in place.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Friday, November 15, at 10 a.m., for a hearing on the subject: Secrecy or sunshine? Presidential regulatory review.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

E. FAY JONES

• Mr. BUMPERS. Mr. President, I rise today to acknowledge a recent article in the New York Times which pays tribute to one of the finest architects of our time, E. Fay Jones. Jones is a native Arkansan and continues to reside there. It is an honor and privilege to celebrate the accomplishments of such talented and distinguished man as Fay Jones.

The American Institute of Architects recently voted Jones' work, Thorncrown Chapel, located in Eureka Springs, AR, the best American building since 1980. This designation was no surprise to those of us who have been fortunate enough to visit Thorncrown Chapel. Jones' works are distinguished by his respect for nature, and his ability to design homes and buildings that harmonize with their natural environment is unsurpassed. He is a true artist.

Jones is renowned as a great architect throughout the United States, and his works can be seen all over the country. I would like to thank him for his work as a professor at the University of Arkansas and the many stunning creations enjoyed by the people of Arkansas. We are deeply grateful for his remarkable contributions to the State and the country.

Mr. President, I ask that the text of the New York Times article, entitled "A Wright Disciple Now Rivals the Master Himself," be printed in the RECORD.

The article follows:

WRIGHT DISCIPLE NOW RIVALS THE MASTER HIMSELF

(By Mimi Read)

FAYETTEVILLE, ARK.—Eleven years ago, an architect named E. Fay Jones designed a nondenominational chapel, set in the woods near Eureka Springs, Ark. It was to be a $150,000 abstract Gothic cathedral, a forest within a forest, with glass walls open to nature. So as not to disturb the birds and trees, Mr. Jones chose only materials that could be carried along a narrow hillside pathway to the construction site.

Mr. Jones and his wife, Gus, even came up with the name for the spiky little shrine: Thorncrown Chapel.

"I got a little despondent when they were finishing up," Mr. Jones said. "I thought, 'This little thing is turning out pretty nice, but nobody's ever going to see it.'"

He need not have worried.

Three weeks ago, the American Institute of Architects announced the results of a survey: of all the buildings constructed in the United States since 1980, architects across the nation overwhelmingly chose Thorncrown as the best one.

This news was surprising to Mr. Jones, who forgot to fill out his ballot. But by now he has grown used to such heady accolades. In 1990, he won the A.I.A. Gold Medal for the body of his work, putting him in the august company of such other recipients as Frank Lloyd Wright, Walter Gropius and Mies van der Rohe.

And despite its isolation, Thorncrown has become a tourist attraction that causes several hundred people a day to cry, gasp, lift their cameras or lapse into prolonged reveries. One old woman stayed only about 10 seconds before she burst into tears and peeled out in her white Cadillac.

"That was record time," Mr. Jones said.

Mr. Jones, 70 years old, is a genial and strikingly unassuming architect whose work is rooted in the spirit of Frank Lloyd Wright. He has long based his practice here in Fayetteville, a tranquil university town in northwestern Arkansas full of scholars, writers and Razorback fans. He wears professorial tweed jackets, and sensible rubber-soled shoes. In temperament he is a poet, more or less the opposite of those capering, celebrated architects who fill their buildings with private jokes and ironies.

A chapel may have gained him worldwide stature, but his reputation is nothing new to Arkansas people, who for decades have sought his services. Since he opened his small office in 1953, Mr. Jones has designed more than 200 single-family dwellings, mostly open-plan houses that fit themselves into the landscape and minimize the distinction between indoors and outdoors.

Unlike the insistent residential creations of many celebrated architects, Mr. Jones's houses have a kind of softness or humanness about them, and people actually seem to like living in them. Made of emphatically natural materials like brick, wood and fieldstone, with the moss and mold still clinging, they feel richly ornamental, but the ornament either emanates from the materials or is simple, repetitive, geometric and somehow functional.

Many feature prominent open hearths and anchoring, heavyset chimneys. Most have long runs of glass, generous clerestory windows and skylights piercing their low gabled roofs. Light floods them. Views pour in.

"I never want to leave this place, because there's always something mystical happening," said the writer Ellen Gilchrist, who recently bought one of Mr. Jones's earliest houses, a low-slung, sheltering structure folded into the side of a hill in Fayetteville.

"It's stamped with Fay's mind," Ms. Gilchrist said, "but mostly it's open to the big creation."

In her case, the big creation has also made its way indoors. On a recent evening, she stood around in a tennis dress, feeding the dozen or so carp that flash and swim in a tiny creek running through her living room. The creek abuts a loosely mortared, low stone retaining wall that helps fasten the 2,400-square-foot house to its site. When designing the house back in 1957, Mr. Jones had worried that rain and ground water would seep through the stone, but instead of fighting nature, he invited it in and carved it a channel.

"A house ought to condition in a positive way," Mr. Jones explained. "It should have a buoying effort. And if it somehow aligns itself with the attributes of nature, it might allow the residents to align themselves with those same natural forces of life."

This post-and-beam therapy seems to work better than most. In 1984, an illustrator named Larry Davenport commissioned Mr. Jones to design a 3,300-square-foot house and studio near Evergreen, Colo., a suburb of Denver. With a budget of $400,000, Mr. Jones created a lofty, cathedral-like aerie with a roof like a swooping mountain bird. Inside, under a dramatically cross-braced ceiling much like Thorncrown's, walls of glass open to snowcapped mountains.

"At first it was so beautiful that I couldn't work," Mr. Davenport said. "Then I got used to it. My drawings have definitely improved since I moved in here."

E. Fay Jones (the E. stands for Euine—pronounced EWE-un—an archaic Welsh equivalent of John) grew up in El Dorado, in southern Arkansas near the Louisiana border. As a boy, he spent a lot of time building tree houses out of scrap lumber and salvaged highway signs. His final, fanciest tree house sat perched on a great oak; it has a screened porch, Venetian blinds, a cantilevered balcony and a brick fireplace.

In 1939, while still in high school, he went to a Saturday matinee that included a short film about Wright's Johnson Wax building in Racine, Wis.

"It knocked me out," Mr. Jones said. "You've got to remember, this was in Arkansas, during the Depression. And here was this thing with curvilinear walls, Pyrex tubing and light pouring over these futuristic forms. I knew then I wanted to be an architect, and I wanted to meet the fellow who could think all that up."

Mr. Jones studied architecture at the University of Arkansas and Rice University. As a student, he once literally bumped into Wright in a hotel hallway in Houston. In town to pick up his own A.I.A. Gold Medal, the old man was dressed in a cape and porkpie hat and was busy comparing some ornamental perforations in the ceiling to venereal disease, Mr. Jones recalled.

But it was not until 1953, when Mr. Jones was already and instructor in architecture, that he met Wright again and was invited to spend four months as an apprentice at Taliesin; Wright's educational compound in Spring Green, Wis.

Since then, Mr. Jones has grounded his work in Wright's principles of organic architecture, which have to do with a delicate harmony between building and site, the honest use of materials and the relationship of each small part to the whole.

It is not a slapped-on style but rather a deeply thoughtful, process-oriented philosophy, wherein a house grows out of its environment, the client's needs and feelings about materials and all the little puzzles that nature tosses in.

"Fay's houses evolved out of Wright's influence, but they have gone beyond it," said Robert Ivy Jr., an architect and critic whose book on Mr. Jones's architecture, "Fay Jones: Architect," will be released by the A.I.A. Press next spring, "Fay draws from the history of architecture in a way that Wright did not."

Roy and Norma Reed's house in rural Hogeye, Ark., for instance, could never have been designed by Wright, Mr. Ivy said. It is too vertical, too referential, its structure too nakedly revealed. Shaped to echo the lofty barns and tractor sheds that dot the surrounding countryside, the 2,300-square-foot house, built in 1979, evolved from the couple's desire for a small, energy-efficient country place "that would be at home with a certain amount of squalor, like muddy boots," said Mr. Reed, a writer and journalism professor at the University of Arkansas.

Clad in cedar shakes, the dominant roof is stuffed with insulation and hangs protectively over the house, like an animal's winter coat. Although this is a passive-solar house, it is a subtle machine, without the dogmatic quality usually associated with such structures. Heating is accomplished with one Jotul wood stove, set on an altar of fieldstone at the heart of the living room.

Like his mentor, Mr. Jones customizes down to the last detail and often builds the furniture for his houses to reinforce what he calls "a family of pattern or form."

He likes to lift a geometric motif from the structure and repeat it on wastebaskets, chairs, light fixtures and even linens and cocktail napkins, if a client will go that far.

Over the years, he has assembled a stable of woodworkers and other artisans to execute his designs. Two years ago, when he designed a sleek, citified brick and cherry house for Don and Millie Nelms in Fayetteville, he even set up a woodworking shop on the construction site; the same men who built the house made accouterments like sofas, desks, chairs and hanging lanterns.

Mr. Jones's style of building houses is not likely to catch on. It takes too long. It is too dependent on his strange ability to call forth meticulous, artistic performances from woodworkers getting hourly wages or from a welder whose main line is putting trailer hitches on cars.

As a teacher at the University of Arkansas for 37 years, Mr. Jones had to keep up with all the trends and fads in architecture that have come along since Wright turned the world upside down, but they never swayed him. As far as he is concerned, nothing as deep and satisfying as Wright's principles has ever come down the pike.

"There's no sure-fire way of producing timeless architecture," Mr. Jones said. "But it's certainly not likely to happen when one is responding to subjective shims and momentary fascinations. I guess I don't give a lot of thought to how it's being done in Los Angeles."●

OLDER AMERICANS ACT

● Mr. PRESSLER. Mr. President, I was pleased yesterday to join my colleagues, Senators ADAMS and COCHRAN, in cosponsoring the amendments to reauthorize the Older Americans Act. This was a crucial step in maintaining a quality standard of living for many older Americans.

There are nearly 120,000 senior citizens in my home State of South Dakota. The programs offered under the Older Americans Act have a direct impact on these individuals. The Meals on Wheels, Green Thumb, transportation and other programs have proven their merit.

The needs of senior citizens continue to change. I am pleased that the reauthorization package approved by the Senate addressed some of these changes. This package required the Commissioner on Aging to study ways to improve services in rural areas, it adds additional outreach services to those afflicted with Alzheimer's Disease and their caretakers and adds services to provide counseling on social security and pension plans. These are the real needs of real people and I am pleased that we addressed these issues.

Senior citizens today are facing challenges and hardships that they never before have had to address. These challenges certainly include health care and insurance costs. However, an often overlooked challenge is the fact that many senior citizens are forced to be on their own without the day-to-day support of children or other family members who may be living across the country. This has made it very difficult for seniors and their family members to make decisions about long-term care, to obtain help while remaining in their home and participate in some nutrition programs.

I have long been interested in methods of improving access to information and services for older Americans. Our elderly population is rapidly increasing. Because of this, it is essential to improve not only the number and quality of services for older Americans, but also the access to these important services. By doing so, we can ensure that a greater number of individuals are served.

The Labor Committee accepted an amendment I authored which would establish a national toll free informational service. Important new developments in communications technology, such as optic fiber, have had a very positive impact on society and have greatly improved our communications systems in America. It is especially important to get this technology out to rural areas, where individuals, and particularly older individuals, have limited access to many important services.

I feel that the creation of a network of toll-free numbers for information services under the Older Americans Act would greatly improve access to services. Because I believe that States should have the greatest amount of flexibility possible in distributing funding for information services, I explored the option of a demonstration project. Joyce Berry, the U.S. Commissioner on Aging, recently initiated a project called Eldercare Locator. Eldercare Locator is a toll-free information hotline for senior citizens that can provide callers with information on housing, transportation, elder abuse, legal questions, home-delivered meals, social activities, day care and home health care services. This service can be utilized by either the senior citizen or a family member who is trying to obtain help.

Eldercare is a 3 year demonstration project, which will be completed in 1993. This toll-free number has been used by both older individuals themselves and by family members who wish to arrange housing or other services for an elderly relative in another city or State.

As indicated by the Administration on Aging's National Eldercare Campaign, the Commissioner supports efforts to improve access in the area of information and referral services for older Americans. I also have letters of support for my amendment from the Alzheimer's Association and the National Association of Area Agencies on Aging, which is working with Commissioner Berry on the current demonstration project. I would like to insert these letters in the RECORD following my remarks.

My amendment would ensure the continuation of a national toll-free number for information and referral services for older Americans.

I would also like to commend Hank Brown of Colorado on the leadership he has demonstrated in ensuring that the Medicare toll free lines are maintained. In South Dakota there are 108,000 Medicare beneficiaries. It is crucial that these senior citizens have a place to call for information on how to file a Medicare claim and report problems. A recent GAO study indicated that nearly 50 percent of the Medicare fraud and abuse cases that were reported to Medicare were not properly investigated. We need to maintain these lines and to improve them to reduce fraud and provide a crucial service to senior citizens.

I was also pleased to join Senator McCAIN in cosponsoring an amendment which repealed the Social Security earnings test. Earlier this year I had joined in sponsoring the Freedom to Work Act. Senior citizens need to be allowed to continue working and not be penalized. When times are tough most Americans have the option of earning some extra cash and not being penalized. Senior citizens should not be penalized for earning extra cash to help make ends meet.

The Older Americans Act was a positive statement to senior citizens. The message is clear. We value your contributions and want to work with you in securing a quality standard of living.

The letters follow:

ALZHEIMER'S ASSOCIATION,
October 8, 1991.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: On behalf of the Alzheimer's Association I would like to express our support for your proposed amendment to the Older Americans Act to establish a nationwide telephone access service to link older persons, families and caregivers to services funded through the Act.

Currently, the Alzheimer's Association operates such a telephone service that links victims of Alzheimer's and their families to our extensive chapter network and to services in the communities in 49 states. This service has proven to be enormously beneficial to those affected by this devastating disease. There is every reason to believe, therefore, that such a system that links people to the broader range of aging services will also be successful.

The Alzheimer's Association stands ready to assist the Administration on Aging and the aging network in implementing this system. In particular, we offer our chapter network, through out nationwide telephone service, as a resource to which callers can be referred for the full range of information and assistance Alzheimer's disease and related disorders.

Sincerely,

STEPHEN McCONNELL,
Senior Vice President, Public Policy.

NATIONAL ASSOCIATION OF AREA
AGENCIES ON AGING,
October 7, 1991.

Hon. LARRY PRESSLER,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER: On behalf of the National Association of Area Agencies on Aging, I am writing to support your proposed amendment to Substitute Bill S. 243 to establish a new demonstration program under Title IV of the Older Americans Act. Specifically, the proposed amendment will address Information and Referral Systems Development Projects.

NAAAA is supporting this proposed amendment as Information and Referral services are often the key for older persons and their caregivers to access Older Americans Act and other community services. Information and Referral services are often the first contact between the older individual and the public and voluntary services and resources that help maintain them in their home and community.

NAAAA believes Information and Referral services are so crucial that it has started, with AoA support, a national toll-free telephone number such that, when fully implemented, any individual will be able to access services anywhere in the U.S. This will allow families to help their elderly members arranges services long distance or an older individual locate needed services locally. Your proposed amendment will help sustain this important telephone link beyond the initial grant period, as well as provide crucial technical assistance and training to state and area agencies on aging and service providers.

Senator Pressler, NAAAA strongly support your proposed amendments to S. 243 and your efforts on behalf of this nation's elders.

Sincerely,

SUE WARD,
President.•

THE ARIZONA GOVERNOR'S YOUTH COMMISSION AGAINST CRIME

• Mr. DECONCINI. Mr. President, I recognize and salute the young people from Arizona who are participating in the Governor's Youth Commission Against Crime. Most recently they drafted a Youth Bill of Rights. This document proclaims the rights of all youth throughout Arizona to be safe from the dangers of alcohol and other drugs and it encourages them to say no to their use. They have presented their Youth Bill of Rights to Governor Symington and hope to see the Arizona legislature issue it as a joint resolution in their next session.

The young people printed their "Youth Bill of Rights" in bookmark form and are distributing them through the schools. The bookmark will serve as a visual reminder that alcohol and other drugs are dangerous and should be avoided.

The Governor's Youth Commission Against Drugs is a worthwhile endeavor and I congratulate the young people who are working hard to help themselves and their peers avoid the pitfalls and harmful effects of alcohol and drug abuse. Many times a message like this is better received when delivered by a peer. They can count on my continued support and interest in any of their efforts directed toward discouraging young people from ever trying drugs.•

MAGIC JOHNSON

• Mr. LEVIN. Mr. President, It was back in the winter of 1976 that an East Lansing sports writer, after watching many amazing performances by a young high school basketball star, gave this star the nickname—"Magic." From that day on it was always Earvin "Magic" Johnson, Jr.,—or—simply Magic.

Within 4 short years, Magic would lead his respective teams to a high school State championship, an NCAA National Basketball Championship, and an NBA finals championship. He went on to revitalize a struggling sport, create dreams for millions of kids and adults, and become a phenomenon throughout the world.

From his 1979 showdown with Larry Bird in the NCAA finals—a game which still holds the record for the most watched NCAA championship game ever—to his show downs with Julius Irving, Isiah Thomas, and Michael Jordan, no one prevailed more than Magic and no one handled himself better. He was the amazing athlete and consummate professional and he did it all with a smile.

He holds the alltime NBA record for assists. That accomplishment says so much about the man named Earvin Johnson, Jr. He was known on the court as Magic, not because of his ability to score or his ability to dunk the ball, but because of his ability to pass the ball, to set up a teammate, to give some one else the spotlight. He patented "no look passes" and "alley oop tosses." He made stars and champions of all those around him.

So, I guess it was not so surprising to see the remarkable way in which Earvin Johnson, Jr., handled the shocking news that he had contracted the HIV-virus. In the most tragic moment of his life, he once again thought of others. He chose not to run in shame, but rather to stand in the face of conflict, confront the challenges of this disease, and help others. He vows to be a spokesperson for the fight against the HIV-virus and the AIDS disease, and to advocate safe sex. And he vows to carry this message directly to the millions of people who adore him.

Acquired Immune Deficiency Syndrome [AIDS] is a grave public health threat. It is estimated that by 1992, the total number of persons diagnosed as having AIDS is expected to reach a minimum of 300,000 in the United States. The answers seem to lie in education, research, and treatment, in educating our young people about safe sex and responsible decision making, in researching causes and cures, and in treating those already afflicted with cost-effective medication and dignified care.

It has often been said that Magic made the players round him better. Maybe now Earvin Johnson, Jr., can begin to make each of us better. Maybe he can make us better address this disease which threatens all of us.

Today, I salute one of the State of Michigan's greatest athletes. This is a proud man, an accomplished man, who needs not the pity of anyone but who seeks to strengthen the courage of everyone to begin to address the seriousness of this disease.•

POSTAL RATE CASE

• Mr. STEVENS. Mr. President, after 20 months, the American public is now paying postal rates that are, in fact, final rates. It has taken over 20 months—nearly 2 years—to complete this most recent postal rate case. The U.S. Postal Service and the rates it charges are extremely important. They affect the well-being of everyone in this Nation, and are especially important to our Nation's economy.

Most observers, including those in the Postal Service, believe that something must be done to reduce the time and cost involved in the ratemaking process. I could not agree more. Thus, I have introduced legislation, cosponsored by the chairman of the Post Office Subcommittee, Senator DAVID PRYOR, which will reduce both the time and cost of future rate cases.

One of the major concerns with rate cases has been the length of time it takes to come to a final decision after the Rate Commission renders its initial recommendation. In this most recent rate case, that recommendation was rendered on January 4—10 months before a final decision was reached.

I have asked the Postal Rate Commission why it took an additional 10 months after the initial rate case decision to finally put the case to rest. The Rate Commission has responded with a rather lengthy report. This report is important to us, particularly in light of the legislation we expect from the House, as well as pending legislation in the Senate on this very subject.

Mr. President, I ask to print at the end of my remarks correspondence between the Postal Rate Commission and myself on this matter.

The material follows:

OCTOBER 28, 1991.

The Hon. GEORGE W. HALEY,
Chairman, Postal Rate Commission, Washington, DC.

DEAR CHAIRMAN HALEY: As you know, I have introduced four pieces of legislation aimed at reducing the time, and thus, the cost of establishing postal rates. A key piece of this legislative package, S. 949, would provide final ratemaking authority for the Postal Rate Commission. I can think of no better example of the need for such legislation as this most recent rate case. It has been over ten months since the regular ten month ratemaking period allowed by the law expired. I certainly understand the Commission's preoccupation with the evidentiary hearings required by law and analyzing the large body of Postal Service and intervenor data. However, that part of the process came to an end with the Commission's recommendations of January 4, 1991.

However, it is now October 28th. The rate case has yet to be completed. I know that some of the delay involves the Board of Governors. But most of the delay lies at the feet of the Rate Commission. I would be very much interested in knowing what happened after January 4, 1991, that required two additional lengthy decisions and a total of over ten months effort.

I would therefore appreciate your providing for me, as soon as possible, a written explanation of the procedures the Commission followed, including a discussion of the steps it took; the issues the Postal Service, the Governors, or any other parties raised (and whether they were new issues); a description of the new data, if any, which the Commission used; any material changes it made in its original decision; and any other facts you believe relevant and helpful to understand the reasons for this long delay. I would particularly like to have, as part of the explanation, a chronological chart or table that displays clearly the significant events in the proceedings since January 4, 1991.

Thank you for your assistance in this inquiry.

Cordially,

TED STEVENS.

POSTAL RATE COMMISSION,
Washington, DC, November 12, 1991.

Hon. TED STEVENS,
U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: This letter is in response to your request of October 28, 1991, for an account of why the remand phase of the recently-concluded Docket R90-1 rate case took the time it did. I would like to place a certain degree of emphasis—as, indeed, your letter does—on the distinction between the remand and the initial phase of the case which led to our first decision on January 4, 1991. That phase, which covered the 45 days of trial-type hearings in which we heard 130 witnesses, was finished within the statutory time limit of 10 months. It resulted in our recommending the rates which (except to the extent new classifications were rejected) the Governors have now determined not to modify, and which will be in effect, presumably, for at least another two years.

A sometimes-overlooked consequence is that the Postal Service was able to implement rate increases on February 3, 1991, the day it had chosen in advance, and has been collecting the additional revenue ever since. Those rates are sufficient to produce breakeven as defined and required by the Act.

To respond as clearly as possible to your inquiry, we have prepared two attachments. Attachment A is a three-column chart of events during the remand phase. The left column presents the dates on which they occurred; the middle column notes the significant actions of the Governors and substantive filings by the parties (including the Postal Service); and the right column lists actions taken by the Commission. Attachment A thus indicates which events preceded, or precipitated, which other events, and the intervals between them.

Attachment B is a narrative which fleshes out the chronological skeleton presented in Attachment A. In particular, we have tried, at each stage, to answer your request for a description of:

The steps we took;

The issues the Governors or the parties raised, with an indication of whether or not they were novel issues;

The new data we used; and

The changes we made to our January 4 decision.

At the outset, a short narrative summary may be helpful. When the Governors returned the January 4 decision for reconsideration, expressing some doubts that it would produce a test year (FY 1992) breakeven result, we proposed to explain our decision further, in the interest of promptness, without further adversarial proceedings.

Parties, however, demanded at least an opportunity to comment. Our Order No. 877 of February 5 allowed the rest of that month for comments and reply comments. Over 100 issues were raised—many of them by the Postal Service itself.

There followed a period of intense review and recalculation. The Governors had identified an outdated economic forecast in our decision, which we updated. Most of the period before issuance of Order No. 883, however, was consumed in considering the arguments offered in the comments and reply comments we had received. Order No. 883, in essence, indicated the recommendations we were inclined to make, but also gave parties challenging the record support for some of our determinations an opportunity to provide rebuttal evidence. No offers of evidence were received, however; and so on May 24, we issued our second recommended decision.

The Governors rejected this on July 1, pointing to three remaining areas of disagreement (discussed in detail in Attachment B). However, they also raised the new question of FY 1991 operating results, which they (and the Service, a few days later) argued were so depressed as to provide an additional reason for more revenue in the test year. None of these data were on the record in the case. At the time, only three quarters of FY 1991 had elapsed, and data for the third quarter were not available. (The Commission and the Governors, under §§3624 and 3625 of the Act, must act on the basis of the evidentiary record.)

Shortly after receiving the resubmission, we asked for comment on the question of extending the record to cover FY 1991. Additionally, we asked the Service to tell us, if it wished to extend the case in that way, to indicate what evidence it would provide of FY 1991 results and their bearing on the test year. The Service did not give a clear answer to the first question, and filed no response at all on the second; comments from other parties opposed extending the case.

At approximately the same time, the Commission noted the use in another pending case of previously unavailable billing determinant data. We asked the Service to provide these billing determinant data for FY 1990 because, as we had explained in the May decision, this data would be needed to effect an adjustment urged by the Governors. These data were supplied in several batches in August and September, and on the day the last set arrived (September 16) we issued a notice detailing our proposed use of them and seeking comment from the parties. No opposition to their use was filed. The Postal Service filed a comment raising one new, but relatively minor, revenue issue. The final filing concerning this matter was made on September 27, and the Commission's third decision was issued a week later, on October 4.

This brief summary covers only the major steps and cannot do more than suggest the large amount of detail work that was required to provide adequate opportunities for public participation, dispose of all the issue raised, and insure the requisite level of accuracy in the Commission's results. Much of this detail is set out in Attachment B. In that document, we have also tried to suggest the importance of what may appear to be extremely fine technical points. For example, changing the technique of constructing fixed weight indices for volume estimation, while admittedly a somewhat arcane point, resulted in a $145 million increase in total Postal Service net revenue.

We appreciate the opportunity to clarify the course of the remand proceedings in Docket R90-1. Please let us know if we can be of any further help.

Sincerely,

GEORGE W. HALEY,
Chairman.

ATTACHMENT A.—CHRONOLOGY OF EVENTS DOCKET NO. R90–1 AFTER JAN. 4, 1991

Date	Actions of Governors and parties	Actions of Postal Rate Commission
Jan. 4		Opinion and recommended decision.
Jan. 10–22		Supply workpapers.
Jan. 22	Governors issue 3 decisions on docket No. R90–1; allow rates under protest and send main decision to PRC for reconsideration.	
Jan. 25		Order No. 876; PRC will proceed directly to issue further decision.
Feb. 1	Mail Order Assn. of America, Direct Marketing Assn., Third Class Mail Assn., Mail Advertising Service Assn. Int., and Envelope Manufacturers Assn. of America requesting reconsideration of Order No. 876 and opportunity to comment; Council of Public Utility Mailers motion to file comments.	
Feb. 5	Postal Service Memorandum on Reconsideration raising new issues.	Order No. 877 allowing comments on Feb. 20 and reply comments on Feb. 27.
Feb. 15	Nat'l Newspaper Assn., et al. (Mail Order Assn. of America, Times Mirror Co., Third Class Mail Assn., Direct Marketing Assn.) motion to enlarge scope of reconsideration.	
Feb. 19–26	Comments (most of which raised new issues) of Advo-System, Inc., Council of Public Utility Mailers, National Retail Federation, American Public Power Assn., American Gas Assn., American Bankers Assn., American Newspaper Publishers Assn., Assn. of Alternative Postal Systems, Brooklyn Union Gas Co., Magazine Publishers Assn., Mail Order Assn. of America, Mail Order Assn. of America, et al. (with Third Class Mail Assn., Direct Marketing Assn., Envelope Manufacturers Assn. of America, Mail Advertising Service Assn. Int.), Major Mailers, Nashua Corp. and District Photo, Inc., Nat'l Assn. of Presort Mailers, New York State Consumer Protection Board, Parcel Shippers Assn., Time Warner, United Parcel Service.	

ATTACHMENT A.—CHRONOLOGY OF EVENTS DOCKET NO. R90–1 AFTER JAN. 4, 1991—Continued

Date	Actions of Governors and parties	Actions of Postal Rate Commission
Feb. 22	Postal Service Motion to extend time to respond to Nat'l Newspaper Assn. et al. motion.	
Feb. 26		Presiding Officer's Ruling No. 97 granting extension of time to Postal Service.
Feb. 27 to Mar. 1	Reply Comments Advo-System, Inc., American Business Press, Brooklyn Union Gas Co. and American Bankers Assn., Dow Jones, Mail Order Assn. of America, Shorter-Run Printers, Third Class Mail Assn., Time Warner, Postal Service, Office of the Consumer Advocate, New York State Consumer Protection Board.	
May 6		Order No. 883 responding to the over 100 new issues, raised by the parties, including the Postal Service, and their interrelationship.
May 20	Notices pursuant to Order No. 883 by American Newspaper Publishers Assn., Mail Order Assn. of America, Advo-System, Inc., Direct Marketing Assn. Harte-Hanks Shoppers, Third Class Mail Assn., United Parcel Service, Postal Service.	
May 24		Opinion and recommended decision upon reconsideration.
July 3	Governors decision to reject PRC further recommended decision and resubmit the Postal Service request.	
July 10	Postal Service resubmits its request.	
July 22		Order No. 893 establishing procedural framework for further PRC action; PRC request for clarification.
July 26	Postal Service response to PRC request for clarification.	
Aug. 2		Presiding Officer's information request No. 1 on resubmission, requesting 1990 billing determinant data similar to that provided in docket No. MC91–1.
Aug. 8 to Sept. 16	Responses of Postal Service to information request No. 1.	
Sept. 16		Presiding Officer's notice of FY 1990 billing determinants.
Sept. 25	Postal Service response to notice concerning billing determinants.	
Sept. 26		Presiding Officer's information request No. 2.
Sept. 27	Postal Service response to information request No. 2, correcting Sept. 25 response.	
Oct. 4		Opinion and recommended decision upon further reconsideration.
Nov. 4	Governors announce rejection of PRC recommended decision upon further reconsideration.	

ATTACHMENT B

January 22, 1991: The Governors issued three decisions: one accepted the bulk of the recommendations under protest and returned them for reconsideration; the second rejected some new classifications recommended by the Commission (e.g., a 125-piece walk-sequence discount for letters and flats in first and third classes and a limited discount for second-class mail submitted on pallets); and the third accepted under protest the recommended Public's Automation Rate (a pre-barcode discount for qualifying First-Class letters, single-piece as well as bulk[1]) and indicated that the Governors would seek judicial review.

PRC Order 876, January 25, 1991; related motion practice and comments: This order was designed to maximize expedition, and gave notice that the Commission saw "no need for any further adversary proceedings" and that it intended "to proceed directly to analyze the Governors' points and to evolve and transmit a further recommended decision." Order No. 876 at 2. Within a few days, some of the parties asked leave to file comments; and the Service, on February 5, filed an extensive memorandum supporting reconsideration in which it raised numerous issues not mentioned by the Governors. That same day we provided an opportunity to file comments (by February 20, 1991) and reply comments (by February 27, 1991). Fifteen comments were received, followed by 9 reply comments.[2]

At the same time, National Newspaper Association had moved (February 15, 1991) to expand the scope of the remand case to cover to new variant of the 125-piece walk-sequence discount recommendation that the Governors had rejected. The Service asked for additional time to respond to this request, and opposed it in a February 26 filing. It was disposed of in Order No. 883, discussed below.

Analysis of Governors' points and parties' comments: Following receipt of the final reply comments (February 28, 1991), the Commission was faced with a substantial amount of additional analytical work. As noted subsequently in Order No. 883 at ii, the Governors' decision and the comment period had generated over 100 new issues, all of which had to be disposed of before a new recommended decision could issue.

In addition to the procedures just outlined, the month of February had been devoted to beginning the explanations the Governors had requested. It was also necessary to correct an error the Governors had detected[3] and some minor mistakes the Commission uncovered in conducting its review. This work continued until all the parties' comments were filed, at which point it became necessary to provide explanations with respect to the issues raised by them. Providing the explanations the Governors had asked for required the development of a large number of financial scenarios. Each such case entailed development of test year costs, volumes, and revenues for all the classes and subclasses of mail and special services. This work was the principal task accomplished in March and April.

Order No. 883 (May 6, 1991): Order No. 883 responded to the questions thus far raised. It was an order, rather than a completed recommended decision, because one of its functions was to respond to certain parties that had complained in their comments about a supposed lack of record support for some of the Commission's costing determinations (especially those involving carrier street time, but also the reassessment of attributability of certain extraordinary air transportation costs). The Commission explained that these determinations were made in a substantively and procedurally proper way, but also extended to these parties an opportunity to provide contrary evidence.[4] The explanations provided in Order No. 883 largely account for its unusual bulk (214 pages).

No party offered to provide evidence on the issues identified as potentially suitable for such treatment in Order No. 883. Accordingly, once the time for such offers had expired, the Commission promptly issued its second recommended decision.

The second recommended decision (May 24, 1991): Since much of the explanatory writing had already been finished and presented to the parties in Order No. 883, the May 24 opinion proper was fairly brief. The reprinted text of Order No. 883 was incorporated as a part of it. Relying on the explanations and corrections made in the opinion, the Commission recomputed projected test year results and found that the rate previously recommended would enable the Service to break even and enjoy a $30 million surplus. Therefore, it recommended no change in the originally-recommended (January 4) rates.

Governors' rejection: On July 1, 1991, the Governors decided to reject the May 24 decision, and directed the Service to resubmit it once more. The formal resubmission was filed, with a substantial supporting memorandum, on July 10, although the Commission began to evaluate the Governors' own decision as soon as it was received.

It was in the July documents issued by the Governors and the Service that the nature and consequences of the FY 1991 operating results were first raised as an issue.[5] The Postal Service in particular implied that its revenue requirement had to be adjusted using these data (among other things) in order to insure breakeven in the test year. Postal Service Resubmission at 28–30.

Providing appropriate procedural mechanisms for potential use of FY 1991 data (July 22–August 9, 1991): The Commission realized that increasing rates on the basis of partial (eventually three quarters) of FY 1991 data that had never been commented upon by the parties or made the subject of at least an opportunity for on-the-record hearings would risk judicial reversal of the entire effort.[6] Accordingly, it issued Order No. 893 (July 22, 1991) and a contemporaneous request for clarification from the Postal Service. The latter document asked the Postal Service to state clearly whether it did or did not wish the record of the case extended to encompass available FY 1991 data. Order 893 provided for parties' comments on the potential extension of the record and requested the Service—if it wished the record so enlarged—to provide a description of the evidence it would offer to enable this to be done.

The Postal Service's response to the clarification request did not state an unambiguous position, but was principally devoted instead to a discussion of different senses that might be attached to the concept of "the record" and a complaint that they had not always been kept distinct.[7] On the date set for it to indicate what evidence it would offer, it made no filing at all. Other parties (American Bankers Association, Major Mailers Association and the Brooklyn Union Gas Company) filed objections to the idea of extending the record.

The question of billing determinant data: Simultaneously with the evolution of the "FY 1991 data" problem, it had become evident that the Postal Service had available billing determinant data for FY 1990. To explain the relevance of this data requires a brief reprise of some earlier events in the remand phase.

One of the objections made at an early stage (Memorandum of United States Postal Service in support of Reconsideration, February 5, 1991 at 10–11) was that, while the Commission had adjusted costs and volumes for actual FY 1990 results and used the resulting figures in its January 4 decision, it had made no similar adjustment for FY 1990 revenue per piece. The Postal Service argued that, in light of apparent declines in revenue per piece, this asymmetry led the Commission to overestimate total revenue and thus to provide too small a rate increase. Order No. 883 pointed out that no such adjustment could have been made in the January 4 decision, since (i) no billing determinant data for FY 1990 were then available, and (ii) such data are necessary for an accurate estimate of revenue.[8] Therefore, on August 2, 1991, Presiding Officer's Information Request No. 1 on Resubmission asked for the billing determinant data. The Postal Service provided them in a series of filings received between August 8 and September 16, 1991. The Commission proceeded to apply them to the estimation of revenue per piece.[9] On the same day that the last batch of billing determinant data arrived, the Presiding Officer issued a notice that the Commission expected to make use of them for estimated revenue, in the manner it had earlier described, and offered parties an opportunity to comment or file objection.

Use of billing determinants; the proposed international mail adjustment: No party objected to the proposed use of the billing determinants. The Postal Service filed a comment which, while not objecting, suggested a more sweeping revenue adjustment and in support thereof offered an affidavit from one of its experts pointing to an apparent $322 million shortfall in *international* mail revenue for 1990. The implication of the proposal was that domestic rates[10] should be adjusted accordingly. The Presiding Officer, the following day, requested workpapers supporting the affiant's exhibit. The Service promptly (September 27) supplied them, including a correction of the claimed international mail shortfall from $322 million to about $114 million. The matter was disposed of in the third and final recommended decision, the Commission finding that the proposed adjustment was not required.

The third opinion and recommended decision (October 4, 1991): With relatively little delay as a result of the international mail proposal just outlined, the Commission issued its final opinion and recommended decision on October 4. In this decision it acceded to the Service's arguments on the methods of calculating fixed weight indices, noting that the question was one of choosing a technical convention, that it could best be settled by rulemaking proceedings, and that for the present it was acceptable to let the choice be governed by revenue considerations. This action implied the need to recover another $145 million in test year net revenue.

As it had indicated it would do if billing determinants were available, the Commission adjusted the FY 1990 revenue per piece. For the test year, this meant an additional $200 million of net revenue had to be recovered from rates and fees.

The third area of disagreement had been our treatment of three subjectively determined net trends which the Service's volume estimation witness had imposed on his econometric results. The Commission had decided in its January 4 opinion that these adjustments were unsupported; since the witness's estimating procedures could stand independently of these judgments, they were removed from the estimates. This change was explained fully in each of our three decisions: in the January decision because it underlay our volume and hence revenue estimates, and in the May and October decisions because the Governors and the Service had argued against it following the January and May decisions. Disagreements of this kind unfortunately occur in many judicial and quasijudicial contexts when a party questions the judgment made by the trier of fact—in this case, the Commission—on the basis of expert evidence. The division of authority in chapter 36 of the Act, allowing as it does for repeated remands, may tend to protract such disputes when they arise in postal ratemaking.

The Commission recommended recovering $333 million[11] in additional net revenue through modest increases in a wide range of mail classes. About half of it ($150 million) was to come from First-Class, via a one-cent increase in the extra-ounce rate (24¢ in place of 23¢). Other classes were raised less that three percent (most, in fact, less than one percent).[12]

Final action by the Governors: On November 4–5 the Governors rejected the October 4 decision. This left in place the January rates insofar as they had been accepted under protest. They then voted on a proposal to modify the October decision—presumably with a view to the much-discussed 30-cent First-Class letter stamp—but as the vote was six for and three against, the modification failed of passage.

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[1] The Service had proposed such a discount for bulk entry only.

[2] Some of these documents were filed jointly on behalf of a group of parties.

[3] The Commission had used the Data Resources, Inc. (DRI) economic forecast for October 1990 rather than that for November 1990 in updating the basic numbers to reflect 1990 occurrences. This error was acknowledged and corrected in Order No. 883.

[4] Section 556 of the Administrative Procedure Act, which the Commission is required to follow, provides that some matters of fact may be officially noticed provided that parties are given a chance to show the contrary.

[5] The first quarter of FY 1991 ended on December 14, 1990. The Commission was then, of course, at work on its first opinion and recommended decision; the record in the case had closed on December 10, 1990. No FY 1991 data were of record in the proceeding then, and none were formally submitted for the record at any subsequent time.

[6] Both the Commission, in making a recommended decision, and the Governors, should they decide to modify such a decision, are bound to act in accordance with the record. 39 U.S.C. §§3624(a), 3625(d).

[7] The Commission observed, in its third opinion, that any such confusion might have been made harmless by providing the material in the unambiguously "of record" form of prepared testimony and exhibits. Opinion and Recommended Decision Upon Further Reconsideration, para. 258.

[8] More specifically: the Service had impliedly suggested simply dividing subclass revenue by subclass pieces. However, this procedure entails a serious risk of mis-designing the new rates since it provides no guidance on what elements have led to a change in revenue per piece. Revenue per piece is affected by such variables as the weight of pieces, the distance they are mailed (in zone-rated classes or classes where drop-shipping discounts are used), the prevailing degree of presortation, etc. Billing determinants do disclose these elements. If revenue per piece is built up using billing determinants, rather than obtained by dividing pieces into revenue, rate design can proceed with reasonable assurance that the new rates are correctly designed to recover the planned revenue. This distinction was explained in Order No. 883.

[9] In a few instances, there were apparent errors in the data; these were corrected through correspondence with Postal Service staff and the corrected data were used in the analysis.

[10] The Commission does not recommend rates for international mail, which are set unilaterally by the Service using a form of rulemaking procedure.

[11] The Commission's May opinion had a net surplus of $30 million. The two adjustments referred to resulted in a $315 million net revenue deficiency ($200 million plus $145 million less $30 million). Rates producing net revenues of $333 million resulted in a net surplus of $18 million.

[12] Exceptions were necessary where attributable cost could not be recovered, as required by 39 U.S.C. §3622 (b)(3), without a larger increase. The abnormal-seeming 27 percent increase in October recommendations; in January most nonprofit categories were raised 27–28 percent and library rate only two percent. The total increases recommended for these classes, reckoning in both sets of recommendations, were thus quite comparable—and were, of course, dictated by the statutory rule [§3626(a)] that nonprofit mail pay no more and no less than attributable cost.•

CONDEMNING THE MASSACRE UNDERTAKEN BY THE SERBIAN DICTATOR

• Mr. D'AMATO. Mr. President, I rise today to condemn the massacre being undertaken by Serbian dictator Slobodan Milosevic against the innocent citizens of Dubrovnik and urge immediate United States humanitarian aid to the innocent civilians suffering under the wrath of a dictator bent on destruction.

Milosevic's war has already led to the death of thousands of innocent Croatians. Over half a million people have been rendered homeless. At least 124 churches have been destroyed. There has been an absolute rape and pillage of the people of Croatia taking place for some time now. And now, Dubrovnik and its helpless citizens are being wiped away by a killing machine.

The killer Milosevic has kept the ancient Adriatic port city of Dubrovnik under siege for 42 days. Innocent civilians are trapped without water, electricity, food, and medical supplies. They suffer bombing from Milosevic's band of assassins daily. It is reprehensible.

Targets have included hotels full of refugees, apartment buildings that are home to innocent mothers and young children, and centuries-old buildings, including holy sites like the Franciscan and Dominican monasteries.

The senseless destruction of the jewel of the Adriatic shocks the world. A city with such historic significance, destroyed on the whim of a dictator bent on destruction. Dubrovnik has no military significance; even the Serbians admit this. Yet they chose to tear down history to, as they say; "teach the Croatians a lesson."

The global community has, to this point, abandoned Dubrovnik. Even the United States, due to the abysmal policy of the State Department, has failed to respond as a great nation should. I stand here today urging the Congress to help those who cannot help themselves.

Mr. President, the United States cannot simply stand by and watch innocent citizens die at the hands of ruthless killers. We must again demonstrate the leadership that only the United States can provide.

I urge all of my colleagues to support whatever efforts are necessary to bring humanitarian aid to the suffering citizens of Dubrovnik.

Already several convoys of assistance have been blocked by the Serbians.

Two relief workers have been killed, others have been detained.

It is obvious that the Serbian leadership has no regard for human life, no respect for human suffering, and no fear of the world community. It is time that the United States flexed some muscle and used whatever resources we have available to bring humanitarian assistance to the suffering men, women, and children of Dubrovnik.●

TRIBUTE TO JUDY MANN

Mr. DURENBERGER. Mr. President, I rise today to commend Judy Mann, journalist whose column appears in the Washington Post and other publications. Her thoughtful articles consistently draw readers' attention to the vital issues concerning today's family.

As we work to wrap up the legislative business of this session of the 102d Congress, the issues Ms. Mann raises in her column today, entitled by the Washington Post "Pro-Family, Pro-Business," are a reminder of our efforts to pass meaningful Family and Medical Leave legislation. It is a fascinating chronicle of how, on their own initiative, some businesses attend to the needs of their employees and their families.

Mr. President, I ask to include Judy Mann's article in the RECORD and commend it to my colleagues.

The article follows:

[From the Washington Post, Nov. 15, 1991]

PRO-FAMILY, PRO-BUSINESS

(By Judy Mann)

How family-friendly is your employer? Until now, there has been no objective way of measuring that, either among industries or within an industry.

But as men and women increasingly come to understand that they will be combining work and families during a significant part of their careers, they are likely to make this an important question in deciding where to work.

The Families and Work Institute in New York City has developed a Family-Friendly Index to help companies assess how they meet their employees work and family concerns and how they stack up against other companies competing for the same talent. In New York yesterday, the institute also released a list of the four friendliest companies that describes some of the innovative programs they have developed.

The top four companies, which enjoy good economic health, developed their work-family agenda with the same strategic planning emphasis that drives other business goals. The initiatives are part of a business strategy that will result in a desirable work culture, and the companies are committed to hiring the best available experts to design and implement them.

These exemplary companies are IBM Corp., which employs 4,000 people at its plant in Manassas; Johnson & Johnson; Aetna Life & Casualty Co.; and Corning Inc.

Each was selected for "an enduring commitment to the subject of work and family life," according to the report.

The Work and Family Institute, with two grants from the Ford Foundation, surveyed 188 companies for the Corporate Reference Guide to Work and Family Programs and graded them according to stages of development.

Pre-Stage I companies, 33 percent of the total, had few policies and few clues about the issues. Stage I companies, 46 percent of those studied, had some programs, but saw this as a women's issue that was driven by child-care concerns.

Stage II companies, 19 percent of the total, had developed an integrated and packaged response to workers' concerns.

Stage III companies, the most advanced, had gone so far as to address sexual equity and to get involved in efforts to improve family and work life for the broader community.

Johnson & Johnson, for example, has a pilot program that will address the business education needs of a group of Head Start center directors.

Corning put emphasis on affirmative action for women and minorities as far back as 1983, but not much happened. Female and minority workers started complaining. A survey taken in 1984 and 1985 revealed that those two groups were significantly less satisfied than white males were. In the professional grades, women were leaving at a rate of 13.1 percent a year and blacks were leaving at a rate of 15.3 percent a year. White male attrition was 7.8 percent a year.

Corning's management figured out that this higher attrition rate among women and minorities was costing the company about $3.5 million a year in recruiting, hiring and training costs.

The company, using the same approach it used for other business initiatives, set up two teams to correct the problem. The teams consisted of managers and employees at different levels. Their mission was to identify barriers to advancement and recommend strategies for removing them. Those teams are now permanent and Corning has instituted a coaching program for providing mentors for women and blacks and set goals for their advancement, which it is meeting or exceeding. Corning has also developed a career counseling program with three professionals who are paid by the company.

Companies were also graded on their innovative programs. Ohio Bell, for example, has a TeenLine that offers counseling to parents on how to handle everything from homework conflicts to eating disorders and discipline.

Johnson & Johnson has developed a comprehensive health and wellness program designed to help its employees live longer and better, and to reduce health-care costs. It targets not only such obvious health areas as smoking and diet, but also stress management.

The company has found in several studies that absenteeism is down 18 percent as a result of its programs, which breaks down to half a workweek per employee per year. Hospitalization costs for Johnson & Johnson employees have increased at a one-third the rate of costs at similar companies without such a program. "In 1989," the corporate reference guide notes, "Johnson & Johnson saved more than $150 net per employee in health care cost containment as a result" of the program.

This major study of U.S. corporations provides the most comprehensive guide yet of what enlightened companies are doing, and the best evidence so far that family-friendly policies are good for business.●

THREE CHEERS FOR BRAZIL'S PRESIDENT COLLOR DE MELLO

● Mr. CRANSTON. Mr. President, if we are to live in a new world order, it is important we take care of our planet. As the cold war recedes into unhappy memory, challenges every bit as vital—and every bit as threatening to our existence—remain. Many of these issues concern the environment and ideologies of development at any price.

For that reason, I wish to express my delight and satisfaction for an initiative of enormous import that was announced today in Brazil by President Fernando Collor de Mello.

In a dramatic step designed to protect the hemisphere's largest still isolated indigenous group and the lands where they live, Collor signed a decree legally protecting 36,000 square miles of tropical forest for the Yanomami Indians.

This is truly a moment of great joy. It is a historical moment whose significance can only grow in time. It is a milestone in the protection of human rights of an endangered few and the environment belonging to an entire planet.

The Yanomami land has in the last decade been the victim of invasions by thousands of gold and tin miners. By 1987, more than 45,000 miners inhabited Yanomami territory. They brought with them epidemic diseases that threatened the existence of the 10,000 remaining Yanomamis and led to the destruction of vast expanses of the rain forest.

Faced with this onslaught, environmental and human rights groups called on the Government to demarcate legally the land constitutionally guaranteed to the Yanomamis. Only by reaffirming their rights, it was recognized, could access to Indian lands be controlled and monitored.

The steps taken by President Collor today deserve praise for their vision and for their courage. Arrayed against those who sought to protect the forests and those who live in them were a powerful coalition of special interests.

Miners, local political leaders and ultra-nationalist military officers charged demarcation efforts were part of vast international conspiracy against Brazilian sovereignty.

In June, I met with President Collor to express my concern that such pressures might derail efforts to protect Yanomami land. Several days earlier, I, together with seven of my colleagues, also wrote to President Bush to ask that he raise the issue with the Brazilian President.

After my meeting with him, I was left with an impression of a determined, modern democractic leader who knew what was right and was determined to do right. Therefore, I say to him today: "Muito bem feito, senhor Presidente." Very well done.●

HARRIETT B. MACHT HONORED

● Mr. ROTH. Mr. President, on November 16, at a National Panhellenic Conference here in Washington, a wonderful woman—Harriett B. Macht—from my State of Delaware, will be installed for a 2-year term as chairman of that organization, which oversees 26 national sororities on college campuses.

In her position as chairman, Harriett Macht will represent 2.5 million student and alumnae members of Greek women's organizations. I would like to use this occasion to congratulate Harriett and to comment on the rich heritage of those who are active in our Nation's Panhellenic community.

Not only do the sororities that are represented by the National Panhellenic Conference engage in philanthropy, as well as other community activities, but the Panhellenic community itself is rich in both spirit and example of the qualities that have made America great. I believe this spirit is encapsulated in the great funeral oration Pericles delivered in the winter of 431 B.C. I can imagine him standing on the steps of Athens, honoring the valiant who had died defending that great city, and giving those brave residents—as well as those of us today who still cherish democracy—that code that must bind us.

On that occasion, Pericles said:

> It is called democracy because power does not rest with the few, but with the many, and in law, as it touches individuals, all are equal, while in regard to the public estimation in which each man is held in any field, his advancement depends not on mere rotation, but rather on his true worth; nor does poverty dim his reputation or prevent him from assisting the state, if he has the capacity. * * * Our belief is not primarily in munitions and concealment, but in our own spirit in action. * * * We are seekers of beauty, but avoid extravagance—of learning, but without unmanliness. For us wealth is an aim for its value in use and not as an empty boast, and the disgrace of poverty rests not in the admission of it, but more in the failure to avoid its practice. * * * We do not win friendship from benefit received, but from service rendered.

These are the ties that bind good people. These are the objectives good people share. That is why I am proud of women like Harriett Macht. She is a stalwart example of what people can do in a land of promise. She is an example of people who give more than they take, who set out to break their own records, to build upon their yesterdays with their todays. She is an example of people who work to help our community get ahead of itself and to leave a better life for our children.

I congratulate Harriett on this fine occasion. Likewise, I salute the wonderful work being done by the National Panhellenic Conference and wish them all the best as they continue to touch lives well into tommorrow.•

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

• Mr. ADAMS. Mr. President, I expect the dire emergency supplemental appropriations bill which the Senate Appropriations Committee passed today, to transcend partisan political disputes, budget battles, and other controversies and quickly become law. The domestic emergency relief funds are essential to help decent, hard-working American families get back on their feet, free from the threat of physical danger and the lack of basic necessities.

There is already enough suffering. FEMA has had to forego funding essential dike repair and other flood mitigation projects in Washington State. A dairy farmer in Snohomish, WA, wrote me that all his farmland in the river valley was ravaged by the November 1990 flood. Two large breaks existing in the Snohomish River dike could have caused more floods at any time. Milk prices were so low, he could not afford another flood.

Luckily, an administrative exception allowed FEMA to pay for this repair, but dangerous unrepaired flood control facilities still exist in that area.

Recently, wildfires ravaged the eastern portion of Washington State. The supplemental appropriations bill specifically earmarks funds for the wildfire disaster. Just the other day, the President signed a major disaster declaration for the Spokane region. Funding is needed now.

The bill also provides emergency funds for needy children and their mothers. The Women, Infants and Children Program [WIC] will receive an additional $100 million for the Special Supplemental Food Program. This is a nutrition program aimed at expectant mothers and their children. It has been noted that for every dollar spent on the prenatal component of WIC, the savings in Medicaid costs range from $2.84 to $3.90 for newborns alone.

I urge Congress to quickly pass and the President sign this important legislation.•

THE SYMPTOMS AND THE CAUSES OF FLAWED FISCAL AND TRADE POLICIES

• Mr. SIMON. Mr. President, I have strongly supported each earlier attempt we have made to provide an extension of unemployment insurance benefits, including reachback provisions, to the millions of jobless Americans and their families who are being hurt the most in this recession. I'm pleased that the President is now willing to sign the compromise legislation we have voted on today. It took too long to get to this point, but the Congress and the President have finally been willing to mute their differences on this issue.

This emergency legislation will give jobless families in Illinois and across the Nation a chance to get back on their feet. This will restore hope and stamina to countless families who have had little hope until now.

All States are suffering during this recession and from the flawed fiscal policies this Government continues to pursue, seemingly without regard for the short- and long-term consequences. In Illinois, the recession and our harmful trade and fiscal policies have contributed to significant losses at Caterpillar, to the decision of Illinois-based Zenith to move its last United States assembly plant to Mexico, and to the demise this week of Midway Airlines.

The majority leader, Mr. MITCHELL, and the Republican leader, Mr. DOLE, have done great service to the Nation in this final stage of this difficult process. Chairman DAN ROSTENKOWSKI, who played the crucial role in engineering a benefits package that the President would be willing to sign, deserves great credit for this final result. Another lawmaker whose efforts have stood out in this process is the junior Senator from North Dakota, KENT CONRAD. Once again, he has been a bulldog for his North Dakota constituents. Without his persistence and constructive and masterful legislative efforts, thousands of North Dakotans would not be about to receive extensions of their benefits.

With the enactment of this emergency extension of unemployment insurance benefits, we will have addressed one of the symptoms of these harmful policies. Next, we must finally begin addressing the causes. This Senator will continue to press for action on these remedies. I want to put my colleagues on notice that one of these is ready for Senate debate in the near future. It is the constitutional amendment that I have introduced, and that the Judiciary Committee has approved in a vote of 11–3, to require balanced Federal budgets as the rule, instead of as the exception.•

PROBLEMS FACED BY THE PEOPLE OF ZAIRE

• Mr. SIMON. Mr. President, I have spoken on the floor of the problems faced by the people of Zaire, in part because of our long support of President Mobutu, whose dictatorial and corrupt regime has denied basic human rights to the people of that vast nation. I want the United States to stand more clearly for human rights everywhere, including Zaire.

In the process of my work as chairman of the Subcommittee on Africa of the Foreign Relations Committee, I have had the opportunity to get acquainted with Dr. William T. Close, who for 16 years was the personal physician to President Mobutu, and also happens to be the father of the acclaimed actress, Glenn Close.

Dr. Close has a strong sense of urgency about the situation, the strong belief that if a transitional government does not come quickly, there will be massive bloodshed in Zaire. There may be chaos even if he leaves, but there is a greater chance to move things in a constructive direction quickly if Mobutu leaves, and we join France and Belgium in urging a change, a position we have yet to take.

Over the years we have given Mobutu more than $1 billion in aid, another unfortunate example where the United States has helped a dictator, ultimately without help to anyone, including the United States.

I ask unanimous consent, Mr. President, to insert into the RECORD, a statement I issued on November 12 on the Zaire situation, and the recording of a phone call between Dr. Close and Faustin Birindwa, one of the opposition leaders in Zaire.

And then at the end, Mr. Presdent, I ask to insert a statement from Dr. Close on what needs to be done to resolve the crisis in Zaire.

The material follows:

STATEMENT OF SENATOR PAUL SIMON, CHAIRMAN, SUBCOMMITTEE ON AFRICAN AFFAIRS, COMMITTEE ON FOREIGN RELATIONS, NOVEMBER 12, 1991

It is clear that the situation in Zaire is deteriorating and that more decisive action must take place to avoid massive economic, political, and social chaos.

I have today communicated to the Administration that we must immediately request of President Mobutu that a sovereign national conference of a limited number of people be convened at once under the auspices of someone acknowledged to be independent, such as Bishop Mosongo; that within 10 days that conference should establish an interim government to prepare for national elections; that immediately upon the establishment of the interim government, President Mobutu should resign, and for a period of at least six months leave the country; and that the United States should urge the nations of France, Belgium, and Senegal to send in a limited number of troops to assure stability during the transition period.

TRANSCRIPT OF CONVERSATION BETWEEN WILLIAM T. CLOSE (WTC) AND FAUSTIN BIRINDWA (FB) ON NOVEMBER 13, 1991

FB: You must note that Monseigneur Mosango was attacked last night at his home by commandos from the (Special Presidental Detachment). You must please inform our friends at the White House and at the State Department of this incident. This is inadmissible.

WTC: Is he wounded?

FB: Thank goodness the guards at his home fought like angels, but one of the guards was gravely wounded. During the attack, Monseigneur was able to call friends from his room including the Embassies. It is unthinkable that when we are all looking for a neutral party to head the conference that such intimidating tactics are taking place.

WTC: These commandos came from where do you think?

FB: A commando dressed in a military uniform matching the uniform of the DSP can only come from one place. There are not two guesses as to where they come from. We do not have any uniformed military guards or personnel in Sacred Union.

WTC: Do you think that the National Conference will proceed on schedule?

FB: Yes. I tell you about this incident only to point out the intimidating tactics being used by the President. But this is not going to stop our progress, and we are going to keep up our struggle to install a democratic government. I implore you to advise the proper authorities in your government because the President of the Sacred Union [The United Opposition Forces] Mr. Ileo, is very concerned that this fact be diffused to the various governments who are friends of Zaire.

WTC: We will spread the word of this terrible incident immediately to the right party in the US Government.

FB: I was asked immediately to pass this information to the Voice of America representative who unfortunately has already left Zaire after having interviewed me yesterday and the day before. Incidentally the Voice of America did a wonderful job in reporting the truth about Zaire.

WTC: In your opinion, do you think the Conference will be productive?

FB: This Conference will be productive if it is preceded by a tri-partite sub-committee headed by a neutral moderator whose main purpose is to establish the basic rules and modus operandi of the Conference. I will read to you the decision made by the Sacred Union on November 6th and communicated to the press on November 12th. I will read to you its exact contents in a minute.

WTC: When is this Conference starting?

FB: As far as we know, it is scheduled to begin on Friday, November 15th provided that the pre-conference committee is able to meet in order to establish the guidelines. This sub-committee is the only one who will decide if the Conference will take place, when and under what condition.

WTC: What do you think Mobutu will do to sabotage this Conference?

FB: He cannot do much more at this time because all the guidelines and the measures taken up to now for this Conference are there to sabotage it. In the present Conference you have a few hundred members under strict orders of the President and you have an association of clapping women whose sole role is to clap when signals are given to them by a Mobutu supporter. These elements have nothing really to do with the Conference, yet these people have suddenly become members of the Conference. They applaud to confuse the minds of the people who are there to do some serious work to advance changes in the Constitution and our democratic process. The present count of attendees at the Conference is 2,800 people of which 1,000 are already associated directly with Mobutu. Two-thirds of the people are there only to create confusion and disorganize the Conference. If you recall, at on time we had stopped the conference because there were more than 5,000 people in the auditorium and it was complete chaos: no productive work could be accomplished. Molumba from the Sacred Union has requested that this Conference be reduced to a smaller number of serious people who will perform the sovereign task of changing the country's direction toward democratic rule. Some associations have been established that have no legal basis. They were created only so that they could participate in the Conference and be manipulated and guided by the President. Even active military personnel were injected into the Conference. Some of these active military personnel have been appointed president of the illegal associations. These people were not only put there to sabotage the Conference but also to transmit ideas and recommendations which are actually dictated by the President.

WTC: Do you think that the Army is still involved in the Conference and will it continue to be involved?

FB: I do not think since even our request for a sub-committee to hold a meeting prior to the Conference the people designated to be in the sub-committee were in the majority of military personnel. I will give you the composition of these parties: The government of Mongul Diaka has provided us with the makeup of the subcommittee to attend the meetings prior to the opening of the Conference.

In addition to the Sacred Union's 10 people and the president's party of 10, there are an additional 8 people that no one knows.

WTC: It appears that it is a re-run of the same comic opera.

FB: Absolutely. With reference to the Societe Civile [a front for Mobutu], they put 3 delegates per region, therefore, 3 times 10 equals 30 plus 10 for Kinshasa which makes a total of 40. For Kinshasa, the head of the people if you remember the Dr. Ndombe has been replaced by a woman and I do not have to describe to you who she is and you can imagine with whom she has been (ex-mistress of Mobutu). In addition to that, she happens to be the wife of one of the top people of the civilian guard (guarde civile). This means that we are starting the Conference at the same point where we abandoned it last time because of these same problems. We have insisted that the sub-committee be only 10 people from the Sacred Union and 10 people from the Forces Democratiques which are the supporters of the President plus some other neutral people who will be there in order to mediate the talks. The participation of some of the people of the other regions and sub-regions is acceptable provided that they are led by a neutral party. This is what I want you to make the US Government and the State Department understand that this is why we cannot accept that Diaka presides over the Conference. I will now give you a reading from our press release dated November 6th which is also accompanied by a letter written to Diaka as President of his party and not as Prime Minister since we in the democratic union do not recognize the new government.

"Common declaration of the opposition party. Civil association, government functionaries and all other social organizations reunited in an exceptional meeting on November 6, 1991. We the Sacred Union have taken the following decisions:

1. Regarding the work on the Sovereign Conference: Following the actions taken on July 18, 1991 we unite ourselves into one front in order to seek from Joseph Mobutu a meeting of a National Conference having a sovereign status. The Sacred Union will not attend a non-sovereign Conference or a Conference that will be against the will of the people in which all the decisions are not imperative and all the decisions made by this Conference will be imposed upon everyone.

2. Reconfirm our wishes of the Sacred Union to take part in the pre-convention meeting prior to the sovereign national Conference. In order to expedite the work, the Sacred Union wishes that a sub-committee be formed immediately in order to prepare the rules and the guidelines of this sovereign national Conference. This sub-committee should include the following: (a) Societe Civile; (b) Sacred Union; and (c) The committee must be presided over by a pious and credible arm of the Roman Catholic Church.

3. Concerning the eventual presidential elections which may be organized in a few months under the initiative of President Mobutu. The Union reaffirms its previous position that there will be no presidential election until after the Sovereign Conference has

established its fundamental guidelines of how to guide the Third Republic.

The new Constitution must be established and distributed to all the citizens of Zaire to be voted upon in a national referendum. The presidential election can only be held after regional elections have taken place.

4. The Sacred Union has decided that all the members of the phantom government elected on the 28th and 31st of October 1991 headed by Diaka should exclude themselves from the participation in the national Conference.

Signed in Kinshasa by:

For the Sacred Union the active president, Joseph Ileo.

From DPSC, members of the political bureau, Charles Mbwano Simba—Second Vice President of Eupherie (Nguza Karli Bond party).

Tambwe—Kengo's party representative.

Kamanda Wa Kamanda (a one-time Prime Minister).

For the Franc Commun des nationalistes—Jean-Claude Billet Billet or Kalu.

Permanent members of the Sacred Union:

Faustin Birindwa, Roger Kisanga, Zachary Kowa and Jean Cote''.

FB: I will now read to you the letter which we have sent to Diaka as president of his party.

''This letter is dated November 12, 1991 at 7 p.m. Kinshasa time. Please note that this is addressed to President Mongul Diaka as head of his party and not as Prime Minister Diaka.

''Since July 18, 1991 the Sacred Union has fought for a national Conference which is truly sovereign in order that decisions can be immediately implemented and applicable to everyone. Please note the following steps which have been taken by the Sacred Union to establish a commission to try to clean up all possible ambiguities which until now have handicapped the work of the national Conference. The Sacred Union recognizes the need for an immediate consultation between parties to establish guidelines for this sovereign national Conference. This committee should be a tri-party which would be the Sacred Union, the Union Democratic Forces in association with other forces such as the Civil Society in order to harmonize their points of view before the commencement of the Conference itself begins and also to create a favorable atmosphere for this Conference. In order to achieve this objective this committee will be presided over by a moderator of an institution that has the respect of everyone; for instance the Catholic Church. It is in this light that we respond to your letter addressed to President Joseph Ileo dated November 10th.

''Sincerely yours,

''Faustin Birindwa of UDPS for technical sector of the Sacred Union.

''People from Eupherie (Nguza Karly-Bond's party).

''From UDI (Kengo's party).

''Ileo.''

A copy of this letter and the above press release were given to the Embassies of Belgium, France and the United States. We must also consider the work that is being done by the Parliament at the present time as I explained to you yesterday. The Parliament voted last night to reject the Diaka government and a letter to that effect was sent to the President.

WTC: If the US Government makes the statement that Mobutu was a friend of the US, but that the US no longer supports the Mobutu administration what will happen?

FB: The reaction of the people will be positive—we expect the entire population to be dancing with joy in the street. This is exactly what the people wish, however we cannot ask this of the US because it is up to the US to judge how and when it would make such a statement.

WTC: Rephrasing the same question just posed, if the US comes up with a statement saying ''Mobutu was our ally for a long time but because of the situation as it now is in Zaire and because Mobutu is interfering with the establishment of a democratic government we will retract our moral support etc., etc. and we do not emphasize what he ought to do. After all, it is the right of the US to choose who it wishes to befriend. At that point, what would happen?

FB: This is exactly what the population is awaiting. After the Senate and the Congress meetings, we are awaiting such a declaration from the US.

WTC: Thank you very much, this is very clear.

POINTS TO HELP IN THE SOLUTION OF THE ZAIRIAN CRISIS, NOVEMBER 14, 1991

(By Dr. William T. Close)

1. The situation at this moment in Zaire is at the boiling point: the major sources of revenue for the country have ceased to operate, all foreign experts needed for the generation of power and revenue have left the country, the Zaire stood yesterday at 44,000 and today at 57,000 per US dollar, fuel supplies run out next week with none in the pipeline, food is critically scarce, banks are closed, etc, etc.

2. The US Government needs to dissociate itself from Mobutu. This message must come from the White House since all are aware of the longstanding personal relationship between President Bush and Mobutu—a relationship which Mobutu has distorted and exploited. Messages from the State Department, though useful, are not as clearly understood by the Zairians as are messages from the White House.

3. The US Government should clearly state that it would support the establishment of a transitional government.

4. The present composition of the National Conference is self defeating (please refer to attached). The US recommends and would support the restructuring of the Conference to represent major political forces in Zaire, to be chaired by a neutral, generally acceptable Church leader. [Bishop Mosengo's compound was entered two nights ago by 4 Presidential commandos. The Bishop's bodyguards fought, and one was severely wounded before the commandos turned tail.]

5. The US Government urges President Mobutu to end his term of office on December 5th as provided by the Constitution, and further recommends that Mobutu absent himself from Zaire until present changes are well under way.

6. The US Government strongly opposes any Zairian military intervention in the process of democratization and commits itself to supporting an international peacekeeping force if so requested by the legitimate government or by a legitimate National Conference.

7. The US needs to support, along with European countries, an economic reform program instituted by a transitional government. The reform program needs to be monitored by outside experts from the World Bank or IMF. As most recently in Zambia, the US Government would encourage national elections under neutral supervision (National Endowment for Democracy).●

MEASURE REFERRED TO THE JUDICIARY COMMITTEE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Executive Communication 1757, a communication from the Assistant Attorney General transmitting proposed amendments to the International Claims Settlement Act, and that it then be referred to the Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING 100TH ANNIVERSARY OF FILMMAKING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 161, a concurrent resolution commemorating the 100th anniversary of filmmaking, received today from the House; that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 161) was agreed to.

PROGRAM OF MARRIAGE AND FAMILY COUNSELING FOR CERTAIN VETERANS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 238, S. 1553, a bill to provide family counseling for veterans of the Persian Gulf war.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1553) to establish a program of marriage and family counseling for certain veterans of the Persian Gulf War and spouses and families of such veterans.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. PROGRAM FOR FURNISHING MARRIAGE AND FAMILY COUNSELING.

(a) REQUIREMENT.—Subject to the availability of funds appropriated pursuant to the authorization in section 3, the Secretary of Veterans Affairs shall conduct a program to furnish to the person referred to in subsection (b) the marriage and family counseling services referred to in subsection (c). The Secretary shall commence the program not later than 30 days after the date of the enactment of this Act. The authority to conduct the program shall expire at the end of September 30, 1994.

(b) PERSONS ELIGIBLE FOR COUNSELING.—The persons eligible to receive marriage and family counseling services under the program are—

(1) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses, children, and parents of such veterans; and

(2) members of the reserve components who were called or ordered to active duty during the Persian Gulf War and the spouses, children, and parents of such members.

(c) COUNSELING SERVICES.—Under the program, the Secretary may provide marriage and family counseling that the Secretary determines, based on an assessment by a mental-health professional employed by the Department and designated by the Secretary (or, in an area where no such professional is available, a mental-health professional designated by the Secretary and performing services under a contract or fee arrangement with the Secretary) is necessary for the amelioration of psychological, marital, or familial difficulties that result from the active duty service referred to in subsection (b) (1) or (2).

(d) MANNER OF FURNISHING SERVICES.—(1) The Secretary shall furnish the marriage and family counseling services under the program as follows:

(A) By personnel of the Department of Veterans Affairs who are qualified to provide such counseling services.

(B) By appropriately certified marriage and family counselors employed by the Department.

(C) By qualified mental health professionals pursuant to contracts with the Department.

(2) The Secretary shall establish the qualifications required of personnel under subparagraphs (A) and (C) of paragraph (1) and shall prescribe the training, experience, and certification required of appropriately certified marriage and family counselors under subparagraph (B) of such paragraph.

(3) The Secretary may employ counselors to provide marriage and family counseling under paragraph (1)(B) and shall pay such counselors at the rates prevailing for such counseling among non-Department health-care professionals with similar training, experience, and certification in the locality in which such counselors provide such counseling, as determined by the Secretary.

(e) CONTRACT COUNSELING SERVICES.—(1) Subject to paragraphs (2) and (4), a mental health professional referred to in subsection (d)(1)(C) may furnish marriage and family counseling services to a person under the program as follows:

(A) For a period of not more than 15 days beginning on the date of this commencement of the furnishing of such services to the person.

(B) For a 90-day period beginning on such date if—

(i) the mental health professional submits to the Secretary a treatment plan with respect to the person not later than 15 days after such date; and

(ii) the plan and assessment made under subsection (a) are approved by an appropriate mental health professional of the Department designated for that purpose by the Chief Medical Director.

(C) For an additional 90-day period beginning on the date of the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period) if—

(i) not more than 30 days before the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period), the mental health professional submits to the Secretary a revised treatment plan containing a justification of the need of the person for additional counseling services; and

(ii) the plan is approved in accordance with the provisions of subparagraph (B)(ii).

(2)(A) A mental health professional referred to in paragraph (1) who assesses the need of any person for services for the purposes of subsection (c) may not furnish counseling services to that person.

(B) The Secretary may waive the prohibition referred to in subparagraph (A) for locations (as determined by the Secretary) in which the Secretary is unable to obtain the assessment referred to in that subparagraph from a mental health professional other than the mental health professional with whom the Secretary enters into contracts under subsection (d)(1)(C) for the furnishing of counseling services.

(3) The Secretary shall reimburse mental health professionals for the reasonable cost (as determined by the Secretary) of furnishing counseling services under paragraph (1). In the event of the disapproval of a treatment plan of a person submitted by a mental health professional under paragraph (1)(B)(i), the Secretary shall reimburse the mental health professional for the reasonable cost (as so determined) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

(4) The Secretary may authorize the furnishing of counseling in an individual case for a period shorter than the 90-day period specified in subparagraph (B) or (C) of paragraph (1) and, upon further consideration, extend the shorter period to the full 90 days.

(5)(A) For the purposes of this subsection, the term "treatment plan", with respect to a person entitled to counseling services under the program, must include—

(i) an assessment by the mental health professional submitting the plan of the counseling needs of the person described in the plan on the date of the submittal of the plan; and

(ii) a description of the counseling services to be furnished to the person by the mental health professional during the 90-day period covered by the plan, including the number of counseling sessions proposed as part of such services.

(B) The Secretary shall prescribe an appropriate form for the treatment plan.

(f) COST RECOVERY.—For the purposes of section 1729 of title 38, United States Code, marriage and family counseling services furnished under the program shall be deemed to be care and services furnished by the Department under chapter 17 of such title, and the United States shall be entitled to recover or collect the reasonable cost of such services in accordance with that section.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the terms "veteran", "child", "parent", "active duty," "reserve component", "spouse", and "Persian Gulf War" have the meanings given such terms in section 101(2), (4), (5), (21), (27), (31), and (33) of title 38, United States Code, respectively.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,000,000 for fiscal year 1991 and $10,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out this Act. Funds authorized to be appropriated under this section shall be considered to be emergency requirements for the purposes of section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(i)), but may be obligated for the program conducted pursuant to section 1 only if the President designates an appropriation under this section as an emergency requirement pursuant to such section 251(b)(2)(D)(i).

SEC. 4. REPORTS.

(a) INTERIM REPORT.—Not later than January 1, 1993, the Secretary shall submit to Congress a report on the program conducted pursuant to section 1. The report shall contain information regarding the persons furnished counseling services under the program, including—

(1) the number of such persons, stated as a total number and separately for each eligibility status referred to in section 1(b);

(2) the age and gender of such persons;

(3) the manner in which such persons were furnished such services under the program; and

(4) the number of counseling sessions furnished to such persons.

(b) FINAL REPORT.—Not later than January 1, 1994, the Secretary shall submit to Congress a report on the program. The report shall contain updates of the information referred to in subsection (a) and a description and evaluation of the program and shall include such recommendations with respect to the program as the Secretary considers appropriate.

Mr. MITCHELL. Mr. President, I submit for the RECORD on behalf of Senator CRANSTON, who is in California for tests at the Stanford Medical School Hospital, a statement regarding S. 1553, the Persian Gulf war veterans marriage and family counseling bill.

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD:)

- Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am delighted to urge unanimous approval of the pending measure, S. 1553, legislation to establish a program of marriage and family counseling for certain veterans of the Persian Gulf war and the spouses and families of such veterans. The committee approved S. 1553 with an amendment in the nature of a substitute on September 12 and reported the bill on September 24 (S. Rept. No. 102–159).

Mr. President, on July 24, 1991, I introduced S. 1553 with the cosponsorship of the committee's ranking Republican member, ARLEN SPECTER, and committee members DENNIS DECONCINI, BOB GRAHAM, DANIEL K. AKAKA, and THOMAS A. DASCHLE and Senator BARBARA A. MIKULSKI. Joining later as cosponsors were Senators WENDELL H. FORD, KENT CONRAD, and HARRIS WOFFORD.

On July 16 and 25, the committee held hearings on the readjustment needs of Persian Gulf war veterans and their families and, as part of the July 25 hearing, received testimony on this measure. Testimony presented at the hearings indicated that many Persian Gulf war veterans and their families were subjected to extraordinary stress during the mobilization and the war, and convinced me that this legislation is needed to fulfill the Government's obligation to the men and women who volunteered to serve this Nation, and to their loved ones.

SUMMARY OF S. 1553 AS REPORTED

Mr. President, S. 1553 as reported—which I will refer to as the committee bill—includes freestanding provisions which would authorize VA to provide marriage and family counseling services to certain veterans of Persian Gulf war service and to their family members.

Specifically, these provisions would:

First, require VA to establish, within 30 days after enactment and subject to the availability of appropriations, a program of marriage and family counseling for certain Persian Gulf war veterans and their families. The authority for this program would expire on September 30, 1994.

Second, authorize VA to provide, either directly or by contract, marriage and family counseling (a) to veterans who were awarded campaign medals for active-duty service during the Persian Gulf war and to their spouses, children, and parents, and (b) to members of reserve components—including both the Reserve and National Guard forces—who were called to active duty during the war and to their spouses, children, and parents.

Third, permit VA to provide marriage and family counseling only in cases in which the Secretary determines—based on an assessment by a mental-health professional designated by the Secretary—the counseling is necessary for the amelioration of psychological, marital, or familial difficulties that resulted from the veteran's active-duty service.

Fourth, require that the marriage and family counseling be furnished either (a) directly by VA personnel, including marriage and family counselors employed by VA, whom the Secretary determines are either appropriately certified or otherwise qualified, or (b) through contract arrangements with mental health professionals whom the Secretary determines are appropriately qualified.

Fifth, authorize VA to employ certified marriage and family counselors to provide counseling under the program and pay them at the rates prevailing for such conseling among non-VA professionals in the same locality.

Sixth, in the case of contract counseling, require the provider to submit to VA within 15 days of the start of the treatment, on a form prescribed by the Secretary, a treatment plan which includes how many visits are expected.

Seventh, in a case in which a treatment plan is disapproved, require VA to reimburse the mental health professional for the reasonable cost—as determined by the Secretary—of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

Eighth, provide that, when counseling is provided under a contract with VA, no care may be provided more than 90 days after the counseling was initiated—or after the end of a previously approved period of care—unless approved by the Secretary on the condition that counseling is needed as a result of active-duty service and is provided pursuant to an updated treatment plan, submitted not more than 30 days before the end of the 90-day period—or before the end of the previously approved period of care.

Ninth, in the case of contract counseling, provide that (a) if a non-VA mental health professional makes the determination that counseling is needed for service-related psychological difficulties, the mental health professional who made that determination generally may not provide the counseling, and (b) the Secretary may waive this prohibition for locations in which VA is unable to obtain the assessment by a mental health professional other than the one with whom it contracts for the furnishing of counseling services.

Tenth, provide that the third-party reimbursement provisions in section 1729 of title 38, United States Code, would apply to services provided under the pilot program.

Eleventh, authorize the appropriation of $1 million for fiscal year 1991 and $10 million for each of fiscal years 1992, 1993, and 1994 and declare that the funds are emergency requirements for the purposes of section 251(b)(2)(D)(i) of the Balanced Budget Act of 1985, but provide that the funds could be used only if the President designates the appropriation as an emergency requirement.

Twelfth, require the Secretary to submit (a) an interim report by January 1, 1993, describing the number of individuals who have received care under the program and the numbers of visits that the individuals made, with breakdowns showing the numbers who were reservists, other veterans, spouses, children, or parents and the numbers of individuals who received direct VA services as opposed to contract services, and (b) by January 1, 1994, a report that includes updates of those data and a description and evaluation of the program and any recommendations that the Secretary considers appropriate.

BACKGROUND

Mr. President, the Persian Gulf war, as defined in title 38, United States Code, for purposes of veterans' benefits, covers the period beginning August 2, 1990, the date of the invasion of Kuwait by Iraq, and will end on a date specified by the President or by statute. In response to the Iraqi conquest of Kuwait, the United States sent 569,285 military personnel to the Southwest Asia theater of operations during an approximately 7-month buildup. This included 102,126 members of reserve components, whom I will refer to as "reservists," including the National Guard and Air National Guard. Another 122,000 reservists were ordered to active duty during the Persian Gulf war but not sent to the war zone.

The makeup of the American force that fought in the Persian Gulf war was unlike any other in our history. In February 1991, the General Accounting Office issued a report, "Military Personnel: Composition of the Active Duty Forces by Race or National Origin Identification and by Gender," which provided a current demographic profile of the Armed Forces and similar information for 1972. According to GAO, in 1972, men comprised 98 percent of the active-duty forces; now women account for a full 11 percent. There are over 220,000 women on active duty and, according to the Department of Defense, more than 40,000 women served in the Persian Gulf. Also since 1972, representation in the active-duty forces by nonwhite individuals has increased from 16 percent to almost 30 percent.

The changed composition of the Armed Forces is further characterized by increased numbers of active-duty service members who are married and who are parents. According to information provided to the committee by DOD, 293,513 married service members were deployed in the gulf. Of that number, 205,876 were parents, 21,954 of whom were single parents.

Mr. President, I believe that the large numbers of married individuals and parents among the newest generation of wartime veterans present a new challenge to VA.

COMMITTEE HEARINGS

At the committee's July hearings, expert witnesses representing mental-health professional organizations, individual veterans and their family members, as well as VA's Chief Medical Director and VA mental-health professionals and the Defense Department's Assistant Secretary of Health Affairs and Principal Deputy Assistant Secretary for Force Management and Personnel testified as to the effects of the war on those who served, problems encountered by military families during, and resulting from, the war, and the various forms of counseling and other services that were available to service members veterans and the services that they need.

With respect to psychological problems among service members who served in the gulf and elsewhere during Operations Desert Shield and Desert Storm, the consensus among the VA and DOD witnesses was that it was too early to tell what the psychological aftermath will be. However, based on the necessarily preliminary data that had been collected, it appeared that the incidence of posttraumatic stress disorder was lower than among those who served during the Vietnam war.

VA witnesses commented on the findings of the VA report, entitled "War Zone Stress Among Returning Persian Gulf Troops: A Preliminary Report," which was submitted pursuant to section 335 of title III, part C of Public Law 102-25, the Persian Gulf War Veterans' Benefits Act of 1991. VA's Chief Medical Director, Dr. James W. Holsinger, Jr., summarized the report's findings as follows:

> According to preliminary evidence and * * * the respected opinion of VA and non-VA experts, exposure to traumatic stress in

the Persian Gulf was far more limited than in Vietnam, Korea, or World War II. It should be noted, however, that there are a variety of potential reactions to war zone stress, ranging from PTSD and other major psychiatric disorders to transient psychiatric disorders, to readjustment problems not meeting the criteria for a psychiatric disorder but which constitute a significant disruption to life.

Although the VA report focused primarily on service members who served in the gulf and did not address issues related to family members, several witnesses at the committee hearings testified as to the effects of the war on the military families and the need for improved services for them.

Mr. President, various aspects of the Persian Gulf war, and the media's coverage of it, contributed to the stress that was placed upon the family members of those serving in the gulf. The war received nearly 24-hour-a-day coverage by television networks, much of it consisting of live reports, and many of the reports focused on the potential for Iraqi missile attacks and the possibility that the missiles might carry chemical or biological agents. Reporters were frequently seen with gas masks at the ready, and some filed reports while wearing masks. During the period leading up to the ground war, various military analysts projected that American troops would suffer high casualties, possibly numbering in the tens of thousands. Witnesses at the committee's July hearings commented on the effects of the media coverage and noted that the anticipation of a catastrophe and the accompanying uncertainty created tremendous anxiety among service members and their loved ones at home.

The mobilization of reserve forces, often on short notice, was another aspect of the war that was cited by witnesses as contributing to stress placed upon military families. Dr. Dennis Embry, testifying on behalf of the American Psychological Association at the committee's July 16 hearing, said that the activation and deployment of reservists on short notice was "a recipe for considerable difficulties," especially for the children involved.

At the committee's July 25 hearing, Maj. Gen. Evan L. Hultman, AUS (ret.), executive director of the Reserve Officers Association of the United States, testified:

> In any discussion relating to military family adjustment and how their needs are to be met, it is important to keep in mind that a much higher percentage of personnel who participated in Desert Shield/Desert Storm have homes and families than has been the case in any other major conflict in this century. The professional, all-volunteer force of today is much older, more mature and many more members are married and have children. This is especially true of members of the Guard and Reserve. Thus, while the duration of the conflict and battle stress may have been less than was experienced in some past conflicts, the number of families directly affected by the mobilization is proportionately much greater. We can assume that the family adjustment problems experienced in the past can be multiplied many times. We thus cannot base our needs on past military conflicts.

Mr. President, testimony received from Operation Desert Storm personnel and their family members indicated a tremendous need for counseling services among deactivated personnel and that many could not afford to obtain help. For example, Dawn Kesler, coordinator of the family support program for the 124th Army Reserve Command, testified:

> I [know of] one young soldier and his wife who are undergoing some real marital strife. * * * This has been a strong marriage—they have been married for seven years.
>
> When a soldier goes over to Saudi, his memory of his family freezes, and he perceives them as exactly the same as when he left. When he came back, he came back to a very independent young woman. His children were almost a full year older, and they are having some serious crises because of the fact that he is still looking at her as the same wife he left. * * * This is a marriage that did not have a lot of conflict [before deployment]. There are no services for them to go to.

Linda Atz, founder of Project Love, a nonprofit group founded to assist families of the deployed personnel and returning troops in Colorado, and mother of an active-duty service member, relayed the following example:

> We do have one young family that just split up. * * * They have not been able to obtain any type of counseling because he was a reservist. There was nothing out there available. They lived far enough out of the immediate metro area that they were not able to utilize the services that were available through the one private facility that was offering them.

J. Gaye Jacobson, founder and president of Operation Yellow Ribbon, a private nonprofit organization founded to assist families of the deployed personnel and service members, and mother of an active-duty service member noted the following case at the committee's July 16 hearing:

> We have Jonathan, who is married, Army Reserve, 30 years old with a 12 year old son. He was * * * [in the] offensive in Iraq. I will never forget this child in the counseling sessions, when he told me that his worst fears—and he had nightmares—* * * were having to attend his father's funeral. * * * This 12 year old child could not face the possibility that his father may die. He had a nervous breakdown and his father was called home on emergency leave. The son is getting better, but now Jonathan and his wife are in a bitter battle to save their marriage. He is very upset that his wife couldn't help his son not go into that nervous breakdown.

At the committee's July 25 hearing, James J. Hladecek, vice president for operations of the American Red Cross, testified:

> I would like to call [the Committee's] attention to Red Cross casework with reservists and members of the National Guard. Their situation is unique and presents special problems that are different from those of active duty service members who returned from the Gulf to an installation and to a peacetime role in the military. In far too many cases, reservists and National Guard personnel returned abruptly to civilian life in communities often far from the support system that surrounds most military installations. Their service to this country earned them the honored status of veterans, but in many cases, it left them and their families with social and psychological needs that extend beyond the current service limitations of the Department of Veterans Affairs.

NEED FOR MARRIAGE AND FAMILY COUNSELING

Mr. President, under current law, sections 1701(6)(B) and 1712A(b)(2) of title 38, VA has limited authority to provide counseling services to family members of eligible veterans. Under these authorities, counseling may be provided only if it is either necessary for the effective treatment or rehabilitation of a service-connected disability of a veteran, part of necessary followup treatment of a veteran who has been hospitalized, or essential to the effective treatment or readjustment of a veteran receiving mental health services under VA's readjustment counseling authority.

In contrast, for both active-duty military personnel and their families, the Department of Defense provides, directly and through the CHAMPUS system, a comprehensive range of health and mental health care services, including marriage and family counseling. Col. Joe Fagan, M.D., a DOD witness at the July 16 hearing, testified that, for an active-duty service member whose child might require psychological services due to the stresses resulting from the war–

> [T]here are several opportunities for the servicemember to receive the appropriate services [through the DoD's health care system]. There are child psychiatry clinics, socal work clinics, psychology clinics, in addition to the family counseling services and pastoral chaplains as well as pediatricians and pediatric nurse clinicians who are available to provide assistance.

However, reservists and their families are generally eligible for such services from DOD only during periods of active-duty service and 30 days thereafter.

Thus, although marriage and family counseling is available for those who remain on active duty, it is available only in limited circumstances for veterans, and family members of veterans, who were either deactivated from the Guard or the Reserve or discharged from the regular Armed Forces after service during the Persian Gulf war and in need of counseling for difficulties related to service. In light of the stresses that were placed upon the unprecedented number of military families during the Persian Gulf war and the resulting need for access to counseling services—as articulated at the July hearings by expert mental health witnesses, individual service members and military family members, and representatives of military family support organizations—I believe strongly that VA should provide access to needed marriage and family counseling services to individuals who may no longer avail themselves of DOD services. The committee bill is intended to ensure that deactivated and discharged personnel and their families have similar access to counseling services that may be needed for problems resulting from active-duty service during the Persian Gulf war.

Mr. President, the administration, in the Secretary of Veterans Affairs September 11, 1991, report on the bill, suggested that this legislation is not needed because the counseling needs of returning Persian Gulf war veterans and their families can be adequately met by existing VA and DOD services, their clergy, and through privately held health insurance programs. That position simply does not square with the expert and personal testimony the committee received in over 7 hours of hearings which indicated that exactly the opposite had occurred.

At the committee's first hearing in July, VA's Chief Medical Director, Dr. Holsinger, and those accompanying him clearly acknowledged the need for assistance to veterans' families to help them overcome family problems related to the veterans' service during the Persian Gulf war. Dr. Holsinger also accurately observed that, under current law, VA has "only a narrow eligibility standard to treat family members—only when adjunct to the treatment of the veteran."

Nothing has changed since July that I am aware of that would affect either the extent of the need or VA's current lack of authority. Certainly the law has not changed and VA's own September 11, 1991, report acknowledges the war's "significant impact on the family life of many of the men and women of the Armed Forces" and "the hardships for the family members who were left behind." However, instead of supporting a program to address the need, the administration seeks to rely on voluntary service organizations and other non-governmental entities to meet the Government's obligation to the veterans and their families. That is a novel position and, in my view, a terrible precedent. I have never understood the President's thousand points of light as suggesting that volunteers could act as a substitute for the Government in fulfilling our fundamental obligations to those who serve in the Armed Forces.

Moreover, we heard testimony from the very kinds of organizations that the administration argues should provide these services, such as the Red Cross and Operation Yellow Ribbon. These volunteer not-for-profit organizations continue to provide exceptional services to service members and their families. However, they testified that this legislation was necessary to meet needs that their organizations could not meet alone.

The administration's opposition strikes me as suggesting a willingness to default on the Government's obligation to the families of those who served. I am vehemently opposed to that approach.

Those opposing this measure also have suggested that this legislation would provide more generous benefits to veterans than are available to active-duty personnel on the basis that active-duty personnel covered by CHAMPUS must pay 20 percent of the cost of marriage and family counseling services and are limited to 22 counseling visits annually. This argument ignores the existence of DOD's direct-run health care system and the fact—cited by DOD's witnesses at the committee's July 25 hearing—that all active-duty service members and their dependents are eligible for a full range of services directly from DOD, which does not impose a copayment requirement or a limitation on the number of counseling sessions. Thus, any comparison of the committee bill's proposed eligibility for marriage and family counseling to only the CHAMPUS system tells only half the story and is misleading.

Moreover, CHAMPUS is a health insurance program for active duty service members and their dependents and there is no restriction in that program—as there is under the committee bill—permitting services to be furnished only in connection with needs related to wartime service. Although CHAMPUS may require a copayment for counseling related to the service member's wartime service, as is required in all cases, it would be contrary to longstanding VA policy to require a copayment for services needed to treat a service-related problem.

Mr. President, it is important to note that DOD's "total force concept," which was tested for the first time in the gulf war, depends on the maintenance of large National Guard and other Reserve Forces that can be activated when needed. I believe this heavy reliance on the National Guard and Reserve Forces necessitates a reevaluation of what resources are available for Guard and Reserve members, whose service has historically not resulted in their being eligible for VA health care services or those provided by DOD's, except during periods of active duty. Addressing this issue at the committee's July 25 hearing, General Hultman testified:

> Recruitment and retention are critical to the Reserve forces and will probably become more important as the more cost-effective Reserve components are called upon to provide a greater share of our nation's defense forces. * * * Many Reservists will be reevaluating their participation in the Reserve components on the basis of their Desert Shield/Desert Storm experience. Reservists who are left with broken marriages and family adjustment problems are going to be reluctant to continue their affiliation with the Guard and Reserve. Whether or not members of the Guard and Reserve continue to serve in the Reserve components depends in part on the relief and benefits that are made available to them. Their perception of how much their service is appreciated is sometimes as important as the actual benefit, per se.

Aside from the strategic implications of meeting the needs of the Reserve Forces, I believe strongly that VA, as the primary mechanism through which the Government provides direct benefits and services to those who have served in the Armed Forces and to their families, must be responsive to the service-related needs of the newest generation of wartime veterans. In this regard, I believe that the changes in the composition of the Armed Forces and the enhanced role of the reserve components in the Defense Department's "total force concept" must be complemented by VA's adapting to the service-related needs of the veterans it serves.

I am concerned that under current law there exists a critical gap in available services—particularly with regard to services for reservists—and that the Government's obligation to those who served in the Armed Forces is not being fully met.

I believe that DOD's provision of a range of mental health services, including marriage and family counseling, for active-duty personnel and their families and its close attention to the psychological needs of returning service members and their families reflect, as Deputy Assistant Secretary Silberman stated at the July 16 hearing, "a concentrated effort to support the mental well-being of both the servicemembers and their families." I am concerned, however, that the many men and women Reserve and National Guard members who served during the Persian Gulf war and their families—along with regular active duty personnel who were discharged soon after returning from the Persian Gulf—will not benefit from DOD's considerable efforts once they are separated from active duty and no longer eligible for DOD services.

FUNDING

Mr. President, the committee bill would authorize the appropriation of $10 million for each of the fiscal years 1992, 1993, and 1994 for this program and would provide that such funds would be considered as emergency requirements for the purposes of section 251(b)(2)(D)(i) of the Balanced Budget Act of 1985, but could be used only if the President designates the appropriation as an emergency requirement. I believe very strongly that, because services provided under this program would have to be directly related to new and unforeseen problems resulting from service in the Persian Gulf theater of operations or activations in support of Operations Desert Shield and Desert Storm, expenditures for the program should be certified as emergency expenditures. Such a certification of appropriations for this program would be fully consistent with the certification of appropriations to pay for the direct costs of the conflict itself.

Moreover, I believe that, under the definition that the office of Management and Budget has adopted for ascertaining whether an emergency exists for budget purposes, a determination that an emergency exists is satisfied. In its June, 1991 "Report on the Costs of Domestic and International Emergency and on the Threats Posed by the Kuwaiti Oil Fires," OMB stated:

> For purposes of determining spending provisions that qualify for exemption, the President uses a definition of an 'emergency requirement' that includes the following elements: the requirement is a necessary expenditure that is sudden, urgent, and unforeseen, and is not permanent. These elements are defined as follows:
>
> Necessary expenditure—an essential or vital expenditure, not one that is merely useful or beneficial;
>
> Sudden—quickly coming into being, not building up over time.
>
> Urgent—pressing and compelling need requiring immediate action;
>
> Unforeseen—not predictable or seen beforehand as a coming need; and
>
> Not permanent—the need is temporary in nature.

Mr. President, in my view, the need for marriage and family counseling that the committee bill would address meets each of these criteria.

The expenditure is necessary, as I discussed earlier, for the continuing viability of the "total force concept." In our hearings, the committee received testimony which indicated that, absent the services provided in the bill, retention of strong Guard and Reserve components could be in jeopardy. The need was completely unforeseen and arose as suddenly as the conflict itself. The need is certainly urgent in that, as expert witnesses at the July hearings testified, counseling provided at the early stages of an emotional or psychological reaction to stress can prevent the development or more serious, chronic problems. Finally, because the authority to conduct the program is due to expire on September 30, 1994, the appropriation obviously would be aimed at a requirement that is considered temporary.

Mr. President, a true emergency clearly exists and funds to meet it should not be required to be absorbed within the already strained resources available for VA medical care.

The $10 million annual authorization is a modest figure based on what are, at this point, preliminary data regarding the potential need for marriage and family counseling. In light of the limited data that are available at this time, I plan to monitor closely the implementation of this new authority in order to assess on an ongoing basis the sufficiency of the funding level.

CONCLUSION

Mr. President, I am convinced that, for veterans of the Persian Gulf war who may no longer avail themselves of the counseling and other services provided by DOD, there is a clear need for marriage and family counseling services to be provided by VA. I have heard of this need from the veterans themselves, from organizations that provide support for military families, and from experts in the field of mental health. I am concerned that as the media images of the Persian Gulf war have subsided, the support this Nation has shown to the men and women who served is beginning to wane. Our support must not end with the welcome home parades. For those whose lives have been disrupted in service, we must continue to respond quickly and effectively to whatever problems remain.

Mr. President, in closing, I thank our committee's ranking Republican member, Senator SPECTER, for his valuable contributions throughout the July hearings and for his continued support of and help with this legislation. I also am grateful to the other members of the committee for their support of or cooperation on this measure.

I also express my gratitude for their work on this legislation to the committee's minority staff, Carrie Gavora, Yvonne Sanata Anna, and Tom Roberts, and, for all their help to me on this measure, majority staff members, Chuck Lee, Kimberly Morin, Thomas Tighe, Bill Brew, and Ed Scott.

Mr. President, I urge my colleagues' strong support of this measure.●

Mr. THURMOND. Mr. President, I rise today to voice my support for S. 1553, the marriage and family counseling bill. This measure will require the Department of Veterans' Affairs to establish a program of marriage and family counseling for veterans who were awarded campaign medals for active-duty service during the Persian Gulf war and veterans who were members of Guard or Reserve components who were activated during the Persian Gulf war and their spouses, children and parents. It would permit the Department of Veterans Affairs to provide counseling necessary for the relief of psychological, marital or familial difficulties that resulted from the veteran's active-duty status.

Mr. President, the brave men and women who served in the Persian Gulf conflict are to be commended for their outstanding service. It is important for us to reach out to help those who have been adversely affected by the Persian Gulf war in this way as they make the transition back to the lives they led before the war.

I urge my colleagues to give this measure their careful consideration and to join in working for its swift enactment.

Mr. MURKOWSKI. Mr. President, as the former ranking Republican of the Veterans' Affairs Committee, I rise today to express some concerns about the pending legislation—S. 1553.

This legislation would establish a program of marriage and family counseling for the spouses and families of veterans who served in the Persian Gulf.

Let me explain my concerns.

This bill would—for the first time—provide that families of veterans be provided VA services on their own behalf without regard to the needs of the veteran. VA has never been a general provider of health services for the families of veterans except in one very limited circumstance. This represents a fundamental change in VA health care mission.

This bill is not needed in order to ensure that gulf veterans receive counseling. Persian Gulf veterans are already eligible to receive VA health care services—including readjustment counseling—through VA's medical facilities and veteran outreach centers. Family members are also eligible for counseling if it is needed to assist the veteran.

Under this bill, individuals and their families who are no longer serving in the U.S. Armed Forces—reservists and National Guardsmen who are now veterans—will receive a more generous system of counseling benefits than those which are available to active duty servicemembers and their families.

That is, this bill provides no limitation on the amount of counseling that VA must pay for nor does it require any copayments on the part of the families. Under the CHAMPUS Program for active duty families, copayments are required and a limited number of visits are provided.

VA's Secretary Edward J. Derwinski is opposed to enactment of this legislation. And in order for the program to be implemented, the President must designate an appropriation under this section as an emergency requirement. I understand that the President's advisers will urge that he not do so.

I hope that my colleagues in the House will carefully consider the concerns which I have raised when deliberating the merits of this bill.

Mr. SIMPSON. Mr. President, I would like to make a brief statement about S. 1553, the marriage and family counseling bill for certain Persian Gulf war veterans and their dependents. In particular, I am not convinced that this legislation is necessary.

The Department of Veterans Affairs opposes this bill because it sets a precedent in caring for nonveterans. If enacted into law, this legislation would provide marriage and family counseling only for veterans and family dependents who are no longer on active duty status.

These are the same families and veterans who were eligible to receive counseling services from the Department of Defense while on active duty. Once they are released from active duty, their needs are to be met in a variety of ways ranging from counseling by clergy to a network of community volunteer service organizations.

Secretary Derwinski has stated that the VA can provide families with readjustment counseling if it is in connection with the treatment of the veteran. We do not need any new legislation to help these veterans and their families. Current law provides well for this need.

The veteran will be the one to suffer if we authorize direct services for family members. This is because the limited amount of VA health care personnel that are available will then have to direct their time and energy to a whole new category of patients never before treated—nonveterans.

I am also very concerned about the equity in providing care to active-duty personal versus nonactive-duty personnel. This legislation only applies to veterans who are no longer on active duty. Does this mean that nonactive-duty veterans and dependents would get priority for treatment over active duty personnel?

Also, the authorization of funds for this program would occur only if the President designates an appropriation under this section as an emergency requirement. That means we pay no heed to the budget deficit and simply continue to spend out dollars that we do not have.

Mr. President, I will close by saying that we must look at the budget deficit, take a good look at what the VA already provides to our fine veterans and their families and begin to finally realize that some sensible restraint is in order.

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs and as an original cosponsor, I am pleased to support passage of S. 1553, a bill authorizing the Department of Veterans Affairs to provide marriage and family counseling services to veterans of the Persian Gulf war and their families. This legislation represents a focussed and unique response to readjustment problems faced by active duty personnel, activated members of the National Guard and Reserve and their families due to the Persian Gulf war.

In July, the Committee on Veterans' Affairs held two important hearings on the readjustment problems of Persian Gulf veterans. I was particularly moved by the testimony we heard from a group of reservists I invited from the 14th Quartermaster Detachment out of Greensburg, PA, who survived the Scud missile attack on their barracks in Dhahran, Saudi Arabia. These remarkable men and women suffered from physical as well as mental wounds from this experience. They were appreciative of the VA's efforts to intervene with a special war stress counseling program initiated by the Pittsburgh Highland Drive VA Medical Center upon their return to the States.

Nevertheless, some did raise questions and concerns regarding certain family members' well-being and their ability to accept readjustment problems the reservists faced. One reservist testified that his wife was in a state of denial and preferred to forget that the war ever occurred. Their families made sacrifices as well for the war effort, yet their needs are going unmet. What we learned, Mr. President, is how the sudden separation in this war, along with the constant television coverage, have affected not only the veterans, but the families of veterans.

Those hearings also brought into sharp relief the changed composition of today's Armed Forces. The Persian Gulf war was different from previous conflicts because of its heavy reliance on reservists, the increased number of women serving, and increased numbers of active-duty service members who are married and who are parents. Our committee received testimony that Operation Desert Storm will cause many reservists to reevaluate their participation in the Reserve components of the Armed Forces. Therefore, how the Congress reacts to the problems faced by these returning veterans and their families may be the litmus test used by future generations to determine whether or not they choose to participate in our country's Armed Forces.

This bill, Mr. President, would require VA to provide marriage and family counseling not only to Persian Gulf veterans and activated reservists and Guard personnel, but also to spouses, children and parents of those veterans. Counseling services would be provided directly by VA personnel or through contractual arrangements with marriage and family counselors that the Secretary determines to have the appropriate qualifications. The bill states explicitly that marriage and family counseling can only be provided—based on an assessment by a mental-health professional designated by the Secretary—to those who are suffering psychological, marital or familial difficulties as a result of the veterans' active duty service. This legislation makes special attempts to target those veterans and their families whose lives were disrupted by separation, loss of job and income, and the psychological stress of war.

In connection with our markup of this bill, Mr. President, the committee added three important items. First, the bill requires VA to bill third-party health insurance companies, if available, for services furnished under the bill. Second, the bill now requires that a plan of treatment be developed for those who will be counseled. Finally, in the case of counseling performed by other than VA personnel, the bill requires a recertification of need for counseling every 90 days. I would add, Mr. President, that former chairman and ranking Republican member of this committee, Senator MURKOWSKI, did much to draft and support these important safeguards.

Another feature of this bill, Mr. President, is that, for the program to be implemented, it must be declared an emergency requirement by the President and therefore not subject to restrictions of the Balance Budget Act of 1985. As my colleagues know, I have been a strong advocate of identifying with as much specificity as possible, the costs of the Persian Gulf war. I am currently working with Secretary Derwinski to identify the costs incurred by VA, and look forward to an early response.

As defined by the President in the June 1991 "Report on the Costs of Domestic and International Emergency and on the Threats Posed by the Kuwaiti Oil Fires," an emergency requirement is one that necessitates funding that is sudden, urgent, and unforeseen, and is not permanent. In my view, the program proposed in S. 1553 meets these criteria, and therefore should be budgeted as a direct cost of the war.

This measure is another example of the remarkable bipartisan spirit on our committee, and I thank Chairman CRANSTON for his leadership. I would also like to thank the committee staff who worked on this legislation, particularly, Kim Morin, Thomas Tighe, Bill Brew, and Ed Scott of the majority staff, and Carrie Gavora, Yvonne Santa Anna, and Tom Roberts of my staff. I would also like to thank Lisa Moore, of Senator MURKOWSKI's staff, for her important contributions to this bill.

This is a family bill, Mr. President. In addressing the unmet needs, S. 1553 attempts to take a holistic approach to psychological readjustment. Its approach recognizes that war affects more than just the veteran, and that the concerns of his or her family go beyond the fear of a loved one being hurt or killed, and indeed pervade aspects of daily living. I think it is a remarkable and unique response to the problems faced by Persian Gulf veterans and their families.

I urge my colleagues to support this important measure.

EXPRESSING THE SENSE OF THE SENATE REGARDING HUMAN RIGHTS ABUSES IN CHINA AGAINST WRITERS AND JOURNALISTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Resolution 211, regarding human rights abuses in China against writers and journalists; that the Senate proceed to its consideration; that the resolution be agreed to, and that the motion to reconsider be laid upon the table, and that the preamble be agreed to; further that any statements appear at an appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 211) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 211

Whereas Asia Watch, the Committee to Protect Journalists, the Committee to End the Chinese Gulag, and the Nieman Foundation for Journalism at Harvard University have documented the imprisonment of numerous Chinese writers and journalists by the Government of the People's Republic of China since the Tiananmen Square Massacre;

Whereas the Government of China is responsible for the harassment of writers and journalists and continues to imprison writers and journalists solely because of their political views;

Whereas the Government of China has closed or suspended many publications;

Whereas, in July 1989, the Government of China named journalist Dai Qing an "instigator of turmoil" and imprisoned her until May 1990, for her statements against the Government's actions in the Tiananmen Square Massacre;

Whereas Dai Qing has published a series of articles on Chinese women which have now been denounced and banned by the Government of China;

Whereas Dai Qing has also published one of the most courageous critiques of the All-China Women's Federation, which is an organization controlled by the Chinese Party;

Whereas Dai Qing peacefully engaged in her internationally recognized human right of free expression;

Whereas Dai Qing remains under constant police surveillance;

Whereas Dai Qing has been awarded a Nieman Fellowship by Harvard University, but has been refused a passport by the Government of China; and

Whereas the Government of China has an international responsibility to respect and uphold the rights of all of its citizens: Now therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) communicate directly to the leadership of the Government of the People's Republic of China the urgent concern of the Congress and the citizens of the United States for the rights of all political prisoners in China; and

(2) urge the Government of the People's Republic of China to recognize the right of Dai Qing and all Chinese writers and journalists to free expression and travel.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

THOMAS JEFFERSON COMMEMORATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 307, S. 959, regarding the commemoration of the 250th anniversary of the birth of Thomas Jefferson; that the committee amendments be agreed to, that the bill, as amended, be deemed read three times and passed, and the motion to reconsider be laid upon the table; further that any statements appear at an appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 959) to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson, which had been reported from the Committee on the Judiciary, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thomas Jefferson Commemoration Act".

SEC. 2. FINDINGS.

The Congress finds and recognizes that—

(1) April 13, 1993, marks the 250th anniversary of the birth of Thomas Jefferson;

(2) as author of the Declaration of Independence, Thomas Jefferson conceived and executed an affirmation of democratic government unequaled in both its eloquence and clarity;

(3) in an age of democratic awakening, Thomas Jefferson worked to promote government based on the consent of the people, to hold rulers continually responsible to the ruled, and to secure fundamental rights and liberties of free citizens;

(4) Thomas Jefferson was elected third President of the United States in 1801 and helped to establish the process by which ongoing political change is carried forward through public debate and free elections;

(5) with the Louisiana Purchase, Thomas Jefferson virtually doubled the size of the United States;

(6) the genius of Thomas Jefferson also extended beyond the realm of politics and government, adapted classic architecture as exemplified by his home at Monticello and the grounds of the University of Virginia, set an American standard of dignity, simplicity, and elegance;

(7) Thomas Jefferson encouraged American science in its infancy, and with his friend James Madison, laid the cornerstone of the American tradition of religious freedom and separation of church and state;

(8) Thomas Jefferson also championed universal public education, believing such education essential to democratic government as well as to advancement of knowledge and the pursuit of happiness;

(9) it is appropriate to remember and renew the legacy of Thomas Jefferson for the American people and, indeed for all mankind, during a time when the light of democracy is again bursting upon the world; and

(10) as the Nation approaches the 250th anniversary of the birth of Thomas Jefferson, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned and coordinated by a national commission representative of appropriate individual, public, and private officials and organizations.

SEC. 3. ESTABLISHMENT.

There is established the Thomas Jefferson Commemoration Commission (hereafter referred to as the "Commission"), to promote and coordinate activities in commemoration of the 250th anniversary of the birth of Thomas Jefferson.

SEC. 4. FUNCTIONS OF THE COMMISSION.

The Commission shall—

(1) plan and develop programs and activities appropriate to commemorate the 250th anniversary of the birth of Thomas Jefferson, including a limited number of projects to be undertaken by the Federal Government seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) generally coordinate activities throughout the States;

(3) honor historical locations associated with the life of Thomas Jefferson;

(4) sponsor at least one international symposium pertaining to Jefferson's legacy, to be composed of scholars, public officials, and private citizens;

(5) recognize individuals and organizations that have significantly contributed to the preservation of Jefferson's ideals, writings, architectural designs, and other professional accomplishments, by the award and presentation of medals and certificates;

(6) encourage civic, patriotic, and historical organizations, and State and local governments to organize and participate in anniversary activities commemorating Jefferson's birth; and

(7) develop and coordinate any other activities as may be appropriate.

SEC. 5. MEMBERSHIP AND COMPOSITION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 18 members, including—

(1) the Librarian of Congress or his delegate;

(2) the Archivist of the United States or his delegate;

(3) the President pro tempore of the Senate or his delegate;

(4) the Speaker of the House of Representatives or his delegate;

(5) the Secretary of the Interior or his delegate;

(6) the Secretary of the Smithsonian Institution or his delegate;

(7) the Executive Director of the Thomas Jefferson Memorial Foundation or his delegate;

(8) 5 private citizens of the United States, appointed by the President, no more than 3 of whom shall be affiliated with the same political party;

(9) 3 private citizens of the United States, selected by the Majority Leader of the Senate, in consultation with the Minority Leader, no more than 2 of whom shall be affiliated with the same political party; and

(10) 3 private citizens of the United States, selected by the Speaker of the House of Representatives, in consultation with the Minority Leader, no more than 2 of whom shall be affiliated with the same political party.

(b) APPOINTMENTS AND TERMS.—(1) IN GENERAL.—Each member shall be appointed within 90 days after the date of enactment of this Act, for the life of the Commission.

(2) CHAIRMAN.—At the time the President nominates individuals for appointment to the Commission pursuant to subsection (a)(8), the President shall designate one such individual who shall serve as Chairman of the Commission.

(3) VACANCY.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(4) REPRESENTATION.—Individuals appointed under paragraphs (8), (9), and (10) of subsection (a), shall be representative, to the maximum extent possible, of the full range of United States citizens. The Commission members shall be chosen based on their distinctive qualifications or experience in the fields of history, government, architecture,

the applied sciences, or other professions that would enhance the work of the Commission and reflect the professional accomplishments of Thomas Jefferson.

(c) COMPENSATION AND TRAVEL.—(1) COMPENSATION.—(A) Except as otherwise provided under paragraphs (2) and (3), each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate or basic pay for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) FEDERAL EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL.—While away from their homes or regular places of business in the performance of services for the Commission, members and employees of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 6. POWERS OF THE COMMISSION.

(a) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(b) APPROVAL OF ACTIONS.—All official actions of the Commission under this Act shall be approved by the affirmative vote of no less than a majority of the Commissioners.

(c) ADVISORY COMMITTEES.—The Commission may appoint such ex officio advisory committees as it determines necessary to carry out the provisions of this Act.

(d) POWERS OF MEMBERS AND EMPLOYEES.—Any member or employee of the Commission may, to the extent authorized by the Commission, take any action which the Commission is authorized to take by this Act.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at the rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) PROCUREMENT OF SUPPLIES, SERVICES, AND PROPERTY.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements in order to carry out the provisions of this Act. No contracts, leases, or other legal agreements made or entered into by the Commission shall extend beyond the date of termination of the Commission. All supplies and property acquired by the Commission under this Act which remain in the possession of the Commission on the date of termination of the Commission shall become the property of the General Services Administration upon the date of termination.

(g) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(h) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(i) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 7. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—The Chairman, with the advice of the Commission, shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an executive director who may be compensated at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule established under section 5315 of such title.

(b) ADDITIONAL PERSONNEL.—The Commission may appoint and fix the compensation of additional personnel, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level V of the Executive Schedule under 5316 of such title.

(c) PERSONNEL DETAIL AUTHORIZED.—Upon request of the chairman, the head of any Federal agency is authorized to detail, on a reimbursable or nonreimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out its duties under this Act.

SEC. 8. CONTRIBUTIONS TO THE COMMISSION.

(a) DONATIONS.—The Commission is authorized to accept donations of money, personal services, and property including books, manuscripts, miscellaneous printed matter, memorabilia, relics and other materials related to Thomas Jefferson.

(b) USE OF FUNDS.—Funds donated to the Commission may be used by the Commission in order to carry out the purposes of this Act. The source and amount of such funds shall be listed in the interim and final reports under section 9.

(c) VOLUNTEER SERVICES.—The Commission may accept the volunteer services of private individuals or companies as the Commission determines necessary.

(d) REMAINING FUNDS.—Funds remaining upon the date of termination of the Commission shall be used to ensure the proper disposition of property donated to the Commission as specified in the Commission's final report under section 9.

SEC. 9. REPORT.

(a) INTERIM REPORT.—No later than December 31, 1992, the Commission shall prepare and submit to the Congress and the President of the United States a report on the activities of the Commission[, including an accounting of funds received and expended]. *The report shall include an accounting of funds received and expended by the Commission, including a description of the products or services received by the Commission in connection with the expenditures, the identity of the provider of the products or services, and the amount paid to the provider by the Commission.*

(b) FINAL REPORT.—No later than December 31, 1993, the Commission shall submit to the President and to the Congress a final report. The final report shall contain the findings, conclusions, and recommendations of the Commission[, and a final accounting of funds received and expended]. *The final report shall include a final accounting of funds received and expended by the Commission, including a description of the products or services received by the Commission in connection with the expenditures, the identity of the provider of the products or services, and the amount paid to the provider by the Commission.* Specific recommendations concerning the final disposition of historically significant items donated to the Commission under section 8 shall also be contained in the final report.

(c) ADDITIONAL VIEWS.—The final report shall include additional views of members concerning the Commission's recommendations under subsection (b), at the request of such members.

SEC. 10. TERMINATION.

The Commission shall terminate no later than 60 days following submission of the final report required by section 8.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this Act $250,000 for the 1992 fiscal year, $250,000 for the 1993 fiscal year, and $125,000 for the period beginning on October 1, 1993, and ending on December 31, 1993. Amounts appropriated under this section for any fiscal year shall remain available until 60 days after December 31, 1993. The total appropriations authorized under this Act for the purpose of this Act shall not exceed $625,000.

The committee amendments were agreed to.

The bill (S. 959) as amended, was deemed read a third time and passed, as follows:

S. 959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thomas Jefferson Commemoration Act".

SEC. 2. FINDINGS.

The Congress finds and recognizes that—

(1) April 13, 1993, marks the 250th anniversary of the birth of Thomas Jefferson;

(2) as author of the Declaration of Independence, Thomas Jefferson conceived and executed an affirmation of democratic government unequaled in both its eloquence and clarity;

(3) in an age of democratic awakening, Thomas Jefferson worked to promote government based on the consent of the people, to hold rulers continually responsible to the ruled, and to secure fundamental rights and liberties of free citizens;

(4) Thomas Jefferson was elected third President of the United States in 1801 and helped to establish the process by which ongoing political change is carried forward through public debate and free elections;

(5) with the Louisiana Purchase, Thomas Jefferson virtually doubled the size of the United States;

(6) the genius of Thomas Jefferson also extended beyond the realm of politics and government, adapted classic architecture as exemplified by his home at Monticello and the grounds of the University of Virginia, set an American standard of dignity, simplicity, and elegance;

(7) Thomas Jefferson encouraged American science in its infancy, and with his friend James Madison, laid the cornerstone of the American tradition of religious freedom and separation of church and state;

(8) Thomas Jefferson also championed universal public education, believing such edu-

cation essential to democratic government as well as to advancement of knowledge and the pursuit of happiness;

(9) it is appropriate to remember and renew the legacy of Thomas Jefferson for the American people and, indeed for all mankind, during a time when the light of democracy is again bursting upon the world; and

(10) as the Nation approaches the 250th anniversary of the birth of Thomas Jefferson, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned and coordinated by a national commission representative of appropriate individual, public, and private officials and organizations.

SEC. 3. ESTABLISHMENT.

There is established the Thomas Jefferson Commemoration Commission (hereafter referred to as the "Commission"), to promote and coordinate activities in commemoration of the 250th anniversary of the birth of Thomas Jefferson.

SEC. 4. FUNCTIONS OF THE COMMISSION.

The Commission shall—

(1) plan and develop programs and activities appropriate to commemorate the 250th anniversary of the birth of Thomas Jefferson, including a limited number of projects to be undertaken by the Federal Government seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) generally coordinate activities throughout the States;

(3) honor historical locations associated with the life of Thomas Jefferson;

(4) sponsor at least one international symposium pertaining to Jefferson's legacy, to be composed of scholars, public officials, and private citizens;

(5) recognize individuals and organizations that have significantly contributed to the preservation of Jefferson's ideals, writings, architectural designs, and other professional accomplishments, by the award and presentation of medals and certificates;

(6) encourage civic, patriotic, and historical organizations, and State and local governments to organize and participate in anniversary activities commemorating Jefferson's birth; and

(7) develop and coordinate any other activities as may be appropriate.

SEC. 5. MEMBERSHIP AND COMPOSITION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 18 members, including—

(1) the Librarian of Congress or his delegate;

(2) the Archivist of the United States or his delegate;

(3) the President pro tempore of the Senate or his delegate;

(4) the Speaker of the House of Representatives or his delegate;

(5) the Secretary of the Interior or his delegate;

(6) the Secretary of the Smithsonian Institution or his delegate;

(7) the Executive Director of the Thomas Jefferson Memorial Foundation or his delegate;

(8) 5 private citizens of the United States, appointed by the President, no more than 3 of whom shall be affiliated with the same political party;

(9) 3 private citizens of the United States, selected by the Majority Leader of the Senate, in consultation with the Minority Leader, no more than 2 of whom shall be affiliated with the same political party; and

(10) 3 private citizens of the United States, selected by the Speaker of the House of Representatives, in consultation with the Minority Leader, no more than 2 of whom shall be affiliated with the same political party.

(b) APPOINTMENTS AND TERMS.—(1) IN GENERAL.—Each member shall be appointed within 90 days after the date of enactment of this Act, for the life of the Commission.

(2) CHAIRMAN.—At the time the President nominates individuals for appointment to the Commission pursuant to subsection (a)(8), the President shall designate one such individual who shall serve as Chairman of the Commission.

(3) VACANCY.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(4) REPRESENTATION.—Individuals appointed under paragraphs (8), (9), and (10) of subsection (a), shall be representative, to the maximum extent possible, of the full range of United States citizens. The Commission members shall be chosen based on their distinctive qualifications or experience in the fields of history, government, architecture, the applied sciences, or other professions that would enhance the work of the Commission and reflect the professional accomplishments of Thomas Jefferson.

(c) COMPENSATION AND TRAVEL.—(1) COMPENSATION.—(A) Except as otherwise provided under paragraphs (2) and (3), each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate or basic pay for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) FEDERAL EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

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(b) ADDITIONAL PERSONNEL.—The Commission may appoint and fix the compensation of additional personnel, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level V of the Executive Schedule under 5316 of such title.

(c) PERSONNEL DETAIL AUTHORIZED.—Upon request of the chairman, the head of any Federal agency is authorized to detail, on a reimbursable or nonreimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out its duties under this Act.

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SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

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MEASURE PLACED ON CALENDAR—S. 1980

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1980, introduced earlier today by Senator MCCAIN, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, at midnight last night Midway Airlines grounded its planes. As a result of the souring of a proposed merger with Northwest, Midway ran out of cash and was forced to shut down. The loss of Midway, one of the two remaining post-deregulation carriers, means that we are now that much farther away from fulfilling the promise of airline deregulation.

When Congress passed the Airline Deregulation Act in 1978, the American consumer was promised that free competition and open entry would provide better service and lower fares. For the first few years of deregulation, new airlines flourished, and the promise was fulfilled. Since the mid-1980's, however, we have seen increasing concentration in the industry, rising barriers to entry, and a lessening of competition.

Consider the litany of airlines that are no longer here or are in financial straits: Braniff and Eastern are out of business; today, it appears that Midway will join them; Pan Am has been broken apart and is a mere shell of its former glory; and Continental, TWA, and America West are all seeking reorganization under court protection.

Mr. President, we must attempt to help the airline industry remain competitive and prevent the failure of airline deregulation. The legislation which I am proposing today, a modification in the permissible level of foreign investment in U.S. airlines, will help troubled carriers survive and provide procompetitive benefits to air travelers.

Secretary Skinner has identified the need for capital as the No. 1 problem facing the airline industry today. The effects of the gulf war and the recession have combined to burden the industry with record losses and cut off additional capital to all but the strongest carriers. Given the financial problems in the airline industry, some have suggested that the Government bailout our failing carriers. I cannot agree with that. Instead, I am proposing a modification in the law governing foreign investment to increase the permissible level of foreign investment from 25 to 49 percent. This change will open up the ability of airlines to obtain investment capital not only from domestic sources but also internationally.

Frankly, Mr. President, America West, an airline very important to Arizona, can benefit from increased access to foreign capital. America West, founded in 1982, is the embodiment of what airline deregulation is about. With its low costs and motivated employees, America West has raised the level of competition throughout the entire airline industry. The loss of America West would mean more concentration, higher fares, and fewer travel options.

In addition, America West plays a key role in Arizona's economy. It is one of the largest private employers in the State, with nearly 10,000 employees. America West also provides the State with world-class air service and connections, contributing to Arizona's business environment.

Mr. President, I do not come easily to the proposal to allow increased foreign investment in our domestic aviation industry. It is troubling to me to come to the conclusion that the future of the U.S. aviation industry—historically, the world's leader—depends on foreign investment for survivial. Yet, the alternative, more failed airlines, lost jobs, and less competition, is unacceptable.

To assure that any foreign investment does not harm U.S. interests or the long-term future of the domestic airline industry, this legislation includes several protections. First, while the legislation allows up to 49 percent foreign investment in a U.S. airline, no single foreign investor may own more than 25 percent of the investment. Second, the Secretary of Transportation must approve any total level of foreign investment above the current statutory limit of 25 percent. Before approving such higher levels of investment, the Secretary must determine that: reciprocal investment rights are available for U.S. citizens; no foreign person involved in the transaction is substantially owned or controlled by a foreign government; competition in the domestic airline industry will be enhanced by the transaction; and the foreign investment will not adversely affect the national security interests of the United States or unfairly disadvantage U.S. aircraft manufacturers.

Mr. President, if we want to salvage airline deregulation, now is the time to act. This proposed change in the foreign investment statute will not correct all of the problems of airline deregulation. The legislation will, however, provide additional capability for distressed airlines, including America West, to survive the current period and fulfill the promise of deregulation.

ORDERS FOR MONDAY, NOVEMBER 18, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon, Monday, November 18; that following the prayer, the Journal of the proceedings be deemed approved to date; that following the time for the two leaders, there be a period for morning business, not to extend beyond 1 p.m., with Senators permitted to speak therein for up to 10 minutes each; that at 1 p.m. the Senate resume consideration of S. 543, the banking bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, Senators should be aware, as previously indicated in writing and in repeated public statements, that rollcall votes now can occur at any time on any business day of the week during which the Senate is in session. That will be the case on Monday. Since we will not be coming in until noon and going in until 1, I think Senators can be reassured that any votes that may occur will not occur until mid-to-late afternoon at the earliest.

I will consult with the distinguished Republican leader on the status of the attendance on both sides and try to accommodate as many Senators as possible.

But rollcall votes are possible on Monday. We do not know what amendments will be offered on Monday, what may occur, but Senators should be here in session and prepared to vote on Monday should that become necessary at any time from approximately the middle of the afternoon on, and we will consult on the schedules of as many Senators as possible.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. MITCHELL. I yield.

Mr. DOLE. I assume if conference reports are available, they might also be discussed on Monday.

Mr. MITCHELL. Yes.

Mr. President, we previously discussed the necessity, not just the importance, but the necessity of acting on the defense authorization and the defense appropriations measures, and I hope that we are going to be able to get to those as soon as possible.

In addition, I am advised the Appropriations Committee today reported out a supplemental appropriations bill, and it is my hope that we can move to that as soon as possible.

So the possibility exists for action commencing as early as Monday on some of these measures depending upon how promptly action occurs on the banking bill, and Senators should be aware of that and on notice in that regard.

RECESS UNTIL MONDAY, NOVEMBER 18, 1991

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:03 p.m., recessed until Monday, November 18, 1991, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate November 15, 1991:

DEPARTMENT OF JUSTICE

DEBRA RUSSELL BOWLAND, OF LOUISIANA, TO BE DIRECTOR OF THE OFFICE FOR VICTIMS OF CRIME (NEW POSITION).

JAMES H. GROSSMAN, OF CALIFORNIA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 1994, VICE STANLEY L. GLOD, TERM EXPIRED.

FEDERAL LABOR RELATIONS AUTHORITY

ALAN ROBERT SWENDIMAN, OF MARYLAND, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS, VICE KATHLEEN DAY KOCH.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

KENNY JACKSON WILLIAMS, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1996, VICE MARY JOSEPHINE CONRAD CRESIMORE, TERM EXPIRED.

DEPARTMENT OF STATE

FREDERICK VREELAND, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

JUDGE ADVOCATE

To be colonel

CLIFTON D DANIEL [redacted]
JACK H MORGAN [redacted]

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM DUTIES INDICATED WITH THE GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

SCOTOLIFF HECTOR A ARROYO [redacted]
GEORGE E CRAWFORD [redacted]
JAY D SPRENGER [redacted]

To be lieutenant colonel

MELVIN A BAYNE [redacted]
EDWARD R CUNNINGHAM [redacted]
THOMAS O WEBER [redacted]
RANDALL T WISDOM [redacted]

To be major

MARK A JEFFRIES, 312–64–4624

DENTAL CORPS

To be lieutenant colonel

PAUL N. ANDERSON [redacted]
CARL A. BIFANO [redacted]
DUANE A. DEGENHARDT [redacted]
ROBERT B. LARSEN [redacted]
FRANK T. ROBERTS, JR [redacted]

To be major

DEBORAH S. CRECRAFT [redacted]
TERENCE J. KINYON [redacted]
MICHAEL P. KLEPCZYK [redacted]
GARY C. MARTIN [redacted]
ERIK J. MEYERS [redacted]
STEVEN M. SILVERS [redacted]

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 593, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be colonel

ANDRE V. GIBALDI [redacted]

To be lieutenant colonel

TERRELL K. HERBERT [redacted]
ELWOOD W. HOPKINS, III [redacted]
CRAIG D. SILVERTON [redacted]
THOMAS W. TOWNSEND [redacted]
ARNATH UNAHALEKHAKA [redacted]

THE FOLLOWING AIR FORCE OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR, U.S. AIR FORCE ACADEMY, UNDER THE PROVISIONS OF SECTION 9333(B), TITLE 10, UNITED STATES CODE.

LINE OF THE AIR FORCE

To be colonel

GUNTHER A. MUELLER, [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTION 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. MICHAEL T. ALLEN, [redacted] 8/9/91
MAJ. ARLEN L. ANDERSON, [redacted] 8/3/91
MAJ. JAMES H. BOEKENOOGEN, [redacted] 8/1/91
MAJ. JAMES M. CARTER, JR. [redacted] 8/3/91
MAJ. BENJAMIN F. JABLECKI, JR. [redacted] 8/10/91
MAJ. BILLY M. JAMES, [redacted] 8/3/91
MAJ. RICHARD C. JULIAN, [redacted] 8/9/91
MAJ. DONNA K. KNIGHT, [redacted] 8/27/91
MAJ. RONALD H. MARTIN, [redacted] 8/17/91
MAJ. JEROME C. OLIN, [redacted] 7/26/91
MAJ. JERRY E. ROGERS [redacted] 8/22/91
MAJ. RICHARD E. SELTZER, [redacted] 8/3/91
MAJ. DENNIS L. SMITH, [redacted] 7/26/91
MAJ. JOHN M. WHITE, [redacted] 7/26/91

JUDGE ADVOCATE GENERALS DEPARTMENT

MAJ. JAMES E. HALEY, [redacted] 8/3/91

CHAPLAIN CORPS

MAJ. NEAL F. MCBRIDE, [redacted] 8/24/91

MEDICAL SCIENCES CORPS

MAJ. MARK J. HOWARD, [redacted] 8/24/91

BIOMEDICAL SCIENCES CORPS

MAJ. DAVID E. BLUM, [redacted] 6/22/91
MAJ. WESLEY R. CLARK, [redacted] 7/13/91

MEDICAL CORPS

MAJ. JAIME H. CERCONE, [redacted] 8/3/91
MAJ. EARL R. HARRISON, JR. [redacted] 8/10/91

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A); AND 3385:

ARMY PROMOTION LIST

To be colonel

ABBOTT, CHARLES G. [redacted]
FURSTNOW, RUSSELL F. [redacted]
SCHARP, ROBERT C. [redacted]

To be lieutenant colonal

BOYER, DAVID W. [redacted]
CATHCART, GARY E. [redacted]
DRAYTON, THEODUS L. [redacted]
FRY, EDWARD D. [redacted]
GAMBRELL, BERRY L. [redacted]
GIBSON, PATRICK D. [redacted]
HARRIS, ILO C. [redacted]
HINSON, JOSEPH T., JR. [redacted]
INGRAM, WILLIAM E., JR. [redacted]
JONES, JACK F. II [redacted]
JONES, MICHAEL A. [redacted]
OTTO, EDWARD C. [redacted]
PADGETT, WILLIAM R. [redacted]
SEBASTIAN, MICHAEL [redacted]
TROLLINGER, MICHAEL L. [redacted]
WRIGHT, FRANK H. IV [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

DOHERTY, THOMAS E. [redacted]
LORENZO, ROSE A. [redacted]

JUDGE ADVOCATE GENERAL CORPS

To be lieutentnt colonel

HARAN, MICHAEL M. [redacted]

MEDICAL CORPS

To be lieutenant colonel

COPLEY, DONALD J. [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENTS AS PERMANENT PROFESSOR AT THE U.S. MILITARY ACADEMY UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 4333(B):

HALLUMS, JAMES D. [redacted]
WATTENDORF, JOHN M. [redacted]
ALLBEE, DAVID C. [redacted]
GRUBBS, JOHN H. [redacted]

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be colonel

RONALD M. ADAMS, [redacted]
JAY R. ADSIT, [redacted]
PHILIP B. AITKENCADE [redacted]
WILLIAM A. ALLEN [redacted]
KENNETH M. ALLEY [redacted]
LEE C. ALLOWAY [redacted]
PATRICIA A. ALMANY, [redacted]
ROBERT J. ALMANY [redacted]
MARTIN D. AMELUNG [redacted]
ERIK C. ANDERSON [redacted]
JERRY C. ANGLEY [redacted]
MARGARET H. ANNO [redacted]
JAMES B. ARMOR, JR [redacted]
MICHAEL S. ARMSTRONG [redacted]

FRANK B. ARNEMANN, JR [redacted]
DAVID A. ARTHUR [redacted]
CLINTON J. ASBURY, III [redacted]
KEITH R. ASHBY [redacted]
WALTER B. AVILA [redacted]
CHARLES P. AZUKAS [redacted]
RONALD L. BAGLEY [redacted]
JAMES W. BAILEY, III [redacted]
ROSANNE BAILEY [redacted]
G. THOMAS BAKER [redacted]
RAYMOND G. BAKER [redacted]
BRUCE C. BALBIN [redacted]
MILES A. BALDWIN [redacted]
DORIN E. BALLS [redacted]
ROBERT D. BALPH, II [redacted]
DAVID C. BALSILLIE [redacted]
CHARLES R. BANTA, [redacted]
SAMUEL J. BAPTISTE [redacted]
JAMES V. BARAGER [redacted]
GARY L. BARBER [redacted]
RONALD L. BARBER [redacted]
ROBERT A. BARLOW [redacted]
JEFFERY R. BARNETT [redacted]
RICHARD J. BARRINGER [redacted]
RONALD S. BARTLETT [redacted]
PATRICK M. BARTNESS [redacted]
ROGER D. BASKETT [redacted]
WILLIAM E. BAXTER [redacted]
WARD D. BEIGHTOL [redacted]
JOHN W. BELL, JR [redacted]
HAROLD J. BENNETT, JR [redacted]
RICHARD M. BEREIT [redacted]
THOMAS M. BERES [redacted]
DON K. BERRY, II [redacted]
THOMAS D. BERTRAND [redacted]
KEITH A. BETSCH [redacted]
LARRY E. BICKEL [redacted]
RANDALL K. BIGUM, [redacted]
CHARLES R. BISBEE, III [redacted]
STANLEY T. BISHOP [redacted]
THOMAS J. BISHOP [redacted]
CARLTON L. BJERKAAS [redacted]
RAYMOND C. BJORKLUND [redacted]
PETER N. BLAUFARB [redacted]
JAMES D. BOGENRIE [redacted]
ROBERT C. BOGSTIE [redacted]
CHARLES J. BOHN, III [redacted]
RICHARD W. BONNELL, SR [redacted]
CHARLES J. BONNER [redacted]
JOHN W. BOOHER [redacted]
CARTER A. BORLAND [redacted]
DONALD B. BORTNER [redacted]
STEPHEN E. BOVICH [redacted]
ALLEN B. BOWSER [redacted]
STEPHEN D. BOYCE [redacted]
GARY S. BOYLE [redacted]
DAVID J. BOYLES [redacted]
TIMOTHY S. BRADY [redacted]
CHARLES L. BRAMMEIER, JR [redacted]
RONALD N. BRAUNHARDT [redacted]
JOHN A. BREED [redacted]
RICHARD L. BRENNER [redacted]
THOMAS E. BRETZ, JR [redacted]
ALAN J. BRIDING [redacted]
MARVIN J. BRIGMAN, JR [redacted]
ROBERT S. BRODEL [redacted]
ROBERT L. BROOKS [redacted]
ROGER W. BROOKS, [redacted]
ARNOLD M. BROWER [redacted]
BRUCE A. BROWN [redacted]
SAMUEL D. BROWN, JR [redacted]
THOMAS F. BROWN [redacted]
THOMAS R. BROWN, JR [redacted]
MICHAEL L. BUCK [redacted]
WILLIAM C. BUCKLEY [redacted]
VICTOR P. BUDURA, JR [redacted]
STEPHEN D. BULL, III [redacted]
JAMES J. BUMGARDNER [redacted]
JAMES E. BURKE [redacted]
JOSEPH G. BURKE [redacted]
ROBERT E. BUSCH, II [redacted]
RICHARD E. BUTLER [redacted]
WILLIAM A. BYRNE [redacted]
JOHN J. CABAN [redacted]
HARRY M. CALCUTT, JR [redacted]
CLARENCE L. CAMPBELL, JR [redacted]
REGIS CANNY [redacted]
ELDON H. CAPENER [redacted]
DAVID CAPOTOSTI [redacted]
JOHN D. CARLILE [redacted]
JAMES M. CARLIN [redacted]
PATRICK J. CARR [redacted]
LYNN A. CARROLL [redacted]
TED J. CARTER [redacted]
ROBERT F. CARTY [redacted]
JAMES R. CASEY [redacted]
DAVID R. CASTEEL [redacted]
GLYNN W. CAVIN, JR [redacted]
GARY G. CHAMBERLIN [redacted]
RONALD E. CHANNELL [redacted]
DAVID L. CHASE [redacted]
STEPHEN B. CHEAVENS [redacted]
ROBERT W. CHEDISTER [redacted]
KEVIN P. CHILTON [redacted]
EARL B. CHRISTY, JR. [redacted]
BILLY S. CLACK [redacted]
JACK CLARK, II [redacted]
JOHN R. CLARK [redacted]
MARVIN O. CLARK [redacted]
BARNEY H. CLARY, JR [redacted]
WILLIE E. COLE [redacted]
RICHARD A. COLEMAN, JR [redacted]
PATRICK J. COLLSON [redacted]
STEPHEN R. CONNELLY [redacted]
MELANIE B. COOKE [redacted]
DAVID H. COOKERLY [redacted]
LARRY H. COOPER [redacted]
KELVIN R. COPPOCK [redacted]
MICHAEL A. COURSEY [redacted]
ROBERT S. COX [redacted]
ROGER C. CRAIG [redacted]
STEVEN M. CRANFORD [redacted]
GARY W. CRAWFORD [redacted]
TOMMY F. CRAWFORD [redacted]
GEORGE R. CREEKMORE [redacted]
CARL L. CRITCHLOW [redacted]
RICHARD B. CROSS, JR [redacted]
WILLIAM L. CRUMM [redacted]
MICHAEL A. CUDDIHEE [redacted]
JOHN D. CUNNINGHAM [redacted]
WILLIAM A. CUNNINGHAM [redacted]
THIERY G. CURTIS [redacted]
GEORGE J. CUSIMANO [redacted]
FRANK P. CYR, JR [redacted]
GARY W. DAHLEN [redacted]
JAMES A. DAVIDSON [redacted]
GARY W. DAVIS [redacted]
HARRY F. DAVIS [redacted]
ROBERT J. DEHLER [redacted]
JAY E. DEJONGH, [redacted]
JOHN M. DELONEY [redacted]
FRANK J. DESTADIO [redacted]
JAMES L. DESTOUT [redacted]
TOMMY D. DICKSON [redacted]
WILLIAM C. DIEHL [redacted]
JOHN P. DIPIERRO [redacted]
HARRY C. DISBROW, JR [redacted]
THOMAS E. DISTELHORST [redacted]
JOE C. DIXON [redacted]
ROBERT B. DOBBS [redacted]
EARLTON C. DONNELL, JR [redacted]
DENNIS E. DOUCET [redacted]
RICHARD H. DOWNING [redacted]
DON R. DRENTH [redacted]
THOMAS R. DUBOIS [redacted]
RANDOLPH F. DUDLEY [redacted]
ALAN D. DUFF [redacted]
CRAIG P. DUNN [redacted]
RUEL M. DUNN [redacted]
GARRY W. EARLS [redacted]
JOSEPH E. EDWARDS, JR [redacted]
LYLE S. EESLEY [redacted]
DENNIS J. EFLEIN [redacted]
CAROL C. ELLIOTT [redacted]
MICHAEL R. ENGEL [redacted]
RICHARD H. ESTES [redacted]
DAVID R. EVANS [redacted]
DAVID G. FAAS [redacted]
MICHAEL E. FAIN [redacted]
JOHN F. FAIRBANKS [redacted]
JACK R. FELLOWS [redacted]
ORLANDO G. FERREIRA [redacted]
JOSEPH M. FERRELL [redacted]
HERBERT R. FINCH [redacted]
JOSEPH A. FIORELLO [redacted]
PAUL G. FISH [redacted]
RICHARD E. FITZHUGH, JR [redacted]
JAMES E. FORD [redacted]
MACK D. FOSTER, JR [redacted]
JOHN L. FOX [redacted]
LEONARD D. FOX [redacted]
JOHN H. FRASER, JR [redacted]
ALFRED G. FREEBERG [redacted]
DONALD A. FREEMAN [redacted]
ROBERT L. FRENCH [redacted]
THOMAS F. FROST [redacted]
JOHN H. FULLERTON [redacted]
DONALD F. GABRESKI [redacted]
TERRY L. GABRESKI [redacted]
LEONARD H. GAETZ [redacted]
GAROLD L. GARBER [redacted]
EDWARD L. GARCIA [redacted]
SAMUEL E. GARCIA [redacted]
RICHARD E. GARR, JR [redacted]
THOMAS W. GEARY [redacted]
RANDALL C. GELWIX [redacted]
MICHAEL L. GENTRUP [redacted]
JUDY W. GEORGE [redacted]
ROBERT K. GEORGE [redacted]
ANDREW M. GESSNER [redacted]
RALPH W. GETCHELL, III [redacted]
RODNEY E. GIBSON [redacted]
THOMAS F. GIOCONDA [redacted]
PHILIP E. GLENN, [redacted]
ROBERT J. GMYREK [redacted]
KIM W. GNADER [redacted]
WAYNE L. GOLDING, [redacted]
DAVID E. GORMAN [redacted]
JOE V. GORMAN [redacted]
JOHN W. GORSKI [redacted]
BRIAN D. GRADY [redacted]
LAWRENCE A. GRANNIS [redacted]
RONALD D. GRAY [redacted]
JOHN M. GRAZIANO [redacted]
WILLIAM H. GRIGSBY, II [redacted]
JOHN H. GUNSELMAN, JR [redacted]
JOHN H. GURTCHEFF [redacted]
ROBERT A. GUSTIN [redacted]
MICHAEL E. HAAS, [redacted]
JAMES O. HALE [redacted]
DAVID R. HALL [redacted]
PAUL HAMILTON [redacted]
DOUGLAS L. HARDIN [redacted]
GARY R. HARMON [redacted]
JOHN B. HARPER [redacted]
THOMAS E. HARPER [redacted]
ELIZABETH A. HARRELL [redacted]
WILLIAM S. HARRELL, JR [redacted]
GARY R. HARVEY [redacted]
RAYMOND J. HAUCK [redacted]
JAMES A. HAWKINS [redacted]
EDWIN D. HAWLEY [redacted]
JOHN L. HAYES [redacted]
ROBERT D. HAYS [redacted]
WILLIAM G. HECKATHORN [redacted]
ROY R. HEDDLESTON [redacted]
WILLIAM J. HEITZIG [redacted]
LEWIS S. HENDERSON, III [redacted]
CHARLES R. HENRY [redacted]
THOMAS L. HICKERSON [redacted]
BURL E. HICKMAN [redacted]
ROBERT L. HILL [redacted]
BENNY D. HOCKERSMITH [redacted]
WILLIAM F. HODGKINS [redacted]
BERNHARD S. HOENLE [redacted]
DONALD J. HOFFMAN [redacted]
STEVEN S. HOFFMAN [redacted]
MICHAEL L. HOGAN [redacted]
WILLIAM M. HOGAN [redacted]
TIMMIE D. HOLMES [redacted]
NICHOLAS J. HOLOVIAK [redacted]
CHARLES E. HOLT, JR [redacted]
JAMES M. HOLT [redacted]
KARL D. HORN [redacted]
WILLIAM B. HORNE, II [redacted]
WELDON P. HORTON, [redacted]
EDWARD H. HOULE [redacted]
SCOTT M. HOVERSTEN [redacted]
AUBREY A. HOWARD, JR [redacted]
JOHN M. HOWELL [redacted]
JOHN L. HUDSON [redacted]
ROBERT M. HUDSON [redacted]
JON T. HUINKER [redacted]
JOHN R. HULL [redacted]
THOMAS W. HUMPHERYS [redacted]
BOBBY T. HUNEYCUTT [redacted]
DAVID J. HUNT [redacted]
JOSEPH E. HUTFLES [redacted]
ROBERT M. HYLTON [redacted]
JOHN O. IRWIN [redacted]
EMILE C. IVERSTINE [redacted]
WILLIAM J. JABOUR, [redacted]
ROBERT L. JAMES [redacted]
FINCH M. JONES, JR [redacted]
PERCY JOUBERT, JR [redacted]
RICHARD J. JOYCE [redacted]
PHILLIP E. JUNG, JR [redacted]
JAMES W. KAHLER [redacted]
LEONARD E. KAPLAN [redacted]
THOMAS M. KEARNEY [redacted]
JOSEPH A. KEEFE [redacted]
DONN P. KEGEL [redacted]
LAWRENCE R. KELLER [redacted]
JAMES F. KENDRICK [redacted]
PATRICK M. KERN [redacted]
MICHAEL C. KIMBERLING [redacted]
FREDERICK B. KING, JR [redacted]
HARRY G. KINGSBERY [redacted]
WILLIAM H. KIRKMAN, II [redacted]
DOUGLAS H. KIRKPATRICK [redacted]
JOHN J. KITTLE [redacted]
HAROLD E. KLICK [redacted]
ALBERT M. KLUCZYNSKI [redacted]
JOHN T. KNIGHT [redacted]
ROBERT M. KNOX [redacted]
RUDOLPH J. KOBARG, JR [redacted]
RICHARD J. KOCHANEK [redacted]
GEORGE A. KODATT [redacted]
MICHAEL J. KOERNER [redacted]
PETER KONOWICZ [redacted]
GEORGE H. KOTTI [redacted]
MICHAEL D. KOZAK [redacted]
WILLIAM G. KRAUS [redacted]
DENNIS W. KRIPPNER [redacted]
RONALD L. KUHL [redacted]
MARK E. LACAILLADE [redacted]
CHRISTOPHER J. LAMB [redacted]
JOHN R. LANDON [redacted]
LAWRENCE LANGLOIS [redacted]
ERIC Y. LARSON [redacted]
WILLIAM I. LATHAM, JR [redacted]
KIM T. LAWSON [redacted]
RICHARD L. LAYMAN [redacted]
WAYNE C. LEBOEUF [redacted]
DENNIS C. LEVAN [redacted]
MICHAEL P. LIBERTO [redacted]
LUIS C. LINARES [redacted]
STEVEN R. LINDLE [redacted]
TERRY R. LOWE [redacted]
MICHAEL W. LUERS [redacted]
DARRYL V. LUNDGREN [redacted]
ROBERT M. LUTZ [redacted]
RICHARD S. MACISAAC [redacted]
JAMES R. MACON [redacted]
PATRICK J. MADDEN [redacted]
EDWARD C. MAHEN, JR [redacted]
BRIAN A. MAHER [redacted]
MICHAEL J. MALONE [redacted]
ROBERT E. MANSFIELD, JR [redacted]
CHANDLER D. MAPES [redacted]
HENRYK J. MARKULIS [redacted]
WILLIAM H. MARSCH [redacted]
JAMES R. MARSHALL [redacted]
JOSEPH A. MARSTON [redacted]
MORRILL E. MARSTON [redacted]
STEPHEN R. MARTIN [redacted]

JON L. MARTINSON [redacted]
ANDREW MATARESE [redacted]
KERRY MAY [redacted]
WILLIAM T. MAYALL [redacted]
BRANFORD J. MCALLISTER [redacted]
MARC A. MCBRIDE [redacted]
ROY A. MCCALLA [redacted]
RONALD A. MCCALLUM [redacted]
EDWARD J. MCCLURE, JR [redacted]
LARRY D. MCCONNELL, [redacted]
THOMAS E. MCCOY, [redacted]
ALFRED P. MCCRACKEN, [redacted]
JOSEPH J. MCCUE [redacted]
MARY S. MCCULLY [redacted]
RICHARD H. MCDOW, [redacted]
TEDDIE M. MCFARLAND [redacted]
JAMES W. MCGUIRE [redacted]
PATRICIA A. MCKELVY [redacted]
ANTHONY H. MCKENNA, JR [redacted]
RONALD L. MCKIM [redacted]
RICHARD W. MCKINNEY [redacted]
DUNCAN J. MCNABB [redacted]
JOHN M. MCNABB, JR [redacted]
JOSEPH B. MCNICHOLS, JR [redacted]
JACK E. MCPHIE [redacted]
CHARLES H. MEAD [redacted]
PHILLIP S. MEILINGER [redacted]
RICHARD A. MENTEMEYER [redacted]
ROOSEVELT MERCER, JR [redacted]
GARY W. MERRELL [redacted]
ARTHUR C. MICHEL [redacted]
JOHN K. MIDDENDORF [redacted]
JERRY W. MILAM [redacted]
CHARLES N. MILLER [redacted]
MICHAEL J. MILLER [redacted]
WARREN J. MILLER [redacted]
KENNETH MILLS [redacted]
RANDY W. MILLS [redacted]
SCOTT E. MILLS [redacted]
RICHARD W. MILNER [redacted]
ROBERT P. MIMS [redacted]
LOUIS E. MITCHELL, JR [redacted]
JOHN W. MOGGE, JR [redacted]
GEORGE M. MONROE [redacted]
DAVID L. MOODY [redacted]
DONNA R. MOONEY, [redacted]
WILLIAM O. MOONEY [redacted]
CARVER MOORE, [redacted]
MICHAEL F. MOORE [redacted]
WILLIAM D. K. MORAVEK [redacted]
FRANKLIN M. MORGAN [redacted]
EDWARD G. MORROW, III [redacted]
WILLIAM J. MULCAHY, JR [redacted]
RICHARD MULLERY [redacted]
RICHARD C. MURROW [redacted]
ROBERT E. NEDERGAARD [redacted]
CHRISTOPHER R. NELSON [redacted]
DENNIS E. NEWHOUSE [redacted]
DONALD W. NEWTON [redacted]
ALAN J. NIEDBALSKI [redacted]
JAMES A. NORRIS [redacted]
CRAIG M. NORTHRUP [redacted]
RICHARD L. OBORN [redacted]
MILES M. OBRIEN, JR [redacted]
THOMAS W. OBRIEN, III [redacted]
KEVIN J. OCONNOR, [redacted]
MICHAEL P. OCONNOR [redacted]
RICHARD M. OCONNOR, [redacted]
LARRY W. ODOM [redacted]
THOMAS J. OLDENBURG [redacted]
THOMAS W. OLDHAM [redacted]
DAVID L. OLES [redacted]
WILLIAM D. ORCUTT [redacted]
ROBERT W. OSBURN [redacted]
STAFFORD W. OUDERKIRK [redacted]
STEVE O. OUZTS [redacted]
JEROME P. PALANUK [redacted]
WILLIAM F. PARASKA [redacted]
GREGORY S. PARNELL [redacted]
WADE L. PATON [redacted]
CHARLES H. PATRUM [redacted]
WILLIAM D. PATTON [redacted]
JOHN S. PAUL [redacted]
MYHRE E. PAULSON, JR [redacted]
GARY D. PAYTON [redacted]
ROBERT H. PENNY [redacted]
JASON A. PERIDON [redacted]
ROBERT N. PETERMAN [redacted]
DONALD P. PETTIT [redacted]
FRED G. PHILLIPS, JR [redacted]
FRANK A. PICKART [redacted]
MICHAEL R. PIKULA, JR [redacted]
STEPHEN R. PINGEL [redacted]
JAMES J. POLAND, II [redacted]
HOWARD L. POPE, JR [redacted]
STEPHEN R. POPELKA [redacted]
WILLIAM F. PORTER [redacted]
DAVID F. POSTELL [redacted]
JON S. POWELL, [redacted]
THOMAS J. POWELL [redacted]
GREGORY H. POWER [redacted]
MYRON R. PRICE, [redacted]
JOHN P. PRIECKO [redacted]
CHARLES S. PUGSLEY, III [redacted]
JEFFERY A. QUIRK [redacted]
THOMAS G. RACKLEY [redacted]
MICHAEL F. RADER [redacted]
JERRY M. RAPER [redacted]
ALAN C. RAY [redacted]
MARTIN L. RAYNOR [redacted]
STEVEN J. REDMANN [redacted]
WILLIAM H. REEVE, [redacted]
MICHAEL G. REEVES [redacted]
JOHN F. REICHART [redacted]
VICTOR E. RENUART, JR [redacted]
ROBERT E. REYNOLDS, JR [redacted]
HAROLD S. RHOADS [redacted]
KAREN S. RHODEY [redacted]
WILLIAM H. RICHARD [redacted]
J. WILSON RICHARDS [redacted]
WILLIAM G. RICHARDSON, [redacted]
BILLY F. RICHEY [redacted]
GERALD F. RILEY, JR [redacted]
BRUCE M. ROANG, [redacted]
JAMES C. ROBERTSON, II [redacted]
GARALD K. ROBINSON, [redacted]
IAN E. ROBINSON, [redacted]
MARK B. RODDY, [redacted]
CHARLIE ROLADER [redacted]
RONNIE D. ROLAND, [redacted]
BENJAMIN G. ROMERO [redacted]
THOMAS W. ROOMSBURG, [redacted]
KENNETH E. ROSEBUSH, JR [redacted]
DAVID L. ROSS [redacted]
CARL A. ROSSMAN, JR [redacted]
DANNY M. ROUSE, [redacted]
JEFFREY A. ROUTCH, [redacted]
FRANCIS X. ROUTHIER, III [redacted]
LLOYD B. ROWLAND, [redacted]
HERBERT G. RUSSELL [redacted]
ROBERT E. RYALS [redacted]
GARY L. SALISBURY [redacted]
RONALD F. SAMS [redacted]
MARY L. SAUNDERS [redacted]
MILES L. SAWYER [redacted]
GREER C. SAYLES [redacted]
GEORGE D. SCHAFER [redacted]
PAUL R. SCHAFFENBERGER [redacted]
DAVID A. SCHANTZ, [redacted]
CLOYCE W. SCHEER, [redacted]
WILLIAM F. SCHLESS, JR [redacted]
DARRYL A. SCOTT [redacted]
FELIX J. SEMLEY [redacted]
BRUCE H. SENFT [redacted]
WILLIAM H. SESSOMS [redacted]
JACK P. SHAFER [redacted]
RICHARD D. SHATZEL [redacted]
BRYANT P. SHAW [redacted]
HAROLD D. SHOEMAKER, [redacted]
STEVEN R. SHOEMAKER [redacted]
PAUL T. SHOROCK [redacted]
GILBERT P. SIEGERT [redacted]
RICHARD L. SILVANI [redacted]
GERALD H. SIMNACHER [redacted]
JAMES C. SIMPSON, JR [redacted]
JOHN A. SKORUPA [redacted]
OLEH SKRYPCZUK [redacted]
JAMES H. SLATON [redacted]
MICHAEL E. SLINKARD [redacted]
STEVEN J. SLOBODA [redacted]
GLENN H. SMALLWOOD [redacted]
THOMAS SMICKER, [redacted]
CHARLES F. SMITH, JR [redacted]
CLIFFORD T. SMITH [redacted]
DOUGLAS M. SMITH [redacted]
JACKIE C. SMITH [redacted]
JOHN D. SMITH [redacted]
MICHAEL G. SMITH [redacted]
WILLIAM C. SMITH [redacted]
ROY E. SMOKER [redacted]
MICHAEL A. SPATOLA [redacted]
BRIAN J. SPITZER [redacted]
GREGORY O. STANLEY [redacted]
HAROLD D. STECK, JR [redacted]
JAMES A. STEELE [redacted]
JOSEPH K. STERTZ [redacted]
MICHAEL D. STEVENS [redacted]
CYNTHIA J. STEWART [redacted]
LEWIS E. STEWART [redacted]
JAMES E. STIEBER [redacted]
RANDALL J. STILES, [redacted]
KENNETH W. STITH [redacted]
ROBERT C. STOCKS, [redacted]
HARVEY S. STORY [redacted]
PHILIP B. STRALEY [redacted]
WILLIAM C. STRICKLAND [redacted]
WILLIAM J. STRICKLAND [redacted]
HAROLD T. STRITTMATTER [redacted]
CARLA M. STUCKI, [redacted]
KEVIN J. SULLIVAN [redacted]
FRENEAU B. SURGUINE, III [redacted]
ERNEST B. SUTTON [redacted]
TERENCE J. SWAN [redacted]
JON M. SWANSON, [redacted]
SUSAN R. SWIFT [redacted]
JAMES SZABO [redacted]
RONALD D. TABOR [redacted]
CHARLES P. TAPPERO [redacted]
HENRY L. TAYLOR [redacted]
SIDNEY L. TAYLOR [redacted]
RICHARD D. TEBAY [redacted]
WILLIAM E. THIEL [redacted]
JOBE C. TICKEL, JR [redacted]
LARRY A. TIMMERMAN [redacted]
ALAN J. TINDER, [redacted]
SANDRA K. TINNEY [redacted]
MICHAEL F. TINSLEY [redacted]
ROBERT L. TIPTON, JR [redacted]
GEORGE W. TITUS [redacted]
FRANK K. TODA [redacted]
GEORGETTE M. TOEWS [redacted]
ROBERT W. TOPEL [redacted]
CHARLES S. TRISKA [redacted]
DONALD C. TROWBRIDGE [redacted]
LAURENCE M. TROWEL [redacted]
ROBERT R. TURELLI [redacted]
KENNETH S. TURNER [redacted]
STEVEN L. TURNER [redacted]
MICHAEL J. VARNER [redacted]
JAIME VAZQUEZ, [redacted]
GUADALUPE B. VEGA [redacted]
WILLIAM S. VINAL [redacted]
ROBERT W. VINCENT, [redacted]
DENNIS L. VOSS, [redacted]
ERIC A. VRANEK, [redacted]
VICTOR J. WALD, [redacted]
STEVEN B. WALKER [redacted]
RICHARD B. WALLACE [redacted]
THOMAS P. WALTERS [redacted]
RICHARD D. WARD, II [redacted]
JACK D. WARNER, JR [redacted]
ERNEST R. WATKINS [redacted]
KRISTIN L. WELLS [redacted]
CRAIG P. WESTON [redacted]
JOHN D. WESTON [redacted]
RICHARD D. WHITE [redacted]
VICTOR J. WHITE [redacted]
ROGER F. WICKERT [redacted]
KENNY L. WIEMAN, [redacted]
JOHN T. WIGINGTON, III [redacted]
RAYMOND C. WILLCOX, [redacted]
MARK A. WILLIAMS, [redacted]
JAMES D. WILLIS, JR [redacted]
STEVEN B. WILLOUGHBY, [redacted]
JAMES C. WILLS, JR [redacted]
JOHN K. WILSON, III [redacted]
WILLIAM M. WILSON, JR [redacted]
STEPHEN R. WINGFIELD [redacted]
DALE R. WINZER [redacted]
RICHARD C. WIRTH [redacted]
THOMAS P. WITT [redacted]
BUDDY B. WOOD, [redacted]
GARY B. WOOD, [redacted]
BRUCE A. WRIGHT, [redacted]
GEORGE M. XIQUES, JR [redacted]
HENRY R. YANCEY, JR [redacted]
JAMES E. YOUNG [redacted]
PATRICIA M. YOUNG, [redacted]
NEIL A. YOUNGMAN, [redacted]
GARY D. ZANK, [redacted]
GREGORY J. ZENO [redacted]
LYNN J. ZERULL [redacted]
JOHN W. ZINK [redacted]
JOHN S. ZUBEL [redacted]

CHAPLAIN CORPS

To be colonel

KARL W. BARMANN, [redacted]
D. BRUCE BROWN, [redacted]
LOUIS E. DEIMEKE [redacted]
JAMES T. ELWELL [redacted]
TERENCE J. FIGEL [redacted]
PETER J. FLOOD [redacted]
ROBERT R. GILMAN [redacted]
RICARDO A. HERNANDEZ, [redacted]
JAMES K. LARKIN [redacted]
JOHN O. LUNDIN [redacted]
LORRAINE K. POTTER [redacted]
JIMMY A. ROQUEMORE, [redacted]
BILLY G. THOMASON, [redacted]
BILLY H. WEAVER, [redacted]

JUDGE ADVOCATE

To be colonel

CHARLES D. BECKENHAUER [redacted]
WILLIAM D. BENTON, [redacted]
FRANCIS T. BERGAN [redacted]
BERNARD M. CHACHULA, [redacted]
HOWARD L. DONALDSON, [redacted]
JOSEPH G. EURETIG [redacted]
WILLIAM B. HAMMILL [redacted]
VERNON J. KING, JR [redacted]
WILLIAM H. KIRSCHNER, III [redacted]
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CHARLES R. LUCY, [redacted]
MICHAEL G. MCCORMACK, [redacted]
CHARLES E. ORCK, [redacted]
WILLARD L. POPE, JR [redacted]
ANDREW C. PRATT [redacted]
JAMES W. RUSSELL, III [redacted]
THOMAS L. STRAND, [redacted]
TERRY J. WOODHOUSE, [redacted]
DAVID W. WOODRING, [redacted]
JAMES A. YOUNG, III [redacted]

BIOMEDICAL SCIENCES

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THOMAS L. CROPPER [redacted]
VICKY L. FOGELMAN [redacted]
JOHN A. GROSSI [redacted]
MORRIS L. HOLLOWELL [redacted]
LESLIE G. JENKINS [redacted]
MARTIN F. KAZMAIER, JR, [redacted]
GARY D. LARSEN [redacted]
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JAMES G. ROONEY, [redacted]

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MARY A. SWEENEY [redacted]
WILEY TAYLOR, [redacted]
MARILYN A. WALKER [redacted]
ADRIAN A. WILLIAMSON [redacted]
WILBUR T. WORKMAN [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3370:

ARMY PROMOTION LIST

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CHARLES P. ADKINS [redacted]
WILLIAM B. AGOSTI [redacted]
VINCENT J. ALBANESE [redacted]
BERTIE S. ALEXANDER [redacted]
JOE R. ALEXANDER [redacted]
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JAMES J. ALIX [redacted]
DANNY ALLEN [redacted]
ANDREW A. ALSTON [redacted]
MICHAEL J. ANGELI [redacted]
FRANK J. ANGYAL [redacted]
WILLIAM I. APGAR [redacted]
CHARLES M. ARCE [redacted]
STEPHEN E. AREY [redacted]
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ELMO G. ARMSTRONG [redacted]
FRANK D. ARMSTRONG [redacted]
NORM ASCHENBRENNER [redacted]
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MICHAEL AUSTIN [redacted]
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RICHARD W. AVERITT [redacted]
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STANLEY J. BAGDON [redacted]
DONALD E. BAILEY [redacted]
LARRY A. BAILEY [redacted]
LARRY F. BAIR [redacted]
ROBERT T. BAIRD [redacted]
JOHN P. BAKER [redacted]
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ARLEY J. BALL, JR [redacted]
RICHARD A. BALLIET [redacted]
DAVID A. BANNER [redacted]
MIRIAM B. BARBARY [redacted]
DALE R. BARBER [redacted]
BRIAN A. BARLOW [redacted]
ROBERT L. BARNARD [redacted]
GROVER E. BARNES [redacted]
ANTHONY S. BARON [redacted]
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ROBERT R. BARTON [redacted]
JOHN J. BARTOSH [redacted]
WOLFGANG BAUER [redacted]
GEORGE D. BAXTER [redacted]
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ROBERTO BENAVIDES [redacted]
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WILLIAM V. BLOUNT [redacted]
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GLEN D. BOTTOMS [redacted]
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JOHN M. BROWN [redacted]
PHILLIP L. BROWN [redacted]
RAYMOND E. BROWN [redacted]
EDWARD J. BROYLES [redacted]
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HAYDEN G. BRYAN [redacted]
DENNIS W. BRYANT [redacted]
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JAMES D. BUCKLES [redacted]
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JOSEPH W. BULLOCK [redacted]
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THOMAS D. BURKHEAD [redacted]
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JAMES R. BURNS [redacted]
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TERRELL E. BURRUP [redacted]
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DAVID L. BUSCHAR [redacted]
JOHN W. BUSHAW, [redacted]
JOHN K. BUTLER [redacted]
WILLIAM G. BUTTS [redacted]
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JOHN H. BYERLY [redacted]
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JOHN R. CALPINI [redacted]
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THOMAS J. CANDON [redacted]
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ROBERT S. CARR [redacted]
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EUGENE W. CASSIDY [redacted]
GLENN O. CASSIDY [redacted]
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HENRY C. CHAPMAN, [redacted]
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LEWIS A. CHIPOLA [redacted]
RONALD L. CHISTE [redacted]
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JAMES A. COAR [redacted]
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BEN M. COLCOL, [redacted]
CAREY E. COLE [redacted]
EDGAR G. COLINSKY [redacted]
WILLIAM C. COLLIER [redacted]
JAMES P. COLLINS [redacted]
SETH W. COLLINS [redacted]
TIMOTHY F. COLLINS [redacted]
VERNON E. COLLINS [redacted]
ALEXANDER P. COLLIS [redacted]
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ROBERT B. CREE [redacted]
WILLIAM S. CREWE [redacted]
CHARLES E. CRIST [redacted]
RICHARD A. CUMMINS, [redacted]
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WILLIAMS J. DAVIES [redacted]
JAMES M. DAVIS [redacted]
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KING F. DAVIS [redacted]
STEWART O. DAVIS [redacted]
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JAMES F. DAY, [redacted]
JOHN J. DEACY [redacted]
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HENRY DELCASTILLO [redacted]
JOAN D. DELGADO [redacted]
DANAL H. DENNISON [redacted]
JAMES F. DIAS [redacted]
EMILIO DIAZCOLON, [redacted]
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BENJAMIN DITULLIO [redacted]
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JOHN B. DIXON, [redacted]
CHARLES A. DOLL [redacted]
ORRIE C. DONLEY [redacted]
OLIVER H. DOSS [redacted]
DENNIS J. DOUGHERTY [redacted]
GARY C. DOUGHERTY, [redacted]
RONALD O. DOWNEY [redacted]
JOHN Z. DRAFTZ [redacted]
CARL L. DRECHSEL [redacted]
ROBERT J. DREW [redacted]
ARNOLD D. DROKE, [redacted]
BERTIE S. DUEITT [redacted]
MILLISON E. DUFF [redacted]
MICHAEL J. DUFFY [redacted]
THOMAS R. DUFFY [redacted]
VIVAN F. DUFFY [redacted]
PETER M. DUGRE [redacted]
JAMES W. DUKE [redacted]
JOHN T. DUKES [redacted]
DANIEL F. DULL [redacted]
MARTIN C. DUNBAR, [redacted]
MARVIN B. DUNCAN, [redacted]
CLIFFORD L. DUNGEY [redacted]
LAWSON W. DURFEE, [redacted]
DONALD F. DUSTIN [redacted]
JERRY G. DUTERROIL [redacted]
HAROLD C. DYER, [redacted]
JAMES A. EALY [redacted]
MICHAEL J. EARLY [redacted]
RICHARD S. ECKSTEIN [redacted]
ERIC R. EDGERTON [redacted]
THOMAS G. EGAN, [redacted]
BRENT S. EICHERS [redacted]
GARY L. ELLIOTT [redacted]
ERIC T. ELLIS [redacted]
GARY D. ELLIS [redacted]
HIRAM R. ELLIS [redacted]
LESTER C. ELLIS [redacted]
JOHN L. ENRIGHT [redacted]
WAYNE M. ERCK, [redacted]
RICKY D. ERLANDSON [redacted]
JAMES C. EUBANKS [redacted]
JOHN A. EXNICIOS [redacted]
GEORGE B. FAULHABER [redacted]
JAMES R. FERRARI [redacted]
WILLIAM A. FIELDER [redacted]
EDWARD R. FISHPAW [redacted]
STEPHEN FITZGERALD [redacted]
CORNELIUS J. FLYNN [redacted]
JOHN B. FLYNN [redacted]
RONALD B. FLYNN, [redacted]
THOMAS T. FOLLOWELL [redacted]
MICHAEL F. FONGER, [redacted]
WALTER J. FOSTER [redacted]
JACK R. FOX [redacted]
ALBERT T. FRAGOLA [redacted]
WILLIAM FRANCISCO [redacted]
KENNETH M. FRANKE [redacted]
JEFFREY M. FREEMAN [redacted]
ROBERT H. FRICK [redacted]
DAVID FRIDLINGTON, [redacted]
WILLIAM W. FULLER [redacted]
STEVEN L. FUNK [redacted]
WILLIAM R. FURR [redacted]
JAMES O. GAARDER [redacted]
FRED W. GAGE, [redacted]
KENNETH GALBREATH [redacted]
MICHAEL F. GANTT, [redacted]
ROBERT GARCIA [redacted]
ROBERT N. GAREY [redacted]
GUSTAVO A. GARZA, JR [redacted]
GEORGE A. GATES [redacted]
FRIENDLY GEDDINGS, [redacted]
DWIGHT L. GEIGER, [redacted]
CHRISTOPHE GERSHEL [redacted]
JAMES C. GHORMLEY [redacted]
SAM E. GIBSON, [redacted]
ROBERT L. GILL [redacted]
RULAND J. GILL, JR [redacted]
DONALD C. GIPE [redacted]
RICHARD J. GODDARD [redacted]
JOSEPH W. GODWIN, [redacted]
BARRON L. GOFF [redacted]
DAVID E. GOFF [redacted]
RONALD F. GOLINSKI [redacted]
JOHN S. GONG, [redacted]
RANDALL C. GRAHAM, [redacted]
WALTER I. GRAHAM [redacted]
WILLIE C. GRAHAM, [redacted]
FRANK B. GREEN [redacted]
RAYMOND W. GREGG, [redacted]
JAMES D. GREGORY [redacted]
JAMES M. GRIES [redacted]
CONRAD D. GRIGGS, [redacted]
JOHN B. GRIMBALL, [redacted]
JOHN R. GROVES [redacted]
MICHAEL L. GRYGIEL [redacted]
JAMES G. GULSBY [redacted]
ROBERT F. GUNTER [redacted]
JOHN A. HADDICK, [redacted]
JOHN W. HAGEMAN, [redacted]
GARY P. HALE [redacted]
EDWIN E. HALL, [redacted]
WILLIAM H. HALL [redacted]
JOHN P. HALVORSEN [redacted]
JOHN A. HAMEL [redacted]
JOHN H. HAMMOND, [redacted]
RICHARD M. HAMNER, [redacted]
RAYMOND C. HANBACK, [redacted]

DONALD P. HANEY [redacted]
FRED C. HANNUM [redacted]
DALE W. HANSEN, [redacted]
MICHAEL M. HARAN [redacted]
DONALD B. HARMON [redacted]
RAYMOND G. HARP [redacted]
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DONALD E. HARTZELL [redacted]
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JOHN M. HEATH [redacted]
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ERNEST L. HELMAN [redacted]
JAMES R. HELMLY [redacted]
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RODNEY C. HENELY [redacted]
CHARLES HENNESSEY [redacted]
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JONATHAN F. HENRY [redacted]
LARRY W. HENSEL [redacted]
JAMES G. HERGEN [redacted]
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EARL I. INGRAM [redacted]
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DEAN L. JOHNSON [redacted]
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RICHARD JORGENSEN [redacted]
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RICHARD S. KWIECIAK [redacted]
GENE T. KYBURZ, [redacted]
LAWRENCE F. LAFRENZ, [redacted]
JOSEPH A. LAGROW [redacted]
LYLE D. LALIM [redacted]
GEORGE L. LAMBORN [redacted]
THOMAS LANYI [redacted]
DAVID W. LARGE [redacted]
JOHN D. LARSON [redacted]
ROBERT L. LAUBER [redacted]
BRUCE W. LAWTON [redacted]
JAMES F. LEAHIGH [redacted]
DONALD B. LEAZOTT, [redacted]
JOSEPH G. LECLERC [redacted]
SAMUEL W. LEDBETTER [redacted]
JAMES H. LEE [redacted]
WILLIAM R. LEE [redacted]
JASON D. LEER [redacted]
FRED A. LEISTIKO [redacted]
ABEL C. LEITE [redacted]
LARRY A. LEONARD, [redacted]
ROBERT L. LESLIE [redacted]
CLIFFORD E. LETTS [redacted]
JESSE J. LEWIS [redacted]
ROBERT S. LIGON [redacted]
ARTHUR F. LINCOLN, [redacted]
ALEXANDER LINDSAY [redacted]
CHARLES W. LINDSEY [redacted]
LAWRENCE A. LIPPKE [redacted]
PHILLIP LIPSMEYER [redacted]
DALE J. LITNEY [redacted]
DICK C. LITTLE [redacted]
ELLIS R. LITTLEJOHN, [redacted]
STEPHEN H. LOCKE [redacted]
DANIEL E. LONG [redacted]
PAUL R. LONGGREAR [redacted]
JOHN H. LOUGHRIDGE [redacted]
DAVID N. LOVELESS [redacted]
JEFFREY A. LOZIER [redacted]
SANTO LUMIA, [redacted]
RALPH S. LUND [redacted]
STEVEN C. LUND [redacted]
CARL F. LUNDELL [redacted]
ARNOLD H. LUNDQUIST [redacted]
DRANNAN E. LUNN [redacted]
JAMES N. LUNSFORD [redacted]
HAROLD C. LYNCH, [redacted]
ROBERT T. LYNCH, JR [redacted]
JOHN Y. MA [redacted]
ROBERT W. MACE [redacted]
KENNETH C. MADER [redacted]
MICHAEL R. MAGASIN [redacted]
THOMAS K. MAHAN, [redacted]
CHARLES H. MAJOR [redacted]
WILLIAM A. MANNING [redacted]
SILVANO B. MARCHESI [redacted]
ROBERT H. MARGRAVE [redacted]
DANNY G. MARLER, [redacted]
ROB MARREROCORLETO [redacted]
JAMES T. MARSTON [redacted]
CHARLES E. MARTIN [redacted]
WILFREDO MARTINEZ [redacted]
ADOLPH W. MASSA [redacted]
JULIUS E. MATHIS [redacted]
RICHARD E. MATLAK [redacted]
DENNIS E. MATTHEWS [redacted]
MARK M. MATTHEWS, [redacted]
ROBERT J. MATTHEWS [redacted]
FRANK J. MAURER [redacted]
STEPHEN A. MAYHEU [redacted]
ZOLLICOFFE MAYNARD [redacted]
SALVATORE MAZZOTTA [redacted]
CHARLES MCCLINTOCK [redacted]
ROBERT M. MCCONNELL [redacted]
DAVID L. MCGINNIS [redacted]
ROGER R. MCGRATH [redacted]
WILLIAM J. MCGUIRE [redacted]
JAMES D. MCINTOSH [redacted]
RICHARD D. MCKINNIE [redacted]
MATT D. MCKNIGHT, [redacted]
WILLIAM J. MCMAHON [redacted]
JOHN L. MCPARTLAND [redacted]
STEVEN F. MCWHORTER [redacted]
WILLIAM MEDIGOVICH [redacted]
JOSEPH W. MEJASKI [redacted]
STEVEN L. MELANCON [redacted]
GEORGE J. MENDOZA [redacted]
MICHAEL R. MESSINA [redacted]
DOUGLAS K. MEYER [redacted]
MARIS MEZS [redacted]
MARK L. MIDGLEY [redacted]
ARTHUR D. MILLER [redacted]
WILLIAM B. MILLER [redacted]
GERALD P. MINETTI [redacted]
ALBERT G. MOHR [redacted]
ARTHUR J. MOLITOR [redacted]
GERALD J. MOLNAR [redacted]
WILLIAM G. MOORE, [redacted]
IGNACIO MORALES [redacted]
AUDY C. MORGAN, [redacted]
HIROAKI MORITA [redacted]
JAMES E. MOTES [redacted]
DAVID R. MOWRER [redacted]
JOSEPH A. MUELLER [redacted]
JOHN R. MULLIN [redacted]
TIMOTHY M. MURPHY [redacted]
JONATHAN H. MYERS [redacted]
WILLIAM E. NABORS [redacted]
HENRY J. NACHTSHEIM [redacted]
WILLIAM J. NAGY [redacted]
WILLIAM T. NAPPER [redacted]
JAMES E. NARRELL [redacted]
JOHN L. NATTERSTAD [redacted]
CONRAD W. NEELY, [redacted]
JERRY L. NEFF [redacted]
DONALD C. NELSON [redacted]
HOMER D. NELSON [redacted]
ROBERT H. NELSON [redacted]
ANDONIOS NEROULIAS, [redacted]
MICHAEL L. NEVEAUX [redacted]
ALFRED T. NEVILL [redacted]
HAROLD J. NEVIN [redacted]
ARTHUR J. NICHOLS [redacted]
MICHAEL NICHOLSON, [redacted]
RICHARD M. NOLAN, [redacted]
ERIC J. NORMAN, [redacted]
ROBERT D. NORTON, [redacted]
MARGARET N. NOVACK, [redacted]
MICHAEL A. NOWAK, [redacted]
ERWIN N. OBARTUCH, [redacted]
HARRY B. OBERG, [redacted]
ROBERT W. OBRIEN, [redacted]
THOMAS M. OGLES, [redacted]
DAVID D. OKANE, [redacted]
JOHN B. OLAUGHLIN, [redacted]
RONALD F. OLSOMMER [redacted]
RICHARD L. OLSON [redacted]
PETER W. OROURKE [redacted]
RANDALL J. OSOWSKI [redacted]
JASPER G. OWENS [redacted]
CARL J. PACE [redacted]
JOHN P. PACIOREK [redacted]
RONALD C. PARE [redacted]
HUGH G. PARKHILL [redacted]
CURTIS C. PARSONS [redacted]
JOHN R. PARSONS [redacted]
JOHN G. PARTIN [redacted]
ANTHONY R. PASQUA, [redacted]
GREGORY C. PECK, [redacted]
MICHAEL E. PECK [redacted]
JERRY F. PELCH, JR [redacted]
KENNETH N. PELTIER [redacted]
MYRON R. PERKINS [redacted]
JAMES F. PERRY [redacted]
KENNETH F. PERRY [redacted]
ROGER D. PETERMAN [redacted]
LEROY R. PETERS [redacted]
RAYMOND C. PETERS [redacted]
DAVID L. PETERSEN [redacted]
JEFFREY G. PETERSON [redacted]
ORLAN L. PETERSON, [redacted]
WILLIAM P. PFEIFF [redacted]
FRANKLIN D. PHELPS [redacted]
COLLIS N. PHILLIPS [redacted]
JAMES P. PHILLIPS [redacted]
BRIAN F. PHIPPS [redacted]
ROBERT D. PIDGEON [redacted]
BRUCE W. PIERATT [redacted]
JAMES U. PIERSALL [redacted]
JEFFREY L. PIERSON [redacted]
JAMES H. PIETSCH [redacted]
ROY R. PINETTE [redacted]
ROY PINTO, [redacted]
RICHARD M. PITTS [redacted]
JOHN J. PIZIALI [redacted]
WILLIAM H. POLAND, [redacted]
DONALD L. POTTER [redacted]
KENNETH R. POWELL [redacted]
LARRY G. POWELL [redacted]
GIGG M. POWERS [redacted]
LARRY D. PRICE [redacted]
PERRY L. PRICE [redacted]
DOUGLAS A. PRITT [redacted]
WILLIAM H. PUGH, III [redacted]
JOHN P. PUMPHREY [redacted]
LAWRENCE L. PURCELL [redacted]
JOHN J. QUINLAN [redacted]
BARRY F. QUINN, [redacted]
WILLIAM A. RAHKOLA, [redacted]
LARRY L. RALSTON [redacted]
FRANCIS J. RANALLI [redacted]
ALBERT J. RASCH [redacted]
SANDERS H. RAY, JR [redacted]
FREDERIC J. RAYMOND [redacted]
STEVEN J. RAYMOND [redacted]
JAMES B. READING [redacted]
JAMES P. REDMOND [redacted]
GUY L. REECE, II [redacted]
GEORGE E. REMSEN [redacted]
MICHAEL S. RENKAS [redacted]
PAUL D. RENNER, JR [redacted]
CALVIN R. RHEAM, [redacted]
MARK V. RHETT, [redacted]
MARK S. RICH, [redacted]
WILLIAM C. RICHAR [redacted]
GERALD RICHARDSON [redacted]
BILLY J. RICHBURG [redacted]
DAVID L. RIDGEWAY [redacted]
ANTHONY G. RILEY [redacted]
J. S. RILOVICK [redacted]
RICHARD T. RINTZ [redacted]
JOSEPH E. RITCHIE [redacted]
JOSE M. RIVERA [redacted]
GARY D. ROARK, [redacted]
WILLIAM Y. ROBBINS [redacted]
ELMER L. ROBERTSON, [redacted]
GEORGE J. ROBINSON [redacted]
JOHN L. ROBINSON, [redacted]
DARRYL R. RODGERS [redacted]
EDWARD A. RODIER, [redacted]
THOMAS J. RODRIGUE [redacted]
STEVEN F. ROEMER [redacted]
DAVID B. ROGERS [redacted]
JAMES P. ROGERS [redacted]
OLIVER M. ROGERS [redacted]
ARMANDO E. ROJO [redacted]
JERRY D. ROSS [redacted]
RONALD F. ROSS [redacted]
RICHARD K. ROWE [redacted]
ROBERT J. ROWE, [redacted]
SANDRA A. ROWLEY [redacted]
SANDY L. ROYSTER [redacted]
ALBERT A. RUBINO [redacted]
STEVE C. RUCKER [redacted]
RICARDO RUIZ, [redacted]

LEONARD J. RUOTOLO [redacted]
ROGER D. RUSSELL [redacted]
JOHN N. RUTLEDGE [redacted]
JAMES F. RYAN [redacted]
ALGERNON P. RYLAND [redacted]
DAVID K. SACHSE [redacted]
WILSON M. SADLER [redacted]
KENNETH W. SALEM [redacted]
CARL H. SANBORN [redacted]
IVAN SANCHEZNEGRON [redacted]
RICHARD S. SARVAS [redacted]
RICHARD SCAGLIONE [redacted]
ROBERT C. SCALES [redacted]
CHRIS L. SCAMMON [redacted]
JOSEPH A. SCHAAKE [redacted]
MICHAEL SCHLEUPNER [redacted]
WILLIAM P. SCHMIDT [redacted]
ROBERT X. SCHMITZ [redacted]
PAUL H. SCHULTE [redacted]
TIMOTHY P. SCHULTZ [redacted]
DAVID L. SCHUMACHER [redacted]
ANDREW M. SCHUSTER [redacted]
MICHAEL A. SCHUSTER [redacted]
LEON SCHWARTZ [redacted]
FREDERICK W. SEE [redacted]
WILLIAM A. SERIE [redacted]
LAWRENCE W. SHANNON [redacted]
LARRY W. SHELLITO [redacted]
CLARENCE A. SHELTON [redacted]
JIMMY D. SHERIFF [redacted]
ROGER L. SHIELDS [redacted]
WILLIAM M. SHIVERS [redacted]
RICHARD H. SHOCKLEY [redacted]
MARTIN J. SIEGEL [redacted]
ROBERT SILVERTHORN [redacted]
RALPH W. SIMMERMAN [redacted]
GARY J. SIMON [redacted]
KENNETH J. SIMONS [redacted]
DARWIN H. SIMPSON [redacted]
JAMES C. SIMS [redacted]
CARL A. SINGER [redacted]
FRANCIS J. SLOAN [redacted]
RONALD L. SMAY [redacted]
CHARLES F. SMITH [redacted]
CHARLES S. SMITH, JR [redacted]
CHARLIE G. SMITH [redacted]
RONALD E. SMITH [redacted]
JAY R. SNYDER [redacted]
RALPH SNYDER [redacted]
STEVEN P. SOLOMON [redacted]
KENNETH SOUTHWORTH [redacted]
JOHN C. SPENCER [redacted]
DAVID F. SPINELLI [redacted]
RAYMOND J. SPIRLET [redacted]
DENNIS A. SPURGEON [redacted]
ROBERT D. STACY [redacted]
JAMES M. STARLING [redacted]
DARALD R. STEBNER [redacted]
WILLIE W. STEELE [redacted]
CHARLES B. STEWART [redacted]
DONALD K. STEWART [redacted]
STEVEN C. STONE [redacted]
NICHOLAS STRAFFON [redacted]
DALE E. STRAW [redacted]
GEORGE L. STREET [redacted]
MICHAEL A. STROJNY [redacted]
KENNETH J. STUDERUS [redacted]
JOHN P. STUPP [redacted]
WILLIAM F. SULLIVAN [redacted]
KENNETH T. SUNSERI [redacted]
MARTIN J. SUYDAM [redacted]
MICHAEL J. SWART [redacted]
JOHN H. SYDOW [redacted]
BERNARD K. TAKANO [redacted]
RONALD R. TAMACCIO [redacted]
JAMES W. TANEYHILL [redacted]
RICHARD B. TANNER [redacted]
JERRY S. TAYLOR [redacted]
VERNON A. TAYLOR [redacted]
WILLIAM THIELEMANN [redacted]
DAVID E. THOMAS [redacted]
JOHN H. THOMAS [redacted]
CHARLES L. THOMPSON [redacted]
RALPH B. TILDON [redacted]
WILLARD N. TIMM [redacted]
HENRY E. TINLEY [redacted]
STEPHEN D. TOM [redacted]
FRANCISC TORDILLOS [redacted]
JAMES P. TOTTEN [redacted]
MILTON R. TRASK [redacted]
JOSEPH J. TSANG [redacted]
WILLIAM C. TUCKER [redacted]
RONALD L. ULRICH [redacted]
RONNIE R. VANWINKLE [redacted]
CLIFFORD D. VEIT [redacted]
VICTOR VERMILLION [redacted]
WAYNE F. VIRAG [redacted]
ALAN A. VOGEL [redacted]
WILL VONDERSCHMIDT [redacted]
CLYDE M. WADSWORTH [redacted]
NOLLIE W. WAGERS [redacted]
ROBERT K. WAJSZCZUK [redacted]
JAMES H. WAKEMAN [redacted]
GLENN E. WALDEN [redacted]
PRESTON L. WALDRON [redacted]
MICHAEL W. WALKER [redacted]
ROBERT D. WALKER [redacted]
CHARLES E. WALTERS [redacted]
KEITH V. WALTON [redacted]
JAMES A. WARNER [redacted]
ROBERT B. WARREN [redacted]
SAMUEL C. WATERS [redacted]
ALBERT J. WATSON [redacted]
THOMAS D. WATSON [redacted]
RONALD E. WEIL [redacted]
NORMAN A. WELCH [redacted]
STEPHEN H. WELCH [redacted]
JOSEPH G. WERNERT [redacted]
THOMAS A. WESSELS [redacted]
JAMES M. WEST [redacted]
ROGER WHEELWRIGHT [redacted]
MICHAEL P. WHILES [redacted]
BENJAMIN H. WHITE, JR [redacted]
JULIUS A. WHITE [redacted]
HAROLD W. WILLIAMS [redacted]
JERRY B. WILLIAMS [redacted]
KENNETH WILLIAMSON [redacted]
DAVID M. WILSON [redacted]
JAMES M. WILSON [redacted]
RONALD E. WINCHELL [redacted]
MICHAEL N. WINDSOR [redacted]
ROBERT L. WINDUS [redacted]
WILLIAM E. WINTER [redacted]
ALFRED L. WIRT [redacted]
JOHN J. WITMEYER [redacted]
KURT D. WOELFEL [redacted]
JOHN E. WOHRLE [redacted]
JAMES B. WOLFE [redacted]
LEROY W. WOLFE [redacted]
RICHARD P. WOLFE [redacted]
JACKIE D. WOOD [redacted]
JAMES H. WOOD [redacted]
WILFRIED E. WOOD [redacted]
CHARLES E. WOODBURY [redacted]
WILLIAM E. WOODMAN [redacted]
EDWIN H. WRIGHT [redacted]
DENNIS T. YAMASAKI [redacted]
DANA M. YOUNG [redacted]
JAMES A. YOUNG [redacted]
RONALD G. YOUNG [redacted]
LEO P. ZAK [redacted]
ALFRED E. ZEHNDER [redacted]
PAUL G. ZELLER [redacted]
MARK E. ZIRKELBACH [redacted]

IN THE NAVY

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

To be ensign; permanent

AANESTAD KEVIN T
ABDALLA STEPHEN A
ABOBO JOEY B
ABRAHAMSON TODD A
ABRAMS CHRISTOPHER C
ACHESON MICHAEL J
ADAIR ROBERT O
ADAMS JOSEPH W
ADAMS WILLIAM T
ADSIDE RICKIEV
AGAR CHRIS D
AGNEW KRISTEN A
AGUILAR GEORGE R
AGUILAR MARIO A
AIELLO ELLER V
ALBRECHT GLENN G
ALLENA JOSEPH T
ALLICK SUSANNE M
ALLTMONT RENE C
ALMON LOUIS C
AMIDON ANDREW D
ANDERSEN BRYAN C
ANDERSON ADAM D
ANDERSON GREGORY J
ANDERSON JAY M
ANDERSON JEFFREY B
ANDERSON SUMNER E
ANDREWS ANDREW J
ANDREWS CHARLES H
ANGUS WILLIAM A
ANNAN SHERRI M
ANNIS CHRISTOPHER J
ANTHONY GEOFFREY M
APPLIN BRUCE M
ARCHER ROBERT A JR
ARLT SARAH B
ARMENTROUT JEFF M
ARNOLD ANDREW
ARNOLD MICHAEL J
ARNZEN MITCHELL K
ARTER AARON M
ASHMAN MICHAEL D
ASUNCION MARK R
ATKINS DOUGLAS G
AURIGEMMA SALVATORE
AUSTIN JOHN G III
AVERILL JASON W
AVERY MARK A
AVES RICHARD A
BACHARACH MARK A
BACHMAN WILLIAM H
BACHMANN RICHARD M
BAGNULO JOHN D
BAHETHI PRAVEEN P
BAILEY JOSEPH G
BAIN PHILIP A JR
BAKER BRETT T
BALCH RICHARD A
BALDWIN ERIC A
BALDWIN SCOTT A
BALESH JEFFREY K
BANDEKO BRYAN C
BANKS CHRISTOPHER M
BANNON CHRISTOPHER F
BARBOSA SILVIO J
BARKER BUFORD D
BARKER KEVEN S
BARKLEY JOSEPH D
BARLAS ALEX W
BARNES DARREN D
BARNES ROBIN L
BARRON PARTICK K
BARRY PATRICK T
BARRY SCOTT R
BARTEL JONATHAN
BARTOL JOHN W
BASTIAN MICHAEL W
BATES SCOT A
BAUER KURT R
BAUER MARCIA L
BAUMAN STUART L
BAYUNGAN ANTHONY L
BEAL JANET M
BEAVER JAMES W
BECK JAMES C
BECKER DENISE L
BECKNER TRINA M
BEDINGER ANDREW W
BEDNAR JEFFREY H
BEEBE ADAM L
BEEBE LUCAS A
BEGIN MARC A
BEIDLER MICHAEL K
BELZ JAMES A
BENAVIDES JUDE A
BENITEZ LAURA J
BENJAMIN FABIEN H
BENNETT GARY H
BENOIT ANNETTE L
BENTLEY WALTER H
BERG SEAN D
BERMISS HASSAN E
BERNENS WILLIAM C
BERNET JEFFREY E
BERRY ROGER M
BERZINS MARCIS A
BIEBER TODD C
BIGGS RICHARD L
BINDER CHAD D
BISCAINO JOHN
BLACK MARVIN D
BLACKMAR TODD M
BLAKE DANIEL P
BLANCO JOSEPH O
BLANDINO DOMINICK J
BOARDMAN RAYMOND C
BOARDMAN ROBERT E
BOBULINSKI MICHAEL S
BOCHENEK JOSEPH W
BODINE CHRISTOPHER J
BOHAC STEVEN J
BOK MICHAEL J
BOLAND LANE A
BOLL CHRISTIAN D
BOLLONG MARK J
BOLTON BRETT A
BONACCI DAVID E
BONNIWELL DANIEL D
BORBASH MATTHEW I
BORDONARO RICHARD J
BORMANN BRETT P
BORNSCHEIN JOSEPH S
BORSONI ERIC A
BOSTIC DAVID L
BOUCHER MICHAEL S
BOWERS CHARLES
BOWIE GREGORY L
BOYD GREGORY E
BRACKNELL ROBERT G
BRADLEY CARL M
BRADLEY GREGORY M
BRADSHAW MICHAEL R
BRANDT JEFFREY T
BRANSTETTER TERRY L
BRANTLEY RICHARD W
BRATTON MICHAEL D
BRAUN JOHN P
BREITINGER JEFFREY G
BRENNAN PATRICK F
BRESNAHAN BRIAN P
BREWSTER ROLLIN D
BRIDGES DOUGLAS M
BRIGADIER JAMES M
BRIGGS JOHN W
BRIGHTWELL MICHAEL S
BRINGLE JEFFERY T
BRINKER ALEXANDER D
BRINSON VAN P
BROADNAX LARON B
BROADWAY DAVID M
BRODING PETER J
BRONIEC MATTHEW G
BROOKS GEOFFREY E
BROOMES JOHN W
BROWER KARL F
BROWN BILLY W
BROWN CHAD W
BROWN CHARLES V
BROWN CHRISTOPHER S
BROWN JAMES S
BROWN LARRY D
BROWN MICHAEL J
BROWN ROBERT
BROWNE DOUGLAS R
BRUBAKER DEAN M
BRUS DONALD R
BRYANT CHADWICK B
BRYANT TIMOTHY R
BUCK JILL A
BUCKLEY LAWRENCE D JR
BUCKLEY MICHAEL P
BUELL RICHARD C
BULTMAN MICHAEL J
BUONADONNA PHILIP
BURDEAUX ROBERT C
BURGEAT VANIA S
BURGER WILLIAM S
BURGESS BRIAN T
BURINGA JEFFREY A
BURKE ANGELA M
BURKE KEVIN M
BURNS TIMOTHY M
BURNS WILLIAM S
BURT ROBERT L
BUSAVAGE JOHN G
BUSCH MATTHEW P
BUSSELL JOHN C
BUTTON KEVIN D
BUTTS JOHN J
BYERLEY MICHAEL E
BYRDSONG RICHARDO
CADY BRUCE A
CALDERON SANDRA A
CALER CRISTAL B
CALLAHAN DENNIS J
CALLANAN MICHAEL J
CALVERT KRISTIN C
CALVETTI GABRIEL
CAMARDA VINCENZO J
CAMILLETTI TRINA M
CAMPBELL ANDREW S
CAMPBELL COLIN B
CAMPBELL CURTIS J
CAMPBELL JAMES R
CAMPBELL KELVIN D
CANNING JOHN W
CAPETANOPOULOS DEMETRI C
CAPLES DEANNA J
CAPPS JOHN T
CAPUTO JOHN R
CAPUYAN GREGORY W
CARDENAS JOSEPH E
CARFF PAUL F
CARLSON JOHN D
CARLTON JEFFERY G
CARRELL COLIN A
CARRIS BRADLEY T
CARSON MICHAEL T
CARTER DAVID F
CARTER JAMES W
CARTER MELVIN G
CARTER MICHELLE D
CARTER PHILLIP T
CARTER TIMOTHY M
CARTWRIGHT TRACY A
CASEY BRYAN H
CASEY MICHAEL E
CASIANO JOSE I JR
CASSAN NEIL A
CASSIDY COLLEEN M
CASTAGNA MICHAEL J
CASTRO MATTHEW J
CASTRUCCI WILLIAM A
CATES MICHAEL S
CAVANAUGH JOHN P
CAZENAVETTE GEORGE J IV
CEGIELSKI CHRISTOPHER A
CHACE ALAN J
CHADWICK CHRISTOPHER J
CHAFIAN SCOTT M
CHALTRY KRISTINA M
CHAMBERLAIN THOMAS J
CHANCY GLEN H
CHANDLER JEFFREY F
CHAPMAN STEPHEN C
CHARETTE ROBERT H
CHASE MICHAEL D
CHAUVIN JUDE M
CHEEK JAMES D
CHEELEY STEPHEN P
CHELMAN DONALD S
CHINLOY JOANNE G
CHO HYUN
CHOI JOHN
CHRISTY KENNETH J
CHURCH MICHAEL A
CINCO RANDALL S
CLARK JEFFREY A
CLARK JOHN R
CLARK RICHARD T
CLARKE JOY M
CLARKE JULIAN
CLEARY WILLIAM C
CLOUTIER DAVID L
CLOYDE CHRISTIAN J
COADY ERIN D
COBB RONALD W
COCHRAN MICHAEL C
CODY DOUGLAS L
COGBURN DAVID L
COHEN KENNETH W
COKER JEFFREY L
COLAGIURI CHARLES B
COLBERT CHARLES W
COLEMAN KENT S
COLEMAN KEVIN F
COLLINS DANIEL I
COLLINS RYAN M
COLLURA CHRISTINA J
COMPTON LARRY W
CONROY STEPHEN G
COOK DAVID A
COOK LOUIS M
COOKE RICHARD C
COOLER RICK D
COPAS KENNETH G
CORAPI ANTHONY P
CORCORAN PATRICK C
CORDES PATRICK A
CORLEW DOUGLAS J
CORNELL DENNIS M
CORNWELL GRAHAM C
CORNWELL SHAWN M
CORSETTE KELLY B
COTHERN HOSEA J
COTTS FREDERICK D
COVELLI ANITA M
COX DAVID C
COXE AMY D
COZART WILLIAM H
CRABTREE KENNETH L
CRAIG SCOTT P
CRANFORD ERIC A
CRILL BERNERD L
CROOMS KEVIN L
CROSLAND CATHERINE P
CROUCH JIMMIE W
CROW RANDALL C
CROWE GARY W
CUCINOTTA PAUL D
CUKOR DREW E
CUMMINGS JOSEPH E
CUMMIN ARTHUR J
CUNANAN EARL V
CUOZZO DANIEL J
CURLING BRUCE T
CURRY ANDREW A
CURTIS ROBERT L
CUSHING SEAN T
DAGOSTINO PAUL R
DAHM SCOTT E
DALENA DOUGLAS C
DANDO CHAD W
DANIELS RODNEY D
DARGIS MARK B
DAVENPORT MICHAEL R
DAVIDSON WILLIAM A IV
DAVIS CHRISTOPHER P
DAVIS CRAIG M
DAVIS DALE L
DAVIS GAVIN H
DAVIS JOSEPH A

DAVIS LEONARD O
DAVIS SCOTT A
DAVIS SCOTT E
DAVISON CHRISTOPHER M
DAY MARK E
DEBENPORT DAN C
DEBOSKEY DAVID H
DEBUSE ROBERT K
DECASTRO ROBERTO O
DEGRANGE WALTER C
DEGUZMAN ROBERT K
DEHAAN BRIAN S
DEHNER MICHAEL E
DELAFUENTE JOSE M
DELAGARDE ADRIAN M
DELATORRE ARSENIO X
DELGADO SAMUEL
DELGIANNI ANTHONY P
DEMILLE DAVID
DEMMOND WENDY M
DENHAM KENNETH R
DENNIS JOSEPH E
DENT MICHAEL S
DESALVO MARK J
DESIMONE FRANK E
DESMARAIS KIMBERLY A
DESORMIER JOHN R
DESOTO MICHAEL J
DEUTSCH PAUL T
DIAZ FRANK D
DIAZ ROBERT D
DIEBOLD PETER J
DIEDERICH DANIEL L
DIETSCH ALLAN J
DILLION MATTHEW T
DILLON MEADE M
DINGES DAVID E
DINIUS PAUL L
DISMER MATTHEW M
DIXON WILLIAM J
DO THUY H
DOBBINS MICHAEL K
DOHERTY RACHAEL T
DOMBROW JENNIFER N
DOMINGUEZ JOHN P
DOMINICK RANDALL W
DONAHOE JOHN J
DONALDSON BRIAN E
DONALDSON BRAIN P
DONAR BRAIN T
DOREY HARLAN F
DORN DAVID H
DOSTER WILLIAM C
DOUCETTE PETER M
DOUGHERTY BRETT W
DOUGLAS RICHARD W
DOWD JAMES C
DOYON GEORGE B JR
DRAKE RAYMOND R
DRUMHELLER SEAN M
DUEWEKE CHRISTOPHER R
DUFFY NATHAN C
DUNCANSON NATHAN E
DUNHAM ANNE A
DUNN SCOTT E
DUNNE KEVIN W
DUPREE NATHAN L
DURANT BRIAN R
DUTTLINGER DAVID H
DWONCH YVETTE A
EASTERLING VALERIE M
EASTON JAMES B
EBAUGH KURT G
EBEL JONATHAN H
EBERHART PETER D
EBERLE DAVID R
EDA SERLE M
EDENS DON R II
EDMONDSON SETH D
EDWARDS BEN T JR
EDWARDS BLAKE A
EHLIN JENNIFER H
EIKHOFF ROBERT A
EISENBERG MICHAEL S
ELDRED JOSEPH J
ELLIA MATTHEW S
ELLIS THEODORE S
ELLISON DAVID E
ELLSWORTH KEVIN D
ELLZY JAMES A II
ELROD GERALD L
ENGDAHL KENT C
ERON STEPHEN J
ESTELA ERNEST
ESTES DAVID C
ESTEVES JOEY M
EVANS DANIEL T
EVANS DAVID B JR
EVELAND TODD R
EVERETT KEITH R
EVERT MARK A
EYTHELL CYNTHIA R
FAJARDO JEREMIAH J
FANDREY JOSEPH R
FARMER PHILLIP W
FARR SCOTT T
FARRIOR WILLIAM R
FASSERO CHRISTOPHER A
FAY JOHN E
FEATHERSTONE SAMUEL E
FEYEDELEM CHRISTOPHER A
FIACCO STEPHEN C
FICKES PHILIP A
FIELD RICHARD J
FINE DALE A
FINNEGAN BRIAN P
FINTA DAVID B
FISCHAHS STEVEN J
FISHER JEFFREY L
FITZGERALD JOHN P
FLEMING JAMES L
FLEMING TODD A
FLINT TODD E
FLOYD JOHN E
FORD JENNIFER L
FORD MORRIS K
FOREMAN RICHARD L
FORREY SCOTT E
FORSYTH NORA M
FORTESCUE ANTHONY J
FORTSON RICHARD L
FOSTER BENJAMIN
FOSTER CHARLES A
FRAGOMENE TRACA L
FRANCIS SCOTT G
FRANK GEOFFREY M
FRANKLIN ANTHONY A
FRANKS TIMOTHY
FRANTZ KEITH B
FRAZIER JOHN W
FREELAND NEAL A
FREIVALD JACOB D
FREY JAMES W
FRIPP GREGORY K
FROESE SAMUEL
FULCO GREGORY S
FULFORD THOMAS A
FULLER STEPHEN F
FULLWOOD JAMES R JR
FULMER STEPHEN C
FYALL DARRYL J
GAGNE JAY A
GALLA MATTHEW P
GALLATI TODD G
GANDY JOHN N
GANT SCOTT R
GAPUSAN JEFFREY A
GARCIA JO D
GARCIA ROBERT A
GARMENDEZ RUDDY E
GARRETT TODD L
GARVEY SCOTT A
GAUGHAN PATRICK A
GAWARAN EDRION R
GAY STEVEN M
GAYDOS CHRISTOPHER C
GEBO BRAIN A
GEIST TIMOTHY P
GELKER THOMAS W
GEORGE DAVID C
GERKEN MICHAEL T
GERMANN KENWOOD A
GIBBONS PATRICK J
GIBERSON PAUL G
GIBSON MICHAEL
GIDDENS FRANCIS S
GILBERT JASON G
GILBERT KENNETH W
GILCHRIST TODD A
GILLEN DANIEL J
GILLIAM PLISKA L
GILMORE CHRISTOPHER N
GILMORE JOHN E
GISH MICHAEL A
GLADUE MARK A
GLASPIE HENRY W
GLISSON PAUL B
GLOVER JEFFREY W
GLOVER LARRY J
GODBEY GLENN C
GOETZE STEPHEN H
GOLDBERT DAVID J
GOLDEN BARRY L
GOODMAN TIMOTHY H
GOODSELL JOEL A
GOODSELL MATTHEW T
GOOTEE SCOTT R
GORDON JOHN C
GORDON ROBERT J
GORRELL GARY S
GORTNER PETER M
GOTTFRIED TIMMY A
GOULD CHRISTOPHER
GOULD DARREN C
GOWDY BYRAN S
GRABOWSKI MICHAEL J
GRAF TIMOTHY J
GRAFF MARK L
GRAHAM ROGER S
GRANDGEORGE SCOTT W
GRANT CHARLES E
GRAPPE BRYAN J
GRAVES FRANKLIN R
GRAY BRAIN S
GREEN MARIE E
GREENFIELD ALAN R
GREENLEE DANIEL F
GREENLEE SEAN T
GREENLEES DAVID W
GREEG THEODORE W
GREVING PATRICK A
GREY ANDREW A
GRIZZELL TIMOTHY M
GROHMAN JAMES M
GUERRERO JESSIE J
GURLEY DANIEL C
GUSEWELLE TIMOTHY J
GUSTAFSON DAVID E
GUTHRIE RICHARD P
GUTIERREZ GUSTAVO
GUTSHALL BRAIN D
GWYNN GARY I
HAASE BRYN J
HACKER GREGORY J
HADDER RODERICK B
HAGAR JAMES R
HAGGERTY MICHAEL D
HAIDL LEONARD M
HAKIMZADEH KAVON
HALL STEVEN K
HALLETT MICHAEL T
HALLORAN DAVID B
HALQUIST EARL L
HAMILTON KEVIN J
HAMILTON MATTHEW L
HAMLING RAYMOND G
HANKE PAUL A
HANNA ROBERT G III
HANSEN JEFFERY S
HARDESTY FRANCIS A
HARDIN JASON W
HARMS KEVIN D
HARRIS BRANDAN D
HARRIS JASON E
HARRIS MICHAEL J
HARRISON BARRY A
HARRISON WALLACE T
HARTMAN ROGER A
HARWELL THOMAS W JR
HASCALL ANDREW M
HASKIN GRANT D
HATTON MICHAEL C
HAUPT CRAIG M
HAUSER JEFFREY H
HAWKINS MARK D
HAWKINS TED J
HAYDEN PATRICK S
HAYS JAMES A
HAYS KEITH A
HAZELWOOD PATRICK T
HEALEA DAVID D
HEALY MICHAEL E
HEFFERNAN MICHAEL J
HEIDEN JOHN D JR
HEIGEL JONATHAN
HEIN JASON D
HENDERSCHEDT THOMAS
MHENDERSON WILLIAM J
HENDRIX LEE M
HENNESSEY GERALD C JR
HENNING JOHN B
HENNINGS BRIAN D
HERALD ASA J
HEWGLEY CHARLES W
HEYDON JEFFREY T
HEYEL JOHN W
HEYL DERRICK R
HICKEY BRADLEY D
HICKOK GLENN T
HIGGINS ERIC J
HILL JUDY S
HINSON JOHN G
HINTON KEITH E
HIXSON MICHAEL O
HOCHHALTER PAMELA A
HOCKETT STACY M
HODGDON DON M
HOFFMAN ERIK C
HOLLAND WILLIAM B
HOLLAR COURTNEY J
HOLLISTER CHRISTOPHER V
HOLMES KENNETH L
HOOVER ALEX H
HOPKINS RAMON L
HOPPE JAMES L
HOPSON KEITH A
HORN RICHARD L
HOROWITZ MRK M
HOUSTON LESTER R
HOWARD JAMES E
HOWARD JOHN C
HOWELL DARRYL L
HOWELL MICHAEL W
HUBBARD RICHARD A
HUBER MARK V
HUDEPOHL JOSEPH H
HUDSON MICHAEL L
HUFFNAGLE CRAIG B
HUGGINS CHARLES T III
HUGHES DAWN M
HUGHES WILLIAM H
HULETT JASON A
HULL DAVID H
HUMPHREY MATTHEW D
HUNT JAMES C
HUNTER CHONG
HUNTER JASON C
HURD GAVIN A
HURD MATTHEW K
HUSBAND WILLIAM S
HUTCHINSON DAVID K
HUTCHISON CHARLES W
HUTCHISON WILLIAM A
INNES JAMES W
IRWIN JAMES T
ISAACS JEROME W
IVARSEN RODNEY W
JACK DANIEL J
JACK PAUL W
JACKSON DONALD A
JACKSON LAURENCE M
JACKSON STEPHEN B
JACKSON WAYMON J
JACOBS JASON D
JACOBSEN JAMES C JR
JAGGERS ERIC R
JAMES JOHN C
JANKOWSKI MATTHEW J
JANKOWSKI WILLIAM M
JAROSICK MARTIN A
JAUREGUI THERESA M
JAVERY MARK E
JEFFERIES MICHAEL P
JERINSKY SERENA M
JERNIGAN MICHAEL J
JETT CHARLOTTE A
JEWELL ERRIN P
JEWELLBURKE KATHARINE L
JIMENEZ HECTOR D
JIMENEZ ROSE E
JOHNSON CARL A
JOHNSON CHARLTON W
JOHNSON CINDY M
JOHNSON ERIK K
JOHNSON MATTHEW J
JOHNSON MICHAEL A
JOHNSON NETHA N
JOHNSON RON P
JOHNSON STEVE A
JONASZ TODD J
JONES JONAS C
JONES ROBERTJR E
JONES SPENCER C
JONES WILLIAM
JORGENSEN THOMAS L
JOSEPH JEFFREY A
JUIDICI ROBERT P
JURATA JOHN A
KACHILLA STEVEN P
KAHAPEA ANTHONY K
KAHRL MARK T
KAHRL PHILLIP A
KALINOSKY STEVEN R
KANX MARCUS E
KARAM AMY R
KARLIN JASON R
KARLSON ERIC J
KATZMAREK JOHN J
KAUFMAN ERIC P
KEANE PATRICK J
KEATING JOSEPH E
KEIMIG SCOTT P
KEISER JOHN B
KEITH STEPHEN T JR
KELLEN JOEL V
KELLENBERGER WALTER J
KELLER KATIE L
KELLERMAN MICHAEL B
KELLY CHRISTOPHER B
KELLY CYRUS H
KELLY GLEN P
KELLY JAMES E
KELLY JONATHAN G
KELLY KEVIN
KEMERER WILLIAM A
KEMP DARIUS R
KENNEDY CRAIG A
KENNEDY KEVIN M
KENNEDY MATTHEW S
KENNICK ANTHONY P
KENNINGTON DAVID W
KENNY RICHARD J
KENYON ROBERT R
KERR MILLER J
KERSCHL REBECCA N
KERSTETTER SHEILA I
KEYES PAUL R
KIBOTA ROBIN S
KIESEL MARTIN P
KILLIAN KATHRYN M
KIM JANETH F
KINDT MICHAEL T
KING BROOKS A
KINGSTON AMY T
KISSLING KENNETH R
KLASZKY ROBERT A
KLEIN SETH Y
KLEINER DAVID
KLESCH GREGORY A
KNEPPER GREGORY D
KNOWLES KEVIN E
KNOX CARY M
KNOX JAMES A
KNUTSEN JOHN R
KNUTSON JASON R
KONOPKA PAUL A
KOON NORMAN W
KOON ROBERT S
KORNACKI TIMOTHY D
KORTEKAMP TODD
KOZAK KEVIN R
KRAMER JEFFREY R
KRAMER JOSEPH P IV
KROLL STEVEN C
KRONZER THOMAS M
KROU CHRISTOPHER J
KUJAWA CRAIG S
KUNKEL PETER E
KUNTZE MARK L
KUNZ DAVID J
KUO MELISSA D
KUPEC HERBERT A
LABARRE PAUL D
LACY SCOTT S
LADOUCEUR JEFFREY P
LAKAMP MARK A
LAMAY DOUGLAS W
LAMBERSON DAVID A
LAMPARD TIMOTHY B
LAMPE CHRISTOPHER T
LANGEVIN MARC C
LANKER MICHAEL L
LAPLANTE MICHAEL J
LARISCH ROBERT E
LASSEY BRIAN D
LATT FRANK N
LAUER GREGORY R
LAW JOHN T
LAWLER JAMES V
LAWS WILLIAM C
LAWSON MICHAEL S
LECLERC CHRISTOPHER M
LEE GARY P
LEE MATTHEW O
LEGENS MICHAEL T
LEITZ JEFFREY M
LEPPER TODD J
LEPSON MICHAEL D
LEROY DENNIS K
LERSBAK MIKE W
LESKO ANNACAROL M
LEVIN BRUCE M
LICHOULAS THEODORE W
LILLICH CHRISTOPHER B
LIM RAUGUSTUS Z
LIMON ESPIRIDION N
LINCOLN JOHN T
LINDAHL KATHLEEN R
LINDERMAN ELIZABETH S
LINDSAY PAUL S
LINDSTROM DAVID C
LING MICHAEL R
LINK KENNETH P
LINK WENDELL R JR
LINNEBUR RONALD L
LINTZ WILLIAM A
LIPSCOMB DAVID B
LITHWAY DAVID H JR
LITTLE EDWARD G
LITTLE MICHAEL W
LIU LEE W
LLAMES GIL M
LLOYD JASON M
LOCKNEY DAVID M
LOCY MICHAEL A
LOGAN DANIEL C
LONG JOHN R
LONG KERRY S
LONG THEODORE J
LONG THOMAS A
LONGHENRY RANDY J
LONZA DAVID G
LOPEZ ALAN
LOPEZ JESUS
LOVEJOY JONATHAN C
LOWENFISH ANDERS F
LOWSMA EDWIN H
LOY RICHARD J
LOZADA PHILIP J
LOZIER CHRISTOPHER S
LUCAS DAVID W
LUCIA JOSEPH A III
LUEDERS KEVIN E
LUNARDI TIMOTHY D
LUSSIER PAUL L
LUTHER STEPHANIE L
LUTZ QUENTIN F
LYON LEONARD M
LYONS DANIEL B
LYONS JENNIFER C
LYONS JOSEPH F
MACK PATRICK Y
MACKY ROBERT C III
MACLEOD GARY W
MADDOX JOHN F
MAGEE MICHAEL S
MAGEL NIKITA
MAHLUM LAWRENCE D
MAIDA SALVATORE M JR
MAIER SCOTT A
MAIOCCO JAMES P
MAJORS CHRISTOPHER D
MAKA PETER M
MALMQUIST MICHAEL G
MALOIT PATRICK F
MALONE JEFFERY E
MALPERE ARTHUR C
MANCINI ROBERT E
MANDEVILLE BRIAN W JR
MANGELS JOHN T
MANN DAVID M
MANN MORGAN G
MANNING JOHN F III
MARCINIAK STEPHEN M
MARINO STEPHEN A
MARION KENNETH J
MARKOWICZ JOHN C
MARKS JENNIFER L
MARLAR JON C
MARSHALL ANDREW S
MARTEL MELISSA A
MARTIN BRUCE A
MARTIN JOSEPH S
MARTIN MATTHEW D
MARTIN MATTHEW O
MARTIN RODNEY A
MARTIN SHERYL G
MARTINEZ RICHARD A
MASON CHRISTOPHER R
MASTERSON YUKA R
MATIAS MOSES
MATSON WILLIAM R
MATTESON CHRISTOPHER C
MATTINGLY JAMES E
MAU ROBERT S
MAUNE JAMES J
MAXWELL BRENT K
MAXWELL SEAN M
MAY BRIAN T
MAZEFFA ROBERT M
MCCABE EDWARD D
MCCAMPBELL CAMERON A
MCCLAM MICHAEL L
MCCOMB EDWARD P
MCCOMB PAUL S
MCCOMBER JAMES S
MCCONNELL WILLIAM D
MCCORMACK GLENN E
MCCORMACK MATTHEW J
MCCORMACK TIMOTHY P
MCCORMICK PATRICK J
MCCRACKEN PADRAIC C
MCDANIEL KENNETH R
MCDANIEL PATRICK L
MCDERMOTT KELLY M
MCDERMOTT MOLLY A
MCDONALD CRAIG A
MCDONALD MICHAEL J
MCGANN MICHAEL J
MCGEE KEVIN P
MCGILL LAURA E
MCGINITY TIMOTHY B
MCINTOSH SHANE O
MCJOYNT JAMES S
MCKEE BRANDT F
MCKEE COLIN G
MCKENNA JOHN P
MCKENA MARK R
MCKILLOP SEAN J
MCKINNEY MICHAEL S
MCLAREN DOUGLAS R
MCLEOD IAN G
MCMANUS DAVID E
MCMANUS RICHARD A
MCMICHAEL WILLIAM S
MCMILLEN DUNSTAN D
MCNARNEY MARTIN F
MCNEIL JEFFREY J
MCROBERTS BRYAN S
MCROSTIE KENNETH L
MCTAGGART LAURA J
MEAGHER JOHN J
MCCHAM CLINTON S
MECOMBER VALOREE R
MEEHAN ANNE M
MEEHAN SCOTT A
MEEK JOHN D
MEILINGER DIRK B
MELIN MICHAEL D
MELTON JEFFERY C
MEMMEN SEAN P
MENDELSOHN DANIEL B
MENDEZ DAVID J
MENDLER DONALD J
MERKLEY JILL K
MERLI JOHN P
MERWIN CHRISTOPHER A
MICHAUD MICHAEL P
MICHELSON JAMES D
MIDDLETON SAMUEL L
MIHELICH JOSEPH R
MILES CHARLES J
MILLER ALEXIS R
MILLER DANIEL J
MILLER JEFFREY D
MILLER JUDITH E
MILLS BRADLEY R
MILLS STEPHEN E
MINETTE CHRISTOPHER E
MINICUCCI JOHN A
MINOR STEPHAN D
MINUTILLO MARK L
MITCHELL JAYSON D
MOEYKENS KAREN E
MOHAR DEREK C
MONGILLO SCOTT M
MONTEHERMOSO RAMON C
MONTGOMERY CHRISTOPHER P
MOON DEAN T
MOONEY JOSEPH P
MOORE PAUL H JR
MOORE PHILIP M
MOORE ROBERT C
MORGAN MARGARET H
MORGAN MARK W
MORGENFELD STEVEN A
MORRISON PETER L
MORROW DONALD E

MORTIMORE DAVID B
MOSIER JONATHAN C
MOSLEY HAROLD M
MOSLEY MICHAEL J
MRACHEK MICHAEL J
MUERY TODD N
MULLEN THOMAS J
MULLER MICHAEL L
MUNCHBACH RACHEL E
MURLEY STEVEN P
MURPHY CHARLES G
MURPHY JEFFREY T
MURPHY KAEL M
MURPHY MAUREEN B
MURPHY STEVEN C
MURPHY THOMAS
MURRAY MEGAN H
MURRELL MICHAEL L
MYERS CHRISTOPHER J
MYERS JONATHAN P
MYERS MICHAEL D
NADEAU JEFFREY P
NAGLE JOHN J
NAIDICH EDWARD
NASAL KEVIN J
NASSAU STEVEN T
NEAL JEFFREY H
NEFF MICHAEL J
NEIDHART CURTIS J
NELSON JACOB A
NELSON KIRK J
NELSON TODD M
NEMETH EUGENE J
NESS CHRISTOPHER A
NEVAREZ FRANK E
NEVEL LAWRENCE J
NEWE RALPH A
NEWRORT BENJAMIN J
NEWTON PETER M
NEWTON STEVEN A
NICKLAUS SHANE D
NIPPER MICHAEL T
NOEL MICHAEL P
NOLAN JEFFREY J
NORMAN KEVIN K
NORRIS CASSANDRA S
NORRIS JASON H
NORRIS STEVEN D
NORTON CHRISTOPHER J
NORTON DAVID F
NOSCHESE DONALD A JR
NOSEK MICHAEL G
NOSSE JOSEPH A
NOWAKOWSKI ROBERT C
OAKEY JEFFREY L
OBOZA ROBERT M
OCONNELL BRIAN J
ODEN DONALD C
ODRISCOLL JAMES G
OETTL KARL E
OKELLY NIALL C
OLEARY CAROLYN L
OLIVER FRANK J
OLSON LONNIE W
ONEAL DANIEL M
ONEILL PATRICK D
ORCUTT JAMES J
ORGAIN ALBERT M V
OSBORNE ROSS J
OSBORNE STEVEN M
OSTERHAUS SEAN C
OTT BRIEN S
OTTE ALEXANDER H
OUELLETTE RENEE L
OWEN DAVID S
OWEN DONALD B
PACCHETTI JOHN M
PACKARD MARK R
PADGETT BRETT D
PADILLA DUANE Z
PAIGE VERONICA R
PAISLEY LEE G
PALAN ANDREW J
PALMERINO BRADY R
PALOMINO MARIO A
PAPKE JOAN M
PARACCHINI ALBERTO J
PARKER DAVID T
PARKER GEORGE T
PARKER GREGORY L
PARKER KEVIN E
PARKER SEAN D
PARKINS GREGORY R
PARRAN JOSEPH W
PASSANISI ROBERT E
PASTORE JOEL C
PATRICK ANDREW D
PATRICK ROBERT J
PATTERSON KELLY L
PATTON RODNEY M
PAVEY GEORGE L
PAYNE DENNIS M
PAYNE HAROLD A
PAYNE RICHARD H
PEAK ANTHONY
PEARCE DAVID A
PEARLMAN JOSHUA B
PEARSALL MATTHEW J
PEDERSEN JOHN J
PELLOWSKI BRIAN A
PEMBER ROBERT B
PENDERGAST ROSS W
PENNINGTON MICHAEL A
PEPPLER CHITO C
PERRON DANIEL J
PETERSON ERIC B
PETERSON JEFFREY D
PETERSON RONALD J
PETRAS STEPHEN E
PETRICOLA JOHN
PETRINA MARKIAN B
PFALZGRAF DAVID R
PFISTER JOHN C
PHELPS CHRISTOPHER L
PHILLIPS MARK D
PHILLIPS MICHAEL A
PHILLIPS WILLIAM F
PHILO LEONARD E
PHOEL KURT M
PICCONI MARC P
PICKENS ADELL M
PIERCE ANDREW J
PIERSON STEPHEN S
PIETRUSIEWICZ FRANK A
PIMENTEL DINIS L
PINCELLI GABRIEL F
PIPER BENJAMIN A
PITTS BOBBY R
PITTS KENNETH W
PLEBAN STANLEY
PLUMB JOHN F
PODIAK RICHARD N
POE MICHAEL T
POGUE JOHN L
POLANDO TODD E
POPE NEDRA L
POTEATE ANDREW G
POUNCEY HEATHER L
POUNDER GAYLAND R
POWANDA DOI
POWELL ALEXANDER W
POWELL MICHAEL M
POWELL STEVEN E
POWERS WILLIAM E
PRADO WALTER J
PRATT JAMES L
PRATT MICHAEL J
PREMO TODD A
PRESCOTT STEVEN A
PRESTON CHARLES P
PRICE CRAIG J
PRICE RICHARDSON G
PRIDHAM DARAYL D
PRIEST JOHN B
PRINCE THEODORE A
PRINGLE STEPHEN B
PRIOLA STEVEN J
PURVIS JOANA C
RAFFERTY TIMOTHY B
RAHIYA MARK P
RAMIEH MOSE T III
RAMIREZ TONY J
RANDALL WILLIAM J
RANKIN ERIC P
RAUPP SCOTT E
RAUSA ROSARIO M
RAYNGAY BRYANT S
RAZZANO PATRICK A
REBLANDO JOHN D
RECAVARREN EDUARDO M
RECK STEPHEN D
REED BRIAN K
REED BRYAN C
REED CHARMAINE E
REED MARK M
REED MARTIN J
REESE CHESTER T
REESE LAWRENCE E
REID COLLEEN E
REIFF SHANE Z
REILLY GREGORY P
REIN CHRISTOPHER M
RENARD ALAN D
REQUINA ARTHUR A
REW CHRISTOPHER E
REYES NILAFE D
RICCIO MICHAEL K
RICE LEE K
RICHARDS JOHN C
RICHARDS MICHAEL L
RICHARDS STEVEN M
RICHARDSON MICHAEL R
RICHARDSON SAMUEL
RICHIE CHRISTOPHER S
RICKEL CORY D
RIDLEY SIMONIA L
RIDOLFI GREGORY J
RIEDY MARK F
RIEGEL KAREN L
RIES CHRISTOPHER W
RIES TARRELL L
RILEY MICHAEL
RINALDI FRANCIS X II
RING RICHARD W
RISKO JOHN M
RIVAS JESUS
RIVERA JAVIER B
RIVERA ROBERT E
RIVERS JOHN S
RIVIERE MATTHEW J
ROACH DAVID W
ROACH DEANNA L
ROBERTS MATTHEW W
ROBERTS MICHAEL J
ROBERTS PAUL J
ROBERTSON DANIEL S JR
ROBERTSON WADE R
ROBICHAUD GREGORY S
ROBINSON CRAIG R
ROBINSON GEORGE M
ROCH ROBIN D
RODGERS BARTON H
RODGERS MICHAEL E
RODRIGUEZ ANGEL V
RODRIGUEZ KARL A
RODRIGUEZ RICARDO I
ROGERS MICHAEL R
ROHLFS MICHAEL P JR
ROKE MICHELLE R
ROLLINS JOHN F
ROLLINS PATRICK W
ROSE MATTHEW J
ROTH JOSEPH
ROTHENHAUS KURT J
ROTHWELL WILLIAM B
ROY BARBEAU A
ROYO DAVID A
RUCKER NED A
RUDY KEITH A
RUF ANDREW F
RUGGERI CHRISTOPHER L
RUMRILL MARTIN R
RUSSELL REB J II
RUSSELL TIMOTHY D
RUSTON SCOTT W
RYAN ANDREW T
SALINAS ANGEL G
SALINGER ANDREW J
SALLES ERNESTO J
SALOMONSON CRAIG J
SALTER TIMOTHY A
SAMAROV MICHAEL V
SAMPLES MICHAEL E
SANDERS SCOTT T
SANDERS THEODORE B
SANFORD HERBERT C
SARMIENTO JOANNA M
SASSER JOHN D
SAWIN MICHAEL B
SCARLETT JASON W
SCHACKOW STEFAN N
SCHADEGG LAWRENCE M
SCHAEFER CHRISTOPER J
SCHAFER MICHAEL D
SCHAPPERT DAVID G
SCHERMERHORN RICHARD V JR
SCHILLER MICHAEL J
SCHMITT HAROLD R
SCHMITZ JEFFERY L
SCHNEEBERGER DAVID C
SCHNOLIS MICHAEL P
SCHOENTRUP WILLIAM J
SCHOETTLE MICHAEL J
SCHOLLENBERGER SCOTT R
SCHORR MICHELLE C
SCHRAM MARK A
SCHREYER KURT A
SCHUH TIMOTHY N
SCHUMAN KYLE D
SCHUTTER GEORGE A
SCHWARTE RICHARD J
SCHWARZ JOHN P
SCIRETTA MICHAEL S
SCOGGIN EDWIN L
SEAGO OLIN J
SEARS JOSEPH W
SEBASTIAN HIPOLITO D
SEGAL STEVEN D
SELF VICKIE M
SEMENTELLI ARTHUR J
SENENKO WILLIAM J
SENNER NICOLE M
SEXTON STEVEN S
SHANAHAN DANIEL P
SHARUM HENRY P
SHAW MICHAEL A
SHAY TRACY J
SHEARER BRANDON W
SHEEHAN DAVID P
SHERCK THAD M
SHERMAN DARREN C
SHERMAN SERGE
SHERWOOD CHRISTOPHER R
SHEWFELT MICHAEL S
SHICK KENNETH W
SHORT DUANE D
SHORTAL BRIAN P
SHOUP MICHAEL A
SHOVLIN ROBERT J
SHUFORD GENE M
SIDLAUSKAS ANTHONY V
SIERACKI MICHAEL P
SILAH MICHAEL J
SILER TOOD R
SIMS BOBBY T
SINNIGER JOSEPH D
SIPES JOHN A
SIRONI LUKE
SKINNER DARREN J
SKINNER JOHN B
SLEAR DAVID T
SLEASE WILLIAM P
SLIBECK JASON B
SMITH ANDREW N
SMITH CARL A
SMITH DARRELL K
SMITH EDWARD R
SMITH JOSEPH B
SMITH MARCUS C
SMITH PETER E
SMITH TODD M
SOAVE ANNA M
SODERHOLM ROBERT G
SOE ALEXANDER T
SOHN BYUNG H
SOLDOW DAVID S
SONNEBORN WILLIAM C
SOPP WALTER C JR
SORCI JOSEPH M
SORIANO RANDY J
SOTO ELENA P
SOWINSKI JEFFREY R
SPAMPINATO JOSEPH M
SPAULDING SCOTT K
SPENCE SCOTT R
SPENCER CHAD W
SPINA MICHAEL E
SPUNAR CHRISTOPHER M
STABLER ANDREW B
STALLWORTH ED C
STAMPER TREVIS L
STANLEY JAMES A
STARK JEFFREY J
STARKEY SCOTT B
STAVOE DAVID W
STECKLY HANS F
STEFANO DAVID O
STELTENPOHL KURT M
STERBA JOHN R
STERN SEREATHA Y
STEVENS CHRISTOPHER M
STEVENSON SHANE P
STEWART HENRY P
STEWART JAMES M
STEWART LYLE E
STEWART SCOTT J
STIBER MICHAEL A
STINSON BENJAMIN P
STITES DARIN O
STOFFA CHARLES M
STOLARZ STEVEN M
STOLTZ TIMOTHY G
STOLZ SEAN H
STOLZE CHERYL R
STOVER ALBERT E
STPIERRE GREGORY P
STOMBERG WILLIAM D
STUART JEFFREY A
STUCKEY MATTHEW R
SULLIVAN JUDITH T
SULLIVAN MICHAEL G
SULLIVAN PAUL G
SULLIVAN SEAN W
SUNDELL NATHANIEL M
SUNDERLAGE CAREY L
SUTTON TRAVIS L
SWANSON MARK A
SWEENEY SEAN P
SWEENEY WILLIAM F JR
SWENSON KARL F
SWIER SHAWN M
SYPTAK STEPHANIE F
TAIT SCOTT A
TAKABAYASHI KEITH K
TALBERT BRITTON C
TALBOT ADRIAN A
TAN CRAIG K
TARANTO CHRISTOPHER G
TARVER JAMES S
TATUSKO COLLIN S
TAYLOR BRIAN M
TAYLOR NICHOLAS H
TAYLOR SCOTT A
TAYLOR THOMAS T JR
TE RICHARD F
TEATES MICHAEL T
TEMPLE CHRISTOPHER S
TEMPLE JASON A
TENCH THOMAS A
TERHUNE SHANNON D
TERRY BRADLEY B
TERWILLIGER MATTHEW D
THIEME AARON M
THIEN ROBERT E
THIRY JOHN F
THOMAS KEITH L
THOMAS STEPHEN
THOMPSON MARK C
THOMPSON MATTHEW B
THOMPSON MICHAEL J
THORNTON MARQUITA D
THORSON CARLA K
THURMOND CHRISTOPHER J
TIBBS JEFFREY M
TIERNEY PAUL M
TIMME ROBB S
TOKARZ ROBERT A
TORLA VICTOR A
TORRES MANUEL J
TOUNEY SCOTT M
TOUSSAINT CANE A
TRACY NATHAN D
TRAIL THOMAS S
TRAN DUNG N
TREPETA ROBERT S
TREVINO THEODORE
TRINIDAD DAMARIS
TRINIDAD EDGARDO E
TSCHAN ROBERT E
TSCHETTER SCOTT W
TUCKER THOMAS A
TUELLER MICHAEL A
TULANG MORGAN C
TURNER COURTNEY A
TURNER DAVID W
TURNER JAMES M
TURNER JOHN C JR
TUTTLE KATHERINE O
TYREE CHRISTOPHER L
TYSLER KATHRYN M
UEMURA NEIL I
UENO KOHTA
ULMER WILLIAM E
URENA FELIX A
UZZLE TONY
VALENTIN MELANIE R
VALLES PETER J
VANAS TIMOTHY C
VANDERBOGHT HENRY E
VANGORP JOHN D
VANMESSEL JOHN A
VANPEENEN CHARLES C
VARGA ALEXANDER C
VAUSE CARL E
VEDRA PATRICK A
VERICH NICOLE T
VODICKA DAVID R
VOGT JAY D
VOLLAND KIRK N
VU KY N
WADE MATTHEW E
WADE TIMOTHY A
WAGNER BRETT S
WAINMAN PETER N
WAJNBERG ARI A
WAKEFIELD ANDREW R
WALFORD DANIEL J
WALKER DANIEL D
WALKER MICHAEL H
WALKER NATHAN A
WALLACE BEN L
WALLACE DEWAYNE C
WALLACE IAN S
WALLACE PETER W
WALLER ELLIS P
WALLER MATTHEW J
WALLIN JAMES M
WALSH ANDREW G
WALTERS CHRISTOPHER B
WALTERS THOMAS V
WALTON JOHN W
WANG AMBERT
WARD JUSTIN J
WASKIEWICZ CATHERINE M
WATKINS BRIAN E
WATSON GERALD F
WATSON JONATHAN T
WATSON WILLIAM A
WEAVER PAUL R
WEBBER TIMOTHY P
WEBER JEFFERSON L
WEEDEN RUSSELL J
WEEKLEY HEATHER D
WEEKLY SARAH A
WEEMS MICHAEL A
WEINTRAUB BEN J
WEIR THOMAS S
WEIS MICHAEL J
WEISS AARON D
WELLER HARRY R
WELTER ADAM J
WENKE JOHN M JR
WETTSTEIN MAX E
WHELAN JOHN
WHIBBS VINCENT J III
WHITAKER PRICE
WHITE CHRISTOPHER M
WHITEFIELD CURT J
WHITEHOUSE KEITH E
WHITFIELD MICHAEL P
WHITING NICOLE
WHITTEN STUART B
WHITTLES JONATHAN D
WICK CRAIG A
WIEBOLDT GUNNAR R
WIENCKO STEPHEN J
WILCOX JEREMY D
WILEY WILLIAM J
WILLIAMS CARLA M
WILLIAMS CHRISTINE A
WILLIAMS DARREN S
WILLIAMS DORIAN T
WILLIAMS ERIC D
WILLIAMS KEITH E
WILLIAMS LESLIE M
WILLIAMS ROBERT A
WILLIAMS ROBERT E
WILLIAMS THOMAS A
WILLIAMS THOMAS R II
WILLIAMS ZOE M
WILSON CYRUS M
WILSON EDWARD S
WILSON KENNETH N
WINDFIELD LEROY A
WINSTEAD ROBERT S
WOERTZ JEFFREY C
WOLFE BRIAN
WOMACK WILLIAM G
WOOD KEVIN L
WOOD ROBERT D
WOOD TROY L
WOODS DARREN K
WOODS ELIZABETH M
WOODS WILLIAM R
WOODWARD RODNEY A
WOODWARD WILLIAM O
WRIGHT GARRY W
WRIGHT GEORGE C
WRIGHT JAMES C
WRIGHT JEFFREY D
WRIGHT TROY V
WUCHER JAMES M
WYLIE JAY D
WYTHE MICHAEL R
YAROSLASKI DANIEL L
YATES AARON D
YECK GLENN R
YEEND STEPHEN N
YEUNG MICHAEL M
YINGER KAY C
YORK JASON D
YOUNG ANQUINNETTE L
YOUNG CHRIS C
YOUNG CHRISTOPHER B
YOUNG DEAN M
YOUNG DEVIN C
YOUNG MARK D
YOUNG RICHARD S
YOUNG TREVOR L
YOUNGBLOOD MICHAEL T
YUEILL BRIAN E
ZAKARIAN ADAM D
ZALETSKY KEVIN B
ZEGER KIRBY D
ZEICH JOYCE R
ZEMAITIS STEVEN A
ZENTMYER ERIK G
ZIEGLER WILLIAM A
ZIMMER PAUL M
ZYCH KIMBERLY A

CONFIRMATIONS

Executive Nominations Confirmed by the Senate November 15, 1991:

SMALL BUSINESS ADMINISTRATION

PAUL H. COOKSEY, OF VIRGINIA, TO BE DEPUTY ADMINSTRATOR OF THE SMALL BUSINESS ADMINISTRATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

PAUL R. MATIA, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

LACEY A. COLLIER, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF FLORIDA.

WAYNE R. ANDERSEN, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

DEPARTMENT OF JUSTICE

RICHARD CULLEN, OF VIRGINIA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF VIRGINIA FOR THE TERM OF 4 YEARS.

JERRY G. CUNNINGHAM, OF TENNESSEE, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS.

THE JUDICIARY

DAVID R. HANSEN, OF IOWA, TO BE U.S. CIRCUIT JUDGE FOR THE EIGHT CIRCUIT.

SUE L. ROBINSON, OF DELAWARE, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE.

WITHDRAWALS

Executive messages transmitted by the President to the Senate on November 15, 1991, withdrawing from further Senate consideration the following nominations:

DEPARTMENT OF COMMERCE

Eric I. Garfinkel, of Maryland, to be Under Secretary of Commerce for Export Administration, vice Dennis Edward Kloske, resigned, which was sent to the Senate on June 24, 1991.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Carol Iannone, of New York, to be a Member of the National Council on the Humanities for a term expiring January 26, 1996, vice Mary Josephine Conrad Cresimore, term expired, which was sent to the Senate January 23, 1991.

EXTENSIONS OF REMARKS

TRIBUTE TO MICHIGAN'S 15TH DISTRICT PEARL HARBOR ATTACK SURVIVORS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 15, 1991

Mr. FORD of Michigan. Mr. Speaker, I am proud to share with the House my experience this Veterans Day. As my colleagues know, Congress authorized the striking of Congressional Medals for the survivors of the attack on Pearl Harbor as part of the Defense authorization bill for 1991, Public Law 101-510. The medals serve to honor the survivors as we commemorate the 50th anniversary of the terrible attack that launched our Nation into World War II. Congressman FRANK GUARINI deserves recognition as the chief sponsor behind the original legislation authorizing the striking of the medals which was ultimately incorporated into the Defense authorization bill.

As a veteran of World War II, one of approximately 75 among the 102d Congress, I was particularly eager to meet the survivors who now reside in my district, the 15th of Michigan, and confer the medals upon them. In 1944, at the age of 17, I joined the Navy. I owe a tremendous debt of gratitude to these survivors, and the other men and women who preceded me in the fight against the Axis Powers.

The men and women who accepted the hit at Pearl Harbor deserve special acclaim. We did not expect that hit and consequently we were not prepared for it. On Sunday morning, December 7, 1941, dozens of our battleships, cruisers, aircraft carriers—almost the entire Pacific Fleet—were placidly sitting in the harbor while hundreds of our aircraft were neatly lined up tip-to-tip at nearby airfields. The devastation of the Japanese attack—which lasted under 2 hours—was unprecedented: 2,403 dead, 1,178 wounded, three battleships sunk, one battleship capsized, several severely damaged, 169 aircraft destroyed.

The survivors faced the horrible task of aiding the wounded, burying the dead, and resurrecting the scores of damaged aircraft and ships. These men and women did the job bravely and proudly and set the tone for the Nation's reaction to the war. We dusted ourselves off from this attack and joined together in the common goal of defeating our enemies. The soldiers in the Pacific, Europe, and North Africa, along with the factory workers in Michigan and throughout the States, proved an unbeatable force. I was never so proud to be an American than during those heady days from 1941 through 1945.

It was with great anticipation and honor that I brought together local veterans officials, interested veterans, and local officials to recognize 15 of 17 identified survivors of the attack on Pearl Harbor who live in my district. The Harris-Kehrer Veterans of Foreign Wars, Post 3323, in Wayne, MI hosted the event.

I was privileged to host the event at this particular VFW post. The post was formed in 1936 before the outbreak of World War II. Harris-Kehrer is named after two veterans who served in Russia. Pfc. Jay W. Harris served in Archangel; he was killed in a car accident in 1932 and was buried at Michigan Memorial Park. Cpl. Charles J. Kehrer served in Archangel, Seleshow and Pologa; he is buried in St. Mary's Cemetery in Wayne, MI.

In 1936, 14 veterans came together to form the post. As they selected officers and applied for a charter, membership steadily grew. In October of that year, a charter was granted. Ben Comrade, elected in August, assumed the position of commander of the new post and served honorably for two terms. He is the only commander in history to serve two terms.

Through the end of the thirties, the post continued to expand. A post auxiliary was formed in 1938. By 1939, membership had grown to 110.

Despite the growth, the post was not immune to problems. Twice Michigan windstorms knocked down walls erected to house the new post. A completed building was burned to the ground in 1942. A new structure was finally built shortly thereafter.

During World War II, Harris-Kehrer sent hundreds of care packages to GI's overseas. The post repeated this practice during the Korean and Vietnam conflicts.

In the years that followed World War II, membership grew to 400. There was never a problem convening 35 or 40 for repatriation burials. This tradition continues today when their funeral details are never short-staffed, regardless of whether the comrade is a post member.

Harris-Kehrer annually donates $20,000 to $30,000 a year to a variety of community organizations. The post can boast of their Wayne Comets Senior Rifle Drill Team, winner of the State championship five times in the past 6 years and winner of the national championship 3 years. Harris-Kehrer commanders have consistently distinguished themselves as the best: seven of the past eight commanders have been honored as all-State commanders. Sam Lawson, commander from 1990 to 1991, was made an all-American commander this year. Jim Webb, who serves as the post's present commander, continues this fine tradition. Jim served in the Air Force and is a veteran of the Vietnam war. He has been a member of the VFW for 20 years. He is ably assisted by Randy Keiser, the senior vice commander. Randy spent 20 years in the U.S. Army, serving three tours of duty in Vietnam.

Randy and Jim joined me, along with Phyllis Stidham, who serves as president of the Ladies Auxiliary of Post 3323, to greet the Pearl Harbor survivors. The Wayne Memorial High School performed patriotic music and members of Harris-Kehrer presented the colors. After a welcome from Commander Webb, I offered my reflections on Pearl Harbor. I then had the honor of conferring the congressional medals on the survivors in attendance. I submit to the RECORD a brief biography of each of the recipients:

Dave Allen enlisted in the Navy in 1936 and was discharged June 1, 1943. He had been stationed in Pearl Harbor since 1938 serving as a Signalman 2nd Class aboard the U.S.S. *Gamble*. At the time of the attack, he was on the ship. The men rushed to the deck to shoot at the incoming aircraft with machine guns. After the attack, the U.S.S. *Gamble* left the harbor to meet up with the U.S.S. *Enterprise* to search for Japanese aircraft carriers. Like every other American ship, they were unsuccessful in detecting any of the Japanese forces.

Archibald Bannerman, Jr. enlisted in the Army on August 21, 1941, and was discharged in September 1945 after spending three years and eight months overseas. Mr. Bannerman's training was in demolitions. At the time of the attack, he was returning from breakfast. Like his fellow servicemen, he thought the noise was just maneuvers.

Miles Brickley enlisted in the Army on December 15, 1939 (his 18th birthday) and was discharged on July 14, 1945. After basic training, he was immediately sent to Pearl Harbor where he was stationed at Hickam Field as a machine gunner. At the time of the attack, he was on his way to the mess hall for breakfast. He watched his barracks and others around it explode. Remaining outside, he attempted to make his way to the hangars. The hangars were also hit. Since the corps' planes were all destroyed, he spent the three days following the attack tending to the wounded.

Guiseppe "Joseph" Carlini enlisted in the Marines in 1941 and was discharged in 1946. A graduate of the Marines' engineering school, Mr. Carlini, along with the other top 40 graduates, was sent to Pearl Harbor where he served in the 1st Defense Battalion. Mr. Carlini had been on liberty the day before the attack and was asleep that Sunday morning when the Japanese planes arrived. Startled awake, he recalls looking up where the Japanese planes filled the skies like hornets. He joined his buddies firing at low-flying planes. Once the attack came to a close, Mr. Carlini was ordered to keep the roads cleared for Medics/Ambulances so the injured could be taken to the hospital. Mr. Carlini later was ordered to help dig long stretches of foxholes along Waikiki Beach.

Benjamin E. Dorotinsky enlisted in the Navy in 1938 and was discharged in 1948. During his tour at Pearl Harbor, he served as a Coxswain for the Captain's Gig. When the attack came, he initially thought it was practice "war games." Once he recognized the "rising sun" on the planes, he realized it was an attack.

Victor Hammett enlisted in the Army Air Corps in July 1939 and was discharged in July 1945. During his tour at Pearl Harbor, he served as an airplane mechanic. At the time of the attack, he had just finished breakfast and was celebrating a day off after having been "on alert" the previous day. When the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

bombs began to hit, he and his buddies scattered. This made it difficult to know who was hurt and unhurt.

Earl Johnson enlisted in the Navy on May 15, 1940, and was discharged on May 21, 1945. Mr. Johnson served as a mess cook during his tour at Pearl Harbor. At 8:00 a.m. on December 7th, he had just finished clean-up duty on the U.S.S. *West Virginia*. He manned a 16-inch gun turret for about a half hour until the ship lost power and began to sink. The *West Virginia* ultimately came to rest on the bottom of the harbor.

James Kegley enlisted in the Navy in 1938 and was discharged in 1946. He served as a Yeoman on the U.S.S. *Blue* during the initial attack.

Edward B. Long enlisted in the Navy in August 1940 and was discharged in November 1946. At the time of the attack, Mr. Long, a Seaman Signalman on the U.S.S. *Nevada*, was just finishing his breakfast. Immediately after the attack, he went to a battle station on the first deck until the ship lost power. After the loss of power, he began carrying ammunition to the aft machine gunners. Like other survivors, once the Japanese had departed, he went up to survey the damage. He found it very troubling to see the dead and burned bodies of his friends and acquaintances.

Leroy Manning, whose sister, Audrey Byrd, resides in the 15th District, was serving aboard the U.S.S. *Arizona* at the time of the attack. He was one of 1,117 sailors and marines who went down with the ship at 8:19 a.m., nine minutes after being hit by an armor-piercing bomb. He is survived by his sister, Ms. Byrd, and a brother.

Richard Morey enlisted in the Army in 1938 and was discharged in 1958. At the time of the attack, he was a member of the 3rd Engineers on the Island of Oahu. After the attack, his group began the task of building barracks for the Coast Artillery coming in from Hawaii.

Theodore S. Moore was a member of the California National Guard when it was activated by FDR on September 16, 1941. He was discharged in September of 1945. He was shipped to Pearl Harbor prior to December 1941. At the time of the attack, he was a member of an anti-aircraft unit stationed on the roof of a submarine base. The submarine base was spared from attack. No bombs were designated for the base because the Japanese knew the subs were out to sea. After the attack, Mr. Moore recalls bodies of victims wrapped in the traditional white Navy blankets being carried from Ford Island and being placed side-by-side on a baseball field.

William Norrow enlisted in the Navy in 1940 and was discharged in 1945. He was assigned as a fireman below deck on the U.S.S. *Cummings*. At the time of the attack, he was below deck and thought people were joking with him. He recalls leaving Pearl Harbor with six inches of standing oil on the water. When he returned to the harbor three days later, the oil was still burning.

Chester O'Konski enlisted in the Marines on October 24, 1939, and was discharged in July 1945. At Pearl Harbor, Mr. O'Konski, then a sergeant, served as the gun captain of the 5" 51-caliber broadside guns on the U.S.S. *Tennessee*. On the morning of the attack, Mr. O'Konski was preparing for liberty. His side, the starboard, had been on alert the day before. Sunday was to be their day off. At 7:55 a.m., five minutes before leave officially began, the men were ordered to go to their battle stations. The men complained loudly until another announcement came over the system, "This is not a drill. This is the real thing." With that word, everyone scrambled to their stations. Mr. O'Konski's guns were useless against aircraft so he ordered his men to go to where they were needed. The hard part, said Mr. O'Konski, came after the attack when he and other survivors manned rowboats in the harbor to pick up the dead from the U.S.S. *Arizona*. Mr. O'Konski credits the captain of the U.S.S. *Tennessee* with sparing his ship, plus many others, from destruction. The captain, in an attempt to prevent the oil and flames from reaching his ship, started the propellers. Although the ship could not physically move from the flames, the action of the propellers kept the oil and flames from spreading across the harbor.

Paul J. Valyasek enlisted in the Army on April 7, 1941, and was discharged on November 24, 1945. A member of the 97th Coastal Artillery, he served as a gunner on an anti-aircraft gun specializing in coastal defense. At 8:00 a.m. on the day of the attack, Mr. Valyasek's unit had been on special guard at the northern end of Oahu and was just returning for breakfast. His unit did not believe the attack was real until they came upon Pearl Harbor and noticed the ships sinking and the smoke and fire.

Nathan Weiser enlisted in the Army Air Corps on November 12, 1940, and was discharged August 24, 1945. Mr. Weiser was trained as a Radio Operator/Mechanic and had completed the necessary schooling to qualify for his tour in Hawaii. At 8:00 a.m. on the day of the attack he had just finished breakfast at Wheeler Field. He had planned to go aboard the aircraft carrier, *Lexington*, but it had just left port. At the time the bombs hit, dishes fell to the floor. The Mess Sergeant came running in, threatening to court-martial whomever was responsible for breaking the dishes. Mr. Weiser recalls running out of the building and attempting to take cover under a nearby building. An old man called "Indian Joe" was sitting outside peeling potatoes and very calmly said "don't get under there—go to a residential area—they'll bomb here." Mr. Weiser and his friends ran to Scofield Barracks; after the bombing they went back to where "Indian Joe" had been sitting. The building, as predicted, had been leveled.

Jackson Wilson enlisted in the Army on July 9, 1940, and was discharged on June 30, 1945. Mr. Wilson passed away on October 23, 1988. His wife, Dorothy, accepted the Congressional Medal on his behalf. Mr. Wilson served as a radio operator during his tenure in the Army. At the time of the attack, Mr. Wilson was in Scofield Barracks. He and his fellow servicemen believed the attack was only maneuvers until he saw the burning planes and sinking ships.

Walter Wojtysiak enlisted in the Navy in 1940 and was discharged in 1963. At the time of the attack, he was serving as a baker aboard the U.S.S. *Phoenix*, stationed directly behind the U.S.S. *Arizona* in the harbor. Following the attack, Mr. Wojtysiak served as a "hot shellman" retrieving shell casings after they were fired out of 5" anti-aircraft guns.

INTRODUCTION OF THE PART-TIME AND TEMPORARY WORKERS PROTECTION ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 15, 1991

Mrs. SCHROEDER. Mr. Speaker, I am pleased to introduce today a bill that addresses the needs of one of the fastest growing segments of the labor force—part-time workers. It is high time that we take a close look at a major segment of the labor force—part-time and contingent workers, and address the very real concerns of these workers. Part-time employees represent an essential component of the labor force and we must recognize their contributions to the economy.

Yet, many employers regard part-timers as second-class workers rather than bona fide members of the work force who have special skills and experiences to offer. Part-timers are often treated as inferior workers by both employers and their coworkers in spite of the fact that they increase flexibility in the workplace, allow employers to retain valuable employees who do not want to work full time and cut labor costs.

Part-time workers often lament that they wind up working full time for part-time wages. But many part-timers hesitate to speak out about their working conditions or their lack of benefits because they do not want to jeopardize their jobs. As a result, part-time workers are, in many instances, invisible workers.

Many part-time workers do not have access to health insurance, vacation or sick leave, pensions or other benefits. For those who do have access to benefits, they are often required to pay a proportionately higher share of their cost. Hourly wages are typically less for part-time workers than for full-time workers doing similar work. And part-time workers are also more likely to be women and minorities, the very same workers who are more frequently subjected to subtle and not-so-subtle discrimination in the workplace that lowers their ability to become self-supporting.

Recent studies have documented the current extent of use of part-time and contingent workers by employers and the availability of benefits to them.

A survey conducted by Hewitt Associates found that while 93 percent of employers offer medical benefits to full-time employees, this figure drops to 78 percent for employees working 30 hours or more. Just 20 percent of employers offer medical benefits for part-timers working less than 20 hours per week. Only 28 percent of employers provide paid sick leave to part-time employees working less than 20 hours per week.

A GAO study found that, even when education, gender and age were controlled for, part-time workers earn about 38 percent less per hour than comparably employed full-time workers. As a result, one in five families headed by part-time workers lives below the poverty line compared with one in 20 families headed by a full-time worker.

While three-quarters of part-time employees have chosen to work less than full time voluntarily, the recession has swelled the ranks of involuntary part-time workers. Since July 1990, the number of these workers has increased by 1.3 million. Thus, it is even more imperative that we begin to address their needs and concerns.

The GAO study recommended better documentation of the contingent labor force. We need to know the answers to such questions as: How extensive is contingent work? What are the reasons that some workers choose to work less than full time? How long have part-time workers worked less than full time? What is the long-term impact of part-time work on the workers themselves, social security and pension benefits, the economy and other workers?

Data currently being collected by the Census Bureau and analyzed by the Bureau of Labor Statistics do not adequately address these issues. Furthermore, if a worker works two or more part-time jobs that add up to 35 hours or more, he or she is counted as a full-time worker. So current data collection does not present a complete picture of part-time workers.

There are other serious problems that part-time workers face. The unemployment insurance systems in virtually every State fail to adequately address the reality of part-time workers. In some States, the minimum income requirements prevent laid-off part-time workers from collecting unemployment compensation. The minimum-number-of-weeks-worked requirement keeps many seasonal workers from collecting unemployment compensation as well. Laid-off part-time workers must be willing to accept full-time jobs in order to collect unemployment compensation. These and other restrictions are just a few examples of how our workplace has failed to adjust to the changes that have taken place over the last 20 years.

The Part-Time and Temporary Workers Protection Act, which I am introducing today, addresses some of these problems. The bill requires the Census Bureau to gather additional information about part-time and other contingent workers. It also provides that individuals seeking part-time employment are not disqualified from receiving unemployment compensation for their failure to seek or accept full-time employment.

This bill takes a major step in recognizing that our current system of analyzing the labor force does not adequately count the more than 32 million part-time and contingent workers. In addition, the bill addresses some of the most critical concerns of part-time workers—their access to benefits and unemployment insurance when they become unemployed.

I urge my colleagues to join with me in supporting 25 percent of our labor force.

CONGRESSIONAL LEGAL ANALYSIS FINDS PRESIDENT'S GAG RULE MEMO LEAVES GAG IN PLACE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, November 15, 1991

Mr. WYDEN. Mr. Speaker, with a veto override vote possible early next week, a new Congressional Research Service report says that the President's 11th-hour memorandum to HHS on the gag rule, issued in an attempt to sway votes in his favor, does nothing to change or loosen the gag rule in any way.

The CRS report states that "the guidance provided in the memorandum does not conflict with existing regulations and consequently is not a modification of those regulations."

The fact is, CRS dissected the President's memo, principle by principle, and came up with nothing but the old gag rule in disguise. The analysis makes it clear that title X doctors and nurses are gagged as tightly as ever, and that poor women still can't get the basic medical information about their pregnancy options that they deserve.

The memorandum to Secretary of Health and Human Services Louis Sullivan came on the eve of the first House vote on the Labor-HHS appropriations bill that would block enforcement of the gag rule.

In the memo, the President says that he wants "to ensure * * * that the operation of the title X family planning program is compatible with free speech and the highest standards of medical care."

For the Bush administration, free speech and high standards of medical care only belong to those who can afford it. The President has put a price tag on medical information, leaving poor women at title X clinics who can't afford a private doctor in the dark about their medical choices.

When Congress votes next week, every Member should be aware that this legal analysis makes it absolutely clear that nothing has changed.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, November 8, 1991.

To: Honorable Ron Wyden.
From: American Law Division.
Subject: The effect of the Sullivan memorandum on title X family planning regulations.

This amended memorandum is in response to your request to determine the legal effect of a November 8, 1991 memorandum from President George Bush to Secretary Louis Sullivan of the Health and Human Services Department (the Sullivan Memorandum). Specifically, you requested an analysis of whether this memorandum would modify existing regulations which restrict certain doctors who provide family planning services from discussing abortion with their patients; these regulations have been referred to as the "gag rule." Based on our analysis, it appears that the guidance provided in the memorandum does not conflict with existing regulations, and consequently is not a modification of those regulations.

Section 1008 of the Public Health Service Act specifies that none of the federal funds appropriated under the Act's Title X for family planning services shall be used in programs where abortion is a method of family planning. In 1988, the Secretary of Health and Human Services promulgated new regulations which prohibited Title X projects from either counseling regarding, referring for, or advocating abortion as a method of family planning. These regulations, which were immediately challenged in federal court, were recently upheld by the Supreme Court in the case of *Rust* v. *Sullivan*.[1]

The regulations provide that projects funded under Title X of the Public Health Service Act may not provide counseling concerning the use of abortion as a method of family planning, nor may they provide referrals for abortion as a method of family planning.[2] The regulations do not, however, prevent medical treatment referrals which may result in abortion; the only restrictions on non-emergency medical treatment referrals[3] are that suggested providers cannot be weighted toward providers who perform abortions, nor may such referrals include providers who principally perform abortions.[4] Finally, although the regulations restrict the information a doctor may provide a patient regarding their treatment options,[5] the regulations do not restrict the information that a doctor may give a patient regarding the patient's underlying medical condition.

The Sullivan memorandum contains four principles which are to be used in interpreting the Title X regulations. The first provides that the regulations do not prevent a woman from receiving "complete medical information about her condition" from a physician. As noted above, Title X regulations do not restrict a doctor from discussing a woman's medical condition with her. The second and third principles provide that a woman should be referred for medical treatment when medically indicated, even if the ultimate result is termination of a pregnancy. Again, nothing in the existing regulations would prevent such referrals, as long as the Title X grantee does not counsel abortion.[6] Finally, the memorandum notes that referrals may be made to health care providers who perform abortions, as long as their principal activity is not providing abortions; again, this is consistent with the regulations discussed above.[7]

KENNETH R. THOMAS,
Legislative Attorney.

FOOTNOTES

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[1] 111 S.Ct. 1759 (1991).

[2] 42 C.F.R. §59.8(a)(1)(1990).

[3] Where a patient of a Title X project requires emergency medical treatment, the regulations provide only that the client shall be referred immediately to an appropriate provider of emergency medical services. 42 C.F.R. §59.8(a)(2)(1990).

[4] 42 C.F.R. §59.8(3)(a)(3) states that: "A Title X project may not use prenatal, social service or emergency medical or other referrals as an indirect means of encouraging or promoting abortion as a method of family planning, such as by weighing the list of referrals in favor of health care providers which provide abortions, by including on the list of referral providers health care providers whose principal business is the provision of abortions, by excluding available providers who do not provide abortions, or by "steering" clients to providers who offer abortion as a method of family planning."

[5] *See supra* note 2 and accompanying text.

[6] *See supra* note 2 and accompanying text.

[7] *See supra* note 4 and accompanying text.

SIX PATHWAYS TO THE FUTURE FOR ISRAEL

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 15, 1991

Mr. COBLE. Mr. Speaker, the following article recently appeared in the Greensboro News & Record, which is a newspaper in my district. It was written by Mr. Ralph D. Nurnberger, who teaches graduate courses on foreign policy at Georgetown University. I would urge anyone who is interested in the current peace process in the Middle East to read Mr. Nurnberger's thoughtful commentary:

SIX PATHWAYS TO THE FUTURE FOR ISRAEL

(By Ralph D. Nurnberger)

Secretary of State James A. Baker III is to be commended for his marathon efforts to bring Israel and its Arab enemies to a peace conference. However, despite the pomp and circumstance that will mark the opening of the conference in Madrid, it will quickly become apparent that bringing the parties to the tables is easy compared with the monumental task of finding substantial areas of agreement.

Syria will attend mainly to pressure Israel into returning the entire Golan Heights, which Israel will find almost impossible to do. It is strategically vital to Israel's survival. Despite its almost intractable nature, this issue could prove to be the least complex at the conference. Golan is sparsely populated and has little religious or historical significance. It might be possible to demilitarize Golan and make territorial adjustments that both nations could accept.

The major focus of the conference will be how to obtain for Israel secure, defensible and recognized borders, while simultaneously satisfying the demands of the more than one million Palestinians who have lived under Israeli occupation since 1967.

There are at least six broad solutions to this question; however, each is replete with internal contradictions and objections. For the sake of clarity, these can be discussed within the context of the Israeli body politic—moving from the extreme right to the extreme left.

The extreme right, as represented by the followers of the late Rabbi Meir Kahane, advocate expelling the Arabs from the territories and annexing Judea and Samaria (the West Bank). According to adherents of this approach, since Israel now occupies this territory and, even more important, has claims to this land going back to Biblical times, the Arabs should be forced to leave.

There is not a country in the world, including the United States, that would accept this remedy. The forced removal of large numbers of people would violate the lessons Jews should have learned throughout the course of their own history. Fortunately, those holding these views represent only a small, albeit vocal, minority within Israel.

Moving slightly to the left, a second solution calls for Israel to annex the territories, but not expel the Palestinians. This would also lead to universal international condemnation and potential Arab military reaction.

In addition, if Israel were to annex the West Bank and Gaza Strip, it would have to offer citizenship to the Arab inhabitants, which could result in a large, hostile Arab electorate whose votes could undermine the effectiveness of the Knesset, Israel's parliament. Although the recent Soviet emigration minimizes the more far-reaching danger for Israel, the possibility still exists that granting citizenship to Palestinians living west of the Jordan River might ultimately end either democracy in Israel or its Jewish control.

A third alternative, the status quo, is favored by the current Likud government. Under this approach, Israel would not annex the territories, but would remain a permanent "occupier." This role would be enhanced by building ever-increasing numbers of settlements, to help establish Jewish control over the land and makes any potential division of the land virtually impossible.

Despite its defense by Prime Minister Yitzhak Shamir, the status quo has serious shortcomings. As long as the territories are "occupied," the Palestinians remain disenfranchised, with all of the social, economic and political ramifications of this status. Granting them limited rights, or autonomy, would be merely a stop-gap measure.

Equally distressing, permanent Israeli "occupation" plays havoc on the psyche of the nation, especially upon those young Israeli soldiers stationed in the territories.

A fourth alternative, one generally favored by the Israeli Labour Party, calls for the division of the territories between Israel and some form of Arab leadership, either Jordanian or indigenous Palestinian.

The proposal, originally developed by former Israeli Deputy Premier Yigall Allon, has been made virtually impossible by the placement of settlements throughout the West Bank. The so-called "Allon Line" could no longer divide the Jewish from the Palestinian areas of the territories.

Even if the land could be divided, Jews living in the West Bank and those who support them would never allow an Israeli government to surrender an inch of this territory. Just as the Israeli Army was required to remove Jewish settlers from such Sinai towns as Yamit after Camp David, the Army would be needed to remove settlers from the more historically and strategically important West Bank. It is doubtful that the Israeli Army could or would perform this function.

Similarly, Palestinians and Arab leaders have consistently rejected the notion of accepting anything less than a return of all the land they "lost" in 1967. No Arab leader could accept permanent Israeli control over parts of the West Bank, especially over Moslem holy sites in East Jerusalem. The entire Camp David accords almost broke apart over control of Taba, a few relatively worthless acres of beachfront property near Eilat.

The "Jordanian option" of this approach is equally unrealistic. The Palestinians living in the West Bank have become more politically active since 1967 and are unlikely to trade an Israeli master for a Jordanian one.

A fifth alternative, giving control of all or part of the West Bank and Gaza to the Palestinians, would set the stage for renewed fighting in the very near future. The PLO does not view the creation of a Palestinian state in the territories as its ultimate goal but merely the next stage in the final destruction of Israel.

No Israeli government, however liberal, could accept this proposal. In addition to creating an unacceptable threat to the existence of Israel, a Palestinian state would probably require the forcible removal of Jews currently living there.

The territories are not contiguous and could not be independently economically viable. This state would likely set up a "law of return" to encourage Palestinians from around the world to emigrate, which would also increase the potential for turmoil.

A sixth alternative calls for the Jews and Arabs in the territories to remain where they are, with Jews remaining Israeli citizens while the Arabs would become citizens of Jordan.

This would create a pandemonium of competing and intertwining laws and regulations and would require generations of good will before its details could become part of people's daily routines.

Despite this rather gloomy analysis, the peace conference offers a glimmer of hope for the future and Secretary Baker is to be congratulated and encouraged to proceed with cautious optimism in Madrid.

(Ralph D. Nurnberger is a vice president of Conkling Fiskum & McCormick, a public affairs firm that represents organizations in the Pacific Northwest in Washington, DC. He teaches graduate courses on foreign policy at Georgetown University. He spoke in Greensboro last year.)

TRIBUTE TO BENEVOLENT AND PROTECTIVE ORDER OF ELKS LODGE NO. 191, BETHLEHEM, PA, ON ITS 100TH ANNIVERSARY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 15, 1991

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to Lodge No. 191 of the Benevolent and Protective Order of Elks of Bethlehem, PA, as its members celebrate its 100th anniversary and its legacy of service and fellowship to Bethlehem and our entire Lehigh Valley community.

Elks Lodge No. 191 was officially instituted on March 31, 1891, with 25 charter members. And, according to the Bethlehem Daily Times newspaper account of the day, on its first anniversary members of the lodge dedicated its new quarters in the Kershner block of the city in a ceremony witnessed by representatives of every Elks Lodge in the country. At the dedication, the lodge's officers included Past Exalted Ruler Joseph A. Weaver, Exalted Ruler Dr. H.J. Laciar, Esteemed Leading Knight Dr. E.H. Schnabel, Esteemed Loyal Knight H.B. Chamberlin, Esteemed Lecturing Knight Frank Weiss, Secretary E.D. Whetford, and Treasurer C.A. Smith.

Another Elks Lodge, No. 1209, was instituted in south Bethlehem in 1910, under the leadership of Exalted Ruler Robert K. Berkemeyer. Lodge No. 1209 soon moved to the fifth floor of the E.B. Wilbur Trust Co., where a cafe and grill opened. Records show that a full course Sunday dinner could be purchased there for a whopping 75 cents. Following the consolidation of South Bethlehem into the city of Bethlehem in 1917, Elks Lodge No. 1209 asked for and was granted permission by the Grand Lodge to merge with Elks Lodge No. 191, bringing all Bethlehem Elks into a single lodge.

In the years following the merger, Elks Lodge No. 191 met at 325 Wyandotte Street in Bethlehem, and while at that location played host to the Pennsylvania State Elks Association Convention twice, in 1925 and in 1939. In 1948, the lodge moved to its current location on West Union Boulevard in Bethlehem.

The Elks continue to carry on their worthy traditions through their support of charitable efforts ranging from the fight against cerebral palsy to the D.A.R.E. program against drug abuse. Their longstanding commitment to education, through the awarding of scholarships to deserving young people, takes on even greater significance as our Nation strives to improve its education system.

Efforts to improve the community have been augmented in the past few years by the work of the members of ladies auxiliary of Lodge No. 191. Their participation has helped strengthen the lodge's commitment to community service; and has provided a most welcome break from the early days, when women were permitted in the club quarters only two Thursdays of every month.

Mr. Speaker, as Elks Lodge No. 191 completes its first century of service to its members, it can look back on a rich history in which its members have shown themselves to be dedicated to the Elks' guiding principles of "Charity, Justice, Fidelity, and Loyalty." As a member of Lodge No. 191, and as one who was proud to receive its Citizen of the Year award, I am delighted to have the chance to salute this fine organization.

I ask you and my colleagues to join me in congratulating Exalted Ruler Charles Reinert and the members of Elks Lodge No. 191 on its 100th anniversary. I thank them for their many contributions to our community and to the people of the Lehigh Valley, and I wish them many more years of fellowship and joy.

BAKER IN CHINA; SLAVE LABOR PRODUCTS IN THE UNITED STATES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 15, 1991

Mr. STARK. Mr. Speaker, while Secretary of State Baker visits the People's Republic of China this week, the Chinese are busy in California selling slave labor products.

It is against longstanding U.S. trade law to import products from prison camps. The Chinese are flagrantly violating that law and selling a wide variety of slave camp products on the west coast and throughout the United States.

The Secretary has to deliver the message: No more Chinese exports to America made by the prisoners from Tiananmen Square.

The Congress will not approve the continuation of lower tariff rates on Chinese goods given this continuing, flagrant violation of all standards of human decency.

ORTRIE D. SMITH ELECTED PRESIDENT OF THE MISSOURI BAR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, November 15, 1991

Mr. SKELTON. Mr. Speaker, at the recent annual meeting of the Missouri Bar, a resident of Nevada, MI, which is in the Fourth District, was elected president of that organization. Ortrie Smith is a partner in the Nevada law firm of Ewing, Carter, McBeth, Smith, Gosnell, Vickers & Hoberock. He received his undergraduate and legal degrees from the University of Missouri. A member of the board of governors of the Missouri Bar since 1978, he is a former member of the State bar's Young Lawyers' Section Council. In addition to membership and involvement with a number of State bar activities, he also is a member of the Vernon County Bar Association and the American Bar Association.

Along with his many bar-related activities, he has been active in a variety of civic and charitable causes in Nevada. Those efforts in the local community have been recognized with a number of awards and honors. Also, Mr. Smith is an active member of the Baptist Church in Nevada.

Through the years, Ortrie Smith has worked hard to further the cause of justice through his practice and this association. I know Members of this body join me in sending congratulations to my friend through the years, and the new president of the Missouri Bar, Ortrie D. Smith.

HONORING THE USC SCHOOL OF MUSIC FRANK KERZE, JR. FUND

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 15, 1991

Mr. COX of California. Mr. Speaker, this Saturday, November 16, 1991, the University of Southern California's Symphony Orchestra will be performing in Concert Hall at the Kennedy Center here in Washington. Conductor Daniel Lewis and the USC Symphony alone generate enough beautiful music for an afternoon, but this Saturday, they will be joined by one of America's most talented and renowned classical musicians—cellist Lynn Harrell.

Bringing this entire wonderful west coast orchestra 3,000 miles east to join with Lynn Harrell is not easy. But we will be graced by their music because of two sisters who never attended the University of Southern California. Although not alumni of USC, Therese and Florence Kerze founded the Frank Kerze, Jr. Fund at the USC School of Music in honor of their late brother. Their generous donation is used to encourage young American cellists to fulfill and utilize their talents. Saturday's concert will be just one result of their good work.

Frank Kerze, Jr., the man honored by his sisters, was one of our Nation's leading nuclear chemists. A former professor of nuclear engineering, and a former team member of the Manhattan Project, Frank Kerze, Jr., died in 1985. While he loved his vocation of nuclear chemistry, his real avocation was the cello. In fact, Frank Kerze, Jr., had the option in college of pursuing a career as a cellist. He opted for chemistry, but never stopped playing the cello. Frank Kerze, Jr., was active until his death in community orchestras throughout the Washington area.

Through the foresight and generosity of Frank Kerze, Jr.'s surviving siblings, his beloved cello music lives on for all of us to enjoy. I hope that my colleagues will be able to join with me on Saturday, November 16, 1991, at the Kennedy Center to do just that—to listen to the beautiful music of the USC Symphony and cellist Lynn Harrell, compliments of Therese and Florence Kerze on behalf of their brother, the late Frank Kerze, Jr.

THE SARAH VAUGHAN CONCERT HALL—A TRIBUTE TO A NEWARK GIRL WHO SANG JAZZ

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 15, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, this evening, a special tribute will be bestowed in my hometown on two of Newark's prize jewels—the late Sarah Vaughan and the Newark Symphony Hall. This evening, the main hall of Newark's Symphony Hall will take on the name of the Sarah Vaughan Concert Hall.

Sarah Vaughan, known to her friends and fans as Sassy or the Divine One, was born in Newark, NJ, on March 27, 1924. Her outstanding career as a world-famous jazz diva began in a theater much like Newark's Symphony Hall. Although Sarah traveled the world, she never forgot her hometown. It's been noted that she often referred to herself as "just a Newark girl who sings jazz."

This year the Sarah Vaughan Jazz Festival at Newark was instituted. The festival, featuring events over a 9-day period, has attracted many luminaries in the jazz world, as well as bringing recognition to local talent. Tonight's gala event will feature Joe Williams, Abbey Lincoln, the Count Basie Orchestra, and other great artists.

The Newark Symphony Hall is New Jersey's largest and oldest showcase. Seating 3,365, it is larger than Carnegie Hall and its acoustics are on par with Boston's renowned Symphony Hall. The hall is home of the New Jersey Symphony Orchestra, the Newark Boys Chorus, the New Jersey State Opera, the Garden State Ballet, the New Jersey Ballet Company, and the Theater of Universal Images.

Newark Councilman George Branch is to be commended for sponsoring a resolution, which was unanimously passed by the Newark Municipal Council, renaming the main hall in honor of the Divine One, Ms. Sarah Vaughan. Last year's death of Sarah Vaughan marked the end of an elegant era in the jazz world. The Sarah Vaughan Concert Hall will make certain that her legacy and memory will live on, especially in Newark. Mr. Speaker, I am pleased and proud to let my colleagues know that the place she never forgot will never forget her.

A CONGRESSIONAL SALUTE TO CROSS ROADS COMMUNITY CHURCH—UNITED CHURCH OF CHRIST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 15, 1991

Mr. ANDERSON. Mr. Speaker, on November 17, 1991, Cross Roads Community Church will celebrate its 40th anniversary of worship services. It is with great pleasure that I rise today to pay tribute to this church and its congregation.

Cross Roads Community Church has grown from its humble roots of holding Sunday school classes in various neighborhood homes to the thriving, dedicated congregation it is today. The church under the leadership of the late Rev. Barron McLean was incorporated in August of 1951 and purchased the property where the sanctuary, fellowship hall, and classrooms now stand. In 1954, the congregation became affiliated with the Congregational Christian Churches whose beginnings date back to the pilgrims of New England. The Congregational Christian Churches merged with the Evangelical and Reformed Church in 1957 to become the United Church of Christ.

Their doctrine seeks to tear down the dividing walls between Christians of all denominations and to unite them in fellowship. The Cross Roads Community Church cooperates in joint worship services and community action through South Coast Ecumenical Council, an organization comprised of both Roman Catholics and Protestants.

The "community" in this church's name is much more than just a word to the congregation. The Cross Roads Community Church provides food, counseling, and referral services for the poor and homeless through the Mid-Cities Help Center in Bellflower. It opens its doors to provide day care, and before and after school care for children through the Mothers at Work Children's Center and it offers meeting rooms to 7 different groups of alcoholics anonymous. In addition, the church is actively involved in glass and newspaper recycling, assists with a scholarship for an agricultural student at the Philippine Christian University, serves as companions for a disabled person, and provides summer camperships for children.

My wife, Lee, joins me in congratulating the coministers, the Reverend Grace Moore and the Reverend Richard Moore, and the entire congregation of the Cross Roads Community Church on their 40th anniversary. We wish them all the best in the years to come.

SENATE—*Monday, November 18, 1991*

(Legislative day of Wednesday, November 13, 1991)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Dr. Richard C. Halverson, the Senate Chaplain, will lead the Senate today in our petition to the Supreme Lawgiver and the Supreme Judge of the world.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed are they which do hunger and thirst after righteousness: for they shall be filled.—Matthew 5:6.

Eternal God, perfect in truth, righteousness, and justice, our society languishes for righteousness. We speak much about justice, fail to take righteousness seriously, not realizing they are identical in the Bible. Righteousness is justice, justice is righteousness. To be just is to be righteous, to be righteous is to be just. Despite which we make much of the importance of justice while we disregard righteousness.

Righteous Lord, help us understand that there can be no justice without righteousness, no righteousness without justice, that legality and morality are identical to You. Grant to us the awareness that to be legal and immoral is a contradiction in terms. Help us realize that as health is to the body, righteousness is to the soul. Awaken in us a hunger and thirst for righteousness.

In His name who was righteousness and justice incarnate. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, today, following the time reserved for the two leaders, there will be a period for morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for up to 10 minutes each.

When morning business closes at 1 p.m. the Senate will resume consideration of S. 543, the banking bill. I understand from staff that the managers will be ready to proceed with an amendment as soon as the bill is resumed and other amendments are anticipated this afternoon.

As I stated on the Senate floor on Friday, in an effort to accommodate as many Senators as possible, we will attempt to schedule rollcall votes at a time at which the least number of Senators will be inconvenienced. I am advised, however, that rollcall votes could occur as early as mid-afternoon and will occur by late afternoon.

Mr. President, the target date for adjournment sine die is prior to Thanksgiving. That is now less than 2 weeks away and I want to repeat what I have said orally on several occasions and in writing to other Senators; that votes can be expected at any time on any day between now and then. Senators should be prepared for long sessions as necessary throughout the remainder of this session.

CLOSED CAPTIONING OF SENATE DEBATE

Mr. MITCHELL. Mr. President, today the Senate inaugurates a new service which will bring the Senate's Chamber proceedings to the hearing impaired, those elderly with slightly impaired hearing and those for whom English is a second language. This service, called closed captioning, combines the skill of specially trained court reporters with unique computer software to nearly simultaneously superimpose on viewers' TV screens the words Senators are speaking.

These closed captions are being shown to all viewers right now, but shortly only those with special equipment, called decoders, will be able to see the captions.

It is important in any democracy that all citizens, regardless of their abilities, have access to the workings of their Government. For too long, those with hearing impairments have been denied access to Senate sessions.

The ability to see and comprehend important national debates should be a basic right available to all Americans. Senate galleries have been opened to the public since the Capitol Building was first built. Nearly a decade ago, the Senate began televising its sessions. Through C-SPAN and the expansion of the Nation's cable system, almost half of our population can watch the Senate conduct the Nation's business. And today, through truly remarkable technology and human skill, these sessions are accessible to those nearly 23 million Americans who are totally deaf, suffer some hearing loss or are just learning English.

The Americans With Disabilities Act, which became law on July 26, 1990, mandated equal access by those with disabilities to Government activity. This law required that equal access be provided no later than January 1992. The Secretary of the Senate is to be commended for ensuring that the Senate meets the spirit of this law. It is one more step taken by the Senate to make sure every American has full opportunity to know what his or her Government is doing on his or her behalf. To them we say welcome.

Our elderly frequently suffer just enough hearing loss to make watching TV difficult and frustrating. Captioning technology makes it possible for them to watch TV again. We also know that many of our Nation's elderly watch the Senate and House in session and maintain a keen interest in the workings of their Government. To them we say welcome.

Captions are more and more frequently used as a learning aid by those whose first language is not English. Many of these people are new immigrants attempting to learn the language of their new nation. To them we say welcome.

I know my friend, the distinguished Republican leader, joins me in greeting all of our new viewers. And I restate once again our goal that all Americans should have the opportunity to fully use their abilities, not to be limited by their disabilities.

Mr. DANFORTH. Mr. President, I wonder if the majority leader would yield for a question relating to the possibility of a tax extender bill reaching the floor?

Mr. MITCHELL. Certainly, Mr. President, I will yield.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Might I first reserve the remainder of my leader time and all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, it is so ordered.

A TAX EXTENDER BILL

Mr. DANFORTH. Mr. President, as the majority leader well knows there are some 12 provisions in the Internal Revenue Code which will expire on December 31, if no action is taken by Congress. Those include the low-income housing tax credit, which the majority leader has been instrumental in, the research and development tax credit, the targeted jobs tax credit, and nine other items.

I know that one of the concerns that has been expressed is that a tax bill which comes to the floor of the Senate is likely to be a Christmas tree. But last week, Senator DODD and I circulated a letter. We have 76 Members of the Senate who have signed on to the letter. And the letter concludes by saying:

> We agree to oppose any amendments to a bill which extends these 12 expiring tax provisions.

My question to the majority leader is whether the majority leader would be willing to enter into discussions with the Republican leader and with the chairman and ranking member of the Finance Committee, and perhaps with the leadership of the House of Representatives, for the purpose of exploring the possibility of bringing to the floor of the Senate a simple, clean extender bill between now and when we adjourn?

Mr. MITCHELL. Mr. President, not only would I be willing to, but I have already begun that process, prior to this discussion and prior to the receipt of the letter, with some of the persons mentioned by the distinguished Senator from Missouri and while I do not make scheduling decisions ever without full prior notice and consultation to the Republican leader, and so obviously will not do so in this case, I do want to express my personal view that I am strongly in favor of extending these tax provisions. As the Senator from Missouri knows, I was the author of the low-income tax provision and he joined with me and greatly strengthened and improved that legislation. It is very important legislation, to which I am deeply committed, as are many of the other expiring provisions to which he referred.

I was heartened by the receipt of the letter which Senator DODD delivered to me late last week. I had previously discussed the matter with some of the key participants, to which the Senator from Missouri referred, in an effort to figure out a way to get some or all of those expiring provisions extended. And I assure the Senator that I will take it up with the distinguished Republican leader today. We have a meeting scheduled later today to discuss a number of matters, including scheduling for the remainder of this session. I want to thank the Senator from Missouri and commend him for the effort and leadership that he has demonstrated in this area.

Mr. DANFORTH. I thank the majority leader.

Mr. MITCHELL. Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, morning business will extend until 1 o'clock p.m., with Senators permitted to speak therein for not to exceed 10 minutes each.

Mr. CRAIG addressed the Chair.

The PRESIDENT pro tempore. The Senator from Idaho [Mr. CRAIG] is recognized.

TAX-CUT FEVER

Mr. CRAIG. Mr. President, I think all of us have read the headlines in the papers over the last several weeks that tax-cut fever is sweeping the Congress of the United States. It is a term certainly I have read and many have talked about.

Frankly, it is an exciting term. It has been a long time coming to recognize some of the burdens we placed on the economy of this country. I am excited to see some of my Democratic friends talk about tax cuts. I would like to suggest that maybe that is an important new word to their vocabulary, but whatever it is, Mr. President, I suggest to this body that a good case of congressional tax-cut fever might just succeed in curing some of the ills of our economy.

I do not believe there is any mystery about why we are having economic problems today. Taxes are, in most cases, too high, and those taxes are oftentimes strangling the economy, locking up investment and, when it is freed, it oftentimes runs overseas to avoid abusive taxes that we have in this country.

What happens, Mr. President? People are put out of work, and I think the future of our country, our economic future is seriously threatened.

The real standard of living is declining for the first time in decades in this country and young couples simply do not know what to do about it and are unprotected by what is currently going on. Last year's budget agreement, the same agreement that was supposed to bring about a reduction in deficits and increased prosperity in this country in my opinion has dealt a substantial blow to an economy that was vulnerable at the time and remains vulnerable today. It has generated a deficit of over $280 billion and it raised taxes.

History, or a brief scan of tax history, suggests this was the first time that Congress actually increased taxes in the face of a recession since the Great Depression of the thirties. That is why a number of us opposed the budget agreement at the time, and why many of us now would like to see the Senate and the Congress of the United States enter into some serious tax policy consideration, tax policy that would bring about tax reduction and play an important role in moving this economy ahead.

Mr. President, although I hope the headlines are correct and that we really are going to experience some tax-cut fever, I also hope it does not cause us to lose sight of our real goal, and I believe that real goal has to be moving our economy in a positive direction as quickly as we can address it. It is important to acknowledge that not all tax cuts are going to be equally effective in achieving that goal. Therefore, I think it is our responsibility to sort those whose could be effective in that goal and that purpose.

One of those, in my opinion, is to address the question of taxing inflation. Of all the American taxes today, none is more unfair and unreasonable and I believe destructive than that kind of a tax that actually goes after the inflation. It occurs as a result of what we are now doing to a capital gains policy in this country. It occurs because that policy taxes the profit made on the sale of a capital asset and it addresses and does not recognize the inflation that would be involved in that kind of a gain. Certainly that does not assist nor does it encourage the kind of capital investment critical to stimulating the economy and bringing about job creation.

Let us take an example of an American homeowner who I think all of us can understand, Mr. President. Say you purchased a home years ago and its increase in value has only kept pace with inflation itself. If you were to sell the house today, you would have a capital gains because according to our tax policy you would be making a profit and, of course, you would have a 28-percent tax on that profit.

The reality says, however, that your values have increased because of inflation, not true or real profit. You are back to square one until you pay the tax which actually puts you at a loss. In other words, today if you cannot defer the capital gains tax on your house, you would not be able to buy a better home. If you were to relocate for employment reasons, you would have to buy possibly a cheaper home or actually downgrade your living situation.

Mr. President, last week in the airport in my home State of Idaho, the Boise airport, a businessman came up to me and said, Senator, I am starting a new business here in Boise, a new software business, and I have gone around the country searching for the kind of employees I need to strengthen this business. I found five. Five men and women who would like to move to Idaho to become my employees and work with me in the strengthening of this business, but none of them will move today because of the capital gains consequence that they would have to take on their house and the uncertainty of the economy.

Put those two combinations together today, Mr. President, and we see a very sluggish economy as a result of it.

So the example I just gave is not farfetched. Just last weekend that example came home and clearly it affects the employment base that we are talking about, job expansion, the kind of economic movement that we would all want to see in this country. So it is real life, it is happening.

Senator SYMMS, my colleague from Idaho, and I introduced two different versions of capital gains reform this past year. Yet, they said in committee nobody wants to talk about it, we are all in a flurry now about seeing who is on first, and who is on second, about who can cut the most. Let me suggest as we talk about this Congress opening up a budget agreement to address tax policy that we truly address that which will, in fact, generate growth in this country, that will create jobs and will not be just a redistribution of the wealth of this country.

Another example is true in my State, as is true in many States. We have part of my agricultural industry that is in very tough difficulty at this time, the dairy industry. And yet we have men and women in that industry who, because of the economy, would like to retire out of it, sell off their dairies and go into retirement. They cannot afford to do so. Why? Capital gains treatment. Again, not addressing real profit but addressing inflationary profit, if you will, or inflationary margins which is simply unfair.

Why should anyone then sell a house, or a farm, or any kind of other capital asset today if they are going to actually lose money by doing so? The answer is they should not. The answer is they are not. As a result, we have seen substantial economic slowdown, less job creation. We all know the current state of the economy as a result of it, and yet this Congress, this Senate, will not address the real important value of a capital gains tax reduction that would address inflationary attributes of it and, therefore, allow real profits to once again move in the economy for job creation.

I have heard a lot of bickering back and forth about this issue, but I do not think anybody is yet willing to address it. Why? Because of the argument that we might be giving the advantage to someone who is rich. This has become a rich-poor argument. The two examples I have just given are not rich examples. Let me suggest that this is not a rich or a poor issue. If it is, then by definition, my Democrat colleagues in the House are suggesting that everyone who owns a home or a farm in this country today who might like to sell it because they would wish to retire or they would wish to move is a rich person. We know that is not the case at all. Capital gains has always been a recognition and a treatment of the true value of an investment and the profit coming from that and not the inflationary kind that I just mentioned.

Mr. President, our colleague, Senator BENTSEN, chairman of the Finance Committee, has recognized the need for tax cuts to promote capital gains formation, and I applaud him for doing that, and I would applaud this Senate if we were to move clearly in that direction. It is fundamentally important that we do so in the coming weeks and months if we are to see this economy move in the vibrant way that we would expect.

Indexing is key to that. Recognizing inflation embodied within that kind of growth in one's investment is fundamentally important, and I urge my colleagues to join in this effort to get the job done before it is too late—clearly, before we see this economy drop even further and see more of our fellow citizens unemployed.

I yield back the remainder of my time.

The PRESIDENT pro tempore. The Senator from Nevada [Mr. REID] is recognized for 10 minutes.

CONGRESSIONAL REFORM

Mr. REID. Mr. President, I rise today to talk about Senate Concurrent Resolution 557 which was authored by Senator BOREN of Oklahoma.

This legislation, which was introduced in July of this year, now has 27 sponsors. In effect, what this legislation does is say that it is time we, the Congress, took a look at ourselves to find out how we work and what we can do to improve the way we work.

As an institution, Congress has come under increasing criticism in recent months. It has come under criticism from our constituents, the press, and sadly, Mr. President, even some of its own Members. I think, frankly, that is one of the problems of this institution—Members of the House and the Senate do not speak out for the good things that happen. Rather, when they go home to townhall meetings or press interviews, they tend to join the throng in bashing Congress. Congress is seen as caught in the swirl of negative politics, attack politics, vicious politics, personal politics, cheap sloganeering politics, and even trivialized campaign issues.

It is not as if Congress has not in the past looked at itself, because it has and there have been major reorganizations in years gone by. But in recent years, Congress has made review of its operations in 1976, 1977, and 1984. There needs to be some things done, however, Mr. President.

Just 3 years ago, the Senate Rules Committee issued a report on Senate operations, and they concluded that the following appear to merit particular attention: efficient use of a Member's time on floor activities. The Rules Committee further went on to say that we need to take a look at the difficulty of scheduling business on the Senate floor. The Rules Committee further said that there are recurring concerns over committee assignments and schedules, the issue of germaneness and other proposals affecting floor amendments, and they said we should look at the frustrations that often result from the authorization-appropriation-budget process.

Just this session of Congress, over 200 bills have been introduced in the House and Senate to review the way Congress does business.

The reason I particularly think we have to take a close look at the legislation of Senator BOREN is that it does not appear to want to take a look at Congress on the cheap, so to speak. It does not, for example, talk about term limits, which is the vogue of the day. It is, in this Senator's opinion, one of the most wasteful discussions that we have. In fact, it seems strange that in Eastern Europe they are becoming free, that is, they are going to be able to vote for their representatives and all of government, and we are having a supposed wave sweep this country which says there are people who will not be able to vote for whom they want because there will be an arbitrary limit saying that a House Member after serving three terms, for example, would not be able to serve another.

To show how arbitrary and capricious the term limit would be, it would, in effect, Mr. President, increase the power of what our constituents want less power of, and that is the bureaucrats, staff, and lobbyists would become even more powerful.

Senator BOREN's legislation does not direct its attention to term limits or something like the line-item veto which is a way that people want to cure all the ills of government very easily, when in fact we know that the Founding Fathers threw out term limits recognizing that it would not work.

The reason I think Senator BOREN's legislation deserves some attention is that he has given some serious thought to this. This is in keeping with the way Senator BOREN has conducted himself during his governmental service. He served in the State legislature. He was elected, as a very young man, as Governor of the State of Oklahoma on a platform to reform State government, and in fact he did that as Governor.

I think he comes well suited to sponsor legislation like he has. We all know that Senator BOREN is a Rhodes scholar. He is a thoughtful man. So I commend and applaud Senator BOREN for drafting this legislation.

In effect, what this legislation does is create a Senate-House committee to examine our operations and make recommendations for change. The problem of inefficiency is something that has plagued both Houses of Congress. Between 1970 and 1990, the number of subcommittees in the House grew 40 percent. Committee staff during that same time grew almost 200 percent.

There does need to be some attention directed toward this issue.

The committee that we hope will be appointed should look into the hours spent on committee hearings, markups, hours spent on the floor, number of rollcalls taken versus the amount of work that gets done.

I think one of the things we could do to improve efficiency around here—and I am sure the committee will look into this—is to deemphasize the importance of everyone being here for a rollcall vote that passes overwhelmingly. We drop the most important committee hearing because we need to come over here and vote when the vote is 86 to 3. We drop the most important business being conducted with the administration, with the White House. Meetings with the President are suddenly abandoned because there has to be a rollcall vote attended. There has to be a deemphasis placed on that.

The Senate, Mr. President, is wasting time on lopsided votes, as I have mentioned. Senator BOREN has estimated as much as 25 percent of his floor time is spent on these quorum calls and lopsided rollcall votes.

Floor deliberations many times are seen as meaningless and poorly attended.

I think it is important if we just reflect back. I have served in this body 5 years, and there are not many important debates that have taken place where there has been good attendance in this Chamber. Of course, we try to watch as much as we can with the television that we have in our office, but as I look back, there were some important debates that everyone should have attended. I can reflect on two where Senator BUMPERS, for example, gave a brilliant statement on this floor regarding battlefield monuments.

There was another floor statement given in the past month or so, Mr. President, with very few people here. It was given by the President pro tempore dealing with the Thomas nomination. Everyone should have heard that debate, and they did not because we were off doing things that probably were not as important as listening to something as important as his statement on that debate.

So, Mr. President, I again commend and applaud Senator BOREN for the leadership he has shown on this issue. I hope that we, as a body, will join him in recognizing that we do need to do certain things which will improve the efficiency of this body and still not take away the power of the legislative branch of Government, which was given to us by our Founding Fathers, which gives the State of Nevada as much authority and power as the great State of California.

I yield the floor.

The PRESIDENT pro tempore. The Chair recognizes the Republican leader whose time has been reserved by unanimous consent.

Mr. DOLE. I thank the President pro tempore.

CLOSED CAPTIONING OF SENATE PROCEEDINGS

Mr. DOLE. Mr. President, 1 year ago, Congress joined with President Bush to enact the landmark Americans With Disabilities Act, a sweeping reform package that guarantees persons with disabilities access to the mainstream of American society.

Today, I am pleased to join with my colleagues in celebrating another breakthrough for Americans with disabilities—closed captioning of the proceedings of the U.S. Senate.

Beginning today, a significant but for too long forgotten segment of American society will now have the immediate capability to follow action in what historians call the world's greatest deliberative body.

Hard to believe now, but as recently as 1984, television and radio coverage of Senate action did not exist. With the advent of gavel-to-gavel Senate television coverage, vast numbers of Americans have kept watch on their elected officials. Today, we have taken the next logical step—by beginning closed captioning, this body's proceedings will be available, with the use of a closed-captioning decoder, to the more than 23 million Americans who are hearing impaired, including the 2 million Americans who are profoundly deaf.

Mr. President, closed captioning also brings additional advantages—implementation of this innovative technology will also open new doors for those with learning disabilities, and those using English as a second language.

Studies have shown that captioning improves the vocabulary and comprehension of remedial readers. Additionally, those working with illiterate adults have found that captioning is effective in motivating adults to learn reading skills.

Mr. President, I am proud to have sponsored both the Americans With Disabilities Act and Senate Resolution 13, which called for closed captioning of Senate proceedings. I know all my colleagues join me and Senator MITCHELL today in recognizing this milestone, which removes another barrier to fulfilling the promise of the Americans With Disabilities Act.

By opening this important window on our democratic process, we are taking action to ensure that the world's greatest deliberative body is also the world's most accessible legislative body.

EXTENSION OF TAX CODE PROVISIONS

Mr. DOLE. Mr. President, I certainly agree with my colleagues, particularly my colleague from Missouri, Senator DANFORTH, with reference to economic stability, and what we might do between now and the time we recess.

The Senator from Missouri has made a very cogent case that we ought to extend expiring provisions of the Tax Code which offers certain tax incentives to a number of different groups around the country. I certainly do not disagree, and I know he is making a valiant effort. I know there are 70-some, 76 or 79, Senators now bringing that bill to the floor to extend all of these so-called expiring provisions, and that they will forgo offering any other amendments.

We have to remember, this has to originate in the House. It is a revenue bill. It would have to originate there—plus, we have to pay for it.

I understand the Senator from Missouri. There are a number of ways they can find to pay for it. I can tell you, having just dealt with extended benefits for the unemployed, that paying for things is not easy. Given the difficulty of bringing a tax bill to the floor, I think, rather than have all the extenders out there, maybe we ought to pick out the most important ones.

I have to believe that the country would still survive if all of these were not extended; if some were eliminated totally. We are looking at all the spending provisions. Why should we not look at some of the tax provisions that cost the American taxpayer money, too? Certainly, the R&D credit should be extended. I think low-income housing—though I must say I think there are some who question the benefits of the low-income housing credit—certainly helps a lot of people up the ladder. I am not certain it would help those at the bottom of the ladder.

I think we need to take a look at some of these provisions. I will not list them all. I would certainly strongly urge the extension of the 25-percent health care deduction for the self-employed. It is very, very important. Without it, many simply will go without health insurance which is going to add to the crisis.

So I will just suggest, without going down the list of all 12 of these expiring provisions, that somebody can probably make a case for every one of them. But can we make a good case for every one of them? It seems to me, in this time of tight money when we do not have much flexibility, that we ought to try to limit our tax spending, just as we limit other spending.

Someone should take a hard look at these expiring provisions. We sort of extend them automatically, year after year, without thinking much about it. That is why when we add up the Federal deficit it is now $3½ trillion, because nobody ever takes a look. We figure, well, some special-interest groups want this extension, so we ought to extend it. My view is we ought to take a look, and we ought to try to find out which ones are necessary and which ones do not really serve any useful purpose, but are there primarily because some special-interest group has made a case and then asked Congress to extend that provision year after year after year.

CREDIT CARD RATE CAP

Mr. DOLE. Mr. President, I will comment on a matter that has been in the news over the weekend. That is the so-called credit card rate cap. I know there has been a lot of gnashing of teeth and a lot of bankers have been calling in—some probably with justification—some big banks saying they may go out of business; they have to fold up the bank.

A lot of that probably is scare tactics, but there may be a certain amount of truth. And probably Congress should not try to involve itself in the marketplace. I must say, I think there were a number of votes cast for this credit card rate cap sort of to send some of the bigger banks the signal to help us get together a banking bill.

Let us start being part of the solution instead of part of the problem. I think banking legislation is very important. We may be in the last week of the session this year. I think we need to know that we are going to have some help from the American Bankers Association and others in putting together a responsible banking reform package.

So I would say that some of the votes, some of the 74 votes cast in favor of the amendment, were to send signals to those who were all over the lot on banking legislation, to kind of try to come together and try to help the Secretary of the Treasury, Secretary Brady, the administration, and the legislative leaders on both sides of the aisle to put together banking reform legislation that is meaningful and will help the American consumer, the banking community, and the business community; and help in what little way it can to pick up the recovery.

There are some alternatives to the amendment that was adopted. Those may be offered today, or sometime later. We will be speaking more about alternatives to the amendment adopted last week by a vote of 74 to 19.

Those of us who voted for that amendment are not trying to do in banks; we are not trying to do in consumers. But I must say, a lot of us—maybe not experts in the matter—wonder why they just send credit cards out like coupons all over America. Just send them out; maybe somebody will use the credit card, and somebody else has to come along and pay high interest rates on their credit card purchases to take care of big losses.

There has to be some way to encourage these big banks to at least check on somebody's creditworthiness before sending out credit cards, which they can then use to go in and buy merchandise, whatever the limit may be. They can use the card up to that limit, and then they do not pay. Somebody else has to pick up the tab.

It seems to me it is not very good business, though I understand the banks make a pretty good profit in this business. Some of us want to work with the administration. Maybe there should not be legislation; maybe there should not be a mandate.

So let us all get together to figure out something where the banking community can help us get a banking reform bill, and we can help them get some more flexibility in setting bank credit card interest rates.

Mr. President, I yield the floor.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER (Mr. REID). The Senator from Idaho.

CONFEREES ON THE GUN BILL

Mr. SYMMS. Mr. President, over the past several days, I have objected to the appointment of conferees on the antigun bill approved earlier this year by the Senate.

I have objected to conferencing this bill because I believe what this country needs is crime control, not gun control. Frankly, Mr. President, the Senate version of the legislation would do too much to abrogate the second amendment to the Constitution and too little to place the penalty for violent crime where it belongs: on the criminals.

Mr. President, each year, roughly 20,000 people are murdered in the United States. That means that 55 people will be killed in the United States today. Over two will be killed this hour, one will be killed in the District of Columbia, probably within a few miles of this building or blocks, possibly.

Only a microscopic percentage of these homicides will be committed with the semiautomatic weapons outlawed by this bill—fewer than are committed with "knives or stabbing instruments"; fewer than are committed with "blunt objects" or hands, feet, or other body parts; fewer than are committed by strangulation.

Furthermore, 80 percent of the weapons used in committing homicides will be obtained unlawfully—80 percent. This means that no gun ban, no waiting period, no background check will be effectual in averting these homicides. They buy the guns illegally anyway. It is instructive that the recent increase in the rate of violent crime in three typical non-waiting-period States—Virginia, West Virginia, and Montana—was 51 percent. What happened in the three waiting-period States—New York, Massachusetts, and Connecticut? The crime increase was an incredible 362 percent. In other words, the rate of increase in violent crime in these three waiting-period States was over seven times what it was in the States without waiting periods.

Mr. President, the fact is that the way to control violent crime is not to ban guns, but to arrest and incarcerate criminals. In a 1990 study, the Department of Justice published an elaborate profile of felony defendants in large urban counties. If found that two-thirds of the felony defendants studied had an arrest record. Almost four-fifths of that group had a felony arrest record. Furthermore, one-quarter of all felony defendants had four or more prior felony arrests.

Mr. President, it does not take a rocket scientist to figure out that the way to control crime is to put the criminals in jail and keep them there. Unfortunately, with few exceptions, such as the Symms admendment to impose the death penalty in the District of Columbia, the Senate-passed crime bill would not punish criminals. Rather, it would punish law-abiding gun owners. How is that going to make America a safer place to live, if you punish law-abiding gun owners who might be able to defend themselves from violence and make the streets safer places to live?

Mr. President, I say again that we need a crime bill, but we need an anticrime bill, rather than a procrime bill, which I am afraid the Senate-passed version has become. Therefore, Mr. President, the Senate-passed procrime bill, antigun bill will not be sent to conference during the first session of the 102d Congress if this Senator has anything to say about it.

THE CLEAN AIR ACT AMENDMENTS

Mr. SYMMS. Mr. President, on another subject, I wish to discuss with the Senate this morning what is happening with respect to our economy and, specifically, what is happening to the regulatory side of our economy. A little over a year ago, the Senate passed and the House passed legislation that was signed by the President, the 1990 Clean Air Act Amendments.

Mr. President, I just say that if the Senate, the House, and the White House want to do something to help the economy, maybe they ought to just have a stay of execution of the implementation of the Clean Air Act for 4 or 5 years, because it might do more for the economy than anything we can do with respect to tax cut and so forth.

I want to read a quote from Warren Brookes' column of November 14, 1991:

> Instead of a tax cut, President Bush could do much more for the U.S. economy by suspending implementation of the 1990 Clean Air Act, for one or two years, saving the economy $40 billion a year for little or no loss in benefits. With the auto industry losing $5 billion so far this year, it really ought to be repealed.
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> That point was driven home when nine Eastern States plus the District of Columbia announced they would adopt the more stringent California clean air standards, including tighter tailpipes and forced introduction of alternate fuels and electric cars.

This decision will raise the implementation cost of the Clean Air Act from an estimated $400 per new car to as much as $1,000 and raise fuel costs in those States by 15 percent to 25 percent.

I make these points, Mr. President, not necessarily to say, "I told you so," to my colleagues here in the Senate, but it appears to this Senator that the more this Congress acts, the worse the economy gets.

What kind of things do we do? We continue to impose regulations on the producers of the country that have to generate the wealth so that we can enjoy a good standard of living, so we can take care of the disadvantaged people, so we can have a clean environment. But we literally seem to deny reality and not face reality, Mr. President, when it comes to congressional action.

This is an extremely intrusive bill to the regulatory activities of the country. The overkill that came in the Clean Air Act is all too typical of congressional action. It is just like the fact that we do need bank reform, for example. I happen to be in favor of bank reform, so American banks can once again compete on a worldwide basis on a level playing field. What does the Congress decide to do? Impose congressional mandates into the setting of interest rates on credit cards. How we could come to that conclusion that that would be a wise thing to do is beyond this Senator. Of course, I did not vote for it. Unfortunately, it passed, and it sent a scare through the market—maybe an exaggerated scare.

One wonders how much abuse the capitalist system can take from the Congress imposing these regulations. It is a coercive utopia we live in, thinking that we can impose a utopian standard on the world the way we think it should be, and deny the actions of the marketplace. That is what the issue is about.

Mr. President, I will soon ask unanimous consent to have printed in the RECORD a column by Warren Brookes, "High Costs of Going California," from the November 14, 1991, commentary section of the Washington Times; a second column on November 18, 1991, "Clean Air Act Overkill," where he goes into what happened when Amoco recently closed its Casper, WY, refinery as of December 1 "because it requires substantial capital investment that cannot be justified, given the marginal economic performance of the refinery" to comply with the 1990 Clean Air Act. So the people that live in Casper, WY, just got the shaft. They lost 210 jobs and $10 million a year from some 50 area gas stations who have to look for other sources of employment and fuel, because while "Amoco is committed to protecting the environment," to comply with the law, those folks are just left out.

It is interesting, if you read the risk assessment, what it costs to close a plant like that. It ends up costing the economy more than a substantial percentage of what we spend at the National Institutes of Health doing cancer research. The risks are only one cancer more that might have come from that plant, theoretical risk for the likely cost of the Clean Air Act, 331 theoretical cancer risks and we cannot provide basic health insurance for all uninsured Americans.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, Nov. 14, 1991]

HIGH COSTS OF GOING CALIFORNIA

(By Warren Brookes)

Instead of a tax cut, President Bush could do much more for the U.S. economy by suspending implementation of the 1990 Clean Air Act, for one or two years, saving the economy $40 billion a year for little or no loss in benefits. With the auto industry losing $5 billion so far this year, it really ought to be repealed.

That point was driven home when nine Eastern states plus the District of Columbia announced they would adopt the more stringent California clean air standards, including tighter tailpipes and forced introduction of alternative fuels and electric cars.

This decision will raise the implementation cost of the Clean Air Act from an estimated $400 per new car to as much as $1,000 and raise fuel costs in those states by 15 percent to 25 percent.

This might be worth it if there were really significant potential gains. There aren't. When you examine the *actual* ozone exceedance data for 1989 through 1991 (the most recent three-year period), not only does "going California" look ludicrous, the entire $12 billion ozone non-attainment section of the Clean Air Act looks insane. Sadly, the Environmental Protection Agency is still scaring states by issuing obsolete 1987–89 averages that wildly overstate current reality. (See Table.)

In the 1989–91 period, six of the 10 "going-California" states (counting D.C.) had one exceedance day or less per year, meaning they were in *full compliance*. The other four averaged five days a year and were thus in compliance 98.6 percent of the days. Even New York City had an average seven days exceedance, a 98.1 percent compliance rate. The EPA still rates it "severe."

By comparison, Los Angeles averaged 121 days a year of ozone exceedances and was in compliance less than 70 percent of the time. This means using California standards to deal with infinitesimal Northeast smog levels is like preparing a Mount Everest expedition to climb the San Francisco hills (particularly when California's own South Coast Air Quality Management District is already easing its own rules for economic reasons).

More important, in the East, the National Oceanographic and Atmospheric Administration estimates more than 60 percent of ozone precursors are natural hydrocarbons (trees etc.). And since auto volatile organic compounds only account for 30 percent of total volatile organic compounds, and new cars only 3 percent of total autos, a 10 percent to 15 percent reduction in new auto emissions cuts total smog precursors only 1 percent. With up to $1,000 higher costs per new car, that could leave more dirty, older cars on the road.

A recent Unocal study shows 1970 vintage cars emit 24.8 grams of hydrocarbons per mile, 1975 cars 8 gpm, current new cars only 0.4 gpm. That's why enhanced inspection and maintenance is the lowest-cost way of cutting emissions, $600 per ton compared with up to $50,000 per ton for "clean fuels."

Indeed, 75 percent of the added emissions reductions claimed for California controls in a study by the Northeast States For Coordinated Air Use Management come from enhanced inspection and maintenance.

But politicians don't like inspection and maintenance because it increases state government costs and makes voters mad. That's why most of the 10 states "going California" have skipped inspection and maintenance and will adopt only those things that can be passed back to the oil and auto industries (and then on to us). But this produces only a net five-hundredths of a gram per mile improvement over the Clean Air Act, a minuscule gain.

Worse, EPA is hyping this process by withholding valuable information about the actual trends in surface ozone in U.S. cities that show the 1988 data (on which the 1990 Clean Air Act was based) were so anomalous as to be fundamentally deceptive.

In 1988, there were 925 ozone exceedances in the top 114 metro areas. In 1989, that plunged to 234, and in 1990 to 286. In the non-California urban areas, the plunge was even more dramatic from 617 exceedances to an average of 122 from 1989 through 1991, from six per city in 1988 to an average of about one from 1989 through 1991, from 85 non-California cities out of compliance to only 22, from 1989 through 1991.

To put it bluntly, the 1988 data were a meteorological fluke that no amount of emissions controls could change. In city after city still listed as "severe" or "serious" ozone exceeders by the EPA, the 1989–91 data show no such dangers. For example, in 1988, Chicago had 16 exceedance days. From 1989 through 1991, it averaged only one.

Newark, with eight days in 1988, fell to one for 1989–91 and is now in compliance. Boston with 10 exceedances in 1988 averaged two for 1989–91. Richmond, Va., with nine in 1988, averaged under one in 1989–91 and is now in compliance. The same holds true for Washington, D.C., St. Louis, Cleveland and Pittsburgh, as all but a handful of cities are now within three days of compliance, which is well within the statistical errors inherent in EPA ozone testing.

In short, suspending the 1990 Clean Air Act would have no measurable effect on human health or the ecology. Indeed, by speeding up new car buying, it could actually produce cleaner air.

[From the Washington Times, Nov. 18, 1991]

CLEAN AIR ACT OVERKILL

(By Warren Brookes)

On Oct. 3, the Amoco Oil Co. announced it would close its Casper, Wyo., refinery on or about Dec. 1, "because it requires substantial capital investment that cannot be justified, given the marginal economic performance of the refinery in recent years."

The company said compliance with the 1990 Clean Air Act amendments, added to other environmental requirements under the Resource Conservation and Recovery Act and the Clean Water Act, would cost an estimated $150 million for a plant whose present value is only about $25 million.

So, its 210 employees and some 50 area gasoline stations will have to look for other sources of employment and fuel, because while "Amoco is committed to protecting the environment, the enormous expenditures required make it imperative that we commit our capital to refineries that have a more favorable outlook."

Environmentalists will point out this was a small and economically marginal plant. True, but that is precisely why it is so vulnerable to any major increase in regulatory costs. Indeed, the biggest danger of these costs is not to established corporations, but to smaller, more marginal businesses.

But as one environmentalist said to us casually, "Well, then, maybe they shouldn't be in business, if they can't meet the clean air standards." That argument, as hardhearted as it sounds, would still be acceptable if the ecological and health benefits were sufficient to offset the economic costs. In the case of the Amoco Casper refinery, that's a very hard case to make.

Nationwide, the total regulable risk for all "hazardous air toxics," using the Centers for Disease Control (CDC) exposure models, is about 230 cancer risks. When you add in the regulable risks for petroleum refineries from the Resource Conservation and Recovery Act and the Clean Water Act, that number rises by another 57 to less than 290. This means that the total risk from all such hazardous releases in Wyoming (using a straight population share) comes to about 0.5 cancers every 70 years. Casper's rough share comes to 0.04 cancer risks. Given Casper's tiny industrial density, that undoubtedly *overstates* the danger by at least one order of magnitude (tenfold).

In short, shutting down the Casper refinery, which will cost the Casper economy at least $10 million a year in direct and indirect costs, or bringing it up to compliance (for about the same annualized costs) will generate a cost per cancer risk averted of $2.5 billion, or about one-third more than the entire cancer research budget of the National Institutes of Health.

This is not unusual. The Clean Air Act, contrary to some fatuous claims by Environmental Protection Agency contractors (such as the American Lung Association) has a maximum regulatory risk pool of 1,028 cancers, using the EPA's "wild and crazy" risk models, or 231, using a more realistic, but still very conservative CDC risk model. With an estimated total cost of $40 billion a year, this would produce a cost per cancer risk avoided of $173 million, even if you assumed *total* effectiveness, which no one claims. Realistically, that figure is probably closer to $500 million each.

Costs like that can't really be tolerated even in a booming economy, let alone one that is plunging over a cliff. Yet, an analysis done in 1989 by Dr. Michael Gough, currently the top risk assessor at the congressional Office of Technology Assessment, shows the entire "regulable" risk pool in the EPA's 1989 "Unfinished Business" inventory is about 1,232 cancers.

That includes everything from pesticides on food (300) to all waste sites, hazardous and non-hazardous, active and inactive (516) to hazardous toxic air (231). Since the nation now has about 500,000 cancer deaths a year, even if we were somehow able to avert all of these risks, we would only cut the nation's cancer death rate—at the most—by about two-tenths of 1 percent.

No one knows the cost of such an undertaking, but if other laws are no more cost-effective than the 1990 Clean Air Act, the cost could be an additional $200 billion over and above the $115 billion we now spend, which in turn is 2.4 times as much as our competitors spend as a share of gross national product.

Now, with the risk models on dioxin, polychlorinated biphenyls (known as PCBs), polybrominated biphenyls (PBBs), and other substances listed among Clean Air toxic targets proving to be vastly overstated, those costs are likely to be even more ludicrously out of line with any economic or ecological realism.

Indeed, for the likely cost of the Clean Air Act and its 231 theoretical cancer risks, we could provide basic health insurance for all 35 million uninsured Americans or, in the short run, working capital for at least 1 million jobs, not to mention all the jobs we are losing in marginal plants like Amoco, Casper.

Since the adoption of the Draconian standards set by the South Coast Air Quality Management District, the state has hemorrhaged more than 3,000 businesses to other states, forcing South Coast Air Quality Management District to announce on Nov. 7 that it was easing its rules.

House Energy and Commerce Chairman John Dingell, Michigan Democrat, should give the U.S. economy a real "tax cut" and start the repeal or suspension of President Bush's disastrous 1990 Clean Air Act amendments.

Mr. SYMMS. I ask unanimous consent that an indepth study on the "Impact of Environmental Legislation on U.S. Economic Growth, Investment, and Capital Costs," by Dale W. Jorgenson and Peter Wilcoxen and their supportive bibliographies and references be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPACT OF ENVIRONMENTAL LEGISLATION ON U.S. ECONOMIC GROWTH, INVESTMENT, AND CAPITAL COSTS

(By Dale W. Jorgenson and Peter J. Wilcoxen)

1. INTRODUCTION

The Clean Air Act Amendments of 1990 have inaugurated a new era in environmental legislation in the United States. This landmark legislation includes new regulations in the following five areas:

1. Nonattainment areas

Title I of the legislation extends deadlines and specifies control technologies for areas that have failed to comply with existing regulations on ozone, carbon monoxide, oxides of nitrogen, and particulates.

2. Mobile sources

Title II requires the reformulation of gasoline, mandates the introduction of special oxygenated fuels in certain areas, and changes emissions regulations.

3. Air toxics

Title III regulates the emission of toxic substances into the atmosphere. Most of these substances have not been subjected to previous environmental regulations.

4. Acid rain

Title IV provides market permits for the emission of sulfur dioxide and provides regulation of emissions of oxides of nitrogen.

5. Stratospheric ozone

Title IV implements the Montreal Protocol, an international agreement that provides for the elimination of CFC's (chlorofluoro-hydrocarbons).

Pollution control legislation began in earnest in the United States in 1965, when amendments to the Clean Air Act set national automobile emissions standards for the first time. The extent of regulation increased dramatically in 1970 with the passage of the National Environmental Policy Act and amendments to the Clean Air Act. In 1972 the Clean Water Act was passed and revisions to this Act and the Clean Air Act were adopted in 1977.[1] The consequence of this legislation was large and abrupt shift of economic resources toward pollution abatement.

The purpose of this paper is to quantify the impact of the Clean Air Act Amendments of 1990 and previous environmental legislation at the federal level on U.S. economic growth. We analyze the impact of environmental regulation by simulating the long term growth of the U.S. economy with and without regulation. For this purpose we have constructed a detailed model of the economy that includes the determinants of long run growth. Before considering the impact of specific pollution controls we present a brief overview of the model in Section 2. We focus on the impact of these controls on the cost of capital and the rate of capital and the rate of capital formation.

The possible responses of producers of new environmental regulations fall into three categories—substitution of less polluting inputs for more polluting ones, investment in pollution abatement devices to clean up wastes, and changes in production processes to reduce emissions. Switching toward cleaner inputs in the least disruptive of these responses, since it does not require a re-organization of the production process. A prime example is the substitution of low-sulfur coal for high-sulfur coal by electric utilities during the 1970's to comply with restrictions on sulfur dioxide emissions. Another important example is the shift from leaded to unleaded fuels for the purpose of cleaning up motor vehicle emissions.

The second response to emissions controls is the use of special devices to treat wastes after they have been generated. This is commonly known as end-of-pipe abatement and is frequently the method of choice for retrofitting existing facilities to meet newly imposed environmental standards. A typical example is the use of electrostatic precipitators to reduce emission of particulates from combustion. Regulations promulgated in the United States by the Environmental Protection Agency effectively encourage the use of this approach by setting standards for emissions on the basis of "best available technology".

Process changes involve redesigning production methods to reduce emissions. An example is the introduction of fluidized bed technology for combustion, which results in reduced emissions. Gollup and Roberts (1983) have constructed a detailed econometric model of electric utility firms, based on a cost function that incorporates the impact of environmental regulation on the cost of producing electricity and the rate of productivity growth. They conclude that annual productivity growth of electric utilities impacted by more restrictive emissions controls declined by .59 percentage points over the period 1974–1979. This is the result of switching technologies to meet new standards for sulfur dioxide emissions.

In section 3 we show that pollution abatement had emerged as a major claimant on the resources of the U.S. economy well before the Clean Air Act Amendments of 1990. The long run cost of environmental regulations enacted prior to 1990 was a reduction of

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Footnotes at end of article.

2.59 percent in the level of the U.S. gross national product. This is more than ten percent of the share of total government purchases of goods and services in the national product during the period 1973–1985. Over this period the annual growth rate of the U.S. economy has been reduced by .191 percent. This is several times the reduction in growth estimated in previous studies.

Since the stringency of pollution control differs substantially among industries, we have also assessed the impact of environmental regulations on individual industries. We have analyzed the interactions among industries in order to quantify the full repercussions of these regulations. We find that pollution controls have had their most pronounced effects on chemicals, coal mining, motor vehicles, and primary processing industries—such as petroleum refining primary metals, and pulp and paper. For example, we find that the long run output of the automobile industry has been reduced by fifteen percent, mainly as a consequence of motor vehicle emission controls.

In section 4 we turn our attention to the economic impact of the Clean Air Act Amendments of 1990. Our analysis of the impact of earlier legislation incorporates detailed data from the Bureau of the Census on costs of compliance by businesses and households. To assess these costs for the 1990 Act we employ a preliminary set of estimates of costs for the year 2005 prepared by the Environmental Protection Agency (1991). The new legislation will be phased in gradually over fifteen years, so that these estimates reflect the costs of compliance after the new regulations are fully effective.

We estimate that the level of the U.S. gross national product will be reduced by an additional four-tenths of a percentage point by the year 2005 as a consequence of the burden on the economy imposed by the 1990 legislation. This burden will rise to almost half a percent of the national product by the year 2020, when the impact of the legislation on the growth of the U.S. economy will be complete. Although our estimates of impacts on individual industries are necessarily imprecise, it is already apparent that electric utilities and primary metals industries will be hard hit by the new legislation and that many other industries will bear a substantial additional burden as a consequence of the 1990 Act.

2. AN OVERVIEW OF THE MODEL

The purpose of our model of the U.S. economy is to analyze the impact of changes in environmental policy by simulating the long term growth of the economy with and without regulation. We begin by dividing the U.S. economy into business, household, government, and rest of the world sectors. Since environmental regulations differ substantially among industries, we sub-divide the business sector into the thirty-industries listed in Table 2.1. Each industry produces a primary product and many industries also produce one or more secondary products. Thirty-five commodity groups are represented in our model, each corresponding to the primary product of one of the industries listed in Table 2.1.

TABLE 2.1.—THE DEFINITIONS OF INDUSTRIES

Number	Description
1	Agriculture, forestry, and fisheries.
2	Metal mining.
3	Coal mining.
4	Crude petroleum and natural gas.
5	Nonmetallic mineral mining.
6	Construction.
7	Food and kindred products.
8	Tobacco manufactures.
9	Textile mill products.
10	Apparel and other textile products.
11	Lumber and wood products.
12	Furniture and fixtures.
13	Paper and allied products.
14	Printing and publishing.
15	Chemicals and allied products.
16	Petroleum refining.
17	Rubber and plastic products.
18	Leather and leather products.
19	Stone, clay, and glass products.
20	Primary metals.
21	Fabricated metal products.
22	Machinery, except electrical.
23	Electrical machinery.
24	Motor vehicles.
25	Other transportation equipment.
26	Instruments.
27	Miscellaneous manufacturing.
28	Transportation and warehousing.
29	Communication.
30	Electric utilities.
31	Gas utilities.
32	Trade.
33	Finance, insurance, and real estate.
34	Other services.
35	Government enterprises.

The total supply of each commodity group is provided by domestic production and imports from the rest of the world. This supply is divided between intermediate and final demands. Intermediate demands are inputs of the commodity into all thirty-five industries. Final demands include expenditures by the household and government sectors for consumption, purchases by the business and household sectors for investment, and exports to the rest of the world. Each industry utilizes inputs of capital and labor services and these services are also allocated to final demands. Noncompeting imports, commodities that are not produced domestically, are allocated in the same way as capital and labor services.

To implement our model we have constructed a consistent time series of inter-industry transactions tables for the U.S. economy, covering the period 1947–1985 on an annual basis.[2] These tables provide detailed information on production by each of the thirty-five industries in current and constant prices. The quantities of each commodity, including primary factors of production and noncompeting imports, are allocated to intermediate and final demands in a "use" table. The quantities of all commodities made by each industry are given in a "make" table. The "use" and "make" tables are presented diagrammatically in Figures 2.1 and 2.2; Table 2.2 provides definitions of the variables that occur in both tables.

[Figures 2.1 and 2.2 not reproducible in the RECORD.]

TABLE 2.2—MAKE AND USE TABLE VARIABLES

Category and variable	Description
Industry-Commodity Flows:	
U	Commodities Used by Industries (use table).
M	Commodities Made by Industries (make table).
Final Demand Columns:	
C	Personal Consumption.
I	Gross Private Domestic Investment.
G	Government Spending.
X	Exports.
M	Imports.
Value Added Rows:	
N	Noncompeting Imports.
K	Capital.
L	Labor.
T	Net Taxes.
R	Rest of the World.
Commodity and Industry Output:	
O	Commodity Output.
D	Industry Output.
Other Variables:	
B	Value Added Sold Directly to Final Demand.
V	Total Value Added.
F	Total Final Demand.

2.1. Producer behavior

The first problem in modeling producer behavior is to represent substitution among inputs. For this purpose we have constructed econometric models of demands for all inputs by each industry. We have identified inputs of capital and energy separately, since environmental regulations often require the use of specific types of equipment or restrict the combustion of certain types of fuels. For example, a restriction in sulfur dioxide emissions may require the substitution of low-sulfur for high-sulfur fuel. Similarly, regulations on particulate emissions may necessitate the use of an electrostatic precipitator, which requires additional capital inputs.

The econometric approach to modeling producer behavior is very demanding in terms of data requirements.[3] An alternative approach is to characterize substitution among inputs by calibration from a single data point. The ratio of the input of each commodity to the output of an industry is calculated from a single "use" table, like the one presented in Figure 2.1. Often, the possibility of substitution among intermediate goods, such as energy and materials, is ruled out by assumption.

A high degree of substitutability among inputs implies that the cost of environmental regulation is low, while a low degree of substitutability implies high costs of environmental regulations. Although a calibration approach avoids the burden of estimation, it also specifies the nature of substitutability among inputs by assumption rather than relying on empirical evidence. This defeats the main purpose of modeling the impact of environmental policy. We conclude that empirical evidence on substitutability among inputs is essential in analyzing the impact of environmental regulations.

The most important mechanisms for control of environmental pollution are to induce substitution away from polluting inputs and require pollution abatement. These measures can affect the rate of productivity growth in an industry. If the level of productivity in an industry increases, the price of the output of the industry will fall relative to the prices of its inputs, while a decrease in the industry's productivity level will result in a rise in the price of its output relative to its input prices. Our models of producer behavior endogenize productivity growth by representing the rate of productivity growth in each industry as a function of the prices of all its inputs.[4]

Our econometric models of producer behavior allocate the value of the output of each industry among the inputs of the thirty-five commodity groups, capital services, labor services, and noncompeting imports. Inputs of the thirty-five commodities into each industry are given in the columns denoted U in the "use" table presented in Figure 2.1. Inputs of capital and labor services and noncompeting imports into all industries are given in the rows denoted K, L and N in the "use" table. The remaining rows of this table give indirect taxes paid by all industries and inputs of factor services from the rest of the world into these industries.

The sum of all entries in each column of the "use" table is the value of the output of the corresponding industry. This output includes a primary product and, possibly, one or more secondary products. We model the shares of all industries that produce a given commodity in the value of the total domestic production of that commodity as functions of the output prices of these industries. We use these value shares to allocate the domestic supply of each commodity among the industries that produce it. This allocation is given in the columns of the "make" table in Figure 2.2. Similarly, we model the value shares of imports and domestic production of each commodity and employ these shares in generating the imports of each commodity in the column denoted M in the "use" table, Figure 2.1.[5]

In our model of the U.S. economy there is a single stock of capital that is allocated among all sectors, including the household sector. The supply of capital available in each period is the result of past investment. This relationship is represented in an accumulation equation that gives capital at the end of each period as a function of investment during the period and capital at the beginning of the period. This equation is backward-looking and captures the impact of investments in all past periods on the capital available in the current period. We assume that capital is perfectly malleable and mobile among sectors, so that the price of capital services in each sector is proportional to a single capital service price for the economy as a whole. The value of capital services is equal to capital income.

Our model of producer behavior includes an equation giving the price of capital services in terms of the price of investment goods at the beginning and end of each period, the rate of return to capital for the economy as a whole, the rate of depreciation, and variables describing the tax structure for income from capital. The current price of investment goods incorporates expectations about all future prices of capital services and all future discount rates.[6] Our model of the U.S. economy includes this forward-looking relationship for the price of investment goods in each time period. The price of capital services determined by the model enters into the price of investment goods through the assumption of perfect foresight or rational expectations. Under this assumption the price of investment goods in every period is based on expectations of future capital service prices and discount rates that are fulfilled by the solution of the model.

The final demands for commodity groups in our model include purchases by the business and household sectors for investment purposes. The final set of behavioral equations in our model of producer behavior is a system of demand functions for investment goods. We model the value shares all commodities accumulated by the business and household sectors—including producers' and consumers' durable, residential and nonresidential structures, and inventions—as functions of the prices of these commodities. The shares are used to allocate the value of investment goods among commodity groups, as in the column denoted I in the "use" table, Figure 2.1.

2.2. Consumer behavior

An important objective of environmental regulation is to induce the substitution of nonpolluting products for polluting ones. This substitution can take place within the household sector as well as the business sector. For example, regulations on exhaust emissions of motor vehicles affect household demands for vehicles and motor fuel. The first problem in modeling consumer behavior is to represent substitution among commodities that are purchased by households. For this purpose we have constructed an econometric model of demands for individual commodities by the household sector. As in our models of producer behavior, we identify purchases of energy and capital services separately, since these commodity groups are directly affected by environmental regulation.[7]

Our model of consumer behavior allocates personal consumption expenditures among the thirty-five commodity groups included in our model of the U.S. economy, capital and labor services, and noncompeting imports. The allocation to individual commodities is given in the column denoted C in the "use" table, Figure 2.1. Our model of personal consumption expenditures can be used to represent the behavior of individual households, as in the studies of regulatory policy by Jorgenson and Slesnick (1985). Here we employ the model to represent aggregate consumer behavior in simulations of the U.S. economy under alternative policies for environmental regulation. For this purpose we imbed this model of personal consumption expenditures into a higher-level model that determines consumer choices between labor and leisure and between consumption and saving.

The second stage of our model of the household sector is based on the concept of full consumption, which is composed of goods and services and leisure time. We simplify the representation of household preferences between goods and leisure by introducing the notion of a representative consumer. In each time period the representative consumer allocates the value of full consumption between personal consumption expenditures and leisure time.[8] This produces an allocation of the exogenously given time endowment between leisure time and the labor market. Labor market time is allocated among the thirty-five industries represented in the model and final demands for personal consumption expenditures and government consumption. We assume that labor is perfectly mobile among sectors, so that the price of labor services in each is proportional to a single wage rate for the economy as a whole. The value of time allocated to the labor market is equal to labor income.

The third and final stage of our model of the household sector is a model of intertemporal consumer behavior. We describe intertemporal preferences by means of a utility function for a representative consumer that depends on levels of full consumption in current and future time periods. The representative consumer maximizes this utility function, subject to an intertemporal budget constraint. The budget constraint gives full wealth as the discounted value of current and future full consumption. The necessary conditions for a maximum of the utility function, subject to the budget constraint, can be expressed in the form of an Euler equation, giving the rate of growth of full consumption as a function of the discount rate and the rate of growth of the price of full consumption.[9]

The Euler equation for full consumption is forward-looking, so that the current level of full consumption incorporates expectations about future prices of full consumption and future discount rates. The solution of our model includes this forward-looking relationship for full consumption in each time period. The price of full consumption determined by the model enters full consumption through the assumption of perfect foresight or rational expectations. Under this assumption full consumption in every period is based on expectations about future prices of full consumption and discount rates that are fulfilled by the solution of the model.

2.3. Solution of the model

We conclude this overview by outlining the solution of our model of the U.S. economy. An intertemporal sub-model incorporates backward-looking and forward-looking equations that determine time paths of capital stock and full consumption. Given the values of these variables, an intratemporal sub-model determines prices that balance demand and supply in each time period for the thirty-five commodity groups included in the model, capital services, and labor services. These two sub-models must be solved simultaneously to obtain a complete solution of the model.

The dynamics of adjustment of changes in environmental policy are determined by the intertemporal features our model of the U.S. economy. For example, investment in equipment for pollution abatement has been a very substantial proportion of investment in producers' durable equipment during parts of our sample period, 1947–1985. This mandated investment has increased the price of investment goods, requiring adjustments of capital service prices and discount rates over the whole future time path of the economy. Reductions in investment for capital accumulation have reduced the capital available for production in subsequent time periods.

To construct a solution to our model of the U.S. economy we first require values of all the exogenous variables. These variables are set equal to their historical values for the sample period, 1947–1985. We project all the exogenous variables for the post-sample period, 1986–2050, and take these variables to be constant at their 2050 values through the year 2100. The exogenous variables are held constant over the period 2050–2100 to allow sufficient time for the endogenous variables determined by the model to converge to their steady state values.

The most important exogenous variables in our model of the U.S. economy are those associated with the U.S. population and the corresponding time endowment. We project population by individual year of age, individual year of educational attainment, and sex to the year 2050, using demographic assumptions that result in a maximum population in that year.[10] In projecting future levels of educational attainment we assume that future demographic cohorts will have the same level of attainment as the cohort reaching age 35 in the year 1985. We transform our population projection into a projection of the time endowment used in our model of the labor market by assuming that the relative wages are constant at 1985 levels.

The size of the economy corresponding to the steady state of our model is effectively determined by the time endowment. Capital stock adjusts to this time endowment, while the rate of return depends only on the intertemporal preferences of the household sector. In this sense the supply of capital is perfectly elastic in the long run. It is useful to contrast the behavior of our model with that of a neo-classical growth model of the Cass-Koopmans type.[11] For example, the rate of return in the stationary solution of our model is independent of environmental policy, just as in a one-sector neo-classical growth model. However, different policies result in different levels of capital intensity—all corresponding to the same rate of return. This is impossible in a one-sector model.

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[8] The price of leisure time is equal to the market wage rate, reduced by the marginal tax rate on labor income, which is the opportunity cost of foregone labor income. The price of personal consumption expenditures is a cost of living index, generated from the first stage of our model of consumer behavior. This cost of living index is discussed by Jorgenson and Slesnick (1983).

[9] The Euler equation approach to modeling intertemporal consumer behavior was originated by Hall (1978). Our application of this approach to full consumption follows Jorgenson and Yun (1986).

In the short run the supply of capital in our model of the U.S. economy is perfectly inelastic, since it is completely determined by past investment. Under our assumption of perfect mobility of capital and labor, changes in environmental policy can affect the distribution of capital and labor supplies among sectors, even in the short run. The transition path for the economy depends on environmental policy. It also depends on the time path of variables that are exogenous to the model. If the initial wealth of the economy is low relative to the time endowment, the rate of return will exceed the stationary rate of return. This will induce the representative consumer to postpone consumption of goods and leisure into the future, so that the rate of capital accumulation will be positive. Conversely, if the initial wealth of the economy is sufficiently high relative to the time endowment, the rate of capital accumulation will be negative.

3. THE IMPACT OF ENVIRONMENTAL LEGISLATION ENACTED BEFORE 1990

Our next objective is to assess the impact of environmental regulation by projecting the growth of the U.S. economy with and without regulation. The base case for our simulations is a regime with pollution controls embodied in legislation enacted before 1990 in effect. To determine the impact of these environmental restrictions on economic activity, we simulate U.S. economic growth in the absence of regulation. We perform separate simulations to assess the impact of pollution control in industry and controls on motor vehicle emissions, which also affect the consumption behavior of households. We then estimate the overall impact of environmental regulation by eliminating both types of pollution control.

Simulations of the U.S. economy in which pollution controls are removed differ from the base case in the steady state, the initial equilibrium, and the transition path between the two. Since capital stock is endogenous in our model, the new steady state corresponds to the long run impact of environmental regulation on the U.S. economy. The initial equilibrium with capital stock fixed gives the short run impact of a change in environmental policy. Since agents in the model are endowed with perfect foresight, this initial equilibrium reflects changes along the entire time path of future regulatory policy. Finally, the transition path between the initial equilibrium and the steady state traces out the dynamics of the adjustment of the economy to a new policy for environmental regulation.

In presenting the results of our simulations of U.S. economic growth we begin by quantifying the impact of pollution controls on production costs. We then incorporate the changes in costs into our model of the U.S. economy. We first consider the impact of environmental regulations on the steady state of the economy. For this purpose we focus attention on a few key variables. Capital stock determines the production capacity of the economy, since the time endowment is given exogenously. Full consumption is a measure of the goods and services and leisure time available to the household sector. The level of the gross national product is an overall measure of the output of the economy, including private and public consumption, investment, and net exports to the rest of the world. Finally, the exchange rate is an indicator of the international competitiveness of the U.S. economy.

The second step in our analysis of the impact of environmental regulation is to analyze the transition path of the U.S. economy from the initial equilibrium to the new steady state. We describe the time path of capital stock as the most important indicator of the process of economic adjustment to a change in environmental policy. The price of investment goods is an important determinant of the time path of capital stock, since it incorporates expectations about future prices of capital services and discount rates. The rental price of capital services also reflects the rate of return, which is critical to the allocation of the national income between consumption and savings. We employ the time paths of capital stock, the price of investment goods, the price of capital services, and the level of GNP in describing the adjustment process.

3.1. Operating costs

We have used data collected by the Bureau of the Census (various annual issues) to estimate investment in pollution abatement equipment and operating costs of pollution control activities for manufacturing industries.[12] The investment data give capital expenditures on pollution abatement equipment in current prices, while data on operating costs give current outlays attributable to pollution control. These are the actual costs reported by the business sector and do not include taxes levied as part of the Superfund program. Taxes amounting to more than a billion dollars a year were placed on the petroleum refining and chemicals industries in 1981 and the primary metals industry in 1986. These may have had a substantial impact on U.S. economic growth, but we do not examine their consequences in this paper.

[Figure 3.1 not reproducible in the RECORD.]

Figure 3.1 summarizes the share of pollution abatement in industry costs, the share of individual industries in total abatement costs, and the share of abatement devices in industry investment for the manufacturing industries. Inspection of the first panel shows that pollution control expenses form only a small part of total costs for individual industries. The largest share is for the primary metals industry at slightly more than two percent. Second, the expenses for pollution abatement are concentrated in a relatively small number of industries. Three sectors—chemicals, petroleum refining, and primary metals—account for fifty-five percent of total spending. Third, investment in pollution abatement equipment consumes more than twenty percent of total investment for paper and pulp, petroleum refining, and primary metals industries.

Our first step in eliminating the operating costs of pollution control is to estimate the share of pollution abatement in the total costs of each industry. The 1983 cost shares are a maximum for the period, 1973–1983, since pollution controls have increased steadily over the period. We assume that shares for later years are constant at the 1983 values. Data for industries outside manufacturing were available only for electric utilities and wastewater treatment, which is part of the services industry. For both industries, data on operating costs and investment expenditures for pollution abatement have been compiled by the Bureau of Economic Analysis. We have estimated the proportion of operating costs devoted to pollution abatement for these industries.[13]

Additional information on the impact of environmental regulation on costs is available for electric utilities, namely, the extra costs of burning low-sulfur fuels. Switching from high-sulfur to low-sulfur coal changes the relative proportions of the two products in the output of the coal industry. Since low-sulfur coal is more expensive, this increases the price of coal. Eliminating regulations on sulfur emissions would lower the price of coal by permitting substitution toward high-sulfur grades. We model the impact of lifting these emissions controls by subtracting the differential between high cost and low cost coal from the costs of coal production.[14] Including the coal industry, a total of twenty industries is subject to pollution abatement regulations.

The long run impact of eliminating the operating costs of pollution abatement is summarized in the column labeled ENV in Table 3.1. The output of the economy, as measured by the real gross national product, is raised by .728 percent.

TABLE 3.2.—THE EFFECTS OF REMOVING ENVIRONMENTAL REGULATION

Variable	Percentage change in steady state			
	ENV	INV	MV	ALL
Capital stock	0.544	2.266	1.118	3.792
Price of investment goods	−.897	−2.652	−1.323	−4.520
Full consumption	.278	.489	.282	.975
Real GNP	.728	1.290	.752	2.592
Rental price of capital	−.907	−2.730	−1.358	−4.635
Exchange rate	−.703	−.462	−.392	−1.298

The capital stock rises by .544 percent. Since our model of the U.S. economy has a perfectly elastic supply of savings in the long run, the rate of return is unaffected by regulation. However, the price of investment goods, which also reflects capital service prices, falls by .897 percent. The price of capital services declines by .907 percent, almost the same as the price of investment goods. The resulting decrease in the prices of goods and services produces a rise in full consumption of .278 percent. This increase is less than that of the national product, since full consumption includes leisure time as well as personal consumption expenditures. Finally, the exchange rate, which gives the domestic cost of foreign goods, falls slightly, indicating an increase in the international competitiveness of the U.S. economy.[15]

The long run effects of eliminating operating costs associated with pollution abatement on the prices and outputs of individual industries are shown in Figure 3.2.

[Figure 3.2 not reproducible in the RECORD.]

The bars in the first panel indicate the percentage change in the steady output price of the corresponding industry. The bars in the second panel give percentage changes in industry output levels. Not surprisingly, the principal beneficiaries of the elimination of operating costs are the most heavily regulated industries. The greatest expansion of output occurs in coal production, since the fuel cost differential between low-sulfur and high-sulfur coal is large relative to the total costs of the coal industry. Turning to manufacturing industries, the primary metals, paper, and chemicals industries have the largest gains in output from the elimination of operating costs for pollution abatement. Several other sectors benefit from the removal of operating costs of pollution abatement, but the impact is fairly modest.

We have now summarized the long run impact of eliminating operating costs associated with pollution controls in industry. In Figure 3.3 we analyze the dynamics of the process of adjustment to lower costs.

[Figure 3.3 not reproducible in the RECORD.]

After 1973 the price of investment goods falls slowly, reflecting the gradual price decline brought about by the elimination of operating costs associated with increasingly stringent regulations. Lower costs of investment goods tend to increase the rate of return, stimulate savings, and produce more rapid capital accumulation. Additional capital eventually brings down the rental price of capital, lowering costs still further. Finally, the quantity of full consumption rises rapidly to the new steady state level and remains there.

The transition from the short run to the steady state is relatively slow, requiring almost three decades for capital stock and the price of capital services to adjust fully to the change in environmental policy. The graph of capital stock shows that the process of adjustment is not complete until the year 2000. This reflects the nature of our simulation experiment. The regulations are imposed gradually, so that their removal is also gradual. On the other hand, full consumption attains its final value more quickly as a consequence of intertemporal optimization by households under perfect foresight. Since income is permanently higher in the future, consumption rises in anticipation. However, the rise of consumption is dampened by an increase in the rate of return that produces greater investment.

3.2. Investment in pollution control equipment

The most important impact of environmental regulation for some industries is the imposition of requirements for investment in costly new equipment for pollution abatement. Investment in pollution control devices crowds out investment for capital accumulation, further reducing the rate of economic growth. Our second simulation of U.S. economic growth is designed to assess the impact of investment for pollution control. An examination of the data on investment presented in Figure 3.1 reveals several striking features. First, the paper, petroleum refining, and primary metals industries each spent more than twenty percent of their total investment on pollution control devices in 1975. Some other sectors were not far behind and the overall share of this investment in total gross private domestic investment was substantial.

The share of investment for pollution abatement rose to a peak in the early 1970's and then declined substantially. This can be attributed to the fact that much of the early effort at pollution control was directed at reducing emissions from existing sources by retrofitting equipment already in place. The appropriate method for modeling mandatory investment in pollution control requires a distinction between achieving environmental standards for existing sources of emissions and meeting restrictions on new sources of emissions. Environmental regulations increase the cost of new investments, since producers are required to purchase pollution abatement equipment whenever they acquire new investment goods.

We assume that investment in pollution control equipment provides no benefits to the producer other than satisfying environmental regulations. Accordingly, we simulate mandated investment as an increase in the price of investment goods. Unfortunately, the existing data do not provide a separation between investments required for new and existing facilities. We assume that the backlog of investment for retrofitting old sources of emissions had been eliminated by 1983. We simulate the impact of removing environmental regulations on investment by reducing the price of investment goods by the proportion of total investment attributable to pollution control for 1983. This captures the effect of requirements for pollution abatement on investment in new capital goods, but does not include the effect of windfall losses to owners of the capital associated with old sources of emissions.

Our method for simulating the impact of investment requirements for pollution control has certain limitations that should be pointed out. First, it relies on the assumption that capital is completely malleable and mobile between sectors. An alternative approach would be to incorporate costs of adjustment into our models of producer behavior. However, this approach would lead to considerable additional complexity in modeling and simulating producer behavior. The long run impact of environmental regulations would be unaffected by costs of adjustment, since these costs would be zero in the steady state of our model.

The steady state effects of mandated investment in pollution control devices are given in the column labeled INV in Table 3.1. The largest change is in the capital stock, which rises by 2.266 percent as a direct result of the drop in the price of investment goods. In the short run this price decline pushes up the rate of return, raising the level of investment. Higher capital accumulation leads to a fall in the rental price of capital services, decreasing the overall price level. The long run level of full consumption rises by .489 percent, almost double the increase resulting from eliminating operating costs of pollution abatement. The 1.290 percent rise in GNP is also nearly twice as large. The exchange rate appreciates by .462 percent, indicating an increase in international competitiveness of the U.S. economy.

The effects of eliminating pollution abatement investment on industry output and price levels are shown in Figure 3.4.

[Figure 3.4 not reproducible in the RECORD.]

These effects stem from the drop in the rental price of capital services. The largest gains in output are for communications, electric utilities, and gas utilities, since these are the most capital intensive industries. While most sectors gain from eliminating investment for pollution control, a few sectors are hurt by this change in environmental policy. Outputs of food, apparel, rubber and plastic, and leather all decline noticeably. These sectors are among the least capital intensive, so that the fall in the rental price of capital services has little effect on the prices of outputs. Buyers of the commodities produced by these industries face higher prices and substitute other commodities in both intermediate and final demand.

The transition path of the U.S. economy after investment requirements for pollution control have been eliminated is summarized in Figure 3.5.

[Figure 3.5 not reproducible in the RECORD.]

The process of adjustment is markedly different from that of the previous simulation. Capital stock grows immediately and rapidly to its new equilibrium value. This comes about as a consequence of the fall in the price of investment goods. As new capital goods become cheaper, beginning in 1973, the rate of return rises, driving up investment and producing a sharp increase in the capital stock. This explanation is further substantiated by the behavior of full consumption. Initially, consumption drops and a larger share of income is diverted to investment. Then, as the capital stock rises, so does consumption. The path of the rental price reflects the behavior of the capital stock and drives output prices downward as more capital is accumulated.

3.3. Motor vehicle emissions control

Environmental regulation is not limited to controlling emissions by industries within the business sector. Regulations on motor vehicle emissions affect users of motor vehicles, including households as well as businesses. Motor vehicle regulation is set apart from other forms of environmental control by the fact that the pollution abatement equipment is installed by the manufacturer. Like pollution control in industry, the reduction of motor vehicle exhaust emissions adds to both capital expenditures and operating costs. The catalytic converter is a typical piece of pollution abatement equipment requiring capital expenditures. The premium paid for unleaded gasoline represents an increase in operating costs.

Using data obtained from Kappler and Rutledge (1985), we have estimated the change in motor vehicle prices resulting from emission control regulations. Pollution abatement also imposes additional operating costs on users of motor vehicles. Kappler and Rutledge have separated these additional expenses into three components—increased fuel consumption, increased fuel prices, and increased motor vehicle maintenance. We first divide the total cost of pollution abatement equipment between imported and domestic vehicles in proportion to their shares in total supply. We exclude the cost of this equipment from the total cost of domestic production of motor vehicles. We reduce the price of motor vehicles in proportion to the cost of pollution control devices to simulate the impact of eliminating controls on motor vehicle emissions.

The price premium for unleaded motor fuels can be modeled as a change in the cost of output of the petroleum refining sector. This is similar to the treatment of the fuel cost differential between high-sulfur and low-sulfur coal used in our simulations of the impact of pollution abatement in industry. Only the costs associated with higher fuel prices were removed in our simulation of U.S. economic growth without motor vehicle emissions controls. Consequently, our results understate the impact of these controls. To complete the inputs to our simulation of U.S. economic growth in the absence of controls on motor vehicles emissions we reduce the price of imported motor vehicles in the same proportion as the price of domestic vehicles.

The economic impact of imposing emissions controls on motor vehicles is similar in magnitude to the impact of pollution controls in industry. The long run capital stock rises by 1.118 percent after the elimination of controls on emissions, while full consumption increases by .282 percent. Real GNP increases by .752 percent in the absence of controls. Finally, the exchange rate appreciates by .392 percent. These results are summarized in the column labeled MV in Table 3.1. Almost all of the economic impact is due to decreased motor vehicle prices as a consequence of the absence of emissions controls. Changes in the price of investment goods raise the rate of return, leading to large changes in the capital stock. The price of investment goods changes substantially, since motor vehicles make up nearly fifteen percent of new capital goods.

The long run impact of eliminating motor vehicle emissions controls on the outputs and prices of individual industries is shown in Figure 3.6.

[Figure 3.6 not reproducible in the RECORD.]

The principal beneficiary of the elimination of these regulations is the motor vehicles industry. This is partly due to the fact that the demand for motor vehicles is price elastic. A price change of seven percent produces an output change of fourteen percent. Two other industries also benefit significantly from elimination of environmental controls—petroleum refining and electric utilities. Both gain from the reduction in fuel prices associated with elimination of the fuel price premium.

The process of adjustment to a change in controls on motor vehicle emissions is shown for key variables of the model in Figure 3.7.

[Figure 3.7 not reproducible in the RECORD.]

The important features of this path are similar to those for the removal of pollution abatement investment in industry. Vehicles are a large part of investment, so that lowering their price brings down the cost of new capital goods substantially. This increases the rate of return, stimulates saving, and leads to a surge in investment. Since the change in vehicle prices is largest in later years, however, the effect is more gradual and the capital stock does not climb as rapidly.

3.4. The impact of environmental regulation

To measure the total impact of eliminating all three costs of environmental regulation—operating costs resulting from pollution abatement in industry, costs of investments required by industry to meet environmental standards, and costs of emissions controls on motor vehicles—we have performed a final simulation. This simulation is not a simple combination of its three components. Operating costs include capital costs, so that combining the reductions in operating costs with the elimination of investment requirements would count the cost reductions associated with capital twice. To solve this problem, the capital component was removed from operating costs in the combined simulation. The results of removing all forms of environmental regulation are summarized in Table 3.1, together with the results of the previous simulations.

The long run consequences of pollution control for different industries are presented in Figure 3.8.

[Figure 3.8 not reproducible in the RECORD].

The sectors hit hardest by environmental regulations are the motor vehicles and coal mining industries. Primary metals and petroleum refining follow close behind. About half the remaining industries have increases in output of one to five percent after pollution controls are removed. The rest are largely unaffected by environmental regulations. The economy follows the transition path to the new steady state shown in Figure 3.9.

[Figure 3.9 not reproducible in the RECORD].

Driven by large changes in the price of investment goods, the capital stock rises sharply. The quantity of full consumption rises at a similar rate, as does real GNP. The adjustment process is dominated by the rapid accumulation of capital and is largely completed within two decades.

3.5. Summary

We can summarize the impact of environmental regulation by analyzing the effects on the growth of GNP over the period 1973–1985. These effects are given in Table 3.2. Mandated investment in pollution control equipment has the largest impact, while motor vehicle emissions control is not far behind. The added operating costs due to pollution abatement play a minor role in the growth slowdown. The three types of environmental regulation together are responsible for a drop in GNP growth of .191 percentage points.

A number of studies have attempted to measure the effect of pollution control on productivity and economic growth.[16] For example, Denison (1985) finds that the growth rate of the U.S. economy was reduced by only .07 percentage points over the period 1973–1982 due to pollution controls. This estimate is based on an aggregate production function and does not take in account the important differences in environmental restrictions among industries. In addition, Denison does not model the dynamic response of the U.S. economy to pollution controls. Our model incorporates differences among industries in pollution abatement and captures the effect of environmental costs on the rate of capital formation. Accordingly, our estimate of the impact of environmental regulation on U.S. economic growth is several times that of Denison.

We can also summarize the impact of higher operating costs associated with environmental regulation on economic growth, using the results given in Table 3.2. U.S. economic growth would have been .034 percentage points higher during the period 1973–1985 in the absence of the operating costs resulting from environmental regulation. These operating costs had a small but significant effect on long run output and the rate of growth of the economy in the 1970's and early 1980's. In addition, these costs affect the distribution of economic activity with industries such as primary metals experiencing a considerable drop in output. However, operating costs arising from pollution abatement are not the only effects of environmental regulation.

Summary of the effects on growth over 1974–85

Simulation:	*Change in growth rate*
Operating costs	0.034
Investment	.074
Old source investment	.026
Motor vehicles	.051
All effects	.191

The impact of pollution abatement investment on the rate of GNP growth during the period 1973–1985 is also given in Table 3.2. The growth of GNP would have been .074 percentage points higher in the absence of mandated investment in pollution control. Slower productivity growth contributed .015 percentage points to this total, while the rest results from slower growth of the primary factors of production. Mandated investment in pollution control has two effects. First, it lowers the long run capital stock and reduces long run consumption. Second, it reduces the rate of capital accumulation in the early years of regulation. This reduces the rate of growth of GNP. The impact of eliminating mandated investment in pollution abatement devices is substantially larger than that of eliminating operating costs.

The dampening effect of investment for pollution control on capital accumulation is exacerbated by the investment required to bring existing sources of emissions into compliance with environmental standards. We have taken the share of investment attributable to new investment goods as the 1983 share. The difference between the actual shares in earlier years and the 1983 share gives the proportion devoted to existing sources of emissions. The data presented in Figure 3.4 above show that this expenditure reached as much as three percent of total investment during the mid-1970's.

We have modified our simulation of U.S. economic growth to assess the importance of mandated investment in pollution abatement equipment for existing sources of emissions. For this purpose we have increased the level of investment expenditures from 1973 to 1983 by the share attributable to pollution abatement for existing sources. This raises the rate of capital accumulation in the mid-1970's, but there is no long run effect on economic growth. Eliminating investment in pollution control devices for both new and existing sources raises the average rate of growth during the period 1973–1985 by .100 percentage points. We have estimated an increase in the growth rate of .074 percentage points for the investment required for new sources alone, so that we can attribute an increase of .026 points to the investment required to bring existing sources into compliance.

Finally, the rate of growth of the U.S. national product over the period 1973–1985 would have been .051 percentage points higher in the absence of motor vehicle emissions controls. This is a surprisingly large effect. It is nearly twice as large as the gain from eliminating mandatory investments for bringing existing sources of emissions into compliance with environmental standards and about half as large as removing all operating costs and all investment requirements for pollution control in industry.

4. THE IMPACT OF THE CLEAN AIR ACT AMENDMENTS OF 1990

Our final objective is to analyze the impact of the Clean Air Act Amendments of 1990. For this purpose we proceed, as in Section 3, by projecting the growth of the U.S. economy with and without the 1990 legislation. The base case is the same as the one we have employed in Section 3. In this base case all pollution controls resulting from legislation enacted before 1990 are in effect. We project the growth of the U.S. economy without the 1990 legislation. We then incorporate estimates of the costs of compliance with this legislation into our projections. Finally, we compare growth of the U.S. economy with and without the 1990 legislation.

To quantify the impact of the Clean Air Act Amendments of 1990 on U.S. economic growth, we begin with estimates of the cost of compliance with this legislation in the year 2005 prepared by the Environmental Protection Agency (1991). We employ the year 2005 as a point of reference, since the provisions of the 1990 legislation will be phased in gradually over a fifteen year period. By the end of this period in 2005 the pollution controls embodied in the 1990 legislation are fully effective. The overall costs of compliance for the year 2005 is $24 billions in prices of 1990.

We have already pointed out that the provisions of the Clean Air Act Amendments of 1990 are divided among eleven separate "titles" of the Act. The Environmental Protection Agency (1991) has prepared separate estimates of costs of compliance for five separate programs. About half the costs in the year 2005, $12.2 billions in prices of 1990, are associated with Title I, which extends deadlines and specifies control technologies for areas which have failed to comply with existing regulations on emissions of ozone, carbon monoxide, oxides of nitrogen, and particulates. Since we do not have information on the distribution of these costs by industry, we have allocated them to the manufacturing industries in proportion to costs of compliance in the latest year for which data are available, which is 1988.

Of the remaining titles of the 1990 legislation, Title IV deals with acid rain. We have allocated the estimated costs for the year

2005, $3.6 billions in prices of 1990, to electric utilities. Title V provides for marketable permits for emissions of sulfur dioxide and regulates emissions of oxides of nitrogen. Title III regulates emissions of toxic substances into the atomsphere. Title VIII provides for miscellaneous additional regulations. The corresponding costs are $0.2 billions, $7.9 billions, and $0.1 billions, respectively, all in prices of 1990. We have allocated these costs to manufacturing industries in proportion to their total costs of compliance in 1988.

We have estimated the ratio of costs of compliance for the year 2005 for each industry to the value of the output of that industry in our base case. We have simulated U.S. economic growth with industry costs that include these costs of compliance. To reflect the fact that costs of compliance will increase gradually as the new regulations are implemented, we increase the costs of compliance linearly, beginning with a value of zero in 1990 and rising to the 2005 levels. Obviously the allocation of costs of compliance among programs included in the 1990 legislation, the distribution of these costs among industries, and the time phasing of the introduction of the new pollution controls can be further refined.

We have simulated the growth of the U.S. economy with and without the costs of compliance associated with the Clean Air Act Amendments of 1990. We present the impact of this legislation on individual industries in the year 2005 in Figure 4.1. The sectors most affected by the new pollution controls are electric utilities and primary metals. The output of electric utilities is reduced by three percent, while that of primary metals is reduced by 3.5 percent. To provide estimates of a long run impact, like those presented for earlier legislation in Section 3, we provide industry impacts in the year 2020 in Figure 4.2. Again, primary metals and electric utilities stand out as the industries most heavily affected by the 1990 legislation.

[Figures 4.1, 4.2, and 4.3 not reproducible in the RECORD.]

The U.S. economy follows the transition path presented in Figure 4.3 in adjusting to a new steady state. The initial impact of the legislation on the gross national product is positive, since there is a short run surge of investment to take advantage of lower prices of investment goods before the full impact of the legislation works its way through the economy. This surge in investment is over by the year 2000. The capital stock gradually falls as new pollution controls take hold, raising the price of capital goods. The rental price or cost of capital rises, reaching a level about 0.6 percent higher than the base case by the year 2020. The adjustment process reflects the forward-looking character of expectations about future prices of assets and future rates of return.

We find that the Clean Air Act Amendments will impose substantial costs on U.S. industries over the period 1990–2005, as the new pollution controls are implemented. These costs repesent a net addition of about one-fifth to costs of compliance associated with previous legislation. The U.S. economy adapts itself to these costs of compliance through an upward adjustment in the prices of capital goods. This increases the rental price or cost of capital and reduces the level of the capital stock. This generates a reduced rate of capital formation.

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FOOTNOTES

[1] A detailed survey of U.S. environmental policy is presented by Christiansen and Tietenberg (1985).

[2] Data on inter-industry transactions are based on input-output tables for the U.S. constructed by the Bureau of Economic Analysis (1984). Income data are from the U.S. national income and product accounts, also developed by the Bureau of Economic Analysis (1986). The data on capital and labor services are based on those of Jorgenson, Gollop, and Fraumeni (1987). Our data are organized in an accounting system based on the United Nations (1968) system of national accounts. Details are given by Wilcoxen (1988), Appendix C.

[3] The econometric approach is reviewed by Jorgenson (1982, 1984). This approach has also been employed by Hazilla and Kopp (1990).

[4] Our approach to endogenous productivity growth was originated by Jorgenson and Fraumeni (1981). The implementation of a general equilibrium model of production that incorporates both substitution among inputs and endogenous productivity growth is discussed by Jorgenson (1984, 1986). This model has been analyzed in detail by Hogan and Jorgenson (1991).

[5] This approach was originated by Armington (1969).

[6] Forther details are given by Jorgenson (1989).

[7] The econometric methodology employed in our study was originated by Jorgenson, Lau, and Stoker (1982). The econometric model we have employed was constructed by Jorgenson and Slesnick (1987). Further details on the econometric methodology are given by Jorgenson (1984, 1990).

[8] The price of leisure time is equal to the market wage rate, reduced by the marginal tax rate on labor income, which is the opportunity cost of foregone labor income. The price of personal consumption expenditures is a cost of living index, generated from the first stage of our model of consumer behavior. This cost of living index is discussed by Jorgenson and Slesnick (1983).

[9] The Euler equation approach to modeling intertemporal consumer behavior was originated by Hall (1978). Our application of this approach to full consumption follows Jorgenson and Yun (1986).

[10] Our breakdown of the U.S. population by age, educational attainment, and sex is based on the system of demographic accounts complied by Jorgenson and Fraumeni (1989). The population projections are discussed in detail by Wilcoxen (1988), Appendix B.

[11] The model was originated by Cass (1965) and Koopmans (1967). The Cass-Koopmans model has recently been discussed by Lucas (1988) and Romer (1989). Neo-classical growth models with pollution abatement have been presented by Maler (1975) and Uzawa (1975).

[12] A detailed description of the data is given by Wilcoxen (1968), Appendix D.

[13] Details are given by Wilcoxen (1988), Appendix D.

[14] Details of our methodology for estimating cost differentials between high-sulfur and low-sulfur coal are given by Wilcoxen (1988), Appendix D.

[15] An alternative analysis of the impact of environmental regulation on U.S. international competitiveness is given by Kalt (1988).

[16] A detailed survey of studies of the impact of environmental regulation on productivity and economic growth in the United States is presented by Christiansen and Tietenberg (1985).

APPOINTMENT OF CONFEREES

The PRESIDING OFFICER. Pursuant to the order of November 12, 1991, the Chair appoints the following Senators to serve as conferees on H.R. 2967, the Older Americans Act amendments of 1991.

The PRESIDING OFFICER appointed, from the Committee on Labor and Human Resources, Mr. KENNEDY, Mr. METZENBAUM, Mr. ADAMS, Mr. HATCH, and Mr. COCHRAN; from the Committee on Finance (solely for the Social Security retirement earnings provisions) Mr. BENTSEN, Mr. MOYNIHAN, and Mr. PACKWOOD conferees on the part of the Senate.

Mr. SYMMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

COMMEMORATING 50TH ANNIVERSARY OF PEARL HARBOR

Mr. LAUTENBERG. Mr. President, December 7, 1991, is the 50th anniversary of the unprovoked surprise Japanese attack on Pearl Harbor and the entry of the United States into World War II.

Early in the morning of December 7, 1941, some 360 Japanese planes attacked Pacific Fleet units at the naval base, Army aircraft at Hickam Field, and other nearby military installations on Hawaii. The American military bravely fought back to defend its base. Our sailors, soldiers, flyers, and gunners heroically manned their stations under the most difficult and trying conditions. They were caught off guard, some even sleeping, by this preemptive and unexpected attack. With the element of surprise on Japan's side, our forces could not fight off the large and well-armed Japanese attacking force.

More than 2,403 American servicemen were lost, 1,178 were wounded, 21 ships and 328 aircraft damaged or destroyed in the course of the attack. In less than 2 hours, the Japanese crippled the Pacific Fleet and undermined the American strategic position in the Pacific.

December 7, 1941, has been referred to as "a date that will live in infamy." Legislation I wrote designating the 50th anniversary of the attack as "National Pearl Harbor Remembrance Day" was enacted this year. It honors the brave individuals in the Armed Forces who served our Nation on December 7, 1941, and throughout World War II. The people of the United States owe a tremendous debt of gratitude to those who served at Pearl Harbor for their valor and sacrifice. I would like to recognize Mr. George Danko, the commander of the New Jersey Pearl Harbor Survivors Association, and Lee Goldfarb, founder of the Pearl Harbor Survivors Association, and national vice commander, for all their help and persistence in getting this legislation passed.

On that Sunday morning, December 7, 1941, more than Hawaii was attacked. American's sense of security was shattered. For the first time, the oceans did not protect America. Our borders were pierced, we were vulnerable, and the world would never be the same. Americans were indignant and wanted to avenge the lives the Japanese had taken. The country was unified and stood behind the President as he signed a declaration of war at 4:10 p.m., Monday, December 8, 1941.

Pearl Harbor will forever stand as a symbol of the dangers of complacency. It will serve as an eternal reminder of our need to protect our national security—not only with weapons but by our example as a democracy—even as we strive toward peace. It will always evoke the moment that America awoke from isolationism to the global responsibilities it assumes to this day.

The 50th anniversary is an important day in history and in the personal lives of those people who survived the attack on Pearl Harbor, and for the families of those who perished. President Bush will travel to Hawaii to give a speech at a ceremony commemorating the 50th anniversary of Pearl Harbor. All across the country, ceremonies like the one in Hawaii will take place in November and December.

On the 50th anniversary, members of the Armed Forces who were in Hawaii on December 7, 1941, and civilian employees of the War or Navy Departments who were wounded, or families of those who were killed in the Pearl Harbor attack, are all eligible to receive a new congressional medal commemorating the 50th anniversary of the attack. Lee Goldfarb, a native of Jersey City, estimates there are some 300 survivors in New Jersey. Mr. Goldfarb was aboard the U.S.S. *Ogala* during the attack as the ship suffered heavy damages before sinking. Some of these survivors will travel to Hawaii for the commemoration ceremonies. I am joining these survivors in Hawaii at the invitation of the Senate leadership, and look forward to these moving ceremonies.

SENATE CLOSED CAPTIONING

Mr. KASTEN. Mr. President, today is a truly historic day for the U.S. Senate—because today marks the beginning of closed captioning of Senate floor proceedings for the hearing impaired.

Today, we send a loud message to our more than 24 million silent partners—you deserve to be a part of the legislative process.

Senate Resolution 13 and the Americans With Disabilities Act required the Senate to make its proceedings available by January 1992. Mr. President, It is great to know that the Senate is not waiting until 1992 to provide full opportunities to those who have been left out of the process for too long—the hearing impaired.

In recent years, I have had the opportunity to interact with deaf and hearing-impaired citizens from all over the country, including many in Wisconsin. I have found them to be very energetic and committed—their thirst for knowledge knows no bounds. Closed captioning in the Senate will help satisfy that thirst.

Mr. President, my colleagues should be aware that closed captioning is not just for the deaf and the hearing impaired; it will affect the hearing population as well. It may well be part of the answer to the illiteracy problem that afflicts our Nation.

There are about 27 million American adults who are functionally illiterate; 18 million children in grades kindergarten to third grade are now learning how to read; about 3 to 4 million immigrants are seeking to learn English as a second language; and countless other Americans are seeking to improve their literacy skills. All of these Americans will benefit greatly from the historic Senate action today.

Another group that will be assisted by closed caption is senior citizens. Often, old age is accompanied by hearing loss. More often than not, the elderly have a difficult time trying to listen to TV. I am sure many will agree that America's elderly are among the most interested citizens when it comes to following the legislative process. I think they will greatly benefit from Senate closed captioning.

For many years, deaf and hearing impaired citizens have been left out of American society; they have never been able to enjoy the same range of information as their hearing counterparts—including Senate proceedings. I had an intern, Dick Albrecht, working on my personal staff who is deaf and attends Gallaudet University. While working with Dirk, I learned the true barriers that deaf Americans face. He, along with many other deaf Americans, obtains information through his eyes, not his ears—and we hearing-Americans need to take that into account. It's refreshing to know that Dirk, or any other deaf employee in my office, will now know the U.S. Senate is actively trying to cut through some of those barriers.

I am proud that the students at Delavan School for the Deaf in Wisconsin can now follow the legislative process and actually read Senator's remarks as they are speaking.

Mr. President, this is a wonderful day for hearing impaired Americans.

TRIBUTE TO FATHER "WOODY": CONSCIENCE OF DENVER

Mr. WIRTH. Mr. President, last week one of Colorado's best friends passed away. Msgr. C.B. Woodrich, best known to Denverities as Father "Woody," was taken from us at age 68—and his passing is not only a loss to his many friends, it is a loss to everyone in this Nation who cares deeply about the homeless, the jobless, and all of those who are in the shadows of our society.

I was blessed to count Father Woody among my friends, and my most recent recollection of him was a little over a year ago when he invited me to join him at Denver's Samaritan House homeless shelter during the Christmas holiday season. Father Woody was the founder of this shelter—and his work as the pastor of Holy Ghost Church was completely dedicated to serving the poor, the innocent, and the underprivileged.

Citing all of Father Woody's benevolent works would fill a volume. To say that he was a man of compassion is something of an understatement.

For those of us who knew him well, however, I prefer to remember Father Woody as a man with a tremendous sense of humor, a man who did not suffer fools well, and a man who never minced his words or took himself too seriously.

I shall miss this gentle and moving man. He would not, I am sure, like his friends to dwell on his achievements—but perhaps he would forgive my saying that he was truly the conscience of Denver, CO.

The real spirit of Father Woody is best captured, for me at least, in the following piece by one of Denver's most popular columnists, Gene Amole. Mr. President, I ask unanimous consent to have Mr. Amole's piece, "Father Woody Not One To Wear a Halo" printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FATHER WOODY NOT ONE TO WEAR A HALO

Holier.

Do you suppose there are smoking and non-smoking sections in heaven? If so, you'll find Monsignor C.B. Woodrich taking deep drags from a Camel in the smoking section. Father Woody, as most knew him, literally smoked himself to death.

He was still attending St. Thomas Seminary when we met 40 years ago. He introduced himself to me as "Bert," and that's the way I have always known him. The Father Woody business seemed a little theatrical to me, sort of like a character in the movies that Regis Toomey might have played back in the 1940s.

Bert had been a Madison Avenue huckster before entering the priesthood and gravitated toward those of us in the local advertising community. He was something of a rebel in those days, occasionally wearing a garish aloha shirt under his coat instead of a clerical collar.

Smoking was an addiction from which he never recovered. He suffered from diabetes and emphysema. I often lectured him about that. I kicked the habit years ago but am not an anti-smoking crusader. It usually doesn't bother me if others smoke around me so long as they don't blow it in my face.

Bert was different, though. His lungs were in terrible condition. He wheezed and sometimes gasped when he talked. It made me furious that he didn't take better care of himself. Right this minute I am still angry at him for letting this happen. "Your body doesn't belong to you. You are just being permitted to use it." I would tell him. "It belongs to the poor people, the homeless and all the forgotten folks who depend on you. Stop it!"

But he couldn't. He would shrug and then a helpless little smile would cross his face and he would say, "Listen, I am a priest and have to be able to do something." People responded to his humanity, his willingness to admit his own character flaws. He was not holier-than-thou, or holier than anyone else, either.

Those of us in the newspaper game will have to find a new priest to preach over our fallen comrades. Bert probably conducted more funeral services for old reporters and editors than anyone else. One stands out in my memory, the rosary and memorial Mass for Leonard Tangney at the tiny Mother of God church in 1984.

Bert was one of seven priests helping us pray old Leonard into heaven. We made it through all Five Joyful Mysteries before the service was over. As the priests filed out of the church, Bert stopped by my seat, leaned over and said, "You're next." I never quite understood that. Maybe it was because we were the same age, and he was reminding both of us that we ought to get our spiritual houses in order.

When he was chaplain at St. Joseph Hospital, Bert ministered to some of the town's richest and most powerful Catholics, Helen Bonfils and Gene Cervi, to mention just two. I asked him once about Miss Helen's second marriage. "Why would an 80-year-old woman love a 40-year-old man?" I wondered.

"She loved him because he was an animal!" Bert replied.

People in our business liked Bert because they didn't have to watch the way they talked around him. His own language was pretty salty. He loved the spotlight and enjoyed being around the town's power brokers. He was a friend of an atheist I know. I used to see them having lunch at the Brown Palace Hotel occasionally. What did they find to talk about?

I must ask her sometime.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The PRESIDING OFFICER. The Senate will resume consideration of S. 543, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions.

The Senate resumed consideration of the bill.

Mr. RIEGLE. Mr. President, I thank the clerk for reporting the bill. Let me make some opening comments, and then I am going to send an amendment to the desk at that point. Then I will be happy to yield to the Senator from New Mexico, who is standing in for Senator GARN for a period this afternoon. Senator GARN is enroute, on his way back from Utah.

Mr. President, this afternoon we are returning to consideration of S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. Let me just summarize briefly the considerable progress that the Senate has made on this legislation last week, and my own suggestions and plan for how to proceed today.

In my own view, the Senate has already addressed and settled three of the most important and difficult controversial areas of this legislation. We have voted on and disposed of the securities issue, the insurance issue, and the interstate provisions in this legislation.

At the point the Senate had to interrupt debate on this bill, it was to resolve the urgent issue of extended unemployment benefits. And that issue, when it was brought to the floor, occasioned a major debate, and it was eventually settled. But it became something that took some hours and, therefore, our bill had to stand aside while that was done and sent to the President, and I gather he has now signed that legislation.

Given the persistent economic hardship in the country and the trouble facing unemployed workers across the country who exhausted their unemployment benefits, that issue was absolutely essential, and it was appropriate that it, in fact, go on the fast track to resolution, which was done. Debate on that issue occupied the Senate on Thursday evening and all day Friday. But having settled now the unemployment compensation extension issue, we are now ready to return to the banking bill. And, as I have just said, I believe that the majority of the difficult decisions are behind us, although some amendments remain that will require debate and votes.

So let me describe now how I would like to proceed this afternoon.

First, I would like to offer an amendment to simply try and improve a provision that was adopted during the Banking Committee's markup of the bill regarding foreign deposits. I understand that Senator SASSER would like to speak about this amendment, after which Senator KOHL would like to offer a sense-of-the-Senate resolution regarding foreign deposits.

After that discussion has occurred and that amendment has been dealt with, I would like to then turn to the fourth, and I believe the last area of significant controversy within the bill, namely the bill's consumer protection provisions. It is my understanding that Senator MURKOWSKI and Senator COCHRAN may offer amendments to this title, and I would like to be able to debate and vote on those amendments this afternoon, as soon as that is feasible.

I might say, I also received a phone call from Senator METZENBAUM, who is flying back in, who has a longstanding interest in that area where he also wants to be present and hopes to be present for that debate when that occurs later today.

If we can set that schedule and move through that schedule, I understand that Senator KERRY of Massachusetts and Senator GRAHAM of Florida may offer amendments to title I of the bill dealing with the recapitalization of the bank insurance fund. Assuming that they do so, I would like to deal with those amendments and then turn to amendments that Senator DOMENICI indicated he may offer regarding securities fraud legislation, unless he and Senator BRYAN are able to work that issue out in the meantime. I understand some discussions are ongoing in that area.

I should also say that I have heard from Senator KERRY from Massachusetts, who I was just referencing, and he is also traveling back to Washington today and intends to be here later in the afternoon and be prepared to deal with the issue that he has brought forward.

As I have now said, I think we have already addressed and settled the three most contentious issues in the bill. I believe the remaining issues and amendments are ones where the Senate has to work its will. And after it has done so, by one means or another, I think we can then vote on final passage of this legislation within the next day or two, and it would certainly be my goal to attempt to accomplish that.

I talked with Senator GARN yesterday. Senator GARN is in Utah. I will not presume to make any representation for Senator GARN now until he has a chance to arrive and speak in his own behalf, but I will say this: That we have worked very closely together and cooperatively on this legislation from the very beginning through the markup process, bringing the bill to the floor, and the time that the bill has been on the floor.

Last evening, there was an opportunity for the senior staff of the Banking Committee of both parties to meet and sort of assess where we were with respect to the work through the legislation, and the outstanding issues that were still there to be dealt with. And, for a period of time, representatives of Treasury Department came and were present to think with us about the scope of the legislation, the necessity for the legislation.

Without going into any specific item in the bill, I think it is clear on the part of all that this legislation, in whatever final form we decide upon, has to be enacted before the Senate goes into recess this year. If the schedule is adhered to that the Senate and the House will finish operations before the Thanksgiving recess, there should be no doubt about the fact that this legislation, whatever final form emerges, has to be enacted and has to be signed into law by the President.

I say that because the deposit insurance fund that stands behind the deposits of citizens, of individuals, in commercial banks, that deposit insurance fund is virtually empty and will be empty before the end of this calendar year.

This legislation provides an infusion of $70 billion of borrowings from our Government that will go into the bank insurance fund, both to cover any future losses associated with shutting down failed banks and to provide necessary working capital to handle the disposition of the assets that would be taken in from those failed banks in the months, in the period ahead.

So in order for that to take place on a proper and orderly basis, the funds have to be in the insurance fund. And, of course, the plan is for the banks themselves to repay that borrowing over a 15-year time period, so that we avoid a taxpayer bailout in this situation. That has been discussed on this floor before.

But the essential fact is that this legislation must be enacted before the Congress adjourns. There is just no other way to say it. It has to be done. So it is certainly my intention, and I know also in that respect, the intention of Senator GARN and of the members of the Banking Committee, to get this legislation completed.

So we have to march on through it.

It might also be said that the House has approached this issue somewhat differently than the Senate. They have, on two occasions, attempted to pass a bill on the House floor, and the differences were such that both of those bills were not passed in the House, and efforts have been mounted again and are ongoing today to bring a bill through the House.

I believe that at some point soon, they will produce a bill in the House. And that bill and the bill that we produce here will go into conference and will be settled out, and we will be back here before the adjournment so that we can settle this issue once and for all.

So, for that reason, this legislation must pass.

In the way of another observation about our plan for proceeding, I would like to say to all Senators who have amendments that, in every case possible, I would like to try to work those amendments out. I have said to Senator GARN that, where that is possible, where he and I could reach agreement representing the two sides of the committee and could work out an amendment with a Senator, a group of Senators, we would then propose to take those amendments that have been worked out agreeably and collect those in a managers' amendment which would come at the end of the consideration of this bill.

And so I say to all Senators who have amendments, I hope we will work together to see what amendments can be handled in that fashion. Those that cannot be, if Members are going to offer them on the floor, will then in turn have to be offered and debated and settled by the Senate as a whole. My hope is that on the amendments which fall into that category, ones that cannot be settled but ones that require debate and a vote on the floor, we can work out time agreements that are fair but also take account of the fact we do not have a great deal of time left and there is other legislation waiting behind this bill that does need to come to the Senate floor.

So my hope is that we can work out agreeable time limits that get the job done but are compact so that we can have a debate, get the issue framed on both sides, take it to a vote, settle it, and move on. So we will attempt to do that as the day goes on.

I will be working with Senators to try to either resolve amendments through a managers' amendment where agreement can be worked out ahead of time, and, if not, then to schedule those in an orderly way so that we can take them up, debate them, and vote them up or down, as the Senate so chooses.

I know of no other way to proceed. I can assert that the administration, for its part, feels this is an urgent matter, as I feel and as I know Senator GARN feels, and I know I can make that representation for him.

I also believe that, with respect to the administration, they have said to me that they like the Senate bill. It does not mean that they like in detail every single part of it, but that they have been supportive of the bill we have produced. They have indicated to me, as of last evening, that they think the compromise we have worked out in the interstate section of the bill is a useful compromise and one that they find they would support. Their clear signal to me in our discussions was to the effect they thought we ought to try to move ahead and see if we can resolve the rest of the issues in this bill and get the bill to conference.

I will leave it at that because Senator GARN and I have not had much time to talk over the weekend because of the fact that he was in Utah, as I was here. We have had the one conversation I have mentioned. Until Senator GARN arrives, I am not going to attempt to make any other comment with respect to his view at this point beyond what he himself would choose to say. Although if the Senator in New Mexico has a comment, I would certainly welcome that before sending this amendment to the desk.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair. I thank the distinguished chairman.

I do have a few comments, a few thoughts. First of all, I am here because the ranking Republican, Senator GARN, asked me to be here. I serve on the committee, albeit a rather new member of that committee.

Might I say to Senator RIEGLE, I think it is fair to say we have to pass some banking legislation before we leave. I think it is absolutely imperative that we pass the BIF refinancing, as the Senator has stated. I do not think there is any way we can leave here for the year and claim to be responsible if we have left the BIF fund, that is, the fund that the banks use to take care of insolvent banks, and they eventually pay all that back under the BIF plan in the bill. It is not the Government. The Government helps them borrow it, but the banks assess all the banks a certain amount, and they more or less agree we have been reasonable in this bill in our 15-year finance plan. So I share with the chairman the absolute requirement and the commitment from our side that we get a bill that includes the BIF, the refinancing for their insurance fund.

Separate and aside, Mr. President, from this bill but something that the Banking Committee must consider, we have the RTC fund, which clearly is in need of additional capitalization. It is not the case of whether or not we want to put more money into that. It is a case of our already having committed to it, and now we have to put the money up to make the closures and the buyouts and the mergers. If it runs out of money and we still have work to be done, we do not save our taxpayers any money; we cost them money. There is no doubt about that. When they are ready to put together the buyouts or the mergers, they do it on the basis of the most economic method. And if we do not have money there, we can just commit to our taxpayers that we are wasting money because they will have to do it in a more expensive way. So I hope the distinguished chairman agrees with that.

Mr. RIEGLE. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. RIEGLE. I do agree with the Senator on that. That is another item that, in my view, has to move through here before the end of this session although, as the Senator knows, we have attempted to keep these matters separate rather than combine them in one piece of legislation.

Mr. DOMENICI. Absolutely.

Mr. RIEGLE. I will say this. There have been some signals out of the House of Representatives from the Senator's side of the aisle. Apparently, there is some group of people over there—I do not know how determined they are—who have made an attempt to stop the RTC funding unless there is an economic stimulation package developed. I am not sure, but that warning flare has been fired in the air. That probably ought to be made a part of the record.

Mr. DOMENICI. I thank the Senator. I am not aware of that. Whether it is Republicans in the House of Democrats in the House, we have to pass additional funding for the RTC. It is sort of like buying a bunch of Christmas presents and then in February, when the time comes to pay for them, act like you did not buy them. We are just going to have to do that. Some can vote against it, but at least a majority ought to do what they must do in this regard.

I might say to my friend, the chairman, that I do not know if we are going to get the GSE legislation now or not, but it seems to me that we were mandated to do that, and I think at least we ought to commit a time specific that we will get that done. That is not as important as the other two items.

Permit me, Mr. President, to talk about two other issues, if I might.

I know that the 10(b) class actions are of interest to a number of Senators and that the junior Senator from Nevada has sought to extend the statute of limitations for those kinds of actions. I now have, and am willing to present to the Senator or to him, the administration's position and the FCC Chairman's position. Both wanted the extension. But I might say both want the extension conditioned upon our having some reform with reference to how we do the discovery work and who pays for it and who pays for the lawsuits in the event they are absolutely meritless. I think in both cases the administration and the FCC are saying we want reform there because there is some evidence—in fact, I say, as one who is now familiar with it, there is a lot of evidence that many of the cases are now being brought just as a matter of course and money is being collected just because you file them. That is one issue. I hope the chairman knows I am not going to try to hold anything up, but neither do I think we should count on extending the statute of limitation for this very controversial type action with no reform as to who is going to pay the cost of the lawsuits, some mild inhibiter or not, and I think we have to get to this.

Mr. RIEGLE. Will this Senator yield.

Mr. DOMENICI. I will be pleased to yield.

Mr. RIEGLE. I have spoken today with Senator BRYAN of Nevada, who, as the Senator knows, is on the other side of that issue than the Senator from New Mexico. He has indicated to me that he is prepared to be in conversation with the Senator and their staffs to see if there is a way to find an accommodation on this issue.

If there is, that would be a very useful development. If not, at some point there should be a period of time for debate and a vote to settle it. But he did indicate to me that he is prepared to discuss that with the Senator and hopefully those discussions can ensue.

Mr. DOMENICI. Mr. President, let me also state on that issue that I understand eventually we might to have an up or down on my amendments. Let me say I feel very strongly about this. I have now read sufficient enough to know that we have to get an amendment adopted if we are going to extend the statute of limitations. I would be prepared to spend a little time on that.

Having said that, I want to tell the chairman about one other amendment that I hope he will look at with us as part of his general desire to work out some things here.

Mr. President, we have found that in a number of States the rigid certified appraisal requirements under FIRREA are now rate inhibitors to getting money loaned, and we are all complaining about the banks in America not lending money. We think one of the reasons is that we have the threshold for appraisal which is so low, $50,000 of value, as to require a certified appraisal both for commercial and residential. We think that is extremely low, and it is clogging up the process. In some States it is taking 3 to 6 months to get the appraisal done.

We are sitting here saying let us get the regulators to loosen up so money can be loaned. We have an amendment that will attempt to fix that and a few other items with reference to appraisal that we would like to share with you and see if we could not reach some accommodation.

I yield the floor, if it is his desire to submit an amendment.

Mr. RIEGLE. I thank the Senator from New Mexico. Again, my hope is that on any issues we have which are in play and contentious that we talk them through, work them through. We have a lot of other things to do this week with respect just to the work of the Banking Committee. So I think time is really of the essence to try to get these matters resolved.

Let me send an amendment to the desk that simplifies the bill regarding foreign deposits. This amendment has the support of myself, and Senator GARN.

AMENDMENT NO. 1350

(Purpose: To revise the treatment of foreign deposits)

Mr. RIEGLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. GARN, proposes an amendment numbered 1350.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 122, line 23, strike all through page 125, line 8, and insert the following:

"(viii) SPECIAL ASSESSMENT TO RECOVER LOSSES ON FOREIGN DEPOSITS.—

"(I) IN GENERAL.—This paragraph shall apply if—

"(aa) the Corporation incurs a loss with respect to an insured depository institution; and

"(bb) persons with foreign deposits at the institution receive more than they would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities.

"(II) SPECIAL ASSESSMENT REQUIRED.—The Corporation shall, as soon as practicable, recover the difference between—

"(aa) the amount that persons with foreign deposits at the institution received, and

"(bb) the amount that the Corporation estimates those persons would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities,

by imposing 1 or more special assessments on all members of the deposit insurance fund of which the institution was or is a member, in proportion to the foreign deposits held by those members at the beginning of the semiannual period containing the relevant date. The Corporation shall base the estimate required by item (bb) on the estimated loss that the Corporation will incur in the resolution actually undertaken with respect to the institution. Any calculation under this subparagraph shall be in the Corporation's sole discretion.

"(III) TIMING OF SPECIAL ASSESSMENTS.—

"(aa) IN GENERAL.—Special assessments under subclause (II) shall begin not later than the semiannual period beginning 90 days after the date on which the aggregate amounts calculated under subclause (II) (with respect to all institutions that were or are members of the deposit insurance fund), and not yet assessed, exceed $1,000,000.

"(bb) INTEREST ON DELAYED ASSESSMENTS.—Any amount calculated under subclause (II) and not yet assessed shall bear interest at the daily average yield on 3-month Treasury obligations.

"(IV) DEFINITIONS.—For purpose of this paragraph:

"(aa) CAPITAL CATEGORIES.—The terms 'adequately capitalized' and 'significantly undercapitalized' have the same meanings as in section 37 of the Federal Deposit Insurance Act.

"(bb) FOREIGN DEPOSIT.—The term 'foreign deposit' means any obligation of an insured depository institution described in subparagraph (A) or (B) of section 3(l)(5).

"(cc) RELEVANT DATE.—The term 'relevant date' means the date on which the earliest of the following occurs with respect to an insured depository institution:

"(AA) The institution is significantly undercapitalized, and has advances from a Federal Reserve bank outstanding for more than 5 consecutive days (without subsequently becoming adequately capitalized).

"(BB) The Corporation initiates assistance under section 13(c) with respect to the institution.

"(CC) A receiver or conservator is appointed for the institution.".

Beginning on page 231, line 21, strike all through page 233, line 22, and insert the following:

"(6) SPECIAL ASSESSMENT TO RECOVER LOSSES ON FOREIGN DEPOSITS.—

"(A) IN GENERAL.—This paragraph shall apply if—

"(i) the Corporation incurs a loss with respect to an insured depository institution; and

"(ii) persons with foreign deposits at the institution receive more than they would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities.

"(B) SPECIAL ASSESSMENT REQUIRED.—The Corporation shall, as soon as practicable, recover the difference between—

"(i) the amount that persons with foreign deposits at the institution received, and

"(ii) the amount that the Corporation estimates those persons would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities,

by imposing 1 or more special assessments on all members of the deposit insurance fund of which the institution was or is a member, in proportion to the foreign deposits held by those members at the beginning of the semiannual period containing the relevant date.

The Corporation shall base the estimate required by clause (ii) on the estimated loss that the Corporation will incur in the resolution actually undertaken with respect to the institution. Any calculation under this subparagraph shall be in the Corporation's sole discretion.

"(C) TIMING OF SPECIAL ASSESSMENTS.—

"(i) IN GENERAL.—Special assessments under subparagraph (B) shall begin not later than the semiannual period beginning 90 days after the date on which the aggregate amounts calculated under subparagraph (B) (with respect to all institutions that were or are members of the deposit insurance fund), and not yet assessed, exceed $1,000,000.

"(ii) INTEREST ON DELAYED ASSESSMENTS.—Any amount calculated under subparagraph (B) and not yet assessed shall bear interest at the daily average yield on 3-month Treasury obligations.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) CAPITAL CATEGORIES.—The terms 'adequately capitalized' and 'significantly undercapitalized' have the same meanings as in section 37 of the Federal Deposit Insurance Act.

"(ii) FOREIGN DEPOSIT.—The term 'foreign deposit' means any obligation of an insured depository institution described in subparagraph (A) or (B) of section 3(l)(5).

"(iii) RELEVANT DATE.—The term 'relevant date' means the date on which the earliest of the following occurs with respect to an insured depository institution:

"(I) The institution is significantly undercapitalized, and has advances from a Federal Reserve bank outstanding for more than 5 consecutive days (without subsequently becoming adequately capitalized).

"(II) The Corporation initiates assistance under section 13(c) with respect to the institution.

"(III) A receiver or conservator is appointed for the institution.".

On page 295, between lines 9 and 10, insert the following:

"(C) SPECIAL ASSESSMENTS ON FOREIGN DEPOSITS.—The Corporation shall not consider the proceeds of any special assessment on foreign deposits.".

Mr. RIEGLE. Mr. President, let me just make a brief explanation. I know my colleague from Tennessee is here, who wishes to speak on this amendment.

This amendment is technical in nature. It simplifies and improves the provision that was adopted during the Banking Committee's markup of this bill. As I said that has been accepted on both sides.

The provision provides that foreign deposits are protected in the future; there shall be an assessment to recover the cost only on banks that hold foreign deposits. This amendment is a compromise. It is the result of much hard work by Senators on the Banking Committee, and in particular Senator SASSER, Senator BRYAN, and Senator D'AMATO.

I also want to compliment Senator KOHL and Senator GRAHAM of Florida for their efforts. I know Senator KOHL is here and will be offering a sense-of-the-Senate resolution after Senator SASSER has completed his remarks on this provision.

So let me yield the floor if Senator SASSER is prepared to address this issue.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the distinguished chairman of the Banking Committee for yielding. Let me say that I rise today to address the issue of foreign deposits and the provision that is contained in the bill.

There will be a resolution offered shortly by Senator KOHL. I also will support the resolution that will be offered by the distinguished Senator from Wisconsin.

I am pleased that the Senate for the first time is facing squarely the inequitable and costly preference that exists for foreign depositors over domestic depositors in our banking system. S. 543 contains a compromise provision negotiated between myself, Senator BRYAN, and Senator D'AMATO which was unanimously accepted by the Banking Committee during the markup of the bill. I express my appreciation to the chairman, Senator RIEGLE, for his cooperation, and support in that regard.

The provision is being improved and strengthened by the just-adopted managers' amendment to the bill. The provision will bring fairness to an unjust situation. Foreign deposits, unlike domestic deposits, are regularly insured by the Federal Deposit Insurance Corporation, but they are not assessed deposit insurance premiums as are domestic deposits.

Mr. President, this provision will make those banks that benefit from the coverage of foreign deposits pay for what they receive—banks with domestic pay for what they receive when their domestic deposits are insured.

What gives rise to this concern here? The contrasting treatment last year of the National Bank of Washington vis-a-vis the Freedom National Bank of Harlem, shows the gross inequity and unfairness that has been worked by previous practices.

In the National Bank of Washington case, all deposits, including $85 million of deposits at a Bahamas branch, were made whole and good by the Federal Deposit Insurance Corporation; $85 million for foreign deposits were protected by the Federal Deposit Insurance Corporation.

Meanwhile, at the Freedom National Bank in Harlem, when it became insolvent, charities like the United Negro College Fund lost a portion of their deposits.

The message is clear. If you make a deposit in the Bahamas branch, you are going to get the backing of Uncle Sam. But if you make a deposit in a bank in Harlem, or in a community bank in Selmer, TN, you are at risk. And this is true even though a community bank pays premiums on all of its deposits. But not one dime is paid to the FDIC to insure a foreign deposit.

The foreign deposits policy of the Federal regulators, I say, Mr. President, is inequitable. It is a distortion of the banking system overall. There is no getting around it.

Free coverage of foreign deposits has an unfair and negative effect on competition. Banks with overseas deposits, because they have free insurance, can raise money less expensively than they would if they were paying dollar for dollar for the insurance on these foreign deposits.

The problem that is posed is that a big money center bank is a substantial risk to the insurance company fund. Yet most of these banks pay premiums on a very small percentage of their deposits. Numerous money center banks pay premiums on less than one-half of their deposits because the other half are so-called acquiring deposits, while regional and community banks pay premiums on all of their deposits.

Mr. President, there has never been a bank failure where foreign deposits have not been made whole. In one way or another, the Federal Government has stood behind an estimated $22 billion—$22 billion—in foreign deposits over the last decade.

In 1980, for example, First Pennsylvania failed with over $2 billion in foreign deposits on its books, and they were covered. Four years later, Continental Illinois went under with a whopping $18.5 of overseas deposits. Nearly $900 million was insured at the First Republic; $138 billion at First City. The list goes on and on.

In August 1990, $85 million of deposits at the Bahamas branch of National Bank of Washington, as I indicated earlier, were bailed out. In January, depositors at the Bank of New England's Cayman Islands branch got help from the FDIC to the tune of $100 million.

The problem, Mr. President, is these banks did not pay 1 cent of premiums to ensure these foreign deposits. Yet, they were fully insured by the Federal Government.

So the present policy is inequitable within the banking industry. For example, Bankers Trust has nearly twice the assets of SunTrust. Yet, Bankers Trust pays less than one-half the premiums of SunTrust. In 1990, Bankers Trust paid only $27 million in premiums, while SunTrust paid $58 million. Why is that? Because Bankers Trust, even though it has twice the assets, has a very substantial portion of foreign deposits. Whereas, SunTrust has overwhelmingly domestic deposits.

Mr. President, as the Comptroller General said in testimony before the Senate Banking Committee:

> * * *The current assessment base gives * * * larger banks a greater incentive to seek funds through overseas deposits * * * that are not part of the * * * premium base, but are frequently protected on a de facto basis when banks fail. Since the potential failure of the large bank places the bank insurance fund in the most danger, we believe the fairest way to recapitalize the bank insurance fund is with an assessment base that encompasses all activities on a bank's balance sheet.

So, Mr. President, the provision that is contained in the bill and is being improved by the manager's amendment will redress what I perceive and others perceive to be a very inequitable situation. It provides that if foreign deposits are covered in the future, there will be an assessment by the Federal Deposit Insurance Corporation to cover the costs that will only be paid by banks that have foreign deposits.

Under this provision, never again will premiums paid by community banks be used to cover the deposits of sophisticated foreign investors. The free ride will be over, and the taxpayers will be protected. The provision is an alternative to an up-front assessment of foreign deposits.

The argument of the money center banks has always been that foreign deposits are not insured; therefore, they should not be assessed. If that is the case, this amendment says, fine, have it your way; then foreign deposits are not insured by policy. But if somehow, some way, they manage to get covered, if one of these Bahamas bailouts slips through the cracks again, as they have so often in the last decade, we tell the Federal Deposit Insurance Corporation to recoup the costs.

The assessment must be sufficient to recover that share of the total cost of resolving the failed institution's foreign deposits. So banks that have foreign deposits—not banks with domestic deposits—will pay off foreign depositors in the future.

Mr. President, this provision is fair to small banks and is fair for big banks. Smaller domestically oriented banks will no longer be subsidizing the big banks. Moreover, Mr. President, this provision represents a significant protection to the bank insurance fund. The bank insurance fund and the taxpayers will never again be called upon to pay out on unassessed foreign deposits.

This is important, because there is much evidence that a great deal of the threat facing the Federal Deposit Insurance Corporation today is from banks that hold foreign deposits.

So, in summation, the provision will protect the taxpayers. It will reduce the distortion and inequities in the banking system. I urge support of the resolution to be offered by the distinguished Senator from Wisconsin, who I see has now arrived on the floor, which underlines the vital importance of the foreign deposits provision in the bill.

As the chairman well knows the issue of assessing deposit insurance premiums on foreign deposits of U.S. banks has been one of the most controversial questions in banking for many years. Community bankers have long held that it is unfair for foreign deposits to be covered by the FDIC when there are no insurance premiums paid on them. The coverage of foreign deposits is particularly unfair when it is considered that community banks pay premiums on all their domestic deposits, but typically the FDIC only covers those up to $100,000 in a small bank failure. The failure of Freedom National Bank in Harlem last year was a good example of this phenomenon; many charities were left holding the bag because of the FDIC policy. However, at just the same time the FDIC arranged a transaction that resulted in full coverage for the depositors at the Bahamas branch of the National Bank of Washington, even though NBW never paid premiums on those deposits.

Mr. RIEGLE. The Senator is absolutely right and I commend his leadership on this issue. I also want to compliment Senators BRYAN, D'AMATO, and KOHL for raising this issue and working hard on a compromise that I will do everything in my power to have enacted.

Mr. SASSER. I thank the distinguished chairman. As he knows, the bill contains a provision that provides that if foreign deposits are protected in the future there shall be an assessment to recover the cost only on banks that hold foreign deposits. As a result of this, no community bank shall ever pay again for the insurance of a foreign deposit. At this time, I also want to thank Senator KOHL for his efforts and leadership on this issue. I also want to say that I appreciate the sincerity of Senator D'AMATO in seeking a resolution to this issue. I enjoyed working with the Senator from New York and his staff.

Mr. RIEGLE. The Senator is correct about the effect of this provision. This is an extremely worthwhile and fair provision that settles a longstanding controversy. I will oppose any weakening or alteration of this provision in the conference committee meeting with the House.

Mr. KOHL. I agree with Senator SASSER and Senator RIEGLE that the provision in the bill is a giant step toward an equitable resolution of this issue. I am pleased to be a part of this effort to bring some fairness to community banks. Our Nation's community banks have been paying the cost of insurance of foreign deposits for many years. This has to end.

Mr. GARN. I fully support the compromise provision contained in the bill. I have never supported assessment of foreign deposits but I believe this is a reasonable approach. I will work to preserve this approach in the conference committee meeting with the House of Representatives.

Mr. D'AMATO. I also support fully the compromise provision on foreign deposits. It is fair. If banks get insurance on these deposits they have to pay for it, but in the meantime the presumption is that these deposits are neither insured nor assessed. I will work with my colleagues to be sure that this amendment is not diluted in conference by the other body.

Mr. BRYAN. I am pleased to have worked with my colleagues in fashioning this historic compromise and believe it is an equitable solution.

Mr. SASSER. I yield the floor.

Mr. GARN. Mr. President, I rise in support of the compromise that has been proposed on the issue of assessment of foreign deposits. The committee bill all but eliminates cases in which foreign deposits will be protected by the FDIC. And under the compromise on foreign deposits that is now being considered, in those few cases when foreign deposits are protected by the FDIC, a special assessment to recover the cost of protecting them will be imposed on the large banks that hold foreign deposits.

It is my hope that this provision will eliminate once and for all the argument that foreign deposits should be part of the base for assessing FDIC premiums. No bank that is not a holder of foreign deposits will ever face a cost of protecting them.

As we consider this compromise, I think it is important for the Senate to review the arguments against simply applying deposit insurance assessments to foreign deposits. In my view there are very good reasons why such assessments have been considered and rejected at least nine times since the 1930's, and little argument for them.

The major argument put forward in support of such assessments is that big banks that found themselves with foreign deposits have paid no premiums on those foreign deposits while being fully protected under the too-big-to-fail doctrine. Thus, they have enjoyed a subsidy from the smaller banks. This claim does not withstand scrutiny. Looking at the data, the better argument is that large banks already subsidize the cost of insurance for small banks because they have paid far more to the bank insurance fund than has been spend on large bank failures.

While there is little reason to impose assessments, there are many very good reasons why such a policy would be a mistake. First and foremost, insurance coverage for foreign deposits would expand the FDIC safety net and expose the FDIC to considerable foreign exchange risk at a time when we are trying to reduce the exposure of the fund.

Second, such assessments would have a strong negative impact on U.S. banks in the international banking market, since no other deposit insurance system in the world imposes premium assessments on interbank deposits in foreign branches of its banks. In foreign markets, U.S. banks raise between two-thirds and three-fourths of their funds through the interbank and wholesale loan markets, which feature very competitive pricing. Most foreign deposits are raised and used overseas. A 25–30 basis point assessment could cause U.S. banks to either lose customers or lose money, putting them out of this business.

A contraction in the interbank or wholesale funds of U.S. foreign branches would limit an important source of international liquidity for them. If U.S. banks ware forced to retrench internationally, their absence from the international marketplace would limit seriously the availability of competitive financing for U.S. exports. As former Federal Reserve Board Governor Heller has said: "* * * If American banks disengage from the international arena, American businessmen will have to conquer new export markets without an important ally in the form of their own banker. The loss of that extra competitive edge may be costly in terms of foregone sales."

For all these reasons, assessment of foreign deposits would be a mistake. That is why I believe this compromise is workable. It would maintain current policy under which foreign deposits are neither assessed nor insured. Only in rare cases where foreign deposits are protected, such as a systemic risk situation, foreign deposits would be assessed to recover the cost of such protection. I urge adoption of the compromise.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Wisconsin.

Mr. KOHL. As my colleagues know, I had intended to offer an amendment based on a simple principle: Institutions that benefit from deposit insurance protection ought to pay for that protection. That principle led me to the conclusion that since we have insured—and will continue to insure—foreign deposits, banks ought to pay insurance premiums on them to the bank insurance fund. Simple principle, logical conclusion.

Unfortunately, there is no guarantee that the amendment enacting it would survive the conference committee, even if that amendment won overwhelmingly in the Senate, as I believe it would have.

As a result, Mr. President, we have been negotiating a compromise which, in my judgment, represents a vast improvement over current law, a substantial improvement over the bill, and only a modest move back from the principle I wanted to originally achieve. The first part of that compromise was embodied in the Riegle-Garn amendment just adopted. The second part is the amendment I will soon send to the desk and ask it be read.

Mr. RIEGLE. If the Senator would yield momentarily before having that reported, I would like to move ahead to the adoption of the technical amendment and have that settled before the Senator's sense-of-the-Senate resolution is laid down. If that is agreeable, I urge that we adopt the technical amendment sent previously to the desk.

Mr. DIXON. Will the manager yield for a question?

Mr. RIEGLE. Yes.

Mr. DIXON. Is my understanding correct that the procedure now taking place is that my friend, the Senator from Tennessee, has offered an amendment that the managers have agreed to?

Mr. RIEGLE. Yes.

Mr. DIXON. The Senator from Wisconsin has another amendment that will be generally agreed to?

Mr. RIEGLE. Yes, it is generally agreed to. He does want a vote on it, and that will occur later this afternoon at a time to be set. The technical amendment I have asked for a vote on will not require a rollcall vote.

Mr. DIXON. I see. I have no objection.

Mr. RIEGLE. Mr. President, I ask that the Senate now act to approve the technical amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the technical amendment.

The amendment (No. 1350) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1351

(Purpose: To express the sense of the Senate with respect to foreign deposits)

Mr. KOHL. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will now report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself, Mr. NICKLES, and Mr. DECONCINI, proposes an amendment numbered 1351.

At the end of title II, add the following new section:

SEC. 231. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) one of the primary purposes of banking legislation is to restore the confidence of the American public in the soundness and equity of the United States banking system;

(2) public confidence in the soundness of the Bank Insurance Fund has been shaken by a Congressional Budget Office estimate that by the close of 1993, bank failures among large banks will cost the insurance fund approximately $15,000,000,000, compared to a $5,000,000,000 cost for the failures among small banks;

(3) public confidence in the equity of the deposit insurance system has been shaken by the too-big-to-fail policy—a policy which granted less Federal protection to the depositors in smaller banks, such as the Freedom National Bank in Harlem, than to depositors in larger banks, such as the Bank of New England;

(4) public confidence in the soundness and equity of the deposit insurance system has been shaken by the United States Government's practice of covering foreign deposits with Federal deposit insurance but not assessing those deposits with deposit insurance premiums;

(5) this practice has resulted in smaller community banks being charged deposit insurance premiums on a higher percentage of their deposit base than their larger competitors;

(6) foreign deposits are not insured deposits under the Federal Deposit Insurance Act; and

(7) this Act take important steps to address the too-big-to-fail policy and to end the unauthorized coverage of unassessed foreign deposits.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any final banking legislation should make it clear that foreign deposits are not covered by deposit insurance unless those deposits are assessed for that coverage.

Mr. KOHL. Mr. President, I believe the amendment is self-explanatory. It lays out, in a sense-of-the-Senate resolution, the principles of fairness and soundness embodied in the original amendment and it directs the conferees to preserve the steps that S. 543 now takes to enact those principles into law.

I am proud to point out that there are others in this body who also very much wanted to see the principles stated in this sense-of-the-Senate enacted into law. The amendment I originally intended to offer was cosponsored by Senators GRASSLEY, CONRAD, EXON, GRAHAM, BROWN, FOWLER, BURNS, ADAMS, HARKIN, HEFLIN, SIMON, ROBB, LOTT, and HOLLINGS. They all believe strongly in the equity of assessing foreign deposits. Also, the compromise we have reached today is due in great part to the efforts of Senator SASSER, and he deserves recognition as well.

Let me describe what we have under current law.

Under current law, foreign deposits are insured—for free. The U.S. Government, through the FDIC, has a clear and longstanding policy of covering the deposits held by U.S. banks in out-of-country branches if those U.S. banks fail.

There is nothing inherently wrong with doing that. But what is wrong is that foreign deposits are not assessed for deposit insurance premiums.

In other words, under the current system, banks with foreign deposits get Federal insurance on these deposits, but they do not pay for it.

Not only does that make no sense, it actually does some damage. The cost of insuring foreign deposits is unfairly borne by banks which have no such liabilities.

The Nation's nine largest banks hold over 75 percent all the foreign deposits held by U.S. institutions. In fact, those nine banks have 50 percent of all their deposits in foreign offices. Since foreign deposits are not charged deposit insurance premiums, the Nation's biggest banks end up paying deposit insurance premiums on only about 50 percent of their deposit base.

Compare that with the typical community bank—the kind of bank that serves the small businesses, property owners, and local government in most of the towns in your State. That bank will usually pay deposit insurance premiums on up to 90 percent of its deposit base.

That is what we have now, an inequitable system that places an unjustified burden on our local, smaller, community based banks. To correct that problem, I wanted to assess premiums on foreign deposits and nondeposit liabilities. But the big banks did not want to see that happen. Which brings us to the approach contained in the bill.

Essentially, the bill does say that we will not cover foreign deposits. But, because the Banking Committee recognizes that S. 543 does not shut off all opportunities for the BIF to make foreign deposits whole, the bill also contains a fall-back provision. That provision says that if the BIF ever again has to cover foreign deposits, in a bank failure a special assessment will be imposed on all banks that hold foreign deposits. That assessment will be sufficient to reimburse the bank insurance fund for the cost of the coverage.

As a concept that is not bad. Not all good, but not all bad either. At least the community banks will not end up paying for free insurance coverage received by their large competitors. But the language of the committee bill, in my judgment, contained numerous loopholes which might have prevented the special assessment from fully compensating the insurance fund.

The compromise amendment the committee has agreed to accept closes those loopholes and makes the approach in the bill more effective.

To that degree, the compromise deserves our support. And it has mine.

But I would be less than honest if I did not express my disappointment that we were not able to get more.

While community banks will no longer have to subsidize large banks, large banks will not be paying premiums into an integrated insurance system. They will have their own segregated account to cover foreign deposits, an account that operates only for their benefit.

That bothers me because it is one more example of how Congress and the administration favor large financial institutions. Sometimes I believe we have become so enamored of the big bank conglomerate that we have forgotten the vital role community banks play in our local economy. This country was build from the grassroots up, and it prospers today because of the grassroots—our small businessmen, our farmers, our average working families. I cannot understand why we are so willing to push an unfair burden on the banks that serve these folks. Increase the international competitiveness of big U.S. banks, by all means. But not by pushing out the banks whose business is confined to their own towns and neighborhoods.

When the Government strikes out at the competitiveness of these local banks—as we have with our current, biased deposit insurance system—we strike out at community development and neighborhood vitality. When the Government backs laws and regulations that treat small and large banks fairly, we champion the small business, the farmer, the average saver, the first time homeowner, all the real people who make up America's diverse and widespread economy.

The compromise before us takes a small step toward the goal of a deposit insurance system that values big and small banks alike. And in the months ahead, I hope we will continue to address the inequities that exist and threaten our community-based banks.

I urge my colleagues to give the Sense of the Senate before us their support. A solid vote on this resolution today will send a clear message to the conference committee: Do not miss this opportunity to end the unfair practice of granting free deposit insurance to banks with foreign deposits.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CONRAD. Mr. President, I rise today to express my strong support for Senator KOHL's sense-of-the-Senate resolution regarding foreign deposits. This amendment makes it very clear that the current deposit insurance system is unfair and must be changed. Senator KOHL originally intended to offer an amendment to strengthen the fairness and soundness of our deposit insurance system by assessing foreign deposits and nondeposit liabilities for deposit insurance premiums, and I planned to cosponsor that amendment because it addressed a fundamental unfairness in the way deposit insurance premiums are now assessed.

Currently, banks are assessed a flat rate insurance premium only on their domestic deposits. No assessment is charged for foreign deposits. Under this system many large banks with huge foreign deposits are now paying insurance on only a fraction—and in some cases a small fraction—of their total deposit base. Yet under the too-big-to-fail policy of the FDIC every cent of these deposits—both domestic and foreign—is routinely covered by our deposit insurance system when these banks fail. Thus, even though they pay less than their fair share of insurance premiums, large banks receive more than their fair share of insurance coverage.

Meanwhile, smaller and community banks do not accept significant foreign deposits. As the sponsor of this amendment, Senator KOHL, has so aptly put it, these banks do not have offices in the Bahamas to accept deposits. Because the vast bulk of their deposits are domestic deposits on which insurance is assessed, community banks—in marked contrast to their larger competitors—pay deposit assessments of virtually their entire deposit base. Yet, unlike the big banks, small banks cannot expect to get anything but the bare minimum of coverage if they should fail.

This means that small banks in North Dakota and across the country are subsidizing insurance coverage for large money center banks and their foreign depositors. Even though North Dakota banks have cost the Bank Insurance Fund virtually nothing, their assessments have skyrocketed over the last several years to finance the bailouts of their much larger competitors—including coverage for hundreds of millions of uninsured foreign deposits which the FDIC chose to make whole under its too-big-to-fail policy. If this is not changed, these safe, sound banks in North Dakota will continue to pay inflated premiums to pay for the failed risk-taking of these large banks.

Mr. President, this is not fair. And it is not sound. By giving large banks a much smaller relative interest in the level of deposit insurance premiums, it does nothing to encourage large banks or their foreign depositors to take fewer risks.

The amendment my colleague from Wisconsin, Senator KOHL, originally intended to offer remedied this unfair and unsound system by treating all liabilities equally, so that small banks would no longer subsidize the insurance coverage of the large money center banks. And it helped to ensure that the burden of paying for bank failures did not fall unfairly on community banks or taxpayers. By assessing premiums on the same deposit base for all banks, it would have ensured that small community banks would not bear more than their fair share of the burden of bailing out big banks and their foreign deposits. And by increasing funding for the Bank Insurance Fund, this amendment would have reduced the likelihood that taxpayers would have to pay for bank failures.

Mr. President, I supported this proposal because I think it would have been the best way of ensuring that no uninsured liabilities are covered under the too-big-to-fail policy. I still think that this would have been the best policy, and I think that the Senate would have adopted the Kohl proposal because it is the best way of ensuring that the current competitive disadvantage is removed from community banks.

However, Mr. President, the reality is that such a provision would most likely have been dropped in conference. For that reason I am supporting the compromise that Senator KOHL has worked out with the Banking Committee. The compromise strengthens the section of the bill regarding coverage of foreign deposits under the too-big-to-fail policy by requiring the FDIC immediately to impose a special assessment on all foreign deposits sufficient to recover any loss that the FDIC incurs through such coverage. It is my hope that the reformed too-big-to-fail policy will prevent the FDIC from bailing out foreign deposits. But past history and the realities of the structure of our financial system suggest that, despite the reforms in this legislation, the FDIC may at some point have to cover foreign deposits at large banks in order to avert the collapse of our financial system. The Kohl amendment makes clear, however, that this will not be a free ride for the large banks and their foreign depositors, that smaller community banks will no longer have to pay an unfair share of the costs of such coverage of foreign deposits. Instead, the Kohl amendment makes clear that foreign deposits themselves will—as they should be—the source of funds to cover any bailout of foreign deposits.

Mr. President, I remain unhappy that foreign deposits might still be covered indirectly under the too-big-to-fail policy when no premiums have been assessed on these deposits. However, as I see it, we have two choices. We can support the compromise the managers of the bill have accepted and the sense-of-the-Senate resolution that this compromise be retained in conference. Or we can win a symbolic but meaningless victory by insisting on assessing foreign deposits only to have such a provision removed in conference. This latter course would leave us with no progress whatsoever. I believe it is more important to make significant progress toward redressing the current unfairness by supporting the compromise than that it is to win such a symbolic victory. For that reason I am supporting the compromise and the sense-of-the-Senate resolution, and I urge the conference committee and the regulators to ensure that no uninsured foreign deposits are covered by deposit insurance unless those deposits are assessed fair deposit insurance premiums for that coverage.

Mr. RIEGLE. Mr. President, will the Senator yield at this point?

Mr. KOHL. I yield.

Mr. RIEGLE. Mr. President, we have now established that we will vote on the Senator's amendment. There are a number of Senators on both sides who are flying back in at this hour from their home States. And so if the Senator is agreeable, I would like to be able to stack the vote later in the afternoon, probably sometime around 4:30 p.m. or later at a time we agree on and the majority leader will concur in, and then we will place other votes where the votes are ordered in sequence.

But the vote on the amendment of the Senator from Wisconsin will come first. If we would agree with that, that would be very helpful.

Mr. KOHL. I appreciate and agree with that.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I wish to send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the pending Kohl amendment for purposes of the amendment?

Mr. DIXON. I ask unanimous consent that the existing and pending amendment be laid aside for the consideration of this amendment.

Mr. D'AMATO. Mr. President, if I might, I believe the Senator from Iowa was waiting to speak on the Kohl amendment.

Mr. DIXON. I apologize to my friend from Iowa. I thought Kohl amendment was concluded by the colloquy that took place between my friend, the manager, and the Senator from Wisconsin. But if my friend from Iowa wanted to speak on that amendment, I will yield, of course, until this amendment is disposed of. I thought my general understanding was we concluded everything and we vote on it later this evening.

I will yield to him to continue his remarks, with the understanding that I may then be recognized again, without losing my right to the floor for the purpose of offering another amendment.

The PRESIDING OFFICER. Is there objection?

Mr. RIEGLE. Reserving the right to object, only to ask then, are we clear that the Kohl amendment; that is now the basis of the unanimous consent, will be temporarily set aside to be voted on later so that other amendments will be in order after these comments are made?

Mr. DIXON. May I say to the managers, Mr. President, I have no objection to voting upon mine later in the day, as well.

The PRESIDING OFFICER. That is the understanding of the Chair.

Under the unanimous consent agreement that has been propounded by the Senator from Illinois, as the Chair understands it, the Senator from Iowa is to be recognized for the purpose of addressing the Kohl amendment, and immediately thereafter the Senator from Illinois is to be recognized for the purpose of offering his amendment.

Mr. DIXON. May I have unanimous consent to set aside the managers' amendment, or whatever amendment is pending, so that we may go to the consideration of mine?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I might just say for clarification, the only amendment now pending is the one from the Senator from Wisconsin, which will be voted on but has been set aside. And then, I gather, after the Senator from Iowa speaks, or anyone else, on this issue, then the Senator from Illinois will be recognized to offer his amendment.

The PRESIDING OFFICER. Without objection, that will be the order.

The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, I thank you, and I thank the Senator from Illinois for his courtesy.

I also rise in support of the Kohl amendment. I am a cosponsor of that amendment. I want the body to know, however, that in actual fact, I am not satisfied with only what is in the Kohl amendment. I am not satisfied with only what was in the technical amendment accepted by the bill managers. Obviously, I was not satisfied with what is in the original bill. I was a supporter of the original Kohl proposal, which will not be offered now, which would assess foreign deposits on the same basis as all other deposits that are assessed.

I state my position, being a purist in this area, because I have been frustrated over the last several years that we have a large amount of money out there that is not paying FDIC insurance. I think it is an issue of fundamental unfairness to American domestic deposits, and unfairness to small banks in America, where practically all of their deposits are assessed for FDIC insurance. And then, in a sense, because there is no free lunch in American society, somebody ends up paying for this. The American public at large eventually ends up picking up the bill, because when costs go up, those costs are passed on to the consumer.

So the issue of assessing foreign deposits for the bank insurance fund is an issue of fairness to the American people.

Now, I know the other side of the argument. Opponents of the proposal on foreign deposits assessment continue to raise the issue "international competitiveness."

Now, Mr. President, I do not think there is a person in this body that is not completely for international competitiveness. But I see an overriding concern here, and that is that we have a crisis nationally. While we are slowly coming out of the most recent recession, we are still dealing with its side effects, such as high unemployment in certain areas of the country.

It seems to me that we cannot be competitive in the world market if we are not strong here at home. And the banking system of the United States, particularly in the rural communities of America, has something to do with the economic strength of our domestic economy. So, that is why the issue of assessing foreign deposits is so important.

As a Senator from Iowa, I am obviously concerned with the small community banks, not only in my State but in every rural region of America. Recent increases in bank insurance fund assessment rates have been harmful to these independent banks. In 1990, as we know, banks were assessed just 8.3 cents for each $100 deposited. This rate then went up to 19½ cents in 1991, and most recently, to 23 cents. That is an increase of almost 150 percent in just 2 years. When a small business is dealing with tight profit margins, this additional burden can be devastating. And in the case of banks, the effect is not just devastating to the strength of that local bank, but in turn it has a ripple effect through the economies of rural America.

What business, Mr. President, can afford increases of 150 percent in just 2 years and still be competitive? The thing that makes this increase particularly unfair is that it is applied unequally. And it is unequal because banks with foreign deposits do not carry an equivalent burden but get an equal benefit.

Mr. President, this is the issue before the Congress today on competitiveness in our country. So let us look at the issue.

According to the FDIC, 51 percent of the deposits of America's nine largest banks are kept in foreign markets. Since the FDIC has a de facto policy of protecting foreign deposits also, this means that big banks are getting 100 percent protection and only paying for 49 percent of it.

Now wouldn't we all like a deal as good as that deal?

But is that fair? I believe it is not fair. In the period between 1982 and 1988, small community banks were allowed to fail in record numbers. Just look at the numbers. During that same period, only two large banks were allowed to fail. However, the FDIC allowed over 200 small banks to fail. In my own State of Iowa, 39 banks were closed.

What we need to remember is that small banks are the lifeblood of the community, the economic lifeblood of our small communities. Small banks make loans to rural farmers and to small business people. It is not the large international banks, which have half of their deposits overseas, that make loans in rural America. It is the local community bank that keeps its money at home.

We hear a lot about rural economic development. Well, here is a chance to support rural economic development by making the insurance system of our Nation's banks equitable. So I guess I am tired, in this context, of hearing of international competitiveness from banks that do not invest one red cent in the small businesses of our nonmetropolitan areas. We have to think of national competitiveness also.

Furthermore, when we allow this unfair burden to rest on community banks, the cost is eventually passed on to consumers. These consumers are all constituents of yours and mine. In this time of increased unemployment and tight budgets, any additional burden on the consumer is difficult and negative toward the economy.

We have considered the issue of assessing foreign deposits several times in the last few years. I think it is high time that we did the right thing for competitiveness for the folks at home and make the insurance system treat all deposits the same.

Of course, as I said, I am very disappointed that the original Kohl proposal is not going to be offered. I think it was a good proposal. I supported it then, and I would be supporting it if it were offered. However, the goal that we want to reach is to simply say that only deposits that pay premiums will receive insurance.

How many of us would like to have insurance for free? Well, there are a lot of deposits in our country that in a de facto way have this free insurance.

So I am going to support the proposal before us. I hope that there is a strong vote for this sense-of-the-Senate resolution. And I hope that somewhere in our administrative process, where bank regulators and financial institution administrators have some leeway, that they will take a strong vote on this Kohl sense-of-the-Senate resolution and use it as a lever to make sure that we get maximum assessment of foreign deposits—not with a goal in itself of just collecting that money but with the goal to see that all banks pay a fair share toward the bank insurance fund.

I yield the floor.

Mr. D'AMATO. Mr. President, I ask unanimous consent I may be permitted to proceed for 3 minutes as in morning business and then the Senator from Illinois would be in order to follow, without his losing any of his rights pursuant to the previous agreement.

The PRESIDING OFFICER. Is there objection?.

Mr. DIXON. I have no objection to that if I am required to yield only for 3 minutes under a unanimous-consent agreement where we return the floor to me, Mr. President, for the purpose of offering my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York [Mr. D'AMATO] is recognized for 3 minutes.

CREDIT CARDS

Mr. D'AMATO. Mr. President, there is an old axiom in law school. It says, "If you have the facts, pound the facts; if you have the law, pound the law; and, if you have neither, just pound the table." That, Mr. President, is what we heard—a lot of pseudo-economists, some who claim to be economists, some who were retained by the banks, some who work for the bankers, and some who are the best friends of the bankers, including some people who ought to know better, some who are in high places in this Government.

These people attributed Friday's drop in the stock market, without equivocation, to the legislation that was passed in the Senate on floating credit card interest rate caps. Not once did I hear the Secretary of the Treasury talk about the fact that the double witching hour, which took place at 3 p.m., on Friday, brought about the biggest bulk of that market collapse. Not once did we hear talk about the biotech stocks, which have been overinflated, and some of which dropped as much as 38 percent in that 1 day. This had nothing to do with credit cards. Not once did we have an analysis of the facts. What we heard was a lot of pounding on the table. Not once did we examine who the big board loss leaders were. If we did, we would have seen Aetna, Boeing, IBM, and General Motors. How did the drop in these stocks have any connection to credit card legislation? Aetna dropped because the company had an additional $1.3 billion in loan loss reserves to set aside.

Mr. President, this Government has pursued a policy to lower interest rates, resulting in the lowering of the cost of money to the banks. The discount rate has dropped almost 7 to 4.5 percent. The prime rate has come down to 7.5 percent. This has all been done in efforts to stimulate the economy out of the recession. When I hear leaders of this country say we are not in a recession, I say, "Wake up and find out what the real world is about," because we are in a recession and banks are charging consumers unnecessarily high rates of interest on credit cards so that the banks can bail themselves out of bad loans. This gouging the middle class simply is not going to help the recession. That is what the credit card legislation was intended to help.

The Chairman of the Federal Reserve Board sent to Congressman WYLIE a letter that has been widely circulated. He says:

> The Board believes that the functioning of the U.S. economy is served best when credit is allocated through competitive market processes, rather than being subject to artificial constraints.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. D'AMATO. I agree with Chairman Greenspan. I wonder where the Federal Reserve Board has been and why it is that we do not have that truly free economic competition taking place. It should be taking place. That is why this Senator was forced to offer legislation.

If there was free economic competition, 7 out of 10 of the largest issuers of credit cards would not charge the exact same interest rate, 19.8 percent. Where are the regulators? Tell me about competition. There has not been any competition because the little guy, the working middle-class guy with good credit, has been forced to pay these high interest rates on his credit card debt. The consumer has been gouged to help those banks that have made bad loans all around the world. In return, the working middle-class consumer has given these banks profits that are unconscionable.

I yield the floor and I thank my friend from Illinois.

EXHIBIT 1

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, DC, November 15, 1991.

Hon. CHALMERS WYLIE,
Ranking Minority Member, Committee on Banking, Finance and Urban Affairs, Washington, DC.

DEAR CONGRESSMAN: I am responding to your request for the Board's views on legislation to place a statutory cap on credit card interest rates. The Board of Governors has considered the proposed cap and believes it will have a number of possible serious adverse effects on the economy and financial institutions. The cap would greatly reduce net returns on issuing many credit cards. In response, lenders undoubtedly would cut back sharply on the availability of credit cards, especially to borrowers who are more likely to encounter problems meeting payment obligations. Such actions could adversely effect consumer spending and the economy. The negative effect on banks' earnings will put further pressure on their ability to generate or raise capital, at a time when concerns about capital positions are already contributing to restraint on bank lending.

Considerable information about the various credit-card plans already is available to consumers, enabling them to select cards with the most attractive features, including low rates. In general, the Board believes that the functioning of the U.S. economy is served best when credit is allocated through competitive market processes, rather than being subject to artificial constraints.

Sincerely,

ALAN GREENSPAN,
Chairman.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1352

Mr. DIXON. Mr. President, I believe the amendment is at the desk, is it not? I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 1352.

Mr. DIXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DIXON. Mr. President, I rise today as chairman of the Consumer and Regulatory Affairs Subcommittee of the Banking Committee to offer an amendment to streamline the board structure of the Resolution Trust Corporation and to make other needed reforms. My amendment, quite frankly, is identical to S. 1943, which Senator RIEGLE and I introduced on November 7. Senators DODD, SANFORD, GRAHAM, WIRTH, and Senator KERREY, of Nebraska, are cosponsors of this legislation.

At the outset, I want to make it clear why I am offering this amendment to this bill and not on the RTC funding bill. The reason is very simple, Mr. President. We are running out of time. This is very likely the last full week of the Senate session. We have not yet taken up the RTC funding bill, and by the time we get to it, in my opinion, there will be no effective opportunity to amend that bill. We are going to get into the crunch around here, and we are going to be concerned about getting out, and a lot of momentous decision, just as they are at the end of every one of our sessions, will be disposed of without adequate consideration of all the elements of what we do.

If we are to reform the RTC, I say we have to act now on this bill.

I observe the distinguished Senator in the chair is a member of the committee.

Everybody who knows anything about this knows the RTC badly and desperately needs reforming. For some time, I have been very concerned about the progress of the Resolution Trust Corporation. There have probably been more speeches on the floor of the Senate about that issue in this session than any other question.

I have become more and more alarmed that the RTC is just not operating efficiently. I am equally distressed over the RTC's apparent lack of accountability. In hearings, both before the subcommittee that I chair and the full Banking Committee, I have listened to testimony from representatives from small businesses, from academics, and from the RTC officials, and these hearings demonstrate conclusively and overwhelmingly that the administration's handling of the savings and loan debacle has been poorly conceived and inadequately executed.

Most important, the source of the trouble, according to many, is that the original oversight structure of the RTC was poorly designed by the administration, creating unclear lines of decisionmaking and diffusing needed accountability. My friend, the distinguished senior Senator from Colorado, Senator WIRTH, has what he calls the "spaghetti board." It is the most confusing line-of-authority board ever invented or conceived by the mind of man. It represents how the RTC function takes place now. If ever there was something designed to confuse everybody and hide the ball so nobody knows what is going on, it is the Resolution Trust Corporation, Mr. President.

In hearing after hearing, in letter after letter, in town meeting after town meeting in my State, citizens have voiced their concern over the RTC. The horror stories are mind-boggling. It would take the afternoon—it is 2:30—to tell you the horror stories that have happened under the RTC. Regarding a sale that took place in Texas of the assets of a warehouse valued at $3.5 million; by the time they got finished they turned over to the RTC $50,000. An agent of the RTC had four automobiles to sell, kept one, gave three to friends. The horror stories are mind-boggling. And, sadly, I do not see them diminishing, Mr. President. Two full years after the creation of the RTC, it is still an unwieldy bureaucracy, staffed with career bureaucrats.

Incidentally, most of them do not know how to get rid of real estate and have little understanding of private sector needs.

I say the time to do something about this mess is right now. This Senator and other Members have listened to the repeated assurances that changes would be made and that goals would be met. I have news. That is no news to the many frustrated individuals throughout this country who have been watching this. The assurances keep flooding from the RTC but changes and progress are simply trickling out.

Remember, it was the administration that set up the Resolution Trust Corporation. Mr. President, it was the administration that first told us that the bailout would cost the American taxpayers about $19 billion. Then the administration came to one of our hearings and said, no, we are going to have to reevaluate that. It now looks like $40 billion. They seem to double it every time they come in—I am afraid they will come in one more time, Mr. President. Then they came in and said we got that wrong, $80 billion. And, finally, now they said $160 billion American.

It is the administration that keeps telling us not to change the structure of this RTC. The administration asked Congress to accept their plan for the RTC. But one look at the escalating cost to the taxpayers, exacerbated by the poorly constructed and poorly run RTC emphasizes, in my view, Congress' responsibility to take corrective action, and adding this amendment that I have sent to the desk to this banking bill is just the sort of corrective action Congress ought to take and should take.

Last summer, I introduced a bill to create the position of a chief executive officer of the RTC. It was my hope that we could find a strong independent business person with proven success in the private sector to turn this thing around. Equally important was the goal of increased accountability. I wanted one person to make the decisions. One person to be held accountable. I wanted the buck-passing and the finger-pointing to end. I wanted one person you could praise, one person you could blame, somebody in charge of the store.

After I made that speech, for a long, long time—we had a hearing one time and Secretary Brady was there, the Secretary of the Treasury. He said, you know, you are right. We thought it over, you are right. Since you are right we are going to appoint a chief executive officer, and they have done that now. They selected a CEO for the RTC, and I applaud that. That was a move in the right direction.

The creation of an RTC CEO was an important first step. However, it is not enough, Mr. President. There is concern that the present RTC oversight apparatus might be so diffused and so sprawling as to rob this very CEO that they have appointed of any real potential for success. Instead of establishing a clear link of responsibility, the authority and the accountability of the policies and the operations of the RTC are still divided between two boards. By law, the oversight board is to be held accountable for the RTC, while exclusive authority for management of the corporation is vested in the FDIC. The RTC Board is subject to oversight board supervision for some of its functions but not for others, and clearly this is a confused and an inefficient system.

Recently, the administration proposed a plan to modify the existing dual board structure and this was to be accomplished in part by adding new members to each of the two boards, and then slightly modifying the power to the oversight board.

Unfortunately, Mr. President, this is just a cosmetic face-lift. It does not do anything to attempt to repair the flawed features of the RTC structure. It is nothing but a facelift, a facelift for the biggest problem in America. And make no mistake about it, when you talk about the economy and you talk about this recession that everybody knows is out there, part of it is this tremendous inventory of assets held by the RTC killing the real estate market, depressing values.

On October 23, I chaired a hearing on the restructuring of the RTC, Mr. President. I am not sure that you were there, but a number of the members of my subcommittee were there. I want to tell you something. The testimony was direct and it was compelling. Dr. Harold Seidman—incidentally, I do not think he is any relation to Bill Seidman. My staff affirms that, he is not. Dr. Harold Seidman, senior fellow at the National Academy of Public Administration, a nonpartisan organization, stated, and I quote directly, Mr. President:

> We do not believe these basic deficiencies in the present structures can be cured by half-way measures and mere tinkering with the membership and functions of the oversight board.

He said do not do halfway measures, do not just tinker, which is what they have done in the House bill that the administration wants. Here is what he went on to say, and I quote directly:

> The creation of a dual board structure for a U.S. Government corporation is utterly without precedent—

Do you hear that, Mr. President?

> utterly without precedent and cannot be justified as necessary to maintain sound management and protect the public interest.

Think of it, the biggest problem in the country is being addressed in a situation utterly without precedent in the history of the Nation.

Mr. Alan Dean, another expert in public administration testified—I quote directly. Now listen to this comment of Mr. Alan Dean, an expert in public administration, a direct comment:

> I have never seen such a jerry-built . . . unsatisfactory structure as that which now exists for the RTC framework.

Now how do you like that?

Mr. President, for some time, I was a little deferential to the administration's views on the RTC structure. But from hearing testimony and complaints over time, this Senator has become convinced that oversight by two boards results in unnecessary confusion and terrible conflict. The administration argues that a two-board structure enhances accountability. But the actual effect, of course, is just the opposite. With two boards, no one is responsible and no one is accountable.

I am determined to give the new RTC CEO, Al Casey, the best possible chance for success. Incidently, I think he is a classy man. Al Casey's background is a sound one. His business experience leads me to believe that in an unfettered capacity as the CEO with the power to do the job and to control the board he can be a huge success. We have to give him the necessary authority to do his job, Mr. President, and then we have to hold him accountable for how he does it. Make Al Casey the man, give him the power, give him the authority, give him the control that everybody does in corporate America.

I am a great believer in the power of one qualified individual to effect significant change. I really believe that can happen. I really believe Al Casey is an individual who can make changes and who can put the RTC back on the right track, but we must be sure that his hands are just not tied.

Mr. Dean stated this:

> To pretend that a confused multiboard structure will be a help to Mr. Casey is simply not the case. * * * I think any objective observer would note, there's absolutely no reason for these two boards, nor would it be difficult for Congress to provide for their elimination.

Mr. President, that is what this amendment does. It addresses many of the RTC's inefficiencies and problems. This amendment simply calls for a single streamlined board of directors chaired by the chief executive officer of the Resolution Trust Corporation. I believe this is one more crucial step in ensuring the S&L cleanup.

As I have said before, I do not believe that all of the RTC's problems will be instantly solved. They will not be. I do believe that a strong CEO serving as chairperson, a chairperson in charge of a streamlined board can begin to take action to solve the bureaucratic nightmares which have plagued the RTC.

Mr. President, this is the only chance the Senate is going to have this year, Mr. President, to reform the RTC's structure. There will be no other opportunity to pass this amendment, and every day we delay reforming the RTC is another day we make the thrift debacle needlessly more costly. So I strongly urge my colleagues to act to give the RTC the kind of structure it needs to do its job right. I urge the Senate to adopt this amendment.

Now, let me simplistically close by explaining to my colleagues what I want to do. What we have now is two Boards. We have on the boards every busy man in the Government. We have the Secretary of the Treasury; we have the Chairperson of the FDIC; we have the Secretary of HUD. I am missing somebody. Anyway, it is full of busy people who do not have time for this.

We have two Boards, unprecedented in the history of this Nation.

Then we have a CEO they picked now; the administration picked the CEO. We have never confirmed that CEO. The CEO does not run it. He works for them. I have been in a lot of businesses in my life and I have been in politics and Government a long time, and you pick a guy and you say you are in charge but we picked you and we can retire you, he works for you. He does not run the cotton-pickin' thing.

So you have now two Boards that will not work. That is what you have. You have a CEO who wants to work. I want to say publcily as a member of the loyal opposition here, a man that in every respect I think is a sound, good man, that can do this job and has the business background and the understanding and the intellectual capacity and the integrity to do a job is working for them.

Well, what do we do in this bill? It is a simple bill. It takes that CEO—and I want to say here publicly I am for Al Casey, so we are not trying to get rid of Casey. It takes the CEO and says let the Senate confirm him and put our imprimatur on his work.

Then it creates only one Board, not two, and that Board consists of five people: The Chief Executive Officer, Al Casey, would be the Chairman. Now he is the boss. He has Senate confirmation and he is the Chairman of the RTC Board, and he is the boss. You have the Secretary of the Treasury, and the Chairperson of the FDIC. Incidentally, they are both very busy people so probably they would not come to most of the meetings. That is OK because we say you can send a representative to sit at the meetings, act as your agent; you do not need to be there; the boss is Al Casey, the Chairman and CEO anyway. And then two public members of the Board picked by the President. A nice, tight, sound, strong, little Board with a tough Chair and a chief executive officer confirmed by the Senate.

Now, Mr. President, if we do that, this RTC thing can be solved. And I think the minute that is done, the message for the financial community, the real estate markets, and a lot of other places will be a strong positive one.

I only say this in conclusion, Mr. President. I believe, if there is one thing we have to address in the Congress, to directly effect a thing in our economy that is eating at the innards of our economy like a cancer, it is to reform this RTC Board and make it work.

I am delighted, Mr. President, to have a vote on this at any time today, later this evening with my colleagues from all over the country where they are attending to their duties in their home States. At the appropriate time, I will ask for the yeas and nays, Mr. President. I can do that now.

I do yield the floor. I see my friend, the distinguished Senator from Utah, who may have occasion to differ with me on this.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. GARN].

Mr. GARN. Mr. President, I do not often disagree with my colleague from Illinois, but I certainly do on this particular amendment.

My first objection would be this is simply not the bill to do it. We are having a difficult enough time trying to come up with a banking bill that is literally falling apart both in the House and on the Senate side day by day. While falling apart with the good provisions, it is picking up a lot of very bad public policy, the worst of which so far is the interest rate caps on credit cards. I would say to my colleague from New York that I am not one who would stand here and say the entire reason for the stock market drop last week was due to this amendment; there were other factors. But it was certainly part of it.

But beyond that, if I have ever seen a populist amendment on this floor in 17 years that was such terrible public policy, that is it. I would suggest, if we are going to play that game, we can start interfering with the free market, then I think automobiles are too high, and I suppose we ought to have an amendment out here to cap the price of automobiles. How about housing? How about gasoline? Let us make it a dollar a gallon. That would be a nice round number. It causes a lot of problems for people in my State with long, long distances and a small population, we drive a long way.

I do not know, in the Soviet Union they talk about a free market. We do not seem to understand it here. I understand the politics of it.

I am little bit embarrassed that I was the only one on either side of the aisle last Friday who even spoke against it. It disturbed me almost as much as only 19 people would vote against it. But if we want to add to the banking problem, of course, the Congress of the United States at least in this Senator's opinion is the primary culprit. There are a lot of other players as well.

But if the press ever really wanted to do an investigative job, they would go back over about the last 15 years and look at legislation, what has been done and has not been done, and they would find out the bad public policy that has come out of this body and why the taxpayers are paying so many dollars out there for those errors.

But to play with interest rate ceilings and say we are for free markets around this place, I do not know, maybe we will enjoy watching some of the major banks go down the tubes if we do this. Maybe it will be fun to have more S&L's in the RTC that we are talking about right now where the most valuable asset they have left is their credit card business. So we are trying to sell these, trying to sell the property and we devalue that franchise and then cost the taxpayers some more money. That is what we are doing in that stupid, asinine amendment that was passed last week, all in the name of popularity so that we can tell people out there how great we are.

We are really great. Interest rates are 19.8. We are going to cut them—535 wonderful wizards of the Potomac, arrogant, egotistical, because they were smart enough to convince their constituents to elect them and we are going to sit back here and make these kinds of policy decisions? Then do you know what we will do? We will hold hearings and blame somebody. If that stays on the books, and we have some more failures and some more costs to the taxpayers, we will hold hearings and blame somebody else, anybody but ourselves.

This body is the greatest scapegoat artist in the whole world. Anybody they can find to blame, except ourselves, we will do it. I find it unbelievable that we participate in public policy decisions like that with the old wet finger in the air. Is that all that motivates this body anymore? We do not make any decisions around this place except how it affects our next election? That is what is driving most of the decisions on this banking bill. How does it look?—not is it good public policy; not what is the impact on the taxpayers—because we are such an amorphous group. Oh, blame the administration, whoever the administration is. It does not matter whether it is Republican or Democrat. Congress is going to find somebody else to blame.

Well, now we have an amendment that we are saying "this is the only place or time we can do it." No; that is not correct. We have to fund RTC before we leave or we are going to repeat 1986 all over again. When Congress failed to pass the $15 billion FSLIC recap, it would have dramatically reduced the bill that they are now paying. If we left this session—this Senator wants to leave more than anybody else by Thanksgiving—but we simply cannot adjourn, as we did in October 1986, without providing the funding for the Resolution Trust Corporation. We have been irresponsible before. We will not be this time if we have to stay until Christmas Eve.

So there will be an opportunity to talk about RTC restructuring on the RTC funding bill—not on the banking bill—and confuse it with BIF and all the other problems we have with this bill.

So there will be an opportunity, I say to my friend from Illinois. We have to, if we have to be here on Thanksgiving Day and Christmas Eve. This Senate and this Congress should not adjourn if we do not do anything else but provide BIF recap and RTC funding.

The evidence is there from 1986. That oversight of "so anxious to get out of town" cost the taxpayers of this country tens of billions of dollars; tens of billions of dollars because we failed to do that. This Senator says there is going to be another opportunity. There has to be. We cannot go home until we have taken care of these two problems.

To the substance of the amendment, another little bit of history, I think, is important. The chairman of the Senate Banking Committee and I stood on this floor earlier this year, when we had the last $30 billion approved of RTC funding. Both of us stood on the floor and said, "No more unless there is an improvement in the authorization of that body and some meaningful restructuring." We both said it over and over again in the Banking Committee; that we would not approve a dime more without restructuring.

So I think the record is very clear on my position and on the chairman's position at that time. I think it is also very clear that the Chairman of the FDIC, Bill Seidman, said there had to be some changes. And to be absolutely candid about it, there was disagreement. The administration simply said we will hire a new CEO, get a really good one, and that is sufficient.

The chairman and I said, "No, that is not sufficient." Bill Seidman said, "No, that is not sufficient." And it dragged on all through the spring and summer.

Finally, they were convinced. Bill Seidman had some internal battles there over what kind of restructuring we needed.

First of all, I would say that the Senator from Illinois is absolutely correct. I agree with most of what he said about the failures of the RTC. But who created the RTC? The Congress of the United States and FIRREA.

There were some of us at that time who brought charts out here on the floor, and said, "Look at this ridiculous structure; look at the overlap and duplication; look at some of the provisions we have placed in this bill as far as conflict of interest, "And certainly we have to avoid conflict of interest. But we made it virtually impossible for anybody to buy a failed thrift even if they had an account in the thrift before that."

Some of us talked about that and said, "This is going to cause a lot of problems." I am sorry we were right, and that 2½ years later we are in the mess we are in. You get a little bit frustrated and a little bit angry when you come to the floor when some of these things you said 2½ years ago—and nobody listened—takes place. And when there is a big mess, Congress wants to blame it on somebody else.

How do we escape? How does Congress escape when we pass the laws? I guess we can say, well, the President made us do it. How does he make us do it? We have three independent branches of Government with separation of powers. He cannot make us do anything unless he vetoes and we override it by two-thirds.

So I think we need to look at who set this organization up to begin with, and who has been criticizing it all along. So some of us forced the administration against their will, and Bill Seidman, to come up with some changes.

We said, "Let us do as much as we can without disrupting the organization." I did not favor two Boards to begin with. But I think we need to recognize where we are in this process.

The amendment would abolish the RTC Oversight Board and make the RTC an independent agency insulated from administration oversight. Under this amendment expenditures of up to $160 billion of taxpayers' funds and disposition of huge amounts of property and securities would be in the hands of a fully independent board with independent oversight.

If the taxpayers' funds are being spent, the taxpayers should have a role. This cannot only be achieved through an oversight board that is part of an administration and accountable to the public. Expenditures of this magnitude must be subject to oversight by the Secretary of Treasury and not agency bureaucrats. The Comptroller General has stated on numerous occasions that there should be an independent RTC oversight.

Most recently, and on October 8, 1991, he said, "We (the GAO) would like to see included in any restructuring, strong oversight by an entity independent of day-to-day operations of the RTC." Special attention is needed because of the magnitude of both the overall operations of RTC and the funding required. An oversight board meets this criteria and could help assure that the effort does not get off track. Creation of the new board will slow down the RTC just as it is moving more rapidly. Sales of repossessed properties are accelerating. Progress made to date will be slow to stop until an RTC staff waits for policy guidelines for the new board.

I think that is one of the most important reasons to oppose this much restructuring. If we were starting out at the beginning in FIRREA, I suspect I might be supportive at least in general principles, the concept of one board as I did at the time. But after 2½ years of not doing the job very well, when they are finally beginning to move on disposal of property, and finally have Mr. Casey—that is a man with a very fine track record, and I have great confidence that he can get hold of this organization—then we are going to change the structure enough that I know what is going to happen. While they get the new structure in place—the new organization—we will lose another 6 months to a year, and then we will be back on the floor condemning RTC for not moving rapidly enough.

So, at the outset, I might favor this proposal, but certainly not in the middle of the stream. That is why I feel the administration's proposal is a good compromise. Important decisions I believe will be delayed and it will increase taxpayers' costs. This additional delay could require the extending of the life of the RTC beyond 1996. There is an alternative plan that has been developed by former Chairman Seidman of the FDIC and the administration. The plan is supported by the RTC and by Al Casey, the new RTC chief executive officer, and by the administration. It is less disruptive than the proposed amendment. According to people most likely to know, it will do the job.

Mr. Casey is certainly satisfied with it. We should not ignore the Seidman plan by adopting this amendment. The Comptroller General warned Congress in his October 8 letter, "Let me emphasize that in pursuing restructuring"—let us back up. Mr. Bowsher and the GAO favored restructuring as the chairman and I did—but he said,

> Let me emphasize that in pursuing restructuring, careful attention needs to be given to avoiding changes or delays that would be counterproductive to the progress RTC is making in improving its operations and asset disposition strategies.

Former FDIC Chairman Seidman said in his testimony before the Senate Banking Committee on October 24, 1991:

> If you go to one board, you will, I think, disorient things until that new board gets in place and gets its rules and finds out what it wants to do. Given where we are today, I think the way it is set up now is sound.

Again, I make the point that maybe this would have been a good plan in the beginning. In the middle of the stream, changing horses to this extent, I think, will only cause problems. I know the Senator from Illinois well enough. He certainly does not want that to take place.

After a difficult startup period, to say the least, RTC's performance is improving. The oversight board has recruited a strong, experienced CEO, and has given him the power to do his job. I suggest that we give that a chance. Let us not turn back the clock. The FDIC-Treasury plan makes improvements, but does not cause delay. It is a good compromise. It provides clearer roles for the CEO, the operating board, and the oversight board.

We talk about accountability. Mr. Casey said to me personally—and to other Members, and before the Senate Banking Committee—when asked where the buck stops, and who is responsible, and if it does not work, who do you hold accountable, he said, "Me. Under this revised structure, me. I will be the CEO. I am where the buck stops."

That is sufficient for me, and that is what this Congress asked the administration to do—to get a good, tough CEO. In Mr. Casey, we have that, and we have someone to hold accountable, by his own words. In his words, again: "Me," meaning Mr. Casey. He said, "The buck stops here. I will take the responsibility."

I hope my colleagues will defeat this. I do not know, procedurally, how we will proceed. But, I understand, from some changes that have not been involved in this debate, section 204 costs $130 million to $170 million over 5 years in affordable housing changes; from $580 million to $1.1 billion.

There are no offsets in this amendment. So I think it is wrong from a procedural standpoint, but it is also a violation of the Budget Act, with no offsets for a very large increase in costs.

I yield the floor.

(Mr. WELLSTONE assumed the chair.)

Mr. RIEGLE. Mr. President, first of all, I am a cosponsor of the original proposition of the Senator from Illinois on this piece of legislation, although I did not anticipate, in becoming a cosponsor some days ago, that that legislation would be offered on this particular bill.

Frankly, as much as I support the legislation, I have argued from the beginning that we ought to keep these two issues separate. Namely, we ought to take the banking restructuring issues, both the financing that is required to the Federal Deposit Insurance Fund, as well as the banking reforms, and treat those as a package separate and apart from the RTC issues, both the structural changes there and the financing required for the RTC.

I am still, as I stand here now, of the view that these two issues ought to be treated separately, and not in combination.

I recognize, as well, that we are coming down the track toward the end of the session, and time is short. But I want to make a suggestion to the Senator from Illinois for at least his consideration, because he is a very reasonable man. He has done all the work on this issue through his subcommittee, for which I am most appreciative. I support his conclusions, although I am reluctant to see those issues attached to this bill.

I have a couple of thoughts. One is that I wonder if it would be possible to see, in discussions with the administration, if a proposal along this line would be acceptable to them—not on this bill—but in the course of taking up and doing the RTC funding within the next several days; and if, in fact, a discussion could ensue with them to maybe reach some kind of an understanding on that issue, so that there were some assurances there that this issue would be taken up and would be dealt with as the Senator wishes, but not in the context of this legislation. That might be one possibility.

Another possibility might be to, today, treat this idea—I only suggest this to the Senator for his consideration—treat his amendment in the form of a sense-of-the-Senate resolution for the purpose of seeing where the votes lie on this issue, to see if, in fact, the votes are there in the form of a sense-of-the-Senate resolution. And that, in turn, would not only indicate where sentiment is, but I say to the

Senator that it would also be a very powerful signal to the administration of where the view of the Senate is on this issue.

And if the preponderance of opinion agrees with the Senator from Illinois on this issue—on the substance, as does this Senator—then that is an unmistakable signal there to the administration. Hopefully, that would put them into a frame of mind to sit down with us and work this issue out, so that we can take that very difficult RTC funding vote through here with the changes in structure that I think have to accompany it, separate from this bill, so we do not get this set of issues all rolled up into the conference on the banking reform bill. That would be another avenue that might be available which would pursue the same objective.

I must say, I am concerned today that, having myself taken the position that the two bills ought to be treated separately and on separate tracks, I am very reluctant—even though I am a supporter of this approach—to have this particular amendment added to this bill. I do not think it ought to come in the bill as a formal proposal that would have the force of law, because I think we ought to, as I say, keep these two issues separate.

So I just appeal to the Senator from Illinois, in the course of the discussion, just to think about those options as other ways, other avenues that might be open to achieve the very same objective.

Let me say this to the Senator, in terms of my view: While I have the reluctance to see it attached in the form of law in this bill, I feel just as strongly as the Senator from Illinois does about having it done in the context of the RTC funding. So it would be my intention, as one Senator, to stand with the Senator at the time the RTC funding issue is taken up, to see to it that these reforms, structural changes, are in there. I think they are needed.

That is not to say that the Senator from Utah does not have a right to his point of view on this issue. I think the head of the RTC ought to be subject to Senate confirmation. I think the Senator from Illinois is exactly right on this issue. I think we have too many boards, because we have had everybody in charge, but we have had nobody in charge sufficiently.

So I think that consolidation ought to take place. And I think the person, once confirmed to be the head of the RTC, ought to be the person that is the lead horse on the Board of Directors.

And so my thinking lines up with that of the Senator from Illinois, and I think the work he has done has really laid out a major and necessary structural improvement in the RTC.

So what I am saying to the Senator is that I want to stand with him on that issue, and, in the context of taking up the RTC funding, I intend to do exactly that. I will work as hard as I know how to help accomplish that goal, assuming that we have the votes here in the Senate to do it. In the end, the Senate is going to decide that issue. Obviously, the House will have its view on the issue.

But I say to the Senator, he can count on my support and my help in getting this enacted, but I would strongly prefer that we do it in the context of the RTC bill or take the other avenue that I have suggested with respect to trying to work with the administration or the sense of the Senate today with the idea of making it law on the RTC.

Mr. DIXON. May I respond to my friend, the manager, and to my friend, the manager on the other side?

Mr. RIEGLE. I yield to the Senator.

Mr. DIXON. First, let me make this observation: I hear everything the Senator is saying about the RTC and the funding thereof, and that is the place to do it. But I want to say publicly what I said to my friend when he came over here privately and visited with me while my friend, the distinguished Senator from Utah, was expressing his views.

If we leave here next Tuesday or Wednesday—and my sense is the leadership in both Houses wants to do that—I have to say in every meeting I ever attended either at leadership meetings, where I have the privilege by virtue of my position on this side to attend those meetings, our own conferences, or any other place I ever been, it was the stated intention of the people that run these two Houses, the majority leader in this place and the Speaker in the other House, to get out of here before Thanksgiving.

Mr. President, I have been here a few years now, and I have seen what happens in the closing days. I was in the Illinois Legislature, 12 years in the House and 8 years in the Senate, for two decades before that. I saw what happened there. And when you are getting out of here, these matters of great moment can be given short shrift. You are going to have a bill nobody much wants to vote for anyway. Let us be honest about it. RTC funding is not the most delightful issue in front of my colleagues around this place. I can just hear the desire for a voice vote right now instead of the yeas and nays. Maybe I do not have any problem with that, Mr. President, but I think the opportunities for getting this on that bill are somewhere between slim and none, and I have been here long enough to see a few fast balls go by. I do not mean my friend will throw a fast ball by me, and I know he would not try, but I am of the opinion that if we do not address this now, it might not be addressed.

I want to say further about that. The distinguished chairman on the other side knows that I went along with this for a while. In fact, I said do not change the structure of the two Boards because you will meddle with it and it will stop things and we will not get the job done. Every witness we have had in my subcommittee—I think my friend may have been there some of the time—has said that is all malarkey. Changing the structure of the Board at the top is not going to have anything to do with how it functions out in the field.

I actually have from Dr. Harold Seidman—incidentally he pronounced it "side man," not Seidman, as Bill Seidman, and from Alan Dean their direct quotes here in which they say that it will not affect anything. Here is a direct quote:

> It is simply not true that to cut the remaining ties of the FDIC and get rid of surplus board would be disruptive.

Not true. Far from that. It would make people know it would really work for and give Mr. Casey a type of staff that was really his own. Does Mr. Casey not want to be confirmed? He did not say that. Mr. Casey said, "It will be all right with me to be confirmed." I think he would like that. You simply have a situation here where we have an agency of Government that is created in such a way that it cannot function well.

Now I will say another thing, and my friends know this is true. I said about it being unprecedented. So the administration put a witness on the stand and said, "Oh, there is a precedent for this."

I wonder if my friend from Michigan would listen to this part. I know he has a friend and he is conferring with him. He was instrumental. I say to my friend from Michigan, could I have his attention a moment?

One of the witnesses that came to the committee said, well, there is a precedent, the Chrysler bailout. And my friend from Michigan was instrumental in doing the job that saved Chrysler, for which he is entitled to the great thanks of tens of thousands of working people, I do not know how many, in Michigan and a lot of business interests there and all over the country. And he was there. He said that is not true, the Chrysler board was not a dual board like this at all. You know who said that? The then Secretary of the Treasury, who appeared before my subcommittee as a witness, Mr. Miller said, "That is not true; I ran the thing. You know I was there. We had a Board and Chrysler Corp. had a board, but they did not have two Government Boards overlooking one another."

Mr. Miller said that. He was Secretary of the Treasury. My colleague knows him and served in the Senate while he was Secretary of the Treasury. The evidence is replete that this board is a lousy idea, the way it is now formulated. Every person that appeared before us from Government and from the academic field and the students of government said, "Awful, won't work, please change it," and the thing I always worried about, was it being disruptive? Every one of them said, "That isn't true at all." Secretary of the Treasury Miller said that is silly, that will not have anything to do with it. Get it running right at the top.

So, my dear friends, if we walk away from this now at the end of this year, we do not come back until January, we do not do much functional stuff of any significance in the first couple of months. I am not being critical; that is the way every legislative body in the world begins, slowly, in the beginning of the year. We are going to lose the chance to do anything about this. I think it would be critical to the interest of our country to do it before we go out this time, and I do not believe we will get a chance to do it on the RTC funding bill. Something is going to happen. I tell you, Mr. President, the manager, my friend, the Senator from Michigan, whom I appreciate in every particular as a fine Senator and a good friend, it is a mistake if we do not do it now.

Mr. RIEGLE. If the Senator will yield, I appreciate the generous personal comments and especially the reference to the Chrysler loan guarantee some years ago, and I am very sympathetic to what he said. I should add a couple other points. You know this idea has been building for some period of time.

Mr. DIXON. Sure.

Mr. RIEGLE. The Senator from Illinois led the hearings in his subcommittee and took the testimony and built the record and brought a recommendation in here now that is fully supported by, I think, what the facts have been and what the testimony has been.

I should also pay a compliment to Senator KERREY, of Nebraska; Senator WIRTH, of Colorado, because, as they foresaw this problem actually back at the beginning and have argued steadfastly now for the better part of 2 years that this kind of change is needed, and the hearings that the Senator has held, I think, have documented that now very forcefully and very clearly.

The question is: Ought we put it in this bill? Quite frankly, as we tried to talk to the administration about RTC restructuring, we have had a hard time getting our phone calls returned on that issue because they have not wanted to deal with that. They wanted to sort of pretend that it is not necessary. I am of the view, and I may be wrong, but my best sense for it would be that I do not think there are 51 votes here for the RTC funding without a restructuring that goes with it. I am saying 51 votes. There will be some votes here, but I am not convinced there are enough votes to pass it. I do not know because we are not to that vote yet. We have not done any kind of formal vote count. That is just my impression of difficulty of marshaling the votes, and it is going to take votes on both sides. You are going to have to have a blend of votes on both sides to come up with the votes on the RTC funding.

Mr. DIXON. If my friend will yield, if I could interrupt right now, I hear that observation. I do not feel compelled to have the vote tonight. I would have the conferences talk about this tomorrow. This amendment as a bill, you know, as a cosponsorship with the Chair talking to me right now, this Senator that chairs a jurisdictional subcommittee, a lot of fine Senators on this side, I would like to discuss it at our conference as to whether we would hold out and exact, as our price for RTC funding, these things in the organizational composition of the board and confirmation of CEO. And I have no problem about Mr. Casey. I say again now that I would support it.

Incidentally, I want to say that the point—and I know that my friend on the other side is listening—I did not know when I offered this amendment that I was putting in the whole bill. I honestly intended just to offer an amendment that dealt with the appointment of a CEO confirmed by the Senate and a five-member Board that I have enunciated on the floor. I did not mean to drag along the other things we had in this bill. If we come to a vote on it ultimately here, I will strip everything but the central theme of the amendment, which is not as ambitious as the bill which had other programs in it. The Senator from Utah is correct. I did not know that. I apologize to my colleagues.

But, of course, we all know as the sponsor I have the right to amend my own amendment and I am going to, so that it only does what I said, confirmation by the Senate of the CEO and a five-member Board where the CEO is Chairman of the Board, with the Secretary of the Treasury, the Chairperson of the FDIC, and two public members.

Mr. RIEGLE. If the Senator would yield further, let me suggest another idea, and then I will get off of this discussion and let others get into it. Let me make another suggestion.

The Senator from Illinois knows this bill is going to carry on over until tomorrow. He has talked about the two conference luncheons and this will afford an opportunity for that issue to arise. If the Senator tonight were to put his amendment in the form of a sense-of-the-Senate resolution, stripping out the other part, he would not forego his option tomorrow to come back in and offer it again drafted as a change in law, as opposed to the sense of the Senate.

But what that might accomplish is this: I would still like to keep these issues separate if I can. I made that representation in the beginning and I think that is the best kind of public policy here if we can do it. But if there were a test of strength on the issue, which a sense-of-the-Senate vote would do, it would send a clear signal out of here, an unmistakable policy as to where the Senate is.

Mr. DIXON. Will the Senator yield?

Mr. RIEGLE. Yes.

Mr. DIXON. I hear that part. And I know my friend from Mississippi wants to say something and I do not want to pursue this at length. But I only want to observe there, that is all well and done and eloquently said, but I and everybody around here have been around here long enough to know that unless the majority leader and minority leader suggest that when the RTC funding comes up it will come up in a framework where we have plenty of time to offer this amendment and have a full debate on the amendment and have a yeas and nays vote on this amendment, we are going to get into the end of the session crush. And I want to predict publicly the last thing we are going to do on the last day at the last moment, when folks are beginning to shake their chains and say, "My car is outside and I want to catch my plane"—now you listen to what I am telling you—is take up RTC funding. I predict it. And I am not that good a prognosticator, but I am good enough to know when I have seen a place work for a long time what is the garbage that you leave for last. And the RTC funding is the garbage left for last. And I want this in there.

Mr. RIEGLE. I say to the Senator—and I am going to yield because others want to speak—I think these other avenues are ones that merit consideration. In the course of the day, I know the Senator is going to talk with Treasury officials and they ought to talk with him on this issue and see if we cannot work something out. I hope a way could be found that would settle this issue separate and apart from this bill.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. I thank you, Mr. President, I will not speak too long here, but maybe give the Senator from Michigan and the Senator from Illinois a chance to talk more about how this can be resolved.

I certainly hope that this amendment will not be offered on this bill at this time. It is not in the form that we originally thought it might take. It was very comprehensive and very long, and, I understand from his comments now, that he would limit that considerably. But I hope he would also take the advice of the Senator from Michigan and either withdraw it for discussion at a later time or later date, maybe even next year. Perhaps the sense-of-the-Senate resolution would be a better approach.

I just feel so strongly, as the Senator from Utah was saying, that we have a very complex, comprehensive banking reform bill here that is extremely difficult by itself. Then, if you add the RTC questions to it—many of which are very legitimate questions and concerns—the likelihood of getting either of them will be even smaller.

With regard to the banking reform bill itself, I believe the best that we can hope for right now is probably the narrowest bill. We should get the BIF recapitalization now, and then give more time to this because there are so many other unsettled issues. There are many amendments still pending at the desk, and we are running out of time.

I think the Senator from Illinois is correct. I do think that RTC funding will be one of the last things to come up here. I also think that later on this week or early next week, probably at the very last moment, we are going to get recapitalization of the bank insurance fund rather than full banking reform. It will be a very narrow approval. And I think probably, in view of all that has already happened, and in looking at the long list of amendments that we have pending here, that that is the best.

The worst of all worlds would be to have banking reform that we have not been careful about or have not thought out with a lot of amendments popping up here on the floor at the last minute. Then we will wind up not only hurting the consumers of this country perhaps, but also destabilizing the bank insurance fund and the health and stability of the commercial banks which are very vital to the economy of this country.

The "too-big-to-fail" doctrine should be stopped in all but the most extraordinary circumstances. The banking industry does not want a government or taxpayer bailout for the fund, but healthy banks, like most of the banks in Mississippi, are tired of paying for the sins of others. In just 2 years, bank insurance premiums have risen from 8⅓ cents per year per $100 deposits to 23 cents per year per $100 deposits.

Congress should adopt a risk-based deposit insurance premium to more fairly distribute the burden and reward healthy banks. In my own State of Mississippi, commercial banks are performing well above the national averages; they are doing quite well. The following statistics indicate that our banks have prospered and grown by providing good service to their communities.

I ask unanimous consent at this point, Mr. President, to have some statistics printed in the RECORD.

There being no objection, the statistics were ordered to be printed in the RECORD, as follows:

	Mississippi banks	U.S. banks
Return on assets (percent)	.87	.67
Return on equity (percent)	11.44	10.27
Equity to assets ratio (percent)	7.65	6.66
Banks losing money (percent)	.82	10.48
Total assets	[1]$21.6	[2]$3.4

[1] In billions.
[2] In trillions.

Mr. LOTT. It is vital to these healthy banks that multiple account coverage continue so that deposits in Mississippi community banks—and other community banks in other States—are not driven out of State.

Brokered deposits have driven up interest costs for banks, leading to increased credit risks to offset them. Because this has greatly increased the risk to the bank insurance fund, I believe these brokered deposits should be prohibited or strictly curtailed.

We must reduce the incredible regulatory burden on banks if they are to remain competitive, both domestically and internationally.

I am concerned many of these amendments will increase that burden, not decrease it.

In light of this, I am considering cosponsoring an amendment which would exempt banks with less than $100 million in assets from CRA reporting requirements. In addition, this amendment would provide banks—with $1 billion or less in assets—a safe harbor in merger negotiations from CRA protests if their ratings in the prior year were outstanding or satisfactory.

I am also considering cosponsoring an amendment which may be offered by my colleagues, Senators COCHRAN and INOUYE which would strike the basic banking/Government check cashing provisions in title V as reported. These requirements can increase banks' liability significantly. Banks are not public entities, but profit-driven private companies. Although most of the banks in Mississippi already offer similar services, the Government should not mandate that they do so or what fees they charge.

I am opposed to the truth-in-savings provision in title V as reported. This would place an additional regulatory burden on banks and, as a matter of fact, I think it would be counter productive to the consumers themselves.

Banks are not on a level playing field with their competition. They are losing business daily to brokerage houses, mutual funds, finance companies, and others who are allowed to offer banking services, but are not regulated like the banking industry is. Banks should be given expanded securities powers with appropriate safeguards to assure the safety and soundness of the bank involved and the insurance fund.

I support the provisions of title X which place limits on the potential lender liability. These days it is difficult enough for banks to make sound loans. They should not be burdened with unwieldy environmental liability for contamination they did not cause.

While I support comprehensive banking reform, I no longer believe such legislation is attainable before adjournment. We should just deal with that realization. I also urge my colleagues, including the Senator from Illinois, to withhold his amendment and amendments like it so that hopefully we can address the funding of both the banking insurance fund and RTC, but wait for a cooler moment to deal with all of these amendments that are pending.

I yield the floor.

Mr. DIXON. Mr. President, I will be very brief because my friend from Colorado will shortly make his speech that is a dynamite speech on the spaghetti charts which shows the state of confusion in which our Government now exists under the present RTC Board.

But let me say I would like to first ask unanimous consent to modify my amendment, which is the right, of course, of the sponsor of the amendment, to conform to what I have stated the amendment is: To wit, the amendment as modified by me will strike all of the amendment except that part that creates a CEO confirmed by the U.S. Senate, and that part that sets up one Board of five members consisting of the CEO as Chairman of the Board, the Secretary of the Treasury, the chairperson of the FDIC and the two public persons.

So I ask unanimous consent at this point to strike subtitles B and C, which I understand will then conform my amendment, may I say to the Senator from Utah, to what I have described.

The PRESIDING OFFICER. Is there objection?

Mr. DIXON. I have a right to amend that.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Will the Senator send the modification to the desk.

Mr. DIXON. That modification will be sent to the desk momentarily. They are working on it.

The modification follows:

In amendment 1352, strike subtitles B and C beginning on page 29 (top) and adjust table of contents and section and title numbers accordingly.

Mr. DIXON. May I further say if the two managers can hear this—that it is my intention later in the day to ask for the yeas and nays on this amendment, unless something is resolved through the day that would be satisfactory to this Senator and some of my colleagues, like the distinguished senior Senator from Colorado and others like-minded who want to do this.

I am not so wedded to the vehicle I am doing it on as I am personally of the opinion that if we cannot do it now we cannot do it this year. And it is fatal to not do it this year. So I am willing to let the managers pursue this through the day with the majority and minority leader. I would be willing to pursue through noon tomorrow at the separate political caucuses of the two parties at their luncheon caucuses what might be done. But I want insurance that the people of this country have the opportunity to have their Senators vote on this issue, in apt time to confirm it as the form of our Government's dealing with this crisis when we are forced to vote on a RTC funding bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. RIEGLE. If the Senator will yield, I appreciate the Senator's willingness to not make a final decision now on requiring a rollcall vote on this or otherwise pressing forward pending these discussions. The amendment of the Senator, then, would come in order after the amendment of Senator KOHL, on which there will be a vote later today. While we have not yet set the precise time for that, we will do so a little later. So if the Senator from Illinois intends to press ahead today and wants a vote, presumably it would come in the order right after the Kohl amendment.

So I ask unanimous consent that, if the Senator does press ahead to the vote, and if in fact he seeks the yeas and nays, and the yeas are nays are given, that that vote occur in sequence after the Kohl amendment at a time to be set later today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. And that there be no second-degree amendments or any other amendments in order.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. Reserving the right to object; I was conferring on another amendment and did not hear the entire unanimous-consent request.

Mr. RIEGLE. Let me repeat it. It would be if the Senator from Illinois decides to take his amendment to a vote later today and seeks the yeas and nays, and the yeas and nays are granted, that his vote would occur in the sequence following the Kohl amendment, which has already been authorized by the Senate and will occur at an hour later this evening. The Senator has not made a final decision that he is going to take his amendment forward to an up-or-down vote today, so this would keep that option open for him as we try to negotiate an answer that would not require the vote. But it would protect his right to have a vote in that sequence later if he decides to proceed with the vote. That is the request. And that there be no other amendments in order.

Mr. GARN. Further reserving the right to object, and I have no intention to objecting to simply displacing the amendment temporarily, but I thought I heard something about no second-degree amendments.

Mr. RIEGLE. Yes, I added that as well, that his amendment, if it were to be offered for a vote, it would be voted up or down without a second-degree amendment being offered to it.

Mr. GARN. Mr. President, I would not agree to that extension. I agree to change the position of the Senator from Illinois from exactly as it is, parliamentarily speaking, right now to a later date. But I do not want to make any other changes. So if the request is just to delay and give him a place in the pecking order, fine. But I do not want to change the parliamentary procedure as far as having the opportunity to possibly offer second-degree amendments.

Mr. ADAMS. Will the Senator from Michigan yield for a question in his unanimous-consent request?

Mr. RIEGLE. On that issue?

Mr. ADAMS. What I wanted to do was, if he wishes to have further discussion, perhaps to discuss it tomorrow, I was going to ask unanimous consent after my friend from Colorado has made his presentation, if we might set aside the amendment, take up the Adams amendment under a time agreement—and I am willing to agree to 45 minutes or an hour—and place it before the body so they can work out their times as to when they want to do it. I would ask for the yeas and nays but I am willing to have that placed before or after the Senator from Illinois, whatever the managers decide. I wanted to see if that could be done at this time.

The PRESIDING OFFICER. Will the Senator from Michigan please restate his request, UC request?

Mr. RIEGLE. He is just reformulating it in his mind and will restate it now.

That is, with the concurrence obviously of the Senator from Illinois, that the Senator from Illinois's right to seek the yeas and nays on his amendment be part of the unanimous-consent request, and that if he so seeks those yeas and nays later today that his amendment will follow in the order after the Kohl amendment, which has already been scheduled for the yeas and nays. And in addition, that following the disposition of the Dixon amendment, should there be the yeas and nays, that the next amendment that will be in order—assuming the yeas and nays are ordered on it—will be the amendment of the Senator from the State of Washington who hopes to lay that amendment down here shortly and debate it. That would be the extent of the request at this time.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. Reserving the right to object, and I assume this in no way limits further debate on the Dixon amendment?

Mr. DIXON. No.

Mr. RIEGLE. That is correct.

Mr. GARN. I have no objection.

Mr. RIEGLE. Let me further say to the Senator from Washington because there are other amendments backed up, I am not aware of Senators who want to speak at length on the other side of the Senator's position. I would like to suggest maybe we do it with 20 minutes equally divided. Would that suffice?

Mr. ADAMS. I would need about 30, equally divided.

Mr. RIEGLE. Thirty minutes? I add to the unanimous-consent request then that there be 30 minutes equally divided on the Adams amendment.

The PRESIDING OFFICER. Is there objection?

Mr. RIEGLE. And that there be no second-degree amendments in order? Would that be appropriate as well?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. Very good.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, I am pleased that the Senator from Illinois is raising this issue. It is an issue that I have been concerned about for, now, more than 2 years. I think I introduced the original legislation on this bizarre structure to bail out the savings and loan—the bizarre structure of the RTC.

It truly is bizarre, Mr. President. I would like to show you why. I introduced legislation 2 years ago called the Savings and Loan Simplification Act, or SALSA—SALSA being something that you know about—to just add a little spice to this debate, show people how preposterous this is. Let me show you, if I might, Mr. President—and watch carefully. I want to show you what the structure is we are trying to simplify.

That, Mr. President, is not a computer chip. That is not a map of how to get to Oz; this is an organizational structure, and this is the design of the organizational structure that was used by the head of the RTC to illustrate how the process works. How does FIRREA work, this process that was in the legislation sent up to us by the President?

Can you imagine anything working in this system? It does not. The Senator from Illinois has made the case, and we have made the case, that there ought to be very significant simplification.

As the Senator from Illionis will remember, I showed this chart when we had the RTC Oversight Board up. When did we have the whole RTC Oversight Board up? It took more than a year to get the full RTC Oversight Board to come up, Mr. President. It took more than a year.

Why was that? Because on the RTC Board is Mr. Greenspan, the head of the Federal Reserve, Secretary Kemp, the Secretary of Department of Housing and Urban Development, and Secretary Brady, the Secretary of the Treasury. They are three busy, busy men. They have enormous responsibilities elsewhere but they are on this Oversight Board supposed to be overseeing all of this. But they are not alone, Mr. President. There are two other independent members of the Board. And after FIRREA is passed, this Oversight Board with the head of the Fed, head of HUD, and the Secretary of the Treasury on it, it had two members of the Oversight Board. So the Banking Committee asked if we could get the Oversight Board to come up, and they could not come up because it took the administration more than a year to appoint the two independent members of the RTC Oversight Board.

So we could not get the Oversight Board to come up and talk about this.

Finally, the Board, after more than a year, Mr. President, after the Board was completed—this shows, by the way, how serious the administration was about the RTC Oversight Board—after more than a year, they came up and Secretary Kemp said he thought this was really not a fair representation. This had come from them initially, but this was not a fair representation, and I think it probably overstates the case because other departments who do have responsibilities in this—the Justice Department, the Federal Home Loan Bank Board, and so on, the RTC, all of these agencies are in this process somewhere.

So we took down this organization—this might be overstating the case—and we went back to what really happens. And this now, Mr. President, is what really happens in trying to get the S&L management and financing structure to work. This is the real one, not this one. This probably is a little too complicated. It is this more simple version that we are talking about now.

I want to point out, if you look at this, where do you go from here? You have the Federal Reserve, you have the Oversight Board over here, the FDIC and the RTC moving into this, you have the 12 home loan bank boards here, 6 regional advisory boards, and the fact of the matter is the responsibility does not exist anywhere.

We have hearings of the Banking Committee on various issues and it gets bucked—well, it really is not our issue at the RTC, it is the Oversight Board's responsibility—and there are a number of examples of that, of how hide the ball sort of gets played with this structure and a lack of accountability exists with this structure.

Let me give some examples. There was a seller financing proposal that had come up from the organization, come up to the Oversight Board, and as I remember it, the Oversight Board put it into effect but did not actually act on it. They just went ahead and did it. But the Oversight Board ducked the responsibility of approving it. They might not have ducked the responsibility. Maybe they were all so busy or had not been appointed, but they were not around to approve it. That was a major, important issue.

Another was the seller discount and auction program, again, put into effect by the organization. The Oversight Board knew about it but did not act to approve it. Again, a very important item.

Another thing that happened, Mr. President, the Oversight Board has closed meetings so you sort of know maybe what the structure is doing down here. But they have closed meetings up in the Oversight Board. And where is the accountability on that? It is a convenient way of doing things to not have the public know where the decisions were made, a modest $216 billion, I remind my friend from Illinois, $216 billion, and you can have closed meetings on the important decision-making process.

Another example was an amendment which I offered sometime ago related to environmental accountability and trying to make sure that some kind of preference was given to agencies, preference in sort of letting them know about it if there was a property of historic value, of cultural value, of environmental value that the RTC would identify that and make it known to various public agencies who might want to buy that historically or culturally or environmentally sensitive property, to have it out there so people would know that it existed.

In doing that, the RTC has established a memorandum of understanding with the Fish and Wildlife Service so that on environmental properties they received the expertise in areas such as: Are these important? Are these not important? Everybody seemed to think that was a good idea, except the Oversight Board who came in and nixed the memorandum of understanding that had been very carefully worked out all of the way through the line.

What we are trying to do in this, Mr. President, is a very simple process of restructuring this to get rid of the Oversight Board and have a one-Board structure. I asked at the hearings that we had on this if there was anybody there who knew of a similar structure to this, where you have one Board of Directors and then an Oversight Board that oversees the first Board, and accountability gets lost.

The new appointee, Mr. Casey, who was at that point the designee as CEO of the RTC said that, yes, in his experience at American Airlines, there was sort of a dual board structure—that was the American Airlines board, and then there was the American Airlines Holding Co. Then we got into that discussion. He agreed they were really the same people and it was not this kind of an extremely disparate structure.

It is hard to find any model like this because most organizations have built in a certain amount of accountability.

So, after the administration came up, Mr. Robson, the Deputy Secretary of the Treasury, became very unhappy with the idea of SALSA and the streamlining that we are suggesting. Mr. Casey, who was the designee at that point, was carrying the administration's water and understood this streamline and understood this streamlining is necessary. The next panel—G. William Miller, former Secretary of the Treasury and former Chairman of the Federal Reserve; Harold Seidman, senior fellow at the National Academy of Public Administration; and Alan Dean, the fellow of the National Academy of Public Administration—said that this was a "quantum improvement over the status quo." The kind of streamlining that we are suggesting in the bill that has now become the Dixon bill is a quantum improvement.

So I do not think there is any questions about the fact that we ought to do this.

I might note that even at the last hearing where we were discussing this reorganization, it has been noticed for a long time—Secretary Brady could not make it. We understand he is a very busy man. But again a commentary on the fact, you cannot have an oversight board and expect them to do the job when the Secretary of the Treasury, the Secretary of HUD, and the head of the Federal Reserve are all on the Board with enormous responsibilities elsewhere. We have to assign the responsibility and make sure that people feel accountable for that responsibility.

I think this streamlining makes sense. I have been proposing this for a long time. It has now come to be understood, at least among the sponsors of the bill, as sort of a consensus idea, at least among many of us, that this is the way to go.

So I hope we do this. I am sympathetic with what the distinguished chairman of the committee is saying and what the distinguished ranking Republican on the committee is saying about this. I think Senator GARN makes a good point that we have to get the bank insurance fund bill done and get it done as rapidly as possible. I hold no brief as to whether or not this should go on the banking bill or should be put off and put on the RTC bill, or whatever.

But I wanted to take a few minutes now, Mr. President, just to outline why I have been working on this for such a long period of time. It simply makes sense to provide some accountability, to get rid of the button, button, who has the button short of advisory board and RTC Board operating quite independently—and we have many, many examples of where the responsibility simply has not been met as it should be.

So I hope that we do move ahead. I defer to the judgment of Senator RIEGLE and Senator GARN as to how and when we ought to go about doing this.

But I do hope that we do end up with a streamlining. I think that is an important thing to do. I think we have a responsibility to do that. I do not believe that that is going to do harm to Mr. Casey and the job that he has accepted. I think, in fact, it will help to streamline that and give him the responsibility and accountability. He is a very, very experienced and impressive business person with wonderful credentials in terms of running an organization, and I think we want to give him the tools with which to run this organization.

Mr. President, I appreciate the opportunity that I have had to point out the complexity of this organization, and I would be happy to send any Members copies of either chart if they would like to have that. I am sure maybe the Senator from Florida would like an autographed copy of the spaghetti chart, computer chip model here, but I will send it to the Senator in the mail.

Mr. President, I appreciate having these moments, and I hope that we do end up with a simplification proposal at some time on either one of these bills.

I yield the floor.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Mr. President, I ask unanimous consent to be able to address the Senate as in morning business not to exceed 3 minutes and then to return to the bill.

Mr. ADAMS. Reserving the right to object, Mr. President, I just want to inquire of the manager if he proceeds if we can then proceed with our amendment so we know what the order is.

Mr. RIEGLE. Yes, I expect that, and I ask unanimous consent that once the Senator from Florida has had the chance to go into morning business for his comments, we return without interruption to the bill; that the Senator from the State of Washington be recognized for 30 minutes, equally divided, on his amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Florida is recognized.

OUR TREATMENT OF HAITIANS

Mr. MACK. Thank you, Mr. President. Last Thursday, I was here making an urgent appeal against a policy for Haitian refugees that contradicts everything we believe in as a nation. I am very sad to say the situation with respect to our treatment of Haitians fleeing the military dictatorship has gone from bad to worse.

At that time, I talked about how freedom, by its nature, and for the sake of its preservation, must be afforded to everyone and not applied selectively. This concept of freedom is the driving force behind the greatness of our country.

At that time, I was concerned about U.S. efforts to seek out third countries who would take the thousand plus Haitian refugees held on Coast Guard cutters or at Guantanamo. That decision to attempt to dump these Haitians on third countries was morally wrong. Others who have fled repression toward our shores are welcomed. In the case of the Haitians, however, we have lost sight of the meaning of freedom.

Now, I understand efforts are underway to return these refugees to Haiti. This is the worst possible scenario. It is an outrage to send innocent people back to a country led by a violent illegal military dictatorship.

What could ever possibly justify even the mention of such a policy? The only moral response can be one of outrage and indignation if such a policy were pursued.

Just last week, the Washington Post reported how the Haitian military stormed a pro-Aristide University gathering with machineguns. This is the environment to which we are returning the Haitians.

If the Haitian refugees are forced to return to the hands of a brutal military regime, their dream of freedom will become their nightmare of repression.

Returning Vietnamese, Russian Jews, Cubans, Nicaraguans, and others back to the repressive countries from which they were fleeing would have been unthinkable. How can we justify it for Haitians?

Our history demands us not to send Haitians back to Haiti at this time. The ultimate solution to the current Haitian crisis is to restore Aristide to his rightful position as that country's democratically elected President. In the interim, however, we have the obligation to treat Haitians fleeing to the United States in a humane manner. I truly hope we follow the right and moral course of action.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. AKAKA). Under the previous order, the Senator from Washington is recognized.

AMENDMENT NO. 1353

(Purpose: To require the Federal regulatory authorities responsible for approving certain mergers and acquisitions to consider their effect on the work force displaced by those transactions)

Mr. ADAMS. Mr. President, I have an amendment at the desk, and I would ask the clerk to report it, please.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 1353.

Mr. ADAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 395, after line 25, insert the following new section:

SEC. 308. CONSIDERATION OF DISPLACED WORK FORCE.

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended in the second sentence by inserting ", the impact on employees of the existing and proposed institutions, including whether the institutions plan to provide reasonable notice to employees well in advance of any layoffs, whether the institutions plan to make any effort to ensure that laid-off employees receive priority in filling future vacancies, whether the institutions will provide specific severance benefits for laid-off employees, and whether and for how long benefits such as health and life insurance and pensions will be continued for laid-off employees," before "and the convenience and needs of the community".

(b) BANK HOLDING COMPANY ACT AMENDMENT.—Section 3(c) of the Bank Holding Company Act of 1956 is amended in the second sentence by inserting "the impact on employees of the existing and proposed institutions, including whether they plan to provide reasonable notice to employees well in advance of any layoffs, whether the institutions plan to make any effort to ensure that laid-off employees receive priority in filling future vacancies, whether the institutions will provide specific severance benefits for laid-off employees, and whether and for how long benefits such as health and life insurance and pensions will be continued for laid-off employees," before "and the convenience and needs of the community".

Mr. ADAMS. Mr. President, I ask if I may have 30 minutes of debate on this amendment, equally divided, and I would request the Chair inform me when I have used 8 minutes. I have one other Senator, maybe two, who wish to use some time.

Mr. President, I had hoped that this amendment might be accepted by both sides. Unfortunately, it has not been. I know it has by Senator RIEGLE, and Senator GARN has some questions about it, which I am sure he will raise in the course of this debate.

This is an amendment to deal with the human costs of bank mergers. We have bank megamergers sweeping the country, and the amendment I am offering will address the fact that employee impact must be considered. My amendment would require Federal regulators simply to consider, when they authorize a bank merger, how the workers will be affected.

Mr. President, I had a great deal of experience with mergers when I was Secretary of Transportation and when I was in the House of Representatives.

It is an amazing thing to me, in this bill, in section 558, we give notice to customers if there is going to be a branch closure, but we do not give any notice to the employees who will lose their jobs.

We have had some recent tragic cases of this. I saw picket lines in this city, and I am going to describe in a moment the fact there is a massive merger taking place in the State of Washington, were we will have potentially a large number of layoffs.

Let me mention what has happened. The Senate last Thursday voted to allow nationwide interstate banking and interstate branching. That vote is going to open the floodgates for bank mergers across the country. It will allow banks to consolidate, reduce paperwork, eliminate duplicative operations, and do a lot of other things all in the name of healthier banks. In the rush to complete bank mergers, however, the real pain is borne by the workers who will be laid off or their jobs will be lost.

In the last 12 months, 10 of the largest banks in the United States have announced plans to lay off close to 50,000 employees. Studies by McKinsey and Co. and Arthur Andersen accounting firm earlier this year found the banking industry will lose an additional 250,000 to 300,000 jobs during the 1990's. Bank mergers from Boston to California have already resulted in massive layoffs. The 3 mergers already announced this year will affect bank employees in 19 States and the District of Columbia.

The most recent merger announcement, that of the Bank of America and Security Pacific—and this particularly brings me to the floor—endangers the jobs of as many as 20,000 workers. This represents over one-fifth of their 92,000 employees. What is most important, in Washington State alone, where this merger will have its greatest impact, the approval of the merger in its present form may cost over 4,000 employees their jobs. Other examples abound. But I want to concentrate on the fact that 4,000 people in my State should be informed if they are going to lose their jobs, and other things should be done in an attempt, in any merger, to see that the human pain is alleviated. The Wells Fargo merger with Crocker Bank 5 years ago cost 4,000 jobs and closed 168 banks. I could go on. The Bank of New York and the Irving Bank merger reduced employment by 4,000; the Chem Bank/Manufacturers Hanover Bank merger announced in July will cost 6,200 jobs, or 14 percent of the work force.

Federal authorities under current law do not have guidelines to examine the effect of bank mergers on employees or on existing or proposed institutions. When 300,000 employees may lose their jobs in the next decade, should we not consider the impact on them and on their families?

My amendment will address that glaring omission. It would amend the Bank Merger Act and Bank Holding Company Act as follows—and it is not an overwhelming amendment; it is not as much as I would have asked for years ago in the transportation business. But it would amend these acts to include the employee impact as a factor for the Federal regulatory agencies to consider in the merger application process.

Regulators would be asked to do the following:

A. Give reasonable advanced notice of layoffs.

B. Priority for affected employees in filling future vacancies. In other words, employees laid off would have a chance to get their jobs back.

C. Continuation of the affected employee's benefits, such as health and life insurance and pensions. That should be considered, at least for some period of time, so that these people are not immediately without protection.

D. Whether there will be a severance package for laid-off employees. Regulators already look at the convenience and needs of a community when approving a bank merger. My amendment will simply guarantee that employee impact is considered under the convenience and need provisions.

My amendment is simple and it is straightforward. I am not talking about stopping mergers here. The amendment would not require regulators to deny a merger application based solely on employee impact. It would not impede the merger of a troubled bank with a sound bank. It would not hinder the expedited procedures process for troubled institutions. It would not prevent quick action in failed bank mergers.

The consideration of employee impact in mergers should be done. It is not a new issue around here. When I was a Member of the House of Representatives, we addressed employee impact in urban mass transportation takeovers. In the 1970's, we addressed it with the Rail Passenger Service Act, and in the 1973 Reorganization Act we used the precedent established in the New York Dock case, which said with the merger of two ferry companies we guaranteed employment of workers.

We are not even asking any of those things. All we are saying is that we give some notice and we give some feeling for these employees to protect them.

My amendment says to middle-class working men and women that their welfare will not be forgotten even in a rush to increase efficiency.

I would like to point out that section 558 of this bill clearly outlines the customer notification procedures banks must follow when closing branches. Why cannot this be done for employees? That was why I was hopeful this amendment might be accepted. If you are notifying customers, you should notify employees. There it is in black and white. Banks must notify their customers when closing a bank. Yet nowhere in the 11 titles of these bills is there even a mention of employee impact due to job loss. Someone thought about the needs of the customers, but no one thought about the needs of the 300,000 individuals and their families. I urge my colleagues to think about the human cost of bank mergers. Mergers will occur with increasing frequency. Please join me in sending a message to the bank employers throughout this country and to the employees. It is a simple message: You will not be forgotten in the merger mania sweeping the Nation.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. Mr. President, how much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Washington has 6 minutes, 40 seconds remaining.

Mr. RIEGLE. Mr. President, I am going to institute a quorum call and ask that the time only be charged against my time for the moment, and reserve the time of the Senator from Washington.

So let me suggest the absence of a quorum.

Mr. DECONCINI. Will the Senator withhold?

Mr. RIEGLE. Yes.

Mr. DECONCINI. I thought the Senator was going to speak on the amendment. But maybe the Senator from Michigan will yield some of his time, 3 or 4 minutes. I am in support of the amendment of the Senator from Washington.

Mr. RIEGLE. Why do I not yield from my time 2 minutes to the Senator from Arizona, and the Senator from Washington can yield whatever he wants from his time.

Mr. DECONCINI. I thank the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise in support of the amendment of the Senator from Washington regarding bank mergers and acquisitions. It is very timely and pertinent amendment, particularly for my State of Arizona. We are in the middle of a financial institution merger mania in this country. The theory seems to be that bigger is always better.

Comments we hear from the administration would lead some to believe that if we had four or five megabanks in this country, that would be just fine.

It will not be fine with this Senator, and it would not be fine in my State of Arizona. Bigger banks result in problems and very few solutions and very little constructive improvement in the quality of business life and consumer life for the population that they serve.

Among the major problems they cause is dislocation of the workers, which the amendment of the Senator from Washington addresses, and I think it is very important.

The proposed Bank of America-Security Pacific merger is expected to result in at least 20,000 workers losing their jobs nationwide because two big powerful banks from California are taking up one-third or more of the deposits and assets in Arizona. Each of those particular banks has already absorbed and taken over a number of failed savings and loans.

We are being told that these new banks will be more efficient, but the evidence says otherwise. Clearly it says otherwise. Of the 13 major studies of the economies of scale in banking, only two show any economy of scale in banks of larger than modest size.

According to an article in the spring 1991 issue of the Federal Reserve Bank of Minnesota Quarterly Review, it says the following. Let me quote it:

> The economies of scale are captured at a modest size and, once that size is reached, further increases do not improve profitability. In fact, there is some evidence that very large banking firms are less profitable than middle-sized ones.

Mergers in the financial institution field are bad news, in my opinion. I support the amendment of the Senator from Washington. I believe it will provide one more issue to consider in bank merger cases. I urge my colleagues to adopt this amendment. Arizona is now down to less than a dozen banks, and most of it is due to mergers. Now this merger in the State of Arizona will result in a consolidation of more than 33 percent.

I ask the Senator if he will yield 1 minute.

Mr. ADAMS. I yield 1 minute.

Mr. DECONCINI. If this merger goes through between the Bank of America and Security Pacific Bank, one bank in Arizona would have combined assets and deposits of more than 33 percent of all of Arizona. Is that good for Arizona business and consumers? The answer is resoundingly no. In fact, it is bad. These might as well be foreign-owned banks as far as this Senator is concerned because they are foreign to Arizona.

When these banks came into Arizona, they promised to keep the original name of the banks that they took over, to keep the original employees and the management. And they said they would continue the contributions to the community. They have not. I understand the economy is bad. But they have not fulfilled their commitments to the people of Arizona. I think the Senator from Washington has a very good amendment. I hope the managers will accept this amendment.

ORDER OF PROCEDURE

Mr. RIEGLE. Mr. President, if the Senator will yield for one moment, I ask unanimous consent that the time for the Kohl amendment vote, the first one in the sequence that has been cleared on both sides, be set to start at 5:20 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair.

Mr. ADAMS. Mr. President, I yield myself 1 minute.

I want to commend the Senator from Arizona and state that we are talking about the same merger. The Bank of America and Security Pacific are going to merge in the State of Washington. And, in the State of Washington, the result will be that the institution will control 51 percent of the assets and over 40 percent of the insured deposits.

It just seems to me when we have something this massive, we not only should be telling the customers, but we should be telling the employees throughout the State that there is going to be a massive change in banking in our State if this goes through.

I just hope that we will begin to look at the people involved, customers and employees, as well as the short-term financial gain that we see talked about very often.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, this is another one of those amendments that is almost irresistable. I do not know when I have been on the Senate floor on a banking bill where we are dealing with so many issues that sound good. I must say, I do not like to constantly stand up here and talk about what is good public policy and what is good for the taxpayers when you are talking against interest rate ceilings to lower people's costs on their credit cards.

Now we are talking about: Is it not fair to give employees as much advance notice as possible and severance pay and all of that? I cannot argue against that position. It sounds good; it is reasonable. This Senator does not like to see people laid off involuntarily with proper notice under any circumstances, whether it is a bank or other businesses.

What we are constantly doing is interfering with the operation of a free market. When I look at that list of banks that are in trouble, this huge list of S&L's that the taxpayers are paying to bail out, this Senator has to place his first obligation with the taxpayer. If we adopt amendments of this kind, as good as they sound and as fair as they may be, we are placing the taxpayer in further jeopardy, because it is rather interesting that if a bank fails and all the employees lose their jobs, this amendment does not apply. But if two banks want to merge to save jobs, because they are marginal—and most of the mergers that are taking place are because of the difficulties of the bank system and why we are, for the first time in the history of the FDIC, talking about these loans in order to recapitalize the bank insurance fund, and we tell people that all these factors have to be considered again, as fair as they are, in a merger—then we cause problems with that merger, which, in many cases, the reason that these banks are in trouble not only is because of bad loans they have made but because of overstaffing and too many branches, too much expansion too fast.

Then when they get us in trouble, and we are risking taxpayers' money. Then we go back and say that is fine. But now you have to go through all of this process. I realize it is not mandatory.

I have been around this place long enough to know the feeding frenzy of attorneys and what will take place. Do this, and it only requires them to consider it. And then some attorney grabs onto that and comes back, gets a group of employees who are laid off and says: You did not consider these factors.

Maybe the problem here is how we reform the legal system in this country, which this Senator thinks has become a disgrace in many areas. We are so sue happy, so litigious that nobody is at fault for anything, except somebody else. There is no individual responsibility left in this country, no accountability for one's actions. You have seen the ads with the neck braces, "Your attorney is only as far away as a call;" the ambulance and airplane chasers and the incredible costs.

That is the real problem, as I see it, with this amendment: the possibilities for litigation, and causing problems with mergers where these institutions are trying to do exactly what we tell them to do—clean up their act and be more efficient. It is one of those difficult ones.

The Senator from Washington is absolutely correct in the fairness aspect of this. But this Senator has to look at the impact of the most horrendous financial problem we have ever had in this country, as far as our traditional depository institutions, and always come down on the side of not only what looks fair, good and is politically popular, but what is good for this system. I think the taxpayers are carrying enough of a burden now, without the potential to add to it.

So I, unfortunately, must oppose this amendment.

I yield the floor.

Mr. RIEGLE. Mr. President, I have talked with the Senator from Washington, and have suggested to him that he consider converting this amendment into a sense-of-the-Senate resolution. I have actually sent him a draft of language that would attempt to do that. I am wondering if he were to do that—I, for one, would feel that we should accept such an amendment. I think it gives useful guidance to the regulators.

I am wondering, if it were put in the form of a sense-of-the-Senate resolution, if the Senator from Utah might be prepared to accept it in that form, and therefore the committee could accept the amendment if it were done in that fashion?

Mr. GARN. I thank the chairman. I would be willing to accept it as a sense-of-the-Senate, because it sends a message out there, and that is quite different than an amendment attached to the bill. Yet, I think it might have some good purposes in that form, without getting into the problems that I foresee as an amendment.

Mr. ADAMS. Mr. President, how much time is left on the amendment?

The PRESIDING OFFICER. The Senator from Washington has 5 minutes remaining.

Mr. ADAMS. How much does the Senator from Michigan have?

The PRESIDING OFFICER. Five minutes 30 seconds.

Mr. ADAMS. I suggest the absence of a quorum.

Mr. CONRAD. Will the Senator withhold?

Mr. ADAMS. Yes; I withhold that request.

Mr. CONRAD. Mr. President, I ask unanimous consent that I be allowed to speak for 10 minutes as in morning business.

Mr. RIEGLE. Reserving the right to object, and I will not object, I take it that it is outside of the scope of the banking bill?

Mr. CONRAD. No. It is with respect to the question of the cap on credit cards rates, so it is with respect to the banking bill but not with respect to this amendment. I would be happy, if the Senate was prepared, to return to this amendment, to be interrupted.

Mr. RIEGLE. Very good, I have no objection.

Mr. ADAMS. I have no objection.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

A CAP ON CREDIT CARD RATES

Mr. CONRAD. Mr. President, we have heard a lot of talk in the last 72 hours that the Senate action to put a cap on credit card rates is the reason for the precipitous fall in the stock market on Friday.

Mr. President, that is absolutely bogus. That is an argument by the big banks that are looking for a scapegoat to blame their policies on of keeping credit card interest rates at unconscionable levels. No one should be fooled in this country that what caused the stock market collapse, or the substantial rundown, on Friday was a result of credit cards, was the question of credit card interest rates.

I refer my colleagues to a column that appeared in the Washington Post on the 17th of this month. Here is what they said:

> No single event caused the massacre. But there have been a number of factors—all related to the economy in one way or another—that caused pressure to build over the past few weeks. It boils down to this: The U.S. economy, despite the best efforts of the Federal Reserve Board, isn't showing any noticeable signs of strength. And inflation, at least on the wholesale level, is beginning to cause concern.
>
> Those two events, taken together, could mean that the Fed will be unable to cut interest rates as aggressively in the months ahead as it has been doing for the past 2 years.
>
> And that isn't what Wall Street wants.

Mr. President, that is the fundamental truth. What caused the stock market to go down on Friday is the underlying weakness of this economy, coupled with the fact that we have had a whole series of announcements last week on economic indicators that tell us that this economy is not strengthening.

Mr. President, I refer my colleagues to the New York Times, first page of the business section on the 18th. That article is entitled "Market's Message: No Recovery Yet."

Let me read some selected elements from this article that point out what the real factors were causing the sharp drop in the stock market on Friday.

The New York Times reports:

> The sudden 120-point drop in the Dow Jones industrial average on Friday ended a week in which new economic data seemed to provide convincing evidence that the current recession is not behaving like other post-World War II recessions, and that the much-anticipated economic upturn is still weeks or months away.

Mr. President, that article goes on to report:

> The two most convincing numbers of this count—made public on Friday morning—showed that consumer confidence had recently deteriorated and that business inventories had risen. The former means consumers are not in the mood to buy, and the latter that manufacturers had produced more than retailers could sell and, as a result, production would have to be cut back.

There is nothing in there about the cap on interest rates charged by these big banks. What they are saying is that the two economic indicators reported on Friday indicated consumer confidence is down, No. 1; and, No. 2, that business inventories were building, heralding a future cutback in production.

They go on to report:

> Then, on Friday morning, the Commerce Department reported that inventories had risen sharply in September. Not only was it the first rise in 2 months, but the biggest since August of last year, a month after the recession started. Most important, much of the increase was among retail stores.

Mr. President, this article goes on to report other disappointing data.

> The Nation's auto makers, for example, reported on Wednesday that car sales in early November had fallen to an annual rate of 5.7 million vehicles, from a rate of more than 6 million in most of September and October. Some auto manufacturers have already announced production cutbacks for the fourth quarter, which means layoffs or less overtime for many workers.
>
> And Thursday, the Commerce Department reported that retail sales in general, apart from autos, had failed to grow in October, the third consecutive weak month.

This is a quote from the article, Mr. President:

> As soon as I saw those inventory numbers, I right away talked to my sales force and said the probability of a slow recovery was disappearing and the risk was increasing of either no growth or a dip back into recession," said Edward Yardeni, chief economist at C.J. Lawrence, a Wall Street investment house.

It is not the fact that we are talking about a cap on credit car interest rates, Mr. President. It is underlying weakness in this economy and the big banks when they saw the stock market decline saw now they had a chance. They had a chance to divert people's attention in this country from the fact that they are charging outrageous rates of interest on credit cards, 7 of the 10 biggest issuers of credit cards in this country charging exactly the same rate, 19.8 percent. And they have the audacity to go to the country and say there is competition, let the marketplace work.

Mr. President, the evidence is the marketplace is not working. In fact, every major credit rate in this country is going down.

Let me have that chart. We can show this directly. This chart shows interest rates in the economy. It is a very instructive chart, Mr. President. This red line on the top at near 20 percent, that is credit cards. Do you see any change there? Right across from 1980 through 1991, they are charging their 19.8 percent. It does not matter what economic conditions are in this country.

It does not matter what other interest rates are in this country. They are going to get their pound of flesh.

Mr. President, the yellow line is the prime rate, and look at the difference. The prime rate has gone down dramatically. Over the same period of time that there has been no change in the interest that the credit card companies are charging, the prime rate has gone from almost the same rate the credit cards were getting down to 7½ percent, and still they keep the credit card rates at 19.8.

In addition, the discount rate was up to 13 percent in 1981 and it is now down to less than 5 percent, a dramatic decline. Just as we have seen a dramatic decline in mortgage rates of interest, we have seen a dramatic decline in the discount rate, in the prime rate but not in those credit card rates.

Oh, no, Mr. President. There has been absolutely no reaction to the marketplace. And there has been no reaction because they had not needed to react because those credit card holders are captives. Once they owe the credit card money they cannot move, and the result is these big bank holding companies that are the major issuers of credit cards are taking advantage of consumers in this country. That is why the President said the credit card interest rates ought to come down. And when this Chamber moved to actually do something about it all the big banks seized on the opportunity in seeing this stock market go down sharply and tried to blame it on a cap on credit card rates.

Mr. President, that is not the case. The case is very, very clear. The stock market declined sharply on last Friday because we had a series of new economic indicators that tell us this economy is not recovering, and one of the reasons this economy is not recovering is because there is no plan for it to recover. The President has a plan for every country but we do not see him with a plan for our own. There is no plan for economic recovery in America.

Mr. President, I just think some of us have an obligation to set the record straight when we see people trying to seize on other news to make their own case. The fact is the banks are charging 19.8 percent for credit card interest when they are giving us when we make deposits 5 percent or less. That is a 400-percent markup, Mr. President, depending on how you calculate it, 300- or 400-percent markup.

And they have gone to the American public and they have said, oh, my God, if we stopped gouging you on interest in rates on credit cards the whole economy will collapse? Who believes that, Mr. President? Who believes that? I certainly do not. This economy is not built on gouging people on credit card interest rates. That is not how this economy was built. We did not see America become the foremost economy in this world because the big banks were gouging people on credit card interest rates. Who are they kidding?

I saw spokesmen for the banks talk over the weekend, and they were asserting that, lo and behold, if the Congress puts some kind of cap on interest rates half of all the credit cards will be taken from people. Does anybody believe that? Does anybody believe that? They are making huge profits on credit cards.

Let me say, Mr. President, I would prefer not to have the Government have to act. That is precisely what I said on the floor last week. The Government should not have to act. The banks should act. The banks should do what every other element of our economy has done when the interest rates have come down; they have brought their rates down. That is exactly what the big banks ought to do. If they want to forestall Government action, there is one simple step for them to take—bring down these outrageously high rates and do it just as every other part of our economy has done when market forces dictate it.

Mr. President, I just think we have an obligation to set the record straight. This stock market went down because this economy is weak and because we received new data on Friday that says precisely that.

Let us not let the big banks create a mood or a climate in which nobody can do anything and they are just allowed to go along charging excessively high rates of interest. The way out of this is for them to respond and lower these rates on their own. That would show good faith, Mr. President, and that would solve the problem.

I thank the Chair and yield the floor. And I thank especially my colleague from Washington, Senator ADAMS, for permitting me this interruption.

Mr. ADAMS. I thank Senator CONRAD for an excellent explanation and I support him in his comments.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. ADAMS. Mr. President, I ask that the amendment that I have presented be modified to be a sense-of-the-Senate resolution which we have sent to the desk and would ask the managers if we might have a vote in support of this. We have discussed the matter. I think we have settled it on a rational basis. I ask that this modification be presented, and I do not ask for the yeas and nays, but I ask that there be a voice vote on the matter.

The PRESIDING OFFICER. The Senator is informed the modification has not reached the desk.

Will the Senator send the modification to the desk?

AMENDMENT NO. 1353, AS MODIFIED

Mr. ADAMS. Mr. President, I will explain the modification while it is being sent to the desk. The modification is that there be a sense-of-the-Senate resolution, and I have discussed this matter with both the ranking member and with the chairman of the committee, and they have indicated support for the employees placed in the report and will press that this information be set forth as the indication of the Senate that the employees' plight is to be looked at particularly in the four regards, spelled out in my original amendment. I appreciate the managers on both the majority and minority side for agreeing to this.

Has the President now received the modification?

The PRESIDING OFFICER. The modification is at the desk.

The amendment (no. 1353), as modified, is as follows:

On page 395, after line 25, insert the following new section:

SEC. 308. CONSIDERATION OF DISPLACED WORK FORCE.

It is the sense of the Senate that in reviewing proposed mergers and acquisitions, the appropriate Federal regulator consider the impact on employees of the existing and proposed institutions, including whether the institutions plan to provide reasonable notice to employees well in advance of any layoffs, whether the institutions plan to make any effort to ensure that laid-off employees receive priority in filling future vacancies, whether the institutions will provide specific severance benefits for laid-off employees, and whether and for how long benefits such as health and life insurance and pensions will be continued for laid-off employees.

The PRESIDING OFFICER. Is there objection to the modification of the amendment?

Mr. RIEGLE. No.

Let me just say, Mr. President, if I may be recognized, I support the sense-of-the-Senate resolution as it has now been modified.

I thank the Senator from Washington for both raising the issue and being willing to work it out in this fashion. I think it is a tribute to him that he has not only focused the attention on this issue but has been willing to resolve it with me and the ranking minority member in acceptable fashion. I think it is a plus in the form it is now, and it is an important addition to the bill.

I thank the Senator for it and yield to my colleague from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the modification is acceptable to the Senator from Utah, and I commend the Senator from Washington for his cooperation.

The PRESIDING OFFICER. Without objection, the amendment is modified.

Mr. RIEGLE. Mr. President, I ask that the question now be put to the Senate.

The PRESIDING OFFICER. There is time remaining.

Mr. RIEGLE. I yield back the remainder of my time.

Mr. ADAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. Time is yielded back.

The question is on agreeing to the amendment, as modified of the Senator from Washington.

The amendment (No. 1353), as modified, was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. ADAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ADAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, if I may be recognized again.

I thank the Senator from Washington.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. We have been making good progress this afternoon on these amendments. We have an amendment now scheduled for a vote at 5:20. We are ready to proceed with a discussion on amendments that would be appropriate to title V, the consumer protection section. I understand that Senators who are interested in offering amendments to this section have been notified. It would be helpful to our being able to move through this bill and complete this bill to have those amendments offered at this time.

And so while we await those amendments or other amendments, I am going to suggest the absence of a quorum, and we will be prepared to proceed just as soon as a Senator arrives with an amendment to offer.

Mr. CONRAD. Will the Senator withhold?

Mr. RIEGLE. Yes.

Mr. CONRAD. I would like to ask unanimous consent to continue to review some other facts that are connected to this whole question of what caused the stock market to decline on Friday.

Mr. RIEGLE. If the Senator would yield, let me yield the floor, and let the Senator seek the floor. This is within the scope of the bill, and so he is entitled to seek time and speak on it and continue his remarks. Let me yield the floor for that purpose.

Mr. CONRAD. Mr. President, let me indicate to the floor manager that I would be glad to yield the floor when a Senator comes who is part of his schedule to try to move this bill so I do not delay the action on this bill in any way.

Mr. RIEGLE. I thank the Senator. That is very gracious.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I did not have time to fully explore all of the reasons that we saw the stock market decline sharply on Friday. I was able to refer to what happened with respect to new information coming out that this economy is weak, is in trouble, it is not experiencing the lift that some had predicted. I talked about consumer confidence and talked about those inventory numbers jumping.

Mr. President, on the question of consumer confidence, the New York Times article of today says:

> The consumer confidence numbers were also a big blow. The University of Michigan's Institute for Social Research, which polls Americans on job security and buying plans, sent advance word to those who subscribe to the monthly surveys that early-November polls had shown a sharp drop in the confidence index—to 70.7 from 78.3.
>
> The news spread quickly through Wall Street, confirming an earlier report from the Conference Board, a business organization. The Michigan Institute and the Conference Board produce the most widely followed consumer confidence surveys, and while the Conference Board had reported a sharp drop in its index for October, the Michigan survey had not shown a similarly sharp drop until the early-November numbers became public on Friday. The Michigan numbers ended lingering hopes that the Conference Board's gloomy October survey might have been a fluke.
>
> There was other bad news last week. Unemployment insurance claims rose to their highest level in months. The Federal Reserve Bank of Philadelphia's index of business activity in the region, an early measure of recent economic activity, produced its first negative reading since February. The oil rig count, a measure of exploration activity, fell to its lowest level in months. And American Airlines announced a multibillion-dollar cutback in capital spending for new planes—a decision that could hurt the Boeing Company's so-far-robust operations centered in the Seattle area.

Mr. President, what happened on Friday was the culmination of a week of bad news about this Nation's economy. Make no mistake about it. It was not the case that this body's action on a limit on credit card rates was the precipitating factor. In fact, the precipitating factors were those outlined in the New York Times piece of this morning—a drop in consumer confidence, a very sharp drop; rise in business inventories; a whole series of bad news from the automobile industry, from the airline industry, and from all of the other factors that I recited; unemployment insurance claims up, and up sharply.

And yet what the banks did was very clever. The big banks who want to protect these unseemly high levels of credit card interests seized on the drop of the stock market and tried to convince this Nation's news media and through the news media the American people that nothing could be done to challenge their interest rates on credit cards.

Mr. President, I hope that the news media would not be so easily stampeded, not be so easily fooled; that they would look at the larger factors that surround them and understand that we face the situation in which the stock market is right now selling at very high levels, historically. It is due for a correction. And we should not be surprised when, after a week of bad economic news, the stock market experiences a downturn.

Mr. President, there is much more evidence that could be presented. I am not going to take the time of the Senate to do that.

But let me just conclude with an article that was in the Saturday's Washington Post.

Quoting from a Mr. Brad Weekes, a senior vice president and equities trader at Donaldson, Lufkin & Jenrette:

> "We've had a huge run-up [in stock prices] over the last three months on speculation that the economy was turning around. Finally, it just kind of burst," said Brad Weekes, a senior vice president and equities trader here at Donaldson, Lufkin & Jenrette Inc. People realized "finally * * * that the economy just has not turned around at all," Weekes said.

That is the fundamental reason that we saw a sharp selloff in stocks on Friday.

Mr. President, we have to deal with facts when we deal with questions of legislative intent. The facts tell us that this economy is not recovering. This is one of the things that we could do that would in some small way help to get the big banks to adjust these outrageous levels of interest rates.

Mr. President, I yield the floor at this time to give my colleague from Michigan, the chairman of the Banking Committee, an opportunity to speak.

Again, I thank the Chair and yield the floor.

Mr. RIEGLE. I thank very much the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. As we await the next amendment here on the floor, I am going to now make my own comments on the consumer title of the bill. There will be some amendments offered by Senator MURKOWSKI in one instance, and I think Senator COCHRAN in another, in that area of the bill.

I would like to now make my own statement on the consumer section and have that point of view in the RECORD. This will be title V in the bill.

I think the consumer section, title V, is the last area of the bill that will generate major discussion and controversy within the Senate. I think the other major titles that have done so have now been handled one by one. So let me now discuss the consumer section of the bill.

As an overview of the consumer protection provisions in the bill, let me say the protection of average depositors and American taxpayers was my chief concern throughout the drafting of this legislation, and I know it was for other members of the Banking Committee as well. This bill takes into account the needs of consumers of financial services and not just the needs of providers of these same services.

Ordinary citizens each day confer an enormous benefit on the banking industry by pledging the full faith and credit of the U.S. Government behind insured deposits taken in by those banking institutions. And, in return for that Federal deposit insurance guarantee and the fact that the taxpayers stand behind that guarantee, as we are learning with this legislation, the banking industry, for its part, has a responsibility to meet the needs of consumers and to treat average consumers fairly.

To ensure that the needs of everyday consumers are met, this bill contains significant consumer banking provisions. The bill incorporates the Truth in Savings Act and the Fair Lending Enforcement Act, both of which have previously been passed in the Senate by a voice vote.

Senator DODD of Connecticut authored the Truth in Savings Act, while

Senator DIXON from Illinois drafted the Fair Lending Enforcement Act. As those Senators may wish to speak on these provisions of the bill, I will discuss them only briefly.

Prior to 1980, consumers could compare different deposit accounts relatively easily because strict Federal regulation permitted very little variation in terms and conditions. In the 1980's, however, interest rate deregulation freed depository institutions to offer a broader range of rates and entirely new instruments with widely varying terms, conditions, and interest rates. I think consumers need better information and more useful information in order to make meaningful comparisons between competing deposit accounts and loans.

The Truth in Savings Act requires banks to disclose basic information on yields and fees, including the annual percentage rate yield on deposit accounts. This will, obviously, enable consumers to make informed comparisons between competing investment products or between different institutions offering these products.

The Truth in Savings Act also bans certain procedures for calculating interest that treat consumers unfairly, including the low-balance method and the investable balance method. By permitting interest to be based on the lowest balance in an account on any day during the accounting period, the low-balance method denies consumers a fair return. The investable balance method also allows depository institutions to pay interest on less than the full amount of principal savings in the account.

The committee was also concerned by disturbing evidence of continued discrimination against racial minorities and minority neighborhoods, generally in the area of home mortgage lending. Redlining continues to be a real problem in many of our Nation's cities. A Pulitzer Prize-winning series of articles in the Atlanta Journal and Constitution reported that middle-income white neighborhoods received five times as many loans from thrift institutions as did middle-income black neighborhoods.

The Federal Reserve recently released the results of the most comprehensive study ever undertaken of the problem of racial discrimination in lending. The results of that study are shocking.

White persons in the lowest income category were more likely to be approved for a loan than were black Americans and Hispanic Americans in the highest income categories. Minority home buyers were turned down for mortgages two to three times more often than white home buyers who had similar financial circumstances attaching to their individual situations.

The Fair Lending Enforcement Act addresses this issue by improving enforcement procedures in various ways. It requires Federal regulators to monitor more closely and to respond more forcefully to patterns of lending which suggest discrimination and to individual complaints of discrimination. The legislation enhances the ability of individuals to pursue their rights under fair lending laws by requiring lenders to make appraisal reports available to loan applicants. Discriminatory appraisals often cause lenders to deny mortgages to minority applicants. The bill is also designed to enable the Department of Justice and the Department of Housing and Urban Development [HUD] to play a greater role in enforcing fair lending laws.

BASIC BANKING/GOVERNMENT CHECK CASHING

Also, in drafting this bill, the committee was concerned that large numbers of Americans are today excluded from participating in the banking system. Surprising as it is, according to the General Accounting Office, nearly 1 in 5 American families—some 16.6 million American families in all—do not have any bank account.

Of those families, fully 42 percent of that group receive at least one regular check from a Federal, State, or local government.

The GAO has found that only 25 percent of families receiving Aid to Families with Dependent Children benefits have bank accounts in our country. I think we can expect this problem to grow, as several recent surveys have found that fees for retail banking services are in fact going higher. A June 1991 study by the Federal Reserve Board noted that "an overall trend toward higher fees for retail banking services" is "readily apparent."

Families suffer real hardships as a result of their exclusion from the banking system.

First, when they cannot have a banking relationship, they are often compelled to go to such entities as check-cashing outlets to cash their checks. Usually those businesses, which are often store fronts that you see in lower income neighborhoods, impose very stiff fees on those individuals to go in and cash a proper and valid Government check.

A 1987 survey of check-cashing outlets by the Consumer Federation of America found out that, on average, check-cashers charged over $8 to cash each $500 Government check.

Second, individuals and families without bank accounts must rely on cash to conduct their economic transactions. This reliance on cash places many citizens, a large number of whom are elderly, at a heightened risk of robbery and theft, and they are often preyed upon by street criminals because it is known they are carrying cash around to pay their bills and otherwise live.

To address this problem, S. 543, our bill here, requires banks and thrifts to offer a basic transaction service account. This legislation is based on a proposal originally made by Senator METZENBAUM. The provisions of the bill reflect a compromise that was negotiated between the Independent Bankers Association of America and the American Association of Retired Persons, and are supported by those organizations and others.

The bill in that area requires banks and thrifts to offer what is called a lifeline checking account and a Government checking-cashing service to low-income individuals. Individuals would be able to choose one account or the other, either the lifeline checking or the Government check-cashing service, but could not choose both. It would be one or the other.

There have been some misunderstandings about what this provision does and does not do. The bill, as it is written and presented to the Senate, contains a number of important improvements over previous versions of this idea. I want to clear up these misunderstandings so Senators can see that this is a very reasonable provision in this bill, and one that I think Members will want to support when they understand it.

The bill as such does not impose any financial burden on the banks for offering these accounts. The bankers are not asked to provide these services free of charge or out of the goodness of their hearts. Instead, the bill specifically allows them to make a profit for providing these services and that would be the cost of providing the service plus a 10-percent profit margin on top of those costs.

Banks may rely on cost studies that are conducted by the Federal Reserve Board in setting their fees. Consequently, the bill does not set banks off on a costly effort to try to do an internal costing exercise. In addition, banks need not pay interest on this basic lifeline transaction account, on the balance in that account.

The bill will not expose financial institutions to fraud as a result of cashing Government checks because no one will be able to walk in off the street, unknown to the bank, and demand that a bank cash a check for that person. We provide safeguards against that so that consumers who want to establish such an account with the bank must first go to the bank. They must apply for the service, and the banks can impose a 15-day waiting period before commencing the service to that individual.

Second, the banks may reject an applicant if that applicant has committed fraud, has made material misrepresentations, has a history of writing bad checks, or has a bad credit record.

And then, once an account is established, only the accountholder himself or herself may cash checks and only checks made out to him or her up to a total of $1,500. Banks may issue I.D. cards to the persons with these special accounts and require the customer having that account to display the card before making a transaction. Moreover, State and local government checks would only be cashed if they were within that State or locality. So it would not be a case of those other jurisdictions of government checks there being necessary to be cashed in some other State and some other location. Additionally, a bank need not cash a check if it believes that the check is fraudulent, has been altered, or forged, if the I.D. card has been altered or forged, or if the person cashing the check has misrepresented his or her identity.

A bank may request the Federal Reserve Board to suspend the Government-check-cashing services requirement, but in order to do that, the Federal Reserve Board must determine that the institution is experiencing an unacceptable level of losses due to check-related fraud. So if it turns out to be a problem in a given institution, there is a resource for that institution to not have to continue that service. However, with these other safeguards, we do not suspect that will occur.

Moreover, the Federal Reserve Board may similarly suspend check-cashing requirements for any class of Government check if the Federal Reserve Board determines that the banks are experiencing unacceptable losses as a result of fraud involving that class of checks. A bank may take any of those costs attributable to fraud associated with providing this service into account when they actually price out the fee for this service. So we give the banks, in law, the right to build into their cost structure and their profit the amount of money needed to recoup any losses that are in the normal pattern and to earn a profit over and beyond that.

This is not an unreasonable request of the institutions. I know some institutions do not want to do it. Many do it already today. In fact, I would say the majority of institutions in the country today have instituted some kind of a lifeline account, although not many institutions offer one or the other, to meet the very needs of citizens throughout the country.

Yet, I think one of the problems here is that sometimes institutions do not particularly want some of the low-income people actually coming into the lobby of the institution to carry out their financial transactions. I hope we will not find that happening in this country, nor should we accept it if it is happening. I think banks, having the great assistance of Government-backed deposit insurance, ought to have the front door open to all classes of customers in our society. All persons should be welcome and all should be able to take advantage of basic banking services as long as they conduct themselves properly and are prepared to pay the fees associated with it like any other customer is expected to do.

The bill also includes antifraud protections with respect to lifeline checking accounts. Institutions may institute direct deposit unless the consumer objects. In that case, if the bank says to an elderly retiree, "Look, we would like to have your Social Security check deposited directly into your account here at the bank," that can be done unless the person on Social Security receiving the check objects. It would, in many cases, offer a convenience. So institutions can do so in the absence of an objection from the person with whom they are dealing.

An institution may also close a basic transaction account if the account has experienced three or more overdrafts or returned checks in any 6-month period or if there has been any fraudulent activity associated with the account.

Perhaps most important, in terms of unjustified concerns of Members, this bill in this area does not impose a significant regulatory burden on banks. We were very careful to take that issue into account in drafting this provision. In fact, banks will self-certify their compliance with these provisions. The regulators may not—I underline may not—issue regulations, conduct examinations or assess fines or penalties. Compliance will be enforced only by procedures available under existing statutes. The bill specifically states that failure to comply does not create a private right of action against the institution. So we are not moving in this area to try to create some new and large regulatory burden on financial institutions. To the contrary, we make it very explicit that we expect banks to operate in good faith and to self-certify their compliance with the provisions without a horde of regulators looking over their shoulder.

This bill recognizes that many institutions already provide lifeline checking and Government check-cashing services, as I have mentioned. The bill states that those institutions that now offer those kinds of accounts need not change their present service offerings. On the contrary, any institution that offers such services that are comparable to or are more favorable than the services specified in our bill is then exempt from the requirements of this bill.

Mr. President, as I have noted earlier, this legislation is supported by the community bankers and by the American Association of Retired Persons [AARP]. I would like to read from a letter that those organizations addressed to each Senator, and I quote from it as follows:

> Please support the compromise basic banking/government check-cashing language approved by the Senate Banking, Housing, and Urban Affairs Committee in August that is included in this bill. In addition, please oppose amendments which may be offered to weaken or eliminate this language.

Then jumping ahead but continuing the quote:

> The proposal accommodates consumer concerns without imposing undue hardships upon the banking industry.

It goes on to say:

> It is carefully crafted to protect banks against fraud.

It continues:

> It is a fair and balanced measure that both bankers and consumers can easily live with. Passage of this provision is proconsumer and would help build a stronger financial system.

This is from the AARP and the independent bankers in combination.

Mr. President, as the community bankers recognize in supporting this compromise legislation, these provisions strike a very reasonable balance between making banking services available to all of our people in America and, at the same time, protecting our banking institutions from fraud or from excessive regulation. Extending the reach of the banking system, as we suggest here, will be good for families, good for communities, and good for the banking system. So I urge my colleagues to support the provisions of the bill in this area and vote against any amendment to strike all or part of title V that contains these provisions.

Just one other thought, unless there is another Senator waiting to speak and that is this: As this description of this section illustrates, the committee has tried in every area of this bill to be reasonable and to apply a test of common sense to what we have proposed, in terms of what the section of the bill is designed to accomplish, taking into account the costs involved, taking into account the regulatory burden involved, taking into account the fairness of how the system works. We have tried to apply that test in each section of the bill, and we have done so in title V. These are reasonable provisions. These will help citizens in our country who today have a very difficult time connecting to our banking system. It will help them be able to do that. That will be good for them and good for our country and good for the banking system. I yield the floor at this point.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I simply want to underscore what the chairman of the committee has said. I think the committee has worked out a very practical compromise. This particular provision contains basically things that we have voted on favorably in this body on several occasions.

Truth-in-savings provisions passed the full Senate several times during the past decade; a fair lending provision which increases the tools available to help detect and deter illegal lending discrimination and redlining practices by banks passed at least twice.

I could go to the others. What is different is what is called basic banking services. Here, as has just been pointed out by Senator RIEGLE, the American Association of Retired Persons and the Independent Bankers Association of America have had a joint ad in USA Today.

Among other things, it says:

AARP and IBAA urge the Senate Banking Committee to support this compromise basic banking and government check-cashing proposal.

I ask unanimous consent to insert this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, July 31, 1991]

FINANCIAL SERVICES REFORMS THAT WE CAN ALL BANK ON

This morning, the banking committee of the United States Senate will vote on Senate bill 543. It contains some of the most sweeping financial reforms since the Great Depression.

Two issues are so vital to Main Street America that the American Association of Retired Persons (AARP), representing older consumers, and the Independent Bankers Association of America (IBAA), representing the nation's community banks, have joined forces. Together, we urge the Senate Banking Committee to:

MAINTAIN EXISTING LEVELS OF DEPOSIT INSURANCE

Many consumers, particularly older Americans, have quite literally banked on current levels of deposit insurance. Changing the rules now would be devastating.

Recognizing this fact, Senator Donald Riegle, Chairman of the Senate Banking Committee, has chosen to protect existing deposit coverage insurance. The House Banking Committee also recently voted against reducing deposit insurance levels. AARP and IBAA urge the Senate Banking Committee to oppose any amendments reducing levels of deposit insurance.

ASSURE ACCESS TO ESSENTIAL BANKING SERVICES

Many Americans find it increasingly difficult to gain access to affordable banking services. For this reason, Senator Riegle has proposed compromise language requiring financial institutions to offer affordable basic banking accounts and to cash government checks. This provision assures low-income consumers access to necessary banking services in a fashion that the nation's banks can easily live with. AARP and IBAA urge the Senate Banking Committee to support this compromise basic banking and government check-cashing proposal.

IT'S SOMETHING WE CAN ALL BANK ON

Knowing that our deposits are insured. Knowing that we won't be denied access to necessary banking services. These are provisions we can all bank on.

Mr. SIMON. Then the consumers Union, which speaks as effectively for consumers in this country as any organization, has a detailed factsheet. I ask unanimous consent to insert that in the RECORD.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

FACTSHEET ON BASIC BANKING/GOVERNMENT CHECK CASHING PROVISIONS IN THE SENATE BANK DEREGULATION BILL

WHAT DO THE BASIC BANKING/GOVERNMENT CHECK CASHING PROVISIONS REQUIRE?

These provisions require federally insured banks and S&Ls to provide two desperately needed services for households with incomes of $20,000 per year or less.

Basic Banking Services: First, federally insured institutions must provide "basic" transaction accounts so that families can safely store their funds and write checks to safely pay their monthly expenses. Banks can charge accountholders for these services under a simple formula that allows them to recoup their costs plus a 10 percent profit.

The basic banking account is designed to serve the most basic banking needs of lower income consumers:

Only 10 checks (or other withdrawals) can be written against the account each month.

The accountholder cannot have or open another account at the same or another institution.

The average monthly balance in the account cannot exceed $750.

The account does not earn interest.

Government Check Cashing Services: Second, federally insured institutions must cash government checks for nonaccountholders, including government benefit checks issued under the SSI, AFDC and general assistance programs. Institutions can also charge for this service under a simple formula that allows them to recoup their costs plus a 10 percent profit.

WILL THESE SERVICES IMPOSE A COST BURDEN ON BANKS?

These provisions will NOT impose a cost burden on banks because the bill specifically allows banks to charge for both services. The charge can be in an amount that is adequate to allow a bank to recover not only its costs (including any fraud-related losses) but a 10 percent profit.

WILL THESE REQUIREMENTS MAKE BANKS LESS PROFITABLE BY EXPOSING THEM TO FRAUD LOSSES?

No. Consumers that want the services will have to register with the bank by filling out an application form and presenting appropriate identification. Banks have 15 days from the date the application is filed to perform whatever background checks may be necessary.

With their basic banking accountholders, as with all their account customers, banks already have extremely efficient systems in place to reject checks drawn against accounts with insufficient funds.

With their check cashing customers, banks can require identification, including a bank-issued identification card, before cashing any check. Further, banks are only required to cash checks that are issued to the person who has registered with the bank for the check cashing service. Banks are not required to cash government checks written to third parties.

These protections, and others, should minimize any fraud-related losses for banks. Banks can recoup whatever, losses may occur, however, through the fees they charge their basic banking and check cashing customers. Under the bill, fraud-related losses are considered costs that may be fully recovered by banks in their pricing structure.

WILL THESE SERVICES IMPOSE A REGULATORY BURDEN ON BANKS?

A minimum burden, at most. In this area, as in many others, the Banking Committee has already bent over backward to address industry concerns. Banks will essentially police their own compliance with the basic banking/government check cashing provisions. Indeed, banks that already offer "comparable" accounts are exempt from the provisions altogether.

The bill gives no federal agency the authority to issue regulations. Further, it expressly prohibits any regulatory agency from imposing civil fines for non-compliance. Similarly, banks are exempt from civil liability for non-compliance in any private lawsuit.

WHY ARE THESE PROVISIONS NECESSARY?

These provisions are a vital component of any bank reform legislation to ensure that lower income households have a safe place to store their funds until needed to pay their basic living expenses. They are also necessary to ensure that lower income households do not face excessive costs in paying their regular expenses and converting a check into cash. If these families can avoid these excessive costs, they will have more funds available to put food on their table and clothes on their backs.

Currently, 16.6 million households do not have a bank account. Of this 16.6 million, 82 percent have annual incomes of less than $20,000. According to the GAO, 78 percent of AFDC recipients do not have a bank account.

Many "unbanked" households would like a bank account, but simply cannot afford one. While middle and upper income households can maintain the high balances necessary to avoid the high fees banks now charge for routine services, lower income households cannot. Consumers typically must keep about $500 and up to $1,000 or more on deposit to avoid these monthly service fees. Overdraft charges now average about $14, and can run as high as $25.

Numerous surveys by consumer groups indicate that most banks will not cash government checks for nonaccountholders. Consequently, lower income households are forced to cash their checks at check cashing outlets, where they can be charged between 1 and 10 percent of the face value of the check.

CONSUMERS MUST BE ABLE TO CHOOSE BETWEEN A BASIC BANKING ACCOUNT AND CHECK CASHING SERVICES ACCORDING TO THEIR INDIVIDUAL NEEDS—BANKS SHOULD OFFER BOTH

The Senate Banking Committee considered an amendment to allow institutions the choice of offering either basic banking accounts or check cashing services. Institutions would not be required to offer both.

In rejecting the amendment (8-13), the Committee preserved the right of each eligible consumer to choose the service best suited for his or her needs. All banks are required to offer both services. The consumer can choose one of the two services offered—but not both.

At the Committee level, banks argued that their unsuccessful amendment was necessary to minimize their costs in complying with the basic banking/government check cashing provisions. This is a spurious argument, however. The bill allows banks to impose charges for both services, and these charges allow banks to fully recoup their costs, and even earn a 10 percent profit. Consequently, this amendment will not save any costs that would not otherwise be fully recoverable through allowable service fees.

Mr. SIMON. Finally, Mr. President, we are not talking about something that, first of all, will require that the banks lose money. This provision says they can charge for check cashing and cover their costs and have a 10-percent profit.

Since we are asking the taxpayers of America to come along with $70 billion in a loan to the banks, it does not seem it is asking too much to say to the banks, how about helping people of very limited means, who do not have bank accounts, by covering them so they can cash their checks and you can cover your costs and have a 10 percent profit on it in addition.

For those who say well, we are going to have all kinds of fraud, Rhode Island has had such a law requiring this of the banks since 1986. Connecticut has had it since 1987. In both States they have not had a big problem.

I think the proposal by the committee in this regard is a sound proposal. I hope the amendment to knock this provision out of the bill will be defeated. It should be defeated. We ought to be protecting Americans who too often are subject to all kinds of whims. The reality is those of us who have bank accounts, those of us who can afford all kinds of things, we can get checks cashed for nothing. What about people who do not have bank accounts? What about people on welfare? We have to be looking out for them, too.

Mr. President, if no one wishes the floor, I question the presence of a quorum.

The PRESIDING OFFICER (Mr. WIRTH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CREDIT CARD CHARGES

Mr. D'AMATO. Mr. President, ever since I introduced my legislation dealing with extraordinary charges that are being levied on people, on consumers, and on the middle class by the credit card interests, we have seen an incredible litany of charges being levied at the legislation.

As a matter of fact, whether it be the Treasury Secretary or other Cabinet members, we are told that this legislation is anticompetitive. Let me read an excerpt from the November 15 letter from Alan Greenspan to Congressman WYLIE, ranking minority member of the Committee on Banking and Finance:

> Considerable information about the various credit card plans is already available to consumers enabling them to select cards with the most attractive features including low rates. In general the board believes that the functioning of the U.S. economy is served best when credit is allocated through competitive market practices rather than being subjected to artificial constraints. Sincerely, Alan Greenspan.

Mr. President, let me show you what 7 our of 10 of the largest issues of bank credit cards charge—19.8 percent. I want to ask you. Do we really think that came about because of free competition? Did that really come about because of the marketplace, and because people are competing for their business? Citicorp, Manufacturers Hanover, and Chase, three out of four of the biggest money center banks in New York, just so happened to come up with 19.8?

I want to know what has happened to distort the free market system, and how it is that the regulators have not gone after what obviously is a collusive practice to deny working middle-class families a free market system, and an opportunity to have that market work—so that when the prime interest rate came down, so that when the discount rate came down, so that when the cost of money came down, they could share in that during these recessionary periods of time.

Do not kill the messenger who brings the bad news and who says you have collusion, that you have interest rates that are absolutely stiffling this economy during this recessionary period of time. This is nothing more than a hidden bailout.

You know who is doing the bailing? The middle-class worker—they are bailing out the money center banks for their bad foreign loans; for their bad loans in real estate.

Then people say that my legislation is trying to control credit? I want to tell you something. If you did not have 19.8 over there, we would not have to be trying to batter down what is a dam, an artifical dam keeping credit at those levels.

Mr. President, I have no illusions. I understand what the big boys are doing. I understand the incredible power. I understand how they have got to the credit corporations and others, and I understand how my colleagues are being besieged.

Oh, we are going to have a study in the House of Representatives. Now they are talking about an 18-month study. They are not even putting a fig leaf over them. They are putting themselves into the woods to hide—18 months to figure out what is going on here? One percent; that is a net profit of a billion-and-a-half dollars when you find out about the unexpended balances that are outstanding there. That is on top of the incredible rates. When you first give them their money back, you give them a profit, and there they are at 20 percent.

The PRESIDING OFFICER (Mr. WIRTH). The chair reminds the Senator from New York that under the previous order the vote now occurs on the Kohl amendment.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I might be able to proceed——

Mr. GARN. Mr. President, reserving the right to object, the Senator has spoken on this at least on one other occasion today, and he certainly has the right to speak later in the day. But the entire Senate has relied on this unanimous-consent agreement to vote at 5:20. I object.

The PRESIDING OFFICER. Objection is heard.

Under the previous order, the vote now occurs on the Kohl amendment, No. 1351.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Louisiana [Mr. BREAUX], the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] and the Senator from Wyoming [Mr. WALLOP], are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "Yea."

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—91

Adams
Akaka
Baucus
Biden
Bingaman
Bond
Boren
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—0

NOT VOTING—9

Bentsen
Bradley
Breaux
Cranston
Harkin
Jeffords
Kerrey
Mikulski
Wallop

So the amendment (No. 1351) was agreed to.

Mr. RIEGLE. Mr. President. The next item that had been discussed earlier today and might come to a vote at this time was the Dixon amendment. The Senator from Illinois is on the floor.

I would appreciate it if we could have some order in the Senate.

The PRESIDING OFFICER. (Mr. KOHL). There will be order in the Senate.

Mr. DIXON. Mr. President, may I say while there are so many colleagues on the floor, we have debated my amendment on restructuring the RTC, as you know, for quite a period of time this afternoon that would provide for Senate confirmation of the CEO for the RTC, Al Casey, who, I personally think, is a good man and I would support. And it would provide for one Board with the CEO to be a strong Chairman, the Secretary of the Treasury, the Chairperson of FDIC, and two public members.

Now, my distinguished friend, the manager on the other side, the ranking member——

Mr. RIEGLE. May we have order in the Senate?

The PRESIDING OFFICER. Order in the Senate.

There will be order in the Senate.

Mr. DIXON. Mr. President, my good friend, the ranking member, the distinguished Senator from Utah, has come to me with the chairman of the committee, my good friend, the manager on our side, and suggested that there be some opportunity for talk. We have not yet resolved what might be done, but I am advised that the administration is open to some conservations about how we might resolve this.

As the Chair knows, I have not yet asked for the yeas and nays. I have indicated to the managers that I am willing to exercise the opportunity for talks with the administration and maybe put off until tomorrow the ultimate question of when we would go to a vote on this amendment, which is supported, I think, very heavily on this side, may I say. I cannot represent that it is unanimously supported, but there is substantial support on our side for demanding a reconfiguration of the RTC and a strong Chairman if we are going to pass legislation funding the RTC.

But I am willing to carry on some discussions for a while and would be at the beck and call of the two managers about what we might ultimately resolve, with the understanding, if I may say so, that I do want a vote on this if we cannot resolve between us and the administration what should be done about this RTC Board.

Mr. RIEGLE. Mr. President, I thank the Senator for his comments. I think we need full discussions. With the indication from the Treasury Department that they are open to discussion on this issue, that those discussions ought to commence tonight.

It would be my idea to ask unanimous consent that the amendment of Senator DIXON debated earlier today that was scheduled for a possible vote at this time be carried over until sometime tomorrow, with the decision left open by the Senator from Illinois as to whether he presses forward at that time for the vote or not.

The PRESIDING OFFICER. The Senator from Virginia.

COMMENDING THE NEW BILL CLERK

Mr. WARNER. Mr. President, a parliamentary inquiry.

I take note that the last rollcall vote was conducted by Miss Kathie Alvarez, who has recently been appointed the bill clerk.

My inquiry is: When in history has a woman taken a Senate rollcall vote?

My inquiry shows, not before.

So I think we should take due note of that and extend our congratulations from the body as a whole to the new bill clerk. We are making progress.

SEVERAL SENATORS. Hear, hear.

Mr. RIEGLE. Is there objection?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan?

Without objection, the request is granted.

Mr. DECONCINI. Mr. President, I will take only a moment or two.

The PRESIDING OFFICER. The Senate is not in order.

Will the Senate be in order?

Mr. DECONCINI. Mr. President, last week the Senate sent a wake-up call to the credit card companies of America. We sent a message that said we are mad as hell and we are not going to take it anymore. I hope the credit card companies of this country got that message.

Interest rates are down. Long-term rates, short-term rates, bank rates, prime rates, any rate that anybody can think of is down today except one, and that is the credit card rates. The discount rate that the Federal Reserve charges banks is about 4.5 percent today. The prime rate which banks charge their most worthy customers is about 7.5 percent, or 8 at the best. Thirty-year fixed mortgage rates can be found at 8.5 or 9 percent.

But what about credit card rates? Credit card rates are sky-high. They have not budged at all. You would think we were in a period of high-interest rates instead of low-interest rates in this country—it is the lowest that we have had that I can remember.

Certificate of deposit rates that institutions pay for deposits are also way down, in the measly 5- or 4.5-percent range today. At 5 percent you are practically losing money when you put your money into a savings account, based on inflation. Yet credit card rates are sky-high. They have not fallen, to my knowledge, at all over the past couple of years.

Seven out of the top ten credit card issuers charged the identical interest rate of 19.8 percent. I say that is incredible. It is not just incredible, all of these companies just happen to pick 19.8 percent. To me there is more to it and I think that it smacks of collusion.

Why has somebody not investigated this bizarre coincidence? Where is the Justice Department antitrust division? Why are they not doing something about this? Where is the Federal Trade Commission or the Federal Deposit Insurance Corporation or anybody else? The Treasury Department?

The Senate did not act precipitously last week when we adopted the amendment of the Senator from New York overwhelmingly. We sent out a signal here, loud and clear, that we have had enough. We sent a wake-up call, I hope, at least to the credit card companies of this country, that it is about time they get a message and they lower these.

Yes, we ought to believe in the market principle. We all subscribe to that. But there comes a time when greed takes over and that is when the market principle gets out of hand.

It seems to me that the time has come. I hope this body does not budge from the amendment of the Senator from New York. It was a wise amendment and we ought to do everything we can to implement it so the credit card consumer will, indeed, have a fair rate and the approach used by the Senator from New York was not unfair at all.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. D'AMATO. Mr. President, first of all let me thank my colleague from Arizona, Senator DECONCINI, for focusing on the credit card interest rate abuse. I suggest to this distinguished body that if I had offered this interest-rate legislation in a truly free marketplace—it would be inappropriate. It would also be wrong. There would be no justification for this legislation because there would be no need for it.

I recently read a disturbing letter—I wonder if my distinguished colleague and friend from Arizona saw today's letter from Alan Greenspan. In this letter, Chairman Greenspan states that the best method of setting credit card interest rates is through competitive market processes. I ask you whether or not Chairman Greenspan actually believes there has been a competitive market process. It is the competitive market process that has caused a 19.8-percent interest rate to prevail at 7 out of the largest 10 credit card holders?

Mr. DECONCINI. If the Senator will yield, I have not read that letter but obviously the answer to that question is there is no competition here or the interest rates would come down.

I am not saying, and my colleague did not say in his legislation, that it had to be 8 percent or it had to be anything. They just had to be reduced 4 percent above what the IRS charges delinquent taxpayers, as I recall in the Senator's amendment.

Mr. D'AMATO. That is correct.

Mr. DECONCINI. That is not unreasonable. It is about time we do something in this body so that the consumer—many Americans live on these credit cards—does not have to pay 19 or almost 20 percent. I thank the Senator from New York.

Mr. D'AMATO. Mr. President, I wonder why it is, given our concern about regenerating the economy during this recession period, and that even the President of the United States has called for the reduction of interest, why is Mr. Greenspan opposed to this legislation? The distinguished head of the Federal Reserve, who has served the public for so many years, has not examined why 7 out of 10 banks charge the exact, identical interest rates to their credit card customers. Three out of four of these banks are in New York. Manufacturers Hanover, Chase, and Citicorp all in that same metropolitan area, all charging 19.8. Is that truly just a coincidence? Is that truly a result of free market competition? Is it truly a competitive business?

Let me suggest that the Fed and Treasury have been asleep at the switch. The Fed and Treasury share a hidden agenda. That hidden agenda is a not so cleverly concealed bailout of the big money center banks by the middle class. If that bailout was terminated, some of those institutions might be in trouble.

As long as the middle class continue the bailout without protest, and no one points any fingers—Fed and Treasury are happy to go along with it.

By the way CNBC—which happens to be owned by General Electric, completed financial analysis designed to blame the 120-point decline in the stock market on Friday on the Senate's vote on the credit card legislation. If that is a financial analysis worth its salt—I could not believe it. The 120-point stock collapse came because of the infamous legislation?

By the way, why did I introduce this legislation? The devil made me do it. The devil is the 19.8 interest rate being charged by 7 out of the 10 largest banks.

At least Jesse James sometimes wore a mask. The bankers want to hold you up, take all your money and they have you thank them for their trouble. The bankers want you to plead for money, "Oh, please, please, do not cut me off."

I had a buddy some years ago. His dog, Barney, got a credit card. My two sons—no job, nothing—regularly get credit cards in the mail. I cut them up before my sons even see the credit cards. My sons cost me enough without the added expense of their having a credit card. We are supposed to thank these bandits?

If I was to thank them, I would have to say something like "Thank you Citicorp." "We are bailing you out for loans that you made." Thank you for making loans to every petty dictator and tyrant. Thank you for the billions and billions of dollars you loaned to foreign countries. Finally, thank you for loaning the billions of dollars' worth of loans you made to the real estate industry.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. DECONCINI. I would like the Senator's reaction about this.

Mr. DOLE. Do you feel strongly about this?

Mr. DECONCINI. It is absolutely unfair, portraying the Senator as "whacky," which was used, because I do not think that is appropriate coming from anybody, particularly the Secretary of the Treasury. I saw him on Sunday and I thought it was, not only totally wrong, but inappropriate.

I think the Senator not only—let me, if the Senator would just——

Mr. D'AMATO. I reject that analysis.

Mr. DECONCINI. Not only, do I not think the Senator is whacky, I think this credit card scam is whacky and it affects anybody in this country who has a credit card, whether you are the jobless graduate from college who gets a credit card who has no capability of paying it, or you are the working middle American who makes $20,000, $30,000, $40,000 and you have to pay 20-percent interest.

I would just like the Senator's response to that question.

And, also the fact that this has caused the stock market to lose 120 points last Friday. Talk about something that is whacky—I tell you, somebody has to spell that word, I guess.

Mr. D'AMATO. Mr. President, if I might respond, I was disappointed in the Secretary's obvious lack of knowledge regarding the reasons for Friday's precipitous drop in the stock market. I would have thought someone with his years of experience would have been able to analyze what actually occurred and not just facetiously attribute it to the decline in the bank stocks. There was some loss occasioned as a result of a weakening of bank stocks—but that accounted for a tiny portion of the reason for the market decline.

To simply ignore that Aetna, Boeing, IBM, Bethlehem Steel, Merck also had precipitous drops—Aetna because it charged off $1.3 billion; in loan loss reserves is to just ignore the reality of the marketplace. After Secretary Brady's years of experience with the marketplace, he should have recognized that at 3 o'clock when the options were exercised—what we call double witching hour, that it caused the market to drop about 80 points; to ignore the pharmaceutical houses that had the price of their stocks drop—whose earnings were overinflated, many, many, many times. The prices of these companies' stock dropped as much as 38 percent. Either the Secretary deliberately chose to ignore these explanations or he was terribly misinformed.

Mr. CONRAD. Will the Senator yield?

Mr. D'AMATO. For a question, certainly.

I wanted to make, if I might, two other observations on this issue. My mama has accused me of being wacky at times. I become upset when I see the middle class being taken advantage of because of the hidden bailout I mentioned earlier.

I make no apology for putting a spotlight on this absurdity. It is unconscionable, that we do not have free market competition. This legislation should not be necessary. If there was free competition, we would not have supported this legislation. I look and see Senator CONRAD from North Dakota, he is a free marketeer if there ever was one. It is because of the long-term abuse of the marketplace that we came forth with this legislation.

I did take unkindly to some of the observations that were absolutely out of line in attempting to attribute a 120-point decline to this legislation. It was unfair and it certainly did not square up with the facts.

An old law school professor said to me when you have the facts, you pound at the facts. When you have the law, you pound at the law. When you have neither, you just pound. And that is what the Secretary of the Treasury did. He did not in any way attempt to distinguish and demonstrate concrete reasons for Friday's market volatility.

Let me tell you something, when Secretary Brady says we are not in the recession, I have to wonder if he really understands what is taking place in many working middle-class families. When the Secretary does not understand that this is far from an elitist measure we have offered, and that it is a measure to relieve middle-class people during these extraordinarily difficult times, then I do not think he understands what is taking place.

This legislation is not an offer to help the wealthy. The wealthy do not have to worry, they pay their credit cards after 30 days. It is for the working middle class, it is for the guy who has the automobile repair bill that comes in at a thousand dollars. It is for the guy who has a furnace blow up in his house during the winter months who has to get it repaired at a cost of $500 or $600. Those are the people who are paying 20 percent on the credit card debt. Why do you think the banks are screaming and yelling about this legislation? It is because this is a huge profit source. For many of these banks, it is the only area where they are making money. We do not deny them a fair return, but this is more than a fair return.

Mr. President, there is a small article, editorial in Business Week, November's Business Week. I am going to read part of it. It says:

> The Fed and the White House are trying to get interest rates down, in order to coax the cautious consumer back into a buying mood. But if that consumer charges purchases to a credit card, the interest rate is apt to be a stunning 19.5%—enough to put a damper on any buyer's zeal.
>
> The credit card rate has been flirting with 20% in spite of a dramatic decline in what

> banks have to pay for money. Since mid-1990—

Mr. President, the discount rate has gone from 7 percent for the banks in this last year down to 4.5 percent—

> the federal funds rate has been cut 13 times and now stands at just 4.75%.
>
> Why have things reached this ugly pass? The answer is that Washington, still stunned by the savings and loan debacle, is treating the banking system with kid gloves. Banks cite the cards' unsecured-credit aspect as justification for such high-rates—yet they're snowing mailboxes with new account solicitations.
>
> The truth is that the wide spread between what banks pay for money and what they charge consumers for it is a subsidy to an industry that is rightly seen as shaky. It's also true that, despite lip service to lower rates, Washington has tolerated and even encouraged banks to soak the consumer—to prop up the industry.

Let me conclude and say "and for their part, regulators and politicians should stop subsidizing banks by allowing outrageous rates on consumer loans. It is time to end this charade."

Mr. President, there is an old saying—do not shoot the messenger for bringing bad news. I undertook this job to correct the lack of a truly competitive market for credit card interest rates. It is a responsibility that I have. Sometimes you are going to rock the boat and make some people angry at you because they do not like the bad news, whether they are people in your party or the administration, or whether they are constituents and very powerful groups. It is incumbent upon us, as legislators, to stand up, and not to put a fig leaf on and say, let us have an 18-month study. A study would be a betrayal to the working middle class—it would ignore what is taking place. The working middle class is providing a subsidy to the banking industry—and not even getting credit for it. It is a subsidy that we are giving to the banks on the back of the middle-class worker who pays 19.8 percent. That is what we are involved in, and it is wrong.

I know the Senator has a question.

(Mr. ROBB assumed the chair.)

Mr. CONRAD. Will the Senator yield? Is the Senator familiar with the difference between what the prime rate has been and the credit card interest over the last 10 years? Because I asked my staff to look into that question, to find out if in any way we are being unreasonable in our proposal. I found an interesting thing, the Senator from New York would be interested in.

Mr. D'AMATO. I would be interested in it.

Mr. CONRAD. In the early eighties, the gap between the prime rate and credit card rate was about 2 points, sometimes 3 points. Today, the gap between the credit card rate and the prime rate is 11.4 percent. Under our proposal, the gap would have been 6.5 percent, still much higher in terms of what the credit card companies could get in relationship to the prime rate than what they were getting in early 1980. Right now they are getting a gap of 11.4 percent. It is unprecedented.

Mr. D'AMATO. That is over the prime rate.

Mr. CONRAD. Over the prime rate.

Mr. D'AMATO. And the prime rate is a rate that gives them a profit, is that not correct, in loans made to their best customer?

Mr. CONRAD. Since they are borrowing at 4.5 percent, the prime rate of 7 percent must give them a profit or they would not do it. I think the Senator is correct in his assumption.

You really have to wonder precisely what it is that the people are complaining about. I know what my constituents are complaining about, and I assume it is the same for the Senator from New York. They are upset because when they hear the big banks get on television and say, well, we have to have 19.8 percent because we have so many bad loans out there, again, they are saying to the middle class, you fill in the difference. We are asking the middle class to come out and bail us out. The middle class is tired of bailing everybody out.

Mr. D'AMATO. And their poor loaning practices.

Mr. CONRAD. I watched the bank representatives talk this weekend and the crocodile tears we heard from the big banks that they have to have 19.8-percent interest or they cannot possibly make it. I tell you, when my constituency sees that they are getting 5 percent on the money they give the banks, they turn around and put it out for 19.8 percent and they say they cannot make it, something is radically wrong.

Mr. D'AMATO. Was the Senator aware of the fact that in addition to whatever the interest rate they are paying, 19.8 for the largest 7 out of 10 banks paid by the consumer, that the bank also has a service fee of anywhere from 3 to 5 percent that they receive from the retailer. When that customer goes to an institution, whether it is to buy a tire for an automobile, whether it is a restaurant, whether it is to buy an appliance, the store ultimately pays anywhere from 3 to 5 percent to the bank. The 3 to 5 percent is an additional charge over and above the 19.8 percent. In some cases, we are talking about a total rate, when combined with the retailer payment and the interest rates the customer is charged, close to 25 percent.

Mr. CONRAD. Absolutely, extraordinary. I talked to some retailers today who were explaining that to me.

One other point I thought I should make with my friend, the Senator from New York, and that is when they talk about the drop in the stock market being caused by a cap on credit card rates, I think we should remind people that the stock market is at a very high level historically. The price-earnings ratio is 29, historically it averages 15. And on Friday, the very day we saw the stock market drop, in the morning two important indicators were announced that tell us this economy is not recovering. No. 1, consumer confidence numbers were released that showed a dramatic drop in consumer confidence in the early days of November.

Second, the inventory levels in this country were also released Friday morning showing a dramatic increase. That tells us production is going to have to be cut back.

Third, the same week, unemployment benefits showed claims going up dramatically.

And there was lots of other bad news as well. American Airlines canceled a multibillion-dollar contract. The Soviets announced they were not selling any more oil. Biotechnology, as the Senator from New York indicated, led the decline. What do biotechnology stocks have to do with credit card interest rates? Absolutely nothing. The fact is the banks in an attempt to divert people's attention went on the attack. They saw an opportunity to explain away 19.8 percent interest rates. They saw the chance to scapegoat and to scare people and, boy, did they seize the opportunity.

That is what has happened. It is an attempt at scare tactics, to divert people's attention from the fact they are charging rip-off rates. That is the reality.

Mr. D'AMATO. I think the Senator makes a point, and I would like to commend him. I understand and respect people who have a difference of opinion on this issue. For those officials who should know better, however, for the Treasury Department, and the U.S. Cabinet members to say that the stock market fell 120 points because of this legislation is incredible. It is simply not supported by the facts. It is wrong.

And why is the administration scapegoating for the banks? Why do they oppose the legislation? Why have they failed to come up with a constructive alternative? This Senator, when I came to the floor, said let me tell you something, if you have a better way to do this—show it to us. Do not come up and say that this legislation has created a fall in the market, when the facts demonstrate that not to be the case.

Now, if they really believe that, then it demonstrates a shocking lack of knowledge on their part. These people should not be taking that kind of superficial view.

As the editorial from Business Week, November 19, 1991, said, it's about time that the "regulators and politicians * * * stop subsidizing banks by allowing outrageous rates on consumer loans. It is time to end this charade."

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Stop Soaking Credit-Card Shoppers

The Fed and the White House are trying to get interest rates down, in order to coax the cautious consumer back into a buying mood. But if that consumer charges purchases to a credit card, the interest rate is apt to be a stunning 19.5%—enough to put a damper on any buyer's zeal.

The credit-card rate has been flirting with 20% in spite of a dramatic decline in what banks have to pay for money. Since mid-1990, the federal funds rate has been cut 13 times and now stands at just 4.75%.

Why have things reached this ugly pass? The answer is that Washington, still stunned by the savings and loan debacle, is treating the banking system with kid gloves. Banks cite the cards' unsecured-credit aspect as justification for such high rates—yet they're snowing mailboxes with new account solicitations.

The truth is that the wide spread between what banks pay for money and what they charge consumers for it is a subsidy to an industry that is rightly seen as shaky. It's also true that, despite lip service to lower rates, Washington has tolerated and even encouraged banks to soak the consumer—to prop up the industry.

On the evidence, banks seem ready to ignore President Bush's call for lower credit card rates. But the banks must realize that if they do not heed the call, they may not get the other things they want—such as interstate banking. And for their part, regulators and politicians should stop subsidizing banks by allowing outrageous rates on consumer loans. It is time to end this charade.

Mr. D'AMATO. It really is time for us to wake up. It is time for us to say to the American people we have heard what they have been saying in the elections several weeks ago. The American people are angry. They know that something is not right, and they happen to be correct. We are going to have a real test to see whether or not we can continue to stand.

I am not suggesting to you that my legislation is the perfect answer to whether or not we are going to stand up for the people and give them a break. I am going to suggest some of the alternatives I have heard—letting the banks continue business as usual, let us appoint a commission, let us have an 18-month study, that is exactly a betrayal of what the people have a right to expect. That is exactly what the people have come to expect from us—nothing, at best a coverup.

I am going to suggest to you that the first thing the Federal Reserve should be doing is getting down there to say, "Hey, fellas, you better get some real economic competition." I see how they can harass and hound the little banker, how they can make it impossible for him to do business. I want to know why they cannot see that there is a lack of economic competition and why it is we have to come to the floor and offer this kind of legislation.

It is about time that Congress became aware of the reality of the marketplace. We need to do something about it and not dismiss it as just business as usual. We need to provide relief to the overburdened, working middle-class mired in a deep recession. It is about time that we began to stand up and do what is right, not because of political expedience but because it is the right thing to do.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona [Mr. McCAIN].

AMENDMENT NO. 1355

(Purpose: To limit the amount of deposit insurance per depositor per institution)

Mr. McCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1355.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 207, line 8, before the period, insert the following: "for deposits not described in paragraph (3) and $100,000 for deposits described in paragraph (3)".

Mr. McCAIN. Mr. President, this amendment will limit deposit insurance to $100,000 of coverage per person per institution for regular deposit accounts. It will also limit coverage to $100,000 per person per institution for retirement or pension accounts. This would cover individual retirement accounts known as IRA's as well as provide passthrough deposit insurance coverage for employee benefit plans and qualified deferred compensation plans.

Mr. President, we are debating the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. That is why I am offering this amendment, so that we can protect the taxpayers and also reform deposit insurance.

Federal deposit insurance, as we know, dates back to the Great Depression. Congress passed the Banking Act of 1933 in order to provide basic insurance coverage of $2,500 per depositor per insured institution. As we all know, the purpose of deposit insurance was to protect small depositors and to restore public confidence in the banking industry.

We have come a long way from protecting small depositors. We now protect virtually all depositors, big and small, insured or uninsured, and pass the costs of failures and bailouts on to average Americans, the ones we were supposed to be protecting.

The perversity of Federal deposit insurance is exemplified by the taxpayer bailout of the savings and loan industry. Mr. President, I think it is generally acknowledged that the failure of the savings and loan industry, to a large degree, can be directly attributed to the unwarranted expansion of deposit insurance by the Depository Institutions Deregulation and Monetary Control Act of 1980. Basic coverage was increased from $40,000 to $100,000. No longer was deposit insurance for the small depositor. It became the safety blanket for large, sophisticated depositors and freewheeling bankers.

Mr. President, the small depositor now needs protection from unlimited Federal deposit insurance. This amendment will give the small depositor protection from unlimited bailouts while protecting their deposits. This amendment will protect their pocketbooks and their deposits.

By limiting deposit insurance per person per institution, this amendment will encourage depositors with accounts above the limits to spread their accounts throughout the banking system and reduce their exposure to a bank failure. Unlimited deposit insurance and the too-big-to-fail policy have drawn deposits to large banks. Limiting deposit insurance and ending too-big-to-fail will end the flight of deposits to large institutions solely because the depositor believes that the large institution is too big to fail.

Mr. President, I think it is very important to emphasize that this amendment would cover the deposits of 97 percent of the depositors in this Nation whose average deposit, by the way, is $8,000. It would not cover uninsured deposits or deposits above $100,000. The deposits of the average American clearly would be covered, but the average American would not be exposed to the $3 trillion in contingent liabilities now covered by Federal deposit insurance.

Without enactment of this amendment, the legislation will provide little protection to the taxpayer. The combination of this amendment and the elimination of the too-big-to-fail policy contained in the legislation we are considering in my view will protect the taxpayer.

The amendment will have other beneficial effects as well. By limiting deposit insurance coverage and thus limiting the moral hazard inherent in Federal deposit insurance, bankers will have the incentive to limit the risky and speculative activity that led to the taxpayer bailout of the savings and loan industry. It is shocking to me that Congress has not learned the simplest of lessons from the savings and loan debacle, that simple lesson being that unlimited deposit insurance backed by the full faith and credit of the taxpayer will encourage unduly risky behavior, more bank failures, and another taxpayer bailout.

Mr. President, my amendment limits the incentive for banks to engage in unduly risky behavior. It protects the average American from another enormous bailout.

Most importantly, it protects the checking and retirement accounts of small depositors. Deposit insurance was never intended to be a virtually unlimited contingent liability backed by the full faith and credit of the taxpayer. It was intended to protect the savings of the small depositor and maintain public confidence in our banking system.

I believe that this amendment will restore the average American's confidence in our banking system, protect them from another bailout, and protect their hard-earned savings.

Mr. President, I know the objections to this amendment will be based to some degree on the impact that this might have on the banking industry at this time. I fully appreciate that. But I also think that we should seriously consider the impact on the American taxpayer if we are faced with a large bailout of the proportions that we experienced during the savings and loan crisis.

Mr. President, I think it is important—indeed, vital—for us to protect the deposits of the average American citizen, and this amendment will protect 97 percent of them. I think it is also important that we recognize the public confidence is something which is tenuous, at best.

My friend from New York, who was just discussing his amendment concerning the cap on interest rates on credit cards, makes the argument that it was not responsible for the drop in the stock market that took place a few days ago.

I cannot refute his statement. But I think the volatility of the stock market is clearly affected by whether we as a Congress are able to enact truly meaningful banking reform legislation, of which this is only a part.

Mr. President, I really feel, in the strongest terms, my appreciation for the chairman of the committee, Senator RIEGLE, and Senator GARN, for their efforts, and their continuing efforts to get legislation enacted.

If we are content, if we leave to go home on recess with a very very narrow bill that only recapitalizes the bank insurance fund without significant reforms as contemplated in the legislation before us, I am very concerned about the future stability of the banking industry in this country. I feel this amendment will do a great deal in that direction.

Mr. President, I know the chairman and ranking member, the two managers of this bill, will oppose this amendment. So I have very little optimism about its passage. At the same time, I hope that they recognize, as most financial experts do, that at some point we will have to address this issue of how much of a burden are we going to lay on the taxpayer, because we clearly have seen in the past that if deposits are insured under any circumstances, it will encourage reckless behavior on the part of those in whom we have entrusted these deposits.

Mr. President, I will be very grateful for additional legislation or other ways that we can protect the depositor. At the same time, I think this amendment is a viable and reasonable one.

Mr. President, I yield the floor.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah [Mr. GARN].

Mr. GARN. Mr. President, I understand the concern of the Senator from Arizona and where he is coming from on this amendment. I would only add a very brief history lesson on this issue. Sometimes I wish I was still a freshman Senator and had no memory of the things that had gone on.

But in this particular field, unfortunately, for the last 17 years, I have been part of almost every meeting that has gone on. I was part of the Senate-House conference committee when the decision was made to raise the insurance amount to $100,000 per account. At that time, it was $40,000. The Senate had passed a provision to go to $50,000, thinking that a $10,000 increase would be helpful. And in the conference, it was agreed to go to $100,000.

The reason for that, to put it in the context of 1980, is we had just come out of the highest interest rates, certainly in my lifetime, with 21½-percent prime, and a massive amount of money flowing out of the traditional depository institutions to money markets accounts. The new boy on the block had been invented, and you could pay your mortgage on a third-party checking account on your money market fund.

So that was having a disastrous impact on the depository institutions to have $300 billion leave.

So in hindsight, you can look back and say $100,000 was maybe too much. But in the context of that time, when we were threatened with massive runs on the banks, the reason it was raised to that amount was to put confidence back into the depositors. Congress not only went to the $100,000, but they passed resolutions that year that said beyond the $100,000, we place the full faith and confidence of the American taxpayer, so that you did not have a banking system fall apart.

Now, in light of the S&L crisis, it certainly is correct to say that the exposure would have been much less had we not raised it to $100,000. If the Senate position had been maintained at $50,000, the exposure would have been half. That is all true. But I think it is necessary to see what the situation was at the time.

I will admit that, even with my knowledge of 1991, with the situation in 1980 of that massive outflow of over $300 billion of funds, there needed to be some changes made in order to put consumer confidence back into those institutions so that we did not have massive failures.

I can see the justification that the Senator from Arizona makes. He makes some very good points. But to take away the $100,000 in multiple accounts now would simply cause another crisis of confidence. It is one of those things, How do you get from here to there? I wish I had the answer.

But I must oppose the amendment because I think it would have that impact, and particularly on the small institutions. Most of the independent bankers and the small consumer banks are worried now about the situation of an amendment of this type being passed and you would have a big outflow from their institutions to others. There would be big shifts of money, not only locally, but in regions, as well. And they are very much opposed for that reason.

So although the Senator makes some very good points, and it makes sense in many cases to talk about removing it, from a practical standpoint in the confidence out there in the marketplace with depositors, I think if this amendment did pass, however worthy, you would see a massive shift of funds. It would be mostly the smaller banks in this country that would experience that.

So for that reason, I will oppose the amendment.

Mr. RIEGLE address the Chair.

The PRESIDING OFFICER. The Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. I thank the Chair.

Mr. President, my thoughts parallel those of the Senator from Utah. When I started out in drafting this bill, I actually put a provision in such as the Senator from Arizona had suggested. I think if we were starting from scratch with the deposit insurance system, that idea has a lot of merit.

But I think the problem is that we are not starting from the beginning. We are starting with an existing situation. As the Senator from Utah pointed out, I think you would have a lot of money withdrawn from certain banks. But as that money was withdrawn, they in turn would have to call a lot of the loans that they have made in local communities. So you get a contraction effect in the economy, obviously, at a time when we do not want to see that happen.

In terms of where the losses have come from in the banking system, they have come because a number of banks have engaged in too many risky activities; principally, consumer real estate lending, the too readily use of broker deposits, and problems with insider lending. I think it is fair to say, in assessment, that many times troubled banks were not dealt with strongly enough in the early going by the regulators, and they got themselves in deeper trouble.

We have had this problem with "too big to fail," which the Senator from Arizona has mentioned. We have undertaken to correct that here. Yet, even that problem cannot be corrected immediately, as much as we would like to, because we have cornered-in practices that will take the better part of 5 years to undo, in order to do it in an orderly rather than a disorderly way.

So these are the principal factors that have led to the insolvency of the bank insurance fund.

These are the things the bill is designed to cover. With respect to community banks, in many cases we have done some analyses to find out where these multiple accounts are found, and they tend to be found in community banks where you have a lot of retirees—particularly in small towns across the country—who have chosen to put their entire life savings in a local bank, and to break them up in these various accounts. Sometimes they will do it when they sell a business, sometimes when they have sold their home, or when they have received insurance payments. Also, we found that nonprofit organizations tend to place large amounts of cash in local banks. So they have deposited funds in these multiple accounts in order to maintain the deposit insurance protection. I grant that this was not the original design of the system. In effect, a kind of an anomaly has developed.

A survey of community banks was done in 1990 by the Independent Bankers Association, and among those responding to this survey, on average, 45 percent of their depositors hold more than one account, and individuals with four or more accounts comprised, on average, approximately 30 percent of these community banks' total assets. The IBA concluded that limiting the number of insured accounts per institution "would severely and permanently disrupt the ability of community banks to fund their lending activities and support the financial needs of their community and State."

I think it is fair to say that a smaller deposit base from community banks will result in fewer loans to small businesses, to farmers, and to consumers at that level. So that is part of the concern here, the fact that if we do this now, we may be, in effect, adding to a problem rather than solving one.

Having said that, the concerns that the Senator has raised have been concerns we have had. If we were starting from scratch in the system, I think our views might well be different. For those reasons, I, too, would oppose the amendment.

Mr. SASSER. Mr. President, I rise today to oppose this amendment to limit deposit insurance protection for individuals. I do not believe that limiting coverage at institutions would achieve the goal of reducing the Government's contingent liability, instead, it takes a blow at communities, individuals, retirees, and homeowners. During this sensitive time in our economy, I do not think that we should be making changes to deposit insurance that could further reduce consumer confidence and exacerbate the recession.

All this amendment will do is shift funds. In order to get full coverage, the customer could just go across the street and open another account. Moreover, I do not believe making changes to individual deposit insurance coverage at this time would be good for the banking system, the economy, or American savers.

In particular, it would be a vote of no confidence in our Nation's community banks. Mr. President, it is our community banks that are the mainstay of our banking system, if not our economy. They have by and large rejected the speculative investments that bigger banks made in the 1980's. They are the most profitable segment of the banking system. To adopt this amendment would be to attack those banks that have made the productive investments and loans that our economy desperately needs. This amendment could cause deposits to shift from well-managed community banks to too big to fail institutions that pose the most risk to the system. The extension of the Government's contingent liability emanates from the too big to fail policy and from brokered deposits—not individuals.

Mr. President, I think today, more than at any other time since the Federal Deposit Insurance System was instituted, faith in the system is at a low point. The Nation's banking system is in crisis. People do not know what to expect. Pulling the rug out from individual depositors could be very harmful. All we need now is for people to start putting their money under their mattresses. I believe that public confidence could be further eroded if the number of insured accounts that an individual may have at an institution were limited.

The former Chairman of the FDIC, William Seidman, warned of negative public perception of cutting back coverage. He testified before the Senate Banking Committee earlier this year, that "while streamlining deposit insurance coverage may have some benefits in terms of shrinking the safety net, we do not know what the full effects will be * * * any negative effects on public confidence must be weighed against changes to coverage that may have no meaningful reduction in risk to the fund."

Mr. President, I believe that any further deterioration of consumer trust could be devastating. The attempt to reduce the drain on the insurance fund by limiting accounts could in itself actually make it worse.

As the counsel for Government affairs for Consumers Union, Michelle Meier, testified before the Senate Banking Committee, "coverage restrictions could increase, rather than decrease, the instability of the banking system."

The General Accounting Office has strongly recommended that deposit insurance coverage for individuals not be changed now. Comptroller General Bowsher testified before the Banking Committee on the similar Treasury proposal to limit coverage. He said "Treasury places more emphasis on reducing deposit insurance coverage * * * than GAO believes is possible or consistent with maintaining market stability."

Individual depositors do not have the sophistication to determine the condition of an institution—regulators have a difficult enough time with that and that is what we have regulators for.

Individual depositors are not causing the bank failures—bad loans, bad regulation, and excessive growth funded by brokered deposits are the root of the problem. The massive failures of banks were not caused by retired people who took lump-sum pensions or who sold their homes and put the money in the bank for security. We should not punish individual depositors for the ills of the banking system.

As a result of limiting deposit insurance, Mr. President, depositors will find other ways to protect their money—bringing greater instability to the system and putting the insurance fund at increased risk. Reducing the number of insured accounts could have a significant impact on where people place their money.

GAO says "it is less costly and easier to move the deposit than it is to determine if the bank in which it is placed is sound, depositors who feel their funds are at risk will tend to move their funds at the first sign of any problems."

Large depositors who want to develop a business relationship with a bank would be more likely to move their funds to too big to fail institutions. Consumers Union expressed this concern:

> Depositors that are nominally uninsured can receive 100 percent insurance coverage by placing their funds in large institutions that will never be liquidated. Consequently nominal deposit insurance coverage restrictions will do more to increase the competitive advantage of large banks—and undermine the competitive position of small- and medium-sized banks—than to force all banks to compete on the basis of their balance sheets.

While the bill, S. 543, works toward ending the too big to fail policy, it is not eliminated. The failure of a bank deemed to pose systemic risk would continue to be covered in full. This distorts any existing grain of market discipline. As long as some banks can be too big to fail, depositors will see those banks as safer, whether or not they really are.

The bill provides the Federal Reserve and the Treasury Department the discretion to deem the failure of an insured depository institution as a systemic risk if it "would have serious adverse effects on economic conditions or financial stability." With this loophole, there will be a strong incentive for large depositors to put their money in the big banks, without regard for the health of the institution. If a large bank fails, then the cost to the insurance fund would be even greater.

Moreover, community banks are stronger than big banks. If one of the goals of limiting deposit insurance coverage is promoting greater market discipline—to shift deposits to safer banks—then the effect of this amendment would do just the opposite. People will spread their money around to a number of banks, or move their funds to too big to fail institutions. There will not be the market discipline to keep deposits in smaller banks that have demonstrated better safety and soundness.

A recent article in the Wall Street Journal reported that William Seidman, after leaving his position at the FDIC, said that the banking system would be best served if many small banks survive. Seidman said "keeping small banks healthy will spur competition and help the banking system survive."

Moreover, as deposits shift to larger institutions in the big cities, smaller institutions in communities throughout the Nation would have fewer deposits. If smaller banks have fewer deposits, then it will become more expensive for them to make loans. Smaller banks will have to pay higher interest rates in order to attract depositors. They will then pass this cost along to their borrowers. As a result, loans from community banks, which the majority of small businesses in this country depend on, will become increasingly more expensive. Moreover, with the decreased deposit base, the lending capacity of community banks will decline.

Moreover, limiting deposit insurance coverage could be a disincentive for saving and could also result in lower premium income to the fund. With the low rates of savings in this country, we should be sending a message encouraging savings and planning for retirement. We should give people a safe place to save for retirement. During the 1980's, the Nation's savings rate fell in half and has been hovering at 4 percent compared to over 9 percent during the 1970's.

If limiting coverage is the desired goal, I submit that the managers of this bill should instead make a serious effort to end the too big to fail policy. Under this policy, foreign deposits of large banks have been made whole, even though not one dime of insurance premiums have been paid on foreign deposits. To me, that is a gross extension of the Government's contingent liability. And that stands in sharp contrast to the deposit base at a community bank, some of which may be over $100,000 but on all of which insurance premiums have been paid.

Furthermore, brokered deposits—deposits placed by money brokers on behalf of large institutional investors—should be curtailed more than they are. They have been the catalyst for excessive growth of poorly managed institutions. If one wants to limit insurance coverage, brokered deposits, and too big to fail are where I would begin, and leave alone retirees and other individual deposits.

Mr. President, the issue of limiting the number of insured accounts per institution is not simply of interest to bankers, restrictions on multiple accounts are opposed by: the American Association of Retired Persons [AARP], the American Bankers Association, the Independent Bankers Association of America, the U.S. League of Savings Institutions, the National Bankers Association, the American League of Financial Institutions, the Conference of State Bank Supervisors, the National Association of State Departments of Agriculture, the National Conference of State Legislatures, the Manufactured Housing Institute, the National Association of Home Builders, the American Consulting Engineers Council, the American Society of Travel Agents, the Financial Managers Society, the National Association of Retail Druggists, the National Society of Public Accountants, the American Association of Crop Insurers, the National Farmers Organization, the National Farmers Union, and the National Grange.

Mr. President, in conclusion, if deposit insurance coverage is limited, public faith in the system could be diminished, there could be further incentive for large depositors to shift their money around and to put their deposits in too-big-to-fail banks—which could expand the Government's contingent liability even further. This could put smaller institutions at a competitive disadvantage, cause capital to leave communities, make capital more expensive, and create greater losses to the fund.

I strongly urge my colleagues to vote against this amendment. I yield the floor.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment offered by the Senator from Arizona.

The amendment (No. 1355) was rejected.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE BANK SECURITIES REGISTRATION AND ADMINISTRATION ACT OF 1991

Mr. WIRTH. Mr. President, when the Banking Committee considered the bank reform package, I worked to include the provisions of S. 380, legislation I introduced in the last Congress and again this year. These provisions became part of the committee print and the legislation ultimately reported. This legislation corrects an anomaly in our securities laws in order to provide additional protection to investors who purchase securities offered by individual banks and thrifts.

Under current law, securities issued by a bank or thrift holding company, like securities offered by most businesses, must comply with Securities and Exchange Commission [SEC] registration and reporting requirements. Securities issued by an individual bank or thrift, or securities guaranteed by a bank, however, are exempt from SEC oversight. Jurisdiction over such securities is instead granted to the primary regulator—the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Federal Deposit Insurance Corporation—for the institution issuing the security.

This legislation would repeal the exemption to the registration requirements provided banks and thrifts by the Securities Act of 1933. It would also repeal a similar exemption to the periodic reporting requirements of the Securities Exchange Act of 1934. With these changes, banks and thrifts would have to register their publicly offered securities with the SEC and file regular financial reports with the Commission. Importantly, deposit instruments of banks and thrifts, such as savings and checking accounts, or certificates of deposit, would not be subject to SEC supervision.

The Bank Securities Registration and Administration Act is designed to promote investor confidence and improve the effectiveness and efficiency of securities regulation. The proposal would protect investors by promoting full and fair disclosure of important financial information needed to make sound and informed business decisions. Because four different agencies currently established these standards, investors in bank and thrift securities run the risk that the information they receive regarding their investment is inadequate or not directly comparable. This system results in investor confusion, duplication of regulatory efforts, and higher public and private costs.

The proposal has the strong support of the SEC and a similar plan was supported in 1984 by the Task Group on Regulation of Financial Services, chaired by then Vice President George Bush. The task group's recommendations were endorsed by a number of bank and thrift regulatory agencies, including the Office of the Comptroller of the Currency, the Federal Deposit

Insurance Corporation, the Federal Home Loan Bank Board, and the Federal Reserve Board, as well as the National Credit Union Administration. The administration included similar provisions in its bank reform package.

Unfortunately, I understand that the recent amendment to S. 543 removed these provisions. I would like to discuss this matter with the chairman of the Banking Committee, Senator RIEGLE. Is it correct that the bank and thrift securities registration provisions have been removed from the bill along with the provisions to repeal the Glass-Steagall Act?

Mr. RIEGLE. The Senator is correct. Those provisions have been deleted from the overall package.

Mr. WIRTH. I believe Senator RIEGLE made the right decision in removing the Glass-Steagall provisions so that our efforts and attention can focus on more urgent priorities. Although I do not agree that the securities registration provisions should be tied to the Glass-Steagall provisions, I recognize that others feel that way. Like the chairman, I do not want to delay passage of this legislation.

Accordingly, I did not object to consideration of the new package and will not seek to restore my provisions to the legislation. However, I would like to determine if the chairman would be willing to move the securities registration provisions as free-standing legislation.

Mr. RIEGLE. I thank the Senator for his willingness to refrain from pursuing his provisions in order to help the package move forward. I agree that passage of the securities registration proposal does not have to be tied to passage of Glass-Steagall repeal. The Senator has introduced the securities registration requirements as S. 380 and I will look at moving that legislation during the second session of the 102d Congress.

Mr. WIRTH. I thank the chairman for his commitment to pursue my proposal and look forward to working with them on this matter during the next session.

Mr. RIEGLE. Mr. President, I am not aware of any other Senator being willing to offer an amendment tonight. Senator GRAHAM of Florida intended to, but he has come down with a case of laryngitis and is not in a position to do that tonight. I know Senator GARN has an amendment by Senator MURKOWSKI that he will lay down tonight. It is the last order of business and will become the first pending order of business in the morning.

I want to say to Senators that have amendments that they wish to offer tomorrow, that it is very important that we undertake to finish this bill tomorrow. The majority leader stressed that. There are other items on the calendar that need to be dealt with. We have a situation where we are very near the end of the session. This bill, when finished, is going to have to go to conference and come back. We have other items to attend to in the Banking Committee, such as the RTC refinancing. So it is very important tomorrow that we are able to move through these amendments as rapidly as we can, to seek and to get time agreements, debate these issues, have our votes, settle these questions, and get to final passage as early as we can tomorrow.

Mr. DOLE. Will the Senator yield?

Mr. RIEGLE. Yes.

Mr. DOLE. There is a distinct feeling on this side that we are wasting a lot of time. There are 40-some amendments floating around out there. After a full day today, we have had one vote on a sense-of-the-Senate resolution. We are just marking time here for some reason. Nobody quite knows why. We are not going to finish this bill. If the Senator from Michigan knows something the rest of us do not know, how we are going to dispose of all of those, plus others that have not been introduced yet, I think it would be helpful to all of us.

My view is that we are waiting for the House to send us over some little bobtail version of banking reform, which we can act on later this week. I do not think anybody feels we are going to finish this bill tomorrow, or Wednesday, or Thursday, or Friday, or Saturday.

Mr. RIEGLE. Well, let me respond to the Senator. I certainly hope that forecast is not accurate. Maybe he has information I do not have. We had a meeting last night with members of the staff over at the Treasury Department, and the view in that session, which included senior staff members of both sides of the aisle of the Banking Committee, was that we ought to move ahead with the bill today. And we have resolved three of the four major items of contention in the bill. That does not mean we have done so to everybody's perfect satisfaction, but the Glass-Steagall issue, interstate banking issue, and the insurance issue have already been decided. The consumer issues were left as the main portion of the bill around which there was contention. We are going to lay that down tonight in the form of the Murkowski amendment. That will be the first issue out of the box tomorrow.

Frankly, my own view is that the amendments that are left are—and, of course, every Senator's amendment is important—are not in the same category of size and significance as the major issues that have already been settled on this bill. The representations made to me by the Treasury Department is that they want to get this bill done. They feel strongly that the provisions we have incorporated are important and ought not to be dropped over the side. I agree with that.

So it is my intention to try to move on through the bill tomorrow. In the Senate, one person, two people, three people can throw a monkey wrench into it. This legislation needs to pass. If these problems are not dealt with, they will haunt us in the future. I hope we will pass a bill that is broad enough and does enough to try to really put some strength into the banking system.

Mr. DOLE. If the Senator will yield, I wonder, maybe he has clarified the work. Secretary Brady would like to do precisely what you have outlined. I am not on the committee, and I have not been deeply involved in this legislation, but, as I look over the schedule for the remainder of the week, I am fairly optimistic about maybe adjournment by the weekend. That is why I wanted to get some reflection from the chairman, and maybe the ranking member, if there is any—if it took all day to dispose of a sense-of-the-Senate resolution, and there are 42 amendments left, I do not know. Maybe the others are not that important. A sense-of-the-Senate resolution is not too heavy-lifting around here.

Mr. RIEGLE. If the Senator will yield, sometimes a sense-of-the-Senate resolution—often starts out in a different form, and then ends up in that form. That is sometimes one of the ways we settle these issues. We started about 1 o'clock today, and we had a number of Members coming in from out of town. Some were not able to get here in time to offer their amendments. I regret that we could not do much about it.

As I look at the list for tomorrow, the Murkowski amendment which we will start out with, and another amendment by Senator COCHRAN in that same area, I view as sort of the critical outstanding amendments. There is a pay-as-you-go amendment by Senator KERRY of Massachusetts; one by Senator GRAHAM of Florida; maybe an issue between Senator DOMENICI and Senator BRYAN, although I am hopeful that issue might be settled; and then a manager's amendment. I am not aware of other huge, looming amendments. That is not to say something else will come up later—you never know around here, because amendments can be invented at the blink of an eye.

My representation to the Senator, genuinely, is that I think the main issues are behind us. That is not to say everybody is perfectly satisfied. There has never been a time when everybody is around here. I invite the ranking Member to comment, because he would have his sense for it as well.

Mr. GARN. I am happy to respond to the chairman and the distinguished minority leader that we do have a very difficult problem here. There is no doubt about it. I made some suggestions last Thursday, that I felt it was a very difficult process, mainly because of the House of Representatives, which

I have experienced many times in my career of passing bills on the Senate side and not having the House do anything with them. I was afraid we might be heading down that track again.

It was my suggestion that we negotiate between the House and Senate and the Treasury Department very much in the form that we were able to do on the unemployment bill, as well as the civil rights bill, rather than doing it on the floor. Having said that, no one is more disappointed than I am at the turn of events, and the fact that we have not been able to achieve comprehensive bank legislation. I hope that it does not bog down, as the Senator from Kansas has said. I hope that Senators will come and offer their amendments and we can come to a conclusion.

In the final analysis it may not work out and we may end up coming back to what I suggested last Thursday. In the meantime, short of a willingness to do that on the part of the administration and on the part of others, I think we must go ahead and proceed to process the amendments until people are willing to negotiate.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. GARN. I yield the floor.

Mr. RIEGLE. Yes, I yield.

Mr. DOLE. I will make one other point and then I am happy to yield. I must say I am encouraged, I just say that to the Senator from Michigan and the Senator from Utah, the managers of the bill. I think it is important that we have this information prior to our party caucuses tomorrow noon because I think there is a desire—the majority leader and I spent some time today going over what might be called the balance of the program this year. Banking was certainly a high priority, should be a high priority. And I would hope that we could have banking reform for all the reasons that have been spelled out by the managers and many others in and out of the administration.

So I am somewhat encouraged. There are not as many amendments I have been told. Apparently many of them can be disposed of rather easily. So if we could conclude action on this bill if possible tomorrow, that would certainly help accelerate the other matters that would be stacked up behind the banking reform legislation.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Mr. SARBANES. Mr. President, I simply wish to observe this is one of those bills on which amendments can be manufactured infinitely. There is always that.

I think the chairman is right that there are only a few that still represent major issues. And if Members are prepared to address those, decide them one way or another and then forebear trotting out every possible amendment that could be put on the bill, I think there is a chance that this bill could be finished up. That would give us an opportunity to go to conference and be able to work out a number of these issues and present both houses with a bill.

The administration, I understand, is very anxious to have legislation. I know today was a slow start, but Monday is always a slow start. I tend to agree with the chairman and ranking member. I think there is a real chance you can get this thing moving and work through these amendments. It has taken a lot of work to get this far, and it would be preferable to try to carry it on through rather than have it fall back.

Mr. RIEGLE. If the Senator will yield for a couple of other observations, and I appreciate the observations of the minority leader because he is going to be key in helping us bring this bill to a conclusion.

We have had some extraneous events also take place. We had the bill go down twice in the House, so that has been one factor, because it is not exactly clear what the other body is going to finally decide to do. So we have been attempting to steer our own course without any real reference to what may be happening there.

The other thing is we were coming along quite well on Friday when the unemployment compensation package blew apart, as Senators will recall. I guess it was actually on Thursday night. And then we got involved in that, and so ours had to go off on the side track. Frankly, I think, we would have most of these things now finished, but we had to stand aside while that issue got sorted out. So we come back at it to try to finish up now.

I think the point the Senator from Maryland made is well taken in the sense that, on a big, complicated bill like this, people can invent amendments until the cows come home. I hope once we get the main ones settled, we try to accommodate as many Senators we can on the major amendments. We are working on that now, and we took some today.

In fact, the sense-of-the-Senate resolution was one that got changed. But one other thing, just to put everybody on alert, there was one amendment offered today to bring in the RTC issue in part, RTC restructuring into this bill. It has been my position it is better to leave the RTC out of this bill. It is complicated enough in its own right, the funding and an additional $80 billion for that and the restructuring part. But sometime between now and adjournment that issue is going to have to be dealt with.

The preference of the ranking member and me has been to not have that be part of this bill. This bill is complicated enough without throwing that into it. But they both must be done because both funds, we are told, will be empty by the end of this year. So the problems cannot be resolved either in the savings and loan industry or banking industry without both these bills passing.

I only make that point to say this: We cannot get onto the RTC bill separately until we finish this bill. We have to get this bill out the door and into conference and bring it back and then set to work on the RTC bill. So part of the time today was to try to find an accommodation amendment that would not bring those two together here unless that ultimately is the will of the Senate.

So, I just want to assure the minority leader we are doing everything we possibly can to move this in an orderly, fair, and rapid way. This is legislation that has to pass. There are going to be Senators who are going to vote against it in the end, no matter what is in it because there is $70 billion of borrowed money in this bill, so it is an easy bill not to like.

We are trying to put around it the things that ought to be there to give it some balance and help make the banking system more solid. I think if Members will work with us tomorrow I am in hopes we can finish the bill. If one person or two people decide they want to change the works, you know that is something that——

Mr. DOLE. If the Senator will yield, I just say I appreciate not only his statement, and that of the Senator from Maryland and the Senator from Utah. I will certainly do all I can to be helpful to the managers and I will be taking my guidance from the Senator from Utah [Mr. GARN].

But I would say again I am much more encouraged. Apparently we got misinformation, or I did, on how many issues were left and how many amendments were left. I understand if somebody just wants to frustrate your efforts they can continue to manufacture amendments. I hope that is not the case.

It seems to me that if you have come this far, there is every good reason to try to complete action, and we want to be helpful. I know I speak for the administration and Secretary Brady and I think a number of my colleagues on this side. Some may not agree completely. But I will be working with Senator GARN on this side, the Senator from Utah.

Mr. RIEGLE. I finally say it will be my intention in the morning, after we worked our way through the Murkowski amendment that will be laid down tonight, and I review that major remaining issue that we are going to be tied up with the first thing in the morning and set to go, to endeavor to reach a time agreement on these. Any help we can get from the leaders on both sides and Members will be greatly helpful to us in getting an orderly program together and work through it.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. GARN].

AMENDMENT NO. 1356

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I am offering this amendment on behalf of Senator MURKOWSKI.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN], for Mr. MURKOWSKI, proposes an amendment numbered 1356.

On page 416, line 1, strike all through page 487, line 13.

Mr. GARN. Mr. President, I do not intend to have debate on this issue tonight. Senator MURKOWSKI agreed that it be laid down and be the first order of business in the morning to be debated. So I would put all of my colleagues on notice that this will be the first order of business and that we do expect a rollcall vote on it.

CREDIT CARD INTEREST

Mr. GARN. While there is a discussion going on here I would simply make some remarks on a different subject. We have several times during the day had various Members of the Senate come over and talk about the interest rate ceiling cap on credit cards. I certainly am smart enough to understand the politics of that issue. It is overwhelming in favor of the amendment that was passed. In fact, I was the only one that spoke against it last week and the only one that spoke against it today at quite great length. But I think it is a very sad situation that the Senate has succumbed to what appears to be a very politically popular issue, when it is just bad public policy.

It is not easy to stand here on the floor and talk against an amendment that is so popular. But at least this Senator cannot stand by and look at the potential harm that would occur if that becomes law. So I want everybody to know that if, at the end of this process, we come back from the House with that amendment in, I will not support this bill whatever is in it, RTC funding or anything else, because as a matter of principle there is something wrong in a free market society when we are attempting to establish ceilings on anything.

I can remember when Richard Nixon succumbed to that and got into wage and price controls when he was President. And particularly to use one example, on beef, he said you can only charge so much per pound. What happened? There was not any beef because the farmers and the cattlemen would not sell at an artificially mandated price by Government that was low and would have cost them money. So they just killed them and buried them.

When they finally wised up at the distortions that were occurring in the marketplace as far as those price controls and the Government arbitrarily deciding what supply and demand ought to decide, they took them off. Then there was an explosion of prices. And who suffered the most? The consumers, because now they were paying for the lost production mandated by those price controls.

We have seen examples of that over and over again. What we are talking about now is the price of money and people. I am amazed with what is happening in Eastern Europe and the Soviet Union, when we talk about free markets. We are going in just the opposite direction. There are plenty of banks that charge 10, 12, and 14 percent.

And to constantly use the big money center banks, I do not dispute the fact that 7 out of 10 are charging 19.8. So what? There are plenty of banks that are not. There are about 14,000 banks in this country. We are not like the European countries where they have a very centralized banking system with only three or four of five banks.

We have credit unions. With all this talk about these big bad banks, if you want to hear a firestorm, talk to the credit unions, the little mom-and-pop credit unions around this country who are equally disturbed with this amendment. And what you will do is probably, if it passes, deny about 30 percent of the people who now have credit cards that they will have one. They will just simply take away the more risky cards because you cannot compare credit card interests to secured loans like a home. If you do not pay your house payment, they can repossess your house. If you do not pay your car payment, they can repossess your car and get some value out of it.

There is absolutely no security behind this. It costs a great deal more to administer and the default rates are much higher. That is why the interest rates are higher.

But the point of it is there are a lot of banks who charge a lot less. At least that is the way I was brought up. In this country, there are a lot of products I go shopping for. And if I think a particular store is too high, I go to a different one. I find a lower price.

I do that with gasoline. I do that with clothes. I do that with most everything I buy.

And you can do that with banks. If you think they are charging too much for their services, you find one that is not. Maybe that is old-fashioned. But at least the Senate decided last week, with only 19 of us voting against, that that free market principle of supply and demand and providing competition by going someplace else and saying I am talking away your business does not work anymore.

Well, beyond the basic principles, this Senator does not believe that Congress is smart enough to determine prices in this country. They did not do a very good job of that in the Soviet Union—they have no idea what anything costs, or what its value is—and in Eastern Europe when we found out what kind of economy they had, and they are struggling to break out of that.

But beyond the basic principles, there is an issue of $160 billion of costs to the American taxpayers for the failed S&L's. And one of the most valuable assets the S&L's have is their credit card business. Their real estate business certainly has not been good. You take away that ability to earn profit and you have devalued the value of that franchise and you will have a lot more of them in the RTC.

So people feel good that we can mandate to knock off 3 or 4 percentage points off their credit cards and we cost them another few tens of millions, if not hundreds of millions of dollars, in another area.

But maybe the Senate just feels that they can get away with that. And they are insulting the intelligence of the average citizen out of this by saying, "Hey, we are going to be real popular, and we going to lower these rates for you." But they are not gong to tell you what it is going to cost you out of your pocket in your tax bill when there is a lot more failed S&L's out there, and when we have taken a lot of profit out of the poor little credit unions.

And all we hear is the big debate about the big money center banks. In my whole career in the Senate, they have always been the boogeyman; 8 or 10 or 12 of them. Well, I would like the American people to remember that there are 13,000 to 14,000 banks out there, several hundred credit unions are still left, hundreds of S&L's that are still around. And there is a lot of other ways, too, that people can get credit cards from nonbanks. There are many other businesses that issue VISA and Master Card and American Express.

I hope we would not continue this political farce. I think I have seen the U.S. Senate the last few days at its worst as far as the demagogic political issue that I understand. I suppose my mail is 9 to 1 against me standing up here and speaking against this. But I would like to think sometime, just once in a while, that the U.S. Senate could stand up for good public policy rather than wetting their finger and deciding what is politically popular at the moment.

This is bad legislation. It is bad public policy. And I do not really care how many times tomorrow my colleagues run out here to get on TV and yell and scream about how they are the great saviors against those big New York City banks, and how we are going to save you, they ought to think of the implications of how it could go further to other products.

And I do remember, and remind those who are old enough to remember, Richard Nixon's wage and price controls. What an absolute, total, and complete disaster they were.

Congress should have no right to interfere in the free market. We should allow it to work as it was supposed to work and intended to work in a democratic free society.

And if, as some charge, there are antitrust violations here, then the solution to that are the antitrust laws and the Justice Department pursuing it if there is collusion. If there is, I am not defending that. But that is not getting at the problem if we merely place arbitrary ceilings.

So if I am the only one left in the U.S. Senate who is going to stand up and give this speech every time someone on the other side gives one, I will give one, and hope the American people will start to wake up that this is a political gimmick to make them feel good.

We have a lot of Senators out here who are coming over and asking me, "Well, how do we get rid of this?", even though they voted for it. What that means is that they wanted to vote for it for the political impact but they certainly hope it goes away some way.

Well, I do not have the solution to that. I really do not. But if it stays as part of this bill, as much as I want a good bill to pass, I will guarantee you that at the end of this process, if it comes back in the House with this in, this Senator will vote against it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is to so ordered.060

MOAKLEY REPORT REGARDING MURDER OF JESUIT PRIESTS

Mr. KENNEDY. Mr. President, 2 years ago, members of El Salvador's United States-trained Atlacatl Battalion entered the University of El Salvador and committed one of the most unconscionable acts in that country's long and brutal civil war—the vicious murder of six Jesuit priests, their cook, and her daughter.

Those murders shocked the conscience of the world and spurred Congress to take long overdue action in cutting aid to El Salvador. United States pressure forced the Government of El Salvador to take action against those responsible and, in a major historic breakthrough, the Salvadoran Government convicted two officers—a colonel and a lieutenant—for human rights violations. These convictions sent an important signal that the days of impunity for human rights violations by the military were numbered.

Now, in a disturbing report released today, Representative JOE MOAKLEY, the chairman of the Speaker's Task Force on El Salvador, has presented new allegations that the masterminds of the atrocity remain free in El Salvador.

The report concludes that there is strong circumstantial evidence to suggest that the crime was plotted by senior Salvadoran Army officials, including the current Defense Minister, the Deputy Defense Minister, the Commander of the Air Force, and the Commander of the Army's First Brigade, and that subsequently, the army initiated a coverup, destroying critical evidence and blocking the judicial investigation of the murders.

According to Representative MOAKLEY, all of the information presented in his report was already known by the Bush administration.

All of us who care about human rights owe a debt of gratitude to Representative MOAKLEY for the progress he has made—in the face of innumerable obstacles—in the investigation of these murders. His perseverance and commitment to justice have led to new evidence which otherwise would never have been brought to light.

If true, the evidence in his report makes a mockery of the trial of the murderers of the Jesuits and our continued military support for the Government of El Salvador. It also raises serious questions about the good faith of the Bush administration in pressing for a full investigation of this crime.

The Foreign Operations Act of 1991 required the President to terminate all military assistance to El Salvador if he determined that its government had failed to conduct a "thorough and professional investigation into, and prosecution of those responsible for, the [Jesuit] murders."

The President found that the Armed Forces' cooperation in the investigation had "not been satisfactory." He found that military officers had provided "sketchy or contradictory testimony." He found that their testimony and actions had "raised questions about possible involvement beyond those currently indicted." And he found that important "questions remain[ed] unanswered." Despite these findings, the President failed to terminate military assistance to El Salvador.

On October 31, Senator DODD and LEAHY, joined by Congressmen OBEY and MOAKLEY, expressed to Secretary of State James Baker their concern that the President had not terminated military assistance to El Salvador. They requested Secretary Baker to provide Congress with a comprehensive report January 1, 1992, on the extent to which the government of El Salvador has conducted a thorough and professional investigation and prosecution of those responsible for the murders.

Congressman MOAKLEY's report makes it essential for the administration to provide Congress with more than another whitewash of events in El Salvador. The Moakley report lists considerable evidence—including eyewitness accounts—indicating that the decision to murder the Jesuits was made at a meeting of officers on the day before the killing took place.

The administration should respond to this evidence in detail. It should indicate when the Department of State and the Central Intelligence Agency first became aware of this evidence and why the administration did not make it available to the Salvadoran judicial system. And it should explain why the President failed to terminate military aid.

If America is to retain its role as the leader of the free world, it should be in the forefront of support for the ideals of freedom and democracy—not the forces of corruption and repression. It is time for Congress to insist on better answers than we have had so far from the Bush administration.

I ask the unanimous consent to include the text of Representative MOAKLEY's report in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

STATEMENT OF REPRESENTATIVE JOE MOAKLEY, CHAIRMAN OF THE SPEAKER'S TASK FORCE ON EL SALVADOR, NOVEMBER 18, 1991

This is, I suspect, the final statement that I will make as Chairman of the Speaker's Special Task Force on El Salvador, The Task Force was created to monitor the investigation into the murder of six Jesuit priests, their cook and her daughter at the University of Central America (UCA) two years and two days ago. Since the Task Force was created, we have issued one main report supplemented by occasional statements on my part and interim reports from staff.

I do not intend to repeat, in this statement, what we have said before. I want, instead, to complete the record to the extent that rules of confidentiality and good faith allow me to do so.

I find this desirable because I felt from the beginning that the people of El Salvador deserve as full an accounting as possible of what is known about the Jesuits' case and the resulting investigation. I find it necessary because our Task Force was charged by Speaker Tom Foley with sharing what we learned what the Members of the House and with the American people. I find it important because of a statement from the Government of El Salvador that the "Jesuits' trial showed that our criminal justice system works." And I find it worthwhile to respond to a book length rebuttal of our work that was issued by something called the Central America Lawyers Group. According to that group, none of whose names are listed in the publication, "the Moakley Commission indicts the entire El Salvador Armed Forces as being responsible for the murders of the priests, yet presents no evidence of any specific orders, general policy, or permissive environment fostered by the High Command demonstrating institutional guilt."

I cannot fulfill my obligation as Chairman, nor can I respond to the criticisms that have made, without explaining more completely the basis for some of the statements I have made concerning the investigation in the Jesuits' case and the subsequent trial. I have contended, for example, that high-ranking military officers knew soon after the crimes were committed who was responsible but failed to come forward with that information. I have also stated my belief in the possibility—not the certainty, but the possibility—that the murders were ordered by senior officers other than Col. Benavides, the man who has been charged—and now convicted—of doing so. Although I have cited a number of reasons in previous statements for my beliefs, other information has not been cited because the sources of that information were not willing to be identified.

Today, for reasons of completeness, I will cite that portion of the information provided to us in confidence that I believe is most credible and that is most central to the statements I have made in previous reports. In so doing, I emphasize that this statement is based entirely on information provided directly to the Task Force by Salvadoran and other non-classified sources. In fact, aside from some cable traffic that was reviewed very early in our work and that is not relevant to anything in this statement, I have not sought—nor have I received—significant access to classified information or documents.

Before continuing, I want to mention a couple of related things for the record.

First, I believe that those in El Salvador and in the United States who have suggested that our Embassy orchestrated a cover-up of this murder case simply do not know what they are talking about. There is no question that the Embassy made some poor judgments during the difficult and often chaotic process of monitoring this investigation. But Ambassador Walker, his legal officers Richard Chidester and Stu Jones, and other key Embassy personnel devoted thousands of hours to this case and to the effort to see that justice would be done. Although the Ambassador is restrained by his position and responsibilities from detailing many of these efforts, I know that he has acted consistently and at times courageously in pursuit of the truth.

Second, I want to acknowledge the fact that, despite my criticisms, the Salvadoran judicial system is making important progress. The Jesuits' trial, the recent indictments of a number of wealthy Salvadorans in a bank fraud case, and the resolution of the Zona Rosa case involving the murder of U.S. marines—all represent important steps forward. In addition, reforms resulting from the peace negotiations should provide the judicial system with important additional resources and should lead to the development, in time, of a professional civilian investigative capability. The conviction of Col. Alfredo Benavides in the Jesuits' case does, indeed, prove that a high-ranking Salvadoran military officer can be held accountable for the murders of prominent people provided there is sufficient international attention and pressure brought to bear on the case. This is indeed a limited accomplishment, but it is an accomplishment nevertheless.

Third, I want to give credit once again to the President of the Supreme Court, Mauricio Gutierrez Castro and the judge in the Jesuits' case, Ricardo Zamora, for their courage and skill in pushing that case forward. And although I have been critical of President Alfredo Cristiani at times, I do give him credit for encouraging the military to cooperate in the investigation and for the symbolic importance of his willingness to testify personally in the case. I believe the President was genuinely shocked by the murders of the Jesuits; that he made a sincere effort a the outset to push the investigation forward; and he insisted—at critical moments early in 1990—that the armed forces accept responsibility for the crimes. Without his efforts I do not believe that the most direct perpetrators of the crimes would ever have been identified.

Finally, I want to extend my thanks to those in the Salvadoran armed forces who did come forward voluntarily—albeit confidentially—with information in this case. In saying this, I do not mean those who simply passed on rumors, those whose stories are contradicted by other facts known to the Task Force, or those who offered information in return for favors of some sort. I am speaking of individuals who are experienced, respected and serious people, who were in a position to know the information they conveyed, who understood the harm done to the Salvadoran armed forces by the murders of the Jesuits, and who do not share the view that military officers in that country should be above the law. It is these respected—and I believe credible and sincere—individuals who are the source of much of the information described below.

I want it understood that these people incurred great personal risk in talking to the Task Force. Although I encouraged them to come forward and testify officially concerning their knowledge in the case, they refused to do so. All cited the risk of retribution against themselves or their families by extreme rightwing elements of the armed forces. Some said they had already been warned not to talk. Some said they would violate the confidences of others if they were to speak openly. None expressed faith in the protective capabilities of the United States. None wanted to leave El Salvador. And none expressed faith in the ability of the judicial system to convict high-ranking officers even with the evidence they could provide. As a result, I have an ongoing obligation to them and to their families not to identify them publicly and I will not violate that obligation.

Below is a summary of information about two central points that has been provided to the task force by these confidential sources, but which was not included specifically in previous reports:

THE EARLIER MEETING

1. According to these sources, the decision to murder the Jesuits was made at a small meeting of officers held at the Salvadoran Military School on the afternoon prior to the murders (November 15, 1989). Among those present were Col. Benavides, commander of the military school; Gen. Juan Rafael Bustillo, then head of the Salvadoran Air Force (now assigned to the Salvadoran Embassy in Israel); Gen. Emilo Ponce, then Chief of Staff and now Minister of Defense; Gen. Orlando Zepeda, deputy Minister of Defense; and Col. Elena Fuentes, commander of the First Brigade. Reportedly, the initiative for the murders came from General Bustillo, while the reactions of the others ranged from support to reluctant acceptance to silence.

The direct and circumstantial evidence that was provided to the Task Force and that supports this version of events includes:

An allegedly eyewitness account of the meeting by an individual known to have been present at the military school on that afternoon;

Confirmation by another individual that the officers listed above were at the military school on the afternoon of November 15th;

The fact, now publicly reported, that the unit that carried out the murders was issued uniforms without insignias or other identifying characteristics late on the afternoon of November 15th;

The secret destruction, by military officers, of the logs indicating the identify of those who came and went from the military school that afternoon;

An allegation that the destruction of the logs was made known to Gen. Ponce in January, 1990, but that this information was not passed on by him to the then Minister of Defense. As a result, the Judge in the Jesuits' case did not learn that the logs had been destroyed until he made a specific request for them three months later;

A report that Col. Benavides told officers at the military school on the night of the 15th that he had "received the green light" to conduct an operation against the Jesuits. This implies that he did not make the decision himself;

A report that one of those present at the meeting with Col. Benavides later directly accused Gen. Ponce and the high command, in their presence, of being responsible for ordering the murders;

A report that Gen. Bustillo told senior Air Force officers, also on the night of November 15th, that a decision had been made to kill the Jesuit priests (citing specifically, Father Ellacuria, the best known of the priests); and

A report that Gen. Ponce told senior officers during a meeting on December 10, 1990 that "we would not be here if I had not made the decision that I did"; to which Gen. Bustillo responded "we have done well, but we must continue to take a hard line".

The account of the afternoon meeting at the military school described above might also explain the statement of a U.S. military officer assigned to the Embassy in San Salvador that he had been told by Salvadoran Col. Carlos Aviles, on the afternoon of November 15th, that "something was going to go down at the UCA" that night. The American officer subsequently told the FBI that he must have been wrong about hearing that statement because Col. Aviles was not in the country on November 15th. The fact is, however, that Col. Aviles returned to El Salvador on November 14th and might have known at least generally about a decision made the following afternoon to kill the Jesuits on the night of the 15th. At the time of the murders, Col. Aviles was serving as the chief of psychological operations on the staff of Gen. Ponce.

COVERUP

2. There is a substantial amount of circumstantial evidence, described in our earlier reports, to indicate the senior military officers in El Salvador must have known, soon after the murders, which unit was involved. This evidence pertains to the number of soldiers involved in carrying out the murders; the operational chain of command on the night of the murders; the close relation-

ship that exists among senior officers; the role of military intelligence in events immediately prior to, and subsequent to, the murders; the destruction of evidence at the military school and so on.

Just as an example, the Task Force interviewed one officer who claimed to have been told by a colleague on the day after the murders which unit had carried it out. The colleague had served in one of the units placed around the periphery of the UCA on the night the murders took place. When asked about the failure of officers with information to come forward, the officer told the Task Force that "in El Salvador, you talk until you find out the truth; but when you find out the truth, you shut up."

More specifically, the Task Force has not previously disclosed information provided to it that one of those later accused of the crimes reportedly confessed his involvement in the murders to his commanding officer in mid-December, 1989. That information was reportedly then passed on to General Ponce, but it was not turned over to those investigating the case.

I offer this information, as I say, to provide additional substantiation to statements made in earlier reports. Those statements concern, first, my view that it is possible—not certain, but very possible—that senior officers other than Col. Benavides ordered the murders. Based on all that I have learned about the Salvadoran armed forces, I personally find this version of events more credible than the alternative, which is that Col. Benavides acted on his own, notwithstanding the chain of command, and took upon himself the awesome responsibility for these crimes.

Second, the information contributes to my conviction that a coverup of the crimes was attempted and that this coverup involved officials at the highest levels. For reasons detailed in earlier reports, the coverup did not fully succeed because of (1) international pressure; (2) disclosures made by a U.S. military officer in early January, 1990; (3) President Cristiani's insistence that the military take responsibility for the crimes; and (4) good, preliminary police work carried out by El Salvador's Special Investigations Unit.

One additional point: the Task Force received information from a reliable Salvadoran source concerning threats made against the lives of several of the Salvadoran officials involved in pushing for progress in this investigation. One of those threats was directed against president Cristiani. There are also widespread suspicions in El Salvador about the deaths of three military officers connected with the Jesuits' case.

In part because of the threat of violence; in part because of the limited control exercised by civilian authorities over the military; and in part because both the U.S. and civilian authorities in El Salvador need to use the leverage they do have over the military to keep the peace process on track; I am under no illusion that the Government of El Salvador is likely to take further steps to investigate this case, or to examine seriously the possibility that top military officers ordered the crimes. I do recommend very strongly, however, that Congress and the Administration bear this information in mind when making further decisions with respect to U.S. policy in El Salvador. In this connection, I note that the information described above—as well as other information bearing on shortcomings in the investigation—is known to the Executive branch.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,438th day that Terry Anderson has been held captive in Lebanon.

But I am happy to note that today we have tremendous news. Thomas Sutherland and Terry Waite, the Anglican envoy sent nearly 5 years ago to negotiate Sutherland's release, are on their way home. And we hear that we may expect the remaining three Americans by months end.

More: In a televised interview, Terry Waite reported that his captors told him today that they "apologize" for capturing him and realize that there is nothing to be gained by holding men hostage. We, in the Senate, have oft asserted that hostage holding is an egregious violation of human rights and international law, but it is significant—and encouraging—that those in Lebanon who are responsible for this prolonged international tragedy have at long last recognized their error. Recognized their crime.

Mr. President, I ask unanimous consent that an Associated Press report relating the events of the day be printed in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

KIDNAPERS RELEASE TWO WESTERN HOSTAGES; OTHERS MAY BE FREED SOON

(By Eileen Alt Powell)

DAMASCUS, SYRIA.—Shiite Muslim kidnapers freed hostages Terry Waite and Thomas Sutherland on Monday, and Waite said kidnapers told him they would release the last three American hostages in Lebanon by month's end.

Waite said educators Joseph Ciccipio and Alann Steen could be let go within the next five days and the third hostage, Terry Anderson, would join them by the end of November.

Anderson, chief Middle East correspondent of The Associated Press, is the longest held Western hostage. He was seized March 16, 1985. Sutherland, who spent most of his 6 years imprisoned with Anderson, said, "I couldn't have made it through captivity without him."

The two freed hostages, high-spirited and talkative, said they were celebrating their "first gulps" of fresh air and looked forward to meeting the sunshine.

The release of Sutherland, the American dean of agriculture at the American University of Beirut, and Waite, a Briton who was captured while trying to negotiate freedom for the other Westerners in Lebanon, was a dramatic advance toward ending the hostage ordeal.

The United Nations has been leading diplomatic efforts to gain freedom for Western hostages in Lebanon in exchange for the release of Arab detainees held by Israel a condition demanded by the kidnapers.

Sutherland, Waite and Anderson had been considered the most visible hostages, both because of the length of time they had been held and because of Waite's position as a special envoy of the Archbishop of Canterbury.

The release of Waite, 52, and Sutherland, 60, by the group Islamic Jihad, or Holy War, raised speculation that the Israelis may have made a commitment to free Sheik Abdul-Karim Obeid, their most valuable Shiite prisoner.

Waite said at a news conference in Damascus, Syria, that he had no news on two Germans also held hostage. At least one Italian is also among Western hostages in Lebanon.

U.N. Secretary-General Javier Perez de Cuellar said Monday that all Western hostages should be freed by Christmas.

Waite and Sutherland were released in Beirut and driven to the Syrian capital, where they were turned over to Western diplomats.

Following the news conference at the Syrian Foreign Ministry, Sutherland left at 12:45 a.m. Tuesday for Weisbaden, Germany, where he was to undergo medical tests. Waite was expected to fly to Cyprus and spend the night there before going on to Britain.

Waite and Sutherland were in high spirits. They said they had depended on each other for comfort and company, and described spending most of their captivity chained to a wall.

Waite said one captor came to tell them Monday afternoon they would be released. "He also said to me, 'We apologize for having captured you.' They recognize that now this was the wrong thing to do, that holding hostages achieves no useful, constructive purpose."

He also appealed to those "holding the people of South Lebanon, innocent people being held as hostages, to release them soon." Israel and its proxy force in the region, the South Lebanon Army, holds about 300 Arabs.

Sutherland, who wore a maroon sweater with a red carnation stuck in the front, said he and the others were "humbled" by learning over the past few months of the support the hostages had worldwide.

Of Anderson, Sutherland said: "He's a man who should have never been kidnaped" because he was just doing his job as a journalist.

The freed men also showed their sense of humor remained strong. Sutherland teased Waite about his role as a hostage negotiator for the Church of England.

"He came to get me out of there about five years ago . . . We're going to have to get some American technology to the Church of England and show them how to get things done a little bit faster."

Waite, wearing a brown and black sweater over a tan shirt, laughed frequently during the news conference. However, his eyes were puffy and bloodshot.

After the conference, he greeted Britons waiting for him. "I'm just a bit physically weak," he told them.

Sutherland's daughter Joan watched her father's news conference on an airport television in Portland, Ore., then boarded a plane to reunite with him.

"He looks wonderful!" she shrieked. "He looks just like he did before. I just can't believe how good he looks."

Sutherland's brother-in-law, David Murray, said in Ames, Iowa, "Seeing him gets right into the core of you. It's wonderful."

Waite, who had successfully negotiated the release of other Western detainees in Iran and Lebanon, came to Beirut in 1987 to try to free Americans held by the Iranian-allied Islamic Jihad. But he was kidnaped himself and held for nearly five years.

Sutherland was the hostage held the second-longest nearly 6 years.

Six longtime hostages three Americans and three Britons have been freed since August, when Perez de Cuellar took the lead in negotiations. A Frenchman held for three days also was released.

Perez de Cuellar said the rest should be home in time for Christmas.

"That is what I have been offered by the (kidnap) groups, as well as by the Iranian government, which has always given me very strong support, as well as the Syrian government," he said.

Iran and Syria have pivotal roles in the hostage issue because Tehran backs the Shiite Muslim groups and Syria is the main power broker in Lebanon.

Israel and its allied Lebanese militia have freed 66 Arabs in exchange for the remains of one Israeli soldier who had been missing in Lebanon, and news on two others.

Israel welcomed Monday's releases and said it hoped for word on four other missing soldiers. The government statement made no mention of any future releases of Lebanese prisoners under Israeli control.

The news agency of Qatar, a Persian Gulf emirate, quoted an unidentified Islamic Jihad spokesman as saying his group "expects Israel to reciprocate by releasing another batch of Arab prisoners," including Obeid, who was seized in 1989 in southern Lebanon.

"If Israel reciprocates, then the case of the Western hostages would be resolved altogether," the agency quoted the spokesman as saying in Beirut.

In Los Angeles, Israeli Prime Minister Yitzhak Shamir said he was "very upset and very disappointed" about efforts to find information on the missing Israelis.

Waite was special envoy for the Archbishop of Canterbury when he dropped from sight on Jan. 20, 1987 in Beirut. His disappearance was especially shocking because he had been shuttling in and out of the Middle East for years, working to free captives.

Sutherland, dean of agriculture at the American University in Beirut, was kidnaped June 9, 1985, when gunmen attacked his car as he drove in a convoy from Beirut airport. The Scottish-born Sutherland lived in Colorado.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 7:06 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 1568. An act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein; and

S. 1720. An act to amend Public Law 93-531 (25 U.S.C. 640d et seq) to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program for fiscal years 1992, 1993, 1994, and 1995.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2100) to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The message further announced that the House has passed the bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 525. An act to amend the Federal charter for the Boy's Clubs of America to reflect the change of the name of the organization to the Boys and Girls Clubs of America;

H.R. 1304. An act to amend the Communications Act of 1934 to regulate the use of telephones in making commercial solicitations;

H.R. 1612. An act to amend section 108 of title 17, United States Code, to eliminate the library reproduction reporting requirement;

H.R. 1760. An act to amend the AMVETS charter;

H.R. 2324. An act to amend title 28, United States Code, with respect to witness fees;

H.R. 3394. An act to amend the Indian Self-Determination and Education Assistance Act; and

H.R. 3728. An act to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 525. An act to amend the Federal charter for the Boy's Clubs of America to reflect the change of the name of the organization to the Boys and Girls Clubs of America; to the Committee on the Judiciary.

H.R. 1304. An act to amend the Communications Act of 1934 to regulate the use of telephones in making commercial solicitations; to the Committee on Commerce, Science, and Transportation.

H.R. 1612. An act to amend section 108 of title 17, United States Code, to eliminate the library reproduction reporting requirement; to the Committee on the Judiciary.

H.R. 1760. An act to amend the AMVETS charter; to the Committee on the Judiciary.

H.R. 2324. An act to amend title 28, United States Code, with respect to witness fees; to the Committee on the Judiciary.

H.R. 3728. An act to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 18, 1991, he had presented to the President of the United States the following enrolled bill:

S. 374. An act to settle all claims of the Aroostock Band of Micmacs resulting from the Band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2133. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation; to the Committee on the Budget.

EC-2134. A communication from the Administrator of the Department of Transportation, transmitting, pursuant to law, a report on the Federal Aviation Administration's schedule for implementation of new facilities of manned auxiliary flight service stations; to the Committee on Commerce, Science, and Transportation.

EC-2135. A communication from the United States Consumer Product Safety Commission, transmitting, pursuant to law, a report on the status of the study of aversive agents; to the Committee on Commerce, Science, and Transportation.

EC-2136. A communication from the Secretary of Energy, transmitting, pursuant to law, a report for Fiscal Year 1990 on Federal Government Energy Management and Conservation Programs; to the Committee on Energy and Natural Resources.

EC-2137. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report addressing the progress that has been made during fiscal year 1990 on the establishment of an oil and gas leasing program for the non-North Slope Federal Lands; to the Committee on Energy and Natural Resources.

EC-2138. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Managment Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2139. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2140. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a copy of a prospectus for the leasing of space for the Consumer Product Safety Commission in Montgomery County, Maryland; to the Committee on Environment and Public Works.

EC-2141. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, a report on the annual financial audit of the uses of the

Superfund; to the Committee on Environment and Public Works.

EC–2142. A communication from the Assistant Secretary for Finance and Administration of the Smithsonian Institute, transmitting, pursuant to law, the annual pension report for the Smithsonian Institution, the Woodrow Wilson International Center for Scholars, and Reading is Fundamental; to the Committee on Governmental Affairs.

EC–2143. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report of the mandated Superfund audit activities of the Inspector General of the Environmental Protection Agency for fiscal year 1990; to the Committee on Environment and Public Works.

EC–2144. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the study of the costs of furnishing, and payments for, portable x-ray services under Title XVIII of the Social Security Act; to the Committee on Finance.

EC–2145. A communication from the Acting Chairman of the United States International Trade Commission, transmitting, pursuant to law, a report entitled the Sixty-seventh quarterly report on Trade Between the United States and the Nonmarket Economy countries During January–June 1991; to the Committee on Finance.

EC–2146. A communication from the Chief Counsel, Foreign Claims Settlement Commission of the United States, Department of Justice, transmitting, pursuant to law, a report entitled the Foreign Claims Settlement Commission's Annual Report to Congress for 1990; to the Committee on Foreign Relations.

EC–2147. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements other than treaties entered into by the United States in the sixty day period prior to November 7, 1991; to the Committee on Foreign Relations.

EC–2148. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D. C. Act 9–97 adopted by the Council on November 5, 1991; to the Committee on Governmental Affairs.

EC–2149. A communication from the Chief of the Insurance and Pension Administration Division, Army and Air Force Exchange Service, transmitting, pursuant to law, reports for the plan year ended 31 December 1990; to the Committee on Governmental Affairs.

EC–2150. A communication from the Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, a report on the status of the Fiscal Year 1991 Inspector General Annual Report; to the Committee on Governmental Affairs.

EC–2151. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, a report entitled the National Credit Union Administration's Inspector General's Semiannual Report for the period from April 1, 1991 through September 30, 1991; to the Committee on Governmental Affairs.

EC–2152. A communication from the Chairman of the United States Merit Systems Protection Board, transmitting, pursuant to law, a report examining the significant actions taken by the United States Office of Personnel Management in providing leadership to some of the Government's human resource management programs; to the Committee on Governmental Affairs.

EC–2153. A communication from the Chairman of the United States Nuclear Waste Technical Review Board, transmitting, pursuant to law, a report on a reimbursable agreement with the General Services Administration for administrative support services; to the Committee on Governmental Affairs.

EC–2154. A communication from the Federal Inspector of the Alaska Natural Gas Transportation System, transmitting, pursuant to law, a report concerning the adequacy of internal controls and financial systems; to the Committee on Governmental Affairs.

EC–2155. A communication from the Director of Selective Service, transmitting, pursuant to law, a report on audits completed during fiscal year 1991; to the Committee on Governmental Affairs.

EC–2156. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to authorize the Secretary of the Treasury to issue regulations to require that wages and salaries of Federal employees be paid by electronic funds transfer or any other method determined by the Secretary to be in the interest of economy or effectiveness, with sufficient safeguards over the control of, and accounting for, public funds; to the Committee on Governmental Affairs.

EC–2157. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled reports and testimony: September 1991; to the Committee on Governmental Affairs.

EC–2158. A communication from the Assistant Director for Administration of the National Science Foundation, transmitting, pursuant to law, a report on altered NSF systems of records; to the Committee on Governmental Affairs.

EC–2159. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on Tier III Federal Agency Drug-Free Workplaces Programs; to the Committee on Governmental Affairs.

EC–2160. A communication from the Assistant Attorney General, Department of Justice, transmitting, a draft of proposed legislation to make a technical amendment to the False Claims Act; to the Committee on the Judiciary.

EC–2161. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report of federal programs that provide services for fund grants, contracts, or cooperative agreements for families whose children are at risk of out of home placement and child abuse that may be associated with homelessness; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1571. A bill to amend the Federal Railroad Safety Act of 1970 to improve railroad safety, and for other purposes (Rept. No. 102–219).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH (by request):

S. 1981. A bill to extend authorization of appropriations for the U.S. Office of Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

By Mr. METZENBAUM:

S. 1982. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish protections against illegal activities involving drugs and devices, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. D'AMATO:

S. 1983. A bill to delay the implementation of a regulation to prohibit the use of voluntary contributions and provider-specific taxes by States to receive Federal matching funds under Medicaid; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read and referred (or acted upon), as indicated:

By Mr. COATS:

S. Res. 221. Resolution to establish a procedure for the appointment of independent counsels to investigate ethics violations in the Senate, transfer to the Committee on Rules and Administration the remaining authority of the Select Committee on Ethics, and abolish the Select Committee on Ethics; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH (by request):

S. 1981. A bill to extend authorization of appropriations for the U.S. Office of Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

U.S. OFFICE OF SPECIAL COUNSEL AUTHORIZATION ACT

• Mr. ROTH. Mr. President, I rise to introduce, by request, legislation to reauthorize the Office of Special Counsel for 5 years. As the ranking member of the Committee on Governmental Affairs which has oversight responsibilities for the Office of Special Counsel, it is my hope that the committee will consider this reauthorization in the near future.

The Office of Special Counsel serves a central function in the administration of Federal personnel law. Since its inception in 1979, the Special Counsel has been given greater and greater responsibility. The Special Counsel provides protection for Federal employees by investigating allegations of prohibited personnel practices within the Federal Government and allegations of activities prohibited by civil service laws, rules, and regulations. In addition, the Special Counsel is responsible for the interpretation and enforcement of the Hatch Act.

The Office of Special Counsel was established on January 1, 1979 by Executive order by President Carter. The Civil Service Reform Act of 1978 expanded the Special Counsel's functions and powers. Under the 1978 act, the Special Counsel operated as the autonomous investigative and prosecutive arm of the Merit Systems Protection Board. Ten years later, the Whistleblower Protection Act established the Office of Special Counsel as an independent agency within the executive branch. The Office of Special Counsel continues to investigate and prosecute matters before the Merit Systems Protection Board.

A principal function of the Office of Special Counsel is the investigation of complaints of alleged prohibited personnel practices, including those activities covered by the Whistleblower Protection Act. The Whistleblower Protection Act is intended to protect Federal employees who report wrongdoing in the Federal Government.

In its fiscal year 1990 report to Congress, the Office of Special Counsel provided a representative sample of the actions initiated by the Office, including an investigation into a complaint from an employee who alleged that her removal was in retaliation for a letter of complaint to agency officials, and for her cooperation in an internal investigation of an agency official. The OSC confirmed her allegations through an independent investigation and at the OSC's request, the agency agreed to reinstate the complainant, restore all accumulated leave, retirement, and back pay; and purge all references to the removal from her personnel file. This is just one of many of the examples provided.

The Office of Special Counsel also provides a secure channel through which Federal employees may make disclosures of information evidencing violations of law, rule, regulation, waste of funds, mismanagement, abuse of authority, or a substantial danger to public health or safety, without the disclosure of the employees identity and without fear of retaliation.

The Office of Special Counsel is also responsible for providing guidance and enforcing the Hatch Act. Apart from investigating and prosecuting alleged violations of the Hatch Act, the Office of Special Counsel provides advisory opinions in response to employee questions and has published a helpful booklet explaining the coverage of the Hatch Act.

I am hopeful that my colleagues will understand the importance of the Office of Special Counsel and approve this legislation. With this reauthorization, the Senate will be reaffirming its commitment to the merit principles which serve as the basis for our civil service laws. I ask unanimous consent that a copy of a letter to Vice President DAN QUAYLE in his capacity as President of the Senate on this reauthorization be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. OFFICE OF SPECIAL COUNSEL,
Washington, DC, April 29, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to enclose for the consideration of Congress a proposed bill to extend authorization of appropriations for the U.S. Office of Special Counsel (OSC) for fiscal years 1993 through 1997.

Since 1979, the OSC has had the statutory responsibility to investigate allegations of prohibited personnel practices defined by law in the Civil Service Reform Act (CSRA) of 1978, as amended, and to initiate corrective and disciplinary actions when such remedial actions are warranted. The OSC is also responsible for the interpretation and enforcement of the Hatch Act provisions on political activity applicable to federal employees and certain state and local government employees. Finally, the OSC provides a secure channel through which federal employees may make disclosures of information evidencing wrongdoing in the federal government, without fear of retaliation.

Appropriations for the OSC are currently authorized only through fiscal year 1992. Enactment of the proposed bill will enable the OSC to continue its important work to assure the protection of the rights of federal employees, and the integrity of the merit system safeguards for those employees. We urge that this proposed bill receive prompt and favorable consideration.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this proposed bill to the Congress.

With respect,
MARY F. WIESEMAN,
Special Counsel.•

By Mr. METZENBAUM:

S. 1982. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish protections against illegal activities involving drugs and devices, and for other purposes; to the Committee on Labor and Human Resources.

DRUG AND DEVICE ENFORCEMENT ACT

• Mr. METZENBAUM. Mr. President, I rise to introduce the Drug and Device Enforcement Act of 1990. This bill provides important new enforcement authority for the Food and Drug Administration in its regulation of drugs and medical devices.

Mr. President, the public, the Congress, the administration and the Food and Drug Administration have been terribly troubled by the scandal that occurred in the generic drug industry and by the involvement of several FDA employees. Thanks to the oversight work of Congressman JOHN DINGELL'S oversight subcommittee, the scope of this scandal is known. The time has come to take the necessary legislative steps to assure that scandals of this type are not repeated at the FDA.

Unfortunately, scandals involving government procurement or grant or regulatory programs occur all too often. We only need look to recent episodes at the Pentagon and in our housing programs to see that white collar crime is not limited to certain industries or certain Government activities. Wherever the Government is lax and there are large sums of money to be made, as was the case with generic drugs, the Government must be vigilant.

Last year, the administration introduced legislation in the Senate that would have given FDA additional authority to "debar" individuals and companies for certain acts that compromise the FDA approval process. That bill was not limited to generic drugs because, as FDA said in June 1991, testimony in a House hearing, "although improprieties in the generic drug industry have taken center stage, fraud can be perpetrated by any company that FDA regulates."

I was encouraged by the administration's aggressiveness in seeking much needed legislation. I introduce this bill today to accomplish the same objectives of establishing strong deterrents to wrongful behavior and effective authority for assuring the integrity of the FDA regulatory process.

Mr. President, I am mindful that the House has recently passed similar debarment legislation that only covers human generic drugs. While legislation of that type is needed to restore consumer confidence in the FDA and generic drugs, I have no question that broader legislation, along the lines of the administration's bill, is called for.

The Drug and Device Enforcement Act of 1991 provides several new enforcement tools for the FDA in the regulation of all human and animal drugs and medical devices. To further explain the provisions of the bill, a summary will follow my statement. While I also am concerned with the need for similar authority in the regulation of food and cosmetic products, I have not included it at this time. There are significant differences in how FDA regulates food and cosmetic safety, so additional time may be needed before this bill is expanded to include these other FDA regulated products.

Mr. President, I ask unanimous consent that the bill and the summary of the bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug and Device Enforcement Act of 1991".

SEC. 2. SANCTIONS FOR ILLEGAL ACTIVITIES INVOLVING DRUGS AND DEVICES.

(a) SANCTIONS.—Chapter III of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 et seq.) is amended—

(1) by inserting after the chapter designation the following:

"Subchapter A—Prohibitions and Remedies";

and

(2) by inserting after section 307 (21 U.S.C. 337) the following new subchapter:

"Subchapter B—Sanctions for Illegal Activities Involving Drugs and Devices

"SEC. 311. DEBARMENT.

"(a) Mandatory Debarment.—The Secretary shall debar an individual if the Secretary finds that the individual has been convicted of a felony under Federal law involving conduct relating to the development or approval or the process for development or approval of a product, or relating to the regulation of a product or activity subject to regulation by the Food and Drug Administration.

"(b) Permissive Debarment.—

"(1) In general.—The Secretary may, on the initiative of the Secretary or in response to a petition, debar an individual described in paragraph (2) or a person, other than an individual, described in paragraph (3). The Secretary may not initiate any action, or consider any petition, against an individual under this paragraph for an act described in subparagraph (B), (C), or (D) of paragraph (2) until any criminal investigation or criminal proceeding against such individual for such act is completed.

"(2) Individuals subject to permissive debarment.—The following individuals are subject to debarment under paragraph (1):

"(A) Conviction related to a regulated product or activity.—An individual that the Secretary finds has been convicted of—

"(i) a criminal offense—

"(I) that is a misdemeanor under Federal law or a felony under State law; and

"(II) involving conduct relating to the development or approval or the process for development or approval of a product, or the regulation, under Federal or State law, of a product or activity subject to regulation by the Food and Drug Administration;

"(ii) conspiracy to commit such a criminal offense; or

"(iii) aiding and abetting such a criminal offense.

"(B) False statement or representation.—An individual whom the Secretary finds knowingly makes, or causes to be made, to an officer, employee, or agent of the Department, a false statement or representation with respect to a material fact relating to a product or activity subject to regulation by the Food and Drug Administration.

"(C) Failure to make a required disclosure.—An individual whom the Secretary finds knowingly fails to disclose, to an officer, employee, or agent of the Department, a material fact that the person has an obligation under this Act to disclose relating to a product or activity subject to regulation by the Food and Drug Administration.

"(D) Individuals with knowledge.—An individual, if the Secretary finds that the individual—

"(i) works for, or in consultation with, the same person as a second individual, during the period that the second individual is taking actions that later result in the debarment of the second individual under this section;

"(ii) knows of the actions of the second individual; and

"(iii) does not report the actions to an officer, employee, or agent of the Department or to an appropriate law enforcement official.

"(3) Persons subject to permissive debarment.—A person, other than an individual, is subject to debarment under paragraph (1) if the Secretary finds that—

"(A) the person employs, retains as a consultant or contractor, or otherwise uses the services in any capacity of, an individual during the period that the individual is taking actions that later result in the debarment of the individual under this section;

"(B) a significant number of the directors or managers of the person know of the actions of the individual; and

"(C) the person does not report the actions to an officer, employee, or agent of the Department.

"(c) Effect of Debarment.—

"(1) Sanction.—

"(A) Application.—The Secretary shall not accept, review, or approve an application from a person debarred by the Secretary under subsection (a) or (b), during the period of debarment described in paragraph (3).

"(B) Civil penalty.—The Secretary shall, if the Secretary makes the finding described in paragraph (6) or (7) of section 314(a), assess the civil penalty described in section 314.

"(2) Public health waiver.—The Secretary may, on the initiative of the Secretary or in response to a petition, waive the sanction under paragraph (1)(A) with respect to an application if the Secretary finds that the waiver is necessary to promote the public health. The Secretary shall act on a petition seeking action under this paragraph not later than 180 days after the date the petition is submitted to the Secretary.

"(3) Debarment periods.—

"(A) Mandatory debarment.—The debarment of an individual under subsection (a) shall be permanent.

"(B) Permissive debarment of individuals.—

"(i) In general.—Except as provided in clause (ii), the period of debarment of an individual debarred under subsection (b)(2) shall be not more than 5 years.

"(ii) Subsequent debarment.—If an individual who has been debarred under subsection (b)(2) commits an act that leads to a subsequent debarment not later than 10 years after the initial debarment, the period of debarment of the individual shall be permanent.

"(C) Permissive debarment of persons other than individuals.—Except as provided in clause (ii), the period of debarment of a person debarred under subsection (b)(3) shall be not more than 3 years.

"(D) Debarment for multiple offenses.—The Secretary may determine whether debarment periods shall run concurrently or consecutively in the case of a person debarred for multiple offenses.

"(4) Considerations.—In determining the appropriateness of a debarment of a person under subsection (b), the period of debarment under paragraph (3), or the appropriateness of a termination of a debarment of a person under subsection (d), the Secretary shall consider where applicable—

"(A) the nature and seriousness of an offense described in subsection (b) that is involved;

"(B) the nature and extent of management participation in the offense and whether corporate policies and practices encouraged the offense, including whether inadequate institutional controls contributed to the offense;

"(C) the nature and extent of voluntary steps to mitigate the impact on the public of the offense, including—

"(i) discontinuing distribution of the product involved;

"(ii) cooperating with an investigation;

"(iii) disclosing all wrongdoing to appropriate Government agencies in a timely manner;

"(iv) relinquishing profits on product approvals fraudulently obtained; and

"(v) taking actions to substantially limit potential or actual adverse effects on the public health that could result from the actions that provided the basis for debarment;

"(D) whether and the extent to which changes in ownership, management, or operations have remedied the causes of the offense and provided reasonable assurances that the offense will not occur in the future;

"(E) whether the person to be debarred is able to present adequate evidence that the current operations, and pending applications regarding products, of the person are free of fraud and of false statements with respect to material facts;

"(F) prior convictions under Federal or State law involving products or activities within the jurisdiction of the Food and Drug Administration; and

"(G) whether the person has fully investigated the circumstances of the cause for debarment and, if so, provided the results of the investigation to the Government.

"(d) Application for Termination of Debarment.—

"(1) Application.—A person that is debarred under subsection (b) may apply to the Secretary, in the manner specified by the Secretary for termination of the debarment.

"(2) Termination.—If the conviction for which a person has been debarred under subsection (a) or (b)(2)(A) is reversed, the Secretary determines that a finding made by the Secretary with respect to an offense described in paragraph (2) or (3) of subsection (b) is erroneous, or the Secretary determines, in accordance with the considerations described in subsection (c)(4), that termination of a debarment is appropriate, the Secretary shall, on the initiative of the Secretary or in response to an application submitted under paragraph (1), withdraw the order of debarment.

"(3) Timing.—The decision of the Secretary whether to terminate a debarment under this subsection shall be made not later than 180 days after the date the Secretary receives an application under paragraph (1).

"(e) Publication and List of Debarred Persons.—The Secretary shall publish in the Federal Register the name of any person debarred under subsection (a) or (b), the effective date of the debarment, and the period of the debarment. The Secretary shall also maintain and make available to the public a list, updated no less often than quarterly, of the persons, the effective dates and minimum periods of the debarments, and the termination of the debarments.

"(f) Reporting to Secretary of Events Subject to Debarment or Sanction.—A person that files with the Secretary an application for approval of a product by the Food and Drug Administration shall report to the Secretary, during the period in which the person has a pending or approved application—

"(1) to the extent and at such intervals as the Secretary may require, such information as the Secretary may find necessary to enable the Secretary to determine whether the person has used, in any capacity that would subject the person to sanctions under subsection (c), the services of a debarred person; and

"(2) not later than 30 days after the date the person gains knowledge of information that could subject the person to sanctions under subsection (c), the information.

"SEC. 312. TEMPORARY DENIAL OF APPROVAL.

"(a) Authority.—

"(1) In general.—The Secretary may, on the initiative of the Secretary or in response to a petition, issue an order refusing, for the period prescribed by subsection (b), to approve an application submitted by a person if the Secretary determines that—

"(A) there is substantial basis to believe that the person—

"(i) has bribed or attempted to bribe, has paid or attempted to pay an illegal gratuity to, or has induced or attempted to induce another person to bribe or pay an illegal gratuity to, an officer, employee, or agent of the Department or to any other Federal, State, or local official in connection with an application, or has conspired to commit, or aided or abetted, the bribery, payment, or inducement; or

"(ii) has knowingly made or caused to be made two or more false statements or misrepresentations with respect to material facts relating to an application to an officer, employee, or agent of the Department, or has conspired to commit, or aided or abetted, the making of such false statements or misrepresentations;

"(B) the action described in subparagraph (A) raises a significant question regarding the integrity of the approval process with respect to the application, the reliability of the data in the application or the reliability of the data concerning the application; and

"(C) the person is under an active Federal criminal investigation for the action described in clause (i) or (ii) of subparagraph (A).

"(2) PUBLIC HEALTH WAIVER.—The Secretary may, on the initiative of the Secretary or in response to a petition, waive refusal of approval under subsection (a) with respect to an application if the Secretary finds that the waiver is necessary to protect the public health. The Secretary shall act on a petition seeking action under this paragraph not later than 180 days after the date the petition is submitted to the Secretary.

"(b) PERIOD.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a denial of approval of an application of a person under subsection (a) shall be in effect for a period determined by the Secretary but not to exceed 18 months beginning on the date the Secretary makes the findings described in subsection (a) with respect to which the denial was made.

"(2) TERMINATION.—The Secretary shall, on the initiative of the Secretary or in response to a petition, terminate the denial if the Secretary finds that—

"(A) the investigation described in subsection (a)(1)(C) has ended and—

"(i) did not result in a criminal charge against the person described in subsection (a); or

"(ii) resulted in criminal charges that have been dismissed or on which a judgment of acquittal has been entered; or

"(B) a determination of the Secretary under subsection (a)(1) is erroneous.

"(3) INDICTMENT.—If, at the end of the period described in paragraph (1), the Secretary finds that the person has been criminally charged for an action described in clause (i) or (ii) of subsection (a)(1)(A), the Secretary may extend the period of denial of approval of an application for a period not to exceed 18 months. The Secretary shall terminate the extension if the Secretary finds that the charges have been dismissed or that a judgment of acquittal has been entered on the charges.

"(c) INFORMAL HEARING.—

"(1) REFUSAL OF APPROVAL.—Not later than 10 days after the date of the service of the order described in subsection (a) on a person described in subsection (a), the Secretary shall provide the person with an opportunity for an informal hearing on the decision of the Secretary. Not later than 60 days after the date on which the hearing is held, the Secretary shall notify the person given the hearing whether the refusal of approval will be continued, terminated, or otherwise modified. The notification shall be a final agency action.

"(2) TERMINATION OR EXTENSION.—Not later than 10 days after the date the Secretary provides notice of a finding under paragraph (2) or (3) of subsection (b) to a person, and before taking action under the subsection, the Secretary shall provide the person with an opportunity for an informal hearing on the decision of the Secretary. Not later than 60 days after the date on which the hearing is held, the Secretary shall notify the person given the hearing whether the termination or extension at issue in the hearing will be continued, terminated, or otherwise modified. The notification shall be a final agency action.

"SEC. 313. TEMPORARY SUSPENSION OF MARKETING.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary may issue an order suspending the distribution of all products described in paragraph (2) that were approved under applications of a person, if the Secretary finds that such person—

"(A)(i) has engaged in actions, in connection with the development, approval, manufacturing, or distribution of such a product, that—

"(I) are described in clause (i) or (ii) of section 312(a)(1)(A); and

"(II) the Secretary has reason to believe materially influenced the approval of the product, or the compliance of the product with the applicable requirements of the Food and Drug Administration, with regard to the safety and efficacy of the product; or

"(ii) has engaged in flagrant and repeated violations of good manufacturing practice or good laboratory practice, in connection with the development, manufacturing, or distribution of such a product, that—

"(I) the Secretary has reason to believe materially affect the safety or efficacy of the product; and

"(II) have not been remedied within a reasonable period of time following notice of such violations by the Food and Drug Administration; and

"(B) is under an active investigation by a Federal authority in connection with a civil or criminal proceeding involving the action described in subparagraph (A)(i) or the violation described in subparagraph (A)(ii).

"(2) COVERED PRODUCTS.—The products covered under paragraph (1) are products—

"(A) for which a person has obtained an approval as described in section 317(4)(A) (only with respect to new drugs covered by section 505(j)), or in subparagraph (D) or (E) of section 317(4); and

"(B) for which the Secretary has reason to believe that the development, approval, manufacturing, or distribution was materially affected by the actions described in paragraph (1)(A)(i) and the violations described in paragraph (1)(A)(ii).

"(3) PUBLIC HEALTH WAIVER.—The Secretary may, on the initiative of the Secretary or in response to a petition, waive the suspension under paragraph (1) with respect to a product if the Secretary finds that the waiver is necessary to protect the public health. The Secretary shall act on a petition seeking action under this paragraph not later than 180 days after the date the petition is submitted to the Secretary.

"(b) PERIOD.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a suspension under subsection (a) shall be in effect for a period determined by the Secretary but not to exceed 18 months beginning on the date the Secretary makes the findings described in subsection (a) with respect to which the suspension was made.

"(2) TERMINATION.—The Secretary shall, on the initiative of the Secretary or in response to a petition, withdraw the order of suspension if the Secretary finds that—

"(A) the criminal investigation described in subsection (a)(1)(B) has ended and—

"(i) did not result in a criminal charge against the person; or

"(ii) resulted in criminal charges that have been dismissed or on which a judgment of acquittal has been entered; or

"(B) a finding of the Secretary made under subsection (a)(1) is erroneous; or

"(C) the person with respect to whom the order was issued demonstrates—

"(i) on the basis of an audit by the Food and Drug Administration or by experts acceptable to the Food and Drug Administration, or on the basis of other information, that the development, approval manufacturing, and distribution of such product is in substantial compliance with the applicable requirements of this Act, and

"(ii) changes in ownership, management, or operations—

"(I) fully remedy the patterns or practices with respect to which the order was issued; and

"(II) provide reasonable assurances that such actions will not occur in the future.

"(3) INDICTMENT.—If, at the end of the period described in paragraph (1), the Secretary finds that a person has been criminally charged for an action described in subsection (a)(1)(A)(i) or a violation described in subsection (a)(1)(A)(ii), the Secretary may extend the period of suspension for a period not to exceed 18 months. The Secretary shall, on the initiative of the Secretary or in response to a petition, terminate the extension if the Secretary finds that the charges have been dismissed or that a judgment of acquittal has been entered on the charges.

"(4) ACTION.—The Secretary shall act on a petition described in paragraph (2) or (3) not later than 180 days after the date of the petition. The Secretary may consider a petition described in paragraph (2) concurrently with the proceeding to issue the order of suspension under subsection (a), and shall not issue the order if the Secretary makes the finding described in paragraph (2).

"SEC. 314. CIVIL PENALTIES.

"(a) IN GENERAL.—A person shall be liable to the United States for a civil penalty for each violation described in paragraphs (1) through (7) in an amount not to exceed $250,000 in the case of an individual and not to exceed $1,000,000 in the case of a person other than an individual, if the Secretary finds that the person—

"(1) knowingly makes or causes to be made, to an officer, employee, or agent of the Department, a false statement or misrepresentation with relation to a material fact in connection with an application regarding a product;

"(2) bribes or attempts to bribe or pays or attempts to pay an illegal gratuity to an officer, employee, or agent of the Department in connection with an application regarding a product;

"(3) destroys, alters, removes, secretes, or procures the destruction, alteration, removal, or secretion of, a material document or other material evidence that is the property of or in the possession of the Department for the purpose of interfering with the discharge of the responsibilities of the Department in connection with an application regarding a product;

"(4) knowingly fails to disclose, to an officer, employee, or agent of the Department, a material fact that the person has an obligation under this Act to disclose relating to a product;

"(5) knowingly obstructs an investigation of the Department regarding a product;

"(6) is a person that has any approved or any pending application regarding a product and knowingly employs, retains as a consultant or contractor, or otherwise uses in any capacity the services of an individual during the period that the individual is debarred under section 311; or

"(7) is an individual debarred under section 311 and, during the period of debarment, provides services in any capacity to a person that has any approved or any pending application regarding a product.

"(b) PROCEDURE.—

"(1) AMOUNT.—In determining the amount of a civil penalty under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the act subject to penalty, the ability of the person to pay, the effect on the ability of the person to continue to do business, any history of prior similar acts, and such other matters as justice may require.

"(2) LIMITATION ON ACTIONS.—The Secretary may not initiate an action under this subsection—

"(A) with respect to an act described in subsection (a) that occurred earlier than the date of the enactment of this Act;

"(B) later than 6 years after the date when facts material to the act were known or reasonably should have been known by the Secretary; or

"(C) later than 10 years after the date on which the act occurred.

"(c) INFORMANTS.—

"(1) AMOUNT OF AWARD.—The Secretary may award to an individual (other than an officer, employee, or agent of the Federal Government) who provides information leading to the imposition of a civil penalty under this section an amount equal to the lesser of—

"(A) $250,000; or

"(B) one-half of the penalty imposed and collected.

"(2) REVIEWABILITY.—The decision of the Secretary on such award shall not be reviewable.

"(3) PARTICIPATION.—An individual shall not be eligible for such an award if such individual knowingly participated in the violation described in subsection (a).

"SEC. 315. PROCEDURE.

"(a) IN GENERAL.—The Secretary may not take an action under subsection (a), (b), or (c) of section 311, subsection (a) or (b) of section 313 or section 314(a) with respect to a person unless the Secretary has provided notice to the person and issued an order for the action made on the record after opportunity for an agency hearing on disputed issues of material fact, and in the case of an action under section 314, on the amount of the penalty.

"(b) PROCEDURE AND SANCTIONS IN CONNECTION WITH CONDUCT OF HEARING OR INVESTIGATION.—

"(1) IN GENERAL.—The Secretary may—

"(A) in the course of a hearing under this subsection or investigation, administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation; and

"(B) in the course of a hearing under this section, sanction a person, including a party or attorney, for failure to comply with an order or procedure, failure to defend an action, or other misconduct that would interfere with the speedy, orderly, or fair conduct of the hearing.

"(2) SANCTION.—A sanction administered under paragraph (1)(B) shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include—

"(A) in the case of refusal to provide or permit discovery with respect to a matter, drawing negative factual inferences or treating the refusal as an admission by deeming the matter, or certain facts, to be established;

"(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense;

"(C) striking pleadings, in whole or in part;

"(D) staying the proceedings;

"(E) dismissal of the action;

"(F) entering a default judgment;

"(G) ordering the party or attorney to pay attorney's fees and other costs caused by the failure or misconduct; and

"(H) refusing to consider a motion or another action that is not filed in a timely manner.

"SEC. 316. JUDICIAL REVIEW.

"A person that is the subject of an adverse decision under subsection (a), (b), or (c) of section 311, subsection (a) or (b) of section 312, subsection (a) or (b) of section 313 or section 314(a) may obtain a review of the decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in the court (not later than 60 days after the date the person is notified of the decision of the Secretary) a petition requesting that the decision be modified or set aside.

"SEC. 317. DEFINITIONS.

"As used in this subchapter:

"(1) ACTIVITY.—The term 'activity' means an action related to a product.

"(2) ANTIBIOTIC DRUG.—The term 'antibiotic drug' has the meaning given the term in section 507.

"(3) APPLICATION OR APPLICATION FOR APPROVAL.—The terms 'application' and 'application for approval' include—

"(A) an application under subsection (b) or (j) of section 505 with respect to a new drug;

"(B) an application for certification under section 507 of an antibiotic drug;

"(C) an application under section 512(b) with respect to a new animal drug;

"(D) an application under section 512(m) with respect to a new animal drug;

"(E) a premarket notification under section 510(k) of an intent to introduce into interstate commerce for commercial distribution a device intended for human use;

"(F) an application for premarket approval under section 515 with respect to a class III device;

"(G) an application for licensing under section 351 of the Public Health Service Act with respect to a biological product (42 U.S.C. 262); or

"(H) an application under section 802(b) with respect to a drug.

"(4) APPROVAL.—The term 'approval' includes—

"(A) approval under subsection (b) or (j) of section 505 of an application with respect to a new drug;

"(B) certification under section 507 of an antibiotic drug;

"(C) approval under section 512(b) of an application with respect to a new animal drug;

"(D) approval under section 512(m) of an application with respect to a new animal drug;

"(E) a determination under section 510(k) of substantial equivalence to another device;

"(F) premarket approval under section 515 with respect to a class III device;

"(G) a license under section 351 of the Public Health Service Act with respect to a biological product; or

"(H) approval of an application under section 802(b) with respect to a drug.

"(5) BIOLOGICAL PRODUCT.—The term 'biological product' means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, analogous product, or arsphenamine, a derivative of arsphenamine, or any other trivalent organic arsenic compound.

"(6) CONVICTED.—A person is considered to have been 'convicted' of a criminal offense—

"(A) when a judgment of conviction has been entered against the person by a Federal or State court, regardless of whether an appeal is pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged;

"(B) when there has been a finding of guilt against the person by a Federal or State court;

"(C) when a plea of guilty or nolo contendere by the person has been accepted by a Federal or State court; or

"(D) when the person has entered into participation in a first offender, deferred adjudication, or other arrangement or program under which a judgment of conviction has been withheld.

"(7) DEVELOPMENT.—The term 'development', as used with respect to a product subject to approval by the Food and Drug Administration, includes all steps necessary to process or complete, and secure approval of, the application, including—

"(A) designing of protocols for, and conduct of, scientific, medical, engineering, and any other research, experimentation, testing, and analysis (including animal research and preclinical and clinical trials for the product or substance, or the precursors or component elements of the product or substance);

"(B) designing and testing of manufacturing controls and procedures for the product or substance;

"(C) designing and preparation of packaging and labeling for the product or substance; and

"(D) preparation of the application for approval, and of data or documentation supporting the application, and of any other data on which the application or approval of the application is based.

"(8) MANAGER.—The term 'manager' means, with respect to a person, an employee of the person who has duties of such responsibility that the conduct of the employee may fairly be assumed to represent the policy of the person.

"(9) KNOW; KNOWINGLY.—The terms 'know', and 'knowingly' mean that a person, with respect to information—

"(A) has actual knowledge of the information; or

"(B) acts in deliberate ignorance or reckless disregard of the truth or falsity of the information.

"(10) PRODUCT.—The term 'product' means a new drug, an antibiotic drug, a new animal drug, a device, or a biological product.".

(b) EFFECTIVE DATE.—Sections 311, 312, and 313 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall apply to acts or omissions that occurred not more than 5 years prior to the date of the enactment of this Act.

SEC. 3. EFFECT ON OTHER LAWS.

No amendment made by this Act shall preclude any other civil, criminal, or administrative remedy provided under Federal or State law, including a private right of action against a person for the same act as is subject to an action or a penalty under an amendment made by this Act.

SUMMARY—DRUG AND DEVICE ENFORCEMENT ACT OF 1991

This bill amends the Federal Food, Drug, and Cosmetic Act (FFDCA) to establish protections against certain illegal activities involving drugs and devices subject to regulation by the Food and Drug Administration (FDA). These sanctions include debarment of both individuals and corporations from involvement with FDA regulated products, temporary denial of approval of product applications and temporary suspension of the distribution of FDA approved products during the investigation of violations of the FFDCA, and fines. The following is a summary of the bill.

Section 2.—Sanctions for Illegal Activities Involving Drugs and Devices.

I. SECTION 311—DEBARMENT

A. Types of Debarment.—Mandatory debarment of individuals and permissive debarment of individuals and corporations.

1. Mandatory Debarment—Subsection (a) provides for the mandatory debarment by the Secretary of Health and Human Services (HHS) of an individual, if the individual is:

Convicted of a felony under federal law,

For conduct relating to the development or approval of a product, the process for development or approval of a product, or the regulation of a product or activity regulated by the FDA.

2. Permissive Debarment—Subsection (b) provides for the permissive debarment by the Secretary of HHS of persons, which are defined by the FFDCA to include individuals, partnerships, corporations, and associations.

Permissive Debarment of Individuals is provided for:

An individual convicted of a misdemeanor under federal law or a felony under state law which involves conduct relating to the development or approval, the process for the development or approval, or the regulation under federal or state law of a product or activity regulated by the FDA;

An individual convicted of conspiracy to commit one of the above criminal offenses;

An individual convicted of aiding and abetting the commission of one of the above criminal offenses;

An individual whom the Secretary finds knowingly makes, or causes to be made to an HHS employee, a false statement of a material fact relating to an FDA regulated product or activity;

An individual whom the Secretary finds knowingly fails to disclose to an HHS employee, a material fact that the person had an obligation to disclose relating to an FDA regulated product or activity; or

An individual whom the Secretary finds works for, or in consultation with, a second individual during the period that the second individual is taking actions that later result in the debarment of the second individual; and the individual knows of the actions of the second individual; and the individual does not report these actions to HHS or an appropriate law enforcement official.

Permissive Debarment of Persons (other than individuals) is provided for: A person which employs, retains as a consultant or contractor, or otherwise uses the services of an individual during the period that the individual is taking actions that later result in the debarment of the individual; and a significant number of the directors or managers of the person known of the actions of the individual; and the person does not report these actions to HHS.

B. Procedure for Debarment—Agency Hearings and Judicial Review:

1. Agency Hearing (Sec. 315)—The Secretary may not debar an individual or a corporation unless the Secretary has provided notice to the person and issued an order for the action made on the record after opportunity for a formal agency hearing on disputed issues of material fact.

During the course of the hearing the Secretary may issue sanctions for misconduct that interferes with the conduct of the hearing.

2. Judicial Review (Section 316)—An individual or corporation that is the subject of an adverse debarment decision may obtain review of the decision by the U.S. Court of Appeals within 60 days after being notified of the Secretary's decision.

C. Effect of Debarment—Sanctions, Public Health Waiver, Time Periods, Considerations, Termination of Debarment, Publication of the Names of Debarred Persons, and Reporting Misconduct Which May Lead to Debarment.

1. Sanctions—There are two types of sanctions for debarment that the Secretary may impose. The first pertains to applications from the debarred party and the second involves fines.

The Application Sanction—The Secretary shall not accept, review, or approve an application from the debarred party.

Public Health Waiver—The Secretary may waive the application sanction after finding that such waiver is necessary to promote the public health.

Time Periods—The time periods during which the Secretary will not accept, review, or approve applications from debarred parties are as follows:

Mandatory debarment of individuals is permanent;

Permissive debarment of individuals for the first debarment is not to exceed 5 years; and for a subsequent debarment within 10 years after the initial debarment, the sanction is permanent;

Permissive debarment of persons (other than individuals) can be up to 3 years, depending on the underlying offense;

In the case of debarment for multiple offenses, the Secretary determines whether the debarment periods run concurrently or consecutively.

The Civil Fine Sanction (Section 314)—The Secretary shall assess an amount not to exceed $250,000 in the case of an individual and not to exceed $1,000,000 in the case of a person (other than an individual) if the Secretary finds that:

The individual has been debarred under section 311 and provides services in any capacity, during the period of debarment, to a person that has any approved or pending application regarding an FDA regulated product; or

The person has any approved or pending application regarding an FDA regulated product and knowingly employs, retains as a consultant or contractor, or otherwise uses in any capacity the services of an individual during the period that the individual is debarred.

2. Considerations—In considering the appropriateness of permissive debarment, the period of permissive debarment or the appropriateness of terminating permissive debarment, the Secretary shall consider where applicable:

The gravity of the underlying offense;

The extent of management participation in the offense;

Voluntary steps to mitigate the impact of the offense on the public;

Whether changes in management have remedied the causes of the offense and provide some assurance that the offense will not occur in the future;

Evidence that current operations or pending applications are free of fraud and false statements of material facts;

Prior convictions involving products and activities regulated by FDA; and

Whether the person has fully investigated the circumstances of the cause of debarment and has provided the results of the investigation to the government.

3. Termination of Debarment—An individual or corporation that has been permissively debarred may apply to the Secretary for termination of the debarment in a manner to be specified in HHS regulations. The debarment will terminate if the conviction on which the debarment is based is reversed, or the Secretary determines that a finding made by the Secretary with respect to an offense that was the basis of the debarment is erroneous, or the Secretary determines that termination of the debarment is appropriate.

4. Publication—The Secretary shall both publish in the Federal Register and make available to the public the name of any debarred individual or corporation, the effective date of debarment, the period of debarment, and the termination of debarment.

5. Reporting Requirement—A person that files an application for FDA approval of a product shall report to the Secretary during the period in which the person has an approved or pending application such information as the Secretary determines to be necessary to enable the Secretary to determine whether the person has used the services of a debarred individual.

II. SECTION 312—TEMPORARY DENIAL OF APPROVAL

A. Basis—The Secretary may issue an order refusing to approve an application if the Secretary finds:

There is substantial basis to believe the person has bribed or attempted to bribe, paid or attempted to pay an illegal gratuity to, or induced or attempted to induce another to bribe or pay an illegal gratuity to a federal, state, or local official in connection with an application; or the person has knowingly made or caused to be made two or more false statements with respect to material facts relating to an application; and

Those actions raise a significant question about the integrity of the approval process or the reliability of the data supporting the application; and

The person is under a federal criminal investigation for those actions.

B. Time Period—The period of refusal of approval of an application shall not exceed 18 months. The refusal of approval will terminate if the relevant investigation did not result in criminal charges, or the resulting criminal charges were dismissed, or the Secretary determines there was error. If at the end of the period of refusal of approval the person has been charged with a relevant criminal act, the Secretary may extend the period of refusal of approval for a period up to 18 months.

C. Procedure (Sections 312 and 316) and Public Health Waiver—Within 10 days of the order refusing to approve an application, the person shall be afforded the opportunity for an informal hearing on the order. The person is also afforded the opportunity for an informal hearing before termination or extension of the denial of approval is imposed. This agency decision is reviewable by the U.S. Court of Appeals.

The Secretary may also waive refusal of approval of an application after finding that the waiver is necessary to protect the public health.

III. SECTION 313.—TEMPORARY SUSPENSION OF MARKETING

A. Basis—The Secretary may issue an order suspending the distribution of certain covered products approved under the application of a person if the Secretary finds that such person:

Has bribed or attempted to bribe, paid or attempted to pay an illegal gratuity to, or induced or attempted to induce another bribe or pay an illegal gratuity to a federal, state, or local official in connection with an application; or has knowingly made or caused to be made two or more false statements with respect to material facts relating to an application; and the Secretary has reason to believe such actions materially influenced the approval of a product or the compliance of a product with FDA requirements; or

Has engaged in flagrant and repeated violations of good manufacturing or laboratory practices that the Secretary has reason to believe materially affected the safety or efficacy of the product and these violations have not been remedied promptly following notice by the FDA; and

The person is under civil or criminal investigation by a federal authority for those actions.

B. Time Period—The period of suspension of the distribution of a product shall not exceed 18 months. The suspension will terminate if the relevant investigation did not result in criminal charges, or the resulting criminal charges have been dismissed, or the Secretary determines there was error, or the person demonstrates that the product is in compliance and the problems are remedied. If at the end of the period of suspension the person has been charged with a relevant criminal act, the Secretary may extend the period of suspension for a period up to 18 months.

C. Procedure (Section 315 and 316) and Public Health Waiver—The Secretary may not suspend the distribution of a covered product unless the Secretary has provided notice to the person and issued an order for the action made on the record after opportunity for a formal agency hearing on disputed issues of material fact. During the course of the hearing the Secretary may issue sanctions for misconduct that interferes with the conduct of the hearing. A person that is the subject of an adverse decision may obtain review of the decision by the U.S. Court of Appeals within 60 days after being notified of the Secretary's decision.

D. Covered Products—The products covered by this section are human generic drugs, animal generic drugs and devices determined to be substantially equivalent under section 510(k) of the FFDCA.

The Secretary may waive the suspension of the distribution of a product if the Secretary finds the waiver is necessary to protect the public health.

IV. SECTION 314—CIVIL PENALTIES

A. Basis—The Secretary shall assess an amount not to exceed $250,000 in the case of an individual and not to exceed $1,000,000 in the case of a person (other than an individual) if the Secretary finds that the individual or person:

Knowingly makes or causes to be made to a Department of HHS employee, a false statement with relation to a material fact in connection with an application;

Bribes or attempts to bribe or pays or attempts to pay an illegal gratuity to a HHS employee in connection with an application;

Destroys, alters, removes, secretes, or procures the destruction, alteration, removal, or secretion of material evidence that is in the possession of HHS for the purpose of interfering with an application;

Knowingly fails to disclose to HHS a material fact that the person has an obligation to disclose;

Knowingly obstructs an investigation of HHS;

Is a person that has any approved or pending application regarding an FDA regulated product and knowingly employs, retains as a consultant or contractor, or otherwise uses in any capacity the services of an individual during the period that the individual is debarred; or

Is an individual who has been debarred and who during the period of debarment provides services in any capacity to a person that has any approved or pending application regarding an FDA regulated product.

B. Procedure (Sections 315 and 316)—The Secretary may not impose these fines unless the person has had the opportunity for an agency hearing on disputed issues of material fact and the amount of the penalty. The Secretary shall also consider the gravity of the underlying act, the ability of the person to pay and continue to do business, and prior similar acts before imposing such fines. This agency decision is reviewable by the U.S. Court of Appeals.

C. Limitation on Actions—The Secretary may not impose these fines if the underlying act occurred before the date of enactment of this bill; if the imposition of the fine would be later than 6 years after the date when facts material to the underlying act were or should have been known to the Secretary; or if the imposition of the fine would be later than 10 years after the act occurred.

D. Informants—The Secretary may award to an individual (other than an employee of the federal government or an individual who knowingly participated in the violation) who provides information leading to the imposition of a civil penalty under this section, an amount equal to the lesser of $250,000 or one-half of the penalty imposed and collected.

V. SECTION 317—DEFINITIONS AND EFFECTIVE DATE

A. Application—The term includes applications for new drugs under section 505; antibiotics under section 507; new animal drugs under section 512; biological products under section 351 of the Public Health Service Act; drugs under section 802(b); and devices under sections 510(k) and 515.

B. Approval—The term includes all products listed in paragraph A above.

C. Know; Knowingly—The terms mean that a person, with respect to information (A) has actual knowledge of the information; or (B) acts in deliberate ignorance or reckless disregard of the truth or falsity of the information.

D. Product—The term means drugs, new drugs, antibiotic drugs, new animal drugs; biological products; and devices.

E. Effective Date—Section 311, 312 and 313 apply to acts or omissions that occurred not more than 5 years prior to the date of the enactment of this Act.•

By Mr. D'AMATO:

S. 1983. A bill to delay the implementation of a regulation to prohibit the use of voluntary contributions and provider-specific taxes by States to receive Federal matching funds under Medicaid; to the Committee on Finance.

MEDICAID MORATORIUM ACT OF 1991

• Mr. D'AMATO. Mr. President, I rise today to introduce legislation that will allow the administration and the States to move forward toward an agreement on the difficult issue of provider-specific taxes and their treatment under the Medicaid Program.

As my colleagues are well aware, the Health Care Financing Administration, on September 12, issued a regulation prohibiting the use of a broad range of revenues currently applied toward Medicaid by State governments. This regulation, if permitted to be implemented, would disrupt over 30 State Medicaid programs. It would cost these States billions in lost Federal Medicaid matching funds.

There is no question about the need to establish a reasonable and rational policy for financing Medicaid Programs through voluntary donations and provider-specific taxes. However with adjournment looming just around the corner, and in light of the complexity of the issues involved, we simply need more time—time to come back next year to resolve this issue in a thoughtful and thorough way.

If Congress does not act to delay the HCFA rule, and if the administration and the States do not reach an agreement on this issue, we will see chaos result when the rule's January 1, 1992, effective date forces States to radically adjust programs in the middle of budget cycles. The result will be drastic cuts in basic medical services as well as long-term care for millions of low-income mothers, children, disabled, elderly, and mentally ill individuals.

Even if an agreement is hastily cobbled together in the next several days before adjournment, such a solution is unlikely to be equitable both to the administration and the States. We will be back in 3 months trying to solve this problem again.

This bill will give both sides the necessary breathing room to craft a meaningful solution to this difficult problem. It simply creates, in effect, a two-way moratorium. This moratorium, like that called for in similar legislation in the Senate and the House, would delay the implementation of HCFA's proposed rule until September 30, 1992. At the same time, this moratorium would not permit existing programs to grow, and would not permit any new programs. In other words, it freezes all activity until the end of the current fiscal year.

Mr. President, this bill represents a rational, reasonable approach to our current dilemma over Medicaid provider-tax and voluntary donation programs. I believe this bill will allow us to avoid a crisis in programs that work at providing health care to the poor and disabled, and I urge its immediate adoption.●

ADDITIONAL COSPONSORS

S. 310

At the request of Mr. PELL, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 310, a bill to provide for full statutory wage adjustments for prevailing rate employees, and for other purposes.

S. 316

At the request of Mr. CRAIG, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 736

At the request of Mr. GRAHAM, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 1755

At the request of Mr. BUMPERS, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1755, a bill to reform the concessions policies of the National Park Service, and for other purposes.

S. 1862

At the request of Mr. GRAHAM, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1862, a bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

S. 1886

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 1886, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

At the request of Mr. MCCONNELL, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from Alabama [Mr. SHELBY], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1886, supra.

S. 1932

At the request of Mr. BUMPERS, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1932, a bill to amend the Internal Revenue Code of 1986 to provide a capital gains tax differential for individual and corporate taxpayers who make high-risk, long-term, growth-oriented venture and seed capital investments in start-up and other small enterprises.

S. 1933

At the request of Mr. KENNEDY, the names of the Senator from Utah [Mr. HATCH], the Senator from Hawaii [Mr. INOUYE], the Senator from Indiana [Mr. COATS], the Senator from Florida [Mr. GRAHAM], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1933, a bill to amend titles VII and VIII of the Public Health Service Act to reauthorize and extend programs under such titles, and for other purposes.

S. 1950

At the request of Mr. DANFORTH, the names of the Senator from Nevada [Mr. REID], the Senator from Wisconsin [Mr. KASTEN], the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. DIXON], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 1950, a bill to amend the Internal Revenue Code of 1986 to extend for 1 year certain expiring tax provisions.

SENATE JOINT RESOLUTION 140

At the request of Mr. WARNER, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 140, a joint resolution to designate the week of July 27 through August 2, 1991, as "National Invent America! Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. ROTH, his name was added as a cosponsor of Senate Joint Resolution 182, a joint resolution proposing a Balanced Budget Amendment to the Constitution of the United States.

SENATE JOINT RESOLUTION 194

At the request of Mr. GRAMM, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of Senate Joint Resolution 194, a joint resolution to designate 1992 as the "Year of the Gulf of Mexico."

SENATE JOINT RESOLUTION 228

At the request of Mr. D'AMATO, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 228, a joint resolution to designate the week beginning February 23, 1992, as "National Manufacturing Week."

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE RESOLUTION 213

At the request of Mr. GORE, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Resolution 213, a resolution expressing the sense of the Senate regarding United States policy toward Yugoslavia.

SENATE RESOLUTION 221—INVESTIGATIONS OF ETHICS VIOLATIONS BY INDEPENDENT COUNSELS

Mr. COATS submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 221

Resolved,

SECTION 1. INDEPENDENT ETHICS COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Independent Ethics Commission of the Senate (referred to as the "Ethics Commission").

(b) MEMBERSHIP.—(1) The Ethics Commission shall be comprised of 8 members appointed in accordance with paragraph (2).

(2) The majority leader and the minority leader shall each appoint to the Commission at the beginning of a Congress—

(A) 1 member who is a retired judge of a Federal or State court;

(B) 1 member who is a former member of the Senate; and

(C) 2 members who are private citizens and are not employees of the United States.

(c) TERMS.—(1)(A) A member of the Commission shall serve a term of 2 years and may be reappointed for 2 additional terms.

(2) In the case of the death or resignation of a member of the Commission a successor shall be appointed in the same manner as the member was appointed to serve until the end of the term of that member.

(d) REMOVAL.—A member of the Commission may be removed only by resolution of the Senate.

(e) DUTIES.—It shall be the duty of the Commission to—

(1) receive requests for review of an allegation described in section 2(b);

(2) make such informal preliminary inquiries in response to such a request as the Commission deems to be appropriate;

(3) if, as a result of those inquiries, the Commission determines that a full investigation is not warranted, submit a report pursuant to section 2(e); and

(4) if, as a result of those inquiries, the Commission determines that a full investigation is warranted, appoint an independent counsel pursuant to section 3.

(f) COMPENSATION OF MEMBERS.—(1) Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(g) STAFF.—(1) The Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform its duties.

(2) The Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(3) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(5) Except at a time when additional personnel are needed to assist the Commission in its review of a particular request for review under section 2, the total number of staff personnel employed by or detailed to the Commission under this subsection shall not exceed 5.

(h) INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 2. REVIEW OF ALLEGATIONS OF IMPROPER MISCONDUCT AND VIOLATIONS OF LAW.

(a) DEFINITIONS.—As used in this section, the term "officer or employee of the Senate" means—

(1) an elected officer of the Senate who is not a member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any member of the Senate;

(3) the Legislative Counsel of the Senate or any employee of his office;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

(b) REQUEST FOR REVIEW.—Any person may present to the Commission a request to review and to consider the propriety of appointing an independent counsel to investigate an allegation of—

(1) improper conduct that may reflect upon the Senate;

(2) a violation of law;

(3) a violation of the Senate Code of Official Conduct (rules XXXIV, XXXV, XXXVII, XXXVIII, XXXIX, XL, XLI, and XLII of the Standing Rules of the Senate); or

(4) a violation of a rule or regulation of the Senate,

relating to the conduct of a person in the performance of his or her duties as a member, officer, or employee of the Senate.

(c) SWORN STATEMENT.—A request for review under subsection (b) shall be accompanied by a sworn statement, made under penalty of perjury under the laws of the United States, of facts within the personal knowledge of the person making the statement alleging improper conduct or a violation described in subsection (b).

(d) PUBLIC DISCLOSURE.—(1) The contents of a request for review and sworn statement submitted under subsections (b) and (c), all proceedings of the Commission, and all facts that come to the knowledge of the Commission during its inquiries shall be made available to the public except as provided in paragraph (2).

(2) The Commission may withhold information from public disclosure if the Commission, in its sole discretion, determines that the public interest in disclosure is outweighed by—

(A) harm that may be caused to the reputation of a person; or

(B) prejudice that may be caused to the rights of a person.

(e) DETERMINATION NOT TO APPOINT INDEPENDENT COUNSEL.—(1) If, after making preliminary inquiries, the Commission determines not to appoint an independent counsel pursuant to section 3, the Commission shall submit to the members of the Senate a report that—

(A) states findings of fact made as a result of the inquiries;

(B) states any conclusions that may be drawn with respect to whether there is substantial credible evidence that improper conduct or a violation of law may have occurred; and

(C) states its reasons for concluding that further investigation is not warranted.

(2) After submission of a report under paragraph (1), no action may be taken in the Senate to impose a sanction on a person who was the subject of the Commission's inquiries on the basis of any conduct that was alleged in the request for review and sworn statement.

(3) If the Commission determines that any part of a sworn statement presented to it under subsection (c) may have been a false statement made knowingly and willfully, the Commission may refer the matter to the Attorney General for prosecution.

SEC. 3. INDEPENDENT COUNSEL.

(a) APPOINTMENT.—(1) If, after making preliminary inquiries, the Commission determines that—

(A) there is substantial credible evidence that improper conduct or a violation described in section 2(b) may have occurred; and

(B) in view of the seriousness of the allegation and other relevant considerations, a full investigation of the alleged misconduct or violation is warranted,

the Commission shall appoint an independent counsel to conduct an investigation.

(2)(A) The Commission shall appoint as independent counsel a person who has appropriate experience and who undertakes to conduct the investigation in a prompt, responsible, and cost-effective manner and to serve to the extent necessary to complete the investigation.

(B) The Commission may not appoint as independent counsel a person who holds any office of profit or trust under the United States.

(b) COMPENSATION.—An independent counsel shall receive compensation at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) SCOPE OF INVESTIGATION.—(1) At the time that the Commission appoints an independent counsel, the Commission shall describe with specificity in the appointment the subject matter with respect to which the investigation shall be conducted.

(2) The Commission may enlarge the subject matter with respect to which an investigation shall be conducted—

(A) at the recommendation of the independent counsel, based on facts that come to the knowledge of the independent counsel during an investigation; or

(B) in response to a request for review and sworn statement alleging new facts that is presented to the Commission by any person prior to the conclusion of an investigation.

(d) GENERAL AUTHORITIES.—(1) An independent counsel may—

(A) make such expenditures;

(B) hold such hearings;

(C) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, documents, or other records of any kind;

(D) administer such oaths;

(E) take such testimony orally or by deposition; and

(F) employ and fix the compensation of such assistant counsel, investigators, technical assistants, consultants, and clerical staff as the independent counsel deems advisable.

(2) An independent counsel may procure the temporary services (not in excess of 1 year) or intermittent services of consultants by contract as independent contractors or by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation that may be paid to a regular employee of the Committee on Rules and Administration.

(e) USE OF SERVICES, FACILITIES, INFORMATION, AND EMPLOYEES.—(1) With the consent of the department or agency concerned, an independent counsel may—

(A) use the services, facilities, and information of any department or agency of the United States; and

(B) employ on a reimbursable basis or otherwise the services of such personnel of such a department or agency as the independent counsel deems advisable.

(2) With the consent of the committee, subcommittee, or office concerned, an independent counsel may use the services, facilities, and information of any committee, subcommittee, or office of the Senate when the independent counsel determines that to do so is necessary and appropriate.

(f) OPPORTUNITY TO BE HEARD.—An independent counsel shall provide a person that is the subject of an investigation notice of the investigation and a full opportunity to respond orally and in writing and submit evidence in response to allegations made concerning the person.

(g) REPORT AND RECOMMENDATION.—(1) At the conclusion of an investigation, an independent counsel shall submit to the Members of the Senate a report that—

(A) states findings of fact made in the investigation;

(B) states any conclusions that may be drawn with respect to whether improper conduct or a violation of law has occurred; and

(C) recommends an appropriate sanction for any improper conduct or violation of law that is found to have occurred.

(2) A sanction recommended by an independent counsel in a report under paragraph (1) may include—

(A) in the case of improper conduct or a violation of law by a Member of the Senate, censure, expulsion, or recommendation to the appropriate party conference regarding the Member's seniority or position of responsibility; and

(B) in the case of improper conduct or a violation of law by an officer or employee of the Senate, suspension or dismissal from employment by the Senate.

(3) At any time at which an independent counsel finds facts that give reason to believe that a violation of law has occurred, the independent counsel shall report those facts to the appropriate Federal or State law enforcement authorities.

(h) SENATE ACTION.—After a report is submitted under subsection (g), any Member of the Senate may introduce a resolution proposing that the Senate adopt the report of the independent counsel with or without modification and impose an appropriate sanction.

(i) PAYMENT OF EXPENSES.—Expenses of the Commission and compensation and expenses of an independent counsel shall be paid out of the contingent fund of the Senate.

SEC. 4. TRANSFER OF FUNCTIONS TO THE COMMITTEE ON RULES AND ADMINISTRATION.

(a) AMENDMENT OF RULE XXV.—Paragraph 1(n) of rule XXV of the Standing Rules of the Senate is amended—

(1) by striking "and" at the end of clause (2)(A);

(2) by striking the period at the end of clause (2)(B) and inserting "; and";

(3) by adding at the end of clause (2) the following new subclauses:

"(C) administer the reporting requirements of title I of the Ethics in Government Act of 1978 (5 U.S.C. App.);

"(D) recommend to the Senate, by report or resolution, such additional rules or regulations as the committee determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, and employees of the Senate in the performance of their duties and the discharge of their responsibilities;

"(E) issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction;

"(F) render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion;

"(G) in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion;

"(H) perform the functions assigned to the Select Committee on Standards and Conduct of the Senate in section 6 of Public Law 93-191 (2 U.S.C. 502); and

"(I) be deemed to be an 'employing agency' under section 7342(a)(6)(B) in place of the Select Committee on Ethics."; and

(4) by adding at the end the following new clauses:

"(3)(A) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, a person who relies on any provision or finding of an advisory opinion rendered under clause (2) (F) or (G) and who acts in good faith in accordance with the provisions and findings of such an advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

"(B) An advisory opinion rendered under clause (2) (F) or (G) may be relied on by—

"(i) any person involved in the specific transaction or activity with respect to which the advisory opinion is rendered if the request for the advisory opinion included a complete and accurate statement of the specific factual situation; and

"(ii) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which the advisory opinion is rendered.

"(C) An advisory opinion rendered under clause (2) (F) or (G) shall be printed in the Congressional Record with appropriate deletions to assure the privacy of the individual concerned. Before rendering an advisory opinion the committee shall, to the extent practicable, provide any interested party with an opportunity to transmit written comments to the committee with respect to the request for such advisory opinion. The advisory opinions issued by the committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

"(D) A brief description of a waiver granted under section 102(a)(2)(B) of title I of Ethics in Government Act of 1978 (5 U.S.C. App.) or paragraph 1 of rule XXXV shall be made available upon request in the committee office with appropriate deletions to assure the privacy of the person concerned.

"(4)(A) The responsibilities of the Committee on Rules and Administration under clause (3) (C), (D), (E), (F), (G), (H), and (I) and under the Senate Code of Official Conduct shall be administered by a Subcommittee on Ethics comprised of an equal number of members of the major political parties.

"(B) A determination made or action taken by the Subcommittee on Ethics may be modified by—

"(i) the Committee on Rules and Administration by a vote of the majority of the members of each of the major political parties; or

"(ii) resolution of the Senate.".

(b) AMENDMENT OF SENATE CODE OF OFFICIAL CONDUCT.—Rules XXXV, XXXVII, and XLI of the Standing Rules of the Senate are amended—

(1) by striking "Select Committee on Ethics" each place it appears and inserting "Committee on Rules and Administration"; and

(2) by striking "Select Committee" each place it appears and inserting "Committee on Rules and Administration".

SEC. 5. ABOLISHMENT OF SELECT COMMITTEE ON ETHICS.

Effective on the date that the initial 8 members of the Commission take office, the following resolutions are repealed:

(1) Senate Resolution 338, 88th Cong., 2d Sess., 100 Cong. Rec. 16939 (1964).

(2) Senate Resolution 223, 96th Cong., 1st Sess., 125 Cong. Rec. 22471 (1979).

(3) Senate Resolution 290, 96th Cong., 1st Sess., 125 Cong. Rec. 33623 (1979).

(4) Senate Resolution 425, 97th Cong., 2d Sess., 128 Cong. Rec. 20820 (1982).

• Mr. COATS. Mr. President, I rise today to submit legislation to abolish the Senate Ethics Committee and replace it with an independent counsel.

Americans have become deeply cynical about the Congress. They ask if an institution which can't govern itself can govern the rest of us. And frankly, the failure of the Ethics Committee to act promptly and to place clear standards of conduct above partisanship has fed the disillusionment. Raw politics rules, not principled standards of public service.

You would not try an accused person before a jury of his family. But in the eyes of most Americans, that is essentially what the Senate Ethics Committee amounts to. For evidence, we need look no further than the Keating investigation.

My resolution replaces the Senate Ethics Committee with an independent commission tasked with reviewing all allegations of misconduct. The commission would be given full investigatory authority. Where evidence so warrants, the commission is authorized to appoint an independent counsel to pursue allegations. Essentially, my resolution applies the same standard of independent scrutiny to the legislative branch which we now apply to the executive.

I believe that we have a unique opportunity—a moment when public anger burns white hot—to implement meaningful reform and to begin to restore the public trust essential to effective leadership.•

AMENDMENTS SUBMITTED

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT

RIEGLE (AND GARN) AMENDMENT NO. 1350

Mr. RIEGLE (for himself and Mr. GARN) proposed an amendment to the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions, as follows:

Beginning with page 122, line 23, strike all through page 125, line 8, and insert the following:

"(viii) SPECIAL ASSESSMENT TO RECOVER LOSSES ON FOREIGN DEPOSITS.—

"(I) IN GENERAL.—This paragraph shall apply if—

"(aa) the Corporation incurs a loss with respect to an insured depository institution; and

"(bb) persons with foreign deposits at the institution receive more than they would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities.

"(II) SPECIAL ASSESSMENT REQUIRED.—The Corporation shall, as soon as practicable, recover the difference between—

"(aa) the amount that persons with foreign deposits at the institution received, and

"(bb) the amount that the Corporation estimates those persons would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities,

by imposing 1 or more special assessments on all members of the deposit insurance fund of which the institution was or is a member, in proportion to the foreign deposits held by those members at the beginning of the semiannual period containing the relevant date. The Corporation shall base the estimate required by item (bb) on the estimated loss that the Corporation will incur in the resolution actually undertaken with respect to the institution. Any calculation under this subparagraph shall be in the Corporation's sole discretion.

"(III) TIMING OF SPECIAL ASSESSMENTS.—

"(aa) IN GENERAL.—Special assessments under subclause (II) shall begin not later than the semiannual period beginning 90 days after the date on which the aggregate amounts calculated under subclause (II) (with respect to all institutions that were or are members of the deposit insurance fund), and not yet assessed, exceed $1,000,000.

"(bb) INTEREST ON DELAYED ASSESSMENTS.—Any amount calculated under subclause (II) and not yet assessed shall bear interest at the daily average yield on 3-month Treasury obligations.

"(IV) DEFINITIONS.—For purpose of this paragraph:

"(aa) CAPITAL CATEGORIES.—The terms 'adequately capitalized' and 'significantly undercapitalized' have the same meanings as in section 37 of the Federal Deposit Insurance Act.

"(bb) FOREIGN DEPOSIT.—The term 'foreign deposit' means any obligation of an insured depository institution described in subparagraph (A) or (B) of section 3(l)(5).

"(cc) RELEVANT DATE.—The term 'relevant date' means the date on which the earliest of the following occurs with respect to an insured depository institution:

"(AA) The institution is significantly undercapitalized, and has advances from a Federal Reserve bank outstanding for more than 5 consecutive days (without subsequently becoming adequately capitalized).

"(BB) The Corporation initiates assistance under section 13(c) with respect to the institution.

"(CC) A receiver or conservator is appointed for the institution.".

Beginning on page 231, line 21, strike all through page 233, line 22, and insert the following:

"(6) SPECIAL ASSESSMENT TO RECOVER LOSSES ON FOREIGN DEPOSITS.—

"(A) IN GENERAL.—This paragraph shall apply if—

"(i) the Corporation incurs a loss with respect to an insured depository institution; and

"(ii) persons with foreign deposits at the institution receive more than they would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities.

"(B) SPECIAL ASSESSMENT REQUIRED.—The Corporation shall, as soon as practicable, recover the difference between—

"(i) the amount that persons with foreign deposits at the institution received, and

"(ii) the amount that the Corporation estimates those persons would have received if a receiver had been appointed for the institution on the relevant date and the applicable foreign deposits had been included as part of the receivership's liabilities,

by imposing 1 or more special assessments on all members of the deposit insurance fund of which the institution was or is a member, in proportion to the foreign deposits held by those members at the beginning of the semiannual period containing the relevant date. The Corporation shall base the estimate required by clause (ii) on the estimated loss that the Corporation will incur in the resolution actually undertaken with respect to the institution. Any calculation under this subparagraph shall be in the Corporation's sole discretion.

"(C) TIMING OF SPECIAL ASSESSMENTS.—

"(i) IN GENERAL.—Special assessments under subparagraph (B) shall begin not later than the semiannual period beginning 90 days after the date on which the aggregate amounts calculated under subparagraph (B) (with respect to all institutions that were or are members of the deposit insurance fund), and not yet assessed, exceed $1,000,000.

"(ii) INTEREST ON DELAYED ASSESSMENTS.—Any amount calculated under subparagraph (B) and not yet assessed shall bear interest at the daily average yield on 3-month Treasury obligations.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) CAPITAL CATEGORIES.—The terms 'adequately capitalized' and 'significantly undercapitalized' have the same meanings as in section 37 of the Federal Deposit Insurance Act.

"(ii) FOREIGN DEPOSIT.—The term 'foreign deposit' means any obligation of an insured depository institution described in subparagraph (A) or (B) of section 3(l)(5).

"(iii) RELEVANT DATE.—The term 'relevant date' means the date on which the earliest of the following occurs with respect to an insured depository institution:

"(I) The institution is significantly undercapitalized, and has advances from a Federal Reserve bank outstanding for more than 5 consecutive days (without subsequently becoming adequately capitalized).

"(II) The Corporation initiates assistance under section 13(c) with respect to the institution.

"(III) A receiver or conservator is appointed for the institution.".

On page 295, between lines 9 and 10, insert the following:

"(C) SPECIAL ASSESSMENTS ON FOREIGN DEPOSITS.—The Corporation shall not consider the proceeds of any special assessment on foreign deposits.".

KOHL (AND OTHERS) AMENDMENT NO. 1351

Mr. KOHL (for himself, Mr. NICKLES, and Mr. DECONCINI) proposed an amendment to the bill S. 543, supra, as follows:

At the end of title II, add the following new section:

SEC. 231. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) one of the primary purposes of banking legislation is to restore the confidence of the American public in the soundness and equity of the United States banking system;

(2) public confidence in the soundness of the Bank Insurance Fund has been shaken by a Congressional Budget Office estimate that by the close of 1993, bank failures among large banks will cost the insurance fund approximately $15,000,000,000, compared to a $5,000,000,000 cost for the failures among small banks;

(3) public confidence in the equity of the deposit insurance system has been shaken by the too-big-to-fail policy—a policy which granted less Federal protection to the depositors in smaller banks, such as the Freedom National Bank in Harlem, than to depositors in larger banks, such as the Bank of New England;

(4) public confidence in the soundness and equity of the deposit insurance system has been shaken by the United States Government's practice of covering foreign deposits with Federal deposit insurance but not assessing those deposits with deposit insurance premiums;

(5) this practice has resulted in smaller community banks being charged deposit insurance premiums on a higher percentage of their deposit base than their larger competitors;

(6) foreign deposits are not insured deposits under the Federal Deposit Insurance Act; and

(7) this Act take important steps to address the too-big-to-fail policy and to end the unauthorized coverage of unassessed foreign deposits.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any final banking legislation should make it clear that foreign deposits are not covered by deposit insurance unless those deposits are assessed for that coverage.

DIXON AMENDMENT NO. 1352

Mr. DIXON proposed an amendment to the bill S. 543, supra, as follows:

At the appropriate place add the following additional title:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Resolution Trust Corporation Reform Act of 1991".

(b) TABLE OF CONTENTS.—

Section 1. Short title; table of contents.

SUBTITLE A—REFORM OF THE RTC

Sec. 101. Oversight of the Resolution Trust Corporation.
Sec. 102. Savings and transitional provisions.
Sec. 103. Technical and conforming amendments.

SUBTITLE B—DISPOSITION OF PROPERTY BY RESOLUTION TRUST CORPORATION

Sec. 201. Sales records.
Sec. 202. Sale of condominium properties.
Sec. 203. Anti-speculation provisions.
Sec. 204. Inclusion of multifamily property under conservatorship in affordable housing program and continuation of program for single family property.
Sec. 205. Definition of income for eligibility determination under the Single Family Affordable Housing Disposition Program.
Sec. 206. Public disclosure of transactions.
Sec. 207. Operation of branch facilities by minorities and women.
Sec. 208. Seller financing procedures.
Sec. 209. Utilization of competitive bidding methods.
Sec. 210. Disposition of significant property.
Sec. 211. Office of Dispute Resolution.
Sec. 212. Interest paid by institutions in conservatorship.
Sec. 213. Management and disposition of property by local office which is closest to the property.

SUBTITLE C—MISCELLANEOUS

Sec. 301. Suspension of funding upon the failure to provide an audited financial statement.

Sec. 302. Uninsured depositors not covered.
Sec. 303. Disclosure of certain Resolution Trust Corporation salaries.
Sec. 304. Whistleblower protection.
Sec. 305. GAO study of privatization of Resolution Trust Corporation functions.

SUBTITLE A—REFORM OF THE RTC

SEC. 101. OVERSIGHT OF THE RESOLUTION TRUST CORPORATION.

(a) In General.—Effective on the date of enactment of this Act—

(1) the Oversight Board established under section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is abolished; and

(2) section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by striking subsections (a), (m), and (n) and by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (o), (p), (q), and (r), as subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), and (o), respectively.

(b) Duties of the Board of Directors.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)(1), as redesignated, by striking subparagraph (C) and inserting the following:

"(C) Management by board of directors.—The Corporation shall be managed by or under the direction of its Board of Directors."; and

(2) by striking paragraph (8) of subsection (a), as redesignated, and inserting the following:

"(8) Board of directors.—

"(A) In general.—The Board of Directors of the Corporation shall consist of—

"(i) the Chief Executive Officer of the Resolution Trust Corporation;

"(ii) the Secretary of the Treasury;

"(iii) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; and

"(iv) 2 independent members who shall be appointed by the President, by and with the advice and consent of the Senate. The nominations of the independent members shall be referred to the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) Vacancy.—Any vacancy on the Board shall be filled in the same manner as the original appointment.

"(C) Chairperson.—The Chief Executive Officer of the Resolution Trust Corporation shall serve as Chairperson of the Board.

"(D) Compensation of government members.—The Secretary of the Treasury and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation shall receive no pay, allowances, or benefits from the Corporation by reason of their service on the Board of Directors, but shall receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board of Directors, as set forth in the bylaws issued by the Board of Directors.

"(E) Independent members.—An independent member shall—

"(i) not hold any other appointed office during his or her term as a member;

"(ii) not be a member of the same political party as the other individual member; and

"(iii) be appointed for a term of 5 years.

"(F) Compensation for independent members.—The independent members of the Board of Directors shall be paid at a rate equal to the daily equivalent of the rate of basic pay for Level II of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties of the Board.

"(G) Quorum required.—A quorum shall consist of 3 members of the Board of Directors of the Corporation. All decisions of the Corporation shall require an affirmative vote of at least a majority of the members voting.

"(H) Duties.—

"(i) In general.—The Board of Directors shall oversee and be accountable for the activities of the Corporation.

"(ii) Strategic review.—The Board of Directors shall develop and establish overall strategies, policies, and goals for the Corporation, including such items as general policies for case resolution, the management and disposition of assets, the use of private contractors, and the use of notes, guarantees, or other obligations by the Corporation.

"(iii) Financing.—The Board of Directors shall review prior to implementation any periodic financing requests made to the Secretary of the Treasury or the Federal Financing Bank or otherwise developed by the Corporation.

"(iv) Rulemaking.—The Board of Directors shall prescribe such rules and regulations as it may deem necessary to carry out the provisions of this section or any other law which it has the responsibility of administering or enforcing.

"(v) Meetings.—All meetings of the Board of Directors shall be open meetings, subject to the provisions of section 552b of title 5, United States Code.

"(vi) Transcripts.—The Board shall maintain a transcript of each of its meetings.

"(vii) Budget.—The Board of Directors shall adopt the budget of the Corporation and monitor the performance of the Corporation relative to approved budget plans.

"(viii) Advisory boards.—The Board of Directors shall maintain 2 national advisory boards and not less than 6 regional advisory boards, to be established pursuant to subsection (c).

"(ix) Internal audits.—The Board of Directors shall evaluate audits by the Inspector General and other congressionally required audits and reports.

"(x) Committees.—The Board shall establish such committees as it deems appropriate and delegate requisite authority to such committees.";

(3) in subsection (a)(9), as redesignated, by adding at the end the following new subparagraph:

"(C) Chief executive officer.—The Corporation shall have a chief executive officer appointed by the President, by and with the advice and consent of the Senate. The chief executive officer shall serve a 5-year term. The chief executive officer shall be an employee of the Federal Deposit Insurance Corporation provided to the Corporation for that purpose and shall receive such compensation and benefits as the Corporation's Board of Directors may determine from time to time in accordance with the laws and regulations applicable to the personnel practices of the Federal Deposit Insurance Corporation. The Corporation's Board of Directors shall provide the chief executive officer with such powers as shall be adequate for the chief executive officer's efficient management and administration of the Corporation's day-to-day affairs. Among such duties, authorities, and powers shall be the duty, authority, and power, subject to the ultimate direction of the Corporation's Board of Directors:

"(i) To specify the duties, authorities, and powers of other officers of the Corporation and the duties, authorities, and powers of other persons, including employees of the Federal Deposit Insurance Corporation, acting on behalf of the Corporation.

"(ii) To make and modify staffing plans and organizational and management structures of the Corporation to meet the goals of this Act and other applicable laws.

"(iii) To direct all aspects of the Corporation's operations in a manner consistent with general practices of the private sector and with this Act and other applicable law.

"(iv) To modify and implement existing rules, regulations, standards, policies, principles, procedures, guidelines, and statements in order to optimize the Corporation's performance, including, but not limited to, its performance in the disposition of assets.

"(v) To develop, adopt, and implement new rules, regulations, standards, policies, principles, procedures, guidelines, and statements in order to optimize the Corporation's performance, including, but not limited to, its performance in the disposition of assets.

"(vi) To set and adjust the compensation and benefits of persons (other than the chief executive officer) acting on behalf of the Corporation in accordance with laws and regulations applicable to the personnel practices of the Federal Deposit Insurance Corporation.

"(vii) To choose employees of the Federal Deposit Insurance Corporation to be provided to the Corporation by the Federal Deposit Insurance Corporation, to request that the Federal Deposit Insurance Corporation employ specified persons for that purpose, and to return at any time to the Federal Deposit Insurance Corporation any such employee so provided.";

(4) in subsection (c), as redesignated—

(A) in paragraph (1)—

(i) by striking "(b)(3)(A)" in subparagraph (A) and inserting "(a)(3)(A)"; and

(ii) by striking "(2)" in subparagraph (B)(ii) and inserting "(3)";

(B) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(C) by inserting after paragraph (1) the following new paragraph:

"(2) National housing advisory board.—

"(A) Establishment.—The Board of Directors shall establish a National Housing Advisory Board to advise the Board of Directors on policies and programs related to the provision of low-income housing.

"(B) Membership.—The National Housing Advisory Board shall consist of—

"(i) the Secretary of Housing and Urban Development; and

"(ii) the chairpersons of any regional advisory boards established pursuant to paragraph (3).

"(C) Meetings.—The National Housing Advisory Board shall meet 4 times a year, or more frequently if requested by the Board."; and

(D) in paragraph (3)(A), as redesignated, by striking "(b)(3)(A)" and inserting "(a)(3)(A)";

(5) by striking subsection (a)(1)(C), as redesignated;

(6) in subsection (a)(3), as redesignated, by striking "to carry out a program, under the general oversight of the Oversight Board and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m)), including";

(7) in subsection (a)(7), as redesignated—

(A) by striking "subject to general supervision by the Oversight Board under subsection (a) of this section and shall be"; and

(B) by striking "(j)" and inserting "(a)(8)(b)(iii) and (i)";

(8) by striking subsection (a)(9), as redesignated, and inserting the following:

"(9) STAFF.—

"(A) IN GENERAL.—The Corporation itself shall have no employees.

"(B) UTILIZATION OF EMPLOYEES.—The Corporation may use employees of the Federal Deposit Insurance Corporation and shall reimburse the Federal Deposit Insurance Corporation for its actual costs incurred in providing such employees. Such employees shall remain subject to the personnel practices of the Federal Deposit Insurance Corporation. The Corporation may use administrative services of the Federal Deposit Insurance Corporation and shall reimburse the Federal Deposit Insurance Corporation for its actual costs incurred in providing such services.";

(9) in subsection (a)(10), as redesignated—

(A) by striking subparagraphs (B) and (L); and

(B) by redesignating subparagraphs (C), (D), (E), (F), (G), (H), (I), (J), (K), (M), and (N) as paragraphs (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), and (L), respectively;

(10) in subsection (a)(11)(B)(iv), as redesignated—

(A) by striking "the Oversight Board and"; and

(B) by striking "(k)" and inserting "(j)";

(11) in subsection (a)(11)(C)(i), as redesignated, by striking "The cost or income of any modification shall be a liability or an asset of the Corporation or the FSLIC Resolution Fund as determined by the Oversight Board" and inserting "The cost or income of any modification shall be a liability or an asset of the FSLIC Resolution Fund";

(12) in subsection (a)(12), as redesignated, by striking paragraphs (A) and (B) and inserting the following:

"(A) IN GENERAL.—The Chief Executive Officer of the Resolution Trust Corporation may issue or modify such rules, regulations, standards, policies, principles, procedures, guidelines, and statements as are necessary or appropriate to carry out this section. The Chief Executive Officer of the Resolution Trust Corporation shall keep the Board of Directors reasonably informed of such actions. The Board of Directors shall have the power to require modification of any such actions.

"(B) NOTICE AND COMMENT.—Such rules, regulations, standards, policies, procedures, guidelines, and statements shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.";

(13) by striking subsection (a)(13), as redesignated, and inserting the following:

"(13) PERIODIC FINANCING REPORTS.—The Corporation shall provide the Secretary of the Treasury with quarterly financing reports which shall detail—

"(A) anticipated funding requirements for operations, case resolutions, and asset liquidation;

"(B) anticipated payments on previously issued notes, guarantees, other obligations, and related activities; and

"(C) any proposed requests for advances from the Secretary of the Treasury or from the Federal Financing Bank.";

(14) in subsection (c), as redesignated, by striking "Oversight Board" each place it appears and inserting "Board of Directors of the Corporation";

(15) in subsection (f), as redesignated, by striking "and the Oversight Board" each place it appears;

(16) in subsection (g)(1), as redesignated, by striking "the Oversight Board,";

(17) in subsection (h)(1), as redesignated, by striking ", upon approval of the Oversight Board,";

(18) in subsection (j)(1), as redesignated, by striking "Oversight Board" each place it appears and inserting "Board of Directors of the Corporation";

(19) in subsection (j)(2), as redesignated, by striking "Oversight Board" wherever it appears and inserting "Board of Directors of the Corporation";

(20) in subsection (j)(3)(A), as redesignated, by striking "Oversight Board" and inserting "Board of Directors of the Corporation";

(21) in subsection (j)(3)(B), as redesignated, by striking "the Oversight Board and";

(22) in subsection (j)(4)(A), as redesignated, by striking "Oversight Board and the";

(23) in subsection (j)(5)(A), as redesignated—

(A) by striking "the Oversight Board and"; and

(B) by striking ", the Federal Deposit Insurance Corporation, and the Oversight Board";

(24) by striking subsection (j)(5)(B)(iii), as redesignated, and inserting the following:

"(iii) The number of persons acting on behalf of the Corporation and the Federal Deposit Insurance Corporation at the beginning and end of the reporting period.";

(25) in subsection (j)(5)(B)(xi), as redesignated, by striking "Oversight Board" and inserting "Board of Directors of the Corporation";

(26) in subsection (j)(5)(B)(xii), as redesignated, by striking "the Oversight Board or";

(27) in subsection (j)(6), as redesignated, by striking "Oversight Board" each place it appears and inserting "Chief Executive Officer of the Corporation";

(28) in subsection (j)(7), as redesignated—

(A) in subparagraph (A), by striking "Before January 31, 1990, the Oversight Board and" and inserting "Before January 31, 1992, the Chief Executive Officer of the Corporation"; and

(B) in subparagraph (B)—

(i) by striking "of the Oversight Board and the Corporation", and

(ii) by striking "Oversight Board and the Corporation"; and inserting "the Chief Executive Officer of the Corporation";

(29) in subsection (j)(8), as redesignated, by striking "Oversight Board" and inserting "Board of Directors of the Corporation";

(30) in subsection (j)(9), as redesignated, by striking "Oversight Board" each place it appears and inserting "Board of Directors of the Corporation";

(31) by striking subsection (k)(3), as redesignated, and inserting the following:

"(3) REMOVAL AND REMAND.—

"(A) IN GENERAL.—The Corporation, in any capacity and without bond or security, may remove any action, suit, or proceeding from a State court to the United States district court with jurisdiction over the place where the action, suit, or proceeding is pending, to the United States District Court for the District of Columbia, or to the United States District Court with jurisdiction over the principal place of business of any institution for which the Corporation has been appointed conservator or receiver if the action, suit, or proceeding is brought against the institution or the Corporation as conservator or receiver of such institution. The removal of any such, suit, or proceeding shall be instituted—

"(i) not later than 90 days after the date the Corporation is substituted as a party, or

"(ii) not later than 30 days after service on the Corporation, if the Corporation is named as a party in any capacity and if such suit is filed after August 9, 1989.

"(B) SUBSTITUTION.—The Corporation shall be deemed substituted in any action, suit, or proceeding for a party upon the filing of a copy of the order appointing the Corporation as conservator or receiver for that party or the filing of such other pleading informing the court that the Corporation has been appointed conservator or receiver for such party.

"(C) APPEAL.—The Corporation may appeal any order of remand entered by a United States district court.";

(32) in subsection (m), as redesignated—

(A) in paragraph (1)(A), by striking "the Oversight Board or" wherever it appears;

(B) in paragraphs (1), (2), (3), and (5), by striking "Oversight Board and the" wherever it appears;

(C) in paragraph (4)—

(i) by inserting after "The chief executive officer" "or any independent member of the Board of Directors";

(ii) by inserting after "the chief executive was" "or the independent member of the Board of Directors was"; and

(iii) by inserting after "chief executive officer" wherever it appears "or independent member";

(D) in paragraph (6)(A), by striking "Oversight Board" and inserting "Board of Directors of the Corporation";

(E) in paragraph (7)—

(i) by striking "Oversight Board or the" wherever it appears; and

(ii) in subparagraph (B), by striking "or the Oversight Board"; and

(F) in paragraph (8)—

(i) by striking "(8) PRIORITY OF OVERSIGHT BOARD RULES", and inserting "(8) PRIORITY OF RULES";

(ii) by striking "or the Oversight Board"; and

(iii) by striking "by the Oversight Board" and inserting "by the Board of Directors of the Corporation"; and

(33) in subsection (n), as redesignated, by striking "or of the Oversight Board" each place it appears.

(c) CONFORMING AMENDMENTS.—

(1) INSPECTOR GENERAL ACT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in paragraph (1) by striking "the Oversight Board" and inserting a semicolon.

(2) COMPENSATION.—Section 5313 of title 5, United States Code, is amended by striking "Independent Members, Oversight Board, Resolution Trust Corporation." and inserting "Independent Members, Board of Directors, Resolution Trust Corporation.".

(3) TIMELINESS OF REPORTS.—Section 102(c) of the Resolution Trust Corporation Funding Act of 1991 (12 U.S.C. 1441a note) is amended—

(A) by striking "the President of the Oversight Board, and"; and

(B) by striking "Chairperson of the Resolution Trust Corporation" and inserting "Chief Executive Officer of the Resolution Trust Corporation".

(d) RIGHTS OF EMPLOYEES.—Section 404 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 361) is amended—

(1) in paragraph (2)—

(A) by inserting "grade," after "status, tenure,"; and

(B) by inserting "or, if the employee is a temporary employee, separated in accordance with the terms of the appointment" after "cause"; and

(2) in paragraph (9)—

(A) by striking "section 21A(m)" and inserting "section 21A(*l*)";

(B) by striking "of such Corporation shall be transferred to" and inserting "of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within"; and

(C) by striking "of this subsection" and inserting "of this section".

(e) INTERIM APPOINTMENTS.—

(1) CHIEF EXECUTIVE OFFICER.—The President shall appoint an interim Chief Executive Officer who shall serve until the earlier of June 30, 1992, or the date on which the Chief Executive Officer of the Resolution Trust Corporation is appointed and takes office under section 21A(a)(8) of the Federal Home Loan Bank Act.

(2) RESOLUTION TRUST CORPORATION BOARD.—The President shall appoint 2 interim independent members, each of whom shall serve on the Board of Directors of the Corporation until the earlier of June 30, 1992, or the date on which the 2 independent members of the Board are appointed and take office under section 21A(a)(8) of the Federal Home Loan Bank Act.

(3) STATUS.—The interim Chief Executive Officer and interim independent members shall have the same authorities and duties as the Chief Executive Officer and independent members provided for by section 21A(a) of the Federal Home Loan Bank Act.

SEC. 103. SAVINGS AND TRANSITIONAL PROVISIONS.

(a) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—This title shall not affect the validity of any right, duty, or obligation of the United States, the Corporation, the Oversight Board, or any other person, which—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the date of the enactment of this Act.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board, with respect to any function of the Oversight Board, shall abate by reason of the enactment of this Act, except that the Board of Directors of the Corporation shall be substituted for the Oversight Board as a party to any such action or proceeding.

(b) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—All orders, resolutions, determinations, and regulations, which—

(1) have been issued, made, prescribed, or allowed to become effective by the Oversight Board (including orders, resolutions, determinations, and regulations which relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect on the date this Act takes effect,

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations, and shall be enforceable by or against the Board of Directors until modified, terminated, set aside, or superseded in accordance with applicable law by the Board of Directors, by any court of competent jurisdiction, or by operation of law.

(c) EMPLOYEE PROTECTIONS.—(1)(A) Any permanent employee of the Federal Deposit Insurance Corporation who was performing services on behalf of the Resolution Trust Corporation immediately prior to the enactment of this Act shall continue to be assigned to perform services on behalf of the Resolution Trust Corporation with the same status, tenure, grade, and pay, unless voluntarily separated, or removed for cause. Temporary employees may be separated in accordance with the terms of their appointment.

(B) Any reduction-in-force or reorganization that occurs after the one-year period specified in subparagraph (A) shall be conducted in accordance with chapters 33 and 35 of title 5, United States Code, and the procedures promulgated pursuant to them. Any such reduction-in-force or reorganization shall be deemed a "major reorganization" or a "major reduction-in-force" for purposes of section 8336(d)(2) and 8414(b)(1)(B) of title 5, United States Code, and any separated employee shall be entitled to severance payments in accordance with section 5595 of title 5, United States Code.

(2)(A) Effective upon enactment of this Act, each officer and employee of the Oversight Board, employed by such Board on the day before the date of enactment of this Act, shall be transferred to the Federal Deposit Insurance Corporation, and such transfer shall be deemed a transfer of function for the purpose of section 3503 of title 5, United States Code. Each transferred officer and employee, including officers and employees in the Senior Executive Service, or its equivalent, shall be entitled to the protections provided transferred employees under subsections (2), and (4) through (7) of section 404 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, except that the liability for any difference in the costs and benefits described in paragraph (5) of such section shall be a liability of the Resolution Trust Corporation and not the Office of Thrift Supervision. Within 60 days of the date of enactment of this Act, the Federal Deposit Insurance Corporation shall assign each transferred officer and employee to a position performing services on behalf of the Resolution Trust Corporation with responsibilities commensurate with the qualifications and experience of each such transferred officer and employee, as determined by the Federal Deposit Insurance Corporation. Nothing contained herein shall be construed to require the Federal Deposit Insurance Corporation to assign any such transferred officer or employee to a position held by any officer or any employee of the Federal Deposit Insurance Corporation or of the Resolution Trust Corporation.

(B) Any employee that declines a transfer pursuant to subparagraph (A), shall be entitled to severance pay in accordance with section 5595 of title 5, United States Code. All such severance pay shall be paid by the Resolution Trust Corporation.

(C) If otherwise eligible, in addition to the severance pay provided by subparagraph (B), an employee that declines a transfer shall be entitled to an annuity under section 8336(d) or section 8414(b)(1) of title 5, United States Code.

(D) Any reduction-in-force or reorganization that occurs after the one-year period specified in section 404(4) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 shall be conducted in accordance with chapters 33 and 35 of title 5, United States Code, and the procedures promulgated pursuant to them. Any such reduction-in-force or reorganization shall be deemed a "major reorganization" or a "major reduction-in-force" for purposes of section 8336(d)(2) and section 8414(b)(1)(B) of title 5, United States Code, and any separated employee shall be entitled to severance payments in accordance with section 5595 of title 5, United States Code.

(d) TRANSFER OF PROPERTY.—Effective upon enactment of this Act, all assets and liabilities of the Oversight Board on the day before enactment of this Act shall be transferred to the Resolution Trust Corporation.

SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(1) in section 21 by striking "Oversight Board" each place it appears and inserting "Secretary of the Treasury"; and

(2) in section 21B—

(A) by striking "Oversight Board" each place it appears and inserting "Secretary of the Treasury"; and

(B) in subsection (k), by striking paragraph (7) and redesignating paragraphs (8) through (10) as paragraphs (7) through (9), respectively.

SUBTITLE B—DISPOSITION OF PROPERTY BY RESOLUTION TRUST CORPORATION

SEC. 201. SALES RECORDS.

Section 21A(a)(12)(D)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(12)(D)(ii)), as redesignated, is amended by striking the last sentence and inserting the following: "If the Corporation sells a property located in a distressed area for less than the minimum disposition price, it shall maintain a written record of the reasons for its decision.".

SEC. 202. SALE OF CONDOMINIUM PROPERTIES.

(a) IN GENERAL.—Section 21A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(2)), as redesignated, is amended by adding at the end the following new subparagraph:

"(C) OFFERS TO SELL CONDOMINIUM PROPERTIES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to eligible multifamily purchasers. The Corporation shall allow eligible multifamily purchasers reasonable access to an eligible condominium property for purposes of inspection. For the 3 month period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation shall sell the property to—

"(i) qualifying households, or

"(ii) qualifying multifamily purchasers that agree to—

"(I) make the property available for occupancy by, and maintain it as affordable for, lower-income families for the remaining useful life of such property, or

"(II) make the property available for purchase by lower-income families.

The restrictions described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument. If upon the expiration of the 3 month period, no qualifying household or eligible multifamily purchaser has made a bona fide offer to purchase the eligible condominium property, the Corporation may offer to sell the property to any purchaser.".

(b) DEFINITION OF ELIGIBLE CONDOMINIUM PROPERTY.—Section 21A(b)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)), as redesignated, is amended by inserting at the end the following new subparagraph:

"(Q) ELIGIBLE CONDOMINIUM PROPERTY.—The term "eligible condominium property" means a condominium unit as defined in section 604(6) of the Housing and Community Development Act of 1980—

"(i) to which the Corporation acquires title; and "(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).".

SEC. 203. ANTI-SPECULATION PROVISIONS.

(a) IN GENERAL.—Section 21A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(2)), as redesignated, is amended by adding at the end the following new subparagraph:

"(D) ANTI-SPECULATION PROVISIONS.—If a property sold under this paragraph to a qualifying household is resold during the two years following the sale under this paragraph, any profit from the resale above the original sale price, increased for inflation and owner improvements, will be paid to the Corporation or its successor according to the following formula:

"(i) 75 percent of the profit will be paid to the Corporation if the property is sold during the first year following the sale under this paragraph; and

"(ii) 50 percent of the profit will be paid to the Corporation if the property is sold during the second year following the sale under this paragraph.".

(b) QUALIFYING HOUSEHOLD.—Section 21A(b)(9)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(K)), as redesignated, is amended—

(1) by redesignating clause (ii) as clause (iii);

(2) in clause (i), by striking "principle residence;" and inserting "principal residence for a minimum of twelve months; (ii) who certifies in writing that the household intends to occupy the property as a principal residence for a minimum of twelve months;"; and

(3) in clause (iii), as redesignated, by striking "adjusted".

SEC. 204. INCLUSION OF MULTIFAMILY PROPERTY UNDER CONSERVATORSHIP IN AFFORDABLE HOUSING PROGRAM AND CONTINUATION OF PROGRAM FOR SINGLE FAMILY PROPERTY.

(a) CONTINUATION OF AFFORDABLE HOUSING PROGRAM FOR ELIGIBLE SINGLE FAMILY PROPERTY UNDER CONSERVATORSHIP.—Section 203 of the Resolution Trust Corporation Funding Act of 1991 is amended by inserting "(b)" after "sections 201".

(b) DEFINITION OF CORPORATION.—Section 21A(b)(9)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(C)), as redesignated, is amended to read as follows:

"(C) CORPORATION.—The term 'Corporation' means the Resolution Trust Corporation acting in its corporate capacity, acting in its capacity as an operating conservator, or acting in its capacity as receiver (including in its capacity as the sole owner of a subsidiary corporation)."

SEC. 205. DEFINITION OF INCOME FOR ELIGIBILITY DETERMINATION UNDER THE SINGLE FAMILY AFFORDABLE HOUSING DISPOSITION PROGRAM.

Section 21A(b)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)), as redesignated, is amended by adding at the end the following new subparagraph:

"(R) INCOME.—The term 'income' has the same meaning as such term has under section 3 of the United States Housing Act of 1937.".

SEC. 206. PUBLIC DISCLOSURE OF TRANSACTIONS.

Section 21A(j)(2)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(j)(2)(A)), as redesignated, is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; and"; and

(3) by adding at the end the following:

"(iii) the identity of the accepted offeror and the terms of the accepted offer for sales of assets in excess of $250,000, by publication in the Federal Register no later than 30 days after the date of the transaction. For purposes of this clause, the term 'assets' includes any assets controlled or acquired by the Corporation as a result of its appointment as a conservator or a receiver.".

SEC. 207. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

(a) ACQUISITION OF BRANCH FACILITIES FROM THE RESOLUTION TRUST CORPORATION.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(p) ACQUISITION OF BRANCH FACILITIES IN MINORITY NEIGHBORHOODS.—

"(1) IN GENERAL.—In the case of any savings association for which the Corporation has been appointed conservator or receiver, the Corporation shall make available any branch of such association which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution on the following terms:

"(A) The branch shall be made available on a rent-free lease basis for not less than 5 years.

"(B) Of all expenses incurred in maintaining the operation of the facilities in which such branch is located, the institution shall be liable only for the payment of applicable real property taxes, real property insurance, and utilities.

"(C) The lease may provide an option to purchase the branch during the term of the lease.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY DEPOSITORY INSTITUTION.—The term 'minority depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) more than 50 percent of the senior management positions of which are held by women.

"(C) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(D) The term 'predominantly minority neighbordhood' shall be defined by regulation by the Corporation.".

(b) COMMUNITY REINVESTMENT CREDIT FOR DEPOSITORY INSTITUTIONS PROVIDING ASSISTANCE.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 808. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

"(a) IN GENERAL.—In the case of any depository institution which donates, sells on favorable terms (as determined by the appropriate Federal financial supervisory agency), or makes available on a rent-free basis any branch of such institution which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution, the amount of the contribution or the amount of the loss incurred in connection with such activity shall be treated as meeting the credit needs of the institution's community for purposes of this title.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MINORITY DEPOSITORY INSTITUTION.—The term 'minority depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(2) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(C) more than 50 percent of the senior management positions of which are held by women.

"(3) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(4) The term 'predominantly minority neighborhood' shall be defined by regulation by the Corporation.".

SEC. 208. SELLER FINANCING PROCEDURES.

Section 21A(a)(12)(F) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(12)(F)), as redesignated, is amended by adding at the end the following: "Within 180 days from the date of enactment of the Resolution Trust Corporation Reform Act of 1991, the Corporation shall conduct a review of its seller financing procedures and endeavor to arrange appropriate financing to States, municipalities and other political subdivisions seeking to acquire real property assets of the institutions subject to the Corporation's jurisdiction.".

SEC. 209. UTILIZATION OF COMPETITIVE BIDDING METHODS.

(a) COMPETITIVE BIDDING.—Section 21A(a)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(12)), as redesignated, is amended by inserting at the end the following new subparagraphs:

"(H) UTILIZATION OF COMPETITIVE BIDDING METHODS.—In reviewing the Corporation's disposition of any real estate owned, any non-securitizable loan, or any other illiquid asset on a bulk sale basis or on an individual basis, the chief executive officer of the Corporation shall assure that all practicable competitive bidding, auction, and other marketing mechanisms are utilized to the maximum extent possible to maintain open competitive bidding.

"(I) ACTIVELY MARKETED ASSETS.—When a bona fide offer has been received and is under consideration by the Corporation in connection with the disposition of any real estate owned, any non-securitizable loan, or any other illiquid asset, any such asset shall be treated by the Corporation as an asset that is being actively marketed and is ineligible for disposition on a bulk sale basis or as part of an asset portfolio sale."

(b) REPORT ON AGE OF THE CORPORATION'S PORTFOLIO.—The chief executive officer of the Corporation shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives by March 31, 1992, a comprehensive review and summary of the amount of time that assets held by the Corporation from the date of the Corporation's creation through December 31, 1991, have been retained in the Corporation's portfolio.

SEC. 210. DISPOSITION OF SIGNIFICANT PROPERTY.

(a) IN GENERAL.—Section 21A(a)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(12)), as redesignated, is amended—

(1) in the second to last sentence of subparagraph (F), by striking all that follows "thereafter" and inserting "and shall designate the properties in the inventory identified by the Secretary of the Interior pursuant to subparagraph (I) as having natural, cultural, recreational, or scientific value of special significance."; and

(2) by adding at the end the following new subparagraph:

"(J) IDENTIFICATION, DISPOSITION, AND PROTECTION OF PROPERTIES WITH NATURAL, CULTURAL, RECREATIONAL, OR SCIENTIFIC VALUE OF SPECIAL SIGNIFICANCE.—

"(i) PURPOSE.—The purpose of this subparagraph is to provide public and private entities with an adequate opportunity and incentive to acquire real estate with natural, cultural, recreational, or scientific value of special significance in order to preserve the character of such real estate.

"(ii) IDENTIFICATION OF PROPERTIES.—Not later than 60 days after the date on which the Corporation submits to the Secretary of the Interior any list of real property assets of institutions subject to the jurisdiction of the Corporation, the Secretary of the Interior shall—

"(I) review the real property assets of institutions contained on such list subject to the jurisdiction of the Corporation; and

"(II) identify properties having natural, cultural, recreational, or scientific value of special significance.

The Secretary of the Interior shall implement procedures by regulation, which shall include categorical exemptions for certain real property, in consultation with the Corporation, to identify properties and to ensure that the inventory is examined in a cost-effective manner.

"(iii) NATURAL, CULTURAL, RECREATIONAL, AND SCIENTIFIC VALUE DEFINED.—For purposes of identifying property having natural, cultural, recreational, or scientific value of special significance, the Secretary of the Interior shall define these terms. In defining these terms, the Secretary shall include—

"(I) property that receives protection under existing Federal laws and executive orders due to any unique natural, cultural, recreational, or scientific characteristics of such property; and

"(II) property that is described in clause (iv).

"(iv) PROPERTY HAVING NATURAL VALUE OF SPECIAL SIGNIFICANCE.—For purposes of this subparagraph, property having natural value of special significance includes property that directly contributes to—

"(I) the protection of endangered or threatened plants or animals;

"(II) the protection or restoration of wetlands, as described in the Emergency Wetlands Resources Act of 1986 and other wetlands identified under the authority of the North American Wetlands Conservation Act of 1989; or

"(III) the protection of land that is contiguous to or an inholding in a federally owned or State-owned conservation area or an area legally designated for acquisition for conservation purposes by a Federal or State agency.

"(v) ESTABLISHMENT OF INFORMATION CLEARINGHOUSE.—

"(I) After soliciting comments on such selection from public agencies and nonprofit organizations, including comments on whether the clearinghouse should be required to maintain a mailing list of interested agencies and organizations to be notified, the Corporation shall select a clearinghouse to be responsible for disseminating information relating to properties with natural, cultural, recreational, or scientific value of special significance. The clearinghouse should be organized to disseminate information according to the geographic location of the property rather than the geographic location of the financial institution which had controlled the property.

"(II) After the Corporation has selected a clearinghouse, the Secretary of the Interior shall provide the clearinghouse with a list of real estate that is available for sale and that has been identified as having natural, cultural, recreational, or scientific value of special significance.

"(vi) INVENTORY PUBLICATION; NOTIFICATION REQUIREMENTS.—

"(I) UPDATING OF RECORDS.—The Corporation shall update its inventory records to reflect the identification of properties by the Secretary of the Interior in accordance with clause (ii) not more than 30 days after the Corporation is notified of the identification.

"(II) INVENTORY PUBLICATION.—The publication by the Real Estate Asset Division of the Corporation of a revised list of the Corporation's inventory of real property assets, pursuant to subparagraph (F), shall include a designation of all properties identified by the Secretary of the Interior as having special significance under clause (ii).

"(vii) PROPERTY MAINTENANCE AND MANAGEMENT.—The Corporation shall maintain any property identified by the Secretary of the Interior as having special significance under clause (ii) in a manner consistent with the preservation of the property's special significance. Nothing contained in this subparagraph shall be construed to require the Corporation to restore, rehabilitate, or reclaim any such property, or to undertake any similar activities. The Corporation may employ, on a reimbursable basis, the services of any qualified individual to provide technical assistance and to maintain and manage the property during the period that the property is subject to the jurisdiction or control of the Corporation.

"(viii) TRANSFER OF INVENTORY LANDS.—Notwithstanding any other provision of this Act, the Corporation may in its sole discretion transfer property identified by the Secretary under clause (ii), or interests therein, at 50 percent of market value, as determined in accordance with the Corporation's established methods of appraisal or valuation, to any public agency or nonprofit organization if the agency or organization agrees to protect and maintain the special nature of the property by deed or other recorded instrument which is binding upon successors in interest to the property. If any such property sold ceases to be used by the public agency or nonprofit organization in the manner agreed to under this clause, all rights, title, and interest in and to the covered property shall revert to the United States.

"(ix) TRANSFER TO FEDERAL OR STATE AGENCIES.—Notwithstanding any other provision of this Act, at the request of the Secretary of the Interior, the Corporation shall transfer real property, or interests therein, without reimbursement, to any Federal or State agency for conservation purposes if the transfer of such property would directly contribute to—

"(I) the protection of endangered or threatened plants or animals;

"(II) the protection or restoration of wetlands as described in the Emergency Wetlands Resources Act of 1986 and other wetlands identified under the authority of the North American Wetlands Conservation Act of 1989; or

"(III) the protection of land that is contiguous to or an inholding in a federally owned or State-owned conservation area or an area legally designated for acquisition by a Federal or State agency.

Any such request by the Secretary of the Interior shall be made within 120 days from the date on which the Corporation submits to the Secretary of the Interior any list of real property assets of institutions subject to the jurisdiction of the Corporation.

"(x) TRANSFER OF PROPERTY TO PUBLIC AGENCIES OR NONPROFIT ORGANIZATIONS.—

"(I) RIGHT OF FIRST OFFER.—For a 45-day period beginning on the date that the clearinghouse receives the list of real estate from the Secretary of the Interior pursuant to clause (v), the Corporation shall not offer to sell property on the list to any entity other than a public agency or nonprofit organization described in clause (viii).

"(II) NOTICE OF INTEREST.—If a public agency or nonprofit organization submits a timely notice of interest in the property, the Corporation may not sell or otherwise transfer the property during the 90-day period beginning upon the expiration of the initial 45-day period, except to such agency or nonprofit organization under clause (viii).

"(III) NO NOTICE OF INTEREST.—If the Corporation does not receive a timely notice of interest in the property from a public agency or nonprofit organization, the Corporation may sell or otherwise transfer the property to any purchaser or transferee.

"(xi) UNDEVELOPED LAND.—Pending the determination by the Secretary of the Interior as to whether property has natural, cultural, recreational, or scientific value of special significance under clause (ii), the Corporation shall not offer to sell any parcel of undeveloped land larger than 5 acres except to a public agency or nonprofit organization that agrees to comply with the condition contained in clause (viii) or to a Federal or State agency under clause (ix). If the Secretary of the Interior fails to make a determination under clause (ii) with respect to any such parcel of land larger than 5 acres within 120 days from the date on which the Corporation has submitted a list of property containing such parcel of undeveloped land larger than 5 acres, the Corporation shall have the right to sell or otherwise transfer any such parcel. Nothing contained in this section shall be construed to prohibit the Corporation from selling or otherwise transferring any property other than undeveloped land larger than 5 acres pending a determination of the Secretary of the Interior under clause (ii).

"(xii) LIMITATION OF PRIVATE RIGHT OF ACTION.—The provisions of this subparagraph, or any failure by the Corporation to comply with the provisions, may not be used by any person to attach or defeat title to property after it is conveyed by the Corporation. The preceding sentence shall not apply in the case of a failure by any successor in interest to property conveyed or transferred by the Corporation under this subparagraph, to comply with clause (viii).

"(xiii) ADMINISTRATIVE PROVISIONS.—

"(I) The Corporation shall not reimburse or otherwise compensate the Secretary of the Interior for the costs and expenses incurred by the Secretary in carrying out his responsibilities under this subparagraph, except as provided in clause (vii).

"(II) The requirements imposed upon the Corporation by this subparagraph shall become effective upon the date on which final regulations adopted by the Secretary of the Interior pursuant to clause (ii)(II) take effect, or 90 days after the date of enactment of the Resolution Trust Corporation Reform Act of 1991, whichever is later. The Secretary shall issue regulations pursuant to clause (ii)(II) not later than 120 days after the date of enactment of this Act.".

(b) AMENDMENTS TO THE COASTAL BARRIER IMPROVEMENT ACT.—Section 10 of the Coastal Barrier Improvement Act of 1990 (12 U.S.C. 1441a-3) is amended—

(1) in the section heading, by striking "RTC AND";

(2) in subsections (a)(1) and (b)(1), by striking "Resolution Trust Corporation and the";

(3) in subsection (a)(1), by striking "each submit" and inserting "submit";

(4) in subsection (a)(2), by striking "each corporation concerned" and inserting "the Federal Deposit Insurance Corporation";

(5) in subsections (a)(1), (b)(1), (b)(2), (b)(3), and (b)(4), by striking "the corporation concerned" each time it appears and by substituting "the Federal Deposit Insurance Corporation";

(6) in subsection (b)(3), by striking "a corporation concerned" and by substituting "the Federal Deposit Insurance Corporation";

(7) in subsection (c), by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively; and

(8) by striking subsection (c)(1)(A), as redesignated, and inserting the following:

"(A) to which the Federal Deposit Insurance Corporation has acquired title in its corporate capacity or which was acquired by the former Federal Savings and Loan Insurance Corporation in its corporate capacity; and".

SEC. 211. OFFICE OF DISPUTE RESOLUTION.

Section 21A(a)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(12)), as redesignated, is amended by adding at the end the following new subparagraph:

"(K) OFFICE OF DISPUTE RESOLUTION.—The Corporation shall establish an Office of Dispute Resolution, which shall have only the following duties:

"(i) To act as an impartial mediator to resolve disputes that may arise between asset management and disposition contractors and owners of property subject to loans formerly held by the Corporation.

"(ii) To work with the parties described in clause (i) for the purpose of settling disputes.".

SEC. 212. INTEREST PAID BY INSTITUTIONS IN CONSERVATORSHIP.

Section 21A(a)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(4)), as redesignated, is amended—

(1) by striking "Except as provided" and inserting the following:

"(A) IN GENERAL.—Except as provided"; and

(2) by adding at the end the following new subparagraph:

"(B) RESTRICTION ON INTEREST RATE PAID.—Any insured depository institution for which the Corporation is the conservator may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds the rate paid on deposits of similar maturity in such institution's normal market area for deposits accepted in the institution's normal market area.".

SEC. 213. MANAGEMENT AND DISPOSITION OF PROPERTY BY LOCAL OFFICE WHICH IS CLOSEST TO THE PROPERTY.

Section 21A(a)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(12)), as redesignated, is amended by adding at the end the following new subparagraph:

"(L) REAL ESTATE MANAGEMENT AND DISPOSITION.—The Corporation shall establish a procedure under which—

"(i) real estate assets of any institution described in paragraph (3)(A) shall be managed and disposed of by the Corporation through the office of the Corporation which is closest to the location of any such real estate asset; and

"(ii) the management and disposition of assets pursuant to clause (i) shall be properly accounted for to the office of the Corporation which is responsible for administering the receivership of the institution referred to in such clause, consistent with the fiduciary responsibility of the Corporation to the creditors of the institution.".

SUBTITLE C—MISCELLANEOUS

SEC. 301. SUSPENSION OF FUNDING UPON THE FAILURE TO PROVIDE AN AUDITED FINANCIAL STATEMENT.

(a) FINANCIAL STATEMENT FOR FISCAL YEAR 1990.—If no financial statement of the Corporation for fiscal year 1990 which has been independently audited by a certified public accountant has been submitted to the Congress by the end of fiscal year 1991, no amount provided to the Corporation under section 21A(i) of the Federal Home Loan Bank Act shall be available for obligation until such audited financial statement has been submitted to the Congress.

(b) FINANCIAL STATEMENT FOR FISCAL YEAR 1991.—If no financial statement of the Corporation for fiscal year 1991 which has been independently audited by a certified public accountant has been submitted to the Congress by the end of fiscal year 1992, no amount provided to the Corporation under section 21A(i) of the Federal Home Loan Bank Act shall be available for obligation until such audited financial statement has been submitted to the Congress.

(c) INDEPENDENT AUDIT PROVISION.—An audit of a financial statement of the Corporation which has been conducted by the Comptroller General of the United States, using the services of certified public accountants, shall be treated as an independent audit for purposes of subsections (a) and (b).

SEC. 302. UNINSURED DEPOSITORS NOT COVERED.

Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)), as redesignated, is amended by adding to the end the following new paragraph:

"(15) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(A) IN GENERAL.—The Corporation may not take action, directly or indirectly, with respect to any institution described in paragraph (3)(A) that would have the effect of increasing losses to the Corporation by protecting—

"(i) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(ii) creditors other than depositors.

"(B) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this paragraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any institution described in paragraph (3)(A) for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the Corporation does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.".

SEC. 303. DISCLOSURE OF CERTAIN RESOLUTION TRUST CORPORATION SALARIES.

Section 21A(j)(5)(B)(iii) of the Federal Home Loan Bank Act (1441a(j)(5)(B)(iii)), as redesignated, is amended by adding before the period the following: ", and the name of each person acting on behalf of the Corporation and the Federal Deposit Insurance Corporation paid at a rate in excess of the rate for level V of the Executive Schedule during such period, and the amount of compensation paid such employees during the reporting period".

SEC. 304. WHISTLEBLOWER PROTECTION.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC AND RTC CONTRACTOR EMPLOYEE PROTECTION REMEDY.—

"(1) PROHIBITION AGAINST DISCRIMINATION.—The Corporation and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation being utilized by the Corporation) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Attorney General, or any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation or such person or any director, officer, or employee of the Corporation or the person.

"(2) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) REMEDIES.—If the district court determines that a violation has occurred, the court may order the Corporation or the person which committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) LIMITATION.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

SEC. 305. GAO STUDY OF PRIVATIZATION OF RESOLUTION TRUST CORPORATION FUNCTIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of—

(1) the feasibility of transferring all or a substantial portion of the functions being performed by the Corporation as of the date of enactment of this Act to the private sector;

(2) the most efficient methods for accomplishing the transfer; and

(3) the potential benefits of the transfer to the Corporation and the United Sates Government.

(b) REPORT.—The Comptroller General shall submit a report to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act containing—

(1) the findings and conclusions of the Comptroller General in connection with the study conducted under subsection (a); and

(2) such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

ADAMS AMENDMENT NO. 1353

Mr. ADAMS proposed an amendment to the bill S. 543, supra, as follows:

On page 395, after line 25, insert the following new section:

SEC. 308. CONSIDERATION OF DISPLACED WORK FORCE.

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended in the second sentence by inserting ", the impact on employees of the existing and proposed institutions, including whether the institutions plan to provide reasonable notice to employees well in advance of any layoffs, whether the institutions plan to make any effort to ensure that laid-off employees receive priority in filling future vacancies, whether the institutions will provide specific severance benefits for laid-off employees, and whether and for how long benefits such as health and life insurance and pensions will be continued for laid-off employees," before "and the convenience and needs of the community".

(b) BANK HOLDING COMPANY ACT AMENDMENT.—Section 3(c) of the Bank Holding Company Act of 1956 is amended in the second sentence by inserting "the impact on employees of the existing and proposed institutions, including whether they plan to provide reasonable notice to employees well in advance of any layoffs, whether the institutions plan to make any effort to ensure that laid-off employees receive priority in filling future vacancies, whether the institutions will provide specific severance benefits for laid-off employees, and whether and for how long benefits such as health and life insurance and pensions will be continued for laid-off employees," before "and the convenience and needs of the community".

LOTT AMENDMENT NO. 1354

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 543, supra, as follows:

At page 133, after line 5, add the following:

"(4) APPLICABILITY OF ACCOUNTING PRINCIPALS.—This subsection shall apply only to reports and statements, including Reports of Condition and Income, filed with a Federal banking agency in connection with the supervision of an insured depository institution. Accounting principals for insured depository institutions prescribed by a Federal banking agency shall not apply to general purpose financial statements that purport to have been prepared in accordance with generally accepted financial statements.

MCCAIN AMENDMENT NO. 1355

Mr. MCCAIN proposed an amendment to the bill S. 543, supra, as follows:

On page 207, line 8, before the period, insert the following: "for deposits not described in paragraph (3) and $100,000 for deposits described in paragraph (3)".

MURKOWSKI AMENDMENT NO. 1356

Mr. GARN (for Mr. MURKOWSKI) proposed an amendment to the bill S. 543, supra, as follows:

On page 416, line 1, strike all through page 487, line 13.

ADDITIONAL STATEMENTS

TRIBUTE TO COL. HAROLD W. NUTT

• Mr. LAUTENBERG. Mr. President, I rise today to honor Col. Harold W. Nutt who is celebrating his retirement on the first of December.

Colonel Nutt is a dedicated individual who has devoted many years of public service to the military and to the New Jersey Department of Defense. He has served as a military aid on the staffs of five successive Governors of New Jersey spanning 35 years.

As a special assistant to the adjutant general from 1983 to the present, he served as surrogate for the adjutant general, as a liaison to the military, Government, business, and the community at large. Colonel Nutt performed protocol duties, chaired the Governor's special events planning committee and served as the executive director of the New Jersey Committee for Employer Support of the National Guard and Reserve. In addition, he served as chair and director of the New Jersey National Guard Militia Museum Board of Governors.

Colonel Nutt also served from 1983 to 1988 at the New Jersey Department of Defense in Trenton, NJ. At the new Jersey DOD, he served as the deputy commander, director and inspector general. During the previous 5 years, he was employed by the New Jersey Military Academy and National Guard Training Center in Sea Girt where he held the office of commandant/station commander, Chief Logistics Bureau, and Assistant Chief of the Logistics Bureau. During the years 1958 to 1969 Colonel Nutt served as tactical officer, executive officer, operations officer, director, and deputy director of the New Jersey Military Academy in Sea Girt.

Beyond Colonel Nutt's extensive professional experience in the military, he has also devoted much of his personal time to the community at large. He has given many selfless hours to community service and worthwhile philanthropic organizations, often in leadership positions. His various affiliations range from serving as a member of the National Trust for Historic Foundation to being the director for Project Freedom, the Nottingham Recreation Center for the Physically Limited. Colonel Nutt has also volunteered much of his valuable time to Lawrence Township. As chairman of the Lawrence Health Fair, member of Operation Historical Exchange Program and member of Lawrence Historical Society, he has a lasting contribution to the community.

Mr. President, Colonel Nutt has given over three decades of service to the military and has enthusiastically committed himself to community service. I applaud Colonel Harold Nutt for his tireless efforts to better the community and for his valued career as a military public servant.

I join Colonel Nutt's friends and colleagues as they celebrate his retirement. I wish him and his family my warmest wishes for continued health and happiness in the future.•

SENATE QUARTERLY MAIL COSTS

• Mr. FORD. Mr. President, in accordance with section 318 of Public Law 101–520, I am submitting the summary tabulations of Senate mass mail costs for the quarter ending September 30, 1991, to be printed in the RECORD, along with the quarterly statement from the U.S. Postal Service setting forth the Senate's total postage costs for the quarter.

The information continues to reflect the frugality of the Senate in its spending on official mail. The Senate's expenditures for fiscal year 1991 totaled $11,744,034, which is $18,105,966 less than the $29,850,000 appropriated.

The tabulations follow:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING SEPT. 30, 1991

Senators	Total pieces	Pieces per capita	Total cost	Cost per capita
Adams	240,480	0.04941	$34,362.34	$0.00706
Akaka	....	....	....	....
Baucus	24,200	.03029	4,350.42	.00544
Bentsen	1,373,500	.08086	243,933.37	.01436
Biden	299,450	.44951	46,229.68	.06940
Bingaman	65,750	.04340	11,647.46	.00769
Bond	101,869	.01991	69,966.44	.01367
Boren	....	....	....	....
Bradley	....	....	....	....
Breaux	166,891	.03955	26,204.68	.00621
Brown	54,200	01645	7,445.79	.00226
Bryan	265,919	.22126	58,944.46	.04905
Bumpers	....	....	....	....
Burdick	96,000	.15028	16,744.44	.02621

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING SEPT. 30, 1991—Continued

Senators	Total pieces	Pieces per capita	Total cost	Cost per capita
Burns	68,500	.08573	12,021.84	.01504
Byrd				
Chafee				
Coats	122,126	.02203	24,240.05	.00437
Cochran				
Cohen	73,329	.05972	10,911.53	.00889
Conrad	267,500	.41875	41,948.20	.06567
Craig	81,150	.08061	13,345.91	.01326
Cranston	2,542,450	.08543	434,381.35	.01460
D'Amato	3,282,623	.18246	541,314.15	.03009
Danforth	44,600	.00872	6,123.61	.00120
Daschle	46,040	.06615	7,743.81	.01084
DeConcini	1,647,000	.44936	258,502.63	.07053
Dixon	1,528,200	.13369	238,205.05	.02084
Dodd	472,350	.14370	77,998.92	.02373
Dole				
Domenici				
Durenberger	147,900	.03380	29,713.74	.00679
Exon				
Ford				
Fowler	185,600	.02865	26,425.88	.00408
Garn				
Glenn				
Gore				
Gorton	139,735	.02871	24,057.98	.00494
Graham	427,400	.03303	71,775.31	.00555
Gramm	359,800	.02118	62,260.56	.00367
Grassley	534,980	.19266	110,182.71	.03968
Harkin	2,750			
Hatch	2,750	.00160	538.16	.00031
Hatfield				
Heflin	644,550	.15952	101,628.33	.02515
Helms				
Hollings				
Inouye				
Jeffords	86,600	.15388	11,674.37	.02074
Johnston	508,005	.12038	80,486.38	.01907
Kassebaum				
Kasten	580,240	.11862	94,692.80	.01936
Kennedy				
Kerrey	147,350	.09335	21,424.48	.01357
Kerry	13,765	.00229	12,032.88	.00200
Kohl				
Lautenberg	1,650,750	.21355	258,606.14	.03345
Leahy	33,350	.05926	6,376.60	.01133
Levin	2,457	.00026	551.38	.00006
Lieberman	134,827	.04102	28,361.48	.00863
Lott				
Lugar	157,550	.02842	25,983.54	.00469
Mack	86,832	.00671	18,013.67	.00139
McCain	114,452	.03123	20,715.07	.00565
McConnell				
Metzenbaum				
Mikulski				
Mitchell				
Moynihan	20,350	.00113	3,936.33	.00022
Murkowski	222,100	.40379	39,481.00	.07178
Nickles	66,632	.02118	14,463.24	.00460
Nunn				
Packwood	316,991	.11153	56,090.32	.01973
Pell				
Pressler	207,852	.29864	36,906.75	.05303
Pryor	7,750	.00330	1,060.33	.00045
Reid	108,385	.09018	19,106.77	.01590
Riegle	102,280	.01100	17,318.13	.00186
Robb				
Rockefeller	4,992	.00278	4,487.80	.00250
Roth	68,408	.10269	12,131.23	.01821
Rudman				
Sanford	10,400	.00157	2,073.21	.00031
Sarbanes	89,100	.01863	13,724.94	.00287
Sasser				
Seymour	481,000	.1616	77,863.41	.00262
Shelby				
Simon	1,105,400	.09671	172,469.73	.01509
Simpson	15,300	.03373	2,176.76	.00480
Smith				
Specter	1,047,950	.08820	149,926.83	.01262
Stevens				
Symms	277,620	.27576	51,352.55	.05101
Thurmond				
Wallop	6,100	.01345	1,429.61	.00315
Warner				
Wellstone	802,300	.18338	126,086.58	.02882
Wirth	355,672	.10796	51,481.68	.01563
Wofford				

Other offices	Pieces	Cost
The Vice President		
The President pro-tempore		
The Majority Leader		
The Minority Leader		
The Assistant Majority Leader		
The Assistant Minority Leader		
Secretary of Majority Conference		
Secretary of Minority Conference		
Agriculture Committee		
Appropriations Committee		
Armed Services Committee		
Banking Committee		
Budget Committee		
Commerce Committee		
Energy Committee		
Environment Committee		
Finance Committee		
Foreign Relations Committee		
Governmental Affairs Committee		
Judiciary Committee		
Labor Committee		
Rules Committee		
Small Business Committee		
Veterans Affairs Committee		
Ethics Committee		
Indian Affairs Committee	2,050	$1,077.64
Intelligence Committee		
Aging Committee		
Joint Economic Committee		
Joint Committee on Printing		
Democratic Policy Committee		
Democratic Conference		
Republican Policy Committee		
Republican Conference		
Legislative Counsel		
Legal Counsel		
Secretary of the Senate		
Sergeant at Arms		
Narcotics Caucus		

U.S. POSTAL SERVICE,
DEPARTMENT OF THE CONTROLLER,
Washington, DC, November 8, 1991.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Detailed data on franked mail usage by the U.S. Senate for the fourth quarter, Fiscal Year 1991, is enclosed. Total postage and fees for the quarter is $5,065,667.

A summary of Senate franked mail usage based upon actual data for the four quarters of Fiscal Year 1991 is as follows:

Volume	59,780,774
Revenue per piece	$0.1965
Revenue	$11,744,034.00
Provisional payments (Oct. 1990 to Jan. 1991)	$10,000,000.00
Deficiency in provisional payments	$1,744,034.00

Also enclosed is a copy of the comparable report for the U.S. House of Representatives.

If you or your staff have any questions, please call Tom Galgano of my staff on 202-268-3255.

Sincerely,

JAMES S. STANFORD,
General Manager, Official and International Mail Accounting Division, Office of Accounting, Washington, DC.

SENATE FRANKED MAIL, POSTAL QUARTER IV, FISCAL YEAR 1991

Subcategories	Pieces	Rate	Amount
1. Letters: 1st Class (total)	2,585,923	$0.2900	$749,918
2. Flats: 1st class	128,782	1.1142	143,489
3. Parcels:			
Priority-up to 11 oz			
Priority-over 11 oz	20,910	4.6778	97,813
4th class—regular	35,024	4.1202	144,306
Total	55,934	4.3287	242,119
4. Orange bag pouches:			
1st class	198,869	.3866	76,883
Priority-up to 11 oz	4,499	2.9000	13,047
Priority—over 11 oz	11,645	4.8290	56,234
Total	215,013	.6798	146,164
5. Agriculture bulletins:			
1st class			
Priority-up to 11 oz			
Priority-over 11 oz	5	20.3500	102
3d Class			
4th class special (bk)	20	10.3556	207
4th class regular	79	7.9620	629
Total	104	9.0192	938
6.Yearbooks: 4th class special (BK) (total)	7	1.4286	10
7. Other (odd size parcels):			
Priority-up to 11 oz			
Priority-over 11 oz	669	33.3023	22,279
4th class special (Bk)			
4th class regular	2,888	12.6146	36,431
Total	3,557	16.5055	58,710

SENATE FRANKED MAIL, POSTAL QUARTER IV, FISCAL YEAR 1991—Continued

Subcategories	Pieces	Rate	Amount
Total outside DC	421,170	.4690	197,521
Permit imprint mailings:			
3d Class bulk rate	23,022,131	.1177	2,708,879
Parcel post—PI	45	7.7111	347
1st class single piece—PI			
Address corrections (3547's)	750	.3507	263
Address corrections 3d cl)	10,563	.2900	3,063
Mailing list corrections (10 names or less)			
Mailing list corrections (more than 10 names)			
Mailgrams:			
IPA—International priority airmail			
Mailing fees (registry, certified, etc.)			
Postage due/short paid mail			616
Permit fees			75
Miscellaneous charges/ADJ			
Express mail service			676,156
Subtotal	26,443,979	.1864	4,928,268
Adjustments (PFY to GFY 1991)	304,508	.4512	137,399
Grand total	26,748,487	.1894	5,065,667•

TRIBUTE TO JACK MULVENA AND DIANNE SAULNEY SMITH

• Mr. GRAHAM. Mr. President, I rise today to recognize my constituents, Jack Mulvena and Dianne Saulney Smith, who are retiring after years of service with the board of directors of the Department of Off-Street Parking in Miami, FL. In addition to all its official duties, the board of directors of the Department of Off-Street Parking in conjunction with the Dade County Public School System and the Overtown Advisory Board, Inc., are responsible for the development of the Student Cashiers of Overtown Program. [SCOOP]. The SCOOP has made it possible for full-time high school students of Overtown to secure a respectable job based on academic and work performance while being given the opportunity to compete for college scholarships. In addition, the SCOOP has enabled students to finish their studies, receive their degrees and find rewarding jobs. Both Jack and Dianne, together with the other members of the board of the Miami Parking System, the Dade County Public School System, and the Overtown Advisory Board, should be commended for their ingenuity in combining their work with the educational needs of today's youth. Not only do these individuals bring well deserved recognition to their special endeavors, they also significantly enhance our community through their exceptional talents and service.

On this very special occasion, I wish Jack success in his new pursuits and would like to extend my congratulations on behalf of all of the students he has helped through the SCOOP. His commitment and leadership has culminated into opportunities for prosperity in Dade County. In all facets of his personal and professional life, Jack has continually shown dedication to his community and its members. He is a dedicated citizen fully deserving of the many commendations bestowed upon him.

Dianne is to be recognized also for her tireless hours of dedication while serving as chairperson of the board of the Department of Off-Street Parking as well as her outstanding achievements as a practicing attorney. I know that she has brought with her the same leadership, commitment, and high quality of work to her new position as my special council in our Washington office. Dianne's proficiency and talent will surely be missed by those fortunate enough to have worked with her. I consider myself quite lucky to inherit such wisdom and skills.

Please join me in thanking the members of the board of directors and the employees of the Department of Off-Street Parking in Miami, the Dade County Public School System, and the Overtown Advisory Board, Inc., and specially Jack Mulvena and Dianne Saulney Smith for their humanitarian contribution to the Dade County community and to the State of Florida and in wishing to Jack and Dianne every success in their future endeavors.•

HONORING JOHN R. DICKSON

• Mr. KASTEN. Mr. President, I rise today to recognize the tremendous achievement of one of my most distinguished constituents—John R. Dickson of Roundy's, Inc.

John Dickson is a true embodiment of the American dream. He rose from management trainee to the presidency of one of Wisconsin's most important corporations. He did it the old fashioned way—with hard work, perseverance, and dedication.

John's commitment to the pursuit of excellence doesn't apply just at the office. John is a concerned citizen who misses no opportunity to promote the well-being of the community through environmental and political activisim.

When you want to get a job done, give it to a busy man. This is the lesson of John Dickson's life and career—and I ask my Senate colleagues to join me in saluting him.•

UNEMPLOYMENT BENEFITS COMPROMISE

• Mr. LAUTENBERG. Mr. President, I rise to applaud the President for signing the extended unemployment benefits compromise. Finally, the administration decided to allow these much-needed benefits for families across the United States. After being distracted by foreign affairs for most of his tenure in office, the President has decided now that it is time to act on behalf of American workers. I am pleased with this development but it is regrettable that it look so long for the administration to recognize that there are many long-term unemployed in the United States who need help immediately.

This bill will provide 20 weeks of additional benefits to New Jerseyans who have exhausted their regular unemployment benefits. This bill provides much-needed relief to approximately 15,000 New Jersey residents who are exhausting their unemployment benefits each month. The bill also contains a reachback provision that will cover New Jerseyans who have exhausted their benefits since March 1, 1991.

Mr. President, the current recession has forced millions of Americans out of work in what the administration promised would be a brief economic downturn. People in this country are suffering. Nearly 9 million people are out of work in our country. This is an increase of more than 2 million in the past 2 years. In New Jersey, 269,000 people are unemployed. To those who have been laid off the longest, extended unemployment benefits will mean the difference between meeting the house payments and losing the house, between putting food on the table and going hungry.

It is about time the Federal Government took action to help needy families. Without this emergency unemployment compensation bill, millions more Americans will exhaust their unemployment benefits and be forced into poverty.

The administration says we are in a recovery. But every day I hear stories of companies laying off thousands of people. People continue to lose their jobs at an alarming rate. Those people who have jobs are afraid of losing them.

This bill will also provide benefits to unemployed service men and women who have recently returned from the Persian Gulf. This bill allows ex-service members to be treated the same way other Americans are under the unemployment insurance system. The bill would change the waiting period for benefits to 1 week, and benefits payable for up to 26 weeks instead of the 4-week waiting period and 13-week benefit limits in present law. The bill will also make railroad workers eligible to receive extended benefits under their own unemployment insurance system.

Mr. President, extension of unemployment benefits is long overdue. I am pleased that these benefits are finally going out to those families who need them and that some benefits will be paid out before Thanksgiving.•

FAIR UNEMPLOYMENT COMPENSATION FOR THE MILITARY

• Mr. MCCAIN. Mr. President, the debate over the emergency unemployment compensation action of 1991 was a long one, and involved a great deal of controversy and compromise. There is, however, one aspect of this bill that is not controversial and that has not received the recognition it deserves: The fact that it provides a fair unemployment compensation for our military.

At present, our men and women in uniform get only half the unemployment compensation of men and women in civilian life. They got a maximum of 13 weeks of compensation versus 26 weeks of compensation for civilians.

The only reason for this glaring inequity, which has hurt many in the military and their families, is that an effort was made years ago to maintain military personnel ceilings by limiting unemployment benefits.

Today, however, we face a future where more than 500,000 Active and Reserve positions must be cut from the military. Over 300,000 will have to be Active positions.

It is my sincere hope that the new voluntary separation packages we have developed in this year's authorization bill, reducing accessions, and attrition will minimize the number of involuntary separations.

Nevertheless, many highly qualified men and women may still face involuntary separation for no fault of their own. Most will have volunteered to join the military thinking they were volunteering for a lasting career. Some may have served this Nation in Desert Storm. They deserve the same unemployment compensation as their civilian counterparts.

Two years ago, I advanced a transition plan before this body that provided this equity in unemployment compensation, along with other benefits designed to ensure that our men and women in uniform would receive compensation for their years in service and the aid necessary to rejoin the civil economy without damage to their lives and that of their families.

With the strong and creative help of Senator JOHN GLENN, the National Military Coalition, and my colleagues on the Senate Armed Services Committee, virtually every provision of this plan was turned into law. In fact, it is the foundation of one of the voluntary separation options that will be offered in the fiscal year 1992 Defense authorization bill.

The equity in unemployment compensation provision of this transition plan, however, could not be included in the Defense Authorization Act for jurisdictional reasons. As a result, my colleagues in the Finance Committee agreed that they would provide such equity once a suitable legislative vehicle became available.

That vehicle has just been passed by the Senate. It ensures that both military and civilians will get the same period of unemployment compensation provided by each State. It completes the transition plan, and it provides our military with the protection and benefits they deserve.

Accordingly, I would like to thank Senator BENTSEN, Senator PACKWOOD, Senator MITCHELL, Senator DOLE, those of my other colleagues who serve in the Finance Committee, their counterparts in the House—which has similar language, and all my colleagues who voted for this bill. We may still have differences over some aspects of unemployment compensation, but this is one area where I believe the Nation will unite in saying well done.•

PHOENIX AND TUCSON ARE AMONG THE MOST FISCALLY SOUND CITIES

• Mr. DECONCINI. Mr. President, in this era of economic bad news, I am happy to be the purveyor of some good news. I would like to congratulate and recognize the city governments of Phoenix and Tucson, AZ. A new survey by City and State magazine reports that Phoenix and San Diego are the most fiscally sound big cities in the United States, followed by Tucson. The survey studied the 50 cities with the largest budgets to compare how well each runs its finances. The information was gathered from questionnaires completed by city finance officials and supplemented by city financial documents, interviews with government officials, and credit reports from bond-rating agencies.

The lion's share of the credit for this honor must go to Paul Johnson, mayor of Phoenix and the Phoenix City Council and Tom Volgy, mayor of Tucson and the Tucson City Council. In a year when many cities are struggling for survival, Phoenix and Tucson are successfully coping. They are balancing their numbers through spending cuts and fund transfers.

In the article Paul Johnson said that he went through government last year with a buzz saw, cutting government 5 percent, or $22 million. Trimming budgets during tight fiscal times is no easy task. To retain the support and confidence of the public, elected officials must exercise real leadership. This is what Paul Johnson and Tom Volgy and their respective city councils have been able to do. I applaud their effort and their very impressive results.•

THE INAUGURATION OF CLOSED-CAPTIONED SENATE FLOOR PROCEEDINGS

• Mr. HARKIN. Mr. President, I am pleased that today marks the inauguration of closed-captioned broadcasting of the U.S. Senate floor proceedings. I want to compliment the majority leader and the minority leader for their efforts to bring this to fruition, two months before it was expected. This is indeed, Mr. President, a happy day for all Americans who are deaf or hard of hearing, because now they can read the words spoken by their elected Senators at the bottom of the television screen.

Closed captioning is going to permit our deaf citizens, millions of them across the country, to understand and to watch what this Senate does just like hearing people all over this country. I can tell you they are going to watch and they are going to read and they are going to have a better understanding of what we do here.

But it is not just deaf people. It is people who are hard of hearing. And beyond that, there are people, many people, as we know, in this country for whom English is not their first language, and they are starting, they are trying to learn English. They can now turn on and watch the Senate and the House in session and begin to understand what we are doing here, because they can read it.

So, I am just delighted that we have finally reached this point. I want to congratulate all of the Senators who have worked so hard, again especially to the distinguished minority leader who has been a great leader for so many years in being attentive to the needs of our citizens with disabilities in this Nation.

For too long, the deaf and hard of hearing communities have been excluded from the political process of their country. I am proud to be here today to witness that chapter of our history come to a close.

In 1988, the Commission on the Education of the Deaf issued a report which identified captioning of television as one of the most important technologies for deaf and hearing impaired individuals. The Commission also found that closed captioning is the more effective technology for speeding the attainment of literacy, and more importantly, in helping the deaf person participate in the wider world that is routinely accessible to those who hear. I subscribe to this view.

In addition, last year, we passed legislation that will provide that beginning in 1993, every television set sold in America with the screen size of 13 inches or over will have to have a little chip that will automatically decode every closed captioned program. Zenith Corp. has announced plans to place televisions with this chip on the market this fall, 2 years before it was required to do so by the law. So, we are moving ahead in America.

Equally as important as all of this, is the message that the Senate will send to the Nation. By closed captioning our televised floor proceedings, we send the message that we are committed to implementing the Americans with Disabilities Act in an effective and meaningful way. For too long, deaf and hard of hearing Americans have been excluded from the political process. I am very proud to be here today to witness that chapter of our history come to a close.•

IN HONOR OF CHIEF M. SGT. LESTER GENE HAMPT, USAF

• Mr. DIXON. Mr. President, I rise today to honor Chief M. Sgt. Lester Gene Hampt, U.S. Air Force, who is retiring effective February 1, 1992, with 33 years of active-duty service.

His retirement concludes a distinguished career as an outstanding noncommissioned officer. Recognized for his continued valuable contributions to the Air Force, the Extended High Year Tenure Board at the Military Personnel Center selected Chief Hampt as one of the elite chiefs to continue meritorious service past the 30-year milepost.

Chief Hampt's dedication and tireless efforts on behalf of our Nation's defenses cannot be overstated. His career has spanned the globe in assignments from Southeast Asia to Europe. He is the recipient of many military awards and decorations. His depth of knowledge has made lasting contributions to the U.S. Air Force Medical Service.

Chief Hampt was born in Reisterstown, MD, and now resides in my hometown of Belleville. In our town he is known for his civic activities as a member of the International Foster Care Organization, the Illinois Foster Parent Association, and the Belleville Area Foster Parents Association. He has worked with disadvantaged to very bright children who needed a home. His kindness and generosity is a civic resource that the citizens of Belleville are fortunate to have.

Today, we not only acknowledge the contributions that Chief Hampt has given the Air Force, but we also applaud his exemplary character. The people of the United States are indebted to Chief M Sgt. Lester Gene Hampt's service.

Mr. President, it is in honor and privilege to represent fine Illinoisans such as Chief Hampt. I wish him all the best in his well-deserved retirement.•

KENYA'S GOVERNMENT CONTINUES DOWN THE ROAD TO DICTATORSHIP

• Mr. DECONCINI. Mr. President, over the weekend the Government of Kenya launched another repressive assault on democratic dissent and civil liberties. Kenyan citizens who were attempting to peacefully gather to express support for political pluralism and dissatisfaction with the increasingly dictatorial regime of President Moi were teargassed, clubbed, and stampeded by security personnel. Though Kenyan police prevented foreign diplomats from observing the gathering, President Moi still had the audacity to blame "foreign missions" for organizing the rally and for masterminding and bankrolling opposition to his rule.

While leaders across Africa are heeding demands of citizens for greater political freedom, President Moi stubbornly refuses to acknowledge the legitimacy of any views except his own. He continues to repress all dissent. In fact, by obstinately stifling any peaceful expression of differing political views, President Moi may be unwittingly bringing about the political instability which he most fears. His refusal to allow peaceful debate almost encourages the opposition to take ever more extreme actions to make political points which they would prefer to express peacefully. Kenya, once a model of political and economic progress, is becoming an anachronism in Africa and its ruler an increasingly isolated, intolerant, ineffective, and desperate dictator.

Mr. President, I had the honor of meeting with a number of individuals now detained by the Kenyan Government. The people of Kenya are fortunate to have at the forefront of their democracy movement such a talented and dedicated group of men and women. These courageous individuals, and their families, have withstood harassment, prison, mistreatment, and other degradations, yet they persevere for the future of their country. Today, after the rally and their arrests, their message is stronger than ever. Kenyans want to share in the resources of their country, and they yearn to participate in its political life.

Mr. President, I rise today to call on President Moi to release all those individuals detained in the past few days for peacefully expressing their respect for democracy, human rights, and political pluralism. Under such circumstances, I believe strongly that the United States cannot conduct business as usual with the Government of Kenya. We should act to cut off all but humanitarian aid, vote against IMF and World Bank loans, and if President Moi still refuses to act with reason, recall our Ambassador, as Germany has done.•

REMARKS OF DR. JAMES BILLINGTON

• Mr. STEVENS. Mr. President, I was privileged to be able to attend the Second Annual James Madison Counsel Dinner on October 7 of this year. It was held in the beautiful grand foyer of the Library of Congress' Thomas Jefferson Building. The keynote speaker was our own Librarian of Congress, James Billington. You all know that Jim Billington is one of the Nation's foremost experts on Russia and the Soviet Union, and it was the Soviet Union and its future that was the subject of Dr. Billington's talk.

As the many Russian experts in this country will attest, being in Moscow at the time of the August coup would not only be an experience of a lifetime, but an experience a Russian expert would give his eye teeth to have. By happenstance, our own Jim Billington was in Moscow during the coup attending an International Conference of Librarians. Through his own vast knowledge of the history and politics of Russia, and his firsthand experience of being in Moscow during the coup, Billington provided the dinner guests with an insightful talk entitled the "Rebirth of Russia."

Mr. President, Mr. Billington's comments deserve a wider dissemination than to those fortunate enough to attend the dinner. Therefore, I ask to insert the text of his speech at the end of my remarks.

The statement follows:

THE REBIRTH OF RUSSIA

(By James H. Billington, the Librarian of Congress)

The events in Moscow during the decisive 48 hours from early morning August 19 to early morning August 21 may be the most important single political happening of the second half of the 20th century. These events marked not just the death of the most destructive ideology and powerful empire of our time but also the birth of an altogether new mentality among the hitherto largely passive Russian people. Confronted with a sudden putsch that reimposed from the top down the old Leninist politics of fear, Russians suddenly and unexpectedly found a way to affirm a new politics of hope—defending on exposed barricades in a steady rain the location of their first elected government, Yeltsin's now famous White House, which replaced the historic Kremlin as the new center and symbol of Russian political legitimacy.

It was the final fever break of a totalitarianism that had continued to enslave inner feelings long after its outer controls had weakened. It was also the cresting of the democratic wave that had engulfed Eastern Europe in 1989, reached the Soviet Union's national minorities in 1990, and provided the rising Russian democratic movement of 1991 with the Lithuanian example of resisting armed reaction by forming a human wall around an elected parliament. Those who put their lives on the line with Yeltsin inside the White House have emerged with new authority and now represent probably the most promising cadre of democratic reformers Russia has ever had.

Those unforgettable 48 hours did not produce the traditional flame of revolution but rather the inner fire of psychological and even spiritual change. Modern revolutions imply violent upheaval, secular ideology, and an alternative program, whereas the events in Russia (as earlier in Eastern Europe) were nonviolent, filled with spiritual idealism, and thrown up from below without clear blueprints. As I saw it there during 2½ weeks in Moscow, Russians experienced a kind of inner catharsis radically unlike the periodic public catharses of their Communist past—involving purges, scapegoats, and external enemies. From the epicenter at the White House, the new psychology of hope spread out in a series of concentric circles—via loudspeakers to the miscellaneous volunteer defenders of the barricades immediately outside, via Xeroxes and broadsides to a broader, more porous circle of peripheral scouts and supporters throughout Moscow (where the only fatalities were recorded), and finally to even wider circles in provincial Russia and the outer world (which often relayed the news back via radio quickly than domestic Russian sources).

I do not want to romanticize the Moscow events, to overestimate the future prospects for the democratic movement, or to minimize the enormous economic and ethnic problems that continue to threaten it. But I think it may be useful to recapture with you tonight some of the special, defining quality of those 48 hours. They represent a new phenomenon that is hard to register on our analytical radar screens but perhaps prophetic of the future and may provide at present unrealized opportunities for the United States.

Before discussing these broader historical and policy aspects, I will offer some concrete illustrations from my own experience—first, of three different aspects or levels of this time of change (the political, the moral, and the spiritual) and, second, of seven special people who collectively illustrate both the vitality and the variety of the democratic movement.

Politically, the events of August added an aura of heroism to the legitimacy that the democratic forces had already gained at the ballot box. Yeltsin atop the tank was the icon; but the decisive turning point may have come on the uncertain first night when the still small and unfocused crowd first heard the electric announcement from the White House that a tank unit from the elite Tamansky division had broken the Junta's monopoly of armed force and gone over to the democratic side. What impressed me, listening to that loudspeaker with a group of Russian friends in the drizzle outside, was not just the realization that lives were now irreversibly on the line but the rather majestic way in which the announcement clarified the nature of the cause—telling the crowd that each of the tank crews would be augmented by one elected member of the Russian parliament—symbolizing both the democratic legitimacy of the opposition and its subordination of military to civil authority.

Those soldiers—and others who later swelled the ranks—triggered a second level of the transformation, which affected far more people than the political face-off itself: The activation of individual moral choice among the general population.

Nothing had been more debilitating about totalitarianism than its corruption of conscience and of moral choice by the politics of fear and an ideology of endlessly rationalizing evil means in the name of utopian ends. And nothing had been more dispiriting to the democratic reformers in the year-and-a-half leading up to the coup than Gorbachev's own avoidance of final choice between the old power structures and the new democratic wave. Suddenly, in the face of two irreconcilable power centers and an uncertain outcome, everyone had to make the kind of choices they had long been able to avoid—within institutions, within families, and within oneself—whether or not to speak up, whether or not to confront the dominantly procoup outlook at the higher echelons of almost every major Soviet institution in Moscow, whether or not to go to the White House, whether or not to go the second night when the Junta announced a military curfew and was in fact planning an attack.

One reason the Junta was not prepared to attack the White House the first day when neither the barricades nor the human wall were fully in place was because they were relying on the paralytic fear that a mere show of force had always induced, assuming that people would prefer authoritarian order to the uncertainties and responsibilities of freedom. Yet the contagion of individual moral choice infected the Junta itself. Some of the most important choices may have been made by Yazov, its top military leader, who decided never to give a clear order to shoot, and by high KGB officers who refused to execute the well-crafted plans for assaulting the White House on the second day.

Beyond discarding their corrupted political system and their morally compromised way of relating to one another, these events provided a kind of spiritual lift to Russians that has been hardest of all for Western analysts to understand. It is rooted in the determination of the Russian reform leaders to move not just outward towards Western economic and political institutions but also inward to recover their own half-obliterated cultural and religious roots.

I had particularly good opportunities to see this dimension because I was there as the invited guest of a congress of Russian emigres summoned by the Yeltsin government to try to define, in effect, a post-totalitarian Russian cultural identity. I had considerable contact with church and cultural leaders, delivering four lectures on this subject before, during, and after the coup with many from the democratic resistance in attendance.

Part of this spiritual dimension was provided by the direct intervention of the Patriarch of the Russian Orthodox Church on the side of the democratic resistance on the second day of the coup. The Patriarch had initially seemed to follow a long tradition of passivity—saying nothing about the coup when, after a liturgy on the morning of the coup, the main doors of the Cathedral of the Assumption were opened and, for the first time since the Bolshevik Revolution, a Patriarch directly addressed the Russian people in the Kremlin Square. Three of his top metropolitans also refused to rise for a tribute to the embattled Yeltsin government at the opening that evening of the Congress of Russian emigres—one of those metropolitans having bluntly proclaimed his support of the coup forces to me a few moments before.

But after a call from the Yeltsin forces and after he himself called America for assurance of asylum if the putsch prevailed, the Patriarch blessed and publicly supported the resistance. He issued a powerful prayer condemning fratricide over loudspeakers to the forces of the putsch just a half hour before their attack on the White House was expected on the second night when the only bloodshed did in fact take place.

The events, perhaps unconsciously, recovered for Russia submerged elements of its older Christian culture. Almost everyone including confirmed atheists used the word "miracle" to explain how it all ended so well so quickly; and many thought it not accidental that the 48 hours which they say transfigured Russia began on the Orthodox Feast of the Transfiguration; and during the public funeral of the three young men who were killed, orators of all kinds repeatedly played on the Judeo-Christian themes of repentance, forgiveness, and the redemptive value of innocent suffering. The emotional high point of the funeral cortege through Moscow was Yeltsin's farewell to their parents: "Forgive me, your president, that I was unable to save your sons from destruction." "Forgive me" is what Russians say to each other before taking Communion and, almost with those words alone, Yeltsin seemed to reinvest power with deeper (if not higher) authority. Somebody not to blame was assuming personal responsibility in a society where people in power never used to accept responsibility for anything.

Even the rather militantly agnostic Elena Bonner evoked a higher spiritual authority in her powerful speech at the White House which challenged the materialistic assumption of the junta that Muscovites could be wooed into submission by offering sausages for "eight Pavlovian rubles." "We are cleaner, we are higher."

When free television returned after 48 hours of junta control, the resistance was instantly mythologized in a series of quite beautiful documentaries that portrayed the struggle as an almost pure conflict between good and evil rather in the manner of the chronicles—playing up the whiteness of the White House, the sudden appearance of the sun after the near continuous rain of 48 dark hours and the similarity of the three martyred boys to the first Russian saints, St. Boris and St. Gleb, who were also victims of political fratricide.

The memory no less than the reality of those 48 hours has provided Russians with a sense of spiritual aspiration that is more broadly ecumenical than narrowly Orthodox. For a brief moment at least, the reform movement generated a sense of common purpose that transcended some of the enduring internal conflicts in Russian culture that have divided past movements of reform: Between Slavophile and Westernizing tendencies and between elite intellectuals and ordinary working people.

Of course, sudden soaring hopes can easily give way to deep disillusionment. We cannot yet be sure if the proper analogy for an authoritarian Russia that has lost the cold war is authoritarian Germany after it lost World War I or after it lost World War II. After the First war, the fledgling German democracy was doomed by unreasolved economic problems, the indifference of existing democracies, and a nationalistic-fascist reassertion of imperial identity. After the Second War, a new German Federal Democracy flourished with the support of other democracies and an inner commitment to real change.

It is currently almost universally fashionable to be pessimistic about the prospects for Russian democracy—and to use the analogy of a weak Weimar Republic waiting for its Hitler.

But let me suggest a more hopeful outlook by describing seven people whom I had the honor to observe often at very close range during these 48 hours. Each represents a different group active in the democratic resistance; each is a genuine leader, yet largely unknown to the outside world. And behind each of them stand many others from who will come the next generation of leadership that will soon replace that of Gorbachev and Yeltsin.

Alexander Rutskoi is Yeltsin's Vice President, but he has yet to get all the credit he deserves for organizing the defense of the White House in an essentially moral rather than authoritarian way. He is one of the many Afghanistan veterans who provided the military competence for Yeltsin's defense and also a recent convert to Christianity who helped enlist the support of the Patriarch. With the moral serenity of a true leader, he made the organization of the defense an entirely voluntary undertaking—urging each person to examine his own conscience and his own often conflicting obligations to others to determine what role each should be prepared to play in the event of fighting.

Vyacheslav Ivanov is one of the world's greatest linguists and a member of the Library of Congress' Council of Scholars, who represents the extraordinary intellectual talent that has assumed political responsibility in Russia during recent years. As a people's deputy of the Soviet Union, he became a lead negotiator during the crucial 48 hours of the Yeltsin government's dealings with the treacherous Lukyanov, who had remained in the Kremlin as a point of liaison with the junta protected by a mysterious, but vaguely threatening new cadre of central Asian soldiers. Having already turned the Library of Foreign Literature, which he heads, into one of Moscow's most active centers for the open discussion of new Western ideas, he invited the leading reform journal, The Independent Gazette, to publish there when it was outlawed by the putsch. I will never forget his returning to his library to introduce me for a morning discussion on the importance of the knowledge-base to democracy—after spending the perilous second night of the coup in the White House with his son. He proceeded to lead the most exhilarating discussion I can ever remember on the relationship between libraries and democracy—led by a man with a lot to live for, but who was clearly prepared to die for either libraries or democracy.

A third leader was Constantine Lubenchenko, another liberal people's deputy who chaired an independent 190-person group of reform-minded legislators, and—when cut off from his group by the putsch—personally led an internal war of memoranda inside the leadership of the parliament against Lukyanov's efforts to give legislative legitimacy to the so-called extraordinary committee of the junta. Reminiscing with me just after the defeat of the coup about the delegation he led to the Library in 1989, this young representative of the new professional political class, deeply dedicated to establishing the rule of law, described the important roles then being assumed in the post-coup power structure by most of the members of that first of many parliamentary delegations to come on working visits to the Library of Congress. As a token of his gratitude, he gave me for the LC's collections the original copies of some of his key memoranda of the 48-hour period. Lubenchenko's admirers and allies reached even into the KGB, one of whose officers provided him with advance warning of the KGB plan for storming the White House—and detailed information on 28 hitherto unknown secret entry points into the White House from subterranean tunnels.

A fourth leader who was deeply influenced by his visit to the Library of Congress is Rudolph Pikhoya. He is a historian friend from Sverdlovsk (now Ekaterinburg) who typifies (along with his wife who is one of Yeltsin's speechwriters) the substantial Siberian and provincial participation in the Russian resistance; many of them had come to Moscow at the time for the congress on Russian identity that I was attending. Pikhoya was immediately put in full charge of the archives of the Communist Party Central Committee when they were confiscated after the defeat of the coup. He called me to apologize for not seeing me off when I left, but indicated that he was rather busy sorting through the 30 million items in 160 separate archives that must surely constitute one of the greatest untapped resources for writing the full history of our troubled century. He has just this week written me to ask for help in setting up an international commission to oversee a massive microfilming effort—something we are also undertaking for older historical documents in Leningrad in response to the urgent request of the great scholar Dmitry Likhachev. Some of you met Likhachev during his earlier visits to the Library; during the crucial 48 hours he delivered a key address to the crowd of a quarter-million that assembled in the great square of Petersburg to declare their support for the democratic resistance.

A fifth unsung hero was Father Alexander Borisov, a young, elected member of the Moscow City Council and protege of Alexander Men, a prophetic priest mysteriously murdered as the turn towards reaction began just a year ago. Head of a newly opened parish in the heart of Moscow, Borisov conducted during the 48 hours around the White House a non-stop evangelical mission involving prayer, counselling, baptizing, and above all, distributing copies of the New Testament from his newly founded Bible Society to all in danger. He went first to the boys in the threatening tanks and handed out 2,000 Bibles with only one soldier refusing, then gave out an equal number to those on the barricades.

A quite different form of entrepreneurship was represented by a sixth and even less-known hero of those 48 hours, Anatoly Petrik. Petrik is the son of a former Soviet ambassador and a private-sector promoter of the rapidly developing information industry, who on the second night of the coup invited me to the party launching his revival of the prerevolutionary Russian Bibliographical Society. In the midst of the already restrained celebration, the junta-controlled TV suddenly came on with the solemn announcement that everyone had to be off the streets by 11 p.m. curfew—in Russian it was the komendantsky chas, the "commandant's hour" which has a more ominous ring than the word curfew. Everyone interpreted this as the necessary preliminary to an attack on the White House. No one said much except that it was time to go; as they left me off at the Hotel, Anatoly said "You must forgive us for having such a strange government" with a mixture of off-hand jauntiness and deep seriousness characteristic of many of the young participants in these events. One of the older women librarians quietly explained to me that they would all be going to the barricades, that it was up to the Russians to stand up to all of this and important that the older generation join the young "since we are the ones who for so long remained silent."

I think you can imagine how I felt saying farewell as they left to gather up what I later learned was a combination of Molotov cocktails and McDonald hamburgers to take to the White House. I did not know that night if I would ever see them or indeed any of my Russian friends again—and was not sure that I would until firm news came the next morning that there had been no attack and that the coup was unravelling and until—yes—the sun came out and they all began appearing at a final reception for the librarians' conference within a suddenly festive Kremlin.

The person I was happiest of all to see that day was my seventh and last hero, an energetic companion for much of my 2½ weeks in Moscow and the true builder of the extraordinary collection that the Library of Congress now has of the public record of these last exciting years in the U.S.S.R.: the head of our Moscow office, Mikhail Levner. He had been publicly threatened just a few weeks before the coup in an ugly antisemitic incident, and the head of the Soviet institution within which Levner runs our office had treated the entire Library of Congress delegation in Moscow to a chilling reception on the morning of the coup after having taken down Gorbachev's picture and privately making clear to me his support for the junta.

After a busy schedule of calls with me, Levner quietly headed off for his own stand in the rain at the barricades as I should have known he would—wearing a bright Library of Congress T-shirt and collecting leaflets and broadsides all the while for our collections even as he formed part of the human wall. "I did it," he later explained quietly to me "for our motherland" using the intimate Russian word rodina; and in that affirmation of patriotism by someone who had not been all that well treated by many who called themselves Russian patriots, I saw a heartening sign that perhaps old animosities could be genuinely transcended with new hope—even the deep split between Christian and Jew. The same thought was expressed by Russian friends after the public funeral ceremony which in a way closed out these great events with music that combined Orthodox Christian and Reformed Jewish religious chants for the two ethnic Russians and the one Jew who had died on the barricades.

These heroic days have given an enormous adrenalin shot of hope and self-confidence to the Russian people.

But the Russians' new emotional commitment to democracy is not accompanied by any real experience with its institutions. The economy continues to deteriorate, more social violence seems likely, and most of those who sympathized with the coup remain in their old positions and may attempt a second takeover some time during the next year or so if the current chaos continues.

The west clearly has an enormous stake in sustaining the new culture of hope and in helping create sustainable, democratic institutions and free market mechanisms in Russia and the other republics. Mikhail Levner's collection of pamphlets and newsletters makes clear that they have already produced an amazing number of the kind of non-governmental institutions (churches, clubs, cooperatives, cultural organizations, independent unions, etc.) that make up the inventive civil society that enables freedom to work. What they most specially need now, in my opinion, is an all-American engagement of private and local organizations both to establish direct links with their counterparts throughout the U.S.S.R. and to increase massively the number of Soviet citizens who come here for short-term living, studying, and working experiences. The adventure of engaging the American people as a whole with the Soviet people as a whole would represent the kind of human response to both their achievement in August and their continuing needs that Russians specially appreciate but have not yet found from the West. It is more effective and less demeaning to bring Russians here to see how they can adapt our institutional arrangements to their needs than to send more of our advisors over there.

Such people-to-people programs will strengthen the democratic and free market forces which are strongest at the grass roots level. Such programs need not be put on hold pending the outcome of domestic political controversies in what used to be the Soviet Union.

Democratization was defeated in China because it had troops but no leaders. Russia now has leaders without troops—but it has a populace thirsting for basic training in building a new type of society. We can help provide it if we begin bringing people from the Soviet Union in something like the thousands we were routinely bringing in every year from China up until the repression in Tiananmen Square. The seven people I have described need to be multiplied into seven or even seventy thousand. But the sad fact is that we have so far not brought over in the entire postwar period as many Russians as we did Chinese in a single peak year of the recent past. Indeed, no major nation in the modern world has had less exposure to America than the Russians.

We have a practical need to launch a truly massive effort in this area because a democratic Russia is the best guarantee that reform will be stabilized and that those Russian missiles still targeted on us will never be used.

The August surge of hope could easily give way to a backlash of despair in the difficult times ahead unless larger numbers of Russians can gain some sense of how democratic and market institutions really work. Although Communism is dead, there could yet be a return of authoritarian forces under some new nativist fascist banner if more of the peoples of the U.S.S.R. are not rapidly brought out of their long isolation from the modern democratic world. We would then risk becoming again the external enemy—in part because we proved unwilling at a critical turning point in history to give more of ourselves to help others practice the ideals we had so long preached.

It seems only fitting in retrospect that my library colleagues and I were witnesses to the drama of last August. The Russian democrats, scores of whom have visited the Library over the past 3 years, see the Library of Congress as a prime example of what freedom means. They realize that for democracy to work in a complex society, it must be knowledge-based—and that open access to knowledge is the only basis for progress.

Our Congress, by creating at the beginning of its life in this new capital the Library of Congress, established the idea that legislation should be linked to learning. The Congress now, through a special Speaker's commission under Representative Martin Frost, has created an important vehicle whereby the Library of Congress is helping build an infrastructure of knowledge and information support for the emerging new parliaments of Eastern Europe.

It is both inspiring and humbling for those of us who sometimes take for granted the freedoms we have to see how much free institutions mean to those who have been denied them. On a radio call-in talk show on Echo Moscow just 2 nights before the coup, I was amazed at how much Russians in the far corners of their country knew about the Library of Congress and shared in the Jeffersonian ideal of progress built on knowledge and achieved through freedom. Our former protagonists seem to have caught a glimpse through their new politics of hope of what we once thought was a distinctively American dream: The belief that, whatever the problems of today, tomorrow can always be better than yesterday.•

HONORING GENESEO AS A NATIONAL HISTORIC LANDMARK

• Mr. D'AMATO. Mr. President, today is a great day; the culmination of hundreds of hours of labor, a labor of love. For today is the day when the Secretary of the Interior, Manuel Lujan presented a special plaque to the mayor of Geneseo designating the Village of Geneseo as a national historic landmark. Two very special people, Jeannette McClellan and Nancy O'Dea have cochaired the Historic Preservation Commission of the Association for the Preservation of Geneseo and had undertaken, with the clerical support of the mayor and village board's office, this arduous process and have been very successful.

It was over 2 years ago when Carolyn Pitts, Architectural Historian for the Department of the Interior, visited Dr. Bertha Lederer and took a tour of Geneseo. Ms. Pitts suggested that a theme study take place in Geneseo. That's how the whole adventure of taking slides of street scenes, updating ownership and other research, and photographing any divergences from the National Register began.

The theme study was referred to the Park Service in March of 1991 and received a resounding approval. From there it was forwarded to the National Park System Advisory Board to the Department of the Interior in Olympia, WA. Here the theme study was approved with a high recommendation on April 24, 1991. On July 17, 1991 it was signed and approved by the Secretary of the Interior, Manuel Lujan.

When you consider that of the 50,000 entries in the national register only 2,000 are national landmarks. And when you consider also that Geneseo has become 1 of 20 National Historic Districts in the United States, then you will join with me, the Secretary of the Interior, and the village of Geneseo in celebrating this great honor.

Many thanks to the mayor, the Association for the Preservation of Geneseo, the Historical Preservation Commission, and the village of Geneseo for their perseverance and persistence in bringing this great day about. Congratulations and best wishes.●

S. 140—FEDERAL PILT PAYMENT

● Mr. McCAIN. Mr. President, I want to express my support for Senate bill 140, a measure to authorize urgently needed increases in Federal payments in lieu of taxes.

The Federal PILT Payment Program was designed to compensate counties for lost property taxes due to the Federal ownership of land. In the West, and in my State of Arizona, where millions of acres are held by the Federal Government, private property is scarce and the tax base is limited. Compensatory revenues are critical so that affected counties may provide basic services.

Although the Federal Government has a clear obligation to pay its fair share, PILT payments have not been increased since the program was established in 1976. Passage of Senate bill 140 will remedy this injustice by authorizing an immediate increase in PILT payments and adjusting the yearly payment to the rate of inflation.

I am happy to be a cosponsor of this legislation and I urge my colleagues to approve the measure without delay.●

UNANIMOUS-CONSENT AGREEMENT—S. 869

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time, prior to sine die adjournment of the 1st session of the 102d Congress, turn to the consideration of calendar No. 180, S. 869, a bill to improve veterans post-traumatic stress programs, and that it be considered under the following time limitations:

There be 30 minutes for debate on the bill and the committee substitute equally divided between the chairman and ranking member, or their designees;

That no motions to recommit be in order; that the only amendments in order, other than the committee substitute, provided that the chairman or his designee has the right to modify the committee-reported substitute, be the following amendments and that they be considered under the time limitations indicated:

Two hours in a Simpson amendment indexing veterans COLA benefits;

One hour on a Simpson amendment striking section 103 of the committee substitute (section 103 providing for priority care of certain combat-theater veterans for post-traumatic stress);

One hour on a Simpson amendment striking section 104 of the committee substitute (section 104 expands readjustment counseling to veterans of World War II, and the Korean conflict);

Twenty minutes on a Riegle amendment authorizing flying of POW/MIA flag at VA Cemeteries;

Further that all of the above listed amendments be first degree amendments;

That all time be equally divided in the usual form;

That once S. 869 has been read a third time, the Senate then proceed to Calendar No. 140, H.R. 2280, the House companion, that all after the enacting clause be stricken and the text of S. 869, as amended, be inserted in lieu thereof, that the bill be advanced to third reading and the Senate then vote on final passage of the bill; that upon disposition of H.R. 2280, S. 869 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That the Majority Leader, after consultation with the Republican Leader, may at any time, prior to the sine die adjournment of the First Session of the 102d Congress, turn to the consideration of S. 869, a Bill to Improve Veterans Post-Traumatic Stress Programs, and that there be 30 minutes for debate on the bill and the committee substitute, to be equally divided and controlled between the Chairman and Ranking Member, or their designees.

Ordered further, That the only amendments in order, other than the committee substitute, providing the Chairman or his designee has the right to modify the committee-reported substitute, are those that follow, to be considered under the time limits as noted:

Simpson amendment, indexing veterans cola benefits, 2 hours;

Simpson amendment, striking sec. 103 of the committee substitute (which provides for priority care of certain combat-theater veterans for post traumatic stress), one hour;

Simpson amendment, striking sec. 104 of the committee substitute (which expands readjustment counseling to veterans of World War II and the Korean Conflict), one hour;

Riegle amendment, authorizing flying of POW/MIA flag at VA cemeteries, 20 minutes;

Ordered further, That all of the above listed amendments be first degree amendments.

Ordered further, That all time be equally divided in the usual form.

Ordered further, That no motions to recommit be in order.

Ordered further, That once S. 869 has been read a third time, the Senate then proceed to H.R. 2280, the House companion, that all after the enacting clause be stricken and the text of S. 869, as amended, be inserted in lieu thereof, that the bill be advanced to third reading, and the Senate then vote on final passage of the bill.

Ordered further, That upon disposition of H.R. 2280, S. 869 be indefinitely postponed.

NATIONAL ELLIS ISLAND DAY; YEAR OF THE GULF OF MEXICO

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged, en bloc, from further consideration of the following joint resolutions: House Joint Resolution 130, designating January 1, 1992, as "National Ellis Island Day"; and House Joint Resolution 327, designating 1992 as the "Year of the Gulf of Mexico"; and that the Senate then proceed, en bloc, to their immediate consideration; that the joint resolutions be deemed read three times and passed and the motion to reconsider be laid upon the table, en bloc; and that the preambles be agreed to; further that the consideration of these resolutions appear individually in the RECORD; and that any statements appear in the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions (H.J. Res. 130 and H.J. Res. 327) were deemed read three times and passed.

The preambles were agreed to.

Mr. COCHRAN. Mr. President, I would like to commend my colleagues on the passage of Senate Joint Resolution 194 which designates 1992 as the "Year of the Gulf."

This joint resolution brings recognition to the activities which are planned in 1992 to celebrate the Gulf of Mexico and enhance its contributions to the Nation. The gulf deserves recognition for its economic and recreational importance. It is a national treasure being not only one of the most valuable fisheries but also providing critical habitat for 75 percent of the migratory waterfowl in the U.S., tourism, oil and gas development, and ports provide significant economic benefits to the Nation.

However, the gulf is also experiencing the impact of water pollution. Fishing and recreation have been impaired due to growing dead zones, areas deficient of oxygen. Approximately 3.4

million acres of the shellfish-growing areas along the Gulf of Mexico have been conditionally or permanently closed. The closing of these areas are due in part to the increase in population and development along the coast.

Protection of the gulf is now underway through the Gulf of Mexico Program. Through this program, a strategy has been developed and is being implemented to manage and protect the resources of the gulf. This program encompasses participation from Federal agencies, State agencies, research institutions, and private citizens. The Environmental Protection Agency's Gulf of Mexico Program office, located at the Stennis Space Center in Mississippi, is continually working to coordinate and organize environmental activities to preserve the gulf.

Mr. GRAMM. Mr. President, I am pleased that the Senate has approved Senate Joint Resolution 194, a joint resolution which designates 1992 as the "Year of the Gulf of Mexico."

The joint resolution was introduced several weeks ago by me and Senators GRAHAM, COCHRAN, JOHNSTON, LOTT, and MACK. Since that time, many of our colleagues have joined us in this effort to draw attention to the significant economic, environmental and recreational resources of the Gulf of Mexico.

The gulf is truly a national treasure and well deserves the best stewardship efforts of the people of our Nation.

There have been disturbing signs of potential, long-term damage to the gulf, affecting those who depend on it for everything from jobs to recreation. Clearly, it is time to focus our collective resources on the gulf in an effort to insure that we act in a timely fashion to protect and preserve this unique, natural treasure.

In other legislation which I have introduced with a number of my colleagues, we have proposed that the Environmental Protection Agency develop a comprehensive gulf conservation and management plan. This proposal would authorize a grant program to the States which agree to implement recommendations contained in the gulf plan. It also proposes cooperative agreements with the Government of Mexico in an effort to insure international cooperation with the gulf initiative.

Passage of Senate Joint Resolution 194 and the designation of 1992 as the Year of the Gulf of Mexico would be an important first step in drawing the attention of our Nation to the need for action to protect America's sea.

MEASURES INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 190, SENATE JOINT RESOLUTION 194

Mr. MITCHELL. I now ask unanimous consent that the Judiciary Committee be discharged, en bloc, from consideration of Senate Joint Resolution 190, and Senate Joint Resolution 194, Senate companions to the above House Joint Resolutions, and that the Senate measures then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

STOP WORRYING ABOUT THE WRONG NUMBERS

Mr. DOLE. Mr. President, it was back on July 11 when this body responded a bit belatedly to President Bush's 100-day challenge, and passed tough anticrime legislation.

The bill included the first-ever comprehensive Federal death penalty. It included a reform of habeas corpus, which would restore some much-needed confidence in our courts. And, yes, it included a waiting period for handgun purchases.

The House has responded with a bill that, in this Senator's viewpoint, is weaker in many instances, and stronger in a few instances—especially in reform of the exclusionary rule.

And now, it is up for a conference committee to iron out the disagreements, and to send us the tough bill America's law-abiding citizens want and deserve.

But while the American people worry about the number of criminals walking the street, my friends on the other side of the aisle seem to be more worried about the number of Democrats and Republicans on the conference committee.

There are, of course, eight Democrats and six Republicans on the Senate Judiciary Committee. Senator THURMOND, the ranking Republican, has suggested that the Senate conference committee be comprised of half those numbers—four Democrats, and three Republicans.

Or Senator THURMOND has suggested, why not appoint the whole committee as conferees—eight and six.

The chairman of the Judiciary Committee insists the only good conference committee is one comprised of five Democrats and three Republicans.

Mr. President, I am not certain when we are going to adjourn this year; if we are going to adjourn this weekend or sometime next week. It is probably unreasonable to suggest with all the differences between the House and Senate bill, that a conference could be concluded. But it would be my hope, because of the experience we have had with the House in past conferences, that we make certain we protect the Senate's provision.

And I suggest, the distinguished Senator from South Carolina, having advanced two proposals that are fair, and I hope that we could choose one of these suggestions by Senator THURMOND and to conference on this bill, even those we might not complete action before final adjournment.

Mr. President, we have played this game before.

Last session, we passed solid anticrime legislation, only to have the conference committee strip the meat from the bill, and leave nothing but the bones. And I know there are those who would like nothing more than to send the President a watered-down bill that he will not sign.

Mr. President, Senator THURMOND has advanced two proposals that every Senator in this Chamber knows are fair. It is time to choose one and to send the message that the safety of the American public is more important than partisan political squabbling.

Mr. MITCHELL. Mr. President, I share the view expressed by the distinguished Republican leader that we be able to complete action on the crime bill in this session, but I must confess that does not appear likely for a variety of reasons, not all of which are related.

As the distinguished Republican leader may know, earlier today our friend and colleague, Senator SYMMS, spoke on the Senate floor, and obviously what he said is a matter of record. But I understand he described this as not an anticrime, but a procrime bill, and said he would do all he could to keep it from going to conference in this session. He has the right to object, and he has indicated he will do so.

On the question of conferees, we have had a number of exchanges, and I really do not want to prolong it, except I want to put in the RECORD that there have been two crime bill conferences in the past decade.

In 1982, at which time there were 53 Republicans and 47 Democrats in the Senate, there were then 8 conferees: five Republicans and three Democrats. In 1990, at which time there were 55 Democrats and 45 Republicans, there were then eight conferees: five Democrats and three Republicans. Now, there are 57 Democrats and 43 Republicans, and what Senator BIDEN has proposed is 8 conferees: 5 Democrats and 3 Republicans. That is the same number for the majority and for the minority as occurred in both 1982 and 1990, at which time there were fewer Members in the then-majority than is now the case.

I ask unanimous consent that these documents documenting the facts which I just stated and identifying each of the conferees from the Judiciary Committee and, in the latter case, in 1990, other committees related to other sections of the bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1982 CRIME BILL

Senate conferees on H.R. 3963, the 1982 crime bill that President Reagan pocket vetoed, were:

Democrats: Biden, Kennedy, Leahy.

Republicans: Thurmond, Mathias, Laxalt, Hatch, Dole.

(December 2, 1982; Cong. Rec. S13771.)

1990 CRIME BILL

The Senate appointed the following conferees on H.R. 5269, the 1990 crime bill:

Democrats: Biden, Kennedy, Metzenbaum, DeConcini, Leahy.

Republicans: Thurmond, Hatch, Simpson.

For title XXI of the bill:

Democrats: Riegle, Wirth, Graham, Dodd.

Republicans: D'Amato, Heinz, Bond.

For title XXII, section 2224, of the bill:

Democrats: Riegle, Wirth, Dodd.

Republicans: Heinz, Roth.

For title XXIII:

Democrats: Pell.

Republicans: Helms.

(October 22, 1990; Cong. Rec. S16480.)

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m., Tuesday, November 19; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein, with the following Senators recognized to speak in the order listed: Senator SPECTER for up to 30 minutes; Senators HEFLIN and GRASSLEY for up to 10 minutes each; and with the time until 10 a.m., under the control of the majority leader or his designee; that the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 8:30 A.M.

Mr. MITCHELL. Mr. President, if there is no other business to come before the Senate, I now ask unanimous consent that the Senate stand in recess, as under the previous order.

There being no objection, the Senate, at 7:07 p.m., recessed until Tuesday, November 19, 1991, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 18, 1991:

DEPARTMENT OF STATE

JOHN HUBERT KELLY, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FINLAND.

HOUSE OF REPRESENTATIVES—*Monday, November 18, 1991*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, eternal spirit of love, we ask Your blessing on all the people You have created. We specially give thanks for colleagues and friends who are sensitive to the needs of others and who freely give of their time and affection. We are grateful that people encourage each other in acts of kindness and stand with each other at times of great need. In the silence of our hearts and in the quiet of this prayer we remember these friends and give thanks for their abiding presence in our lives and in the lives of others. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from New York [Ms. MOLINARI] come forward and lead the House in the Pledge of Allegiance.

Ms. MOLINARI led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 161. Concurrent resolution expressing the sense of the Congress that the American public should observe the 100th anniversary of moviemaking.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1724. An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary.

The message also announced that the Senate had passed bills and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson;

S. 1553. An act to establish a program of marriage and family counseling for certain veterans of the Persian Gulf War and the spouses and families of such veterans;

S. 1973. An act to authorize the Secretary of Transportation to transfer a vessel to the City of Warsaw, KY, and

S.J. Res. 232. Joint resolution waiving certain enrollment requirements with respect to the bill H.R. 3575.

The message also announced that, pursuant to Public Law 102-62, the Chair, on behalf of the President pro tempore, appoints Mr. Glenn Walker, of Kansas, to the National Education Commission on Time and Learning.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2038, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992

Mr. SABO. Mr. Speaker, I ask unanimous consent that the managers have until midnight, Monday, November 18, 1991, to file a conference report to accompany the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes.

Mr. Speaker, the minority has been informed of this request and I understand that there is no objection to it.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
November 18, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, November 15, 1991 at 6:57 p.m.: That the Senate passed without amendment, H.R. 3575.

With great respect, I am
Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4, of rule I, the Speaker signed the following enrolled bills on Friday, November 15, 1991:

H.R. 3575. An act to provide a program of emergency unemployment compensation, and for other purposes; and

S. 374. An act to settle all claims of the Aroostook Band of Micmacs resulting from the band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes.

TIME FOR CONGRESS TO LOWER CREDIT CARD INTEREST RATES

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, Vice President QUAYLE has said that if the U.S. Congress moves to lower interest rates on credit cards, that he and the President will make sure it doesn't become law.

The President has said that he wants the market to work rather than legislative action by the U.S. Congress.

Mr. Speaker, I'm holding in my hand a credit card bill from a company charging 29.99-percent interest. It doesn't look like the market is working.

The bankers have said "We're going to cut off half of our credit card holders if Congress reduces interest rates from 20 percent and more, down to 14 percent."

How long—oh, how long do we have to wait until the market works.

How long—oh, how long will it take before the bankers reduce the interest rates from these artificially high levels.

Mr. Speaker, it is time the Congress takes action and sends to the President legislation to lower interest rates on credit cards—a beginning step toward getting the economy moving again.

A POSTAL SERVICE TIME BOMB

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, last week, at the Royal Oak regional post office, five lives were lost in a senseless shooting.

In recent days, I have gotten a number of calls from postal employees around the Nation. In each call the message is the same: Working conditions are awful, and what happened at

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

the Royal Oak Post Office can happen again—and right here.

Today I met with officials of the General Accounting Office. They have agreed to launch a tough investigation of the Postal Service in response to the Royal Oak shootings.

In view of what has happened, there is an even greater need for a bipartisan commission to study the U.S. Postal Service.

More than 100 Members are now cosponsors of my resolution which would create such a commission. I urge those of my fellow Members who are not yet cosponsors to sign on to the resolution today.

ABC WHITE HOUSE REPORTERS BIASED IN REPORTING

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, last Friday "ABC Evening News" reported on the unemployment compensation debate, and that report illustrated clearly how difficult it is for network White House correspondents who have the heady experience of playing tennis with the President to then fairly describe fights between the White House and certain Members of Congress.

On Friday a number of Senators were trying to change the unemployment compensation package to make certain that States like mine got 13 weeks of additional help rather than 6 and that benefits applied to those who had been out of work long term, rather than those who only recently lost coverage.

ABC's Britt Hume duly reported the White House comments, but then dismissed the congressional debate as squabbling.

Mr. Speaker, cynical TV commentators may be bored by such disputes and may blithely dismiss them as squabbling, but what is at stake is whether 150,000 deserving Americans, including thousands from my State, will receive the help they need in tough economic times.

Mr. Hume may dismiss that as being squabbling; I define it as doing our job. It may be squabbling to a comfortable network television reporter, but it is survival to an awful lot of Americans that we represent.

REPEAL THE EARNINGS TEST

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, President Woodrow Wilson once said that the concentration of power preceeds the destruction of human energy. This observation seems particularly appropriate for describing how things work in Congress today. Take for example, the Social Security earnings test, an outdated, discriminatory law left over from the 1930's that puts a cap on how much senior citizens can earn. One study estimated that 700,000 seniors would be working today if not for the severe disincentive of this law.

Incredibly, seniors continue to labor under the restrictions of the earnings test, not because it makes sense, but because of the concentration of powers here in this house. Even though a sizable majority of my colleagues have cosponsored legislation to repeal the law and the Senate has already approved repeal, the House leadership refuses to allow the measure to come up for a vote.

In the coming days, House conferees will have a chance to prove President Wilson wrong, to use their concentrated powers to expand, rather than destroy the earnings potential of seniors. As they negotiate with the Senate, I hope they remember that this country was founded on the principles of fairness, hard work, and self-reliance. Our seniors want nothing more than a fair deal. We owe them that.

STREET NAME FOR HIGH INTEREST RATES: LOAN SHARKING

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, last week the President said interest rates on credit cards are killing our economy. Now the bankers said the President has gone bonkers. Meanwhile, the Secretary of Treasury said all this talk about capping credit card rates is crashing Wall Street.

Let us take a look at this. We put our money in the bank, they give us 5 cents for the deposit; but when they lend the money back to us, they charge us 25 cents.

Mr. Speaker, when this happens on the street, there is a name for it—it is called loan sharking. When you can borrow money cheaper from the Mafia than you can from the banks, something is wrong with our economy.

Mr. Speaker, I say before we have any more quick fixing, we take a look at trade and tax policies. They are sending jobs overseas and wrecking our financial institutions. I think that is where Congress should start.

□ 1210

FEDERAL MANDATES ARE KILLING SMALL BUSINESSES AND JOBS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. IRELAND. Mr. Speaker, last week, the House passed yet another Government mandate on business, the Family and Medical Leave Act.

Now, some of my colleagues argue that this bill isn't much of a burden. In doing so, they completely ignore the cumulative effect of all the laws we pile onto small businesses each year. Taken as a whole, the impact can be devastating.

It is not just mandated leave. It is mandated leave and striker replacement and higher payroll taxes to pay for extended unemployment benefits and mandated health insurance—just to name a few on this year's agenda.

My colleagues, we cannot expect small businesses to solve every problem we face in this country. We cannot expect them to shoulder the cost of compliance for every program that the Government can no longer afford to fund on its own.

I urge Members to listen carefully to what small businesses in their districts are saying about the effect of Government mandates. Because it is easy to say that you are all for small business. But it is how you vote that really counts.

PASSAGE OF SURFACE TRANSPORTATION BILL WILL PROVIDE JOBS FOR AMERICANS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, with America's economy in dangerous decline, the stock market is falling, industry and jobs are being lost to bad trade policy, consumer confidence is at a low ebb, and with the administration and Congress unable to come together with a consensus direction there is at least one bright spot. It is called the Surface Transportation Infrastructure Act of 1991. The House and Senate conferees are now diligently working to try to bring a bill together to bring it to the floor, and this bill is going to upgrade and rebuild America's crumbling transportation system and it is also going to create 2 million new jobs, good jobs for Americans. It will be a big boost for the American economy.

To my colleagues I say, "Get in touch with your friends on the conference committee and talk to them." To all other Americans I say, "Call your Congressmen and your Senators and tell them to get on the stick and let us get this thing passed. We need the bill now and so does America's economy."

SUPPORTING AMERICA'S BUSINESSES WILL CREATE JOBS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, I just returned from Wyoming, where I have talked to a number of business people, and I feel stronger than I did before that what we are doing here is exactly the reverse of what we ought to be doing to create some strength in our economy.

What we are doing is we are causing businessmen to say, "Why should I invest? Why should I risk? There are so many regulations, it makes it so difficult for me to make a profit I am not going to put my money in the business community."

We stand up here day after day and saddle the business community with more and more regulations, more and more restrictions, and we restrict the very engine that causes us to have more things for more people than anywhere else in the world. We seem to forget that that is what has driven this economy and allowed us to do the things that we do, and we continue to hobble it and choke it off.

What happened to the idea of supporting business? What is wrong with profit? What is wrong with incentive and creating jobs so people can work here? Instead, it has been more political for us to select little groups in the economy and do things for them.

Let us release the sector that has given us what we have in the private sector that all the world is patterning after and let it go. That is what we need to do is create jobs.

CREDIT CARD RATE REDUCTION WILL HELP MIDDLE-INCOME TAXPAYERS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, in the next few days the Congress will be asked to bail out the savings and loans and the banks of this country to the tune of tens of billions of dollars on top of the tens of billions of dollars that we have already given to this bailout, and by the middle of this decade we may have spent as much as $400 billion, all of which will be added to the debt of the country and all of which will be disproportionately paid by middle-income taxpayers of this country.

Not only will the middle-income taxpayers have to pay that debt of some $400 billion, but they are asked to pay a disproportionate share of that debt through interest rates on their credit cards. The wealthy of this country will not pay 19 percent and 20 percent to use their Visa card or their Master Card because they in fact will pay off their credit card debt through the use of home equity loans or personal savings. But the middle-class individual that has no ability to pay off those credit card debts will now find because of a lack of competition among the largest credit card issuers in this country that there will be no decline in interest card rates in this country, and as a result of that they will have to make up for all of the criminal activity, all of the bad business judgments, all of the gambling that the savings and loan and the banks did with their savings by having to pay 19 percent on their credit cards.

We ought to pass the D'Amato bill. We ought to index the credit card interest rates to what the Fed is doing. The Fed has lowered the interest rates four times, yet credit card interest rates have not budged from their 20-percent rates.

PRIVATIZATION PROVISIONS OF H.R. 2100

(Mr. MORRISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORRISON. Mr. Speaker, later today the House will consider the conference on defense authorization for fiscal year 1992. Included in the report accompanying the bill is language on the privatization of Department of Energy waste management and environmental restoration programs.

The Energy Department faces a monumental task in cleaning up the legacy of over 40 years of nuclear weapons production. The folks I represent at Hanford welcome this challenge. Great changes are taking place at Hanford and other places as we focus on a new environmental mission.

I'm convinced that privatization of some of this work can help drive down costs to taxpayers and speed up the process. But there's something missing from the report that will have to be a necessary element of any new private sector initiatives: A guarantee of continuity for the working men and women at Hanford and elsewhere.

Mr. Speaker, I applaud the sterling efforts of organized labor in my State to take the lead on this most important aspect of the environmental mission. Working with organized labor, I have attempted to ensure that the labor stability we've worked long and hard for at Hanford is not lost as the mission changes. There simply can be no other way. And the request is simple: We ask that existing labor agreements be honored and enforced where they apply today.

The bottom line is job stability and family survival. We can't change the rules of the game without protecting the working men and women, their families and their communities, from unnecessary disruptions. And we can do our best job only by employing the skills of our dedicated long service work force.

A MESSAGE BORN OF FRUSTRATION, UNEMPLOYMENT, AND ANGER

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, on Saturday the voters of Louisiana delivered a powerful message to America. By a vote of 61 percent to 39 percent, the voters of Louisiana rejected a messenger of nazism and racism. But make no mistake about it, while we rejected the messenger, a clear majority were attracted to the message. It is a message born out of frustration, unemployment, and anger and it is one this Congress and this Nation ought to listen to and heed. It is an irony but it is true. Louisiana last Saturday in its election received more help from Members of this Congress than we have gotten for the past 8 or 9 years of our depression. Our shrimping families are still devastated by environmental policies on TED's. Our workers are still unemployed in the oil patch after 8 or 9 years of depression. That anger and frustration is still there.

Make no mistake about it, there is a David Duke hiding under the sheets in every hometown in America. And if we allow the depression of Louisiana to become the depression of America, beware. The warning signs are up. This race, this battle is not yet over. It can happen to America as it happened in Germany.

We have stopped it for the time being in Louisiana. But we will need your help, and we all need to be aware that it can happen yet in our great country.

CONGRESS MUST REEXAMINE ITS TAX AND SPEND POLICIES

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, the election last Saturday and the message carried by David Duke should demonstrate to Members clearly what this Congress has not done and what the American people think about us in relationship to our policies. In fact, if we listen to virtually every Democrat who is discussing running for Congress today, they almost sound like Republicans in saying that we cannot afford this tax and spend approach. We repeatedly hear that from all of the candidates, regardless of where they come from or what their point is.

I think this Congress is going to have to look at our tax and spend strategy, and I think we are going to have to reexamine the 1986 Tax Code and examine what we can do in this House in a bipartisan way to see whether or not and to what extent we can change the capital gains treatment. Otherwise we are preventing housing from being built, we are preventing business from competing with foreign businesses. We must examine it.

□ 1220

Likewise, we must examine our policy toward taxing the average person's deposit in the bank. There is no excuse for paying taxes on that portion, for interest that is inflation, simply no excuse for it at all.

Why should the Government benefit from its unwise tax-and-spend policies and simultaneously tax the person for a small amount of interest that he receives in the bank for that portion that is allocated or should be allocated for inflation?

INTRODUCTION OF RESOLUTION CALLING FOR COMPREHENSIVE, COORDINATED STRATEGIES TO ATTAIN NATIONAL GOALS

(Mr. THORNTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THORNTON. Mr. Speaker, later today, more than 100 of my colleagues will join me in introducing a resolution calling for comprehensive and coordinated strategies to address the remarkable challenges and opportunities which have been presented by our rapidly changing world. We need to provide leadership and vision to attain our national goals of economic and military strength, as a foundation for remaining the greatest nation in support of human dignity, freedom, and democratic ideals.

Many of my colleagues and I have met frequently to outline strategies that would address our present needs as successfully as those used to rebuild Europe following World War II. Among those who participated in our weekly work groups were several strong members of our freshman class—JIM BACCUS, JOAN KELLY HORN, BILL BREWSTER, TOM ANDREWS, JIM MORAN, and many others.

My colleagues BARBARA-ROSE COLLINS and TIM ROEMER deserve very special recognition for their efforts in moving this resolution forward.

I would also like to acknowledge the contribution of my uncle, Witt Stephens, who in the summer of 1989 suggested that my campaign for Congress might consider the importance of forging partnerships between the public and private sectors to rebuild our infrastructure; to provide education and training to our citizens and work force; and to become more competitive in providing jobs and opportunities for people. He suggested that such a strategy was the only way we could tackle the problems of poverty and hopelessness, which have led to alienation, drug abuse, and crime.

With the fall of the Berlin Wall a few months later, our Nation was presented an historic moment in time which called for a redirection and refocusing of our resources to meet the challenges of a rapidly changing world. I began to advocate a Marshall Plan for America, a comprehensive and dynamic strategy to make our Nation strong at home.

I believe this House has an extraordinary opportunity to provide the vision and leadership which today's resolution calls for. Mr. Speaker, I sincerely request that the resolution be brought up for consideration by the House at the earliest moment possible.

INTRODUCTION OF THE REAL ESTATE RECOVERY ACT OF 1991

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, no doctor in America would consider providing continuous blood transfusions to a patient without eventually sewing up the wound. Yet, that is exactly what this Congress will be asked to do later this week when we will consider providing anywhere from $20 billion to $80 billion in new capital for the Resolution Trust Corporation. That without getting at the real disease, only treating the symptoms.

I suggest to you that it is throwing more money down a rathole after the $150 billion of taxpayer funds we have already sent into that black box.

Therefore, I and a number of my colleagues will be introducing today legislation known as the Real Estate Recovery Act of 1991, and we will tie that whole package to recapitalization of the Resolution Trust Corporation. The intent is to restore value to devalued residential and commercial real estate in this country. It is to provide incentives for banks to make residential loans and to give individuals the ability to obtain residential home mortgage loans. It is to prevent the Government from continuing to dump acquired property through FDIC or RTC onto the market at less than 70 cents for the dollar in terms of value, and in the process destroying the integrity and value of every residential home mortgage and every loan portfolio in this country.

If this Congress wants to get this economy moving and if we want to save the taxpayers the money that is going through the rathole of the RTC today, we ought to pass this comprehensive package this week or pass nothing at all.

THE BANKS ARE ROBBING THE PEOPLE

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Speaker, tell me I am wrong, but the world is upside down, and the whole country is standing on its head.

The President comes off the golf course, and he tells us there is no recession, the economy is just sluggish. Look out the window, he is right: hundreds of thousands of people are up to their esophagus in slugs.

The President comes off of his boat to tell us prosperity is just around the corner, do not worry, go shopping. You try to buy a winter coat, and the credit card company wants 21 percent.

I remember in Brooklyn, Vito went to jail for charging 20 percent. Now look what is happening. The people are crying, so the President, in a kind and gentle way, whispers to the banks, "Cut the consumer interest rates." Now what happens? The Congress makes a mistake, a huge mistake, and it thinks the President meant what he said, so it reads his lips and it says, "Lower the consumer interest rates."

Now, the banks start crying, and the President sees the error in his ways, because it is so hard to borrow money and to mark it up 20 percent, so the President goes out, and what does he do, he invokes the name of Vito. You thought Vito was in jail? No, Vito is not in jail. Vito is alive and well in the White House. He is in the same business as the President.

Mr. Speaker, the world is upside down. Call the sheriff. The banks are robbing the people.

INTRODUCTION OF IDEA: INCOME-DEPENDENT EDUCATIONAL ASSISTANCE

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Members of the House, it is no secret that the huge deficit facing our country has a lot to do with the dampening of its economy in stopping productivity in our Nation.

But when you add to it the scandal of student loans that have remained unpaid for so long, perhaps 3 billion dollars' worth of unpaid student loans, then you can understand the massive problem that we have in our Nation.

What we intend to do, many of us, is to support the legislation that has been introduced by the gentleman from Wisconsin [Mr. PETRI] called IDEA, income-dependent educational assistance, whereby, when a student loan is advanced and that individual finishes education and begins taking part in the economy of our country as a professional, that through the IRS collection methodology that student loan will be paid back as part of the income tax return. That is a good idea, and we ought to be supporting it.

We will be fostering student loans and protecting the taxpayers perhaps to the tune of $1 billion per year and guaranteeing that the loans will be repaid.

CONGRESS MUST GUARANTEE HEALTH CARE FOR ALL

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, on Friday I was in the home of Jeremy, a 10-year-old boy with juvenile rheumatoid arthritis from Charles Town in Jefferson County, WV. He was 3 when he first got sick.

Since his father had just started a new job, they had no health insurance. At the family clinic, the doctor said that he usually put children this sick in the hospital, but he knew that they could not afford it, so he had them come to his office every day.

When Jeremy was in the first grade, he was hospitalized for pneumonia complicated by the medications he was taking. His medical bills were $15,000 that year while the family income was $18,000.

The family could not afford insurance, and the small company that his father worked for could not provide coverage. Insurance was so important, health insurance, that his father took a 20-percent pay cut to get a new job that did have insurance, but because the company has had to change carriers twice in the last 2 years, you guessed it, the new policies do not cover preexisting illnesses for the first year, and that means that for the last 2 years Jeremy has been without insurance coverage.

Now, the premiums have skyrocketed, the benefits have plummeted, and the company must look again for a new health insurance carrier. That means another year of no coverage for Jeremy.

Mr. Speaker, how many more years must Jeremy wait for medical coverage? The time is now for this Congress and this administration to take action and guarantee access to health care for Jeremy and all U.S. citizens.

DOONESBURY ATTACKS ARE McCARTHYISM

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, I rise today to praise the Columbus Dispatch and the Dayton Daily News for their decision not to run the current series of Doonesbury comic strips slandering the Vice President of the United States. I believe that this was the only responsible course to take under the circumstances.

Mr. Speaker, I am disappointed that two other major daily newspapers in the State, the Toledo Blade and the Cleveland Plain Dealer, have chosen, in my estimation irresponsibly, to run that strip.

Mr. Speaker, Gary Trudeau expects to be taken seriously as a social commentator and political satirist. However, his latest effort to malign the administration and the Vice President, who I remind you is presiding officer of the other body, should be rejected for its dishonesty and maliciousness.

Of course, Quayle-bashing by the political cartoonists and the rest of the establishment media is nothing new, but this harassment represents a new low.

To impugn the character of a man through personal attacks and the indiscriminate use of unsubstantiated allegations is McCarthyism by definition. Finally, relying on the old thoroughly discredited accusations of an admitted drug felon demonstrates an utter lack of imagination. It is mean-spirited, it is McCarthyist, and it is not amusing.

TIME TO REAFFIRM PEACE AND DEMOCRACY IN YUGOSLAVIA

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the American people and people around the world are justifiably horrified when they see Serbian troops of the Yugoslavian Army fighting its way through the rubble in Vukovar and see the continuing destruction of Dubrovnik, an ancient city that is peopled by individuals, by citizens, by corporations who want nothing more than to live in peace and harmony and to live in democracy and to have their own destiny in their hands, yet they are suffering a genocidal attack by the Serbian armed forces, officially the Yugoslavian Army. This bloodletting was set in motion by a speech by the Secretary of State.

This is what happens when the United States sides with stability over freedom. We get neither stability nor freedom. That is what happens when we make deals with the Communist Chinese, give them most-favored-nation status after they have slaughtered their own people in Tiananmen Square. We do not get stability. We do not get freedom.

Mr. Speaker, it is about time that this administration and this Congress and the United States reconfirm itself to its fundamental principles of democracy and freedom, not only for the American people, but for people everywhere, and then we really will have a new world order and peace and stability will be at hand.

GEN. COLIN POWELL REAFFIRMS U.S. COMMITMENT TO ASIA

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, there is an alarming disclosure this morning from Tokyo. The Chairman of the Joint Chiefs of Staff, Colin Powell, has announced that despite budget cutbacks at the end of the cold war, the United States will maintain its military commitment to the defense of Japan.

In a meeting with the Defense Minister, Mr. Miyashita, General Powell said that though events had changed across the world, the United States would still maintain its defense commitment in Asia.

The people of the United States should be aware of the fact that for every $5 spent by American taxpayers for our Nation's defense, the Japanese citizen spends $1. The difference in that amount being spent by each citizen is invested in Japan in their own nation, in its schools, in its manufacturing capacity, and could account, at least partially, for the fact that Japan is emerging as one of the economic superpowers of the world.

Over the last decade, the United States taxpayers have spent almost $40 billion to defend Japan. Over 50,000 American troops are stationed in Japan for its defense.

I would have to say to the administration and to General Powell, not only is the cold war over, but World War II is over as well.

We can and should maintain our alliances in Europe and Asia, but the United States taxpayers can no longer afford to underwrite the defense of the world. Protecting Japan with United States servicemen may be important to President Bush, but protecting American families and taxpayers should be more important.

THE CREDIT CARD CRUNCH

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, in response to the gentleman who spoke just before me, I think what we want to do on the 50th anniversary of Pearl Harbor is propose the rearming of Japan.

I am sometimes astounded by what I hear in the House.

Mr. Speaker, I am also astounded by some of our colleagues who suggested today that what we ought to do is proceed with the credit card interest legislation. They have to be blind to the damage that has already been done and that which will be done.

First, middle-class Americans will be the big losers. About 70 million of them are going to lose their access to credit cards and their access to credit.

Second, the banks will be decapitalized by billions of dollars, meaning a greater likelihood of financial collapse and more taxpayer bailouts.

The stock market looked at this crazy idea last week and promptly suffered its fifth largest drop in history.

We are in a major economic problem. We have major economic troubles in this country. The gang that could not bank straight here in the Congress now wants to tell the other banks in the country how to mismanage their affairs.

The credit card legislation should be pulled off our calender before more damage is done, that is unless, of course, the real goal in all this is to utterly destroy the Nation's economy.

THE CRIME BILL IS NOT MAGIC BULLET

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, even though it seems like only yesterday, it has already been four weeks since we passed H.R. 3371, the Omnibus Crime Control Act of 1991. It was not an easy task for either the committee on the judiciary or the full House to arrive at that point. H.R. 3371 is the product of almost two dozen days of hearings on the issues involved in that bill. The committee drew on that hearing record as well as on its work during previous congresses in order to fashion its provisions. Then, during four days of markup on H.R. 3371 in September, the committee considered over 100 amendments and adopted 60 of them. Finally, the full membership devoted 14 hours of its valuable time over 3 days in order to produce the final version of H.R. 3371.

Mr. Speaker, as the Members know, the other body earlier this year completed action on an equally ambitious crime bill. Normally, the next step in this process would be for the two chambers to appoint conferees and meet to reconcile the differences in the two bills. Speaking for myself, I must say that nothing would make me happier than to be doing just that right now. But, regrettably, we are not, and the reason for that is simple: Under parliamentary procedure, it is the responsibility of the other body to initiate the naming of conferees, and Members of the minority of the other body have blocked efforts to do so.

Mr. Speaker, the President says he wants a crime bill and I'll take him at his work. But if he is truly interested in getting a piece of legislation on his desk, he ought to pick up the phone and call some of his soldiers in the other body and tell them to stop their obstructionist tactics. So far, he's been content to make speeches at fundraisers blasting the Democrats for not jumping on the crime bill wagon. Well, that wagon has no wheels and the vandals seem to be wearing sweatshirts bearing the image of an elephant.

Mr. Speaker, as much as I believe that enactment of a crime bill would be a valuable step for us to take, I would like to warn against overselling the product. The truth of the matter is that, no matter how tough or comprehensive the crime legislation is that we pass, it will not be a panacea. Anyone who suggests that just passing another Federal law is going to arrest our national crime wave by itself, is fooling the public. The simple fact is that according to the Department of Justice's Bureau of Justice statistics, 95 percent of our serious crime cases are handled in State courts. H.R. 3371 may help us make a dent on those 5 percent or criminal cases that are the responsibility of the Federal criminal justice system. But, it is no magic bullet.

GARY TRUDEAU COMIC STRIP: A CHEAP SHOT

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, I am a great believer in untrammeled free expression of controversial ideas. But I think some care has to be given to the appropriateness of the forum.

Mr. Speaker, Gary Trudeau's attacks on the Vice President, in my judgment, are a misuse of public debate. A comic strip is no place to be making serious charges. We the public are in no position to evaluate it, no evidence can be presented. One need not be in agreement with the Vice President's political position to be unhappy with the use of a comic strip in a very irresponsible and unfair manner to impugn his integrity.

If Trudeau has any evidence that should be presented in an appropriate forum, let us see it. But using a comic strip in this fashion is a cheap shot and does not deserve to be continued.

UPDATE ON THE SITUATION IN YUGOSLAVIA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, Congressman CHRIS SMITH and I visited Yugoslavia in the first week of September. We were in Vulovar, which was under attack at that time and is now a city that, if it has not already fallen, is now falling. I would hope that the administration would speak out personally, not with the State Department spokesman, but the President, personally condemning what is taking place in Yugoslavia; second, demanding that the Yugoslavian Army return to the barracks; third, appointing a special envoy not from the United Nations but from the U.S. Government, perhaps under Secretary Eagleburger, to go to Zagreb, go to Belgrade, to negotiate a peace, a cease-fire whereby these deaths stop.

In Dubrovnik, there was a boat that took out women, children and elderly people, and some died on the boat.

What is happening in Yugoslavia is a disgrace. Dubrovnik has no military purpose to it, yet the Yugoslavian Army shells it.

I would hope and pray that the administration today would send an envoy speaking for the President to go to both Belgrade and Zagreb and negotiate a cease-fire.

FRIDAY'S STOCK MARKET DROP

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, last Friday, the stock market dropped 120 points, it's fifth largest drop in history.

This morning, the market appears to be rebounding slightly.

So what caused this seesaw movement in the market? Did Wall Street panic when Washington started talking about capping the usurious credit card interest rates being charged to consumers?

The answer is "No." While nervousness over a credit card cap might explain the decline in bank stocks, blaming the credit card proposal for the 120 point stock market drop is like saying that 2 plus 2 equals 22. It just doesn't add up.

The credit card explanation can't account for Friday's broad-based drop in biotechnology, pharmaceutical and transportation stocks. While the big banks may cynically invoke Friday's market drop in order to head off congressional action on the credit card proposal, this body should be under no illusion that reigning in excessive credit card interest rates will trigger a market crash.

Investigations of the 1987 and 1989 market drops, discovered that stock declines resulted from underlying macroeconomic conditions. We also learned that adverse short-term factors are often exacerbated by mechanical factors related to the operation of the markets which artificially increase volatility—turning a market decline into a potential free fall.

Such mechanical factors may well have come into play last Friday. Friday was a double witching day on which certain stock index derivative products expire at the close, a fact which historically increases market volatility. That's why I have been urging a change to opening-price settlement for years.

But while short-term and mechanical factors are important, we must also recognize that the underlying cause of Friday's market plunge was a painful jolt of realization in our financial markets that the Bush recession is far from over. Wall Street bears concluded that the Bush administration's rosy recovery scenario was mostly bull.

WE NEED A NEW DEPARTMENT OF THE ENVIRONMENT

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, the United States stands alone among developed nations in the world in not having a Cabinet-level or ministerial-level department of the environment.

Clearly, the American people have told us repeatedly that the environment is one of their major concerns. They want, and so does Congress on a bipartisan basis, a Cabinet-level department of the environment.

Mr. Speaker, we are this close to having it now. After months and months of hard work and negotiation on a bipartisan basis, the Senate has passed the Glenn-Roth bill. Now it is up to the House to act.

Mr. Speaker, I would urge the chairman of the Committee on Government Operations to heed the call of a broad bipartisan consensus in this House and bring to the floor for immediate consideration legislation to elevate the Environmental Protection Agency to Cabinet-level status.

Mr. Speaker, the American people desire it, and they deserve it.

ONCE AGAIN THE CHINESE GOVERNMENT HAS STIFFED THE UNITED STATES

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, despite the best efforts of Secretary of State Baker, once again the Chinese Government has stiffed the United States. Secretary Baker's trip has been a failure. He comes back with nothing.

Mr. Speaker, this means that we cannot give the President a blank check on foreign policy toward China. What did we want? We wanted the Chinese to give us some concessions on human rights, to release the 800 or so prisoners from Tiananmen Square. What did we get? Nothing.

We wanted restraint from the Chinese in their missile sales to Iran and Syria. What did we get? Just words.

Mr. Speaker, we cannot continue to give the Chinese MFN status, treat them like a friend, give them consultation on issues relating to the Soviet Union and Cambodia, and yet they continue once again to stiff us.

Mr. Speaker, the Chinese leadership is laughing at the United States and the Congress today. Mr. Speaker, we cannot continue to give a blank check to President Bush on his foreign policy toward China.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the end of legislative business today.

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RECOGNIZING THE CONGRESSIONAL HIGH SCHOOL ART COMPETITION

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 201) expressing the sense of the House of Representatives that the people of the United States should recognize "An Artistic Discovery", the congressional high school art competition.

The Clerk read as follows:

H. RES. 201

Whereas the arts embody the soul of our national heritage and successfully blend the vast array of our Nation's diverse cultures and experiences into a living representation of our national identity;

Whereas since 1982 the Congressional High School Art Competition has successfully displayed the art work of talented high school students in the Capitol corridor, symbolizing our Nation's youthful artistic energy and passion;

Whereas this annual event focuses the House of Representatives' attention on the great reservoir of artistically-talented young people throughout the United States, and brings together Members of Congress and their younger constituents to share a deeper appreciation of the importance of artistic expression;

Whereas this event captures the imagination and creativity of young Americans and provides Members of Congress and the public the opportunity to witness the contemporary concerns of these young artists;

Whereas this event symbolizes the combined efforts of art educators, Congressional offices, local business, and most importantly students and their families, in running a successful art contest;

Whereas this competition demonstrates the importance of the arts in family life by encouraging students and their families to work together, and enabling family members to participate in the opening ceremonies in Washington, D.C.;

Whereas since 1982 more than 375,000 high school students have participated in over 2,500 locally-run competition, and for many students this is their 1st opportunity to publicly exhibit their work;

Whereas businesses work with Congressional staff to enhance and promote the success of local competitions, and in many cases such businesses help to bring the winning students with their parents to the Washington D.C. unveiling;

Whereas the winning art entries create a colorful panorama in the Capitol corridor for Members of Congress, staff and thousands of visitors, illustrating our Nation's diversity in a building which is symbolic of our unity;

Whereas the support which students gain through Congressional recognition and final approval by the Architect of and Capitol and renowned curators may encourage them, to develop their talents and to pursue further arts-related endeavors; and

Whereas the Congressional Arts Caucus highlights the many positive and educational aspects of the arts through the Congressional High School Art Competition: Now, therefore, be it

Resolved, That is the sense of the House of Representatives that the people of the United States should recognize—

(1) the 10th anniversary of "An Artistic Discovery", the Congressional High School Art Competition, and

(2) the success of such Competition in—

(A) encouraging the creative endeavors of our Nation's young artists, and

(B) forging strong working relationships among the Congress, businesses, and arts community towards the ultimate goal of providing opportunities for high school students to express their artistic talents.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentlewoman from New York [Ms. MOLINARI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 201 introduced by the gentleman from New York [Mr. WEISS] pays tribute to the 101th anniversary of "An Artistic Discovery," the congressional high school arts competition.

Every year Members of Congress sponsor high school art competitions in their districts, and the winners of these competitions have their work displayed for 1 year in the Cannon corridor leading to the Capitol.

These works of art exemplify some of the greatest achievements by young artists today.

Over the past 10 years, 375,000 high school students have participated in over 2,500 locally run art competitions.

As a former teacher, and as chairman of the Elementary, Secondary, and Vocational Education Subcommittee, I strongly support activities designed to encourage our youth and help them realize their full potential.

This competition does this by nurturing a new generation of talent through much deserved public recognition.

The competition has always enjoyed strong bipartisan support and I know of no objection to the resolution.

I reserve the balance of my time.

Ms. MOLINARI. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I also rise today in support of House Resolution 201, expressing the sense of the House of Representatives that the people of the

United States recognizes the congressional high school art competition as "An Artistic Discovery."

Since the first competition in 1982, 375,000 students from across our great Nation have competed for the honor of having their artwork hung in the Cannon corridor leading to the Capitol—to be viewed by Members of Congress, staff, and thousands of visitors who come to Washington every year.

As a member of the Congressional Arts Caucus and someone interested in education, I would like to believe that many of these young people, encouraged by the recognition they receive through participation, will eventually pursue careers in the arts.

Mr. Speaker, when we talk of educational reform, we often forget the arts—and this is a mistake. In every school across the United States there are students who have difficulty in school, who find math, English, and science problematic. Yet, these same students have an opportunity to shine through their participation in art classes. The feeling of self-esteem gained through success in this one class can provide these students with the motivation to keep on trying in other classes where they do not feel as confident.

I use this example to illustrate the importance of art in a student's broad educational experience. The competition we honor here today pays tribute to students, their parents and art instructors in this country and provides them with an incentive to continue their efforts. By holding this competition each year, we are not only providing students with a place to display their artwork, we are supporting education.

I urge any of my colleagues who have not taken the time to walk the Cannon corridor and view the wonderful works of art produced by these students to do so. It is certainly "An Artistic Discovery."

PASSAGE OF RESOLUTION RECOGNIZING "AN ARTISTIC DISCOVERY," THE CONGRESSIONAL HIGH SCHOOL ART COMPETITION

Mr. WEISS. Mr. Speaker, today the House will pay tribute to a truly unique activity of Congress on behalf of the arts by passing House Resolution 201, a resolution recognizing "An Artistic Discovery"—the Congressional art competition for high school students.

For what has now been 10 years, Members of Congress have held local art competitions for high school students in their districts and have brought these winning works back to Washington to be displayed in the Cannon corridor leading to the Capitol. This past year, nearly 250 Members participated. Since the competition's start in 1982, more than 375,000 high school students have participated in over 2,500 local art competitions. Preparations for the 11th annual competition are already underway in many districts, and we expect next year's competition and exhibition to be greater than ever.

While the competition helps to ensure that Members, staff, and thousands of visitors will enjoy viewing the extraordinary works created each year by young artists, congressional support for this activity has meant a great deal more. By sponsoring these local art competitions, Congress as an institution has shown its support for the arts throughout the Nation and has fostered a greater understanding of education in the arts. Individual Members have learned a great deal about arts activities within their districts—especially for young people—and have joined with local educators, businesses, school administrators, local artists, and families in executing successful competitions.

But most importantly, through "An Artistic Discovery," Congress has played a direct role in fostering the vitality of our national culture and in nurturing a new generation of artists. The opportunity for young artists to publicly display their work—particularly within the U.S. Capitol—can help to give the support and recognition needed for further development of their talents.

While the students gain much from participating in "An Artistic Discovery," I cannot help but feel that we who view the works gain the most. We gain an insight into the hearts and minds of high school students in every corner of the country. But, moreover, we learn more about our own culture and about our own humanity by experiencing the vision, passion, and emotion expressed by these young artists.

By passing this resolution, Congress will once again prove its commitment to this wonderful, bipartisan project and, in so doing, will demonstrate its support for the artistic education and achievement of young people throughout the Nation.

Mr. GOODLING. Mr. Speaker, I rise in support of House Resolution 102, expressing the sense of the House of Representatives that people of the United States should recognize "An Artistic Discovery," the congressional high school art competition.

For many years I have participated in the congressional art competition and have been truly impressed by the fine quality of artwork produced by my young constituents. In fact, their work is so good that I hang the paintings produced by the three runners up in my front office, where they often receive compliments from visitors.

As a former educator, I believe art is an important component in any child's education, tapping into their creative nature and providing them with a manner of expressing themselves that often cannot be duplicated in other classes. I, therefore, believe it is important for us to support the arts—and to support this contest.

I urge my colleagues to support House Resolution 201. By doing so, we are letting these students, their teachers, and parents know their efforts are appreciated.

Mr. RITTER. Mr. Speaker, I rise today to express my support for House Resolution 201, and offer my appreciation to the Baum School of Art, in my district, for its participation in the Artistic Discovery competition for the past 10 years.

As a board member of the Baum School of Art, and the honorary chairman of their annual Artistic Discovery competition, I am continually impressed at the level of artistry and creative spirit that our young people have achieved.

I would like to commend the Lehigh Valley High School art teachers who have done a remarkable job in cultivating the talent and encouraging the artistic desire of our young people. And, I applaud the judges involved in the competition, who as artists in their own right, have set a standard of excellence in the world of art. And, of course the participating students, many of whom have gone on to creative careers and achievements in the arts, deserve commendation.

I would also like to give my personal thanks to Rose and Rudy Ackerman, whose yeoman efforts over the years have made the Baum School of Art an educational facility second to none.

Their splendid new quarters on 5th and Linden, in downtown Allentown, reflects the commitment on the part of the Lehigh Valley community to giving the students and teachers the best possible learning environment.

Ms. MOLINARI. Mr. Speaker, I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and agree to the resolution, House Resolution 201.

The question was taken; and, two-thirds having voted in favor thereof, the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 201, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LIBRARY REPRODUCTION REPORTING REQUIREMENTS

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1612) to amend section 108 of title 17, United States Code to eliminate the library reproduction reporting requirement.

The Clerk read as follows:

H.R. 1612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 108 of title 17, United States Code, is amended by striking subsection (i).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1612 eliminates the present library reproduction reporting requirement under section 108(i) of the Copyright Act. In passing the general revision of the copyright laws in 1976, Congress added a requirement of a recurring 5-year report to the library reproduction provisions of the Copyright Act. This was included as a mechanism for Congress to assess whether an appropriate balance between the rights of creators and the needs of library users had been struck in enacting section 108 of the Copyright Act.

The recurring report mechanism of section 108 has fulfilled its purpose of informing Congress about the practical operation of the library reproduction provisions and the experience of copyright owners and users under the law. Since the desired statutory balance has been achieved, Congress can dispense with further automatic reports—and save the taxpayers' money—by eliminating that automatic reporting requirement.

Mr. HUGHES, who chairs the Subcommittee on Intellectual Property and Judicial Administration, and Mr. MOORHEAD, the ranking minority member, deserve credit for bringing this bill forward. I urge the Members to support H.R. 1612.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend our subcommittee chairman, the gentleman from New Jersey [Mr. HUGHES] for his hard work and guidance in the copyright area. I would also like to thank and commend the chairman of our full committee, the gentleman from Texas [Mr. BROOKS] and our ranking Republican member, the gentleman from New York [Mr. FISH] for their effort and support of the work of our subcommittee. In 1976, we were not sure how the new copyright law was going to affect copyright owners and the needs of libraries and other users. So we directed the Register of Copyrights to monitor our intended statutory balancing of the rights of creators and the needs of users and report to Congress every 5 years on the problems, if any. Well, the last two reports have concluded that the 1976 law is working fine and after 12 years of experience we really don't need the third report. I think it's clear that these reports have served their intended purpose and they are no longer necessary. A third report would be burdensome to the Copyright Office and an unnecessary expenditure of taxpayer money. Therefore, H.R. 1612 would eliminate the requirement for a third report and I urge its adoption.

Mr. Speaker, I yield back the balance of our time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES], the distinguished chairman of the subcommittee on Intellectual Property and Judicial Administration.

Mr. HUGHES. Mr. Speaker, I will make several very brief comments in support of H.R. 1612, a bill that will save the taxpayers money—close to one-half million dollars—by eliminating a statutory report requirement about library reproduction of copyrighted works. The bill simply deletes paragraph (i) of section 108 of the Copyright Act of 1976, which established the recurrent 5-year review as part of the 1976 general revision of the copyright laws.

Currently, section 108(i) directs the Register of Copyrights to prepare and file a report every 5 years "setting forth the extent to which this section has achieved the intended statutory balancing of the rights of creators, and the needs of users." The Register of Copyrights filed reports in 1983 and 1988.

The 5-year reports submitted by two Registers of Copyrights fulfill the original congressional charge. Congress has now had more than 12 years of experience under the library reproduction statute, and it is clear that Congress struck a fair balance between public and proprietary interests.

Enactment of H.R. 1612 will in no way change the substantive balance incorporated in the library photocopying provisions of the Copyright Act.

The Register of Copyrights—Ralph Oman—has informed us that the publishing and library communities agree that the section 108(i) report could be eliminated. Of course, if any legislative issues arise about library reproduction of copyrighted works, we can ask the Register to file a report, and he has assured us that he will do so.

Let us save the taxpayers' several hundred thousand dollars by passing this simple, noncontroversial bill.

I would like to commend the ranking minority member of the subcommittee, the gentleman from California [Mr. MOORHEAD], for his support of the measure. I also thank the Register of Copyrights and his able staff for bringing this matter to the subcommittee's attention.

There is no known opposition to the bill. I urge your undivided support.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1612.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

INCARCERATED WITNESS FEES ACT OF 1991

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2324) to amend title 28, United States Code, with respect to witness fees.

The Clerk read as follows:

H.R. 2324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Incarcerated Witness Fees Act of 1991".

SEC. 2. ELIMINATION OF WITNESS FEES FOR INCARCERATED PERSONS.

(a) IN GENERAL.—Section 1821 of title 28, United States Code, is amended by adding at the end of following:

"(f) An incarcerated person (other than a witness detained pursuant to section 3144 of title 18) shall be ineligible to receive the fees or allowances provided by this section.".

(b) CONFORMING AMENDMENT.—Section 1821(d)(1) of title 28, United States Code, is amended by striking "(other than a witness who is incarcerated)".

(c) TECHNICAL AMENDMENT.—Section 1821(d)(4) of title 28, United States Code, is amended by striking "3149" and inserting "3144".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

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Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2324, the Incarcerated Witness Fees Act of 1991, responds to a recent decision of the U.S. Supreme Court which held that section 1821 of title XXVIII, United States Code, requires the payment of witness fees to any person, including a prisoner—who is required to testify at a Federal trial. The legislation clearly states that incarcerated persons who testify are ineligible to receive fees and allowances provided by law.

Congress provided witness fees—now at $40 per day—to defray the costs incurred by persons when the paramount needs of the judicial system take precedence over their work and other activities. This rationale obviously has no application to prisoners, whose food, shelter and activities are already paid for by the taxpayer. The only burden relating to prisoners who must appear in court is the one they have imposed on society through their crimes. They are undeserving of any additional benefit. I am also certain that most prisoners find promoting justice in the courtroom preferable to another day behind bars.

Under longstanding Government policy, incarcerated persons have not received these fees. Without this corrective legislation, however, the Supreme

Court's opinion could result in $8.3 million of taxpayer funds being transferred to prisoners each year in the form of witness fees. This would constitute an outrageous misuse of public funds.

Mr. HUGHES, chairman of the Subcommittee on Intellectual Property and Judicial Administration, deserves congratulations for bringing forward this sensible legislation. Mr. MOORHEAD, ranking Republican member of the subcommittee, also deserves credit for his work on this bill.

I urge the Members to support H.R. 2324.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2324, the "Incarcerated Witness Fees Act of 1991". This legislation is in response to the U.S. Supreme Court's recent decision in Demarest versus Manspeaker. In that decision the Supreme Court held that:

> 28 U.S.C. sec. 1821 requires the payment of witness fees to a convicted state prisoner who testifies at a federal trial pursuant to a writ of habeas corpus ad testificandum.

At the hearing held by the Subcommittee on Intellectual Property and Judicial Administration the U.S. Marshals Service pointed out in their testimony that if they are required to pay witness fees and related travel expenses to incarcerated individuals, the cost may be as high as $11.1 million annually. I see no justification for the Federal Government to have to bear these costs. Earlier this year the Appropriations Committee came to the same conclusion and for the second year in a row prohibited the payment of witness fees to incarcerated persons through the appropriations process. However, what is needed is a permanent solution to this issue, such as provided for in H.R. 2324. I would like to commend the chairman of the Subcommittee on Intellectual Property and Judicial Administration, BILL HUGHES, for his leadership on this issue. I would also like to commend our colleague from Kentucky, HAL ROGERS, who worked diligently on this issue not only via the appropriations process but in close cooperation with members of the judiciary committee as well. Mr. Speaker, H.R. 2324 is sound legislation and I urge my colleagues' support for it.

Mr. BROOKS. Mr. Speaker, I yield 17 minutes to the gentleman from New Jersey [Mr. HUGHES], chairman of the subcommittee.

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding this time to me, and I want to congratulate him and the ranking Republican for their support of H.R. 2324.

Mr. Speaker, H.R. 2324, the Incarcerated Witness Fees Act, is a noncontroversial bill with bipartisan support which would correct an error in the statute providing for the payments of witness fees in the Federal court systems. This bill is necessary because on January 8, 1991, a unanimous Supreme Court in Demarest versus Manspeaker decided that present law requires payment of witness fees to a witness who testifies at a Federal trial pursuant to a writ of habeas corpus ad testificandum, despite the fact that the witness was an inmate at a State prison.

The Court came to this opinion by a technical review of the language of the statute in question—28 U.S.C. 1821—and despite a long history of a governmental policy of not paying incarcerated persons witness fees, dating back to the early 1800's.

As the Solicitor General pointed out in his argument before the Court, no prisoners were paid witness fees until 1826, when Congress passed legislation providing for witness fees for persons incarcerated as material witnesses. In addition to establishing a policy of paying witness fees to persons held as material witnesses, the 1826 legislation was important because it pointed out that incarcerated persons as a general class were not previously paid witness fees.

After a close review of the Demarest decision and the legislative history of 28 U.S.C. 1821, I believe that although the Supreme Court's decision was technically correct, the Congress never intended that prisoners, other than material witnesses be compensated on the same basis as ordinary witnesses. As a matter of fact, the Congress has already taken stopgap action to ban the use of fiscal year 1991 and prior year funds for payment of incarcerated witnesses in Public Law 102-27, the supplemental appropriation bill for fiscal year 1991 and in the fiscal year 1992 DOJ appropriation bill. This merely restates the former Government policy of not paying incarcerated persons except those detained as material witnesses which I believe is a reasonable policy. Witness fees serve to defray the costs of testifying that may be incurred as the result of time away from work or other activities. An incarcerated person has no costs associated with testifying in court. The taxpayer pays the prisoner's expenses. In the case of prisoner testimony, any costs associated with travel time or lost labor are borne by the taxpayer. It is not reasonable for the taxpayer to pay the prisoner for expenses that the taxpayer is bearing in the first place.

I would also emphasize to my colleagues that at $40 per day, in lengthy trials, the costs generated by prisoner's testimony could be significant. The U.S. Marshals Service states that about 7,200 prisoners are produced annually, and that the total estimated prisoner days spent on these writs is about 208,000. Based on these figures, the total projected cost for witness fees for prisoners would exceed $8.3 million annually. In addition, the U.S. Marshals Service estimates that the amount of funds expended for days in travel would range between $570,000 and $2.9 million. Therefore, the total annual cost resulting from the Demarest decision could reach approximately $11.1 million a year. Another potential, which the U.S. Marshals Service is unable to estimate at this time, is the additional expense and burden that would result from processing an entirely new class of witness fee recipients.

I, therefore, would strongly urge my colleagues to support the passage of H.R. 2324 so that we can permanently correct this anomaly and at the same time save the taxpayers a substantial sum of money.

Mr. DARDEN. Mr. Speaker, I rise in support of H.R. 2324, the Incarcerated Witness Fees Act of 1991. I would like to commend the gentleman from Texas and the gentleman from New Jersey for their prompt action in correcting the unacceptable situation created by the Supreme Court's decision in Demarest versus Manspeaker. Earlier this year, the Court held that, under Federal law, incarcerated persons must be paid witness fees for testifying in Federal court. As the chairman knows, this matter has been the subject of the legislative efforts of several Members of this body.

Mr. Speaker, to my knowledge, it has never been the policy of the U.S. Government to pay witness fees to prisoners, and I do not believe that this is the time to start. Nor do I believe that the Members of this body or the American taxpayers want to spend millions of dollars paying witness fees to prisoners in a time when we are struggling to find the resources to address the real needs of law-abiding citizens.

Mr. Speaker, the taxpayer pays for the food, clothes, housing, medical care, law libraries, and other privileges prisoners receive while they are incarcerated. We should not further burden the American taxpayer by paying a salary to prisoners in the form of witness fees. I urge my colleagues to join me in supporting H.R. 2324 which will specifically prohibit this unnecessary and unjustifiable expense.

The Supreme Court of the United States on January 8, 1991 in Demarest versus Manspeaker held that because the language of 28 U.S.C. 1821 does not clearly exclude incarcerated persons from receiving witness attendance fees, incarcerated persons are, therefore, eligible to receive witness attendance fees.

Passage of H.R. 2324 is necessary for three reasons. First, the people of our Nation find the idea of paying incarcerated persons a daily salary to testify in Federal court offensive. Second, while the Supreme Court found that Congress had not clearly stated its intent statutorily, it has always been the policy of the U.S. Government and the intent of the Congress that incarcerated persons not receive witness fees for testifying in Federal court. Third, the policy the U.S. Government has followed in the past represents a reasonable approach to the matter of witness attendance fees for incarcerated persons.

The average American believes that once it has been determined by judicial proceeding that a person is to be imprisoned because of a violation of law or that sufficient evidence of a violation of law exists to hold that person for trial, then it is enough that the taxpayer provide for the medical, housing, and nutritional needs of that incarcerated person. To pay an incarcerated person, who otherwise would remain in his prison cell or perform a routine prison job, to travel to a Federal court and testify in addition to paying his other expenses is, in a small sense, to make crime pay. Without some legislative response to the holding in the Demarest case, a person waiting for his criminal conspiracy trial, for example, would be paid to testify in the ongoing trial of his coconspirator. The American public would find this result morally unacceptable.

The Court's holding in Demarest points out the need for a statutory clarification of Congress' intent regarding witness fees. The intent of the Congress in this matter is to be found in its acceptance of the longstanding Government policy regarding witness fees for prisoners. As the Tenth Circuit Court of Appeals held, and as the Solicitor General argued in his brief before the Supreme Court, the Government's policy of not paying incarcerated persons is longstanding, with origins dating as far back as the early 1800's. As the Solicitor General pointed out, no prisoners were paid witness fees until 1826, when Congress passed legislation providing for witness fees for persons incarcerated as material witnesses.

In addition to establishing a policy of paying witness fees to persons held as material witnesses, the 1826 legislation is important because it points out that incarcerated persons as a general class were not previously paid witness fees. The Government's early policy in this area is further evidenced by a U.S. Treasury ruling in 1899 establishing a practice of not paying witness fees to prisoners. During the many years that have passed since the establishment of the Government's policy regarding witness fees for prisoners, the Congress has shown its intent in this matter by refusing to fundamentally alter that longstanding policy.

Finally, the current Government policy of not paying incarcerated persons except those detained as material witnesses is a reasonable policy. Witness fees serve to defray the costs of testifying that may be incurred as the result of time away from work or other activities. An incarcerated person has no costs associated with testifying in court. The taxpayer pays the prisoner's expenses. In the case of prisoner testimony, any costs associated with travel time or lost labor are borne by the taxpayer. It is not reasonable for the taxpayer to pay the prisoner for expenses that the taxpayer is bearing in the first place.

I urge my colleagues to support H.R. 2324, and I again commend Chairman BROOKS and Mr. HUGHES for their swift action in this matter.

Mr. ROGERS. Mr. Speaker, I rise in support of H.R. 2324, and urge its passage.

I want to thank the Committee on the Judiciary, in particular Subcommittee Chairman HUGHES, and ranking minority member CARLOS MOORHEAD, for recognizing this problem, holding hearings, and moving this remedy to the floor.

As these gentlemen know, when asked to rule on whether prisoner-witnesses should be paid $40 per day for appearing in court, the Supreme Court ruled that nothing in the law specifically disallowed those payments.

Several of us in the House, including this gentleman, filed legislation to clearly prohibit those payments, as this bill would do.

Mr. Speaker, we should enact this bill for two reasons.

First, fact witness fees are intended to compensate individuals for their time, inconvenience, and lost income. It should be obvious that prisoners do not have time to give; their time belongs to the Government. And since they are seldom employed, there is no lost income to compensate.

Second, this bill would save up to $11 million that would otherwise be paid by the Department of Justice to prisoners for their testimony in Federal trials. I can assure you that the Justice Department can make better use of these funds.

In fact, as a stopgap, the fiscal year 1992 appropriations act for the Justice Department prohibits using current or prior year funds to pay witness fees. This limitation, however, would expire at the end of this fiscal year.

So we need to permanently change the code, to clearly disqualify prisoners from receiving these fees. This bill would do that.

I support the measure and urge its adoption.

Mr. PICKETT. Mr. Speaker, I rise in strong support of H.R. 2324, legislation to prohibit prisoners from receiving the per diem fee that is paid to witnesses who testify in Federal court. I commend Chairman BROOKS and Subcommittee Chairman HUGHES for their work to get this bill enacted so quickly.

The need for this legislation arose in January after the Supreme Court ruled in Demarest versus Manspeaker that 28 U.S.C. 1821 requires that all witnesses receive these fees unless they are a member of a group that is specifically excluded from the statute's coverage. Under current law, only deportable aliens are so excluded.

There is, of course, no evidence that Congress ever intended for prisoners to receive Federal witness fees, and the Circuit Courts of Appeal which previously considered the question refused prisoner requests for these fees. This result makes sense from a policy standpoint, and is certainly consistent with the longstanding purpose of these fees: To compensate private citizens for the time and expense they incur in testifying before the Federal courts. In the absence of this corrective legislation, the Congressional Budget Office has estimated that the Federal Government will spend $9 to $11 million per year on witness fees for prisoners.

Mr. Speaker, H.R. 2324 is very similar to legislation (H.R. 504) which I introduced on this issue shortly after the Demarest case was handed down. I am pleased that the problems resulting from Demarest will not be corrected, and I support this H.R. 2324 strongly.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 2324.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMENDING FEDERAL CHAPTER OF BOYS' CLUBS OF AMERICA

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 525) to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America, as amended.

The Clerk read as follows:

H.R. 525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME CHANGE.

The act entitled "An Act to incorporate the Boys' Clubs of America", approved August 6, 1956 (70 Stat. 1052; 36 U.S.C. 691 et seq.) is amended—

(1) in the title by striking "Boys" and inserting in lieu thereof "Boys & Girls";

(2) in the first section—

(A) by striking "successors," and inserting in lieu thereof "successors; and Gerald W. Blakeley, Jr., Boston, Massachusetts; Roscoe C. Brown, Jr., Bronx, New York; Cees Bruynes, Stamford, Connecticut; Honorable Arnold I. Burns, New York, New York; John L. Burns, Greenwich, Connecticut; Hays Clark, Hobe Sound, Florida; Mrs. Albert L. Cole, Hobe Sound, Florida; Honorable Michael Curb, Burbank, California; Robert W. Fowler, Atlantic Beach, Florida; Thomas G. Garth, New York, New York; Moore Gates, Jr., Princeton, New Jersey; Ronald J. Gidwitz, Chicago, Illinois; John S. Griswold, Greenwich, Connecticut; Claude H. Grizzard, Atlanta, Georgia; George V. Grune, Pleasantville, New York; Peter L. Haynes, New York, New York; James S. Kemper, Northbrook, Illinois; Plato Malozemoff, New York, New York; Edmund O. Martin, Oklahoma City, Oklahoma; Donald E. McNicol, Esq., New York, New York; Carolyn P. Millbank, Greenwich, Connecticut; Jeremiah Milbank, New York, New York; C. W. Murchison III, Dallas, Texas; W. Clement Stone, Lake Forest, Illinois, and their successors,"; and

(B) by striking "Boys" and inserting in lieu thereof "Boys & Girls"; and

(3) in section 3 by striking "boys" and inserting in lieu thereof "youth".

SEC. 2. CONFORMING AMENDMENT.

Paragraph (16) of the first section of Public Law 88-504 (36 U.S.C. 1101(16)) is amended by striking "Boys" and inserting in lieu thereof "Boys & Girls".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 525 makes amendments to the Federal charter of Boys' Clubs of America. Boys' Clubs of America was granted a Federal charter in

1956. This organization officially became the Boys & Girls Clubs of America on September 12, 1990, when the name change was approved by its board of directors.

H.R. 525 amends the act incorporating the Boys' Clubs of America to change the name of the organization to the Boys & Girls Clubs of America, and to make other conforming changes.

The bill also amends the charter to list the current members of the organization. So that the Federal charter will not need to be amended each time the membership changes, the bill also provides for successors of those current members.

I want to thank the gentleman from Massachusetts [Mr. FRANK], who chairs the Subcommittee on Administrative Law and Governmental Relations, for bringing this bill forward. I also compliment the gentlewoman from New York [Ms. MOLINARI], for her good work on this legislation. I urge the Members to support H.R. 525.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from Texas [Mr. BROOKS] has adequately described the momentum and the rationale for the presentation of this bill here today. I join him in applauding the efforts of the gentlewoman from New York [Ms. MOLINARI]. She has perceived what many of us who were slower perhaps to perceive, but nevertheless we did, that the time has come in many instances in our society when the gender gap must be closed in and where the distinction between the sexes on matters that for a long time should have been noncontroversial, that time has come.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York [Ms. MOLINARI], to give us some background on how this matter was brought to the attention of Congress.

Ms. MOLINARI. Mr. Speaker, I stand before Members today in strong support of H.R. 525, legislation I introduced to amend the Federal Charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys and Girls Clubs of America. I want to take this opportunity to thank my distinguished colleagues, chairman of the Subcommittee on Administrative Law, BARNEY FRANK, and chairman of the full Judiciary Committee, JACK BROOKS, for all their help in ensuring passage of my bill. Senator STROM THURMOND has successfully passed the name change legislation in the Senate.

I would like to take a few moments to talk about this very important organization and why I am very proud to be the sponsor of this legislation. This organization currently serves 1.5 million young people, with almost 450,000 of them females. These clubs provide a safe haven where children can go after school to play or learn. By providing these safe havens, the Boys and Girls Clubs of America rescues thousands of young people from the violence and despair of our city's streets. Today, more than ever, we need positive environments for our youth.

In a year where we have had guns brought to preschool, younger and younger victims and perpetrators of crime, more single-parent homes, more drugs, more cases of AIDS, and a growing city budget crisis—the need for a program like the Boys and Girls Clubs has never been greater. The ability to provide a safe place for children to play and learn after school rescues countless of them from the violence and despair of the city's streets. In providing role models, we have the ability to touch the lives of so many and provide emotional security in the form of professional staff to be counselors, role models, mentors, and friends.

Again, I thank all my colleagues who have made passage of my legislation possible.

To some it may just seem like a charter name change, but to a lot of the females in that group who now find themselves in as desperate need as the males in that group, on behalf of all of them, we thank you for recognizing both their needs and their place in a solution.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK], the chairman of the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, the desirability of this bill is obvious. I will refrain on this occasion from adding to the obvious, although I do not set any binding precedent thereby, I would note.

Mr. Speaker, I do want to make two other points. First of all, some people in our society are too slighting of the need to be gender neutral, too slighting of the need to worry about words. People say, "Well, it says the Boys Club, but we know it means the Boys and Girls Club." When you are an 11-year-old girl, you might not know that. Even if you know that, you have a right to be included.

This is, I think, an endorsement by this body—and we have already had it by the other body—that names do mean something. People are not being hypersensitive when they say if you really mean to include me, mention me, and mention me by an appropriate name. So I am delighted that the gentlewoman from New York [Ms. MOLINARI] pushed us to this.

Second, I want to just use this to explain to people why the subcommittee that I chair, with the support of the full committee, has tried to go out of the business of issuing Federal charters.

People reasonably will ask why we are talking the time of this body to ratify a name change that is so obviously desirable? We have two further bills of a similar sort on charters.

The reason is once people get a Federal charter, if they want to make these kind of changes they have to come back and get a congressional statutory change.

That is not a good use of anybody's time. We have the obligation, where charters are already in existence, to accommodate the need for changing itself. We have an equal obligation to ourselves, to the taxpayers, to the time of this institution, not to continue to issue these charters.

The Federal charters are purely honorific. They convey no actual power on people. So I use this occasion, Mr. Speaker, to remind people it is our policy, and I think this vindicates the policy, not to issue these.

I would note it was with the assistance of the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman who currently occupies the chair, that we were able to persuade the Veterans Department to change their policy and stop discriminating against federally chartered and nonfederally chartered, and we can get back to the business of the House.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 525, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING THE AMVETS CHARTER

Mr. Brooks. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1760) to amend the AMVETS Charter.

The Clerk read as follows:

H.R. 1760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (4) of section 5 of the Act entitled "An Act to incorporate the AMVETS, American Veterans of World War II", approved July 23, 1947 (36 U.S.C. 67D(4)), is amended to read as follows:

"(4) The activities of the corporation shall be conducted throughout the various States, the District of Columbia, and the territories and possessions of the United States.".

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 1760, to amend the charter of the AMVETS organization. AMVETS was granted a Federal charter in 1947. This charter specified that the AMVETS national headquarters would be located in Washington, DC. AMVETS moved its national headquarters to Lanham, MD, a suburb of Washington, DC, in 1980. H.R. 1760 was introduced after some AMVETS members raised the question of the need for an amendment to the charter because of the headquarters move.

I compliment the gentleman from Massachusetts [Mr. FRANK] who chairs the Subcommittee on Administrative Law and Governmental Relations, for bringing this bill forward. I urge the members to support H.R. 1760.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, this is an obvious vote for Members, and it is a perfect example of what the gentleman from Massachusetts [Mr. FRANK] was discussing just a few moments ago.

We are, for lack of a better word, saddled with the responsibility of acknowledging to these organizations that are federally chartered that we must be on tap for any change, just like this one, that might come about in their own workings. So we are acceding here today to the request of the AMVETS.

Mr. Speaker, we will do so, of course. I join with the gentleman from Massachusetts [Mr. FRANK] in trying to see if we can devise a methodology by which we no longer will encourage the Federal charter of organizations such as this, but, at the same time, grandfathering ourselves in. It is my hope that for those that have already been granted that they be grandfathered, because they now, holding that charter, have certain expectations which I do not want to automatically dash by cutting off the business of the Congress altogether in regard to Federal charters.

Mr. Speaker, be that as it may, that is a question for another day. We would ask Members for a unanimous vote on this piece of legislation.

Mr. BROOKS. Mr. Speaker, I yield 17 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding. In case anything was left over unsaid from the 1 minutes, I was going to use that extra time.

Mr. Speaker, the subcommittee was faced with a difficult choice. We had a charter that said the AMVETS had to be in Washington, and they moved to Lanham. We could have, as had been suggested by staff, annexed Lanham to Washington, or changed the charter. We decided to change the charter.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspended the rules and pass the bill, H.R. 1760.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

□ 1320

AMERICAN LEGION ELIGIBILITY

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1568) to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

The Clerk read as follows:

S. 1568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate the American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

SEC. 5. No person shall be a member of this corporation unless such person has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; August 24, 1982, to July 31, 1984; December 20, 1989, to January 31, 1990; August 2, 1990, to the date of cessation of hostilities, as determined by the United States Government; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1568 amends the American Legion Charter to expand the criteria for membership in the organization to cover those who served in the military services during the Persian Gulf war from the period of August 2, 1990, to the cessation of hostilities, as determined by the U.S. Government.

The American Legion was granted a Federal charter in 1919, with membership eligibility limited to those who served in the military during World War I. After each subsequent conflict, the charter has been amended to extend membership eligibility to veterans of that conflict.

The American Legion's National Executive Committee approved membership eligibility for Persian Gulf war veterans in May of this year, and its national convention ratified that action earlier this month. As a federally chartered organization, however, the Legion's decision to offer membership to those veterans must be effectuated by an act of Congress

I compliment the gentlemen from Massachusetts [Mr. FRANK], who chairs the Subcommittee on Administrative Law and Governmental Relations, for bringing this bill forward, and I urge the Members to support S. 1568.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I too, of course, support the passage of this legislation.

One quick note. The current national president of the American Legion is Dominick Di Francesco, who hails from my district and is a great personal friend. His family and mine are intertwined in a lot of different ways. He, of couse, pressed all of us, even the gentleman who now is sitting in the chair of the Speaker, to make sure that the needs of the American Legion are heeded in this Congress.

One other quick note. The fact that I am a member of the American Legion stems from a similar action that was taken right after the Korean conflict. There seemed to have been a question as to whether we Korean veterans were eligible for American Legion membership, and somehow there was a problem. Finally the person who filed my application for the Middletown, PA post of the American Legion checked with Washington, and sure enough, some action was taken to qualify Korean veterans for entry into the rolls of the American Legion.

So we know, under the present system this kind of action is required. I ask for unanimous endorsement of the legislation.

Mr. BROOKS. Mr. Speaker, I yield 17 minutes to the gentleman from Massachusetts [Mr. FRANK], chairman of the subcommittee.

Mr. FRANK of Massachusetts. Mr. Speaker, it is appropriate that the active Speaker at this point is the gentleman from Mississippi [Mr. MONTGOMERY] who has himself been such a diligent protector of the rights of our veterans. This is a case where the American Legion wanted to move as quickly as possible to give appropriate recognition to the brave men and women who have served this country in the gulf. I am pleased that we in the Congress were able to respond fairly quickly.

The activity in the gulf during its active phase ended in February. Because the Senate has already voted on this we will be sending the bill, with passage today, to the President's desk. I think it is appropriate that we move this quickly, and I commend the American Legion for their diligence in making sure that the women and men who served in the gulf war were given this opportunity to join the Legion, and I am glad to have been able to participate in that process.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I ask for a unanimous vote on the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 1568.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 1612, H.R. 2324, H.R. 525, H.R. 1760, and S. 1568, the five bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3394) to amend the Indian Self-Determination and Education and Assistance Act, as amended.

The Clerk read as follows:

H.R. 3394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Self-Governance Demonstration Project Act".

SEC. 2. EXTENSION OF TIME FOR TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT.

Section 301 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) (hereafter in this Act referred to as the "Act") is amended by striking out "five" and inserting in lieu thereof "eight".

SEC. 3. INCREASE IN NUMBER OF TRIBES PARTICI-PATING IN PROJECT.

Section 302(a) of the Act is amended by striking out "twenty" and inserting in lieu thereof "thirty".

SEC. 4. COMPLETION OF GRANTS AS A PRE-CONDITION TO NEGOTIATION OF WRITTEN ANNUAL FUNDING AGREEMENTS.

Section 303(a) of the Act is amended by striking out "which—" and inserting in lieu thereof "that successfully completes its Self-Governance Planning grant. Such annual written funding agreement—".

SEC. 5. ADDITIONAL FUNDING FOR SELF-GOVERNANCE PLANNING GRANTS.

Title III of the Act is amended by adding at the end thereof the following new section:

"SEC. 307. For the purpose of providing planning and negotiation grants to the ten tribes added by section 3 of the Tribal Self-Governance Demonstration Project Act to the number of tribes set forth by section 302 of this Act (as in effect before the date of enactment of this section), there is authorized to be appropriated $700,000.".

SEC. 6. EXTENSION OF PROJECT; FEASIBILITY STUDIES.

(a) PROJECT NOT LIMITED TO CERTAIN PROGRAMS.—Section 303(a)(1) of the Act is amended by striking "authorized under" and inserting in lieu thereof the following: "of the Department of the Interior that are otherwise available to Indian tribes or Indians, including but not limited to,".

(b) AUTHORIZED AGREEMENTS.—Section 303(d) of the Act is amended by inserting immediately before the period at the end thereof of a semicolon and the following: "except that for the term of the authorized agreements under this title, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to attorney and other professional contracts by participating Indian tribal governments operating under the provisions of this title".

(c) INTERPRETATION.—Section 303 of the Act is amended by adding at the end thereof the following:

"(f) To the extent feasible, the Secretary shall interpret Federal laws and regulations in a manner that will facilitate the inclusion of activities, programs, services, and functions in the agreements authorized by this title.".

(d) STUDIES.—Title III of the Act is amended by adding after section 307 (as added by section 5 of this Act) the following new sections:

"SEC. 308. (a) The Secretary of Health and Human Services, in consultation with the Secretary of the Interior and Indian tribal governments participating in the demonstration project under this title, shall conduct a study for the purpose of determining the feasibility of extending the demonstration project under this title to the activities, programs, functions, and services of the Indian Health Service. The Secretary shall report the results of such study, together with his recommendations, to the Congress within the 12-month period following the date of the enactment of the Tribal Self-Governance Demonstration Project Act.

"(b) The Secretary of Health and Human Services may establish within the Indian Health Service an office of self-governance to be responsible for coordinating the activities necessary to carry out the study required under subsection (a).

"SEC. 309. The Secretary of the Interior shall conduct a study for the purpose of determining the feasibility of including in the demonstration project under this title those programs and activities excluded under section 303(a)(3). The Secretary of the Interior shall report the results of such study, together with his recommendations, to the Congress within the 12-month period following the date of the enactment of the Tribal Self-Governance Demonstration Project Act.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3394 will provide Indian tribes participating in the project with the tools to take control of all of the programs and services of the Department of the Interior on the reservation. It allows Indian tribes to establish their own funding priorities and tailor programs to specifically address their community needs. I believe this legislation will allow Indian tribes the flexibility to fashion creative and innovative approaches to provide services to their members.

H.R. 3394 will extend the demonstration project for an additional 3 years. This extension will allow a more reasonable period of time to examine the success of the demonstration project. H.R. 3394 will increase the number of Indian tribes able to participate in the project from 20 to 30. This increased participation will provide a more representative cross section of Indian tribes participating in the program and it will enhance the Congress' ability to assess the overall strengths and weaknesses of the self-governance demonstration programs.

Mr. Speaker, H.R. 3394 would also require every new tribe participating in the demonstration program to go through the planning process. Each Indian tribe would receive a planning assistance grant to conduct budgetary and legal research, internal governmental planning, and to develop a negotiating process. The bill authorizes $700,000 for planning and negotiation grants for the 10 additional tribes included in the program.

Mr. Speaker, these amendments would authorize Indian tribes participating in the project to administer all of the programs, services, and functions of the Department of the Interior that are otherwise available to Indian tribes.

In addition, it authorizes the Secretary of the Interior to study the feasibility of including programs specifically excluded from the project which would include funds from the Tribally Controlled Community College Assistance Act, the Indian school equalization formula, and the Flathead irrigation project. The Secretary shall report his findings to the Congress within 12 months from the date of enactment.

The amendments would also rescind the statutory requirement that the Secretary approve attorney contracts for Indian tribes participating in the project.

The amendments also provide that if there is a question as to whether a particular activity, program, service, or function is eligible for inclusion in the project it shall be resolved in favor of inclusion.

Finally, the amendments authorize the Secretary of Health and Human Services to conduct a study of the feasibility of extending the demonstration project to include activities, programs, functions, and services of the Indian health service. The Secretary shall report his findings within 12 months from the date of enactment.

Mr. Speaker, I urge my colleagues to support this very important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of myself and JOHN J. RHODES III, I rise in support of H.R. 3394, the Tribal Self-Governance Demonstration Project Act. The chairman of our committee has provided an adequate explanation of the bill's provisions. I would like to focus my remarks on the statement of policy reflected by the bill.

Rightly or wrongly, the Bureau of Indian Affairs has been blamed for all the ills in Indian country. In the spirit of self-determination, Indian tribal leaders have been telling Congress for several years that, given the chance, Indian tribes can provide and manage programs and services better and more efficiently than the Federal bureaucracy is presently doing.

In 1988, Congress accepted this challenge by approving the self-governance project as an amendment to the Indian Self-Determination Act. Since that time seven Indian tribes have negotiated self-governance compacts with the Department of the Interior, and six additional tribes are close to completing the negotiation of such compacts. Several other tribes are engaged in planning activities that are a prelude to the negotiation of further compacts.

On June 14 of this year, the President issued an Indian policy statement which affirmed the philosophical correctness of this ongoing effort to encourage and facilitate tribal control over and decisionmaking for programs and services intended to benefit their local communities. Our approval of H.R. 3394 is a small, but significant, incremental step forward in this partnership with the Indian tribes.

I am pleased that this bill expands the number of tribal participants in the project, and that we are exploring the feasibility of expanding the types of Federal Indian programs that might be included within the project. In a couple of Congresses from now we will be called upon to evaluate the effectiveness of this project and to determine whether to make it a permanent component of the Federal-tribal relationship. It is my belief that the provisions of this bill improve upon the original authorization for the project and improve our future ability to assess its effectiveness.

For all of these reasons, I urge my colleagues to support passage of H.R. 3394.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 3394, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NAVAJO-HOPI RELOCATION HOUSING PROGRAM REAUTHORIZATION ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1720) to amend Public Law 93-531 (25 U.S.C. 640d et seq.) to reauthorize appropriations for the Navajo-Hopi relocation Housing Program for fiscal years 1992, 1993, 1994, and 1995.

The Clerk read as follows:

S. 1720

Be it enacted by the Senate and House of Representatives of the United of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Navajo-Hopi Relocation Housing Program Reauthorization Act of 1991".

SEC. 2. REAUTHORIZATION OF APPROPRIATIONS.

Subsection (a) of section 25 of Public Law 93-531 (25 U.S.C. 640d-24(a)) is amended by striking out "and 1991." in paragraph (8) and inserting in lieu thereof "1991, 1992, 1993, 1994, and 1995.".

SEC. 3. NAVAJO-HOPI RELOCATION.

(a) AMENDMENT.—Section 12(b)(2) of the Act of December 22, 1974 (25 U.S.C. 640d-11(b)(2)), is amended by adding at the end thereof the following new sentence: "The Commissioner serving at the end of a term shall continue to serve until his or her successor has been confirmed in accordance with paragraph (1) of this subsection.".

(b) EMPLOYEES.—Section 12(b)(3) of the Act of December 22, 1974 (25 U.S.C. 640d-11(b)(3)) is amended to read as follows:

"(3) The Commissioner shall be a full-time employee of the United States, and shall be compensated at the rate of basic pay payable for level IV of the Executive Schedule.".

(c) POWERS.—(1) Section 12(d)(1) of the Act of December 22, 1974 (25 U.S.C. 640d-11(d)) is amended to read as follows:

(d) POWERS OF COMMISSIONER.—(1) Subject to such rules and regulations as may be adopted by the Office of Navajo and Hopi Indian Relocation, the Commissioner shall have the power to—

"(A) appoint and fix the compensation of such staff and personnel as the Commissioner deems necessary in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates not in excess of a position classified above a GS-15 of the General Schedule under section 5108 of such title; and

"(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.".

(d) The amendments made by this section shall not cause any employee of the Office of Navajo and Hopi Indian Relocation to be separated or reduced in grade or compensation for 12 months after the date of enactment of this Act.

(e) The position of Executive Director of the Office of Navajo and Hopi Indian Relocation and Deputy Executive Director of such Office shall on and after the date of the enactment of this Act, be in the Senior Executive Service.

(f) Any employee of the Office of Navajo and Hopi Indian Relocation on the date of the enactment of this Act shall be considered an employee as defined in section 2105 of title 5, United States Code.

(g) COMMISSIONER.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Commissioner, Office of Navajo and Hopi Indian Relocation.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

□ 1330

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1720 extends the current authorization of $30 million for the Relocation Housing Program through fiscal year 1995. This reauthorization is to meet the housing needs of persons relocated under the 1974 Navajo-Hopi Relocation Act.

Since the program was initiated, a total of 1,944 families have received their relocation benefits. In addition, there are 2,836 certified applicants for relocation benefits and 769 active eligibility appeals for relocation benefits. Over the last 3 years, the relocation commission received an average annual appropriation of $19.2 million. Over this same period, the number of families relocated has averaged 213 annually. Given these figures, it is estimated that it will take an additional 4 years to provide relocation benefits to the remaining 892 certified applications.

S. 1720 also provides certain administrative amendments to the act. The bill provides that the Commissioner shall be a full-time employee of the United States at level IV of the Executive Schedule. It also provides that the Commissioner is authorized to convert position of the executive director of the program to a senior Executive Service career appointment. Finally, it provides that level III of the executive schedule shall apply to the Commissioner.

Mr. Speaker, S. 1720 is a simple reauthorization which has bipartisan and tribal support. While issues involving Navajo-Hopi matters tend to be challenging, both tribes agreed that the housing program is noncontroversial and requires continuation. The tribes and the committee deliberately chose not to delve further into the general policy at this time.

I thank my colleague from Arizona for allowing this legislation to move so swiftly and smoothly through the committee. We are keeping the promise of housing to the people we relocated and the need is quite great.

I urge my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on my behalf and that of the Hon. JOHN J. RHODES III, I rise in support of S. 1720, a bill containing several technical amendments to the Navajo Hopi Relocation Act. I concur with the chairman's explanation of the bill and would like to touch briefly on just one aspect.

In 1988, Congress increased the authorization for the Relocation Housing Program from $15 to $30 million annually. S. 1720 would extend this appropriations authorization through fiscal year 1995. I am encouraged by the representations of the Commissioner for the Navajo-Hopi Relocation Office who has indicated to Congress that in 4 years, at current funding levels, the Relocation Housing Program should be largely completed.

Many concerns have been expressed to the committee during the past year, by both the Hopi Tribe and the Navajo Nation, regarding the adequacy of the current laws to achieve relocation as envisioned by Congress. S. 1720 is intended to be a technical amendments bill only. Accordingly, it is not the committee's intention to address substantive legal or policy issues in the context of S. 1720. In order to address such issues, it would be necessary for the committee to conduct further hearings to evaluate the effectiveness of the relocation efforts under Public Law 93-531 and the subsequent amendments to that law.

When Public Law 93-531 was enacted, Congress envisioned the relocation process to be completed in a much shorter timeframe. Although much progress has occurred under the Relocation Act, I think all affected parties are anxious to have this process completed in a manner that protects the well-being of the relocated Navajo families as well as the rights and interests of the Hopi Tribe. Reauthorization of the Relocation Housing Program in S. 1720 moves us closer to this goal.

Accordingly, I urge my colleagues to support passage of S. 1720.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I would like to enter into a colloquy with the distinguished chairman of the committee.

Mr. Speaker, currently, there is no policy for making homesites available to noncertified extended family members of relocatees. The Navajo-Hopi Land Settlement Act of 1974 limits homesite to those who resided on Hopi partitioned land in 1974. As you can imagine, many of those families now have adult children and other extended family members, who are not eligible for relocatee benefits or homesite.

In a letter sent to me by Carl J. Kunasek, Commissioner of the Office of Navajo and Hopi Indian Relocation, the Commissioner agreed to work closely with the Navajo Nation to develop a policy to address this issue. The Commissioner enclosed a letter he sent to one of our colleagues in the Senate, Senator DECONCINI, which indicated that this could be accomplished in less than 6 months.

What is the committee position on this issue?

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I am happy to yield to the gentleman from California.

Mr. MILLER of California. This is a simple reauthorization for housing and the committee has no hearing record on the issue the gentleman raises; hence, we take no position.

Mr. RICHARDSON. I have one last question for the chairman. Will the committee consider this specific matter after the mediation?

Mr. MILLER of California. If the issue requires committee attention, then the committee will attend to the matter.

Mr. RICHARDSON. I thank the gentleman.

Mr. Speaker, I am also submitting for inclusion in the RECORD two additional letters.

U.S. GOVERNMENT, OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION,
Flagstaff, AZ, September 30, 1991.

Hon. DENNIS DECONCINI,
SH-328 Hart Senate Office Building, Washington, DC

DEAR DENNIS: June Tracy and I have had several discussions regarding the Navajo Tribe's New Lands Homesite Leases Amendment. The issue is complex in its possible ramifications and is one the Office has been wrestling with since my confirmation. Let me assure you that we will continue to work with the Navajo Nation administratively, to the extent possible within the law, to develop guidelines to allow non-certified extended family members homesite leases on the New Lands. I am certain this can be accomplished in less than six months.

Enclosed is a copy of an internal memo that delineates some of the complexities of the issue.

I appreciate the opportunity to work with the Navajo Tribe and your office on this and other particularly sensitive issues.

Sincerely,

CARL J. KUNASEK,
Commissioner.

U.S. GOVERNMENT, OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION,
Flagstaff, AZ, November 7, 1991.

Hon. BILL RICHARDSON,
U.S. Representative, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN: I sincerely regret that I was not able to meet you this past week while I was in Washington. I certainly hope to have the privilege of meeting you at the earliest possible opportunity. I did have a very nice visit with Karl McElhaney, your staff person on Indian issues. Mr. McElhaney tried to arrange a time for us to meet, however, due to your busy schedule and the intensity of the session, it was impossible to get together. I did visit with the entire Arizona delegation and I believe I had a very fruitful trip.

Mr. McElhaney indicated a question that you might have concerning our ongoing development of the New Lands and, in particular, on the possibility of developing either legislation or other guidelines to allow noncertified extended family members homesite leases on the New Lands. Myself and staff here at the Relocation Office have been discussing this within the office on an informal basis. We feel it is an issue that must be addressed in the near future to accommodate the maturing children of the New Lands relocatees. In these discussions we have developed questions which need to be addressed before a final decision can be reached. These questions are neither inclusive nor exclusive and are merely questions we have already identified. I will enclose an internal memo outlining some of the complexities involved. As I committed to Senator DeConcini, we will continue this discussion internally, as well as with the Navajo Nation. We have scheduled a meeting with the Navajo Nation to discuss this subject on November 21st at 10:00 a.m. and I would invite you or a member of your staff to attend. This meeting will be held at our office and you will be most welcome.

I appreciate this opportunity to bring you up-to-date on the activities of the Office and on this every sensitive issue. I will enclose my November 30th letter to Senator DeConcini, as well as the September 17th internal memo, for your review.

Sincerely,

CARL J. KUNASEK,
Commissioner.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the Senate bill, S. 1720.

The question was taken; and (two-thirds have voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 282) providing for the concurrence of the House to the amendment of the Senate to the bill (H.R. 355) with an amendment.

The Clerk read as follows:

H. RES. 282

Resolved, That upon the adoption of this resolution, the bill (H.R. 355) to provide emergency drought relief to the Reclamation States, and for other purposes, be and is hereby taken from the Speaker's table to the end that the Senate amendment to the text of the bill be and is hereby agreed to with the following amendment:

In lieu of the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

Title I through XXXIII of this Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1991".

SEC. 2. DEFINITION OF SECRETARY.

For the purposes of this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR BUFFALO BILL DAM AND RESERVOIR, SHOSHONE PROJECT, PICK-SLOAN MISSOURI BASIN PROGRAM.

Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:

(1) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(2) In section 102—

(A) by amending the heading to read as follows:

"RECREATIONAL FACILITIES, CONSERVATION, AND FISH AND WILDLIFE";

and

(B) by adding at the end the following: "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(3) In section 106(a)—

(A) by striking "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and inserting "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)"; and

(B) by striking "modifications" and all that follows and inserting "modifications.".

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 200. SHORT TITLE FOR TITLES II-VI; TABLE OF CONTENTS FOR TITLES II-VI; AND DEFINITIONS FOR TITLES II-VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) TABLE OF CONTENTS.—The table of contents for titles II through V of this Act is as follows:

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

Sec. 201. Authorization of additional amounts for the Colorado River Storage Project.
Sec. 202. Bonneville Unit water development.
Sec. 203. Uinta Basin replacement project.
Sec. 204. Non-Federal contribution.
Sec. 205. Definite Plan Report and environmental compliance.
Sec. 206. Local development in lieu of irrigation and drainage.
Sec. 207. Water management improvement.
Sec. 208. Limitation on hydropower operations.
Sec. 209. Operating agreements.
Sec. 210. Jordan Aqueduct prepayment.
Sec. 211. Audit of Central Utah Project cost allocations.
Sec. 212. Crops for which an acreage reduction program is in effect.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

Sec. 301. Utah Reclamation Mitigation and Conservation Commission.
Sec. 302. Increased project water capability.
Sec. 303. Stream flows.
Sec. 304. Fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report for the Central Utah Project.
Sec. 305. Wildlife lands and improvements.
Sec. 306. Wetlands acquisition, rehabilitation, and enhancement.
Sec. 307. Fisheries acquisition, rehabilitation, and enhancement.
Sec. 308. Stabilization of high mountain lakes in the Uinta mountains.
Sec. 309. Stream access and riparian habitat development.
Sec. 310. Section 8 expenses.
Sec. 311. Jordan and Provo River Parkways and natural areas.
Sec. 312. Recreation.
Sec. 313. Fish and wildlife features in the Colorado River Storage Project.
Sec. 314. Concurrent mitigation appropriations.
Sec. 315. Fish, wildlife, and recreation schedule.

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

Sec. 401. Findings, purpose, operation and administration.
Sec. 402. Utah Reclamation Mitigation and Conservation Account.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

Sec. 501. Findings and purpose.
Sec. 502. Provision for payment to the Ute Indian Tribe.
Sec. 503. Tribal use of water.
Sec. 504. Tribal farming operations.
Sec. 505. Reservoir, stream, habitat, and road improvements with respect to the Ute Indian Reservation.
Sec. 506. Tribal development funds.
Sec. 507. Waiver of claims.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

(c) DEFINITIONS.—For the purposes of titles II–VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et. seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $922,456,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: *Provided, however*, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in table 2 of the report accompanying the bill H.R. 429. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) Application of Inspector General Recommendations.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) Utah Reclamation Projects and Features Not to be Funded.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow;

(B) The Deep Creek pumping plant;

(C) The North Fork pumping plant;

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals;

(B) Draining of Benjamin Slough;

(C) Diking of Goshen or Provo Bays in Utah Lake;

(D) Ute Indian Unit;

(E) Leland Bench development; and

(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) Termination of Authorization of Appropriations.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with non-Federal entities for construction of such project, and (2) the Secretary has requested construction funds for such project.

(d) Use of Appropriated Funds.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made available in their entirety to non-Federal interests as provided for pursuant to the provisions of this Act.

(e) Status of Participating Projects.—The Secretary, in consultation with the Secretary of Energy and the Governors of the Upper Colorado River Basin States, is directed to report to Congress not later than one year after the date of enactment of this Act on the status of Colorado River Storage Project participating projects for which construction has not begun as of October 15, 1990. The report of the Secretary shall include, but not be limited to, the following information:

(1) a description of each project, its legislative history, and history of environmental compliance;

(2) an analysis of the economic costs and benefits of each participating project;

(3) a recommendation as to whether the authorization of appropriations for that project be amended, be terminated, or should remain unchanged, along with the reasons supporting each recommendation.

SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) Irrigation and Drainage System.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: *Provided, however*, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph: *Provided, however*, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) Requirement for Binding Contracts.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) Conjunctive Use of Surface and Ground Water.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) Wasatch County Water Efficiency Project.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in section 107(e)(2) for related purposes.

(C) The feasibility study and the project construction authorization shall be subject to the non-Federal contribution requirements of section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 102(a)(1) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 102(a)(1).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) PROVO RIVER STUDIES—(A) $2,000,000 for the district to conduct, with public involvement—

(i) in consultation with the United States Geological Survey a hydrologic study that includes a hydrologic model analysis of the Provo River basin with all tributaries, water imports and exports, and diversions, an analysis of expected flows and storage under varying water conditions, and a comparison of steady state conditions with proposed demands being placed on the river and affected water resources, including historical diversions, decrees, and water rights; and

(ii) a feasibility study of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry collection system to the Provo River basin, including the Wallsburg Tunnel and other possible importation or exchange options.

The studies shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River basins, and shall describe the economic and environmental consequences of each alternative identified. In addition to funds appropriated after the enactment of this Act, the Secretary is authorized to utilize Section 8 funds which may be available from fiscal year 1992 appropriations for the central Utah Project for the purposes of carrying out the studies described in this paragraph.

(B) The cost of the study provided for in subparagraph (A) shall be treated as an expense under section 8: *Provided, however*, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed.

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within sections 2 and 13, township 3 south, range 12 west, and sections 7 and 8, township 3 south, range 11 west, Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

SEC. 203. UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water construction within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no funds for such features have been obligated or expended in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: *Provided, however*, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43-3825 (Application No. A36642) and Water Right No. 43-3827 (Application No. A36644).

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds

are not currently needed. Amounts in the account shall be available, upon appropriation by Congress.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 19, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, United States Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total costs and shall be paid concurrently with the Federal share, except that for the facilities specified in section 202(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by sections 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Any feature or study to which this section applies shall not be cost shared until after the non-Federal interests enter into binding agreements with the appropriate Federal authority to provide the share required by this section. The District may commence such studies prior to entering into binding agreements and upon execution of binding agreements the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, amounts may not be obligated or expended for the features authorized in section 202(a)(1) or 203 until—

(1) the Secretary or the District, at the option of the District, completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the United States Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to any non-Federal interests until any such interest enters into binding agreements with the appropriate Federal authority to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make such sums as are necessary available to the District for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analyses consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983). The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(a)(1)(B) of this Act.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65 percent of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses;

(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25 percent of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10 percent of recorded annual water deliveries.

The minimum goal for the District shall be 30,000 acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Efficiency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Juab Counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally sound measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Not less than ninety days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three-year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water or without significant adverse environmental impact, and in the public interest shall be deemed to constitute the "active inventory." For purposes of this section, the determination of benefits shall take into account:

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 202(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50 percent of the water conservation goal within seven years after submission of the initial plan and 100 percent of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) without significant adverse environmental impact; and

(C) found to be in the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the United States Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved and accepted by the Secretary for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1994, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are—

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner

of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will—

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of groundwater resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and groundwater supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For an amount not to exceed 50 percent of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. Such Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65 percent of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made first available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b).

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Within two years of the date of enactment of this Act, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.);

(B) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction;

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air-conditioning and refrigeration systems;

(I) standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices; and

(J) elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D), or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Within three years of the date of enactment of this Act, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgment of the Board, will be most likely to be promulgated within four years of the date of enactment of this Act, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after ninety days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:

(A) for the first year of substantial noncompliance, 5 percent of the District's annual Bonneville Unit repayment obligation to the Secretary;

(B) for the second year of substantial noncompliance, 10 percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, 15 percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within twelve months after a determination of substantial noncompliance, the Secretary shall refund 100 percent of the surcharge levied.

(h) RECLAMATION REFORM ACT OF 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) IN GENERAL.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before sixty days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right

which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 209. OPERATING AGREEMENTS.

The District, in consultation with the Commission, the Utah Division of Water Rights and the Bureau, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir within two years of the date of enactment of this Act.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary shall prescribe, and prior to one year after the date of enactment of this Act, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 212. CROPS FOR WHICH AN ACREAGE REDUCTION PROGRAM IS IN EFFECT.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to crops for which an acreage reduction program is in effect until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge an acreage reduction program production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949 if the stocks of such commodity held in storage by the Commodity Credit Corporation exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the acreage reduction program crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969, and the Endangered Species Act of 1973; and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of five members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the Members of the House of Representatives representing the State.

(B) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the Members of the Senate representing the State.

(C) One from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) One from a list of residents of the State submitted by the District.

(E) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of four years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of three years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of two years.

(3) A vacancy in the Commission shall be filled within ninety days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be 1 year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) Director and Staff of Commission; Use of Consultants.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) Implementation of Mitigation and Conservation Measures.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five-year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) Reallocation of Section 8 Funds.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits: *Provided, however*, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) Contracting Authority.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise of final settlement of any claim arising thereunder, with universities, nonprofit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969.

(g) Planning and Reporting.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) Final Plan.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five-year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) Public Involvement and Agency Consultation.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than ninety days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall give due consideration to all substantive recommendations and measures received pursuant to section 301(g)(3)(A), and shall incorporate recommendations received from Federal and State resource agencies, county and municipal entities, and the appropriate Indian tribes, unless the Commission, in its sole judgment, determines that doing so would be inconsistent with the purposes of this Act or would interfere with or prevent the Commission from fulfilling the duties and responsibilities assigned to it in this Act, or result in inefficient or impractical resource management practices. The Commission shall include in its plan a written description of the recommendations received and adopted. In addition, the Commission shall include in its detailed report to Congress required under paragraph (g)(5) a summary of the recommendations received with a written finding explaining why such recommendations were adopted or rejected. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) Agency Concurrence.—Commission plans developed in accordance with this subsection, or implemented under subsection (f), that affect National Forest System lands shall be subject to review and concurrence by the Secretary of Agriculture.

(6) Reporting.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least sixty days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) Discretionary Duties and Powers.—In addition to any other duties and powers provided by law:

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation; *Provided, however*, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act, (A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and, (B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (l) or condemnation proceedings initiated by other agencies.

(i) Funding.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the account under section 402(b)(3)(C).

(j) Availability of Unexpended Amounts Upon Completion of Construction Projects.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) Transfer of Property and Authority Held by the Commission.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within the Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

(l) Representation by Attorney General.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) Congressional Oversight.—The activities of the Commission shall be subject to oversight by the Congress.

(n) Termination of Bureau Activities.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302. INCREASED PROJECT WATER CAPABILITY.

(a) Acquisition.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) Nonconsumptive Rights.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) Authorization of Appropriations.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) Stream Flow Agreement.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) Increased Flows in the Upper Strawberry River Tributaries.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry basin water rights being diverted to the Heber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah Counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry basin by the District shall be tendered in accordance with State law within thirty days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) Stream Flows in the Bonneville Unit.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) Mitigation of Excessive Flows in the Provo River.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or streambed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) Earmark.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) Strawberry Valley Tunnel.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(a) Acquisition of Rangelands.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency, for management as a big game winter range. In the case of such transfers, lands acquired within the boundaries of a national forest shall be administered by the Secretary of Agriculture as a part of the National Forest System.

(b) Big Game Crossings and Wildlife Escape Ramps.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) Wetlands Around the Great Salt Lake.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) Inventory of Sensitive Species and Ecosystems.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) Utah Lake Wetlands Preserve.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(12) The Commission is authorized to compensate out of funds available in section 201 landowners adjacent to the Utah Lake Wetlands Preserve who experience provable economic losses attributable to the establishment of the Preserve or provable economic losses directly resulting from Preserve management practices contrary to the provisions of this subsection or from the manipulation of water levels within the Preserve. Total compensation for claims pursuant to this subsection shall not exceed $2,000,000: *Provided*, That the amount of funds available from the Commission for such compensation shall be adjusted according to the mechanism provided in section 201. The filing of a claim for compensation pursuant to this subsection shall not preclude an affected adjacent landowner from seeking other remedies or damages otherwise available under State or Federal law.

(13) Valuation of interests acquired under this subsection shall be independently determined as though the Preserve had not been established.

(14) Any property acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the Commission to the Utah Division of Wildlife Resources.

(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2,000 feet out into the bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm water fishery and other related issues; and (B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond River and Sixth Water Creek drainages.

(7) $475,000 for fish habitat restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary of the Wasatch-Cache National Forest to a level of practical necessity. For purposes of this subsection, the Lakes Management Area shall be defined as depicted on the map in the Wasatch-Cache National Forest Land and Resource Management Plan.

(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream, access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed rehabilitation, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8 EXPENSES.

Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in the following sections shall be treated as expenses under section 8: all sections of title III, and section 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) FISHERIES.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) WETLANDS.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreages, including those along the Jordan River identified by the multiagency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) RECREATIONAL FACILITIES.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report accompanying the bill H.R. 429.

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report accompanying the bill H.R. 429.

(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to be appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the United States Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) Deposit the Federal contribution to the Account authorized in section 402(b)(2); then,

(b) Of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, 3 percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to—

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will—

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to State and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Instream flows.				
1.a Lease of Daniels Creek water rights	$500	$500	$0	$0
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$10,0000	$10,000	$0	$0
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$15,000	$5,000	$5,000	$5,000
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$4,000	$500	$1,500	$1,500
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$500	$100	$100	$100
Subtotal	$30,000	$16,100	$6,600	$6,600

Projects and Features	FY96	FY97	FY98
Instream flows			
1.a. Lease of Daniels Creek water rights	$0	$0	$0
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$0	$0	$0

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$0	$0	$0	
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$500	$0	$0	
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$100	$100	$0	
Subtotal	$600	$100	$0	
	TOTAL	FY93	FY94	FY95
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$1,300	$0	$100	$200
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$750	$0	$0	$250
Subtotal	$2,050	$0	$100	$450
	FY96	FY97	FY98	
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$500	$500	$0	
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$250	$250	$0	
Subtotal	$750	$750	$0	
	FY96	FY97	FY98	
Wetland acquisitions rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$14,000	$1,000	$2,600	$2,600
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$7,000	$300	$1,200	$1,500
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$1,500	$250	$250	$250
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 306(c)(9)]	$16,690	$1,690	$3,000	$3,000
Subtotal	$39,190	$3,240	$7,050	$7,350
	FY96	FY97	FY98	
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$2,600	$2,600	$2,600	
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$2,000	$2,600	$0	
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$250	$250	$250	
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 303(c)(9)]	$3,000	$3,000	$3,000	
Subtotal	$7,850	$7,850	$5,850	
	TOTAL	FY93	FY94	FY95
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$750	$50	$0	$100
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$4,000	$0	$400	$600
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$1,000	$200	$200	$200
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$1,500	$300	$300	$300
5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]	$1,000	$150	$150	$200

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$1,000	$0	$0	$0
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	$475	$50	$50	$75
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	$1,150	$0	$0	$100
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$5,000	$0	$0	$0
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$22,800	$100	$3,500	$4,200
Subtotal	$38,675	$850	$4,600	$5,775

Projects and Features	FY96	FY97	FY98
Fisheries acquisition and restoration			
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$200	$200	$200
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$1,000	$1,000	$1,000
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$200	$200	$0
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$300	$300	$0
5. Study and facilitate development to improve Utah Lake warmwater fishery [Sec. 307(5)]	$150	$150	$200
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$100	$500	$400
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	$100	$100	$100
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	$300	$400	$350
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$500	$2,000	$2,500
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$5,000	$5,000	$5,000
Subtotal	$7,850	$9,850	$9,750

Projects and Features	TOTAL	FY93	FY94	FY95
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$2,500	$0	$500	$500
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$1,125	$125	$200	$200
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$4,000	$500	$700	$700
Subtotal	$7,625	$625	$1,400	$1,400

Projects and Features	FY96	FY97	FY98
Watershed Improvements			
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$500	$500	$500
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$200	$200	$200
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$700	$700	$700
Subtotal	$1,400	$1,400	$1,400

Projects and Features	TOTAL	FY93	FY94	FY95
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$750	$0	$250	$250

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$250	$0	$0	$50
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$350	$0	$0	$50
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$8,500	$500	$1,000	$1,500
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$400	$50	$75	$75
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$750	$75	$75	$150
Subtotal	$11,000	$625	$1,400	$2,075

	FY96	FY97	FY98
Stream Access and Riparian Habitat Development			
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$250	$0	$0
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$100	$100	$0
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$100	$100	$100
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$1,500	$2,000	$2,000
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$75	$75	$50
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$150	$150	$150
Subtotal	$2,175	$2,425	$2,300

	TOTAL	FY93	FY94	FY95
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$2,000	$125	$275	$400
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$750	$50	$100	$150
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$1,000	$0	$75	$75
4. Provo River corridor development [Sec. 311(e)]	$1,000	$0	$75	$75
Subtotal	$4,750	$175	$525	$700
Total Additional	$133,290	$21,615	$21,675	$24,350

	FY96	FY97	FY98	
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$400	$400	$400	
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$150	$150	$150	
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$200	$300	$350	
4. Provo River corridor development [Sec. 311(e)]	$200	$300	$350	
Subtotal	$950	$1,150	$1,250	
Total Additional	$21,575	$23,525	$20,550	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$2,700	$900	$900	$900
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$3,990	$666	$803	$790
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$3,000	$600	$600	$600

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Subtotal	$9,690	$3,966	$1,403	$1,390
	FY96	FY97	FY98	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$0	$0	$0	
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$453	$604	$674	
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$600	$600	$0	
Subtotal	$1,053	$1,204	$674	
	TOTAL	FY93	FY94	FY95
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$160	$160	$0	$0
Subtotal	$160	$160	$0	$0
	FY96	FY97	FY98	
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$0	$0	$0	
Subtotal	$0	$0	$0	
	TOTAL	FY93	FY94	FY95
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$226	$100	$126	$0
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$1,050	$525	$525	$0
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$900	$900	$0	$0
Subtotal	$2,176	$1,525	$651	$0
Total DPR	$12,026	$5,651	$2,054	$1,390
Grand Total	$145,316	$27,266	$23,729	$25,740
	FY96	FY97	FY98	
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$0	$0	$0	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$0	$0	$0	
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$0	$0	$0	
Subtotal	$0	$0	$0	
Total DPR	$1,053	$1,204	$674	
Grand Total	$22,628	$24,729	$21,224	

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant States in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSES.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-Federal funds from the District.

(B) $5,000,000 annually by the Secretary of Energy out of funds appropriated to the Western Area Power Administration, such expenditures to be considered nonreimbursable and nonreturnable.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPENDED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b) (1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive:

(A) all amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) all interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of the Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) FINDINGS.—The Congress finds the following—

(1) The unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing one year after the date of enactment of this Act and continuing for fifty years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.

(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to reratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) THE INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) RESTRICTION ON DISPOSAL OF WATERS INTO THE LOWER COLORADO RIVER BASIN.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, nonappealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact: *Provided, however*, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) USE OF WATER RIGHTS.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) RULES OF CONSTRUCTION.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to the appropriated by section 201, $45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year period—

(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) REPAIR OF CEDARVIEW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) RESERVATION STREAM IMPROVEMENTS.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) BOTTLE HOLLOW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all nongame fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) MINIMUM STREAM FLOWS.—As a minimum, the Secretary shall endeavor to maintain continuous releases from the outlet works of the Upper Stillwater Dam into Rock Creek to maintain 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April, at the reservation boundary. Nothing in this authorization shall increase the obligation of the District to deliver more that 44,000 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) LAND TRANSFER.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) RECREATION ENHANCEMENT.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 201, $1,250,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) TRIBAL DEVELOPMENT.—The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) DESCRIPTION OF CLAIMS.—The Tribe shall waive, upon receipt of the section 504, 505, and 506 monies, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) RESURRECTION OF CLAIMS.—In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 601. RULE OF CONSTRUCTION.

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—TREATMENT OF DRAINAGE FROM THE LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 701. TREATMENT PLANT AND RELATED WORK.

(a) AUTHORIZATION.—The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by the treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, Colorado, in order that water flowing from the Leadville Tunnel shall meet water quality standards.

(b) COSTS NONREIMBURSABLE.—Construction, operation, and maintenance costs of the works authorized by this section shall be nonreimbursable.

(c) OPERATION AND MAINTENANCE.—The Secretary shall be responsible for operation, maintenance, and replacement of the water treatment plant, including sludge disposal authorized by this Act. The Secretary may contract for services to carry out this subsection.

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated beginning October 1, 1989, to carry out this title $20,000,000 (based on January 1989 prices), $2,000,000 of which shall be for the fish and wildlife restoration program authorized in section 704 of this title. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the works authorized by this Act.

SEC. 703. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel, Colorado.

SEC. 704. RESTORATION OF FISH AND WILDLIFE RESOURCES.

(a) AUTHORIZATION.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, is authorized, in consultation with other Federal entities and the State of Colorado, to formulate and implement, subject to the provisions of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River Basin impacted by the effluent discharge from the Leadville Mine Drainage Tunnel, Colorado. The formulation of the program under this section shall be undertaken with appropriate public consultation.

(b) NOTIFICATION TO CONGRESS.—At least sixty days prior to implementing a program under subsection (a), the Secretary shall submit a report outlining a proposed program for carrying out subsection (a), including estimated costs, to the Speaker of the House of Representatives and the President pro tempore of the Senate.

SEC. 705. UPPER ARKANSAS RIVER BASIN WATER QUALITY RESTORATION INITIATIVE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Subject to the provisions of subsection (e) of this section, the Secretary is authorized, in consultation with the State of Colorado, the Environmental Protection Agency, and other Federal, local, and private entities, to conduct investigations of water pollution sources and impacts attributed to mining and other development in the Upper Arkansas River Basin, to develop corrective action plans for such basin, and to implement corrective action demonstration projects for such basin. The Upper Arkansas River Basin is defined as the hydrologic basin of the Arkansas River in Colorado extending from Pueblo Dam upstream to the headwaters of the Arkansas River.

(2) LIMITATION.—The Secretary shall have no authority to implement corrective action demonstration projects under this section at facilities which have been listed or proposed for listing on the national priorities list or are subject to or covered by the Solid Waste Disposal Act.

(b) LIABILITY.—Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for costs or damages as a result of actions taken or omitted in the course of implementing an action developed under this section. This subsection shall not preclude liability for costs or damages as the result of negligence on the part of such persons.

(c) FUNDING.—In carrying out this section, the Secretary shall arrange for cost sharing with the State of Colorado and for the utilization of non-Federal funds and in-kind services where possible. The Secretary is authorized to fund all State costs required to conduct investigations and develop corrective action plans required in subsection (a). The Federal share of costs for the implementation of corrective action plans as authorized in subsection (a) shall not exceed 50 percent.

(d) PUBLIC INVOLVEMENT.—The development of all corrective action plans and subsequent corrective action demonstration projects under this section shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations issued under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Environmental Protection Agency.

(e) SUBMISSIONS OF PLANS TO CONGRESS.—At least sixty days prior to implementing any corrective action demonstration project under this section, the Secretary shall submit a copy of the proposed project plans, including estimated costs, to the Speaker of the House of Representatives and President pro tempore of the Senate.

(f) EFFECT ON CERCLA.—Nothing in this title affects or modifies, in any way, the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601). The development of corrective action plans and implementation of corrective action demonstration projects shall be exclusive of all enforcement actions under such Act. It is not the intent of this title to relieve non-Federal potentially responsible parties of their liability under such Act.

SEC. 706. DEFINITION.

As used in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE VIII—LAKE MEREDITH PROJECT

SEC. 801. AUTHORIZATION TO CONSTRUCT AND TEST.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT WITH THE CANADIAN RIVER MUNICIPAL WATER AUTHORITY.

(a) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) CONSTRUCTION CONTINGENT ON CONTRACT.—Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) CANADIAN RIVER MUNICIPAL WATER AUTHORITY SHARE.—All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) FEDERAL SHARE.—All project costs for design preparation, and construction management shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement, except that the Federal contribution shall not exceed 33 per centum of the total project costs.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) PRECONSTRUCTION.—The Secretary shall, upon entering into the contract specified in section 802 with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) TERMINATION OF CONSTRUCTION.—At any time following the first advance of funds, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) TRANSFER OF CONTROL.—Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds.

SEC. 805. TRANSFER OF TITLE.

Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 806. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title, except that the total Federal contribution to the cost of the activities undertaken under the authority of this title shall not exceed 33 per centum.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

SEC. 901. AUTHORIZATION OF REFORMULATION.

The Secretary, consistent with the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(1) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for ground water recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(2) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, for water sales, for fish, wildlife, and recreation purposes, and for other purposes.

SEC. 902. CONTRACT WITH THE STATE OF KANSAS FOR OPERATING POOL.

The Secretary may enter into a contract with the State of Kansas for the sale, use and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT WITH THE STATE OF KANSAS FOR CEDAR BLUFF DAM AND RESERVOIR.

(a) AUTHORIZATION.—The Secretary may enter into a contract with the State of Kansas, accepting a payment of $350,000, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir. After the reformulation of the Cedar Bluff Unit authorized by this title, all net revenues received by the United States from the sale of water of the Cedar Bluff Unit shall be credited to the Reclamation Fund.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the Cedar Bluff Irrigation District's obligations under contract number 0–07–70–W0064 shall be terminated.

(c) TRANSFER OF FISH HATCHERY.—The Secretary may transfer ownership of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary may transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached. The transferee of any interests conveyed pursuant to this section shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 905. ADDITIONAL ACTIONS.

The Secretary may take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—MISCELLANEOUS PROVISIONS, CENTRAL VALLEY PROJECT

SEC. 1001. EXTENSION OF THE TEHAMA-COLUSA CANAL SERVICE AREA.

The first paragraph of section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended by the Act of August 19, 1967 (81 Stat. 167), and the Act of December 22, 1980 (94 Stat. 3339), authorizing the Sacramento Valley Irrigation Canals, Central Valley Project, California, is further amended by striking "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or" and inserting "Tehama, Glenn, Colusa, Solano, and Napa Counties, those portions of Yolo County within the boundaries of Colusa County Water District, Dunnigan Water District, Yolo-Zamora Water District, and Yolo County Flood Control and Water Conservation District, or".

SEC. 1002. AUTHORIZATION FOR LONG-TERM CONTRACT FOR WATER DELIVERY.

(a) GENERAL AUTHORITY.—Notwithstanding the Energy and Water Development Appropriations Act, 1990, the Secretary of the Interior is authorized, pursuant to section 203 of the Flood Control Act of 1962 (76 Stat. 1191), to enter into a long-term contract in accordance with Federal Reclamation laws with the Tuolumne Regional Water District, California, for the delivery of water from the New Melones project to the county's water distribution system.

(b) RECLAMATION LAWS.—For purposes of subsection (a), the term "Federal Reclamation Laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof.

TITLE XI—SALTON SEA RESEARCH PROJECT

SEC. 1101. RESEARCH PROJECT TO CONTROL SALINITY.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 25 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources of the Senate regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated

$10,000,000 to carry out the purposes of this title.

TITLE XII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 1201. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 1203, to the interstate compact, described in section 1202, relating to the waters of the Sabine River and its tributaries.

SEC. 1202. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85–78).

SEC. 1203. AMENDMENT.

The amendment referred to in section 1201 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: *Provided*, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XIII—NAME CHANGE

SEC. 1301. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1302. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in subsection (a) hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XIV—EXCESS STORAGE AND CARRYING CAPACITY

SEC. 1401. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes from any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California.

TITLE XV—AMENDMENT TO THE RECLAMATION PROJECT ACT OF 1939

SEC. 1501. CONTRACT AMENDMENTS.

Subsection (h) of section 8 of the Reclamation Project Act of 1939 (43 U.S.C. 485g(h)) is amended to read as follows:

"(h) If any classification or reclassification of irrigable lands undertaken pursuant to this section results in an increase in the outstanding construction charges or rate of repayment on any project, as established by an existing contract with an organization, the Secretary shall amend the contract to increase the construction obligation or the rate of repayment. No other modification in outstanding construction charges or repayment rates may be made by reason of a classification or reclassification undertaken pursuant to this section without the approval of Congress.".

TITLE XVI—WATER RECLAMATION AND REUSE

SEC. 1601. PARTICIPATION IN STUDY.

The Secretary is authorized to participate with the city of San Diego, California, in the conduct of a study of conceptual plans for water reclamation and reuse. The Federal share of the cost of the study referred to in this section shall not exceed 50 percent of the total cost of the study.

SEC. 1602. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated the sum of $250,000 to carry out the Federal share of the study specified in section 1601 of this title.

TITLE XVII—RECLAMATION REFORM ACT OF 1982

SEC. 1701. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This title may be cited as the "Reclamation Reform Act Amendments of 1991".

(b) DEFINITION.—As used in this title, the term "the Act" means the Reclamation Reform Act of 1982 (Public Law 97–293, 96 Stat. 1263, 43 U.S.C. 390aa, et seq.).

SEC. 1702. NEW DEFINITION.

Section 202 of the Act is amended by adding the following new definition after paragraph 2, and redesignating the subsequent paragraphs accordingly:

"(3)(A) The term 'farm' or 'farm operation' means any landholding or group of landholdings, including partial landholdings, directly or indirectly farmed or operated by an individual, group, entity, trust, or any other combination or arrangement. The existence of a farm or farm operation will be presumed when ownership, operation, management, financing, or other factors, individually or together, indicate that one or more landholdings, including partial landholdings, are directly or indirectly farmed or operated by the same individual, group, entity, trust, or other combination or arrangement thereof.

"(B) The following arrangements and transactions, if negotiated at arms length between unrelated parties, shall not be factors for the purpose of determining the existence of a farm or farm operation:

"(i) Participation in a bona fide cooperative;

"(ii) Entering into an agreement in which each party bears the risk of loss individually for: (I) the use of equipment or labor; (II) processing, handling, brokering, or packing crops; (III) ginning cotton; (IV) purchasing seed; (V) purveying water; or (VI) other similar agreements;

"(iii) Entering into financial transactions involving land or crop loans, in which the lender has no interest in providing farm services of any kind (except in a fiduciary capacity as trustee), including, but not limited to, the granting or receipt of a security interest, crop mortgage, assignment of crop or crop proceeds or other interests in a crop or land solely for the purposes of obtaining repayment of a loan;

"(iv) Entering into (or exercising rights under) an agreement to assure or require bona fide quality control measures and/or the right to take control of farming operations in order to ensure quality control; or

"(v) Entering into an agreement for custom farming or farm management services if the custom farmer or farm manager does not bear a direct risk of loss in the crop.

"(C) With respect to activities between 'related parties', as defined in section 267(b) of the Internal Revenue Code of 1986, the Secretary shall certify that a farm or farm operation does not exist based on information supplied by such parties if such information indicates that all such activities were entered into and performed at arms length."

SEC. 1703. ADDITION OF FARM OR FARM OPERATION TO THE ACT.

(a) The second sentence of section 203(b) of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and inserting after "leased" wherever it appears the following: ", farmed or operated".

(b) Section 205 of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and by inserting after "landholdings" the following: ", farms or farm operations".

SEC. 1704. TRUSTS.

Section 214 of the Act is amended by adding the following new subsections.

"(c) The ownership and pricing limitations of this Act and the ownership limitations of any other provision of Federal reclamation law shall apply to a beneficiary of a trust in the same manner as any other individual.

"(d) The ownership and pricing limitations of this Act and the ownership limitations in any other provisions of Federal reclamation law shall apply to lands which are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the land served do not exceed the ownership and pricing limitations imposed by Federal reclamation law, including this title, as follows:

"(1) For trusts established on or before June 14, 1990 and benefitting 25 individuals or less, the ownership limitations shall go into effect nine years after enactment of these amendments, and the pricing limitations shall go into effect pursuant to sections 203 and 205, as applicable;

"(2) For trusts established on or before June 14, 1990 and benefitting more than 25 individuals, one hundred and eighty days after enactment of these amendments; and

"(3) For trusts established subsequent to June 14, 1990 upon the enactment of these amendments."

Section 205 is amended by adding a new subsection (d) as follows:

"(d) Any trust benefitting 25 individuals or less shall not, under any circumstances, be eligible to receive water at less than full-cost on more than 960 acres of Class I land or the equivalent thereof. Full-cost pricing resulting from the application of this subsection shall be phased in over three years, that being of the difference between the applicable nonfull cost rate and the then existing full-cost rate for the first, second, and third calendar years, respectively, following the effective date of these amendments.".

SEC. 1705. INTENT AND PURPOSES.

Section 224(c) of the Act is amended to read as follows:

"(c) The Secretary is directed to prescribe regulations and shall collect all data necessary to carry out the intent, purposes, and provisions of this title and of other provisions of Federal reclamation law. Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation established pursuant to this Act.".

SEC. 1706. REPORTING REQUIREMENTS.

(a) Section 228 of the Act is amended by inserting after "contracting entity" wherever it appears, the following: ", farm, or farm operation".

(b) Section 206 of the Act is amended by inserting after the final sentence the following: "This section shall also apply to all landholdings, farms, or farm operations, to all lands operated under any kind of operating agreement, and to all operators thereof. The Secretary, may also require the submission of any agreement or other document relating to the certification.".

SEC. 1707. RELIGIOUS OR CHARITABLE ORGANIZATIONS.

Section 219 of the Act is amended by—

(1) inserting "(a)" after "SEC. 219"; and

(2) inserting at the end the following new subsections:

"(b) The terms 'farm' or 'farm operation' shall not apply to any landholding of a religious or charitable entity or organization which qualifies as an individual under this section. If an individual religious or charitable entity or organization holds land as a lessor within a district, it shall qualify as an individual with respect to such lands: *Provided*, That the entity or organization directly uses the proceeds of the lease only for charitable purposes: *Provided further*, That the lessee is eligible to receive reclamation water upon the leased lands.

"(c) If an individual religious or charitable organization holds lands within a district, but fails to qualify as an individual under this section, its lands within a district with regard to which it does not qualify as an individual shall be lands held in excess of the ownership limitations of section 209 of this Act, and shall receive reclamation water only as excess lands in compliance with the provisions of section 209 of this Act. The failure of an individual religious or charitable entity or organization to qualify as an individual under this section shall not affect the qualification as an individual under this section of another individual religious or charitable entity or organization which is affiliated with the same central organization or is subject to a hierarchical authority of the same faith.".

SEC. 1708. RESTRICTION OF BENEFITS TO CITIZENS AND RESIDENT ALIENS.

(a) Section 202(8) of the Act, as redesignated by section 1702 of this Act, is amended by striking the period and inserting in lieu thereof the following: ": *Provided*, That all such persons are citizens of the United States or resident aliens thereof.".

(b) Section 202(10) of the Act, as redesignated by section 1702 of this Act, is amended by striking the period and inserting in lieu thereof the following: ": *Provided*, That all such persons are citizens of the United States or resident aliens thereof.".

SEC. 1709. ASSESSMENT REVIEW.

The Secretary shall review on a case-by-case basis the full cost charges applied to prior law recipients who filed irrevocable elections pursuant to section 203(b) of the 1982 Act between May 13, 1987 and January 1, 1988. Upon completion of such review, the Secretary shall determine, taking into account all relevant information, whether or not the full cost charges assessed of said prior law recipients are appropriate. Based upon such determination, the Secretary may reduce or rescind said charges accordingly: *Provided*, That the Secretary shall inform by letter report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of any intent to reduce or rescind such charges and that such reduction or rescission shall not take place until after the passage of ninety calendar days after the receipt by the respective Committees of the letter report. The Secretary shall consult with the Office of the Inspector General of the Department of the Interior in the preparation of such report.

SEC. 1710. APPLICATION TO INDIAN LANDS.

The Act (43 U.S.C. 390aa et seq.) is amended by adding at the end the following new section:

"SEC. 231. APPLICATION TO INDIAN LANDS.

"Nothing in this title shall apply to trust or restricted Indian lands.".

TITLE XVIII—GRAND CANYON PROTECTION

SEC. 1801. SHORT TITLE.

This title may be cited as the "Grand Canyon Protection Act".

SEC. 1802. FINDINGS.

The Congress finds the following:

(1) Current operating procedures at Glen Canyon Dam, including fluctuating water releases made for the production of peaking hydroelectric power, have substantial adverse effects on downstream environmental and recreational resources, including resources located within Grand Canyon National Park. Flood releases from Glen Canyon Dam have damaged beaches and terrestrial resources. Damage from flood releases can be reduced if the frequency of flood releases is reduced, as has been the practice in recent years.

(2) The Secretary announced on July 27, 1989, the preparation of an environmental impact statement to evaluate the impacts of Glen Canyon Dam operations on downstream environmental and recreational resources. Based in part on information developed during the environmental impact statement process, the Secretary will be in a position to make informed decisions regarding possible changes to current operating procedures for Glen Canyon Dam.

(3) The adverse effects of current operations of Glen Canyon Dam are significant and can be at least partially mitigated by the development and implementation of interim operating procedures pending the completion of an environmental impact statement, the Glen Canyon Environmental Studies, and the adoption of new long-term operating procedures for Glen Canyon Dam.

SEC. 1803. DEFINITIONS.

As used in this title—

(1) the term "Colorado River Compact" means the compact consented to by the Act of August 19, 1921 (chapter 72; 42 Stat. 171) and approved by section 13(a) of the Act of December 21, 1928 (45 Stat. 1064);

(2) the term "Upper Colorado River Basin Compact" means the compact consented to by the Act of April 6, 1949 (63 Stat. 31); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 1804. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary shall operate Glen Canyon Dam and, if necessary, take other reasonable mitigation measures in such a manner as to protect, mitigate adverse impacts to, and improve the condition of, the environmental, cultural, and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, under operating procedures that are subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to the allocation of the Colorado River.

(b) AMENDMENT OF CRSP.—The Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.; commonly referred to as the "Colorado River Storage Project Act"), is amended as follows:

(1) In section 3, by adding at the end the following: "It is the further intention of Congress that the Secretary shall operate Glen Canyon Dam and, if necessary, take other reasonable mitigation measures, so as to protect, mitigate damages to, and improve the condition of the environmental, cultural, and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), and other laws relating to allocation of the Colorado River.".

(2) In the first sentence of section 7, by striking "Acts." and inserting "Acts, nor shall the Secretary operate the hydroelectric powerplant at Glen Canyon Dam in a manner which causes significant and avoidable adverse effects on the environmental, cultural, or recreational resources of Glen Canyon National Park or Glen Canyon National Recreation Area downstream of Glen Canyon Dam.".

(c) PROMULGATION OF OPERATING PROCEDURES.—The Secretary shall promulgate interim and long-term operating procedures for Glen Canyon Dam as set forth in sections 1805 and 1806, which procedures shall be consistent with the requirements of this section, and, if necessary, shall take other reasonable mitigation measures.

(d) DISCLAIMER.—Nothing in this title alters or may be construed to alter the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or to affect in any manner the authority and responsibility of the Secretary with respect to the management and administration of such areas, including natural and cultural resources, and visitor use, as provided by laws applicable to such areas, including (but not limited to) the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 1805. INTERIM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, and pending compliance by the Secretary with the requirements of section 1806, the Secretary shall, not later than October 1, 1991, or upon cessation of research flows used for preparing the environmental impact statement ordered by the Secretary on July 27, 1989, whichever is earlier, develop and implement interim operating procedures for Glen Canyon Dam. Such procedures shall—

(1) not interfere with the primary water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to allocation of the Colorado River;

(2) minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam;

(3) adjust fluctuating water releases caused by the production of peaking hydroelectric power and adjust rates of flow changes for fluctuating flows that will minimize, to the extent reasonably possible, adverse downstream impacts;

(4) minimize flood releases, consistent with the requirements of section 1804 of this title;

(5) maintain sufficient minimum flow releases at all times from Glen Canyon Dam to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen

Canyon Dam operations on Grand Canyon National Park and to protect fishery resources; and

(6) limit maximum flows released during normal operations to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam and to protect fishery resources.

(b) CONSULTATION.—The Secretary shall develop and implement the interim operating procedures described in subsection (a) in consultation with—

(1) appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) the Secretary of Energy;

(3) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) affected Indian tribes; and

(5) the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) SCIENTIFIC DATA.—The Secretary shall develop and implement the interim operating procedures referred to in this section using the best and most recent scientific data available, including the scientific information collected and analyzed as part of the Glen Canyon Environmental Studies.

(d) TERMINATION.—The interim operating procedures described in this section shall terminate upon compliance by the Secretary with the requirements of section 1806 of this title.

(e) DEVIATION FROM PROCEDURES.—The Secretary may deviate from the interim operating procedures described in this section upon a finding that such deviation is necessary and in the public interest in order to—

(1) comply with the requirements of section 1806(a) of this title;

(2) respond to hydrologic extremes or power system operating emergencies; or

(3) further reduce adverse impacts on environmental, cultural, or recreational resources downstream from Glen Canyon Dam.

SEC. 1806. GLEN CANYON ENVIRONMENTAL STUDIES; GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; AND LONG-TERM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) EIS.—The Secretary shall, not later than December 31, 1993, complete the final Glen Canyon Dam Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and in addition shall complete the Glen Canyon Environmental Studies. In preparing the environmental impact statement, the Secretary shall consider the views and conclusions of all cooperating government agencies, affected Indian tribes, and the general public. The Secretary shall make use of the best and most recent scientific data and studies in preparing the environmental impact statement, including the scientific information collected and analyzed as part of the Glen Canyon Environmental Studies.

(b) REVIEW.—The Comptroller General of the United States shall review, in accordance with the standards set forth in the United States Water Resource Council's March 10, 1983, Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, the costs and benefits to water and power users and to natural, recreational, and cultural resources resulting from management policies and dam operations identified pursuant to the draft of the environmental impact statement referred to in subsection (a). The Comptroller General shall report the results of the review to the Secretary and the Congress within one year after publication of the draft environmental impact statement.

(c) IMPLEMENTATION.—(1) Based on the findings, conclusions, and recommendations made in the studies, the statement prepared pursuant to subsection (a), and the review performed pursuant to subsection (b), the Secretary shall, within ninety days following completion of the final environmental impact statement or completion of the Comptroller General's review, whichever is later, implement long-term operating procedures for Glen Canyon Dam that will, alone or in combination with other reasonable mitigation measures, ensure that Glen Canyon Dam is operated in a manner consistent with this Act. Such procedures shall not interfere with the primary water storage and delivery functions of Glen Canyon Dam, pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to allocation of the Colorado River.

(2) Upon completion of the requirements of paragraph (1), the Secretary shall submit to the Congress—

(A) the studies and the statement completed pursuant to subsection (a); and

(B) a report describing the long-term operating procedures for Glen Canyon Dam and other measures taken to protect, mitigate adverse impacts to, and improve the condition of the environmental, cultural, and recreational resources of the Colorado River downstream of Glen Canyon Dam.

(d) ANNUAL REPORT.—Annually after the date of the implementation of the procedures under subsection (c)(1), the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report, separate from and in addition to the report specified in section 602(b) of the Colorado River Basin Project Act (43 U.S.C. 1552(b)), on the operation of the Glen Canyon Dam during the preceding year and the projected year operations undertaken pursuant to this title. In the process of preparing the long-term operating procedures, the annual plans of operation described in this section, and the annual report specified in section 602(b) of the Colorado River Basin Project Act, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1807. LONG-TERM MONITORING.

The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with the requirements of section 1804 of this title. Such long-term monitoring shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1806(c)(1) of this title upon the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area. These monitoring programs and activities shall be established and implemented in consultation with the Secretary of Energy; the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming; affected Indian tribes, and the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry and the contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1808. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

SEC. 1809. SAVINGS.

Nothing in this title shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or, except as provided in section 1805, of this title, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or other existing laws relating to environmental or natural resources protection, with regard to the operation of Glen Canyon Dam.

TITLE XIX—MID-DAKOTA RURAL WATER SYSTEM

SEC. 1901. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1991".

SEC. 1902. DEFINITIONS.

For purposes of this title—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1905 of this title;

(2) the term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota;

(3) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(4) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(5) the term "Secretary" means the Secretary of the Interior;

(6) the term "summer electrical season" means May through October of each year;

(7) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(8) the term "Western" means the Western Area Power Administration;

(9) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report;

(10) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990; and

(11) the term "wetland trust" means a trust established in accordance with section 11(b) and operated in accordance with section 11(c).

SEC. 1903. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) SERVICE AREA.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetland areas, and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) TERMS AND CONDITIONS.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) AMOUNT OF GRANTS.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc. and water conservation measures consistent with section 1905 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1912 of this title.

(e) LOAN TERMS.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc. under the provisions of this title shall be repaid, with interest, within thirty years from the date of each loan or loans and no penalty for prepayment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) COORDINATION WITH THE DEPARTMENT OF AGRICULTURE.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1904. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development of the wetland component.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a grant, providing not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) NONREIMBURSEMENT.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 1905. WATER CONSERVATION.

(a) WITHHOLDING OF FUNDS.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) PURPOSE OF PROGRAMS.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) DESCRIPTION OF PROGRAMS.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as individual customers);

(4) declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study);

(5) public education programs; and

(6) coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1906. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre for acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1907. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc., that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1908. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1909. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources.

SEC. 1910. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 1911. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—The Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following four years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to man-

age all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of Region 6 of the United States Fish and Wildlife Service;

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose;

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: *Provided*, That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

(e) COORDINATION WITH THE SECRETARY OF AGRICULTURE.—

(1) The Secretary shall make the Federal contribution under subsection (a) after consulting with the Secretary of Agriculture to provide for the coordination of activities under the wetland trust established under subsection (b) with the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

(2) The Secretary of Agriculture shall take into consideration wetland protection activities under the wetland trust established under subsection (b) when considering whether to provide assistance under the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

SEC. 1912. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There are authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1903, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available under expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1904;

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1904; and

(3) $7,000,000 for the Federal contribution to the wetland trust under section 1911.

TITLE XX—LAKE ANDES-WAGNER, SOUTH DAKOTA

SEC. 2001. DRAINAGE DEMONSTRATION PROGRAMS.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, in coordination with the Secretary of Agriculture and with the assistance and cooperation of an oversight committee (hereafter "Oversight Committee") consisting of representatives of the Bureau of Indian Affairs, Agricultural Research Service of the Department of Agriculture, Soil Conservation Service of the Department of Agriculture, Extension Service of the Department of Agriculture, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water System, Inc. carry out a demonstration program (hereafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study," dated May 1990, a copy of which is on file with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such Demonstration Program shall be conducted in accordance with the environmental analysis and documentation requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) The objectives of the Demonstration Program shall include—

(1) development of accurate and definitive means of quantifying projected irrigation and drainage requirements, and providing reliable estimates of drainage return flow quality and quantity, with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water, and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving special emphasis to crops of agricultural commodities for which an acreage reduction program is not in effect under the provisions of the Ag-

riculture Act of 1949 (7 U.S.C. 1462 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions—

(1) rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor;

(2) the Demonstration Program shall provide for the—

(A) supply all water, delivery system, pivot systems and drains;

(B) operation and maintenance of the irrigation system;

(C) Secretary of Agriculture to supply all seed, fertilizers and pesticides and make standardized equipment;

(D) Secretary of Agriculture to determine crop rotations and cultural practices; and

(E) Secretary and Secretary of Agriculture to have unrestricted access to leased lands;

(3) the Secretary and the Secretary of Agriculture may, in accordance with the Demonstration Program contract with the lessor and/or custom operators to accomplish agricultural work, which work shall be performed in accordance with the Demonstration Program;

(4) no grazing may be performed on a study site;

(5) crops grown shall be the property of the United States; and

(6) at the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their preleased condition at no expense to the lessor.

(d) The Secretary of Agriculture shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary of Agriculture. Any crops not sold shall be disposed of as the Secretary of Agriculture determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. The Secretary of Agriculture shall provide for lessors to preserve the cropland base and history on lands leased to the Demonstration Project under the same terms and conditions provided for under section 1236(b) of the Food Security Act of 1985 (7 U.S.C. 3836(b)). Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Interior and Insular Affairs, the Committee on Agriculture, and the Committee on Merchant Marine and Fisheries of the House of Representatives, to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out in the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall—

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Program; and

(3) prepare in coordination with the Secretary of Agriculture a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriated for the Demonstration Program, shall transfer to the other Federal agencies funds in amounts sufficient to offset expenses incurred under this title.

SEC. 2002. PLANNING REPORTS—ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 2001, the Secretary shall comply with the study and reporting requirements of the National Environmental Policy Act and regulations issued to implement the provisions thereof with respect to the Lake Andes-Wagner Unit and Marty II Unit. The final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the prevention or avoidance of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the Unit to which the report pertains. The Department shall not recommend that any such Unit be constructed unless the respective report prepared pursuant to subsection (a) is accompanied by findings by the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency that the Unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards and avoid all adverse effects to fish and wildlife resulting from the bioaccumulation of selenium.

SEC. 2003. INDIAN EMPLOYMENT.

In carrying out this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions training and employment opportunities shall be provided members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 2004. FEDERAL RECLAMATION LAWS.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof).

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program authorized by this title.

Of the amounts appropriated pursuant to this section, 5 percent of the total shall be utilized by the Director of the United States Fish and Wildlife Service to fund projects on Western National Wildlife Refuges designed to mitigage the adverse effects of selenium on populations of fish and wildlife within such refuges.

TITLE XXI—INSULAR AREAS STUDY

SEC. 2101. FINDINGS.

The Congress hereby finds and declares that assuring adequate supplies of water, sewerage, and power for the residents of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands has become a problem of such magnitude that the welfare and prosperity of these insular areas require the Federal Government to assist in finding permanent, long-term solutions to their water, sewerage, and power problems.

SEC. 2102. AUTHORIZATION OF STUDY.

The Secretary of the Interior is authorized and directed to undertake a comprehensive study of how the long-term water, sewerage, and power needs of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands can be resolved. Such study shall be conducted in consultation with the governments of these insular areas.

SEC. 2103. REQUIREMENTS OF STUDY.

Such study shall include for each jurisdiction, but not be limited to—

(1) an assessment of the magnitude and extent of current and expected needs;

(2) an assessment of how the needs can be resolved;

(3) the costs and benefits of alternative solutions;

(4) the need for additional legal authority for the President to take actions to meet the needs; and

(5) specific recommendations for the role of the Federal Government and each insular government in solving the needs.

SEC. 2104. THE INSULAR AREAS ENERGY ASSISTANCE AMENDMENT OF 1991.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", Public Law 96-597, as amended by Public Law 98-213 (48 U.S.C. 1492), is amended by adding the following subsection:

"(g)(1) There are hereby authorized to be appropriated $500,000 to the Secretary of Energy for each fiscal year for grants to insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependence of the insular area on imported fuels and improve the quality of life in the insular area.

"(2) Factors which shall be considered in determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy grant under this subsection shall include, but not be limited to, the following—

"(A) whether the measure will reduce the relative dependence of the insular area on imported fuels;

"(B) The ease and costs of operation and maintenance of any facility contemplated as part of the project;

"(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the report by the Secretary of Energy pursuant to this section or identified by the Secretary as consistent with the purposes of this section; and

"(D) whether the measure will contribute significantly to the quality of the environment in the insular area.".

TITLE XXII—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2201. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXIII—PLATORO DAM AND RESERVOIR, COLORADO

SEC. 2301. FINDINGS AND DECLARATIONS.

The Congress finds and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further financial risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States pursuant to the existing repayment contract between the United States and the District (Contract No. Ilr-1529, as amended); and

(C) determine such one time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and taking into account 50 percent sharing of the cost of maintaining a minimum stream flow as provided in section 2(d) of this title.

SEC. 2302. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the District in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. Ilr-1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam and Reservoir under Federal and State law; and

(B) that the District shall have the exclusive use and sole responsibility for maintenance of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite. The District shall have sole responsibility for maintaining the land and buildings in a condition satisfactory to the United States Forest Service.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such Contract Numbered Ilr-1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases or bypasses from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 3,000 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: *Provided, however*, That if necessary to maintain the winter instream flow provided in subparagraph (3), the permanent pool may be allowed to be reduced to 2,400 acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of at least 7 cubic feet per second during the months of October through April and shall bypass 40 cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to monitor operation of Platoro Reservoir regularly including releases from it for instream flow purposes and to enforce the provisions of this subsection under the laws, regulations, and rules applicable to the National Forest System.

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this shall be consistent with the water supply use of the reservoir, with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 2 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 2303. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

TITLE XXIV—SLY PARK UNIT, CENTRAL VALLEY PROJECT

SEC. 2401. SHORT TITLE.

This title may be cited as the "Sly Park Unit Sale Act".

SEC. 2402. SALE OF THE SLY PARK UNIT.

(a) IN GENERAL.—The Secretary shall, as soon as practicable after the date of enactment of this title, sell the Sly Park Unit to the El Dorado Irrigation District.

(b) SALE PRICE.—The sale price shall not exceed—

(1) the construction costs as included in the accounts of the Secretary, plus

(2) interest on the construction costs allocated to domestic use at the authorized rate included in enactment of the Act of October 14, 1949 (63 Stat. 852) up to an agreed upon date, plus

(3) the presently assigned Federal operation and maintenance costs, less

(4) all revenues to date as collected under the terms of the contract (14-06-200-949) between the United States and the El Dorado Irrigation District.

(c) TERMS OF PAYMENT.—The Secretary may negotiate for a payment of the purchase price on a lump-sum basis or on a semi-annual basis for a term of not to exceed twenty years. If payment is not to be lump-sum, then the interest rate to be paid by the District shall be the rate referred to in subsection (b)(2).

(d) CONVEYANCE.—Upon completion of payment by the District, the Secretary shall convey to the El Dorado Irrigation District all right, title, and interest of the United States in and to the Sly Park Unit. All costs associated with the transfer shall be borne by the District.

SEC. 2403. DEFINITIONS.

For purposes of this title, the term:

(1) "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) "Secretary" means the Secretary of the Interior.

(3) "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversification Dam and Tunnel and conduits and canals as authorized under the American River Act of October 14, 1949 (63 Stat. 852).

TITLE XXV—COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES

SEC. 2501. COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES.

Section 9 of the Reclamation Projects Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(g)(1) All contracts entered into, renewed, or amended under authority of this section or any other provision of Federal reclamation law after—

"(A) two years after the date of the enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least 50 percent of full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in domestic storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by foreseeable disruptions in the supply of such commodity, as determined by the Secretary of Agriculture; and

"(B) four years after the date of the enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in domestic storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by foreseeable disruptions in the supply of such commodity, as determined by the Secretary of Agriculture.

"(2) The Secretary shall announce the amount of the full cost payment for the succeeding year on or before July 1 of each year.

"(3)(A) The Secretary shall credit against any additional payment obligation established by this subsection 70 percent of the costs incurred by individuals or districts subject to the provisions of this subsection during the period beginning on the date of enactment of this subsection and ending on December 31, 1996, up to a maximum cost of $100 per irrigated acre, for the installation of water conservation measures approved by the Secretary. The Secretary shall grant such credit only upon finding that installation of such measures, and any mitigation pursuant to subparagraph (B), have been completed. Credit that exceeds such repayment obligation in any one year shall be applied in each succeeding year until fully utilized. Within one year from the date of enactment of this subsection, the Secretary shall promulgate rules to carry out the provisions of this paragraph.

"(B) Mitigation for fish and wildlife habitat losses, if any, incurred as a result of the installation and operation of such water conservation measures shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with installation of such conservation measures, and shall be the responsibility of the individual or district served by such measures.

"(4) As used in this subsection, the term 'full cost' shall have the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982.

"(5) This subsection shall not apply to—

"(A) any contract which provides for irrigation on individual Indian or tribal lands on which repayment is deferred pursuant to the Act of July 1, 1932 (chap. 369; 47 Stat. 564; 25 U.S.C. 386(a); commonly referred to as the 'Levitt Act');

"(B) an amendment of any contract with any organization which, on the date of enactment of this subsection, is required pursuant to a contract with the Secretary as a condition precedent to the delivery of water to make cash contributions of at least 20 percent of the cost of construction of irrigation facilities by the Secretary;

"(C) any contract which carries out the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294), 100 Stat. 418; and

"(D) water delivered to any agricultural producer who is not a participant in any acreage reduction program in effect under the Agricultural Act of 1949.".

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g-1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report".

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate 5 years after the date on which construction on the project is completed.

"(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.".

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$34,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—SOLANO PROJECT TRANSFER AND PUTAH CREEK IMPROVEMENT

SEC. 2701. SHORT TITLE.

This title may be cited as the "Solano Project Transfer and Putah Creek Improvement Act".

SEC. 2702. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Solano Project is a Federal reclamation project located in Solano, Yolo, and Napa Counties, California. The project was constructed by the United States between 1953 and 1958 for the purposes of providing water supply and incidental flood control benefits;

(2) the Solano Project supplies approximately 65 per centum of Solano County's public water supply;

(3) the California State Water Resources Control Board has granted, pursuant to California law, water rights permits to the Bureau of Reclamation for the Solano Project which establish that Solano County is the place of use for Solano Project water, with the exception of four thousand acre-feet used annually by the University of California-Davis in Yolo County pursuant to contract, and with a provisional reservation of up to thirty-three thousands acre-feet for the Putah Creek watershed above Monticello Dam;

(4) repayment of the Solano Project's reimbursable capital costs is the exclusive obligation of the Solano County Water Agencies, and said agencies have repaid more than half of these costs;

(5) the Solano County Water Agencies perform all operation and maintenance for the Solano Project under contract with the United States, and they have paid all operation and maintenance costs of the project;

(6) the Solano Project has no financial or physical interconnection with any other local, State, or Federal water project;

(7) the Solano Project impounds and diverts the waters of Putah Creek, which support riparian habitat, including a riparian reserve operated by the University of California, and both a cold water fishery and a warm water fishery;

(8) the United States Fish and Wildlife Service currently is preparing a Putah Creek Resource Management Plan; and

(9) interested local public agencies and private organizations in Solano and Yolo Counties have formed an advisory group to provide advice regarding Putah Creek enhancement activities.

(b) PURPOSES.—The purposes of this title are—

(1) to convey to the Water Users fee title to the water supply facilities of the Solano

Project upon payment to the United States by the Water Users of the sum calculated in accordance with section 2704 of this title;

(2) to provide for continuation of all public benefit purposes of the Solano Project;

(3) to protect Putah Creek fisheries, wildlife and riparian habitat, ground water recharge and diversion rights downstream of the Putah Diversion Dam in conformance with all applicable decisions and orders of the California State Water Resources Control Board and courts of competent jurisdiction, and all applicable State laws;

(4) to provide for enhancement of Putah Creek fisheries, wildlife and riparian habitat;

(5) to provide the Water Users with local ownership over their principal public water supply facilities;

(6) to eliminate significant Federal liabilities; and

(7) to benefit the Federal Treasury from such payment and title transfer.

SEC. 2703. DEFINITIONS.

For the purposes of this title, the term:

(a) "Book value" of the water supply facilities means an amount which equals the product of the depreciable facilities costs and the applicable depreciation factor.

(b) "Capital/O&M adjustment" means the amount in arrears, if any, of capital repayments or operation and maintenance expenses due pursuant to the water service contract, plus accrued interest.

(c) "Construction defect and dam safety adjustment" means $7,270,000 for purposes of this Act.

(d) "Depreciable facilities costs" means the reimbursable capital costs of the water supply facilities of the Project which are to be transferred.

(e) "Depreciation factor" means a percentage derived by calculating the number and fraction of years between the date of purchase and the year 2033 and then dividing by 75.

(f) "Interim water releases" means: (1) releases into Lower Putah Creek of water owned by the Water Users, or any constituent entity thereof, in an amount not to exceed 2,700 acre-feet in 1991 and 3,000 acre-feet in 1992; and (2) releases into lower Putah Creek of water owned by the Yolo County Entities, or any member thereof, in an amount not to exceed 3,000 acre-feet in either 1991 or 1992.

(g) "Lower Putah Creek Coordinating Committee" means an advisory committee established to assist the Secretary in coordinating Federal, State and local efforts to protect and enhance the habitat of Putah Creek. This Committee is to consist of a maximum of fourteen members, up to seven of which are to be appointed by the Water Users and up to seven of which are to be appointed by the Yolo County Entities. The Committee is not an agency or establishment of the United States.

(h) "Lower Putah Creek" means that portion of Putah Creek extending from the Putah Diversion Dam to the Yolo Bypass in Yolo County, California.

(i) "Reimbursable capital costs" means the original reimbursable costs of the Solano Project, as set forth in the Bureau of Reclamation document entitled "Solano Project Statement of Project Construction Cost and Repayment," dated September 30, 1989 ("Solano Project Statement") attached as Appendix "A" in the report accompanying H.R. 429.

(j) "Remaining indebtedness" means the remaining balance of the reimbursable capital costs of the Solano Project, as set forth in the Solano Project Statement, and as adjusted thereafter to reflect any payments made prior to the date of transfer.

(k) "Secretary" means the Secretary of the Interior.

(l) "Solano County Water Agencies" means one or more public agencies in Solano County which have used water from the Solano Project and who are member agencies of the Water Users.

(m) "Solano Project" means the reclamation project described in House Document Numbered 65, Eighty-first Congress, first session (1949).

(n) "Water service contract" means the contract between the United States and the Solano County Flood Control and Water Conservation District for water service and for operation and maintenance of certain works of the Solano Project, dated March 7, 1955 (Contract No. 14-06-200-4090).

(o) "Water supplies facilities" means—

(1) the Monticello Dam and spillway;

(2) Lake Solano, its lands and facilities, and the Putah Diversion Dam;

(3) the Putah South Canal; and

(4) all appurtenant facilities, lands, easements and rights-of-way.

This term does not include Lake Berryessa, its shoreline or any recreational features of the Solano Project, excepting recreational facilities leased and operated by Solano County on lands surrounding Lake Solano.

(p) "Water Users" means a public agency formed under the laws of the State of California duly organized and existing—

(1) including all member public agencies of the Solano Water Authority and the Solano County Water Agency, public agencies formed under the laws of the State of California;

(2) having a governing board in which a majority of the members are representatives of those local entities holding contracts for water from the Solano Project on the date of enactment of this title; and

(3) approved by both the Solano Water Authority and the Solano County Water Agency.

(q) "Yolo County Entities" means a group consisting of authorized representatives of the county of Yolo, the Yolo County Flood Control and Water Conservation District, the city of Davis, the city of Winters, the University of California at Davis, and the Putah Creek Council.

(r) "Uncontrolled Releases" means water bypassed or released at the Putah Diversion Dam which is not required to be released pursuant to section 2706(c) of this title, or to meet contract or state-law requirements.

SEC. 2704. TRANSFER OF THE SOLANO PROJECT WATER SUPPLY FACILITIES, OPERATIONS AGREEMENT AND PAYMENT.

(a) AGREEMENT.—The Secretary shall, as soon as practicable after the date of enactment of this title, enter into an agreement with the Water Users for the implementation of section 2705(b) of this title.

(b) The Secretary shall, upon execution of the agreement described in section 2704(a) of this title and payment of the sum calculated in accordance with section 2704(c) of this title, and subject to the provisions of sections 2706(a) and 2707(a) of this title, transfer to the Water Users all right, title and interest in and to the water supply facilities of the Solano Project described in section 2703(o).

(c) PRICE.—The price paid by the Water Users for the water supply facilities of the Solano Project shall be the amount which is the total of—

(1) the remaining indebtedness;

(2) the book value of the water supply facilities;

(3) any capital/O&M adjustment amount; and

(4) all administrative costs incurred by the United States in effectuating the agreement and the transfer, less

(5) the dam safety and construction defect adjustment: *Provided, however*, That in no event shall the sum determined in subparagraphs (1)-(5) of this subsection above be less than 66 per centum of the original reimbursable capital costs of the water supply facilities of the Solano Project which are to be transferred.

SEC. 2705. RESPONSIBILITIES OF THE WATER USERS.

(a) Upon transfer of the water supply facilities, the Water Users shall, except as provided in this title: (1) assume all liability for administration, operation, and maintenance of said facilities and continue to provide for the operation thereof for the authorized Solano Project purposes including (but not limited to) all water supply contracts heretofore entered into by the Secretary; (2) protect Putah Creek fisheries, wildlife, riparian habitat, ground water recharge, and downstream diversion rights, including adhering to minimum water release schedules for Putah Creek downstream of Monticello Dam and Putah Diversion Dam in conformance with all applicable decision and orders of the State of California Water Resources Control Board and courts of competent jurisdiction and all applicable State laws; and (3) continue to provide the incidental flood control benefits currently enjoyed by downstream property owners on Putah Creek.

(b) The Water Users shall cooperate with the United States and the Lower Putah Creek Coordinating Committee to implement the supplemental releases for Putah Creek enhancement purposes mandated by section 2704. Such cooperation may include releasing Solano Project water from Monticello Dam and past the Putah Diversion Dam into Lower Putah Creek in exchange for water provided by the Secretary from other sources: *Provided*, That the Secretary shall pay the Water Users any actual costs that they may incur as a result of such exchange, less any savings that result from such exchange.

SEC. 2706. RESPONSIBILITIES OF THE UNITED STATES.

(a) PRETRANSFER CONFIRMATION.—The Secretary may not transfer title to the water supply facilities of the Solano Project unless the Secretary confirms that all of the Solano Project member units have executed an agreement addressing their respective contractual entitlements. These member units are the city of Fairfield, Maine Prairie Water District, Solano Irrigation District, city of Suisun City, city of Vacaville, city of Vallejo, California Medical Facility, and University of California, Davis.

(b) RECREATION.—(1) The Secretary shall be responsible for, and retain full title to and jurisdiction and control over the surface of Lake Berryessa and Federal lands underlying and surrounding the Lake, and shall retain full title to all Lake Berryessa recreational facilities, exclusive of those properly constructed by concessionaires under applicable contracts; concessionaire contracts, interests in real property associated therewith; and similar associated rights and obligations. The Secretary shall consult with the State of California and local governments in Napa County, California, prior to implementing any change in operating procedures for such lands. The Secretary is authorized to enter into contracts or other agreements with Napa County, California, regarding land use controls, law enforcement, water supply, wastewater treatment, and other matters of concern within the boundaries of lands surrounding Lake Berryessa that were originally included in the lands acquired from the Solano Project.

(2) The Secretary, acting through the Bureau of Reclamation, is authorized to obtain water from Lake Berryessa consistent with its existing State water rights permit for recreational or other resource management purposes at Lake Berryessa, including that required for concession operation, in the manner, amounts, and at times as may be determined by the Bureau of Reclamation.

(3) The Secretary, acting through the Bureau of Reclamation, is authorized to make available, subject to appropriation, funds collected from recreation entrance and user fees, to local and/or State law enforcement agencies to enforce rules and regulations as are necessary for regulating the use of all project lands and waters associated with Lake Berryessa, and to protect the health, safety, and enjoyment of the public, and ensure the protection of project facilities and natural resources.

(4) The Secretary is hereby authorized to enter into joint future projects with Lake Berryessa concessionaires to develop, operate, and maintain such short-term recreational facilities as he deems necessary for the safety, health, protection, and outdoor recreational use by the visiting public, and, to amend existing concession agreements, including extending terms as necessary for amortization of concessionaire investments, to accommodate such joint future projects.

(5) The Secretary is authorized to assist, or enter into agreements with the State of California, or political subdivision thereof, or a non-Federal agency or agencies or organizations as appropriate, for the planning, development and construction of water and wastewater treatment systems, which would result in the protection and improvement of the waters of Lake Berryessa.

(6) Funds collected from recreation entrance and user fees may be made available, subject to appropriation, for the operation, management and development of recreational and resource needs at Lake Berryessa.

(7) No activities upon the recreational interests hereby reserved to the United States shall, as determined by the Secretary after consultation with the Water Users, burden the Water Users' use of the water supply facilities of the Solano Project, reduce storage capacity or yield of Lake Berryessa, or degrade the Solano Project's water quality, except that, as described in subsection (b)(2) of this section, water will be made available for recreational and resource management purposes: *And provided further*, That this subsection will not apply to the particular Lake Berryessa recreational uses and operating procedures in existence on the date of the enactment of this legislation.

(8) Notwithstanding any provision in subsection (b) of this section, before the Secretary takes any action authorized by this subsection, including but not limited to the selection and/or approval of the Reservoir Area Management Plan (RAMP) for Lake Berryessa and surrounding lands, the Secretary shall consult with the County of Napa and determine that the proposed action is consistent with the Napa County General Plan, as amended.

(c) PUTAH CREEK ENHANCEMENT.—(1) The Secretary is authorized and directed to participate in a program to enhance the instream, riparian and environmental values of Putah Creek. Such program shall be at full Federal cost, shall cause no reduction in Solano Project supplies, and shall include but need not be limited to the following—

(A) the Secretary shall consult with the Lower Putah Creek Coordinating Committee and the Water Users and take appropriate actions to implement the recommendations contained in the United States Fish and Wildlife Service's Putah Creek Resource Management Plan;

(B) in order to enhance flows in Putah Creek which are prescribed by the California State Water Resources Control Board or courts of competent jurisdiction, arrangements as are necessary shall be made to provide at no net cost to any other party 3,000 acre-feet of supplemental water supply for releases into Putah Creek during "normal years," and 6,000 acre-feet of supplemental water supply for releases into Putah Creek during "dry years." "Normal years" are water years in which the total inflow into Lake Berryessa is greater than or equal to 150,000 acre-feet. "Dry years" are water years in which the total inflow into Lake Berryessa is less than 150,000 acre-feet. For the purposes of this paragraph, "water year" means each twelve month period beginning on October 1 and ending on the next September 30. These amounts to be released shall be in addition to any uncontrolled releases. The schedule for said supplemental releases shall be developed by the Secretary after consultation with the Lower Putah Creek Coordinating Committee. The Secretary is hereby authorized to enter into such agreements as may be necessary to effectuate this subsection;

(C) for purposes of more efficiently conveying and distributing the Lower Putah Creek such supplemental supplies and any additional amounts that the California State Water Resources Control Board or courts of competent jurisdiction may deem appropriate, the Secretary is authorized to construct water conveyance and distribution facilities at a cost of approximately $3,000,000; and

(D) to compensate for the cost associated with the 1991–1992 interim water releases, as defined in subsection 3(f), the Secretary is authorized and directed to supply to the Water Users and/or Yolo County Entities, or any member entities thereof providing the interim water releases, water in an amount equal to those interim water releases actually made or, in the alternative, to reimburse the parties making such releases for all costs associated with such releases.

(2) There are hereby authorized to be appropriated such sums as may be necessary to implement subsections (B), (C), and (D) of this section.

SEC. 2707. PAYMENT.

(a) PAYMENT.—The Secretary shall transfer all right, title, and interest in and to the water supply facilities of the Solano Project to the Water Users after the Secretary has received notification that the Water Users have made the payment specified in section 2704(b).

(b) DISPOSITION OF PAYMENT.—(1) All proceeds from the transfer of the Solano Project will be dedicated to environmental purposes. Eighty percent of the price paid for the water supply facilities of the Solano project as specified in section 4(c) shall be deposited in a separate account by the Secretary. Interest from such account shall be utilized by the Secretary for matching grants with nonprofit organizations and institutions in California for fish and wildlife conservation. The remaining 20 percent paid for the water supply facilities shall be expended by the Secretary for the purpose of protecting and enhancing Lower Putah Creek, and may include expenditures for the purposes of acquiring property, including water rights, making improvements to property, and conducting studies and wildlife management activities. The portion of sale proceeds designated for Lower Putah Creek protection and enhancement shall thereafter be maintained by the Secretary in a separate account. Monies and interest from such account may be expended by the Secretary for the sole purpose of funding projects designed for Lower Putah Creek protection and enhancement purposes, including the payment of direct costs associated with meeting with Secretary's responsibilities under section 2706(c)(1)(B) of this title, in accordance with criteria developed by the Secretary in consultation with the Lower Putah Creek coordinating committee.

(2) All funds under this section shall be available only to the extent provided in an annual appropriation for such purposes.

SEC. 2708. VESTED RIGHTS AND STATE LAWS UNAFFECTED.

Nothing in this title shall—

(a) be construed as affecting or intending to affect or to interfere in any way with the State laws relating to the control, appropriation, use, or distribution of water used for the Solano Project, or any vested right acquired thereunder; and

(b) in any way affect or interfere with State laws relating to the protection of fish and wildlife or instream flow requirements, or any right of the State of California or any landowner, appropriator, or user of surface water or ground water in, to, from or connected with Putah Creek or its tributaries.

TITLE XXVIII—DESALINATION

SEC. 2801. TECHNICAL ASSISTANCE.

The Secretary is authorized to provide technical assistance to States and to local government entities to assist in the development, construction, and operation of water desalination projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

TITLE XXIX—SAN JUAN SUBURBAN WATER DISTRICT

SEC. 2901. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project ratesetting policy, an amount equal to the documented price paid by the District for pumps provided by the District to the Bureau of Reclamation, in 1991, for installation at Folsom Dam, Central Valley Project, California.

(b) CONDITIONS.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps from the seller to the Bureau of Reclamation.

(2) The credit is effective on the date the pumps were delivered to the Bureau of Reclamation for installation at Folsom Dam.

TITLE XXX—TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT

SEC. 3001. INSTREAM RELEASES FROM THE TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT, FOR FISHERY RESTORATION AND FULFILLMENT OF FEDERAL TRUST RESPONSIBILITIES.

(a) INSTREAM RELEASES.—In order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to achieve the fishery restoration goals of the Act of October 24, 1984 (98 Stat. 2721, Public Law 98-541), for water years 1992 through 1996, the Secretary of the Interior, through the Trinity River Division of the Central Valley Project, shall provide an instream release of water to the Trinity River for the purposes of fishery restoration, propagation, and maintenance of not less than 340,000 acre-feet per year. For any water year during this period for which the forecasted inflow to the Central Valley Project's Shasta Reservoir equals or exceeds 3,200,000 acre-feet, based on hydrologic conditions as of June 1 and an exceedance factor of 50 percent, the Secretary shall provide an additional instream fishery release to the Trinity River of not less than 10 percent of the amount by which forecasted Shasta Reservoir inflow for that year exceeds 3,200,000 acre-feet.

(b) COMPLETION OF STUDY.—By September 30, 1996, the Secretary, with the full participation of the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the United States Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery.

(c) STUDY RECOMMENDATIONS.—Not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subsection (b) of this section, to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established in subsection (a) and the operating criteria and procedures referred to in subsection (b) shall be implemented accordingly. If the Hoopa Valley Tribe and the Secretary do not concur, the minimum Trinity River instream fishery releases established in subsection (a) shall remain in effect unless increased by an Act of Congress, appropriate judicial decree, or agreement between the Secretary and the Hoopa Valley Tribe.

TITLE XXXI—BUY AMERICAN PROVISIONS

SEC. 3101. BUY AMERICAN PROVISIONS.

(a) The Secretary shall insure that the requirements of the Buy American Act of 1933, as amended, apply to all procurements made under this Act.

(b) DETERMINATION BY THE SECRETARY.—(1) If the Secretary, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary shall rescind the waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

(3) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report on the amount of purchases from foreign entities under this Act from foreign entities in fiscal years 1992 and 1993. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et. seq.), or any international agreement to which the United States is a party.

(4) BUY AMERICAN ACT DEFINED.—For purposes of this section, the term "Buy American Act" means the title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(c) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(a)). Any such determination shall be made in accordance with section 305.

(d) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract made with funds authorized under this title pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

TITLE XXXII—LIMITATION ON AUTHORIZATIONS OF APPROPRIATIONS

SEC. 3201. LIMITATION.

Notwithstanding any other provision of law, amounts expended, or otherwise made available, pursuant to this Act when aggregated with all other amounts expended, or otherwise made available, for projects of the Bureau of Reclamation for fiscal year 1992 may not exceed 102.4 percent of the total amounts expended, or otherwise made available, for projects of the Bureau of Reclamation in fiscal year 1991.

TITLE XXXIII—ELEPHANT BUTTE IRRIGATION DISTRICT

SEC. 3301. TRANSFERS.

The Secretary of the Interior is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande Project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assumes the responsibility for operating and maintaining their portion of the project. Title to, and management and operation of, the reservoirs and the works necessary for their protection and operation shall remain in the United States until otherwise provided by an Act of Congress.

TITLE XXXIV—RECLAMATION STATES EMERGENCY DROUGHT RELIEF

SEC. 3401. SHORT TITLE.

This title may be cited as the "Reclamation States Emergency Drought Relief Act of 1991".

SEC. 3402. DEFINITIONS.

As used in this title:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388) and Acts supplementary thereto and amendatory thereof.

(3) The term "Federal Reclamation project" means any project constructed or funded under Federal Reclamation law. Such term includes projects having approved loans under the Small Reclamation Project Act of 1956 (70 Stat. 1044).

Subtitle A—Temporary Drought Program

SEC. 3411. ASSISTANCE DURING DROUGHT; WATER PURCHASES.

(a) CONSTRUCTION, MANAGEMENT, AND CONSERVATION.—Consistent with existing contractual arrangements and State law, and without further authorization, the Secretary is authorized to undertake construction, management, and conservation activities that will mitigate, or can be expected to have an effect in mitigating, losses and damages resulting from drought conditions. Any construction activities undertaken pursuant to the authority of this subsection shall be limited to temporary facilities designed to mitigate losses and damages from drought conditions and shall be completed no later than one year after the date of enactment of this title, except that wells drilled to mitigate losses and damages from drought conditions may be permanent facilities.

(b) ASSISTANCE TO WILLING BUYERS AND SELLERS.—In order to minimize losses and damages resulting from drought conditions, the Secretary may assist willing buyers in their purchase of available water supplies from willing sellers.

(c) WATER PURCHASES BY BUREAU.—In order to minimize losses and damages resulting from drought conditions, the Secretary may purchase water from willing sellers, including water made available by Federal Reclamation project contractors through conservation or other means with respect to which the seller has reduced the consumption of water. The Secretary shall deliver such water pursuant to temporary contracts under section 3412.

(d) WATER BANKS.—The Secretary is authorized to participate in water banks established by a State in an affected drought area, to respond to a drought.

SEC. 3412. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

(a) GENERAL AUTHORITY.—In order to mitigate losses and damages resulting from drought conditions, the Secretary may make available, by temporary contract, project and nonproject water, and may permit the use of facilities at Federal Reclamation projects for the storage or conveyance of project or non-project water, for use both within and outside an authorized project service area.

(b) Special Provisions Applicable to Temporary Water Supplies Provided Under This Section.—

(1) Temporary supplies.—Each temporary contract for the supply of water entered into pursuant to this section shall terminate no later than one year after the date of enactment of this title, or the termination of the temporary drought program described in section 3415, whichever comes first.

(2) Ownership and acreage limitations.—Lands not subject to Reclamation law that receive temporary irrigation water supplies under temporary contracts under this section shall not become subject to the ownership and acreage limitations or pricing provisions of Federal Reclamation law because of the delivery of such temporary water supplies. Lands that are subject to the ownership and acreage limitations of Federal Reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies.

(3) Treatment under Reclamation Reform Act of 1982.—No temporary contract entered into by the Secretary under this section shall be treated as a "contract" as that term is used in sections 203(a) and 220 of the Reclamation Reform Act of 1982 (Public Law 97-293).

(4) Amendments of existing contracts.—Any amendment to an existing contract to allow a contractor to carry out the provisions of this section shall be a temporary amendment only, not to exceed one year from the date of enactment of this title, or the termination of the temporary drought program described in section 3415, whichever comes first. No such amendment shall be considered a new and supplemental benefit for purposes of the Reclamation Reform Act of 1982 (Public Law 97-293).

(c) Contract Price.—The price for water delivered under a temporary contract entered into by the Secretary under this section shall be at least sufficient to recover all Federal operation and maintenance costs and administrative costs, and an appropriate share of capital costs, including interest on project irrigation and municipal and industrial water, except that, for project water delivered to nonproject landholdings in excess of 960 acres, the price shall be full cost (as defined in section 202(3) of the Reclamation Reform Act of 1982 (Public Law 97-293; 96 Stat. 1263; 43 U.S.C. 390bb)). For all contracts entered into by the Secretary under the authority of this title, the interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs shall be at a rate to be determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with remaining periods to maturity of one year occurring during the last month of the fiscal year preceding the date of execution of the temporary contract.

(d) Fish and Wildlife.—The Secretary may make water from Federal Reclamation projects and nonproject water available on a nonreimbursable basis for the purposes of protecting or restoring fish and wildlife resources, including mitigation losses, that occur as a result of drought conditions. The Secretary may store and convey project and non-project water for fish and wildlife purposes, and may provide conveyance of any such water for both State and Federal wildlife refuges and for habitat held in private ownership. The Secretary may make available water for these purposes outside the authorized project service area. Use of the Federal storage and conveyance facilities for these purposes shall be on a nonreimbursable basis.

(e) Nonproject Water.—The Secretary is authorized to store and convey nonproject water utilizing Federal Reclamation project facilities for use outside and inside the authorized project service area for municipal and industrial uses, fish and wildlife, and agricultural uses. Except in the case of water supplied for fish and wildlife, which shall be nonreimbursable, the Secretary shall charge the recipients of such water for such use of Federal Reclamation project facilities at a rate established pursuant to section 3412(c) of this title.

SEC. 3413. SALT WATER INTRUSION.

As necessary to protect and improve water quality and to protect fishery resources in the Sacramento-San Joaquin Delta, California, the Secretary is authorized to construct such temporary barriers, and to take other cooperative actions with the State of California, as may be necessary to prevent salt water intrusion in the Delta.

SEC. 3414. EXEMPTIONS AND PRIORITIES.

(a) Environmental Report.—Concurrent with implementation of drought-related activities or projects authorized pursuant to this title, the Secretary shall assess and evaluate the environmental impacts of such activities and projects and take into consideration any adverse effect an action or actions proposed to be taken pursuant to this title may have on existing lawful uses of water and on fish and wildlife resources or other instream beneficial uses. The Secretary shall provide Congress with an interim assessment of the environmental impacts no later than six months after the date of enactment of this title. The Secretary shall provide Congress with a final report on such impacts at the conclusion of the temporary drought program. The final report shall include the Secretary's recommendations for avoiding or mitigating any adverse environmental impacts in response to future droughts.

(b) Federal Paperwork Reduction Act.—Actions taken pursuant to this title are in response to the temporary drought program and shall be undertaken without undue delay and therefore shall not be subject to the requirements or conditions of sections 3504 and 3507 of title 44, United States Code.

SEC. 3415. APPLICABLE PERIOD OF TEMPORARY DROUGHT PROGRAM.

(a) In General.—The programs and authorities established under this title shall become operative in any Reclamation State only after the Governor or Governors of the affected State or States has made a request for temporary drought assistance and the Secretary has determined that such assistance is merited. The temporary drought authorities authorized by this title shall expire one year after the date of enactment of this title, or upon a determination by the Secretary, in consultation with the Governor or Governors of the affected State or States, that such authorities are no longer required, whichever comes first.

(b) Coordination With BPA.—If a Governor referred to in subsection (a) is the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a).

Subtitle B—Permanent Drought Authority

SEC. 3421. IDENTIFICATION OF OPPORTUNITIES FOR WATER SUPPLY CONSERVATION, AUGMENTATION AND USE.

The Secretary is authorized to conduct studies to identify opportunities to conserve, augment, and make more efficient use of water supplies available to Federal Reclamation projects and Indian water resource developments in order to be prepared for and better respond to drought conditions. The Secretary is authorized to provide technical assistance to States and to local government entities to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

SEC. 3422. DROUGHT CONTINGENCY PLANS.

The Secretary, acting pursuant to the Federal Reclamation laws, utilizing the resources of the Department of the Interior, and in consultation with other appropriate Federal and State officials, Indian tribes, public, private, and local entities, is authorized to prepare cooperative drought contingency plans (hereinafter in this title referred to as "contingency plans") for the prevention or mitigation of adverse effects of drought conditions.

SEC. 3423. PLAN ELEMENTS.

(a) Plan Provisions.—Elements of the contingency plans prepared pursuant to section 3422 may include any or all of the following:

(1) One or more water banks whereby the Secretary and project and nonproject water users may buy, sell, and store water consistent with State law, including participation by the Secretary in water banks established by the State.

(2) Appropriate water conservation actions.

(3) Water transfers to serve users inside or outside authorized Federal Reclamation project service areas for such purposes as the Secretary deems appropriate and which are consistent with Federal and State law.

(4) Use of Federal Reclamation project facilities to store and convey nonproject water for municipal and industrial, fish and wildlife, or other uses both inside and outside an authorized Federal Reclamation project service area.

(5) Use of water from dead or inactive reservoir storage or increased use of ground water resources for temporary water supplies.

(6) Temporary and permanent water supplies for fish and wildlife resources.

(7) Minor structural actions.

(b) Federal Reclamation Projects.—Each contingency plan shall identify the following two types of plan elements related to Federal Reclamation projects:

(1) those plan elements which pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Federal Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project; and

(2) those plan elements that pertain to projects, purposes, or activities not constructed, financed, or otherwise governed by the Federal Reclamation law.

(c) Drought Levels.—Each contingency plan shall define levels of drought wherein specific elements of the contingency plan may be implemented. The Secretary is authorized to work with other Federal and State agencies to improve hydrologic data collection systems and water supply forecasting techniques to provide more accurate and timely warning of potential drought conditions and drought levels that would trigger the implementation of contingency plans.

(d) Compliance With Law.—The contingency plans and plan elements shall comply with all requirements of applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321), section 715(a) of the Water Resource Development Act of 1986 (33 U.S.C. 2265(a)), and the Fish and Wildlife Coordination Act, and shall also be in accordance with applicable State law.

(e) Review.—The contingency plans shall include provisions for periodic review to assure the adequacy of the contingency plan to respond to current conditions, and such plans may be modified accordingly.

SEC. 3424. RECOMMENDATIONS.

(a) Approval.—The Secretary shall submit each plan prepared pursuant to section 3422 to the Congress, together with the Secretary's recommendations, including recommendations for authorizing legislation. No approval of the contingency plan by either the Secretary or the Commissioner of Reclamation shall become effective until the expiration of 60 calendar days (which 60 days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a date certain) after the submissions of the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives; except that, any such approval may become effective prior to the expiration of the 60 calendar days in any case in which each such committee approves an earlier date and notifies the Secretary in writing of such approval: *Provided*, That when the Congress is not in session, the Secretary's approval, if accompanied by a finding by the Secretary that substantial hardship to water users or the environment will result, shall become effective when the chairman and the ranking minority member of each such committee shall file with the Secretary their written approval of said findings.

(b) Pacific Northwest Region.—A contingency plan under subsection (a) for the State of Washington, Oregon, Idaho, or Montana, may be approved by the Secretary only at the request of the Governor of the affected State in coordination with the other States in the region and the Administrator of the Bonneville Power Administration.

SEC. 3425. RECLAMATION DROUGHT RESPONSE FUND.

The Secretary shall undertake a study of the need, if any, to establish a Reclamation Drought Response Fund to be available for defraying those expenses which the Secretary determines necessary to implement plans prepared under section 3422 and to make loans for nonstructural and minor structural activities for the prevention or mitigation of the adverse effects of drought.

SEC. 3426. TECHNICAL ASSISTANCE AND TRANSFER OF PRECIPITATION MANAGEMENT TECHNOLOGY.

(a) Technical Assistance.—The Secretary is authorized to provide technical assistance for drought contingency planning in any of the States not identified in section 1 of the Reclamation Act (Act of June 17, 1902, 32 Stat. 388), and the District of Columbia, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship, the Republic of Palau, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. Funds for drought contingency planning activities under this subsection shall be advanced to the Secretary.

(b) Technology Transfer Program.—The Secretary is authorized to conduct a Precipitation Management Technology Transfer Program to help alleviate problems caused by precipitation variability and droughts in the West, as part of a balanced long-term water resources development and management program. In consultation with State and local water, hydropower, water quality and instream flow interests, areas shall be selected for conducting cost-shared field studies to validate and quantify the potential for appropriate precipitation management technology to augment stream flows. Validated technologies shall be transferred to non-Federal interests for operational implementation.

Subtitle C—General and Miscellaneous Provisions

SEC. 3431. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in section 3434 of this title (relating to temperature control devices at Shasta Dam, California), there is authorized to be appropriated not more than $30,000,000.

SEC. 3432. AUTHORITY OF SECRETARY.

The Secretary is authorized to perform any and all acts and to promulgate such regulations as may be necessary and appropriate for the purpose of implementing this title.

SEC. 3433. EFFECT OF TITLE ON OTHER LAWS.

Nothing in this title shall be construed as limiting or restricting the power and authority of the United States or—

(1) as expanding or diminishing Federal, tribal, or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(2) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two States and the Federal Government;

(3) as superseding, modifying, or repealing, except as specifically set forth in this title, existing laws applicable to the various Federal agencies;

(4) as affecting in any way any law governing appropriation or use of, or Federal right to, water on Federal lands, or the right of any Indian tribe to use its water for whatever purposes it deems appropriate, including fish and wildlife purposes, or the right of a tribe to buy or sell water, or to affect any right enjoyed under license, lease, or other authorization from an Indian tribe;

(5) as affecting the water rights of any Indian tribe or tribal licensee, permittee, or lessee, or diminishing the Indian trust responsibility of the United States;

(6) as affecting in any way the applicability of the National Environmental Policy Act, except as specifically set forth in this title, the Endangered Species Act, section 715(a) of the Water Resource Development Act of 1986 (33 U.S.C. 2265(a)), or the Fish and Wildlife Coordination Act, or as otherwise superseding, modifying, or repealing, except as specifically set forth in this title, existing law applicable to the various Federal agencies;

(7) as modifying the terms of any interstate compact, or Congressional apportionment of water; or

(8) as affecting water rights of any person recognized under State law.

SEC. 3434. TEMPERATURE CONTROL AT SHASTA DAM, CENTRAL VALLEY PROJECT.

The Secretary is authorized for fiscal year 1992 to commence design and construction of facilities needed to attach to Shasta Dam, Central Valley Project, California, devices for the control of the temperature of water releases from the dam. There is authorized to be appropriated to carry out the authority of this section, not more than $12,000,000.

SEC. 3435. CONSISTENCY WITH STATE LAW.

All provisions in this title pertaining to the diversion, storage, use, or transfer of water shall be consistent with State law.

SEC. 3436. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes from any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California.

SEC. 3437. REPORT.

The Secretary shall submit an annual report to the President and the Congress on his expenditures and accomplishments under the title.

SEC. 3438. BUY-AMERICAN REQUIREMENT.

(a) Determination by the Secretary.—If the Secretary, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so desires, the Secretary shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Secretary shall take into account United States international obligations and trade relations.

(b) Limited Application.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) Limitation.—This section shall apply only to contracts for which—

(1) amounts are authorized by this title (including the amendments made by this title) to be made available; and

(2) solicitation for bids are issued after the date of the enactment of this title.

(d) Report to Congress.—The Secretary shall report to the Congress on contracts covered under this section and entered into with foreign entities for fiscal year 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement or an international agreement to which the United States is a party. The Secretary shall also report to the Congress on the number of contracts covered under this title (including the amendments made by this title) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Department of the Interior.

(2) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

TITLE XXXV—RESTRICTIONS ON WATER CONTRACTING, CENTRAL VALLEY PROJECT, CALIFORNIA

SEC. 3501. CONTRACTS.

In order to respond to urgent drought conditions in the State of California and notwithstanding section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h), the Act of July 2, 1956 (43 U.S.C. 485h-1 et seq.), the Act of February 21, 1911 (43 U.S.C. 523), or any other provision of Federal reclamation law to the contrary, with respect to irrigation water from the Central Valley Project, California, the Secretary may not, unless otherwise specifically provided by law, enter into any water contracts the term of which exceeds 3 years.

SEC. 3502. DEFINITIONS.

For purposes of this title:—

(1) The term "reclamation laws" means the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

(2) The term "water contracts" means any new contracts, or any renewal, extension, or amendment to existing water contracts that provide for the delivery of water or repayment of project construction costs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. LEHMAN of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LEHMAN of California. Mr. Speaker, I am opposed to the bill and would like to find out how it might be possible for me to get time on this side from what is allocated.

The SPEAKER pro tempore. Is the gentleman from Utah [Mr. HANSEN] opposed to the motion?

Mr. HANSEN. No, Mr. Speaker, I am not opposed to the motion, and I am not opposed to the bill.

The SPEAKER pro tempore. The gentleman from California [Mr. LEHMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion I am offering this afternoon gives us one last opportunity to pass desperately needed water policy reform legislation during this session of Congress.

The drought in California and elsewhere in the West is now entering its sixth year. In response to this water crisis, the House passed H.R. 355, the Reclamation States Emergency Drought Relief Act, on March 21, 1991.

After a delay of nearly 7 months, the Senate has finally acted on H.R. 355, passing the bill on October 8.

The House also passed, on June 20, 1991, H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1991. H.R. 429 was approved by the House by a vote of 360 to 24. This bill contains many provisions of critical importance to States served by the Bureau of Reclamation's water development programs, in particular the States of Washington, California, Colorado, and Kansas.

The motion I have offered would agree to the Senate amendment with an amendment. My amendment would incorporate the text of the reclamation projects bill as passed by the House in June, the text of the drought bill, as passed by the House, as well as a restriction on water contracts in the Central Valley project, California. Minor technical amendments to portions of the reclamation projects have also been made with the concurrence of the minority.

RECLAMATION PROJECTS PROVISIONS

Titles I through XXXIII of the amendment are the text of the House-passed version of H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1991.

These titles increase cost ceilings to allow construction on certain important water resource development projects to be completed, including the central Utah project. In addition, they include the Grand Canyon Protection Act; several provisions to control water pollution and reduce salinity problems at Bureau of Reclamation projects; and several important water resource management and demonstration projects which can improve the efficiency of water use in the West.

These titles also include amendments to the Reclamation Reform Act of 1982. These amendments were recommended by the General Accounting Office in a 1989 report to the committee, and were passed by the House in essentially their present form nearly a year ago.

These titles also include three provisions to allow local water districts to take control of Bureau projects. For two of these projects, the Interior Secretary is authorized to transfer title to the local project beneficiaries, after receiving appropriate compensation.

Mr. Speaker, specific provisions of these titles are as follows:

Title I increases the authorization ceiling for the Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin Program, Wyoming.

Title II through VI authorizes a comprehensive reformulation of the central Utah project. These titles will be discussed in detail by my colleagues from Utah.

Title VII authorizes the Interior Secretary to design, construct, and maintain a water treatment plant to treat mine drainage water from the Leadville mine drainage tunnel, Colorado.

The amendment would allow the Interior Secretary to construct the Lake Meredith salinity control project, New Mexico and Texas.

Title IX authorizes the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas.

With regard to the Central Valley project, California, title X authorizes an extension of the Tehama-Colusa Canal service area, and authorizes the Interior Secretary to enter into a long-term contract for water service from New Melones Reservoir with the Tuolumne regional water district.

Title XI authorizes a research project for the development of an enhanced evaporation system for saline water treatment in the vicinity of the Salton Sea, CA.

The amendment provides the consent of Congress to an amendment to the Sabine River compact, Louisiana-Texas.

Title XIII designates the Salt-Gila Aqueduct of the central Arizona project as the Fannin-McFarland Aqueduct.

Title XIV extends the applicability of the Warren Act regarding the use of excess storage and carrying capacity in certain Bureau of Reclamation projects.

The amendment changes the Reclamation Project Act of 1939 to allow the Secretary to amend contracts to increase repayment if justified based on a new classification of irrigable lands.

Title XVI authorizes the Bureau of Reclamation to participate with the city of San Diego, CA, in the conduct of the San Diego waste water reclamation study.

Title XVII incorporates a series of recommendations made in 1989 by the General Accounting Office to tighten enforcement of the acreage limitation provisions of the Reclamation Reform Act of 1982.

Title XVIII of the bill is the Grand Canyon Protection Act. This title directs the Interior Secretary to implement new operating procedures for Glen Canyon Dam, and, if necessary, take other reasonable mitigation measures, to protect, mitigate adverse impacts to, and improve the condition of the resources of the Colorado River downstream from the dam.

The amendment would authorize appropriations of $100 million for design and construction of a rural water system to provide good quality drinking water to more than 30,000 residents of central South Dakota.

The next title authorizes the Interior Secretary to participate with other Federal agencies, the State of South Dakota, and others in a comprehensive study of selenium contamination associated with drainage water from irrigation projects. Construction of the Lake Andes-Wagner project would not be authorized by this title.

Title XXI authorizes a study of the water and power resource needs of the insular areas.

Title XXII authorizes the transfer of a small parcel of public land, with improvements, to the Sunnyside Valley irrigation district, Washington.

The amendment authorizes the Interior Secretary to transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir in Colorado to the local water conservancy district.

The next title authorizes the transfer of the Sly Park Unit of California's Central Valley project to the El Dorado irrigation district. Under this title, the Interior Secretary would be authorized to negotiate an appropriate sale price for the project.

The next title would limit the ability of individuals to receive both Federal reclamation water benefits and agricultural price support program benefits if an acreage reduction program is in effect for a commodity under the Agricultural Act of 1949 and if the Secretary of Agriculture determines that Commodity Credit Corporation [CCC] stocks exceed an amount necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity.

Title XXVI authorizes a $14 million increase in the appropriation ceiling for the High Plains States Ground Water Demonstration Program.

The next title authorizes the Secretary to transfer title to the Solano project, California, to local water users, and includes certain protections for Putah Creek.

Title XXVIII of the bill authorizes the Secretary to provide technical assistance to States and local governments for studies of desalinization projects.

Title XXIX authorizes the Interior Secretary to credit for repayment the San Juan Suburban Water District in California for the purchase of two water pumps that were acquired by the District on behalf of the Bureau of Reclamation.

The next title would impose specific instream flow releases from the Trinity Dam and Reservoir, California in order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe and to restore dwindling fish stocks in the Trinity River.

Title XXXI would impose certain buy America provisions on the Bureau of Reclamation.

The next title would impose a limitation on appropriations for the Bureau of Reclamation for fiscal year 1992.

Title XXXIII would authorize the Interior Secretary to dispose of selected surplus property at the Elephant Butte project, New Mexico.

Title XXXIV is the text of H.R. 355, as passed by the House. This title would authorize the Bureau of Reclamation to take various actions, on a temporary basis, to deal with severe drought conditions in the western States which receive water from Bureau projects. It also gives the agency permanent authority to prepare contingency plans and take other steps to prevent or mitigate the adverse effects of future drought conditions.

This title authorizes a total of $30 million for these activities. It also authorizes $12 million for design and partial construction of water temperature control facilities at California's Shasta Dam, in order to protect a valuable salmon fishery.

The title authorizes the Bureau of Reclamation to carry out construction, management, and conservation activities needed to mitigate losses and damages resulting from drought conditions in the so-called reclamation States, those served by Federal reclamation water projects. Construction projects may only be undertaken if they involve temporary facilities to be completed within 1 year of enactment, except that wells drilled to mitigate drought effects may be permanent facilities.

The title also gives the agency authority to help arrange water purchases between willing buyers and willing sellers, to make its own purchases from willing sellers, and to participate in water banks established by States to facilitate such sales.

The title permits them to enter into temporary contracts to make water available from its facilities or from other sources, and to provide for the use of its facilities to store or deliver water from any source. Under the temporary contracts, water could be delivered to users both within and outside a project's normal service area.

The title specifies that the price Reclamation charges for water under any temporary contract must be at least sufficient to recover Federal operation and maintenance costs, a share of project capital costs, and interest.

The bill authorizes Reclamation to prepare contingency plans to prevent or mitigate the adverse effects of future drought conditions in the reclamation States. The measure requires that the plans specify the drought conditions under which their individual elements would be implemented. Contingency plans would be submitted to Congress along with recommendations for authorizing legislation.

Finally, title XXXV of the bill would impose certain restrictions on water contracts in the Central Valley project, California.

RESTRICTIONS ON WATER CONTRACTS

The amendment adds a new title XXXV that restricts the ability of the Secretary of the Department of the Interior to renew, extend, or amend any water contract within the Central Valley Project, California, for more than 3 years.

Mr. Speaker, a restriction on the duration of contracts is a critical feature of this legislation.

Eight months ago, the House passed this drought assistance legislation. Our goal was to implement policies that would assist farmers, urban areas, and others in coping with the impacts of serious drought by removing barriers and altering policies that left us vulnerable and unable to respond.

In the intervening months, as we awaited action by the Senate, another major area of water policy related to water shortage and misallocation has emerged as a focus of attention.

The Federal Bureau of Reclamation signs a water contracts in California for a period of 40 years. In the past, these contracts have not even permitted the modification of price over that 40-year duration in order to account for inflation or other new costs to the Government.

As a result, it should not come as a major surprise that less than 10 percent of the Central Valley project has been paid for, although we are approaching the end of the first 40-year repayment period.

Let us remember one critical fact at the very beginning of this discussion:

This water does not belong to farmers. It does not belong to my constituents in Contra Costa County. We have contracts for publicly owned water with the Department of the Interior. No one has a god-given, or legal, or moral right to this water. It is the public's water, and it must be used in the broadest public interest.

Forty years ago, when Harry Truman was in the White House and Ronald Reagan was in Hollywood, when the total national debt was less than the debt we will accumulate just this year, Department of the Interior officials signed water contracts with some irrigation districts in California. California was less than one-third its current size. Areas that today consist of millions of suburban homes and businesses were pastures and orchards.

In those days, nearly a half century ago, these irrigation contracts made sense. They brought barren land into agricultural production. They helped build the State of California and its economy. Yes, they contained huge subsidies, but agriculture was a booming and dominant portion of the State's economy, and no one else needed the water anyway.

Today, as we enter the sixth year of a drought, with our State nearing 30 million people, the eighth largest economy in the world—today, none of those factors that justified massive, subsidized irrigation contracts is true any longer. California is very different; the United States and the world are very different. Agriculture is a minor portion of the State economy, and stagnant at that.

The Secretary of the Interior has declared his firm intention to extend each and every one of those water contracts—40 percent of all the water in California—for another 40 years when they expire.

Moreover, he claims that existing Federal law leaves him no alternative but to resign those contracts with the exact same beneficiaries for the same volume of water and for another 40 years.

The point of this drought bill is to remove institutional and legal barriers that prevent us from utilizing our water resources in the most efficient and cost effective manner. There is no more onerous or obstructive barrier to efficient water use in California than the 40-year contracts, combined with the Interior Department's declaration to extend expiring contracts for yet another 40 years.

And make no mistake: the Secretary puts responsibility for this mindless policy firmly on us in the Congress. Secretary Lujan has declared that existing law compels him to extend existing contracts, and he challenges Congress to modify the law if we wish to alter this misguided policy.

That is what this amendment will accomplish.

The urgency of contract reform has been driven home by a newly released General Accounting Office report prepared by the chairman of the Senate Subcommittee on Water and Power, Senator BILL BRADLEY, who has been leading the water reform effort in the other body for several years.

This report was issued several months after the House acted on H.R. 355, and for that reason, the contract restriction language we have in today's amendment was not included in the initial legislation.

However, it would be irresponsible for the House to act now on this legislation without incorporating the specific and emphatic recommendations of the GAO on this key issue.

GAO's conclusions were devastating:

Irrigation water provided through Bureau contracts has "degraded the area's water supply and soil, poisoning wildlife, and threatening agricultural productivity," including millions of dollars in wildlife and crop losses;

Some contractors use their subsidized water "To produce crops that are also eligible for subsidies through USDA's commodity program";

The Solicitor of the Department of the Interior—himself a former member of a law firm which had long represented many of these water contractors—ruled that Interior must extend all expiring contracts regardless of competitive demands or environmental impacts.

GAO unqualifiedly recommended that Congress take two actions without delay:

First, "place a moratorium on all CVP contract renewals while temporarily extending existing contracts";

Second, "amend the 1956 act to explicitly allow contract renewals for lesser quantities of water and shorter periods of time so the Bureau can periodically assess water use."

Those are the goals of the amendment we offer today: To follow the recommendations of the GAO and bring some semblance of planning and thoughtfulness to our water contracting and allocation.

GAO has stated in unequivocal terms, "without an analysis of all the impacts of contract renewal, the Bureau of Reclamation cannot make an informed decision on whether to renew contracts under existing terms."

Some may suggest that passage of this amendment will damage the agricultural economy of California.

This claim is totally inaccurate.

Our amendment anticipates a new contracting procedure that will allow for long-term CVP. contracts for a multiplicity of uses throughout California. Bankers and farmers will not be limited to 3-year contracts if irrigators and contract holders enter meaningful negotiations that produce a reformed contracting procedure. The process can be concluded in months, not years, and no one would ever have to live with a 3-year contract.

There are numerous efforts underway right now to reform the water allocation procedure. But just the other day, during negotiations on the Senate side, Federal water contractors yet again announced their unwillingness to conduct negotiations unless the sanctity of their right to renewals of their 40-year-old contracts are recognized.

We cannot have real reform or real negotiations if one party has all the water, all the contracts, and all the rights—and the ability to walk out of the room at any time.

Some would have you believe this is an extreme measure. It is not.

Contract reform is endorsed by virtually every major newspaper and by many of the business leaders throughout the State.

The Sacramento Bee, the largest newspaper in the agricultural valley, vigorously endorsed contracting reforms on September 29.

The Los Angeles Times, hardly a voice of radical water policy, editorialized on October 5 against "simply extending old water contracts—some of which were signed in 1949—as though nothing has changed in 40 years. * * * Congress should respond at once, not only for the sake of wildlife in the San Joaquin Valley but to help ensure the future of the entire State."

The San Diego Water Authority also agrees that contracting reform is urgently needed. This agency, the largest member of the southern California metropolitan water district, represents both farmers and urban residents. Its agricultural customers pay $400 an acre foot for their water, compared to $20 and less for Federal CVP customers.

Some would suggest that banks will not loan money to farmers who have only 3-year water contracts. Let's be clear on this point.

This language does not say, or anticipate, that we will only sign 3-year contracts in the future. It does create a level playing field for future water allocation negotiations. It ends the intolerable situation where one party—Federal irrigation contractors—smugly sit with long-term, highly subsidized water contracts and dictate the terms of discussions to over 20 million other individuals, tens of thousands of cities and businesses, and the environmental community. As I have noted, Federal irrigators snubbed every other water user during negotiations just last week; let's not tell them it is OK for them to do it again.

If irrigators respond wisely, there is no reason that we could not have a new contracting process before the Congress early next year. But if we do not have a modern procedure for allocating these public resources, we cannot, and we should not, merely revert to the allocation formula of the 1940's.

Mr. Speaker, I am also submitting for inclusion in the RECORD two editorials, as follows:

[From the Sacramento Bee, Sept. 29, 1991]

TIME TO RETHINK THE CVP?

The federal government's Central Valley Project is the largest water system in California. But the purposes it serves, primarily irrigation, were defined to meet the state's needs as they existed nearly 70 years ago. A recent report from Congress' General Accounting Office suggests that the time has come to begin re-examining some of those purposes and to consider whether the operations of the CVP can be updated to serve California's water needs as they continue to evolve into the next century.

Development of the CVP laid the foundation for the modern prosperity of the Central Valley and it continues to support some of the most productive agricultural enterprises on earth. But as the GAO report points out, the project is also responsible for severe drainage problems that threaten to pollute many of the region's land and water resources. The government's pricing policies heap taxpayer subsidies one on top of another. And other potential uses for that water, for wildlife as well as for California's growing cities, are often ignored.

The Department of the Interior nevertheless refused to consider any updating or change in those operations. In fact, the department maintains that it is obligated to renew its water contracts for another 40 years, without reducing by one drop the amount of water it currently provides to its agricultural customers. Such intransigence only ensures that a public project that was intended to benefit rational water development in California will instead become an increasingly anachronistic obstacle to further progress.

The GAO proposes suspending all renewals of CVP water contracts until Congress rewrites the law to make it clear that the government has a duty to reassess how that water is being used. That means that future contracts may be for shorter periods and for smaller amounts of water than in the past. Alternatively, U.S. Sen. Bill Bradley has proposed legislation that would allow the current contractors to continue renewing forever, but would offer them various inducements to divert some of those supplies to other purposes. Both proposals are worth considering, but neither goes far enough toward fulfilling the role that the CVP could play in meeting the state's future water needs.

Putting some flexibility into the CVP's operations won't be an easy political fight if agribusiness continues to dig in its heels and oppose any change. But the alternatives, especially for agriculture, could be much worse. Trying to make the CVP into a truly modern system that can serve the cities as well as the farms, for example, makes a lot more sense than destroying the entire system of California water rights or crippling all of the state's existing water agencies, which is what the Metropolitan Water District of Southern California proposed in a water marketing bill this year.

The point is that there are alternatives available to solve California's water problems—if we are just willing to consider them.

[From the Los Angeles Times, Oct. 5, 1991]

UNDOING THE MISTAKES OF PAST

The Interior Department is blithely planning to put 20% of California's water out of reach to thirsty urban areas until 29 years into the next century, according to a recent report by the General Accounting Office.

The GAO recommends a moratorium on new contracts in the federal Central Valley Project, which supplies most of California's irrigation water, until Washington thinks more carefully about this policy. Does renewing old water contracts make sense in a time when California cities are rapidly growing and face a possible sixth year of drought? In our view it doesn't.

Federal rules already forbid sales of water to farms or cities that are outside the boundaries of the Central Valley, which means that surplus water can't be sold south of the Tehachapis.

Simply extending old water contracts—some of which were signed in 1949—as though nothing has changed in 40 years will also extend damage to vast areas of cropland. It would leave unchanged an intolerable situation in which wildlife habitat in the valley chronically lacks water.

Congress should respond at once, not only for the sake of wildlife in the San Joaquin Valley but to help ensure the future of the entire state.

Interior officials argue that a 1956 law gives them no choice in whether to renew contracts. They also read the law as saying the Interior Department cannot make significant changes in contract terms. So it's up to Congress to intervene.

Congress should pass two important bills. One, sponsored by Sen. Bill Bradley (D-N.J.), would change the rules for the federal water system in California—the largest such project in the nation—so that its water could be sought and sold as a commodity under state law.

The other is by Rep. George Miller (D-Martinez) to require farmers to take either federal water subsidies or federal crop subsidies, but not both. The GAO report said that in the mid-1980s nearly half of the federal water delivered at subsidized prices was used to grow crops sold, in turn, at subsidized prices.

Federal rules make buying and selling of Central Valley water far more difficult than do California rules. Although the state's policies need fine-tuning to create a true market for water, they were good enough to allow Gov. Pete Wilson to create a state water bank earlier this year as a drought emergency measure.

At the federal level, Interior already has signed about a dozen contracts that commit it to sell cheap water to irrigation districts for another 40 years, the report says. Over the next five years, it could sign another 50 or more unless the law is changed.

California agriculture must stop living in the past and let the people of California allocate nearly 8 million acre-feet of water with a process that fits the state's present-day needs. The bills that would do that both sit in the U.S. Senate's Energy and Natural Resources Committee.

Bradley should put them to a vote without delay. And California's Republican Sen. John Seymour should drop his misguided opposition to the bills and help them along.

☐ 1340

Mr. LEHMAN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the motion. I strongly object to the motion. I do not feel it deserves the right to be considered at this time under suspension of the rules.

This started out in this House as a relatively simple proposal to give drought relief to California. It passed the House virtually without opposition. It went to the U.S. Senate, the other body, where it sat for about 8 months. It has come back here in pretty good form.

Now the gentleman from California, the chairman of the Interior Committee, is trying to pull a fast one. He is attaching several other amendments to this bill.

One, and Members of the House should know this, is a multi-billion-dollar collection of water projects. They have already been passed by the House. I have no objection to them, but Members should know that this bill on suspension today coming back from the Senate as a drought relief bill has approximately $2 billion in water projects in it.

It also contains the reclamation reform bill that the gentleman from California [Mr. MILLER] and I agreed to in the House earlier in the year. It is on the bill again today. I have no objection to that, but Members should know it has been added here.

What has finally been added in the bill is a rather onerous proposal that neither the gentleman from California [Mr. DOOLEY], nor I or the gentleman from California [Mr. THOMAS], or other Members on this floor would be concerned with, had the opportunity to see until this morning. That is a proposal to say to those who contract for Federal water that they will be limited to 3-year contracts henceforth.

This proposal has not been heard in legislative form before. It has not been negotiated out amongst members of the committee, as the other proposals have been, and will have a Draconian effect on farming practices in the central valley and other areas if it is enacted. It would simply be impossible for farmers to do any long-term planning or financing under the provisions of the 3-year moratorium.

I have expressed my desire and I am perfectly willing to negotiate some change in the way contracts are meted out, but I am simply not willing to be extorted and blackmailed out of our position on this issue by this type of tactic at this time.

I hope the Members of the House will reject this.

Mr. Speaker, I would hope we could take this bill back to just the drought portion of it.

Mr. MILLER of California. Mr. Speaker, I yield 7 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. Speaker, I stand in support of H.R. 355, the Emergency Drought Relief Act and the Reclamation Projects Authorization and Adjustment Act. This is a major piece of legislation. In addition to the drought relief measure there are 33 separate bills contained in this legislation. It is over 200 pages long, directly affects 12 States and indirectly affects the entire Western United States.

I urge the support of this legislation to move the process forward so that we might ultimately pass these various water bills.

Many Western States are experiencing their fifth year of severe drought. Many experts have testified that notwithstanding the rains of this past springtime, California and other Western States may face economic and environmental catastrophe if the drought continues another year.

This underscores the importance of this emergency drought legislation. This bill will provide the Bureau of Reclamation the authority to:

First, undertake minor construction and drill wells to mitigate drought losses.

Second, it authorizes the Federal Government to participate in water banks set up by individual States.

Third, it allows the Department of Interior to move water and store water currently not allowed under existing law.

Fourth, the bill authorizes the Secretary of Interior to construct temporary barriers and take other measures to prevent salt water intrusion in the Sacramento-San Joaquin River Delta.

Fifth, the bill authorizes the Secretary of Interior to conduct studies relating to how the drought can be mitigated and how to make better use of existing water supplies generally. The bill authorizes the preparation of drought contingency plans.

Sixth, the bill authorizes $30 million for these drought activities.

Seventh, the bill also authorizes $12 million for the design and partial construction of facilities to control the temperature of water releases from Shasta Dam.

Eighth, the bill requires that all provisions pertaining to this act be consistent with State law.

I applaud the leadership of those who have worked on this drought legislation.

In addition to the drought relief measure, there are 33 separate titles contained in this legislation. It is over 200 pages long and directly affects 12 different Western States and indirectly affects the entire Western United States.

One of the major provisions of the legislation deals with an increase in the authorization levels for the central Utah water project.

The central Utah water project is the last, great water project in the West to go through Congress. This process started in the early 1950's with the passage of the Colorado River Storage Act and now, almost a half century later, we seek the final authorizations to finish this water project.

During the last 3 years, there has been an intense effort to craft Utah water legislation to meet the new challenges of reclamation development. We have learned that in order to build water projects, we need to be cost efficient and environmentally sound.

The Utah delegation has negotiated a very complex piece of legislation which has the support of various environmental, public power interests, Native Americans, water districts and local governments. The negotiations have not been easy; rather, they have been long and hard. This coalition has come together after a tremendous, bipartisan effort. I salute the many people who have brought us this far and express appreciation for their excellent work. Among others, I want to express my appreciation to Chairman MILLER for his leadership on this bill.

I would like to make four major points in my remarks today. First, the central Utah water project titles in this bill cut new ground in reclamation law. For the first time, the local water district, in this case the central Utah water conservancy district, will construct the remaining water delivery features. As a result, the cost of the construction can be reduced significantly because private enterprize will engineer and construct the water systems rather than a more expensive Federal agency with its built-in overhead costs. We have determined this amounts to a 35-percent reduction in costs.

The second point concerns one of the most aggressive water conservancy plans in the Nation. Local water districts have agreed to plans to protect the scarce water supplies the CUP will provide.

The third point deals with local cost sharing and repayment obligations set forward in the legislation. This bill is not a gift to the State of Utah. There are local cost sharing obligations which require local parties to pay 35 percent of the cost of the systems in the bill. This is a substantial sum to the citizens in the State of Utah and was part of a long, drawn-out compromise. We have determined while this might be a burden, it will be a sacrifice the people of Utah will have to make to assure themselves of a long-term water supply.

My fourth and final point relates to the environment. The Utah titles in this legislation provide for the completion of the environmental mitigation features associated with the CUP. It creates a commission to oversee the various environmental initiatives and allows for significant funding to make sure actions are taken.

Water is critical to the development of the West. Much of this bill has already passed this body three times by large vote margins.

Mr. Speaker, I urge adoption of H.R. 355.

Mr. Speaker, I ask unanimous consent to control the balance of the time that has been yielded to me, and that I may yield time to other Members.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. LEHMAN of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to underscore the points that my colleague, the gentleman from California, has made; that is no one is objecting to the bulk of the bill. It has gone through the normal legislative process. No one is objecting to the portions which deal with the California drought. That has gone through the legislative process.

What it boils down to is the personal opinions of the chairman. Prior to becoming Chair, we all knew where the gentleman from California [Mr. MILLER] stood on how he wanted to fundamentally change the Federal water projects. He has his own narrow agenda, but upon becoming chairman of the Interior Committee, I do not think any of us thought that he was going to attempt to take that narrow personal opinion and abuse the legislative process in pursuit of his interests.

What we are objecting to on suspension in this bill is this single amendment. This amendment never went through the committee. It has never been heard on either the House or the Senate side. It has not been presented to the very people who would be affected.

It is an attempt to write his own personal concerns into the bill through the suspension process.

Mr. Speaker, we know this bill contains many needed and valuable projects. Why do you think the chairman attached this amendment to this bill? If it was a bill that was not with great merit, he would not have attached this controversial amendment to it.

We are asking that you vote no on the suspension as much for the substance as the procedure, but if you are not focused on the substance as those who would have to live with it are, please understand the procedure.

It is not proper for chairman of committees to write their own personal agenda without at least consulting the members of the committee.

Mr. LEHMAN of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Speaker, as a cosponsor of H.R. 35 and a strong supporter of H.R. 429, it pains me to have to come down here today and oppose this drought bill. It is not because of the great projects included in those components, but as the speaker before me indicated, we are opposed to it because of an amendment that was attached to it at the 11th hour, an amendment that none of us were able to see in written form until 11 o'clock this morning, an amendment that never has gone through the subcommittee, has never gone through the full committee, and never has had a full hearing and investigation as to its implications.

This amendment if it was implemented could jeopardize as many as 20,000 farmers in California. With a 3-year timeframe on it, it would almost totally eliminate their ability to secure long-term financing. It would basically put them out of business.

I attended the hearing on the GAO report on contract renewals and their application for a limitation on those terms, but that GAO report was limited in its scope. It did not consider the economic implications to the farmers. It did not consider the economic impact to the businesses and the small communities which are in those areas which receive Federal water.

Clearly, this is not the appropriate place for us to be placing a limitation on Federal contracts.

This morning the Governor of the State of California also issued a letter in opposition to this.

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There are water districts throughout the State which are opposed to this limitation. In fact, the Association of California Water Agencies, which represents 400 urban and rural water districts, are also opposing this amendment.

I am sorry that we have to do this, but I ask Members of this House to oppose this bill because it includes an amendment that gives consideration to something which will have dire impacts and has not had the full hearing of this body.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise in support of the Groundwater Demonstration Act provisions in this bill.

Mr. Speaker, this Member rises in support of the Groundwater Demonstration Act provision of H.R. 355 and would begin by commending the distinguished gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs, as well as the distinguished gentleman from Alaska [Mr. YOUNG], the ranking member of the committee, for their assistance in including H.R. 355 legislation that this Member introduced, H.R. 256, which amends the High Plains States Groundwater Demonstration Act in order to increase the funding authorization from the original $20 million to $34 million. Previously, these Groundwater Demonstration Act provisions were included by the distinguished gentleman from California [Mr. MILLER] in H.R. 429 as passed by the House on June 20, 1991, which is now incorporated into H.R. 355.

The original act, the High Plains Groundwater Demonstration Program Act of 1983 (98 Stat. 1675), also introduced by this Member, authorized and directed the Secretary of the Interior, acting through the Bureau of Reclamation, and in cooperation with the Geological Survey, the Environmental Protection Agency, and 17 Western States to investigate the potential for artificial recharge of aquifers and to establish ground water recharge demonstration projects. In 1987, the 21 authorized projects were estimated to cost $18,520,400 which was under the $20 million authorized.

The Bureau of Reclamation in its September 1990 interim report to Congress, estimated the costs to complete the 21 projects at $31 million using 1989 price levels. Cost increases from the original 1987 estimate are due primarily to: First, inflation; second, addition of environmental protection and monitoring features; and third, an increase of $2.8 million due to the substitution of three new projects for three originally approved projects that later were withdrawn from the program due to changes in local sponsor support.

Seventeen projects are now underway or completed, while four have been deferred due to lack of sufficient funding under the current ceiling. Of the 17 projects, 6 projects have been reduced in scope or are limited to paper feasibility studies because field demonstration activities have been deleted in order to stay within the $20 million ceiling. H.R. 429 would raise the ceiling to $34 million to allow for inflation that has occurred since the estimates were made in 1989 for completion of all demonstration projects directed by the original High Plains Groundwater Demonstration Program Act of 1983.

This $14 million increase in the authorization level would result in the completion of the following projects: Rillito Creek, Tucson, AZ; Arcade, Sacramento, CA; Stockton East, Stockton, CA; Equus Beds, Newton, KS; Big Creek, Hays, KS; Woodward, Woodward, OK; Southwest Irrigation District, ID; Wood River, Grand Island, NE; and Texas High Plains, Texas Panhandle.

The Members of this body are all too familiar with the serious shortages of water in the semiarid and arid areas of the High Plains and the West. The chronic water shortages which California and other Western States have suffered, and which have become even more serious in recent years, serve to further emphasize the need for new approaches to water management and development.

Ground water provides the majority of the water supply in most of these States—especially in the High Plains. Indeed, the economic base of much of rural America is dependent upon ground water sources. In many areas underground water supplies are not only being mined at an alarming rate, but the overall quality is being threatened by contamination from various pollution sources or intrusion of brackish waters.

The basic purpose of the High Plains Groundwater Demonstration Program is to evaluate different ways of putting water back into the ground—artificial recharge. The program is designed to move ground water recharge technology from the research mode to the pilot demonstration phase and then, to evaluate the potential for building or rehabilitating larger operational projects.

Again, Mr. Speaker, this Member would like to thank the distinguished gentleman from California [Mr. MILLER] for his recognition of the importance of ground water demonstration projects. Learning how to recharge ground water resources is very important. By taking new initiatives to conserve our supplies and preserve the high quality of those ground water supplies, we will be successful.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I am going to vote for H.R. 355, but I have to tell you and the rest of the House I am not very happy about it. The base of this bill is the drought bill. That drought bill was passed, first of all, was put together by the gentleman from California [Mr. LEHMAN], the gentleman from California [Mr. MILLER], and myself earlier this year and passed in March of this year in this House as an emergency because there is a drought emergency in the great Far West, particularly in the State of California.

Mr. Speaker, it languished in the Senate for 6 months and finally passed the Senate in October of this year and is here now in a position where we can agree and pass it and send it to the White House for signature.

But instead it has become once again another omnibus reclamation bill. One of the provisions contained in it is the Grand Canyon Protection Act. This is the Grand Canyon Protection Act of 1989, the Grand Canyon Protection Act of 1990, the Grand Canyon Protection Act of 1991, and the way things are going it is going to be the Grand Canyon Protection Act of 1992, and maybe 1993.

For us to respond to an emergency in the Grand Canyon?

This bill could pass both Houses and be sent to the President and have it signed standing alone, and we have urged and begged to have it stand alone and get sent to the President, to respond to an emergency.

Fortunately, the administration is not waiting for Congress to respond to an emergency in the Grand Canyon. And by the time we get around to actually passing it and getting it signed, the Department of the Interior will have administratively resolved the problem in the Grand Canyon.

What are we doing here? We have admitted emergencies, drought, environmental problems in the Grand Canyon. And what do we do? We put them into legislative packages that we know are impossible.

We have emergencies in Utah. The central Utah project has languished for 4 years in this House, waiting for reauthorization. Every time we get it close, somebody sticks something on it that cannot pass in the Senate.

Mr. Speaker, this is not being responsive to the needs of our constituents, it is bad legislation. I feel very, very deeply for Mr. LEHMAN and his colleagues who have been wronged by the particular amendment about which they are complaining. I am sorry I have to vote for the bill. I am sure you understand why. But I do understand your concern.

Mr. LEHMAN of California. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I strongly oppose this effort to substantially rewrite Federal water policy on the Suspension Calendar. With very little consideration, we are facing today, a proposal that will undermine the economic base of rural communities in California.

Many people have asked what is wrong with eliminating long-term water contracts. The answer to that is simple. Assured access to water is absolutely vital to obtaining affordable credit, and to maintaining the value of farmland.

Indeed, the length of water contracts is the single most important element in a water contract. It is more important than the amount of water provided or the cost of that water.

Why? Because assured water supplies are the foundation of affordable credit for agriculture. The shorter the water contract, the shorter the repayment period required by the bank. Shorter repayment periods on loans mean higher annual credit costs to farmers. Indeed, shorter water contracts may mean farmers completely lose access to credit.

Local irrigation districts will also find it difficult to obtain credit, maintain their operations, or implement water conservation procedures.

Access to water and credit determine farmland values. Farmland is the farmer's primary asset, and during the drought, land values have fallen between 25 and 30 percent. Shortening water contracts will reduce land values even further.

Limiting contracts will also affect cropping decisions, halting the trend toward production of higher value, permanent crops, such as nuts and other tree products.

Finally, by reducing the economic viability of agriculture, short-term contracts will have a ripple effect throughout the economies of many rural communities, reducing ancillary business activities, and constructing the local tax base.

Mr. Speaker, the Suspension Calendar is no place to consider legislation that is so potentially devastating to California agriculture. I urge a no vote on H.R. 355.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL of Colorado. Mr. Speaker, I support Mr. MILLER'S motion to strike the Senate amendment and accept substitute language. This substitute is vitally important to western States and contains an important provision to transfer the operation and maintenance of the Platoro Reservoir in southern Colorado to the local irrigation district.

It also provides for the enhancement of fish habitat in the Conejos River in southern Colorado.

The Platoro Reservior was built in 1951, by the Bureau of Reclamation. Because of the administration of the interstate Rio Grande compact, the reservoir has never been used. Including it in the provisions of the drought bill will make this facility available for use to combat drought in the Rio Grande basin immediately.

By making local water users responsible, making this irrigation project work will allow them to implement an aggressive local water management program to realize the project's irrigation benefits.

This bill is also intended to end a longstanding environmental problem caused by the original construction of the reservoir, namely maintaining satisfactory in-stream flows in the Conejos River for fish and wildlife.

For nearly 40 years the water in Platoro Reservoir has been wasted because water simply fills the reservoir, then is released so that it does not spill over the top. This is a crime because the Conejos Valley is one of the poorest in the country, with unemployment averaging around 20 percent.

This bill will allow the valley's farmers to use the water to grow crops and allow its residents to use the fish and wildlife enhancement provisions to attract visitors to the region.

Therefore, I urge my colleagues to vote in favor of Mr. MILLER'S motion.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 355, the Emergency Drought Relief Act of 1991.

Contained in this legislation before us in the Reclamation Adjustments Act of 1991 or H.R. 429. The lead title in the reclamation bill is the Buffalo Bill Dam authorization. The Buffalo Bill Dam provides water to a large number of irrigators in northeast Wyoming, generates hydroelectric power, and provides recreational benefits for the Cody area. This legislation has passed the House three times during the last 2 years. Earlier this year on June 20, the Reclamation Act passed by a vote of 360 ayes to 24 nays.

In 1982, Congress authorized extensive modifications to the Buffalo Bill Dam. The plan was to raise the height of the dam by 25 feet. The act authorized appropriations of $115.7 million and the modifications are largely complete. However, subsequent to the 1982 authorization, the Bureau of Reclamation identified a number of design changes which needed to be addressed.

Last year I introduced legislation which authorized the completion of the Buffalo Bill Dam. Unfortunately, though the bill itself has been noncontroversial, this section in the omnibus water bill has not been approved due to a number of other contentious issues contained in other titles.

The Buffalo Bill Dam project is unique because it includes a substantial cost-sharing arrangement with the State of Wyoming. This Federal-State cost-share plan is extremely important and is a good example of what can be accomplished when the Federal Government and the States work together. As we continue to tighten our belts to combat the Federal budget deficit, we should begin to look at progressive agreements, like Wyoming's, in order to complete vitally needed projects.

Regarding the drought legislation, I am glad to report that we were able to work out language on the so-called Warren Act amendments so that the State of Wyoming would not be harmed by other States. The Warren Act amendment pertains only to the State of California.

Mr. Speaker, I urge the quick adoption of this legislation.

Mr. LEHMAN of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I have so many questions about what has just been done because of the State water project and its importance not only to central California but to those who paid for it in the southern part of the State, who have allotments. The information is just not available to establish the impact that this is going to have.

Mr. Speaker, I worked very hard on the drought bill H.R. 355. There is a need to recapitalize many of the citrus groves that were totally destroyed. The reclamation project has a project in it that could revitalize total wastewater or salinized water and make it palatable for purposes of agriculture.

I am involved in that. So I am caught, so to speak, between a rock and a hard spot. But when I see here all of a sudden we have legislation by nonrepresentation of water contracting, my questions are numerous in that what happens to the allotment water coming from the State water project to the south of the central valley, the areas of the Cochilla Valley, the areas of San Diego and those who receive that water directly or indirectly through exchange?

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Mr. Speaker, I am sorry to say, but I must in all candidness, that unless some of these questions are answered and answered in some way that I have reassurance, I would have to shoot myself in the foot and vote against both 355 and 429. I hope that my colleagues would, if I understand correctly, defeat this on suspension so we can bring this back in an orderly manner.

Today we have two very important bills and one unacceptable amendment made in order by the Rules Committee. H.R. 355 will provide desperately needed assistance to drought-stricken communities across California and the West. H.R. 429 includes a variety of reclamation projects throughout the country and a very important project for the Salton Sea.

The Salton Sea suffers from an extremely high salinity level, which threatens both local and transient wildlife. A task force formed in 1986 listed a number of alternatives aimed at solving this problem. I have incorporated the preferred alternative of establishing a desalination plant into the text of H.R. 429. This desalination facility will serve the people of the southern California desert area, providing tremendous long-term economic and environmental benefits.

Unfortunately, today I am forced to vote against the project for which I have worked so long. Through parliamentary gimmicks, an amendment has been added to these two must-pass bills that would implement one person's idea of proper usage upon the millions of people whose very lives depend on the limited water resources in the West.

I am voting in opposition to this bill because of this amendment. It is my hope that we will be able to defeat this amendment by voting down this bill which requires a two-thirds majority and pass the two needed bills separately.

Mr. LEHMAN of California. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to bring to the attention of the Members of the body a letter dated November 18, directed to the chairman of the committee from the Governor of California, Pete Wilson.

The letter referred to is as follows:

STATE OF CALIFORNIA,
WASHINGTON OFFICE OF THE GOVERNOR,
Washington, DC, November 18, 1991.
Hon. GEORGE MILLER:
U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN MILLER: Your prompt efforts earlier this year to move drought relief legislation, H.R. 355, in the House were commended by the State. However, I was greatly dismayed to learn that despite this positive action, you have now proposed to amend H.R. 355 in a manner that will place the adoption of the drought relief package at risk, as well as placing thousands of California farmers in financial jeopardy.

Amending H.R. 355 to limit the term of water delivery contracts through a contract moratorium provision could devastate the agriculture-based economy of the Central Valley. Although I am aware of your concerns relative to extension of water delivery contracts, California simply cannot afford such a proposal.

The proposed moratorium will impact California farmers' ability to receive long term capital financing, diminish their credit worthiness, reduce financial flexibility and impair their overall ability to operate. As you see, long-term water service contracts are an integral component of agriculture. The economic effects of changing those contracts must be considered.

I support efforts to restore fish and wildlife in the Central Valley. However, achievement of these goals can best be accomplished through well developed, cooperative efforts rather than through amendments which may ultimately result in decreased water quality, damage to the viability of California's agricultural economy, and adverse impacts upon fish and wildlife habitats and resources. The State is committed to finding ways to provide greater protection for fish and wildlife within the context of long-term contracts. Your proposed amendment is contrary to the needs of the State and to the ultimate resolution of these issues.

On July 30, 1991, I joined the Governors of six other western states in expressing to Senator Bennett Johnston our strong desires that drought relief legislation be expediently considered. Following House and Senate adoption of H.R. 355, I felt confident that California would soon receive the Federal relief assistance that is so vital. Unfortunately, political considerations have now been placed before the needs of Californians.

I am committed to working with you and other members of Congress to address fish and wildlife concerns as well as avoiding unnecessary and adverse consequences upon other water users. As a result, I strongly urge that the drought relief measure remain unencumbered. This will provide all interests with the necessary opportunity to develop equitable and meaningful solutions to restoring Central Valley fish and wildlife. In this regard, please feel free to contact either Benjamin Haddad, Director, or Mary McDonald, Washington Representative, in my Washington, D.C. Office at (202) 347-6891.

Sincerely,

PETE WILSON.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of this bill currently before us today, and I want to say that the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs, as much as any chairman in this House pays attention to the members of his committee, and I want to refute those statements made by a Member of the opposition a few minutes ago saying this bill is being passed without even consulting members of the committee. The large important provisions of this legislation have been dealt with in committee extensively. They have been twice; irrigation reclamation reform, reclamation reform, has been twice passed by overwhelming votes by the House of Representatives. Contained within this legislation is the central Utah project, of which I have been very heavily involved for the last 4 years.

Mr. Speaker, in Utah we have waited for the completion of the central Utah project for some 35 years. This piece of legislation, which is the primary component of H.R. 429, which is to be added as an amendment to H.R. 355 today, is the most important piece of legislation for my State in many decades. We have a unified Utah congressional delegation, totally bipartisan, in support of the central Utah project and of this legislation before us today. At the end of the last Congress, 13 months ago, we came within a few hours of final passage of this legislation and signature by the President, and the House has again this year overwhelmingly passed this legislation.

Mr. Speaker, I want to commend the chairman, the gentleman from California [Mr. MILLER], for trying to push these needed reforms today and these water projects as a part of H.R. 355. H.R. 355 is critically important to California's water users and may provide the incentive to go ahead with H.R. 429, as well, or at least to go to conference. I should point out that the Central Utah Project Completion Act is the product of 4 years of intense negotiation between water users and environmentalists.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). The time of the gentleman from Utah [Mr. OWENS] has expired.

Mr. HANSEN. Mr. Speaker, I believe I have 1 additional minute, and I yield it to the gentleman from Utah [Mr. OWENS], my colleague.

Mr. OWENS of Utah. Mr. Speaker, I thank the gentleman from Utah [Mr. HANSEN], my colleague, for the opportunity to make this point.

Mr. Speaker, this is the product of 4 years, this Central Utah Project Completion Act, 4 years of intense negotiation. It has involved all of the environmentalists, all of the water user groups of Utah, and indeed most of the West, and I want to point out that any controversy of this legislation is entirely extraneous to the central Utah project. The project itself individually has passed the House at least on two occasions by overwhelming votes, and the central Utah project is a model for future water projects in this country. It carries with it environmental enhancement, as well as economic development, and it is the most fiscally responsible irrigation act ever to pass the House of Representatives.

The State of Utah is required to make the largest contribution of any water project that has ever come before Congress. It is obvious to all but the last holdouts that U.S. water policy is badly in need of reform, and that is addressed in this legislation.

I thank the gentleman from California [Mr. MILLER] and his staff for this important amendment and vote today. I have worked on the central Utah project for 4 years, and it is the highlight of my service in the House. The Central Utah Project Completion Act is Utah's link to the future. It protects our economic vitality and our environmental heritage.

To the citizens of Utah, this is the single most important piece of legislation to come before Congress in 35 years.

Utah is the second most arid State in the country, and water is the key to economic development. If we do not have the water to sustain our growth, we cannot attract business, or make our cities and towns good places to live. Without water for the future, we will wither. With that water, we will blossom.

The central Utah project began more than 35 years ago. The original concept was to bring our negotiated share of Colorado River water from the Uintah Basin where there are few people and much water, into the Wasatch front and the Great Salt Lake Basin, where there are many people and very little fresh water. It is the largest transbasin diversion of water ever undertaken in this country, and it is absolutely vital to Utah's future.

The original central Utah project was at cross purposes with our Nation's environmental ethic and did great damage to Utah's outdoors. It was also at cross purposes with the Nation's fiscal realities. This bill corrects both of those failures.

More than 50 sportsmen and environmental groups have spent the last 4 years working with the Utah delegation to restore the original genius of the cup. We left more water in the mountains and we made minimum stream flow requirements and quadrupled class A fishing streams. We will complete the Jordan River Parkway and establish a wildlife refuge on Utah Lake, 1 of the 10 most important and still unprotected wetlands in the West. We establish a mitigation commission, to coordinate Agency projects and address fish and wildlife problems that are currently unknown.

The central Utah project, unlike most of its predecessor water reclamation projects, is totally fiscally responsible—it should be authorized, and for all the valid reasons. We placed a cap on bureaucratic overhead, killed hundreds of millions of dollars of unneeded water projects and with the Utah share of 35 percent, the largest of any such water project. The American taxpayer has been responsibly protected.

Most Utahns will benefit from the environmental care and growth opportunities developed in this bill. I am proud of these accomplishments, and I express my appreciation for the dedication and spirit of the individuals who worked on this bill. I think it is very significant, that the interested parties and Utah's congressional delegation have achieved consensus on virtually every major aspect of the project.

That consensus has not been accidental, and it has certainly not been easy. The central Utah project is the result of a willingness by many people with divergent interests to find a compromise that is acceptable to all. It represents a huge expenditure of time and energy to rationally redesign and update the project for the people of Utah.

The Central Utah Project Completion Act of 1991 is virtually identical to the bill that actually passed the House and the Senate last year. But our bill died in the final moments of the 101st Congress, becoming embroiled in the major conflict over the Reclamation Reform Act to which it was tied, as it is today.

We again ask Congress to support our efforts to complete this project, to begin delivering water to the Wasatch front and beyond to southern Utah, and to mitigate environmental damages.

Let's pass this bill resoundingly today. Utah needs the central Utah project and the country needs these sensible water reforms. The bottom line is that we can no longer afford to use water wastefully in the West. It is not just a question of environmental protection, but of simple economics. The provisions in the bill today, including the new provision limiting the ability to sign long-term contracts in the Central Valley project of California, are necessary to correct longstanding errors in water policy. Let's pass this bill in the House and get on with it. Eventually, the other body will have to accept that the world of water policy has changed. I commend the chairman of the Interior Committee and his staff for their insight and for their persistence. They have chosen an excellent vehicle to lead a few recalcitrant Congressmen and Senators to finally accept that view.

The SPEAKER pro tempore. The time of the gentleman from Utah [Mr. OWENS] has expired.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. LEHMAN of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, will the gentleman from Utah [Mr. OWENS] respond briefly because I think he has indicated that he had some concern about the method in which the chairman was operating. It is precisely because there are so many worthy projects in this legislation, such as the Utah project, such as the Arizona, such as the California, Nebraska, Kansas, Wyoming, on and on, that this kind of an amendment, and perhaps the gentleman has not seen section 3501, contracts, which fundamentally reforms Federal contracts, because it never came to the subcommittee and never appeared before the committee, and it has now been attached to this bill.

Mr. Speaker, I understand the willingness of the gentleman from Utah [Mr. OWENS] to praise the chairman for those broad projects which provide coverage for this very kind of behavior. We are not criticizing all of those worthy projects that are in the bill. We are criticizing this amendment, which may or may not be worthy, and the manner in which it was placed in the bill. It is not general criticism of the chairman; it is a very specific criticism of the chairman.

Mr. LEHMAN of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I would like to ask the gentleman from California [Mr. MILLER] a question on my time:

Mr. MILLER, I would like to ask you a question. You are chairman of the Interior Committee; is that right?

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. MILLER of California. The gentleman is correct.

Mr. DANNEMEYER. And does the Committee on Interior and Insular Affairs have jurisdiction over water projects?

Mr. MILLER of California. Yes.

Mr. DANNEMEYER. I understand this bill has something to do about changing water policy in California in a very significant way. Is that true?

Mr. MILLER of California. No; what this bill does—

Mr. DANNEMEYER. Mr. Speaker, I reclaim my time. The question can be answered yes or no.

Mr. MILLER of California. The gentleman can ask somebody else questions on his time.

Does the gentleman want an answer?

Mr. DANNEMEYER. I want an answer; go ahead.

Mr. MILLER of California. Does the gentleman want an answer from me?

Mr. DANNEMEYER. The reality is, Mr. Speaker, that what the gentleman is doing here in this process is a total violation of what the whole House is supposed to be doing, namely, when significant, even amendments of a minor nature, are to be considered on policy questions, they are to be considered by the policy committee, in this instance the committee of the gentleman from California. He has got the vote to control it there.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. Mr. Speaker, if the gentleman gets me some additional time, I will yield, but in this instance, since the gentleman did not want to go to his own committee, it tells me he did not have the votes there.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield? He asked me to answer the question.

Mr. DANNEMEYER. Mr. Speaker, I will make my statement, and then, if I have time, I will yield to the gentleman.

Mr. Speaker, as the gentleman knows, I am puzzled because he is the chairman of the committee. I would assume the members on that committee are there with his blessing. He has their proxies in his pocket. If the gentleman cannot get his amendment by that committee that he controls, I guess from his standpoint the way it is done is to go to the Committee on Rules and have an amendment offered on to a bill on suspension that changes everything.

Mr. Speaker, I only hope the Members around this House floor and watching on closed TV in their offices will understand what is at stake here. If we are going to have a major change in water policy, it should be debated on the floor of the House, not achieved through an end run on the rules of the House.

Mr. LEHMAN of California. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, as a member of the Committee on Interior and Insular Affairs, I rise in strong support of this legislation and the chairman, the gentleman from California [Mr. MILLER].

□ 1410

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, lest the Members of the House think this is some regional issue, this is not some regional Western issue. This is a taxpayer issue, and I am frankly surprised by the gentleman from California [Mr. DANNEMEYER], who seems to think that it is all right to keep squandering tens of billions of dollars. We have made a modest increase in the ability to control this waste of money. One farmer got $3 million of subsidies while growing a crop that was in surplus.

So for God's sake, let us not look at this as some Western battle over who gets the water or who gets the pork. It is time that these farmers—and I grew up on a dairy farm and still live there—get what they deserve, but not more. They ought not be getting tens of billions of dollars' worth of subsidies.

We have worked out some ways to try to reduce the waste. If this does not pass here, I would hope the rest of the Members of the House would join me and come back and just end these foolish contracts for growing crops that are in surplus, wasting the Government's money in two ways.

Mr. LEHMAN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the Members ought to be clear here on what this is really about. The moratorium, the 3-year limitation on contracts offered by the gentleman from California [Mr. MILLER], is not going to affect any of the big corporate farms, it does not affect the Westlands Water District, and it does not affect the Boswells. The contracts that those people have do not come up until some time into the future, 10 or 15 years from now. This affects a lot of little districts, the Fresno Irrigation District and the Porterville Irrigation District, and some uses that are municipal and agricultural in nature. It affects those who use this water in conjunction with other water that they have, and as the Governor of California stated in his letter to the chairman, it will place a great hardship on them.

But there is no financial savings in the Miller proposal, and there is no water savings in the Miller proposal.

Finally, I say to my colleagues that I do not begrudge any of you who have your water projects in this amendment; I envy you. But the fact is that your water projects are being used here to take our contracts away from us. I will be very frank. I am in an awkward position because the drought bill that is supposed to be before us is a bill that I originally authored. It is a bill that affects my district a great deal, and it affects the districts of a lot of other Members. But if we are going to have a gun held at our head and they say, "You are not to get this drought relief unless you sign up and agree to only 3 years on contracts," then I say, "Take your drought relief and keep it."

We are not going to be blackmailed, we are not going to be extorted, and we will do without it. We need the relief, we would like to have it, but the price in this instance is far too high.

Yes, we have problems with water quality in California, and, yes, we have problems with riparian habitat, but we are working those out here, and let us continue to work them out here in the context of legislation, not in the context of taking an amendment up on the floor that is, from a parliamentary standpoint, very difficult to defend against.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield briefly?

Mr. LEHMAN of California. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, if this bill is defeated on suspension, these other good and worthy bills can come up before us in an orderly fashion. It is the manner in which the chairman of the committee has attached his own personal amendment, one that was never reviewed by the committee or subcommittee, to a package of good bills that we are protesting, not the base bills, and those bills can come up in an orderly fashion; is that true?

Mr. LEHMAN of California. Mr. Speaker, the gentleman is absolutely right. The bills have passed the House, and those bills are in the Senate. Those bills can go to conference via any one of a number of avenues.

The whole point here is to attach this 3-year limitation on contracts to that big $2 billion water project train going out of the House and our drought relief bill. But, thank you, we will wait on the drought relief. We do not need this noose.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a lot of statements have been hurled around this Chamber about how this is my personal amendment, and so forth. That simply is not true. What we have here is legislation. In March of this year we sent it to the Senate, and the Senate failed to pass it until just recently.

We sent the Reclamation Reform Act out, and everybody said here they were for that. We sent it in June of this year, and the Senate has refused to take it up. What we are talking about is two things: The ability of California to get hold of water policy for the future. Under the current law, 40-year contracts will be renewed, the same contracts that read as though they were written in 1956, when a candy bar was a nickel. That is what they are saying to us.

Every major urban water district has endorsed this effort in limiting these 40-year contracts. Every major newspaper, whether they are from the north or the south or the central valley or elsewhere, has endorsed the limiting of these contracts. I am not trying to impose my view of these contracts in my amendment. I am simply trying to get a negotiating session that is real.

Last week in the negotiations those people who represented the people who now say they want more time walked out of the meeting or they did not show up for the meeting or they stayed for an hour. So the Senate, just as they killed all the projects of Members here in the last session, are up to their same old shenanigans. This is our ability to go to conference on water law reform and on projects that are necessary.

Let us remember that there is a taxpayer stake in all of this. These contracts deliver highly subsidized water, subsidized water that is as high in some cases as $300,000 or $400,000 a farming unit per year, subsidized water that taxpayers from all the rest of the Nation pay.

All we are asking is to update the contracts, and we will negotiate that. Everybody here has been involved in that, except that the history has been that for those who have the 40-year contracts, those who have the water, delay is to their financial advantage because the taxpayers keep paying for the subsidy.

Everybody else in this bill in their projects has had to modernize the projects. The Utah delegation has had to come up with hard-earned taxpayer money from the citizens of the State of Utah. The Buffalo Bill project came up with real money, I think, for the first time in the history of this program.

This is about reform. What we now have is a handful of people in California who simply do not want to reform because every year they go to the Federal Treasury for billions of dollars in subsidies. The interest is foregone, the interest is subsidized, the water is subsidized, and the crops are subsidized. That may be all well and good, but we should not let the Secretary of the Interior do as he has announced he is going to do, and that is simply to resign these contracts for another 40 years. That is not in the interest of our State administration, it is not in the interest of the urban water users, and it is not in the interest of small farmers, because if that happens, some day what we will do is see that all water will simply migrate to southern California.

They have already offered $200 million. Let us get together and negotiate a policy. The problem has been that those people who have the subsidies, who have the contracts, and who have the water have been very skillful in keeping those negotiations.

So this legislation, Mr. Speaker, should pass. It should pass in the name of reform, it should pass in the name of tax policy, it should pass in the name of the environment, and it should pass in the name of water quality for the future of California.

Mr. DOOLITTLE. Mr. Speaker, I rise in opposition to H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991, on the Suspension Calendar.

I am aware that this is an unusual request, because I am an original cosponsor on this important piece of legislation. H.R. 355, however, is before the floor with an amendment that addresses a highly important and controversial western water issue—water service contract renewals.

H.R. 355, in its original form, is a much-needed measure to relieve the drought-stricken Western States, which are entering their sixth straight year of drought.

It is unacceptable that the language of this amendment was unavailable until late this morning. The amendment has not been through the committee process. The provision of this amendment will redefine long-term water contracts from 20 years to 3 years in perpetuity, and if enacted, will place this drought relief legislation in danger and will place over 18,000 California farmers in financial peril as well.

Sneaking amendments into measures in the eleventh hour is not the way to decide public policy issues. We all must have the opportunity to voice our opinions and I ask, to ensure prompt enactment of H.R. 355 and fair consideration of the water contract renewal issue, that water contract amendments to H.R. 355 be removed from the Suspension Calendar.

I strongly urge my colleagues to vote "no" on H.R. 355 in its current form.

Mr. CONDIT. Mr. Speaker, I rise today in opposition to the amendment offered by the gentleman from California to H.R. 355, the Bureau of Reclamation Drought Assistance Act. This amendment, if passed, would make a fundamental change to Federal reclamation law.

Mr. Speaker, this controversial amendment is being offered today under suspension of the rules without ever having been through the normal legislative process. The chairman of the committee may say that hearings were held on this issue earlier this year. However, these hearings were solely on a GAO report and the only witnesses allowed to testify at the hearing were from the GAO. In addition, while the sponsor of the amendment says that his amendment was drafted in response to GAO recommendations, in reality the GAO has never made a specific proposal to limit water contracts under the Federal reclamation law. In fact, during the hearings earlier this year, GAO was pressed several times to provide a specific proposal and declined.

The issue today is process. The sponsor of the amendment has a clear agenda. He wants to completely rewrite Federal reclamation law. I share his concern about abuses of the reclamation programs. For that reason, I joined with my colleagues from California earlier this year and negotiated a compromise with the gentleman on H.R. 429, the Reclamation Reform Act. I supported and voted for this compromise because I believe it goes a long way in addressing the mutual concerns that we have regarding reclamation law. I was also a strong supporter of H.R. 355, the reclamation States' drought relief bill. However, the bill before us today contains a provision that I cannot support.

The amendment offered includes a limitation of 3 years for water contracts between the Bureau of Reclamation and water districts. Under current law the Bureau may enter into contracts of up to 40 years. A limitation of 3 years on reclamation water contracts is certain to wreak havoc on the $18 billion a year California agriculture industry. Governor Wilson's office has estimated that this provision will affect more than 18,000 farmers in California. Clearly, an amendment that has this great of impact should not be considered under suspension of the rules without full consideration by the committee with jurisdiction.

Mr. Speaker, I ask my colleagues to vote against this legislation today to show their opposition to these kinds of tactics. I stand ready to work with the Interior Committee on this issue.

Mr. LAGOMARSINO. Mr. Speaker, I reluctantly join my colleagues on the Interior Committee and in the House, as well as Governor Wilson, in opposing the motion offered by the gentleman from California [Mr. MILLER], to suspend the rules and disagree with the Senate amendment, with an amendment, on this measure.

I do so, Mr. Speaker, even though I support both H.R. 355 and H.R. 429, which would be amended into H.R. 355. Each of these measures contains very important legislation to amend the Warren Act to allow non-reclamation project water to be conveyed through Bureau of Reclamation facilities. H.R. 355 provides this authority on a temporary basis while H.R. 429 makes the relief permanent. This authority is needed by the city of Santa Barbara to regularize and facilitate plans now being made to bring State water to the city, which has suffered severe drought over the past 5 years. Absent this authority, the city could incur costs of millions of dollars just to use facilities which are already physically available and at hand. I know of no one, Mr. Speaker, who opposes this provision.

I also support the other provisions of H.R. 355 designed to provide drought relief to many areas of California. The problem I have with the motion of the chairman is that I am reliably advised that other amendments which the chairman is making to the bill could result in stalling the bill when it is returned to the Senate, making passage this year unlikely. I fear that tacking this controversial provision onto the Drought Relief Act would send the entire bill into limbo for the rest of this year.

Mr. Speaker, Santa Barbara needs this authority now. The city attorney estimates that it could cost the city $15 million if the Warren Act is not amended by the end of the year. Holding this and other provisions of H.R. 355 and H.R. 429 hostage to other unrelated, though well-intentioned amendments, will result in a stalemate and nothing will be passed this year. I support the gentleman's effort to work out reclamation reforms with the Senate, but I hope he will not use Santa Barbara's precarious financial situation to force the Senate to act. It simply will not work, because California only has 2 out of 100 Senators.

Mr. FAZIO. Mr. Speaker, I rise in reluctant opposition to consideration of the Senate bill, H.R. 355, the Reclamation States Emergency Drought Relief Act, under suspension of the rules. My reluctance arises because the chairman of the House Interior and Insular Affairs Committee, GEORGE MILLER, has chosen to add an amendment to H.R. 355 that would prohibit the Secretary from entering into any water contracts which exceed 3 years in length. The provision would apply to not only new water contracts, but to any renewal, extension, or amendment to an existing contract.

The amendment would be devastating to California agriculture. In the near-term, about 18,000 farmers in 65 water districts across the State would be affected. Such a restriction on water contracts would seriously jeopardize the ability of California farmers to obtain long-term capital financing and generally impair their overall ability to operate effectively.

Mr. Speaker, I am not opposed to the linkage of H.R. 429, the Reclamation Projects Authorization and Adjustment Act, to H.R. 355. I strongly support both bills. H.R. 429 authorizes a number of important projects to my State and my district. And, certainly, California and other Western States are in urgent need of the assistance included in the drought relief bill.

But I do oppose, in the strongest way possible, the addition of this contract restriction amendment in this manner. Neither the subcommittee nor the committee has considered this particular amendment. In fact, only today has it seen the light of day outside of the committee.

Such a major change in contracting procedures should be given more open and thorough review by the committee and this body. The chairman has some very legitimate concerns about the appropriate length of time of contracts. I stand ready to work with the chairman to see that his concerns are addressed in a timely and comprehensive manner.

Mr. CUNNINGHAM. Mr. Speaker, I realize the importance of H.R. 355, the Reclamation State Emergency Drought Relief Act, which is critical to the Western part of the United States entering our sixth year of drought. I was pleased to support H.R. 355 when we debated it in March and to support H.R. 429 in June. The need for drought relief is clear.

However, my friend from California, Congressman MILLER, has included language placing a moratorium on water service contracts entered into by the Bureau of Reclamation without notice. This would directly affect California's agriculture business which depends on long-term water contracts. The amending language could devastate the agriculture industry making it difficult or impossible to operate.

Although I strongly support the passage of drought relief, I cannot support legislation that has been brought to the House floor with an amendment that has not been examined, debated, or voted on in committee.

Mr. Speaker, it is imperative that we in Congress work together in solving the water needs and issues in the Western part of the United States. These goals can be attained through cooperative efforts rather than amendments that could wind up doing more damage to an already critical situation.

I urge my colleagues to vote against this bill, so that the Miller amendments can be deleted and we can speed drought relief to the farmers and ranchers of California.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). All time has expired.

The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and agree to the resolution, House Resolution 282.

The question was taken.

Mr. LEHMAN of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1420

TELEPHONE ADVERTISING CONSUMER RIGHTS ACT

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1304) to amend the Communications Act of 1934 to regulate the use of telephones in making commercial solicitations, as amended.

The Clerk read as follows:

H.R. 1304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Advertising Consumer Rights Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations, therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals' privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 226 (47 U.S.C. 226) the following new section:

SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'automatic telephone dialing systems' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator;

"(B) to dial such numbers; and

"(C) to deliver, without initial live operator assistance, a prerecorded voice message to the number dialed, with or without manual assistance.

"(2) The term 'telephone facsimile machine' means equipment which as the capacity to do either or both of the following: (A) to transcribe text or images (or both) from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

"(3) The term 'telephone solicitation' means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person (A) without that person's prior express invitation or permission, or (B) with whom the caller does not have an established business relationship. Such term does not include a call or message by a tax exempt nonprofit organization.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person (A) without that person's prior express invitation or permission, or (B) with whom the caller does not have an established business relationship.

"(b) RESTRICTIONS.—It shall be unlawful for any person within the United States by means of telephone—

"(1) to make any telephone solicitation in violation of the regulations prescribed by the Commission pursuant to subsection (c);

"(2) to use, to make any telephone solicitation, any telephone facsimile machine or any automatic telephone dialing system that does not comply with the technical and procedural standards prescribed under subsection (d), or to use, to make any telephone solicitation, any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards;

"(3) to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement in violation of any regulations prescribed by the Commission pursuant to subsection (e);

"(4) to use any automatic telephone dialing system to make unsolicited calls—

"(A) to any emergency telephone line or pager of any hospital, medical physician or service office, health care facility, or fire protection or law enforcement agency; or

"(B) to any telephone number assigned to paging, specialized mobile radio, or cellular telephone service; or

"(5) to use a computer or other electronic device to send an unsolicited advertisement via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the advertisement or on the first page of each transmission, the date and time it is sent, an identification of the business sending the advertisement, and the telephone number of the sending machine or of such business.

"(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

"(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

"(A) compare and evaluate alternative methods and procedures (including the use of electronic databases, telephone network technologies, special directory markings, industry-based or company-specific 'do not call' systems, and any other alternatives, individually or in combination) for their effectiveness in protecting such privacy rights, and in terms of their cost and other advantages and disadvantages;

"(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

"(C) consider whether different methods and procedures may apply for local telephone solicitations, such as local telephone solicitations of small businesses or holders of second class mail permits;

"(D) consider whether there is a need for additional Commission authority to further restrict telephone solicitations, including those calls exempted under subsection (a)(3) of this section, and, if such a finding is made and supported by the record, propose specific restrictions to the Congress; and

"(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

"(2) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

"(3) USE OF DATABASE PERMITTED.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, or to receiving certain classes or categories of telephone solicitations, and to make that compiled list available for purchase. If the Commission determines to require such a database, such regulations shall—

"(A) specify a method by which the Commission will select an entity to administer such database;

"(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

"(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

"(D) specify the methods by which such objections shall be collected and added to the database;

"(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

"(F) prohibits any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

"(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of subscribers included in such database; and (ii) the costs to be recovered from such person;

"(H) specify the methods for recovering, from persons accessing such database, the costs involved in notifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

"(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with subsection (b);

"(J) be designed to enable and require States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

"(K) prohibits the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

"(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

"(4) CONSIDERATIONS REQUIRED FOR USE OF DATABASE METHOD.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

"(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

"(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

"(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

"(ii) reflect the relative costs of providing such lists on paper or electronic media; and

"(iii) not place an unreasonable financial burden on small businesses; and

"(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

"(d) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after 6 months after the date of enactment of this section clearly marks, in a margin at the top of the bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business or other entity sending the advertisement, and the telephone number of the sending machine or of such business. The Commission shall exempt from such standards, for 12 months after such date of enactment, telephone facsimile machines that do not have the capacity for automatic dialing and transmission and that are not capable of operation through an interface with a computer.

"(2) AUTOMATIC TELEPHONE DIALING SYSTEMS.—The Commission shall prescribe technical and procedural standards for automatic telephone dialing systems that are used to transmit any prerecorded telephone solicitation. Such standards shall require that—

"(A) all prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business or other entity; and

"(B) such systems will, as soon as is technically practicable (given the limitations of the telephone exchange service facilities) after the called party hangs up, automatically create a disconnect signal or on-hook condition which allows the called party's line to be released.

"(e) CONSIDERATION OF FACSIMILE MACHINE RESTRICTIONS.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding to prescribe rules to restrict the use of any telephone facsimile machine or computer or other electronic device to send any unsolicited advertisement to the telephone facsimile machine of any person. In establishing such restrictions, the Commission shall consider—

"(1) the extent to which unsolicited advertisements are transmitted through telephone facsimile machines;

"(2) the extent to which recipients of such advertisements incur costs for such receipt; and

"(3) the most cost effective methods of preventing advertising abuses with telephone facsimile machines.

"(f) EFFECT ON STATE LAW.—

"(1) STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits, either or both of the following:

"(A) The use of telephone facsimile machines or other electronic devices to send unsolicited advertisements.

"(B) The use of automatic telephone dialing systems to transmit prerecorded telephone solicitations.

"(2) STATE REGULATION OF TELEPHONE SOLICITATIONS.—If, pursuant to subsection (c), the Commission requires the establishment of a database of telephone numbers of subscribers who object to receiving telephone solicitations or a functionally equivalent methods or procedures of Federal regulation, a State or local authority may not develop any different database or system for use in the regulation of telephone solicitations and may not enforce restrictions on telephone solicitations in any manner that is not based upon the requirements imposed by the Commission.

"(3) STATE ENFORCEMENT PERMITTED.—Nothing in this section or in the regulations prescribed under this section shall prohibit the segmentation of the database or functionally equivalent method or procedure for use by State or local authorities, nor preempt any State or local authority from creating mechanisms to enforce compliance with the database or functionally equivalent system, or a segment thereof.

"(g) EFFECTIVE DATE OF REQUIREMENTS.—The requirements of this section shall take effect 30 days after the date that regulations are prescribed under subsection (c).".

SEC. 4. CONFORMING AMENDMENT.

Section 2(b) of the Communications Act of 1934 is amended by striking "Except as provided" and all that follows through "and subject to the provisions" and inserting "Except as provided in sections 223 through 227, inclusive, and subject to the provisions".

SEC. 5. ALLOCATION OF AM RADIO FREQUENCIES.

Section 331 of the Communications Act of 1934 is amended—

(1) by striking the heading of such section and inserting the following:

"FREQUENCY ALLOCATION POLICIES";

(2) by inserting "(a) VERY HIGH FREQUENCY STATIONS.—after "Sec. 331."; and

(3) by adding at the end the following new subsection:

"(b) AM RADIO FREQUENCIES.—It shall be the policy of the Commission, in any case in which the licensee of an existing AM daytime-only station located in a community with a population of more than 100,000 persons that lacks a local fulltime aural station licensed to that community and that is located in or adjacent to a major metropolitan market notifies the Commission that such licensee seeks to migrate to a new frequency, for the Commission to ensure that such a licensee receives an allotment or assignment to such a new frequency, if technically feasible.".

The SPEAKER pro tempore (Mr. COLEMAN of Texas). Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House will consider H.R. 1304, the Telephone Advertising Consumer Rights Act, which currently has 62 cosponsors. This legislation, which I introduced with the gentleman from New Jersey [Mr. RINALDO], will finally give the public an opportunity to just say "no" to unsolicited phone or facsimile advertisements.

Our legislation gives the public a fighting chance to start to curtail these unwanted practices by requiring the FCC to conduct a rulemaking and weigh alternative methods for protecting consumers' privacy rights and to put them in place before our home telephones become the receptacles of junk calls in the same way that junk mail often inundates our mailboxes.

Today in America, more than 300,000 solicitors make more than 18 million calls every day in the United States, while some 75,000 stock brokers make 1.5 billion telemarketing calls a year. Automatic dialing machines, on the other hand, have the capacity to call 20 million Americans during the course of a single day with each individual machine delivering a prerecorded message to 1,000 homes.

In addition, automatic dialing machines place calls randomly, meaning they sometimes call unlisted numbers or numbers for hospitals, police, and fire stations—causing public safety problems. Our bill, H.R. 1304, would prohibit advertising calls to public safety numbers as well as to paging, specialized mobile radio, and cellular equipment.

In the final analysis, a person's home is his castle. Preservation of the tranquility and privacy of that castle should compel us to avail consumers of the opportunity to place the telephone line into their home—the sanctuary from which they escape all the other trials that society (and Congress) cause them—off limits to intrusive and annoying interruptions. I believe that telemarketing can be a powerful and effective business tool but the nightly ritual of phone calls to the home from strangers and robots has many Americans fed up.

The legislation before us today incorporates a number of changes to give the Commission greater latitude in weighing alternatives for protecting consumers, such as special asterisk markings in the telephone white pages, network technologies, industry and company-based don't-call-me lists, as well as an electronic database. The aim of this legislation is not to eliminate the brave new world of telemarketing but rather to secure an individual's right to privacy that might be unintentionally intruded upon by those new technologies.

For this reason the legislation addresses unsolicited commercial telemarketing to residential subscribers. If a call is being made for purposes other than for a commercial solicitation, then it is not regulated under this bill. In the context of the legislation, a telephone solicitation is a call to encourage the purchase or rental of, or investment in, property, goods, or services. If, for instance, an autodialer is placing calls to inform delinquent borrowers that a loan is past due, it is not considered a telephone solicitation because the call is not being placed to pitch a sale or product. Likewise, if an organization is using an autodialer to inform telephone subscribers of an impending electrical power test, or to forward a voice mail message, these are not considered commercial solicitations and therefore are not restricted in any way by this legislation.

Incorporated in the substitute is language remedying a situation that has long been a concern to the gentleman from New Jersey. Specifically, the substitute will help to ensure the provision of full time AM radio service in presently underserved markets.

I believe we have put together consensus piece of legislation, one that reflects a narrow approach to address what the committee record indicates is of greatest concern to consumers. I want to thank the gentleman from New Jersey [Mr. RINALDO] for his leadership, cooperation, and steadfast support for this bill. I urge all my colleagues to support the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON] for a colloquy.

Mr. RICHARDSON. Mr. Speaker, I rise in support of H.R. 1304 and would like to commend the distinguished chairman and ranking member of the subcommittee for their work on this legislation. Their leadership has helped produce a bill that ensures that the American people will be protected from the unwelcome intrusion of unsolicited telephone advertising. I would like to thank both gentleman for crafting a final product that is balanced and protects the consumer.

There are two points, however, that I believe need some clarification. Is it your understanding that this legislation is not intended to prevent the use of automated telephone dialing systems to protect the health and safety of the public?

Mr. MARKEY. The gentleman has raised a good point. There is no intent to prevent the use of telephone dialing systems for the public good. The use of automated dialing systems by public and private entities to alert the public to weather emergencies, chemical spills, and other public health and safety threats is desirable. This legislation will not limit the use of telephone dialing systems for this purpose.

Mr. RICHARDSON. I thank the chairman for that clarification and would also like to ask him if it is also his understanding that this legislation is not intended to prevent automated dialing systems from notifying hospitals, and fire and police protection agencies of emergency situations.

Mr. MARKEY. Mr. Speaker, reclaiming my time, the gentleman is correct. I want to thank the gentleman from New Mexico [Mr. RICHARDSON] for helping us in the legislation, in crafting it in a fashion that ensures that those areas are in fact isolated and ensures that the telephone communications technology will be used in order to advance public health and safety interests in those instances, as opposed to the way in which the technology is often used.

Mr. Speaker, in addition to the gentleman from New Mexico [Mr. RICHARDSON], I would also like at this point to thank the gentleman from Tennessee [Mr. COOPER], who worked long and hard with us on this legislation, and the gentlewoman from New Jersey [Mrs. ROUKEMA], who basically approached us 2 years ago with a problem that her husband, a physician, was having with this very situation in which telephone calls would in fact make it impossible for him to be able to clear his line because they could not be interrupted.

Mr. Speaker, when I brought that problem home to my wife, who also happens to be a physician, there was a meeting of the minds, and the position of the gentlewoman from New Jersey [Mrs. ROUKEMA] immediately found acceptance in our house.

Mr. Speaker, I would also like to thank the gentleman from New Jersey [Mr. RINALDO] for his work on this legislation. The gentleman introduced a piece of legislation 2 years ago, much of which is incorporated in this legislation as well. I would like to thank the gentleman from Connecticut [Mr. SHAYS], the gentleman from California [Mr. STARK], and the gentlewoman from the State of Washington [Mrs. UNSOELD], all of whom have worked with us in the committee to produce this piece of legislation.

Mr. Speaker, of course, this is a piece of legislation which the full committee chairman, the gentleman from Michigan [Mr. DINGELL], worked on for these 2 years as well. I think this is a tribute, once again, to the fine working relationship which does exist on the Committee on Energy and Commerce and our subcommittee.

Mr. Speaker, in conclusion I want to thank once again the gentleman from New Jersey [Mr. RINALDO]. This bill is a tribute to that working relationship and is further proof that, with the exception of the banking bill, the gentleman and I have seen eye to eye on every other piece of legislation coming out of the committee for 5 years.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 1304, the Telephone Advertising Consumer Rights Act.

This bill addresses widespread concern about the increasing abuses associated with automatic dialers, junk fax machines, and unwanted telephone solicitations. Under H.R. 1304, those who use automatic dialers would be prohibited from using those dialers to make computer-generated calls to emergency lines or pagers at health care facilities, fire protection, or law enforcement agencies, and any paging or cellular telephone number.

In addition to addressing these serious health and safety concerns, the bill would enable consumers to avoid unwanted, unsolicited calls from autodialers. The bill directs the commission to consider the most effective and efficient method of allowing telephone subscribers to avoid such calls. Specifically, the commission must consider an electronic data base, special directory markings, industry-based or company-specific do-not-call systems, as well as other alternative solutions to the problem of unsolicited calls.

In considering this important legislation, the subcommittee realized that many legitimate businesses use autodialers and fax machines without annoying consumers. Thus, the bill makes particular exceptions to the requirements. For example, the bill exempts businesses that have a preestablished relationship with a customer. It also exempts nonprofit organizations. In addition, whatever solution the FCC selects would be limited to residential customers because the record developed in the Energy and Commerce Committee demonstrated that these undesired telephone solicitations are particularly prevalent and intrusive in residences.

To ensure a uniform approach to this nationwide problem, H.R. 1304 would preempt inconsistent State law. From the industry's perspective, preemption has the important benefit of ensuring that telemarketers are not subject to two layers of regulation.

Finally, this bill promotes the allocation of fulltime AM radio channels to medium-sized cities located in or adjacent to major metropolitan markets and which lack a fulltime AM station.

Overall, Mr. Speaker, H.R. 1304 represents a proconsumer response to an increasingly nettlesome problem: Unsolicited calls from autodialers, junk fax machines, and unsolicited commercial callers.

□ 1430

I would like to particularly thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], for once again the majority and minority worked very closely together to fashion this piece of legislation. It was only through his dedication, his very hard efforts, that we were able to come to grips with this problem in a manner that benefits all the affected parties.

I feel it is a very, very good bill. We worked closely together on it.

I also want to thank the chairman of the full committee, my good friend, the gentleman from Michigan [Mr. DINGELL], and the ranking minority member, my other good friend, the gentleman from New York [Mr. LENT], for their work in this important bipartisan piece of legislation.

I urge my colleagues to support this important measure.

Mr. Speaker, I yield 2 minutes and 30 seconds to the gentlewoman from New Jersey [Mrs. ROUKEMA], a distinguished colleague from my home State who has really exhibited a tremendous amount of leadership on this issue, who brought the problem to the attention of our subcommittee, and who is one of the Members who were in on this project very early on and has been very conscientious and unrelenting in her desire to see this situation resolved.

Mrs. ROUKEMA. Mr. Speaker, I rise today in support of H.R. 1304, the Telephone Advertising Consumer Rights Act. I also want to thank the distinguished chairman of the Subcommittee on Telecommunications and Finance, Mr. MARKEY, and the distinguished ranking member, my colleague from New Jersey, Mr. RINALDO, for their persistence on this issue and for bringing this much-needed legislation again before the House.

Telecommunications and computer technology advances have made information exchange easier, and brought our Nation and the world closer together. However, as with any vital technology, telecommunications and computer equipment may be used in a counterproductive and abusive fashion.

Today, we unfortunately find that automatic - dialing - recorded - message players are being used in record numbers to systematically solicit unsuspecting and unwilling residential and commercial telephone subscribers. This practice is an unwarranted invasion of privacy, and it can be dangerous and life threatening. This Congress can no longer stand by the wayside and allow telephones to become a potential health hazard.

I am sure my colleagues have heard many complaints about computer-generated phone calls from their constituents. In my case, I have been contacted by a number of physicians in my district who have justifiably complained that their office emergency lines, typically reserved for critical cases, are being clogged with unsolicited computer calls. One of these physicians also happens to be my husband, Dr. Richard W. Roukema, who has repeatedly suffered this problem on his phone lines reserved for emergency calls from the hospital. I especially appreciate the support of Chairman MARKEY in this respect. His wife, also a practicing physician, understood the problem immediately.

This is harassment.

Computer calls are also harrassing police and fire emergency numbers. This problem is particularly serious when the computer-generated call will not disconnect and free-up the phone line until after its message has been completed. Mr. Speaker, this practice must stop before lives are lost.

H.R. 1304 contains a provision which prohibits computer-generated calls to emergency phone lines or pagers at hospitals, physicians' or medical service officers, health care facilities, and fire protection and law enforcement agencies.

Yet, as alluded to earlier, it is not just calls to doctors' offices or police and fire stations that pose a public health hazard. I have previously recounted the story of a New York mother who tried to call an ambulance for her injured child, and the sheer terror she experienced when she picked up her phone only to find occupied by a computer call that would not disconnect. Luckily, this story had a happy ending, and the injured child survived, but Mr. Speaker, let us not wait for next time.

H.R. 1304 also contains a provision requiring computer-generated calls to disconnect as soon as the receiver seeks to terminate the message. This is a commonsense provision which ensures the safety of telephone customers, who may have received unsolicited and unwanted computer-generated calls.

H.R. 1304 protects the privacy of telephone subscribers by allowing those citizens who object to receiving computer-generated phone calls to add their names to a national data base, or a comparable substitute as determined by the FCC. This is a key provision, which finally guarantees telephone subscribers freedom from unwanted intrusions into their privacy.

In closing, Mr. Speaker, computers, telephones, cellular telephones, fax machines, and automatic-dialing-recorded-message-player systems are here to day. However, these technologies must not become a threat to the privacy, safety, and well-being of the public. H.R. 1304 takes a major step forward in this regard, and I urge my colleagues to vote for this desperately needed legislation.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I rise today in strong support of H.R. 1304, the Telephone Advertising Consumer Rights Act.

Over the years, I have heard an increasing number of complaints from constituents who have been harassed by unsolicited sales calls using automatic-dialer-recorded-message players. I can most certainly understand their objection to this type of solicitation—it is an intrusion into the privacy of one's home.

In one of the worst accounts I have heard, one woman in my district told me that "she hung up, but the machine didn't." The machine kept dialing until she was forced to take her phone off the hook. Without question, this is annoying, but it can also be dangerous when the line being dialed is at a police or fire department, or an emergency line at a health care facility.

H.R. 1304 addresses this problem by prohibiting automatic-dialer-recorded-message players from making unsolicited calls to these emergency lines. In addition, this bill provides some relief to private consumers by prohibiting such calls to beepers and cellular phones, and requiring all ADRMP and fax users to clearly identify themselves to the receiver. The FCC is also required to establish a plan for recording names and addresses of individuals who object to receiving unsolicited calls and faxes, and assessing penalties to companies which continue to contact them.

Mr. Speaker, it is important that the use of automatic-dialer-recorded-message players be regulated. H.R. 1304 is a step in the right direction, and I urge my colleagues to give this bill their strong support.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I thank the distinguished chairman of the subcommittee for yielding time to me.

I would like to add my congratulations on his outstanding leadership in this important piece of consumer legislation. I would also like to thank the distinguished ranking member, the gentleman from New Jersey [Mr. RINALDO] for his great contribution to this effort.

Mr. Speaker, I rise today in support of this legislation, and I would like to engage the subcommittee chairman in a brief colloquy to clarify three points.

Before I do, let me say that I'm sure nearly everyone in this Chamber and most of the people we represent have been bothered by an unwanted, unsolicited, annoying telemarketing call—probably at dinner. At the same time, there are some incoming telemarketing calls we may not have minded so much and some that were even helpful. The unwanted calls are tainting the wanted ones, making some consumers skeptical about answering the phone around dinnertime. This is becoming a classic case of the bad apples spoiling the whole barrel.

Under Chairman MARKEY's able leadership, the Subcommittee on Telecommunications and Finance crafted this bill in an attempt to protect consumers from the annoying calls but not restrict their ability to get the calls they want. I'm hopeful that our bill gives the Federal Communications Commission the tools it needs to do this job. And I want to make sure we do not send them confusing signals on how to implement this statute.

Chairman MARKEY, my first point is to clarify the intent of section 3(c) of the bill. It directs the Commission to utilize the regulatory program most cost-effective in solving telemarketing problems. Under subsection (c)(1), the FCC will compare and evaluate electronic databases, telephone network technologies, special directory markings, industry-based or company-specific do-not-call systems, as well as other mechanisms or combinations of systems. Then under subsection (c)(2), the FCC must implement the best of the regulatory programs it has evaluated.

The next subsection of the bill gives the Commission some detailed guidance on just how the electronic database option is envisioned to work. It was my understanding that this detail was not added so as to prejudice the Commission so that it would pick the electronic database option. I, for one, think the national database has serious shortcomings for consumers when compared to the do-not-call option. Is the intent here to give the Commission full latitude to consider every option and not to prejudge the solution?

Mr. MARKEY. If the gentleman will yield, I would say to the gentleman that the intent here is to allow the Commission to evaluate and utilize every tool that it needs to protect consumers the most cost-effectively. The intent is that the FCC select the method that is the most effective, efficient, and economic.

Mr. COOPER. I mention this because I am worried that the committee report, in its zest for explaining the electronic database option, might be misread to presume a preference for that option. The database certainly has some advantages, but it has its drawbacks, too. It is a far-reaching approach, which would not enable consumers to get calls from telemarketers unless they have an established business relationship. This approach makes the consumer stop calls from all those companies with which they have no connection, even if the consumer might want such calls. The company-specific do-not-call options do not have this shortcoming. They maximize consumer choice, and they can be implemented much more quickly. Given the magnitude of consumer anger on this issue, I think speed is of the essence.

My second point relates specifically to the company-specific do-not-call list option. It gives consumers the freedom to choose which types of calls they want to receive and which they do not. Companies would be required to retain in-house lists of consumers who do not wish to be called again. If this approach is mandatory, I want to clarify that it would be functionally equivalent to the national database for purposes of preemption. This is important from the consumer perspective, again, for getting speedy resolution of these problems.

Mr. MARKEY. As to the second point, the gentleman describes some of the merits of the do-not-call lists. This is right that if the preemptive effect would be the same.

Mr. COOPER. Finally, I want to address the provision that authorizes the Commission to adopt special methods and procedures for local telephone solicitations such as small businesses and holders of second-class mail permits. I strongly support this provision.

While the committee cites two specific examples of who might fit this description, am I correct is my understanding that any company conducting a primarily local telephone solicitation might be included in this category? For example, a fine Tennessee company, Olen Mills, has numerous photography studios in different States. However, each location generally conducts it solicitations directly from the studio on a local basis. These businesses are part of the local community. Nearly all of their calls are local in nature, and rarely cross State boundaries unless the studio is located in a community near a State line. Am I correct in believing that this is also the kind of business meant by the committee to be considered under this provision?

Mr. MARKEY. Once again, if the gentleman will yield, Yes, he is correct in his analysis.

Mr. COOPER. Again, I thank the chairman for his leadership on this very important consumer issue, and with these clarifications I certainly urge my colleagues to wholeheartedly and enthusiastically support the bill.

Mr. LENT. Mr. Speaker, I urge my colleagues to support H.R. 1304, the Telephone Advertising Consumer Rights Act.

This is an important piece of legislation designed to address various consumer concerns without unnecessarily burdening the telemarketing industry. I recognize the telemarketers concern that Congress should not, in effect, throw the baby out with the bathwater.

In most cases, telemarketing is an effective means of reaching many consumers in a legitimate fashion. Recognizing the legitimacy of the industry, the bill exempts certain types of telemarketing. For example, the bill exempts businesses that have a preestablished relationship with a customer. The bill also exempts nonprofit organizations. Essentially, I believe this legislation represents a fair and equitable solution to a problem that continues to grow.

While the telemarketing industry is legitimately concerned about being subject to excessive regulation, I also believe that the Nation's consumers have a legitimate concern regarding privacy. H.R. 1304 balances both of these concerns, and I urge my colleagues to join me in supporting the bill.

□ 1440

Mr. MFUME. Mr. Speaker, I rise in support of H.R. 1304, the Telephone Advertising Consumer Rights Act, a bill that protects the unsuspecting public from intrusive and unwanted computer-generated phone calls. The ever-increasing onslaught of such sales and marketing calls in Baltimore and elsewhere has become an aggravating, ever-increasing problem. Citizens are besieged by these calls at their places of work, and again at their homes. Escape from these unsolicited interruptions seems futile. Not even the phone lines or pagers of emergency services—lines which must be kept accessible for reasons of public health and safety—are immune to the growing number of aggressive telemarketing companies.

H.R. 1304 will bring welcome relief from the plague wrought by automatic dialer-recorded message players and fax junk mail. Much-needed restrictions will at last be imposed upon those who insist on marketing their goods and services in a most irritating and inconsiderate manner. Finally, consumers will be able to "hang up" on telephone solicitors.

Some say we are in the dawn of the information age, and that the continuing evolution of telecommunications technology will yield advances we cannot yet envision. Given the profit-driven exploitation of unsuspecting consumers, the creation of consumer safeguards in telecommunications must accompany that evolution.

The next 120 days, when the Federal Communications Commission will complete a rulemaking process to evaluate alternatives for protecting residential telephone subscribers from unwanted telephone solicitation, represent a positive step in shielding consumers from undesired calls and faxes. The next 8 months, in which the FCC will issue final regulations to establish such a protective system, will bring us even closer to this goal. When the privacy protection system is finally established, consumers will be freed from the subtle but persistent harassment of unwelcome fax and phone ads.

Legitimate solicitations—those allowable under an established business relationship rule—will not be prohibited from reaching those persons that are customers by choice. Credit card companies, distributors of publications and cable television franchises, and retail and service providers patronized by a consumer, may all continue their legitimate telemarketing efforts. Furthermore, tax-exempt nonprofit organizations, including charitable and political organizations, may maintain their public outreach efforts via the telephone. Legitimate survey efforts—those involving public opinion polling, and consumer or market surveys—will also be exempt from the restrictions of H.R. 1304.

Consumers may ask, "Will I have to pay yet another fee for a service regarding my telephone?" Fortunately, consumers will not have to shoulder the financial burden of their own self-protection against harassment conveyed over their telephone lines. Rather, the costs of maintaining the consumer's privacy will be absorbed by the telemarketing firms. Technology may be used to curb its own abuses. For example, electronic databases may be established to alert companies to those who do not want their phone to become a profit-generating tool for others. Perhaps an even simpler, less technological approach will be utilized to alert aggressive sales operations to a consumer's disinterest in telemarketing efforts.

As we proceed ever further into the information age we must separate beneficial applications of our scientific advances from those which are malignant. H.R. 1304 represents a common sense, consumer oriented policy which does not infringe on reasonable business practices nor discourage the development of technologies beneficial in the marketplace.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 1304, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

METROPOLITAN WASHINGTON AIRPORTS ACT AMENDMENTS OF 1991

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3762) to amend the Metropolitan Washington Airports Act of 1986 to modify the composition of the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTON 1. SHORT TITLE.

This Act may be cited as the "Metropolitan Washington Airports Act Amendments of 1991".

SEC. 2. BOARD OF REVIEW.

(a) COMPOSITION.—Section 6007(f)(1) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(f)(1)) is amended to read as follows:

"(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. The Board of Review shall be established by the board of directors to represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the board of directors as follows:

"(A) 4 individuals from a list provided by the Speaker of the House of Representatives.

"(B) 4 individuals from a list provided by the President pro tempore of the Senate.

"(C) 1 individual chosen alternately from a list provided by the Speaker of the House of Representatives and from a list provided by the President pro tempore of the Senate.

In addition to the recommendations on a list provided under this paragraph, the board of directors may request additional recommendations."

(b) TERMS AND QUALIFICATIONS.—Section 6007(f)(2) of such Act is amended to read as follows:

"(2) TERMS, VACANCIES, AND QUALIFICATIONS.—

"(A) TERMS.—Members of the Board of Review appointed under paragraph (1)(A) and (1)(B) shall be appointed for terms of 6 years. Members of the Board of Review appointed under paragraph (1)(C) shall be appointed for terms of 2 years. A member may serve after the expiration of that member's term until a successor has taken office.

"(B) VACANCIES.—A vacancy in the Board of Review shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

"(C) QUALIFICATIONS.—Members of the Board of Review shall be individuals who have experience in aviation matters and in addressing the needs of airport users and who themselves are frequent users of the Metropolitan Washington Airports. A member of the Board of Review shall be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

"(D) EFFECT OF MORE THAN 4 VACANCIES.—At any time that the Board of Review established under this subsection has more than 4 vacancies and lists have been provided for appointments to fill such vacancies, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (4) to be submitted to the Board of Review.".

(c) PROCEDURES.—Section 6007(f)(3) of such Act is amended by inserting "and for the selection of a Chairman" after "proxy voting".

(d) REVIEW PROCEDURE.—

(1) ACTIONS SUBJECT TO REVIEW.—Section 6007(f)(4)(B) of such Act is amended—

(A) by inserting "and any amendments thereto" before the semicolon at the end of clause (i);

(B) by inserting "and an annual plan for issuance of bonds and any amendments to such plan" before the semicolon at the end of clause (ii);

(C) in clause (iv) by striking ", including any proposal for land acquisition; and" and inserting a semicolon;

(D) by striking the period at the end of clause (v) and inserting a semicolon; and

(E) by adding at the end the following new clauses:

"(vi) the award of a contract (other than a contract in connection with the issuance or sale of bonds which is executed within 30 days of the date of issuance of the bonds) which has been approved by the board of directors of the Airports Authority;

"(vii) any action of the board of directors approving a terminal design or airport layout or modification of such design or layout; and

"(viii) the authorization for the acquisition or disposal of land and the grant of a long-term easement.".

(2) RECOMMENDATIONS.—Section 6007(f)(4) of such Act is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) RECOMMENDATIONS.—The Board of Review may make to the board of directors recommendations regarding an action within either (i) 30 calendar days of its submission under this paragraph; or (ii) 10 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) of its submission under this paragraph; whichever period is longer. Such recommendations may include a recommendation that the action not take effect. If the Board of Review does not make a recommendation in the applicable review period under this subparagraph or if at any time in such review period the Board of Review decides that it will not make a recommendation on an action, the action may take effect.

"(D) EFFECT ON RECOMMENDATION.—

"(i) RESPONSE.—An action with respect to which the Board of Review has made a recommendation in accordance with subparagraph (C) may only take effect if the board of directors adopts such recommendation or if the board of directors has evaluated and responded, in writing, to the Board of Review with respect to such recommendation and transmits such action, evaluation, and response to Congress in accordance with clause (ii) and the 60-calendar day period described in clause (ii) expires.

"(ii) NONADOPTION OF RECOMMENDATION.—If the board of directors does not adopt a recommendation of the Board of Review regarding an action, the board of directors shall transmit to the Speaker of the House of Representatives and the President of the Senate a detailed description of the action, the recommendation of the Board of Review regarding the action, and the evaluation and response of the board of directors to such recommendation, and the action may not take effect until the expiration of 60 calendar days (excluding Saturday, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day on which the board of directors makes such transmission to the Speaker of the House of Representatives and the President of the Senate.

"(E) LIMITATION ON EXPENDITURES.—Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.".

"(3) CONFORMING AMENDMENT.—Section 6007(f)(4) of such Act is further amended by striking "DISAPPROVAL PROCEDURE.—" and inserting "REVIEW PROCEDURE.—".

"(e) CONGRESSIONAL DISAPPROVAL PROCEDURE.—Section 6007(f) of such Act is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (7), (8), and (9), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) CONGRESSIONAL DISAPPROVAL PROCEDURE.—

"(A) IN GENERAL.—This paragraph is enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such these provisions are deemed a part of the rule of each House, respectively but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith; and.

"(ii)—with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(B) RESOLUTION DEFINED.—For the purpose of this paragraph, the term 'resolution' means only a joint resolution, relating to an action of the board of directors transmitted to Congress in accordance with paragraph (4)(D)(ii), the matter after the resolving clause of which is as follows: 'That the Congress disapproves of the action of the board of directors of the Metropolitan Washington Airports Authority described as follows: ———.', the blank space therein being appropriately filled. Such term does not include a resolution which specifies more than one action.

"(C) REFERRAL.—A resolution with respect to a board of director's action shall be referred to the Committee on Public Works and Transportation of the House of Representatives, or the Committee on Commerce, Science and Technology of the Senate, by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

"(D) MOTION TO DISCHARGE.—If the committee to which a resolution has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move to discharge the committee from further consideration of that joint resolution or any other resolution with respect to the board of directors action which has been referred to the committee.

"(E) RULES WITH RESPECT TO MOTION.—A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Motions to postpone shall be decided without debate.

"(F) EFFECT OF MOTION.—If the motion to discharge is agreed or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.

"(G) SENATE PROCEDURE.—

"(i) MOTION TO PROCEED.—When the committee of the Senate has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) LIMITATION ON DEBATE.—Debate in the Senate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(iii) NO DEBATE ON CERTAIN MOTIONS.—In the Senate, motions to postpone made with respect to the consideration of a resolution and motions to proceed to the consideration of other business shall be decided without debate.

"(iv) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution shall be decided without debate.

"(H) EFFECT OF ADOPTION OF RESOLUTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

"(i) The joint resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it, except in the case of final passage as provided in clause (ii)(I).

"(ii) With respect to a joint resolution described in clause (i) of the House receiving the joint resolution—

"(I) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(II) the vote on final passage shall be on the joint resolution of the other House.

Upon disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution that originated in the receiving House.".

(f) CONFLICTS OF INTEREST; REMOVAL FOR CAUSE.—Section 6007(f) of such Act is further amended by adding at the end the following new paragraphs:

"(10) CONFLICTS OF INTEREST.—In every contract or agreement to be made or entered into, or accepted by or on behalf of the Airports Authority, there shall be inserted an express condition that no member of a Board of Review shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon.

"(11) REMOVAL.—A member of the Board of Review shall be subject to removal only for cause by a two-thirds vote of the board of directors.".

(g) LIMITATION ON AUTHORITY.—Section 6007(h) of such Act is amended by inserting "thereafter" before "shall have no".

(h) REVIEW OF CONTRACTS.—Section 6007 of such Act is further amended by adding at the end the following new subsection:

"(i) REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to determine whether such contracts were awarded by procedures which follow sound government contracting principles and are in compliance with section 6005(c)(4) of this title. The Comptroller General shall submit periodic reports of the conclusions reached as a result of such review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

SEC. 3. AMENDMENT OF LEASE.

The Secretary of Transportation may amend the lease entered into with the Metropolitan Washington Airports Authority under section section 6005(a) of the Metropolitan Washington Airports Authority Act of 1986 to secure the Airports Authority's consent to the conditions relating to the new Board of Review to be established pursuant to the amendments made by this Act.

SEC. 4. TERMINATION OF EXISTING BOARD OF REVIEW AND ESTABLISHMENT OF NEW BOARD OF REVIEW.

(a) TERMINATION OF EXISTING BOARD AND ESTABLISHMENT OF NEW BOARD.—Except as provided in subsection (b), the Board of Review of the Metropolitan Washington Airports Authority in existence on the day before the date of the enactment of this Act shall terminate on such date of enactment and the board of directors of such Airports Authority shall establish a new Board of Review in accordance with the Metropolitan Washington Airports Act of 1986, as amended by this Act.

(b) PROTECTION OF CERTAIN ACTIONS.—The provisions of section 6007(h) of the Metropolitan Washington Airports Act (49 U.S.C. App. 2456(h)) in effect on the day before the date of the enactment of this Act shall apply only to those actions specified in section 6007(f)(4)(B) of such Act that would have been submitted to the Board of Review of the Metropolitan Washington Airports Authority on or after June 17, 1991, the date on which the Board of Review of the Airports Authority was declared unable to carry out certain of its functions pursuant to judicial order. Actions taken by the Airports Authority and submitted to the Board of Review pursuant to section 6007(f)(4) of such Act prior to June 17, 1991, and not disapproved, shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board of Review.

(c) LIMITATION ON AUTHORITY OF AIRPORTS AUTHORITY.—The Metropolitan Washington Airports Authority shall have no authority to perform any of the actions that are required by section 6007(f)(4) of the Metropolitan Washington Airports Act, as amended by this Act, to be submitted to the Board of Review after the date of the enactment of this Act until the board of directors of the Airports Authority establishes a new Board of Review in accordance with such Act and appoints the 9 members of the Board of Review.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3762, the Metropolitan Washington Airport Act amendments of 1991, will restore the full operational authority of National and Dulles Airports, and permit National Airport to go forward with its Capital Development Program.

As all of our colleagues who use National Airport know, the airport desperately needs extensive development to bring it up to the standards of other airports around the country. Indeed, the need for this development and the impossibility of obtaining the necessary financing from Federal resources during the budget reductions of the Reagan administration years was one of the most persuasive arguments which led Congress to turn the airports over to a local airport authority in 1986. The Capital Development Program is now in jeopardy because of the recent Supreme Court decision holding unconstitutional the procedures established by the 1986 act for a board of review. That board of review was to, and did, consist of Members of Congress, representing the interests of airport users, to review major decisions of the local airports authority.

On the basis of indepth hearings by the Aviation Subcommittee and extensive discussions with all interested parties, we have developed a bill establishing a new organizational structure for the airports, including a board of review, which meets constitutional standards, while at the same time assuring that there will be full consideration of the needs of airport users.

H.R. 3762 requires the local airports authority to establish a new board of review with the members of the board to be selected from lists submitted by the Speaker of the House and the President pro tempore of the Senate. The board of review would represent the interests of users of the airport. As under the 1986 act, the airports authority will have to submit proposed major actions to the board of review. If the board of review objects to a proposed action of the airports authority, and the airports authority still wishes to take the proposed action, the matter would then be submitted to the congressional committees of jurisdiction and the airports authority would not be permitted to take final action for 60 legislative days. During this period, Congress would have an opportunity to review the proposed action, and if it deemed action necessary, pass a resolution of disapproval, which would have to be signed by the President. The bill would establish procedures for expedited consideration of resolutions of disapproval modeling the procedures established in the D.C. Home Rule Act.

H.R. 3762 has broad support from Members who have been deeply involved with the D.C. airports issue. The cosponsors of the bill include the chairman and ranking Republican member of the full Committee on Public Works and Transportation and our Subcommittee on Aviation. The bill is also cosponsored by three congressional Members of the current airport board of review, our colleagues, Mr. MINETA, Mr. HAMMERSCHMIDT, and Mr. LEHMAN, chairman of the Transportation Appropriations Subcommittee.

Mr. Speaker, I would like to add one further note. The present legislation establishes the General Accounting Office in a position of review of contracts completed by or entered into by the airports authority.

Finally, I would like to clarify our intent in amending the provision in the 1986 act that if the board of review is unable to carry out its functions because of a judicial order, the airports authority will have no authority to perform any of the actions that are required to be submitted to the board of review. The amendment in H.R. 3762 clarifies that this limitation on action by the airports authority is prospective, and applies only to actions which would need to be submitted to the board after an adverse judicial decision. It should be clearly understood that we regard this amendment as technical clarifications only. It was our intention in the 1986 act that the limitation on actions by the airports authority would be prospective only.

Mr. Speaker, this important legislation is needed to permit us to go forward with the construction required to give the Nation's Capital the first-class airports it deserves. I urge my colleagues to join me in passing H.R. 3762.

□ 1450

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the chairman of our Aviation Subcommittee, Mr. OBERSTAR, for his work on this bill and for bringing it to the floor today.

Five years ago, we enacted legislation to transfer operational control of National and Dulles Airport from the Federal Government to a local authority. We did this because a local authority would be in a better position to raise money to improve these two airports.

At the same time, we also thought it was important that some oversight of the two airports be retained. Therefore, a board of review was created. It was responsible for overseeing certain actions of the local authority.

It is my honor to serve on this board of review with the former chairman of the Aviation Subcommittee, NORM MINETA, as well as with other Members of the House and Senate.

Unfortunately, last June, in a split decision, the Supreme Court ruled that certain powers of this board of review violated the constitutional separation of powers.

Some people have used this Court decision to argue that a board of review is no longer needed. But I disagree.

When we transferred control of these airports, we were transferring an asset that is worth billions of dollars. And the transfer was done by a lease so that ownership still remains with the Federal Government. This warrants continued Federal oversight.

Moreover, the primary purpose of the original board of review was to protect the interests of airport users. That purpose remains valid today. Others, such as airlines, airport employees, and antinoise activists, have groups to represent their interests. But airport users have no such organization. Therefore, we need a board of review to fill that important role.

For the last few weeks, we have been working diligently to develop a legislative approach that would retain the important oversight mechanism and also satisfy the constitutional concerns expressed by the Supreme Court.

We believe we now have that legislative solution and are pleased to bring it to the House today. This legislation revises the board of review to remove the veto power that the Court seemed to find so objectionable.

Instead, this bill creates an advisory board of review composed of frequent airport users who are experts in aviation matters. This board, which could still include Congressmen, would monitor the actions of the airports and could recommend changes to the airport authority. If the airports do not agree with one of these recommendations, the matter could be brought before Congress under expedited procedures. The Congress could then exercise its constitutional responsibility to pass legislation blocking the offending action of the airport.

The continuing oversight of the airports embodied in the bill before us now should not be construed as any sort of slap at the current airport authority. Indeed, this authority, chaired by former Virginia Governor Linwood Holton, has done an excellent job so far in managing the two airports and initiating significant improvements there. In fact, the previous board of review found it necessary to block only one action of this authority. I am confident that, under the new scheme we adopt today, the local authority will continue to work successfully with the board of review.

I would like to take this opportunity to clarify one provision in the bill. It is the exception in section 6007 (f)(4)(B)(vi) which states that "a contract in connection with the issuance or sale of bonds" is not subject to review. It should be clear that this exception applies only to those closing documents necessary for the bond issuance and not to any contract relating to the selection of underwriters or to how the bond proceeds are spent.

Accordingly, Mr. Speaker, I urge the passage of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, because a number of questions have been raised about the constitutionality of the original board of review, and the Supreme Court made the ruling to which I alluded in my opening remarks, that issue was a matter of quite some intensive discussion during the hearings the subcommittee had, and questions still were raised about the constitutionality of the reconstituted board of review.

The subcommittee asked Johnny H. Killian, senior specialist, American constitutional law, at the Congressional Reference Service, American Law Division, to review this proposed legislation and provide his opinion so that we would be reinforced in our firm conviction that we have followed acceptable procedures and we have met the test of constitutionality.

Mr. Speaker, I am submitting for the RECORD the full statement of Mr. Killian.

Mr. Speaker, I would just like to read the conclusion:

> * * * It appears that the provisions of the draft bill do indeed meet the constitutional objections of the Court. The new Board of Review would not be appointed by or controlled by Congress, within the meaning of the precedents. Even if that conclusion were faulty, the available precedents indicate that the Board of Review could nonetheless receive and exercise the powers contained in the draft.

Mr. Speaker, that pretty well sums up, I think, with very solid authority the constitutional question which we have very, very carefully reviewed and deliberated, and I am fully confident that this legislation will stand the test of constitutionality.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS
Washington, DC, November 18, 1991.

To: House Subcommittee on Aviation, Committee on Public Works and Transportation.
From: American Law Division.
Subject: Constitutionality of draft bill amending the Metropolitan Washington Airports Act.

This memorandum responds to your inquiry for a constitutional analysis of two parts of a draft bill to amend the Metropolitan Washington Airports Act of 1986. Designed to respond to the constitutional flaws found in the 1986 Act in *Metropolitan Washington Airports Authority* v. *Citizens for the Abatement of Aircraft Noise*, 111 S. Ct. 2298 (1991) (hereinafter *Airports Authority*), the bill restructures the Board of Review in terms of composition and method of appointment and revises the way in which the Board of Review responds to certain actions of the Board of Directors of the Airports Authority.

Briefly summarized, under the 1986 Act, P.L. 99-591, 100 Stat. 3341-376 (part of the Fiscal 1987 Continuing Appropriations Act), 49 U.S.C. App. §§2451-2461, National and Dulles Airports were transferred to a local agency operating under an interstate compact and governed by a Board of Directors. Itemized actions of the Directors were, however, subjected to review and possible veto by a Board of Review, which the Act required the Directors to create, to be composed of nine Members of Congress chosen by the Directors from lists provided by congressional leaders. Eight of the Members were to be from Committees with primary jurisdiction in the transportation area. The Act directed that the Members sitting on the Board of Review were to serve and to act "in their individual capacities." 49 U.S.C. App. §2456(f)(1).

A divided Court held that the Board of Review structured in this manner could not carry out the functions vested in it. Contrary to the statutory instruction that the Members were to act in their individual capacities, the Court discerned that the Members, because they were to be chosen from lists prepared by congressional leaders and because their continuing service depended upon their memberships on the requisite Committees from which they could be removed, were in effect no more than agents of Congress in carrying out their functions. Agents of Congress could not carry out such executive functions, if they were considered executive, nor could they carry out such legislative functions without complying with the Constitution's requirements of bicameral action and presentment to the President, if the functions were deemed legislative.[1] *Airports Authority*, supra, 111 S.Ct., 2306-2309, 2311-2312. Under either approach, the functions of the Board of Review could not be exercised. Because the Act specifically prevented the Board of Directors from acting with respect to any power, the exercise of which had to be submitted to the Board of Directors, if a court barred the Board of Review from carrying out its functions, legislation must be enacted in order to permit the complete operations of the airports to continue.

Under the proposed draft, a Board of Review would continue, but it would be differently structured. The Board of Directors would be required to recreate it and to appoint nine individuals from lists submitted from the Speaker and the President pro tempore. The Board of Directors may request the congressional officers to submit additional names if it does not wish to appoint those submitted. The bill does not require any of the individuals to be Members of Congress, although it does not preclude the appointment of Members; those serving on the Board of Review are to represent the interests of the users of the airports and are not to be residents of the three local jurisdictions. They are required to have experience in aviation matters and to be frequent users of the airports. The Board of Directors is authorized to remove for cause any member of the Board of Review by a two-thirds vote.

If the Board of Directors takes one of a number of prescribed actions relating to the management and operation of the Airports Authority, the Board of Review is authorized to make a recommendation to the Board of Directors respecting the action, including a recommendation that the action not take effect. If a recommendation is submitted to the Board of Directors, the Board may adopt the recommendation or it may respond in writing to the Board of Review explaining why it has not adopted the recommendation and at the same time submit to the House of Representatives and the Senate a detailed report on the matter. The action proposed by the Board of Directors may then not take effect until the expiration of 60 calendar days from the date of submission, with specified qualifications. The draft then establishes under the rule-making power of the House of Representatives and the Senate a "fast-track" process under which a joint resolution of disapproval may be introduced, considered in committee, and considered in both Houses, the enactment of which would nullify the proposed action of the Board of Directors.

Initially, one must note that the validity per se of the composition and appointment of the Board of Review and of the authority it may exercise with respect to proposed actions of the Board of Directors is not at issue. That is, the critical question of constitutionality turns upon the relationship of the Board of Review to the authority. Some entity may exercise this authority. The first question is whether the Board of Review in its composition and means of appointment is an entity about which a constitutional objection appropriately may be lodged to vesting in it certain powers; the second question is whether, if it is, it may nonetheless exercise these particular powers. Determining that the Board of Review was improperly constituted would not necessarily mean it could not exercise its conferred powers, whereas determining that the Board was properly constituted would obviate the need to consider the powers.

In both respects, we think, respectable authority indicates that the constitutional qualms identified by the Supreme Court in the Airports Authority case have been removed by the alterations proposed in the draft.

As we have noted above, the Court objected to the Board of Review in its decision because it perceived the Members to be but agents of Congress, both in the manner of appointment and in their continuing eligibility to serve. Congress may not appoint persons to carry out executive functions, *Buckley v. Valeo*, 424 U.S. 1, 109-143 (1976), nor may executive functions be carried out by personnel subject to Congress' control. *Bowsher v. Synar*, 478 U.S. 714, 726 (1986).[1] But the structure of the executive branch and of other entities charged with the execution of the laws is not ordained by the Constitution. Rather, the structure depends upon the exercise by Congress under its necessary and proper power, article I, §8, cl. 18, of authority to create offices, prescribe their duties, determine the qualifications of the officeholders, regulate their appointments, and generally to promulgate the standards for the conduct of the offices. *Crenshaw v. United States*, 134 U.S. 99, 105-106 (1890); *Myers v. United States*, 272 U.S. 52, 128-129, 161-163, 164 (1926); *Buckley v. Valeo*, supra, 424 U.S., 134-135; *Morrison v. Olson*, 487 U.S. 654, 673-677 (1988).

No doubt exists, therefore, that in transferring control over the two airports, which previously were the only two airports in the Nation owned and managed by the Federal Government, Congress could regulate the structure within which the airports were to be managed by local authorities, acting, in this instance, by conditioning transfer on creation of the Board of Review. It could prescribe the functions of the Board of Review. It could make listed actions of the Board of Directors dependent upon the approval of the Board of Review. But it could not appoint the members of the Board of Review or control them after they were appointed.

Does the provision that members of the Board of Review must be appointed from lists submitted by congressional officers involve Congress too much in the appointing process? Now, of course, Congress regularly confines the discretion of even the President by establishing a variety of qualifications for eligibility for appointment, including citizenship, residence, professional attainments, occupational experience, age, property holdings, physical disability, and sound habits. For a dated but extensive listing, see *Myers* v. *United States*, supra, 272 U.S., 265–274 (Justice Brandeis dissenting). It has even, from time to time, required him to appoint from lists compiled by others. Id., 274 n. 56. The Sentencing Commission, upheld in *Mistretta* v. *United States*, 488 U.S. 361 (1989), numbered among its members three federal judges; the President was to select them "after considering a list of six judges recommended to the President by the Judicial Conference of the United States." Id., 397 (quoting 28 U.S.C. §991(a)). And see id., 408–411.[2] The Comptroller General is nominated by the President from a list of three individuals recommended by the Speaker of the House of Representatives and the President pro tempore of the Senate. *Bowsher* v. *Synar*, supra, 478 U.S., 727 (citing 31 U.S.C. §703(a)(2)).[3]

In *Airports Authority*, supra, 111 S.Ct., 2308, the Court distinguished these latter two instances from the case before it. Thus, the Court said, the President was simply to "conside[r]" the recommendations for the Judicial Conference and the congressional officers were to "recommend" individuals to the President for selection. In contrast, the Airports Authority Board of Directors had to choose from the lists, and the statute did not require the lists to include more than the number of openings.

The Court has not often referred to this precise question, but it has indicated that while the President's discretion may be narrowed it may not be too closely confined. Thus, Chief Justice Taft, in the opinion most protective of presidential powers, did observe that congressional prescription of qualifications for office does not conflict with the President's appointment power, "provided, of course, that the qualifications do not limit selection and so trench upon Executive choice as to be in effect legislative designation." *Myers* v. *United States*, supra 272 U.S., 128. See also *United States* v. *Ferriera*, 13 How. (54 U.S.) 40, 51 (1851). But see *Public Citizen* v. *Dept. of Justice*, 491 U.S. 440, 482–489 (1989) (Justice Kennedy concurring in judgment) (suggesting President has *sole* and unconfined discretion in appointing).

Substantial authority exists that with respect to the regulation of the appointment, supervision, and removal of all officers in the executive branch below the President, Congress possesses greater constitutional authority than it has with respect to the President, simply as a concomitant of its creation of those offices. *Perkins v. United States*, 116 U.S. 483, 485 (1886), cited with approval in *Myers v. United States*, supra, 272 U.S., 161–163, 164, and in *Morrison v. Olson*, supra, 487 U.S., 689 n. 27. Therefore, it is certainly arguable that the appointing authority of the Board of Directors, which is not only not the President but is not even within the executive branch, may be cabined more closely. However true that may be, it need not be relied on in this instance.

The proposed draft meets the objections of the Court. *Airports Authority*, supra, 111 S.Ct., 2308. That is, while the appointments must be made from the lists and the initial lists are not necessarily required to contain more names than there are openings, the Board of Directors is authorized to require the submission of more names. It is not required to select off the first lists.[4]

Too, the draft does not require that the Board of Review be filled by sitting Members of Congress, eight of the nine of which had to be Members of appropriate Committees.

Absent now are the two features to which the Court pointed as giving Congress too much control over the appointing process.

Equally missing are the features to which the Court pointed as giving Congress control over the Members of the Board of Review. Private citizens who are appointed to the Board will in no way be subject to congressional control. To the extent that any member of the Board of Review will be appointed from the ranks of Congress, there is no requirement that the appointee be a Member of any named Committee. Thus, Congress could not cause the removal of a Member by removing her from a particular Committee.[5] Moreover, the Board of Directors is given new authority, the power to remove any member of the Board of Review from office for cause by a two-thirds vote, a provision that contradicts any inference that the Board of Review would be a congressional agent.[6]

Nothing in the *Airports Authority* opinion suggests that the mere service of a Member of Congress on the Board of Review would in and of itself violate the separation-of-powers doctrine. Only impermissible congressional control over the appointment and over the freedom of operation by a Member would raise separation-of-powers problem.

Still standing as a possible barrier to Member service, however free of institutional control that service might be, is Article I, §6, cl. 2, of the Constitution. Under that clause, "no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office."[7] As we have noted above, it is certainly arguable that the Board of Directors is not an "Office under the United States." But the Court did note the existence of a possible problem and reserved the question. *Airports Authority*, supra, 111 S.Ct., 2308 & n. 16, 2312 n. 23. Because the Board of Review will continue to be an entity created by congressional initiative, will have the powers specified by Congress, and will protect federal interests of importance to Congress, it is certainly possible that the Court will, in the event of future litigation, choose to regard it as enough of a federal office to implicate the incompatibility clause.

A more compelling reason why service on the Board of Review should not be deemed to be service in an "Office under the United States" arises when we consider the nature of the authority exercised by the Board of Review. As we discuss more fully below, the Board of Review would no longer have the authority to veto actions of the Board of Directors. The only power is advisory, in the sense that the Board of Review may make recommendations concerning a proposed action to the Board of Directors. The latter entity may consider but it need not adopt the recommendation; if it does not, what happens is that a report is made by the Board of Directors to Congress which has a period to act to disapprove by legislation. The only authority the exercise of which has binding effect is to trigger the report-and-waiting period, hardly the kind of power to execute the laws an "Office of the United States" is considered to have.

Members of Congress typically serve on advisory commissions and many other entities, all of which would be called into some degree of question if the Board of Directors provided for in this draft is to be held to be "Office[s] under the United States."

Should, however, the Court find congressional service on the Board of Review violates the incompatibility clause, nothing in the statute will be held to be unconstitutional. Because the draft permits but does not require appointment of Members, there would be only an *as applied* challenge to the practice, rather than a *facial* challenge, and the statute would continue unchanged in its terms.

Inasmuch as it appears that the appointment process for the Board of Review complies with constitutional standards, no constitutional challenge would lie to the exercise of the Board's powers on the basis of impermissible congressional control. But, if, contrary to the discussion so far, it is concluded that the draft has not succeeded in meeting the *Airports Authority* Court's objections, then we must consider whether a Board so constituted may nonetheless exercise the powers included in the draft. Again, there is respectable authority for the proposition that it may.

An entity appointed in whole or in part by Congress or subject to its control may nevertheless carry out *some* functions. *Buckley v. Valeo*, supra, 424 U.S. 137–138. The question always is whether the nature of the power conferred is of the kind that such a body may exercise. And with regard to the powers to be exercised by this Board of Review, there are precedents.

After the Court in *Bowsher v. Synar* held that the Comptroller General was an officer effectively subject to the control of Congress, because he was removable by Congress (albeit by joint resolution which the President could veto), id., 478 U.S., 727–732, and therefore could not have the determinative voice in fixing the reductions of expenditures which the President must execute, id., 732–734, the Administration sought to have voided other powers vested in the Comptroller General. In particular, the Comptroller General's role in carrying out the Competition in Contracting Act of 1984 (CICA), P.L. 98–369, 98 Stat. 1199, 31 U.S.C. §§3551–3556, was singled out for judicial assault. The failure of that effort is significant for the decision we must reach here.

Under the Act, the Comptroller General may investigate protests filed by losing bidders claiming agency failure to adhere to competitive procedures. The Comptroller General, upon receipt of a protest, notifies the agency concerned and investigates the matter, finally issuing a nonbinding recommendation to the agency on the procurement decision. The heart of the process is the imposition of an automatic stay or suspension of any contract award or performance upon the timely filing of a protest. An award may not be made, or performance resumed, while the protest is pending. The protest is pending for as long as it takes the Comptroller General to investigate and reach a decision. He may dismiss frivolous protests immediately, but he may also take up to 90 working days, if needed. Moreover, under the Act as originally written and as it was when the cases discussed below were decided, he could take more than 90 days, if the circumstances required and he gave written reasons. At the completion of his inquiry, he may recommend that the procuring agency undertake one or more of several actions, which the Comptroller General determines to be necessary to promote compliance with procurement statutes and regulations. If the federal agency has not fully implemented these recommendations within 60 days of receipt, then the head of the procuring activity responsible for the solicitation or award of the contract must report to the Comptroller General on his actions and his reasons for not accepting the recommendations. The procuring agency may override the stay upon the making of certain findings respecting urgent and compelling circumstances.

Drawing upon the decisions in *Bowsher v. Synar*, supra, and *INS v. Chadha*, 462 U.S. 919 (1983), the Administration attacked the stay provisions of CICA as conferring impermissible executive functions upon an agent of Congress. Refusing to accept the principle of these cases as denominating any action as executive that requires an officer to interpret and implement a legislative mandate or to exercise judgment that would alter the rights and duties of persons outside the legislative branch, both courts held that what was barred under these cases was the reservation in a legislative officer or an officer subject to legislative control of the ultimate authority over an executive official or a final disposition of the rights of persons outside the legislative branch. The Comptroller General's role was to investigate the operation of a bidding process; the stay was triggered by the protest of a frustrated bidder. The stay remained in effect for as long as the Comptroller General required to complete an investigation, but in the event of compelling circumstances the agency could go ahead after proper notice with the execution of the contract. The recommendation of the Comptroller General at the conclusion of his investigation is nonbinding and thus cannot coerce the agency to make or alter a procurement disposition. The Comptroller General could thus carry out the functions lodged in him. *Ameron, Inc. v. United States Army Corps of Engineers*, 809 F.2d 979 (3d Cir. 1986), *cert. granted*, 485 U.S. 958, *cert. dismd. on motion of parties*, 488 U.S. 918 (1988); *Lear Siegler, Inc. v. Lehman*, 842 F.2d 1102 (9th Cir. 1988), *panel reversed on another issue on reh. en banc*, 893 F.2d 205 (9th Cir. 1989). After Congress amended CICA to delete the provision permitting the Comptroller General to extend the stay period. P.L. 100–463, 102 Stat. 2270–47, amending 31 U.S.C. §3554(a)(1), meeting but one aspect of the constitutional dispute, the Administration conceded defeat and dropped its constitutional attacks on the stay provisions of CICA, even though the Supreme Court had agreed to review one of the decisions.[8]

Comparisons between the CICA provisions and the Board of Review powers are striking. Upon receipt of a proposed action by the Board of Directors the Board of Review may, but need not, forward to the Board of Directors a nonbinding recommendation with respect to that action, including a recommendation that it not take place. If the Board of Directors does not adopt the recommendation, it must transmit a report to Congress, which then has the prescribed period in which to enact a joint resolution disapproving the action. The only effect an action of the Board of Review has is to set the period of abeyance running by sending a recommendation to the Board of Directors. The period of delay occasioned by the Board of Review's consideration of the proposed action, 30 days, is a statutorily mandated one.

Now, Congress could, without raising any constitutional doubt, require the Board of Directors to report all its proposed actions to Congress and to wait the requisite 60 days. Report-and-wait requirements are unexceptionable. *Sibbach v. Wilson & Co.*, 312 U.S. 1 (1941); *INS v. Chadha*, supra, 462 U.S. 935 n. 9. The Board of Review can exercise no control over the Board of Directors, nor does its forwarding of a resolution have the effect of altering anyone's legal rights. Its presentation of its recommendation does have the effect of staying the Board of Director's proposal for 60 days, just as the Comptroller General's receipt of a bid protest had the effect of triggering a temporary stay under CICA. Congress has quite frequently made the effective date of some governmental action dependent upon an occurrence, in effect, a contingency. See *Currin v. Wallace*, 306 U.S. 1 (1939); *United States v. Rock Royal Co-operative*, 307 U.S. 533, 577–578 (1939); *H. P. Hood & Sons v. United States*, 307 U.S. 588, 599–603 (1939); *United States v. Frame*, 885 F.2d 1119, 1127–1129 (3d Cir. 1989).[9] Why it might not vest in an entity that might be considered within its control a similar triggering of a report-and-wait requirement, in lieu of mandating the requirement in all cases, is not at all obvious.[10]

Even if, then, it is concluded or suspected that the Board of Review is in some sense an entity subject to congressional control, it may nonetheless be concluded that the powers conferred on it in the proposed draft are powers that such an entity, like the Comptroller General, may exercise.

We must not conclude, however, without applying the balancing test that the Court in recent years has instructed us in the proper standard to utilize in separation-of-powers cases not involving forbidden exercises of power by Congress or its agents. That flexible test, rather than the previous formalist analysis sometimes used, is appropriate for determining whether, assuming our determinations with respect to appointment and control of the Board of Directors and with respect to its powers are correct, there may not nonetheless be constitutional difficulties. Two questions are presented. Is the acting branch attempting to enhance its own powers at the expense of a coequal branch, the aggrandizement or usurpation test? Is the acting branch attempting impermissibly to undermine the powers of another branch, to prevent that branch from accomplishing its constitutionally assigned functions, and if there is a potential for disruption, is the impact nonetheless justified by an overriding need to promote objectives within the constitutional authority of Congress? *Mistretta v. United States*, supra, 488 U.S., 380–384; *Morrison v. United States*, supra, 487 U.S., 693–696; *CFTC v. Schor*, 478 U.S. 833, 850–851, 856–857 (1986); *Bowsher v. Synar*, supra, 478 U.S., 727; *Thomas v. Union Carbide Agric. Products Co.*, 473 U.S. 568, 587, 589–593 (1985); *Nixon v. Administrator of General Services*, 433 U.S. 425, 442–443 (1977); *United States v. Nixon*, 418 U.S. 683, 713 (1974).

Aggrandizement as a test element has already been answered by our conclusions with respect to appointment and control. What the Court has looked to in order to evaluate the aggrandizement issue is whether Congress as an institution has attempted to exercise powers reserved to the President or to the executive branch. *Buckley v. Valeo*, supra, *Bowsher v. Synar*, supra, and *Airports Authority*, supra, are representative of these. When Congress legislates to carry out its views of how the executive branch should be constructed or how the laws should be executed, outside of playing a role itself, it but exercises powers the Constitution has conferred on it, and the Court has invariably disclaimed any prospect of congressional aggrandizement. E.g., *Morrison v. Olson*, supra, 487 U.S., 694.

Looking to the other standard, whether there is a potential for any impermissible disruption of assigned functions, again the discussion above largely furnishes the answer. As a creature entirely of legislation, the Airports Authority has no necessarily constitutionally assigned functions, but as a recipient of delegated authority, it is, under the less-than-clear analysis of the *Airports Authority* Court, entitled to be able to execute the laws free of impermissible congressional control. Again, the only control is that which will be exercised pursuant to law making, that is, to enactment of a joint resolution that will be presented to the President.

In conclusion, it appears that the provisions of the draft bill do indeed meet the constitutional objections of the Court. The new Board of Review would not be appointed by or controlled by Congress, within the meaning of the precedents. Even if that conclusion were faulty, the available precedents indicate that the Board of Review could nonetheless receive and exercise the powers contained in the draft.

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FOOTNOTES

[1] We may be too readily utilizing the word "executive" in the context of the Airports Authority. The Authority is not "in" the executive branch; it is, in fact, not in the Federal Government. Rather, it is an interstate agency, arguably not subject to a separation-of-powers analysis. But the Court fastened on the fact that Congress had in transferring the two airports to the interstate agency imposed certain obligations upon the governing authority, including the requirement that it create and appoint the Board of Review. "Such an entity necessarily exercises sufficient federal power as an agent of Congress to mandate separation-of-power scrutiny." Airports Authority, supra, 111 S.Ct., 2308. We thus continue to use the word "executive" herein, less for its precision than for its encapsulation of the Court's concerns.

[2] We observe that the Court's actual holdings addressed the judges' service on the Commission and the extent to which their judicial independence might be threatened by their appointments and possible removals from the Commission; it did not pass on any contention that the President's discretion might be too severely limited.

[3] Again, it must be noted that no issue of impermissible restriction on the President's discretion to appoint was before the Court.

[4] The draft does not contain a provision specifying that if at any time the Board of Review has four vacancies and recommendations have been made for appointments to fill the vacancies, the Board of Directors may not perform any action which the draft requires to be submitted to the Board of Review. One could point to this provision as implicating a deterrent to the Board of Directors in declining to appoint from a suggested list and requesting new names. However, the provision is but one means Congress has to ensure that it always has the opportunity to review the listed actions and to stop them from taking place in a legislative fashion. To the extent that the Board of Director's discretion to act might be limited, the adverse effects would be felt at least equally and perhaps more so by Congress and by the traveling public who could be expected to make their views known to Congress.

[5] And Congress may not deny a seat in Congress itself to any Member-elect who meets the constitutional qualifications for membership, while it may expel a sitting Member only by obtaining a two-thirds vote. See *Powell v. McCormack*, 395 U.S. 486 (1969).

[6] The *Airports Authority* Court, in pointing to provisions of the Act which seemed to it to indicate the

degree of congressional control over the Authority, cited 49 U.S.C. §2456(h), which denies the Airports Authority the power to act in the prescribed areas if the Board of Review is judicially invalidated. Id., 111 S.Ct., 2304 n. 10. That provision is undisturbed by the draft. One must observe an element of "Catch 22" in this respect. The Court has often pointed out the desirability of inclusion of separability clauses in legislation, so that the Court need not guess whether Congress would wish a statute to continue in effect if part of it is voided. E.g., *Alaska Airlines, Inc. v. Brock*, 480 U.S. 678, 684-687 (1987). That Congress would not want authority it has conferred to be exercised in the absence of an opportunity for it to review and to overturn legislatively a decision of the delegate bespeaks attention to its responsibilities rather than intention to exercise impermissible control. The point is that if the provisions for review that Congress includes pass muster, the inclusion of a nonseparability clause should not alter that result.

[7] In terms of the initial appointments, the first part of the clause, the ineligibility clause, could also be a problem. It provides: "No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time[.]"

[8] Recently, this Administration has filed a court action challenging the constitutionality of another provision of CICA, a section empowering the Comptroller General to require the procuring agency to pay an appropriate protester the costs of filing and pursuing the protest, including reasonable attorney's fees and bid and proposal preparation costs. 31 U.S.C. §3554(c)(1)(A)(B). *United States v. Instruments, S.A.* (D.D.C. filed 7/3/91). Obviously, even if the section is invalidated, such a decision would have no impact on the stay provisions of CICA or of the Board of Review's powers.

[9] These statutes provide that restrictions upon the production or marketing of agricultural commodities are to become operative only upon a favorable vote by a prescribed majority of those persons affected. See also *Black v. Community Nutrition Institute*, 467 U.S. 340 (1984)(denying judicial review of marketing orders adopted with consent of handlers and farmers). These cases are more accurately reflective, we think, of the proposition that Congress may delegate to private persons some law execution function, but the opinions couch the holdings in terms of contingencies, and we thus cite them for that.

[10] We do not assert the argument that the greater power always includes the lesser, inasmuch as there are instances when a more convenient scheme or one less disruptive of governmental operations may nonetheless run afoul of the Constitution. But that Congress could exercise the greater power certainly ought to impose a somewhat heavier burden than otherwise on those who assert the unconstitutionality of the lesser power.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in support of this bill to reconstitute the Metropolitan Washington Airports Authority Board of Review.

Congress, the Federal Government, and the American people have a great stake in the future of National and Dulles Airports.

In 1986, the airports were leased to the Metropolitan Airports Authority for 50 years. However, the land upon which they sit, including the Dulles Access Road, remains owned by the Federal Government.

Five years ago it was decided that leasing the airports would serve airport users best. An independent regional authority would be able to raise capital through tax-exempt bonds.

And as we knew then, National Airport was in desperate need of money to renovate and modernize; Dulles needed money to expand and improve.

When hearings on the transfer were held 6 years ago, testimony was heard from all levels of government, airport management, industry, passengers, and civic groups.

Subsequently, the Board of Review was created to protect the interest and investment of airport users.

After serving on the Board of Review for more than 4 years, I believe that the need for such a panel representing airport users and national interests is stronger than ever.

I also believe that there is a vital role for congressional oversight of the Department of Transportation's responsibility as the airport's landlord.

The dilemma is how to protect each of these interests in a constitutional framework. Inasmuch as the Supreme Court recently held that the Board of Review, as it was originally implemented, was unconstitutional.

It is important that we act in a timely manner to resolve this dilemma so that the airports serving the Nation's Capital can continue to prosper and serve our Nation's air travelers.

That is why I commend the leadership of my good friend the gentleman from Minnesota, Mr. OBERSTAR, the chairman of the Subcommittee on Aviation, for bringing this legislation to the floor to resolve this issue.

I would also like to commend the leadership of the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from Pennsylvania [Mr. CLINGER]. This is truly a bipartisan piece of legislation.

Mr. Speaker, it is important that we pass this legislation today to permit the uninterrupted continuation of renovation and expansion projects at Washington National and Dulles International Airports.

Mr. Speaker, I strongly urge the passage of this important legislation.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in conclusion, I want to express my very great appreciation to my colleague, the senior Republican on the subcommittee, the gentleman from Pennsylvania [Mr. CLINGER], for his participation throughout the hearing, but more importantly, throughout the very long deliberative process that we have followed to work out the language now before us which is, indeed, a landmark piece of legislation.

Mr. WOLF. Mr. Speaker, 5 years ago, Washington National and Dulles International Airports, both of which are in my district, were transferred from Federal control to a regional authority. Under the Metropolitan Washington Airports Authority [MWAA], great strides have been made toward improving domestic and international air service to the Nation's Capital. This has been achieved through balancing the service between National, a restricted urban facility, and Dulles, a rural/suburban facility currently only at 20 percent capacity and growing.

A recent Supreme Court ruling mandated the need for the amending legislation before us today. In its decision, the Court ruled that the original transfer act of 5 years violated the constitutional principle of separation of powers because of the inclusion of the Congressional Review Board which could exercise veto power over MWAA actions.

In testimony at a hearing before the Public Works and Transportation Subcommittee on Aviation, I recommended the dissolution of the Congressional Review Board because Congress has oversight authority over these two airports through the authorization and appropriations process. I also recommended that a mechanism be included to give local citizens input into the operations of the airports.

While H.R. 3762 retains the Review Board, the veto power has been eliminated. Instead H.R. 3762 includes a mechanism for Congress to make recommendations to the airports authority with a wait and disapprove clause if those recommendations are not accepted. While this language is designed to respond to the concerns of the Court, frankly, I think the legislation should have abolished the Congressional Review Board altogether.

On the very important issue of local citizen involvement, I am pleased to report that former Virginia Gov. Linwood Holton, who serves as chairman of the MWAA board, has agreed to recommend that the airports authority administratively set up a citizen advisory committee and to consult with area members of Congress on composition and logistics. This does not require legislation, and I am pleased that MWAA is moving in this direction voluntarily.

This is a very positive development and it will provide local citizens a say in the operations of two airports that have a direct impact on their quality of life.

It is necessary that Congress act quickly on this matter, removing the present limbo which jeopardizes a $1.6 billion capital development program. A high percentage of the capital requirement for this project is generated through the use of tax-exempt bonds. This financing instrument is subject to the uncertainties caused by the current situation.

Passage of this legislation should restore the regional authority to sound footing. This will allow the airports authority to continue progress on providing the metropolitan area the best aviation service possible, and on providing America and the world a gateway to the Nation's Capital.

Mr. PAYNE of Virginia. Mr. Speaker, today the House will vote on H.R. 3762, the Metropolitan Washington Airports Act Amendments of 1991.

This legislation is necessary because a recent Supreme Court decision struck down the constitutionality of the Congressional Board of Review at National and Dulles Airports following their transfer to a regional authority from the Federal Government.

Without Congressional action, needed capital improvements at Dulles and National airports will be stopped.

If this bill becomes law, the Metropolitan Washington Airports Authority will submit major decisions to a new board of review which will include Members of Congress chosen by the Speaker of the House and the Senate President pro tempore.

This new board can recommend changes to proposals by the authority, including issuance of bonds, changes to the airport master plans, actions on regulations, appointment of a chief executive officer, amendments to the authority's annual budget, and the awarding of contracts.

If these changes are not subsequently agreed to by the authority, the matter is then referred to Congress and its appropriate committees for review.

The Congress has 60 days to pass a joint resolution of disapproval, which must be signed by the President, or the airport authority may proceed with its plans.

I would like to thank Mr. OBERSTAR of Minnesota, the subcommittee chairman [Mr. MINETA of California], the chairman of the Existing Board of Review, and former Gov. Linwood Holton of Virginia, the chairman of the board of directors for their work on this important legislation.

Any delay in capital improvements at National and Dulles could be harmful to the local economies of northern Virginia, Maryland, and the District of Columbia.

I urge my colleagues to support this bill.

Ms. NORTON. Mr. Speaker, I rise today to support H.R. 3762, a bill concerning the future of Washington National Airport and Dulles International Airport. This bill is of major importance to the District of Columbia.

First, I want to take this opportunity to both thank and commend Chairman OBERSTAR for his leadership in quickly drafting and moving the Washington Airports Authority amendments. This bill amends the 1986 Metropolitan Washington Airports Act to modify the procedures under which Congress may overturn certain decisions made by the Metropolitan Washington Airports Authority [MWAA] in order to conform these procedures to a recent Supreme Court ruling. The measure also changes selection and membership criteria for the Congressional Board of Review, and it expands the types of actions that must be submitted to the Board of Review. Failure to pass this legislation would prevent the Authority from being able to market additional bonds; and without this ability, the Airports Authority would be unable to proceed with its very important Capital Development Program.

As a member of the full Committee on Public Works and Transportation and the only member from this immediate region, I joined the panel at the Aviation Subcommittee hearings in September to evaluate current concerns regarding the airport authority. At that hearing and in subsequent private discussions with my colleagues, I have encouraged the committee leadership to be mindful of the importance of two factors: First, the concerns of local residents who live with the airports, and second, the capital development needs of National Airport that require the continuation of much needed construction in progress that should not be interrupted.

The development program at National Airport includes an entirely new terminal which will house 80 percent of the airline gates, restoration of the main terminal, and integration of the Metro rail station with the new terminal building. National and Dulles Airports are extremely important to the millions of business people, Washingtonians, and tourists who use them daily.

I also joined regional congressional members to express the need to increase local participation in the Airports Authority. This month, I joined Congressman MORAN, Congressman WOLF, and Congresswoman MORELLA in asking Chairman OBERSTAR to include in the legislation provisions which respond to the need for the Airports Authority to receive advice and comments from the members of the public. Issues such as noise abatement severely affect the residents of the Washington Metropolitan area.

While I am mindful of the committee's legitimate desire to expedite movement of the measure and therefore to address only the constitutional questions raised by the recent Supreme Court decision, I must say that I am disappointed that our recommendations were not included. I am pleased, however, to receive a letter from former Gov. Linwood Holton, chairman of the Airports Authority Board of Directors, which goes some distance toward responding to our local concerns. Governor Holton pledged to recommend to the Airports Authority's Board of Directors that a citizens advisory committee be created. More importantly, he will recommend that a decision on the composition of that citizens advisory committee be made in consultation with Members of Congress who represent the citizens of this metro region along with leaders of our local governments.

While the Airports Authority has done a commendable job at managing these airports, I believe it is extremely important that local representatives be given the opportunity to better inform Authority decisions. Governor Holton's recommendations demonstrate a welcome willingness to communicate with the local citizens in a way that is meaningful and constructive. It will avoid further controversy in Congress over the important issue of local representation if the Holton recommendations are met with a favorable response from the Metropolitan Washington Airports Authority's Board of Directors. I look forward to working closely with the Airports Authority to ensure progress in this effort.

Let me add that I am extremely pleased that no provisions have been included or will be attached to this measure that would increase airport slots at National Airport. My office has received calls from Washington residents who are alarmed about recent news reports suggesting that such a change might occur under the direction of the Federal Aviation Administration. The local governments of the Washington area view the longstanding slot limitation rule as an inviolable part of the contract between the Federal, State, and local levels of government and believe the slot rule is critical to the continued environmental acceptability of this centrally located airport. It is singularly inappropriate that this consensus might be overturned by parties who will not bear the environmental and service consequences of changing the rules on slots.

Again, I support this important legislation and will continue to work for more local participation.

Mr. OBERSTAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 3762, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

THE 6-MONTH EXTENSION OF THE COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3728) to provide for a 6-month extension of the Commission on the Bicentennial of the Constitution.

The Clerk read as follows:

H.R. 3728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 6-MONTH EXTENSION OF COMMISSION.

Section 7 of the Act entitled "An Act to provide for the establishment of a Commission on the Bicentennial of the Constitution", approved September 29, 1983 (Public Law 98-101), is amended by striking "December 31, 1991" and inserting "June 30, 1992".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RIDGE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3728, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring H.R. 3278 before the House today.

This legislation extends the life of the Commission on the Bicentennial of the Constitution by 6 months. Under existing law, the Commission will terminate on December 31, 1991. This legislation extends the life of the Commission for 6 months, until June 30, 1992.

The Commission, under the leadership of Chief Justice Warren Burger, has done an outstanding job of educating the Nation about our Nation's constitutional heritage.

The Commission continues its work even now, in preparation for the upcoming December 15, 1991, bicentennial of the signing of the Bill of Rights.

In light of those activities, Chief Justice Burger does not believe the Commission can complete its mandate prior to the end of the calendar year.

The Commission has requested a 6-month extension in order to continue its legal contracting authority. This authority is needed to enable the Commission to complete several projects.

I would like to emphasize that the Commission is not requesting, nor does it require, any additional funds.

The primary unfinished business is the completion of a report on the Commission's activities, the final chapter of which cannot be completed until after the Bill of Rights celebration.

In addition, the Commission has accumulated a wealth of materials in the past few years. The Commission will use the additional 6 months to complete its archives. I am confident that future generations will benefit a great deal from those documents.

I want to acknowledge the efforts of the legislation's primary sponsor, Congressman PHILIP CRANE.

I also want to thank Chairman WILLIAM CLAY and ranking minority member, BENJAMIN GILMAN, of the Post Office and Civil Service Committee for their expeditious handling of this legislation. Their efforts enabled us to bring the bill to the floor in a timely manner.

I urge my colleagues to support this legislation.

□ 1500

Mr. RIDGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking minority member of the Subcommittee on Census and Population, which this bill would have been referred to, I would like to commend Chairman CLAY and Congressman GILMAN, the ranking minority member, of the Committee on Post Office and Civil Service for holding this bill and reporting it out so quickly.

Under existing statute the Commission will expire on December 31, 1991. The Commission is confronting a cleanup problem and has requested this statutory extension simply to close the shop and archive the large amount of material that the Commission has generated and collected over the past 5 years. Of great concern to the Commission are their remaining program obligations, which will require some minor staffing after December 31.

I would like to stress that this legislation is only an extension of the Commission's authorization and will require no additional appropriation of funds.

Mr. Speaker, as my colleague reminded the Chamber, the Commission is confronting basically a cleanup matter and wants to complete the task assigned to them.

As my colleague, the gentleman from Ohio [Mr. SAWYER] has noted, there is no additional cost in this authorization, no additional appropriation of funds, so I would join him in urging my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE], the chief sponsor of this legislation. He himself is a highly respected historian and member of the Bicentennial Commission on the U.S. Constitution.

Mr. CRANE. Mr. Speaker, first let me thank subcommittee Chairman TOM SAWYER, ranking member on the subcommittee, TOM RIDGE, and their staffs, for expediting this legislation which was brought to their attention on short notice. I would also extend my appreciation to full committee Chairman BILL CLAY and ranking member, BEN GILMAN.

Mr. Speaker, since 1985 it has been my pleasure to serve as a member of the Commission on the Bicentennial of the U.S. Constitution. In an effort to promote civic awareness and public interest in constitutional history and issues, the Commission, under the leadership of former Chief Justice Burger, has sponsored numerous educational and celebratory programs and events across the Nation.

Under current law, the Commission's corporate life will expire on December 31, 1991. This year marks the bicentennial of the ratification of the bill of Rights, and the Commission will be working right up to the end of the year to coordinate events that are scheduled to culminate on December 15. December 15 is considered to be the anniversary date of the adoption of the Bill of Rights as it marks the day on which Virginia became the 11th State in the Union to ratify the amendments. In order to have time to properly close up shop, archive material, tie up loose ends, and draft a final report to be used as reference for future commissions, Chief Justice Burger has requested that the statutory life of the Commission be extended for 6 additional months.

As the only current House member serving on the Commission, I have introduced H.R. 3728 on behalf of Chief Justice Burger to provide the necessary extension. I must emphasize to my colleagues that this extension does not authorize any additional appropriation. My legislation merely extends the statutory life of the Commission 6 months in order for it to operate in an official capacity during that time.

Mr. Speaker, from firsthand knowledge, I can readily assure my colleagues in the House of the hard work and good efforts of the Commission and its staff. I hope that my colleagues will support me in this effort to accommodate the modest request of the Chief Justice and enable the Commission to properly finish the task assigned to it by Congress.

Mr. RIDGE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and pass the bill, H.R. 3728.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2100, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 281 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 281

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2100) to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. At this time I yield the customary 30 minutes, for the purpose of debate only, to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 281 provides for the consideration of H.R. 2100, the conference report on the national defense authorization for fiscal years 1992 and 1993. The conference report is debatable for 1 hour. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report be considered as read.

Mr. Speaker, H.R. 2100 authorizes the appropriations for the military activities of the Department of Defense, for military construction and for the defense activities of the Department of Energy.

Chairman ASPIN and the ranking member, Mr. DICKINSON, should be commended for hours of long, hard work. The stunning world events in Eastern Europe, the failed coup in the Soviet Union, and the valuable lessons learned in the Persian Gulf left the Armed Services Committee with the task of reassessing our current policies and determining how best to prepare our national defense for similar contingencies in the future.

The conference report places emphasis on conventional weapons and a greater focus is placed on the ability of U.S. troops to respond anywhere in the world quickly and efficiently.

Again, I commend the Armed Services Committee for its hard work and I urge my colleagues to support the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in support of this rule, in spite of the fact that it waives all points of order against the conference report. I do so because the waivers are all agreed to by both sides of the aisle, Democrats and Republicans, and by the White House; also so that this House can take this wide-ranging legislation up on the floor today in a timely manner.

Indeed, this is a broad measure covering a range of vital defense and national security activities, activities authorized at a total of $291 billion in fiscal year 1992, and as reported from the conference committee the bill reflects many of the major changes that have occurred in the international sphere in recent years. Those changes include the Soviet Army's withdrawal from Eastern Europe, the end of the Warsaw Pact military alliance, the fall from power of the Communist Party in what is now the former Soviet Union; and, last but not least, the announcement by President Bush after taking all these changes into account that he will scrap thousands of our nuclear warheads and take still others off their longstanding alert status.

Yes, Mr. Speaker, this conference report reflects those changes, but it also takes into consideration some facts that have not changed. And what are those facts?

First, our successful military campaign to free Kuwait from Iraqi occupation has shown that we need to keep a defense structure adequate to meet a wide range of possible contingencies, primarily in the area of conventional weapons, but certainly in the area of defense against missile attacks as well.

□ 1510

And that threat is not over. This bill reflects that.

Second, President Bush and Secretary of Defense Cheney have already undertaken graduated, well-considered reductions in our Defense Establishment, reductions that will total at least $180 billion in deficit reduction under last year's budget agreement, and that will reduce our military force structure and personnel by roughly 25 percent over 5 years. This bill reflects that change, too.

Third, and finally, Mr. Speaker, for young men and women—particularly those from rural districts such as those that I represent, our armed services have provided, and will continue to provide, a tremendous opportunity, not just to serve our Nation, but for personal advancement as well—in their careers, in their educations, and socially.

For them, their military training and experience often serve as the equivalent of a college degree. I believe that this conference report reflects that as well, and, while preserving our defense structure, it also preserves opportunities for such young men and women to serve our country in the future; that is terribly important.

Beyond that, Mr. Speaker, the conference report contains approval of Secretary Cheney's request for a Voluntary Separation Incentive Program and this is a program to help voluntarily departing service men and women in their transition to civilian careers, as force reductions are implemented over the next few years.

This provision is the main reason for waiving points of order against the bill, since it was not included in either the House or Senate version when it left this House.

Finally, Mr. Speaker, I am pleased that the more controversial provisions, such as allowing $1 billion to be taken from our defense budget and sent as aid to the former Soviet Union, have been deleted from the conference report.

You know, Mr. Speaker, the very thought of even considering such a proposal is revolting to the American people, who for years suffered great financial sacrifices to build up our own military, to protect us from the mighty Soviet military threat that sought to spread deadly communism around the world and defeat our own democracy here at home.

Mr. Speaker, as I have pointed out, we are already cutting back on our military, and that means that over 500,000 young Americans, men and women, in uniform today, will be forced out of the military. Cutting another billion from our Defense budget, and giving it to the Soviets, would mean laying off still more American soldiers—while paying the salaries of some of the more than 4 million Soviet troops still under arms today. Mr. Speaker, that is not only revolting, that is totally outrageous.

Last, Mr. Speaker, this Congress has, through its irresponsible spending, turned our great country into a debtor Nation, and this year alone we will add another $350 billion to the $3.5 trillion dollar debt that we have saddled the American people with.

The annual debt service alone is now over $300 billion, an amount even greater than what we spend on our entire defense budget for any one year.

The point is, Mr. Speaker, we don't have any money to give anybody, much less the Russians, who, in large part, are responsible for most of this fiscal mess we find ourselves in today.

So, Mr. Speaker, since the Soviet aid has been dropped from the conference report, I urge all Members to vote for the rule and support me in voting for the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 11 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding this time to me and his generosity.

Mr. Speaker, I rise in support of the rule and would only seek this amount of time in order to make a number of comments with respect to the conference report that will not be available to me during the hour of debate on the conference report itself.

Mr. Speaker, as Chair of the strategic panel during conference, it was my responsibility to negotiate not only two of the most controversial issues in the conference, the B-2 and SDI, but many other issues as well.

I would like to discuss a few of them now.

Mr. Speaker, the conferees agreed to continue funding for the national aerospace plane at a level of $200 million, but put the administration on notice that the committee would not continue to support this program unless adequate funding is provided in the outyears by both NASA and the Department of Defense.

Another program that is supported in this conference report is the B-1B bomber.

Although some of the Members of the other body argued that we should consider mothballing the B-1 and using the so-called savings from mothballing the B-1 to purchase more B-2 bombers, it made no sense to this gentleman and others who made up the conferees on the House side to remove a plane that has been operational for less than 5 years and on which we have already spent $28 billion in order to save about $1 billion on programs that could make the B-1B an effective strategic and conventional bomber well into the next century.

As a result of the announcement made by the President on September 27, the conference agrees to the cancellation of the rail garrison MX missile, the SRAM-II short-range attack missile, and the SRAM-T short-range attack missile, tactical, that was terminated in the House bill several months back.

While the conference did not agree to cancel the mobile basing for the small ICBM as requested by the President, the conference did prohibit the obligation of any of the funds authorized for small missiles until the President confirms to the Congress that he is going to proceed with the mobile-basing concept. It was the feeling of the conference that, without a mobile-basing option, it made no sense to continue development of the small missile.

The conference report also continues the prohibition on the testing of the MIRACL, antisatellite laser, against an object in space for 1 more year.

Finally, I would like to turn to the two major issues addressed by the strategic panel, the B-2 and the SDI.

I would now like to take a few moments to describe to the Members exactly what happened with the B-2 Bomber Program.

As you remember, the House denied all authorization for the procurement of any additional B-2's, while the Senate fully funded the administration request of four aircraft to the tune of $3.2 billion. We both continued funding for research and development aircraft. The conference agreement provides $1.8 billion in general procurement funds for the B-2 bomber and another $1 billion for the probable procurement of 1 additional B-2 bomber above the 15 already previously authorized.

However, that authorization is only made available if both Houses of Congress, Mr. Speaker, vote to release the money and authorize the aircraft by a subsequent vote.

In the humble opinion, Mr. Speaker, of this gentleman, such a vote is not going to pass the House and, presumably, would not even pass the Senate, given the close vote only 2 short months ago.

So we are allowing $1.8 billion to be spent on procurement.

What is important to note is that money, an incredible sum, in my opinion, is for the purpose of maintaining the vendor base for the B-2. First priority should be given to buying out the necessary parts and equipment necessary to build and maintain the aircraft that have previously been authorized, as was allowed with the funds authorized last year, and to working on problems that the program has encountered in the area of low observability of the aircraft.

We expect the Department of Defense to continue to follow the pay-as-you-go principle for the B-2, as was established by the House in last year's conference report.

I would like to underline that these funds cannot be used to purchase any additional aircraft. It is this Member's opinion that there can be no additional B-2's beyond the 15 already authorized, without the subsequent authorization by Congress. And I will say to you, Mr. Speaker and Members of this body, you can rest assured that the committee will be watching closely how these funds are expended.

Finally, I would like to turn to the SDI Program and make a few brief remarks.

While I believe that the House version of the authorization bill was closer to reflecting an understanding that the world is changing, the conference report appears to still be overwhelmed, Mr. Speaker, by the cold war thinking that continues to prevail in the other body.

I believe that we have a long way to go before we can say that the spending priorities which the conference report represents are reflective of current global and domestic realities. The single most disturbing and most disappointing element, Mr. Speaker, in this conference report is the direction in which the Congress is heading on the strategic defense initiative, or the missile defense proposal, as it has come to be known.

□ 1520

Mr. Speaker, my position is and has been clear as a cosponsor of the Dellums-Boxer-Andrews amendment which would dismantle the strategic defense initiative organization and would return SDI research to a basic research program. I continue to believe that this program is more dangerous than worthwhile. The most dangerous aspect is not necessarily, Mr. Speaker, the drastic increase in spending, which is a reality, but in the fact that, as it is structured, it is structured as a deliberate amendment to erode the Antiballistic Missile Treaty, what we refer to as ABM. This treaty has served as an important firebreak in terms of arms control, Mr. Speaker.

Further, the offensive arms cuts which have been agreed to under the START Treaty are partly dependent on continuing observance of the ABM Treaty. While it directs the preparation for near-term deployment of a so-called treaty compliant, 100-interceptor ABM system at a single site, Mr. Speaker, it describes this step as the initial step toward a national defense.

We have crossed, Mr. Speaker, in this gentleman's opinion, the psychological and political threshold taking SDI from research to deployment, and, as I see it, this may very well be the first step in a series of steps that takes us to multiple sites, to an even larger system, to greater deployment of a weapons system that we in this House have looked at with a great deal of caution and concern.

Mr. Speaker, the conference agreement urges the President to enter into, quote, immediate discussions with the Soviet Union on the feasibility of amendment the ABM Treaty that would permit multiple ABM sites, space-based battle management sensors and unspecified relaxation of limits on ABM testing. These would not be minor technical changes to the treaty, but can only be seen as attempts to undermine, Mr. Speaker, the spirit of the treaty and eventually the substance of the treaty.

Mr. Speaker, the Committee on Government Operations' Subcommittee on National Security and Legislation held hearings recently which posed the question: Where is the threat? Expert witnesses concluded that the Soviet safeguards against accidental launch are sufficient and that there are no new additional ICBM threats from Third World countries that would justify the kind of SDI program represented in this conference report.

Finally, many of my colleagues have been very congratulatory to the House conferees' ability to maintain the House position which for the third year prohibits the procurement of new B-2 aircraft, and I think that that is a significant step, as I said earlier, the House attempt to turn a significant corner. I think we have a long way to go. I think we stood our ground on B-2. I think that that was a significant victory, and many of us have stated publicly, many of my colleagues have stated publicly, that this is the principal reason for their support for the conference report.

However, Mr. Speaker, I remind the House that in SDI this body killed brilliant pebbles and separated out theater missiles defenses. The conference agreement, contrary to the House position, funds brilliant pebbles at a level of $390 million, although it continues to be a research program and follows the Senate on keeping theater missile defense in the program. However, Mr. Speaker, I must point out that, if my colleagues read the conference report, there are strict limitations that preclude the SDI office from using theater missile defense funds for any other category of SDI. I think that that is important. The House funded SDI at $3.5 billion overall. This bill in the conference spends $4.15 billion.

Mr. Speaker, the House prevailed to an important extent on B-2, but most observers agree that the major shortcoming of this conference report is in SDI. We were negotiating with the Senate, who had debated these matters, and we had not debaated these matters in the House. It seems to me that the battle lies in the future. The question of erosion of ABM, the issue of the future of billiant pebbles, are going to be the controversial matters that come before this body in the next year.

However, Mr. Speaker, it is important as such that a vote in favor of this conference report should not, and in my opinion, Mr. Speaker, cannot, be seen as a House endorsement for these radical changes in the direction of SDI. We must now debate these matters in the future. We must go to the conference with the other body next year having very carefully thought through these matters so that, when we are negotiating next year, we are not negotiating against the backdrop of the disadvantages we have this year.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. MCEWEN], a member of the Committee on Rules.

Mr. MCEWEN. Mr. Speaker and my colleagues, up until Friday this conference report carried a very irresponsible provision. Fortunately it has been extracted, but I would like to put the administration on notice that many of us in this House are strongly opposed to the suggestion that the American Government go out and borrow on the open market a billion dollars and then transfer that to the disintegrating Communist center in Moscow. We simply have not the wherewithal, if we had the capacity, and we certainly have sufficient common sense to know that we, the American taxpayer, that have borne the cost of freedom, that have borne the burden of the battle for the last 45 years of the cold war, now seeing the fruits of our labor bringing democracy and freedom to the rest of the world, should not now burden the American taxpayer with the capacity of funding the collapsing, failing Communist center in the Soviet Union.

Let me just give my colleagues a couple of quick facts. Over the last 12 months alone; I am not going to talk about the fact that they outnumber us 4 to 1 in all these various categories, 6 to 1 or 24 to 1; just in the last 12 months alone the Soviet Union has constructed 1,300 tanks, 575 fighters, 4,400 fighting vehicles. That is, as my colleagues know, also effectively used in the Middle East; 125 ICBM's, that compares to 4 in the United States; 125 ICBM's just in the last 12 months alone, 1,300 surface-to-air missiles, 11, they floated 11, new submarines in the last 12 months and constructed 40 new bombers. My colleagues know that the United States has only built 105 new bombers since 1952, and they built 40 in the last 12 months.

So, I would say to my good friends, the negotiators down at Foggy Bottom, that before they think about asking the American taxpayer to pay more to bail out that Communist system, that they negotiate a little bit and say, "If you make a few less bombers, and you make a few less fighters, and if you make a few less ICBM's, all targeted at American cities, maybe you'd have some money to do these things," and that should be in the mix first.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. SPENCE], a member of the Committee on Armed Services.

Mr. SPENCE. Mr. Speaker, I rise in support of this rule. I will vote for this conference report. It makes some, but not all, of the right investments, in the people and weapons needed to deter or fight a war.

While smart weapons receive most of the attention of the press, people are the ultimate smart weapons. Our servicemen and servicewomen get a fair treatment in benefits in this bill. But their ranks have been thinned out too fast. They need breathing space and more choices to help them ease back into civilian life.

Mr. Speaker, the treatment given our National Guard and Reserves is another fair investment. They proved their worth in the gulf. Many served long after our regular troops came home from Desert Storm.

□ 1530

It would be unwise to cut back too drastically on this vital backup force of dedicated citizen soldiers. They are an even better investment when Active Forces are being slashed.

Mr. Speaker, despite some of the right decisions made in this bill, illusions, spawned by wishful thinking, threaten to shape the wrong investments in future defense budgets. The most popular illusion is that the end of the cold war will bring a huge peace dividend to be spent on other things. It will not. Whatever is slashed from future military spending should be used to reduce the budget deficit swollen by years of Federal spending sprees.

The most dangerous illusion is that with communism declining, it is appropriate to make drastic cuts in our Armed Forces. That argument sounds familiar because America accepted it after World War I and after World War II and after Korea and Vietnam. Sadly, these lessons that we learned are easily forgotten.

Disarming is the impulse after the fanfare of victory. We should not allow this to happen. Current threats must be taken seriously, and realistic plans made for the unexpected ones. Before long, nuclear bombs and ballistic missiles will become power equalizers for Middle East and Southern Asian countries.

As for the Soviets, a war with them seems remote. But their unsettled situation should concern us. Despite promised cutbacks, their military spending and weapons production outpaces ours in many areas.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 10 minutes to the gentleman from Wisconsin [Mr. ASPIN], chairman of the Committee on Armed Services.

Mr. ASPIN. Mr. Speaker, let me thank the gentleman from Tennessee [Mr. GORDON] very much for yielding this time to me.

Let me talk a little bit about some of the provisions in this bill, and let me just talk a little about one provisions that is not in the bill, a provision that I am sorry is not there, and that is this issue of Soviet aid, the issue of the $1 billion of Soviet aid to help the Soviets in this emergency to get through this winter, to get through the problem of the shortage of food and medicine and perhaps to help a little bit on dismantling some of the nuclear facilities and other military facilities in the Soviet Union.

We cannot pick up a newspaper or a magazine article without talking about or hearing about the problems in the Soviet Union, about food being rationed in Moscow. Food riots have already come to Armenia, and Soviet Georgia reports critical medical shortages. In Riga, the trouble was over fuel. Just this morning the Pentagon clips say that one article from the Baltimore Sun says, "Soviet nuclear scientists ripe for offers from highest bidders." A second one from the New York Times says, "U.S. aides worry about the spread of arms from sales by the Soviet Union."

The issue here is the disintegration of the whole Soviet structure and what happens to the military equipment and, in particular, the nuclear weapons and the people who know how to make them. That is the thing that the gentleman from Georgia, the senior Senator from the State of Georgia, and I were trying to address in a provision we had in our bill originally and in this conference report, a provision which has been subsequently dropped.

There were two provisions. One was antichaos aid. The initiative would authorize President Bush to use the Pentagon funds to alleviate food and medicine shortages this winter. It involves the enormous logistic ability of the United States military in the delivery of these items to the Soviet people. Transportation disruption problems are even more severe than food shortages, making U.S. participation crucial.

The second part of the proposal was defense conversion. Over the longer term, dismantling the Soviet nuclear arsenal and reducing its military-industrial complex are keys to preventing the reemergence of the Soviet military threat. This initiative would make a start toward both.

The basic point here, Mr. Speaker, is that what we are trying to do here is important for two reasons for the national security of the United States. First, it is clearly in our interest to forestall chaos in a country with nearly 30,000 nuclear weapons. If the central government disintegrates and severe shortages tear at the Soviet social fabric, the command and control of nuclear weapons would be severely weakened. We have seen reports of strategic SS-25 mobile missile units threatening to return to the base if the men are not fed, and other reports say that Soviet rocket troops have gone foraging for food in the countryside and fishing in the nearby streams to feed themselves. If these troops are hungry, they do not maintain the command and control over the weapons that they should have, and that is a danger to the United States. If these people who make these weapons are unemployed and they go out to the highest bidder and go to work for Saddam Hussein or Iraq or Qadhafi in Libya or Syria or North Korea, or in any one of three of four other countries, that is not in the security interest of the United States.

The basic point here is that the weapons themselves and the people who know how to make them are going to be loose if the whole structure of the Soviet Union becomes untangled, and if you have a situation where you have famine, you have shortages of food, and you have shortages of medicine and you have no jobs for these people to do, with no way for them to make their own livelihood, they are going to go to the higher bidder. What we had here was a program to offer them some alternative, hopefully an alternative that was something that would be safer for the United States.

There is a second point here. There are a lot of people here who are interested in getting some money out of this defense budget in the future for U.S. domestic purposes here at home. The candidates are, first of all, health care. A lot of Members are talking about having a health care program.

Second, people are talking about tax cuts, further cuts for the American taxpayer, middle-class tax cuts. I hear people talking about the need to spend money on infrastructure, education, highways, and a number of other things that all cost money. People want to reduce the deficit. This is an enormous deficit that we are carrying, and people want to reduce the deficit.

There are a lot of people lusting after this $300 billion defense budget in the out years to get money for all these other purposes and for all these other programs. An absolutely key ingredient to being able to reduce the defense budget in order to get the money for these other purposes is the fact that the reform agenda must stay in place in the Soviet Union. If the hard liners return, if there is chaos with nuclear weapons, there is no chance we are going to be able to reduce the defense budget as much as people would like in order to fund these other programs.

If the reform agenda stays in place, there is a chance we will be able to reduce defense expenditures further than the amount that is planned in the 25-percent reduction over 5 years that Secretary Cheney and Colin Powell have put together. It all depends on what will happen in the Soviet Union.

So for that reason, if for no other, people ought to be interested in making sure that the Soviet Union does not distintegrate and the central focus of the Government does not come unglued. That is the issue.

What we are proposing here or what we had proposed and had to take out of the bill was a $1 billion insurance program. It was essentially $1 billion now, that we spend $1 billion now to save more billions in the future. It was a $1 billion insurance program to try and make sure that the reformers stay in office, that there is no chaos with nuclear weapons, and that the United States remains able to cut defense expenditures and would be able to maintain the defense of this country. Basically, that is what the program was. It was essentially a hope that we would have here a defense by another means. It was $1 billion out of the defense budget. It was a different kind of defense, but it was defense nevertheless. But because of political problems, our insurance policy against nuclear weapons and the return of dictatorship in the Soviet Union is not to be in this year's defense bill which is under consideration today.

But I want to point out that most of this defense budget is an insurance policy against things that may not happen but which would be terrible if they did. And like other kinds of insurance, this Soviet insurance package may not be needed if we are lucky. The Soviet insurance package may not be needed, and it may not be used. Maybe there will not be a need for it, and maybe there will not be chaos in the Soviet Union with all its nuclear weapons. Maybe there will not be another coup, or if there is another coup attempt, maybe it will not succeed. Maybe we will be lucky, but if we are not, the Soviet people will not be the only losers.

□ 1540

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Speaker, I appreciate the opportunity to speak on this today and particularly to follow the distinguished gentleman from Wisconsin [Mr. ASPIN], because I watched with great interest the insurance policy initiative in the Department of Defense that he and the distinguished Senator from Georgia attempted to initiate, and saw it regrettably lost.

Mr. Speaker, I would submit that was bold and innovative, and that is the very thing we need to do with regard to the Soviet Union and our relationship with them today. I have taken the time to study extensively that situation. I have developed considerable contacts within the Soviet Union. Others with more extensive contacts than mine have been kind enough to share their information with me.

Mr. Speaker, I would submit for the RECORD that the situation in the Soviet Union is utter chaos. Winston Churchill once said it was a mystery wrapped in an enigma surrounded by a riddle, or in some order thereof, but what it is today is chaos piled upon upheaval surrounded by incomprehension.

The truth of the matter is the situation over there has deteriorated to the point of almost beyond redemption. Ministries that are created to serve the people disappear overnight. Food drives take place. Soviet troops leave unattended and unguarded nuclear missile sites while they scrounge for food in the countryside. Ethnic tensions are at an all-time high.

There is, for example, somewhere a myth in this country that there will be one Russian federation. More likely there will be 30 provinces, some with nuclear capability and some without.

Mr. Speaker, the United States has an enormous stake in seeing that there is an orderly transition in the Soviet Union to, first, a free society, and second, a market economy that functions.

That is not going to happen this winter. Indeed, the opportunity for it may be lost. A hungry people do not make rational decisions. People set about by strife in a falling economic system do not make rational decisions.

Unfortunately, the Nunn-Aspin initiative was lost to politics, sadly. There is a need now and the American public does not understand fully or comprehend why there is a necessity to give assistance and credit to the Soviet Union. People do not understand why now we should be giving that assistance, either in the form of credit or humanitarian aid.

The Democratic step forward to join with the administration was lost on this occasion. It does not have to be lost in the future.

The initiative of the gentleman from Wisconsin [Mr. ASPIN] and the gentleman from Georgia of the other body has to be seized again and brought forward and a comprehensive plan developed with bipartisan support on both sides of the aisle. It is in our national interest to do so.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to respond to the gentleman from Wisconsin [Mr. ASPIN].

Mr. Speaker, let me read into the RECORD a recent op-ed piece titled "Moscow Needs To Learn Self-Help Before It Can Use Our Help."

> The only sounds coming from Moscow these days which are louder than the crash of the Soviet system itself are the cries for outside assistance. The industrial democracies of the West, led by the United States, have been put on notice that dark and disastrous consequences will ensue in whatever is left of the Soviet Union if massive amounts of assistance are not made available—immediately.
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> This focus on outside assistance as the solution to what ails the collapse of the Soviet system is as unrealistic as it is misguided. It is unrealistic because no amount of aid (i.e. money) is sufficient, in and of itself, to rescue the situation. The dimensions of the problem can be illustrated by drawing a comparison with the former East Germany.
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> The German government has embarked on a 10-year program of rebuilding and rehabilitating the eastern provinces that comprised the former East Germany. The estimated price tag: $500 billion. If it takes half-a-trillion dollars to rebuild a nation of 17 million people, the supposed "showcase of the Warsaw Pact" to boot, what will it cost to bring a nation of 280 million people out of its de facto Third World status?
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> The focus on outside assistance is equally misguided because now is the time more than ever before to compel Moscow to look inward toward itself as the solution to its own problems. The United States has led a 40-year effort to protect the industrial democracies of the world from the expansive

virus of Soviet communism. Our expenditure of money, energy, and resources was so intensive and prolonged that even so experienced an observer as President Eisenhower feared for the long-range survival of our democratic institutions.

To turn around now and think we have to expand even more of our (dwindling) treasure on Moscow is a monumental folly. Moscow has to be compelled to marshal its own resources in support of solutions to its own problems. Whatever may be the present disarray, Moscow still commands the world's largest oil reserves, stockpiles of strategic minerals and metals equalled only by those in South Africa, and a host of other natural and human resources that must be put to work.

In short, the help Moscow really needs is guidance on how it can best help itself. Looking for outside bailouts is not the answer. What, then, should be the emphases that the United States and the other industrial democracies should place in their new dealings with Moscow? For starters, I can make three suggestions.

First, the value of the Russian ruble has to be stabilized at a realistic level and made convertible with other currencies. All of the other essential economic reforms—protection of private property and investment, establishment of a legitimate banking system, and the deregulation of a mercilessly overmanaged economy—are dependent on having real money to function with.

Some of Moscow's vast gold reserves could be placed on deposit with the central banks of the industrial democracies which would then be able to take coordinated action aimed at integrating the Russian ruble into the global financial system. Having gold on deposit would provide an important measure of stability to the institutions and markets that will have to make significant adjustments in the coming years in order to accommodate the reentry of countries from the former Soviet bloc into the world's markets and trading regimes.

By providing the necessary gold as a tangible contribution toward international financial stability, without which the ruble will continue to be worthless and the prospects for genuine economic reform and development will be minimal, Moscow would be taking an enormous step on its own behalf. Such a step would bolster confidence, both at home and abroad, in Moscow's commitments to reform—and it is immeasurably preferable to sitting around waiting for a handout.

Second, Moscow has to demonstrate, once and for all, a commitment to feeding its own people. As the largest country on earth, Russia has never had a shortage of farm land; indeed, the sheer size of its agricultural areas dwarfs those of any other country in the world. But the monstrous inefficiency wrought by the dictates of central-planning and collective farming have reduced this richest of nations to beggar status.

These economic controls have to be lifted—now! When Moscow demonstrates an irreversible policy of relying on private initiative to properly develop the agricultural sector of the country, Western aid of a technical and advisory nature would be an appropriate way to help the construction of an adequate food distribution and storage network. As it is right now, anywhere from one-fourth to one-half of such fruit and vegetable crops as are being grown end up rotting before they even reach the markets.

For as long as Moscow remains a net food importer, those nations such as the United States which are providing the food and other kinds of necessary assistance should do so only at cost—in exchange for hard currency or other tangible assets. In the meantime, ground forces in the Soviet military could and should be put to work helping with the harvest. The Soviet military is the only institution in the country which has the manpower, the command structure, and the logistical capability to move produce to the markets with a reasonable degree of effectiveness.

The failure of Russia to feed itself is perhaps the greatest single scandal of 20th century communism. The cycle of dependency by which Moscow relies on other countries for its own food has to be broken if the country (or countries) which is emerging in the wake of the Soviet Union is ever to be a viable member of the world community.

Third, and finally, Soviet industry must be redirected toward the civilian sector and the production of consumer goods. At present, more than one-half of all the industrial activity in what we have known as the Soviet Union is still military-related. It is this overwhelming emphasis on maintaining military power at any cost which has been the greatest source of tension and instability in the modern world, as well as being the principal reason why the citizens of so rich a nation are forced to live as paupers.

In order for democratic and economic reforms to have a chance of succeeding, there is a desperate need for people to have hope and to see some tangible signs that conditions are getting better. In the immediate future, if only to buy time by creating the illusion that things might be getting better, Moscow needs to begin importing consumer goods as it has never done before.

If Moscow needs some money to this end, it can scrape up more than enough on its own by ending the subsidies and other aid programs (in the amount of $20 billion annually) which have been going to Cuba, North Korea, Afghanistan, Vietnam, and a number of other countries which have been actively hostile to the interests of the United States and the other industrial democracies from which Moscow is now so desperately seeking assistance.

If Moscow were to end its subsidies to its totalitarian clients (who are inevitably doomed, too) and use those resources instead to give its own people a taste of the benefits that life in a free society affords, it would be making a good start toward reducing suspicions abroad and building up goodwill at home. And Moscow will need all of the domestic goodwill it can muster to weather the storms that lie ahead.

Moreover, the industrial democracies have every right to expect the dismantlement of the Soviet military/industrial complex as a condition for assistance in the future, as well as for the maintenance of stable and mutually beneficial relations now. Moscow's announced intentions to reciprocate fully President Bush's initiative for reductions in strategic and tactical nuclear forces, to make substantial reductions in military personnel, and to end forced conscription in favor of moving toward an all-volunteer force are welcome steps. But breaking a decades old psychology that relies solely on military force as the ultimate guarantor of political power may prove to be a very difficult task.

Western aid of a technical and advisory nature to assist Moscow in its attempts to establish a civilian economy are important and appropriate—at the proper time. That proper time will only come when Moscow reduces military spending to a level that is commensurate with the needs of a civilian economy. That level is approximately five percent of gross national product, a level that is less than one-third of what Soviet military spending has been consistently running since the height of the Cold War.

These three suggestions and the discussion that preceded them are not to be interpreted as a denial of the fact that whatever country (or countries) takes the place of the Soviet Union will need outside help. But they are meant to say that self-help must be Moscow's first and chief priority. Without self-help, positive steps to overcome the catastrophic legacy of communism, all of the outside help in the world is not going to make a dime's worth of difference.

Soviet communism is a discredited and defeated ideology, but much of its institutional legacy and residual psychological effect remains very much intact. What a tragedy it would be for the free world if, having won the cold War, It then squandered that victory by not insisting on the irreversibly dismantlement and dissolution of all vestiges of communism as the wages due to those who paid so great a price in subduing it. Americans, who bore the lion's share of the burden, should demand nothing less.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. MARTIN], a member of the Committee on Armed Services.

Mr. MARTIN. Mr. Speaker, I am what is called a crossover member of both the Armed Services and Intelligence Committees. Therefore, I have taken particular interest in bill provisions to reorganize Defense Department intelligence.

These congressional initiatives frequently amount to a rebuff of Secretary Cheney's own ideas, which he began to implement less than a year ago. I sought the Secretary's reaction, and he told me:

> The provisions purporting to limit my authority to manage DoD intelligence agencies are highly objectionable. To maintain our national defense capability with shrinking forces and budgets, I need more flexibility, not less.

Congressional micromanagement is hard to justify. We thwarted Secretary Cheny's plans before they had a chance to prove themselves. And the whole move toward organization charts decreed by Congress, coupled with agency charters, inhibits the flexibility to which Mr. Cheney referred.

Congress' willy-nilly, ad hoc reorganization moves seem to lack an overall philosophy and vision. Or we do not appreciate their potential cumulative, practical effects. This legislation is patched together from the nearly untutored, last minute and often conflicting ideas of three committees. I have particular concerns about the future of DIA and of the Defense Department as a component of U.S. intelligence.

Everyone agrees that the Defense Intelligence Agency should be improved and strengthened. But this legislation seems to evoke a new vision of what DIA should become. The original concept was to develop it as a producer of finished intelligence analyses, and we should think hard about whether we wish to make it more like an all-service intelligence agency, similar to the CIA. Moreover, we have unceremoniously and suddenly dumped many additional powers on an agency known for its managerial weakness. This may be DIA's ultimate undoing, rather than its salvation. And we might, in the process, debilitate the substantive areas we seek to strengthen—scientific and technical intelligence in particular.

Even our report language refers to a danger that DIA will attend first to its traditional, parochial interests, rather than leap into the objective arbitrator role that we so arbitrarily and suddenly thrust upon it. We have been assured that moneys newly controlled by DIA will merely pass through DIA quickly and routinely, in a mere paper transaction, for execution by the services. Warnings of legal, technical, and operational difficulties which could be severe in the short term have been brushed aside. And conferees certainly do not intend to create another layer of DIA bureaucracy, but this may very well be the result.

Our report has some harsh words about the staff of the General Defense Intelligence Program. But, while one can dispute some GDIP outcomes, this staff has a reputation for considerable efficiency in supervising a very large number of relatively small programs. And its clout grew largely because of a power vacuum and the disinterest of DIA, which was supposed to supervise it. Can DIA effectively take up the slack, without major damage to programs, if this staff suddenly is dissolved?

The truly big picture is what role we envision for the Secretary of Defense within intelligence community. I am frankly astounded that the Armed Services Committees have produced an authorization bill which so debilitates his position and appears to opt for a more powerful Director of Central Intelligence. And this despite the many historic complaints about national intelligence support to the operational commanders.

A more powerful DCI surely is one option for future intelligence community organizational changes. Another option would be to strengthen the Secretary of Defense—by integrating defense intelligence activities much better, centralizing authority and making it responsive to the Secretary, who then could become a player with influence possibly approaching or equalling that of the DCI. What bothers me so much is not the choice between these two models, but the fact that we appear to be choosing without knowing it, without giving the matter any thought.

The bill's move to reverse acquisition of power by the Assistant Secretary of Defense for Command, Control, Communications and Intelligence is a case in point. He is commanded to "do a better job of integrating the budgets and activities of all the NFIP components and DOD's Tactical Intelligence and Related Activities programs." But virtually all his leverage to do so is removed. This Assistant Secretary would have been Cheney's vehicle for coordinating and unifying the scattered components of defense intelligence, and for the accompanying accrual of centralized authority and power. With Congress' expressed determination to undermine that position, we can expect that the Secretary's position within the intelligence community will continue to atrophy. There are other ways in which the legislation seeks to protect jealously the DCI's authority over the National Foreign Intelligence Program, or to increase the DCI's authority over defense intelligence. One example is a new requirement that the Secretary of Defense consult with the DCI before appointing directors of DIA and NSA.

It is time to step back and ask whether this is truly the way we wish to go, or whether we are setting ourselves on a path we don't really want to traverse, through an inductive series of piecemeal proposals and compromises.

The time for ad hoc legislation such as this is past, if indeed there ever was a proper time for it. Before we reorganize, we should establish and fix indelibly in our minds the several major goals we seek at the end of the road. We have focused on the trees rather than the forest, and perhaps at the expense of the forest. We have micromanaged the minute details rather than studying and agreeing on our larger objectives. And the practical effect of our actions may actually undercut those smaller objectives we have sought. If indeed we do legislate major reorganization next year, I fervently hope it is drawn much more circumspectly, and only after a "great debate" which establishes a consensus on our ultimate aims and how best to achieve them. Lacking this, it would be preferable to do nothing.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. DICKINSON], the ranking Republican on the Committee on Armed Services.

Mr. DICKINSON. Mr. Speaker, let me say I would like to rise to make an important clarification with regard to the signature pages accompanying H.R. 2100, the National Defense Authorization Act for fiscal years 1992 and 1993.

Mr. Speaker, it is not unprecedented, but it is certainly unusual, to have conditional signatures on the conference report. Normally you need a majority of signatures on a conference report for it to be accepted by the conferees.

We have a listing here of the signatures to the conference report, and it lists a number of names, some of which are followed by expressions of opposition to specific provisions.

□ 1550

First, this kind of approach is very confusing; second, it is very unusual. And third, it is setting a very bad precedent.

If I might have the attention of my chairman just to clarify a point, am I correct in my interpretation that the exceptions listed refer to all the signatures immediately above it? Is that the chairman's understanding?

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, I do not think that is what it means. I think that the display here is not correct. I think it is only one of the Members that is listed here.

Is the gentleman looking at page 308 of the report?

Mr. DICKINSON. Reclaiming my time, no, Mr. Speaker.

Mr. Speaker, I rise to make an important clarification with regards to the signature pages accompanying H.R. 2100, the fiscal year 1992 Defense authorization conference report. As you can see, three of my Democrat colleagues on the Armed Services Committee have qualified their support for the conference report by indicating, on the actual signature pages, specific conference provisions that they do not support.

The first point I wish to make is technical. When one looks at these pages, they could be misinterpreted as meaning that large groups of committee members were qualifying their support for the conference report. Adding to the confusion is the fact that when the conference report was printed in the CONGRESSIONAL RECORD last Thursday, November 14, the signature pages appeared differently than they do in the printed copy of the report (H. Rept. 102–311), and appeared in a form that clearly indicated that large groups of conferees had explicitly qualified their support. Therefore, I just want to set the record straight on one point; the qualifying remarks on the F–14 and B–1B programs refer only to the Members whose name appears immediately above the comment and not to entire blocks of Members.

The second point I wish to make is process oriented. The idea of explicitly qualfying one's support for a conference report, in the report itself, is unacceptable to me and should be unacceptable to all of us—no signature is worth the precedent this action is setting. Every conferee who signed this conference report, on both sides of the aisle, objects to specific provisions in it—myself included. In addition, four of my committee Republican conferees refused to sign the conference report because of their objection to specific provisions. If we are going to start addressing Member's individual political concerns by allowing explicit qualifications, many of us, especially in the minority party, will start taking a different tact next year.

At least on the Republican side of the aisle, we have been trying unsuccessfully for years to have those Members who refuse to sign the conference report listed as such in the actual report. If the committee does not put a stop to this questionable practice of Members explicitly qualifying support, there is certainly no reason why Members should be prevented from explicitly stating their opposition directly in the conference report.

In conclusion, I hope my chairman will work with me to address this problem in the future. Otherwise, it will not be long before the signature pages of our conference reports are many pages long with each and every Member indicating what they support and what they oppose in excruciating detail. In essence, we will have found a back door form of submitting additional and dissenting views on a conference report. This defeats the purpose of conference reports and should be stopped.

PARLIAMENTARY INQUIRIES

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, is it possible to resolve this in a parliamentary inquiry? I do not have any time.

Mr. DICKINSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DICKINSON. Mr. Speaker, I would like to know the meaning of the signatures on the conference report as set out in the conference report on H.R. 2100, where there are conditional signatures at the end of the conference report excepting some Members to a portion of it and excepting others as to different portions.

Either we have a majority of signatures on the conference report or we do not. I was asking the chairman, since I think he is probably the author, what it means.

The SPEAKER pro tempore. The Chair understands that three of the signators did so with a statement of exception. The form in which the signatures were printed in the RECORD made it appear that more than 3 Members did so.

Mr. DICKINSON. Mr. Speaker, if I might proceed further in my parliamentary inquiry, it makes no sense. It does not say what the Speaker has indicated was the intent. That is not what it says here.

And there are other additional exceptions to different names following. I just want a clarification as to what this is and what the procedure is. I do not know the correct forum in which to address this.

The SPEAKER pro tempore. The Chair would advise the gentleman that his point under these circumstances is not in the nature of a parliamentary inquiry.

Mr. DICKINSON. May I ask, Mr. Speaker, if this is a parliamentary inquiry, would it be possible under a unanimous consent at the present time to get 5 minutes to address this particular problem so that it will not be taken off the allotted time?

The SPEAKER pro tempore. The Chair would only advise the gentleman that the time is controlled by the gentleman from Tennessee and the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, would it be possible for the gentleman to yield to me for a colloquy with the manager of the rule on that side of the aisle?

The SPEAKER pro tempore. Who yields time?

Mr. GORDON. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Speaker, if I might take this time to ask my chairman, what does this mean?

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, this is my understanding. First of all, the rule does allow Members to sign a conference report with some proviso saying they signed with exceptions.

The second point is that there are three Members who signed with exceptions, not as one might tell by this.

The gentleman from New York [Mr. HOCHBRUECKNER] signed for all provisions of the conference report except failure to include the F-14 program. The gentleman from Virginia, OWEN PICKETT "for all provisions of the conference report except those relating to the F-14," and the gentleman from New York [Mr. MCNULTY] "for all provisions of the conference report except those relating to the F-14." The rest of the Members signed the conference report without any reservation.

Point No. 3 is, if we have the majority of the conferees signing the conference report, even if we took out these three that signed without the provision, it is a provision that is allowed in the law. I do not know for sure, to answer the gentleman's question, what the legal standing of this thing is.

Therefore, we got more signatures than we needed. But as the gentleman knows, the Members from New York, in particular the gentleman from New York [Mr. HOCHBRUECKNER] and the gentleman from New York [Mr. MCNULTY], were interested in the F-14 program.

The gentleman from Virginia, who is also interested in Navy aviation, although not specifically in Grumman, was also interested in the F-14 program.

So they signed it with this reservation which is their right under the law.

Mr. DICKINSON. Mr. Speaker, reclaiming my time. If this is the procedure we are to follow in the future, I can see us having a conference report with signatures excepting every member because he does not agree to specific provisions. If a Member does not agree to everything in here, he just does what was done here, which is very unusual, pick out these things that he does not like and say, "I except that," are we going to do this next year?

Mr. ASPIN. Mr. Speaker, if the gentleman will continue to yield, these three gentlemen are exercising their rights under the rule. These three members are exercising their rights under the rule.

It is not my choice that they sign with that provision. The rule allows them to do that and, as I say, I do not know what the legal standing of those signatures are. So we made sure we had more signatures even without, even if we did not count these three gentlemen, we had enough signatures to file the rule.

Mr. DICKINSON. Mr. Speaker, I can see that we are creating a thicket for the future there that Brer Rabbit sure would like to be thrown in.

I thank the gentleman for such explanation as there was, and I thank the gentleman from Tennessee for his indulgence on time.

Mr. SOLOMON. Mr. Speaker, I hope that the Committee on Rules could look into this procedure and perhaps straighten it out so we do not get into it again. I can see it happening again.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN], a distinguished member of the Committee on Armed Services.

Mr. DORNAN of California. Mr. Speaker, I thank one of the stars of the Committee on Rules.

Mr. Speaker, given that briar patch that was just described a minute ago, I guess I could have signed the conference report with 10 exceptions, being a dual member of both the Committee on Armed Services and the Permanent Select Committee on Intelligence.

Let me just address why I am going to vote against H.R. 2100. First of all, on intelligence matters, Secretary Cheney chose to build up his Assistant Secretary of Defense for CCCI so as to centralize and focus intelligence management. This year we told him he could not do this despite prior congressional direction to improve intelligence management and cross-program analysis. In the past we even advised him to create a special assistant secretary slot for intelligence alone.

I will put in the RECORD my four or five other objections on the intelligence side of things and get to the substance of the bill, why I disagree with it on defense matters.

Mr. Speaker, as a member of both the Intelligence and Armed Services Committees, I am dissatisfied with the way this bill treats the Secretary of Defense's organizational prerogatives.

Secretary Cheney chose to build up his Assistant Secretary of Defense for Command, Control, Communications and Intelligence, so as to centralize and focus intelligence management. This year, we told him he cannot do this—despite prior congressional direction to improve intelligence management and cross-program analysis. In the past, we even advised him to create a special assistant secretary slot for intelligence alone.

The intelligence organization legislation in this bill is not only inconsistent with past directives, but also intrusive and sometimes impractical if interpreted literally.

It seems unlikely that DIA can within 5 or 6 weeks, over the holidays, completely take over two organizations. But that's what we tell them to do. Some say it's no problem, that a paper transaction will suffice; but those who worry about transferring all these accounts and about legalities are concerned. Obviously, they cannot be held to the letter of the law, which will have to be interpreted quite loosely.

The bill also says DIA shall provide "substantive intelligence" to the heads of CIA, DOD and JCS without "prior screening by any other official." Administration and congressional negotiators accepted this without quibble when told it targetted activities that would slant intelligence analysis.

But some are now claiming that screening should be interpreted literally. Webster defines it, inter alia, first "to examine and separate into different groups," and second, "to select or eliminate."

A literal interpretation, therefore, would mean that briefings and papers from DIA could not be reviewed first by assistants or subordinates, who usually select the best to fill the Secretary of Defense's limited time. Nor could assistants to the JCS Chairman sort his mail. Top officials could no longer even organize their personal offices as they saw fit. They might be unable to solicit opinions about substantive intelligence from their senior advisors, without having seen or heard all the relevent information first.

This would be an unrealistic, egregious and unconstitutional intrusion on executive prerogatives. Clearly such an interpretation was not intended by the conferees, no matter what some might now say.

Mr. Speaker, I rise today in opposition to H.R. 2100, the Defense Authorization Act for fiscal year 1992. I do so because in the words of author Robert Burton, I believe this legislation to be penny wise, pound foolish.

While we claim to save pennies on the Defense budget from year to year, we actually end up losing pounds or millions of dollars by wasting previously spent research and development funds in canceled projects, driving up unit cost of systems through reduced orders, and creating manufacturing inefficiencies in short-sighted year to year defense decisions.

For example, over half of the funding for a 75-plane B-2 program, some $33 billion, has already been spent. Perhaps we don't need 75 aircraft—which, by the way, already represents a reduction from the original Air Force requirement of 132—but we certainly need more than 15 to maintain any type of credible, long-range stealth power projection force. The administration's request for four aircraft at a total cost of $3.2 billion represents a modest but efficient production rate of this revolutionary aircraft, an aircraft that in a time of decreasing Defense budgets is exactly what we need, more bang for the buck.

However, under this year's compromise, only one aircraft—if even that due to other, complicated political requirements—will be built at an overall program cost of $2.8 billion to the American taxpayers. Excuse me, but I believe that one aircraft at $2.8 billion instead of four aircraft at $3.2 billion is not savings or a peace dividend, but rather is bad business, both economically and militarily.

Another example is the C-17, which is a revolutionary airlift aircraft. This bill reduces the administration's request from six planes at a total cost of $1.9 billion to four planes at a total cost of $1.5 billion. This change means that we will produce less airplanes, airplanes we will probably have to produce anyway due to the age of our current airlift fleet, for only a modest short-term savings that will result in long-term costs estimated close to $900 million.

Finally, this bill authorizes the production of four new F-117A fighters, aircraft that, despite recent success in the Persian Gulf, represent old technology and capability. In fact, these aircraft were not even requested by the administration and will require a complete restart of a production line that already has been closed. The $560 million needed to produce these aircraft is more than enough to ensure the efficient continuation of either the B-2 or C-17 production lines.

Fortunately, research and development for other revolutionary aircraft including the Air Force's F-22 Super Cruise air superiority jet fighter, the Superstar, the Army's RAH-66 armed scout helicopter, the Commanche, and the Marine's V-22 tilt-rotor transport aircraft, the Osprey, was preserved in this bill. However, if we continue in the future with such shortsighted budget decisions as we have this year with the B-2 and C-17, these revolutionary combat systems could well end up as expensive museum pieces rather than the tools of victory for the Desert Storms of the future.

□ 1600

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. McGRATH], one of the ace pilots of the F-14 Grumman Program.

Mr. McGRATH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule on the fiscal year 1992 Defense Authorization Act conference report.

Of course, Mr. Speaker, I am against anything that would legitimize this particular conference report. Mr. Speaker, I am disappointed that the conferees decided not to provide any funding for the F-14 fighter. I know some of my colleagues see this as a parochial issue and I would be less than candid if I did not admit there is some truth to that statement. But I must point out, Mr. Speaker, that the F-14 has many supporters from all parts of the country in this House, and they comprehend the capabilities of this fighter and understand its paramount role in the defense of our carriers.

Mr. Speaker, my arguments in favor of the F-14 are the same as when I came to Congress many, many years ago. In my mind there is no better first line of defense against enemy air attack than the F-14. It has distinguished itself in Operation Desert Storm and during several other periods of heightened alert of the United States naval forces. In short the F-14 is a proven fighter, an asset in the defense of this country and a genuine deterrent to those who attempt to penetrate our carrier battle groups.

My concern at this point, Mr. Speaker, is with the Grumman Corp. Plain and simple, if no funds are included for the F-14 in the fiscal year 1992 budget, Grumman will be out of the aircraft business. When the A-12 program was terminated in its infancy, steps were taken to preserve the industrial base of General Dynamics and McDonnell Douglas, even after these companies were cited for poor performance in the research and development of the A-12. Now Grumman is facing a situation where it will be forced to shut down all of its defense production line, marking an end to an era, a glorious era of Grumman naval aircraft.

If the conference report that is before us today passes, Grumman will be out of the prime aircraft manufacturing business in a matter of a few months. Despite the many studies performed by the Navy that verify the fact that the F-14 is the most capable aircraft in the performance of future naval missions, despite a rich history of the performance of the F-14 as we know it, the F-14 will no longer exist.

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to this rule and in fact in opposition to the authorization. Mr. Speaker, we were considering a rule for a conference report calling for a $290.8 billion Defense authorization. On behalf of 5 million children who are hungry, on behalf of 9 million American workers who are unemployed, on behalf of 2 million homeless Americans, on behalf of school districts all over this country which lack the funds to provide a decent education for their kids, on behalf of 80 million Americans who either have no health insurance or are only partially insured I ask that we reject this grossly inflated military budget and use the savings to reinvest in America and to protect the interests of our people.

Mr. Speaker, the cold war is over. The Soviet Union, our major adversary for 45 years, is in the process of disintegration. We can continue to have the strongest military presence on Earth but we no longer need to spend $290 billion a year on the military. Let us restore the cuts made in the Medicare Program for our senior citizens. Let us restore the unfair cut we made for our veterans, people who put their lives on the line but whose benefits we cut back on. We can do this because we do not have to spend another penny on star wars, we do not have to spend another penny on B-2 bombers, we do not have to spend over $100 billion a year defending Western Europe against the nonexistent Warsaw Pact. We can provide national health care in our country for all of our people because we do not have to spend such a huge amount of money on a cold war which no longer exists.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). The Chair advises the Members that the gentleman from New York [Mr. SOLOMON] has 8 minutes remaining and the gentleman from Tennessee [Mr. GORDON] has one-half minute remaining.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I rise to point out a provision of this conference report that may escape the Members' notice but is of tremendous concern to POW/MIA's, to veterans groups, to all Americans concerned about those who went out to fight for their country and were taken prisoner. I am referring to the so-called truth bill that many of the Members joined me in cosponsoring, that bill providing easier access to information in our own Government files for those seeking information about POW/MIA's from earlier conflicts, particularly their families.

The Members will recall that last June 11 of this year the gentleman from Delaware [Mr. CARPER] and myself proposed this bill as an amendment to the intelligence authorization bill. It was adopted by unanimous voice vote. Senator MCCAIN in the Senate proposed a similar amendment to the Defense authorization bill over there, also adopted unanimously. It went then to conference, and what has happened to this bill as it comes back in this defense conference report? We have one-third of a truth bill. What has happened is the easier access is provided in terms of information for prisoners of war from the Vietnam conflict but not as it relates to those prisoners of war from World War II and Korea. Are they less significant? Were their efforts less important? Do they deserve to be shortchanged? I think the answer is obviously no.

We have one-third the truth bill here and that is a step forward, but I urge my colleagues to continue the struggle so that in the weeks and months ahead we make sure that we get a truth bill that opens up information in our files not only concerning POW/MIA's from Vietnam but the over 7,000 that were not accounted for from Korea and the over 70,000 that were not accounted for from World War II. This struggle must go on.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the rule as well as the conference report, particularly in regard to the M-1 tank provisions.

This particular conference committee report provides $50 million for research and development on the tank, $225 million in advanced procurement for upgrade programs, which is essentially important for upgrading the old M-1 and the M-1A1's and eventually the M-1A2, and $90 million for 60 new M-1A2 tanks.

The M-1 Abrams tank proved to be worthwhile in the Persian Gulf. It performed admirably. The 1,956 M-1A1's in operation Desert Storm performed superbly at operational rates that exceeded 95 percent. T-72's were destroyed at ranges in excess of 3,500 meters. On seven separate occasions when the M-1A1 was attacked by the T-72 tank rounds, the M-1A1's sustained absolutely no damage. As a matter of fact, there were only two that were out of commission at all for any particular amount of time, and that was for a matter of hours until the treads could be replaced.

Colin Powell said in his briefings, when the M-1A1's engaged Iraqi tanks they were 100 percent effective. The M-1 provisions in the conference report will enhance America's ground operations capability. It will bridge the capability gap until the block III production begins. It will preserve the tank's industrial base and will support military sales to our foreign allies. I ask for support of the rule and the conference report.

□ 1610

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in favor of the rule but against the bill.

The purpose of this bill, which is to provide for the national security of the United States, is being perverted for industrial-policy purposes. Title VIII, on which I was a conferee from the Committee on Science, Space, and Technology, dumps over a quarter of a billion dollars into commercial product development. At the same time, the Democratic-Socialist coalition that is in the majority in this House is placing America at risk by savaging defense spending.

They are further pulling this kind of backdoor stealing from military research and development. This is another clear violation of the spirit of the budget agreement, something those in the majority have made rather habit forming.

This bill mandates centralized economic planning by requiring the President to develop Federal strategies for selected technologies. It has been decided that we will not bail out the Soviet Union in this bill to the tune of a billion dollars of taxpayer money; instead, what we are going to do even more disastrously is we are going to adopt their controlled economic aproach.

This is not to say that the Federal Government does not have an important role to play in supporting the private sector's development of commercial technology.

Earlier this year we did just that in the American Technology Preeminence Act reported by the Committee on Science, Space, and Technology. That bill provides $350 million in R&D resources plus it develops policies to reduce the cost of capital. That is the right approach to take.

The approach in this bill is disastrous.

Mr. SOLOMON. Mr. Speaker, I yield the remainder of my time, 1½ minutes, to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. Speaker, I rise in support of the rule and final passage of H.R. 2100, the defense authorization bill.

You know, the Federal Government, the most important function it has is to defend the country. If it does not do that, well then, nothing else matters very much.

We still live in a very dangerous world. The Soviet Union has an estimated 28,000 warheads still in existence, and no one, not Dick Cheney or even Mr. Gorbachev, can tell you who is going to own those warheads when all of the Soviet Union's so-called disintegration takes place. We do not know who is going to own the technology that produced those warheads and where that technology will go.

We still need to defend the country, and this is not a perfect bill. It is not exactly the way I would have done it. Maybe we are cutting too much too fast in light of the unsure stability in many regions of the world.

The $291 billion level is within the budget agreement and within the president's request.

The funding for SDI could be better, but the $4.3 billion is a good step in the right direction.

Perhaps we are starting to see the light in terms of strategic defenses, that they are viable and that they are needed.

With a refocused system, we will begin to meet our needs in 1996.

The controversial $1 billion in Soviet aid has been pulled out of this bill. The programs to support our men and women in the armed services are in there, and may not be exactly as we would like them, but they are important.

I would encourage the support of the rule and of the bill.

Mr. SOLOMON. Mr. Speaker, I urge support for the rule.

Mr. GORDON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ASPIN. Mr. Speaker, pursuant to House Resolution 281, I call up the conference report on the bill (H.R. 2100) to authorize appropriations for fiscal years 1992 and 1993 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal years 1992 and 1993, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). Pursuant to House Resolution 281, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Wednesday, November 13, 1991, at page H9868, Volume 137).

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes, and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise today to urge my colleagues to support the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993. The bill provides a funding level of $290.8 billion in budget authority for our country's national defense in fiscal year 1992.

Before addressing some of the major substantive features of this year's conference agreement, let me say generally that the provisions in the conference report are responsive to the changed-threat environment brought about by the stunning world events of the last year and should prepare the country's defense establishment to be well positioned to respond to future contingencies. The bill moves us closer to a defense that works for the new realities of the post-cold-war world—a defense that will buy our country the systems and programs we need while we continue the historic builddown of our forces. The conference agreement also seeks to incorporate some lessons learned from Operation Desert Storm.

The conferees took several major actions in the procurement arena, and the overall authorization for these matters is $63.9 billion. Perhaps the most interesting allegory on how this bill responds to changing world situations involves the agreement on the B-2 bomber and the strategic defense initiative.

The B-2 was designed to evade the next generation of Soviet radar, but with the dissolution of the Soviet Union in the last year, this mission takes on much less importance. So the conference agreement would not authorize the production of any new B-2's beyond the 15 previously approved by Congress unless the Secretary of Defense certifies that the plane has met stealth and other requirements, and the House affirmatively votes such an authorization in subsequent legislation; $1.8 billion was provided in order to support the vendor base. In other areas, the conferees authorized the procurement of re-engining kits for KC-135 tanker aircraft, 57 FA-18 fighter aircraft, and 4 F-117A stealth fighters.

With respect to shipbuilding, the conference report would authorize the procurement of 13 ships and 12 landing craft, including 5 DDG-51 destroyers, an SSN-21 nuclear attack submarine, and 3 coastal mine hunter ships.

The Persian Gulf war demonstrates the potential for the proliferation of ballistic missile technology and weapons of mass destruction, which, together with the fear of accidental launch from the Soviet Union, makes investment in missile defenses attractive and necessary. The conference agreement would authorize $4.15 billion for research and development of SDI and would fund as a top priority a ground-based missile defense system that complies with the ABM Treaty. The bill moves away from past emphasis on space-based interceptors, and funding for the Brilliant Pebbles program is limited to $390 million.

The Persian Gulf war has taught us the value and importance of state-of-the-art conventional weapons, and the conference agreement reflects a substantial investment in a number of such programs, including the tilt-rotor V-22 aircraft, F-16 fighters, C-17 transport aircraft, and upgrades to our inventory of M1A1 tanks. The conferees also agreed to invest more in Patriot missile improvements and follow-on systems to protect our troops in the event of future situations like that encountered in Operation Desert Storm.

The conference agreement recognizes that the size of our military must shrink in the years ahead, but also reflects the conferees' view that because we are for the first time drawing down an All Volunteer Force, we must be especially careful to treat our service members fairly in the process. Accordingly, the conference report moves away from the prospect of drawing down the force through involuntary separations and instead emphasizes voluntary separations. A new program, the voluntary separation incentive [VSI], has been included in order to encourage large numbers of service personnel to voluntarily leave the service and move into civilian life. The 4.2-percent pay raise for those remaining in the military is consistent with the philosophy of keeping the pay and benefits package competitive so that we continue to attract and retain high quality people. Based on the Operation Desert Storm experience, the bill repeals the statutory restrictions against both Air Force and Navy women flying aircraft in combat missions.

The conference agreement also provides support for the National Guard and Reserve. The end strengths prescribed for fiscal year 1992 and 1993 move away from the drastic cuts in National Guard and Reserve personnel and force structure proposed by the administration. This country has made a considerable investment in our reserve components, and these service members did a great job in Operation Desert Storm. Given their outstanding performance, we rejected the administration's plan to arbitrarily eliminate large numbers of personnel and a sizable chunk of force structure. Instead, we directed an independent, policy-driven study on force structure to ensure that the smaller forces of the future will have the right mix of active and reserve component units. The conference agreement also adds more than $1 billion in modern equipment for the National Guard and Reserve, including more C-130 aircraft and high-technology navigational equipment for front line fighter aircraft.

The conference agreement authorizes $84.3 billion for operations and maintenance during fiscal year 1992, an amount sufficient to ensure the readiness of our personnel and equipment. In addition, the conference report includes provisions establishing a new fund, the Defense business operations fund [DBOF], through which the Department of Defense may manage intradepartmental purchases of supplies and services.

Division C of the conference report authorizes almost $12 billion for Department of Energy defense-related activities, including $3.6 billion for environmental restoration and waste management and $4.6 billion for weapons activities. Other provisions in this part of the bill stress nuclear weapons safety, nuclear test ban readiness activities, and verifying the dismantlement of nuclear warheads.

The conference report authorizes $8.8 billion for military construction and family housing support of the active military, the reserve components, NATO's infrastructure, and base closures during fiscal year 1992. The conference agreement also increases the burden sharing of our allies in maintaining the post-cold-war peace. The bill reduces U.S. payments for foreign workers and calls on the President to negotiate burden-sharing agreements with all our major allies. Finally, the bill would cease American funding for the construction of the airbase at Crotone, Italy.

On balance, Mr. Speaker, the bill that comes out of this conference reflects many of the major defense choices made by the House last spring and makes sound policy judgments that will enable the country to have a strong defense as world events continue to reshape our security relationships. I strongly urge my colleagues to support the conference report.

Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I rise in support of the conference report that is before us at this moment.

Mr. Speaker, a great deal of work and effort has gone into it, and overall I think it merits our collective support.

On the more positive side, I support the bipartisan consensus reached on the conference report that is before us at this moment.

The danger of ballistic missile proliferation is real, and it is growing. The lessons of the Persian Gulf war were not lost on the American public nor upon us, their representatives. There is a role for both tactical and strategic systems.

Let me also register my strong support for the effort to try to preserve our national industrial base. Care must be taken to ensure that, as we shut down lines, we do not go overboard in the process. Five to seven years from now, we may find ourselves in a difficult position that we will be unable to reopen industrial lines because the people and skills involved are no longer available.

The compromise we reached on reductions in the Guard and Reserves is also close to the mark. The pace of the Pentagon's effort has slowed down, as to the House's provision to have the Department conduct an independent study of the proper mix of active and reserve components which will help establish a consensus on this highly charged matter.

I also approve of the effort to try to help those service men and women who will have to make the transition to civilian life due to the end of the cold war. Establishment of a voluntary separation initiative will provide those individuals the means to make such a transition.

On a less positive note, I believe the compromise we reached on the B-2 falls short. I have spoken of that at length elsewhere, but I would hope that we could revisit that, and take another strong look at it next year.

I think it is very important, Mr. Speaker, that the effort to strengthen the military and point out the effort to strengthen the military in the 1980's was accomplished at a great expense and great sacrifice. New weapons, tough training, and, most important of all, excellent people were the ingredients that transformed the hollow military of the late 1970's into the victorious military of 1991.

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Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise at this time in support of the conference report for H.R. 2100, the fiscal year 1992 Defense authorization bill. In all candor, I am delighted to do so.

Last year I opposed my own committee's conference report because repeated abuses of the process had prevented me from representing committee and House Republicans on the most important issues under consideration by the conference. Had it not been for this process problem, I could have supported the bill based on substance.

Our committee's consideration of H.R. 2100 over the past 11 months has certainly not lacked controversy. We are all coming to the realization that dramatic decreases in defense spending cause pain and thus, controversy. The difference between this year and last, however, was in the process used to construct the bill that is before us today.

As contrasted with last year, there actually was a discernable process this year that was governed by discussion and compromise. Accordingly, I would like to thank Chairman ASPIN for working with committee Republicans this year and allowing me to work with the majority. Not only did it improve the process, but I believe it also improved the bill. As a result, H.R. 2100 is a consensus bill that Republicans were able to influence and should be able to support.

My support for the conference report is also based on a number of outcomes on important issues that I would like to review briefly before yielding time to my colleagues for their comments.

MISSILE DEFENSES

Our explicit commitment in bill language to deploy ground-based missile defense by 1996, with a funding increase of more than $1 billion over last year's level, represents a watershed national security decision. We may have finally moved beyond a number of political and psychological barriers in making this decision.

It took the lessons of the war with Iraq, Bush administration initiatives, and the Soviet Union's public willingness to move beyond the increasingly obsolescent ABM Treaty for Congress to act. Yet we have acted decisively and in a bipartisan manner to confront the harsh realities and security challenges of the real world.

That the decision to deploy missile defenses was truly bipartisan is crucially important for this program to move forward in the future. Although funding any major defense program will be difficult in the budget-constrained years ahead, it's clear that missile defenses have become Congress' top defense program.

Mr. Speaker, all 22 House Armed Services Committee Republicans have signed a brief policy statement on the issue of missile defenses that I will insert in the RECORD immediately following my remarks. We wholeheartedly support the conference outcome on missile defenses and will work to see that Congress lives up to the commitment it is making here today.

B-2

Contrary to the spin being put on the B-2 compromise by the program's opponents, the B-2 is well funded at $4.3 billion, with $3.3 billion of the total completely unfenced. If people claim they killed the B-2, then they've also got to explain why they have agreed to spend more than $4 billion on the coffin. A more objective assessment is that the conferees have agreed to consider procurement of additional aircraft beyond the existing 15 next year when we understand more about the much publicized radar cross section test problem. The B-2 is far from dead.

CONVENTIONAL PROGRAMS

On conventional programs, the conferees attempted, with partial success, to strike a balance between protecting important future modernization programs and preserving a warm production base in the present. So we funded future systems like the ATF, LH helicopter and the AX, but continued current production lines such as the F-16, AHIP and F/A-18.

In some instances, like the F-117, we went too far. Reopening a mothballed production line to build four aircraft that the Department doesn't want and didn't request for a cost of almost $600 million is not smart business. If we continue to ressurect dead programs or to prop up dying programs, it will become impossible to balance our priorities in the future.

PERSONNEL MATTERS

Among the most productive of all conference outcomes occurred in the personnel area. HERB BATEMAN will provide more detail in a few minutes, but the bottom line is that H.R. 2100 gives Secretary Cheney some of the tools he needs to manage the massive ongoing DOD build-down, while protecting people and preserving readiness.

CONCLUSION

Let me conclude by saying that no bill is perfect, and this one certainly has its warts. On the whole, however, this conference report presents an effective program for maintaining national security over the course of the next year. Moreover, in a political sense, it is a bipartisan product that Republicans have had the ability to shape. For these reasons, I urge my colleagues to support adoption of H.R. 2100.

Mr. Speaker, all 22 Armed Service Committee Republicans have signed a brief policy statement on the issue of missile defense, and I will insert them in the RECORD at this point.

STRATEGIC DEFENSE INITIATIVE

(Views of Messrs. Dickinson, Spence, Stump, Hopkins, Davis, Hunter, Martin, Kasich, Bateman, Blaz, Ireland, Hansen, Weldon, Kyl, Ravenel, Dornan, Hefley, McCrery, Machtley, Saxton, Cunningham, and Franks)

Ever since President Reagan presented SDI to the Nation on March 23, 1983, critics of ballistic missile defense (BMD) have waged a wide-ranging campaign to discredit the concept. For years we heard exaggerated claims of SDI's cost; broad, sweeping claims that the technologies required for effective BMCD would never exist; and assessments that SDI would "destabillize" the US-Soviet strategic nuclear balance and undermine the crown jewel of arms control, the ABM Treaty. The end result of over eight years of partisan rancor and ideological dispute has been a glaring lack of political consensus on the objectives of the SDI research and development program. This has now changed.

It is an understatement to note that the international security landscape has undergone a radical transformation since President Reagan's 1983 speech. We live in a world reshaping itself at breathtaking speed. Over the past five years, we have witnessed the fall of the Berlin Wall, the dissolution of the Warsaw Pact, and early steps towards democracy in the Soviet Union. In short, many of the assumptions that have guided our national security planning since the end of World War II are no longer valid.

To its credit, the Bush Administration long ago recognized the need for a more flexible and responsive military strategy to cope with the uncertainties and emerging threats of this changing world. On August 2, 1990—the very day that Saddam's forces launched their attack against Kuwait—President Bush outlined publicly the basic elements of a revised military strategy. A second indicator of the Administration's recognition of world changes occurred when the President announced in his State of the Union Message on January 29, 1991, his decision to refocus the SDI program "on providing protection from limited ballistic missile strikes, whatever their source. Let us pursue an SDI program," he said, "that can deal with any future threat to the United States, to our forces overseas, and to our friends and allies."

Two events of 1991 validated and reinforced the President's earlier decision to refocus the SDI program: the Gulf War and events in the Soviet Union, including the failed coup attempt against Mikhail Gorbachev last August.

During the Gulf War the world witnessed the use of ballistic missiles by Iraq against Allied military forces in Saudi Arabia and as a terror weapon against population centers in both Israel and Saudi Arabia—despite the certainty of massive Western counter-attacks. In terms of "lessons learned" from that conflict, we must recognize that the United States cannot rely upon a strategy of pure deterrence to prevent Third World leaders from engaging in aggressive, irrational behavior in the future. Operation Desert Storm taught us that we will require transportable and improved theater missile defense (TMD) systems to counter the threat posed by the global proliferation of ballistic missiles and weapons of mass destruction. Moving beyond deterrence, defenses will prove to be invaluable, both militarily and politically, in future conflicts.

Radical changes in the Soviet Union have drastically reduced the likelihood of an intentional, massive Soviet nuclear attack against the United States to its lowest point at any time in the past forty years. Adding to this development are the U.S. and Soviet signing of a Strategic Arms Reduction Treaty (START) and the unilateral steps recently announced by Presidents Bush and Gorbachev to reduce various nuclear forces. Concern still exists, however, of the possibility of an accidental or unauthorized launch of ballistic missiles stemming from the mounting economic, political and social chaos within the Soviet Union—a country that still possesses almost 30,000 nuclear weapons. The validity of this concern was underscored when we learned that President Gorbachev's briefcase containing the nuclear codes was taken away during the coup attempt in August.

The Congress could not help but be influenced by these developments. One result, as declared in this conference report, was that members of Congress generally ceased their partisan, ideological posturing over the SDI program and, instead, agreed to confront the practical concerns of a still dangerous world. In a landmark decision, the Congress has established a set of goals and a specific timetable for developing and deploying missile defenses—the first true bipartisan consensus on missile defenses since the debate began twenty-five years ago.

Key elements of the bipartisan Congressional consensus on missile defenses include (1) $4.15 billion for SDI in fiscal year 1992, a real increase of over $1 billion from the fiscal year 1991 level; (2) a goal to deploy 100 defensive interceptors at a single-site at the earliest date allowed by the availability of appropriate technology or by fiscal year 1996, as the initial step toward a multi-site, highly-effective defense of the United States; and (3) urge the President to pursue immediate discussions with the Soviets on modifying or amending the ABM Treaty.

The centerpiece of President Bush's revised Global Protection Against Limited Strikes (GPALS) SDI program was the development and deployment of space-based interceptors commonly referred to as Brilliant Pebbles. While the conferees were in agreement that space-based sensors would be included as part of an initial ground-based missile defense system, unfortunately no such consensus emerged on Brilliant Pebbles. In fact, the conference report declares that, "deployment of Brilliant Pebbles is not included in the initial plan for the limited defense system architecture."

Although we endorse the overall SDI compromise, we also believe in the importance of continuing to aggressively pursue the development and deployment of Brilliant Pebbles. At the authorized Fiscal Year 1992 funding level, which represents a 41% cut from the President's request and leaves the program at roughly the current Fiscal Year 1991 funding level, Brilliant Pebbles has been underfunded. It may be that the inevitable evolution and maturation of space-based interceptor technology will have to precede, even lay the foundation for, a political consensus. However, we believe that all missile defense programs would benefit from such a consensus and plan to work towards achieving this end.

That the watershed decision to deploy missile defenses was truly bipartisan is crucially important for this program to move forward in the future. Although funding any major defense program will be difficult in the budget-constrained years ahead, it is clear that missile defenses have become one of Congress' top priority defense programs.

We, the undersigned, believe this to be the right course of action and plan to do everything within our power to ensure that Congress lives up to the important commitment to proceed with the deployment of ground-based missile defenses it has made in H.R. 2100, the Fiscal Year 1992 Defense Authorization Conference Report.

WM. L. DICKINSON.
RANDY "DUKE" CUNNINGHAM.
JAMES V. HANSEN.
DAVID O'B. MARTIN.
JIM SAXTON.
JOEL HEFLEY.
HERBERT H. BATEMAN.
BEN BLAZ.
CURT WELDON.
GARY A. FRANKS.
ANDY IRELAND.
BOB DAVIS.
FLOYD SPENCE.
JIM MCCRERY.
ARTHUR RAVENEL, JR.
ROBERT K. DORNAN.
BOB STUMP.
DUNCAN HUNTER.
JOHN R. KASICH.
RON MACHTLEY.
JON KYL.
LARRY J. HOPKINS.

Mr. ASPIN. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas [Mr. PICKLE] for the purpose of a colloquy.

Mr. PICKLE. Mr. Speaker, I wish to engage the distinguished chairman of the Armed Services Committee in a colloquy. I understand that the national defense authorization bill for fiscal year 1992 did not add any additional funding to the budget request for the electric gun technology program. In the statement of managers, however, the conferees agreed that electric gun technology offers the potential for revolutionary improvements in weapon systems capabilities. Is that correct?

Mr. ASPIN. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. PICKLE. The 1991 DOD critical technologies plan cites the potential for electrically powered, hypervelocity guns and launchers to provide revolutionary improvements in a variety of weapon systems applications, including ballistic missile defense; and the Army science board emphasized that the potential benefits of the technology can only be realized through a consistently funded and coherently managed program.

I am concerned that there may be significant differences in the services and DOD agencies on the maturity, priority, applications, management, and funding for the various components of the electric gun technology area.

Mr. ASPIN. Mr. Speaker, if the gentleman will yield further, I share the gentleman's concern. Indeed, in the statement of managers the conferees directed the Secretary of Defense to provide to the congressional defense committees by March 1, 1992, a comprehensive report on the overall DOD electric gun technology program. I believe that we have provided funding levels for these defense critical technologies in a variety of accounts coupled with the management improvements in the Department of Defense, should contribute to a stable, integrated electric armaments technology program. I trust the Department of Defense will remain rigorously faithful to this goal. I look forward to reviewing the DOD's report on the program and to discussing it further in budget hearings next year.

Mr. PICKLE. Mr. Speaker, I thank the gentleman for his remarks.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Pennsylvania [Mr. SHUSTER], who is also the ranking member of the Permanent Select Committee on Intelligence.

Mr. SHUSTER. Mr. Speaker, I thank my good friend, the gentleman from Alabama, for yielding me this time.

As the ranking Republican on the Intelligence Committee, I would like to comment on some of the changes incorporated in this legislation that explains why I refused to sign the conference report because of some of the fundamental problems. It augments the power of the Defense Intelligence Agency and takes away some of the control over intelligence which recently was acquired by the Assistant Secretary for Command, Control, Communications and Intelligence. Mr. Duane Andrews is the current ASD/C3I.

I refused to sign the conference report because of some fundamental problems with the arrangements dictated.

First, they were dictated, and to a level of detail which seems improper in terms of executive privilege and inconsistent with the flexibility required for good management.

Second, on key items the language is vague, partly because the two Houses could not agree. On one critical issue, it is said that Secretary Cheney could resolve discrepancies between bill and report language by simply ignoring report language; but in doing so, he would court a political tempest.

Third, we moved prematurely, with minimal study or knowledge of the consequences.

I would argue strongly that Dick Cheney has been an excellent Secretary of Defense. Furthermore, as a very conscientious and scholarly member of the House Intelligence Committee, he developed unusual knowledge about U.S. Intelligence and was the first on our committee to advocate some organizational changes. He has his own ideas and convictions, which he should be able to test and implement.

Cheney appointed Mr. Andrews, a trusted aide extremely well versed in all aspect of U.S. Intelligence, for this very purpose. They moved immediately and vigorously, aiming to reorganize, unify, and revitalize DOD intelligence. In this, they gathered momentum from the strong mandate given them last year by the House and Senate. But we learned to be careful what we ask for, because we may get it.

Mr. Cheney's vigor unnerved the other body, which rushed to undo his work. Conferees reversed many of his initiatives, which themselves are less than a year old, for the space of 1 year—that is, until Congress in its infinite wisdom can devise its own reorganization plan, and then foist it upon Mr. Cheney in next year's authorization bill.

At the very least, you'd think we'd give the Secretary's brand new arrangements a chance to get off the ground and prove or disprove themselves, since Congress will not have its own plan for another year. Instead, we dictated a return to the status quo ante.

Financial control of the General Defense Intelligence Program reverts from Mr. Andrews back to the Defense Intelligence Agency, which for many years admittedly paid scant attention to it.

The bill language says Mr. Andrews temporarily is "assigned supervision" of DIA, although not "operational day-to-day control." Report language interprets this to mean "that degree of staff supervision * * * exercised * * * prior to November 27, 1990"—that is, before the Cheney reorganizations, when in practice the ASD/C3I had very little to do with DIA. This has been interpreted as a victory for Mr. Cheney, in that only the bill language is really law: He can allegedly ignore the report's definition of terms. But the suggestion that he court such peril seems disingenuous, especially with next year's promised congressional reorganization hanging like a sword of Damocles over Mr. Cheney's head.

The legislation stipulates that DIA provide substantive intelligence to the Secretary, the DCI, and the Chairman of the JCS without any prior screening by any other official. This seemed acceptable to all, because it was said merely to prohibit interference that could slant intelligence analysis. Only after the ink dried did we hear that some are taking this allegedly innocuous language to ludicrous, completely unworkable and unrealistic extremes. Obviously, such top officials cannot possibly, read or even glance at, more than a small fraction of DIA's intelligence product. But some are now saying that this prohibits all but the sorting of these officials' mail—and perhaps even that. This is balderdash.

We have guaranteed 3 years of organizational turmoil at DOD—a year under Mr. Cheney, a year of reversals, and another year after Congress makes up its mind. With provisions like these, I've already had my fill of reorganization. And they say we've barely begun. If so, God save the Republic.

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, I rise in support of the conference report.

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SCHEUER] for the purpose of a colloquy.

Mr. SCHEUER. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to engage the distinguished chairman of the Armed Services Committee in a colloquy.

Mr. Speaker, the Defense Authorization Act for fiscal year 1992 contains a provision by which the Department of Defense and the Department of Energy are to develop a cost-sharing implementation plan for a superconducting magnetic energy storage project, commonly called SMES. My concern, Mr. Chairman, is that participation in this project by the Department of Energy may take away valuable resources from other conservation and renewable energy programs including superconductivity research programs.

I agree that the SMES project has significant civilian benefit and the Department of Energy should participate. Therefore, Mr. Speaker, do you agree that any resources the Department of Energy may choose to assign to the SMES project over the course of the plan shall not impact other DOE conservation and renewable energy programs, including ongoing superconductivity research and development?

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Speaker, superconductivity is one of our more important critical technologies and can be advanced more rapidly through real world application projects like the SMES. I do agree, however, that there should be no impact on other DOE conservation and renewable energy programs including ongoing research for superconducting technology.

Mr. DICKINSON. Mr. Speaker, it is my pleasure at this time to yield 2 minutes to the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this conference report.

The seapower panel of the conference committee largely worked toward the administration's shipbuilding request that will carry the Navy into the 21st century. This modernization effort is highlighted by the continued production of the *Seawolf* attack submarine and the DDG–51 Aegis-class destroyer.

The panel also agreed to support the ship cost growth account at $463 million. This will enable ships currently under construction to be completed without any delays and costly work stoppages. Due to the fact that inflation has risen above initial projections, and unit costs have increased because production has been cut, full funding of the ship cost growth line is a necessary and prudent course of action.

The seapower panel took advantage of lessons learned from Operation Desert Storm. We had serious shortfalls in our mine countermeasures capability. The panel funded an additional minehunter above the administration's request. The conferees also agreed to create a mine countermeasures initiative fund and provided an additional $20 million to accelerate existing programs and evaluate new technologies.

Although I am generally supportive of the seapower panel's work, I continue to be concerned that we are building down much too rapidly. The meager shipbuilding rates of the future, coupled with massive ship retirements, will bring the fleet down from 541 ships to below 400 ships by the year 2000.

The Soviet Union may be bankrupt, but they continue to build more than three times as many submarines as the United States.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I thank the gentleman for yielding this time to me.

Mr. Speaker, I support passage of this conference report, because it manages the future of our defenses in a smart and effective way.

We are building down, but building down wisely, moving from the threats posed by the cold war, to a new definition of security.

No one has worked harder in meeting these challenges or more thoughtfully than the gentleman from Wisconsin, Chairman ASPIN, and I praise him, and the rest of the conferees, for the work they have done.

I would, however, like to take a moment to discuss a provision that has been dropped from the conference—the item which authorized humanitarian aid for the Soviet Union.

Foreign aid is never popular, especially during recessionary times such as we are in now. Americans wonder why we should aid the Soviet Union now that the cold war is over, just as we came to the aid of Germany and Japan after World War II.

Our answer today should be the same as the answer Harry Truman provided than—that it is in our deep self-interest to do so.

In this legislation, the chairman proposed nothing as dramatic as the Marshall plan, but simply sought $1 billion in defense funds to forestall starvation and chaos in the Soviet Union.

It seemed to me this was a modest and appropriate investment to ensure that 30,000 nuclear warheads did not fall into the wrong hands. And this type of defense spending would have been as important for our national security as another part of this budget.

We are told that this proposal is impossible to sell back home. If, in providing humanitarian aid, we help create genuine stability and new markets for American goods in the Soviet Union, our people will be more prosperous and more secure than they are today.

I believe the President treats foreign policy as his exclusive preserve, and domestic policy as an orphan to be shuttled between the free market and the Congress. His unequal treatment of these two national priorities leaves us with a weakening economy and declining public support for an ambitious foreign policy.

Mr. Speaker, I commend the gentleman for trying to deal with this very difficult issue, and I hope that in the future we will be able to do something in this area that makes sense for America's taxpayers.

Mr. DICKINSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. DAVIS], who is the ranking member of our Subcommittee on Research and Development of the Committee on Armed Services.

Mr. DAVIS. I thank the gentleman for yielding this time to me.

Mr. Speaker and Members, first, before I get into a couple of the substantive issues, let me say that this particular conference, unlike the one last year, was one that the minority Members, the Republican Members, were able to play a major role in putting this package together.

For that we appreciate it.

The gentleman from California [Mr. DELLUMS], who is my counterpart, chairman of the Subcommittee on Research and Development, head of the strategic panel on the committee, was very easy to work with. We had a lot of issues to work our way through. We did it, obviously—one side or the other did not get everything they wanted—but basically I did sign the report. I think it is a good step in the right direction.

Let me talk about a couple or a few of the issues that we did work our way through.

SDI, a lot of people have talked about SDI, and I am sure others will talk about it too. But we did have, from the standpoint of the Republicans, it was one of the major issues that we were supportive of. We did increase to $4.1 billion, $1 billion over last year's level.

I think we have a consensus that was reached on the goal of a timetable for deploying missile defense against limited attacks and on the need for additional funds to accomplish these objectives; the goal of deploying ground-based missile system at one site at the earliest possible date, hoping that that might be in 1996 or, if not, whenever it is technologically appropriate we will do that.

□ 1640

Mr. Speaker, another part of this proposal is that we will in fact have urged the President to begin discussions with the Soviets on modifying or amending the ABM treaty to make it more workable.

One of the disappointments, I think, to those of us who were strong supporters of the B–2; of course we did want to proceed with the B–2, but we did not have the votes to be able to go as far as we wanted, as has been said by others. We will have to have another vote on whether or not we are going to proceed beyond the 15 in the future. It is my hope that we will. I think it is an airplane that we desperately need in this country, but we will come back and fight that battle next year.

One of the disappointments on the part of the House was being a very strong supporter of making the necessary improvements to the B–1 that were needed. Unfortunately the Senate did not agree to go along with us. We should, in my opinion, have bitten the bullet this year, but we did not do that. We will have to revisit that issue, of course, again next year.

Another issue which really was not that contentious, but one that we did not settle until the very end of the conference, was the national aerospace plane. We did, in fact, drop the amount by about $23 million, but still ended up with $200 million, which was a step in the right direction.

Mr. ASPIN. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Speaker, as chairman of the conventional forces panel of the conference committee I rise in support of H.R. 2100.

After weeks in meetings with members and staff, agonizing over some of the hard choices that had to be made, it is my opinion that the conferees have done a remarkable job of balancing an affordable set of priorities under very difficult circumstances.

Here's how the major issues in the conventional panel were resolved.

For V–22 tiltrotor, the administration and the Senate did not allot any funds for this program in fiscal year 1992. The House deferred a decision on V–22 production but authorized a total of $990 million for development, manufacture and operational testing of three production-representative aircraft.

The conferees adopted the House position on V–22.

On the F–117 fighter, the House and the Senate diverged widely. The Senate provided $1 billion to restart the F–117 line, which was dismantled 2 years ago. The Senate directed the purchase of 24 of these aircraft, although updated cost information shows only 12 can be bought for this amount.

The House, on the other hand, sought to enhance F–117 capabilities by adding money to retrofit the fleet with upgrades.

The conferees agreed to the modifications and to purchase four F–117's in fiscal year 1992 for $560 million. The conference agreement contains language limiting to 12 the total number of F–117 aircraft that can be bought.

For the F–14 remanufacture program, the administration and Senate agreed to terminate the program.

The House, however, continued to believe that remanufacture of F–14 aircraft strikes the best balance between affordability and preservation of the F–14 industrial base. Thus, the House provided $679.7 million for the F–14 remanufacture program.

The conferees agreed to the Senate position on F–14.

On the F–16 fighter, there was substantial disagreement among the administration, the House, and the Senate.

The Administration proposed 48 aircraft in fiscal year 1992 and advance procurement for 24 in fiscal year 1993. It would have terminated the line after fiscal year 1993.

The House authorized 48 aircraft in fiscal year 1992 and advance procurement for 48 aircraft in fiscal year 1993.

The Senate ended the F–16 program, choosing instead to restart the F–117 line.

The conferees agreed to the House position for fiscal year 1992 and funded 48 F–16's in fiscal year 1992 and advance procurement for 24 aircraft in fiscal year 1993.

There were numerous other conventional issues that were equally contentious. I would point out that agreements contained in this conference report must not be viewed or judged in isolation but rather as a package.

Mr. Speaker, I urge my colleagues to adopt the conference report as a package that best provides for the Nation's defense.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MARTIN], the ranking member on the Subcommittee on Military Installations and Facilities.

Mr. MARTIN. Mr. Speaker, I want to take a moment to thank the chairman of the Committee on Armed Services. He might recall last year that a number of us, and certainly myself, were very upset with the way the bill and the conference report were put together, but I want to salute the gentleman from Wisconsin [Mr. ASPIN] this year for a far better process than the process we had last year.

I also want to thank the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], for taking time on the floor today to speak about the money that was for a time in the conference report for the Soviet Union. Whatever the argument or the merits might be. I think that those who are in favor of spending their money in that fashion ought to look to the foreign assistance portion of this budget rather than the Department of Defense. I know that the majority leader at one time had recommended; at least I read press accounts, of $3 billion for the Soviets out of our DOD bill, and of course, as the chairman Mr. ASPIN said, he had offered $1 billion, that is to say 1,000 millions of dollars.

I did want to point this out, because in some areas of the press there was some confusion to the effect this was originally requested by Secretary Cheney and President Bush, which it most certainly was not. I thank the gentleman from Wisconsin [Mr. ASPIN], the chairman, and the majority leader, the gentleman from Missouri [Mr. GEPHARDT], for underscoring that.

I did sign the conference report mostly because of the much improved method by which we put this bill together. There are some downsides to it. There is just one I would like to underscore: The F–117.

Mr. Speaker, I do not know as if we had a vote in the House whether we would have more than five or eight Members of the House who would support that program. The fact of the matter is that the Air Force does not want it, the Air Force cannot afford it, and they certainly do not need it. I guess the good news is that the appropriating body; it is my understanding, are inclined not to appropriate the money for this platform that served so well in the gulf. But that is not a reason for buying new programs and starting up production lines that have long since been shut down because it performed well in the gulf. If that were the standard, I would suspect that we would not be firing a quarter of a million uniformed volunteers that we are going to let go.

One other thing I also would like to say as far as that billion-dollar proposal for aid to the Soviets is concerned. It was proposed to come from the operations and mountains accounts which only means that our troops cannot train; flying hours and steaming hours would have been cut inordinately as well as all other expendatures related to training.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I rise to discuss certain provisions of the conference report to H.R. 2100, the National Defense Authorization Act for fiscal 1992.

As chairwoman of the Armed Services Subcommittee on Military Installations and Facilities, my panel of the conference included $9 billion for military construction and $149 million for civil defense.

In the conference report, to conform with rescissions made by the Appropriations Committees, we specifically deauthorized certain military construction projects that are no longer required due to base closure. I wanted to clarify which specific projects were deauthorized:

ARMY:	
California:	
Fort Ord: Automated Record Fire Range	[1] $2,450,000
Sacramento Army Depot: Microwave/Radar Maintenance Facility	[1] 3,900,000
Indiana:	
Fort Benjamin Harrison: Fire Station	[2] 1,300,000
Fort Benjamin Harrison: Learning Research	[2] 4,300,000
NAVY	
California:	
Moffett Field Naval Air Station: Child Care Center	[1] 1,000,000
Tustin Marine Corps Air Station: Flight line security improvements	[1] 2,350,000
Long Beach Naval Station: Wharf utilities upgrade	[1] 3,520,000
Connecticut:	
New London Naval Underwater Systems Center: Electromagnetic Systems Laboratory	[1] 12,600,000
Pennsylvania:	
Warminister Naval Air Development Center: Aircraft Technologies Laboratory	[2] 10,770,000
Philadelphia Naval Shipyard: Hazardous and flammable storage warehouse	[1] 7,000,000
Australia:	
Exmouth Naval Communications Center: Fire Protection System	[1] 610,000
AIR FORCE:	
Arizona:	
Williams Air Force Base: Water Supply Complex	[1] 1,850,000
Williams Air Force Base: Add to and alter flight simulator	[2] 400,000
Williams Air Force Base: Base Engineer Complex	[2] 2,350,000
Williams Air Force Base: Specialized UPT maint and Ops support	[2] 900,000
Arkansas:	
Eaker Air Force Base: Civil engineer shop facility	[1] 2,700,000
Eaker Air Force Base: Convoy Road	[1] 500,000

Eaker Air Force Base: Water well and elevated storage	[1]850,000
California:	
Castle Air Force Base: Combat Crew Training School	[2]3,000,000
Castle Air Force Base: Security Police Operations Facility	[2]3,000,000
Castle Air Force Base: Standardized Evaluation Center	[2]2,200,000
Colorado:	
Lowry Air Force Base: Precision Measurement Equipment Lab	[1]2,200,000
Florida:	
Macdill Air Force Base: F-16 Avionics Shop	[1]3,550,000
Macdill Air Force Base: Fuels Mobility Support Equipment Warehouse	[1]940,000
Macdill Air Force Base: Upgrade runway	[2]8,900,000
Indiana:	
Grissom Air Force Base: Wing Headquarters and Command Post	[1]2,150,000
Grissom Air Force Base: Renovate dormitory	[2]2,500,000
Grissom Air Force Base: Child Development Center	[2]2,000,000
Louisiana:	
England Air Force Base: Add to and Alter Aircraft Corrosion Control Facility	[1]2,700,000
England Air Force Base: Alter dormitories	[1]3,200,000
England Air Force Base: Base Supply Complex	[1]4,100,000
Maine:	
Loring Air Force Base: Dormitory	[1]8,500,000
Michigan:	
Wurtsmith Air Force Base: Add to and Alter Child Development Center	[2]960,000
South Carolina:	
Myrtle Beach Air Force Base: Add to and Alter Aircraft Maintenance Unit Facilities	[1]2,350,000
Texas:	
Bergstrom Air Force Base: Add to Child Development Center	[1]2,400,000
Carswell Air Force Base: Noise Suppressor Support Facility	[1]650,000
Carswell Air Force Base: Aircraft parking apron lighting	[2]1,350,000
Carswell Air Force Base: Electrical substation acquisition	[2]566,000
Carswell Air Force Base: Hydrant fueling system	[2]10,700,000
DEFENSE AGENCIES:	
Pennsylvania:	
Philadelphia Naval Shipyard: Occupational Health Clinic	[2]11,600,000
AIR NATIONAL GUARD:	
Massachusetts:	
Fort Devins: Communications Electronics Training Complex	[1]3,000,000
Ohio:	
Rickenbacker ANGB: Alter Fuel System Maintenance Dock	[2]400,000
AIR FORCE RESERVE:	
Missouri:	
Richards-Gebaur AFRS: Jet Fuel Storage Complex	[1]2,350,000
Ohio:	
Rickenbacker ANGB: Add/alter facilities for conversion	[1]1,450,000
Rickenbacker ANGB: Add/alter hanger	[1]6,800,000
Rickenbacker ANGB: Alter Fuel Maintenance Dock	[2]500,000

[1] Fiscal year 1990: Army, $6,350,000; Navy, $23,560,000; Air Force, $38,640,000; Air National Guard, $3,000,000; Air Force Reserves, $10,600,000; total 1990, $82,150,000.

[2] Fiscal year 1991: Army, $5,600,000; Navy, $14,290,000; Air Force, $38,826,000; Defense Agencies, $11,600,000; Air National Guard, $400,000; Air Force Reserves, $500,000; total 1991, $71,216,000.

Note.—Total terminations: Army, $11,950,000; Navy, $37,850,000; Air Force, $77,466,000; Defense Agencies, $11,600,000; Air National Guard, $3,400,000; Air Force Reserves, $11,100,000; total $153,366,000.

The conference also authorized the following projects that were appropriated in previous years, but not authorized at that time:

Additional fiscal year 1991 authorizations

Arizona:	
Navajo Army Depot: Consolidated training site	$6,522,000
Marana: Simulator facility	4,554,000
Colorado:	
U.S. Air Force Academy: Consolidated training facility	15,000,000
Minnesota:	
Army National Guard, Camp Riley: Maintenance facility	6,108,000
Air National Guard, Minneapolis-St. Paul IAP: Composite support facility	4,350,000
Wisconsin:	
Richland Center: Armory/Motor Vehicle Storage Building	159,000
Overseas:	
Classified location	3,500,000
Total	$40,193,000

In addition, the conference included a number of provisions on burdensharing. The bill included a provision that requires the President to seek cost sharing agreements with our allies in the best position to help share the burden, and to identify future candidates for burdensharing. We included a resolution stating the sense of the Congress of the continuing U.S. commitment to NATO and of reducing permanently stationed troops in Europe to less than approximately 100,000 by 1995.

The conference included a provision to allow the United States to accept cash contributions from Korea and Japan. We included language pulling down the number of foreign nationals working at bases overseas, and under that scenario, no one can see any reason why we would run out and build a new base at Crotone, Italy when things are changing so rapidly. And under the conference agreement, we insisted on the House position so there will be no new base in Crotone. Crotone is dead.

The conference made some changes to the whole base closure procedure. The Subcommittee on Military Installations and Facilities will be holding hearings later on to make sure that the base closure process is going in the right direction.

The one thing that I am very excited about in this bill is the fact that America's servicewomen did such a good job in the gulf war that both the House and Senate had to recognize it. We are moving along toward treating women as full, equal participants in the services.

I want to compliment the gentlewoman from Maryland [Mrs. BYRON], chairwoman of the Personnel Subcommittee, who did such a good job in negotiating the women in combat provision. This is a very important breakthrough, and I think the gulf war and women's sterling performance help us get there.

I am extremely disappointed, however, that the conferees did not adopt the provision regarding reproductive health services in medical facilities of the uniformed services outside the United States. I thought that, coupled with the women in combat provision, we changed significantly the tone of what we have been doing in the past. But that is not the case.

Under this provision, women based overseas, be they dependents or be they in the service, would have the same reproductive freedoms that Americans at home that they are defending have.

This provision was adopted as an amendment on the floor of the House, and a similar provision was also adopted in the Senate Defense appropriations bill, thus reflecting the will of both bodies of Congress. But now, both the authorization and appropriation bills have dropped this provision by the President's threat of a veto. The will of the Congress has been thwarted.

We had an opportunity with this provision to reaffirm that members of the armed services serving overseas have the same access to safe reproductive health services that they would have if living in the United States. We should not deny equal access to health care for those service members who are serving our country outside of our borders. But by not including this provision, we did exactly that.

Mr. DICKINSON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, let me first of all, thank Steve Thompson of our staff who worked very hard on the conventional panel, along with Nora Slatkin and Doug Necessary who spent countless hours behind the scenes trying to negotiate this bill out in less controversial items, and, of course, to the gentleman from Virginia [Mr. SISISKY] who did such a fine job, as well as our chairman, I must say.

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I must say that it was a very good conference from the standpoint that it really was a bipartisan effort. It was something we had not seen for a while, and it is something that shows a 100-percent improvement in the system. Andy Ellis and Rudy deLeon both deserve credit also for making sure this committee is going back to where it was. Of course, the gentleman from Wisconsin [Mr. ASPIN] and the gentleman from Alabama [Mr. DICKINSON] were the leaders in this whole effort. I think this is a bill we can all feel good about.

I was involved specifically in the conventional panel. That is the issue of trying to structure the conventional systems of the United States to fit the new world order, as the President defines it, which means we have to balance current production off against future needs.

We are going to develop the B-22, we are going to slow down the C-17 but still go forward with it, and we are going to buy additional Patriot missiles. We are going to remanufacture M-1s, we are going to keep open the production line on the F-16, and hopefully the Appropriations Committee will have its way and we will not fund the F-117, which none of us feels we ought to do.

It is all give and take in this area, but I think we have a conventional bill that we can be very proud of, one which reflects the strategy of where we want America to go to deal with the countless contingencies that are out there. So I feel very, very positive about that.

In the strategic area, I think we have had a change on SDI. There is not any question about that. For the first time the Republican position has been accepted that a strategic defense is a legitimate player in the overall building of a defense system. We now say there is a proper form of SDI. Some on our side may not be thrilled with the numbers. I think it is a very good program that we have right now. Let me say that we would have liked to have revved up the numbers for Brilliant Pebbles on our side perhaps a little bit more, but overall I think it is a good package. On the B-2, I believe we have seen the death of the program, as described earlier today by the gentleman from California [Mr. DELLUMS].

Mr. Speaker, I think this is a defense bill that represents the transition to the new world order. There has been a lot of talk here, by the way, about food aid or whatever to the Soviet Union, and I think we ought to take a look at our excess supplies, particularly MRE's, blankets, and pills, exactly the kinds of things we can sell or send to the Soviet Union to help them get through a difficult winter.

Mr. Speaker I want to thank the gentleman from Alabama [Mr. DICKINSON] for letting me have the opportunity to work so intensively on the conventional panel, and I think that this is a bill we can all feel good about.

Mr. ASPIN. Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Speaker, I rise in support of the conference report. But I wish to address my remarks to one part of the report that I am not happy with, and that is the section containing provisions of the organization of military intelligence in the Department of Defense.

The Senate defense bill would have severely limited the authority of the Secretary of Defense to structure DOD intelligence as he sees fit. Among the objectionable provisions were those that would have provided a legislative charter for the Defense Intelligence Agency in place of the existing Department of Defense regulations recently revised by the Secretary.

Unfortunately, we were not able to deflect the Senate entirely from its course. A lot of micromanagement survived in the conference report. We did succeed, however, in adding the phrase "subject to the authority, direction, and control of the Secretary of Defense." That now comes as a preamble to provisions that would otherwise severely circumscribe the Secretary's authority to delegate intelligence functions and to structure the Defense Intelligence Agency as he sees fit. That added phrase allows the Secretary to continue to exercise his usual discretion in structuring and managing DOD intelligence.

I, for one, hope that the Secretary will take full advantage of the latitude provided by the language to pursue the intelligence reorganization he has undertaken—precisely along the lines he determines to be best for the country's defense. If he does, he will incur the wrath of some in the Senate. But he will have my support—and that of many other members of this committee. For several years, we in Congress have supported strong measures to strengthen defense intelligence. Not least among those measures was creating and then strengthening the post of Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. We wanted that position to be the central departmental focal point for the farflung defense intelligence community. Not that the Secretary of Defense is taking aggressive actions in response to Congress' urging, we owe him our support.

Mr. DICKINSON. Mr. Speaker, I yield 3 minutes to one of the hardest working gentlemen on our committee, one who did one of the toughest jobs in dealing with personnel issues, the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentleman very much for yielding this time to me. Mr. Speaker, speaking as the ranking Republican of the House personnel conference panel. I rise to provide my colleagues an assessment of the conference outcome as they will affect our military personnel in the next year. There is much that I like in this bill, and some few things I do not. Let me review them.

By far, the two most important things we accomplished relate to the very unpleasant and difficult task now underway of reducing the number of people in the all-volunteer military who are the best who ever served this Nation. First, we gave the Secretary of Defense needed management flexibility to involuntarily separate personnel, if all other measures prove inadequate. Second, we approved two monetary and benefits options to encourage people to volunteer for separation, and avoid involuntary separation.

The two voluntary separation incentives included in the bill are not perfect, and both will be expensive. I expect that next year we will have to refine them both. What is important is that now service members have viable options other than just waiting around for the separation axe to fall, and DOD has the tools necessary to manage the active duty drawdown.

The conferees continued to protect National Guard and Reserve Forces by allowing a 2-year end strength reduction of about 66,000, just over one-third of the 185,000 cut the administration requested. I believe we should have made larger reductions in reserve components as requested by the administration. Unfortunately, the administration did not provide a convincing rationale, and the Congress blinked at making cuts in reserve end strength in keeping with reductions in active duty components. To give Congress a political and substantive basis for making cuts in the reserves, the bill provides for an independent study of the future mix of active and reserve forces.

H.R. 2100 has also taken a historic step toward opening aviation combat positions to women. I believe that decision to be premature, without a complete assessment of the implications. As modified by the conferees, the commission and study required by the bill should provide an objective basis for future decisions about the role of women in U.S. combat formations.

Some other positive provisions included in the bill are a 4.2 percent military pay raise in January, a first-ever comprehensive career management program for warrant officers, and strict guidelines to maintain the integrity of the officer promotion system. We also made permanent a range of benefits and programs temporarily enacted during Desert Storm that will lessen the impact of future contingencies on active and reserve service members.

On the other hand, with regard to the requirement of this bill that all officers commissioned after October 1, 1996, be given a reserve commission, the best I can say is that we have 5 years to change the law. This provision requires all new lieutenants—whether they were commissioned through the service academies, ROTC, or officer candidate schools—to compete, after 1 year in service, for prestigious regular commissions.

I am all for competition when we can stand the price. However, the price of this provision is to create a huge disincentive for men and women to seek commissioning through the service academies, where all graduates now get initial regular commissions. Moreover, it reduces the incentive to compete for regular commissions in ROTC. Right now, anywhere from 10 percent to 64 percent of all officers commissioned through ROTC initially earn regular commissions, depending on the service involved.

Overall, with regard to the substance of the personnel provisions in H.R. 2100, I believe the conferees have done a good job.

Unlike some other panels, I did not feel that the process in the personnel areas was substantially improved from last year. My complaint is not with Mr. DICKINSON or Mr. ASPIN, but rather with the mechanics of the process followed by some panels, which too often, subordinated or precluded member judgment and participation to that of congressional staff. This was not the case as to some of the panels of conferees, but it was painfully true as to others. That is something that must be changed in future negotiations between the respective armed services committees.

Mr. Speaker, in the end, there is no more good than bad in H.R. 2100, and I will support its passage.

□ 1700

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I urge my colleagues today to vote for the conference report on H.R. 2100, the Defense authorization for fiscal year 1992. The conference report authorizes no funds for new B-2 bombers and includes a $1 billion escrow account which can be used for another B-2 only if the House and Senate each vote to authorize release of the funds. Given the past House position, this conference agreement for all practical reasons end our country's production of the technologically unproven, missionless, and spectacularly expensive B-2 bomber.

Over the past 10 years, Congress has spent $30.8 billion for the B-2 bomber despite technological uncertainty, consistent cost overruns, and an ever-changing purpose for its existence. Given our country's changing security needs and the fragile condition of our economy we simply cannot afford to waste the estimated $865 million per copy on the B-2 program.

Since 1986, I have demanded more accountabilty by the Air Force about the actual cost of the B-2 and offered amendments to the 1986 and 1988 Defense authorization bills which required the Secretary of Defense to disclose the cost of the program. Both amendments passed.

In 1989, I introduced legislation which limited further cost increases in the Stealth bomber program until flight testing of the B-2 was successfully completed. That measure was incorporated into an amendment to the fiscal year 1990 Defense authorization bill cosponsored by myself and Armed Services Chairman LES ASPIN that significantly restructured the B-2 program, cut procurement funds, and refused funds for production until all tests were met.

In July of 1990, I joined with Chairman ASPIN, Congressman KASICH, and Congressman DELLUMS calling for termination of the B-2 program. While the fiscal year 1991 House Defense authorization bill zeroed procurement the Senate authorized buying four more B-2's. The conference agreement left the program alive but did not permit any new purchases for 1991.

The fiscal year 1992 Defense authorization conference agreement is a big victory for the House, especially since the Senate bill included funds for four new B-2s. This is also a tremendous victory for American taxpayers. I am pleased that the conference agreement this year brings us ever closer to discontinuing all funding for the B-2.

Finally, let me stress my continued concern about the lack of oversight in classified weapons, black budget programs. Congress must have cost, design, and scheduling information about these programs in advance so that informed decisions can be made to assess the viability of these billion-dollar programs. The B-2 is a prime example of out-of-control Government spending without clear purpose, clear guidelines, or clear accountability. Americans do not want to see more taxpayer dollars poured down the drain for this program or any other unmonitored program.

Mr. DICKINSON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Arizona [Mr. KYL], who has been in the forefront of both the energy and nuclear part as well as the SDI part of our defense bill.

Mr. KYL. Mr. Speaker, as the representative of the general provisions panel on the minority side, we had to deal with over 90 language differences. Although many of these were policy initiatives, those of us in the minority chose to concentrate on just three main issues. Unfortunately, the outcome of the conference on these three issues is a big disappointment to this side of the aisle and, to a lesser degree, perhaps even to a lot of Members of this body. We did not get a satisfactory outcome on a single one of the three issues we highlighted for special consideration.

The first of these is the so-called Bingaman manufacturing technology initiatives. Any way you slice it, the House got taken to the cleaners on this provision.

The House ended up agreeing to a series of Senate initiatives that shoved DOD into the business of setting industrial policy.

This major initiative received no hearings in the House, had no real endorsement or support in the House, and yet it survived virtually intact, with minor modifications.

It robbed $230 million from other defense programs to fund these various initiatives, though no one has any good idea whether they will work or achieve their intended results. At a time when we had to cut programs left and right because of reduced funds, we agreed to this Senate plan to essentially throw away $125 million in budget authority.

Everybody knew that the Committee on Appropriations only planned on funding this program to a maximum of $125 million, but the House still caved in to the Senate's unreasonable demands and, in our view, wasted about $125 million.

The second provision that we dealt with was the postemployment restrictions on hiring, the so-called revolving door provisions.

I think we could best characterize this as a missed opportunity. We spent a lot of time, energy and effort in trying to craft an alternative to the existing postemployment restrictions which have caused so many problems.

Unfortunately, all of this collapsed in the waning hours of the conference. I am afraid that, once again, the losers will be the taxpayers, since valued employees at the Departments of the Defense and Energy will continue to leave or not come into Federal service at all because of existing restrictions.

Third, is the DIA reorganization. This was a Senate initiative that proposed to gut Secretary Cheney's Defense intelligence reorganization. While we were able to blunt some of the negative effect of this language, once again the House agreed to legislation that virtually no one in the House supported or found necessary.

Mr. Speaker, I will expand on the problems of this issue later in my statement.

Next, Mr. Speaker, I also served as the minority representative on the Department of Energy issues. In general, the DOE portion of the strategic panel provisions are well thought out and serve the national security and environmental interests of the Nation. Provisions governing the restart of Rocky Flats strike an acceptable balance between ensuring the availability of the facility for production and ensuring safety for the citizens of Colorado.

In addition, I am pleased that the conferees did not adopt stringent language on nuclear weapons testing. The conferees clearly recognized that the President's September initiative and President Gorbachev's response does not change the overriding imperative to continue nuclear testing. As long as the United States has a nuclear force, we will need to test it. Testing is an essential requirement for safety and modernization of our force.

I cannot, however, give 100 percent endorsement to the DOE language, because there is one provision in the bill which I believe does not serve the environmental interests of the United States. I am referring to the subsection entitled "Other Authorizations," which provides $10 million for a water management project in Colorado to divert water from the Rocky Flats facility and allows it, in essence, to flow directly to the local communities. The bill exempts this project, clearly a major Federal action, from NEPA, the National Environmental Policy Act.

The exemption means that no environmental impact statement is required for this project, despite the Department's statement that it believes NEPA applies.

I find it troubling that this NEPA exemption was requested by the same Members of the other body who for years have been trying to prevent the restart of the Rocky Flats facility in the name of "protecting the environment." Clearly they are willing to cast aside environmental laws when it serves their political purposes. I strongly object to this practice of selective environmentalism as it was practiced here.

Mr. Speaker, finally, I will have comments to add to my statement regarding the SDI Program, which was generally adequately funded except for the Brilliant Pebbles portion, which we will have to fund to a greater extent next year.

Mr. Speaker, on behalf of myself, Bob Walker, Tom Lewis, Ron Packard, Larry Hopkins, and Bob Stump, I would like to state strong opposition to sections 821 through 825 of the conference report for the following reasons.

First, these provisions dilute and degrade the mission of the Department of Defense, which remains the protection of the United States and not the funding of commercial development for private industry.

Second, it is not appropriate or wise to fund a domestic concern by taking away funds from legitimate DOD programs. This violates the spirit of the budget agreement. In fact, the funds earmarked for these sections come from the research, development, test, and evaluation [RDT&E] budget which is already straining to adequately fund many of the programs strongly supported by this House, such as SDI, the National Aerospace Plane [NASP], the V-22 tiltrotor, R&D centers, and the university research initiative.

Finally, the House has already passed aggressive legislation to support the commercial development of emerging technologies, H.R. 1989, making these provisions unnecessary and redundant.

In summary, sections 821–825 are seriously flawed and, at minimum, should be discretionary in nature to give the administration wide latitude on the best way to encourage and support commercial technology development. Consequently, we oppose including these provisions in the final bill as it is bad policy and a further drain on dwindling defense resources.

Mr. Speaker, this conference report contains a series of provisions which originated with the Senate and that propose to curtail the ability of the Secretary of Defense to organize his office in the area of defense intelligence.

Although we succeeded in blunting the more egregious aspects of the Senate proposal, the final outcome still contains legislative restrictions on how the Department may carry out its intelligence functions and responsibilities. The House was successful, however, in securing the language which specifically sunsets these restrictions on January 1, 1993, and thereby relieves the Department from these arbitrary constraints after 1 year. Further, it is important to note that we were able to craft the stipulations placed on the Secretary of Defense in section 921 in such a manner that they are conditioned by the preamble "subject to the authority, direction, and control of the Secretary of Defense."

In my view, this language grants the Secretary of Defense the ability and discretion to use his existing broad authority in determining how best to manage and structure the Department's intelligence activities. I hope that the Secretary will use this discretion as he sees fit to ensure that defense intelligence receives the degree of advocacy, scrutiny, and management direction from his office that has been lacking in the past.

Mr. Speaker, I believe that the provisions contained in sections 921–924 are unnecessary at best and a serious and costly mistake at worst. The Senate chose to do an about-face on this issue after severely criticizing the Department last year for not doing enough to centralize management and oversight of defense intelligence. In fact, the very reforms that these provisions attack are the result of the Senate's specific direction.

During extensive discussions with the Senate in this year's conference, they were unable to offer any substantive basis to support their provisions to undo Secretary Cheney's intelligence reorganization plan beyond "We don't like it." The Senate is content to judge this plan a failure when it has only been in effect less than 6 months. Further, their proposed solution would take us back to the old arrangement where the Defense Intelligence Agency was able to operate virtually independent of the Office of the Secretary and is precisely the arrangement that has been universally condemned as ineffective and in urgent need of repair.

Aside from the negative aspects, these provisions grant Congress a 1-year window in which to take a serious look at the Department's intelligence organization structure and develop a sound set of management principles that hopefully will get us beyond personalities and other trivial issues that so hampered discussions during conference. I trust the Department will also use this period to engage in a productive dialog with the Congress so we can jointly pursue whatever organizational solution that accomplishes the goal of attaining timely, accurate, and relevant intelligence for the support of our combat forces.

Mr. ASPIN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maryland [Mrs. Byron].

Mrs. BYRON. Mr. Speaker, as chairman of the Subcommittee on Military Personnel and Compensation, I rise in support of the conference report accompanying H.R. 2100, the National Defense Authorization Act for fiscal years 1992 and 1993. In marking up this bill, the committee's priority was protecting people, and I believe the conference agreement before you is totally consistent with that priority.

I want to commend all of my colleagues on the committee for their diligence and hard work on the difficult issues before us.

With the budget constraints imposed for this year and the foreseeable future, we had some very difficult choices to make. I feel that our actions are both responsible and consistent with the forthcoming force drawdown.

Of particular note is the voluntary separation benefits package approved by the conferees. As my colleagues will recall, Congress last year approved a comprehensive package of benefits to assist military personnel involuntarily separated during the force drawdown. Since that time, we have seen radical changes in the Soviet Union and increasingly difficult budget problems at home. There is little doubt that the size of the Armed Forces will be cut even more than currently programmed. The question is simply how much more.

It is important to keep in mind that the force reduction is not without a price: There is no magic formula for reducing the size of today's high-quality, All Volunteer Force without adversely impacting both force readiness and the individual service members who had planned to make the military a career. We can ease the pain, however, by encouraging service members in overstrength year groups and job specialties to leave voluntarily, rather than face involuntary separation.

Very late in the authorization process this year, the Department of Defense submitted a legislative proposal to establish a voluntary separation incentive [VSI] for career personnel. Because of the late submission, this was a highly contentious issue, but I am pleased that the conferees finally agreed to include that DOD proposal, as well as a congressionally initiated voluntary separation pay plan, in the conference agreement. Service members in targeted categories will now have a choice of two programs:

Under the voluntary separation incentive, or VSI, the separating service member would receive a stream of payments, calculated at 2½ percent times basic pay times years of service, payable for twice the number of years the service member served—in effect, a fixed-term annuity.

Under the Voluntary Separation Program, the separating service member would receive a one-time lump-sum payment, calculated at 15 percent times basic pay times years of service, plus the comprehensive package of transition assistance benefits enacted last year.

With these voluntary separation tools, service manpower managers should be able to substantially reduce, if not eliminate, the need for involuntary separations as a result of the force reduction. This was a hard-fought issue in conference, but I believe the final agreement is a major step toward protecting both the quality of the force and the rights of the affected service members.

Other conference highlights include end strengths for the Active and Reserve Forces, pay and benefit enhancements, medical care improvements, and the repeal of the combat exclusion for female aviators.

For the Active Force, the conferees approved the budget request to reduce end strength by 106,000 in fiscal year 1992 and by an additional 92,000 in fiscal year 1993.

For the Selected Reserve, we felt the cuts contained in the budget were too steep and, therefore, smoothed out the glide path by prescribing a 3 percent, rather than a 9 percent, reduction for fiscal year 1992. This smoother glide path will preserve many Reserve and Guard units around the country that are currently scheduled to fall victim to the budgeteer's ax. A slower paced Reserve cut will also make sure that slots are available in Reserve units for the large number of individuals who will be leaving active duty over the next few years. We need to ensure that we have ready access to that pool of highly trained and experienced manpower.

Consistent with the Armed Services Committee's charter to protect quality of life for the current force, the conferees approved a 4.2-percent pay raise for military personnel. We also made permanent the benefit increases approved earlier this year in the Persian Gulf personnel benefits legislation:

An increase in imminent danger pay from $110 to $150 per month;

An increase in family separation allowance from $60 to $75 per month; and

An increase in the death gratuity from $3,000 to $6,000.

In addition, in order not to reinvent the wheel during a future Operation Desert Storm, we have made the package of other personnel benefits permanent with authority for the Secretary of Defense to trigger them for a future contingency operation.

The conference agreement is a continuation of the Armed Services Committee's ongoing efforts to improve the operation of the military medical care system in order to enhance both cost effectiveness and access to care. In addition, we have approved two important new benefits—hospice care and an enhanced dental CHAMPUS package for active duty dependents. In the mental health arena, we directed DOD to establish a partial hospitalization benefit as an alternative to continued inpatient care, which increased by 127 percent in 3 years.

Finally, the conferees agreed to repeal the statutory combat exclusion that prohibits Air Force, Navy, and Marine Corps women from flying combat aircraft. This decision was based on the experience in Operation Desert Storm where women, for example, flew C-130's into the combat theater on a regular basis. On the modern battlefield, the line between combat and combat support functions is blurred at best. I want to emphasize that the repeal of the combat exclusion would not mandate that women perform such missions. Instead, we provided the service Secretaries greater flexibility in managing their valuable aviation resources.

The personnel titles of the conference agreement on H.R. 2100 before you today are a major step toward both maintaining a quality force and protecting our people as we face the uncertain future ahead. I urge members' support.

Mr. ASPIN. Mr. Speaker, may I inquire how much time each side has left?

The SPEAKER pro tempore (Mr. PANETTA). The gentleman from Wisconsin [Mr. ASPIN] has 9 minutes remaining, and the gentleman from Alabama [Mr. DICKINSON] has 5 minutes remaining.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise today in support of the conference report on the fiscal year 1992 DOD authorization bill.

As vice chairman of the Readiness Subcommittee, I would like my colleagues to note that this conference report fully funds the training and readiness requirements of our forces. The conference report also reflects a move to increase burdensharing and includes increased funding for Special Forces.

Both Armed Services Committees have maintained a firm commitment to keeping our forces in a high state of readiness without danger of returning to the hollow forces of the past.

In addition, the conference report protects the defense infrastructure of our Nation and maintains a logistics network capable of mobilizing and surging in our time of need.

As chairman of the Environmental Restoration Panel of the Armed Services Committee, I am pleased to point out that the conference report also contains a number of significant environmental funding and legislative provisions. The most important of these sends a clear messge of the high priority Congress places on DOD base closure cleanup efforts. The conference report increases authorization for base closure cleanup by $238 million. This doubles the President's request.

In addition, the conferees agreed to expedite cleanup at base closure national priority list sites by setting shorter deadlines for the completion of cleanup studies. I am confident these actions will provide DOD with the means to accelerate the environmental cleanup of base closure sites and free up such property for alternative economic use.

The conference report also enhances DOD's environmental compliance efforts by authorizing $45 million more than the President's request.

This is on top of the 40-percent increase from last years' level.

Lastly, the conference report improves DOD's pollution prevention efforts by extending the existing Waste Minimization Program at industrial funded depot maintenance activities. This program will continue to provide a dedicated and significant source of funding to support capital improvements and process changes to minimize or eliminate the use of hazardous materials used to modify or maintain military weapon systems and equipment.

Altogether, this conference report provides over $3 billion to support DOD environmental activities aimed at cleaning up the sins of the past, complying with current environmental requirements, and avoiding pollution in the future.

□ 1710

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I rise in strong support of the fiscal year 1992 Defense authorization conference report. As the chairman of the Subcommittee on Readiness, I can report that the action taken by the conferees maintains the readiness and sustainability of our Armed Forces by authorizing $84.4 billion for operation and maintenance. This is down from past year's, but this year's authorization is tailored to the reality of world change.

The conferees also increased funding for chemical warfare protection and training, treaty verification, audit oversight, drug interdiction efforts, environmental restoration, and special operations forces. We provide proper training for all our forces—flying hours, steaming hours, et cetera.

We reduced funding levels for foreign national pay, excess inventory levels, and excessive industrial fund balances.

While no contingency is entirely predictable, our forces must be versatile and ready to react to a wide range of conflict types. Our fighting forces were prepared for and victorious in Desert Shield and Desert Storm.

This conference report assures that our military forces will continue to be strong and ready in the new world environment. I urge my colleagues to support and vote for the conference report.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in support of H.R. 2100, the conference report on the Defense authorization bill. I think the chairman of the Committee on Armed Services and the other members and the other conferees on this bill have already worked diligently to try to craft a defense bill which does continue the transition from a cold war to a peacetime defense budget.

The bill recognizes that the world is changing significantly, that resources are limited and that the old ways of providing for national security are going to have to change.

It it not perfect, but obviously it is a step in the right direction. The total funding provided by this conference report is $209.8 billion budget authority and $294.3 billion in outlays, which is consistent with the ceilings established in last year's budget summit agreement.

Let me also add my particular thanks to the chairman and to the other conferences for the adoption of the amendment relating to base closure cleanup. It is absolutely essential that we expedite cleanup and that we provide the additional funds for cleanup so that those communities can expeditiously reuse the bases that they now confront because of the reductions in the defense budget.

I rise in support of H.R. 2100, the conference report on the fiscal year 1992 Defense authorization bill. The chairman of the Armed Services Committee and the other House conferees have worked diligently to craft a defense bill which continues the transition from cold war to peace time defense budgets. The bill recognizes that the world is changing significantly and that the old ways of providing for national security no longer work. The bill is not perfect by any means and I certainly do not agree with all parts of it. But within the constraints of legislative compromise the conference report is a good bill.

During the conference, House and Senate conferees resolved hundreds of funding and language differences including several major differences involving a potential Presidential veto. The conference report maintains the House position on the F–16 and V–22 aircraft, the CH/MH–53 helicopter, the KC–135 reengining program, Reserve personnel levels, and essentially splits the difference on SDI. The conference report stops procurement of the B–2 at the 15 aircraft previously funded unless both the House and Senate separately approve another B–2 aircraft.

The total funding provided by the conference report is $290.8 billion in budget authority and $294.3 billion in outlays which is consistent with the ceiling established for defense in last year's budget summit agreement of $290.8 billion in budget authority and $295.3 billion in outlays. I urge my colleagues to vote yes.

Mr. Speaker, I also want to take this opportunity to note the conferees' approval of an amendment, of which I was the author, placing deadlines on the Department of Defense's remedial investigations and feasibility studies at military bases on the Superfund list and slated for closure. As my colleagues will remember, the amendment ensures that the Defense Department will not be able to drag its feet studying hazardous waste sites at idle bases awaiting closure while our economically strapped communities wait for the chance to recoup their losses through alternative uses.

Mr. Speaker, this amendment's passage is a warning shot. It is an indication that Members of Congress representing base closure communities are not happy about the straits in which we find ourselves. On one side, we are losing our bases. In my district, Fort Ord's closure amounts to an economic earthquake, the equivalent of the loss of one-third of Monterey County's gross annual product. On the other side, we cannot begin to plan and to reuse our bases until DOD completes its study of the hazardous waste sites at our bases.

The full Congress has expressed its will here, Mr. Speaker. We have got to see the RIF's process expedited. We know that the DOD has the resources and the expertise. We know that it can be done, and we have expert testimony that we can achieve this goal. Mr. Speaker, we will be following this process very closely. Make no mistake, my friends, the suffering has only begun. It is my fervent hope that we will not have to revisit this issue. We are told that bases will be recommended for closure in 1993 and 1995. I can promise you that future Congresses will be even more sensitive to this issue.

I thank the conferees for their attention to our concerns, then, and I pledge my continuing commitment to stringent and expeditious completion of the studies and restoration required before we may reuse our closing military bases.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I rise in strong support of the conference agreement and thank the gentleman from Wisconsin, Chairman LES ASPIN, and our ranking Republican leader, the gentleman from Alabama [Mr. DICKINSON] for not a perfect bill, not a perfect conference, but in the 5 years that I have been here the most responsive legislation and conference process that I have been able to observe.

Specifically, I would also like to thank the gentleman from Virginia [Mr. SISISKY], conventional panel chairman, and the gentleman from Ohio [Mr. KASICH], ranking member, for the openness with which they conducted the conventional panel deliberations.

On the strategic side I think we made some difficult but right decisions. We have allowed the B-2 program to continue to be sustained for 1 year and we have upped the funding for SDI to, I think, an appropriate level.

As Gavriil Popov, the mayor of Moscow and a Yeltsin adviser, told the Krieble Institute in this city just 1 month ago, it was SDI that convinced the Soviet hard-line Communists in the mid-1980's that radical reform was necessary.

I think it is important that we reaffirmed that with our funding level for SDI. On the conventional side I am happy with the decisions on the C–17, the F–16, the Patriot, unhappy with the deliberations and the final outcome of the F–117 and F–14 debate. But I am extremely pleased with the fact that we have supported our special operations forces and our Marines with our No. 1 priority, and that is full funding for the V–22 Osprey.

I want to thank also the conferees for their support of our Guard and Reserves and for also dealing with the difficult issue of women in combat. All in all, I think it is a fair bill. I think it is a good bill. I think it is a defense conference agreement that all of us on both sides of the aisle can support.

Once again, I compliment both the chairman and the ranking member for their leadership in this effort.

Mr. ASPIN. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of this bill, and I would like to say that when the military was called to war in January in the Persian Gulf, the military went to war but the people went to war when the Reserves and National Guard were called up and marched off to war. We got the people involved, and that is why we did not have a lot of people carrying signs out there.

This bill does not make drastic cuts in personnel and force structure for the National Guard and Reserves as much as the administration wanted to, but it does and will cut some Guard and Reserve units around the country.

I do not like it. I do not think it should be cut, but there will be some few cuts in Reserve units.

This is a good National Guard equipment package. We came out pretty good. Actually, we did better in the equipment package than we did in the end strength and force structure.

It is overall $1 billion for new equipment. So I certainly hope Members will support this legislation.

I would like to ask the chairman to clarify the intent of this legislation. It says in the bill, "A competitive grant to a university associated with the National Biomedical Research Foundation" to carry out "research in the fields of neurology, pediatrics, other specialties," and it is a critical part of the laboratory facilities and special equipment.

My point to the chairman is, I want to make sure that this authorization is not intended in any way to involve or affect the research programs for the Department of Veterans Affairs.

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Speaker, it is not the intent of the Committee on Armed Services to involve or affect the Department of Veterans Affairs in any way with this research project.

Mr. MONTGOMERY. Mr. Speaker, reclaiming my time, I have two more requests. I also want to be sure that the RECORD is clear that this research grant, should it be used to build a research facility, is not intended in any way to affect how the Department of Veterans Affairs allocates its research funds in this legislation.

Mr. ASPIN. Mr. Speaker, the gentleman is correct. It is not intended that any research program or funding of the VA be affected by this grant.

Mr. MONTGOMERY. Mr. Speaker, my last clarification, I also want to be sure that there is no intent here in any way to influence that type of research being done by the VA and that there will never be any call on the VA by the recipient of this $30 million to use VA research funds, joint VA/DOD research funds, or VA personnel or researchers involved with the Veterans Department.

Mr. ASPIN. Mr. Speaker, if the gentleman will continue to yield, the gentleman is absolutely correct. It is not intended now nor in the future to involve VA funds or joint VA/DOD research funds.

Mr. MONTGOMERY. Mr. Speaker, reclaiming my time, let me thank the gentleman.

Back to the Reserve and National Guard, an armory in a small community of 100 Guardsmen, men and women, brings in about $1 million payroll a year. Certainly we should not be closing these armories, and I hope the Defense Department will not close one.

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Speaker, I rise in support of the Defense authorization bill.

For 40 years, we spent trillions of dollars to aim weapons at the monolithic Soviet bear. Now that bear has been slain. We face a new world order. The Soviet Union is now a patchwork quilt of republics, each hungry for freedom. Eastern Europe has joined the world community, but the civil war in Yugoslavia shows that the future is fraught with pitfalls.

This bill approves the complex overhaul of the U.S.S. *Kennedy* at the Philadelphia Naval Shipyard in my district.

The bill also includes money to overhaul the U.S.S. *Forrestal* at Philadelphia. I congratulate the workers at the Philadelphia Naval Shipyard for being the best in the Nation. We need aircraft carriers, and we need the Philadelphia Naval Shipyard to modernize them.

We need to spend less on defense. And, in this bill, we do. But we should not stop here. The defense budget should continue to decrease. We need to buy the right stuff. This bill buys no more B–2 bombers, no more MX missiles. We do need them and we cannot afford them.

I want to applaud my chairman, LES ASPIN, on his negotiating skills. Our committee and our chairman deserve a great deal of credit for this bill which appropriately looks toward defending America in the next century.

Vote "yes" on this bill.

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise today to express my deep concern over the lack of support in this body for aid to assist the Soviet people.

The August coup in the Soviet Union showed just how volatile the shift from communism to democracy can be. Fortunately, the right-wing coup failed and political and economic reforms were, in fact, strengthened. The next few months will be crucial to the continued progress of democracy and economic reform in the Soviet Republics.

People keep talking about the peace dividend, but what will happen if millions of Soviet people starve this winter? What will prevent another hardline Communist coup from taking place, and who is to say the next one will fail? If a meaningful peace dividend is going to develop, we must ensure reforms will continue in the Soviet Union.

The chairman of the Armed Services Committee proposed giving the administration the latitude to provide up to $1 billion in antichaos and defense conversion assistance to assure the continued progress of reform. A billion dollars is a significant amount of money, yet it pales in comparison to the $291 billion we will spend on defense in the upcoming year.

The failure to provide aid to the Soviet people, while politically expedient, is shortsighted. For decades we have been building up against the Soviet threat, yet, when we are presented with an opportunity to help reduce the Soviet threat, we refuse to respond. After all, one-third of one percent of the defense budget is not much to spend for a little insurance.

Mr. ASPIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I rise in support of the conference report.

Earlier this year, the House of Representatives adopted an amendment to the fiscal year 1992 intelligence authorization bill that Representative JOHN MILLER and I offered. That amendment called on our Government to lift the veil of secrecy that has surrounded too much of our Nation's actions as they relate to American POW's and MIA's from the Vietnam and Korean wars and from World War II.

An amendment similar to the Miller-Carper amendment was offered by Senator MCCAIN of Arizona to the fiscal year 1992 Defense authorization bill. The Senate adopted that amendment.

The compromise that is before us today represents acceptance of most of the Miller-Carper amendment as it pertains to American POW's and MIA's from the Vietnam war. Apparently, House and Senate conferees on the intelligence bill have agreed to a study to consider whether a similar approach is justified in conjunction with American MIA's from the Korean war and from WWII.

I am satisfied with the overall results that we achieved by combining this final compromise on the Defense bill with the aforementioned compromise on the intelligence bill. If the study recommends further action in relation to Korean war and WWII MIA's, we can take it next year.

In the meantime, we have strengthened here the rights of 2,300 American families, whose relatives never came home from Southeast Asia, to be more fully informed as to the fate of the loved ones.

□ 1720

Mr. DICKINSON. Mr. Speaker, I have three very distinguished Members of this House who are not on the committee but feel strongly about this bill.

Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding time to me and appreciate this opportunity to rise in strong support of the conference committee bill. I appreciate the good work of the chairman and the ranking member and those on the committee.

This is very responsible policy in regard to America's industrial base. It is very important in this era of declining defense spending that we make change in a way that our great contractors will have time to develop commercial markets that not only will keep them providing thousands of jobs in States like Connecticut, but will retain our inherent ability to produce should we need to surge production to meet a threat to our society. So I appreciate the thoughtfulness of this budget in regard to industrial base issues.

Second, I very much appreciate the committee's action in regard to reserve strength. More gradual reductions will allow regional viability to be maintained and units of historic importance, like the great 169th, to be a part of our future as it has been a part of our past.

The SPEAKER pro tempore (Mr. SYNAR). The Chair will remind the gentleman from Alabama [Mr. DICKINSON] that he has 2 minutes remaining and the gentleman from Wisconsin [Mr. ASPIN] has 2 minutes remaining.

Mr. DICKINSON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I rise in support of the DOD authorization conference report.

The report offers a prudent response to the decline of the Soviet threat while still preparing for challenges in the years ahead.

I would have preferred a stronger commitment to a limited production of the B-2.

I applaud the solid commitment to SDI.

I applaud the removal of the proposal for us to send $1 billion in aid to the Soviet Union.

Finally, I support this bill's commitment to proceed with the NASP.

Whatever country has this technology will hold high ground in aerospace in the next decade.

It has both defense and commercial applications.

I am disappointed that NASA has limited its support for NASP. But as DOD provides fewer defense contracts to our aerospace industry, it is justified that it pick up a bit more of the projects with dual defense and commercial application, like NASP and the V-22.

Mr. DICKINSON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, the technologies, manufacturing capabilities, and grants contained in title VIII of the DOD authorization conference report would be more appropriately pursued in the private sector.

The net effect of these provisions will be to significantly increase the Government's involvement in industrial policy which will, in turn, diminish DOD's focus on its primary mission: national security.

The funds for these industrial policy sections come from the part of the budget which also supports such programs as SDI, NASP, the V-22 tiltrotor, R&D centers, and the university research initiative.

It is indeed unfortunate that these critical defense R&D programs will be taking the hit for commercial product development programs that were not even contained in the original House authorization bill.

Given that these industrial policy programs originated solely in the Senate—the conference report before us today represents a poor compromise for the House.

The administration is opposed to these provisions and thus in the spirit of cooperation we suggested that these grants be made subject to the Defense Secretary's best judgment. I am disappointed that this discretionary authority—which I consider to be an extremely fair compromise—was not included in the conference report.

Mr. ASPIN. Mr. Speaker, I yield as much time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of the conference committee report, and I commend the members of the committee for their wisdom in terminating further production of the B-2 bomber.

Mr. Speaker, I want to commend Chairman ASPIN and the other members of the House Armed Services Committee, who have worked hard to put together a defense bill which recognizes the changing realities of the world while maintaining a careful and comprehensive defense for our Nation.

I am particularly pleased that for the second year in a row, the Congress has not authorized any production funds for new B-2 Stealth bombers. I have been working with the chairman and members of the committee for almost 2 years now to terminate further production of the B-2, a plane we do not need, and cannot afford. If we are successful in finally ending production of this boondoggle next year, we can save American taxpayers some $50 billion over the next decade.

I am happy that the conference agreement also includes $225 million for the M1-to-M1A2 tank upgrade program, which will help to maintain our domestic tank production base. The Army does not expect to deploy the so-called Block III tanks until after the turn of the century. It is vital that we remain prepared for regional conflicts like the recent Persian Gulf war, where the M1A2 performed so well.

Finally, the conference report ensures that before the Pentagon can begin wholesale reduction of the National Guard and Reserve, Congress must see the roadmap. Guard and Reserve troops are much more cost-efficient than active duty soldiers, and once disbanded, Guard and Reserve units are very difficult to reconstitute. It does not make sense to cut active and reserve forces on a 1:1 basis, and I am glad the conference report recognizes this. It requires the Pentagon to prepare a substantive and comprehensive report on the proper mix of active duty and reserve forces.

I look forward to working with the chairman again next year on these and other issues, and I urge my colleagues to support the conference report on H.R. 2100.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I generally support this conference committee report with one notable exception. When it comes to the strategic defense initiative or star wars, news that the cold war has ended has not reached some quarters in Washington. While we close military bases across the Nation and agree on a bipartisan basis to significantly reduce defense spending over the next 5 years, the architects of SDI press for more money. This report contains a 30-percent increase in star wars funding, the first increase in this questionable program since 1988, a $1 billion increase over last year's spending.

Those who follow this Chamber's business may note how many Members come to the floor to criticize funding for education, health care, medical research, and highways. They call those budget busters. But when it comes to a $1 billion increase for star wars, those self-annointed budget cutters are nowhere to be found. With that exception I support the conference committee report.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I congratulate the chairman and the majority and minority leadership and the members of the committee for bringing forth a conference report which is a very thoughtfully arrived at one and one that has my support.

Two matters of concern: First, the SDI funding money, which I think is probably a little on the generous side. We were assured in the conference that the provisions of this bill are ABM Treaty complaint. I am glad to know that.

The next thing I would like to address in the remaining seconds of my speech is to say that I hope that the good ideas of the chairman relative to aiding Russia are not going to totally drift away, because he had a very good blue ribbon arrangement there which I hope we will follow up on. We have a lot of assets in our country which could be traded and bartered with Russia. France and Germany have both entered into things like this with Russia, and I think we should follow their lead.

As many know, I opposed the original conference report language that allowed the President to transfer up to $1 billion in DOD funds for the purpose of aiding the Soviet Union. I support helping the Soviets demilitarize and establish a market economy, but in my opinion, throwing scarce U.S. taxpayer dollars at them is not the best way to assist them. Also, $1 billion would only be a down payment on a much larger bill. The amount needed to bail out the Soviets would dwarf the $13 billion that we spent to reconstruct Europe after World War II. Given our Nation's state of fiscal disrepair we simply cannot afford this type of legislation

However, I am dismayed that in ridding the conference report of the billion dollar transfer we have thrown out some sound proposals to speed Soviet democratization and demilitarization. I think that these provisions should have remained in the final legislation. For example, in the Soviet aid title it was suggested that we establish a blue ribbon panel to advise the President on steps that the United States can and should take to help the Soviets. This provision is now gone and that is a mistake. We need this type of panel.

I believe that compromise legislation on the Soviet aid issue would have better served the financial and long-term national security needs of our Nation. Unfortunately, partisanship in the Congress and lack of resolve by the White House seems to have conspired to sink this possibility.

Regarding the SDI, we were assured in the conference that the final provisions on this issue were compliant with the ABM Treaty. With that assurance, though I feel that the amount for SDI is excessive, these provisions are not something that should hamper the conference report.

Mr. MOODY Mr. Speaker, I must oppose the Defense conference report that we are considering today because it is out of step with the international situation and out of step with domestic budget realities.

The bill does not permit production of new B–2 bombers and that is an important victory. But the bill still provides $1.8 billion in new B–2 procurement to keep the production line open. This is a tremendous waste. I supported the House bill provided no procurement funds.

The most outrageous aspect of this bill is that it includes a $1 billion increase in funding for the strategic defense initiative. Since the 1960's, the United States has maintained a modest research program in defensive technology, keeping an eye out for major technological breakthroughs. Then, in 1983, President Reagan sent our country on a wild goose chase, ramping up funding for SDI at an incredible rate, and searching for a defense that would render nuclear weapons impotent. That search for a technological breakthrough never bore fruit but it cost our country more than $25 billion

This bill would take our country down another primrose path by focusing the SDI program on a less ambitious ground-based system. In effect, this represents a decision by Congress to attempt to accomplish less while spending far more. It makes no sense.

I want to talk briefly about an issue that has been of great concern to me—procurement of MX test missiles. The MX is a very destabilizing weapon because it presents an inviting target for preemptive attack. After years of painful debate, Congress finally agreed to deploy 50 missiles in silos. What many do not realize, however, is that in order to deploy 50 missiles the Air Force brought 114 missiles. The additional 64 missiles are for testing and to have spares on hand. The Air Force fires off several missiles each year to detect any significant problems that would undermine reliability of the missile.

Last year, I requested a study from the Air Force describing the requirements for the MX test program. The report was released last week and it states that, with 114 missiles, the Air Force can secure data that "will provide a high probability of detecting a significant decrease in reliability." In last year's bill, Congress provided funding for the last 12 missiles, reaching a total of 114 missiles.

It is incomprehensible to me that the bill we are considering today would provide $252 million to buy six more MX test missiles. I cannot understand this. The Air Force has not requested this funding. It has enough missiles to test for the next 15 years. In my mind, this provision simply throws away $252 million that the U.S. taxpayer entrusted to our care.

We have to lift our heads out of the minutae of defense and look at the world around us. We are the world's sole superpower. Our conventional force was overwhelming and unchallenged in the gulf war. Our nuclear force is clearly excessive in the post-cold-war era. This bill reflects some of those changes but it doesn't go far enough, particularly in the respects I have mentioned.

We are a giant overseas but we are not standing tall at home. We can't educate our children or maintain our roads and bridges. There are 34 million Americans who have no health insurance and 60 million who are underinsured. We have done nothing for them. We have to scrape and wrangle with the President to get extended unemployment benefits to working American families put out of work by the recession.

I have to conclude that these needs are more urgent than many programs in this bill. Until we can address them, we should not be spending $1.8 billion for the B–2—a program we supposedly canceled, $252 million for the MX—a missile the Air Force doesn't want, and $4.15 billion for SDI—a spotty defense that our country doesn't need.

Mr. BORSKI. Mr. Speaker, I rise in strong support of the conference report on H.R. 2100, the Department of Defense authorization bill for fiscal year 1992.

As a Public Works Committee conferee, I am pleased to see that the conference report reaffirms the position of the Committee on Public Works and Transportation that the Base Closure and Realignment Commission does not have jurisdiction over the proposed civil works reorganization of the Army Corps of Engineers. This report makes clear that the Public Works Committee is the proper forum for consideration of the Army Corps' civil works reorganization proposal.

Earlier this year, when the Base Closure and Realignment Commission [BRAC] was deliberating, Public Works Committee Chairman ROBERT ROE and ranking member JOHN PAUL HAMMERSCHMIDT asserted the committee's claim that reorganization of Army Corps civil works programs was solely within the jurisdiction of the Public Works Committee and did not fall under the Commission's preview.

In its final report, BRAC gave Congress until July 1, 1992 to act on reorganization of the Army Corps. If Congress did not act, the corps' plan would take effect.

Had the Army Corps of Engineers been allowed to proceed without input from the Public Works Committee, the proposed reorganization would have had a very detrimental impact on many Army Corps districts, including Philadelphia.

Under the plan approved by BRAC, the Philadelphia District office would have been closed. That closure would have been devastating to the Delaware River ports in particular. The ports are dependent on the corps for the timely dredging of the Delaware River, which is essential to the ports' competitiveness. Without a corps presence in Philadelphia, business and employment in the port and shipping communities would suffer greatly.

As conferees on section 2821 of H.R. 2100, my colleagues on the committee and I worked to ensure that reorganization of the civil works programs of the Army Corps was removed from the base closure process and returned to the Public Works Committee's jurisdiction.

I am pleased that the Army Corps' reorganization proposal has been returned to the Public Works Committee and I am looking forward to the committee's consideration of the plan.

Mr. FAZIO. Mr. Speaker, I rise today in support of the conference report. I want to commend Chairman ASPIN, the members of the Armed Services Committee, and the committee staff for the outstanding job they have done in crafting this important legislation.

Clearly, we are at a new crossroads in terms of our national security requirements in light of the dramatic changes we have witnessed throughout the world in the last 2 years. The bill we are considering today begins the process of reorganizing our defense priorities and investing in those weapons systems and research initiatives that will provide us with a defense that works now and in the future.

Mr. Speaker, my colleague from Oregon, Mr. AUCOIN, and I would also like to commend Chairman ASPIN for his diligence on a particular provision in the House version of this bill which was ultimately not adopted in conference. The provision that I am referring to would have guaranteed that women who serve in the military overseas, as well as women who are dependents of military personnel stationed overseas, have the same access to safe, legal and affordable reproductive health services currently available to their stateside counterparts. Mr. AUCOIN and I were the sponsors of this provision.

Unfortunately, the amendment was dropped in conference. However, the gentleman from Oregon and I continue to believe that this is an important and critical health issue for women and we will continue to press for enactment of legislation that permits women who are serving their country overseas with access to safe and affordable health care services. We look forward to working with the leadership of the Armed Services Committee to include this important provision in next year's bill.

Overall, Mr. Speaker, this conference report is good policy, and I urge my colleagues to support it.

Mrs. LLOYD. Mr. Speaker, today I rise in support of the Defense authorization conference report for fiscal years 1992 and 1993. As a member of the Armed Services Committee and a conferee on this years agreement, I am particularly aware of its merits as a fitting bill for a changing world climate and an evolving defense posture.

This has been an exciting time to serve on the Armed Services Committee and as a conferee considering all that has taken place in the past year. We have been able to craft a bill that takes into consideration a victory in the Middle East for both technology and personnel and a unilateral Presidential initiative to cut nuclear weapons on American soil and abroad. The Nation's shift toward a reliance on conventional weapons for deterrence rather than the cold war ideology of mutually assured destruction is reflected in the conference report.

In brief, B–2's are out and the strategic defense initiative has received a new lease; the V–22 Osprey, the F–16 fighter are in, SRAM–II and SRAM–T are out. The bill is a victory for women in our armed services. The repeal of the restriction on women flying combat mission stands, and the future role of women in the military is getting the attention it rightly deserves. The Guard and Reserve, threatened by drastic administration cuts, have been assured improved training with modernized equipment and an increased role in future conflicts. Finally, the bill goes to great lengths to confront the issue of military drawdown as painlessly as possible, offering a program of voluntary separations and improvements in benefits and post service care.

I am sensitive to the feelings of my colleagues who would have liked to have seen further cuts in the defense budget. Perhaps in time, they will come. But I must caution against any drastic or haphazard raids on the defense bill. There remains some degree of instability in the Middle East and in the Soviet Union and elsewhere. We must be prudent in our national defense decisions and continue to be willing to adapt to the changing world enviornment. The fiscal year 1992–93 Defense authorization bill is our best effort toward that end and I urge my colleagues to support this measure.

Mr. GREEN of New York. Mr. Speaker, I must rise in opposition to the fiscal year 1992 Defense Authorization Act conference report. While there are many aspects of the bill I endorse, on several important issues the conference report fails to make the hard choices this Nation simply must make with regard to future defense spending.

Overall, the amount of money we are devoting to defense is too high given the deficit our Nation faces. The level authorized in this agreement, $290.8 billion, is the maximum allowed by the budget agreement for defense. Thus, in spite of the collapse of communism and the disintegration of the Soviet Union, in spite of the failed August coup attempt, we are spending $2.5 billion more than last year for defense. Our Nation simply does not have it to spend. Some of the moneys allotted to defense should be transferred to deficit reduction. We are now spending about 15 percent of our budget on the Nation's debt service, or roughly equal the amount we are allotting to domestic discretionary spending. While defense cuts alone will not solve our budget woes, it is one place where we must make cuts.

A good example of where we have missed an opportunity for savings is with the B–2 bomber program. In the conference agreement before us we are asked to endorse nearly $3 billion in B–2 bomber procurement funds, in addition to $1.6 billion in research and development funds. Why, Mr. Speaker, are we continuing to leave the production lines open on the B–2 bomber? It is now clear that Congress is ultimately unwilling to support the B–2 program, and it is a program which increasingly lacks a strategic mission. Although we refuse to support the B–2 program, however, Congress lacks the courage to kill it outright. As a result, we shall end up paying more per unit cost for a program that the country cannot afford and does not need.

The budget deficit facing our Nation—$261 billion and growing—will continue to suffer for this lack of leadership. Ours is a nation that pretends to do it all, no matter what the cost. Recently, for example, I fought a battle to bring NASA's priorities "down to Earth" by eliminating the $40 billion space station. I took that step because I concluded, after great study, that the space station program was not going to give this country enough scientific payback for our massive investment. In the end, my view was not held by the majority in either the House or Senate, nor by the administration, and I lost the battle to cut the space station. I remain concerned, however, that on big-ticket item after big-ticket item, Congress and the administration are failing to select our priorities according to our means. The conference report with regard to B–2 funding reflects that dismal reality.

Relatedly, in this time of unprecedented budget deficit, the agreement before us authorizes $4.15 billion for the strategic defense initiative [SDI], a $1 billion increase from last year and the first increase for SDI since 1988. My question, why now? While I commend the conferees for their efforts to reorder the priorities of SDI, I fail to see how such a vast budget increase can be justified.

Principally on these points, I must vote against this agreement.

Briefly, on other items in the agreement:

I must take this opportunity to commend the conference report for repealing the combat exclusion laws prohibiting the assignment of women pilots to fly Air Force and Navy combat aircraft.

I also strongly support the agreement's 1-year ban on tests of the mid infrared chemical laser [MIRACL] anti-satellite weapon against an object in space. I have long called on the President to seek an immediate and mutual moratorium on ASAT testing. Neither the Soviets nor we can afford to do without intelligence and communications satellites, and if those systems are threatened by ASAT's, each country will spend more and more to superharden their satellite technologies.

Regarding nuclear testing, I endorse the conference agreement's provision of $20 million for the Nuclear Test Ban Readiness Program, as well as the call for negotiations to end nuclear testing. In a recent report to Congress, physicist Ray Kidder of Lawrence Livermore National Laboratories argues that concerns about the safety of the nuclear stockpile should not limit United States consideration of a partial or comprehensive test ban [CTB]. Dr. Kidder argues that with a small, finite number of tests—about 8 to 10 he said in a recent telephone conversation with me—the United States should be able to achieve a CTB by 1995. I continue to advocate strongly a CTB, and I fear that if the nuclear powers do not restrict nuclear testing before the review of the Nuclear Non-Proliferation Treaty [NPT], other countries may work against extending the NPT when it is up for renewal in 1995. Progress toward a CTB has always been regarded by the nonnuclear weapons states to be an absolute minimum condition for superpower compliance with article VI of the NPT, which encourages weapons states to agree to negotiate in good faith to end the arms race.

In closing, while there are several aspects of the conference report I strongly endorse, I must cast my vote against this bill because of its failure to make the hard choices this Nation simply must make with regard to future defense spending.

Mr. DURBIN. Mr. Speaker, the conference report on the Department of Defense authorization bill includes an important provision that will reaffirm congressional intent to use renewable fuels to reduce our dangerous dependence on crude oil from overseas. We must not forget that just a year ago, we were preparing to go to war in the Persian Gulf, and we continue to import more than one-half of the crude oil we need to run our economy.

Ethanol increases our energy security, improves air quality, and boosts the domestic economy. Because of its benefits, our laws for a decade have called for the use of ethanol in a 10-percent blend with gasoline in Federal vehicles whenever possible. Every car sold in America today can operate safely on a 10-percent ethanol blend, and consumers have driven nearly 1 trillion miles using such fuels.

Yet, despite the clear benefits of using alternative fuels, almost none of the fuel purchased by the Federal Government today contains ethanol. Federal law permits exemptions where they are legitimately necessary, but these exemptions have been abused. The Department of Defense is the primary fuel purchaser for the Federal Government. Yet, even though the Department of Defense is required by law to purchase ethanol blends whenever feasible, in fact only four one-hundredths of 1 percent of the fuel purchased by DOD contains ethanol.

This legislation will put the Federal program back on track. It requires the Secretary of Defense to purchase ethanol blends whenever consistent with vehicle management practices. To put an end to the unnecessary exemptions that have gutted this program in the past, the bill directs the Secretary of Defense and the Administrator of the General Services Administration to review all exemptions granted in the past and to terminate all exemptions that are no longer appropriate. They are to report to Congress 90 days after this bill is enacted into law, to inform us of the results of their review.

I intend to carefully study the report to Congress to determine whether the Federal Government is finally going to comply with the intent of the energy security bills Congress passed in the early 1980's. It is time to close the unnecessary loopholes that have prevented the Federal Government from taking full advantage of ethanol, and to put the Federal Government in the forefront of the movement to use domestically produced, renewable ethanol to reduce our dependence on energy supplies from the Middle East.

Mr. LEVIN of Michigan. Mr. Speaker, I wish to express my support for the conference report on H.R. 2100, the 1992 Defense authorization bill. In my judgment, the conference report strikes a balance between our Nation's genuine defense requirements and the need for U.S. defense policy to adapt to changing world circumstances.

Mr. Speaker, the cold war is over. The threat of a large scale nuclear exchange between the United States and the Soviet Union is—if not over—at least greatly diminished. The Warsaw Pact has been disbanded. Our longtime adversary is weakened and has been forced to release its grip on Eastern Europe. Of course, we cannot ignore the fact that the Soviet Union retains a formidable nuclear arsenal, but it is also true that the Soviet Union is increasingly preoccupied with intractable economic collapse and political fragmentation.

The conference report reflects these realities. This Defense authorization bill turns the corner away from expensive and unnecessary nuclear systems like the rail-based MX missile. I have opposed the rail-based MX for years, so I am pleased that Congress is finally canceling this program.

Instead, the conference report bolsters our defense where the need is greatest: in the conventional area. For example, the conference report contains funding for additional F–16 fighter/bombers and new Stealth fighters. I am pleased that the bill also contains a substantial increase for the M–1 tank program. The increased funding will be used to purchase new M–1A2 tanks as well as to upgrade older M–1's.

While I concur with the overall direction of the conference report, I am nevertheless concerned about the provisions in the report relating to the strategic defense initiative [SDI]. It seems to me that the proposed $1 billion increase in funding for SDI is not justified at this time. Since 1984, the United States has spent more than $23 billion on SDI with little tangible benefit to our national security. In particular, I object to the $390 million earmarked by the conference report for the so-called Brilliant Pebbles program. In my view, the Brilliant Pebbles concept is fundamentally flawed and should be abandoned.

Taken as a whole, the conference language moves the Defense budget in the right direction. I congratulate Chairman ASPIN and the House conferees for their work on this measure and urge passage of the bill.

Mr. BROWN. Mr. Speaker, I rise in strong support of the conference report on H.R. 2100 and of the dual-use technology, manufacturing, and education provisions—sections 821–825 and 829—in the fiscal year 1992 Department of Defense Authorization Act. There is a growing awareness that the military and commercial technology bases are converging and that the commercial marketplace, not the defense sector, is increasingly the technology driver today.

As the defense budget shrinks over the next several years, and DOD can afford less custom made products, the strength of the traditional civilian manufacturers will become increasingly important for national security. We must focus our attention on technology that both gives us the most effective products, and the manufacturing capability to produce them in a cost-effective manner. We can no longer afford the luxury of separate technology bases for civilian and military markets.

This legislation deals with planning, development and application of technologies and manufacturing skills critical to both our national security and our economic prosperity. It works to remove barriers between the military and commercial sectors of our economy and addresses the needs for better manufacturing engineering education.

The following provisions are included in this legislation:

This bill requires the President, in consultation with industry, to develop multiyear strategies for federally supported research and development of critical technologies. The Critical Technologies Instutute has been reestablished to assist the executive branch in technology analysis and planning.

There has been $100 million authorized for DARPA to develop critical dual—use technologies through cost-shared partnerships with industry.

There has been $50 million authorized to initiate a DOD program to support regional critical technology application centers.

There has been $25 million set aside from DOD's manufacturing technology program for new manufacturing technology partnerships with private sector consortia, and $5 million has been designated for international cooperative activities in manufacturing technology.

There is $50 million authorized to initiate a DOD program, in coordination with the Commerce Department, to support small manufacturers through existing State and local manufacturing extension programs.

In coordination with the National Science Foundation, $30 million is authorized to support DOD manufacturing engineering education programs.

I want to thank Mr. ASPIN and Mr. MAVROULES for their leadership in this conference and my colleagues in the Science, Space, and Technology Committee for their support. In addition I would like to thank Senator BINGAMAN and his colleagues, Senators NUNN, GORE, and HOLLINGS for developing this legislation.

As House conferees to this authorization act, the Committee on Science, Space, and Technology has worked diligently with the House and Senate Armed Services Committees to make sure these provisions focus appropriately on defense needs and establish the capabilities for strategic planning of critical technologies. I feel strongly that these provisions are a wise use of defense dollars, and I urge my colleagues to support this legislation.

Mr. ANDERSON. Mr. Speaker, I am generally gratified to see that this defense authorization report acknowledges both the changing world threat and the fiscal realities currently facing this country. Our Armed Forces are being scaled back, but this report places priorities on flexibility, rapid force projection, and continued reliance on technologies proven effective in the Persian Gulf war.

In their zeal to make cuts, however, the conferees have in a number of instances limited the flexibility of America's military response as well as needlessly overburdened our military production capabilities. The decision not to fund additional B–2 bombers for fiscal year 1992, both limits our nuclear and conventional force projection ability and threatens the jobs of thousands of workers all across the country. In addition, reductions in the C–17 jet transport program serve only to delay the availability and increase the cost of this much needed aircraft. I support the efforts of our conferees to make responsible cuts in defense spending, but underfunding critical programs like the B–2 and C–17 costs the American taxpayers far more in the long run.

Mr. Speaker, I will vote in favor of this conference report, but I do so with some reluctance.

Mr. CONYERS. Mr. Speaker, I rise in opposition to the conference report. As much as I respect the abilities of the members of the committee, I must say that there is nothing new about this defense budget. The world has changed, yet, here in Washington, it is business as usual.

I have four serious objections to this report.

The first is the absolute amount allocated for defense by this report—over $291 billion.

This bill spends $48 billion for nuclear weapons; $136 billion for the defense of Europe; and, $34 billion for the defense of Japan and Korea.

These enormous expenditures are unnecessary and undefensible at a time when the people of our own Nation are going without vital Government services due to budget cutbacks.

The only major weapons systems canceled in this budget are the ones the President canceled in his September 27 speech. In fact, the conferees, actually included $550 million for the mobile Midgetman missile that the President had killed.

The second objection is that this conference report does not settle the B–2 issue.

On the B–2, the conferees gave us a $4 billion punt.

The B–2 is not terminated. The B–2 production line is not closed. Instead we are pouring $4.2 billion more into this obsolete program. We will have to revisit the entire issue again next year.

There is little doubt that the Air Force will request funds for the B–2 in next year's budget. We will be back here same time, same place, next year going through this debate again.

My third objection, is the decision of this conference to repeat history and commit this Nation for the second time to the deployment of a ballistic missile defense system we do not need and cannot afford.

This is the ill-conceived Missile Defense Act passed in a rush by the Senate and accepted with minor changes by the House in this conference report.

It is a disaster. The only hearing held in the Congress on this proposal was held by the Government Operations Committee on October 16. None of the witnesses could present a credible threat that justified deploying an expensive new weapon system.

Exactly the opposite. The weight of expert opinion is overwhelmingly against a crash program to deploy strategic defenses.

Bruce Blair, the Nation's top expert on Soviet command and control, was asked if we needed a new system to defend against the accidental or unauthorized launch of Soviet ballistic missiles. He said:

> No one has advanced a plausible scenario that could result in such a launch * * *. All the evidence available to date supports the opposite conclusion: Soviet safeguards are strict enough to prevent the accidental firing of a single intercontinental ballistic missile, as well as the illicit firing of a group of land-based missiles or a boatload of submarine missiles. (Testimony, p. 1)

Well, what about the Third World missiles? Some say they are afraid we will wake up one morning and Libya will have a nuclear missile. Well, that's not going to happen. It's a phony threat. Steven Hildreth, from the Library of Congress, said:

> Short- and medium-range missile threats from third countries (non-Soviet) to the United States proper do not now exist.
>
> No new, additional ICBM threat from third countries to the United States is foreseen over the next ten years or so.
>
> The availability of time before many ballistic missile threats become real provides an opportunity to explore alternatives to counter ballistic missiles without the deployment of ballistic missile defenses * * *. The United States may pursue other military, political, economic, and arms control measures that could either counter the threats or slow their development. (Testimony, pp. 5, 9)

Dr. Peter Zimmerman, from the Center for Strategic and International Studies, agreed. He said:

> I do not expect any new entries into the ICBM club in the next decade.
>
> Few, if any, of the nations with potent shorter-range missiles and nuclear weapons programs are likely to make the enormous investment to procure intercontinental capabilities.
>
> In my professional opinion, the danger posed to the United States by the kind of short-range ballistic missiles which will be developed in the next decade or so has been vastly exaggerated. (Testimony, pp. 4, 10)

The argument was summed up by John Pike, from the Federation of American Scientists. He said:

> The prospects that an anti-missile shield might be needed in this century are so remote that there is no reason, other than political expediency, for proceeding soon with deployment of such a system.

My fourth serious objection is to an important change made by this report to the Federal Acquisition Regulatory [FAR] Council.

Over the objections of the Government Operations Committee, which passed the legislation establishing the FAR Council, this report promotes the Director of Defense Procurement to be the representative of the Department of Defense on the Council. While this may be good for that individual it is a disaster for the Council.

From its genesis, the FAR Council has specifically included a high-level, politically accountable DOD representative. This provision sets a dangerous precedent by effectively elevating a career DOD official to the rank of Assistant Secretary of Defense. If the Director of Defense Procurement is going to be considered to be an Assistant Secretary for any purpose, she should be appointed by the President with the advice and consent of the Senate. I regret the conference action in this matter.

For these reasons, I must oppose this conference report. There are many provisions I agree with in the bill. For example, the conference supports the House position to fix the B–1 bomber, based on hearings of the Government Operations Committee in this matter.

But we can do better than this report allows. We can safely cut defense. We can make the hard choices and terminate weapons we no longer need. I refer my colleagues to the hearings and investigations conducted by the Government Operations Committee this year that have detailed wasteful spending and even fraud in the SDI Program, the Seawolf Submarine Program, the A–12 Program, and just last week, in the C–17 Program.

I refer them also to the testimony before the committee of Dr. John Steinbruner and former Assistant Secretary of Defense Larry Korb who said that we could safely cut defense spending and must make such cuts if we are to direct our resources to needed domestic investment.

We can do better. We wouldn't manage our own budgets like this and we shouldn't let the President manage the Nation's budget this way either. I urge my colleagues to vote down this conference report.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise in support of H.R. 2100.

As a member of the Armed Services Committee, I am particularly proud to vote for this important piece of legislation.

This legislation will result in the reasonable expenditure of tax dollars on the national defense as we face the new realities of a post-cold-war global community.

Mr. Speaker, when this bill first came before the House, I voted against it. I did so because the bill did not go far enough to ensure the long-term security needs of our Nation.

Yes, it contained $2.2 billion for the new generation attack submarine Seawolf. Yes, it contained funds for new generations of weapons systems designed to respond in a flexible manner to the new forms of aggression, often started by tyrants such as Saddam Hussein.

However, the original bill did not meet other threats to our Nation, threats which can come from nations who are slowly but steadily harnessing the awesome power of the atom.

As we are now discovering in postwar Iraq the ability to manufacture and deliver nuclear weapons is no longer limited to the superpowers.

It is also clear the political dust over the Soviet Union has not settled. There is still a possibility, no matter how remote, that a renegade republic could do the unthinkable to a rival within the Soviet Empire or a NATO nation.

That is why I believed more funding was needed for the strategic defense initiative [SDI]. This bill will authorize $4.15 billion in SDI funding—$1.25 billion more than last year and $650 million more than the original House bill.

This conference report will also authorize $390 million for the Brilliant Pebbles Program and $465 for space-based interceptors.

This report also maintains our strength at home through the Reserve and National Guard ranks.

Desert Shield and Desert Storm would not have been successful without the men and women who have spent weeks, months, and years training for the day their country called.

However, it is clear some hard decisions need to be made over the next decade on the issue of the National Guard and Military Reserves.

Today, the House has a chance to embark on a new era of defense of our Nation—one that is still vigilant, but flexible in responding to the very serious challenges which lie ahead.

Mr. WEISS. Mr. Speaker, I rise in opposition to the conference report on H.R. 2100, the Defense authorization bill for 1992. While I supported final passage of H.R. 2100, I will not vote today for this conference report.

We have seen our military adversary of the past 45 years virtually disintegrate before our eyes. And when our country is mired in recession; and our international competitiveness increasingly called into question; with a crumbling infrastructure; and more than 37 million Americans living without health care coverage, we simply can not afford to spend the money on defense that we seem ready to.

Despite reductions in some weapon systems, our military spending remains excessive. Although it continues the reductions mapped out in last year's budget agreement, these reductions fail to adequately reflect the incredible changes that have occurred, and which continue to radically reshape the world in which we live. In real dollars, the 1992 defense budget represents an increase of $2.5 billion over 1991 military spending. We have eliminated future production of B–2 bombers, but we are spending more than $3 billion to keep the production line open and fund further research and development.

This, unfortunately, is not the only wasteful program in this agreement. Nearly $1 billion is spent on the V–22 Osprey, despite no such request for funds from either the administration or the Pentagon; $560 million is to be used to procure four new F–117 Stealth fighters, despite a closed production line, and again, no administration request for such funding. The measure also authorizes more than $1 billion for the unsafe and unnecessary D–5 missile program.

Further, this agreement provides full funding to the Midgetman missile program despite the President's September arms control initiatives. In the President's address, among the things he called for was the elimination of the mobile programs of both the MX and the Midgetman missiles. We have done so for the MX, but we have provided full funding, $549 million, for the Midgetman; this sum includes the $115 million for research on the mobile portion of this program. It is this kind of wasteful spending that indicates our inability to recognize the new international realities that surround us.

This measure also offers, for the first time in 3 years, an increase in funding for SDI, more than $1 billion than in 1991. The $4.15 billion authorized represents an increase of $635 million over the house position, including $390 million for Brilliant Pebbles, despite the elimination of this program in the original House bill. The conferees further called for the deployment of an ABM system by no later than 1996. Coupled with this, the President is urged to renegotiate the 1972 ABM Treaty with the Soviets. I do not believe this is wise. Instead of continuing to reduce spending on SDI, this agreement calls for the development of systems that may cost many billions of dollars before they can ever be deployed, and when deployed, may violate the ABM Treaty. At a time when the possibility to negotiate away a significant number of nuclear arms exists, it makes no sense to undermine one of the few treaties that has been successful in limiting the spread of dangerous and destabilizing weapons.

Mr. Speaker, while this agreement does continue the gradual downward trend in military spending, it does not go far enough in representing the nature of the military threats facing our Nation. In light of the changes that have occurred, and continue to occur in the international arena, and the pressing needs that exist here in America, I firmly believe that we must further cut our excessive military spending. This conference report fails to adequately deal with new international, and domestic, realities. I will, therefore, vote against this conference report.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of the conference report on H.R. 2100, the Department of Defense Authorization Act for fiscal years 1992 and 1993, and would like to take this opportunity to comment on several provisions that are within the jurisdiction of the Committee on Ways and Means. Sections 661 through 664 of the legislation provide retirement benefits to members of the Armed Forces for voluntary retirement from the military if such members have completed at least 6 but less than 20 years of service.

Mr. Speaker, on September 25, 1991, the Committee on Ways and Means met at the request of Secretary of Defense Cheney to consider issues related to the tax treatment of voluntary separation incentives, and agreed to a clarification of the income tax consequences to recipients with respect to the Armed Forces voluntary retirement plan. Sections 661 through 664 of this legislation are consistent with the action taken by the committee and with the current tax rules applicable to pension plans. They are included in this bill with the express approval of the Committee on Ways and Means.

I thank Secretary Cheney and Congressman LES ASPIN of the Armed Services Committee for their cooperation on this matter, and am pleased that these provisions have been included in the conference report.

Mrs. BYRON. Mr. Speaker, I would like also to address a provision in the pending authorization bill that deals with the CHAMPUS reform initiative contract for medical services in California and Hawaii. Section 722 of the bill is intended to ensure that any extension, renewal or award of this important contract is competitively bid to determine who the contractor will be when the current contract terminates by its own terms in February 1993. Competitive bidding is almost always preferable to sole source contracting because it is likely to produce significant reductions in cost. That concern is especially important here because the whole purpose of the CHAMPUS reform initiative is to explore an alternative method of delivering high quality medical care to the families of our service men and women while reining in the exploding cost of delivering that care. In this instance competitive bidding may well produce, in addition, a delivery network that would attract more than the current 20 percent of eligible recipients—thus producing even greater savings. It was for these reasons that the conferees chose to adopt the Senate language on this issue.

Mr. Speaker, the sponsors of the bill are aware that a provision in the Department of Defense appropriations conference report seeks a directly contrary result. That provision directs the Secretary of Defense to extend the current contract so that it does not terminate in February 1993, while this provision instructs the Secretary to provide for competitive bidding and all other normal procurement procedures to determine what vendor should provide services under the contract after February 1, 1993. The two provisions were not intended to be harmonized; they give directly conflicting instructions to the Department as to what is to happen to the contract upon its termination in 1993. It is my strong belief that the alternative provided by this bill is the proper course for the Department to take.

Mr. ASPIN. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. DORNAN of California. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DORNAN of California moves to recommit the conference report on the bill, H.R. 2100, to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASPIN. Mr. Speaker, I object to the vote on the ground that a quroum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 329, nays 82, not voting 23, as follows:

[Roll No. 400]

YEAS—329

Abercrombie
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coleman (MO)
Coleman (TX)
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Foglietta
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Oakar
Olin
Olver
Ortiz
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schulze
Schumer
Sharp
Shaw
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walsh
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—82

Alexander
Beilenson
Boxer
Burton
Clay
Coble
Collins (IL)
Collins (MI)
Combest
Conyers
Cox (CA)
Crane
Cunningham
Dannemeyer
DeFazio
Dellums
Dornan (CA)
Duncan
Edwards (CA)
Fawell
Flake
Ford (MI)
Green
Guarini
Hansen
Hayes (IL)
Hughes
Hunter
Johnson (TX)
Kostmayer
Leach
Lent
McDermott
McGrath
Mfume
Miller (CA)
Moody
Moorhead
Morella
Nussle
Oberstar
Obey
Orton
Owens (UT)
Packard
Payne (NJ)
Pelosi
Petri
Pursell
Rangel
Riggs
Roth
Roybal
Russo
Sanders
Savage
Scheuer
Schroeder
Sensenbrenner
Serrano
Shays
Shuster
Sikorski
Skaggs
Smith (FL)
Stokes
Studds
Stump
Taylor (NC)
Thomas (CA)
Traficant
Unsoeld
Vento
Walker
Washington
Waters
Weber
Weiss
Wheat
Yates
Zeliff
Zimmer

NOT VOTING—23

Ackerman
AuCoin
Baker
Bilirakis
Campbell (CA)
Dixon
Ford (TN)
Hancock
Hatcher

Horton
Kennedy
Klug
Levine (CA)
Lewis (CA)

Luken
McCurdy
Mrazek
Neal (NC)
Owens (NY)

Pease
Quillen
Ritter
Towns

☐ 1749

Messrs. PETRI, McDERMOTT, LENT, FORD of Michigan, RUSSO, GUARINI, CUNNINGHAM, OWENS of Utah, OBERSTAR, BURTON of Indiana, MOORHEAD, SKAGGS, and Ms. PELOSI changed their vote from "yea" to "nay."

Mrs. ROUKEMA changed her vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASPIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to the bill, H.R. 2100.

The SPEAKER pro tempore (Mr. SYNAR). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERSONAL EXPLANATION

Mr. KLUG. Mr. Speaker, I regret that I was unable to be present when the House considered the conference report on H.R. 2100, the Fiscal Year 1992 Defense Authorization Act. If I had been present I would have voted for passage of the conference report.

☐ 1750

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3595, MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–323) on the resolution (H. Res. 283) providing for the consideration of the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source, which was referred to the House Calendar and ordered to be printed.

NOTICE OF DEADLINE FOR OFFERING AMENDMENTS TO H.R. 3644, THE PRESIDENTIAL ELECTION CAMPAIGN FUND PRIMARY FAIRNESS ACT

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, the Rules Committee plans to consider H.R. 3644, the Presidential Election Campaign Fund Primary Fairness Act on Wednesday, November 20.

The committee is considering a rule which may structure the offering of amendments, and permit only those amendments designated in the rule to be offered.

In order to ensure Members' rights to offer amendments under this structure, they should submit 55 copies of their amendment, together with a brief explanation of the amendment, to the committee office located in H-312 of the Capitol no later than 5 p.m. on Tuesday, November 19.

These amendments should be drafted to the House Administration Committee reported bill, which is available in the House Administration Office at H-326 of the Capitol.

I have sent a Dear Colleague letter to all Member and committee offices, which explains this procedure further. We appreciate the cooperation of all Members in our effort to be fair and orderly in granting a rule.

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

The SPEAKER pro tempore (Mr. SYNAR). The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 282.

The Clerk read the title and the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and agree to the resolution, House Resolution 282, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 245, nays 164, answered "present" 1, not voting 24, as follows:

[Roll No. 401]

YEAS—245

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
Barton
Beilenson
Bennett
Berman
Bevill
Blackwell
Boehlert
Bonior
Borski
Boxer
Brooks
Broomfield

Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Clay
Clinger
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Cox (IL)
Coyne
Crane
Darden
de la Garza
DeFazio

DeLauro
DeLay
Dellums
Derrick
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Erdreich
Evans
Fascell
Fawell
Feighan
Fields
Foglietta
Ford (MI)
Frank (MA)

Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Green
Guarini
Hall (OH)
Hamilton
Hansen
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Hughes
Hutto
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
Kyl
LaFalce
Lantos
LaRocco
Leach
Lehman (FL)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Machtley
Manton
Markey

Mazzoli
McCloskey
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Morella
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olver
Orton
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Pelosi
Petri
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland

Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Solomon
Spratt
Stallings
Stark
Stokes
Studds
Synar
Tallon
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traxler
Unsoeld
Upton
Vento
Visclosky
Walsh
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Wilson
Wolf
Wolpe
Wyden
Yates
Yatron
Zimmer

NAYS—164

Allard
Allen
Andrews (NJ)
Applegate
Bacchus
Ballenger
Barnard
Barrett
Bateman
Bentley
Bereuter
Bilbray
Bliley
Boehner
Boucher
Brewster
Bunning
Burton
Callahan
Camp
Carr
Chandler
Chapman
Clement
Coble
Coleman (MO)
Coleman (TX)
Condit
Coughlin
Cox (CA)
Cramer
Cunningham
Dannemeyer
Davis

Dickinson
Dicks
Dingell
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Espy
Ewing
Fazio
Fish
Flake
Franks (CT)
Gallegly
Gekas
Geren
Gillmor
Gingrich
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hastert
Hayes (LA)
Hefley
Henry
Herger
Holloway

Hopkins
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hyde
Inhofe
Jefferson
Johnson (TX)
Jones (NC)
Kasich
Kolter
Kopetski
Lagomarsino
Lancaster
Laughlin
Lehman (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Marlenee
Martin
Martinez
Matsui
Mavroules
McCandless
McCollum
McCrery
McDade
McMillan (NC)
Michel

Miller (OH)
Molinari
Montgomery
Moorhead
Moran
Morrison
Myers
Nichols
Nussle
Olin
Ortiz
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pursell
Regula
Roberts
Rogers
Rohrabacher
Santorum
Schaefer
Schulze
Shaw
Shuster
Skelton
Slattery
Smith (OR)
Smith (TX)
Spence
Staggers
Stearns
Stenholm
Stump
Sundquist
Swett
Swift
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Traficant
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Washington
Weber
Williams
Wise
Wylie
Young (AK)
Young (FL)
Zeliff

ANSWERED "PRESENT"—1

Riggs

NOT VOTING—24

Ackerman
AuCoin
Baker
Bilirakis
Campbell (CA)
Dixon
Ford (TN)
Hancock
Hatcher
Horton
Kennedy
Klug
Levine (CA)
Lewis (CA)
Luken
McCurdy
Moody
Mrazek
Neal (NC)
Owens (NY)
Pease
Quillen
Schumer
Towns

□ 1810

Messrs. LENT, BONIOR, DELAY, and FIELDS changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2521, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1992

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, November 18, 1991, to file a conference report on the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes.

The SPEAKER pro tempore (Mr. CARR). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ADDITION OF NAME OF MEMBER AS COSPONSOR OF H.R. 829

Mr. ALLEN. Mr. Speaker, I ask unanimous consent that I be permitted to add my name as cosponsor of H.R. 829, originally introduced by my predecessor, the Honorable D. French Slaughter, Jr., and that I be permitted to sign and submit lists of additional cosponsors.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1218

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1218.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

HELPING THE ECONOMY WITH PUBLIC INVESTMENT

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. MAZZOLI. Mr. Speaker, in the November 18 issue of Business Week, there was a very interesting article by Robert Kuttner, who is an economist, dealing with how to get America out of this recession. Mr. Kuttner discusses the many things which are constantly discussed: lower interest rates, and he says that, indeed, lower interest rates could stimulate consumer spending, but they reduce income that people earn on investment, and that is not always the best thing for the economy.

He talks about capital gains reductions and discusses how difficult they are to target in the proper way, and that they do cause churning of assets, and he suggests there may already be too much churning.

Then he talks about middle-income tax relief, also a good thing, but it takes years for the full implementation of that to occur and years for the full effect to be felt.

Then he talks about something which we can do very quickly, before Thanksgiving, and that is public investment. He suggests that, when you invest in the public sector, you get a hundred percent return quickly. You invest public money, but the private sector, the contractors, benefit from it.

We have in the conference between the House and the Senate, the transportation and infrastructure bill, which would spend eventually $150 billion, and put millions of Americans back to work.

Mr. Speaker, along with all these other ways to correct this recession, I think we need to add public investment to the mix.

BUSH CAN NO LONGER SHY AWAY FROM PUBLIC INVESTMENT

The President's men are beginning to worry that there may be no easy path out of this recession. Last month in this space, I explained why an investment-led recovery is the best way to jump-start the economy. Let me now describe why it is probably the only way. Consider the alternatives:

Monetary easing. With fiscal stimulus ruled out by huge deficits, the Federal Reserve is trying to revive the economy with cheap money. But here, the problem is anxious banks and a shortage of creditworthy borrowers. The culprit is the fallout from the financial excesses of the 1980s, compounded by the Administration's own behavior. The Federal Deposit Insurance Corp. and Resolution Trust Corp. are now the nation's biggest holders of commercial real estate. The Bush Administration detests the idea of the government owning commercial property and, along with the rest of America, is focused on short-term balance sheets. Thus, in a soft real estate market, the government keeps dumping properties to raise cash. This depresses the rents that can be charged by viable, privately owned properties and pulls them into default, too—further increasing banks losses. Hence, the bank/real estate collapse keeps feeding on itself, with an assist from the Administration's fire sale.

In this climate, cheaper money does only so much. Very low interest rates stimulate consumer spending, but the erosion of asset values and purchasing power may have reached a point where cheap money by itself is powerless to ignite a general recovery. The stimulative effect of low interest rates is also offset by the fact that America's "creditors" include tens of millions of retired people whose savings are in bank CDs, money-market funds, and Treasury securities. Every cut in interest rates reduces their purchasing power.

Capital-gains relief. In the late 1970s, those arguing for capital-gains tax cuts made three claims. First, higher aftertax returns on capital would induce more savings and investment. Second, capital-gains breaks would stimulate more sales of appreciated stock and hence would boost tax revenues. And third, by lowering capital costs, capital-gains breaks would make U.S. industry more competitive.

The effect of the tax cuts of 1978 and 1981 disproves each claim. Capital income got tax favoritism, but savings rates fell. Investment rates were maintained (barely) by foreign borrowing. Despite the supposed "unlocking" effect, there was a onetime selloff of appreciated stock, but higher revenues only partly offset lower rates. If anything, the real economy today suffers from too much financial trading, not too little. And the market is dominated by pension funds and life-insurance companies whose capital gains are not taxable at all. As for competitiveness, lower capital costs are indeed desirable over the long term. However, industry mainly invests when it smells customers, who are not in evidence today. Low interest rates also reduce capital costs; but in this recession, lower interest rates have had little impact on investment. President Bush was right when he called the idea voodoo economics the first time around.

Middle-class tax relief. Although more attractive politically, the Democratic program of tax cuts for the middle class is also unconvincing as a recovery strategy. Why? Because the proposed cuts are deficit-neutral, Senator Lloyd Bentsen's (D-Tex.) proposal to shift some defense spending to tax relief might contract the domestic economy, because consumers have a higher appetite for imports than the Pentagon does. The Gore-Downey alternative—taxing the rich to relieve the middle class—is better, since the middle class spends more of its income than the rich. Still, a deficit-neutral tax cut is mildly stimulative at best unless it involves massive public outlays.

That leaves public investment. The virtue of public investment is that 100¢ on the dollar actually get invested, unlike a tax break. Although nominally public, most such investment quickly winds up back in the private sector, for the contractors are invariably private businesses. Public investment connotes old-fashioned public works. But it can also mean technology-stimulating projects such as high-speed rail and optical-fiber networks.

Public investment feeds private payrolls. Some public investment may be wasteful—

but not half as wasteful as the hundreds of billions of dollars in useless office buildings brought to you by the genius of the private market. A program of public investment could even justify increased borrowing via a capital budget, since the borrowing would be dedicated to investment rather than to consumption.

Can a public-investment cure do the job quickly enough? In 1941, when the nation mobilized for war, unemployment melted from 11.8% to 2% in just six months. What prevents the Administration from embracing this cure? The same thing that feeds the self-defeating fire sale of commercial real estate—ideology. Yet when it proved politically expedient, President Bush swallowed his principles on both the civil rights bill and on the extension of unemployment compensation. It remains to be seen whether Bush will be sufficiently desperate or sufficiently opportunistic to embrace that old Keynesian devil, public works.

THE OCTOBER SURPRISE

(Mr. McEWEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. McEWEN. Mr. Speaker, it is not on the schedule this week, but I would say to my colleagues, rest assured that sometime when we are working hard late one evening dealing with the banking bill or the conference report on public works on some other legislation, after the newspapers have focused on some real dramatic action that day, then there is going to be a request to bring up the October surprise.

No one knows about it yet, no announcement yet, but rest assured it is going to happen. This is the ultimate political shenanigans that this House has ever engaged in.

Mr. Speaker, the New Republic reporter, Stephen Emerson, the investigator for Frank Church, has called this: "All of the sources that were used by the journalists thus far are absolute and proven fabricators," probably one of the largest hoaxes and fabrications in modern American journalism.

When the GAO testified before the Committee on Rules as to what these characters were charging about the October surprise, that somehow or another Ronald Reagan went to Madrid and made a deal with the Iranians, or some such thing, I asked him, I said, "Is there anything in these charges that made sense, anything that you could corroborate, like the day or the time or the place or the people, anything at all, anything at all," the response was they could find absolutely nothing that coordinated with anything that these folks had said.

Yet the Congress of the United States is going to be asked to provide millions of dollars to investigate these crazy charges.

I suggest we do at least four things: First of all, we should combine with the Senate; second, we should put a limit, just as the Senate did; third, we should investigate the arms-for-hostages deals that were being offered at the time by the Carter administration; and fourth, we should put a limit on how much money should be spent.

I will include a letter from the Congressional Budget Office saying it is going to cost millions of dollars.

Mr. Speaker, this is unbecoming of the House, it is unbecoming of the leadership around here, it is a disservice to America, and we really should not be associated with it.

The text of the letter is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 8, 1991.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H. Res. 258, a resolution creating a task force of members of the Foreign Affairs Committee to investigate certain allegations concerning the holding of Americans as hostages by Iran in 1980, as ordered reported by the House Committee on Rules on November 7, 1991. We estimate that implementation of this resolution would cost between $1.2 million and $2.5 million, which would be paid from appropriated accounts over fiscal years 1992 and 1993. Of this amount, $750,000 to $1.5 million would be the cost of staff currently working elsewhere in the Federal Government that would be detailed to the task force. The remaining $500,000 to $1 million would be spent by the task force and would come from the funds that would otherwise be available for other House committee expenses. This resolution does not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

H. Res. 258 would create a task force to investigate the timing of the release of American hostages in Iran in 1980. The task force would be authorized to hold hearings, take depositions, conduct interviews, and request assistance of any Federal Agency. The chairman could hire the necessary staff to conduct the task force's operations. Finally, the resolution would authorize the expenses of the task force, including the procurement of services for consultants and training of staff, to be paid from the contingent fund of the House. The task force would have to provide an interim report by July 1, 1992, and would expire at the end of the 102d Congress.

Because the nature and extent of the task force's work is still uncertain at this time, it is difficult to estimate its costs with any precision. One way to gauge the potential magnitude of the cost is to examine a recent temporary congressional investigation with similar responsibilities—the House Select Committee to Investigate Covert Arms Transactions with Iran—which operated in 1987 and 1988. Information from the select committee's report and from the Clerk of the House shows that the select committee had about 80 employees and spent a total of $2.2 million over its life.

However, about half of the committee's staff consisted of personnel detailed from other committees members' personal staffs, or Federal Agencies. The committee did not record costs for those employees because they continued to receive salaries from their original employers and either stopped working temporarily at their original agency or had to work more hours to provide services to the committee.

Based on information from the Committee on Foreign Affairs, which would set up the task force, it appears that the task force is unlikely to cost more than the House Iran/Contra investigation. Preliminary indications are that the task force would require less staff—probably 10 to 20 detailed from other assignments, and perhaps 10 new employees requiring salaries that are not already being paid. If the task force produces information necessitating intensive investigations, personnel costs could increase. The magnitude of the cost would depend largely on whether the task force hires outside counsel, and whether such counsel receives a salary from the House or is paid by the hour. The task force's use of consultants also could increase costs. CBO estimates that the task force would spend between $500,000 and $1 million, mostly in fiscal year 1992. Some costs would be incurred in 1993 for finishing up the task force's work. In addition, the 10 to 20 employees detailed to the task force would represent another $750,000 to $1.5 million of resources applied to the task force's work rather than the work of the employing agency.

The task force would have to request its funds from the Committee on House Administration, which would allocate funds from amounts already appropriated for committee expenses of the House in 1992. The salaries of personnel detailed to the task force from other House offices and Federal Agencies would be paid from amounts already appropriated for 1992. In both cases, the expenses of the task force would represent a reallocation of funds that otherwise would have been spent on other activities in 1992 unless a supplemental appropriations is provided.

Enactment of this resolution would not affect the budgets of State of local government.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is James Hearn, who can be reached at 226-2860.

Sincerely,

ROBERT F. HALE
(for Robert D. Reischauer, Director).

THANKSGIVING MESSAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. KOLTER] is recognized for 5 minutes.

Mr. KOLTER. Mr. Speaker, as we approach the Thanksgiving holiday, I would like to share with my colleagues a very heartwarming story. Earlier this year I was fortunate enough to work on a project with a remarkable individual by the name of Larry Jones. Larry is the head of an international ministry based in Oklahoma called Feed the Children. By my invitation, Larry and his staff brought in to Beaver County, PA, two semitractor trailer trucks containing 80,000 pounds of food for my congressional district. This food was distributed to 18 local food banks serving 22,000 households. Although this food was much needed and well appreciated by the needy families in western Pennsylvania, it only made a dent in the hunger problem that we, as well as many other areas of the Nation, are facing.

Nevertheless, as we worked on this project, it made me realize that there are many—too many—individuals who go to bed hungry every night in America. Knowing that Thanksgiving was fast approaching, I thought to myself "what could we do to give these hungry families something to be thankful for this year?" I spoke of this problem with some friends of mine: Joe Spanik of the United Way of Beaver County, Major Robert Pfeiffer of the Beaver County Salvation Army and Mark McCanna of the American Agriculture Movement. You see, western Pennsylvania has a rich and strong tradition of high school football and, when it comes to supporting the home team, you couldn't ask for any better fans than those in my district. So we figured let's tie together the love Beaver Countians have for their high school football and the compassion they have for those who are less fortunate.

For two weekends in October, we held a food drive to Feed the Children for Thanksgiving by asking fans to bring at least two nonperishable food items with them to specific high school football games. Barrels, which were donated by Greif Brothers in Darlington, PA, and Taylor Milk Co. in Ambridge, were placed at various stadiums for people to drop off their contributions. The barrels were distributed and later picked up by members of the Pennsylvania National Guard Company B—28th Signal Battalion in Chippewa township, Beaver County, PA.

Cash contributions were also collected at the games, and this money is being matched two fold by members of the very generous Ondrusek family who are the owners of seven local Foodland supermarkets. This money is being used to purchase turkeys for the needy, and all of the food will be distributed to nearly 600 families by the Salvation Army. So, as you can see, this project has been a real team effort and has drawn together the efforts of thousands of compassionate people.

However, the folks who really deserve a big thank you are the students, parents, teachers, administrators, and fans who truly made this food drive a success. I therefore ask my colleagues in the U.S. Congress to join me in recognizing and commending the following school districts for their caring efforts: Aliquippa, Ambridge, Beaver Falls, Ellwood City, Hopewell, my alma mater New Brighton, Quigley, Riverside, Rochester, Southside, and Western Beaver. I salute the folks from these fine school districts for helping to address the hunger problem so that Thanksgiving can be a blessed time when everyone can be thankful.

□ 1820

SAFE SEX VERSUS NO SEX

The SPEAKER pro tempore (Mr. CARR). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, since the misfortune of one of our great sports heroes, Earvin Magic Johnson, finding out that he was carrying the HIV virus and actually having to quit as an athlete because it was already bringing about exhaustion, we have heard more about so-called safe sex than we have heard in all of the intervening decade since the manifestation first hit us of this worldwide pandemic.

I came across a column over the weekend in the Washington Post by Coleman McCarthy, and I would like to read some of it for the edification not only of my colleagues, Mr. Speaker, but for the Nation.

I might add, as a footnote, that my colleague, the gentleman from Indiana [Mr. BURTON], is going to do a special order of some length, probably the first one up after me, I think, unless there are any more 5-minute special orders. And he has been fighting for 10 years to try and get the truth out on this matter and others related to it. He will probably end up saving lives if people will pay close attention to what the gentleman from Indiana [Mr. BURTON] says.

Coleman McCarthy's article in the Saturday Washington Post was titled "Sex Should Be More Than 'Safe'." Please pay attention to his words.

> Before the country loses its heads and turns Magic Johnson into a cult hero, it might think again about what he wants us to buy into. His new mission, announced when retiring from the Los Angeles Lakers because he contracted the virus that leads to AIDS, is to get young people to understand what the suddenly wise Magic knows: "Safe sex is the way to go."
>
> Fine, as far as it goes, which isn't far at all. But what about telling kids less sex or no sex, or sex that is something more than teenage rutting, or sex that understands consequences, or sex based on love that's been tested?
>
> The hero-god's nonthreatening message—use your condoms, kids—has been well received. Several 15-year-old boys at a D.C. recreation center told The Post that their lives would henceforth be marked with caution. "I'd never have sex without a condom." "You can never be too careful," said another, a boy who had a canister of condoms with him. In case a 12- or 13-year-old girl walked by and he talked her into a quickie, it would be a safe and magic moment.
>
> The ex-basketball player is the latest public figure to opt for wornout slogans by talking to kids about the technology of sex rather than its morality.
>
> Advocating safe sex to teenagers is on the level of calling for safe promiscuity. With an epidemic of chlamydia, gonorrhea, herpes, AIDS and other sexually transmitted diseases, plus rampant teenage pregnancies, births and abortions, Johnson ought to be telling kinds, cut it out. Are celebrities advising the young to do drugs safely?
>
> The safe sex campaign, now on a new roll with Magic Johnson leading the fast break, joins two words that don't belong together. Safe sex suggests intimacy with no risk, as if beginning a sexual relationship is on the level of a handshake. Such a relationship is rarely without risk to safety: to the emotions of the couple, to their moral lives and to their definitions of commitment, honesty and mutual trust.
>
> With or without condoms, sex has consequences. As any wounded lover left behind by a partner now off to a fresher bed, than another. Ask high school kids hurt by breaking up. Ask marriage counselors mediating damage control for sexually confused couples.
>
> To narrow sex to the anatomical is to trivialize it. The human need to love and be loved instinctively wants more. Safe sex in the nineties is as bogus a goal as free love in the sixties. The AIDS panic has altered the discussion. Appeals to the young for sexual restraint or abstinence have been pushed aside, as if those arguments are either unintelligible to kids or asking too much from them. Scaring them about AIDS is a tactics. However useful, it overlooks that they have minds, souls and spirits that can often be spoken to.
>
> Still, a few voices persist. In a talk for high school students in Detroit on November 11, Rev. Jesse Jackson called for behavior changes that included abstinence. Why settle for short-term pleasure, he asked.

I have seen him to this. He says, for a moment of thrill, a life of chill.

Back to Mr. Coleman McCarthy.

> To a hedonistic culture, that smacks of asceticism. Up against Magic Johnson, credentialized by million-dollar contracts with Pepsi-Cola, Nintendo and Kentucky Fried Chicken, who is Jesse Jackson, a Baptist clergyman?
>
> The outpouring of public sympathy to Johnson is well-placed. But little of it qualifies him to act as if his safe sex message is an answer worthy of this audience. The young deserve better. They are more than their genitals. But to much of society, calling for abstinence, restraint and morality is equal to prudery. Better to be a dude not a prude.
>
> This is the standard set by fellow basketball star, Wilt "The Stilt" Chamberlain. He is currently hustling his autobiography, which boasts of his off-court scoring: Sex with 20,000 women since age 15, 1.2 romps a day for 40 years. If Chamberlain had announced he had a double fudge sundae every day for 40 years, or a daily two-pound sirloin, he would be called psychopathically self-indulgent and hauled off to the local eating disorder clinic. His sexual addiction has the national media salivating for details. Wilt the Stud has a message for kids: I got mine, go get yours.
>
> Magic Johnson refines it a bit: I got mine, go get yours but be safe.

I will to with Jesse rather than Magic Johnson who is misguided temporarily.

IS THE DEFENSE DEPARTMENT ANTI-AMERICAN?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, I must rise to explain my vote in opposition to the Defense authorization conference report bill in protest of Pentagon actions which can only be characterized as anti-American.

Yes, anti-American to hundreds of people who work for Lincoln Automotive in Jonesboro, AR, who are in danger of losing their jobs because the Department of Defense has given the work they were doing to a foreign manufacturer. And this comes during a time of rising unemployment and persistent recession.

On the one hand, the President talks about creating jobs and improving our economy. On the other hand, the Department of Defense hurts the economy by giving American jobs to foreigners.

The right hand and left hand are working at cross purposes, and we are asking American taxpayers to finance the whole muddled mess. Another way to describe this action is to observe that the Government is talking out of both sides of its mouth.

No wonder the American people are confused about their Government, even cynical, fed up. I admit to being more than a little confused by this action myself.

How can Washington expect the good taxpayers who are losing their jobs to have confidence in their Government?

The 400 employees of Lincoln Automotive have been making 4-ton dolly jacks for the U.S. military—and, I might add, doing a very good job of it.

Lincoln made a bid for more dolly jack business, but on February 27 they were notified that they were the unsuccessful bidder on the contract.

The work went to Daru Ltd. Metal Works in Israel.

This translates into American taxpayers being asked to put foreign workers to work at the expense of 400 jobs in Arkansas.

That, Mr. Speaker, is wrong.

The technical difference in the bid price between Lincoln and the company in Israel was about $30 a unit.

I want to repeat that—about $30 a unit. Because the actual difference makes the foreign product cost more than the American product, when you add in all of the additional costs associated with the foreign manufacture of these items, as well as the potential loss of American jobs, this contract will be costly indeed.

If worst comes to worst and Lincoln automotive workers are laid off, they won't be paying taxes, or buying cars, or doing much of anything except trying to keep food on the table.

There will be no savings here. This decision is going to cost the Treasury money.

From what I can find out, the Department of Defense does not take the economic impact on our own citizens into consideration.

I would suggest that it should.

I have asked DOD for an explanation. What I have gotten is a lot of high-blown rhetoric about interoperability of equipment.

That means, as far as I can determine, that NATO armies can freely exchange equipment.

I would like for Defense Secretary Dick Cheney to come to Jonesboro and tell the workers at Lincoln about interoperability.

And, they can tell him about car payments, house notes, the cost of keeping kids in school and food on the table.

It is my information that "Buy America" requirements can be waived through memorandums of understanding [MOU's] between the United States and certain foreign countries.

I am told that all this is somehow in the best interest of our Nation.

I am further informed by the Department of Defense that the MOU with Israel was executed under the authority of the Buy America Act itself. The act provides that a department head can waive domestic preferences if he "determines it to be inconsistent with the public interest."

Now, here's where things get a little muddled.

How, DOD was asked, could the potential loss of 400 jobs in Jonesboro, AR, by sending a contact to Israel be in the public interest?

I mean, of course, the interest of the American public.

There has been no satisfactory answer to that question.

Mr. Speaker, for me and for the 400 people at Lincoln Automotive and their families, there can never be a satisfactory answer to that question.

It is outrageous to export jobs for whatever reason given the state of the economy, and to do it with American taxpayers' money makes it even more outrageous.

On March 15, I wrote Stephen K. Conver who is Assistant Secretary for Research, Development, and Acquisition for the U.S. Army.

I told him about this situation.

In that letter, I said "that Americans have risked—and lost—both lives and money this year to protect people in the Middle East, including the people of Israel." I asked if it was necessary for the U.S. Government to willfully take action to put their jobs at risk also?

Mr. Conver replied a couple of months later that "while layoffs of American workers such as those at Lincoln Automotive are regrettable, the award to Daru was proper and in accordance with Federal law."

Legal it may be.

But, I totally disagree with Mr. Conver that it's proper.

Or that it even makes sense for that matter.

I attempted to correct this situation by amending the Defense appropriations bill to stop this assault on the jobs of workers at Lincoln.

The effort continued through the recently completed conference on the legislation.

For a variety of reasons, that effort was not successful.

But, this fight is not over. It has, in fact, just begun.

There's just no other way to put it: what we have here is the Federal government using the taxes of American citizens to destroy their jobs.

If someone asked me to set a new standard for defining the word ignorant, I would not hesitate to recommend this action.

Yes, it's all very legal. They have sent me proof of its legality.

But, does it make sense?

The answer is a resounding no.

The fact that the Defense Department uses provisions of the Buy America Act itself to destroy American jobs, is proof positive that common sense is becoming a rare commodity in Washington these days.

In passing the Buy America Act, I do not believe that Congress intended it to be used to send jobs overseas.

I do not believe that Congress intended to put interoperability above the jobs of American citizens.

As so often happens, it is not the law that is the problem, it's the way in which it is being implemented.

Mr. Speaker, American jobs are being lost overseas at an alarming rate. Policies of the Federal Government certainly should not contribute to that job drain.

And, to ask American taxpayers to help finance this is the height of folly.

Our people deserve better than this from their Government.

☐ 1830

HEALTH INSURANCE WILL COST ME 57.4 PERCENT OF MY PENSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, I have just received a letter from a man in Florida who had to retire before age 65 Medicare eligibility because of health reasons. As he writes, in "1992, health insurance will cost me 57.4 percent of my pension."

At the rate of health inflation he is facing, his entire pension is likely to be signed over to health insurance companies before he is eligible for Medicare.

Mr. Speaker, we need cost containment. The rate of health inflation is scandalous. We need health insurance for everyone that is affordable. The letter speaks volumes about the problems facing America's families—and why reform is necessary immediately.

I would just observe that if the President, Secretary Sullivan, and Members of Congress knew that health insurance would take 57 percent of their pensions, we'd pass health care reform in about a day.

The letter follows:

Hon. PETE STARK,
Representative of the State of California,
House Office Building, Washington, DC.

DEAR CONGRESSMAN STARK: My wife and I read with considerable interest that you are sponsoring a bill to reduce the Medicare age to 62. We applaud this effort and would encourage you to continue this effort with all of your strength. Indeed, we would also encourage you to reduce the age in the bill you are sponsoring to 60.

Let me briefly tell you of our personal concerns. In November of 1990 I retired at age 58 for health reasons after working at a Florida Community College for 21 years, most recently as a Dean. The current health insurance premium for my wife and me is $687.14 per month (or $8,245.68 per year). On January 1, 1992 this premium will increase by 11.2% to $763.90 per month (or $9,166.80 per year). The insurance is a group plan for retirees of the Community College from Metropolitan Life Insurance Company, and the annual deductible per person is $350. My gross retirement pension from the State of Florida prior to July 1, 1991 was $1,304.01 per month (or $15,648.12). On July 1, 1991, my gross retirement pension was increased by 2.0% to $1,329.62 per month (or $15,955.44 per year). In January 1991, my health insurance cost me 52.7% of my pension. In January 1992, my health insurance will cost me 57.4% of my pension. Certainly there is something that Congress can and should do about this horrible state of affairs for all Americans in the "Medigap" years between 60 and 65 when Medicare takes over in most cases. Your bill appears to be precisely what my wife and I need to retain our financial health.

CELEBRATING 50 YEARS OF THE FIRST GOVERNMENT-CONSTRUCTED PERMANENT USO CENTER IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I rise today in recognition of the 50th anniversary of the opening of America's first Government-constructed permanent United States Organization center on December 9, 1941.

The Nation's first permanent USA–USO center was constructed in 30 days during a nationwide building contest. The center was built under the direction of Maj. A.H. Griffin, the construction quartermaster stationed at Fort Ord, CA. When Mayor E.J. Leach and the city council of Salinas realized the possibility of their city being the first to finish in the crosscountry building contest, they rushed to the side of the quartermaster, eager to help in any capacity. With the extensive support of the community, the State of California, and the Federal Government, Major Griffin was able to ease through the bureaucracy to facilitate the speedy completion of the USO building. Men and women from all professions contributed their time, skill, and hard work to the achievement of this goal. With the dedication and drive of these remarkable people, the USA–USO clubhouse was completed on December 1, 1941.

On December 9, 1941, the center was officially opened. Screen star Edward Arnold led a cast of celebrities in a transcontinental broadcast from the new USA–USO building in Salinas, an event considered to be the highlight of the center's festive dedication ceremony.

The celebration continued the following day with music, parades, and dedicating ceremonies lasting well into the night. The city of Salinas was deservedly proud of its accomplishment.

Fifty years later, the USO building is still in use as the Salinas Recreation Center. For the 50th anniversary of the clubhouse on December 7, 1991, the Monterey County Historical Society, the city of Salinas and the Oldtown Salinas Association will sponsor a rededication of the USA–USO center in an effort to honor the men and women who worked so diligently for 30 days in 1941, and brought a sense of camaraderie to our servicemen and the citizens of Salinas.

The USA–USO building has been standing for the last five decades as a symbol of fellowship and commitment. Mr. Speaker, it is with great honor that I commend the people who have been the backbone of strength behind the USA-USO clubhouse's 50 years of remarkable service to the Salinas community and to our Nation.

AIDS UPDATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, my colleague, the gentleman from California [Mr. DORNAN] gave a 5-minute special order a few minutes ago and he talked about some of the misinformation that is being given to the American people about AIDS. I hope tonight to illuminate this subject just a little bit to bring some people up to date in this Chamber who may not be as conversant with the AIDS pandemic as some of us who work on it on a daily basis.

One of the things that has been touted as a panacea for the problem my colleague from California, Mr. DORNAN, alluded to a few moments ago, and that is that Magic Johnson said that he was going to go around the country talking about the need for safe sex. We need to beat this drum loud and clear for every young person, every middle-aged person, every older person in this country, and that is there is no such thing as safe sex outside of a monogamous relationship at all, none. Studies have shown that people who use condoms on a regular basis and come in contact with someone who is infected with the HIV virus get the virus between 1 out of 6 and 1 out of 4 times.

I had some scientists in my office not long ago who dealt with the latex gloves that doctors wear which are not unlike the condoms we hear talked about so much, and they were here in Washington to talk to the Health and Human Services Agency of our Government about microscopic holes in these gloves that expand during the course of surgery. When a doctor does an invasive procedure and he starts digging around in somebody's body when he is working on their heart, or their lungs or whatever during the course of surgery, those little bitty holes, those microscopic holes in these gloves start to get bigger, and sometimes they get so big that actual droplets of blood or other body fluids will go through those gloves, thus endangering either the patient or the doctor. So they were here to talk to me about a device that you put on a doctor's uniform that would send a signal, a beep, if any blood or any liquids got through the latex gloves that the doctors were wearing.

The same basic thing happens with condoms, and that is why they are no panacea for stopping sexually transmitted diseases, in particular the AIDS virus. So when we tell young people to buy condoms, and I saw on television yesterday a church in San Francisco, an ad in which a preacher from the pulpit was telling his parishioners in San Francisco to use condoms because it would provide safe sex. I know he is well intentioned, but he is doing a disservice to the people of that community, because there is no such thing as safe sex outside of a monogamous relationship, and we should tell people that. There is such a thing as safer sex. You do cut down your risk, but it is like playing Russian roulette. You may take three bullets out of the gun, but there are still three in there, and the chances of getting it is still very real.

I would like to give some AIDS facts to my colleagues who may not be conversant with this subject, because this is information we all ought to know about. Then at the conclusion of my remarks I am going to tell Members what I think we should do to deal with this pandemic.

The Centers for Disease Control will expand its definition of AIDS early in 1992. The move is expected to immediately increase the official number of AIDS patients in this country, the caseload, by 50 percent nationally and as much as 300 percent in hard-hit cities such as San Francisco and New York. Let me tell Members what that means. Five years ago, 6 years ago when we started working on this we did projections on the number of people who would be infected with the AIDS virus, who would be dead or dying of it by the year 1990, by the year 1995, by the year 2000 and beyond. These extrapolations that we used showed that by the end of 1991, the end of this year we would have 250,000 people, minimum, dead or dying, and as many as 280,000 dead or dying by the end of this year.

The scary part about this is that the Centers for Disease Control has been telling us all along that our projections were way too high, and that in fact, by the end of this year, we would have about 200,000 people dead or dying of the AIDS virus. But with this new Centers for Disease Control definition there are going to be 300,000 people officially defined as dead or dying of AIDS by the end of this year, and that is over our estimate. Our estimate was between 250,000 and 280,000, and we know for a fact now there is going to be

300,000 people officially labeled as dead or dying of AIDS by the end of this year.

What does that mean? That means that our projections are probably going to be accurate through the end of this century. And I want to tell Members what those projections are. If anything, these projections I am giving my colleagues are short. By 1992, we figured there would be 375,000 to 465,000 people dead or dying; by 1993 between 500,000 and 650,000; by 1995 between a million and a million and a half; by 1997 2 million to 3½ million. If these projections are anywhere near accurate, we are going to have a cataclysmic problem in this country.

We have 1.3 million hospital beds in America, and we are definitely going to have 1 million people dead or dying of AIDS by the mid- to late-1990's at the very least. How are we going to deal with that? They estimate now that the cost for each person infected with the AIDS virus between the time they get active AIDS and die from it is about $85,000 to $100,000 a year. If we extrapolate these figures out and we get 1 million people dead or dying by the mid-1990's, we are looking at $85 billion to $100 billion that we are going to have to pay out in health care costs for AIDS alone, and I want to tell Members that is going to put a tremendous strain on the economy of this country and on the health care of this country and on the ability for us to even survive economically. We have a $4 billion deficit staring us in the face right now. Add to that another $100 billion a year just to deal with the AIDS crisis, and you can see what we are dealing with, not to mention all of the related problems we are going to have.

Some other information. Last fall Dr. Antonia Novello, the U.S. Surgeon General, noted that the main mode of transmission in Africa, where the disease is rampant, is through heterosexual contact, and it also may be becoming the trend in parts of the United States. In Africa and around the world, 75 percent to 80 percent of the people who get AIDS get it from heterosexual contact, not homosexual contact, and that is particularly true in Africa.

I want to tell the Members a story. The wife of the President of Uganda was before my Africa Subcommittee last week. Her name is Janet Museveni. She brought a lot of facts to our attention, and this needs to be consumed and digested by every Member of this body and everybody in this country. Uganda is about 6 years or 7 years ahead of us as far as the AIDS pandemic is concerned. We are today where they were 6 or 7 years ago, and they decided upon an educational policy to try to turn around the trends in that country. Do you know what happened? Nothing. There was no appreciable difference in the sexual behavior of the people over there even though they spent a tremendous amount of money trying to educate the population. And so today, AIDS is one of the leading reported causes of death among Ugandans. It is estimated that by this year, by the middle of 1991, there were 1½ million Ugandans, or 10 percent of the population that was dying of AIDS. Bear in mind they are about 5 or 6 years ahead of us, and 10 percent of their population minimum is dead or dying of this disease.

There are reasons for this. First, Uganda has a very large percentage of its population in the sexually active age group, and theirs is a sexually permissive society. So AIDS has been spreading.

□ 1840

But let us just look at the United States of America. We started going into an education program 2 or 3 years ago and we thought that was going to stem the tide of AIDS and stem the tide of sexual promiscuity. But what has it done? It spawned what is known as the safe sex revolution.

At Ball State University in my congressional district, or right on the edge of it, they did a survey recently and they found that 80 percent of the students there said they were sexually active. I presume, as I said before, that is true of students throughout the United States; 80 percent are sexually active and they rely on condoms to protect themselves. That will not solve the problem. A lot of those young people are going to get AIDS even though they use them, and many will get it even though they use those, because they do not take the time to use them or will get it because there is no protection whatsoever.

Can you imagine what it would be like in the United States if we have 26 million people dead or dying of AIDS? Well, the projections are if we follow the same path of Uganda, that is what is going to happen in this country, and yet we continue down the path of a very limited program to deal with this deadly, deadly disease, and it is horrible the way people die from it.

I have seen some of these people who die from it and I have seen the Kaposi's sarcoma, a very rare form of cancer they get. They have lesions all over their bodies. I mean, it is terrible. They get thrush in their mouths. There is no immune system.

There is a new virulent form of tuberculosis that we cannot even cure that is breaking out in penal institutions around this country as a result of AIDS. You cannot stop it.

You know, with tuberculosis, you can give people antibiotics and it will cure them for the most part, but this new strain of tuberculosis which can be transmitted through the air, so far they do not have a cure for it and they are very, very concerned about that.

So horrible things happen when your immune system breaks down and you get the AIDS virus.

Additional information: As early as November, 1988, the Center for Disease Control estimated that three out of every thousand college students were infected with the HIV virus. Most people say that is a very conservative estimate. Most people who are conversant with this information believe we have five or six out of a thousand college students infected with the AIDS virus, and with 80 percent of them being sexually active, you can see that it is going to spread in a fairly rapid manner.

In fact, here in Washington, DC, we found out just a couple of weeks ago from Lawrence G. DeAngelo of the Children's Hospital that there has been over a 300-percent increase in the number of teenagers in this city infected with the AIDS virus in the last 3 to 4 years. A 300-percent increase.

Now, granted the percentage is very low, but it went from three-tenth of 1 percent of the children in this city infected with the AIDS virus to 1.3 percent in just 3½ years—or four-tenths of 1 percent to 1.3 percent. That is a 300-percent increase.

Now think about that. The college students, the teen-agers who are infected with it continuing to spread it because of sexual promiscuity. And what are we telling them? "Practice safe sex."

We ought to be talking to them about the real truth about AIDS and that is you have got to stop having sexual contact unless you are married or with a monogamous relationship. That is the only way that you are safe.

Now, another thing that is very important is the spread among women. Statistics show that women are five times to 18 times more likely to get AIDS than men through sexual contact. They can get it that much easier, so women are much more at risk than men for getting AIDS. AIDS cases among women increased from 6.6 percent of the total age population to almost double, 11.5 percent, between 1985 and 1990. It is growing very rapidly among females in this country.

The CDC in Atlanta estimates that AIDS will become one of the top five causes of death in 1991 for women of childbearing age.

The total cost of medical care for people with AIDS or infected with the HIV virus in New York State alone was estimated at $1.3 billion last year and will double by 1993. That is just in New York alone, and they are having a terrible problem with it.

In New York State, hospitals will need an additional—get this—7,000 nurses during the next 4 years to care for AIDS patients. That is in one city, 7,000 more nurses in one city to deal with this problem.

It costs an average of $32,000 to treat a person with AIDS during any calendar year and an average of $85,333 between the time it is diagnosed and the time that they die.

The AIDS epidemic will cost the Nation some $44 billion yearly in direct health care costs by year 2002, and I think that is a very, very low figure.

So what do we do about this? Well, first of all, we found out that Magic Johnson has the AIDS virus. A number of basketball players were on television saying that they run into each other and they sweat over each other and they bleed over each other, and they were concerned about that. I think one of the players from Boston expressed a major concern about that. I have heard some people pooh-poohing that.

The fact of the matter is that we know that a soccer player in Italy, I think last year or the year before last, who had the AIDS virus ran into another soccer player. They butted heads. Blood was transferred and they both ended up dying from the AIDS virus.

You can get AIDS through contact in sports. It is very important that people know that, because it is being pooh-poohed by a lot of people, saying that it is a very small risk, just like you cannot get it from a doctor or a dentist. We all know that is not true now. We know that the risk might be small if they wear protective gear, but the risk still exists.

So I say to my friends in the athletic professions, if you are in boxing and you get in the ring with somebody and you get into a bloody fight and that person you are fighting has AIDS, you are definitely at risk, and I would say to the athletic officials of this country there ought to be testing in the severe contact sports, because there is a risk factor, and a participant in those sporting events is in jeopardy if he has a head-to-head or fist-to-fist or bloody contact with a person who is infected with that virus, and I think this ought to be explored and ought to be discussed.

I notice that the NBA on a voluntary basis is now providing tests for the participants in their athletic contests. I think that is great. That is a step in the right direction. I think everybody should follow that lead. There should be testing, particularly in sports like boxing.

Now, finally, as I said, we already have 250,000 to 300,000 people by definition dead or dying of the AIDS virus. So what are we as a nation going to do about it?

Well, I have said time and time again we need a comprehensive program. So far this body, this Congress, has done virtually nothing to deal with it. We are spending money on scientific research and we are spending money on education, but we know that education does not work in Uganda and other countries where they have had extensive education programs. In Uganda the entire population of sexually active people in villages are gone. The only people left are older people and the very young, and it is spreading very, very rapidly. So education alone will not solve the problem.

We need a comprehensive program as a nation to come to grips with this and to save lives.

So I have suggested for 5 years this program: We need a testing program. You can call it routine testing. You can call it mandatory testing, but we need a testing program for people on a regular basis to find out where the disease is spreading the most rapidly, how it is spreading, who is spreading it, and who has it, so we can protect other people from getting it.

If a person has the AIDS virus and they know it, 70 percent of those people we know for a fact will not go on with their promiscuous activity, thus infecting other people. About 25 or 30 percent of the people will continue to do that, but at least we could stop an awful lot of people who are infected from spreading the disease; but first they have to know they have it, and probably 98 percent of the people infected with AIDS in America today do not know they have got it, and the people coming in contact with them do not know they have it. Ask Magic Johnson about that.

Obviously, whoever was infected, he did not know about it and they probably did not, either, and that is how he got it. So we need to identify those people to help them and to stop the spread of the pandemic.

We need reportability. When a person is infected with the AIDS virus, it needs to be reported to the health agencies so we can find the statistical information we need to deal with it.

In California, if you have a sexually transmitted disease other than AIDS, it has to be reported to the State health agencies. If you have AIDS and they even report it to your wife, the doctor is guilty of a felony. The doctor is guilty of breaking the law if he tells your wife you have AIDS, and he certainly cannot tell the health agency because he is guilty of breaking the law, but if you have any other sexually transmitted disease that can be cured, he is supposed to report that. We have got to change that. There has to be reportability.

There has to be contact tracing. If a person has the AIDS virus and we tell them they have it and we give them the psychological help that they need and the other help that they need to prolong their lives and they continue to go out infecting other people, we need to know about that, because it is worse than shooting somebody with a gun. If somebody holds up somebody or shoots somebody with a gun, we put them in jail. I am not suggesting that, but I am saying that if somebody has AIDS and knows it, they have to be constrained and we have to know that, who that person is who is continuing to act in an immoral way after knowing they had the AIDS virus, and the only way we can do that is through contact tracing.

We need to have education. We have education now. We need to continue to do that.

□ 1850

We need to escalate that. We need to be talking about the AIDS pandemic in every institution in this country. We need to be talking about it in schools, in our homes, and in the churches. We need to spend more money on scientific research. As fast as our scientific community can assimilate and use the money we are giving them and the information that they already have, then we ought to give them more; but we should not just throw money at the problem. We should spend it in a responsible way with scientific projects that are going to glean results.

Those who have AIDS virus, we should give them as much as we possibly can, the psychological help that they need to deal with this pandemic. We have people who have the AIDS virus going off the deep end and trying to infect everybody that they can. There was a show on television not long ago about a lady who was infected by a fellow she was going with, I believe it was down in Texas, and she said she was deliberately going out trying to find as many men as possible to infect before she succumbed to the disease.

So we need to give people psychological help as well as contact tracing to stop that sort of thing.

And also there need to be penalties for those who like this lady continue to go out and infect people. Those penalties may just include constraining them, putting them in the sanitarium so that they cannot continue to do that, once they have proven that they are going to go out irresponsibly and kill other people after they know they are infected. And finally those people who have the AIDS virus, we need to make sure their civil rights are protected. We need to make sure that their housing and their jobs and their health care benefits are protected. We just cannot cast them aside like lepers. We have to be concerned about them as well.

So we need a comprehensive program to deal with this thing. Until we come to grips with it, we are going to continue down the path toward national suicide as far as a lot of these young people are concerned.

The most rapidly growing area in my view of those infected by AIDS in the next decade are going to be teenagers, the kids between the ages of 13 and the people up to 30 or 35 because that is a very sexually active age. We are going to lose a lot of the productive members of our society if we do not come to grips with this with a comprehensive program.

I want to just say also to those who have the AIDS virus and do not know it, their lives are shortened dramatically. A Dr. Salzburg came into my office to see me last week, and this is very important. I say to the gentleman from California [Mr. DORNAN], he will find this interesting: he did a graph, and I am going to have this graph blown up so I can show it to my colleagues at some future time on this floor. He shows that if people start using AZT by the year 1993 or 1994 you are going to cut the number of people infected by AIDS in the future by between 40,000 and 60,000 per year. How does that work? What it means is that if a person starts using AZT as soon as they find out they know they have the AIDS virus, it cuts down their infectivity. They are not as contagious.

So what happens is the minute they start on AZT it cuts down their ability to spread it. They can spread it but not as easily.

So according to these charts and graphs that the doctor has done, in a scientific way, we find that instead of by the year 2005 having over 110,000 new cases of AIDS per year—and I think that is low—110,000 new cases per year, it would drop to about 40,000 or 60,000 cases. So we would stop the spread of AIDS dramatically by doing that because we would know who was infected and we could get them on life-sustaining drugs in a quicker fashion.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank the gentleman for yielding.

Mr. Speaker, we have the most modern health systems in the world. In spite of that race in Pennsylvania which seemed to center around one issue of health care, we still have the best health systems in the world. People still come from Canada if they can afford it, in spite of their excellent health facilities, to get the advantage of state-of-the-art medical care.

One of the reasons, as the gentleman from Indiana has pointed out over and over again on the House floor, the reason this is cutting through Africa like a scythe, like a black plague from Europe in the Middle Ages or the Dark Ages, is that they do not have health systems or the financial wherewithal to cope with passing out AZT or something.

So I got this out of the notes of the gentleman from Indiana's notes up here on the desk, but since he did not take it down to the lectern with him, let me just add something that is a breakthrough that I saw in my own Blue Cross magazine which all of us who are on that system—which is most of us in the House and Senate—get in the magazine Inquiry. It said that the lifetime cost of treating each of the more than 324,000 Americans expected to be diagnosed with AIDS from 1991 to 1994—that is 3 years and I agree with the gentleman that is a conservative, low figure, the 324—the average lifetime cost will be $85,333. But here is the new thing that has been projected in Inquiry magazine for the first time: What is it going to cost someone like Magic Johnson to take medicine while they are just HIV-infected? Estimates based on the cost of treating people with HIV only, only, after they are diagnosed with AIDS, the medical cost of the AIDS epidemic, it is going to cost $5,150 per year, for the average cost of those who tested positive but do not have AIDS.

Now there is a mystery here about Earvin "Magic" Johnson. He was so manly and so courageous in the way he faced this at the press conference; but one question I saw some sportswriters write about: If he had not found himself exhausted in his play, and this is one of the highest heartbeat pulse rate, no quarters or downs to catch your breath sport, it is back and forth, back and forth. Ice hockey, European football, our soccer, are the most demanding sports as far as keeping your heartbeat up. If he could continue to play, if the doctors had said, "You tested HIV-positive but you continue to play for another 2 or 3 years until we see it manifest itself in your health something," would he have come forward? Some people say well he was so manly he probably would have, but then others say most people would keep this hidden because of the prejudice in the job market.

Would he have jeopardized all of those sponsors from Pepsi-Cola to name it? Maybe not.

So he announced it because his doctors said, "You must quit playing basketball, you big giant healthy guy." Obviously he is in that category where it is already starting to take its toll on his health. So he immediately goes on medicine.

So he starts out at the $5,000 category, which is a mere drop in the bucket for a multimillionaire sports figure, and somewhere between $5,000, upping that to the average of $85,333, a big frame, healthy guy like that would probably have to pay more of everything, so we are talking about probably $5,000 to $100,000, on a sliding scale going upward, with all the money he has invested over the years he can cope with this. There are a lot of poor people, drug users in the alleys who have it, who cannot, the prostitutes, as the gentleman pointed out, the prostitutes in Bangkok, downtown Lagos, Nigeria. Where is all this money going to come from to buy all these medicines?

So these cost figures are frightening.

Mr. BURTON of Indiana. I thank the gentleman for that addition. That is one of the reasons why we need this comprehensive program to deal with it, because the comprehensive program would help provide the health care and the psychological help that is necessary as well as protecting the civil rights. The gentleman talked about the people not coming forward because they are concerned about losing their job or losing their health benefits. That is why we need a comprehensive program that will encourage people to be tested. I hope we have a compulsory testing program for everybody.

But that would show them that the Government is going to protect their civil rights, their jobs, their houses, their health care benefits. If people know that, then the danger to them from an economic or health standpoint will be minimized.

Mr. Speaker, it is extremely important that this body and the Department of Health and Human Services and the Centers for Disease Control come to grips with this as quickly as possible. We have been treading water long enough. I am very concerned we are going to have to condemn maybe several million more people to die because of our action or lack of action in this Chamber.

Mr. Speaker, I yield further to the gentleman from California.

Mr. DORNAN of California. I thank the gentleman for yielding further.

At this point, just in case the cameras that are panning the House only show that there are four Members here—Mrs. BENTLEY is going to do another one of her highly enlightening and sterling special orders, maybe Mr. WOLPE is going to do one—but BILL BROOMFIELD told me the other night, as he sits in his office working, and he is one of our two senior Republicans who got elected in 1956 and hence is the ranking Republican leader on our Committee on Foreign Affairs.

Mr. BURTON of Indiana. He looks younger than that.

Mr. DORNAN of California. Well, he watches this in his office. We may have 30 or 40 people watching in their offices. But we know that there is 1½ million out there in the C-SPAN audience. So all those people who are tracking this carefully, let me add a Colman McCarthy quote, the last paragraph that I did not have time to read in my 5-minute special order. Anybody who looks at the written RECORD tomorrow can look at the article in its totality. But let me read what he said in his last paragraph. You remember I ended up by saying that Jesse Jackson is out there, a Baptist minister, trying to recommend abstinence. But what is he up against? Magic Johnson with all of those million-dollar contracts with Pepsi, Nintendo, Kentucky Fried Chicken, et al.

Here is McCarthy's last paragraph:

> The outpouring of public sympathy to Johnson is well-placed. But little of it qualifies him to act as if his safe-sex message is an answer worthy of his audience.
>
> The young deserve better. They are more than their genitals. But to much of society, calling for abstinence, restraint and morality is equal to prudery. Better to be a dude not a prude.

□ 1900

My own footnote here is: "Look at the way they tried to handle our own colleague, Vice President DAN QUAYLE, because he said 'Abstinence may be the principal thing we should leadoff with the talk to children.'"

Back to McCarthy:

> This is the standard set by fellow basketball star, Wilt (the Stilt) Chamberlain. He is currently hustling his autobiography, which boasts of his off-court scoring: sex with 20,000 women since age 15, 1.2 romps a day for 40 years. If Chamberlain had announced he had had a double fudge sundae every day for 40 years, or a daily two-pound sirloin, he would be called psychopathically self-indulgent and hauled off to the local eating disorder clinic. His sexual addiction has the national media salivating for details. Wilt the Stud has a message for kids: I got mine, go get yours.
>
> Magic Johnson refines it a bit: I got mine, go get yours but be safe.

Mr. BURTON of Indiana. Can I interrupt just for a minute there?

Mr. DORNAN of California. Sure.

Mr. BURTON of Indiana. As my colleagues know, Magic Johnson has just accepted the President's offer to be on the AIDS Commission, and Magic Johnson, I think, is well intentioned. I really do.

Mr. DORNAN of California. I agree.

Mr. BURTON of Indiana. And I think, if Magic Johnson studies this issue, as the gentleman from California [Mr. DORNAN] and I have over the years, and he gets on that Commission and starts telling the young people of this country that abstinence is the way to go, a monogamous relationship once they are married, and, if they have to go out and do these things, and I do not recommend it is what I hope he will say, but, if they have to, then safe sex, safer sex, with a condom, is the right thing to do, but the best thing and the only way to be sure that someone is going to survive to maturity and live to a ripe old age is to make sure they do not involve themselves in sex outside of a monogamous or marriage relationship. If he would do that, if Magic Johnson would go on that Commission, he would do such a service for this country, and I think every parent, every grandparent, everybody who loves their kids and grandkids and who wants to see them grow into a ripe old age, I think they would applaud him, and he would go down in history as one of the truly great Americans.

Conversely, if he goes on that Commission, as the gentleman from California [Mr. DORNAN] said, and he continues to talk about safe sex, which does not exist, and we find kids getting AIDS, as they will in the future while using condoms which are perceived as safe sex, people will look upon Magic Johnson as a person who had the wrong message and, thus, caused their loved ones to die prematurely.

So, I just say to Magic Johnson who may be paying attention, or anybody else who might be on that AIDS Commission, "Give the true story to the people of this country. There's no such thing as safe sex outside of a monogamous relationship except abstinence," and we have got to tell them that. If we get that message across, that will be great.

Mr. DORNAN of California. The gentleman from Indiana [Mr. BURTON] is precisely correct. The very position from where you stand, last Wednesday I recommended that the President offer the Commission spot to him for a lady that had died of AIDS, and I hoped that he would accept, and then I espoused, much more briefly than the gentleman, the same fears that he has, that he can do this right, or he can continue on this early path that we hope was just born of the shock of learning that his career was coming to an end and his life may be terribly shortened, and it is a perfect place for me to put in a couple of paragraphs from Pat Buchanan's column, and I really will only mention about less than a fourth of his column.

> In the ease and even humor, with which he stood up at that press conference to announce he had the AIDS virus—and hence was under sentence of death—nobody in the sports media particularly wanted to use those words; that is true, Magic Johnson was a class act. As he has been for more than a decade for the Los Angeles Lakers.
>
> But the way in which America's chattering classes (in Peggy Noonan's phrase) reacted reflects the immaturity of our age. As with the death of Maryland's All-American Len Bias, of a drug overdose, Johnson's stunner unleashed a torrent of nonsense.
>
> Rep. Tom Downey, New York Democrat, rushed to the House floor to wail: "Magic, we need you more then ever. We need you to remind us that government must take the lead in stopping the spread of AIDS."
>
> Government? But how is "government" supposed to stop the spread of AIDS? How, after all, did Magic contract AIDS? Here is what one gutsy sportswriter—

Almost a voice alone,

> Peter Vescey, USA Today, wrote the day after Magic's announcement. "At the same time as much as I'm shocked. I'm not shocked. Magic's promiscuous bachelor lifestyle these last dozen years—I doubt he has ever heard the word 'no'—left him brutally exposed. . . . Even in this day and age of AIDS, an awful lot of players pass around the same women in every city."
>
> Magic was "my role model," says Wilt Chamberlain, who brags in his new book about having slept with 20,000 women. Is government supposed to stop the spread of AIDS among athletes fornicating like that? How? Are we to put federal agents outside every locker room in the NBA to hand out condoms as the players head out with their groupies for a night on the town?

And then rushing way forward, Pat closes:

> Thanks to "lifestyles" pursued by millions who emulate Wilt and Magic, two of three black children in our inner cities are born to unwed mothers, raised without a father's care. And test scores fall, kids drop out, drugs are everywhere, and one in four young black males is in prison or on probation or parole.

And the white statistics are catching up, closing the gap quickly as our century closes out.

> The Hollywood pace-setters of our popular culture may live a lavish lifestyle on money made mocking traditional morality, but the society that drinks of their delicious poisons also dies of them.

President Bush insists that "changes in behavior" will stop the epidemic, huffs the New York Times, but how will those changes occur if the President himself continues to disappear from leadership against this virulent enemy?

> Can the Times be serious? Can anyone believe 10 televised speeches by Mr. Bush is going to roll back a Sexual Revolution, when a body count of 126,000 dead of AIDS has failed to do so?
>
> In their outpouring of affection for Magic Johnson, many are trying to evade the issue of moral accountability. Times columnist Anna Quindlen is particularly upset with those who raised the question:
>
> Over the last year we have witnessed in canonization of one AIDS patient, a 23-year-old woman named Kimberly Bergalis who says that she "didn't do anything wrong." This is code, and so is her elevation to national symbol.

I guess Anna thinks the gentleman from Indiana [Mr. BURTON] and I are guilty of praising Kimberly also.

> Kimberly Bergalis is a lovely white woman with no sexual history who contracted AIDS from her dentist. She is what some people like to call an innocent victim.

Back to Buchanan:

> Again, sorry, but there is a moral distinction between Kimberly Bergalis and Magic Johnson that cannot be lost. It is the difference between a young woman who has been mortally crippled by a reckless driver, and a reckless driver smashing into a tree. Every AIDS victim merits compassion, but not every AIDS victim is blameless.
>
> Magic Johnson gave Americans last week an example of manly grace under pressure. But, if this society is ever going to turn away from the suicidal course on which it has embarked, it is going to need more than Magic's admonitions to "practice safe sex."
>
> The New Testament asks: Who among you, if a man asked for bread would give him a stone? Yet, as the bright-eyed children of tomorrow look to us with hope, for the Way, the Truth and the Light, we tell them to hold out their hands—and give them a condom.

Magic Johnson is not the only one carrying a fatal virus.

Mr. Speaker, I thank the gentleman from Indiana [Mr. BURTON] for taking this special order.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from California [Mr. DORNAN] for his contribution, and I would just like to say in closing that Kimberly Bergalis, we met her parents, and she was here. Kimberly Bergalis is a courageous young woman, and I wish her and her family well, and she has been sending a message up here that we need to have a comprehensive program to deal with it, including testing. She has done a great service for her country, and her parents have done a great service for the country. We appreciate that, and, in closing, I would just like to say that Magic Johnson could do a great service for his country if he would tell young people of this country the straight scoop on this, and that is there is no such thing as safe sex.

Mr. DORNAN of California. You bet he could.

DAVID DUKE, GEORGE BUSH, AND THE POLITICS OF RACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. WOLPE] is recognized for 60 minutes.

Mr. WOLPE. Mr. Speaker, I have taken this special order this evening to share some reflections on the election in Louisiana this past weekend, and what it says about the direction this Nation of ours is heading.

David Duke may have lost his bid to become Governor of Louisiana but his message of hatred and resentment is alive and well. It has many messengers, and many different guises. It is seldom as direct and overt as a white hood and robe, swastika. But it is the same essential message of racism and bigotry—whether it takes the form of a Willie Horton campaign commercial, or it is conveyed through a deceptive attack on civil rights legislation. It is a message that plays upon the fears and prejudices of an increasingly alienated, vulnerable, and insecure population. It seeks to divide people, to sow hatred and to sow distrust.

Mr. Speaker, it is a message that is working. It worked in Mississippi just a few weeks ago. The Governor's race there did not attract the national attention of the Louisiana race, because the Republican candidate in Mississippi did not have in his history the overt symbols of a Klan membership and a Nazi swastika. But the code words deployed were essentially the same as those used by David Duke and they were effective. And the message worked earlier in North Carolina where last year the Helms campaign used a television commercial to stigmatize affirmative action programs as providing unfair advantages to unqualified minorities. And, yes, the message also worked in the President's campaign against Michael Dukakis. Indeed, is there anyone who doubts that even now there are scores of highly paid political consultants out there pouring feverishly over Louisiana's election returns and postelection polls, seeking ways to manipulate racial fears and prejudices even more subtlely and effectively in the elections ahead of us. Because in a society that has never really come to terms with the issue of race, it is a tactic that works.

Race has been described as the principal fault-line of the American political system. But in the sixties and seventies, the emergence of a mass civil rights movement gave testimony to the deep yearning of Americans to come to terms with that part of our history that was so at variance with American ideals. The voices of leaders such as Martin Luther King, Cesar Chavez, and John Kennedy inspired all of us to dare to believe that we could in fact create a more just society and a more peaceful world. And, as American celebrated the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968, the structure of law and custom that had made minority Americans second-class citizens and closed them out of the key institutions of the society began to change. These legislative achievements did not occur without struggle, but they gave expression to the determination of the vast majority of the American people to address the deep-seated racial inequities of our society.

But if we look around America today, it appears that all that we have worked so hard to achieve in past decades is now at risk. Racial and ethnic tensions have intensified. Our society is increasingly polarized along racial, ethnic, and economic lines. And now we see certain of our leaders and would-be leaders, instead of working to bring us together, playing upon our racial fears and prejudices and developing race-based political strategies. All of us need to be very clear about how high the stakes of this cynical game really are: the effort to manipulate racial divisions for political advantage will ultimately prove enormously destructive to the entire Nation.

Yet most white Americans, recent public opinion surveys indicate, are increasingly receptive to these race-based negative appeals. They feel that the most egregious forms of racism and discrimination are a thing of the past. Moreover, as America's economic strength has eroded, white anxieties about their own economic status and future have intensified. Middle-income Americans, in particular, are being squeezed as never before, and they are frightened for themselves and for members of their families. So it is not surprising that they have become increasingly resentful of affirmative action programs that, in their view, are designed to give to minority Americans unfair and unjustifiable special advantages.

Given some dramatic changes that have occurred in the past three decades, current white perceptions are understandable. Increasing numbers of blacks have in fact been elected to local governments, State legislatures and the Congress. Colin Powell is but one of a long list of African-Americans that have risen to prominence within America's military establishment. The doors of corporate America have opened and black college graduates find themselves in demand. More blacks have entered the Nation's middle-class, with the percentage of black families with incomes over $50,000 at its highest point ever, about 10 percent.

But as significant and hopeful as these developments have been, the harsh reality is that they have not touched the lives of the vast majority of minority Americans. Over two centuries of racial subordination and discrimination have taken their toll, and significant racial inequities persist. For the most part, African- and Hispanic-Americans continue to lack the education, the skills and the resources to take advantage of the opportunities created by civil rights legislation. Minorities can now seek redress in the courts if they are discriminated against in their efforts to secure decent housing, but few have the resources to purchase housing outside of their gehettoized communities. Minorities can go to court if they experience job discrimination, but few have the education and skills to land the better paying jobs; the number of middle-class minority families may have increased, but 50 percent of black Americans continue to live in poverty, three times the percentage for whites. Black college graduates may be in demand, but the number of African-Americans entering and finishing college is actually declining. Indeed, continued racial inequities are literally a matter of life and death: a black baby is twice as likely to die within its first year of life as a white infant, and African-Americans have over 6 years lesser life expectancy than white Americans.

That is the reality but that is not the way the world appears to middle-class working Americans. These folks have seen their own living standards steadily erode this part decade. They have seen their hard-earned tax dollars go to finance tax cuts for the rich and programs targeted at those who are even poorer than they. They have seen their jobs eliminated or threatened by foreign competition, and they are struggling to send their children to college or to provide medical care for themselves and the members of their families. These Americans have their own, legitimate set of grievances and they have come to feel increasingly powerless, the victims of economic and political forces they cannot control.

In a very real sense, America is at a turning point. We can either continue down the path of race-based political strategies, a path that can only lead to deeper inequalities, greater divisiveness, and more intense conflict and violence or we can begin to address—by action, not by lipservice—the real issues that confront all Americans, that transcend the boundaries of race and ethnicity, and that will permit us to forge a new sense of national unity and common purpose. We can either opt for a politics that manipulates our divisions, that feeds multiple hatreds and resentments, or we can opt for a politics that offers a unifying vision of a more fair and secure future for all Americans.

Mr. Speaker, my hope is that as we all reflect on the political turbulence that is swirling all around us, we Americans will come to recognize that just as we will all be losers if racial conflict becomes more intense and more violent, so we will all be winners if we can move aggressively to attack the problems that are making all Americans feel threatened and insecure.

Our Nation faces challenges on many fronts, but surely none is more serious or troubling than America's economic decline. All Americans—whites no less than minorities—will be hurt if this decline cannot be arrested. The real enemy of beleaguered workers today is not affirmative action programs designed to overcome a legacy of race prejudice and discrimination, but an economy that does not provide secure employment for all Americans. The solution is not to fight over who gets the limited number of jobs available, but to create more jobs and to train people to fill them.

This last point deserves special emphasis. For it is increasingly clear that the only means by which America will be able to hold its own in international competition in the years ahead will be the development of a better educated, more highly skilled work force. When our eductional system leaves large numbers of people unable to perform in a modern economy, we all lose. And it doesn't matter whether the uneducated and unskilled are black or white or brown. If our economy continues to lose ground to our trade competitors in Europe and Asia, we will all pay an increasingly heavy price. But if we can turn this economy of our around, if we can reinvigorate our educational system, if we can insure that American workers will be given the necessary training and skills, if we can regain our competitive edge, then we will all win.

Thinking about issues of social conflict in "win-win" terms is often difficult. As author Stephen Covey observes, most of us "have been deeply scripted in the win/lose mentality since birth." It is often taken as a given that one person's victory is another person's defeat. But, in Covey's words, "* * * most of life is not a competition. We don't have to live each day competing with our spouse, our children, our coworkers, our neighbors, and our friends. 'Who's winning in your marriage?' is a ridiculous question. If both people aren't winning, both are losing."

"Most of life," Covey continues, "is an interdependent, not an independent, reality, and most results you want depend on cooperation between you and others. And the win/lose mentality is dysfunctional to that cooperation."

And so it is with the politics of race. Whenever we think black gains mean white losses, or that the security of whites depends upon continued black subordination, we are still in a win/lose mentality which ultimately means we all lose.

Mr. Speaker, if ever there were a time for Americans to be united, surely it is now. If ever there were a time for Americans to be reminded of our interdependence, surely it is now. If ever there were a time for our national leaders to remind us, not of our differences, but of what we as Americans hold in common, surely it is now. It matters not whether one is black or white or Hispanic or Asian or Arab; it matters not whether one is Protestant or Jew or Catholic or Moslem. What does matter is that we are Americans all—believing in the American dream of a just and open society, in which all might live out their lives in dignity and security, and in which every individual will be free to realize his or her fullest potential.

It is clear that the key to turning things around, to creating a more secure and hopeful furture for all Americans, is to make those public investments essential to economic performance. There is so much work to be done: we should be investing, now, in education, in job training, in research and development, in environmental clean up, in the rebuilding of our public infrastructure, in constructing a system of national health insurance, in restoring blighted urban areas. Instead of allowing ourselves to be played off against each other, we must insist on an aggressive domestic agenda that would address the underlying problems that feed the anxiety of Americans and fuel racial and ethnic conflict.

Mr. Speaker, there is no question that the message of David Duke will be heard again in the weeks and months ahead. But I am convinced that the vast majority of Americans will reject this message, as long as they believe that their grievances will be addressed, that their government will begin to respond to the needs and aspirations of all Americans for a better and more secure future. Most Americans understand the dangers that the David Dukes of our country represent and in Louisiana voters turned out in record numbers to overwhelmingly repudiate the racism and bigotry of the Duke candidacy. Likewise, in Pennsylvania, when voters were offered a positive alternative to do-nothing domestic policies—an alternative responsive to the needs of working-class Americans for tax relief, for national health insurance, and for a more secure economic future—they produced one of the most extraordinary political upsets of the decade. Neither outcome was predicted: Only a couple of weeks ago, many commentators were saying a Duke victory was almost inevitable. And, in Pennsylvania, Democratic Senator HARRIS WOFFORD began his campaign as a political unknown with a 44-point deficit in the polls. What an eloquent testament to the power of an aroused citizenry, motivated not by a divisive appeal to racial fears and prejudices, but by a unifying sense of new hope and possibility.

Mr. Speaker, the past two decades have seen a dramatic withdrawal from political participation throughout our Nation. Some commentators have read this decline in political activity as symptomatic of voter apathy and indifference. I don't buy it! It is not indifference or apathy that has turned off the voters, but rather a profound sense of political powerlessness. Americans everywhere have come to believe that the Government is divorced from their real needs and concerns, and that average citizens simply don't count for much—particularly in comparison with powerful economic interests. And, while this sense of impotence is understandable, particularly given the unresponsive nature of our political institutions the past several years, it has also produced a self-fulfilling prophecy: Feeling powerless, people have become powerless. Fewer people have been voting, or petitioning, or demonstrating or, for that matter, even reading the newspapers.

Mr. Speaker, the real lesson that we must take from Louisiana and Pennsylvania is that people do count, and that we can make a difference, a profound difference. When we register and vote we have the power to change our path, our Nation, our future. We, all of us, have the power and we are now beginning to use it.

□ 1920

McDONNELL DOUGLAS JOINS WITH MITSUI

The SPEAKER pro tempore (Mr. CARR). Under a previous order of the House the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, there is an immediate concern about our aircraft industry that I want to mention before giving the full text of my remarks.

McDonnell Douglas' financial difficulties have been presented to Americans as the "Perils of Pauline" story of the aerospace industry. Financial failure was fast moving in on the company without quick Government action. The Defense Department denied it would bail out its largest defense contractor, but at the 11th hour newspapers reported DOD would help the company. Now Americans can find out the outcome of that help.

The Japanese company, Mitsui & Co., is taking a 10-percent interest in the $4.5 billion development cost of McDonnell Douglas' next generation passenger plane. Mitsui, acting as an agent for McDonnell Douglas, will also hand out jobs to U.S. parts makers.

Although the Mitsui Co. does not have an aerospace company in its corporate group keiretsu—it will for practical purposes have one with McDonnell Douglas' recruitment of the big three Japanese firms of Mitsubishi, Kawasaki, and IHI which have aerospace experience. The American aerospace industry is about 65 percent of the total world sales, both civilian and military. With this rescue of McDonnell Douglas, the true winners may be the Japanese.

□ 1930

AMERICA'S CHALLENGE

Mr. Speaker, my other concern is how this country is going to meet the challenge of revitalizing American industry.

The last several years we have hotly debated in this Chamber the future of the United States and the role our country should play in world trade. Before further debate, we should first clarify what we are discussing. Businessmen and policymakers throw around terms about free trade, fair trade, globalization, and internationalism, and use them interchangeably. Just what do they mean?

Perhaps we can work our way through the maze of terminology by establishing some ground rules and what is fact and myth. How can we debate what needs to be done, if we do not have a clear picture of our business climate. What is the truth?

Is it a fact or myth the multinational companies are the major source of creating jobs in the U.S. economy?

Warren Brookes, writing this week in the Washington Times pointed out in Big Business and Stagnation that "from 1982 to 1989, U.S. multinational companies generated a domestic employment gain of nine-hundredths of 1 percent, while the Nation's total nonagricultural payrolls rose 21 percent. These big corporations which produced the equivalent of 70 percent of the Nation's final sales in 1982 contributed only 15 percent of total gross national product from 1982 to 1989."

That is a fact not a myth.

And Labor Secretary Lynn Martin was quoted in the article that "two out of three new jobs are created not by big corporations but by small and midsized businesses."

That is fact not myth.

We have heard how America cannot compete in the world market. That the Nation is in a state of decline.

I quote a July 1991 Trilateral Commission report that, "contrary to prevalent opinion, the American share of world product has held steady at roughly the same level of 23 percent from 1974 to 1990." Remember the United States is the world's largest market. I might add that the trilateral countries of the United States, Japan, and Europe account for 60 percent of the world economy and have 12 percent of the population.

That is fact not myth.

Most people believe that currency in world markets is generated by commodities and goods. The Trilateral Commission also reports that "today the international economic system is dominated by financial factors."

> Thirty years ago, most foreign exchange transactions were closely related to the transfer of goods and services across national frontiers. Today only some five percent or less of foreign exchange transactions reflect world trade in goods and services.

That is fact not myth.

Just how are we financing these transactions? A 1989 Wall Street Journal article reported that for domestic purposes 39 percent of the big companies in America with sales in excess of $5 billion use Japanese banks.

I would guess the figure is higher now. Small companies go wherever they can for financing. In the old days the door led to their friendly neighborhood banker, but in today's climate—no one wants to listen to the small businessman.

That is fact not myth.

Just how do these statements affect our discussions. What is lacking in the statements I made are people and how these facts translate into opportunities for working Americans.

When we read the headlines about the profits of the largest multinational companies, how does this translate into jobs. As of now, most companies blame their hiring figures on the recession, which is a contributing factor. But other reasons also are involved.

An example is Raytheon moving the next generation Patriot missile to Germany.

Despite the company denials, almost 2,000 people will be laid off in Massachusetts next year when that happens.

Zenith Corp. is trying a different scenario. It is shifting jobs from Taiwan to Mexico—and it is also shifting American jobs to Mexico. Those new employees will join the thousands of Zenith employees now in Mexico. The advantage to Zenith is it can use low-cost labor and ship the goods into the United States duty free.

Burton Pines, vice president of the Heritage Foundation, was quoted in the Washington Post saying that assembling sets is a primitive technology and, therefore, beneath the U.S. dignity. He may believe it is primitive technology, but when you need a job it pays better than fast food chains.

The fast food chains will have somebody to sell to.

Already in Mexico are the auto assembly plants and other companies too numerous to mention. All the plant moves have been done in the name of competitiveness and costs.

We are, according to the economists, shifting to a service economy from an industrial economy. Actually, many of us already believe that that shift has taken place, that the manufacturing is all but gone except for the assembly plants that are around and, because so many of the manufacturing plants are gone, the service economy is not thriving either.

Again, I want to quote Mr. Akio Morita, chairman of Sony Corp. and the coauthor of the controversial book "The Japan That Can Say No."

In a New York speech he said in talking about the shift to a service economy that:

> It is clear, at any rate, that this shift in manufacturing to services is well advanced in the United States, a country which since 1950 has lost half of its manufacturing jobs and where almost three quarters of all jobs are service oriented.
>
> What I would like to suggest to you today is that this trend, far from being the natural progression of a maturing economy and something to be encouraged is destructive for in the long run an economy which has lost its manufacturing base has lost its vital center.
>
> A service based economy has no engine to drive it. Thus, any complacency about the world's most powerful economy moving from manufacturing to services is entirely misplaced.
>
> It would seem obvious that the service elements of any economy are entirely dependent upon a manufacturing industry which can develop the new technology that defines our civilization.

As I have previously stated, I agree wholeheartedly with Mr. Morita.

He says we must manufacture and yet we are busy shifting to a service economy. Small- and mid-sized business still are creating two out of three jobs. The United States is still the world's largest market—and yet we busily are arranging new trade agreements which, ultimately, will lower our standard of living.

According to Prof. Robert Reich of Harvard, only 20 percent of working Americans will do well and the rest will have a hard time.

Given the facts I have stated, my reaction to Professor Reich and others who have made the same statement is the American dream is not yet dead but we are in the process of killing it as fast as we can with poor policies.

□ 1940

The Washington Post article, "A Tightening Grip on Jobs", on November 3 explained how Americans are losing their jobs and the difficulty they are having in finding another job—if possible. The story listed job cuts since June 5 of just a small area, limited numbers. And I might point out, many of these are white collar jobs. He points out that USX has laid off 2,280; city of New York service economy 6,300; Shell Oil, 4,650 industrial; Seagate Technologies, 1,650; Chemical Bank & Manufacturing Hanover, 6,200 Service; Unisys, 10,000; Pan Am, 5,000; Atlantic Richfield, 1,500; the State of Maryland service, 1,700; Westinghouse, 4,000; Boeing, 2,500; Allied Signal, 5,000; Compaq, 1,400.

That group makes a total of 52,180 people—white collar and blue collar—on that list who lost their jobs recently. I know these job cuts are scattered around the country, but to better understand what it means to lose this number of jobs, just think of the total 52,180 as a small American town in your State. Let's call that town, Everywhere City. What would it be like to wipe out Everywhere City, IA, or Everywhere City, CA, or Everywhere City, IL? Just think about it—a town of 50,000-plus with no means of employment for its citizens. When Everywhere City stops spending, it affects other working Americans.

Included in the article about unemployment and what I call the unemployed of Everywhere City is the fact that "the number of manufacturing jobs in the Nation fell by 32,000 in October." Reporting the effects of a 250-person layoff by Rockwell, the story explained that the city of New Castle would lose 5 percent of its tax revenues which would further erode the financial position of the school board. That means that in that town, 250 people laid off, the city of New Castle would lose 5 percent of its tax revenues. That is now the cycle effect everybody.

How did the school board get in such a situation? Remember the recent articles about Bridgeport, CT, declaring bankruptcy and the fact that Philadelphia cannot pay its bills. They are just two of many cities and counties with big deficits. A partial reason for this situation was explained in another Washington Post article.

A companion piece to the unemployment article was "U.S. Firms Look Abroad for Capital Expertise." The story by John Burges explained how companies like Time-Warner went to the Japanese for funding and in return gave them a piece of the business. The business deal was done to create synergy for their products.

Mr. Burges also quoted Burton Pines about the Zenith move to Mexico. Mr. Pines sees the "Zenith move as evidence that the proposed free-trade agreement with Mexico will work. If the Mexican economy is bolstered through investments like this, it will ultimately generate a higher standard of living and import more from the United States."

If we lose jobs to Mexico as we are with the Zenith move, then what happens to those unemployed people? What is happening to those 52,000 unemployed in Everywhere City?

If we continue to shift to a service economy then what will Mexico buy and what happens to our standard of living? Professor Reich says only 20 percent of working Americans will do well.

Have we now arrived at the place where Japan is and which the new Japanese Premier Mayazawa says must be changed. The Premier stated, "Japanese policy up to now has been to give priority to industrial production. * * * not to lifestyle and domestic consumption. * * * The nation's economy is rich but the people don't feel rich. That says something is wrong with Japanese policy."

The United States is a powerful nation with the world's largest economy, but Americans are having a tough time and our economists tell us that our standard of living is going down. Losing jobs to other countries or selling our key industries all in the name of competitiveness still leaves the unemployed in a precarious position, including their dependents. Some of the companies bought by the Japanese will employ Americans, but by selling these American companies we have insured a loss of the United States competitive edge and a further eroding of our industrial base. And I might also point out here, as a matter of fact, in all of these Japanese companies, as was given in some hearings that have been held here, Americans never move up into the management levels, or the higher management levels.

In the 3-year period from October 1988 to October 1991, Japanese investors bought more than 400 high-technology companies in the United States. Most of the companies acquired produce leading edge technologies. They purchased 15 aerospace companies, 22 electronics, 24 telecommunications, 25 semiconductor manufacturing equipment, 45 semiconductors, 48 advanced materials and 70 computers companies.

We must think about the facts and myths of the American industrial situation. As we do we should remember that:

One, the United States is the world's largest market.

Two, America has held its position of 23 percent of world market share since 1974. Before that time we were coming off a wartime economy.

Three, small business is the job generation in the United States, not the multinational company.

Four, big American companies with over $5 billion in assets are going to Japanese banks for domestic purposes.

Five, America has the highest overall productive rate of any industrialized nation.

But, six, if we do not manufacture, we cannot even have a thriving service economy.

Just what do these stories and facts and myths mean? Should we let economists and policymakers interpret them for us or should Congress and the American businessmen and working Americans begin to examine the issue for themselves?

We cannot consider just Japan in a discussion of correcting our problems, but we must begin now to revitalize America's industrial base.

The facts and not myths that I mentioned clearly show we are a giant, but we have allowed ourselves to believe we are weak.

We have the innate talent and creativity—the know how and most of all the will to keep the American dream of opportunity alive. It just depends on how well we plan and act together.

To that end, I am introducing a resolution urging a White House conference to examine ways to revitalize our industrial base, because I do believe working together we can meet any challenge. It is a fact, not myth, that the American people can change our situation. What we have to do is get out of the way and work with them in revitalizing America.

□ 1950

THE CRISIS IN HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. OAKAR] is recognized for 60 minutes.

Ms. OAKAR. Mr. Speaker, I want first of all to associate myself with the previous speaker, the gentlewoman from Maryland [Mrs. BENTLEY]. I could not agree with her more that we are losing jobs and we are losing, most importantly, our industrial base in this country. We can do better. I applaud her for recommending a White House conference on this, but we had better get with it and start thinking of our own people in this country.

That is why I want to talk a little bit tonight about a very related issue to unemployment and a related issue to the needs of the American people, and that is the crisis in health care that we have in this country. It really is scandalous when you consider the wealth of this country and the fact that we believe we are the greatest country in the world, but we are not the greatest when it comes to having affordable universal comprehensive health care for every American, and it ought to be considered a right.

I had the privilege of serving on what has become known as the Pepper Commission. There were 15 members on that Commission. It was bipartisan, and interestingly enough, I was the only woman out of 15 on that Commission; but the point is that I learned a lot. I want to share some thoughts about what I think we ought to do, and in that line I have formed with 90 other Members a bipartisan caucus on health reform, because we had better do something about the crisis.

First of all, we ought to know some very simple facts, and that is that we are the only industrialized country, with the exception of South Africa, that does not guarantee comprehensive health care for every citizen.

Health care, as I mentioned, ought to be a right, not a privilege, and yet we have 37 million Americans with no access to health care and a good number of these individuals are children. Talk about a family issue. It is an all-American family issue. These 37 million Americans without health care and insurance in this country are from working families, 88 percent are from working families, so they are the workers of America that we are talking about.

What happens to people when they lose their jobs? They very often lose their health insurance and all the other benefits that sometimes go along with their jobs. These are workers who do not get health care as part of their benefits, 37 million.

In addition, we have 40 million Americans who are underinsured. For example, if an individual male has a policy that covers his family, and yet when his wife becomes pregnant, her pregnancy is not covered or having the child is not covered, that person is underinsured. That is just an example of the many elements of underinsurance.

I will bet if the average American reads all the fine lines of his or her health policy, he or she will find that one might be part of that underinsured 40 million Americans.

In addition, we have another 8 million Americans, and these are conservative estimates, who need long-term care.

What do we mean by long-term care? We ought to have a policy in this country that says that we guarantee health coverage from the cradle to when one passes away.

We have needs for home care services. A lot of people are institutionalized who do not belong in institutions and nursing homes if they had congregate services at home. They could have a visiting nurse come to them, if they could have a nutritionist or other doctor come to their home and help them or even help with homemaker services, for example.

We certainly demean our elderly and our children and our middle-aged people who need nursing care, because in order to get comprehensive nursing home care in this country, you have to be down and out poor. You have to lose everything before you can have as your right to get nursing home care in this country.

When we talk about long-term care, we are not just talking about care for the elderly. We have many, many families who have children that they want to take care of at home, children with chronic diseases, yet very often they have to institutionalize that child because they do not have the congregate services for the home.

We have 70-year-old kids taking care of 90-year-old parents, because the fastest growing population, and this should be good news, but it is not to many families, the fastest growing population are people over 85; so we have these 8 million.

So when you add it up, you have 85 million with little or no insurance.

Now, what do I want to do? What do I believe we should do based on my limited knowledge that I have, and I am still learning, let me tell you. But what do I think we ought to do?

First of all, I think it ought to be a right of every American, just as it is in Canada, in France, in Italy, in England, and the list goes on and on, Australia, Germany. It ought to be a right that every person in this country is comprehensively covered. But that is not enough.

We have to insure that the standard of our coverage is a high standard. So let us discuss that just for a couple minutes.

I believe strongly that the standard of coverage ought to have three components: acute care, in any outpatient care, hospital care and surgery, the kinds of things one usually identifies with insurance.

We ought to include prevention in our policies. We are way behind in terms of preventing disease or early detection, and that is true of public policies, like Medicare, which by the way covers 45 percent of an individual's needs, and I am a fan of Medicare, but you have to prove you have high blood pressure in order to get a free blood pressure check, but Medicare will pay for the stroke, and that is where all the cost is, plus the fact that you have the high risk, so we ought to include early detection.

I was instrumental, along with some of my colleagues who were very supportive of getting mammography coverage in Medicare, but I want mammography coverage and prostate screening for men. I want that type of coverage in every policy, whether it is public or private.

If you take the amount of savings that you have when you prevent a disease, when you get it at an early stage, you save millions of dollars.

As a matter of fact, I added all the amendments to the Pepper Commission report related to prevention and we found that over a 3-year period we would save $45 billion if policies, public or private, included preventive health care, and yet the insurance industry resists putting that in, because they only analyze budgets on a yearly basis.

Even in public policy, the CBO resists putting in mammography, because they refuse to analyze what happens if you do not detect breast cancer at an early stage. What happens is that it costs $10,000 or less when you catch it at an early stage. It costs $65,000 to $125,000 if you catch breast cancer at an advanced stage, and the risk to the person's life is much more acute; but you have to analyze that type of impact on a 3-year basis, not a 1-year basis, because you have to analyze what happens if the person does not detect a disease early.

Another area of prevention that we ought to have in every policy, and one of the things that is very disconcerting to me, is that the insurance industry is removing this benefit from their policies.

I was privileged to have Betty Ford and others testify before our Aging Committee, saying that we ought to have in every policy treatment for alcohol and drug abuse. We do not give up on people who have an alcoholic problem, but if they do not have any coverage so that they can get the treatment and then afterward join the AA and get that support system, what do we do? How do they get the support system that they need?

□ 2000

And yet we will pay for an individual who gets sclerosis of the liver or who gets a stroke or who gets high blood pressure from various problems related to substance abuse.

So that is another form of prevention. Wellness programs for children, is it not a scandal that we have a 100-percent higher infant mortality rate than Japan? We talk about competitiveness.

Mr. Speaker, my friend, the gentlewoman from Ohio, who is waiting to speak, is Chair of the Competitiveness Caucus. We cannot compete well if our people are worried about whether their children will be immunized against disease. And yet we will pay in policies for polio and tuberculosis and so forth. It does not make any sense to me that we do things backwards.

There is tremendous resistance to put that standard of coverage in public and private policies.

Another form of prevention that I want to see in every American policy and in public policy is I want to find a cure for diseases. It is outrageous to me that our budget has $34 billion for research for the Pentagon to find out more creative ways for star wars and how to form a better cluster bomb and a better missile to attack, and yet only spend $8.5 billion, less than a fourth, on finding cures for diseases.

We give the National Institutes of Health only $8.5 billion to find cures for diseases ranging from prostate cancer to breast cancer to heart problems, et cetera, also childhood diseases, leukemia, so on.

When are we going to start changing our priorities in this country? Do we think it is better to have more creative ways to destroy? We are destroying the health of our own people.

Mr. Speaker, let me give you an example because people always ask about the bottom line in terms of money: Take Alzheimer's disease, which is a prevalent disease. Families are the chief caregivers in this country for their loved ones.

Mr. Speaker, this usually affects those in the later middle ages to older people.

Now, Alzheimer's disease costs the American economy in out-of-pocket expenses $90 billion per year. Now, who can afford it? And that leads, because families do not get a rest—that is, children do not get a rest when their parents have Alzheimer's—so sometimes they get cranky and it leads to abuse and other problems that we see because they just cannot cope with it.

Very often, families cannot afford to even institutionalize the individual because the average nursing home costs $25,000 or more per year. Now, who can afford that?

So we will spend the $90 billion on Alzheimer's and here are these marvelous, dedicated scientists who are so close to finding a cure, and we will only spend a couple of hundred million dollars on finding a cure.

We are absolutely pennywise and pound-foolish.

When you find cures to diseases like the epidemic in breast cancer, the prostate cancers, some of the heart problems and so forth, when you know more about what triggers people to become alcoholics and so forth, you save not only that person's life and improve the quality of that person's life and the impact that that has on the family, but you also save a lot of money when you cure diseases.

Interestingly enough, we spend more on health care and get less, and we have all these people without any insurance. We do not even have long-term care for our people. We have these millions of people who are underinsured. So as a result we spend more, not less, than Canada, than England, than France, than Australia, than Germany, and so on.

As a matter of fact, we spend 12.5 percent of our GNP, Canada 8.5 percent, England, France, and Italy spend about 8 percent, Japan spends 6.7 percent of their GNP.

Yet every single one of their citizens is insured and gets quality health care.

So here is what I want: I have introduced a bill that has a number of cosponsors, I introduced the first bill on universal health coverage that was comprehensive, after I completed my service on the Pepper Commission a year or so ago. It is H.R. 8, universal coverage. It includes a high standard of coverage, acute care, prevention, long-term care.

So the question always is how we are going to pay for it? The answer is, and I already mentioned that we spend 12.5 percent of our GNP, which is 4 or 5 percent more than other countries that provide it for every citizen, and the answer is we already pay for it. We pay $756 billion for health care in this country. And we have all of these underinsured and noninsured people.

How much of the pie is from private plans? We have private plans, the private insurance industry, and we have public plans.

Now, what do I mean by public plans? I mean plans that the Government sponsors or cosponsors, like Medicare, like Medicaid, public programs that States provide, veterans health benefits such as CHAMPUS, and the list goes on and on.

Cities have their own government health plans, like my own city of Cleveland does. They try to do what they can, but they do not have a big budget to accommodate all the people who need health care, but they are trying.

Now, of the $753 billion, private plans eat up $209 billion. So it really is about two-sevenths of the whole pie.

Most people think, honestly, that most of the plans are private. The fact is it is the Government that is already involved. People say, "Well, I don't want the Government involved." But the Government is involved. The problem is we have a piecemeal approach to this problem and we are not including long-term care, we are not including prevention. So we are very, very deficient and very uneconomical.

So, one might say, "Well, I don't want the Government involved because they don't do it as well as the private companies." Let me tell you something about the private companies, and I would probably want—and my bill does—keep insurance industry involved if they are not-for-profit.

Now, when I was growing up in Cleveland, OH, all the insurance policies, all the companies were not-for-profit. In other words, they could cover all their expenses, but they could not make any more profit after they paid all their employees and everybody made a good salary, et cetera. And they took care of their overhead.

Today, there is not one insurance company in my city of Cleveland, and I know that is true pretty much across the country, where you can get a policy from a company that is not-for-profit. They are all for-profit. I am not against anybody making a profit, but the fact is it is the consumer who pays for all these profits.

The public plan, take Medicare, and we did an analysis of this in the Pepper Commission, Medicare costs the consumer, the taxpayer, 10 percent or less for administrative costs. For private insurance plans, the consumer pays 20 to 25 percent for administrative costs. If the president of a company wants to buy a Jaguar and that is part of his benefit, you pay for it. If they want to take the full-page ads out to compete, it is the consumer who pays for all the advertising. If they want to invest and diversify, buy new buildings, and if it does not work out in terms of some of their investments, what do you think happens to your rates, because they are for-profit? The consumer pays for it.

In my city the poor senior citizens not only have Medicare coverage, but they need a couple of other policies; they get medigap and other policies to fill in the gaps. The rates go up and up, and they just cannot do it, they just cannot do it.

Let me tell you another way where public plans are better. I already mentioned that the public plans cost about 10 percent to administer. We did an analysis in the Pepper Commission. We put all the major insurance plans in the country, including private and public, on a chart, and we looked at Medicare as a sort of norm. By the way, Medicare is one of the better plans, and it only covers 45 percent of a person's needs when you compare it with the private insurance plan. In many cases, it is better.

□ 2010

We ask the question: How many times does Medicare reimburse the consumer compared to, or pay for a person's expenses, in other words, compared to the private insurance? And the answer was that on a scale of zero to the best private insurance policies, private policies reimbursed the consumer, on average, 60 percent of the time. Medicare reimburses on average 98 percent of the time.

Yes, it is true once in a while, because a Congress Member is the closest link people have to the Federal Government, once in a while consumers will call my office and say, "You know, I was supposed to get reimbursed under Medicare, and I didn't," and we will write a cover letter to see what happened. As my colleagues know, once in a while there is a hitch, but the fact is the public plan of Medicare reimburses far more often than a private plan.

So the question is: How should we then pay for this if we are spending $756 billion, which, by the way, includes $2,000 in out-of-pocket expenses for the elderly and about $1,200 in out-of-pocket expenses that are not covered by anything, by people under 65?

What I would do is I would recapture all the public plans, Medicare, Medicaid, veterans' benefits, et cetera, put them in one trust fund. We would have about $400 billion right there, and we would not scatter it all over the place. We would have it comprehensively in a trust fund, and I would make sure that is a great beginning, and then, if people did not need to buy the private plans, we would have $209 billion, and add that up. That is $609 billion plus the fact that the consumer would not have to have all those out-of-pocket expenses because they would have free physicals, they would have that mammogram, they would get that prostate screening, they would get the blood test needed to prevent the disease, they would get their child immunized, under the policy.

Would they have freedom of choice? Absolutely. They could choose their own doctor, but I would have a team of health professionals because I believe that nurses, for example, can give a blood-pressure check as good as any doctor. I have nurses and doctors in my own family, and they tell me a nurse can do a lot of things that we get reimbursed for, and nurses can do that, and nutritionists should tell us more about the proper food and so forth.

I will have a lot more to say about my plan in a future speech, but I want to tell my colleagues that I think we can do better in this country. We can cover every American comprehensively, and we can do it cheaper. We can do it cheaper, and, believe me when I say that in my judgment, and I will say more on this in more detail, it will not cost taxpayers 1 cent more to cover every single person comprehensively. As a matter of fact, it will be cheaper, and I will say more about that in a future talk that I hope to give this week.

But let us join together and say, "My God, it's a moral issue that we cover our people with health care. That's a minimum we should be doing for the American people."

BANKING IMPASSE: GIVE US A DEMOCRATIC BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 60 minutes.

Ms. KAPTUR. Mr. Speaker, I wanted to compliment the gentlewoman from Ohio [Ms. OAKAR] for those excellent remarks on health insurance, a question which is on the mind of millions and millions of our people, those who feel they are being gouged with their current policies and the millions and millions of families that have no health insurance at all, and I think it is a credit to our State of Ohio that Ms. OAKAR has been one of the leaders at the cutting edge of trying to bring this issue before the American people, and she has fought a very hard battle for so many, many months, and we congratulate her and look forward to working with her in passing legislation that really solves this important question for all of our people.

I also wanted to commend the gentlewoman from Maryland [Mrs. BENTLEY], who was up here a few moments before talking about the issue of jobs in America and the problems of trade, especially with Japan, and I find it interesting, as we are closing out today's session, that three of our women Members are speaking, I being the third, and it is amazing to me what the Government can find money for and then what it cannot find money for, and, as I often say to the audiences that listed at this hour when some of our chairs are empty here, "You wonder why is that. It's because this is a chance that we have with no restrictions on time to really talk to you, the American people."

Mr. Speaker, tonight I want to talk about a banking bill that is likely to come before this Congress again, and again and again, certainly this week, but in months and weeks hence, and I guess my plea this evening is; it has been for quite a while, is to ask the leadership of this body and the other to give us a Democratic bill. That type of bill has not emerged on this floor during the entirety of the period that we have been discussing how to solve the banking crisis facing this Nation.

Mr. Speaker, last week, for those of my colleagues that are watching, we saw on November 14 this House of Representatives for the second time in a month defeat the Bush administration's banking bill. Now that bill was designed basically to give a blank check to commerical banks to tap the treasury of the United States through the Federal Deposit Insurance Corporation to the tune of $70 billion. An immediate $30 billion hit, and an additional $40 billion then in working capital.

As I said, it is amazing to see the bills that reach this floor and where the money is found to pay for all of that, yet for health insurance, for unemployment compensation, somehow those bills struggle, and languish in the corners here and can never quite eke their way to the floor.

Now Congress and all of those who serve here understand our obligation to protect the deposits of the American consumer in our Nation's savings and loans and banking institutions, but the question of a Member like myself is: At whose expense? Who should be paying to protect those deposits?

Mr. Speaker, essentially what has been happening is the administration's bill asks the taxpayers, the people listening, again to shoulder a banking bill bailout. Not so long ago those very same taxpayers were asked to shoulder a savings and loan bailout. Nearly two-thirds of House Democrats opposed the Bush administration's banking bill that was on this floor last week.

Now we know that the banks are hurting because they made bad foreign loans during the last decade, and they are currently in the midst of one of the worst recessions this country has faced, and we know that Wall Street is skittish. But the banking lobby and the Bush administration tells us, if we do not give the banks special access to the U.S. Treasury along with vastly broadened powers, my gosh, they are going to go out of business, and my answer to that is: Nonsense.

Mr. Speaker, I served on the Banking Committee for over 8 years and watched what happened in that committee and how banking bills were actually put together, the amendments that were defeated in the committee that never get to this floor. Tonight I want to say regarding expanded powers that the banks are seeking, "One decade ago the Congress carelessly deregulated the savings and loan industry and gave it new powers. It wasn't long before unscrupulous businessmen figured out how to bilk the system that was put in place as banking regulators here in the executive branch closed their eyes and then sent the bills due to the average American taxpayer."

Mr. Speaker, the new banking crisis is a look-alike S&L bailout. The U.S. taxpayer has already buoyed up failing S&L's to the tune of $110 billion. Our tax dollars going to pay for the damage just in that industry, and economists estimate that taxpayers will be asked to add as much as $115 billion, not million, billion dollars more to that total, and then the General Accounting Office tells us that the overall cost of the bailout may rise just for the savings and loans as high as $371 billion before it is all over.

☐ 2020

The pit truly seems bottomless. In its votes this month the House demonstrated it has learned from its mistakes of a decade ago. It refused to hastily grant new expansive powers to commercial banks along with a blank check to the U.S. Treasury. The Bush administration should set aside its stream of expanded powers for the banks. Instead, it should focus on how to pay for the damage in this banking crisis as well as the S&L debacle which we have not dug our way out of yet, and it should do so on behalf of the American taxpayer, not the banking industry fat cats who sit in the Committee on Banking, Finance and Urban Affairs from one wall to the other on any day that that committee is in session.

The Bush bill is appallingly deficient on balancing taxpayer costs, the taxes the taxpayer is being asked to pay, with the benefits that go directly to the taxpayer. Yet to emerge from all the congressional debates and heat and gnashing of teeth on this matter is a real Democratic alternative to pay for the fundamental problems. In essence what has been happening here in Washington is that the Bush administration and the banking industry, in alliance with powerful States that have the most to gain from this administration's proposal, have succeeded, succeeded in diverting public attention away from the cost of the taxpayer bailout and who is paying for it, onto the expanded powers issue, which made the front pages of every business page in the country last week.

Meanwhile, the hidden interest payments on the Bush bond scheme to pay for the S&L mess and the anticipated bank bailouts flow out of the Treasury to the tune of billions each year, and the American taxpayer has nearly forgotten that this in fact is going on.

Alternative financing proposals have been quashed in various congressional committees. The tax committees in both Chambers, the Committee on

Ways and Means in this Chamber, essential to finding a fair solution to paying for this, have remained resoundingly silent. The reward to the banking industry for its efforts to stifle alternative solutions has been total defeat of its bills that have reached this floor.

I think in looking at the mood inside the House last week, it was one of anger and total frustration. Members of Congress like myself want a Democratic alternative bill that is fair to the average American taxpayer. They must benefit directly from the costs they are being asked to bear. There are plenty of ideas that hold promise. It is amazing to me that the financial press, the committees of jurisdiction, and brilliant economists have chosen to be so vastly uncreative in fashioning a fair answer for the American public who are paying the bill.

I want to just discuss three approaches this evening very briefly, the glimmers of some paths that can be taken to resolve this serious financial crisis in the banking and S&L industry. One part of the answer involves focusing on restoring healthy banks by encouraging more deposit inflows into those institutions. In this way, Federal policy could change from what it is today, merely propping up sick institutions and going bankrupt while you are doing it, to, rather, building healthy institutions.

For example, a proposal has been introduced in this House by my colleague, Congressman BILLY TAUZIN, called the Save America Act of 1989. This legislation exempts from taxable income interest up to a certain level earned in passbook savings accounts in federally insured institutions, so if you are a depositor out there and you put your money in a bank or a savings and loan or a credit union, up to a certain level the interest you earn would be tax free.

Now, we know that is not true today, but that tax incentive would create huge increased deposit flows to banks as well as savings and loans and other financial institutions like credit unions, and those very institutions would be able to improve their capitalization, they would be able to pay their assessments in taxes, they would be able to make safer investments, and most of all they would be able to cut their umbilical cord to the U.S. Treasury. Taxpayers would directly benefit from such an approach, and the costs that the taxpayers are currently paying would actually accrue back to them in the form of reduced tax payments to the Government of the United States.

Now, the institutions that would be benefiting from the deposit inflows would be asked to pay more in taxes, but that is only fair. And in this case the permission to remain in business and to receive increased deposit flows would be taxed by the Government and those taxes would go to pay for the bailout that is needed in the industry.

You do not hear much talk around here about how to make institutions more healthy. The talk always here is about how to prop up sick institutions, but that is not going to solve the problem.

A second set of choices involves how to democratize, and I like to use that word, the bond offerings that are currently in place to try to pay the cost of the bailout. Now, most of the American public does not realize that the way that this is being paid for currently is that every month the U.S. Treasury markets securities, and that the bailout bonds that are being used to pay for the insured accounts, depositors' accounts in institutions, are actually being floated by our Treasury Department.

In fact, these bonds are really not being sold to the average American taxpayers. What happens is that the majority of them are sold through 20 Wall Street bond houses which get really nice fees from the taxpayers for acting as intermediaries, and then those bond houses offer them to those who are in the buying public of bond buyers. Only about 10 percent of the people in our country currently purchase bonds. This certainly is not a very democratic system.

My idea would be to ask the Treasury Department to change the way that it markets and sells bonds, to make them broadly available to the American public. But I will tell you this, the Treasury Department will hate this idea. So will the Federal Reserve, because they have gotten real comfortable in dealing with those 20 bond houses, and you have seen recently how some of them have gotten in real trouble as a result of their finagling up on Wall Street and taking advantage of their special relationship.

But in view of the hemorrhage we are dealing with in this industry, U.S. taxpayers must be convinced that their sacrifices have a return, and if they are going to be asked to pay any of the bill on these banking messes, then by golly, the Treasury Department of this country which is asking them to pay for it should give them a benefit in the form of a bond that they can buy and earn the interest on. Business as usual at Treasury securities offerings can no longer prevail.

As a former member of the House Committee on Banking, Finance and Urban Affairs, I attempted to offer such a proposal when on the committee, but the proposal was ruled nongermane for the committee and more properly within the domain of the Committee on Ways and Means. Of course, that committee has remained silent throughout the entire deliberation on the banking mess that we are in.

The average citizen of our country does not even know where to go to buy a Treasury security. In fact, only 25 percent, just one quarter of U.S. households, even own savings bonds, and the U.S. Treasury continues to sell bonds through its cozy relationship with about a dozen and a half bond houses up in New York. It is really time to democratize the sale of U.S. Treasury securities through banks, through savings and loans, through credit unions. My gosh, we could even do it through post offices.

□ 2030

Let average Jane and Joe Citizen earn the 8 to 9 percent interest the big bond buyers enjoy. You know, America used to do that, until our financial industry became so concentrated. We have all seen what happened with Salomon Bros. recently when they took advantage of their special relationship with Treasury and all their big CEO's and presidents had to resign up there in New York.

Would it not be wonderful if bonds in denominations of as low as $25 could be made available to the ordinary consumer? You would think that is what the U.S. Treasury Department, which collects taxes from every one of those consumers, you would think that would be the business they were in.

Not so. The U.S. Treasury, which loves to collect taxes from U.S. citizens, should be directed in a bill that comes out of this House, a Democratic bill, to design a bond offering to benefit the taxpayers footing this bill.

A third set of choices in how to dig ourselves out from under the S&L mess involves targeted taxes and plugging tax loopholes to raise the needed revenue. Over a 5-year period it would be reasonable to impose temporary surtaxes across the financial services industry which benefited from the S&L scam and bank transactions.

It is really amazing that no such idea has been offered yet. but if you watch the corridors of power in Washington, you can understand why. Instead, hardworking taxpayers struggling to get by in this recession, American people who are unemployed in my district and cannot even get the benefits of more than 6 weeks of unemployment compensation, are being asked to shoulder the load of this banking mess.

Two members of the House Committee on Ways and Means, the gentleman from North Dakota [Mr. DORGAN] and the gentleman from New Jersey [Mr. GUARINI], have introduced a bill to plug tax loopholes for savings and loan owners that would recoup up to $5 billion by avoiding something called double-dipping in tax submissions by those institutions.

These funds could also then be applied to the amounts needed to salvage current problems within the banking industry. The gentleman from Massachusetts [Mr. DONNELLY] has introduced legislation to recapture overgenerous tax breaks which the S&L's received in 1988. I have been pushing legislation with the gentleman from Michigan [Mr. WOLPE] that passed in the Committee on Banking, Finance and Urban Affairs, but somehow never made it onto this floor, what would make States pay for the proportion of the cleanup which their own failed thrifts caused by requiring those States that incurred excessive costs to pay an extra Federal deposit insurance premium if the thrifts want to remain federally insured.

The gentleman from Pennsylvania [Mr. KANJORSKI] has introduced legislation to permit private civil suits to be filed to recover funds from those who have plundered our nation's savings and loans. The gentleman from Massachusetts [Mr. KENNEDY] proposes to levy a tax on those who enjoyed the benefits of our financial system through the Fed Wire and Clearinghouse Interbank Payment System that would raise billions annually.

Mr. Speaker, I bring up these examples in the tax system merely to point out that money could be raised in alternative ways to pay for the savings and loan and banking crisis. Those bills have not been permitted here on the floor.

The initiatives I talked about tonight are just some of the ideas that could be packaged in a Democratic alternative. Let us ignore the demands of the Bush administration on behalf of well-heeled lobbyists and huge financial interests. Let us put together a bill that helps our real constituents—average Americans, sick of paying for the high times and the cunning of the few during the 1980's. Let us break the banking impasse and bring a Democratic bill to the floor of this House.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEARS 1992-96

(Mr. PANETTA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of revenues for fiscal years 1992 through 1996 and spending for fiscal year 1992. Spending levels for fiscal years 1993 through 1996 are not included because annual appropriations acts for those years have not been enacted.

This is the first report of the first session of the 102d Congress for fiscal year 1992. This report is based on the aggregate levels and committee allocations for fiscal years 1992 through 1996 as contained in House Report 102–69, the conference report to accompany House Concurrent Resolution 121.

The term "current level" refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

The continuing resolution for fiscal year 1992 provides for operation of applicable programs where the regular Appropriations Act for fiscal year 1992 has not become law. The continuing resolution extends until November 26, 1991, except that foreign operations programs are continued until March 31, 1992. The Interior and related agencies appropriation bill (H.R. 2686) was signed into law on November 13, 1991 and the Labor/HHS/Education and related agencies conference report has been ratified and is included in this report at the conference report levels.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, November 18, 1991.

Hon. THOMAS S. FOLEY,
Speaker,
U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate enforcement under sections 302 and 311 of the Congressional Budget Act, as amended, I am herewith transmitting the status report on the current level of revenues for fiscal years 1992 through 1996 and spending estimates for fiscal year 1992, under H. Con. Res. 121, the Concurrent Resolution on the Budget for Fiscal Year 1992. Spending levels for fiscal years 1993 through 1996 are not included because annual appropriations acts for those years have not been enacted.

The enclosed tables also compare enacted legislation to each committee's 602(a) allocation of discretionary new budget authority and new entitlement authority. The 602(a) allocations to House Committees made pursuant to H. Con. Res. 121 were printed in the statement of managers accompanying the conference report on the resolution (H. Report 102–69).

Sincerely,

LEON E. PANETTA,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1992 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 121 REFLECTING COMPLETED ACTION AS OF NOV. 14, 1991

[On-budget amounts, in millions of dollars]

	Fiscal year—	
	1992	1992–95
Appropriate level:		
Budget authority	1,269,300	6,591,900
Outlays	1,201,600	6,134,100
Revenues	850,400	4,832,000
Current level:		
Budget authority	1,227,704	NA
Outlays	1,189,829	NA
Revenues	850,398	4,810,000
Current Level over(+)/under(−) appropriate level:		
Budget authority	−41,596	NA
Outlays	−11,771	NA
Revenues	−2	−22,000

Note.—NA=not applicable because annual appropriations acts for those years have not been enacted.

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority, that is not included in the current level estimate, and that exceeds $41,596 million in budget authority for fiscal year 1992, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 121, to be exceeded.

OUTLAYS

Any measure that provides new budget or entitlement authority, that is not included in the current level estimate, and that exceeds $11,771 million in outlays for fiscal 1992, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 121, to be exceeded.

REVENUES

Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal year 1992, if adopted and enacted, would cause revenues to the less than the appropriate level for that year as set forth in H. Con. Res. 121. Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal years 1992 through 1996, if adopted and enacted, would cause revenues to be less than the appropriate level for those years as set forth in H. Con. Res. 121.

DISCRETIONARY APPROPRIATIONS, FISCAL YEAR 1992

[In millions of dollars]

	Revised 602(b) subdivisions		Latest current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Commerce-Justice-State-Judiciary	21,070	20,714	21,029	20,708	−41	−6
Defense	270,244	275,222	246,298	263,874	−23,946	−11,348
District of Columbia	700	690	700	690	0	0
Energy and water development	21,875	20,770	21,875	20,720	0	−50
Foreign operations	15,285	13,556	14,262	13,200	−1,023	−356
Interior	13,102	12,050	12,892	12,049	−210	−1
Labor, Health and Human Services, and Education	59,087	57,797	59,016	57,763	−71	−34
Legislative	2,344	2,317	2,343	2,310	−1	−7
Military construction	8,564	8,482	8,563	8,433	−1	−49
Rural Development, Agriculture, and Related Agencies	12,299	11,226	12,299	11,223	0	−3
Transportation	13,765	31,800	13,762	31,799	−3	−1
Treasury-Postal Service	10,825	11,120	10,824	11,119	−1	−1

DISCRETIONARY APPROPRIATIONS, FISCAL YEAR 1992—Continued

[In millions of dollars]

	Revised 602(b) subdivisions		Latest current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
VA–HUD–Independent Agencies	63,953	61,714	63,942	61,711	−11	−3
1Grand total	513,113	527,458	487,805	515,599	−25,308	−11,859

DIRECT SPENDING LEGISLATION

[Fiscal years, in millions of dollars]

	1992		NEA	1992–96		
	Budget authority	Outlays		Budget authority	Outlays	NEA
House committee:						
Agriculture:						
Appropriate level	0	0	0	3,720	3,540	4,716
Current level	0	0	0	0	0	0
Difference				−3,720	−3,540	−4,716
Armed Services:						
Appropriate level	0	0			0	0
Current level	0	0			0	0
Difference						
Banking, Finance and Urban Affairs:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
District of Columbia:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Education and Labor:						
Appropriate level	0	0	56	0	0	20,153
Current level	−46	−46	0	0	0	0
Difference	−46	−46	−56	0	0	−20,153
Energy and Commerce:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Foreign Affairs:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Government Operations:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
House Administration:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Interior and Insular Affairs:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Judiciary:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Merchant Marine and Fisheries:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Post Office and Civil Service:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Public Works and Transportation:						
Appropriate level	16,358	0	0	117,799	0	0
Current level	0	0	0	0	0	0
Difference	−16,358			−117,799	0	0
Science, Space, and Technology:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Small Business:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Veterans' Affairs:						
Appropriate level	0	0	484	0	0	6,811
Current level	[1]	5	378	0	0	2,182
Difference	[1]	+5	−106	0	0	−4,629
Ways and Means:						
Appropriate level	0	0	0	0	0	620
Current level	0	0	0	0	0	0
Difference						−620
Permanent Select Committee on Intelligence:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	[1]	0	0	0
Difference						

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[1] Less than $500,000.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 18, 1991.
Hon. LEON E. PANETTA,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues in comparison with the appropriate levels for those items contained in the 1992 Concurrent Resolution on the Budget (H.Con.Res. 121). This report, my first for fiscal year 1992, is tabulated as of close of business November 14, 1991. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H.Con.Res.121)	Current level +/− resolution
Budget authority	1,227,704	1,269,300	−41,596
Outlays	1,189,829	1,201,600	−11,771
Revenues:			
1992	850,398	850,400	−2
1992–96	4,810,000	4,832,000	−22,000

Sincerely,
ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT 102D CONGRESS, 1ST SESS., HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS NOV. 14, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			850,405
Permanent appropriations	784,794	723,520	
Outlays from prior year appropriations		234,906	
Offsetting receipts	(186,675)	(186,675)	
Total enacted in previous sessions	598,120	771,751	850,405
ENACTED THIS SESSION			
Appropriation legislation:			
Agriculture (Public Law 102–142)	51,219	36,382	
Commerce-Justice (Public Law 102–140)	21,425	16,016	
Offsetting receipts	(119)	(119)	
District of Columbia (Public Law 102–140)	700	690	
Energy and water (Public Law 102–104)	21,875	12,961	
Interior (Public Law 102–154)	12,253	7,949	
Legislative branch (Public Law 102–90)	2,309	2,063	
Military construction (Public Law 102–136)	8,563	2,931	
Transportation (Public Law 102–143)	14,302	12,217	
Treasury-Postal Service (Public Law 102–141)	19,695	17,027	
Offsetting receipts	(6,079)	(6,079)	
Veterans, HUD (Public Law 102–139)	80,941	42,469	
Emergency supplemental for humanitarian assistance (Public Law 102–55)		[1]	
Dire emergency supplemental appropriations, 1991 (Public Law 102–27)		511	
Other spending legislation:			
Extending IRS deadline for Desert Storm troops (Public Law 102–2)			(5)
Veterans' education, employment and training amendments (Public Law 102–16)	[1]	[1]	
Higher education technical amendments (Public Law 102–26)	(56)	(56)	
Veterans' Health Care Personnel Act (Public Law 102–40)		[1]	
Veterans' housing and memorial affairs (Public Law 102–54)		5	
Veterans' Benefits Improvement Act (Public Law 102–86)	[2]	[2]	
Intelligence Authorization Act (Public Law 102–88)	[1]	[1]	[1]
Veterans' educational assistance amendments (Public Law 102–127)		[1]	
Extend most favored nation status to Bulgaria (Public Law 102–158)			(2)
Discretionary estimating adjustment	(233)	(5,823)	
Total enacted this session	226,795	139,145	(7)
PENDING SIGNATURE			
Labor, HHS, Education (H.R. 2707)	182,964	146,777	
Offsetting receipts	(39,421)	(39,421)	
Total pending signature	143,543	107,356	
CONTINUING RESOLUTION AUTHORITY, PUBLIC LAW 102–163			
Defense (expires November 26, 1991)	246,462	165,173	
Foreign Operations (expires March 31, 1992)	14,034	5,496	
Offsetting receipts	(41)	(41)	
Total continuing resolution authority	260,454	170,627	
MANDATORY ADJUSTMENTS			
Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution	(1,207)	950	
Total current level	1,227,704	1,189,829	850,398
Total budget resolution	1,269,300	1,201,600	850,400
Amount remaining:			
Over budget resolution			
Under budget resolution	41,596	11,771	2

[1] Less than $500,000.

[2] This Act increased the current law estimate for Veterans compensation by $3 million and is included in the Veterans-HUD appropriations bill.

Note.—Numbers may not add due to rounding.

CONFERENCE REPORT ON H.R. 2521

Mr. MURTHA submitted the following conference report and statement on the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes:

[The conference report on H.R. 2521 will appear in a subsequent issue of the RECORD.]

CONFERENCE REPORT (H. REPT. 102–328)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2521) "making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 11, 28, 30, 35, 49, 52, 69, 71, 72, 73, 75, 77, 79, 94, 101, 116, 124, 130, 139, 147, 182, 186, 188, 189, 191, 192, 194, 197, and 198.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 6, 13, 15, 16, 17, 18, 20, 23, 24, 25, 27, 32, 34, 36, 37, 38, 40, 41, 42, 44, 45, 46, 47, 48, 50, 51, 53, 59, 62, 65, 76, 81, 84, 90, 95, 108, 109, 112, 114, 118, 119, 121, 123, 126, 128, 136, 140, 142, 143, 144, 152, 153, 154, 155, 159, 160, 161, 167, 173, 175, 177, 178, 179, 184.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$24,176,100,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$19,602,967,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,065,560,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$18,868,300,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,714,600,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$348,900,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$718,900,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,326,700,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$17,722,903,000*; and the Senate agree to the same.

Amendment Numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *: Provided, That $350,000 shall be made available for the 1992 Memorial Day Celebration and $350,000 shall be made available for the 1992 Capitol Fourth Project: Provided further, That notwithstanding section 2805 of title 10, United States Code, of the funds appropriated herein, $4,000,000 shall be made available only for a grant to the National D-Day Museum Foundation, and*

$4,000,000 shall be made available only for a grant to the Airborne and Special Operations Museum Foundation. These funds shall be made available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: Provided further, That $350,000 shall be made available only to the Oregon Department of Economic Development: Provided further, That $38,000,000 shall be available only for procurement of the Extended Cold Weather Clothing System (ECWCS) and $2,000,000 shall be made available only for the procurement of intermediate cold-wet weather boots: Provided further, That of the funds appropriated under this paragraph, the Secretary of the Army shall make a direct grant of $22,000,000 to the Silver Valley Unified School District, Yermo, California, and $10,000,000 to the Cumberland County School Board, Fayetteville, North Carolina, for support of the construction of public school structures, to be located on military facilities, sufficient to accommodate predominantly the dependents of members of the Armed Forces and dependents of Department of Defense employees employed at Fort Irwin, California, and Fort Bragg, North Carolina. The Secretary may require such terms and conditions in connection with the grants authorized by this section as the Secretary considers appropriate ; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$21,079,548,000* ; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

At the end of the matter retained by said amendment, before the period, insert the following new provisions: *: Provided further, That of the funds appropriated under this heading, $300,000 shall be made available only for the deaccession, reinterment, and reburial of ancestral skeletal remains at Mokapu, Hawaii: Provided further, That of the funds appropriated under this heading, the Navy shall provide for the transportation of U.S.S. Bennington accoutrements from China Lake Naval Air Station, California, to Bennington, Vermont: Provided further, That the Navy should maintain the existing share of ship repair and maintenance work between public and private sector ship repair facilities, consistent with national security requirements: Provided further, That of the funds appropriated under this heading, $1,600,000 shall be made available only for the renovation of the submarine U.S.S. Blueback for use by the Oregon Museum of Science and Industry upon the determination of the Secretary of the Navy that the renovation is in the interest of national security: Provided further, That of the funds made available in Public Law 102-139, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, to the National Science Foundation, "Research and related activities", $5,000,000 is rescinded. In addition, an aggregate total of $70,000,000 of funds available to the National Science Foundation and the Department of Housing and Urban Development are hereby rescinded: Provided, That said $70,000,000 shall be derived in whole or in part from funds available in either or both of the following two sources: National Science Foundation, under the heading "Research and related activities" and the Department of Housing and Urban Development, under the heading "Annual contributions for assisted housing" from funds made available in prior years for nonincremental section 8 purposes and that were unreserved and unobligated at the end of fiscal year 1991: Provided further, that no funds available or provided for the National Science Foundation for Arctic research programs in the above Act or any other Act may be reduced or rescinded under the terms of this provision* ; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,892,110,000* ; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$17,180,259,000* ; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$16,408,161,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *: Provided, That of the funds appropriated by this paragraph, $752,835,000 shall be made available for the Special Operations Command: Provided further, That of the funds appropriated in this paragraph, $37,000,000 shall be made available only to maintain the operations and personnel levels of a 100-bed facility at Letterman Hospital at the Presidio, in San Francisco, California, and $6,000,000 shall be made available for the San Francisco Medical Command to provide for angioplasty services, increased pharmacy costs, and a 100-mile catchment area for cardiac surgery at Oakland Naval Hospital to compensate for the reduced services at Letterman Hospital: Provided further, That of the funds appropriated under this heading, $1,000,000 shall be made available to the Office of the Secretary of Defense only for the development and establishment of gainsharing projects: Provided further, That of the funds appropriated under this heading, $750,000 shall be made available only for the conduct and preparation of an inventory of all the real property in the State of Hawaii that is owned or controlled by the United States Department of Defense and its components: Provided further, That of the funds appropriated under this heading, $5,000,000 shall be made available only for the establishment and administration of a commission, to be known as the "Defense Conversion Commission": Provided further, That:*

(a) Of the funds appropriated under this heading not less than $25,000,000 shall be made available only for the continued implementation of the Legacy Resource Management Program: Provided, That of this amount, not less than $10,000,000 shall be made available only for use in implementing cooperative agreements to identify, document, and maintain biological diversity on military installations: Provided further, That funds appropriated for the Legacy Resource Management Program shall be made available for the purposes set forth in section 8120 of Public Law 101-511 as amended by this proviso and for implementing such cooperative agreements as may be concluded between the Department of Defense and other governmental and nongovernmental organizations or entities: Provided further, That the Deputy Assistant Secretary of Defense (Environment) shall provide the Committees on Appropriations with a report on the status of the Legacy Program and a five year plan for its development no later than June 30, 1992.

(b) Sections 8120 (c) and (d) of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1905) are each amended by striking "Deputy Assistant Secretary of Defense for Environment" and inserting "Deputy Assistant Secretary of Defense (Environment)" in lieu thereof.

(c) Section 8120(d) of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1905), as amended by subsection (a), is further amended by—

(1) striking out "seek the participation of" and inserting "involve" in lieu thereof, and

(2) by adding the following new sentences at the end of such section: "He shall also involve State and local agencies and not-for-profit organizations with special expertise in areas related to the purposes of the Legacy Program. Services of State and local agencies and not-for-profit organizations may be obtained by contract, cooperative agreement, or grant to assist the Department of Defense in fulfilling the purposes of the Legacy Program.": Provided further, That of the funds appropriated in this paragraph, $300,000 shall be provided to the Maryland Hospital Association for a demonstration project to assist military personnel in becoming health care employees: Provided further, That $600,000 shall be provided only for two Post-Traumatic Stress Disorder Treatment Centers, one to be located in the State of Hawaii, and one to be located in Greensburg, Pennsylvania, for the purpose of treating military personnel, dependents, and other personnel in post-traumatic stress disorders; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$968,200,000*; and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,078,700,000*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,281,300,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$500,000,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,692,800,000*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,006,462,000*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,111,096,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,369,080,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,063,799,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,948,620,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *, as follows:*

Ballistic Missile Programs, $1,204,166,000;
Other Missile Programs, $2,203,324,000;
Torpedoes and Related Equipment, $689,456,000;
Other Weapons, $130,123,000;
Other Ordnance, $227,573,000;
Other, $107,979,000;
In all: $4,562,621,000; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *, as follows:*

SSN–21 attack submarine program, $1,903,225,000;
DDG–51 destroyer program, $4,107,688,000;
MHC coastal mine hunter program, $341,096,000;
T-AGOS surveillance ship program, $149,000,000;
AOE combat support ship program, $500,000,000;
LCAC landing craft air cushion program, $504,000,000;
TAGS 39/40 program, $55,000,000: Provided, That the Secretary of the Navy shall obligate $55,000,000 to increase the price of the tags 39 and 40 contract and pay the contractor which built and delivered the TAGS 39 and 40 if the Secretary reviews the matter and determines there is justification to make such payment;
Sealift ship program, $600,000,000;
For craft, outfitting, post delivery, and DBOF transfer, $423,921,000;
For escalation, $463,600,000;
For first destination transportation, $5,939,000;
In all: $9,153,287,000; and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,432,463,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided, That funds appropriated in this paragraph for procurement of the Enhanced Modular Signal Processor may be obligated for such procurement under a multiyear contract, in accordance with the requirements of Section 8013 of this Act*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,079,951,000*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$10,412,350,000*; and the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,235,450,000*; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,068,104,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,877,800,000*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,250,826,000*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *, of which $981,730,000 shall be available for the Special Operations Command*; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

Delete the matter stricken and delete the matter inserted by said amendment; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,562,672,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment insert: *, of which not less than $6,300,000 is available only for the Vectored Thrust Combat Agility Demonstrator flight test program utilizing the Vectored Thrust Ducted Propeller upon successful completion of Phase I of this demonstration project: Provided, That $2,000,000 shall be made available only to establish a Center for Prostate Disease Research at the Walter Reed Army Institute of Research: Provided further, That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Louisiana State University, Louisiana for the Neuroscience Center of Excellence for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,557,635,000*; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided, That for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced anti-submarine warfare acoustics issues with focus on ocean bottom acoustics seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation, bubble related ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as many be agreed upon, $1,000,000 shall be made available, as a grant, to the Mississippi Resource Development Corporation, of which not to exceed $250,000 of such sum may be used to provide such special equipment as may be required for particular projects: Provided further, That none of the funds appropriated in this paragraph are available for development of upgrades to the Surveillance Towed Array Sensor System that do not include the AN/UYS–2*

Enchanced Modular Signal Processor: Provided further, That of the funds appropriated in this paragraph, $221,000,000 is available only for the Ship Self-Defense program which may be obligated only if it has a single program manager who is fully responsible and accountable for its execution; and the Senate agreed to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agreed to the same with an amendment, as follows:

After the word "*Provided*" named in said amendment insert: *further*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$14,077,834,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *, of which not less than $30,000,000 is available only for the National Center for Manufacturing Sciences: Provided, That not less than $2,500,000 of the funds appropriated in this paragraph are available only for continuing the research program on development of coal based high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels: Provided further, That $8,000,000 of the funds appropriated in this paragraph shall be made available only for a side-by-side evaluation of the ALR 56M and the ALR 62I radar warning receivers: Provided further, That none of the funds appropriated by this paragraph may be used for the B-1B ALQ 161 CORE program or an advanced radar warning receiver, except for costs associated with the side-by-side testing of the ALR 56M and the ALR62I: Provided further, That $5,700,000 shall be made available only for the U.S./U.S.S.R. Joint Seismic Program administered by the Incorporated Research Institutions for Seismology: Provided further, That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to Marywood College, Pennsylvania for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That of the funds appropriated in this paragraph, $10,000,000 shall be made available only for the modernization and upgrade of the Poker Flat Rocket Range: Provided further, That of the funds appropriated in this paragraph, $19,500,000 shall be made available in the SPACETRACK program element only to establish an image information processing center, including a computer facility built around newly emerging massively parallel computing technology, co-located with the Air Force Maui Optical Station and the Maui Optical Tracking Facility*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$9,978,305,000, to remain available for obligation until September 30, 1993*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *, of which $298,316,000 shall be available for the Special Operations Command: Provided, That not less than $171,000,000 of the funds appropriated in this paragraph are available only for the Extended Range Interceptor (ERINT) missile: Provided further, That not less than $60,000,000 of the funds appropriated in this paragraph are available only for the Arrow Continuation Experiments: Provided further, That not less than $145,500,000 of the funds appropriated in this paragraph are available only for the Patriot missile program: Provided further, That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant to the National Biomedical Research Foundation for laboratory efforts associated with major research programs in neurology, oncology, virology, cardiology, pediatrics and associated specialty areas of critical importance to the Veterans Administration and the Department of Defense: Provided further, That not less than $10,000,000 of the funds appropriated in this paragraph and not less than $7,000,000 of the funds appropriated in Public Law 101-511 for Research, Development, Test and Evaluation, Defense Agencies shall be available only for an Experimental Program to Stimulate Competitive Research (EPSCOR) in the Department of Defense which shall include all States eligible for the National Science Foundation Experimental Program to Stimulate Competitive Research: Provided further, That none of the funds in this paragraph may be obligated for the development of the Superconductive Magnetic Energy Storage system unless its processes, materials, and components are substantially manufactured in the United States: Provided further, That of the funds appropriated in Public Law 101-511 for Research, Development, Test and Evaluation, Defense Agencies, any unobligated funds provided for the Superconductive Magnetic Energy Storage system shall be obligated within 120 days after enactment of this Act: Provided further, That the Secretary of Defense shall complete the Phase One contractor down-selection process for the Superconductive Magnetic Energy Storage system within 60 days after enactment of this Act: Provided further, That of the funds appropriated in Public Law 101-511 for Research, Development, Test and Evaluation, Defense Agencies, $25,000,000 provided for the Strategic Environmental Research Program shall be obligated for the procurement, installation and operation of a supercomputer to support the Arctic Region Supercomputing Center: Provided further, That not less than $6,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Texas at Austin for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $6,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Northeastern University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $5,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Texas Regional Institute for Environmental Studies for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $7,700,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Kansas State University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $1,600,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Wisconsin for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $29,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Boston University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $250,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Medical College of Ohio for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of South Carolina for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $750,000 of the funds appropriated in this paragraph shall be made available as a grant only to the George Mason University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $2,300,000 of the funds appropriated in this paragraph shall be made available as a grant only to Monmouth College for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Minnesota for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Saint Thomas in Saint Paul, Minnesota for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Brandeis University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Provided further, That not less than $3,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the New Mexico State University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided further, That not less than $25,000,000 of the funds appropriated in this paragraph shall be available only for development of advanced superconducting multi-chip modules, superconducting materials, and diamond substrate material technologies.*

GENERAL PROVISION

SEC. 401. Funds appropriated in this title that are directed to be made available for a grant to, *or contract with, a college or university for the performance of research and development or for construction of a research or other facility shall be made available for that purpose without regard to, and (to the extent necessary) in contravention of, section 2361 of title 10, United States Code, which is hereby modified and superceded to the extent necessary to make each such grant or award each such contract, and any such grant or contract shall be made without regard to any of the conditions specified in subsection (b) of that section or section 2304 of title 10, United States Code: Provided, That funds appropriated in this title and in Title IV of Public Law 101-511 to develop Global Positioning System range equipment under the auspices of the Range Applications Joint Program Office may not be used to purchase more than eight systems*; and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$211,277,000*; and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *For the Defense Business Operations Fund; $3,424,200,000.* ; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$151,800,000*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$374,398,000*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided, That none of the funds in this Act may be obligated or expended for the procurement of equipment for chemical weapon disposal facilities at Anniston Army Depot or Umatilla Army Depot until the Secretary of the Army certifies to the Congress that Phase III of Operational Verification Testing at the Johnston Atoll Chemical Agent Destruction Facility has begun*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,188,600,000*; and the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided further, That $60,000,000 shall be transferred from the MX Missile Program in "Missile Procurement, Air Force, 1991/1993" to the "Drug Interdiction and Counter Drug Activities, Defense" account in order to procure no fewer than four aerostat radar surveillance systems. The amounts transferred shall be available for the same purposes as the appropriation to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That of the funds appropriated in this paragraph, not less than $7,500,000 shall be available only for the Gulf States Counter-Narcotics Initiative*; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$115,900,000; for Procurement, $300,000; In all: $116,200,000: Provided, That the amount provided for Procurement shall remain available until September 30, 1994*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

NATIONAL SECURITY EDUCATION TRUST FUND

Of the funds appropriated in this Act, $150,000,000 shall be made available only for the National Security Education Trust Fund pursuant to the provisions of Title VIII of the Intelligence Authorization Act (H.R. 2038), for fiscal year 1992.

And the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,500,000,000*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

(c) Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private or municipal services, if provisions are included for the consideration of United States coal as an energy source.

And the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter restored by said amendment as follows:

In lieu of "72,150" named in said restored matter insert; *71,168*, and

In lieu of "48,624" named in said restored matter, insert; *48,093*, and further

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert; *8015A*; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of section number "8018" named in said retained matter insert; *8018A*; and the Senate agree to the same.

Amendment numbered 120:

That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of section number "8027" named in said retained matter insert; *8027A*; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided, That notwithstanding any other provision of law, the CHAMPUS Reform Initiative contract for California and Hawaii shall be extended until February 1, 1994, within the limits and rates specified in the contract: Provided further, That the Department shall competitively award contracts for the geographic expansion of the CHAMPUS Reform Initiative in Florida (which may include Department of Veterans Affairs medical facilities with the concurrence of the Secretary of Veterans Affairs), Washington, Oregon, and the Tidewater region of Virginia: Provided further, That competitive expansion of the CHAMPUS Reform Initiative may occur in any other regions that the Assistant Secretary of Defense for Health Affairs deems appropriate*; and the Senate agree to the same.

Amendment numbered 125:

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8040A*, and

Before the word "petroleum" named in said retained matter insert: *coal and* ; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

Restore the matter stricken and delete the matter inserted by said amendment, amended as follows:

Amend the matter restored by said amendment as follows:

Delete the matter contained in said restored matter appearing after the words "reserve components" down to and including "assistance services by the Department of Defense"

And the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the matter retained by said amendment, insert:

(TRANSFER OF FUNDS)

SEC. 8049A. In addition to the amounts appropriated or otherwise made available in this Act, $710,348,000 is appropriated for the operation, modernization, and expansion of automated data processing systems: Provided, That the Secretary of Defense shall, upon determining that such funds are necessary and further the objectives of the Corporate Information Management initiative, transfer such amounts as necessary to the appropriate appropriation provided in titles II, III, and IV of this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That obligation and expenditure of these funds are subject to the review and approval of the Defense Department's senior information resource management official: Provided further, That this transfer authority shall be in addition to any other transfer authority contained in this Act.

And the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter restored by said amendment as follows:

In lieu of the matter restored by said amendment insert:

SEC. 8064. The Secretary of Defense shall ensure that at least 50 percent of the Joint Service Missile Mission is in place at Letterkenny Army Depot by the time Systems Integration Management Activity and Depot Systems Command are scheduled to relocate to Rock Island Arsenal, Illinois. This provision is in no way intended to affect the move of the 2.5-and 5-ton truck maintenance mission from Letterkenny Army Depot to Tooele Army Depot.

And further:

Amend the matter retained by said amendment as follows:

In lieu of section number "8064" named in said retained matter insert; *8064A*; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert; *8065A*, and

In lieu of "$14,000,000" named in said retained matter insert; *$14,500,000*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8067. (a) None of the funds appropriated by this Act shall be used to reduce the end strength of the National Guard and Reserve Components below the levels funded in this Act: Provided, That the Secretary of Defense may vary each such end strength level by not more than two percent.

(b) None of the funds appropriated by this Act shall be used to reduce the force structure allowance (1) of the Army National Guard below 450,000, (2) of the Army Reserve below 310,000, and (3) of any other National Guard or Reserve Component below the end strength level supported by funds appropriated by this Act: Provided, That in the case of any National Guard or Reserve Component, the Secretary of Defense may vary such force structure allowance by a percentage not in excess of the percentage (if any) by which the end strength level of that component is varied pursuant to the authority provided in the proviso in subsection (a).

And the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8070A*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8072. None of the unobligated balances available in the National Defense Stockpile Transaction Fund during fiscal year 1992 may be obligated or expended to finance any grant or contract to conduct research, development, test, and evaluation activities for the development or production of advanced materials, unless amounts for such purposes are specifically appropriated in a subsequent appropriations Act.

SEC. 8072A. (a) As stated in section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

(b)(1) Consistent with the policy referred to in subsection (a), no Department of Defense prime contract in excess of the small purchase threshold, as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), may be awarded to a foreign person, company, or entity unless that person, company, or entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

(2) The Secretary of Defense may waive the prohibition in paragraph (1) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each calendar quarter, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this paragraph during such quarter.

(3) This provision does not apply to contracts for consumable supplies, provisions or services intended to be executed for the support of the United States or of allied forces in a foreign country, nor does it apply to contracts pertaining to any equipment, technology, data, or services for intelligence or classified purposes, or the acquisition or lease thereof by the United States government in the interests of national security.

And the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8076. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the military or civilian medical and medical support personnel end strength at a base undergoing a partial closure or realignment, where more than one joint command is located, below the September 30, 1991 level.

SEC. 8076A. During the current fiscal year and the following fiscal year, additional obligations may be incurred under fiscal year 1990 procurement appropriations for the installation of equipment when obligations were incurred during the period of availability of such appropriation for the procurement of such equipment but obligations for the installation of such equipment were not able to be incurred before the expiration of the period of availability of such appropriations.

And the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

(RECISSIONS)

SEC. 8077. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

Procurement of weapons and tracked combat vehicles, Army, 1990/1992, $10,000,000;

Procurement of weapons and tracked combat vehicles, Army, 1991/1993, $114,000,000;

Procurement of ammunition, Army, 1991/1993, $23,700,000;

Other procurement, Army, 1990/1992, $10,300,000;

Other procurement, Army, 1991/1993, $26,800,000;

Weapons procurement, Navy, 1991/1993, $317,000,000;

Other procurement, Navy, 1991/1993, $6,200,000;

Procurement, Marine Corps, 1991/1993, $2,000,000;

Missile procurement, Air Force, 1990/1992, $16,000,000;

Missile procurement, Air Force, 1991/1993, $80,000,000;

National Guard and Reserve Equipment, 1991/1993, $8,000,000;

Research Development, Test and Evaluation, Army, 1991/1992, $81,075,000;

Research, Development, Test and Evaluation, Navy, 1991/1992, $173,000,000;

Research, Development, Test and Evaluation, Air Force, 1991/1992, $232,310,000;

Research, Development, Test and Evaluation, Defense Agencies, 1991/1992, $1,800,000.

And the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8083. Of the funds appropriated in this Act for "Drug Interdiction and Counter-Drug Activities, Defense", $40,000,000 shall be available only for the National Drug Intelligence Center.

SEC. 8083A. Central Intelligence Agency Consolidation Plan.

(a) FUNDING LIMITATION.—Of the amount appropriated by this Act for the Central Intelligence Agency Program, not more than $10,000,000 is appropriated for costs associated with the land acquisition and related expenditures necessary to implement a plan for consolidation of Central Intelligence Agency facilities. None of such funds may be obligated to implement such plan until all of the conditions set forth in subsection (d) have been met and (except as provided in subsection (c)) a period of 60 days beginning on the date on which all of such conditions have been met has expired. Any certification or report required under that subsection shall be provided in writing to the intelligence committees and the appropriations committees. If any of the required certifications cannot be provided, then the Director of Central Intelligence shall reopen the planning process with respect to the consolidation plan to the extent required to address any procedures that were determined to be deficient.

(b) ADDITIONAL FUNDING.—Pursuant to the procedures set forth in the joint explanatory statement of managers to accompany the conference report in the bill H.R. 2521 of the 102d Congress, an amount not to exceed $20,000,000 is available if the Director determines that funds in addition to the amount specified in subsection (a) are required during fiscal year 1992 for costs associated with the land acquisition and related expenditures necessary to implement the consolidation plan.

(c) LIMITED WAIVER OF 60-DAY REVIEW PERIOD.—The Director may spend not to exceed $500,000 of the funds specified in subsection (a) for options and agreements to ensure the continued availability of property under consideration for the consolidation plan without regard to the 60-day period specified in subsection (a).

(d) CONDITIONS.—The following conditions and certifications must be met before the funds specified in subsection (a) may be obligated:

(1) The Director of Central Intelligence has certified—

(A) that with respect to procedures governing land acquisition by the Central Intelligence Agency—

(i) there are written procedures for such acquisition currently in effect;

(ii) those procedures are consistent with land acquisition procedures of the General Services Administration; and

(iii) the process used by the Central Intelligence Agency in developing the consolidation plan was in accordance with those written procedures; and

(B) that with respect to contracts of the Agency for construction and for the acquisition of movable property, equipment, and services, the procedures of the Agency are consistent with procedures under the Federal Acquisition Regulations.

(2) The Administrator of General Services has provided a written report stating that in the opinion of the Administrator (A) implementing the consolidation plan will result in cost savings to the United States Government, and (B) the consolidation plan will conform to applicable local governmental regulations.

(3) the Director of the Office of Management and Budget has certified—

(A) that the consolidation plan (and associated costs) have been reviewed by the Office of Management and Budget;

(B) that the funding for such plan is consistent with the 1990 budget agreement; and

(C) that funding for such plan has been approved by the Administration for fiscal year 1992.

(4) The Inspector General of the Central Intelligence Agency has certified that corrective actions, if any, recommended as a result of the Inspector General's inquiry into the consolidation plan, and concurred in by the Director of Central Intelligence, will be implemented.

(5) The Director of Central Intelligence has provided to the intelligence committees and appropriations committees a written report on the consolidation plan that includes—

(A) a comprehensive site evaluation, including zoning, site engineering, and environmental requirements, logistics, physical and technical security, and communications compatibility;

(B) a description of the anticipated effect of implementing the consolidation plan on personnel of the Central Intelligence Agency, including a discussion of the organizations and personnel that will be relocated and the rationale for such relocations and the Director's assurance that personnel are consulted and considered in the consolidation effort; and

(C) the Director's assurances that the Director, in evaluating and approving the plan, has considered global changes and budget constraints that may have the effect of reducing Central Intelligence Agency personnel requirements in the future.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) The term "appropriations committees" means the Committees on Appropriations of the Senate and the House of Representatives.

And the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8086. For fiscal year 1992, the total amount appropriated to fund the Uniformed Services Treatment Facilities program, operated pursuant to section 911 of Public Law 97-99 (42 U.S.C. 248c), is limited to $209,700,000, of which not more than $188,300,000 may be provided by the funds appropriated by this Act.

And the Senate agree to the same.

Amendment numbered 146:

That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8088. None of the funds available to the Department of Defense during fiscal year 1992 may be obligated or expended to develop for aircraft or helicopter weapons systems an airborne instrumentation system for flight test data acquisition other than the Common Airborne Instrumentation System under development in the Central Test and Evaluation Investment Development program element funded in the "Developmental Test and Evaluation, Defense" appropriations account.

And the Senate agree to the same.

Amendment numbered 148:

That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8090. (a) Of the funds appropriated in this Act in title IV, Research, Development, Test and Evaluation, Navy, $625,000,000 shall be available only for the V-22 aircraft program.

(b) Of the funds appropriated in the Department of Defense Appropriations Act (Public Law 101-511) for fiscal year 1991 under the heading, "Aircraft Procurement, Navy" for the V-22 Osprey program, $165,000,000 shall be transferred to "Research, Development, Test and Evaluation, Navy, 1992/1993", to be merged with and to be available for the same purposes and the same time period as the appropriation to which transferred, subject to the provisions of subparagraph (c).

(c) Funds described in subparagraphs (a) and (b) of this section shall be obligated for a Phase II V-22 Full Scale Engineering Development program to provide new production representative aircraft which will have an objective to demonstrate the full operational requirements of the Joint Services Operational Requirement (JSOR) not later than December 31, 1996: Provided, That to the extent practicable, the production representative V-22 aircraft shall be produced on tooling which qualifies production design.

(d) The Secretary of Defense shall provide to the Congress, within 60 days of enactment of this Act, the total funding plan and schedule to complete the Phase II V-22 Full Scale Engineering Development program.

(e) The Secretary of Defense shall take no action which will delay obligation of these funds.

And the Senate agree to the same.

Amendment numbered 149:

That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

(TRANSFER OF FUNDS)

SEC. 8092. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That funds shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992": T-AO fleet oiler program, $3,523,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993": LCAC landing craft air cushion program, $2,225,000; For outfitting and post delivery, $2,669,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994": SSN-688 attack submarine program, $9,656,000; LSD-41 dock landing ship cargo variant program, $655,000; MHC coastal mine hunter program, $4,509,000; T-AGOS surveillance ship program, $665,000; Coast Guard patrol boat program, $4,223,000; For craft, outfitting, post delivery, and ship special support equipment, $2,653,000.

Under the heading, "Aircraft Procurement, Navy, 1990/1992", $893,500,000; LCAC landing craft air cushion program, $2,953,000; Under the heading, "Weapons Procurement, Navy, 1990/1992", $12,800,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995": TRIDENT ballistic missile submarine program, $44,687,000; DDG-51 destroyer program, $64,900,000; LSD-41 dock landing ship cargo variant program, $1,303,000; MHC coastal mine hunter program, $3,142,000; AOE combat support ship program, $161,200,000; Oceanographic ship program, $43,100,000; LCAC landing craft air cushion program, $4,137,000; For craft, outfitting and post delivery, $12,391,000.

Under the heading, "Aircraft Procurement, Navy, 1991/1993", $81,600,000.

Under the heading, "Weapons Procurement, Navy, 1991/193", $49,900,000.

Under the heading, "Other Procurement, Navy, 1991/1993", $60,900,000.

Under the heading, "Procurement, Marine Corps, 1991/1993", $29,300,000.

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1985/1989": Trident submarine program, $14,318,000; SSN–688 nuclear attack submarine program, $35,000,000; MCM mine countermeasures ship program, $5,082,000; T–AO fleet oiler ship program, $29,616,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990": TRIDENT ballistic missile submarine program, $1,000,000; SSN–688 attack submarine program, $32,112,000; LSD–41 landing ship dock program, $2,454,000; MHC coastal mine hunter program, $9,900,000; T–AO fleet oiler program, $460,000; T–AG acoustic research ship program, $4,400,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991": TRIDENT ballistic missile submarine program, $9,600,000; SSN–688 attack submarine program, $116,641,000; DDG–51 destroyer program, $90,093,000; AO conversion program, $400,000; T–AGOS surveillance ship program, $825,000; T–AO fleet oiler program, $460,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992"; TRIDENT ballistic missile submarine program, $66,469,000; SSN–688 attack submarine program, $29,600,000; CVN nuclear aircraft carrier program, $95,230,000; LSD–41 cargo variant ship program, $7,261,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993"; TRIDENT ballistic missile submarine program, $71,800,000; SSN–688 attack submarine program, $19,125,000; SSN–21 attack submarine program, $97,658,000; MHC coastal mine hunter program, $25,920,000; AO conversion program, $5,949,000; T–AGOS surveillance ship program, $15,800,000; T–AO fleet oiler program, $118,881,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994"; TRIDENT ballistic missile submarine program, $36,271,000; ENTERPRISE refueling/modernization program, $100,100,000; Aircraft carrier service life extension program, $57,178,000; DDG–51 destroyer program, $146,788,000; MCM mine countermeasures program, $4,170,000; AO conversion program, $4,500,000; Moored training ship demonstration program, $9,000,000; Oceanographic ship program, $8,530,000; Coast Guard icebreaker ship program, $59,000,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995": LHD–1 amphibious assault ship program, $165,000,000.

And the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the matter retained by said amendment insert:

SEC. 8093A. (a) Except as provided in this section, none of the funds available to the Department of Defense from any source during fiscal year 1992 may be obligated or expanded for any activities to support the objective of launching Strategic Target System (STARS) rockets from the Navy Pacific Missile Range Facility, Barking Sands, Kauai, Hawaii.

(b) The restriction in subsection (a) does not apply to any funds required to prepare or issue an environmental impact statement on the Strategic Target System Program, in accordance with the National Environmental Policy Act (42 U.S.C. 4321 et seq.), and in accordance with any Executive Orders issued, and any regulations promulgated to implement such Act.

(c) The restriction in subsection (a) does not apply to any funds required for STARS program activities conducted in the continental United States or for STARS program management related activities conducted outside the continental United States.

(d) The restriction in subsection (a) does not apply to any funds required to maintain the safety, security, reliability, and basic condition of the Strategic Target System launch complex and equipment at the Pacific Missile Range Facility, nor does it apply to funds required to finance measures taken in the State of Hawaii or elsewhere for purposes of range safety or environmental protection.

(e) The restriction in subsection (a) does not apply to any funds required to maintain or store Strategic Target System boosters and equipment or to ensure that safety and reliability of such boosters and equipment or to operate the Strategic Target System program office.

(f) Except as stated elsewhere in this section, the exceptions in subsection (e) shall apply only to activities carried out within the continental United States.

(g) The restriction in subsection (a) extends to any activity relating to the storage of live STARS boosters and components thereof or STARS liquid rocket fuel at the Pacific Missile Range Facility.

(h) Any live STARS boosters may not be transported to the Pacific Missile Range Facility before, at the earliest, the date referred to in subsection (i) below.

(i) The restrictions under this section shall remain in effect until the date of the issuance of an environmental impact statement and a formal Record of Decision with respect to this environmental impact statement, upon completion of a formal process that complies with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.), and the Executive Orders issued, and regulations promulgated to implement such Act.

(j) The director of the Strategic Defense Initiative Organization shall notify the Congressional defense committees upon the completion of the STARS environmental impact statement and Record of Decision process.

And the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8094. Using funds available in the National Defense Stockpile Transaction Fund, during the period of fiscal years 1992 through 1994 and using procedures covered by section 3301 of the National Defense Authorization Act, 1991 (Public Law 101–510; 104 Stat. 1844–45), the President may acquire 50,000 kilograms of germanium to be held in the National Defense Stockpile.

And the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8096. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical facility with a health care professional unless the prospective candidate can demonstrate professional administrative skills.

And the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8097. Of the funds appropriated by this Act for Operation and Maintenence, Defense Agencies, $20,000,000 shall be available (notwithstanding the last sentence of section 1086(c) of title 10, United States Code) to continue Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, until age 65, under such section for a former member of a uniformed service who is entitled to retired or retainer pay or equivalent pay, or a dependent of such a member, who becomes eligible for hospital insurance benefits under Part A of Title XVIII of the Social Security Act (42 U.S.C. 1395, et seq.) solely on the grounds of physical disability: Provided, That expenses under this section shall only be covered to the extent that such expenses are not covered under parts A and B of title XVIII of the Social Security Act and are otherwise covered under CHAMPUS: Provided further, That no reimbursement shall be made for services provided prior to October 1, 1991.

And the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

(TRANSFER OF FUNDS)

SEC. 8100. In addition to amounts appropriated or otherwise made available by this Act, $188,700,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard, of which $50,000,000 shall be available solely for the purposes of "Reserve Training" for fiscal year 1992 and $138,700,000 shall be merged with and be available for the same purposes and same time period as "Operating Expenses": Provided, That the foregoing transfers shall be made immediately upon enactment of this Act.

And the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter restored by said amendment as follows:

In lieu of the number "75" named in said restored matter insert: *90*, and further

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8103A*; and the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8104. (a) None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the P–3 squadrons of the Navy Reserve below the levels funded in this Act.

(b) The Secretary of the Navy shall obligate funds appropriated for fiscal year 1991 and 1992

for modernization of P–3B aircraft of the Navy Reserve on those P–3B aircraft which the Secretary of the Navy intends to keep in the fleet for more than five years: Provided, That the provision of section 1437 of the National Defense Authorization Act, 1991 (Public Law 101–510) shall not be considered in, or have any effect on, making any determination whether such aircraft shall be kept in the fleet for more than five years.

SEC. 8104A. None of the funds available to the Department of Defense may be used for research, development, test, evaluation, installation, integration, or procurement of an advanced radar warning receiver for the B–1B aircraft: Provided, That this limitation shall not apply to the side-by-side testing of the ALR–621 and the ALR–56M radar warning receivers: Provided further, That notwithstanding section 132 of the National Defense Authorization Act for fiscal years 1992 and 1993 (H.R. 2100), $8,000,000 is available only for, and shall be expended for, the side-by-side testing of the ALR–621 and the ALR–56M radar warning receivers.

And the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the matter retained by said amendent insert:

SEC. 8105A. In addition to amounts appropriated elsewhere in this Act, $100,000,000 is appropriated for payment of claims to United States military and civilian personnel for damages incurred as a result of the volcanic eruption of Mount Pinatubo in the Philippines: Provided, That an additional $25,000,000 is appropriated to be available only for the relocation of Air Force units from Clark Air Force Base, of which $8,500,000 shall be available until September 30, 1994 only for the construction and modification of F–16 facilities for the Cope Thunder and other missions at Eielson Air Force Base and $2,500,000 shall be available until September 30, 1994 only for the construction and modification of squadron operation facilities at Elmendorf Air Force Base: Provided further, That an additional $25,000,000 is appropriated to remain available until expended, for the unanticipated costs of disaster relief activities of the Department of Defense and the military services overseas, and that funds allocated under this proviso shall be expended at the direction of the Unified Commander-in-Chief responsible for the locations to which United States military personnel are deployed for disaster relief missions.

And the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8107. Funds appropriated in this Act to finance activities of Department of Defense (DoD) federally-funded research and development centers (FFRDCs),

(a) are limited to 4 percent less than the amount appropriated for FFRDCs in fiscal year 1991 and therefore are reduced by $133,300,000; and

(b) may not be obligated or expended for an FFRDC if a member of its Board of Directors or Trustees simultaneously serves on the Board of Directors or Trustees of a profit-making company under contract to the Department of Defense unless the FFRDC has a DoD-approved conflict of interest policy for its members: Provided, That section (a) of this provision shall not apply to the Software Engineering Institute or to certain classified activities conducted by the Institute for Defense Analyses.

And the Senate agree to the same.

Amendment numbered 166:

That the House recede from its disagreement to the amendment of the Senate numbered 166, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8108A*; and the Senate agree to the same.

Amendment numbered 168:

That the House recede from its disagreement to the amendment of the Senate numbered 168, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter restored by said amendment as follows:

In lieu of the matter restored by said amendment insert:

Sec. 8110. None of the funds appropriated in this Act shall be available to comply with, or to implement any provision issued in compliance with, the August 27, 1984 memorandum of the Deputy Secretary of Defense entitled "Debarment from Defense Contracts for Felony Criminal Convictions".

And further amend the matter retained by said amendment as follows: In lieu of the section number named in said retained matter insert: *8110A*; and the Senate agree to the same.

Amendment numbered 169:

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the seciton number named in said retained matter insert: *8111A*; and the Senate agree to the same.

Amendment numbered 170

That the House recede from its disagreement to the amendment of the Senate numbered 170, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter restored by said amendment as follows:

In lieu of the matter restored by said amendment insert:

SEC. 8112. During fiscal year 1992, the Critical Technologies Institute shall conduct a special study of the issues regarding the production and use of machine tools necessary to support the National Defense. For the purposes of this section—

(1) 'critical technology' means the act of a domestic industry in producing a product without which machine tools necessary to support the national defense could not be produced;

(2) 'domestic producer' means those producers, situated within the United States, or its territories, wherein over 50 percent of the total voting stock of such producer is owned and controlled by citizens of the United States; and

(3) 'national security' means the interest of the United States Government to preserve those basic conditions necessary to a domestic producer, using a critical technology, that are adequate to permit capital investment for needed improvements in technology that will enable the overall domestic industry to remain competitive.

(b) No later than one calendar year from the date of enactment of this Act, the Critical Technologies Institute shall prepare and deliver to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate, the Ways and Means Committee of the House of Representatives, and the Finance Committee of the Senate a report providing—

(1) a listing and detailing of those products determined to be within the definition of 'critical technology';

(2) a summary of the general economic condition of domestic industries producing a product used in a critical technology in the United States (including, but not limited to, productivity, exportation of products, capacity, and profitability);

(3) a summary of—

(A) current and prospective trends in the ability to compete by such industries; and

(B) the effect of such trends on employment and unemployment, individual and corporate income levels, private capital accumulation and investment, the balance of payments, revenues and expenditures of the Federal Government, and other relevant indicators of the economic health of such industries;

(4) a detailed review of policies, programs, and activities of the Federal Government, State and local governments, and nongovernmental entities that adversely affect the economic health (and ability to produce) of domestic industries using a critical technology;

(5) recommendations to—

(A) minimize or eliminate the adverse effects of Federal policies, programs, and activities affecting such industries; and

(B) encourage State and local governments and nongovernmental entities to minimize or eliminate the adverse effects of their policies, programs, and activities affecting such domestic industries;

(6) a detailed review of policies, programs, and activities of foreign governments, particularly major trading partners of the United States, that adversely affect domestic industries using a critical technology in the United States and in the international marketplace, and such policies or activities that would act to impair or threaten to impair our national security; and

(7) recommendations to encourage foreign governments to modify of eliminate policies, programs, and activities that adversely affect such industries.

And further amend the matter retained by said amendment as follows:

In lieu of the section number "8112" named in said retained matter insert; *8112A* ; and the Senate agree to the same.

Amendment numbered 171:

That the House recede from its disagreement to the amendment of the Senate numbered 171, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of section number "8113" named in said retained matter insert; *8113A*, and in lieu of "$25,000,000" named in said retained matter insert; *$37,500,000*; and the Senate agree to the same.

Amendment numbered 172:

That the House recede from its disagreement to the amendment of the Senate numbered 172, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$30,000,000*; and the Senate agree to the same.

Amendment numbered 174:

That the House recede from its disagreement to the amendment of the Senate numbered 174, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of section number named in said retained matter insert; *8115A*, and at the end of the matter retained by said amendment, before the period, insert the following new provision: *: Provided, That the Department of Defense may provide recommendations to the Department of State regarding the national security implications of proposed foreign military sales*; and the Senate agree to the same.

Amendment numbered 176:

That the House recede from its disagreement to the amendment of the Senate numbered 176, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter restored by said amendment as follows:

In lieu of the matter restored by said amendment insert:

SEC. 8117. Notwithstanding any other provision of law, no more than fifteen percent of the funds available to the Department of Defense for sealift may be used to acquire through charter or purchase, ships constructed in foreign shipyards: Provided, That ships acquired as provided above shall be necessary to satisfy the shortfalls identified in the Mobility Requirements Study: Provided further, That any work required to convert foreign built ships acquired as provided above to United States Coast Guard and American Bureau of Shipping standards, or conversion to a more useful military configuration, must be accomplished in United States domestic shipyards: Provided further, That no foreign built ships may be acquired, through charter or purchase, until submission of the Mobility Requirements Study to the congressional defense committees.

And further amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert; *8117A*; and the Senate agree to the same.

Amendment numbered 180:

That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8123. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver for the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal years 1992 and 1993. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8124. The Classified Annex prepared by the Committee of Conference to accompany the conference report on the bill H.R. 2521 of the One Hundred Second Congress and transmitted to the President is hereby incorporated into this Act: Provided, That the amounts specified in the Classified Annex are not in addition to amounts appropriated by other provisions of this Act: Provided further, That the President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the Classified Annex, within the executive branch of the Government.

And the Senate agree to the same.

Amendment numbered 181:

That the House recede from its disagreement to the amendment of the Senate numbered 181, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8125*; and the Senate agree to the same.

Amendment numbered 183:

That the House recede from its disagreement to the amendment of the Senate numbered 183, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8126. (a) Property as defined in section 8133 of the Department of Defense Appropriations Act of 1991 (104 Stat. 1909) held by Federal agencies or instrumentalities and which is not scheduled for disposition by sale prior to October 1, 1996, as determined by such agencies or instrumentalities shall be, except as provided in subsection (b) of this section, transferred to the Secretary of the Interior, at his request, without compensation or reimbursement, for the purpose of entering into a land exchange or exchanges with the Calista Corporation, a corporation organized under the laws of the State of Alaska. The Secretary is authorized to exchange such property for the lands and interests in lands (which for purposes of this section include lands, partial estates, and land selection rights) of equal value identified in the document entitled "The Calista Conveyance and Relinquishment Document," dated October 28, 1991. The value of the lands and interests in lands included in that document shall be determined by the Secretary of the Interior not later than nine months after the date of enactment of this section. In making such value determination, the Secretary shall consider, in addition to the "Uniform Appraisal Standards for Federal Land Acquisitions," the public interest value of such lands and interests in lands, including, but not limited to, the location of such lands and interests in lands within the boundary of a national wildlife refuge, and statutorily authorized or mandated exchanges with and acquisitions by the Federal government of lands and interests in lands in Alaska. In the event that the parties cannot agree on the value of such lands and interests in land, the procedures specified in subsection 206(d), of P.L. 94-579, as amended, shall be used to establish the value: Provided, that the average value per acre of such lands and interests in lands shall be no more than $300. Property exchanged and conveyed by the United States pursuant to this section shall be considered and treated as conveyances of land entitlements under 43 U.S.C. 1601 through 1642 (except for Subsections (a) through (c) and (f) through (j) of section 1620, section 1627(b), and section 1636(d)).

(b) Prior to October 1, 1996, no property held for sale by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation shall be transferred to the Secretary of the Interior to carry out the purposes of this section.

(c) The Secretary of the Interior shall maintain an accounting of the value of lands and interests in land remaining to be conveyed or relinquished by Calista Corporation pursuant to this section. On October 1, 1996, the Secretary of the Treasury shall establish a property account with an intitial balance equal to the value of lands and interests in lands which Calista Corporation has not then conveyed or relinquished to the United States pursuant to this section. Subject to reduction upon conveyances pursuant to subsection (a) of this section, said account shall be available on or after October 1, 1996, for the sale of property by all agencies or instrumentalities of the United States, to the same extent as is separately authorized to the accounts described in subsection 9102(a)(2) of the Department of Defense Appropriations Act, 1990, (103 Stat. 1151).

And the Senate agree to the same.

Amendment numbered 185:

That the House recede from its disagreement to the amendment of the Senate numbered 185, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

(INCLUDING TRANSFER OF FUNDS)

SEC. 8128. Notwithstanding any other provision of law, $105,000,000 made available in the fiscal year 1991 Department of Defense Appropriations Act for "Aircraft Carrier Service Life Extension Program" under the heading "Shipbuilding and Conversion, Navy, 1991/1995" shall be utilized only for large scale industrial availability, presumed to be 24 months, of the USS JOHN F. KENNEDY at the Philadelphia Naval Shipyard: Provided, That at least $23,000,000 shall be transferred to "Other Procurement, Navy, 1992/1994" for the purchase of items to be used for a large scale industrial availability of the USS JOHN F. KENNEDY at the Philadelphia Naval Shipyard: Provided further, that the remaining funds shall be retained in the "Aircraft Carrier Service Life Extension Program" until required for transfer for the purpose of planning, scheduling, and any other such work as is necessary to prepare for and execute a large scale industrial availability of the USS JOHN F. KENNEDY at the Philadelphia Naval Shipyard.

And the Senate agree to the same.

Amendment numbered 187:

That the House recede from its disagreement to the amendment of the Senate numbered 187, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8129*, and in lieu of "$10,800,000" named in said amendment insert: *$26,000,000*; and the Senate agree to the same.

Amendment numbered 190:

That the House recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8130. The Comptroller General of the United States, in conjunction with the Department of the Navy, shall issue a report no later than July 1, 1992, on the Navy's accounting practices at its nuclear shipyards. The report shall include a detailed review of the Navy's current plan for the handling and disposal of all nuclear materials and radioactively contaminated materials of nuclear powered vessels. The report shall include cost evaluations and projections for the next twenty years based on the current Navy plan.

And the Senate agree to the same.

Amendment numbered 193:

That the House recede from its disagreement to the amendment of the Senate numbered 193, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8131*, and in lieu of the word "Senate" named in said amendment insert: *Congress*; and the Senate agree to the same.

Amendment numbered 195:

That the House recede from its disagreement to the amendment of the Senate numbered 195, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8132. NATIONAL COMMISSION ON THE FUTURE ROLE OF U.S. NUCLEAR WEAPONS, PROBLEMS OF COMMAND, CONTROL, AND SAFETY OF SOVIET NUCLEAR WEAPONS, AND REDUCTION OF NUCLEAR WEAPONS.—

(a) ESTABLISHMENT.—There is hereby established a National Commission on the Future Role of U.S. Nuclear Weapons, Problems of Command, Control, and Safety of Soviet Nuclear Weapons, and Reduction of Nuclear Weapons (hereafter in this section referred to as the "Commission").

(b) COMPOSITION.—(1) The Commission shall be composed of twelve members, appointed as follows:

(A) 4 members shall be appointed by the President.

(B) 4 members shall be appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives.

(C) 4 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader and the minority leader of the Senate.

(2) The members of the Commission shall be appointed on a non-partisan basis from among persons having knowledge and experience in defense, foreign policy, nuclear weapons, and arms control matters.

(3) Members of the Commission shall be appointed for the life of the Commission. A vacancy on the Commission shall not affect its power, but shall be filled in the same manner as the original appointment was made.

(4) The members of the Commission shall be appointed not later than March 1, 1992. The Commission may not begin to carry out its duties under this section until seven members of the Commission have been appointed.

(5) The Chairman of the Commission shall be elected by and from the members of the Commission.

(c) DUTIES.—The Commission shall assess, report on, and issue recommendations regarding—

(1) the role of, and requirements for, nuclear weapons in the security strategy of the United States as a result of the significant changes in the former Warsaw Pact, the former Soviet Union, and the Third World;

(2) actions the United States should take with respect to such weapons in its national security posture by reason of such changes;

(3) the problems of command, control, and safety of nuclear weapons resulting from the changes taking place in the Soviet Union;

(4) identification of possibilities for international cooperation between the United States and the Soviet Union and among other countries regarding such problems;

(5) the implications of the changes in the Soviet Union on the policy of the United States regarding the problems of command, control, and safety of Soviet nuclear weapons and on the possibilities for international cooperation regarding such problems;

(6) future actions by the United States regarding the matters referred to in paragraphs (3)-(5) above;

(7) what safeguards, including the possible deployment of limited defenses, to protect against the threat of accidental or unauthorized use of nuclear weapons;

(8) what specific goals, consistent with the principle of maintaining deterrence and strategic stability at the lowest levels of armament, should be established for the reduction of strategic and tactical nuclear weapons;

(9) what techniques for dismantling nuclear warheads and disposing of nuclear materials could be incorporated into future arms control agreements.

(d) To assist it in carrying out its duties with respect to the matters listed in subsection (c) (3)-(6) above, the Commission is requested to obtain a study from the National Academy of Sciences on these matters. Such a study would be a follow-on endeavor to the study concluded by the National Academy in September, 1991, on the nuclear relationship of the United States and the Soviet Union.

(e) To assist it in carrying out its duties with respect to the matters listed in subsection (c) (7)-(9) above, the Commission shall request the President to establish and support a joint working group, to be comprised of experts from governments of the United States and from the former Soviet Union, who shall meet on a regular basis in order to discuss and provide specific recommendations regarding these matters. The joint working group shall be comprised—

(1) on the United States side, of such governmental experts as the President may deem appropriate; and

(2) such governmental representatives from the former Soviet Union as the President may arrange.

(f) It is the sense of the Congress that the President of both the United States and the former Soviet Union should encourage their respective defense departments and related intelligence agencies to examine what relevant information should be declassified or otherwise shared within the joint working group discussed in subsection (e) above in order to support the fulfillment of its mandate.

(g) REPORT.—(1) The Commission shall submit to the President and the relevant Congressional committees a final report on the assessments and recommendations referred to in subsection (c) not later than May 1, 1993. The report shall be submitted in unclassified and classified versions.

(2) The Commission shall provide the President and the relevant Congressional committees reports on a quarterly basis which elaborate on the Commission's progress in fulfilling its duties and on the use of the funds available to the Commission.

(3) For the purposes of this section, the relevant Congressional committees are the Committees on Appropriations and Armed Services of the Senate and House of Representatives, the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives.

(h) POWERS.—(1) The Commission may, for the purpose of carrying out this section, conduct such hearings, sit and act at such times, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the Federal Government such information, relevant to its duties under this section, as may be necessary to carry out such duties. Upon request of the Chairman of the Commission, the head of the department or agency shall, to the extent permitted by law, furnish such information to the Commission.

(3) The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(4) The Secretary of Defense shall provide to the Commission such reasonable administrative and support services as the Commission may request. The Secretary shall provide similar services to the joint working group referred to in subsection (e) as the working group may request.

(i) COMMISSION PROCEDURES.—(1) The Commission shall meet on a regular basis (as determined by the Chairman) and at the call of the Chairman or a majority of its members.

(j) PERSONNEL MATTERS.—(1) Each Member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(2) The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, United States Code, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties under this section without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or any other provision of law, relating to the number, classification, and General Schedule rates. No employee appointed under this paragraph (other than the staff director) may be compensated at a rate to exceed the maximum rate applicable to level 15 of the General Schedule.

(3) Upon request of the Chairman of the Commission, the head of any department or agency of the Federal Government is authorized to detail, without reimbursement, any personnel of such department or agency to the Commission to assist the Commission in carrying out its duties under this section. The detail of any such personnel may not result in the interruption or loss of civil service status or privilege of such personnel.

(k) TERMINATION OF THE COMMISSION.—The Commission shall terminate upon submission of the final report required by subsection (g).

(l) APPROPRIATIONS.—Of the funds available to the Department of Defense, $1,500,000 shall be made available to the Commission to carry out the provisions of this section.

And the Senate agree to the same.

Amendment numbered 196:

That the House recede from its disagreement to the amendment of the Senate numbered 196, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8133*; and the Senate agree to the same.

Amendment numbered 199:

That the House recede from its disagreement to the amendment of the Senate numbered 199, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8134*, and after line 19 on page 88 of the House of Representatives engrossed bill, H.R. 2521, insert:

(c) During fiscal year 1992, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

And the Senate agree to the same.

Amendment numbered 200:

That the House recede from its disagreement to the amendment of the Senate numbered 200, and agree to the same with an amendment, as follows:

In lieu of section number "8143" named in said amendment insert: *8135*, and at the end of said amendment insert the following new provisions:

SEC. 8136. Up to $20,000,000 in unobligated and unexpended funds in any appropriation made for Air Force programs in the Department of Defense Appropriations Act, 1991, shall be available to provide reimbursements for launch services costs authorized to be waived by the 1988 Amendments to the Commercial Space Launch Act: Provided, That the Department of Defense shall notify the Committees on Appropriations of the House and Senate not less than 30 calendar days in session prior to the obligation of funds for this purpose.

SEC. 8137. Section 2208 of Title 10 United States Code is amended to redesignate the current subsection (j) to subsection (k) and add a new subsection (j) as follows:

(j) The Secretary of the Army may authorize a working capital funded Army industrial facility to manufacture or remanufacture articles and sell these articles, as well as manufacturing or remanufacturing services provided by such facilities, to persons outside the Department of Defense if—

(1) the person purchasing the article or service is fulfilling a Department of Defense contract; and

(2) the Department of Defense solicitation for such contract is open to competition between Department of Defense activities and private firms.

SEC. 8138. Notwithstanding any other provision of law, the Secretary of Defense may, when he considers it in the best interest of the United States, cancel any part of an indebtedness, up to $2,500, that is or was owed to the United States by a member or former member of a uniformed service if such indebtedness, as determined by the Secretary, was incurred in connection with Operation Desert Shield/Storm: Provided, That the amount of an indebtedness previously paid by a member or former member and cancelled under this section shall be refunded to the member.

(TRANSFER OF FUNDS)

SEC. 8139. In addition to the amount appropriated in Public Law 102–140 for United States Information Agency "Salaries and expenses", $5,600,000 shall be derived by transfer from unobligated balances of Board for International Broadcasting, "Israel Relay Station", to be available for the costs of the participation of the United States in 1992 Columbus Quincentennial Expositions in Seville, Spain, and Genoa, Italy.

SEC. 8140. Notwithstanding any other law or regulation, the segregative effect of the withdrawal application filed by the U.S. Forest Service with the Bureau of Land Management on March 9, 1953, or the withdrawals effected by Public Land Order 3502 and Public Land Order 3556, the Secretary of the Interior, acting through the Director, Bureau of Land Management, is directed to issue a patent to the Shiny Rock Mining Corporation for the Santiam No. 1 lode mining claim, situated within Sections 19 and 30, T. 8 B., R. 5 E., W.M., Marion County, Oregon, pursuant to the April 22, 1991, Order of the Interior Board of Land Appeals in the case of United States v. Shiny Rock Mining Corporation, docket number IBLA 88–41.

SEC. 8141. Notwithstanding any other provision of law, the Department of the Navy shall obligate not less than $10,000,000 of the funds appropriated in this Act for Research, Development, Test, and Evaluation, Navy to develop an integrated display station as an engineering change to the Advanced Video Processor and for the reestablishment of the CI Mode integration testing: Provided, That the funds appropriated in fiscal year 1991 for the procurement of the Advanced Video Processor units and associated display heads shall be made available to the Department of the Navy, obligated not later than sixty days from the enactment of this Act, and used for no other purpose: Provided further, That none of the funds appropriated in this, or any other Act, shall be made available for the OJ–XXX Anti-Submarine Warfare Display Station.

SEC. 8142. None of the funds in this Act may be used to order from the Desktop III contract, except for contract maintenance, service, peripheral equipment and necessary spare parts to ensure system operability, at the time that the Desktop IV contract is available to receive customer orders.

(TRANSFER OF FUNDS)

SEC. 8143. In addition to any other transfer authority contained in this Act, amounts from working capital funds shall be transferred to appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred, as follows: from the Defense Business Operations Fund, not less than $300,000,000 shall be transferred as follows: $150,000,000 to Foreign Currency Fluctuations, Defense; $60,000,000 to Pentagon Reservation Maintenance Fund; $20,000,000 to Operation and Maintenance, Army Reserve; $20,000,000 to Operation and Maintenance, Navy Reserve; $10,000,000 to Operation and Maintenance, Marine Corps Reserve; $15,000,000 to Operation and Maintenance, Air Force Reserve; and $25,000,000 to Operation and Maintenance, Army National Guard.

SEC. 8144. The Secretary of Defense may not withhold assistance, furnished using funds appropriated or otherwise made available to the Secretary of Defense under this Act or made available to the Secretary under the Department of Defense Base Closure Account 1990, from a community reuse task force or committee established in connection with the closure of a military installation under the Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510) on the basis of a lack of unanimity among the members of the task force or committee if at least 90 percent of the members of the task force or committee support the application for such assistance.

SEC. 8145. (a) Notwithstanding subsections (a) and (c) of section 7308 of title 10, United States Code, but subject to subsection (b) of that section, the Secretary of the Navy may transfer the obsolete aircraft carrier Oriskany (CV 34) to the nonprofit organization, "City of America", for cultural and educational purposes.

(b) The transfer authorized by subsection (a) may be made only if the Secretary of the Navy determines that the vessel is of no further use to the United States for national security purposes.

SEC. 8146. For the purpose of determining the benefit/cost ratio for the South Frankfort, Kentucky flood control project, no expenditures made prior to fiscal year 1992 shall be considered to be preliminary design and engineering costs.

SEC. 8147. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 8148. For purposes of funds provided for the Defense access road for Andrews Air Force Base, Maryland, the Suitland Parkway shall be considered as fully meeting the certification requirements specified in Section 210 of Title 23 of the United States Code.

SEC. 8149. (a) The Secretary of Defense, during the current fiscal year or at any time thereafter, may make a donation to an entity described in subsection (b) of a parcel or real property (including structures on such property) under the jurisdiction of the Secretary that is not currently required for the needs of the Department and that the Secretary determines is needed and appropriate for the activities of that entity.

(b) A donation under subsection (a) may be made to a nonprofit entity which provides medical, educational, and emotional support in a recreational setting to children with life-threatening diseases and their families.

SEC. 8150. (a) The Secretary of the Treasury shall pay, out of funds in the Treasury not otherwise appropriated, to George D. Hand, Jr., the amount of $220,000 for damages sustained by George D. Hand, Jr., as a result of the scuttling of the F/V SHINNECOCK I off Shinnecock Harbor, New York, on March 14, 1991.

(b) The payment to George D. Hand, Jr., pursuant to subsection (a) shall satisfy in full all claims of George D. Hand, Jr., against the United States for any loss, injury, or other damages resulting from the scuttling of the vessel described in subsection (a).

(c) It shall be unlawful for more than 10 percent of the amount paid to George D. Hand, Jr., pursuant to subsection (a) to be paid to or received by any agent or attorney of George D. Hand, Jr., in connection with the claim referred to in subsection (b). Any person who violates subsection (a) shall be fined under title 18, United States Code.

SEC. 8151. Of the funds transferred to the Department of Energy pursuant to Section 8089 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1896), not to exceed $1,000,000 shall be made available in fiscal year 1992 to the Commonwealth of Pennsylvania for independent monitoring and testing of onsite activities in the decommissioning at the Apollo, Pennsylvania site, except that such monitoring and testing shall not interfere with the conduct of site decommissioning activities or affect Nuclear Regulatory Commission authority over the decommissioning: Provided, That the date for completion of cleanup at the Apollo site provided in Section 8089 of the Department of Defense Appropriations Act of 1991 is rescinded.

SEC. 8152. During the current fiscal year, the Secretary of Defense may accept burdensharing contributions in the form of money from the Government of Japan for the costs of local national employees, supplies, and services of the Department of Defense to be credited to applicable Department of Defense operations and maintenance appropriations available for the salaries and benefits of local national employees, supplies, and services to be merged with and to be available for the same purposes and time period as those appropriations to which credited: Provided, That not later than 30 days after the end of each quarter of the fiscal year, the Secretary of Defense shall submit to the Congress a report of contributions accepted by the Secretary under this provision during the preceding quarter.

(TRANSFER OF FUNDS)

SEC. 8153. From the funds made available for Repair and Restoration of Buildings of the Smithsonian Institution in the fiscal year 1992 Department of the Interior and Related Agencies Appropriations Act, $800,000 is hereby appropriated by transfer to the Salaries and expenses account of the Smithsonian Institution, such sum to remain available until expended.

SEC. 8154. None of the funds appropriated or made available by this Act may be used to implement a realignment or consolidation of the Naval Facilities Engineering Command that would affect of the Northern Division of that command until sixty days after the consolidation or realignment plan is approved by the Secretary of Defense and submitted to the Committee on Appropriations of the House and Senate.

SEC. 8155. Notwithstanding any other provision of law or regulation, the Department of Defense shall have the authority to charter one or more presently existing U.S. flag tankers for a firm lease period not exceeding five years, with provision for further renewal at the Department's option: Provided, That any such charter contains no penalty payable upon failure to exercise any renewal option: Provided further, That the charter contains no agreement to indemnify any person for any amount paid or due by any person to the United States for any liability arising under the Internal Revenue Code of 1954: Provided further, That any such tanker was built after December 31, 1980: Provided further, That no funds shall be available for any such charter without previously having been submitted to the congressional defense committees.

SEC. 8156. Section 355(b) of Public Law 101-510 is amended by striking "92" and inserting in lieu thereof "77".

SEC. 8157. The Secretary of Defense is authorized to provide optional summer school programs in addition to the programs otherwise authorized by the Defense Dependents Education Act of 1978 (P.L. 95-561), and to charge a fee for participation in such optional education programs. Optional summer school program fees shall be made available for use by the Secretary to defray the costs of summer school operations.

And the Senate agree to the same.

JOHN P. MURTHA,
NORMAN DICKS,
CHARLES WILSON,
W.G. (BILL) HEFNER,
MARTIN OLAV SABO,
JULIAN C. DIXON,
BERNARD J. DWYER,
JAMIE L. WHITTEN,
JOSEPH M. MCDADE,
BILL YOUNG,
CLARENCE MILLER,
BOB LIVINGSTON,
JERRY LEWIS,
Managers on the Part of the House.

DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
ROBERT C. BYRD,
PAT LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
TED STEVENS,
JAKE GARN,
ROBERT W. KASTEN, JR.,
ALFONSE M. D'AMATO,
WARREN B. RUDMAN,
THAD COCHRAN,
ARLEN SPECTER,
PETE V. DOMENICI,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2521), making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the Department of Defense Appropriations Act, 1992, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 102-95 and Senate Report 102-154 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts for the Military Personnel accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Active personnel:				
Army	24,226,100	24,526,100	24,136,000	24,176,100
Navy	19,597,700	19,577,700	19,603,025	19,602,967
Marine Corps	6,066,800	6,086,800	6,055,360	6,065,560
Air Force	18,905,500	18,905,500	18,838,800	18,868,300
Reserve personnel:				
Army	2,192,800	2,320,800	2,298,800	2,298,800
Navy	1,648,600	1,718,600	1,710,600	1,714,600
Marine Corps	326,900	354,900	342,400	348,900
Air Force	705,300	721,500	715,100	718,900
National Guard personnel:				
Army	3,201,700	3,395,700	3,320,400	3,326,700
Air Force	1,145,500	1,145,500	1,145,500	1,145,500
Total, military personnel	78,016,900	78,753,100	78,165,985	78,266,327

VOLUNTARY SEPARATION INCENTIVE/ INVOLUNTARY SEPARATIONS

The conferees agree that the Department needs maximum flexibility in order to reshape the military for the future because of changing world conditions. Based on Administration assurances that involuntary separations will only be invoked as a last resort, the conferees have agreed to drop the House provision mandating no involuntary separations for the Army.

In addition, the conferees believe that the Voluntary Separation Incentive (VSI) will provide a positive incentive to reduce the size of the military force. The conferees agree that VSI should be provided to the extent and in the amounts authorized by the Defense Authorization Act. Because the conferees have made other reductions for specific line items in the military personnel accounts, no savings were taken for implementing VSI this fiscal year.

MILITARY PERSONNEL, ARMY

Amendment No. 1: Appropriates $24,176,100,000 instead of $24,526,100,000 as proposed by the House and $24,136,000,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Military personnel restoration	300,000	0	0
Variable housing allowance	0	−2,000	−2,000
Overseas station allowance	0	−88,000	−48,000
Total, military personnel, Army	300,000	−90,100	−50,000

Amendment No. 2: Deletes House language that would have prevented the Army from involuntarily separating military personnel, except for causes consistent with past policy.

MILITARY PERSONNEL, NAVY

Amendment No. 3: Appropriates $19,602,967,000 instead of $19,577,700,000 as proposed by the House and $19,603,025,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Ensign "stashing"	−20,000	−8,400	−8,400

[In thousands of dollars]

	House	Senate	Conference
Variable housing allowance	0	−4,275	−4,275
Overseas station allowance	0	−33,700	−19,500
Delayed decommissioning	0	51,700	37,442
Total, military personnel, Navy	−20,000	5,325	5,267

ENSIGN "STASHING"

Reductions taken by both Houses were intended to end the wasteful practice of ensign "stashing". While the conferees have agreed to the Senate position for reduced funding, the conferees want to strongly emphasize that this practice will be completely stopped.

DELAYED DECOMMISSION

The conferees agree to the increased personnel costs detailed below due to the delay in decommissioning the following naval vessels:

	Amount
U.S.S. *Midway*	$14,547,000
U.S.S. *Wisconsin*	4,215,000
U.S.S. *Missouri*	18, 680,000

Military Personnel, Marine Corps

Amendment No. 4: Appropriates $6,065,560,000 instead of $6,086,800,000 as proposed by the House and $6,055,360,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
SRB/EB (bonuses) partial restoration	3,000	0	3,000
Aviation continuation pay partial restoration	2,500	0	2,500
Reserve support	14,500	0	0
Variable housing allowance	0	−1,140	−1,140
Overseas station allowance	0	−10,300	−5,600
Total, military personnel, Marine Corps	20,000	−11,440	−1,240

Military Personnel, Air Force

Amendment No. 5: Appropriates $18,868,300,000 instead of $18,905,500,000 as proposed by the House and $18,838,800,000 as proposed by the Senate, and deletes Senate position reducing the total amount appropriated for Research, Development, Test and Evaluation, Air Force, by $225,000,000.

The conference agreement on items addressed by either the House or the Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Variable housing allowance	0	−2,200	−2,200
Overseas station allowance	0	−64,500	−35,000
Total, military personnel, Air Force	0	−66,700	−37,200

National Guard and Reserve Forces

The conferees agree to provide $9,553,400,000 in Reserve personnel appropriations, $7,355,200,000 in operation and maintenance appropriations, and $1,877,800,000 in the National Guard and Reserve Equipment appropriation. In addition, $235,799,000 is provided for Guard and Reserve forces in "Drug Interdiction and Counter-Drug Activities, Defense" and $90,000,000 is provided in section 8143. These funds support a Selected Reserve strength of 1,135,896, an AGR ceiling of 72,899, and a Technician floor of 71,168, broken out as follows:

RESERVE STRENGTHS

[Fiscal year 1992]

◆	Budget	Conference	Conference versus Budget
Selected Reserve:			
Army Reserve	282,700	308,000	25,300
Navy Reserve	134,600	144,000	9,400
Marine Corps Reserve	40,900	42,400	1,500
Air Force Reserve	81,200	83,396	2,196
Army National Guard	410,900	440,000	29,100
Air National Guard	118,100	118,100	0
Total	1,068,400	1,135,896	67,496
AGR/TARS:			
Army Reserve	12,683	13,146	463
Navy Reserve	22,045	22,521	476
Marine Corps Reserve	2,170	2,285	115
Air Force Reserve	643	649	6
Army National Guard	23,341	25,162	1,821
Air National Guard	9,081	9,136	55
Total	69,963	72,899	2,936
Technicians:			
Army Reserve	7,082	8,095	1,013
Air Force Reserve	10,343	10,495	152
Army National Guard	27,049	27,939	890
Air National Guard	24,639	24,639	0
Total	69,113	71,168	2,055

The conferees agree that any other report language on issues concerning the reserve components addressed by the House and Senate in their respective reports, unless specifically amended in the conference report, remain of interest to the conferees and should be followed.

FORCE STRUCTURE

The conferees believe that during a period of decreasing Defense budgets, it makes sense to put more, not less, force structure into the reserve components. Accordingly, the conferees agree to include section 8067 which prohibits funds to reduce the end strength of the reserve components below the levels funded in this Act; specifies a force structure level; and provides the Secretary of Defense with adjustment flexibility.

The conferees agree to provide a two percent flexibility to the end strength and force structure floors of each National Guard and Reserve Component as set by section 8067. The conferees are adamant that the force structure to end strength ratio set forth in section 8067 shall be maintained for the Army Reserve and Army National Guard.

The conferees remain concerned that the cadre concept has not been fully developed and justified. Therefore, the conferees direct the Department not to begin the implementation of these divisions during fiscal year 1992.

The Department should provide a listing of all units being reduced, realigned, or inactivated in fiscal year 1992. This listing should include the designation of the unit, its location and personnel levels, and timetable. Where appropriate the listing should indicate the associated active unit it supports. This listing should be submitted to the Committees on Appropriations by March 15, 1992.

In addition, the conferees expect the Department to provide a similar listing for unit adjustments proposed in the amended fiscal year 1993 budget.

The $90,000,000 to be transferred from the Defense Business Operations Fund may be used to fund the force structure restoration or to reduce current backlogs in items, such as depot maintenance and organizational clothing and equipment.

ARMY RESERVE COMMAND

House language expressed concern about the autonomy and location of the Army Reserve Command. The conferees agree with these concerns and direct the Army to include review of these issues in the charter of the Independent Commission. In addition, the conferees agree that evaluation criteria and measurement standards should be decided prior to the Commission critiquing the progress of the Command and its future effectiveness.

ARMY CONSOLIDATIONS

House language directed that the Army should not undertake the consolidations of the personnel centers and fixed wing aircraft until a decision has been made on the force structure of the Total Army. The conferees agree with this direction and request that the Department of the Army submit a report to the Committees on Appropriations justifying each of the proposed consolidations. Each report should address what benefits will accrue to the Army, specific plans and timetables for the consolidation, and a detailed cost and benefits analysis for all facets of such consolidation. In addition, the report on fixed wing aircraft should address the merits of assigning the operational support mission to a reserve component. Accordingly, the conferees direct the Army not to take any action to implement these proposed reorganizations until thirty days after each report requested above is submitted to the Committees on Appropriations.

TRAINING DIVISIONS

In the fiscal year 1990 conference report on the Defense Appropriations Act, the conferees directed the Army not to take any action to implement the proposed reorganization of the 76th and 78th Training Divisions of the Army Reserve until thirty days after a report justifying the consolidation has been submitted to the Committees on Appropriations. The conferees reaffirm this direction provided in fiscal year 1990 and direct the Army to submit a report addressing what benefits will accrue to the Army Reserve and how this reorganization will affect the positions, facilities, and missions of the 76th and 78th Training Divisions.

NATIONAL GUARD MILITARY YOUTH CORPS

The conferees agree with the Senate that the National Guard could provide an invaluable service in assisting young, unemployed high school dropouts to become productive members of society. The conferees, therefore, direct that the National Guard Bureau prepare a detailed plan, to present to the Committees on Appropriations no later than April 30, 1992, to establish such a program. The plan to be developed by the Bureau should be designed to demonstrate how disadvantaged youth can be reclaimed through a rigorous program, based on a military model, of education, personal and skills development, and work in service to their communities. The program should be preventive rather than remedial and should be designed to assist these young people before they become involved in the criminal justice system.

The conferees believe that the initial, demonstration sites for this program should be Camp Dawson, West Virginia, and Camp Gruber, Oklahoma, and that the capabilities of these sites should be taken into account in designing the program.

The conferees agree that both the Army and Air National Guards should be involved in this effort and that up to $2,000,000 of funds available in the "operation and maintenance" accounts be used only for this purpose.

RESERVE PERSONNEL, ARMY

Amendment No. 6: Appropriates $2,298,800,000 as proposed by the Senate instead of $2,320,800,000 as proposed by the House.

The conferees recommend an additional $106,000,000 to fund a fiscal year 1992 end strength of 308,000 and force structure level of 310,000.

RESERVE PERSONNEL, NAVY

Amendment No. 7: Appropriates $1,714,600,000 instead of $1,718,600,000 as proposed by the House and $1,710,600,000 as proposed by the Senate.

The conferees recommend an additional $66,000,000 to fund a fiscal year 1992 end strength and force structure level of 144,000. Included within this amount is the Craft of Opportunity Program. The P-3 program is addressed at amendment no. 163.

RESERVE PERSONNEL, MARINE CORPS

Amendment No. 8: Appropriates $348,900,000 instead of $354,900,000 as proposed by the House and $342,400,000 as proposed by the Senate.

The conferees recommend an additional $22,000,000 to fund an end strength and force structure level of 42,400.

RESERVE PERSONNEL, AIR FORCE

Amendment No. 9: Appropriates $718,900,000 instead of $721,500,000 as proposed by the

House and $715,100,000 as proposed by the Senate.

The conferees recommend an additional $12,400,000 to fund an end strength and force structure level of 83,396 and $1,200,000 for the WC-130 Weather Reconnaisance Mission.

Both the House and Senate included a general provision which prohibits funds to reduce or disestablish the 815th Tactical Airlift Squadron of the Air Force Reserve if such action would reduce the WC-130 Weather Reconnaissance Mission below the levels funded in this Act. The conferees agree that the Air Force and Air Force Reserve are to dedicate 10 PAA/2 BAI aircraft, 14 full-time and 3 part-time air crews, and 1,600 flying hours to this mission.

NATIONAL GUARD PERSONNEL, ARMY

Amendment No. 10: Appropriates $3,326,700,000 instead of $3,395,700,000 as proposed by the House and $3,320,400,000 as proposed by the Senate.

The conferees recommend an additional $125,000,000 to fund an end strength of 440,000 and a force structure level of 450,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

The conferees agree to appropriate $1,450,500,000 for National Guard Personnel, Air Force as proposed by both the House and Senate.

CLASSIFIED MISSIONS FOR AIR NATIONAL GUARD

The conferees agree to language contained in the Classified Annex and report concerning certain classified Air National Guard programs.

TITLE II OPERATION AND MAINTENANCE

A summary of the conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Summary	Budget	House	Senate	Conference
Army	21,886,800	18,362,945	20,913,805	17,722,903
Navy	23,934,200	21,394,932	23,012,390	21,079,548
Marine Corps	1,894,600	2,082,500	2,109,665	1,892,110
Air Force	20,342,900	17,660,213	19,242,014	17,180,259
Defense Agencies	8,794,800	18,599,037	8,635,768	16,408,161
Army Reserve	937,200	995,600	962,200	968,200
Navy Reserve	816,100	825,500	840,600	825,500
Marine Corps Reserve	75,900	85,900	81,700	81,700
Air Force Reserve	1,075,400	1,091,200	1,077,000	1,078,700
Army National Guard	2,080,700	2,165,600	2,125,800	2,125,800
Air National Guard	2,287,800	2,275,700	2,276,300	2,281,300
National BRD for the promotion of rifle practice, Army	5,000	5,000	5,000	5,000
Court of Military Appeals	5,500	5,500	5,500	5,500
Environmental restoration, Defense	1,252,900	2,152,900	1,183,900	1,183,900
Humanitarian assistance	13,000	15,000	13,000	15,000
World University Games	0	3,000	1,000	3,000
Summer Olympics			2,000	2,000
Real property maintenance, Defense			1,000,000	500,000
Total, Operation and Maintenance	85,402,800	87,720,527	83,487,642	83,358,581

BUDGET JUSTIFICATION MATERIALS

To improve the information available on the execution and budgeting of operation and maintenance (O&M) appropriations, Section 8034 requires the Department to submit an "O-1" as part of its justification materials supporting the fiscal year 1993 O&M request. The conferees agree that the O-1 shall be treated as the base for reprogramming actions and execution of O&M funds, as the P-1 and R-1 are for procurement and RDT&E appropriations, respectively.

The conferees direct the Department to work with the Committees on Appropriations of the House and Senate to determine the exact details of this and other O&M justification materials.

PRICE CHANGES AND ANNUAL BUDGETING

The conferees agree with the Senate that each of the Services should provide the Committees with more timely and accurate data on price changes not reflected in their individual budget requests. All too often, contract adjustments resulting in price swings of millions of dollars are omitted from service budget estimates because an efficient mechanism does not exist for integrating this information into the budget prior to its submission, or during the course of its consideration by the Committees. As a result, the conferees believe they are being deprived of information critical to their budget deliberations and that in the process, the Department may be disadvantaged.

The conferees agree with the Senate's decision to continue the General Accounting Office's (GAO) review of the Department's financial management practices as they affect price changes and the annual budgeting process. The conferees are concerned by the conclusions reached by the GAO in its review of the Air Force budgeting of repairable items and expects that each of the Services and Defense Agencies will provide both timely and accurate pricing information to the Committees as part of their fiscal year 1993 budget submission.

DEPOT MAINTENANCE

In hearings on the 1992 Defense Appropriations request, both the House and the Senate expressed concern about deferred depot maintenance levels assumed in the budget, particularly the Navy. To address these concerns, the conferees agree to provide additional funds for retiring the services' depot maintenance backlogs expected in fiscal year 1992. In the case of the Navy, the conferees provide an additional $400,000,000; of this amount, $150,000,000 shall be used to retire aviation backlogs and $250,000,000 to retire ship maintenance backlogs. The additional funds for ship depot maintenance shall be used for reducing overhaul backlogs and other ship maintenance in accordance with a plan submitted by the Navy. Some details of that plan are provided in Senate report 102-154.

The conferees again endorse the Department's efforts to foster competition among its depot maintenance facilities and between these facilities and the private sector. The conferees note that, with respect to Section 1820, vehicles include all tracked weapons systems as well as wheeled vehicles.

The conferees agree to the following depot maintenance levels for the DD 1414, Base for Reprogramming:

	Amounts
Army	$977,600,000
Navy	4,540,500,000
Marine Corps	98,900,000
Air Force	1,682,800,000

The conferees understand that once the Department decides the proper distribution of the reductions which affect more than one budget activity, the depot maintenance levels specified above may change. The Department is directed to obtain approval from the Committees on Appropriations of the House and Senate of any such changes before preparation of the DD 1414, Base for Reprogramming.

REAL PROPERTY MAINTENANCE

The conferees agreed to establish the Real Property Maintenance, Defense account under the control of the Comptroller of the Department of Defense. Funding of $500,000,000 is provided to cover repair and maintenance costs deferred in the Administration's request.

The Comptroller is directed to make funding allocations based on prioritized lists of repair projects submitted by the military services. Further, the Comptroller is directed to provide the Committee on Appropriations of the House and Senate a report, no later than April 1, 1992, detailing the funding allocations made to the services. The report shall include a list of projects funded, deviations from service project priorities, and the justification for changes in departmental priorities. The funding allocations shall be made no later than March 1, 1992. The conferees take this action because of their continuing frustration with the services, repeated attempts to use real property maintenance funds for other purposes after having justified to the Committees the high priority need for such funds.

The conferees also support the implementation of a pilot program to conduct comprehensive maintenance surveys of many of our critical military bases in the U.S. A list of those bases to be surveyed in 1992 is provided in Senate report 102-154. The conferees agree to include in that list Fort Knox, Kentucky. The conferees direct the Department to use funds from this account to cover the costs of these surveys.

REVOLVING FUND EXCESS CASH

Because purchases of supplies and transportation services substantially increased as a result of Operation Desert Shield/Storm, the Department's stock and industrial funds ended fiscal year 1991 with cash assets in excess of those planned in the budget request. To take advantage of these excess cash assets, the Department is directed to transfer from the revolving funds to the O&M appropriations the following amounts: to Operation and Maintenance, Army $150,000,000; to Operation and Maintenance, Navy $200,000,000; to Operation and Maintenance, Air Force $150,000,000; and to Operation and

Maintenance, Defense Agencies $100,000,000. Reductions are made to each account listed above in the same amount as will be transferred. Section 8007 permits the Department to effect these transfers.

MEALS-READY-TO-EAT

The conference agreement provides for the fiscal year 1992 procurement of 3.6 million cases of MREs, the quantity determined to be necessary to sustain an industrial base capable of responding to unanticipated surge requirements. The conferees direct the Department to work with the MRE industry to determine the future minimal procurement sustainment rate to maintain a viable industry. DLA/DPSC is directed to develop, in concert with industry representatives, an implementation plan for the period 1993–1995 that takes into consideration the following additional components; (1) a three-year shelf-life for MRE stocks, with rotating stocks eligible and channeled for use in domestic and international disaster and famine relief efforts as emergencies arise, as well as aid to the homeless; and (2) alternative uses such as the Foreign Military Sales Program, domestic law enforcement (including drug interdiction activities), firefighting and other governmental uses. The conferees direct that this plan, to be developed jointly with industry representatives, should be submitted to the Congress with the fiscal year 1993 budget. The conferees further direct the Department to cooperate with the MRE industry to develop alternative menus to the current DPSC specifications in order to provide a more attractive, balanced, and palatable selection of entrees for the field ration feeding system.

COMBAT BOOTS

The conferees remain concerned about the fragile industrial base to support the production of combat boots. Even though combat boots are essential to readiness of our forces, the Department continues to order them in a irregular manner which creates uncertainty in the industry and results in unnecessarily high costs to the taxpayer. Therefore, the conferees direct the Services to purchase Direct Molded Sole (DMS) combat boots in 1992 from the Defense Logistics Agency in an amount no less than $70,000,000. DLA is directed to provide to the Committees on Appropriations of the House and Senate by April 1, 1992 a report describing the levels of DMS combat boot purchases necessary to sustain this defense industrial base over the next several years.

ADVERTISING

The conferees believe that the Department should reassess the services' individual advertising budgets considering the personnel reduction that is presently occurring. Accordingly, the conferees have agreed to reduce the Army advertising budget by $2,300,000, the Navy advertising budget by $500,000, and the Air Force advertising budget by $200,000.

HOMEOWNERS ASSISTANCE FUND

The conferees request that the Department study the option of expanding the Homeowners Assistance Fund (42 United States Code 3374 and 10 United States Code 2832) to include those homeowners who have been involuntarily separated due to the force structure drawdown and are forced to move elsewhere for employment. The Department should consider among the options studied, the costs and benefits of buying back involuntarily separated members' homes at the original cost and then either using these homes for base housing or selling them to private individuals. A report should be submitted to the Committees on Appropriations of the House and Senate no later than May 15, 1992, containing the Department's views on this proposal.

SECURITY LOCK TECHNOLOGY

The conferees recognize the critical importance of safeguarding national security information against unauthorized disclosure and support the efforts of the General Services Administration (GSA) and the Defense Department to upgrade security technology. The conferees, however, are concerned that sensitive national security materials may be unduly compromised through the continued use of outmoded locking and storage technologies. Therefore, the Department of Defense, in consultation with GSA, is directed to prepare a report assessing the current state-of-the-art in storage and self-powered lock technology. The report should include the impact on national security posed by the continued use of mechanical combination locks and other obsolete security technology. This report is to be submitted to the relevant Congressional oversight committees no later than April 1, 1992.

SPARE PARTS INVENTORY

The conferees believe that the Department has undertaken important efforts to reduce its inventory of unneeded spare parts and supplies. But the conferees also believe that more needs to be done. Although no reductions to the operation and maintenance accounts are made based on excess spare parts inventory, the conferees agree to Section 8102 which prohibits the Department from incurring obligations against the stock funds in excess of 80 percent of sales from such funds in 1992. Exceptions for certain categories of purchases are granted in this provision to avoid any adverse impact on force readiness.

In light of the expected increase in unneeded spare parts resulting from Operation Desert Shield/Storm, the conferees provide no additional funds for the purchase of spare parts. The conferees, however, strongly urge the Department to allocate sufficient funds for the purchase of mission-essential spares and repair parts and war reserve items. The conferees believe that, notwithstanding the current fiscal environment, the Department must not repeat mistakes which led to the "hollow forces" of the 1970's.

CIVILIAN PERSONNEL INVOLUNTARY SEPARATION INCENTIVES

The conferees are concerned that equitable opportunities be provided to Defense civilian employees who may face involuntary separation under the revised base force. Therefore, the Department of Defense is directed to submit a report to the Committees on Appropriations detailing plans for addressing hardships posed by federal civilian involuntary separations no later than March 31, 1992.

FOREIGN NATIONAL PAY

The conferees have made minimal reductions to the budget request for foreign national pay in the belief that the Department's plans for an orderly reduction in European force levels have been adversely impacted by Operation Desert Shield/Storm. Nevertheless, the conferees view this situation as temporary and remain committed to a significant cutback in the number of foreign hires as the peacetime deployment of American forces overseas diminishes.

The conferees remain concerned that United States allies have been unable, or unwilling, to meet their fair share of the costs of the common defense, in particular, the costs of foreign nationals supporting U.S. military units in Europe. The conferees request the Department of Defense, working with the Department of State, to seek new burden sharing arrangements with our allies that will reduce the cost of both European and Pacific defenses, reductions that will be reflected as significant savings in the Department's budget requests for fiscal years 1993 and 1994.

HEADQUARTERS REDUCTIONS

The conferees agree to a reduction in the budget for selected headquarters accounts of approximately 10 percent. This action reflects a reduction in civilian personnel levels proportional to the reductions taken in other activities. The conferees believe that the Department must make a greater effort to eliminate the number of unneeded or redundant headquarters billets as the manning levels for both the active and reserve forces decline. The conferees will look to such reductions as a measure of the Department's commitment to streamlining under its Defense Management Review initiative.

DEFENSE CONVERSION COMMISSION

The conferees support the creation of the Defense Conversion Commission as described in Senate Report 102–154. Further, the conferees expect the Department of Defense and other executive agencies to work closely with Congressional members and staff to assure the expeditious establishment and success of this commission.

BASE CLOSURE CONVERSIONS

The conferees direct the Secretary of Defense, in consultation with the Secretary of Health and Human Services, the Attorney General, and the Director of National Drug Control Policy, to conduct an assessment of each of the military bases scheduled to be closed under the base closure process initiated by Public Law 100–526 (102 Stat. 2627) and part A of title XXIX of PL 101–510 (104 Stat. 1808) to determine the suitability of those bases for conversion to "boot camp" style prisons, pretrail detention centers, or drug treatment centers. The Secretary shall prepare a report in which he will identify at least ten bases which could be converted and used to assist state and local governments to ease overcrowding in prisons, pre-trial detention centers, and drug treatment programs. The report must include information on the housing capacity of each base, an explanation of the necessary steps that must be taken to convert each base, and an estimate of the cost of the conversion. The conferees also direct the Secretary to submit this report to the House and Senate Appropriations Committees by May 1, 1992.

BASE EQUIPMENT DISPOSAL

The conferees are concerned over reports that the Department of Defense, in preparation for closing down bases that were selected under the most recent base closure review process, may in specific cases be dismantling bases to such an extent that their transition to post-military use may be compromised. The conferees approve of the Department's removing of mission-related and logistics equipment that is of sufficient value to justify the cost of its packing and shipping to a new location. However, the conferees direct the Department to consider not removing, in connection with the closure or realignment of a military installation pursuant to the Base Closure and Realignment Act of 1990 (10 U.S.C. 2687), any equipment (other than mission-specific and logistics equipment) or fixture that is located at the installation and would be suitable for use by a governmental or private entity obtaining real property at the installation unless the removal is approved by each non-federal entity recognized by the Secretary as developing an alternative use plan for the installation.

RELIEF SOCIETIES

The Supplemental to Provide Aid to Refugees and Displaced Persons In and Around Iraq for Fiscal Year 1991 provided $16,000,000 to the military relief societies from interest accrued in the Defense Cooperation Account. The conferees understand that those funds have provided valuable assistance to service members who were involved in Operation Desert Shield/Storm. The conferees agree that this is but one small way to express their gratitude to the brave men and women in uniform who participated in Operation Desert Shield/Storm.

BIG BROTHERS/BIG SISTERS OF AMERICA

The conferees commend Big Brothers/Big Sisters of America (BB/BSA) for their interest in setting up programs at military bases to provide volunteer adult mentors to military dependents. The conferees believe that the Department should use volunteer mentors like BB/BSA whenever possible, and not pay for this service as it is presently doing in another test program.

The conferees believe that mentor programs should be addressed at the local level, with local base commanders ultimately deciding whether to enter into agreements with BB/BSA, such as the recent agreement entered into by the NATO base at Keflavik, Iceland.

The conferees believe that BB/BSA could be helpful in training personnel to develop mentor program and further believe that this purpose can be accomplished by incorporating a training segment into existing training opportunities for family support directors and family advocacy staff. These training opportunities are held regularly during the year by the military services at various locations across the country. The conferees request that the Department of Defense explore this option of having BB/BSA provide a representative, at the request of and to be reimbursed for reasonable expenses by the pertinent military service, to conduct training seminars during regularly scheduled training sessions. These seminars would have an additional advantage of making BB/BSA.

PARTICIPATION OF WORKSHOPS FOR THE BLIND AND HANDICAPPED

Section 8082 has been amended to extend a pilot project which grants authority for businesses providing supplies and services to the Department of Defense to credit amounts subcontracted to qualified nonprofit agencies for the blind or other severely handicapped as part of their subcontracting goal pursuant to section 8(d) of the Small Business Act.

OPERATION AND MAINTENANCE, ARMY

Amendment No. 11. Restores heading.

Amendment No. 12: Appropriates $17,722,903,000 instead of $18,362,945,000 as proposed by the House and $20,913,805,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and maintenance, Army	Budget	House	Senate	Conference
Medical Programs	3,319,081	0	3,319,081	0
Department Headquarters		−36,000		−4,000
Travel (TDY)		−73,000	−28,000	−50,500
Major Commands Headquarters		−80,800		−20,000
AMC HQ		−15,000		−12,000
Classified Program		−254,324	−142,700	−43,791
DSOF Transfer	0	−407,200	−125,400	−125,400
Reserve/Guard offset		−20,000		0
Total Package Fielding (Proc Transfer)		170,000		0
Fort Bragg Education Demonstration Project				10,000
Fort Irwin Education Demonstration Project	0	22,000		22,000
Benefits transfer from OSD	0	30,200		0
Advertising				−2,300
Base Closure Contingency		−41,000		−41,000
Excess Inventory		−90,000		
Foreign National Employees		−110,000		−33,000
Combat Training Center		20,000	20,000	20,000
AAFES European Headquarters Relocation		8,000		8,000
Transient Lodging/Billeting		−70,000		−35,000
Memorial Day & July 4th Celebration		700		700
Airborne & Special Operations Museum		4,000		4,000
National D-Day Museum		4,000		4,000
Monterey Institute of International Studies		6,800		6,800
Meals-Ready-to-Eat		67,700		37,000
Real Property Maintenance Backlog		450,000		
Depot Maintenance Backlog		36,800		25,000
Spares and Repair Parts		152,000		
Umatilla Army Depot		350		350
New Training Helicopter Lease		−30,000		
Army Training Operations			150,000	150,000
Second Destination Transportation			−60,000	−60,000
Reproduction/printing			−15,000	−15,000
Personnel Adjustment			1,000	1,000
Civilian Personnel Underexecution			−27,700	
Foreign Currency Repricing			−510,200	510,200
Revolving Fund Excess Cash			−100,000	−150,000
CIM/other ADP			−77,895	−59,925
Purchases inflation reestimate			−48,900	−48,900
Chemical Equipment & Training		50,000		50,000
Army Environmental Policy Institute	(3,000)			1,500
Arms Control			11,800	11,800
Finance activities			−20,000	
Cold-wet weather boots				2,000
Joint Mil-Civ Airport Study				250
POW/MIA Office				5,000
Ft. Riley Railyard Study				6,800
Total, Army	21,571,694	18,362,945	20,913,805	17,722,903

Amendment No. 13: Deletes House language which earmarks funds for Depot Maintenance, Real Property Maintenance and Spares and Repair Parts, and prohibits the Department from obligating these funds before September 1, 1992.

Amendment No. 14: Restores House language which earmarks $350,000 for the 1992 Memorial Day Celebration; $350,000 for the 1992 Capitol Fourth Project; $4,000,000 for a grant to the National D-Day Museum Foundation; $4,000,000 for a grant to the Airborne and Special Operations Museum Foundation; $350,000 to the Oregon Department of Economic Development; earmarks $38,000,000 for the Extended Cold Weather Clothing System instead of $40,000,000 proposed by the House and $26,000,000 as proposed by the Senate; $22,000,000 for Fort Irwin Education Demonstration Project, California; deletes Senate langauge which earmarks $20,000,000 for the Army's Combat Training Centers; and inserts language which earmarks $2,000,000 for intermediate cold-wet weather boots and $10,000,000 for Fort Bragg Education Demonstration Project.

COLD-WET WEATHER BOOTS

The conferees agree to provide an additional $2,000,000 to procure cold-wet weather boots. This will ensure that all personnel stationed at extremely cold weather areas are issued a pair of cold-wet weather boots.

Amendment No. 15: Inserts Senate language which earmarks $250,000 for a joint military and civilian airport at Manhattan, Kansas.

Amendment No. 16: Inserts Senate language which earmarks $4,500,000 for the Army Environmental Policy Institute.

Amendment No. 17: Inserts Senate language which earmarks $5,000,000 for the U.S. Office for POW/MIA Affairs in Hanoi.

Amendment No. 18: Inserts Senate language which earmarks $6,800,000 for the railyard facilities at Fort Riley, Kansas.

YAKIMA FIRING CENTER

The conferees direct the Army to enter into a Memorandum of Agreement with the Yakima Indian Nation prior to utilizing any of the expansion area for training purposes to ensure protection of Treaty rights including access as well as protection of lands, fish and wildlife, cultural, archeological and other tribal concerns. The Army also is directed to establish a Cultural and Natural Resources Committee consisting of representatives from the Yakima Indian Nation, the Wanapum people, appropriate federal agencies, and appropriate State agencies and local elected officials from the affected area appointed by the Governor of the State of Washington, in order to assist in the proper management of all training center lands. This direction is consistent with that provided in House Report 102-236, the fiscal year 1992 Military Construction Appropriations Conference Report.

HELICOPTER STUDY

The conferees support Army/Marine efforts to find alternative, quality, training facilities for United States armed forces overseas. The study of U.S. Army/Marine helicopter training, maintenance and prepositioning opportunities in Israel is to be carried out as part of a continuing effort to identify more cost effective ways to enhance operational readiness, improve logistical support, search and rescue, and provide for realistic training in desert and coastal environments, including naval, amphibious, ground and air operations. The conferees direct the Secretary of the Army, in conjunction with the RAND Corporation, to include in their study an analysis of any other opportunities in Israel which might support combined arms training such as heavy mechanized equipment including, but not limited to, tanks, and self-propelled artillery. The conferees direct that the Terms of Reference (TOR) be provided to the Committees no later than January 1, 1992 and a completed study no later than June 15, 1992.

2.5 TON TRUCK SPARE ENGINES AND ENGINE SPARE PARTS

The conference agreement includes $20,000,000 for the procurement of 2.5 ton truck engines and spare parts. Of this amount, $10,000,000 is for new spare engines and $10,000,000 is for engine spare parts. The conferees agree that this is the last time that new spare engines for the current 2.5 ton truck will be funded. The conferees further agree that the procurement funded in this conference agreement shall not result in the reduction or modification of existing contracts for the overhaul of 2.5 ton truck engines being performed at Tooele Army Depot.

CONTRACTOR LOGISTICS SUPPORT

The conferees are extremely distressed that the Department of the Army decided to ground Army National Guard aircraft because of an internal struggle on funding. Unless and until the Army National Guard is provided a sufficient funding level for contractor logistics support for their aircraft, funding should be available in Operation and Maintenance, Army. In order not to have a similar problem next year, the conferees direct the Department of the Army and the Army National Guard to decide which appropriation should include contractor logistics support for Army National Guard unique aircraft and budget the necessary funds accordingly.

In addition, the conferees agree that $8,000,000 should be provided for contractor logistics support for the C-23 aircraft being transferred from the Air Force. An additional $8,000,000 is provided in procurement for engine upgrades for these aircraft. Contractor logistics support and upgrades should be performed in conjunction with the existing C-23 contractor logistics support program that is currently being provided to the Army National Guard.

ARMY CORPS OF ENGINEERS

Both the House and Senate bills included section 8119 which prohibits funds to implement the United States Army Corps of Engineers Reorganization Study until such reorganization is specifically authorized by law after the date of enactment of this Act.

The conferees agree that this section is not intended to preclude or delay the expenditure of funds for the purpose of continued planning and analysis to implement a reorganization and realignment of the Army Corps of Engineers.

WALTER REED ARMY INSTITUTE OF RESEARCH (WRAIR)

Within the funds appropriated for Real Property Maintenance, $2 million shall be available for major repairs of facilities at the WRAIR Forest Glen site. The conferees agree that these funds shall be in addition to those currently identified for any planned projects at WRAIR.

UMATILLA ARMY DEPOT

The conferees agree on the seriousness of the chemical weapons contamination problem at the Umatilla Army Depot and the need for the Department of Defense to undertake remediation efforts as it realigns the facility under the terms of the Base Closure Act. Therefore, the conferees agree to provide $350,000 to initiate these efforts and direct the Department to provide these funds to the Oregon Department of Economic Development for the creation of a comprehensive, long-term plan for the protection and productive development of area resources as the Army proceeds with the phasedown, cleanup and mitigation of the Umatilla Army Depot.

AIR BATTLE CAPTAIN

The conferees direct the Army to continue for fiscal year 1992 its demonstration program to place helicopter pilots graduated from the University of North Dakota in advanced helicopter pilot training, including the admission of 15 new pilot trainees to this program. The conferees urge the Army and the University of North Dakota to develop a contractual arrangement in future fiscal years to continue this program.

MONTEREY INSTITUTE OF INTERNATIONAL STUDIES

The conferees agree to provide the Army with an additional $6,800,000 to make available to the Monterey Institute of International Studies. The Secretary of the Army shall make the funds available to the Institute no later than ninety days after enactment of this Act.

PANAMA CLAIMS

The conferees recognize that Operation Just Cause had many unforeseen consequences, among them the unintentional personal injury and loss of life suffered by civilian non-combatants. The conferees note that while the United States, as a matter of law, is not liable for wrongful death and injury claims arising from a state of war, there may be extraordinary cases in which, for foreign policy or humanitarian reasons, compensation should be considered.

The conferees believe that because of the special relationship between the United States and Panama arising out of the Panama Canal Treaty, this issue deserves closer examination. Therefore, the conferees urge the President to establish an inter-agency working group to impartially examine the issue of wrongful death and injury claims arising from Operation Just Cause. The working group should report, no later than June 1, 1992, on: (1) the facts surrounding these claims and (2) the full range of arguments for and against honoring these claims, including any obligations under the Panama Canal Treaty.

Furthermore, the conferees urge the President to consider requesting compensation for wrongful death and injury claims arising from Operation Just Cause, where appropriate, and consistent with the findings of the inter-agency working group.

OPERATION AND MAINTENANCE, NAVY

Amendment No. 19: Appropriates $21,079,548,000 instead of $21,394,932,000 as proposed by the House and $23,012,390,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and Maintenance, Navy	Budget	House	Senate	Conference
Medical Programs	2,432,735	0	2,432,735	0
Advertising				−500
Administration and Associated Activities	666,512	666,512	666,512	666,512
SecNav and CNO Staff Offices		−19,000		−7,000
Support to Other Nations	5,965	5,965	5,965	5,965
ADP Management		500	0	500
Travel (TDY)		−70,000	−16,700	−43,300
Reserve/Guard offset		−10,000		0
Classified programs		−99,793	−81,900	−2,100
Benefits transfer from OSD		13,750		0
DBOF Transfer		−707,900	−199,200	−199,200
Base Closure Contingency		−50,000		−50,000
Excess Inventory		−100,000		
QOL Improvement, Naples		5,000		5,000
NAVEUR Management HQ		−5,000		−5,000
Naval Systems Commands headquarters			−11,000	−11,000
Naval Sea Systems Command Mgmt Hq		−25,000		
Naval Air Systems Command Mgmt Hq		−25,000		
Space & Naval Warfare Sys Comd Mgmt Hq		−25,000		
Naval Supply Systems Command Mgmt Hq		−25,000		
Naval Facilities Engrg Comd Mgmt Hq		−25,000		
Foreign National Civilians		−50,000		−7,500
Transient lodging/billeting		−20,000		−10,000

[Amounts in thousands of dollars]

Operation and Maintenance, Navy	Budget	House	Senate	Conference
Model Recycling Center		210		210
Naval Undersea Museum		2,100		2,100
Depot Maintenance Backlog		600,000	250,000	400,000
Real Property Maintenance Backlog		330,000		
Spares and Repair Parts		168,000		
Meals Ready to Eat		600		400
Sealift Preposition/Surge		30,000		30,000
Executive Agent—Maritime Prepositioning			−342,000	
Revolving Fund Balances			−150,000	−200,000
Civilian Personnel underexecution			−39,923	−39,923
Foreign currency repricing			−50,800	−50,800
CIM/other ADP			−70,487	−66,904
Purchases inflation reestimate			−53,500	−53,500
Arms Control			−27,400	−27,400
Finance Activities			−20,000	
Transfer from DCA			−270,000	−270,000
Shipyard Modernization			78,000	78,000
Delayed decommissionings/operations			17,000	17,000
Antarctic logistics			105,000	105,000
Servicewide Transportation			−19,800	−19,800
Reproduction/printing			−20,000	−20,000
Naval Observatory			900	900
USS Blueback Museum				1,600
Fenwick Pier demonstration project				1,000
2.5 ton truck engine & spares				20,000
Mokapu Interment				300
Total, Navy	23,934,200	21,394,932	23,012,390	21,079,548

Amendment No. 20: Deletes House language which earmarks funds for Depot Maintenance, Real Property Maintenance and Spares and Repair Parts, and prohibits the Department from obligating these funds before September 1, 1992 and inserts Senate language which earmarks $78,000,000 for shipyard modernization and makes these funds available for obligation until September 30, 1994.

Amendment No. 21: Restores House language which directs that facilities, activities and personnel levels at the Memphis Naval Complex in Millington, Tennessee, be maintained at fiscal year 1984 levels; earmarks $2,000,000 for facilities improvement at Port of Haifa, Israel; inserts language which earmarks $1,600,000 for USS Blueback Museum and $300,000 for Mokapu Interment; inserts language on the transportation of a bell to Bennington, VT, depot maintenance subcontracting and Antarctic logistical support.

HAIFA PORT

The conferees agree to provide $2,000,000 for a study of the technical requirements, and cost, of making the Port of Haifa capable of fully supporting the repair, supply and prepositioning needs of the United States Sixth Fleet in both peace and war. The conferees direct the Secretary of the Navy to provide the Committees with Terms of Reference (TOR) for the study no later than January 1, 1992 and a completed study no later than July 1, 1992. The conferees believe that this study is consistent with post-Gulf War Administration policy which seeks to increase the U.S. Naval presence in the Middle East. Furthermore, the conferees agree with the Senate position that in the high threat environment of the Middle East, where U.S. economic and political interests are paramount, our naval forces must have access to the best possible support facilities, to enhance readiness, promote high morale, maintain operational security and perform work at competitive rates. As the size of the U.S. surface fleet diminishes and on-station time of our carrier battle groups increases, secure and reliable overseas repair and reprovisioning support will become more vital. The conferees recognize the significant range of quality services which Haifa facilities already perform for the Sixth Fleet and believe that an upgrade evaluation is warranted.

MOKAPU REMAINS REBURIAL

The conferees agree to provide funding of $300,000 for the repatriation and reburial of skeletal remains from the more than 1,000 Native Hawaiian graves disturbed by the construction of Kaneohe Marine Corps Air Station at Mokapu. The Navy and Marine Corps shall work with the Office of Hawaiian Affairs to assure that sufficient access to the Mokapu lands is granted so that the repatriation and reburial may proceed apace.

U.S.S. "BLUEBACK"

The conferees agree to provide $1,600,000 for the restoration and installation of the submarine U.S.S. *Blueback* at the Oregon Museum of Science and Industry. The submarine, presently based in Bremerton, Washington, will be used to initiate a program in ship design and oceanography.

ANTARCTIC LOGISTICS

The conferees agree to provide funding for Navy environmental and logistics support of the U.S. Antarctic program managed by the National Science Foundation. Funding of $30,000,000 is provided for environmental and safety programs and $75,000,000, derived from rescissions of funds provided in Public Law 102–139 and prior year Acts, is made available for logistics support.

The conferees direct that no reductions be made in funds currently available or planned for expenditure for Arctic research activities under the rescissions included under this heading. No funds should be reduced in any on-going or planned Arctic research programs to offset any cuts in other National Science Foundation activities due to this rescission to support the costs of Antarctic research activities.

NAVY SHIP MAINTENANCE

The conferees support the Navy's efforts to compete ship repair work between public and private shipyards. The conferees believe the Navy has realized substantial cost savings through this initiative, and has maintained an essential private sector industrial base for shipbuilding and repair. The Navy should assure that any reductions in maintenance workload do not fall disproportionately on private sector shipyards. The Secretary of the Navy shall provide the House and Senate Committees on Appropriations a report detailing actual levels of spending on ship repair and maintanence in public and private sector shipyards for the fiscal years 1985 through 1991 and anticipated spending for fiscal 1992 not later than February 1, 1992.

SHIPYARD MODERNIZATION

An additional $78,000,000 is provided for Naval shipyard modernization projects. These funds are to be used to purchase new portal cranes and other equipment consistent with a plan submitted by the Navy. Of the additional funds provided, $10,000,000 shall be used to purchase equipment for Pearl Harbor Naval Shipyard to establish nuclear refueling capabilities there for SSN–688 class submarines by 1997.

The conferees applaud the efforts of the Department to improve its operations through management reforms. Yet, they are concerned that too little attention has been paid to making prudent, timely investments in training and modernization programs that will enable the Department to meet its goals. Therefore, the conferees support Senate report language urging the Department to initiate programs which will improve its operations and offer a potential return on investment. Future Defense Department investment proposals are expected to meet the dual test of: (1) increasing productivity, and (2) offering a return on investment.

MHC HOMEPORTING

The House included direction to the Navy that it should continue to work with the State of Oregon to reach appropriate leasing arrangements for a facility for MHC–52 and MHC–55 at Astoria, Oregon. The conferees agree with the House, and expect this project to be fully underway and supported by the Navy in fiscal year 1992, and further encourage the Navy to sign a lease with the State no later than March 15, 1992 in order to avoid delays in the project schedule. The conferees have also provided $850,000 through the Office of Economic Adjustment as a community and state planning grant for the State of Oregon. These funds represent only a portion of the State's expenses and obligation to date in support of the Navy's mission, and are provided to assist with preliminary environmental and site preparation costs incurred by the State in response to the Navy's needs. The conferees commend the Navy for its cooperative partnership with the State on this project.

NAVAL SUPPORT ACTIVITY, NAPLES

The conferees direct the Navy to provide no less than $43,000,000 to NSA, Naples, to fund its operation and maintenance functions.

U.S.S. "LEXINGTON"

The conferees direct the Navy to evaluate the feasibility of returning the U.S.S. *Lexington* to Quincy, Massachusetts, for conversion to a museum. The Navy shall work with

Massachusetts Commonwealth and city officials to perform this evaluation. The Navy shall then provide, no later than May 1, 1992, results of the evaluation as well as a plan that includes a delivery schedule, total costs, and sources available (private and/or public) to fund the conversion to and operation of this museum.

RAYWAY RIVER

The conferees direct the Department of the Navy, in conjunction with the Army Corps of Engineers, to remove the old existing barge at the base of the Rayway River, Linden, New Jersey, and replace it with a new barge. In addition, the conferees expect the Navy and the Army Corps of Engineers will remove several other old and unsafe barges along that part of the river. The conferees direct the Navy to use $250,000 to accomplish the above work.

PHOTOGRAMMETRY

The conferees encourage the Navy to further develop applications for photogrammetry in pursuit of the economies demonstrated in previous applications, using both in-house resources and services obtained commercially. The conferees encourage the Navy to continue the photogrammetric effort resident in the Charleston Navy Shipyard, using that office to serve in a consulting/advisory capacity to other shipyards. The conferees believe, however, that during a time when the Navy is making personnel and end strength reductions, it should not establish new in-house photogrammetry systems beyond that available in Charleston Navy Shipyard. The conferees expect that the Navy will continue to obtain photogrammeric services from the private sector when it is cost effective using established public/private cost comparison techniques. The expertise resident in the Charleston Yard will be used to train Navy personnel on the proper use of this technology, so that proper specifications can be written and the quality of work and proposals obtained from the private sector can be evaluated.

PRINTING

In the report accompanying its version of the 1992 Defense Appropriations bill, the Senate directed that the Department's plan to consolidate printing activities meet certain requirements. The conferees support the requirements established in the Senate report and, in addition, direct the Department to submit to the Committees on Appropriations of the House and Senate and the Joint Committee on Printing the following:

An implementation plan identifying plants to be closed, maximum production capacities, equipment purchases, transfers and disposals, and expected personnel changes.

All supporting documentation verifying estimated savings associated with the implementation plan.

The conferees believe that consolidating printing activities could lead to budget savings but urge the Department to adhere to the principles established in title 44, United States Code, and Public Law 101-520, section 206 when implementing the consolidation. After careful review of these statutes, the conferees conclude that no appropriated funds should be expended to implement any consolidation of printing services until the detailed implementation plan and supporting documentation described above are submitted to the Appropriations Committees and approved by the Joint Committee on Printing.

OPERATION AND MAINTENANCE, MARINE CORPS

Amendment No. 22: Appropriates $1,892,110,000 instead of $2,082,500,000 as proposed by the House and $2,109,665,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and Maintenance, Marine Corps	Budget	House	Senate	Conference
DBOF Transfer		−43,600	−7,900	−7,900
Chemical Equipment & Training		15,000		15,000
Depot Maintenance Backlog		27,200		18,000
Real Property Maintenance Backlog		70,000		
Spares and Repair Parts (Trf fr. Proc, MC)		78,000		42,000
Meals Ready to Eat		37,200		22,000
Executive Agent—Martime Prepositioning			342,000	
Support Equipment			−2,064	
Field Logistics			−2,366	
Base Operations			−14,927	
Base communications			−1,132	
Supply operations			−3,309	
Second destination transportation			−1,155	−1,155
ADP administration			−3,135	−3,135
Staff management support			−2,247	−1,100
Civilian personnel underexecution			−4,500	−2,000
Transfer from DCA			−75,000	−75,000
Foreign currency repricing			−5,000	−5,000
Purchases inflation reestimate			−4,200	−4,200
Benefits transfer from OSD		4,100		0
Total, Marine Corps	1,894,600	2,082,500	2,109,665	1,892,110

Amendment No. 23: Deletes House language which earmarks funds for Depot Maintenance, Real Property Maintenance and Spares and Repair Parts, and prohibits the Department from obligating these funds before September 1, 1992.

Amendment No. 24: Deletes House language making $296,195,000 subject to authorization.

Amendment No. 25: Inserts Senate language which provides that $3,000,000 be made available from within existing resources for the Marine Corps New Parent Support Program. The conferees agree that the New Parent Support Program shall fall under the policies and jurisdiction of the Assistant Secretary of Defense for Force Management and Personnel, in common with other elements of the Family Advocacy Program.

SPARES AND REPAIR PARTS

The conference agreement includes the funding level proposed by the House for Marine Corps spares and repair parts. With respect to replenishment spares, the conferees see no reason for treating the funding of these items differently from the rest of the Department of Defense. The Marine Corps, as a component of the United States Navy and Department of Defense, is directed to work with the Office of the Secretary of Defense to develop a budgeting mechanism which is compliant and acceptable to DoD standards. The Marine Corps shall report to the committees on the results of these discussions. If additional procurement resources are required to implement the agreement, they may be transferred, with prior approval, from available funds.

A-76 STUDY, CHERRY POINT MCAS, NORTH CAROLINA

Both the House and Senate versions of the fiscal year 1992 Defense Appropriations Bill prohibit the Marine Corps from converting in-house functions of facility maintenance, utilities and motor transport at Cherry Point Marine Corps Air Station to contractor provided services until General Accounting Office (GAO) validates the A-76 cost study used to support the proposed conversion. GAO has completed its analysis of the A-76 study and reported that the study suffered from several major deficiencies and thus could not validate the Marine Corps' decision to convert these activities to contract. Therefore, the conferees direct the Marine Corps to refrain from converting these activities to contract. If the Marine Corps decides to study these functions again, it must start the A-76 process over again, to include Congressional notification to restudy.

OPERATION AND MAINTENANCE, AIR FORCE

Amendment No. 26: Appropriates $17,180,259,000 instead of $17,660,213,000 as proposed by the House and $19,242,014,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[Amounts in thousands of dollars]

Operation and Maintenance, Air Force	Budget	House	Senate	Conference
Medical Programs	2,252,635	0	2,252,635	0
Central Supply	3,730,157	3,730,157	3,730,157	3,730,157
Advertising				−200
Administration and Associated Activities	544,130	544,130	544,130	544,130
AF Department Headquarters		−11,600		−5,800
Support to Other Nations	9,298	9,298	9,298	9,298
Travel (TDY)		−51,800	−39,000	−45,400

[Amounts in thousands of dollars]

Operation and Maintenance, Air Force	Budget	House	Senate	Conference
Classified Programs		−198,482	−233,700	−1,100
ADP Programs		27,000	0	27,000
CALS		(+27,000)		(+27,000)
Civil Air Patrol	(6,422)	1,380		1,380
Major Commands Headquarters		−28,000		−22,800
Benefits transfer from OSD		16,750		0
Military Family Services		3,000		3,000
DBOF Transfer		−306,300	−114,200	−114,200
Civilian Pay Adjustment		−30,000		0
Wartime Host Nation Support		−4,000		−4,000
Base Closure Contingency		−59,000		−59,000
Excess Inventories		−140,000		
Jr ROTC		2,500	2,500	2,500
Foreign National Civilians		−30,000		−7,500
Transient Lodging/billeting		−19,000		−9,500
Depot Maintenance Backlog		136,000		25,000
Real Property Maintenance Backlog		105,000		
Spares and Repair Parts		100,000		
Meals Ready to Eat		2,500		2,000
Amended Budget	−9,000		−9,000	
Base Operations			−18,500	−18,500
Spare Parts Pricing			−73,000	−73,000
Interim Contractor Support			−13,800	−13,800
Second Destination transportation			−25,000	−25,000
Flight training			−2,300	
Department/command headquarters			−22,800	
Civilian Personnel under-execution			−112,200	−112,200
Foreign Currency repricing			−179,200	−179,200
Revolving fund excess cash			−100,000	−150,000
CIM/other ADP			−101,786	−99,286
Purchases inflation reestimate			−45,500	−45,500
Arms control			−2,400	−2,400
Finance activities			−20,000	
Theater Air Command & Control				7,000
Commanders Tactical Info System				1,500
Total, Air Force	20,342,900	17,660,213	19,242,014	17,180,259

Amendment No. 27: Deletes House language which earmarks funds for Depot Maintenance, Real Property Maintenance and Spares and Repair Parts, and prohibits the Department from obligating these funds before September 1, 1992.

JP–4 TO JP–8 FUEL

The conferees agree with the Senate's position that the Air Force should move expeditiously, where appropriate, to convert its CONUS and WESTPAC aircraft from JP–4 to JP–8 fuel. The conferees believe that this conversion would enhance Air Force readiness, streamline resupply logistics, improve safety and reduce the cost resulting from JP–4 related accidents. JP–8 is a kerosene-based jet fuel with a higher flash point than the naphtha-based JP–4 which is more volatile and so not as safe to use.

The conferees are sensitive to the effect that an Air Force decision to convert from JP–4 to JP–8 fuel could have on small, independent refiners of JP–4. The conferees urge the Air Force to provide these producers with adequate notice of the conversion and to work with them to achieve a smooth transition to the new fuel. The conferees direct the Air Force to provide a plan and a timetable for the conversion of JP–4 to JP–8 to the Committees on Appropriations no later than June 1, 1992.

OLMSTEAD AIR FORCE BASE

The conferees understand that the ongoing environmental restoration program for formerly used defense sites contains a project for Olmstead Air Force Base in Middleton, PA. This project includes the remedial design and remedial action (RD/RA) for containerized hazardous and toxic waste. This involves removal and disposal of five underground storage tanks (USTs) and their liquid contents. The conferees also understand this may include the removal of foundations and contaminated soil in the vicinity of these USTs. Since there is concern about potential ground water contamination, the conferees direct the Department to include a ground water study in its current cleanup effort and report study findings related to ground water contamination.

The conferees expect the Department to fully fund this project and to proceed with the study and actual remediation on an expedited basis.

TACCSF, KIRTLAND AFB

The conferees agree to provide $7,000,000 to maintain and upgrade the Theater Air Command and Control and Simulation Facility (TACCSF) at Kirtland AFB. The Air Force should maintain the existing TACCSF infrastructure, and commence upgrades to meet the growing demand for simulation systems for theater missile defense studies and analysis. The conferees believe that TACCSF can make important contributions to Air Force planning and understanding of theater missile defense requirements.

COMMANDER TACTICAL INFORMATION SYSTEM

The conferees agree to provide $1,500,000 to expedite completion of communication, data processing and tactical information system links between the 11th Air Force and the Alaskan Command and the U.S. Pacific Command and Pacific Air Forces. The recent integration of U.S. military forces in Alaska and the Pacific Command necessitates the complete linkage of information systems between the two headquarters. The conferees expect these funds to be expended to complete the purchase, installation and integration of systems at the Alaskan Command/11th Air Force headquarters facility at Elmendorf AFB.

WARNER-ROBINS HYDRAULIC PRESS

It has been brought to the attention of the conferees that the Warner-Robins Air Logistics Center is in need of a special hydraulic press to form sheet metal parts for C–141, C–130 and F–15 structural components. The conferees recognize that these aircraft are essential to war readiness and believe that the timely and cost-effective fabrication of parts contributes to this end. The Air Force Logistics Command is urged to make every effort to address this need through its regular capital budgeting process.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

Amendment No. 28: Restores the center heading "(Including transfer of funds)".

Amendment No. 29: Appropriates $16,408,161,000 instead of $18,599,037,000 as proposed by the House and $8,635,768,000 as proposed by the Senate and restores House language earmarking $25,000,000 for the CINC Initiative Fund account.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	House	Senate	Conference
Operation and Maintenance, Defense Agencies:			
Washington Headquarters Services	−10,000	−10,552	−10,552
Office of Economic Adjustment	0	4,000	4,850
Defense Mapping Agency	0	−2,538	0
Defense Legal Services	0	−632	−632
On-Site Inspection Agency	0	−35,300	−28,300
a. Arms Control			(−28,300)
The Joint Chiefs	0	−15,825	−15,825
Consolidated Health Care Budget	8,095,584	0	8,050,384
a. Physician Assistant Demonstration	(2,500)	0	(2,500)
b. Letterman Hospital/San Francisco Medical Command	(44,400)	0	(6,000)
c. Tidewater Tri-CAM Project	(10,000)	0	(3,200)
d. Head and Neck Injury Initiative	(3,233)	0	(3,233)

[In thousands of dollars]

	House	Senate	Conference
e. Lead Poisoning Prevention Initiative	(1,000)	0	(1,000)
f. CHAMPUS Disabled Patients Benefit	(20,000)	0	(20,000)
g. Nursing Bonus Expansion	(10,000)	0	(10,000)
Defense Commissary Agency	980,100	0	0
Defense Contract Audit Agency	2,500	0	2,500
Defense Finance and Accounting Service	557,400	0	0
Defense Investigative Service	10,000	0	7,000
Defense Logistics Agency	2,000	6,800	14,100
a. DLA procurement technical assistance	(9,000)	0	(9,000)
b. Travel (TDY)	(−1,700)	0	(−1,700)
c. Spares and Repair Parts	(102,000)	0	0
d. DBOF Transfer	(−107,000)	0	0
e. Stockpile Fund	0	0	0
f. Arms Control	0	(6,800)	(6,800)
Defense Medical Support Activity	−10,000	0	0
Federal Health Care Study	3,000	0	1,500
Military Family Resource Center	−5,000	0	0
Office of Secretary of Defense	−74,800	0	0
Uniformed Services University of the Health Sciences	−5,000	0	0
Joint Recruiting Advertising Program	10,456	−3,000	−4,000
U.S. Special Operations Command	42,000	42,300	34,300
a. Operations & Training	(43,000)	(42,300)	(43,000)
b. AFSOC Headquarters	(−1,000)	0	(−1,000)
c. General Reductions	0	0	(−7,700)
OCHAMPUS	0	20,000	0
Classified Programs	259,209	202,500	−50,829
Civilian Personnel	0	−53,500	−48,200
DBOF Adjustment	−300	−100	−100
Foreign Currency Repricing	0	−51,400	−51,400
Corporate Information Management	0	−223,085	−223,085
Revised Inflation Estimate	0	−19,700	−19,700
Revolving Fund Balances	0	−50,000	−100,000
Legacy Resource Management Program	0	15,000	15,000
Excess Inventories	−25,000	0	0
Foreign National Employees	−12,000	0	−2,500
Radiation Exposure Compensation Claims	5,000	15,000	30,000
Gainsharing	0	1,000	1,000
Hawaii Land Inventory	0	0	750
Defense Conversion Commission	0	0	5,000
Post-Traumatic Stress Disorder Treatment Centers	0	0	600
National Commission on Defense and National Security	0	0	1,500
All Other Items	8,794,800	8,794,800	8,794,800
Total	18,559,037	8,635,768	16,408,161

Amendment No. 30: Deletes "; $8,635,768,000" as proposed by the Senate.

Amendment No. 31: Restores and amends House language that earmarks operation and maintenance funds for Special Operations Command; deletes House language which provided funds for depot maintenance, real property maintenance, and spares and repair parts; restores and amends House language earmarking $6,000,000 for the San Francisco Medical Command to augment reduced services caused by the downsizing of Letterman Hospital from a 185- to 100-bed facility; retains Senate language earmarking $1,000,000 for the development and establishment of gainsharing projects; retains Senate language earmarking $750,000 to conduct and prepare an inventory of real property in Hawaii; retains Senate language earmarking $5,000,000 for the establishment and administration of the Defense Conversion Commission; retains Senate language earmarking $25,000,000 for the continued implementation of the Legacy Resource Management Program, of this amount not less than $10,000,000 to implement cooperative agreements to identify, document, and maintain biological diversity on military installations; amends the fiscal year 1991 Defense Appropriations Act on Legacy Resource Management Program; adds a new provision that provides that $300,000 shall be available to the Maryland Hospital Association for a demonstration project to assist military personnel in becoming health care employees; and adds new language that $600,000 shall be for two Post-Traumatic Stress Disorder Treatment Centers, one to be located in the State of Hawaii, and one to be located in Greensburg, Pennsylvania, for the purpose of treating military personnel, dependents, and other personnel in post-traumatic stress disorders.

SPECIAL OPERATIONS FORCES

The conferees agree to provide $752,835,000 which represents the following adjustments to the budget request: +$43,000,000 for Operations and Training; −$1,000,000 for HQ AFSOC; and −$7,700,000 for general reductions.

The conferees have determined that $7,700,000 is SOCOM's share of the total general reductions levied on O&M, Defense Agencies. SOCOM's O&M appropriation shows the reduction of $7,700,000. The Department is instructed to exclude SOCUM from further reductions as a result of general reductions levied on O&M, Defense Agencies.

SOF Reserve Components. While the conferees agree to delete bill language proposed by the House which transferred $76,912,000 to the Operation and Maintenance appropriations of the Reserve Components for execution, they do so with the explicit understanding that the Chiefs and Directors of the Reserve Components will continue to be involved in budget preparation and execution. Therefore, the conferees direct that not less than $76,000,000 be transferred through the Special Operations Command to the Reserve Components Headquarters for execution.

Theater Special Operations Commands (SOCs). The conferees understand that the theater SOC component of each of the five unified combatant commands are not adequately staffed to carry out their missions during peacetime and contingencies. Accordingly, the conferees direct that, beginning in fiscal year 1992, the Department shall transfer all funding associated with theater SOCs to MFP 11. Further, the conferees direct the Department to increase the manning of each theater SOC to not less than 50 percent of its minimum essential peacetime manning by the end of fiscal year 1992. These increases will not count against the management headquarters ceilings of the affected combatant commander. In addition, the conferees direct the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict to submit a report to the Committees on Appropriations and Armed Services of the House and Senate by May 1, 1992, identifying the unfulfilled resource requirements, including personnel, of the theater SOCs and the programmatic actions that the Department of Defense plans to take to meet such requirements.

Theater Army Special Operations Support Commands (TASOSCs). The conferees agree that TASOSCs may be an unnecessary administrative layer in the special operations forces command structure. Since TASOSCs are MFP-11 funded, the conferees direct the Commander-in-Chief, Special Operations Command, to submit to the Committees on Appropriations of the House and Senate a schedule for the elimination of TASOSCs by September 30, 1992. The conferees agree that TASOSCs resources should be applied to the theater Special Operations Command.

Navy Special Operations Forces (SOF) in SOUTHCOM. The conferees direct the Commander-in-Chief, Southern Command (CINCSOUTH), to develop a long-term training schedule for its Navy SOF units to participate in joint training exercises and operations with the rest of the SOF units in SOUTHCOM. The conferees further direct CINCSOUTH to submit a report to the Committees on Appropriations of the House and Senate by March 1, 1992, on the SOF mission readiness of its Navy SOF units for both peacetime and contingencies. The report shall also address the effectiveness of its Navy SOF units to carry out joint special operations missions.

Counterterrorist Working Group. The conferees agree with the Senate language concerning the Counterterrorist Working Group.

LETTERMAN HOSPITAL

The conferees have agreed that Letterman Hospital should be maintained at 100-beds during fiscal year 1992 and have provided $37,000,000 for this purpose. The conferees further agree that some services, which should be provided for eligible beneficiaries, could be provided more economically through joint coordination with the Navy or

Air Force. Therefore, the conferees have provided an additional $6,000,000 to the San Francisco Medical Command to fund angioplasty and increased pharmacy costs, and to establish a 100-mile catchment area for cardiac surgery to compensate for lost services at Letterman.

POST-TRAUMATIC STRESS DISORDER TREATMENT CENTER

The conferees have inserted language to provide $600,000 to establish two Post-Traumatic Stress Disorder Treatment Center Demonstration Projects, one in the State of Hawaii, and one in Greensburg, Pennsylvania. A Department of Veterans Affairs survey found that 23 percent of returning Operation Desert Shield/Storm service personnel showed "significant psychological distress" brought on by abrupt changes in their lives. Therefore, the conferees direct the Department to establish two one-year demonstration counseling centers to study the effects of war on active duty, guard, and reserve personnel and their families. One center shall be located in Greensburg, Pennsylvania, which suffered more casualties than any other community in the United States. The other center shall be located in the State of Hawaii. These centers should be staffed to provide counseling services for active duty, reserve personnel, and their families and to present a report to the Committees on Appropriations of the House and Senate not later than September 30, 1992 on the necessity for these centers.

Amendment No. 32: Deletes House provision which made a portion of the appropriation subject to authorization and retains Senate language providing not less than $2,000,000 for a feasibility study on the use of a rotary reactor thermal destruction technology in the treatment and disposal of waste regulated under the Resource Conservation and Recovery Act of 1976.

DEFENSE CONTRACT AUDIT AGENCY

The conferees agree with the House position that an additional fifty auditors need to be assigned to perform audits of university contracts. Therefore, the conferees have included an additional $2,500,000 to accomplish this function.

OFFICE OF ECONOMIC ADJUSTMENT

The conferees agree with the Senate position that the Office of Economic Adjustment should be expanded to include a West Coast regional office. It is important for the Department to fully support the communities affected by the changes in the defense base. The conferees further agree to fund $1,000,000 for impact assistance to Nye County, Nevada, and $500,000 for the Charleston Harbor Management Plan.

In addition, the conferees recommend an increase in funding of $850,000 to the Office of Economic Adjustment in order to fund engineering and environmental studies in Astoria, Oregon. The Navy is currently planning to homeport to MHCs in Astoria. In order to accommodate these ships there is a great deal of site preparation work which must be done. The conferees agree that a portion of these expenses should be borne by the Department.

SMALL BUSINESS TRANSFER

The conferees direct that of the $200,000,000 appropriated in fiscal year 1991 in support of the Defense Economic Adjustment and Conversion program, up to $30,000,000 may be available for implementation of the emergency small businesses direct loan program as provided for in Section 1087 of the National Defense Authorization Act for Fiscal year 1992.

THE LEGACY RESOURCE MANAGEMENT PROGRAM

The conferees reaffirm their strong support for the Legacy Resource Management Program and agree to provide $25,000,000 in FY 1992 as proposed by the Senate. The Legacy Program was established in FY 1991 to conserve, manage, inventory and protect the significant biological, geophysical, historical and cultural resources on 25 million acres of Department of Defense land. The conferees acknowledge the commitment of the Department of the Defense to the Legacy Program and note that in its first year of operation, the program has undertaken 90 demonstration projects in 39 states and territories. The conferees recognize the central role played by Legacy partners in this effort and encourage its expansion.

Further, the conferees believe the Department can only remain a Federal leader in environmental protection if it encourages, trains, promotes and rewards its civilian and military employees for their individual and collective stewardship efforts. They must be accorded no less recognition than other professionals serving in traditional combat-related fields. The conferees view their work as integral to the military mission. The conferees urge the Department to clarify its policies and enhance its career development programs to encourage greater participation among its employees in the full range of environmental specialties. The Secretary of Defense is directed to report to the Committees on Appropriations, no later than June 1, 1992, on the steps the Department plans to take to encourage the development of environmental personnel within its ranks and how the Legacy program can be used to further that end.

Further, the conferees support the Senate language pertaining to collateral war damage and urge the participation of Legacy personnel in this effort.

STOCK ENHANCEMENT ON FEDERAL LANDS

The conferees agree with the Senate language supporting the need for stock enhancement on Federal lands. The conferees believe that the Legacy Resource Management Program, in partnership with the Oceanic Institute, can play an important role in the conservation of endangered fish species and supports the development of a pilot program at the Kaneohe Marine Corps Air Station for this purpose. The Kaneohe Marine Corps Air Station was the site of a settled native Hawaiian community, heavily dependent upon the local fishery resources for their livelihood.

Therefore, the conferees direct that of the $10,000,000 recommended for the biological component of the Legacy Resource Management Program in fiscal year 1992, not less than $750,000 shall be provided to the Oceanic Institute to initiate a feasibility study to improve existing nursery ponds for mullet culture and to establish a mullet larvae hatchery on Kaneohe Bay, Oahu.

READY RESERVE FLEET USE IN JCS EXERCISES

The conferees agree with the Senate language regarding the use of the Ready Reserve Fleet in the JCS exercise program. The Ready Reserve Fleet is a valuable national asset and must be able to respond when called to do so. Therefore, the conferees direct the Department to increase the use of the Ready Reserve Fleet in JCS exercises.

DLA PROCUREMENT DATA SYSTEMS

To enhance full and open competition opportunities for small businesses, the conferees direct the Defense Logistics Agency (DLA), through the use of existing DOD or DLA procurement data systems, or other easily accessible media, to disclose to all prospective bidders and offerors, on DLA or DLA Center contracts, any determination by DLA or its Centers to use other than full and open competition in soliciting offers, awarding contracts, or any anticipated modification of a contract that either adds a new contract line item or increases the quantity of an existing line item. These disclosures shall be made at least ten working days prior to the award of any contract on the basis of other than full and open competition, or, in the case of contract modifications, at least seven working days prior to the effective date of any modifications. An exception is to be made for those modifications which are made under "unusual and compelling emergencies" as referenced in part 6.302–2 of the Federal Acquisition Regulations (FAR). Under these circumstances, disclosures are to be made no later than four working days after the effective date of the modifications.

STOCKPILE TRANSACTION FUND

Since the fiscal year 1992 budget request proposed funding the operating expenses of the National Defense Stockpile Transaction Fund from the Fund itself, the Defense Logistics Agency was not able to request funding. Congress, once again, decided not to enact the legislation required to allow paying operating expenses from the Fund. Therefore, the conferees recommend that sufficient funds to pay these expenses be provided to the Defense Logistics Agency from within appropriations available to the Defense Agency and Activities.

The conferees continue to believe that the operation of the Fund should not be a separate function, but be incorporated into the Defense Logistics Agency or another Defense Agency or Activity in order to save overhead and administrative expenses.

MEDICAL PROGRAMS

CONSOLIDATED MEDICAL BUDGET

The Department of Defense has decided to try to strengthen its ability to perform its medical mission with centralized authority and responsibility, but decentralized implementation, by consolidating the services' medical budgets, policy guidance, medical personnel, and facilities under the direct control and authority of the Assistant Secretary of Defense for Health Affairs. The conferees have agreed to consolidation of the medical budget and hope this centralized funding, policy and direction will ensure that a quality, standardized medical benefit can be provided to all beneficiaries throughout the Department.

The conferees agree that the Department should undertake a financial cost analysis of the proposed coordinated care program, before any new program is implemented. This review will ensure that the Department makes financially sound decisions today that will have an effect on the future military medical program. In light of the review being undertaken by the Department, the conferees agree that all innovative health care management programs determined to be beneficial to eligible recipients and to be financially sound, and pre-approved by the Assistant Secretary of Defense for Health Affairs, may be used to make military health care more beneficial and efficient.

CHAMPUS REFORM INITIATIVE (CRI)

The conferees have long been concerned about the quality and rapidly increasing cost of health care that is provided to military family members and retirees through the CHAMPUS program. Many initiatives have been undertaken to try to improve the overall quality of military health care, as well as control this rapid escalation in cost.

One initiative that his proven to be successful is the CHAMPUS Reform Initiative (CRI) which is currently providing military beneficiaries living in California and Hawaii with improved medical care both in terms of quality and cost than was previously provided under traditional forms of CHAMPUS.

Based upon the success of the CRI program, the conferees have included a general provision which directs that the current vendor contract for California and Hawaii CRI be extended for one year beyond its current expiration date. This will permit full development of the CRI model, which DOD can then fairly and accurately evaluate. The Department can then combine the best features of CRI with those of other managed care demonstration projects to form a viable health care provision system for the next century.

The conferees believe that the results achieved so far in the California and Hawaii CRI model can be replicated elsewhere to both improve quality care and save scarce resources. Therefore, the conferees have included a provision allowing the Department to expand the CRI program geographically, on a competitive basis. In addition, the conferees direct that expansion sites must include Florida, Washington, Oregon, and the Tidewater region of Virginia. Medical facilities operated by the Department of Veterans Affairs may be included in the Florida based CRI network with the concurrence of the Secretary of Veterans Affairs. The Department shall endeavor to design these programs so that benefits are similar to those being received by beneficiaries in California and Hawaii so that all beneficiaries will have like benefits no matter where they are stationed.

ENROLLMENT

The conferees have differing viewpoints on whether enrollment into health care programs should be voluntary or mandatory. Therefore, the conferees direct the Assistant Secretary of Defense for Health Affairs to review both positions and to present any findings during testimony on the fiscal year 1993 medical budget.

PATIENT LEVEL ACCOUNTING

The conferees agree that the Department should buy existing off the shelf technology, consistent with Composite Health Care System technology, to implement an interim solution to begin collecting more monies in the short-term and allow time to develop a true unit costing methodology for the future.

PSYCHOLOGISTS PRESCRIBING DRUGS

The conferees support the bill language contained herein providing for a two-year prototype drug prescribing training program of military psychologists at Walter Reed Army Medical Center.

LEAD POISONING

The conferees support the House position.

HEAD AND NECK INJURY INITIATIVE

The conferees support an increase in funding of $3,233,000 for the Department to start an initiative for DOD victims of head and neck injuries. This funding will be provided to the Assistant Secretary of Defense for Health Affairs who should work with the National Head Injury Foundation, Inc. (NHIF), and the Uniformed Services University of the Health Sciences (USUHS) to initiate this important project. Periodic status reports should be provided to the Committees on Appropriations with input from both NHIF and USUHS on the progress of this initiative.

EYE CARE STUDY

The conferees believe that not enough time has elapsed to thoroughly evaluate the initiative to provide separate optometry services at military hospitals. Therefore, the conferees believe that the study requested by the House should be postponed one year. The conferees would, however, like to have the Assistant Secretary of Defense for Health Affairs be prepared during testimony on the fiscal year 1993 medical budget to discuss the future of military eye care and to explore models of quality eye care delivery.

FEDERAL HEALTH CARE STUDY

The conferees agree with the House position that a study needs to be undertaken to explore the possibility for further managed care and sharing initiatives between the federal agencies. Therefore, the conferees have increased the Department's medical budget by $1,500,000 for this initiative.

HEALTH PROFESSIONS NURSING BONUS EXPANSION

The conferees agree to an increase of $10,000,000 for an expansion of the nursing bonus program.

BASE CLOSURES AND REALIGNMENTS

The conferees agree that health care personnel should not be reduced at certain locations just because a base may be undergoing a partial closure or realignment. The Department needs to carefully study the true cost of providing health care at these locations before any personnel changes are made. Therefore, the conferees have agreed to amend a general provision proposed by the House that prevented the Department from reducing military and civilian medical facility personnel below the level in place in fiscal year 1990 to prevent the Department from reducing health care personnel at certain locations only. However, the conferees believe that the Department needs to address the concerns highlighted by the House to ensure that medical care is provided as economically as possible at all locations.

TIDEWATER PROJECT

The conferees agree with the House that additional funding is needed to improve health care in the Tidewater region of Virginia. Therefore, the conferees have agreed to an increase in funding of $3,200,000 for Tidewater and approve a general provision to implement CHAMPUS Reform Initiative (CRI) managed care in this area.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES (USUHS)

The conferees support the Senate position and direct the Assistant Secretary of Defense for Health Affairs to review other medical schools or functions which the services now operate which can be incorporated at USUHS to make the school more economical and beneficial to operate. Their conferees appreciate the strong support and swift action which was taken by the Department to correct many of the problems identified by the Inspector General and the House.

SOCIAL WORK

The conferees request that the Department establish separate departments of social work at all major medical centers where feasible.

DEFENSE MEDICAL FACILITIES OFFICE (DMFO)

The conferees agree with the Senate report which directs the Deputy Secretary of Defense to review the role and mission of DMFO and evaluate whether or not the military services could more efficiently develop and execute medical facility programs, with the coordination and approval of the Assistant Secretary of Defense for Health Affairs. The results of this review should be submitted to the Committees on Appropriations not later than March 15, 1992.

NON-PHYSICIAN HEALTH CARE PROVIDERS

The conferees direct that the Civilian Health and Medical Program of the Uniformed Services shall continue to pay non-physician health care providers (such as psychologists) the same payment as it pays physician providers for comparable services.

PHYSICIAN ASSISTANT DEMONSTRATION INITIATIVE

The conferees have expressed their concern in the past about the recurring shortages of military nursing personnel. In the conference report on the fiscal year 1991 Defense Appropriations Act, in discussing a required feasibility study for a federal nursing school, the conferees stated: "The conferees want to emphasize their interest in the Department considering cost effective alternatives to a Federal nursing school being established within the Uniformed Services University of the Health Sciences, including contracting with established non-DOD nursing schools. The conferees require that a report must be submitted to the Appropriations Committees before any final action is taken on establishing a federal nursing school." The conferees again agree that the Department must submit the requested report before undertaking any initiative to establish a federal nursing school, whether in-house or at a privately operated school as proposed by the House. The Assistant Secretary of Defense for Health Affairs will be asked to testify during the fiscal year 1993 budget cycle on any course of action the Department would propose.

The conferees also are concerned about current shortages of physician assistants in the Navy and the Air Force. In an effort to alleviate the unfilled need for these valuable health care professionals, the conferees have included $2,500,000 in the consolidated medical budget to be used to train additional physician assistants. Of the funds included, the conferees have agreed that the Department shall establish a military physician assistant training program at Saint Francis College, Loretto, Pennsylvania. The Assistant Secretary of Defense for Health Affairs should work with the appropriate officials at Saint Francis to establish this program in line with presently ongoing Defense programs.

AUTOMATED DATA PROCESSING RESOURCES

The conferees agree to the following funding adjustments:

Program	O&M	Procurement	R&D	Total
ARMY				
Personnel Electronics Records Management System (DBOF Correction)	−7,355	+7,355		0
Desktop III	−9,870	−2,040		−11,910
CIM Consolidation	−7,270	−6,100		−13,370
ADP Consolidation	−28,600	−29,000		−57,600
CALS Consolidation	−6,830	−7,000		−13,830

Program	O&M	Procurement	R&D	Total
Total reduction	−59,925	−36,785	0	−96,710
NAVY				
Electronic Data Interchange Program	0	−1,250		−1,250
Cray Y–MP16 Computer Support	+500	+4,000		+4,500
Desktop III	−5,485	0		−5,485
Military Sealift Command Mobility and Execution System (MOPEX)	−1,758	0		−1,758
CIM Consolidation	−34,361	−4,650		−39,011
ADP Consolidation	0	−54,700		−54,700
CALS Consolidation	−24,800	−40,300	−4,400	−69,500
Total reduction	−65,904	−96,900	−4,400	−167,204
AIR FORCE				
Air Force Material Command—CALS	27,000	0		27,000
Electronic Data Interchange Program	0	−1,250		−1,250
PC III	0	0		0
CIM Consolidation	−59,986	−4,491		−64,477
ADP Consolidation	−26,800	−70,400		−97,200
CALS Consolidation	−12,500	−2,300	−10,300	−25,100
Total reduction	−72,286	−78,441	−10,300	−161,027
DOD AGENCIES				
CIM Consolidation	−175,985	−49,500		−225,485
ADP Consolidation	0	−14,000		−14,000
CALS Consolidation	−47,100	−23,900	−15,075	−86,075
Total reduction	−223,085	−87,400	−15,075	−325,560

CORPORATE INFORMATION MANAGEMENT (CIM)

The conferees agree to consolidate funding for Corporate Information Management (CIM) related development and modernization programs in fiscal year 1992. However, in so doing, the conferees have amended the related general provision to allow the Department the necessary flexibility to administer these funds with as little resource disruption as possible.

The conferees are encouraged by the progress made within the Department to control CIM funding and projects and conclude that, given the pending oversight changes by the Department and sufficient progress in the maturation of CIM designated programs, consolidation of CIM resources may not be required in fiscal year 1993.

The following table reflects the conference position on CIM (note that Operation and Maintenance adjustments include resources associated with revolving fund efforts within CIM):

	Operation and maintenance	Other procurement	Total
Army:			
Standard Depot System	−$997,000	0	−$997,000
TAMMIS	−4,742,000	−$6,100,000	−10,842,000
Corps of Eng. Fin. Mgmt. Sys	−1,531,000	0	−1,531,000
Total Army	−7,270,000	−6,100,000	−13,370,000
Navy:			
Civilian Time and Attendance	−19,000	−300,000	−319,000
NCPDS	−38,000	0	−38,000
Automated Storage Kitering Sys	−560,000	0	−560,000
LOGMARS	−5,004,000	0	−5,004,000
Stock Point ADP Replacement	−20,286,000	0	−20,286,000
Financial Operations NCSC	0	−250,000	−250,000
MIS David Taylor Research Center	−324,000	0	−324,000
NAVAIR Industrial Fund Mgmt. Sys	0	−425,000	−425,000
NWSES Standard Industrial Fund	−163,000	0	−163,000
Naval Ordnance MIS	−4,000	0	−4,000
Printing Resources MIS	−257,000	0	−257,000
Reserve Fin. Mgmt./Active Duty	−641,000	0	−641,000
ICP-Resolicitation	−3,909,000	0	−3,909,000
SCLSIS	−310,000	0	−310,000
Computer Assisted Medical IVS	−2,068,000	0	−2,068,000
Expense Assignment Sys.-V. III	0	−1,125,000	−1,125,000
Medical Office Automation	0	−2,550,000	−2,550,000
UADPS Level II	−350,000	0	−350,000
UADPS Stock Points	−428,000	0	−428,000
Total Navy	−34,361,000	−4,650,000	−39,011,000
Air Force:			
Base Level Personnel System	−292,000	0	−292,000
Personnel Concepts III	0	−1,399,000	−1,399,000
Std., Cataloging, & Prov. Sys	−3,357,000	0	−3,357,000
Equipment Mgmt. System (AFEMS)	−9,205,000	0	−9,205,000
Initial Provisioning MIS	−1,000,000	0	−1,000,000
Mod. of Def. Log. Standard Sys	−1,774,000	0	−1,774,000
REMIS	−11,796,000	0	−11,796,000
Requirements Data Bank	−23,836,000	−2,290,000	−26,126,000
Weapon System MIS	0	−802,000	−802,000
Contractor Data Management Sys	−8,726,000	0	−8,726,000
Total Air Force	−59,986,000	−4,491,000	−64,477,000
Defense Agencies:			
DCA DECCO AIS	−1,000,000	−1,500,000	−2,500,000
DFAS Military Pay Redesign-JSS	−8,917,000	0	−8,917,000
DFAS Program, Budget & Acct. Sys	−1,378,000	0	−1,378,000
DFAS Std. Army FI&RS-Mod	−3,644,000	0	−3,644,000
DFAS Std. Army Civ. Pay Sys.-Re	−5,294,000	0	−5,294,000
DFAS Std. Finance System-Re	−21,359,000	0	−21,359,000
DLA Std. Automated Trans. Sys	−980,000	0	−980,000
DLA DRMS AIS	−8,740,000	0	−8,740,000
DLA Def. Automated Address Sys	−12,453,000	0	−12,453,000
DLA DLIS-Modernization Program	−13,563,000	0	−13,563,000
DLA Defense Distribution System	−4,672,000	0	−4,672,000
DLA DIPEC	−118,000	0	−118,000
DLA APCAPS	−2,470,000	0	−2,470,000
DLA BOSS	−425,000	0	−425,000
DLA DFAMS	−2,314,000	0	−2,314,000
DLA DISMS	−6,428,000	0	−6,428,000

	Operation and maintenance	Other procurement	Total
DLA MOCAS	−12,001,000	0	−12,001,000
DLA SAMMS	−27,018,000	0	−27,018,000
DMSSC AQCESS	−8,851,000	−14,600,000	−23,451,000
DMSSC CHCS	−6,410,000	−28,700,000	−35,110,000
DMSSC DSS	−9,100,000	−4,700,000	−13,800,000
DMSSC DBMIS–BL	−4,522,000	0	−4,522,000
DMSSC DBMIS–DB	−122,000	0	−122,000
DMSSC DDS	−1,925,000	0	−1,925,000
DMSSC DMIS	−3,511,000	0	−3,511,000
DMSSC DMLS	−1,937,000	0	−1,937,000
DMSSC DTS	−2,903,000	0	−2,903,000
DMSSC EAS Version III	−3,930,000	0	−3,930,000
Total Defense Agencies	−175,985,000	−49,500,000	−225,485,000
Grand total	−277,602,000	−64,741,000	−342,343,000

In addition to the above systems, the conferees agree that those CIM related programs listed in the Senate report that do not have budgeted development or modernization funds must receive funding from within the CIM central account if a subsequent development or modernization requirement is funded in fiscal year 1992 for those programs.

AUTOMATED DATA PROCESSING (ADP) OPERATIONS CONSOLIDATIONS

The conferees agree to the consolidation of ADP operations funding, and in so doing, transfer an additional $26,800,000 of Operation and Maintenance, Air Force funds not previously identified in the Senate report. The conferees agree to reduce the consolidated ADP operations funds by $50,000,000.

COMPUTER-AIDED ACQUISITION AND LOGISTICS SUPPORT PROGRAM (CALS)

The conferees agree with the consolidation of CALS funding, except for $27,000,000 for the Air Force AFMC CALS, under the Department of Defense senior information resource management official. Accordingly, the conferees recommend the following adjustments necessary to centralize CALS:

	O&M	Proc	R&D	Total
Army:				
FCIM	0	−7,000,000	0	−7,000,000
TD/CMS	−830,000	0	0	−830,000
DSREDS	−6,000,000	0	0	−6,000,000
Army total	−6,830,000	−7,000,000	0	−13,830,000
Navy:				
CAD II	−2,600,000	−14,600,000	0	−17,200,000
DRWG PROC	0	−25,000,000	0	−25,000,000
NPODS	−1,700,000	0	0	−1,700,000
EDMICS	−5,900,000	0	0	−5,900,000
SPLICE	−3,600,000	0	0	−3,600,000
APADE	−500,000	−700,000	0	−1,200,000
IDSS	0	0	−4,400,000	−4,400,000
RAMP	−10,500,000	0	0	−10,500,000
Navy total	−24,800,000	−40,300,000	−4,400,000	−69,500,000
Air Force:				
ABDR	0	0	−500,000	−500,000
LSMIS	−100,000	−900,000	0	−1,000,000
CADBIT	0	0	−400,000	−400,000
IDS	0	0	−600,000	−600,000
CREWCHIEF	0	0	−900,000	−900,000
DMAMTI	−2,500,000	0	0	−2,500,000
ATOS	−4,500,000	0	0	−4,500,000
IMIS	0	0	−7,400,000	−7,400,000
RAMCAD	0	0	−500,000	−500,000
RAMTIP	0	0	0	0
EDCARS	−5,400,000	−1,400,000	0	−6,800,000
Air Force total	−12,500,000	−2,300,000	−10,300,000	−25,100,000
OSD:				
CALS	0	0	−10,475,000	−10,475,000
ACALS	−26,500,000	−18,500,000	0	−45,000,000
SPARES	0	0	−2,600,000	−2,600,000
EIP	0	0	−2,000,000	−2,000,000
JUSTIS	−20,600,000	−5,400,000	0	−26,000,000
OSD Total	−47,100,000	−23,900,000	−15,075,000	−86,075,000
Grand total	−91,230,000	−73,500,000	−29,775,000	−194,505,000

OUTSOURCING

The conferees support the Senate position and further direct that the report to be provided by the Department include a section which addresses the potential impact, if any, of accomplishing this program in consideration of Office of Management and Budget (OMB) budget procedures memorandum number 768 of November 15, 1990.

COMPOSITE HEALTH CARE SYSTEM (CHCS)

The CHCS will significantly contribute to the Department's management of health care. However, the development and testing of key features of CHCS have not progressed without problems. The conferees are concerned that development of CHCS has not proceeded as well as hoped and still have serious reservations concerning the successful implementation of the CHCS archiving and retrieval component and the use of inpatient order entry by physicians. The issues concerning CHCS are unique and compelling. Current medical information systems in use by the Department are either obsolete, slow, or becoming too costly to maintain. It is clear that the replacement system, CHCS, should be fielded as soon as possible. However, the archiving and inpatient order entry issues are so integral to the fielding of CHCS, that to field such systems without the proven capability of these components would expose the Department to levels of program cost and risk that are not warranted within the current fiscal environment.

The conferees support full funding for CHCS as requested in the President's budget. However, in so doing, the conferees agree that the following shall apply during fiscal year 1992:

The conferees support the Department's proposal to split oversight of CHCS into milestone IIIA and IIIB decision points in order to field approved portions of CHCS more quickly to military hospitals, clinics, and outpatient facilities due to the critical need for automated support in Department of Defense medical facilities. However, in its milestone IIIA review, the Major Automated Information Systems Review Council must ensure that the CHCS archiving and retrieval capability of patient data is adequately tested prior to full deployment of CHCS. In addition, the conferees reiterate that until the full CHCS system has been approved for deployment (including milestone IIIB), each specific site planned to receive CHCS must be supported by the requisite economic analysis demonstrating the cost effectiveness of deployment. These analyses must be approved by the Office of the Assistant Secretary of Defense (Health Affairs) and validated by the General Accounting Office prior to system deployment. Furthermore, the conferees direct that if the archiving and retrieval system fails operation, test, and evaluation during fiscal year 1992, that the Department shall immediately stop fielding CHCS to any further sites until CHCS successfully passes testing in this area.

Of the amounts funded, $6,000,000 shall be used towards the development and modernization of the Inpatient Order Entry (IPOE) software module. In utilizing these funds, the Department is directed to study alternatives to the current IPOE module and consider the use of incorporation of currently available commercial, public sector, and government used IPOE systems through system interfaces in order to speed the development and fielding of IPOE and potentially reduce total system life cycle costs. The Department is directed to report back the results of this review to the Committees on Appropriations not later than May 31, 1992 and the report should consider the short term, as well as, long term impact of this proposal. The Department shall furnish a copy of this report concurrently to the General Accounting Office, Information Technology division.

INDEFINITE DELIVERY/INDEFINITE QUANTITY (IDIQ) CONTRACTS

The conferees are in strong agreement that the Department must take action to control and validate automated data processing (ADP) equipment and software purchases on IDIQ contracts. However, the baseline for requesting waivers from the Department of Defense senior information resources management official shall be the fiscal year 1992 current estimate of the fiscal year 1993 President's budget request reflected in ADP exhibit 43D.

CORE AUTOMATED MAINTENANCE SYSTEM (CAMS) AND RELIABILITY AND MAINTAINABILITY INFORMATION SYSTEM (REMIS)

The conferees reaffirm their commitment to maximizing the readiness and sustainability of deployed U.S. forces and strongly endorse Department of Defense initiatives dedicated to this objective. The conferees further recognize that the effectiveness of many congressionally-mandated requirements and military resource and management policies, including warranty implementation, stock funding of repairable items, improved forecasting of spares requirements, and Total Quality Management (TQM) ultimately depend upon the availability of timely, accurate, and comprehensive system and component-specific information. Nowhere is this more critical than in the acquisition, management, and operation of weapon system automated information systems because of the leverage provided by available and reliable data on the efficient use of resources and in reducing the Defense Department's operations and support (O&S) cost burden.

The Senate has expressed concern about the overall ability of the Air Force's Core Automated Maintenance System (CAMS) and Reliability and Maintainability Information System (REMIS) to effectively and consistently provide the kind of timely, accurate, and comprehensive information required for the optimum readiness and sustainability of complex weapons systems. Both internal Air Force and independent analyses and audits have previously documented deficiencies of CAMS and REMIS in meeting acceptable data reliability standards and satisfying information management requirements. The conferees note that CAMS and REMIS hardware have been completely fielded and that software development and fielding is essentially completed in the case of CAMS and proceeding apace in the case of REMIS. As such, and in light of the investment made in these programs to date, the conferees believe it would not be cost effective to terminate them at this time.

Nevertheless, the Air Force is cautioned that further congressional support for CAMS and REMIS is contingent upon a compelling determination of their capabilities to perform designated missions. Because of the concern expressed about these capabilities and the importance of timely, reliable, and complete information, the conferees believe that an independent review of these programs' data accuracy and cost-effectiveness is warranted. The conferees further note that there are some weapons systems currently supported by information systems other than CAMS or REMIS which have performed well for several years. Accordingly, the conferees direct that not more than 65 percent of the funds appropriated for CAMS and REMIS in Fiscal Year 1992 shall be obligated until (a) the General Accounting Office (GAO) has completed and submitted to the Appropriations Committees of the House and Senate not later than March 31, 1992, a comprehensive analysis of the capabilities of the CAMS and REMIS, (b) such analysis determines that CAMS and REMIS meet the system availability, data accuracy and completeness requirements, and information management standards currently approved by the Department of Defense Major Automated Information Systems Review Council (MAISRC) to optimize the readiness and availability of complex weapons systems, and (c) that CAMS and REMIS receive an Office of the Secretary of Defense level MAISRC review upon completion of the GAO review and that a copy of the results of the review are provided to the Committees on Appropriations of the House and Senate. The conferees also direct that existing information and data systems not be replaced with CAMS or REMIS until the Appropriations Committees of the House and Senate notify the Department that it may proceed in accordance with the findings and recommendations of the GAO and OSD MAISRC reviews.

JOINT COMPUTER-AIDED ACQUISITION AND LOGISTICS SUPPORT (JCALS)

The conferees support the Department in its effort to develop the capability to receive, manage and employ digital technical manuals at the earliest possible date at the most cost-effective price. However, the conferees direct that the Department complete a review of both JUSTIS and ACALS requirements (which is presently on-going), and provide by December 31, 1991, to the Committees on Appropriations a management plan which addresses the validation of technical manual requirements and the Department's acquisition strategy and plan for meeting those requirements which includes an assessment of cost, schedule and technical risks.

The JUSTIS Program Management Office at Dayton, Ohio, shall be maintained at its present level until thirty days after this plan has been submitted to the Committees on Appropriations.

HAWAII DEFENSE LANDS INVENTORY

The conferees agree to provide additional funding for an inventory of Hawaiian lands controlled by the U.S. Department of Defense. Guidelines for conducting the inventory have been outlined in Senate Report 102–154.

OPERATION AND MAINTENANCE, ARMY RESERVE

Amendment No. 33: Appropriates $968,200,000 instead of $995,600,000 as proposed by the House and $962,200,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Force structure/end strength		+65,500	+31,000	+37,000
DBOF transfer		−6,600	−3,900	−3,900
Inflation estimate			−2,100	−2,100
All other items	937,200	937,200	937,200	937,200
Total	937,200	995,600	962,200	968,200

Amendment No. 34: Deletes House language making a portion of the appropriation subject to authorization.

OPERATION AND MAINTENANCE, NAVY RESERVE

Amendment No. 35: Appropriates $825,500,000 as proposed by the House instead of $840,600,000 as proposed by the Senate. The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Force Structure/end strength		+20,000	+30,000	+14,900
DBOF transfer		−10,600	−3,700	−3,700
Inflation estimate			−1,800	−1,800
All other items	816,100	816,100	816,100	816,100
Total	816,100	825,500	840,600	825,500

Amendment No. 36: Deletes House language making a portion of the appropriation subject to authorization.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

Amendment No. 37: Appropriates $81,700,000 as proposed by the Senate instead of $85,900,000 as proposed by the House.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Force structure/end strength		+10,000	+6,000	+6,000
Inflation estimate			−200	−200
All other items	75,900	75,900	75,900	75,900
Total	75,900	85,900	81,700	81,700

Amendment No. 38: Deletes House language making a portion of the appropriation subject to authorization.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

Amendment No. 39: Appropriates $1,078,700,000 instead of $1,091,200,000 as proposed by the House and $1,077,000,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Force structure/end strength		+15,000	+1,000	+2,700
WC–130 mission		+5,300	+5,300	+5,300
DBOF transfer		−4,500	−2,300	−2,300
Inflation estimates			−2,400	−2,400
All other items	1,075,400	1,075,400	1,075,400	1,075,400
Total	1,075,400	1,091,200	1,077,000	1,078,700

Amendment No. 40: Deletes House language making a portion of the appropriation subject to authorization.

Operation and Maintenance, Army National Guard

Amendment No. 41: Appropriates $2,125,800,000 as proposed by the Senate instead of $2,165,600,000 as proposed by the House.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Force structure/end strength		+100,000	+65,000	+65,000
DBOF transfer		−15,100	−15,300	−15,300
Inflation estimate			−4,600	−4,600
All other items	2,080,700	2,080,700	2,080,700	2,080,700
Total	2,080,700	2,165,600	2,125,800	2,125,800

Amendment No. 42: Deletes House language making a portion of the appropriation subject to authorization.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

Amendment No. 43: Appropriates $2,281,300,000 instead of $2,275,700,000 as proposed by the House and $2,276,300,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
DBOF transfer		−12,100	−6,400	−6,400
Inflation estimate			−5,100	−5,100
Air Refuling Squadron Expansion				5,000
All other items	2,287,800	2,287,800	2,287,800	2,285,800
Total	2,287,800	2,275,700	2,276,300	2,281,300

Amendment No. 44: Deletes House language marking a portion of the appropriation subject to authorization.

ALASKA AIR NATIONAL GUARD KC–135E EXPANSION

The conferees agree to provide $5,000,000 to initiate the expansion of the 168th Air Refueling Squadron (ARD) from eight to ten KC–135E aircraft. The conferees understand that growing flight activity, including the transfer of the Cope Thunder training program from the Philippines, has increased tanker requirements to support the 11th Air Force. The 168th ARS already meets an important share of this demand. The expansion of ten aircraft will permit a more efficient management of the unit, consistent with other Air National Guard tanker organizations. The Director of the Air National Guard shall provide the House and Senate Committees on Appropriations a schedule for the expansion of the 168th ARS to ten aircraft not later than February 15, 1992.

National Board for the Promotion of Rifle Practice, Army

Amendment No. 45: Inserts Senate language which requires the President to submit a report to Congress on the National Board for the Promotion of Rifle Practice, Army.

Environmental Restoration, Defense

Amendment No. 46: Appropriate $1,183,900,000 as proposed by the Senate instead of $2,152,900,000 as proposed by the House. While the conferees agree to the authorized level, they believe it to be well below what is required by the Department to alleviate the backlog of environmental cleanup at sites contaminated by past practices. The conferees strongly encourage the Department to submit a reprogramming request if additional funds are required in fiscal year 1992 and to submit a higher level in the fiscal year 1993 budget request.

The conferees agree with House language on Raritan Arsenal, Pictinny Arsenal, and Integrated Remediation and Restoration Approaches, and to Senate language on Thermal Destruction Pyrolysis Process, World War II Environmental Hazards, Red Water Contamination, Bioremediation Restoration Technology, and Nontoxic Maintenance Substitutes.

BASE CLOSURE ACCOUNTS

The conferees agree that $69,000,000 of this appropriation should be earmarked to support environmental remediation of bases included on the National Priority List and in Base Realignment and Closure, Part II. In addition, the conferees agree that fiscal year 1993 funds for environmental cleanup costs for bases proposed for closure should be included in the respective base closure accounts.

EXPEDITED ENVIRONMENTAL CLEANUP PROGRAM

The conferees are concerned about the slow pace of cleanup of environmental problems on military installations and fully endorse the Senate language establishing the pilot Expedited Environmental Cleanup Program. Furthermore, the conferees direct that (1) the Secretaries of the military departments select projects identified in the Installation Restoration Program within 30 days of the enactment of this Act for expedited cleanup and that these be projects for which preliminary assessments, site inspection and preliminary remedial studies have been completed; (2) to the maximum extent appropriate, the existing authority such as the interim remedial action of CERCLA, the conditioning remedy of RCRA and similar authorities be used; and (3) to the maximum extent appropriate, new contracting methods based on turnkey or partial turnkey operations, increased reliance on private investment capital and fixed price or fixed unit price contracting be implemented. The conferees direct the Department of Defense to propose any legislative changes required to expedite this cleanup program.

INDIAN LANDS

The conferees recognize that Defense operations on or near Indian lands have caused severe environmental problems for many Indian tribes. These environmental hazards negatively impact the health and safety as well as the social and economic welfare of Native Americans. Accordingly, the conferees agree to make $8,000,000 available for Department of Defense activities to help Indian tribes and organizations begin to mitigate environmental damage from defense operations by assisting tribes in their planning, development and implementation of programs for such mitigation. As the Administration for Native Americans (ANA) has the requisite expertise to assist Indian tribes and organizations in such environmental planning, the conferees direct the Secretary of Defense to cooperate with the ANA in making these funds available pursuant to a memorandum of understanding, memorandum of agreement, interagency agreement or other appropriate vehicle.

NORWALK DEFENSE FUEL SUPPLY POINT

Last year, the Department of Defense was directed to conduct a two-year, comprehensive program of off-site groundwater testing and monitoring at Norwalk Defense Fuel Supply Point, including an investigation of shallow ground contamination in proximity to the Norwalk Defense Fuel Supply Point. The conferees direct the Department to expeditiously complete the study requested last year and to provide an interim status report to the Committees on Appropriations by February 1, 1992.

Amendment No. 47: Deletes House language which would have provided that $900,000,000 should not become available for obligation before September 1, 1992.

Amendment No. 48: Deletes House language making a portion of the appropriation subject to authorization.

Humanitarian Assistance

Amendment No. 49: Appropriates $15,000,000 as proposed by the House instead of $13,000,000 as proposed by the Senate.

The conferees support the House proposed $2,000,000 increase which is specifically for transportation of relief equipment and supplies to countries in sub-Saharan Africa. The conferees request that the Department provide more detailed notification announcements to the Committees on Appropriations specifying the quality and quantity of equipment and supplies being distributed.

Amendment No. 50: Deletes House language and inserts Senate language which reduces the notification period from 21 to 15 days.

Amendment No. 51: Deletes House language making a portion of the appropriation subject to authorization.

HUMANITARIAN ASSISTANCE

The conferees concur with the language in the Senate report recommending a reduction in the notification requirement for the transportation of humanitarian relief from 21 to 15 days and call upon the Department to fully support the program as administered by the Office of Global Affairs. However, the conferees are concerned that the funding resources and legal authorities available to support the humanitarian relief program are insufficient to meet its growing responsibilities.

Therefore, the conferees direct the Department of Defense, Office of Global Affairs, to undertake a review of the DOD humanitarian assistance program to assess the appropriate level of future funding, the requirement for additional professional and administrative staff and the need to expand or supplement the existing authorities of the program to support its mission. The Office of Global Affairs is to report to the Committees on Appropriations of the Senate and the House no later than August 1, 1992, with its recommendations.

World University Games

Amendment No. 52: Appropriates $3,000,000 for the World University Games as proposed by the House instead of $1,000,000 as proposed by the Senate.

Summer Olympics

Amendment No. 53: Inserts Senate language which earmarks $2,000,000 for the 1996 Summer Olympics.

Real Property Maintenance, Defense

Amendment No. 54: Amends Senate language to earmark $500,000,000 for real property maintenance backlog.

TITLE III—PROCUREMENT

General Conference Issues

SEALIFT AND PREPOSITIONING EQUIPMENT

The House included $995 million for equipment on the Marine Corps' Maritime Prepositioning Ships (MPS) program and for land based prepositioned equipment. The House also added $1,300,000,000 for additional sealift ships. The Senate added $2 billion for sealift and prepositioned equipment.

Operation Desert Shield/Storm made abundantly clear the central role of sealift in providing logistics support on a large scale. The conferees are proud of the initiatives taken by past Congresses in adding funds to procure additional sealift. Approximately 95 percent of the equipment transported to the Persian Gulf was sent by ship.

The conferees also commend the great logistical success of the Marine Corps' MPS program during the early days of Operation Desert Shield. The Marine Corps transported 15,000 troops to the Middle East and they "married up" with their equipment from the MPS in just a ten day time period. However, the conferees note that much of the equipment from the ships was quite dated.

While MPS may stay deployed for years and not be used in an actual conflict, when the MPS equipment is disembarked in a crisis situation, the odds that it will be used in an actual wartime situation are very high. Thus it is most important that the equipment stored on the MPS be modern, compatible, complete, and interoperable with equipment used for training and exercises.

Because of funding constraints, the conferees reluctantly agreed to provide just $600 million for sealift and no funds for prepositioned equipment. However, the conferees strongly recommend that the shortfall of sealift and the inadequacy of the equipment in the MPS program be addressed in the fiscal year 1993 budget submission. The conferees also recommend that the budget submission for the Marine Corps' MPS equipment provide sufficient resources to satisfy both internal and joint command, control and communications requirements.

PAN CARBON FIBER

The conferees agree with Senate language which reemphasizes the requirement in law for the Department of Defense to procure 50 percent of its polyacrylonitrile (PAN) carbon fiber from domestic sources by 1992, recommend that the Department increase the procurement of carbon fibers made from domestic PAN in all current weapon systems with the goal of exceeding 75 percent by fiscal year 1995, and direct that the Department submit an implementation plan to the Committees on Appropriations by June 1, 1992.

BUY AMERICAN WAIVERS

The conferees agree that a strong domestic industrial base is important to our national security and urge the Department of Defense to exercise extreme caution in granting waivers to procure items included in section 8005 from other than domestic sources.

AIRCRAFT PROCUREMENT, ARMY

Amendment No. 55: Appropriates $1,692,800,000 for Aircraft Procurement, Army, instead of $1,730,787,000 as proposed by the House and $1,640,200,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
Aircraft procurement, Army:					
C–23	....	....	6,000	....	....
Total package fielding	1,442	....	1,442	....	1,442
UH–60 Blackhawk (MYP)	334,178	334,178	250,778	47	250,778
Training helicopter	....	....	23,500	40	23,500
AH–64 MODS	82,771	....	82,771	....	82,771
C–23 MODS	....	....	16,000	....	8,000
UH–1 MODS	9,166	14,166	9,166	....	9,166
Armed OH–58D	183,244	183,244	138,644	....	138,644
AHIP	....	200,000	....	24	133,000
Modifications less than $2.0M	13,900	....	13,900	....	....
External fuel tanks	....	....	5,000	....	5,000
Aircraft survivability equipment	48,035	48,035	48,035	....	49,535
Total package fielding	....	−39,800	....	....	....

NEW TRAINING HELICOPTER

The conference agreement provides $23,500,000, as proposed by the Senate, for initial procurement of the New Training Helicopter. The conferees agree that direct procurement is a more cost-effective approach than the leasing approach which was proposed by the Army. Accordingly, the conferees also agree with the House general provision (Sec. 8108) which repeals current legislation which allowed a leasing program.

The conferees agree that prior to obligation of the funds for this program, the Army shall submit to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate a plan for executing it. The plan shall include milestones, funding profile, contracting strategy, logistic support plan, and other program details for a competitive procurement. In formulating the plan, the Army should do all it reasonably can to ensure that all viable domestic manufacturers who wish to compete have an opportunity to do so and are not excluded by artificial time constraints. The Army should take sufficient time to consider industry comments to the draft request for proposal so that the final version reflects a reasonable and executable procurement plan. Such consideration should not necessarily affect the Army's desire to field 40 aircraft by October, 1993. The conferees strongly support this program because of the significantly lower training costs compared to the current program.

AH–64 APACHE MODIFICATIONS

The conference agreement includes $82,771,000 for AH–64 Apache modifications, as proposed in the budget and the Senate bill. The conferees agree that the purpose of this funding is to initiate "Apache B" modifications, including improvements which have been approved as a result of Desert Shield/Storm experience. An additional $21,000,000 has been provided for research and development for "Apache C" modifications, as discussed elsewhere in this statement. The conferees expect that when Apache C modifications are approved for production, the Apache modification program will transition to that configuration.

The conferees agree that prior to obligation of any procurement or research and development funds, the Army shall submit to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate an Apache modification master plan, budget, and schedule.

AIRCRAFT SURVIVABILITY EQUIPMENT

The conferees understand that the Navy and the Marine Corps utilized the MJU-27 decoy effectively in the Persian Gulf war. The conferees further understand that Army helicopters do not have this system. The conferees believe that the Army should add this capability and the conference agreement includes $1,500,000 for this purpose.

MISSILE PROCUREMENT, ARMY

Amendment No. 56: Appropriates $1,006,462,000 for Missile Procurement, Army instead of $1,109,595,000 as proposed by the House and $1,009,456,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
Missile procurement, Army:					
Patriot system summary (MYP)	107,052	107,052	78,052	....	78,052
Stinger system summary	37,526	112,526	26,226	....	26,226
MLRS rocket	2,111	58,000	61,700	9	61,700
MLRS launcher	178,233	153,733	136,600	44	133,600
DBOF adjustment	....	9,300	....	....	....
Total package fielding	....	−37,900	....	....	....
Budget amendment correction	−6	....	−6	....	....

STINGER

Adequate funding exists from prior years to sustain Stinger missile procurement until fiscal year 1993. The conferees, therefore, do not support additional funds for fiscal year 1992 procurement. However, the conferees are concerned that inventory levels are below planned procurement quantities and that the potential loss of an industrial base for this combat proven system would deny the U.S. a capability to meet possible performance enhancements for numerous weapon platforms that utilize Stinger. The Army is therefore urged to review its fiscal year 1993 program in an effort to sustain a single source industrial base to meet inventory needs and allow possible system modifications.

LASER HELLFIRE

The 1991 Operation Desert Shield/Storm Supplemental Appropriations Act provided $86,600,000 by transfer from the Defense Cooperation Account for the purchase of 3,150 Hellfire missiles. The conferees support the Army's plan to purchase 2,174 improved Hellfire missiles for $62,833,000 and approximately 335 Hellfire Optimized Missile Systems (HOMS) with the remaining $23,767,000.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

Amendment No. 57: Appropriates $1,111,096,000 for Procurement of Weapons and Tracked Combat Vehicles, Army, instead of $1,084,813,000 as proposed by the House and $1,003,096,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
Procurement of W&TCV, Army:					
Bradley Fighting Vehicle family (AP–CY)					50,000
Armored gun system (AGS)			3,000		
FAASV		60,000		80	60,000
BFVS series (MOD)	185,494	185,494	110,494		110,494
Howitzer, MED SP FT 155MM M109 SER(MOD)	161,606	127,006	130,006		127,006
Production base support (TCV–WTCV)	73,287	63,000	63,000		66,000
Grenade launcher, auto, 40MM, MK19–3		13,100	16,600	1,141	17,600
Production base support (WOCV–WTCV)	26,572	26,572	21,057		21,057
Industrial preparedness	8,902	8,902	7,200		7,200
DBOF adjustment		−3,300			
DBOF Deny Milcon capital budget			−1,100		−1,100
DBOF technical correction			−1,700		−1,700
Total package fielding		−50,500			

BRADLEY FIGHTING VEHICLE (ADVANCE PROCUREMENT)

The conference agreement includes $50,000,000 for advance procurement for the Bradley Fighting Vehicle. This funding is provided in the event that the Army decides that additional procurement of these vehicles is required and affordable. The conferees direct that prior to obligation of these funds for BFV advance procurement, the Army shall present for prior approval to the committees on Appropriations of the House and Senate an approved and funded program for additional Bradely Fighting Vehicle procurement. If such procurement is not approved or programmed, the Army may, with prior approval, reprogram these funds for other efforts within this appropriation.

ARMORED GUN SYSTEM

The Senate bill included $3,000,000 on the armored gun system line for initial production facilities for the EX35 gun proposed to be used on this vehicle. The budget and the House bill included no such funding. The conference agreement includes $3,000,000 on the production base support line for EX35 gun facilitization. The conferees direct that these funds not be obligated until the Department of Defense has approved and funded a program to procure this gun and provided program details including milestones and funding profiles, to the committees. The conferees direct that the EX35 gun shall be provided as government furnished equipment (GFE) for the Army's Armored Gun System and the Marine Corps LAV–105 if either system is procured.

TANK PROGRAMS

The conference agreement includes $90,044,000 for procurement of new M1 tanks and $225,000,000 for a tank upgrade program. These funding levels were provided by both authorization and both appropriations committees. The new production funding is to be combined with $150,000,000 provided in fiscal year 1991 for procurement of about 60 tanks. The purpose of the new production tanks is to provide production line continuity, when combined with supplemental funding and foreign military sales, to transition to the upgrade program. The conferees state their insistence that the Department proceed expeditiously to implement the upgrade program. The justification for this program is strengthened by the recent Army decision to stretch out the development and fielding of the new Block III tank.

With respect to the tank upgrade program, the Senate report raised serious questions about the Army's position that any upgrade of older M1s should be to the new M1A2 configuration. In particular, the Senate expressed concerns over the cost of upgrade to the A2 configuration versus the currently fielded M1A1 version.

The conferees agree that cost and affordability are serious issues with respect to implementation of an M1 upgrade program. However, the conferees are aware the Army has worked aggressively to reduce the costs of an M1A2 upgrade, significantly bringing down the estimated costs from the figures cited in the Senate report.

Moreover, the conferees believe the recent decisions concerning the Block III tank strengthen the argument for an M1A2 tank incorporating the latest in electronic and technical improvements. It should be noted that the M1A1, which was first fielded in 1986, embodies late 1970s-early 1980s technology. Absent an upgrade to the M1A2 U.S. forces will have to rely on technology which will be nearly three decades old by the time a new Block III tank may be ready for deployment.

As a consequence, the conferees agree with the position of the authorization committees that the upgrade program should be directed at conversion to the M1A2. As part of this decision, the conferees have added funding to continue M1A2 development, as outlined later in this report. Consistent with authorization action, the conferees direct that if a decision is reached to proceed with low-rate initial production of the M1A2, the funds in this Act provided for the tank upgrade program be used for conversion of older tanks to the A2 configuration.

Nevertheless, the conferees realize that key questions regarding M1A2 cost and performance remain unanswered. The conferees' continued support for an M1A2 upgrade is premised on the Army successfully resolving these issues.

The conferees note the testing program for the M1A2 has slipped, which should result in a corresponding slip on program decision milestones. Cutting corners in testing and evaluation in order to adhere to artificially contrived milestone dates will not be tolerated.

In addition, if the M1A2 is to be fielded, additional testing must be funded including organic logistics support, training devices, user testing, live fire tests and extended reliability, availability and maintainability. Such additional testing is required to bring the program to a Milestone III type classification standard.

The conferees direct that, prior to obligation of any of the M1 tank procurement or upgrade funds provided in the bill for M1A2-unique components, the Department submit an approved plan which incorporates a funded program (1) for completion of M1A2 testing, (2) for transition to production and/or upgrade to the M1A2 configuration, if approved, (3) for a long-term upgrade program, and (4) for fielding and supporting the new and upgraded tanks. Such a plan will include program milestones and costs, economic production rates, and acquisition and contracting strategy.

PROCUREMENT OF AMMUNITION, ARMY

Amendment No. 58: Appropriates $1,369,080,000 for Procurement of Ammunition, Army, instead of $1,364,859,000 as proposed by the House and $1,325,421,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
Procurement of ammunition, Army					
CTG, 5.56MM, all types	64,601	70,101	61,901		70,101
CTG, 7.62MM, all types	10,382	10,682	10,382		10,682
CTG, .50 CAL, all types	4,500	21,000	4,500		13,000
CTG, 25MM, all types	40,652	39,952	33,752		33,752
CTG, 30MM, all types		10,000			
PROJ, ARTY, 155MM, HE, M107		4,600		185	35,500
PROP CHG, 155MM, white bag		21,200			
FUZE, artillery, elec time, M762			22,000		22,000
First destination transportation (AMMO)	6,341		6,341		
Nitroguanidine	25,079	11,779	10,000		10,000
Provision of industrial facilities	74,923	74,923	78,423		75,923
Maintenance of inactive facilities	70,100	70,100	67,600		67,600

M72E4 LIGHTWEIGHT MULTIPURPOSE WEAPON

The conferees agree that the Army shall complete development and operational testing of the M72E4, type classify the weapon, and acquire a technical data package as was directed in the Urgent Supplemental Appropriations Act, 1986 (P.L. 99–349). The Army may use any available funds to complete the effort. These funds will be placed in Army P.E. 64801/Proj. No. D284. The Army may satisfy this Congressional requirement by testing and type classifying a newer configuration (E5/E6) of the M72 LAW.

NITROGUANIDINE

The conferees agree to provide $10,000,000 to be used only for the clean-up and decontamination of the nitroguanidine production facility at the Sunflower Army Ammunition Plant. Furthermore, the conferees direct that no funds from any component of the Department of Defense be reprogrammed, or otherwise be made available, for continued production for the nitroguanidine stockpile. The conferees expect that the plant will be laid away in an orderly fashion and that all production will cease no later than the end of fiscal year 1992.

CLASSIFIED PROGRAMS

Both committees denied $18,000,000 in initial production funding for a classified round based on technical problems and late type classification. The conferees agree that, with prior approval, the Army may reprogram initial procurement funding for this round once all testing and other milestones leading to type classification have been successfully completed.

The conferees note that the projected unit cost of this round is likely to be significantly higher than the round it replaces. Furthermore, it is designed against a threat which has changed significantly. Therefore, the affordability of this program should be carefully examined before it enters production, particularly in light of declining procurement budgets in the future. The Army may want to consider putting a type classified or "productionized" round "on the shelf" and continuing to acquire the current round until the new round is needed.

PROVISION OF INDUSTRIAL FACILITIES

The conference agreement for provision of industrial facilities is $75,923,000, an increase of $1,000,000 above the budget and the House amount. The conferees recognize that the HMX prototype facilities at the Longhorn Army Ammunition Plant could be used for generic process technology research and development. They encourage the Department of Defense, using available R&D funding, to consider such uses prior to abandoning the plant and its engineering workforce. The $1,000,000 included in the bill is intended to maintain the HMX facility and engineering team while the Department identifies additional funding sources should it decide to continue work at the facility.

The conferees encourage the Army to establish a funded project to exploit technology for energetic materials processing using the twin screw mixing technology. This approach addresses environmental and safety issues in current explosives, gun propellent and other energetic military materials processing.

NATIONAL PRESTO INDUSTRIES FACILITY

The conferees agree that not to exceed $7,000,000 shall be available for obligation, within funds available in this appropriation, for environmental restoration at the National Presto Industries facility at Eau Claire, Wisconsin. However, such obligations shall be consistent with, and not in excess of, the financial responsibilities specified in the agreement of February, 1988 between National Presto Industries, National Defense Corporation, and the Department of the Army, and with any subsequent agreements. The Army shall report to the committees on the results of an agreement between Federal, State, and private interests in this facility and submit a prior approval reprogramming to implement the direction of this paragraph.

BADGER ARMY AMMUNITION PLANT

The conferees have been provided with conflicting opinions on the need to continue the operation of the Badger Army Ammunition Plant. A range of uncertainty surrounds the nation's future propellent requirement and industry's ability to surge production in the event of prolonged conflict. Under such circumstances, the conferees believe it is inappropriate to alter the status quo at the Badger facility until an additional evaluation of Army requirements is made and the conflicting positions on this issue are reconciled. The conferees will look to the hearing process next year to establish a consensus on the future of Badger Army Ammunition Plant and the propellent needs of our armed forces. Further, the conferees support the position of the Senate that the Secretary of Defense should make $840,000 immediately available for a study of the causes of contamination at the Badger Army Ammunition Plant so that infrastructure remediation efforts can proceed as soon as possible. The conferees believe that the problem of environmental remediation and restoration at the Badger plant should be given a high priority by the Department.

Amendment No. 59: Deletes House provisions requiring testing of plastic ammunition containers and making a portion of the appropriation subject to authorization.

OTHER PROCUREMENT, ARMY

Amendment No. 60: Appropriates $3,063,799,000 for Other Procurement, Army instead of $3,021,435,000 as proposed by the House and $3,013,798,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
Other procurement, Army:					
Tactical trailers/dolly sets	8,311	7,500	33,311		33,311
Semitrailer tank, 5000G		23,900			23,900
Family of medium tactical veh (MYP)	161,028	161,028	161,028	1,176	129,800
Heavy equipment transporter sys	182,859	161,359	160,000		160,000
Army data distribution system (ADS)	17,199	44,199	17,199		44,199
EAC communications	27,574	27,574	40,774		40,774
MOD of IN–SVC equip (EAC COMM)	16,209	12,209	16,209		16,209
TSE—Trunk encryption devices (TED)	7,099	7,099	4,244		4,244
Information systems	55,372	55,372	48,472		48,472
General defense intelligence prog (GDIP)	43,188	3,106	3,988		3,119
All source analysis sys (ASAS) (TIARA)	63,985	32,285	58,485		58,485
Commanders tactical term (CTT) (TIARA)	11,212	11,212	3,349	6	11,212
Night vision devices	102,944	102,944	94,350		102,944
Physical security systems	20,182	20,182	11,789		11,789
MOD of IN–SVC equip (TAC SURV)	30,806	30,806	26,206		26,206
Maneuver control system (MCS)	45,942	14,500			8,000
Automated data processing equip	75,278	75,278	89,571		86,633
ADP/CIM general reduction			−8,140		−8,140
Integrated family of test equip (IFTE)	48,048	62,048	48,048		62,048
TMDE modernization (TMOD)	19,794	19,794	9,794		9,794
Army printing and binding equipment	4,357	4,357			
PECIP and QRIP	7,071	7,071	5,671		5,671
Production base support (C–E)	1,000	12,500	1,000		12,500
Special programs	69,340		8,340		14,719
Chemical agent monitor	6,376	6,376	10,176	50	10,176
Laundry unit/TRL MTD	6,000	6,000	9,000	85	9,000
Soldier enhancement	12,278	11,578	12,278		11,578
Items less than $2.0M (CSS–EQ)	11,500	10,000	11,500		10,000
Water purif unit REV OS 3000 GPH	16,698		16,698	42	16,698
Medical support equipment	84,893	89,893	84,893		89,893
Training devices, nonsystem	104,926	74,926	104,926		84,926
DBOF adjustment		157,300			
Total package fielding		−90,700			
DBOF DENY MILCON capital budget			−1,100		−1,100
DBOF technical correction			62,000		62,000
Classified program		−5,000			

FAMILY OF MEDIUM TACTICAL VEHICLES

The conference agreement provides $129,800,000 for the second year procurement of the Family of Medium Tactical Vehicles. This amount, when combined with the $41,800,000 included in the Supplemental, fully funds the second program year for this program and restores the $15,900,000 taken from fiscal year 1992 funding to support the first program year requirements. The conferees emphasize their strong support for this program as a vital component of tactical truck modernization. The importance of modern tactical trucks was vividly demonstrated in Operation Desert Shield/Storm. With contract award just recently made for this program, the Army and the contractor now enter the challenging phase of production start-up. The conferees expect to carefully monitor progress during this phase in order to assess the justification for future funding requirements for the program. The conferees note that during the first two program years, the contract, appropriately, allows no procurement options above the quantities funded in the bill.

TACTICAL TRAILERS AND DOLLY SETS

The conferees agree to the funding level proposed by the Senate for tactical trailers and dolly sets. The conferees also agree with Senate report language directing the Army to consider modified M101 and M116 trailers for the High Mobility Trailer program. However, the conferees have reviewed Senate direction concerning responsibility for Army program management and agree that the Army may organizationally locate program management responsibility where it chooses.

SINGLE CHANNEL OBJECTIVE TACTICAL TERMINAL (SCOTT)

The conferees provide $17,878,000 for the SCOTT program, the amount of the fiscal year 1992 budget request. The conferees also remove the restriction contained in the fiscal year 1992 House Defense Appropriations Report directing the Army to adhere to its original operational test schedule for the SCOTT terminal.

Additionally, the conferees note the rapidly evolving world situation which undercuts the requirement for command and control of theater nuclear weapons and the final inventory objective for SCOTT terminals. The conferees therefore direct that the Army thoroughly re-examine its acquisition strategy for SCOTT and propose an efficient funding profile as part of its fiscal year 1993 budget request.

Finally, the conferees support the timely acquisition of the medium data rate (MDR) Milstar terminal and believe that existing SCOTT technology may be leveraged to a significant extent in quickly developing a technical solution to the Army's MDR terminal requirements. The conferees direct that the Department provide a development and acquisition plan for the MDR terminals to the Committees on Appropriations not later than sixty days from the date of this report.

MANEUVER CONTROL SYSTEM

The conferees agree to provide $8,000,000 in fiscal year 1992 to provide for program management, engineering support costs, minor system upgrades, and other costs necessary to continue the Maneuver Control System program. In addition, the conferees note that Tactical Computer Terminal upgrades have been addressed in the National Guard and Reserve Equipment, Defense section of this report.

INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)

The conferees agree to provide $62,048,000 as proposed by the House instead of $48,048,000 as proposed by the Senate for the IFTE program. The conferees have also provided $7,000,000 in Army Research and Development funding to initiate the development of IFTE test program sets. The conferees understand that despite the changing force structure requirements, the Army has yet to develop a comprehensive fielding plan. Therefore, the conferees direct the Department of the Army to provide the Committees on Appropriations a report by July 1, 1992, listing all systems that are or will be supported by IFTE. The report should include a fielding plan, funding profile, and milestone schedule. The report should also address how the Army National Guard's and Army Reserve's requirements for test equipment will be met.

The conferees further direct that no efforts be made to develop or integrate an electronic or electro-optic capability to the IFTE-BSTF for use with the M1 series Abrams tank, Bradley Fighting Vehicle, or TOW/TOW II missile systems prior to the validation of the Army's IFTE cost and operational effectiveness analysis by the General Accounting Office. The GAO's report shall be completed no later than May 1, 1992.

COMMON HARDWARE/SOFTWARE II (CHS II)

The conferees concur with the concerns expressed in the fiscal year 1992 House Defense Appropriations Report about the CHS II program. While supportive of the Army's efforts to field the next generation of tactical computer systems, the conferees direct that a thorough requirement and economic analysis be conducted to determine the precise inventory objective for CHS II computers.

Further, the conferees believe that achieving a smooth transition from CHS I to CHS II computers is essential to avoid programmatic delays and wasteful expenditures. The conferees therefore direct the Secretary of the Army to establish management controls for this transition which should include: field testing of the proposed CHS II hardware, examination of CHS II performance specifications to ensure compatibility with user requirements, and a further specification review to ensure that they are not beyond available technology and that CHS II computers can be acquired and delivered through NDI acquisition procedures. The conferees further direct the Secretary of the Army to submit a report to the Committees on Appropriations by February 15, 1992 outlining the steps the Department of the Army has taken to ensure a smooth transition from CHS I to CHS II.

AUTOMATIC BUILDING MACHINES

For a few years the Army has contemplated placing its Apache helicopters in protective shelters to prevent a recurrence of the terrible losses suffered during a windstorm at Fort Hood. The Congress has provided funds for this purpose; however, the program has not yet begun.

Therefore, the conferees direct that the Army, from funds previously appropriated for that purpose, procure a minimum of 12 Super-span Automatic Building Machines. These machines may initially be used to construct protective shelters for helicopters. The conferees expect these funds to be obligated as expeditiously as possible.

AIRCRAFT PROCUREMENT, NAVY

Amendment No. 61: Appropriates $6,948,620,000 for Aircraft Procurement, Navy, instead of $7,683,633,000 as proposed by the House and $7,025,920,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
Aircraft Procurement, Navy:					
F–14A/D/REMFG (fighter) Tomcat	173,000	453,730	173,000		173,000
F–14A/D/REMFG (fighter) Tomcat (AP–CY)		50,000			
F/A–18 (fighter) Hornet	1,986,666	1,986,666	1,784,666	39	1,784,666
CH–46E			465,000		
CH–46E (AP–CY)			60,000		
CH/MH–53E (helicopter) Super Stallion	454,700	591,932		16	339,700
CH/MH–53E (helicopter) Super Stallion (AP–CY)	54,128				32,000
T–45TS (trainer) Goshawk	322,467	362,467	322,467	12	362,467
HH–60H (helicopter)	165,559	165,559			
KC–130T			67,000		
C–130T			114,000		
A–6 series	5,485	35,484	5,485		21,485
F–14 series	53,562	53,562	53,562		228,562
OV–10 series	4,176	23,176	4,176		4,176
H–1 series	118,201	118,201	133,201		133,201
H–2 series	108,202	116,202	108,202		116,202
EP–3 series	18,486	18,486	33,486		33,486
E–6 series	19,523	19,523	57,823		57,823
Common ECM equipment	101,414	119,414	101,414		119,414
Common ground equipment	440,245	440,245	418,752		418,752
DBOF Deny Milcon capital budget			–5,300		–5,300

AMENDED BUDGET SUBMISSION

The amended budget submission requested approval of various funding realignments within prior year aircraft procurement funds. The conferees hereby approve the following adjustments as proposed:

[Dollars in thousands]

	Amount
Fiscal year 1990:	
A-6 Mods	+$353,700
A-12	–99,661
A-12 (AP)	–181,248
Spares	–72,791
Fiscal year 1991:	
F/A-18	+180,264
F-14	+226,290
A-6 Mods	+296,000
F-14 (AP)	–126,290
A-12	–3,764
A-12 (AP)	–554,500
Spares	–18,000

AV–8B

The House recommended $40,000,000 for remanufacture of two existing AV–8B aircraft to test the concept of remanufacture. The Senate recommended $40,000,000 to finance solely the costs associated with line shutdown. The conferees agree to provide $40,000,000 for remanufacture of existing AV–8B aircraft.

F–14 TOMCAT

The conferees concur with the termination of the F–14D remanufacturing program as directed in the National Defense Authorization Act for fiscal year 1992. Funding of $173,000,000 is provided to close out the F–14 production program. In addition, the conferees recognize that the F–14 is likely to remain in the fleet well beyond the year 2000. Accordingly, the conferees believe that a modest upgrade program should be initiated to improve safety, survivability and reliability. To support this requirement, the conference agreement provides $228,562,000 for F–14 modifications. This amount is $175,000,000 over the budget request. The added funds will allow the Navy to begin an upgrade program in fiscal year 1992. The conferees believe the Navy should consider re-engining the F–14 fleet as part of this modification program.

F/A–18 HORNET

The conferees agree to provide $1,784,666,000 for procurement of 39 F/A–18 aircraft as proposed by the Senate. The conferees believe procurement of these 39 aircraft, when combined with the nine aircraft provided in the proposed supplemental for incremental costs of Operation Desert Shield/Storm, will result in an efficient production run. The combined quantity of 48 aircraft is consistent with the 1991 program and the proposed 1993 program as reflected in the amended budget submission.

CH-46E HELICOPTERS

The conferees agree to provide no funding for the CH-46E helicopter, rather than $525,000,000 as proposed by the Senate. The conferees recognize the urgent need to find a replacement for the current Marine Corps medium lift helicopter and believe the V-22 would satisfy that requirement. However, the conferees note the existence of a 30 percent shortfall in medium assault helicopters for the Marine Corps and an 11 percent shortfall in vertical replenishment assets for the Navy. Also, the additional time required to deliver V-22 aircraft as a result of the Phase-II Development program may require procurement of a "gap filler" aircraft. Accordingly, the conferees encourage the Department of the Navy to evaluate the near-term measures which can help satisfy vertical replenishment requirements for the Navy and Marine Corps medium assault requirements.

CH-53 HELICOPTERS

The conferees agree to provide $339,700,000 for 16 CH-53E Marine Corps heavy lift helicopters. The reduction of $115,000,000 from the budget request reflects moving procurement of 4 MH-53E minesweeper variants to the National Guard and Reserve Equipment account.

CH-53E ADVANCE PROCUREMENT

The conferees agree to provide $32,000,000 for CH-53E advance procurement. The amount provided is in anticipation of a request for 16 CH-53E helicopters in the fiscal year 1993 budget request.

SH-60B AND SH-60F HELICOPTER PROGRAMS

The conferees agree to provide the full budget request for the SH-60B and SH-60F helicopter programs. The conferees recognize the fact that the budget request may be in excess to actual funding requirements since the Navy's budget assumptions currently factor in a lower business base than that which is actually being experienced. In the event that the current budget request is in excess to requirements after completion of contract definitization, the conferees direct that $5,000,000 shall be available for only SH-60B FLIRS and that all residual funds shall be used only within these H-60 series programs to fund the incorporation of survivability and weapons upgrade modifications for which a requirement was demonstrated during fleet experience in Operation Desert Storm.

T-45 (GOSHAWK)

The conferees agree to provide $362,467,000 for 12 T-45 trainer aircraft. The amount provided is $40,000,000 more than requested. The recommendation allows the Navy to initiate the "cockpit 21" improvement program and to compete its aircraft engine if such a competition is determined by the Navy to be cost effective. However, the increased funds provided can only be used for cockpit 21 and/or to compete the engine to the extent that the Navy provides sufficient funds in its fiscal year 1993 budget request to maintain the program or programs at their accelerated pace.

HH-60 SEARCH AND RESCUE HELICOPTERS

The conferees agree to provide no funding for HH-60 helicopters as recommended by the Senate instead of $165,559,000 for 9 aircraft as proposed by the House. The conferees agree that procurement of this program should not be initiated until the follow-on test and evaluation has been successfully completed and the Navy has provided sufficient justification for this new capability.

KC-130T/C-130 AIRCRAFT

The conferees agree to provide KC-130T and C-130 aircraft for reserve units as part of the National Guard and Reserve Equipment account.

A-6 MODIFICATIONS

The conferees agree to provide $21,485,000 for A-6 modifications. This amount includes $16,000,000 above the budget request to be used for acquisition of video tape recorders as an aid for bomb damage assessment. The conferees believe that significant upgrades to the A-6 aircraft will be required if it is to remain a credible warfighting asset in the future. The Navy is directed to seriously address the issues outlined by its Operational Advisory Group, especially those regarding engine and radar upgrades. The conferees expect to see, in future budgets, an aggressive research, development, and procurement program which deals with the fact that this aircraft will be operating well past the turn of the century.

OV-10 SERIES

The conferees agree to provide $4,176,000 for OV-10 series aircraft modifications, the same as the budget request and $19,000,000 below the House recommended level. The conferees agree this program of block upgrade I modifications should be completed in an expeditious manner, and urge the Navy to adequately fund the program in the fiscal year 1993 budget request.

H-1 SERIES

The conferees recommend $133,201,000 for modifications on H-1 helicopters. The amount includes $15,000,000 more than requested. The increase is available to purchase commercially available thermal imaging systems for helicopters as recommended by the Senate.

H-2 SERIES

The conferees agree to provide $116,202,000 for SH-2G upgrade kits as recommended by the House, an increase of $8,000,000 to the budget request.

EP-3 SERIES

The conferees agree to provide $33,486,000 for modifications for EP-3 aircraft, an increase of $15,000,000 above the budget request. The recommendation provides $15,000,000 to install an integrated tactical data link capability on EP-3 aircraft to allow the transmission of data to ground forces, particularly Marines.

E-6 SERIES

The conferees provide $57,823,000 for modifications for E-6 aircraft. This amount is $38,300,000 more than requested. The increased funds are consistent with the authorization plan to upgrade communications capability of the E-6 so that it can assume the strategic communications role of the EC-135.

COMMON ECM EQUIPMENT

The conferees agree to provide $119,414,000 for procurement of Common ECM Equipment. The increase of $18,000,000 to the budget request is provided for procurement of rail chaff dispenser systems for fighter aircraft.

COMMON GROUND EQUIPMENT

The conferees agree to provide $418,752,000 as proposed by the Senate instead of $440,245,000 as proposed by the House.

Amendment No. 62: Deletes a House provision making a portion of the appropriation subject to authorization.

WEAPONS PROCUREMENT, NAVY

Amendment No. 63: Appropriates $4,562,621,000 for Weapons Procurement, Navy by program and activity instead of $4,726,795,000 by program and activity as proposed by the House and $4,611,848,000 in a lump sum as proposed by the Senate.

The conference agreement on the items in conference is as follows:

[In thousand of dollars]

	Budget	House	Senate		Conference
Weapons procurement, Navy:					
Trident II	977,353	977,353	1,199,753	28	977,353
Tomahawk	454,123	454,123	454,123	176	411,468
SLAM	37,803	212,803	37,803	150	167,803
HARM	210,691	210,691		749	210,691
Standard missiles	415,254	415,254	415,254	330	332,154
Weapons industrial facilities	31,575	31,575	44,775		44,775
Arctic satellite communications	3,728		3,728		
Ordnance support equipment	112,614	92,879	112,614		92,879
Practice bombs	15,888	10,336	13,100		13,100
Rockeye Pip					4,000
5 inch/54 gun ammunition	49,407	34,407	49,407		34,407
CIWS ammunition	12,023	33,000	22,023		22,023
Other ship gun ammunition	34,906	34,906	32,400		32,400
Classified program		−7,400			−7,300

TOMAHAWK

The President's budget included $454,123,000 for 236 Tomahawk missiles, including $42,655,000 for 60 nuclear tipped Tomahawks. On September 27, 1991, President Bush announced his initiative to reduce the U.S. nuclear arsenal including the withdrawal of nuclear Tomahawk cruise missiles from surface ships and submarines. In accord with the President's announced intention to deploy nuclear Tomahawks no longer, the conferees have deleted the funding requested in the budget for the 60 missiles.

SLAM

The conference agreement includes $167,803,000 for the Standoff Land Attack Missile (SLAM) program. The Navy is directed to procure as many SLAMs as possible with the available funding.

HARM

In prior years, the Congress has been a strong supporter of the low cost seeker. This alternative effort was appreciated as a distinct missile architecture offering the hope of considerable savings through competition and the operation of two production lines. With planned annual procurement quantities of 2,300 or more, this strategy was sound.

Due to declining defense budgets and other factors, the anticipated annual HARM production quantities for the balance of the procurement do not exceed 1,250, barely sufficient to maintain one producer at a minimum sustaining rate. The Navy is well aware of the circumstances and has advised the Congress that anticipated production quantities will not support two sources.

In addition, the schedule for testing the low cost seeker has slipped considerably from the original plan. The result is that significant competition between two producers may not be feasible until fiscal year 1994.

In view of the reduced inventory objectives, the low annual procurement requests planned and the slippage in low cost seeker development and testing, the conferees believe that two producers may no longer make sound economical sense and direct the Navy to reexamine its acquisition strategy for 1992 and the out years with a view of getting the greatest return from the limited resources available.

STANDARD MISSILE-2

The Standard Missile-2 Block IV program has experienced considerable development problems and schedule delays in the past year. Primarily due to booster problems, the first successful propulsion test vehicle firing has been delayed more than a year. As a result, the initial production decision, once scheduled for the middle of fiscal year 1991, has slipped until December 1992, the first quarter of fiscal year 1993. A production decision in December 1992 will protect the priced option negotiated between the contractor and the government which expires on January 1, 1993.

Due to the program slippage, not all the funds appropriated or budgeted for the Standard Missile-2, Block IV program are currently required. None of the approximately $300 million provided in fiscal year 1991 for SM-2 Bock IV can be used in a timely manner. Accordingly, the conferees agree to the rescission of these funds as proposed by the House.

In addition, the $157.2 million requested in the fiscal year 1992 budget for 195 Block IV missiles no longer represents a viable program. The money cannot be placed on contract in 1992 and is insufficient to fund the priced option for 300 missiles which expires on January 1, 1993. The conferees support the Block IV program and want to maintain the viability of the 300 missile priced option. However, since the entire 1992 budget request cannot be properly utilized, the conferees have reduced the amount for the Block IV missile by $83.2 million. The remainder, $74 million, is available only for long lead items to protect the January 1, 1993 priced option and the anticipated first production missile delivery by June 1994.

The conferees emphasize that these actions are based solely on the schedule perturbations experienced and are taken without prejudice to the program. Assuming successful progress in the test program, the conferees expect the Navy to use the $74 million long lead funding as directed and the budget in fiscal year 1993 for the additional funds required to execute the priced option by January 1993.

IMPROVED TACTICAL AIR LAUNCHED DECOY

The fiscal year 1991 Defense Appropriations conference agreement included a total of $25,000,000 for the Improved Tactical Air Launched Decoy (ITALD) program. Based on information supplied by the Navy at that time, the funds were divided between research, development, test and evaluation ($8,000,000) and procurement ($17,000,000).

However, this year Department of Defense officials determined that funds provided in the Weapons Procurement, Navy account could not properly be used for the ITALD program at this stage of its development. In addition, the DOD estimated that the total development and evaluation cost of ITALD will be approximately $25,000,000. In order to align funding for ITALD more properly, the conferees agree to rescind $17,000,000 appropriated for 1991 ITALD procurement and to provide an additional $17,000,000 in research, development, test and evaluation, Navy, 1992/1993, for ITALD development.

PHOENIX MISSILE

The conferees are concerned that the Defense Department has not obligated the $60,000 authorized and appropriated for the Phoenix missile in fiscal year 1991, causing a costly delay in implementing a vital missile modification and retrofit program. Over the past 15 years, the Navy wisely invested in developing the Phoenix into a robust, long-range, high-energy weapon system, and for the next century is developing an improved follow-on capability in the advanced air-to-air missile (AAAM). The conferees continue to believe, however, that it is essential to maintain and support an adequate Phoenix missile capability until the AAAM is fielded in sufficient numbers. While the conferees agree it is a prudent risk to end the production of new Phoenix missiles, the conferees believe a missile retrofit program incorporating an already developed and demonstrated block upgrade to the AIM-54C is a necessary and cost-effective interim solution. Additionally, the prompt initiation of this program is necessary in order to avoid substantial restart costs. In view of the Navy's reliance on Phoenix capability well into the next century, and the near-term loss of Phoenix production capability, the conferees direct the Secretary of the Navy to obligate funds immediately for initiation of a Phoenix modification program as funded in the fiscal year 1991 Department of Defense Appropriations Act.

The conferees support the Navy's fiscal year 1992 budget request of $12,166,000 for the retrofit of an expanded reprogrammable memory, but direct the Secretary of the Navy to combine this effort within an overall Phoenix retrofit program to avoid multiple missile teardowns and duplication of effort.

Further, the conferees are concerned about the specific long-range missile inventory composition during the transition years as the phoenix is phased out and the AAAM is deployed. Accordingly, the conferees direct the Secretary of Defense to submit a comprehensive report within 180 days after enactment of this Act to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives detailing an integrated plan on continued modernization and support of the Phoenix missile, including specific missile configurations and annual inventory levels. This report should cover the period from the present extending through the date at which the AAAM has completely replaced the Phoenix missile in the operational inventory.

ROCKEYE

The conference agreement includes $4,000,000 to complete Phase II of the Cockeye Product Improvement Program (PIP), as proposed in House authorization action. This agreement, however, entails no commitment to production once the testing phase is completed.

ARCTIC SATELLITE COMMUNICATIONS

The conferees agree with the House recommendation to delete $3,728,000 requested for acquisition of Navy Arctic communications satellites. However, to the extent that a more compelling case can be made for this program, the Navy may submit a prior approval reprogramming.

SHIPBUILDING AND CONVERSION, NAVY

Amendment No. 64: Appropriates $9,153,287,000 for Shipbuilding and Conversion, Navy by program and activity instead of $10,595,704,000 by program and activity as proposed by the House and $7,725,382,000 in a lump sum as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
Shipbuilding and conversion, Navy:					
DDG–51	4,165,105	3,314,137	4,091,488	5	4,091,488
LHD–1 amphibious assault ship (MYP)		972,000			
LSD–41 (cargo variant)	245,134	245,134	241,118		
MHC mine hunter coastal	231,096	231,096	361,096	3	341,096
Tagos surtass ships		149,000		1	149,000
AOE	540,110	500,000		1	500,000
Oceanographic ships	129,818	41,200	129,818	2	99,818
Tags 39/40					55,000
Sealift/prepositioning		1,300,000			600,000
Service craft	15,468	60,468	15,468		35,468
LCAC landing craft	265,902	807,102	253,902	24	504,000
Outfitting	275,150	275,150	238,695		238,695
Post delivery	175,153	175,153	150,758		150,758
Inflation for prior years programs	524,900	599,900	318,675		463,600
DBOF deny Milcon capital budget			−1,000		−1,000

NOISE REDUCTION PUMPS

The conferees have been impressed by the low noise levels achieved by the improved oil service pumps developed for the SSN-21 Seawolf submarine. The conferees also endorse the Navy's plan to test retrofit kits that would pass on this benefit to both the SSN-688 and SSBN-726 class submarines. The Navy is encouraged to expedite this testing schedule to facilitate an early decision for further employment. The Navy should provide the test results to the congressional defense committees as soon as they are finalized.

DDG-51 DESTROYER

The conferees agree to provide $4,091,488,000 for the purchase of five destroyers. This amount is $73,617,000 below the request. The estimate assumes that Combat DF will be included on one of these destroyers.

LSD-41 CARGO VARIANT

The conferees provide no funds for the LSD-41 Cargo Variant. This reduction is made without prejudice.

MHC COASTAL MINE HUNTER

The conferees agree to provide $341,096,000 for the purchase of three MHC coastal mine hunters, an increase of $110,000,000 above the budget request.

OCEANOGRAPHIC SHIPS

The conferees include funding of $99,818,000 for the purchase of two oceanographic ships. The conferees agree that neither of these ships shall be an ocean-going ice capable monohull. The navy is directed to use a portion of this funding to expeditiously award the contract option for construction of TAGS-62 which was originally funded in fiscal year 1991.

AIR CUSHION LANDING CRAFT (LCAC)

The conferees provide $504,000,000 for the purchase of 24 air cushion landing craft (LCAC). The conferees direct the Navy to consider competing the contract for at least 12 of these craft.

TAGS 39 AND 40

The conferees make available $55,000,000 for contract overruns on the TAGS 39 and 40. Bill language is included which allows the Secretary of the Navy to pay this amount to the shipbuilder if the Secretary determines that such an award is justified.

SERVICE CRAFT

The conferees agree to provide $35,468,000 for service craft. The amount includes an increase of $20,000,000 which shall be for the purchase of water barges.

SEALIFT

The conferees agree to provide $600,000,000 for acquisition of sealift ships. The conference agreement is $700,000,000 below the House recommended level, and $1,400,000,000 below the Senate recommended level for Sealift and Prepositioning Equipment.

The House included a general provision which prohibited using any sealift funds provided in fiscal years 1990, 1991, or 1992 to acquire foreign constructed vessels. The conferees have amended the House language regarding the use of sealift funds for the acquisition of vessels constructed in foreign shipyards. The conferees are in agreement that no more than 15 percent of the funds available to the Department of Defense for sealift may be used to acquire ships constructed in foreign shipyards. The balance of the funds may be used for new contruction in United States domestic shipyards, or to accomplish conversion or modification in United States domestic shipyards of United States or foreign built vessels.

Subsequent to passage of the House bill, the conferees have been informed of numerous proposals, including many which call for conversion of foreign constructed ships, which appear to have a great deal of merit. Major conversions of foreign-built commercial vessels, notably the conversion of the eight high-speed SL-7 container vessels to T-AKRs (RO/ROs) in the early 1980s, proved essential to U.S. sealift capabilities in Operations Desert Shield and Desert Storm. Some of the conversion proposals would provide significant work to U.S. domestic shipyards and possibly to a broader range of facilities than would a program limited to new construction.

Moreover, the conferees note that a program of major conversions may also be a means of getting a program of new construction off the ground. The failure of the Department of Defense to proceed with a sealift program has accentuated the need for immediate action to correct sealift deficiencies made evident during Operations Desert Shield and Desert Storm.

The conferees agree with Senate language encouraging the Defense Department to consider a CRAF like program for sealift. Such a program might require the Defense Department to contract with U.S. companies to modify existing or new vessels with commercial applications to a useful military configuration. Funds for this purpose would not be precluded under section 8117.

While major conversions can play a significant role in revitalizing sealift capabilities, the conferees intend the sealift program to provide support for the domestic shipbuilding industrial base. Therefore, the conferees have reserved most of the funds available for sealift to pay for work done in the United States while preserving some flexibility for major conversions through the acquisition of foreign hulls. In addition, the conferees note that component parts, such as propulsion systems, etc., needed in the construction or for the conversion or modification of vessels for sealift be manufactured in the United States as required by law.

Finally, the conferees continue to be disappointed at the slow progress of the Department of Defense in producing a Mobility Requirement Study and in establishing a program to correct sealift shortfalls. Therefore, no acquisition of foreign built vessels is permitted until the study is submitted to the congressional defense committees.

ESCALATION

The conferees provide $463,600,000 to cover the cost of inflation on prior year ships. The conferees agree with Senate language governing the use of these funds and associated reporting requirements. The specific allocation of funds is listed directly below:

[In thousands of dollars]

Program	1985	1986	1987	1988	1989	1990	1991
Trident	800	7,198	5,022	3,950	17,790	49,309	22,509
CVN-68				130,024			
SSN-688	14,856	49,908	31,746	16,857	28,259		
SSN-21					20,009		2,865
DDG-51			719			40,581	13,146
MHC-51					55		
T-AGOS					959	183	
AOE			29		596	1,105	
Icebreaker						5,125	

PRIOR YEAR SHIPBUILDING CONTRACT OVERRUNS

The Conferees agree to provide transfers of $1,496,591,000 from various prior year Navy programs to cover cost overruns in shipbuilding programs. The amounts provided reflect generally the specific needs identified by the Navy. The conferees remain concerned that insufficient management attention is being directed toward restricting prior and current shipbuilding cost growth by the Navy secretariat. Instead, the approach appears to be one of relying on external funds to resolve funding problems. The apparent current lack of fiscal discipline does not bode well for future problems.

Include in the amounts transferred, the conferees provide $118,881,000 for the fiscal year 1989 T-AO program. This amount includes new funding of $125,000,000 offset by a reduction of $6,119,000 as suggested by the Navy. The increase is provided to require the Navy to configure three T-AO tankers with double hulls. The conferees believe this is a prudent response to recent environmental problems caused by privately owned tankers which were not double hulled. The specific source of funds are listed below, followed by the accounts receiving funds.

[In thousands of dollars]

Transfers Out	
Aircraft Procurement, Navy, 1990:	
A-12	893,500
Aircraft Procurement, Navy, 1991:	
Common Ground Equipment (CASS)	53,100
Modifications	8,500
ALR-67	20,000
Weapons Procurement, Navy, 1990:	
Spare and Repair Parts	12,800
Weapons Procurement, Navy, 1991:	
Trident (AP)	15,900
Mk-48	2,000
5/54 Modifications	3,100
Standard Missile	20,000
Trident II	8,900
Shipbuilding and Conversion, Navy, 1988:	
T-AO	3,523
Shipbuilding and Conversion, Navy, 1989:	
LCAC	2,225
Post Delivery	2,669
Shipbuilding and Conversion, Navy, 1990:	
SSN-688	9,656
LSD-41 (CV)	655
MHC	4,509
T-AGOS	665
Patrol Boats	4,223
Special Support Equipment	2,047
LCAC	22,953
Post Delivery	606

Transfers Out	
Shipbuilding and Conversion, Navy, 1991:	
Trident	44,687
DDG–51	64,900
LSD–41 (CV)	1,303
MHC	3,142
AOE	161,200
TAGS	43,100
LCAC	4,137
Landing Craft	8,700
Outfitting	3,691
Other Procurement, Navy, 1991:	
SLQ–32	4,000
Mobile Fire	200
Strategic Missile	56,700
Procurement, Marine Corps, 1991:	
SMAW	29,300
Transfers In	
Shipbuilding and Conversion, Navy, 1985:	
Trident	14,318
SSN–688	35,000
MCM	5,082
T–AO	29,616
Shipbuilding and Conversion, Navy, 1986:	
Trident	1,000
SSN–688	32,112
Transfers In	
LSD–41	2,454
MHC	9,900
T–AO	460
T–AG	4,400
Shipbuilding and Conversion, Navy, 1987:	
Trident	9,600
SSN–688	116,641
DDG–51	90,093
AO Jumbo	400
T–AGOS	825
T–AO	460
Shipbuilding and Conversion, Navy, 1988:	
Trident	66,469
SSN–688	29,600
CVN	95,230
LSD–41 (CV)	7,261
Shipbuilding and Conversion, Navy, 1989:	
Trident	71,800
SSN–688	19,125
SSN–21	97,658
MHC	25,920
AO Jumbo	5,949
T–AGOS	15,800
T–AO	118,881
Transfers In	
Shipbuilding and Conversion, Navy, 1990:	
Trident	36,271
CVN–65	100,100
CV–SLEP	57,178
DDG–51	146,788
MCM	4,170
AO Jumbo	4,500
MTSD	9,000
Oceanographic Ship program	8,530
Icebreaker	59,000
Shipbuilding and Conversion, Navy, 1991:	
LHD–1	165,000

Amendment No. 65: Deletes a House provision making a portion of the appropriation subject to authorization.

OTHER PROCUREMENT, NAVY

Amendment No. 66: Appropriates $6,432,463,000 for Other Procurement, Navy instead of $6,574,568,000 as proposed by the House and $6,306,544,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
Other procurement, Navy:					
Underway replenishment equipment	36,315	31,315	36,315		31,315
Firefighting equipment	29,904	28,404	29,904		29,904
Standard boats	19,940	19,940	19,940	326	21,940
Modernization support	786,159	786,159	879,159		879,159
AN/SPS–48	20,354	68,854	20,354		44,604
MK–23 Target acquisition system	21,101	19,401	21,101	2	19,401
Radar support	10,057	10,057	9,257		9,257
Surface sonar support equipment	21,948	21,948	17,611		17,611
AN/SQQ–89 Surf ASW combat system	315,275	313,378	312,183		312,183
AN/BQQ–5	165,848	165,848	89,566		147,264
Surface sonar windows and dome	12,246	12,246	8,246		8,246
Surmarine acoustic warfare system	19,350	18,250	19,350		18,250
AN/SQR–18 towed array sonar		5,000			5,000
ASW operations center	30,752	30,752	27,679		27,679
Enhanced modular signal processor					91,200
AN/SLQ–32	116,385	116,385	112,085		112,085
AN/SSQ–95		12,000			12,000
C–3 Countermeasures	21,398	19,498	21,398		20,398
Combat DF	10,091	10,091	974		10,091
Naval Intell processing system	18,324	16,024	18,324		16,024
Submarine support equipment program	4,662	4,662	3,662		3,662
Navy tactical data system	56,718	56,718	53,526		53,526
Tactical flag command center	31,613	30,613	31,613		30,613
Link 16 hardware	39,357	30,857	39,357		39,357
Other training equipment	25,439	25,439	19,139		19,139
Automatic carrier landing system	37,524	35,524	37,524		35,524
Air station support equipment	25,273	25,273	24,843		24,843
FACSFAC	4,147	4,147	1,647		1,647
TADIX–B	14,448	14,448	10,848		10848
NCCS ashore	34,424	34,424	33,023		33,023
Over the horizon radar	2,754		2,754		2,754
Shore elec items under $2 million	10,267	10,267	7,263		7,263
Shipboard tactical communications	65,046	44,546	65,046		59,546
Flight deck communications	1,405	1,405			
Portble radios	22,182	10,000	20,182		15,000
Shore LF/VLF communications	7,420	2,420	5,915		5,915
Satcom ship terminals	167,489	167,489	157,963		157,963
Shore HF communications	28,685	28,685	24,876		24,876
Secure voice system	67,988	66,988	61,688		61,688
Secure data system	55,623	55,623	51,520		51,520
Sonobuoys	77,531	70,379	77,531		70,379
Air expendable countermeasures	65,033	64,288	70,033		64,288
Meteorological equipment	33,008	29,608	33,008		30,808
MK–92 fire control system	12,463	11,000	37,463		12,463
Tartar support equipment	28,926	18,126	28,926		28,926
Surface tomahawk support equipment	53,533	46,033	53,533		53,533
Vertical launch systems	64,333	43,733	64,333		43,733
Ram support equipment		20,000			20,000
Armored sedans	159		159		
Amphibious equipment	86,049	92,049	86,049		92,049
First destination transportation	17,633	17,000	17,633		17,000
Special purpose supply systems	131,737	129,108	131,737		131,737
Command support equipment	22,701	21,201	22,701		21,201
Intelligence support equipment	42,138	36,173	38,638		36,973
Environmental support equipment	13,417	13,417	23,417		23,417
Computer acquistion program	126,965	129,715	71,565		74,315
ADP/CIM reduction			−44,979		−44,250
Spares and repair parts	515,389	470,389	515,389		500,000
DBOF adjustment		165,000			
Deny DBOF milcon capital budget			−38,700		−38,700

STANDARD BOATS

The conferees agree to provide $21,940,000 for the Standard Boat program, an increase of $2,000,000 above the budget request. The $2,000,000 shall be made available only for the procurement of U.S. built totally enclosed life boats. Funds for this purpose were appropriated in the past, however, $2,000,000 of the funds were reprogrammed to help cover the costs associated with the Navy's clean up of Hurricane Hugo related damage.enhanced m

ENHANCED MODULAR SIGNAL PROCESSOR (EMSP)

The conferees agree to provide $91,200,000 to initiate multiyear procurement of the Enhanced Modular Signal Processor program. The conferees have also included bill language authorizing the Department of the Navy to enter into a multiyear contract for procurement of Enhanced Modular Signal Processors. Additional comments on this program appear in the RDT&E section of this statement.

AN/SSQ-95

The conferees agree to provide $12,000,000 for low rate initial production of the AN/SSQ-95 to support the primary application of the buoy and to support multiple applications of the payload needed to meet the sea, and air requirements of the Navy. The conferees establish this program as an item of special interest and direct the Navy to submit to the Committees on Appropriations by February 1, 1992 as acquisition plan for the AN/SSQ-95 providing for contract award during fiscal year 1992.

METEOROLOGICAL EQUIPMENT

The conferees agree to provide $30,808,000 for the Metorological Equipment program The conference agreement restores funds for the Automated Surface Weather Observer System.

NAVY SMALL CRAFT/BOAT PROGRAM

The conferees recommend that the Navy open competition on small craft/boat programs to all small craft/boat manufacturers.

Amendment No. 67: Deletes Senate proviso concerning obligations for the Advanced Video Processor program and substitutes a proviso authorizing multiyear procurement for the Enhanced Modular Signal Processor program.

PROCUREMENT, MARINE CORPS

Amendment No. 68: Appropriates $1,079,951,000 for Procurement, Marine Corps, instead of $1,043,218,000 as proposed by the House and $1,100,570,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
Procurement, Marine Corps:					
40 mm, all types	107,491	107,491	62,191	—	62,191
120mm heat MP-T M830	36,143	36,143	26,843	—	26,843
120mm TP-T M831	5,092	5,092	—	—	—
155mm HE ADAM	40,200	40,200	80,400	—	80,400
Light anti-armor weapon	5,277	35,277	30,002	—	30,002
Items under $2M (trkd veh)	219	—	219	—	—
Hawk Mod	8,709	2,500	8,709	—	2,500
TOW	—	30,000	—	2,400	30,000
Tactical air oper module (TAOM)	—	27,000	—	4	27,000
Tactical intelligence enhancement	—	—	—	—	25,000
Night vision equipment	9,491	9,491	9,491	—	39,491
FMTV	—	—	85,000	—	—
Towed assault bridge	—	—	6,500	40	6,500
Spares and repair parts	82,191	31,000	72,191	—	31,000

TACTICAL INTELLIGENCE ENHANCEMENT

The conference agreement includes $25,000,000 for enhancement of Marine Corps tactical intelligence capability. Authorization action and the Senate bill (in a separate amendment) provided funding for specific equipment items for Marine Corps tactical intelligence. The conferees believe that the allocation of unbudgeted funding for enhancement of Marine Corps tactical intelligence should be allocated by the Marine Corps as a part of a long term program. Such allocation may include procurement of equipment identified in authorization legislation and the Senate bill.

Prior to obligation of funds provided for tactical intelligence enhancement, the Marine Corps is directed to provide to the committees an allocation of these funds, together with a funded long range program to continue these enhancements in future years. The conferees are aware that enhancement of Marine Corps tactical intelligence capability was an important need arising out of "lessons learned" from Operation Desert Shield/Storm. Tactical intelligence enhancement is an item of special Congressional interest.

NIGHT VISION EQUIPMENT

The conference agreement includes $39,491,000 for night vision equipment. prior to obligation of these funds, the Marine Corps is directed to provide to the committees an allocation of these funds, together with a funded long range program to continue these enhancements in future years. The conferees are aware that enhancement of Marine Corps night vision capability was an important need arising out of a "lesson learned" from Operation Desert Shield/Storm. Night vision equipment is an item of special Congressional interest.

SPARES AND REPAIR PARTS

The conference agreement includes the funding level proposed by the House for Marine Corps spares and repair parts. With respect to replenishment spares, the conferees see no reason for treating the funding of these items differently from the rest of the Department of Defense. Accordingly, $41,191,000 has been included in the operation and maintenance appropriation for replenishment spares. The Marine Corps, as a component of the United States Navy and Department of Defense, is directed to work with the Office of the Secretary of Defense to develop a budgeting mechanism for replenishment spares which is compliant with Defense Department standards and acceptable to the Office of the Secretary of Defense. The Marine Corps shall report to the committees on the results of these discussions. If additional procurement resources are required to implement any agreement, they may be transferred, with prior approval, from available funds.

TERMINALLY GUIDED ANTIARMOR MORTAR PROJECTILE

The Senate report supported nondevelopment evaluation of a terminally guided antiarmor mortar projectile and asked for the results of such an evaluation, along with recommendations. The conferees agree that such an evaluation may take place if the funds to undertake it can be identified. Such agreement, however, shall in no way be construed as an endorsement of this weapon. Introduction of such a weapon raises questions such as force structure, doctrine, tactics, target acquisition, and target designation. In addition, such a weapon appears to be unaffordable in the current budget climate. The Marine Corps and the Army shall carefully consider all these factors when deciding if such a weapon is suitable for fielding.

[In thousands of dollars]

	Budget	House	Senate		Conference
Aircraft Procurement, Air Force:					
B-1B (MYP)	107,895	62,595			62,595
B-2A	2,456,028		2,456,028		1,800,000
B-2A				1	1,000,000
B-2A (AP-CY)	455,268		455,268		
F-15 E	169,657	169,657	169,657		504,957
F-15E (By transfer)			(722,200)		
F-16 C/D (MYP)	1,073,187	1,073,187	73,187	48	1,073,187
FN16 C/D (MYP) (AP-CY)	78,100	78,100			78,100
F-117			1,027,000		
C-17 (MYP)	1,975,203	1,975,203	1,424,000	4	1,525,203
C-17 (MYP) (AP-CY)	222,424	222,424	122,424		172,424
C-130H	245,479	245,479	272,979	9	290,000
C-130H (AP-CY)	120,421		120,421		
LC-130H			92,000	2	92,000
E-8B (AP-CY)	62,700	62,700	125,400		125,400
B-1B	195,647	140,147	115,700		97,375
F-15	295,537	294,537	297,037		297,037
F-16	250,985	250,985	253,985		253,985
F-117			85,000		
TR-1A	55,101	55,101			

[In thousands of dollars]

	Budget	House	Senate		Conference
C–141	45,203	45,203	105,203		45,203
C–135	465,108	465,108	426,808		586,808
Classified projects	56,254	22,273	68,254		68,254
Spares and repair parts	984,465	689,765	770,865		603,965
Common age	469,335	280,493	468,535		330,493
Other production changes	445,331	419,750	562,731		547,750
Common ground equipment			700		
DBOF adjustment		37,300			
DBOF Deny Milcon capital budget			3,500		3,500

AIRCRAFT PROCUREMENT, AIR FORCE

Amendment No. 69: Deletes centerheading proposed by the Senate.

Amendment No. 70: Appropriates $10,412,350,000 for Aircraft Procurement, Air Force instead of $7,444,121,000 as proposed by the House and $10,349,396,000 as proposed by the Senate and deletes transfer language proposed by the Senate.

The conference agreement on the items in conference is as follows:

F–15E AIRCRAFT

The conferees agree to provide $527,657,000 in this appropriation for the F–15E program including $22,700,000 for spare parts. The amount includes an increase of $358,000,000 above the budget request for the purchase of support equipment. In addition to the funds provided under this heading, $250,000,000 from the proceeds of the sale of F–15 aircraft to Saudi Arabia shall be used for the purchase of six aircraft, and the remaining $364,000,000 shall be for support equipment as directed in the National Defense Authorization Act for fiscal year 1992. Additional funding has been provided in the pending Desert Storm supplemental for three aircraft. In total, this conference agreement and the supplemental provide sufficient authority for the purchase of nine F–15E aircraft as authorized and the requisite support equipment. The conferees note that these nine aircraft are in addition to the 36 aircraft for which funds were provided in fiscal year 1991 and direct that the funds identified here and those provided in fiscal year 1991 for the F–15 program shall be used to buy 45 F–15E aircraft.

F–16 AIRCRAFT

The conferees agree to provide funds to support the purchase of 48 F–16 aircraft in fiscal year 1992, with advance procurement for an additional 24 aircraft in fiscal year 1993 as recommended in the budget. The budget recommended termination of the program after the fiscal year 1993 buy. While the conferees are concerned with industrial base issues both for this program and others, production of the F–16 aircraft after fiscal year 1993 solely for industrial base concerns or to bridge the gap until a multirole fighter may not be justifiable. However, the conferees are concerned that the cancellation of the multiyear contract for the F–16 program could result in substantial termination costs in addition to leaving the Air force without a warm fighter production line. Therefore, the conferees recommend the air force review its requirements for the F–16 aircraft, obligate funds so as to optimize the savings that are possible in the current contracted actions, if appropriate, and reexamine its plans with regard to the F–16 multi-year contract.

C–130H

The conferees agree to provide $290,000,000 for the purchase of eight C–130H aircraft for the Air Force and one HC–130H aircraft for the Air National Guard as recommended by the Senate.

C–17 ADVANCE PROCUREMENT

The conferees agree to provide $172,424,000 for advance procurement of long lead items for the C–17. The conferees urge the Air Force to expend these funds and to budget for fiscal year 1993 for the maximum possible quantity of C–17 aircraft.

B–1B MODIFICATIONS

The conference agreement provides $97,373,000 for B–1B bomber modifications which is to be allocated as follows:

	Amount
Overwing fairing fire protection	$24,000
Overwing fairing fire prevention	47,800
1122 technique	8,500
All other	17,075

The total contains no funding for simulator updates or SRAM II integration (advanced stores carriage).

SPARES AND REPAIR PARTS

The conferees agree to the following changes to the budget request:

[In thousands of dollars]

	Amount
B–2	–$289,100,000
C–17	–60,000,000
SRAM II integration	–5,700,000
Classified program	–48,400,000
F–15	+22,700,000

COMMON SUPPORT EQUIPMENT

The conference agreement reflects the following adjustments to the budget request:

$94,583,000 for ground powered generators;

$8,334,000 for demountable noise suppressors;

$8,755,000 for large turbo fan engine noise suppressors; and

$47,170,000 for special operations mobile electronic test sets/radio frequency mobile electronic test sets.

Amendment No. 71: Deletes provision added by the Senate which would have restricted the use of procurement funds for the B–2 program until receipt of Secretarial certification on B–2 performance and enactment into law of a supplemental appropriations act providing for the obligation of funds for the program.

Amendment No. 72: Deletes provision added by the Senate which would have prohibited the use of funds provided for B–2 procurement unless the Secretary's certification included assurance that flight testing had successfully demonstrated the B–2's original radar cross section operational performance objectives.

MISSILE PROCUREMENT, AIR FORCE

Amendment No. 73: Deletes centerheading proposed by the Senate.

Amendment No. 74: Appropriates $5,235,450,000 for Missile Procurement, Air Force instead of $5,243,841,000 as proposed by the House and $5,332,671,000 as proposed by the Senate.

The conference agreement on the items in conference is as follows:

	Budget	House	Senate		Conference
Missile Procurement, Air Force:					
Peacekeeper (M–X)	195,178	124,200	566,100		195,178
Peacekeeper (By transfer)			(95,500)		
AGM–131A SRAMII	10,969	10,969	10,969		
AGM–88A HARM	113,151	113,151		465	113,151
AMRAAM	653,232	768,432	497,032	700	534,232
MM II/III modifications	144,715	144,715	152,115		152,115
Spares and repair parts	104,279	90,062	104,279		90,062
Global positioning (MYP)	150,084	150,084	123,184	4	123,184
DEF meteorological SAT PROG (MYP)	108,052	108,052	19,352	2	108,052
Space boosters (MYP)	295,614	195,614	295,614		295,614
IONDS (MYP)	39,786	18,716	18,686	4	18,716
Special programs	2,419,740	2,146,840	2,180,340		2,230,340
Classified programs	32,594	–7,800	32,594		42,400
DBOF adjustment		48,400			

MX MISSILE

The Department of Defense requested $195,178,000 to cover the cost of terminating the MX production line in fiscal year 1992, five years earlier than planned.

The conferees note that the Armed Services Conference Committee authorized the procurement of six new missiles for fiscal year 1992. The conferees agree to provide the Department $195,178,000 for fiscal year 1992 to preserve the option of continuing to produce MX missiles until expected strategic arms control negotiations clarify the future status of the system. These funds are provided without prejudice for either production line termination, or continued new missile production at the discretion of the President of the United States, as strategic interests warrant.

ADVANCED CRUISE MISSILE (ACM)

The conferees note there have been several problems with Advanced Cruise Missile testing in the past twelve months resulting in delays in the program. In light of these developments, the conferees understand that the Department intends to delay the downselect decision beyond fiscal year 1992 as directed by last year's conference report. Because of the delays, the conferees agree with the Air Force revised plan to delay the downselect decision beyond fiscal year 1992.

AMRAAM

The conferees have included a total of $739,913,000 for 891 AMRAAM missiles, including $205,681,000 for 191 missiles funded in Weapons Procurement, Navy. The House conferees rescind their earlier disapproval of the proposed reprogramming of $83,000,000 to the AMRAAM program derived from the sale of Sparrow missiles to Saudi Arabia. Those funds, when combined with the amount appropriated, should permit the purchase of approximately 900 missiles.

TITAN IV SPACE LAUNCH VEHICLES

The House deleted $400 million from the total request of $1.2 billion and concluded that "the Air Force is acquiring launch vehicles at a rate far in excess of the payloads available to be launched; the TITAN IV vehicle is not presently performing up to the contract specifications; the CENTAUR upper stage recently failed during a non-TITAN IV launch; and the SRMU has had one accident or failure after another". The Senate added $50,000,000 "to address problems with development of the booster's solid rocket motor upgrade".

The conferees agree that the TITAN IV program is a vital component of the launch capability of the United States, but are concerned with the program's troubled history and the previous lack of management attention provided by both the Air Force and the contractors involved. In compliance with the House report language, the Department of Defense submitted a detailed report highlighting corrective actions taken to date as well as plans for improved management in the future. The conferees are encouraged with the recent attention given to the program at the highest levels of the Department as well as industry and agree to restore the $400 million deleted by the House and to permit continuation of the Solid Rocket Motor Upgrade program. However, the conferees also agree that the success of the program should be reviewed as a part of the fiscal year 1993 budget request. While the actions taken by the Air Force and industry may well correct the problems, the conferees are concerned that even a remote possibility of an unsuccessful SRMU development program necessitates a potential near term alternative. Consequently, the conferees endorse the "Phase O" review initiated by the prime contractor and direct the Air Force to continue the evaluation of alternatives as a hedge, hopefully never required, in the event of additional program failures.

As an additional corrective measure, the conferees believe that it would benefit both the government and industry if the degree of concurrence in the development of the SRMU were reduced in order to reduce the technical risk to the program. The Air Force is directed to begin negotiations to permit sufficient delay in SRMU production to permit a more rational completion of the development effort. However, this should not be construed as an endorsement of any remuneration for past contractor financial loses due to poor performance.

The conferees also believe that by April 15, 1992 the DOD Inspector General should review the current SRMU contract to determine to what extent, if any, the fixed price development contract contributed to the current unsatisfactory program status. Based upon this review, 30 days after the second SRMU test firing the conferees direct the Secretary of the Air Force to report to the House and Senate Committees on Appropriations the financial and technical desirability of continuing with the current fixed price contract.

The conferees specifically note that the current TITAN IV contract is only for 41 launch vehicles, that no funds have been requested, and none are being provided, for any follow-on contract for core vehicles or solid rocket motors of any type beyond that number. It is the conferees understanding that any request for additional vehicles or solid rocket motors will not be submitted to the Congress until fiscal year 1993. The House agrees to hold in abeyance until the fiscal year 1993 request for a follow-on by its direction to change the program management of the TITAN IV from the Air Force Space Division to the user community.

In addition, the conferees urge the Air Force to consider other program initiatives, such as a single engine CENTAUR, to improve the reliability of the overall program.

The conferees agree to provide an increase of $1,500,000 to the budget request in RDT&E, Air Force to fund studies to address the feasibility of constructing a multi-use medium launch vehicle pad at Vandenberg Air Force Base, California. The conferees also agree to remove the House restriction that the $250,000,000 originally budgeted for the Advanced Launch System program in the Strategic Defense Initiative may only be used for upgrades to the TITAN IV system.

Amendment No. 75: Deletes Senate language which would have provided $95,500,000 for missile procurement by transfer.

Amendment No. 76: Deletes House proviso which would have permitted the obligation of funds for AMRAAM after receipt of the beyond low rate initial production report, the provisions of section 163 of Public Law 101–189 to the contrary notwithstanding. The conferees understand the authorization conference addressed this issue.

OTHER PROCUREMENT, AIR FORCE

Amendment No. 77: Deletes centerhead.

Amendment No. 78: Appropriates $8,068,104,000 for Other Procurement, Air Force instead of $8,001,524,000 as proposed by the House and $7,859,296,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
Other procurement, Air Force:					
20 MM combat		25,000		900	8,120
20MM training				4,500	16,880
MK-82 INERT/BDU-50			13,800		13,800
Laser bomb guidance kit	17,565	55,100	17,565	265	17,565
Truck, dump 5 ton	6,491	5,491	6,491	159	5,491
Items less than $2,000,000	20,323	19,323	20,323		19,323
Air traffic ctrl/land sys (ATCALS)	14,135	14,135			14,135
Tactical air control sys improve	68,865	64,365	68,865		67,365
Weather observ/forcast	59,524	58,524	38,909		58,524
Defense support program	52,066	48,066	34,066		52,066
SAC command and control	35,929	31,329	6,521		31,329
Defense meteorological sat prog	16,806	9,106	7,306		7,306
TAC sigint support	20,471	18,371	4,971		4,971
Dist early warning rdr/north warning	9,233	8,233	9,233		8,233
Tactical ground intercept facility	13,134	13,134			
TR–1 ground stations	41,955	41,955	110,155		
Imagery trans	22,843	22,843	343		22,843
Automatic data processing equip	85,739	79,889	81,248		79,998
ADP operations consolidation	70,358	70,538			
ADP/CIM reduction			−2,342		−2,342
WWMCCS/WIS ADPE	17,642	16,642	17,642		16,642
MAC command and control support	16, 851	16,851	9,651		16,851
Range improvements	51,665	46,665	86,665		86,665
Satellite control facility	27,836	27,836	25,836		25,836
Constant watch	5,457	5,457	2,657		5,457
Telephone exchange	60,641	59,841	52,241		59,841
Joint tactical comm program (MYP)	48,418	47,418	48,418		47,418
Minimum essential EMER COMM net	17,546	17,546			
Tactical C–E equipment	32,997	32,997	24,562		24,562
Radio equipment	2,268	2,268	2,768		2,768
Spares and repair parts	162,457	160,000	63,134		122,800
Spares (by transfer)			(99,323)		
Items less than $2,000,000	9,726	9,726	9,126		9,126
COMM–Electronics class IV	26,680	25,000	26,680		25,000
Base procured equipment	33,485	35,985	33,485		35,985
Intelligence production activity	62,888	36,022			34,519
Selected activities	5,387,165	5,271,286	5,499,065		5,458,515
DBOF adjustment		65,200			
Classified program		−350			−100
Classified programs					130,700

SENSOR FUZED WEAPON

The budget included $108,650,000 for the initial procurement of the Sensor Fuzed Weapon, which was funded in both the House and Senate versions of the bill. The House report, however, questioned the cost-effectiveness and affordability of this weapon and directed the Air Force to describe and justify the procurement strategy and to perform a new cost effectiveness analysis if the budgeted quantity of weapons could not be procured. The Senate report directed the Secretary of Defense not to approve production until cost effectiveness was demonstrated.

The conferees continue to be skeptical about the continued mission requirement and cost effectiveness of this weapon, especially considering the current budget climate and the diminished likelihood of the tactical scenarios for which the weapon is optimized. Furthermore, the General Accounting Office has recently concluded that previous Air Force analysis did "not compare the weapon's cost and operational effectiveness to the full range of weapons that can be used to interdict enemy forces, such as Air Force mines and Army surface-to-surface and air-to-surface missiles." In addition, given the troubled development experience of this program and the experience of other "high tech" weapon programs as they enter production, it is highly unlikely that the production costs assumed in the current long term budget are realistic. Yet these unrealistic production costs have been used to justify SFW in previous cost effectiveness studies.

Therefore, the conferees direct that prior to obligation of any SFW procurement funding, the Secretary of Defense certify to the committees that the program is justified as being affordable and effective on the basis of analysis which includes, as a minimum (1) current and accurate production cost estimates, (2) a comparison with alternative weapons for all assumed scenarios, (3) an assessment of the priority of SFW compared to other tactical warfare requirements, and (4) an analysis of the mission requirement for the Sensor Fuzed Weapon now that its original mission, the destruction of massed tank formations of the Warsaw Pact, no longer exists. The certification shall also include a funded procurement profile and a description and justification for the proposed procurement strategy.

DEW RADAR/NORTH WARNING

The conferees agree to provide $8,233,000 for the DEW Radar/North Warning program. Included in that total is $1,000,000 for a facility to house communications and monitoring equipment.

SPARES AND REPAIR PARTS

The conferees agreed to a reduction of $39,657,000 for spares and repair parts, in electronics and telecommunications equipment. This reduction includes a transfer of $37,200,000 to another account for a classified program.

TRV/SRV PRODUCTION

In previous years funds have been authorized and appropriated in the RDT&E and procurement accounts for the Tower Restoral Vehicle/Surveillance Restoral Vehicle (TRV/SRV) Program. Despite past Congressional direction, previously appropriated procurement funds have not been obligated. The conferees direct that the available procurement funds be obligated as expeditiously as possible once development milestones are completed.

Amendment No. 79: Deletes Senate transfer.

NATIONAL GUARD AND RESERVE EQUIPMENT

Amendment No. 80: Appropriates $1,877,800,000 instead of $1,292,500,000 as proposed by the House and $667,300,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate		Conference
National Guard and Reserve equipment:					
Miscellaneous equipment	....	25,000	5,700	....	25,000
Communications electronics	....	15,000	....	....	15,000
Sincgars radios	....	15,000	....	....	15,000
Night vision	....	15,000	....	....	15,000
Tactical trucks	....	20,000	....	....	20,000
C–12F	....	....	9,300	3	9,300
Miscellaneous equipment	....	23,500	5,000	....	15,000
AN/SQQ–T1 trainers	....	10,000	....	....	10,000
C–130T aircraft	....	57,000	....	4	114,000
HH–60H upgrade kits	....	45,000	....	....	45,000
MH–53 helicopter	....	....	129,000	4	129,000
Lamps MK–1 ASW upgrade	....	35,000	....	....	35,000
P–3 upgrades	....	20,000	....	....	20,000
MIUW vans	....	....	....	....	15,000
Communication equipment	....	15,000	....	....	10,000
Miscellaneous equipment	....	15,000	7,500	....	10,000
KC–130T aircraft	....	67,000	....	2	67,000
AH–1W Cobra aircraft	....	71,000	....	6	71,000
Miscellaneous equipment	....	25,000	7,500	....	10,000
C–130 aircraft	....	200,000	....	12	348,000
F–16 modifications	....	20,000	....	....	....
Miscellaneous equipment	....	25,000	15,000	....	15,000
Tactical trucks	....	20,000	....	....	10,000
C–23 aircraft	....	62,000	....	10	60,000
C–26 aircraft	....	21,000	6,000	1	3,000
MLRS launchers	....	....	110,000	29	110,000
MLRS rockets	....	....	....	6	48,000
Night vision devices	....	15,000	....	....	15,000
Communications electronics	....	15,000	....	....	15,000
TCT upgrade	....	....	....	....	8,200
Squad engagement training devices	....	....	....	....	10,000
Sincgars radios	....	35,000	....	....	35,000
AH–1 mods C–nite	....	....	....	....	15,000
Miscellaneous equipment	....	25,000	....	....	....
C–130 aircraft	....	50,000	337,300	13	337,300
C–26 aircraft	....	21,000	....	6	18,000
MH–60 helicopters	....	....	35,000	4	35,000
F–16 modifications	....	15,000	....	....	10,000
F–15/F–16 engine upgrade	....	40,000	....	....	20,000
Lantirn	....	90,000	....	....	....
F–15 MSIP	....	40,000	....	....	20,000
Tac Air Control improvements	....	125,000	....	....	95,000

TACTICAL TRUCKS

The conference agreement includes $20,000,000 for the Army Reserve and $10,000,000 for the Army National Guard for the procurement of tactical trucks. The conferees agree that these funds shall not be used for the procurement of the Family of Medium Tactical Vehicles unless the Guard or Reserve elect to wait until full rate production is approved for these trucks. The conferees understand the priority these trucks have for Guard and Reserve units but note that production rates and deliveries under the recently awarded contract are appropriately limited until production capability has been demonstrated. In addition, the newly awarded contract includes no procurement options, above the basic quantities which have already been funded, until the third program year.

MISCELLANEOUS EQUIPMENT—ARMY RESERVE

The conference agreement includes $25,000,000 for miscellaneous equipment for the Army Reserve. The conferees agree that $2,000,000 of this amount shall be made available only for the procurement of UH–1 helicopter external auxiliary fuel systems.

SQUAD TRAINING DEVICES

The conferees agree to provide $10,000,000 for squad engagement training devices and the reserve staff simulation center for the Army National Guard.

NIGHT VISION DEVICES

Of the $15,000,000 provided for the procurement of night vision devices for Army National Guard units, the conferees direct that sufficient funding shall be provided to procure 77 aviation night vision goggles for crew members and 55 standard night vision goggles for ground support personnel of the 1st Battalion, 193d Aviation, Army National Guard.

SINCGARS

The conferees agree with House language which directs the Department of the Army to make modern communications equipment, such as the AN/PRC–127 radio, available to Infantry Divisions of the Army National Guard during annual training so that the platoon leaders, squad leaders, and assistant squad leaders can communicate.

AH–1 MODS C–NITE

The conferees agree to provide $15,000,000 to purchase infrared night targeting systems for two attack helicopter companies. To ensure compatibility, the system procured should be the same as currently used in AH–1F units in the active Army.

TACTICAL COMPUTER TERMINAL

The Maneuver Control System is an automated tactical command and control system that provides a network of computer terminals to process combat information for battle staffs. The Maneuver Control System includes Tactical Computer Terminals (TCT) and Tactical Computer Processors (TCP) equipment.

The conferees agree to provide $8,200,000 for the TCT program. These funds will cover the cost of upgrades in processing power and memory, but does not include procurement of the color screen which was a recently added requirement. The conferees also concur with the Army plan to use the $6,000,000 appropriated in fiscal year 1991 for upgrading the TCP equipment.

The conferees note that earlier Army plans were to field this equipment for interim use to the Active Force, and then transfer it to the Guard and Reserves when replacement equipment was procured.

To make most effective use of the MCS equipment under current circumstances the conferees direct that the upgraded TCT equipment be provided to the Guard and Reserves to ensure expeditious fielding of this equipment. The conferees further direct that contracts be awarded for these upgrades as expeditiously as possible.

AIR FORCE RESERVE

The conference agreement contains $348,000,000 for 12 C–130H aircraft for the Air Force Reserve, including four aircraft for the 910th tactical Airlift Group at Youngstown, Ohio.

AIR NATIONAL GUARD

Included in the conference agreement is $337,300,000 for 13 C–130H aircraft for the Air National Guard. It is the conferees' understanding that eight of the aircraft are for the Wyoming Air National Guard, four are for the North Carolina Air National Guard and one is for the North Dakota Air National Guard.

AIR NATIONAL GUARD F-16 UNITS

The Committee of Conference directs the Air Force to initiate, immediately in the first quarter of fiscal year 1992, the modernization process for those Air National Guard F-16 units that deployed to Operation Desert Storm, in priority over any nondeploying unit, leading to equipping these deploying units with updated F-16 aircraft. Units with the Close Air Support (CAS) mission will be equipped with Block 30 aircraft. Units with other than the CAS mission will be equipped with Block 40 aircraft. In order to ensure that critical maintenance training is accomplished in a timely manner within this process, maintenance aircraft will be delivered to these units not later than the end of the fourth quarter of fiscal year 1992. The modernization process for these units will be completed no later than the end of the fourth quarter of fiscal year 1993.

RESERVE COMPONENT CHAFF/FLARE DISPENSERS

The conferees are distressed to learn that none of the Air National Guard and Air Force Reserve F-15s have chaff and flare dispenser systems. Despite several years of activity, the ALE-45 system is currently not scheduled for installation in Guard aircraft until the third quarter of fiscal year 1993. This schedule could slip further since the validation/verification and flight tests have not been conducted and completed. The ALE-40 chaff and flare dispenser system has been prototyped and a limited flight test conducted on a F-15A and could possibly be available more quickly for significantly less than the cost of the ALE-45. Recognizing the importance of this issue, the conferees direct the Air Force, within available funds, to proceed immediately with the procurement and installation of chaff and flare systems and to seriously consider the ALE-40 system as an interim solution until the ALE-45 is fielded. The Air force is directed to provide the Committees on Appropriations, by April 1, 1992, a detailed implementation and funding plan for proceeding with the rapid introduction of chaff and flare systems on Guard and Reserve F-15 aircraft. This plan shall include a detailed analysis of the ALE-40 system as a possible interim solution.

C-26

The conferees agree to provide $21,000,000 for the purchase of seven C-26 aircraft. Of these funds, $3,000,000 is for the Army National Guard for the purchase of one aircraft to be located in Hawaii. The remaining funds shall be for the Air National Guard to purchase six aircraft.

MOBILE INSHORE UNDERWATER WARFARE (MIUW) VANS

The House included $15,000,000 in the "Drug Interdiction and Counter-Narcotics, Defense" appropriation to: (a) integrate new shallow water sonar, magnetic and thermal/visual imaging systems into the MIUW Central Acoustics Processor and (b) procure and integrate the AN/ALR-66 ESM systems into the MIUW vans of the Navy Reserve. The conferees agree that the Department should begin to upgrade all 28 vans. Even though these vans play an important role in the counter-narcotics mission of the Department of Defense, the conferees believe that the upgrades should be included in this appropriation.

Amendment No. 81: Deletes House provision making a portion of the appropriation subject to authorization.

PROCUREMENT, DEFENSE AGENCIES

Amendment No. 82: Appropriates $2,250,826,000 instead of $2,708,446,000 as proposed by the House and $2,087,400,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Procurement, Defense Agencies:				
Major Equipment:				
Major Equipment, OSD/WHS	89,952	89,952	39,952	39,952
ADP/CIM Reduction			87,400	−87,400
Supercomputers		65,000		42,000
Electronic Warfare		40,000		
C-20F Aircraft		89,400	93,000	93,000
Major Equipment, NSA Classified Equipment			−18,000	
DIA, Major Equipment: Intelligence and comm			69,700	
DLA: Other Major Equipment		32,500		10,000
DSPO: Major Equipment	239,240	239,240	179,240	179,240
OSIA:				
Vehicles	20	20	50	50
Other Capital Equipment	7,501	7,501	8,471	8,471
Special Operations Command:				
C-130 Modifications	101,663	157,163	101,663	157,163
Aircraft Support	24,791	15,091	24,791	15,091
Patrol Boat, Coastal	2,605	41,205	2,605	4,205
Special Warfare Equipment	23,608	18,886	23,608	23,608
Miscellaneous Equipment	40,999	51,699	50,499	50,099
Classified Programs	124,264	86,470	124,264	129,263
Other:				
Classified Programs	465,965	541,727	465,965	577,092
Mentor-Protege Program			30,000	30,000
Joint Simulation Office			10,000	10,000
DBOF Adjustment		230,400		
Defense Finance and Accounting Service		33,200		

SUPERCOMPUTERS

The House bill provided an additional $65,000,000 for supercomputer procurement. The Senate bill had no similar procurement. The conferees agree to a funding level of $42,000,000.

Because of the divergent approaches that are appropriate and available for upgrading DOD supercomputational capabilities, the conferees believe that it is essential to expeditiously complete the supercomputer modernization upgrade plan called for by the FY 1992 Authorization Conference Report and previous Appropriations Conference Reports.

C-20 AIRCRAFT

The conferees agree to provide $93,000,000 for the purchase of three C-20F Gulfstream IV aircraft as authorized. The conferees understand that these funds are sufficient to provide for three C-20F aircraft configured for Department of Defense use. The conferees have provided funding for the aircraft with the understanding that they shall be located in the Pacific to provide the longer range capabilities required for serving that region. The conferees would object to any other deployment plan for these three aircraft.

RED RIVER ARMY DEPOT

The conference agreement includes $10,000,000 for advance procurement of capital equipment associated with the Defense Logistics Agency project of developing a modern wholesale supply operations center at the Red River Army Depot. The conferees believe that moving forward rapidly with this project will provide a unique asset which will perform a critical and necessary role in future DOD wholesale supply operations.

SPECIAL OPERATIONS FORCES

The conferees agree to provide $981,730,000, which represents the following adjustments to the budget request:

	Amount
EC-130E modifications	**+$72,800,000**
Other C-130 mods	**−17,300,000**
ALL-TV spares	**−9,700,000**
Patrol crafts	**+1,600,000**
Miscellaneous equipment	**+9,100,000**
Classified programs	**+4,999,000**

EC-130E MODIFICATIONS

The funds for EC-130E modifications are to support Rivet Rider program of the 193rd Special Operations Group (SOG). In addition, the conferees direct the Air Force to expeditiously identify two C-130E aircraft and transfer them to the 193rd SOG.

PATROL CRAFT

The additional $1,600,000 is to fund the shortfall in the patrol craft program. The Command shall ensure that the stabilized weapon platform system is fully funded. The conferees direct the Department to ensure that all support costs are funded for the patrol craft program and that funds and other resources associated with the patrol craft program are addressed in future budget submissions.

MISCELLANEOUS EQUIPMENT

The conferees understand that additional funds are needed for various SOF-unique equipment. The conferees expect the Department to address this shortfall and provide supporting data in the fiscal year 1993 budget submission.

Amendment No. 83: Restores and amends House language which earmarks funds for the Special Operations Command. The conferees agree to provide $981,730,000 instead of $972,815,000 as proposed by the House.

DEFENSE PRODUCTION ACT PURCHASES

Amendment No. 84: Deletes House language which included an appropriation paragraph for the Defense Production Act Purchases, appropriated $25,000,000, and made the appropriation subject to authorization.

The conferees take this action without prejudice, but do not believe it is prudent to provide additional appropriations until the Department of Defense develops a plan to utilize the funds appropriated in fiscal years 1990 and 1991. Since the Defense Production Act Purchases fund is to purchase or commit to purchase metals, minerals, or other materials required to support and maintain a strong domestic industrial base, the conferees direct the Department of Defense to prepare and submit to the Committees on Appropriations by May 1, 1992, an implementation plan on the utilization of funds currently available to this appropriation. This plan should specify the metal, mineral, or material to be purchased or committed to be purchased and the funds required.

PROCUREMENT OF SEALIFT AND PREPOSITIONING EQUIPMENT, DEFENSE

Amendment No. 85: Deletes House appropriation of $995,000,000 for procurement of prepositioning equipment and deletes Senate appropriation of $2,000,000,000 for procurement of sealift and prepositioning equipment.

These programs are discussed at the beginning of the procurement section of this report.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS (FFRDCS)

The conferees have reviewed the Department's use of FFRDCs and found that these institutions provide essential support for the Department and the nation. The FFRDCs' work includes research, development, and demonstration of technology for national defense. The U.S. has also benefitted from the many business spinoffs initiated as a result of this research and development. To insure the proper and predictable operation of this important national resource, we direct the Department to submit a plan detailing a uniform management process and policy to insure effective and predictable management of FFRDCs.

The conferees have included a general provision (section 8107), which reduces the fiscal year total funding requested for FFRDCs by $133,300,000, 4 percent less than the amount originally appropriated for these organizations in fiscal year 1991. The conferees direct that no FFRDC should receive a disproportionate share of this reduction. Additionally, this reduction should not be applied to the Software Engineering Institute which was specifically increased by the conferees and the work of the Institute of Defense Analyses sub-component which is addressed in the classified annex to this Statement. The conferees also agree to the House and the Senate language and reporting requirements included in Reports 102-95 and 102-154.

The conferees appreciate that the Deputy Secretary of Defense has taken the Congressional concerns seriously and has directed changes in the Department's administration of FFRDCs. The conferees direct the Services to diligently implement the Secretary's direction.

The conferees further direct the Navy, in submission of its fiscal year 1993 budget, to consolidate into one program element, all of the various lines which support the Center for Naval Analysis and to end its practice of utilizing the reprogramming process to maintain level of effort activities.

The conferees request the General Accounting Office (GAO) to review the salaries of the FFRDC professional staff and officers and compare these salaries with civil service employees. It is the goal of the conferees to determine a base by which the Congress can evaluate appropriate cost and charges of the FFRDCs.

Furthermore, the conferees have included a general provision (section 8107) which prohibits a member of an FFRDC Board of Directors-Trustees from simultaneously serving on the Board of Directors-Trustees of a profit-making company under contract to the Department of Defense, unless the FFRDC has a written, OSD approved, conflict of interest policy for its Board members. The conferees want to ensure that there is no actual or perceived conflict of interest between FFRDC actions and the actions of weapons systems contractors.

UNIVERSITY AUDITS

The conferees agree to a total reduction of $30,423,000 for first year savings associated with revised auditing standards of Department of Defense contracts with institutions of higher education.

In response to concerns that administration and auditing procedures in place at universities and colleges receiving contracts and grants from the Department of Defense were inadequate and questionable, the Administration has implemented a series of changes. These changes were not implemented before the fiscal year 1992 budget was submitted and therefore the resultant cost savings are not reflected in the President's request. These changes have been reflected in the conferees' agreement.

The conferees further agree that the Department work with OMB to develop a reasonable method of determining overhead rates. The Department's cost negotiating performance must improve so that abuses of the past are not repeated. The Department is directed to reduce the backlog of university audits.

The conferees endorse both the Senate and House report language regarding university research grant abuses. The conferees direct that these funds are to be deducted only from the Defense Research Sciences program elements and the other program elements in the technology base budget category.

LABORATORY CONSOLIDATION

The conferees direct the General Accounting Office (GAO) to study and report to the Chairmen of the Appropriations Committees on the Department of Defense's plan to consolidate and/or convert Defense research and development laboratories, with special emphasis placed on the Navy Research, Development, Test and Evaluation, Engineering, and Fleet Support Activities.

The report shall contain an evaluation of the recommendations of the Federal Advisory Commission on Consolidation and Conversion of Defense Research and Development Laboratories and the 1991 Base Closure and Realignment Commission (BCARC). The evaluation shall address all appropriate cost data, personnel relocation assumptions, force structure requirements, and any duplication of effort between facilities.

The conferees expect the Department to comply fully with any relevant requests made by the GAO and that a full response to the GAO findings and recommendations be made a part of the final report.

CONTRACTOR TRAVEL

The conferees agree to a total reduction of $63,000,000 for first year savings associated with reduced travel costs and the use of discounted air fares by defense contractors. The House agrees with the Senate position on this issue.

The conferees direct that none of the reductions assigned to the individual accounts shall be assessed against any project to which funds were added by Congress.

RDT&E REPROGRAMMING ACTIONS

The conferees agree to the Senate language on reprogramming actions with the following amendment: For a below threshold reprogramming action which moves funds into a program element, the limit is $4,000,000; a below threshold reprogramming action which moves funds out of a program element, the limit is $4,000,000 or 10 percent, whichever is greater.

MEDICAL RESEARCH

Walter Reed Army Institute of Research (WRAIR). The conferees are aware of the wretched condition of the building which houses WRAIR. The building is in such deplorable condition that WRAIR is in violation of many safety codes. Researchers working out of this facility are to be commended for their outstanding contribution to medical research in light of such working conditions.

The conferees are also aware that the Army requested approximately $95,000,000 in 1992 for construction of a new facility for WRAIR. These funds were withheld by the OSD Comptroller before the budget was submitted to Congress. The conferees direct that funding for a new WRAIR be provided in fiscal year 1993 and that this be accomplished by increasing the Army's Total Obligational Authority by the same amount. Other Army programs and projects shall not be reduced to pay for a new WRAIR facility.

The conferees note that $5,000,000 was appropriated in the fiscal year 1992 Military Construction Appropriation for the planning and design of a new facility for the Walter Reed Army Institute of Research. The ASD(HA) is directed to ensure that the design effort started by the Corps of Engineers continues without interruption.

The conferees further direct the Army to submit a schedule and funding plan for the renovation and use of WRAIR's Building 40 after it is vacated, and the historic buildings at the Forest Glen site. The conferees agree that the Army may want to consider moving offices out of expensive leased commercial space and into these buildings. To assist in the renovation plans associated with the facilities at the Forest Glen site, the conferees have provided $2,000,000 in real property maintenance funding in the Operation and Maintenance section of this Statement.

It has come to the attention of the conferees that, in line with direction from the Base Closure and Realignment Commission (BCARC), the Army has moved some functions from Letterman Army Institute of Research (LAIR) to Walter Reed and is designing a new building to house these functions. The conferees agree it would be more cost effective for Walter Reed to use these BCARC funds for a new parking garage and renovate a portion of Building 40 for the functions transferred from LAIR. The Army is therefore directed to pursue this course of action and keep the House and Senate Appropriations Committee apprised of the programs on this issue.

Armed Services Biomedical Research and Evaluation Management Committee (ASBREM). The conferees agree with the Senate position directing the inclusion of the Director of Defense Research and Engineering (DDR&E) as the Chairman of the ASBREM. Additionally, the conferees direct that the Assistant Secretary of Defense for Health Affairs (ASD/HA), or his designee, be the Co-Chairman of the ASBREM.

Transfer of the medical research function to the ASD (HA). The conferees opposed the transfer of the medical research function from research and acquisition to Health Affairs or the Uniformed Services University of the Health Sciences (USUHS). The conferees note that the Congressional Departmental goal of consolidated medical programs has been accomplished in the medical research area. The Armed Services Biomedical Research and Evaluation Management Committee (ASBREM) oversees the research conducted by each service and directs funding to various research projects. There is no need to create an additional management layer as proposed by the Department. The conferees agree that the ASD(HA) should be involved with the ASBREM decision making process and have therefore directed that he be appointed as the Co-Chairman of the ASBREM.

Acquired Immune Deficiency Syndrome (AIDS). The conferees laud the Army research community for its breakthrough in HIV/AIDS vaccine development. In recognition of this work, and the need to continue this important research, the conferees have provided the following amounts for HIV/AIDS research:

[Dollars in Thousands]

	Budget	Appropriations	Change
In-House Independent Research	$1,000	$1,000	0
Medical Technology	3,500	5,500	+$2,000
AIDS Research	3,259	28,009	+24,750
Medical Systems	6,400	6,400	0
Medical Materiel	3,500	3,500	0
Total	17,659	44,409	+26,750

DD Form 1414 for the fiscal year 1992 RDT&E, Army appropriation shall show the AIDS program funding as a special interest item, a decrease to which requires prior Congressional approval.

The Congress considers AIDS research of such great importance to the health of both military personnel and the general population, it has increased funding for this program over the past few years. The Army research community has used these additional funds well by making breakthrough advances in the development of an AIDS vaccine. Army financial managers however, have not seen the wisdom of the Congressional interest and have not provided adequate funding in subsequent budget requests. The conferees believe this causes undue turbulence in the AIDS research program as people are hired to conduct research in one year only to be told that funds will not be available in the next year for the research to continue.

Therefore, the conferees agree that the Army increase the total authorized personnel level to 100 during 1992 and 1993. The Army shall not simply transfer these positions from other medical research areas. Since the 1991 funding level supports 77 federal employees, the directed personnel increase is supported by the fiscal year 1992 Congressionally-approved funding level.

Furthermore, the conferees agree that a 2–4 year "Walter Reed Fellowship In Vaccine Development" should be established at the Walter Reed Army Institute of Research. The purpose of this Fellowship is to provide research opportunities in the area of military medical vaccine development. The conferees direct that 4–6 new Fellows be selected each year to participate in the AIDS research program. The conferees further agree that approximately 2–3 of the candidates shall be military and that all candidates must possess an M.D., D.V.M., or PH.D.

Funding. The conferees have provided the following additional (above the budget request) funds for medical research projects:

[In thousands of dollars]

	Amounts
Army:	
A. Defense Research	+11,500
Neuroscience Center	(10,000)
Nutrition Research	(500)
Infectious Disease Research	(1,000)
B. Medical Technology	+18,200
AIDS	(2,000)
Infectious Disease Research	(7,200)
Nutrition Research	(1,000)
Neurofibromatosis Research	(8,000)
C. Laser Burn Treatment	+1,000
D. Prostate Cancer Treatment	+2,000
E. Breast Cancer Research	+25,000
F. Medical Advanced Technology	+4,500
Infectious Disease Research	(500)
Nutrition Research	(1,000)
Biological Defense Research	(3,000)
G. AIDS Research	+24,750
Navy:	
Medical Development	+21,000
Bone Marrow typing research	(20,000)
Infectious Disease Research	(1,000)
Air Force:	
Human Systems Technologies	+10,000
Research Facilities	(10,000)
Defense agencies:	
Military Nursing	+1,000
Medical Free Electron Laser	+3,600
Coop. DoD/VA Medical Research	+20,000

Infectious Disease Funding. The conferees direct the Army to provide $15,238,000 to the Navy for its infectious disease efforts which when added to the $1,000,000 increase in the Navy's budget for medical research (0603706N), will make a total of $16,238,000 available to maintain the 1991 level of funding. Additionally, the conferees agree with the language in both the House and Senate reports concerning the requirement for the ASBREM to resolve any infectious disease funding issues.

The ASBREM is directed to submit a report to the Appropriations Committees detailing how the fiscal year 1991 funding has been spent by the Army and the Navy and a plan for spending the 1992 funds.

Neuroscience Center of Excellence. The conferees have provided $10,000,000 only for a grant a Louisiana State University only for the Neuroscience Center of Excellence which is intended to provide the Defense Department additional critical medical research capabilities. This research will enable and provide collaborative, multi-disciplinary basic and clinical research, training, and production capabilities in infectious disease and biological defense vaccine and drug research and development, vision research, neurotoxins, neurochemistry, molecular neurobiology, neuro-degenerative diseases and disorders, and trauma and combat casuality care of importance to the Defense Department. DD Form 1414 for the fiscal year 1992 RDT&E, Army appropriation shall show this project as a special interest item, a decrease to which requires prior approval from Congress.

MANUFACTURING TECHNOLOGY

For the purposes of Section 203(d) of the Department of Defense Authorization Act for fiscal year 1992, the conferees direct the Secretary of Defense to include in the National Defense Manufacturing Technology Plan all industrial preparedness and manufacturing technology projects for which funds have been specifically appropriated by Congress.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

Amendment No. 86: Appropriates $6,562,672,000 for Research, Development, Test and Evaluation, Army instead of $6,241,621,000 as proposed by the House and $6,280,361,000 as proposed by the Senate.

Amendment No. 87: Restores House language which provides $6,300,000 for the Vectored Thrust Combat Agility Demonstrator; provides $2,000,000 for the establishment of a Center for Prostate Disease Research at the Walter Reed Army Institute of Research; and directs that not less than $10,000,000 be provided as a grant to the Neuroscience Center of Excellence which is intended to provide the Defense Department additional critical medical research capabilities.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousand of dollars]

	Budget	House	Senate	Conference
Research development test and eval Army:				
In-house laboratory independent research	14,812	12,812	8,946	8,946
Defense research sciences	179,363	200,863	173,891	190,863
Other tech base university grants	....	....	3,452	....
Electbomechanics and hypervelocity physics	2,959	12,959	2,959	2,959
Materials technology	11,537	11,537	16,537	11,537
Survivability enhancement	5,769	5,769	20,769	10,769
Laser weapons technology	5,191	5,191	484	484
Combat vehicle and automotive technology	44,106	37,206	44,106	37,206
Ballistics technology	53,977	73,977	53,977	62,977
Weapons and munitions technology	39,463	46,463	39,463	39,463
Electronics and electronic devices	16,894	25,894	19,994	19,994
Human factors engineering technology	10,372	5,372	10,372	5,372
Environmental quality technology	18,984	28,984	24,734	29,734
Command, control, communications technology	19,226	19,226	18,726	18,726
Logistics technology	31,552	34,352	31,552	34,352
Medical technology	89,579	139,579	96,579	107,779
Army artificial intelligence technology	3,374	2,374	3,374	2,874
MPIM technology	....	7,000	....	7,000
Simulation facility	....	....	....	8,000
Medical advanced technology	22,245	26,745	23,745	26,745
Laser burn treatment	....	....	1,000	1,000
Prostate disease research	....	....	2,000	2,000
Breast cancer research	....	....	....	25,000
Weapons and munitions advanced technology	40,865	49,365	43,865	55,865
Tractor red	6,721	6,721	11,721	11,721
Acquired immune deficiency syndrome (AIDS) research	3,259	16,259	28,009	28,009
Tractor cage	20,966	20,966	24,966	24,966
Landmine warfare and barrier advanced technology	8,728	23,728	18,728	26,728
X-rod	....	34,000	....	....
Multi-purpose weapon	....	6,000	....	6,000
Anti-satellite weapon (ASAT)	65,000	51,000	65,000	51,000
Classified programs	22,186	14,263	22,186	22,186
Advanced anti-tank weapon systems	....	68,300	....	137,000
Smoke, obscurant and equipment defeating systems–adv	17,004	11,004	17,007	14,004
Armored systems modernization–adv dev	400,808	322,508	359,008	300,988
Advaned tank connon system (ATACS)	....	....	....	40,000
Army data distribution system	19,534	22,534	19,534	22,534
Tactical surveillance system—adv dev	16,828	4,028	16,828	16,828
Forward area air defense (FAAD) system	97,387	97,387	107,387	107,387
Night vision systems advanced development	6,067	4,867	6,067	5,467
Aviation—adv dev	13,828	14,928	13,828	14,928
Combat service support computer system evaluation and	24,635	28,635	24,635	28,635
Armed, deployable 06–58D	18,671	....	18,671	9,336
Light armed scout helicopter	507,754	507,754	499,754	499,754
Joint tactidal fusion program	130,775	109,269	115,275	115,275
Medium tactical vehicles	11,879	20,979	23,479	23,479
Advanced anti-tank weapon system—eng dev	120,412	120,412	49,512	120,412
Heavy Tactical vehicles	5,488	....	5,488	5,488
Armored systems modernization (ASM)—eng. dev	43,109	....	43,109	43,109
Combat feeding, clothing, and equipment	9,955	19,955	27,956	27,956
Non-system training devices—eng dev	51,266	37,900	61,266	61,266
Tactical surveillance system—eng dev	21,590	10,190	21,590	21,590
Automatic test equipment development	11,232	18,232	11,232	18,232
Tractor jewel	104,372	....	104,372	104,372
Tractor helm	66,973	101,973	112,573	103,373

[In thousand of dollars]

	Budget	House	Senate	Conference
Joint surveillance/target attack radar system	48,721	48,721	73,721	68,721
Aviation—eng dev	12,517	14,017	12,517	14,017
Logistics and engineer equipment—eng dev	27,607	27,607	27,607	24,133
Classified program	46,699	46,699	42,699	46,699
Longbow—eng dev	233,201	244,201	233,201	254,201
Losat	152,255	83,955	152,255	....
Combat vehicle improvement programs	29,713	71,013	29,713	71,013
Manueuver control system	31,439	36,439	31,439	36,439
Missile/air defense product improvement program	53,042	53,042	58,042	58,042
Other missile product improvement programs	106,638	62,638	106,638	72,638
Classified programs	206,307	196,047	167,897	259,844
Unicharge propellant	....	....	....	8,000
Command and control vehicle	....	....	....	15,000
Classified programs	7,269	−1,691	11,859	3,309
Rand Arroyo Center	19,974	22,850	19,974	19,974
Army Kwajalein Atoll	181,464	181,464	180,964	180,964
Army test ranges and facilities	174,584,	171,584	174,584	174,584
Army technical test instrumentation and targets	103,739	88,939	90,028	88,939
Army user test instrumentation and threat simulators	45,834	45,834	35,434	45,834
Technology and vulnerability assessment	43,127	48,127	43,127	48,127
International cooperative research and development	1,962	1,962	1,506	1,506
Technical information activities	12,757	8,657	12,757	10,000
Munitions standardization, effectiveness and safety	16,293	11,293	16,293	13,000
Environmental compliance—prog 6	52,474	62,474	52,474	52,474
Industrial preparedness	21,058	28,058	....	28,058
Contractor travel	....	....	−15,897	−10,000
DBOF technical correction: DTIC	....	....	7,300	7,300
DBOF technical correction: IACS	....	....	3,200	3,200
University research reforms	....	....	....	−3,242

SIMULATION FACILITY

The conferees are aware of a major Army initiative to support defense modeling and simulation. The conferees have created a new program line and provided an additional $8,000,000 for distributed interactive simulation technology in support of future weapon systems and upgrades. This initiative will support modeling and prototyping in real time, soldier-in-the-loop, virtual reality battlefield simulation. The conferees direct that the Army should not go forward with the initiative until it has provided the Appropriations Committees with a plan for the use of the facility, including plans for lease charges. Additionally, the conferees request the Army to conduct a lease versus purchase analysis on this facility.

TYPE CLASSIFICATION OF THE XM927

The conferees are aware that the XM927 rocket assist 105mm projectile offers range increases for all M101 and M102 105mm howitzers employed by U.S. active, reserve, and National Guard forces as well as allied forces. Type classification of this round provides a clear, low-cost product improvement for an improved capability round for current forces.

The XM927 has finished development except for type classification testing. The conferees agree that such testing should be completed and the round type classified.

The conferees, by this action, do not commit to the production or deployment of this round to U.S. forces. Furthermore, if the Army elects to procure this round, it must first present to Congress a funded program and a strong justification.

BALLISTICS TECHNOLOGY

The conferees agree to provide a total of $62,977,000 for Ballistics Technology, an increase of $9,000,000 over the budget request. This funding level represents a reduction of $7,510,000 for the Vehicle Survivability Program (VSP), terminating the program, and an increase of $16,510,000 for the Army's contribution to the Joint Armor/Anti-Armor Program. The conferees agree that the Army's VSP plan is not the most feasible and cost effective way to increase survivability of armored systems and direct that no fiscal year 1992 funds be applied to this project. DD Form 1414 for the fiscal year 1992 RDT&E, Army appropriation shall show VSP as a terminated program.

ENVIRONMENTAL QUALITY TECHNOLOGY

The conferees agree to provide a total of $29,734,000, for Environmental Quality Technology, an increase of $10,750,000 over the budget request. Of these funds: (1) $5,000,000 is only for the United States Army Toxic and Hazardous Materials Agency for the project identified in the House report. The Agency is directed to coordinate its efforts with the Army Materiel Command, which is executive agent for the National Defense Center for Environmental Excellence; (2) $5,300,000 is only for the Army's Natick Research, Development, and Engineering Center to work closely with members of academia, government, and private industry on the commercialization of biodegradable plastic for food and other packaging; (3) $450,000 is only for safety and environmental studies of the White Sands Missile Range to determine the feasibility of using the Range as a possible landing site for the recovery of unmanned life sciences capsules for NASA. DD Form 1414 for the fiscal year 1992 RDT&E, Army appropriation shall show these earmarks as special interest items, a decrease to which requires prior approval.

WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY

The conferees agree to provide $55,865,000, for Weapons and Munitions Advanced Technology, an increase of $15,000,000 over the budget request. The additional funds are to be used only for hypervelocity physics research and development in support of electric gun development. DD Form 1414 for the fiscal year 1992 RDT&E, Army appropriation shall show this program as a special interest item, a decrease to which requires prior approval from Congress.

LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY

The conferees agree to provide $26,728,000 for Landmine Warfare and Barrier Advanced Technology, an increase of $18,000,000 over the budget request. Of the funds provided: (1) $8,000,000 is only for the development of a Heavy Assault Bridge which the conferees direct have open competition, including companies which have not received government furnished equipment; and, (2) $8,000,000 is for Mine/Countermine development in the field of long-pulse microwave technology. The conferees agree that this technology may prove to have significant operational, logistical, and cost advantages over other technologies.

MEDIUM TACTICAL VEHICLE/"CAB OVER" HMMWV

The conferees agree to provide $23,479,000 for Medium Tactical Vehicles program, an increase of $11,600,000 over the budget request. The increase is for the evaluation of the "cab over engine" variant of the High Mobility Multipurpose Wheeled Vehicle (HMMWV). The conferees agree that this evaluation entails no commitment to procure this vehicle. Furthermore, if the Army elects to procure this variant, it must first present to Congress the results of the evaluation, a funded program, and a strong justification. Such procurement would be made only with prior congressional approval and only as a replacement for other HMMWV variants. The "cab over" HMMWV shall not be considered to be a competitor to or replacement for either the Family of Medium Tactical Vehicles (FMTV) or the Army's truck Service Life Extension Program (SLEP).

ARMORED SYSTEMS MODERNIZATION-ENGINEERING DEVELOPMENT

The conferees agree to provide the budget request for the Armored Gun System. However, since the Army has not yet chosen its winning AGS design and therefore cannot tell the Congress what exactly it will do with the 1992 funds, the conferees direct the Army to inform the House and Senate Appropriations Committees on its choice before announcing the contract award. The conferees further agree that the Army is not mandated to choose the LAV-105 turret, but agree that the Army should use the EX-35 gun on the winning AGS design to leverage the investment made thus far on that cannon.

COMBAT FEEDING, CLOTHING, AND EQUIPMENT

The conferees agree to provide $27,956,000 for the Combat Feeding, Clothing, and Equipment Program, an increase of $18,000,000 over the budget request for the Soldier Enhancement Program. The conferees agree that with 1991 and 1992 funds, the Army shall purchase a total of 750 "softmounts" from existing U.S. small businesses for testing on MK19 and .50 caliber machine guns. The Army should report to the House and Senate Appropriations Committees on the procurement and testing plan for this research no later than March 1, 1992.

ARMORED SYSTEMS MODERNIZATION (ASM)

The conferees agree that changes in the Soviet Union and Eastern Europe, and the lessons learned in Operation Desert Storm have necessitated adjustments to the Army's plan to modernize its heavy forces. It is also obvious that the threat of advances in Soviet tank technology is not as significant today due to financial constraints in the Soviet economy.

What is necessary now for the United States is the modernization of existing armor systems rather than the development of new systems. The conferees agree that the fielding of a Block III tank in this decade is no longer a necessary and relevant part of the Army's research and development effort.

While it is uncertain which technologies are required for future armor systems upgrades, it is clear that the development of a "common chassis" for a number of future systems is not needed in this fiscal year. Therefore, the conferees have provided $300,988,000, a reduction of $99,820,000 from the budget request, for the continued development of technologies associated with future systems. It is not the intent of the conferees to cause the Army to terminate the current ASM contracts and lose the substantial investment made to date on these technologies. However, the Army may wish to restructure the program to accommodate changes in threat and funding.

The conferees direct that within the funds identified for this program, $85,568,000 is intended only for the Advanced Field Artillery System (AFAS). Additionally, none of the funds may be used for the further development of the Block III tank.

The conferees direct that not more than $100,000,000 of these funds shall be obligated until the Army has provided to the House and Senate Appropriations and Armed Services Committees a detailed description of the planned restructured program to include all program costs, schedule, and milestones approved by the Office of the Secretary of Defense.

Finally, the conferees request the President to submit to the Congress a National Intelligence Estimate of potential adversarial armored and anti-armor systems and capabilities.

ADVANCED TANK CANNON SYSTEM

The conferees agree to provide $40,000,000 for the continued development of the Advanced Tank Cannon System (ATCS) in a new line established specifically for this effort. It is the intent of the conferees that this program be continued as a technology development effort. The conferees direct the current program office to continue management oversight on this program.

UNICHARGE PROPELLANT

The conferees agree to provide $8,000,000 for the continued development of unicharge propellant in a new line established specifically for this effort. It is the intent of the conferees that the Army budget for the research and development and type classification of unicharge propellant for use with currently fielded howitzers. The conferees direct the AFAS Program Manager to continue to exercise oversight on this project.

COMMAND AND CONTROL VEHICLE

The conferees agree to provide $15,000,000 for the development and deployment of a command and control vehicle as proposed by the Senate in a new line established specifically for this effort. The conferees direct that not more than $5,000,000 may be obligated for this program until the Army provides the Appropriations Committees a development and deployment schedule, including milestones and funding. Additionally, the conferees direct that the ASM program office provide management oversight and conduct the required market surveys.

OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS

The conferees agree to provide $72,638,000 for the Other Missile Product Improvement Program, a net reduction of $34,000,000 from the budget request. The conferees agree to terminate the TOW Sight Improvement Program (TSIP), for a savings of $44,000,000 and initiate a new $10,000,000 program for MLRS extended range rockets (ERR).

The conferees direct that the funds associated with the MLRS–ERR program may not be obligated or expended until the Army provides to the House and Senate Appropriations Committees, an acquisition and funding plan for the project. The conferees direct the Army to comply with the House requirement for basic research on an alternative TOW–2 warhead. DD Form 1414 for the fiscal year 1992 RDT&E, Army appropriation shall show the TOW–2 project as a special interest item, a decrease to which requires prior approval from Congress. Additionally, the TSIP funds are specifically denied and should be so designated on DD Form 1414.

INDUSTRIAL PREPAREDNESS

The conferees agree to provide $28,058,000 for the Industrial Preparedness program, an increase of $7,000,000 over the budget request. Of the total appropriated, $5,000,000 is only for support of the National Defense Center for Environmental Excellence (NDCEE), $5,000,000 is only for continued exploration of uses for American ductile iron in defense-related applications, $3,500,000 is only for more durable T–150 and T–154 track bodies using austempered ductile iron, and $2,500,000 is only for investigation, evaluation, and development of cast ductile iron bullets using integral or cast-on rotating bands for explosively loaded, sabot, and training rounds. The conferees further agree with the Senate earmark of the amount in the budget request only for continuing an effort to enhance U.S. manufacturing base capabilities to produce precision optics for sights and visual equipment. DD Form 1414 for the fiscal year 1992 RDT&E, Army appropriation shall show these projects as special interest items, a decrease to which requires prior Congressional approval.

SURFACE-TO-SURFACE MISSILE ROCKET SYSTEMS

The House included language directing that $10,000,000 of the funds appropriated for the MLRS–TGW program be withheld until certification that the design phase was complete and that the technical data package was available. The Senate did not address this issue. The conferees agree to remove the House requirement to withhold $10,000,000. However, the conferees agree that this is the last year in which the Army should request funds for the MLRS–TGW.

LIGHT SCOUT HELICOPTER–RAH–66 COMANCHE

The House included language directing that $5,000,000 be used to review the technologies of the losing vendor. The Senate did not address this issue. The conferees encourage the Army to review the technologies of the losing vendor for use on the Comanche, but agree to remove the House requirement that $5,000,000 be used in this effort.

APACHE LONGBOW

The House included an additional $11,000,000 for the implementation of a plan to "skip" the AH–64B model and move on to a AH–64B+ configuration. The Senate stated that an AH–64 upgrade program should be considered for inclusion in the fiscal year 1993–98 budget and directed the Army to reevaluate its funding priorities on this program.

The conferees agree to provide an additional $21,000,000 for a program to upgrade the AH–64 to a "C" configuration (Apache Longbow, minus the T–800 engine and the mast mounted radar). However, none of these funds may be obligated until the Secretary of Defense submits to the House and Senate Appropriations Committees an AH–64 modification master plan and schedule, budget, and certifies that this program is fully funded in RDT&E and procurement in the fiscal year 1993–1998 Future Year Defense Program (FYDP).

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The Senate included language which provides $1,500,000 only for the completion of a formal environmental impact statement for the strategic target system program. The House agrees with the Senate language.

NONSYSTEM TRAINING DEVICES

The conferees agree to provide $61,266,000 for the Nonsystem Training Devices program, an increase of $10,000,000 above the budget request.

The conferees agree with the Senate language directing the Assistant Secretary of the Army for Research, Development, and Acquisition to certify that the close combat tactical trainer (CCTT) system is fully funded in fiscal years 1993–98. The conferees also agree that no funds may be obligated for the deployment of Quick Start assets until all system software development is concluded and technical and operational testing has been successfully completed. The conferees direct the Assistant Secretary to certify that all funding necessary for full deployment to the Reserve component forces, as well as the Active, are fully funded in Future Years Defense Program (FYDP). Finally, the conferees agree that all out-year budgets will maintain an annual two-thirds Active and one-third Reserve component deployment ratio for CCTT until the Reserve component requirements are met.

LOGISTICS AND ENGINEER EQUIPMENT-ENGINEERING DEVELOPMENT

The Senate included language directing the Army to accelerate the LAMP–H program. The House did not address this issue. The conferees direct that $8,000,000 of the funds provided for Logistics Engineering Equipment-Engineering Development, project D461, shall only be used to support the Army's efforts to identify a near term, affordable alternative solution to the LAMP–H to provide logistics-over-the-shore capability for U.S. force wherever they may be deployed. The conferees note that the Army has thoroughly studied this issue over the past decade and direct the Army not to initiate further studies. The conferees direct that alternatives shall include but not be limited to air cushioned vehicles and the modification of existing air cushion assets to substantially satisfy the logistics-over-the-shore requirements. DD Form 1414 for the fiscal year 1992 RDT&E, Army appropriation shall show this $8,000,000 project as a special interest item, a decrease to which requires prior approval from Congress.

HELLFIRE TRAINING MISSILES

The extensive use of Hellfire missiles during operation Desert Storm has reinforced the need for cost-effective, operationally-oriented aircrew training in the delivery of Hellfire missiles. It is recognized that live-fire training is the most effective means of achieving and maintaining proficiency, yet such training has proven impractical in terms of affordability and operational constraints. Both the Army and Marine Corps are exploring a low-cost, live-fire training option to meet this training demand, involving modification of the Navy's laser-guided training round to a Hellfire laser-guided training missile. The conferees direct that $3,000,000 from the Other Missile Improvement Program be provided for this effort and direct that these funds be used for the modification effort and the demonstration flight testing. DD Form 1414 for the fiscal year 1992 RDT&E, Army appropriation shall show this project as a special interest item, a decrease to which requires prior approval from Congress.

HARPY

The conferees are aware of a proposal for the Army to consider testing the ground-launched Harpy antiradar drone. The conferees urge the Army to consider acquiring such drones for actual hands-on test and hardware demonstration in the United States of the Harpy system. The conferees also direct the Army to assess the Harpy system and other viable alternatives for meeting justified Army requirements. This assessment should include the comparison described in the Senate report.

ARMY USER TEST INSTRUMENTATION AND THREAT SIMULATORS

The conferees agree to provide $45,834,000 for this program element including the requested level of funding for the Mobile automated Instrumentation System (MAIS). The conferees agree to moderate the Senate position by directing that the Army only develop the capability to reformat the data generated by MAIS into the protocol data unit (PDU) format so MAIS data can be used in existing and future simulation tools relying on this data format. The conferees encourage the Army to continue studying a phased implementation of the standard simulation data format being developed by DARPA so MAIS will be compatible with future test, evaluation, training, and simulation systems.

EW DEVELOPMENT

The conferees agree to provide an amount addressed in the classified letter accompanying this report for Electronic Warfare Development. Of these funds, $7,000,000 is only for a new program AD/EXJAM and $20,150,000 is only for the Stingray program. The reductions are as follows: $4,600,000 for Aircraft Survivability Equipment, $2,000,000 for Optical Countermeasures because it duplicates work ongoing in DARPA, and $4,910,000 for poor obligation and expenditure of funds. Additionally, the conferees direct the IEW Ground Stations be funded at the requested level. DD Form 1414 for the fiscal year 1992 RDT&E, Army appropriation shall show these projects as special interest items, a decrease to which requires prior Congressional approval.

The conferees direct that funds for Stingray may not be obligated or expended until the Secretary of Defense certifies that the program is fully funded in both RDT&E and procurement in the fiscal year 1993–98 Future Year Defense Program (FYDP). The conferees also agree with the Senate's language directing the Army to participate in a joint optical countermeasures program under the direction of DARPA beginning in fiscal year 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

Amendment No. 88: Appropriated $8,557,635,000 for Research, Development, Test and Evaluation, Navy instead of $7,464,910,000 as proposed by the House and $7,666,142,000 as proposed by the Senate.

Amendment No. 89: Restores language proposed by the House and stricken by the Senate which provides $1,000,000 as a grant for the National Center for Physical Acoustics, deletes House provision on the P-3 aircraft, and restores language proposed by the House and stricken by the Senate on SURTASS.

Amendment No. 90: Inserts Senate language providing $10,000,000 for the Submarine Laser Communications project. The conferees agree to provide $10,000,000 for this project but direct that these funds may not be obligated or expended until the Secretary of the Navy certifies that this project is fully funded in RDT&E and procurement in the fiscal years 1993–1998 Future Year Defense Plan and provides the information as mandated in the Senate report. In addition, the conferees agree that the Navy should, to the maximum extent possible, continue to build upon the work already accomplished by DARPA under existing contracts.

Amendment No. 91: Includes Senate provision on the Advanced Gun Weapon System.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Research development test and eval Navy:				
In-house independent laboratory research	25,868	10,000	17,500	14,000
Defense research sciences	395,767	392,767	380,382	392,767
Other tech base university grants			9,779	
Anti-air warfare anti-surface warefare technology	70,517	50,000	68,281	68,281
Aircraft technology	23,776	15,000	23,776	19,000
Command, control, and communications technology	19,617	10,000	19,617	15,000
Mission support technology	37,017	20,000	37,017	30,000
System support technology	80,521	57,000	80,521	79,000
Electronic warfare technology	13,975	10,000	13,975	13,975
ASW technology	130,902	130,902	129,257	130,902
Nuclear propulsion	15,282	12,000	15,282	12,000
Ocean and atmospheric support technology	39,724	44,724	39,724	44,724
Independent exploratory development	15,803		15,803	7,000
EW technology	4,916		4,916	4,916
Electromagnetic radiation source elimination technolog	5,091	3,000		3,000
Ship propulsion system	4,536		4,536	4,536
Marine Corps advanced technology demonstation (ATD)	32,815	35,815	15,987	22,487
Manpower and personnel system	3,245	1,000	3,245	1,000
Generic logistics R&D technology demonstrations	13,829	21,329	13,829	14,429
Education and training	6,106	2,000	6,106	4,106
Simulation and training devices	5,177	3,000	5,177	5,177
Advanced antisubmarine warfare technology	42,939	16,000	42,939	42,939
Advanced technology transition	65,153	65,153	55,682	62,382
C3 advanced technology	1,373		1,373	16,373
Tactical space operations	4,181	1,608	4,181	4,181
SSBN survivability	17,570	8,000	17,570	17,570
WWMCCS architecture support	997		997	997
Trident II	61,603	76,603	18,303	53,603
Strategic technical support	7,422	4,000	7,422	7,422
Fleet ballistic missile system	14,812	14,812	7,812	7,812
SSBN security technology program	53,270	44,000	53,270	53,270
Submarine acoustic warfare development	37,216	32,000	37,216	37,216
Trident	39,863	25,000	39,863	35,000
Navy strategic communications	29,935	20,000	29,935	29,935
Integrated aircraft avionics	25,158	7,000	25,158	25,158
Air/ocean tactical applications	7,936	7,400	7,936	7,400
T–45 training system	6,477		6,477	6,477
Air crew systems technology	10,386	15,386	10,386	15,386
Navy advanced tactical fighter		50,000		2,000
Tactical airborne reconnaissance	15,574	21,774	15,574	15,574
Aircraft survivability and vulnerability	12,943	8,000	12,943	12,943
Advanced surface-to-air missile	34,760	20,000	34,760	34,760
Low cost anti-radiation seeker		4,000		4,000
Advanced air-to-air missile (AAAM)	89,331		89,331	89,331
Battle group AAW coordination	11,152		11,152	
Advanced submarine ASW development	31,232	36,000	31,232	40,232
Shipboard aviation systems	11,440		11,440	15,840
Shipboard system component development	28,039	10,000	28,039	28,039
Ship combat survivability	25,589	10,000	25,589	25,589
Submarine Arctic warfare support equipment program	5,151	4,000	2,151	2,151
Non-acoustic anti-submarine ware (ASW)	26,197		13,800	
Advanced ASW target	17,102	5,000	17,102	17,102
Surface ASW	67,236	47,000	67,236	67,236
Advanced submarine system development	35,621	25,000	35,621	35,621
Advanced nuclear power systems	89,884	70,000	89,884	80,000
Electric drive	80,906		53,799	40,000
Joint advanced systems	177,170		177,170	177,170
Advanced warhead development	6,640	5,000	6,640	6,640
Marine Corps assault vehicles	79,908	79,908	41,908	41,908
Mine countermeasure initiative fund			20,500	16,800
Tactical nuclear development	6,426		6,426	4,000
Marine Corps ground combat/support system	9,319	23,319	9,319	9,319
MK 48 ADCAP—adv dev	52,627	26,627	14,927	14,927
ASW ocenography	9,894	5,000	9,894	9,894
ASW signal processing	27,812	20,000	27,812	27,812
Advanced marine biological system	1,868	1,868	12,868	4,868
Fleet tactical development and evaluation program	6,144		6,144	6,144
Ocean engineering technology developments	13,546	17,546	15,546	15,546
Command and control systems	8,160		8,160	8,160
Container offloading and transfer system (COTS)	1,003		1,003	
Navy energy program	4,714		4,714	4,714
Facilities improvement	466		466	466
Link Hazel	11,547	1,547	11,547	11,547
Retract Maple	216,173	416,173	250,673	144,173
Ship self defense				221,000
Retract Elm	149,847	109,847	149,847	146,847
Warfare systems architecture and engineering	7,365		7,365	7,365
Anti-submarine warfare environmental acoustic support	18,372	17,500	18,372	17,500
Gun weapon system advanced technology	5,134	5,134		5,134
IFF system development	22,343	32,343	22,343	32,343
Lamps	30,215	34,215	20,290	34,215

[In thousands of dollars]

	Budget	House	Senate	Conference
Air/ocean equipment engineering	2,806		2,806	2,806
Airborne ASW developments	25,843		8,310	19,843
P-3 modernization program	41,144	58,747	51,044	82,644
CH-46E upgrades			50,000	
Acoustic search sensors	51,061	30,061	27,108	27,108
V-22A		625,000	165,000	625,000
V-22 prior year			−165,000	
Air crew systems development	17,318	21,518	17,318	21,518
Aircraft engine component improvement program	58,856	40,000	58,856	50,000
EW development	142,283	80,000	110,140	110,140
MK 92 fire control system upgrade	2,012		2,012	2,012
Aegis combat system engineering	92,153	92,153	91,465	91,465
Sea Lance		20,000		
Advanced medium range air-to-air missile	2,693	12,693	2,693	2,693
Vertical launch Asroc	36,933	36,933		
ASW standoff weapon			20,000	
Close-in weapon system (Phalanx)	10,597	10,597	9,297	9,297
Standard missile improvements	36,821	20,000	36,821	36,821
Tomahawk	28,815	32,815	28,815	32,815
5″ rolling air frame missile		5,000		5,000
New threat upgrade	9,977		9,977	9,977
Submarine sonar development	41,494	25,000	39,494	39,494
Air control	10,562	10,562	6,959	6,959
Navy standard signal processors	9,266	9,266		20,366
Submarine support equipment program	18,901		18,901	18,901
Ship survivability	5,048		5,048	5,048
Combat information center conversion	19,133		16,133	9,000
Submarine combat system	270,272	220,272	242,972	267,272
Deep submergence technology	27,284		23,434	23,434
SSN-21 developments	157,441	127,441	157,441	15,441
Centurion			50,000	23,000
Ship contract design/development (eng)	32,827	17,027	22,200	22,200
Naval gunnery improvements	4,513		4,513	4,513
Unguided conventional air-launched weapons	8,389	2,400	8,389	10,789
Bomb fuze improvement	24,533	24,533		15,533
Marine Corps assault vehicles—eng dev	19,104	23,004	19,104	19,104
Anti-submarine warfare oceanographic equipment	1,260		1,260	1,260
Navy energy program	3,389	1,000	3,389	3,389
Surface ASW system improvement	121,724	63,724	63,024	59,124
Surface warfare training devices	10,711		10,711	10,711
Joint standoff weapon systems	53,447		53,447	53,447
Fixed distributed system—eng	229,154	189,154	243,223	238,223
C2 surveillance/reconnaissance support	15,769	10,769	15,769	14,000
F/A-18 squadrons	452,077	472,077	319,077	420,000
Early warning aircraft squadrons	6,349		6,349	6,349
Fleet telecommunications (tactical)	18,682	8,682	18,682	18,682
Surface combatant ordnance and missiles	28,428	20,428	27,228	28,428
Undersea surveillance systems	72,594	42,594	68,894	72,594
Ship-towed array surveillance systems	17,622	6,622	27,622	23,622
Special projects	18,377	18,377	14,477	14,477
ASW combat systems integration	19,367	15,367	19,367	19,367
F-14 upgrade	116,281	136,281	116,281	116,281
Operational reactor development	58,593	40,593	58,593	58,593
Marine Corps ground combat/supporting arms systems	20,489	24,889	27,789	27,789
Marine Corps intelligence/electronics warfare systems	28,305	55,405	28,305	28,305
Improved tactical air launched decoy				17,000
Marine enhancement program			12,000	12,000
Multi-sensor integration/QRCC			23,000	
Classified programs	678,821	692,636	683,621	695,636
Laser communications			10,000	10,000
Range instrumentation systems development (RISD)	9,836		9,836	9,836
Electronic warfare simulator development	31,304	15,304	26,204	21,000
Target systems development	99,537	27,537	61,268	27,537
Personnel, training, simulation, and human factors	1,794		1,794	1,794
Studies and analysis support—Navy	6,297		6,297	6,297
Marine Corps operations analysis group, CNA	4,157	4,549	4,157	4,157
Center for Naval analyses	24,321	26,196	24,321	24,321
Fleet tactical development and evaluation	12,721		12,721	12,721
Technical information services	2,741		2,741	2,741
Management and technical support	12,286		12,286	12,286
International RDT&E	3,210		2,210	1,500
RDT&E laboratory and facilities management support	58,343	40,000	58,343	55,000
RDT&E instrumentation and materiel support	18,123	10,123	18,123	17,000
RDT&E ship and aircraft support	86,341	91,000	101,341	96,000
Test and evaluation support	342,091	280,000	342,091	328,000
Operational test and evaluation capability	8,038	6,538	8,038	8,038
Laboratory fleet support	6,512		6,512	5,000
Industrial preparedness	25,302	100,002	5,000	74,407
Contractor travel			−20,899	−15,000
DBOF adjustment		−59,200	−19,600	−19,600
DBOF technical correction: DTIC			6,100	6,100
DBOF technical correction: IACS			2,700	2,700
Historical deobligations		−60,000		
University research reforms				−11,242

NOMENCLATURE OF NAVY PROGRAMS

Navy program elements used to justify RDT&E budgets to Congress are not sufficiently descriptive. Major programs such as the Advanced Interdiction Weapons System, Advanced Rocket System, Advanced Bomb Family, SQY-1 shipboard electronics suite, Magic Lantern, Standard Missile, MK-30 target, MK-50 torpedo, Advanced Low Frequency Sonar, Tomahawk, Enhanced Modular Signal Processor, E-2 aircraft improvements, and Supersonic Low Altitude Target are not readily apparent. The conferees direct the Comptroller of the Navy to rectify this problem in the fiscal year 1993 budget. The Navy should also consider reducing the number of its program elements through consolidation, in consultation with the Defense Committees of Congress.

SYSTEMS SUPPORT TECHNOLOGY

The conferees agree to provide $79,000,000, of which $17,800,000 is only for RF vacuum tube electronic technology. DD Form 1414 shall show the latter as an item of special interest, a decrease to which requires prior approval from Congress.

OCEAN AND ATMOSPHERIC TECHNOLOGY

The conferees agree to provide $44,724,000 as recommended by the House, an increase of $5,000,000 only to enhance Navy tactical oceanography programs at Scripps Institute of Oceanography, Woods Hole Institution, the University of Washington, and other institutions as recommended by the House Armed Services Committee. The University of Hawaii shall be considered as an equal with the other intended recipient institutions for these additional funds.

ASW TECHNOLOGY

The conferees agree to provide $130,902,000. Within that amount, $2,000,000 is only for continued development of the tactical Surveillance Sonobouy trigger algorithms. The conferees direct the Navy to submit to the Committees on Appropriations by February 1, 1992 a plan for exploiting this technology in ongoing sonobuoy programs and in other ASW research and development programs.

C3 ADVANCED TECHNOLOGY

The conferees agree to provide $16,373,000. The Navy has initiated a low-cost Naval Tactical Data system command and control workstation under the Range NTDS Display Emulation System (RNDES) program. Within this amount, $15,000,000 is available only to apply to the RNDES program to adapt, integrate, and install a complete ship-set, comprised of the RNDES display suite and a modified advanced video processor, to be evaluated for all shipboard C3I applications. This is to be accomplished under the direction of the Director, Space and Electronic Warfare. DD Form 1414 shall show this item to be of special interest, a decrease to which requires prior Congressional approval.

ELECTROMAGNETIC RADIATION SOURCE ELIMINATION TECHNOLOGY

The conferees agree to provide $3,000,000 as recommended by the House, which may not be used to prototype a missile.

MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION

The conferees agree to provide $22,487,000. Within this amount, $1,500,000 is only for continued participation in the DOD Armor/Anti-Armor program and $5,000,000 is only to accelerate Marine Corps efforts to adapt the Magic Lantern mine warfare system to better meet Marine Corps requirements. The conferees agree with the Senate recommendation to defer the long-term joint countermine program in favor of developing the near-term Magic Lantern system. The conferees direct that the Magic Lantern system should be enhanced to better meet both Navy and Marine Corps requirements, and that the Marine Corps utilize a classified concept for which funds were appropriated in fiscal year 1991.

SEA LAUNCH AND RECOVERY (SEALAR)

The conferees believe that a SEALER launch vehicle may have the potential to reduce space launch costs, but agree with the concerns raised by the Senate. The clear intent of the legislation authorizing U.S. government organizations to enter into Cooperative Research and Development Agreement (CRDAs) is to promote expeditious technology transfer from the federal government to other government entities as well as commercial ventures. However, it is not the intent of the legislation to permit middle level department officials to commit an entire department to a program which could have significant policy, program, and budget implications without proper oversight by senior policy officials or the Congress. Therefore, the conferees agree with the Senate recommendation for Office of the Secretary of Defense review and decision about SEALAR and the proposed CRDA. The conferees further direct that OSD submit by January 30, 1992, the report requested by the Senate. The conferees also direct that any SEALAR CRDA contain the clear stipulation that any such agreement does not require or imply that at any point: (a) the U.S. government will use SEALAR during or after the completion of its development; (b) appropriated funds will be available to support the project directly or indirectly; or (c) U.S. government facilities will be available for use by commercial firms after completion of the development effort. Should the development effort be successful, this guidance does not preclude the Department from considering the purchase of launch services from SEALAR to the extent that there is a requirement for such services, that it could be provided on a cost competitive basis, and that the necessary Congressional authorization and appropriation are provided.

GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS

The conferees agree to provide $14,429,000. Within this amount, $5,000,000 is only for establishment of product data exchange standards as described in the House report. In addition, a reduction of $4,400,000 related to Computer Aided Logistics (CALS) has been made as explained elsewhere in this report.

ADVANCED TECHNOLOGY TRANSITION

The conferees agree to provide $62,382,000, a reduction of $2,771,000 due to budget execution as explained in the Senate report. The conferees did not agree to the other Senate recommended reduction. The Secretary of the Navy shall certify that the multi-mission propulsion project does not duplicate any existing research and development project in the Defense Department before these funds are obligated.

TRIDENT II

The conferees agree to provide $53,603,000, a reduction of $23,000,000 with prejudice to the SLBM effectiveness enhancement project. None of the funds in this or any other program element in the Defense Department are available for work on or studies of an earth penetrating warhead. In addition, the conferees direct that not less than $4,500,000, the budgeted amount, be made available for the gravity sensor system program.

NAVY ADVANCED TACTICAL FIGHTER

The conferees agree to provide $2,000,000 only for the purpose of maintaining a Navy presence in the Air Force program. The conferees believe that the Office of the Secretary of Defense should take a proactive role in assuring that ATF technology is utilized in a broad manner, particularly in the area of future avionics upgrades to current tactical fighters of both the Navy and Air Force. The Navy should also not be allowed to pursue development of a new air superiority fighter, but rather should be postured to use a derivative of the Air Force ATF, should such a requirement emerge in the future. Cooperative air programs have the potential to yield large cost savings, and the conferees believe that the Navy and Air Force should cooperate on future developments. With these funds, the Navy is directed to continue its liaison function to the ATF program so that opportunities to capitalize on ATF technologies can be identified. It is also important to ensure Navy environmental requirements and specifications are identified to the ATF contractor team as aircraft specifications are developed. The conferees further believe a Navy studies portion of the ATF contract should focus on three primary efforts and have provided funds for this purpose: (1) the ATF avionics suite should be developed to every extent possible to allow future Navy use; (2) the ATF engine should also be developed so that future Navy use is possible; and (3) Navy requirements should be incorporated in the characterization and development of ATF materials. The Navy liaison effort will ensure coordination with the ATF program on these matters as well as seeking other opportunities for cooperation on tactical aircraft programs. DD Form 1414 shall show these funds to be an item of special interest, a decrease to which requires prior approval from Congress.

ADVANCED SUBMARINE ASW DEVELOPMENT

The conferees agree to provide $40,232,000, an increase of $9,000,000 only for the competitive development of the torpedo defense Detection, Classification, Localization Acoustic Signal Processor (DCLASP) as described in the House report.

SHIPBOARD AVIATION SYSTEMS

The conferees agree to provide $15,840,000. Within this amount, $6,000,000 is only to begin a competitive advanced development of the Electromagnetic Aircraft Launch System (EMALS). The conferees direct the Navy to develop a program which can be ready for installation of EMALS on the next new carrier (CVN-76), to include sufficient funds in future budgets to Congress to meet this objective, and to provide a report March 1, 1992 to the Committees on Appropriations outlining in detail the Navy's program plan. The program should proceed expeditiously as long as the technology works and meets cost objectives, and the contractors perform. DD Form 1414 shall show these funds to be an item of special interest, a decrease to which requires prior approval from Congress.

MK-48 ADCAP—ADVANCED DEVELOPMENT

The conferees agree to provide a $14,927,000 as recommended by the Senate. The conferees are advised that the Navy has decided to conclude the closed cycle ADCAP propulsion system demonstration and validation contract with in-water tests, while cancelling plans to proceed into engineering and manufacturing development. In lieu of this program, the Navy is now considering steps to address its needs, while assessing a number of technologies, including stored chemical energy propulsion, to determined which ultimately should be pursued. The conferees direct the Navy to submit to the Committees on Appropriations a detailed plan no later than March 1, 1992 for both the near and long term efforts to reduce MK-48 torpedo noise levels. The long term plan should assess cost, performance, and growth potential for each of the examined technologies and identify any funding required for those purposes.

ADVANCED MARINE BIOLOGICAL SYSTEM

The conferees agree to provide $4,868,000 for continuation of the marine mammal program. The conferees provide no less than $500,000 only to develop training procedures which will allow mammals which are no longer required for this project to be released back into their natural habitat. The conferees prohibit the release of these mammals to any alternative captive environment. The conferees further direct the Navy to budget in future years the funds necessary to adequately care for mammals in the Navy inventory and to adapt the mammals which are no longer required for Navy projects for release into the World's oceans.

SHIP SELF DEFENSE

The conferees agree to provide $221,000,000 to augment and consolidate funds which the Navy had proposed in other program elements into a single integrated program only for ship self defense. A classified letter accompanying this statement contains details on this program. The conferees have included bill language stating that these funds are not available unless they are assigned to a single program manager who has full authority and responsibility for their use, which is the Defense Department's stated intent. Funds budgeted for the Battle Group AAW Coordination and recommended by the Senate for Multi-sensor Integration/Quick Reaction Combat Capability have been included here. None of the funds appropriated in this or any other Defense Department program element may be used for Naval antiballistic missile technology studies or development in fiscal year 1992 without prior Congressional approval of a new-start reprogramming request. Such a request, if made, should fully disclose the military requirement, management organization, acquisition strategy, cost, budget, and schedule for a program to develop the capability. DD Form 1414 shall show the ship defense funds in total and each of the projects described in a classified letter accompany this statement to be items of special interest, a decrease to which requires prior approval from Congress. Included in this amount is $5,000,000 for infrared technologies, to include consideration of work on existing systems including SAR-8.

IFF SYSTEM DEVELOPMENT

The conferees agree to provide $10,000,000 as recommended by the House only for development of an identification-of-friend-or-foe system. The Defense Department shall submit a plan to Congress which certifies that a fully funded, joint service use system taking advantage of MK-15 technology is being pursued and which describes the acquisition strategy, cost, budget, schedule, and management organization needed to implement it. DD Form 1414 shall show these funds to be an item of special interest, a decrease to which requires prior approval from Congress. The conferees also agree with the Senate position as expressed in the Air Force RDT&E section of the Senate report.

P-3 MODERNIZATION

The conferees agree to provide $82,644,000. Within this amount, $41,500,000 is only to initiate a new P–3 program as described in Congressional reports. The conferees did not agree to terminate the Update IV avionics system development as proposed by the Senate. The conferees also did not agree to reduce $23,900,000 as proposed by the House due to excess fiscal year 1991 funds in the P–3 program; the conferees direct instead that the 1991 funds be returned only to the P–3 program as a matter of special Congressional interest. The Navy Comptroller should inform the Appropriations Committees in writing when this has been accomplished. The Secretary of the Navy shall report by March 1, 1992 to the Committees whether the Navy is fully committed to the Update IV program and will fully fund RDT&E and procurement in fiscal years 1993 to 1998.

V–22 OSPREY

The conferees agree to provide $625,000,000 for the V–22 program and have included a general provision (section 8090) which transfers $165,000,000 of prior year Aircraft Procurement, Navy funds to the research and development account. The conferees agree that the V–22 offers an answer to the Marine Corps medium lift requirement and direct the Navy to promptly embark on a Phase II full scale engineering development program to correct identified deficiencies and produce production representative aircraft.

The conferees expect the Navy to embark upon this program as soon as possible and neither the Secretary of Defense nor any of his subordinates may take action which will unnecessarily delay obligation of these funds.

The conferees direct the Navy to report by April 15, 1992 on the use of the ribbonized organized integrated interconnecting system on the V–22.

CENTURION SUBMARINE

The conferees agree to provide $23,000,000 for the Centurion program to develop a new design nuclear attack submarine to succeed the SSN–21 class vessels. Funds are provided only for the following purposes: $15,400,000 for concept design and technology option studies; $3,000,000 for an independent cost and operational effectiveness analysis (COEA); and $4,600,000 to provide additional new designs into the COEA.

UNGUIDED CONVENTIONAL AIR LAUNCHED WEAPONS THE CONFEREES AGREE TO PROVIDE $10,789,000, AN INCREASE OF $2,400,000 ONLY FOR TOW–2A MISSILE IMPROVEMENTS AS RECOMMENDED BY THE HOUSE.

BOMB FUZE IMPROVEMENT

The conferees agree to provide $15,533,000 for the Advanced Bomb Family, a reduction of $9,000,000 associated with the Navy's decision to delay initiation of engineering and manufacturing development from fiscal year 1992 into fiscal year 1993. While allowing the Advanced Bomb Family to proceed, the conferees remain concerned that the Office of the Secretary of defense has allowed the Navy to pursue yet another unique new munition development program. The conferees expect that strong action will be taken to form a joint service use program in the fiscal year 1993 and subsequent budgets to Congress. In addition, the conferees expect the Secretary of the Navy to resolve all of the ABF program uncertainties discussed in the Senate report and to submit with the next budget request a detailed statement explaining this resolution. The conferees also direct that the Secretary of the Navy certify in this statement that the restructured ABF program is fully funded in both RDT&E and procurement in the fiscal year 1993–1998 Future Year Defense Program.

SURFACE ASW SYSTEM IMPROVEMENT

The conferees agree to provide $59,124,000 which includes the House recommended level for SQQ–89 ship improvements and an additional $20,000,000 only to integrate the Enhanced Modular Signal Processor into SQQ–89 basic ships as recommended by the House. Both the House and Senate reduced the fiscal year 1992 budget request for the SQY–1 system but did approve funding for needed upgrades to surface ship antisubmarine warfare capabilities. The conferees understand that upgrades planned for the existing SQQ–89 system are incorporated in the SQY–1 program and therefore direct the Navy to proceed with the key elements of the SQY-1 program needed for upgrades and high priority performance improvements. In addition to the funds provided herein, $80,000,000 in prior year funds remain available for this purpose and $6,000,000 to integrate EMSP into SQQ–89 basic ships; as a matter of special Congressional interest these funds are hereby designated to not be available for any other purpose. None of these prior year funds may be reprogrammed without approval by the Committees on Appropriations. The conferees further direct the Navy to report its plans for this restructured SQY–1 program to the Committees on Appropriations by February 1, 1992.

FIXED DISTRIBUTED SYSTEM

The conferees agree to provide $238,223,000, which includes $20,000,000 only for an increase to the budget for the advanced deployable array project as recommended by the Senate. DD Form 1414 shall show these funds to be an item of special interest, a decrease to which requires prior approval from Congress.

JOINT STANDOFF WEAPON SYSTEMS

The conferees agree to provide $53,447,000 for the Advanced Interdiction Weapon System. While allowing the AIWS to proceed at the budgeted level, the conferees remain concerned that the Office of the Secretary of Defense has allowed the Navy to pursue yet another unique new munition development program. The conferees expect that strong action will be taken to form a joint service use program in the fiscal year 1993 and subsequent budgets to Congress.

F–14

The conferees agree to provide $116,281,000 for continued development of F–14 upgrades. No funds are provided to develop a "Quickstrike" configuration of the aircraft.

IMPROVED TACTICAL AIR LAUNCHED DECOY

The fiscal year 1991 Defense Appropriations conference agreement included a total of $25,000,000 for the Improved Tactical Air Launched Decoy (ITALD) program. Based on information supplied by the Navy at that time, the funds were divided between research, development, test an evaluation ($8,000,000,000) and procurement (17,000,000). However, this year Department of Defense officials determined that funds provided in the Weapons Procurement, Navy account could not properly be used for the ITALD program at this stage of its development. In addition, the DOD estimated that the total development and evaluation cost of ITALD will be approximately $25,000,000. In order to align funding for ITALD more properly, the conferees agree to rescind $17,000,000 appropriated for 1991 ITALD procurement and to provide an additional $17,000,000 in research, development, test and evaluation, Navy 1992/1993 for ITALD development.

TARGET SYSTEMS DEVELOPMENT

The conferees agree to provide $27,537,000 as recommended by the House. Funds for continued development of the Supersonic Low Altitude Target (SLAT) are specifically denied. Within this amount, $2,600,000 is only available to fund the government's liability under the current SLAT contract. The conferees understand that these funds will allow the Navy to acquire a number of SLAT vehicles and conduct flight tests of these vehicles. Furthermore, within the funds provided, the conferees direct that no funds be obligated or expended to develop a full scale aerial target capability outside of the Office of the Secretary of Defense (OSD) mandated tri-service full scale aerial target program.

RDT&E SHIP AND AIRCRAFT SUPPORT

The conferees agree to provide $96,000,000 of which $15,000,000 is only for costs associated with the overhaul of the research ships Knorr and Melville. The conferees acknowledge the Navy's priorities for these funds as follows: first, fund legitimate expenses of Woods Hole subcontractors to complete their work; second, fund legitimate expenses of Woods Hole to correct any deficiencies not resolved by arbitration; and last, to fund remaining scientific equipment upgrades that were deleted from the original plan in order to meet escalating shipyard costs. The Navy is directed to obligate these funds only to cover the increased modification costs for the Knorr and Melville until the Navy is certain that all obligations under the original contracts were met. The conferees specifically deny the use of these funds to add additional capabilities to these ships where such additions and equipment are beyond the scope of the project as originally planned and presented to Congress.

TEST AND EVALUATION SUPPORT

The conferees agree to provide $328,000,000. The conferees did not agree to the House recommendation to earmark funds specifically for a proposed live-fire test pond at Aberdeen Proving Grounds, leaving the Navy free to fund the project from within available funds.

MOBILE OFFSHORE BASING

The conferees agree to provide $3,000,000 only for in depth evaluation of the Mobile Off Shore Base concept in 1992, to include an evaluation of portable quay-causeway systems, as part of the JCS Mobility Requirements Study.

INDUSTRIAL PREPAREDNESS

The conferees agree to provide $74,407,000. The conferees agree to the projects earmarked in both the House and Senate reports. Within the total provided, $5,000,000 is available only for multi-function self-aligned gate gallium arsenide module manufacturing technology; $5,000,000 is available only for life-cycle by networking critical manufacturing technologies at Pennsylvania State University; and $3,000,000 is available only for an ongoing project to develop manufacturing technologies for fabrication of submarine propulsors, design and manufacturing of lightweight ship structures, and repair of aircraft carrier valves and catapult launch systems. DD Form 1414 shall show the total funding and each of the earmarks as items of special Congressional interest, a decrease to which requires prior approval from Congress. The conferees direct that the fiscal year 1992 level of effort for the National Center for Excellence in Metalworking Technology be continued with the submission of the fiscal year 1993 and future budget requests to Congress.

UNDERWATER MODELLING

The conferees direct the Secretary of the Navy to submit a report to Congress by March 1, 1992 related to its underwater modelling involving explosives within the boundaries of designated national marine sanctuaries. Until this report is submitted, the Navy is to minimize its detonation activities in the Florida Keys National Marine Sanctuary to only those requirements which are mission essential. The report of the Secretary is to provide a plan for suspending underwater detonations in the Florida Keys National Marine Sanctuary, to explain whether suspension of detonations is or is not feasible or cost effective within the boundaries of the seven existing marine sanctuaries, and to detail the location of alternative sites. The issues addressed in the report will be addressed in hearings by the Appropriations Committees during review of the fiscal year 1993 budget.

BIODYNAMICS LABORATORY

The conferees concur with House report language regarding the Naval Biodynamics Laboratory (NBDL) and direct that the $2,970,000 in funding requested in fiscal year 1992 for the NBDL under program elements 603216N and 603706N be allocated and fully funded as originally requested.

CONSOLIDATED AUTOMATED WORK STATION

The conferees concur with the Senate language that the Navy should not have begun work on the consolidated automated support system (CASS) missile test station (MTS) initiative without Congressional approval and without proper identification of the activity in the budget justification material. While the conferees have made a reduction to the budget request, the MTS adjunct to CASS has the potential for cost savings both for CASS and the joint missile depot support initiative. Therefore, the conferees direct the Navy to consider submitting a prior approval reprogramming for up to $9,700,000 for MTS development in fiscal year 1992.

CONVENTIONAL MUNITIONS

The conferees agree to provide $43,168,000 for conventional munitions, the amount requested by the Navy. Within that amount, $22,499,000 in project SO363 is only for the development of insensitive munitions. DD Form 1414 shall show this item to be of special interest, a decrease to which requires prior Congressional approval.

LIGHT ARMORED VEHICLE-AIR DEFENSE (LAV-AD)

The conferees agree to provide $27,789,000 for Marine Corps Ground Combat/Supporting Arms Systems which includes a $7,300,000 increase for the LAV-AD. The LAV-AD program recently successfully completed developmental testing and the Marine Corps has informed the conferees that they intend to select a contractor before operational testing begins. Within the increase, $2,100,000 is provided to make the LAV-AD contractor selection and continue operational testing. Additional funds may be used for new night sights and a possible replacement for the hydra-70 rocket on the LAV-AD. The conferees expect that any improvements, such as the hydra rocket replacement, shall be accomplished without imposing any delays in the LAV-AD development program and shall not interrupt the current schedule to begin procurement in fiscal year 1993.

LIGHT ARMORED VEHICLE-105MM (LAV-105)

The amended budget request included $19,100,000 for continuing engineering development of three prototype LAV-105 vehicles. The LAV-105 incorporates a new 105mm gun into a lightweight wheeled armored vehicle with state-of-the-art fire control technology. It will provide a highly mobile direct fire capability for Marine Light Armored Infantry Battalions. The conferees have found Marine testimony over the past several years in support of the LAV-105 to be convincing. It is the intent of the conferees that the research and development program continue. Accordingly, $19,100,000 is appropriated in fiscal year 1992 for the continuation of development. The conferees expect the Secretary of the Navy to continue this development program, and the funds for the LAV-105 development and operational testing be included in the fiscal year 1993 budget submission.

IMPROVED MEDIUM TACTICAL VEHICLE PROGRAM

The Senate included language directing the Marine Corps to provide the Committee on Appropriations and Armed Services, a report outlining the justification and full funding profile for its service life extension program (SLEP). The House did not address this issue. The conferees direct the Marine Corps to cancel all SLEP activities for tactical trucks unless such activities are part of a Congressionally approved DOD-wide SLEP program.

ENHANCED MODULAR SIGNAL PROCESSOR (EMSP)

The conferees agree to restore funds deleted by the Senate for the Enhanced Modular Signal Processor (EMSP) and to increase funds in the Navy Standard Signal Processors program element. In addition, the Navy proposed adjustments to the requested funding in the EMSP program elements as offsets to fund a portion of the EMSP multiyear level of funding in the respective program elements. The conferees have provided this adjusted level of funding in the respective program elements. The conferees have included bill language authorizing the EMSP multi-year procurement program and requiring the use of EMSP in the Surveillance Towed Array Sensor System program. The conferees have provided $91,200,000 in the Other Procurement, Navy appropriation to fund the EMSP multi-year procurement for 150 units contemplated for the ALFS, SURTASS, P-3 Update IV, BSY-2 submarine combat system, and SQQ-89 ASW system.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

Amendment No. 92: Appropriates $14,0077,834,000 instead of $14,263,941,000 as proposed by the House and $14,123,675,000 as proposed by the Senate.

Amendment No. 93: Restores House language which provides $30,000,000 for the National Center for Manufacturing Sciences; restores House language which provides $2,500,000 for the development of coal based high thermal stability and endothermic jet fuels; restores House language which provides $8,000,000 only for the side-by-side testing of the ALR 56M and the ALR 62I radar warning receivers; amends House language denying the use of funds for the B-1B ALQ-161 CORE program by deleting the requirement for Air Force submission and Congressional approval of a plan for correction of B-1B operational shortfalls; restores House language which provides $5,700,000 for the U.S./U.S.S.R. Joint Seismic Program; includes language which provides $10,000,000 as a grant to an institution which will provide the Air Force additional critical medical research capabilities; includes Senate language which provides $10,000,000 only for the modernization and upgrade of the Poker Flat Rocket Range; and adds language which provides $19,500,000 in the SPACETRACK program element only to establish an image information processing center, co-located with the Air Force Maui Optical Station and the Maui Optical Tracking Facility.

Amendment No. 94: The Senate position is agreed to by the conferees under amendment number 93.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Research development test & eval AF				
In-house laboratory independent research	9,972	7,972	8,283	7,972
Defense research sciences	203,206	209,206	195,307	209,206
Other tech base university grants	—	—	−5,742	—
Geophysics	40,441	38,541	39,052	37,152
Materials	69,235	66,135	68,235	68,235
Aerospace flight dynamics	71,656	68,356	65,055	65,055
Human systems technology	53,673	63,673	53,673	63,673
Aerospace propulsion	69,355	72,355	68,055	71,055
Aerospace avionics	83,086	73,086	80,290	80,290
Personnel, training and simulation	30,953	30,953	30,053	30,053
Civil engineering and environmental quality	6,744	16,744	6,744	6,744
Rocket propulsion and astronautics technology	47,341	37,341	43,050	33,050
Advanced weapons	38,450	38,450	37,605	37,605
Command control and communications	88,665	88,665	82,206	82,106
Logistics systems technology	14,649	14,649	6,649	6,149
Advanced materials for weapon systems	17,887	15,887	17,887	15,887
Aerospace propulsion subsystems integration	30,295	30,295	28,720	28,720
Advanced avionics for aerospace vehicles	38,001	34,001	38,001	34,001
Aerospace vehicle technology	22,858	22,858	12,058	12,058
Advanced fighter technology integration	24,073	24,073	10,173	10,173
Lincoln laboratory	27,891	27,609	27,891	27,891
Advanced avionics integration	19,530	16,530	19,530	16,530
National aero space plane technology program	231,833	231,833	—	200,000
EW Technology	35,845	33,845	32,693	32,693
Space and missile rocket propulsion	14,866	11,366	14,866	13,500
Advanced strategic missile systems	63,045	60,845	63,045	63,045
Advanced spacecraft technology	17,914	27,914	17,914	27,914
Space systems environmental interactions technology	4,936	14,936	4,936	4,936
Conventional weapons	33,621	30,421	33,621	30,421
Advanced weapons technology	57,152	29,370	57,152	61,552
Civil and environmental engineering technology	12,036	12,036	13,036	13,036
B-1B	3,574	1,574	3,574	1,574
Short range attack missile II (SRAM II)—Eng dev	165,879	165,879	165,879	—
ICBM Modernization	815,909	815,909	605,592	440,789
Small ICBM	(548,838)	(548,838)	(347,647)	(433,800)

[In thousands of dollars]

	Budget	House	Senate	Conference
Rail mobile MX	(260,082)	(260,082)	(250,956)	—
MX reduction (amendment No. 5)	—	—	(−225,000)	—
Advanced Cruise missile	108,698	28,898	108,698	28,898
KC–135 squadrons	14,968	12,968	14,968	12,968
Minuteman squadrons	53,959	46,159	53,959	53,959
War planning automated data processing (ADP)—SAC	5,976	3,976	5,976	3,976
Distant early warning (DEW) radar stations	2,862	2,862	2,223	2,223
Over-the-horizon backscatter radar	7,961	7,961	—	—
Spacetrack	20,124	10,124	22,624	34,624
Follow-on early warning system	82,000	—	82,000	82,000
Advanced warning system	—	82,000	—	—
Classified programs	360,715	441,715	316,715	360,715
Air base operability advanced development	3,375	3,375	—	3,375
Engine model derivative program (EMDP)	1,022	1,022	1,022	4,022
F–117A improvement	—	83,000	—	42,000
Nuclear weapons support	5,841	2,841	5,841	5,841
C–17 program	377,359	376,359	377,359	376,359
EW development	215,221	119,221	197,971	200,071
Hardened target munitions	7,183	17,183	7,183	13,183
Armament/ordnance development	4,812	8,612	4,812	4,812
Aeromedical systems development	6,797	5,197	6,797	6,797
Common support equipment development	12,675	9,675	12,675	12,675
Surface defense suppression	21,464	16,064	21,464	21,464
Computer resources management technology	8,419	17,419	8,419	17,419
Side looking airborne radar	4,166	4,166	—	—
Joint surveillance/target attack radar system (JSTARS)	311,859	306,059	316,859	311,859
F–16 squadrons	174,828	68,828	159,978	159,978
F–15E squadrons	119,795	104,845	119,795	112,795
F–117 RECCE Mods	—	—	15,000	—
Tactical aim missiles	26,358	—	13,558	—
Advanced medium range air-to-air missile (AMRAAM)	30,582	27,882	30,582	30,582
TR–1 squadron	54,220	54,220	—	—
Follow-on tactical reconnaissance system	56,553	173,953	56,553	88,553
Tactical air control systems	23,564	15,564	23,564	19,564
Seek eagle	29,010	18,010	21,090	21,090
Mission planning systems	13,433	8,433	13,433	13,433
National airspace system (NAS) plan	4,687	2,687	3,256	3,256
Classified programs	977,309	735,639	1,202,509	1,012,509
Navstar global positioning system (space and control S)	52,005	52,005	70,105	52,005
Classified programs	2,333,744	2,221,733	2,175,244	2,324,554
Space test program	53,323	33,323	47,524	47,524
Advanced aerial target development	25,321	22,321	25,321	23,821
Training systems development	51,745	41,745	42,895	42,895
Manpower, personnel and training development	3,554	2,554	3,554	2,554
Advanced launch system	147,744	—	50,000	55,000
R&M maturation/technology insertion	20,999	18,999	—	18,999
Range improvement	76,468	73,068	15,318	66,918
Improved capability for development test & evaluation	56,259	46,159	56,259	46,159
Ranch Hand II epidemiology study	9,710	2,010	9,710	9,710
Development planning	16,081	9,381	9,647	9,647
Real property maintenance—RDT&E	105,123	101,123	105,123	103,123
Satellite control network	120,655	120,655	117,433	117,433
Titan space launch vehicles	143,915	68,915	193,915	145,415
Industrial preparedness	50,535	110,535	—	60,535
Excimer laser	—	30,000	—	15,000
Contractor travel	—	—	−38,630	−20,000
DBOF technical correction: DTIC	—	—	6,300	6,300
DBOF technical correction: IACS	—	—	2,800	2,800
University research reforms	—	—	—	−5,814

AEROSPACE PROPULSION

The conferees agree to provide $71,055,000 for aerospace propulsion, $1,700,000 above the budget request. This is a net increase which reflects an additional $3,000,000 only to support the ongoing research project on endothermic jet fuels including coal-based fuels. Bill language has been included to ensure that $2,500,000 is spent only for the coal-based jet fuels research project. The reduction reflects action taken by the conferees on the space-based wide area surveillance (SBWAS) efforts.

ELECTRONIC WARFARE DEVELOPMENT

The conferees agree to provide $200,071,000 for Electronic Warfare Development, $15,150,000 less than the budget request. The reduction has been made for the following projects: $9,800,000 associated with the B-1B Radar Warning Receiver; $4,300,000 for C–27 defense systems; $2,100,000 due to late contract award for Compass Call component development; and, $1,050,000 for concept studies and laboratory demonstration for the advanced strategic and tactical infrared expendables project. An increase of $2,100,000 is provided only for the proof-of-principle testing of the Army-developed AD/EXJAM system. The conferees agree that no funds may be transferred between separate projects within the Electronic Warfare program element without advance notification to the Appropriations Committees.

ADVANCED AERIAL TARGET DEVELOPMENT

The Conferees agree to provide $23,821,000 for the Advanced Aerial Target Development Program. This item funds, among other things, the development of a new drone, the QF-4. The conferees agree that this shall be a joint Air Force and Navy project and that it should be completed in the most cost-effective manner which may or may not include using the Naval Aviation Depots.

RANGE IMPROVEMENTS

The conferees agree to provide $66,918,000 for Range Improvements, $9,550,000 below the budget request. The reductions are for the following items: $3,400,000 for poor budget execution in fiscal year 1991; $10,000,000 for the Electronic Combat Integrated Test Facility (ECIT); and $6,150,000 for HAVE PEWTER. An increase of $10,000,000 is provided only for the modernization and upgrade of the Poker Flat Rocket Range.

Last year, the Congress eliminated funds for a threat simulator development under the name "HAVE PEWTER" which had been terminated by the Air Force after an extremely long, costly, and unsuccessful acquisition which wasted millions of dollars. The Air Force elected, however, to start a new development program with fiscal year 1991 funds using the same name, this time using in-house capability rather than a contractor. The conferees believe that funds for this new effort should have been requested from Congress under existing new-start reprogramming procedures, since no funds had been appropriated for that purpose. The conferees further believe that at this point in time, the Air Force should seek to acquire such capability from foreign sources. Funds for "HAVE PEWTER" in fiscal year 1992 are therefore specifically denied.

Additionally, the conferees agree that none of the funds remaining in this program element may be used for ECIT related activities. The Department should review the capabilities of the Navy's Air Combat Environment Test and Evaluation Facility to determine the feasibility of using this facility for Air Force testing requirements. The Department should provide this review to the House and Senate Appropriations Committees.

IMPROVED CAPABILITY FOR DEVELOPMENT TEST AND EVALUATION

The conferees agree to provide $46,159,000 which includes a reduction of $6,500,000 based on program growth and budget execution concerns and a decrease of $3,600,000 to deny funds associated with the Electronic Combat Integrated Test Facility (ECIT). None of the remaining funds in this program element may be used for any ECIT-related activities.

DEVELOPMENT PLANNING

The conferees agree to the Senate's position and have provided $9,647,000 for Development Planning. The conferees agree that the Air Force should not reporgram funds into this program element, that funds shall not be spent on studies specifically denied as stated in the Senate's report, and that it shall notify the House and Senate Appropriations Committees in advance of any funds reallocated between approved and funded studies, or if any new studies are undertaken.

REAL PROPERTY MAINTENANCE—RDT&E

The conferees agree to provide $103,123,000 for Real Property Maintenance—RDT&E. Of this amount, $3,600,000 is provided in addition to amounts currently budgeted and appropriated for Edwards Air Force Base, for maintenance and repair of testing facilities. These funds are provided only for maintenance and repair of existing facilities and may not be used for work associated with any new facility.

ADVANCED WEAPONS TECHNOLOGY

The conferees agree to provide $61,552,000 for Advanced Weapons Technology. Of these funds, $4,400,000 is only for magnetohydrodynamic pulsed power research. The Air Force is directed to continue this research in 1993 and future budget submissions. DD form 1414 for the fiscal year 1992 RDT&E, Air Force appropriation, shall show this increase as a special interest item, a decrease to which requires prior Congressional approval.

SPACETRACK

The conferees agree to provide $34,624,000 for SPACETRACK. Of these funds, $19,500,000 is only for the establishment of an image information processing center as recommended by the Senate. The use of the funds shall include the acquisition of a super-computer. Additionally, the Department is directed to review the second generation laser radar system proposal as stated in the Senate report, identify the costs and additional capability provided by such a system, and budget for this project in fiscal year 1993. DD Form 1414 for the fiscal year 1992 RDT&E, Air Force appropriation shall show this increase as a special interest item, a decrease to which requires prior Congressional approval.

JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM (JSTARS)

The conferees agree to provide $311,859,000, the budget request, for JSTARS. The conferees agree to the Senate's recommendation concerning program office staffing and support, and the Senate's concerns over the program content and program office priorities.

INDUSTRIAL PREPAREDNESS

The conferees agree to provide $60,535,000 for Industrial Preparedness, an increase of $10,000,000 over the budget request. Of these funds, $1,000,000 is only for ductile iron cast modeling as stated in the House report and $5,000,000 is only for the Continuous Fiber Metal Matrix Composites program as stated in the House report. DD Form 1414 for the fiscal year 1992 RDT&E, Air Force appropriation shall show these projects as special interest items, a decrease to which requires prior Congressional approval.

ICBM MODERNIZATION/SMALL ICBM

The conferees have provided $433,800,000 for the Small ICBM program. The President may use these funds to preserve the option for mobility.

ELECTRIC VEHICLE PILOT PROGRAM

The conferees agree that within the $76,306,000 appropriated for Base Operations, $2,500,000 shall be used to establish a joint research and development project between the Sacramento Municipal Utility District (SMUD) and the Sacramento Air Logistics Center at McClellan Air force Base to demonstrate electric vehicle technology for use at DoD installations located within the State of California. The conferees believe that the development of this pilot program will expedite the introduction of electric vehicles, where applicable, in the strict regulatory environment of California. This pilot program is an opportunity for the Department to answer the changing needs of its vehicle fleets and to lead the way in achieving zero emission vehicle operations in California.

TACTICAL AIM MISSILES

The conferees have provided no funds in the Service budgets for Sidewinder missile upgrades or follow-on missiles. Instead, these funds have been transferred to the joint service program funded in the RDT&E, Defense Agencies account.

OVER-THE-HORIZON-BACKSCATTER (OTH-B) RADAR

The conferees agree to provide no funding for the Over-the-Horizon Backscatter Radar (OTH-B) as proposed by the Senate instead of $7,961,000 as proposed by the House. The conferees direct that any caretaker or shutdown activities be funded from the Operation and Maintenance, Air Force account. The conferees also direct that all research and development activities on the OTH-B radar must be terminated after the expenditure of any RDT&E funds originally provided for this program in fiscal year 1991.

NAVSTAR GLOBAL POSITIONING SYSTEM/SPACE AND CONTROL SEGMENTS

The conferees agree to provide $52,005,000 for the Navstar Global Positioning System (Space and Control System) as proposed by the House instead of $70,105,000 as proposed by the Senate. Should additional fiscal year 1992 funding become necessary due to the resolution of outstanding contractual issues associated with the Nuclear Detonation Detection System, the Committees on Appropriations will consider alternative funding proposals to address the requirement.

ADVANCED CRUISE MISSILE

The conferees agree to terminate the Advanced Cruise Missile Variant. Funds are specifically denied and should be so designated on DD Form 1414 for the RDT&E, Air Force appropriation.

SPACE TEST PROGRAM

The House recommended $14,201,000 less for the Space Test Program than the total of $47,524,000 recommended by the Senate. The conferees agree with the funding levels and report language of the Senate. The conferees also agree that this program is an item of special congressional interest.

TACTICAL WARNING AND ATTACK ASSESSMENT (TW/AA) SATELLITE

The House deleted $82,000,000 requested in fiscal year 1992 and also denied the use of $84,000,000 already appropriated in fiscal year 1991 for the Follow-on Early Warning Satellite (FEWS) system as requested by the Department of Defense, and instead, provided $82,000,000 in fiscal year 1992 and $42,000,000 in fiscal year 1991 for acquisition of a more capable Advanced Warning System (AWS). The Senate approved the budget for the FEWS system as requested.

The conferees agree that there is a requirement to replace the current Defense Support Program with an advanced infrared TW/AA satellite system. The conferees also agree that, to the maximum extent possible, such a system must fully meet the needs of our tactical military forces and not be focused almost completely on the nuclear war-fighting role of CINC Space. The conferees, therefore, agree to provide $82,000,000 in fiscal year 1992 and $72,000,000 already appropriated in fiscal year 1991 to begin the demonstration/validation phase of a follow-on to DSP. The conferees also agree not to require the new system to meet any of the technical intelligence missions identified by the House for the first launch, but rather permit the Department to expand the capabilities of the system at the first opportunity when it is both technically and financially feasible. Finally, the conferees agree with the House position that the first satellite must have an on-board processing capability which will permit a direct downlink to deployed U.S. tactical commanders facing tactical missile threats such as was encountered by U.S. forces during Operation Desert Storm. As an item of special congressional interest, no funds are available for any phase, including demonstration/validation, of any follow-on to DSP which does not have such an on-board processing capability inherent in the satellite concept and design for launch on the first satellite.

NATIONAL LAUNCH SYSTEM (NLS)

The House provided no funds for the National Launch System (NLS) and the Senate provided $75.0 million of the requested $172.7 million. The conferees are concerned that neither DOD, including SDI, nor the intelligence community has any payload requirement for NLS. Moreover, of the remaining program cost of $10 billion to achieve the first launch, DOD has not budgeted for its $5 billion share in the outyears and the Congress has reduced the NASA fiscal year 1992 funding level from the requested $175 million down to only $33 million.

The conferees agree to provide $55 million in RDT&E, Air Force. The conferees agree that the obligation of more than a total of $55 million for NLS by DOD constitutes an item of special congressional interest.

THERMIONICS

The conferees agree to provide $10 million as proposed by the House, but also agree with the Senate that the Office of the Secretary of Defense should submit with the fiscal year 1993 budget request a new comparison of the acquisition cost, performance, size, weight, and cost effectiveness of thermionics technologies with other space power options.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

Amendment No. 95: Deletes House heading "(Including Transfer of Funds)".

Amendment No. 96: Appropriates $9,978,305,000 instead of $8,979,141,000 as proposed by the House and $9,393,542,000 as proposed by the Senate, restores text proposed by the House but stricken by the Senate concerning the time availability of these funds, and deletes Senate provision on Brilliant Pebbles.

Amendment No. 97: Restores and amends House language on Special Operations Command funding; restores and amends House language to provide $10,000,000 to the National Biomedical Research Foundation; restores and amends House language to provide $171,000,000 for the Extended Range Interceptor (ERINT) missile, $60,000,000 for the Arrow Continuation Experiments, and $145,500,000 for the Patriot program; adds and amends Senate language on the Experimental Program to Stimulate Competitive Research (EPSCOR); deletes House language on the Environmental and Molecular Sciences Laboratory; restores House language on "Buy American" for the Superconducting Magnetic Storage System; deletes Senate language on the Critical Technologies Institute; adds Senate language providing obligation restrictions on the Superconducting Magnetic Storage System; adds Senate language on earmarking prior year funds for a supercomputer; and adds new language providing grants to a number of institutions which will provide the Defense Department additional critical research capabilities.

Amendment No. 98: Adds and amends Senate language on certain materials and technologies, and provides a general provision concerning university research projects and restrictions on test range instrumentation development.

The conference agreement on items addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Research development test and eval def ag:				
Defense research sciences	88,290	108,290	95,058	113,590
In-house laboratory independent research	2,206	2,206	6,206	2,206
Military nursing research			1,000	1,000
University research initiatives	87,373	182,373	90,580	225,973
Historically black colleges & universities (HBCU)			15,000	15,000
Other tech base university grants			−18,545	
U.S. Japan management training			10,000	10,000
Superconductive magnetic energy storage		40,000		40,000
Medical free electron laser	20,000	30,000	20,000	23,600
Strategic technology	268,380	268,380	288,380	288,380
Tactical technology	117,900	117,900	120,900	126,900
Integrated command and control technology	35,500	135,500	36,800	110,500
Materials and electronics technology	62,035	143,036	93,036	187,536
Defense Nuclear Agency	441,141	341,141	290,142	367,748
Focus hope		20,000		20,000
Environmental special project		20,000		20,000
DOD Environmental studies development		10,000		5,000
SDI Organization's Funds:				
Strategic defense initiative (SDI)	4,572,574	2,656,000	4,600,000	3,321,290
Tactical missile defense initiative—DEM VAL	508,000	787,460		758,710
Tactical missile defense initiative FSD	70,000	70,000		70,000
Joint DOD–DOE munitions technology development	10,260	10,260	20,000	18,000
Experimental evaluation of major innovative technology	289,700	224,700	277,960	248,400
Relocatable target detection technology program	10,000	28,000	10,000	28,000
Advanced submarine technology		75,000		75,000
Pre-competitive technology development		50,000	75,000	60,000
Strategic environmental research program				50,000
Computer aided logistics support	10,475	10,475		
Balanced technology initiative	191,568		154,968	120,000
Cooperative DOD/VA medical research		20,000		20,000
Medical research		30,000		10,000
Manufacturing technology	206,200	206,200	201,600	201,600
Consolidated DOD software initiative	6,932	26,932	6,932	26,932
Consolidated DOD software initiative	44,000	54,000	37,100	54,000
Special operations advanced technology development	13,700	16,700	15,700	16,700
Verification technology demonstration	83,230	83,230	71,980	83,230
Air defense initiative	273,000	123,000	164,000	207,000
Physical security equipment	39,926	60,926	39,926	60,926
Classified program—C3I	5,300	10,300	5,300	10,300
Non-acoustic ASW		100,000	30,000	43,800
AIM–9 consolidated program	43,781	70,139	43,781	62,339
CINC C2 initiatives	1,803	1,803		
CINC C2 initiatives				1,803
Joint remotely piloted vehicles program	68,562	86,300	70,513	104,213
Joint simulation office			40,000	40,000
General support for SO/LIC			2,000	2,000
Special operations tactical systems development	194,290	207,250	172,676	208,290
Special operations intelligence systems development	10,637	15,837	10,637	15,837
SOF operational enhancements	54,190	21,893	54,190	54,190
Special operations forces (Transfer FR. AF)		1,991		
Airborne reconnaissance support program	222,800	322,800		147,800
Defense reconnaissance support activities	52,876	74,876	52,876	82,876
Classified programs	1,226,759	1,263,088	1,218,359	1,275,700
Manufacturing technology		50,000	157,000	100,000
FCIMS programs			27,000	27,000
Manufacturing engineering education			25,000	25,000
Managers in the classrooms			5,000	5,000
Advanced materials			15,000	15,000
Integrated diagnostics	10,751	10,751	7,401	7,401
NATO research and development	40,956		19,256	19,256
Technical support to USD(A)	41,176	38,176	41,176	38,176
General support to C3I		15,000		15,000
Defense technical information center		22,500		
Information analysis centers		5,500		
Industrial preparedness		17,000		17,000
Contractor travel			−25,574	−18,000
Mobile off shore basing				3,000
DBOF technical correction: DTIC			4,200	4,200
DBOF technical correction: IACS			1,800	1,800
University research reforms				−10,125

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $113,590,000. Within that amount, $12,800,000 is only for the environmental research project authorized by the Armed Services Committees; $9,500,000 is only for superconducting multichip modules and superconducting materials as recommended by the Senate; and $3,000,000 is only for multi-chip module automated design tools and processes as recommended by the House. DD Form 1414 shall show these earmarks to be items of special interest, a decrease to which requires prior approval from Congress.

UNIVERSITY RESEARCH INITIATIVES

The conferees agree to provide $225,973,000. Within that amount, $50,000,000 is only to continue the Augmentation Awards for Science and Engineering Research Training; $10,000,000 is only for the Experimental Program to Stimulate Competitive Research in the Department of Defense (EPSCOR); $10,000,000 is only for the Institute for Advanced Science and Technology as authorized by the Armed Services Committees; $6,000,000 is for SEMATECH instrumentation as authorized by the Armed Services Committees; and $62,600,000 is for various research initiatives which will provide the Defense Department additional critical research capabilities. The conferees concur with the House and Senate report language on EPSCOR and agree to bill language requiring that fiscal year 1991 and 1992 funds be available for a DOD EPSCOR program that includes all states eligible for the National Science Foundation EPSCOR program.

MEDICAL FREE ELECTRON LASER

The conferees agree to provide $23,600,000, of which $3,600,000 is only to create new research centers for the development of compact continuous wave X-ray and millimeter wave free electron laser sources as recommended by the House, but to be obligated only after a successful peer-reviewed, competitive award process.

TACTICAL TECHNOLOGY

The conferees agree to provide $126,900,000. Within that amount $10,000,000 is only for ground vehicle identification-of-friend-or-foe technology and $5,000,000 is only for acoustic charge transport technology as recommended by the Senate. DD Form 1414 shall show these earmarks to be items of special interest, a decrease to which requires prior approval from Congress. The conferees also agree to provide $6,000,000 for classified Zeal Dawn follow-on technologies to include $1,000,000 for Tin Yoke.

INTEGRATED COMMAND AND CONTROL TECHNOLOGY

The conferees agree to provide $110,500,000, an increase of $75,000,000 only for high definition display systems. Concerning the earmark of $1,300,000 addressed in both the House and Senate reports, the conferees agree to the House language concerning the Oregon Graduate Institute.

MATERIALS AND ELECTRONICS TECHNOLOGY

The conferees agree to provide $187,536,000. Within that amount, $60,000,000 is only for x-ray lithography research as recommended by the House; $6,000,000 is only for laser based x-ray point source development, which is an addition to the $6,000,000 provided in the House bill for this purpose; $10,000,000 is only for the new national laboratory/university/industry initiative in x-ray lithography recommended by the House; $6,000,000 is only for a grant to Northeastern University as recommended by the House; $5,000,000 is only for metal matrix composite and advanced ceramic materials as authorized by the Armed Services Committees; $26,000,000 is only to continue DARPA participation in developing technology and manufacturing processes for continuous fiber metal matrix composites materials as recommended by the Senate; and $12,500,000 is only to enhance development of diamond substrate materials, an addition of $7,500,000 to the amount originally recommended by the Senate for the same purposes as recommended by the Senate. DD Form 1414 shall show each of these earmarks to be items of special interest, a decrease to which requires prior approval from Congress. Concerning the $60,000,000 for x-ray lithography, the conferees continue to believe strongly that allowing DARPA a free hand in prioritizing these funds has contributed to the successes achieved to date in this important field, and remain very reluctant to subearmark funds within the x-ray lithography account to benefit one method, procedure, or technology over another.

DEFENSE NUCLEAR AGENCY

The conferees agree to provide $367,748,000, which includes $50,050,000 only for expansion of DNA's generic research and development efforts, except test bed investments, and $29,556,000 only for the "MIGHTY UNCLE" underground nuclear test. The conferees agree to all other specific reductions in the Senate report. These reductions shall be so annotated on DD Form 1414 as specifically denied. The $50,050,000 may be used only for generic work which applies to numerous weapon systems. The conferees recognize that DNA should provide testbeds and develop hardening technologies supporting a wide range of applications, and that users of DNA testbeds should continue to pay for system specific experiments. Because of the special nature and visibility of the Strategic Defense Initiative (SDI), however, the conferees direct that none of these DNA funds may be used to finance either SDI unique or SDI predominant costs. This will ensure that future public debate on SDI will continue to have the benefit of an integrated budget which accurately portrays all relevant costs. Future budgets to Congress should adhere to this funding criterion when allocating costs between SDI and DNA. In fiscal year 192, the SDIO is free to allocate whatever funds it deems necessary to the Defense Nuclear Agency to meet its requirements except for purposes for which funds were denied by Congress.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION'S FUNDS

The conferees agree to provide $4,150,000,000 for the Strategic Defense Initiative and Theater Missile Defense programs in the separate program elements contained in the President's budget.

EXPERIMENTAL EVALUATION OF MAJOR INNOVATIVE TECHNOLOGIES

The conferees agree to provide $248,400,000. Within this amount, $10,000,000 is only for the ASW systems project on sonar automation and acoustic source research as recommended by the House; $1,200,000 is only to continue the hyperspectral sensor technology space object tracking project as recommended by the Senate; and $500,000 is only for the classified Tinsel Moon project as recommended by the Senate. DD Form 1414 shall show these earmarks to be items of special interest, a decrease to which requires prior approval from Congress. The conferees have also provided the following reductions: $55,000,000 has been transferred to the advanced submarine technology line as recommended by the House; and $3,000,000 is for EHF communication concepts as recommended by the Senate which is specifically denied.

BALANCED TECHNOLOGY INITIATIVE

The conferees agree to provide $120,000,000. Within that amount the conferees agree with the earmarks in the Senate report but also agree to provide $8,000,000 only for the Quiet Knight project and $6,000,000 only to continue the millimeter wave seeker/guidance project previously initiated by BTI. The conferees agree that the language contained in the House report on the X-rod and SRAW systems is to be followed even though the projects are now funded in BTI. The conferees also agree to specifically deny all funds for the Battalion Targeting System and clearly state their intention that this project is terminated. The conferees also strongly endorse Senate recommendations to improve the management of this program.

AIR DEFENSE INITIATIVE

The conferees agree to provide $207,000,000, of which $15,000,000 is only for low low frequency active technology and $30,000,000 is only for continued development of the airship. The conferees also agree to the specific earmarks and related guidance recommended in the Senate report. DD Form 1414 shall show these earmarks to be items of special interest, a decrease to which requires prior approval from Congress.

AIM-9 CONSOLIDATED PROGRAM

The conferees agree to provide $62,339,000, which includes $13,458,000 for AIM-9M upgrades and $5,000,000 only for concept definition of a new AIM-9X missile. Funds for AIM-9X may not be obligated until the Secretary of Defense submits a report to Congress which certifies that a joint service development and procurement program will be undertaken and which provides a plan that addresses the military requirements, management organization, acquisition strategy, cost, budget and schedule for a program to develop it as well as the other issues raised in the Senate report. The Secretary must also certify to the Appropriations Committee that the AIM-9X program is fully funded in RDT&E and procurement in fiscal years 1993 to 1998 before funds are obligated.

JOINT SIMULATION OFFICE

The conferees agree to provide $40,000,000 as recommended by the Senate to initiate funding for a DOD-wide office to coordinate a Department wide approach to simulators and training devices for both acquisition and training purposes. The conferees are particularly impressed with the potential for use of virtual interface technologies in these applications. In order to develop an aggressive program to take advantage of this emerging technology, the conferees direct the Defense Modelling and Simulations Office to report on service and DOD plans to utilize virtual interface technology in both acquisition and training areas. Within the amount provided, $5,000,000 is only for virtual interface technology and $5,000,000 is only for advanced technology training for National Guard roundout brigades. DD Form 1414 shall show these funds to be an item of special interest, a decrease to which requires prior approval from Congress.

BROAD AREA SEARCH

The conferees agree that increasing the U.S. capability to search large areas with imagery in support of tactical battlefield commanders is a high national priority. Consequently, the conferees agree to provide $30,000,000 for the Defense Reconnaissance Support Activities as recommended by the House. However, the conferees believe that the proper acquisition strategy must not be targeted toward a particular system, but must foster competition which time-and-again has proven to provide the best capability at the lowest cost. Consequently, the conferees agree that not more than $10,000,000 of that amount may be obligated for LANDSAT until 60 days after the following required certifications are made to the House and Senate Committees on Appropriations: (a) the Secretary of Defense and the Director of Central Intelligence jointly certify that there is a tactical military or intelligence requirement for LANDSAT imagery; (b) the Secretary of Defense, the Secretary of Commerce, and the Director of Central Intelligence jointly certify that sufficient funds have been budgeted in the outyears to fully fund LANDSAT 7; (c) the Director of the Office of Management and Budget certifies that the outyear joint funding plan is consistent with the 1990 budget agreement and that funding for such a plan has been approved by the Administration for fiscal year 1992; and (d) the DOD Inspector General certifies that sole-source acquisition of additional LANDSAT satellites will meet any tactical military or intelligence requirement at less total cost to the Department of Defense and the Intelligence Community than would be incurred through an industry wide competition for such a broad area imagery capability. The conferees agree that the remaining $20,000,000 may only be obligated after receipt of the certifications outlined above and after DOD submits a broad area search acquisition plan and receives the prior approval of the Appropriations Committees.

COMMERCIAL COMMUNICATIONS SATELLITES

The conferees agree with the House recommendation to provide $15,000,000 for the Department to explore greater use of commercial communications satellites.

INDUSTRIAL PREPAREDNESS

The conferees agree to provide $17,000,000. Within this amount, $4,000,000 is only for the Military Sewn Products Automation and $2,000,000 is only for the lease of equipment for the Instrumented Factory for Gears at the Illinois Institute of Technology Research Institute. DD Form 1414 shall show these items to be of special interest, a decrease to which requires prior Congressional approval.

ADVANCED SUBMARINE TECHNOLOGY

The conferees agree to provide $75,000,000. Within that amount, $1,200,000 is only for advanced weaving technologies. DD Form 1414 shall show this item to be of special interest, a decrease to which requires prior Congressional approval. The conferees are aware of a proposal to conduct an open ocean demonstration of magnetohydrodynamic propulsion technology for submarines using a scale model, and encourage DARPA to evaluate the merits of this technology and the proposed demonstration, and to consider funding this effort within available funds in this program. In addition, the conferees agree to the House earmark for nickel-cadmium battery research but in the amount of $850,000.

ARTIFICIAL IONOSPHERIC MIRROR FOR SURVEILLANCE OF LOW OBSERVABLES

The conferees direct that the Joint Counter Low Observables Office in the Office of the Undersecretary of Defense (Acquisition) assess the AIM-LO concept from the perspectives of operational utility, cost-effectiveness, military-effectiveness, technological risk, comparison with alternative technologies and systems accomplishing this mission, and a review of previous and existing work to develop this technology. This assessment shall be submitted to the Congress no later than June 1, 1992.

NUCLEAR PROLIFERATION MONITORING

The conferees are aware of a proposal to apply newly developed technologies to the monitoring of nuclear proliferation. The proposed program would develop new sensors and monitoring techniques to expand the United States' capability to monitor nuclear proliferation as well as chemical and biological weapons proliferation. The conferees direct that the Secretary of Defense conduct a study identifying the extent to which all federal departments and agencies are now conducting research in these areas. The approaches currently used to address the monitoring requirements should be discussed, noting any deficiencies and already programmed efforts to address them. The report should also assess the additional proliferation monitoring project detailing its cost and schedule, and evaluating whether the expected results will warrant such expenditures.

COMPUTER BASED TEACHING FOR MATHEMATICS AND SCIENCE

The conferees are aware of work being done at the National Science Center Foundation (NSCF), a nonprofit organization whose goal is to improve performance of students in mathematics and science by creating new technological tools for teaching those subjects and implementing them in schools. The NSCF's initial objective is to develop a computer-based teaching system, including courseware, to improve the teaching and learning of secondary math from algebra I through calculus. In view of the potential contributions of this project, the conferees direct the Secretary of Defense to assess the extent to which the capabilities NSCF is helping to develop are useful to the Department in accomplishing its defense mission. The conferees direct that this report be submitted to the Congressional defense committees no later than March 31, 1992.

NEUROSCIENCE CENTER

The conferees direct the Secretary of Defense to proceed with the solicitation of proposals for a collaborative spinal cord injury, paralysis, neuroscience research, education and training facility. Provision for this facility was made in the fiscal year 1990 and 1991 authorization and appropriation Acts, including a stipulation that no less than $18,000,000 was to be obligated within 90 days of enactment of the fiscal year 1991 appropriations Act for the Department of Defense. The conferees wish to reiterate the original Congressional intention of this legislation to provide only a university-based facility that would primarily focus on neuroscience and spinal cord injury related efforts. The university site should be recognized for its activities in the area of spinal cord injury and paralysis, as well as having expertise in neuro-degenerative disease, neuroscience, and trauma care. As previously agreed to, the federal contribution is to be for a facility within a science complex, and is to constitute no more than one-third of the total funds committed for such a facility. The conferees believe that there should be no additional delays in implementing this provision, and request a report on the issuance of the solicitation within 45 days of enactment of this Act. The conferees believe that there should be no additional delays in implementing this provision and direct the Department of Defense to issue a request-for-proposals within ten days of the enactment of this Act and to obligate funds within 180 days of the enactment of this Act.

STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM (SERP)

The conferees agree to provide $50,000,000 for the Strategic Environmental Research Program (SERP) for fiscal year 1992 and direct that the use of these funds also be governed by the directions stated in the Senate report. Within this amount, $1,000,000 is available only for the Consortium for International Earth Science Information Network to jointly study and develop mechanisms for transferring unclassified and recently declassified information to other government agencies and to nongovernmental organizations involved in global environmental change research. DD Form 1414 shall show this item to be of special interest, a decrease to which requires prior Congressional approval.

CONSOLIDATED DOD SOFTWARE INITIATIVE

The conferees agree to provide $54,000,000, an increase of $10,000,000 to the budget request. The conferees direct that $2,000,000 of the funds provided be available only for the Asset Source for Software Engineering Components (ASSET) project. The ASSET project shall be shown as a special Congressional interest item on DD Form 1414, a funding decrease to which requires prior Congressional approval.

STRATEGIC TECHNOLOGY

The conferees agree to provide $288,380,000, of which $20,000,000 shall be available only for the Defense Advanced Research Projects Agency Initiative in Concurrent Engineering (DARPA-DICE). DD Form 1414 for the Defense Agencies fiscal year 1992 RDT&E appropriations account shall show this to be a special interest item, a funding decrease to which requires prior Congressional approval. The conferees also direct the Office of the Secretary of Defense to conduct a study examining the increasing utilization of massively parallel and parallel vector supercomputer technology on board both submarines and combat aircraft where space and weight limitations are at a premium. The study should examine currently available systems emphasizing size, weight, performance, scalability, life cycle costs and reliability. Results of this study will be made available to the Appropriations Committees no later than June 15, 1992. The conferees agree with the House direction that not less than $26,500,000 shall only be available for project ST-16, high temperature superconductivity. The conferees further agree with the House designation of $1,500,000 only for the second year of a multi-year $5,000,000 superconductive digital electronics project. DD Form 1414 for the Defense Agencies fiscal year 1992 RDT&E appropriations account shall show these earmarks as special interest items, a funding decrease to which requires prior Congressional approval.

UNMANNED AIR VEHICLE JOINT PROGRAM (UAVS)

The conferees agree to provide $84,013,000 for the UAV program instead of $86,300,000 as proposed by the House and $70,513,000 as proposed by the Senate. The conferees agree with the Senate reductions to the budget request of $2,000,000 identified as excess to program requirements and $3,549,000 for the short range UAV block III upgrade. The conferees also agree to provide $31,100,000 within the total fiscal year 1992 budget amount for the medium range unmanned air vehicle. The conferees also direct that $1,200,000 of the funds provided for the interoperability/commonality project shall be available only to continue development of a common automatic recovery system as described in the Senate report.

The conferees agree to the following additions to the fiscal year 1992 request: $6,200,000 for close range UAV technology demonstrations and $20,000,000 for MAVUS II to continue examining the efficiencies of shipboard operations of a VTOL UAV system for a variety of missions. The conferees have also provided $15,000,000 for the Tilt-Rotor Demonstration Project. The conferees believe that the additional resources provided for the tilt-rotor project should enable the Joint Program Office to conduct an aggressive technology demonstration program which utilizes a systems-based approach to address actual maritime UAV mission requirements.

Finally, the conferees agree to the prohibitions and directions in the Senate report language, including the prohibition on the obligation or expenditure of fiscal year 1992 funds made available to the Joint Program Office for any tactical endurance UAV activities.

SPECIAL OPERATIONS FORCES

The conferees agree to provide $298,316,000 which represents the following adjustments to the budget request: +$3,800,000 for the coastal patrol craft; +$4,000,000 for the Joint Advanced Special Operations Radio project; +$20,000,000 for the Mark V fast patrol boat project; −$2,800,000 from the Advanced Seal Delivery System (ASDS) project; −$6,200,000 from prior year funds available for the cancelled MC-130H Combat Talon II Integrated Defensive System (CIDS) project; −$19,800,000 from the indefinitely deferred Combat Talon II Detection Avoidance System; and +$15,000,000 for CV-22.

The conferees direct SOCOM to report to Congress on the specific uses of the remaining $9,900,000 in fiscal year 1991 funds reallocated from the CIDS project.

Additionally, the Command shall ensure that the stabilized weapon platform system is fully funded.

Finally, the conferees agree to deny the $1,991,000 request by the Air Force Special Operations Forces program element. First, such funds, if justified should be requested in SOCOM's budget; second, the budget justification material provided to Congress demonstrates clearly that the use of these funds is not related to the Special Operations Forces.

Mark V Patrol Boats. The conferees provide $20,000,000 for the design and selection of prototype Mark V fast patrol boats (PB MK-V) for Special Operations SEAL insertion missions. The conferees expect the US Special Operations Command (USSOCOM) to proceed expeditiously to develop and field a fast seal insertion boat no later than fiscal year 1994. The $20,000,000 should be used for the following purposes: to establish a MK-V program office; to develop a technical data package; to complete a market survey; to finalize a comprehensive acquisition strategy; to solicit bids from qualified U.S. manufacturers through an expedited request for proposal process; to select from competitive proven designs; and to award a contract for prototype boats.

The conferees expect that all these activities will be completed in fiscal year 1992 so that a full prototype testing program can be funded and implemented as soon as possible and a candidate MK-V boat selected. The Department is directed to provide full funding beginning with the fiscal year 1993 budget for any military personnel, RDT&E, procurement, military construction and operation & maintenance funding that will be required for the MK-V boat. The conferees recognize the special operations requirement for a SEAL insertion boat that is both fast and air transportable. The conferees direct that advance propulsion drives be investigated as part of the competitive process for testing of prototype boats. The conferees also direct that USSOCOM ensure that its requirements for MK-V include the drug interdiction mission and that testing of one of the prototype boats be oriented toward Andeantype riverine environments.

Program Management. The conferees agree that program management for the ASDS and the Mark V shall be the responsibility of the U.S. Special Operations Command (USSOCOM), in consultation with the Assistant Secretary of Defense SO/LIC. Additionally, the conferees direct that the Naval Sea Systems Command (NAVSEA) be responsible for executing these projects at SOCOM's direction. The conferees expect status reports on the ASDS and Mark V programs to be cosigned by the Director, SORDAC and Commander of NAVSEA, and submitted to the Appropriations Committees of the House and Senate on a quarterly basis beginning with the second quarter, FY 1992. Furthermore, the conferees direct that not less that 4,000,000 of the funds appropriated to SOCOM for Management Headquarters, PE1150198BB, and not less than $4,000,000 of the funds appropriated to Naval Sea Systems Command management headquarters account shall remain unobigated and unexpended until a report is provided to the Committees on Appropriations of the House and Seante certifying that all milestones mandated for the Mark V program in fiscal year 1992 will be completed.

The conferees expect that SOCOM and NAVSEA will move expeditiously to implement the directions of the conferees regarding the Mark V accelerated acquisition strategy. The conferees are dismayed at the lack of coordination and responsiveness evidenced so far in the development of this and other Special Operations Forces programs. It is the expectation of the conferees that the

Mark V program should demonstrate coordination, cooperation, and sound management policies among the command headquarters, ASD SO/LIC, the Services and field operators.

Furthermore, the conferees expect that NAVSEA will use fiscal years 1991 and 1992 funds for the ASDS project as directed by USSOCOM. The conferees fully support the Senate's language on the Mark V program and expect full compliance with the accelerated schedule and milestones. The conferees direct the Department to ensure that full funding is provided in future years for all program support costs associated with these programs.

DIRECTOR OF TEST AND EVALUATION, DEFENSE

Amendment No. 99: Appropriates $211,277,000 instead of $221,300,000 as proposed by the House and $215,764,000 as proposed by the Senate.

The conference agreement on item addressed by either the House or Senate is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Director of Test and Eval Defense:				
Central test and evaluation investment development (CT	125,527	85,927	89,927	93,327
Foreign comparative testing	34,923	34,923	22,192	17,100
Development test and evaluation	109,400	84,400	87,195	84,400

CENTRAL TEST AND EVALUATION INVESTMENT PROGRAM

The conferees have provided $93,327,000 for the Central Test and Evaluation Investment Program. The conferees have restored the House-recommended reduction of $40,000,000 to this program element. The conferees agree to all of the Senate reductions with the exception of the reduction of $14,000,000 for the common airborne instrumentation system (CAIS) program, for which the conferees have restored $3,400,000. With respect to the Global Positioning System (GPS) Range Applications Joint Program Office (RAJPO) program, the conferees agree to the Senate earmarks of funds within service program elements for acquisition of GPS RAJPO instrumentation. The conferees direct that GPS RAJPO equipment suites be procured competitively beginning in fiscal year 1993. The conferees have included bill language restricting the Department of Defense to the purchase of only eight GPS RAJPO equipment suites using fiscal years 1991 and 1992 funding. The conferees' action defers the planned fiscal year 1992 purchase of three equipment suites until the competitive procurement effort. The conferees further direct that any savings from the deferral of these three equipment suites should be used to foster competition in the GPS RAJPO development program.

TITLE V—DEFENSE BUSINESS OPERATIONS FUND

Amendment No. 100: Deletes House language; appropriates $3,424,200,000 instead of $3,400,200,000 as proposed by the Senate; and deletes House language making $24,000,000 subject to authorization.

[In thousands of dollars]

	Budget	House	Senate	Conference
Revolving and Management Funds				
Defense business operations fund	2,979,970	0	3,400,200	3,424,200
War reserves				(426,300)
Army Stock Fund				
Depot level repairables		827,300	0	0
Air Force Stock Fund				
Depot level repairables		1,190,500	0	0
War reserve stocks		426,300		
Total, revolving and management funds	2,979,970	2,444,100	3,400,200	3,424,200

DEFENSE BUSINESS OPERATIONS FUND

Section 8121 establishes the Defense Business Operations Fund (DBOF) in 1992. This fund will incorporate all existing stock and industrial funds plus the Defense Finance and Accounting Service, the Defense Commissary Agency, and three small Defense Logistics Agency functions. The Department is directed to abide by the reporting requirements and capital budgeting restrictions defined in the Senate report accompanying its version of the 1992 Defense Appropriations Bill.

The conferees agree to provide the full amount requested by the Administration for DBOF, and provide an additional $24,000,000 for the purchase of war reserve spare parts and supplies for special operations forces.

The conferees understand that those activities which do not operate currently as a revolving fund—such as the Defense Commissary Agency—will undergo the most significant changes when incorporated into DBOF. As such, the conferees are especially concerned about the potential loss of oversight of them. So, for 1992, the Department should implement DBOF in such a way as to preserve the discrete identification of each of these activities, including separate accounting, financial reporting, and auditing.

The conferees believe that the implementation of DBOF in 1992, as defined above, is an appropriate first step. No proposal which seeks to add other activities to DBOF will be approved until the Department can demonstrate that the first phase of this program has succeeded in realizing the management and efficiency benefits the Department claims will occur.

PENTAGON RESERVATION MAINTENANCE FUND

The conferees have examined in detail the Department's proposal to initiate the renovation and modernization of the Pentagon facilities. In Section 8143, funds are made available to support the initial phase of this project to replace the deteriorating and inadequate powerplant for the Pentagon and to begin the design of a new Logistics Support Annex.

The conferees are concerned about whether this project should be funded within the Defense Appropriations bill, or in the Military Construction Appropriations bill. While the conferees recognize the need to improve the Pentagon facilities, this project will impose a significant funding liability on the operation and maintenance appropriations in the future. And, because the project envisions a full-fledged renovation of the Pentagon, funding for it should compete with other Department of Defense military construction priorities. The conferees note that similar concerns led all four Defense Committees to reject the Department's plan to fund military construction projects through the Defense Business Operations Fund. As such, the Department is directed to examine alternative funding methods for this project and provide a report detailing such alternatives to the Committees on Appropriations of the House and Senate no later than June 1, 1992.

WAR RESERVE STOCKS

War reserve stocks shall be identified as a separate line item in justification books. It shall also show a breakdown by Service.

DOD COMMISSARY AGENCY PURCHASING ACTIVITIES

The conferees support the Department's initiative to merge the military commissaries, to realize economies and improve service to DOD personnel and their dependents. Last year, DOD merged the service commands in Alaska into the Pacific Command, creating a new, subunified command. In both Anchorage and Fairbanks, Army and Air Force bases are located in close proximity, and personnel at installations in both areas utilize facilities on each base. The conferees believe that the Commissary Agency could realize significant savings by creating a single purchasing organization in Alaska to serve the several Air Force and Army bases in the State. Currently, purchasing for the installations in Alaska is shared by different offices located elsewhere in the United States. The Director of the Commissary Agency shall report to the Committees on Appropriations of the House and Senate the plan for consolidation of purchasing services in Alaska not later than February 15, 1992.

DBOF/MANAGE TO PAYROLL

The conferees understand that with the implementation of the Defense Business Operations Fund, current management constraints on covered activities, including the Manage to Payroll program, are no longer appropriate. Therefore the Department is directed to suspend such programs as it implements DBOF.

TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

Amendment No. 101: Appropriates $208,698,000 for operation and maintenance as proposed by the House instead of $210,900,000 as proposed by the Senate. The conferees are aware of additional dramatic cost increases and schedule slippages which have recently occurred in this program. These changes make even more important the submission of a revised schedule and life cycle cost report as directed by the House. In conformance with this direction, the report shall be submitted by February 1, 1992 and shall include disposal plans, schedules, and costs for nonstockpile chemical warfare items. The report shall also reflect realistic schedules and costs, without regard to artificially imposed deadlines, using cost, programmatic, and technical information gleaned from most recent experience.

The most recent program changes make obsolete the operation and maintenance budget submitted in February. On the one hand, fiscal year 1992 operating costs for the destruction facility at Tooele Army Depot will clearly be far less than the $22,800,000 budgeted because completion of facility construction has slipped by another year. On the other hand, operating costs at the Johnston Island facility have increased as a result of higher wage rates, new incentives, and program slippage. Other changes have occurred in virtually every component of the operation and maintenance budget. The Department is therefore directed to submit an allocation and budget justification for the appropriated program within 60 days of the enactment of this legislation. Such an allocation shall fully support the proposed single agency and emergency response requirements. The allocation shall also consider House budget adjustments based on the belief that program management and support costs were overstated.

Amendment No. 102: Appropriates $151,800,000 for procurement instead of

$229,202,000 as proposed by the House and $250,000,000 as proposed by the Senate. The conference agreement funds the procurement requirements estimated in the most recent program documentation from the Department. The agreement is allocated as follows: Tooele, $49,700,000; Anniston (three items of equipment), $16,200,000; Umatilla (deactivation furnace), $8,700,000; other facility locations (process design), $5,400,000; program support, $37,000,000; emergency response, $10,900,000; JACADS, $1,500,000; CAMDS, $2,200,000; training facility, $200,000.

Finally, the agreement includes $20,000,000 in advance procurement for a cryofracture facility. The conferees recognize that additional research and testing needs to be done on this approach to chemical weapon disposal before a facility decision can appropriately be made. However, the funding is being included in the bill, as proposed by the Senate, to indicate the strong support for this program by both Houses. The funding will also give the Department the ability to proceed immediately on equipment procurement when a decision to proceed with such a facility is made.

Amendment No. 103: Appropriates a total of $374,398,000 for chemical Agents and Munitions Destruction, Defense, instead of $451,800,000 as proposed by the House and $474,800,000 as proposed by the Senate.

Amendment No. 104: Amends House provision limiting the procurement of equipment for certain chemical weapon disposal facilities.

The House provision, stricken by the Senate, prohibited obligation or expenditure of funds for procurement of equipment for facilities other than Tooele Army Depot until operational verification testing at the Johnston Atoll Chemical Agent Destruction Facility (JACADS) was complete and certain other conditions were met. Subsequent slippage in the program makes this House provision unrealistic and unworkable. However, the conferees agree that additional testing needs to be completed at JACADS before major equipment investments are made for new facilities. Such an approach reduces, in the interest of safety and prudent management, the concurrency in this program which previous deadlines have forced the Department to include in schedules and budgets. The conference agreement for equipment procurement includes funding in the amount of $8,700,000 for procurement of a deactivation furnace for the Umatilla facility and $16,200,000 for three items of equipment for Anniston. The proviso agreed to by the conferees will prohibit obligating these funds until Phase III of JACADS OVT is started, currently scheduled for May, 1992.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

Amendment No. 105: Appropriates $1,188,600,000 instead of $1,155,994,000 as proposed by the House and $1,117,075,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

Project no.	Budget	House	Senate	Conference
O&M, Army:				
2107	5,558		5,558	5,558
2302	1,700		1,700	1,700
2311	16,200		16,200	
2314	12,573		12,573	12,573
2429	7,191	1,191	7,191	1,191
Aerostats—Coast Guard			21,200	19,400
General reduction			−10,000	−10,000
O&M, Navy:				
3110	200	200		
E–2C Coast Guard			13,200	12,180
O&M Marine Corps:				
3415	2,300		2,300	2,300
3432	2,600		2,600	2,600
O&M, Air Force:				
Aerostats—Coast Guard		23,250	23,900	23,120

[In thousands of dollars]

Project no.	Budget	House	Senate	Conference
O&M, Defense Agencies:				
1401	25,000	25,000	10,000	15,000
1406	2,000		2,000	
NDIC		10,000		10,000
OPTEMPO			−35,000	−20,875
Demand reduction			−10,000	−10,000
Other procurement, Army:				
2107	6,500		6,500	6,500
2429	6,800	4,500	6,800	4,500
General reduction			−6,500	
Aircraft Procurement, Navy:				
HH–60J				30,000
Procurement, Marine Corps:				
3415	3,000		3,000	3,000
Procurement, Defense Agencies:				
1406	5,000		5,000	
NDIC		20,000		20,000
National Guard and Reserve Equipment:				
3000	3,000	18,000	3,000	3,000
RDT&E, Army:				
2314	5,000		5,000	5,000
RDT&E, Defense Agencies:				
1403	30,000	35,000	30,000	35,000
4227		8,000		6,000
NDIC		10,000		10,000

REPROGRAMMING PROCESS

Due to the changing requirements and priorities of law enforcement needs in the counter-drug mission, the conferees agree that some flexibility is required to transfer funds between appropriations. The conferees further believe that the Committees must be able to track these transfers without going through the formal reprogramming process. Therefore, the conferees direct that the Department submit an exhibit along with the submission of the Amended Fiscal Year 1993 request showing fiscal year 1992 enacted, fiscal year 1992 estimate, and fiscal year 1993 request for each project by appropriation. The fiscal year 1992 budget request, House and Senate actions, and enacted columns follow:

Proj. No.	Appropriation	Budget	House	Senate	Conference	Change
2000	Reserve personnel, Army: Support	$5,600	$5,600	$5,600	$5,600	0
	Subtotal, RPA	5,600	5,600	5,600	5,600	0
3000	Reserve personnel, Navy: Support	3,500	3,500	3,500	3,500	0
	Subtotal, RPN	3,500	3,500	3,500	3,500	0
3050	Reserve personnel, MC: Support	1,100	1,100	1,100	1,100	0
	Subtotal, RPMC	1,100	1,100	1,100	1,100	0
4000	Reserve personnel, AF: Support	2,000	2,000	2,000	2,000	0
	Subtotal, RPAF	2,000	2,000	2,000	2,000	0
7403	Nat'l Gd per, Army: Support: State plans	96,577	96,577	96,577	96,577	0
	Subtotal, NGPA	96,577	96,577	96,577	96,577	0
	Nat'l Gd per, AF Support:					
*4104	NORAD support	567	567	567	567	0
*4120	LANT radars	2,381	2,381	2,381	2,381	0
7403	State plans	13,116	13,116	13,116	13,116	0
7404	OPS support	6,800	6,800	6,800	6,800	0
7405	Alert dets	2,500	2,500	2,500	2,500	0
	Subtotal, NGPAF	25,364	25,364	25,364	25,364	0
	Subtotal, personnel	134,141	134,141	134,141	134,141	0
	O&M, Army:					
2101	CMS Comm tier I	4,334	4,334	4,334	4,334	0
2105	FORSCOM Adnet	520	520	520	520	0
2107	CMS Tier II	5,558	0	5,558	5,558	0
*2302	Southcom (DMS I)	1,700	0	1,700	1,700	0
*2306	SASS #2 USLANTCOM	8,100	8,100	8,100	8,100	0
2307	CINCARLANT support	40	40	40	40	0
*2311	SASS 3 & 4	16,200	0	16,200	0	−16,200
*2312	SASS #1 USSOUTHCOM	10,900	10,900	10,900	10,900	0
*2314	Air Recce Low	12,573	0	12,573	12,573	0
*2319	Tactical analysis teams	461	461	461	461	0
*2324	JTF–4 Cefirm Leader	500	500	500	500	0
*2325	HTF–4 Quardrail ops	2,000	2,000	2,000	2,000	0
2328	USARPAC Reg Spt	625	0	0	0	−625
2336	USCINCFOR Adnet	75	75	75	75	0
2338	Army anti-drug cell	250	250	250	250	0
2346	USEUCOM travel	35	35	35	35	0
2348	EUCOM C3I upgrade	4	4	4	4	0

Proj. No.	Appropriation	Budget	House	Senate	Conference	Change
*2352	AIA support	2,192	2,192	2,192	2,192	0
2357	SOUTHCOM C3 Upgrade	13,192	0	0	0	−13,192
2403	Southcom PYSOPS	400	0	0	0	−400
2411	USARSO Cmd Spt	1,000	0	0	0	−1,000
*2414	JTF–4 OV–1 ops	1,250	1,250	1,250	1,250	0
*2415	Mil group spt–TAT	2,500	2,500	2,500	2,500	0
2416	Army Cmd Spt	700	0	0	0	−700
2420	TADIL–A	213	213	213	213	0
2422	CINCFOR Army spt	300	300	300	300	0
*2429	FORSCOM/JTF–6 Ops	7,191	1,191	7,191	1,191	−6,000
2435	JTF–6 training spt	19,722	19,722	19,722	19,722	0
*2439	Intel Ops Tier II	1,800	1,800	1,800	1,800	0
*2440	Cmd & Mgt Sys (CMS)	3,300	3,300	3,300	3,300	0
2444	USARSO Aviation Spt	3,708	0	0	0	−3,708
	Aerostats—Coast Guard			21,200	19,400	19,400
	General reduction			−10,000	−10,000	−10,000
	OPTEMPO*	19,984	19,984	19,984	19,984	0
	Demand reduction	52,900	52,900	52,900	52,900	0
	Subtotal, O&M Army	194,227	132,571	185,802	161,802	−32,425
	O&M, Navy:					
3104	Lant planning/coord	78	78	78	78	0
3110	PHM Link 11	200	200	0	0	−200
3202	JTF–4 Comm connectivity	2,544	2,544	2,544	2,544	0
3204	PACOM support	1,176	1,176	1,176	1,176	0
3207	Caribroc comm	600	600	600	600	0
*3210	JMIE computer cost	1,200	1,200	1,200	1,200	0
*3301	JTF–4 (GDIP)	1,275	1,275	1,275	1,275	0
*3302	JTF–5 (GDIP)	1,125	1,125	1,125	1,125	0
*3306	JTF–4 Fision ctr	3,180	3,180	3,180	3,180	0
*3309	JTF–5 Fusion ctr	2,905	2,905	2,905	2,905	0
*3317	Comm spt processor	120	120	120	120	0
*3339	JMIE data acq	675	675	675	675	0
*3356	JMIE core upgrade	100	100	100	100	0
*3358	Div N–Opintcen	7,007	7,007	7,007	7,007	0
*3361	NYIC data base expand	2,388	2,388	2,388	2,388	0
*3372	JTF–4 Fusion ctr manpow	553	553	553	553	0
*3391	Jnt maitime intel	43	43	43	43	0
*3392	Flt image spt team III	378	378	378	378	0
*3406	Rdr man providenciales	810	810	810	810	0
3410	JTF–4 physical security	230	230	230	230	0
3417	JTF–4 operations manpow	448	448	448	448	0
3427	JTF–4 staff support	1,128	1,128	1,128	1,128	0
	E–2C—Coast Guard			13,200	12,180	12,180
	OPTEMPO	195,537	195,537	195,537	195,537	0
	Demand reduction	31,261	31,261	31,261	31,261	0
	Subtotal, O&M Navy	254,961	254,961	267,961	266,941	11,980
	O&M, MC:					
3415	Riverine craft	2,300	0	2,300	2,300	0
3432	Riverine dfts	2,600	0	2,600	2,600	0
*3345	Thermal imager	5	5	5	5	0
	OTEMPO	2,600	2,600	2,600	2,600	0
	Demand reduction	3,300	3,300	3,300	3,300	0
	Subtotal, O&M MC	10,805	5,905	10,805	10,805	0
	O&M, AF:					
4104	NORAD support	3,059	3,059	3,059	3,059	0
*4110	Aerostats	7,467	7,467	7,467	7,467	0
*4116	Aerostats—Customs	37,100	37,100	37,100	37,100	0
	Aerostats—Coast Guard	0	23,250	23,900	23,120	23,120
*4120	LANT dep radars	9,618	9,618	9,618	9,618	0
*4123	JEWC spt	635	635	635	635	0
*4207	CRBN	33,900	33,900	33,900	33,900	0
*4212	Airbrn cd info sys (ACI)	200	200	200	200	0
*4360	CE/SO am imagery	1,900	1,900	1,900	1,900	0
4411	Mil working dogs	800	800	800	800	0
*4419	Radar support	15,600	15,600	15,600	15,600	0
4420	AFOSI support	1,940	1,940	1,940	1,940	0
4431	TAC ops spt	7,837	7,837	7,837	7,837	0
4432	SAC ops spt	1,902	1,902	1,902	1,902	0
4499	Civil Air Patrol	1,000	1,000	1,000	1,000	0
	OPTEMPO	55,915	55,915	55,915	55,915	0
	Demand reduction	6,700	6,700	6,700	6,700	0
	Subtotal, O&M AF	185,573	208,823	209,473	208,693	23,120
	O&M, Defense Agencies:					
1102	JOTS/VIDS (Adnet)	3,600	3,600	3,600	3,600	0
*1363	Tector port	109	109	109	109	0
*1401	MC&G support	25,000	25,000	10,000	15,000	−10,000
*1404	Throttle car	1,550	1,550	1,550	1,550	0
*1406	Adnet intel upgrade	2,000	0	2,000	0	−2,000
5202	C3I network	4,700	4,700	4,700	4,700	0
6404	SOCOM Riverine support	900	900	900	900	0
6415	SOC CINC support	2,850	2,850	2,850	2,850	0
9401	OSD support	6,210	6,210	6,210	6,210	0
9402	Joint staff support	369	369	369	369	0
	Classified programs	32,645	32,645	32,645	32,645	0
	OPTEMPO (SDC)	3,300	3,300	3,300	3,300	0
	Demand reduction	1,382	1,382	1,382	1,382	0
	NDIC	0	10,000	0	10,000	10,000
	Subtotal, O&MDA	84,615	92,615	69,615	82,615	−2,000
	O&M, Army Reserve:					
2000	Support	3,500	3,500	3,500	3,500	0
2435	JTF–6 Reserves	3,078	3,078	3,078	3,078	0
	OPTEMPO	3,582	3,582	3,582	3,582	0
	Demand reduction	700	700	700	700	0
	Subtotal, O&M AR	10,860	10,860	10,860	10,860	0
	O&M, Navy Reserve:					
3000	Support	2,500	2,500	2,500	2,500	0

Proj. No.	Appropriation	Budget	House	Senate	Conference	Change
*3310	LANTCOM	51	51	51	51	0
	OPTEMPO	1,563	1,563	1,563	1,563	0
	Demand reduction	239	239	239	239	0
	Subtotal, O&M NR	4,353	4,353	4,353	4,353	0
3050	O&M, Marine Corps Res: Support	1,300	1,300	1,300	1,300	0
	Subtotal, O&M MCR	1,300	1,300	1,300	1,300	0
	O&M, Air Force Res:					
4000	Support	1,900	1,900	1,900	1,900	0
	OPTEMPO	1,038	1,038	1,038	1,038	0
	Subtotal, O&M AFR	2,938	2,938	2,938	2,938	0
	O&M, Army National Guard: Support:					
7403	State plans	27,515	27,515	27,515	27,515	0
	OPTEMPO	11,996	11,996	11,996	11,996	0
	Demand reduction	5,400	5,400	5,400	5,400	0
	Subtotal, O&M ARNG	44,911	44,911	44,911	44,911	0
	O&M, Air National Guard: Support:					
7403	State plans	4,627	4,627	4,627	4,627	0
7404	Operations spt	300	300	300	300	0
7405	Alert det	2,637	2,637	2,637	2,637	0
	OPTEMPO	6,642	6,642	6,642	6,642	0
	Subtotal, O&M ANG	14,206	14,206	14,206	14,206	0
	OPTEMPO	....	....	−35,000	−20,875	−20,875
	Demand reduction	....	....	−10,000	−10,000	−10,000
	LEA support.					
	Subtotal O&M	808,749	773,443	777,224	778,549	−30,200
	Procurement: Other, Army:					
2101	CMS Comm Tier I	600	600	600	600	0
2105	FORSCOM Adnet	180	180	180	180	0
2107	CMS Comm Tier II	6,500	0	6,500	6,500	0
*2319	Tactical Analysis teams	60	60	60	60	0
2357	SOUTHCOM C3 Upgrade	3,000	0	0	0	−3,000
*2429	FORSCOM/JTF–6 Ops	6,800	4,500	6,800	4,500	−2,300
2444	USARSO Aviation support	500	0	0	0	−500
	General reduction	0	0	−6,500	0	0
	Subtotal, Other Army	17,640	5,340	7,640	11,840	−5,800
	Aircraft, Navy: HH–60 Helicopter	0	0	0	30,000	30,000
	Subtotal, Aircraft Na	0	0	0	30,000	30,000
	Other, Navy:					
3204	PACOM support	100	100	100	100	0
*3309	JTF–5 fusion center	500	500	500	500	0
*3339	JMIE data acq	75	75	75	75	0
*3356	JMIE core upgrade	400	400	400	400	0
*3361	NTIC data base expand	228	228	228	228	0
	Subtotal, Other Navy	1,303	1,303	1,303	1,303	0
	Marine Corps:					
*3345	Thermal imager	600	600	600	600	0
*3399	Tac remote sensor	10,325	10,325	10,325	10,325	0
3415	Riverine craft	3,000	0	3,000	3,000	0
	Subtotal, Marine Corp	13,925	10,925	13,925	13,925	0
	A/C Air Force:					
*4212	Airbrn cd info sys (ACI	3,000	3,000	3,000	3,000	0
*4350	Classified	2,305	2,305	2,305	2,305	0
	Subtotal, Aircraft AF	5,305	5,305	5,305	5,305	0
	Other Air Force:					
4127	Air traffic coord	3,580	3,580	3,580	3,580	0
*4207	CRBN	13,000	13,000	13,000	13,000	0
4420	AFOSI support	350	350	350	350	0
	Subtotal, Other AF	16,930	16,930	16,930	16,930	0
	Defense Agencies:					
1102	JOTS/VIDS	300	300	300	300	0
*1363	Tector port	1,500	1,500	1,500	1,500	0
*1404	Throttle car	2,500	2,500	2,500	2,500	0
*1406	Adnet intel upgrade	5,000	0	5,000	0	−5,000
5202	C3I integration	5,000	5,000	5,000	5,000	0
6404	Southcom riverine spt	1,100	1,100	1,100	1,100	0
	NDIC	0	20,000	0	20,000	20,000
	Classified projects	45,218	45,218	45,218	45,218	0
	Subtotal	60,618	75,618	60,618	75,618	15,000
	Natl Gd & Res Equip:					
2000	Army Reserve	3,000	3,000	3,000	3,000	0
3000	Navy Reserve	3,000	18,000	3,000	3,000	0
3050	MC Reserve	1,500	1,500	1,500	1,500	0
4000	AF Reserve	3,000	3,000	3,000	3,000	0
7402	ARNG—State	0	0	0	0	0
7403	ANG—State	12,590	12,590	12,590	12,590	0
	Subtotal, NG&RE	23,090	38,090	23,090	23,090	0
	Total Procurement	138,811	153,511	128,811	178,011	39,200
	RDT&E Army:					
*2312	SASS 1 USSOUTHCOM	3,800	3,800	3,800	3,800	0

Proj. No.	Appropriation	Budget	House	Senate	Conference	Change
*2314	Airborne recce low	5,000	0	5,000	5,000	0
	Subtotal, R&D Army	8,800	3,800	8,800	8,800	0
	RDT&E, Navy:					
3415	Riverine craft	100	100	100	100	0
	Subtotal, R&D Navy	100	100	100	100	0
	RDT&E, Air Force:					
4211	AWACS adaptive HF	6,000	6,000	6,000	6,000	0
*4212	Airbrn info (ACIS)	2,500	2,500	2,500	2,500	0
	Subtotal, R&D AF	8,500	8,500	8,500	8,500	0
	RDT&E, Defense Agencies:					
*1363	Tector port	2,000	2,000	2,000	2,000	0
1402	Info sys arch	1,000	1,000	1,000	1,000	0
1403	R&D	30,000	35,000	30,000	35,000	5,000
*1405	Passive cohernt loc	3,873	3,873	3,873	3,873	0
*4227	OTH test bed	0	8,000	0	6,000	6,000
	NDIC	0	10,000	0	10,000	10,000
	Classified	22,626	22,626	22,626	22,626	0
	Subtotal, R&D DA	59,499	82,499	59,499	80,499	21,000
	Total R&D	76,899	94,899	76,899	97,899	21,000
7403	NG State Plans					
	Grand Total	1,158,600	1,155,994	1,117,075	1,188,600	30,000

Formal reprogramming procedures will need to be followed for new starts or any adjustments to Congressional interest items.

GENERAL REDUCTIONS

The conferees agree to take general reductions for OPTEMPO and Demand Reduction in order to provide flexibility to the Department in allocating the reductions. None of these reductions should be taken against the National Guard or Reserve programs. It is not the conferees intent to unduly restrict the counter-narcotics operating missions. Therefore, even though the OPTEMPO reduction is a Congressional adjustment, the conferees agree to allow the Department flexibility in restoring OPTEMPO funds from within this appropriation as an exception to the reprogramming policy stated above. A breakout of how these reductions have been distributed should be provided to the Committees along with the submission of the Amended fiscal year 1993 budget request.

The $10,000,000 general reduction in Operation and maintenance, Army shall not be assessed against any programs other than Tactical Intelligence and Intelligence-Related (TIARA) programs.

NATIONAL GUARD AND RESERVES

Mobile Inshore Underwater Warfare (MIUW) Vans. The conferees agree to fund the upgrade to the MIUW vans in the National Guard and Reserve Equipment appropriation.

Demand reduction. The conferees agree with Senate language that an aggressive demand reduction program by the National Guard accrues enormous benefits to the States and that the Department should align a larger portion of its program to support central direction and management of the State plans in order to ensure an effective and consistent program. The conferees further believe that the Department should provide demand reduction funding directly to the States through their State plans. However, this additional funding should not be offset by reductions in the 1992 State plans.

The New Mexico National Guard has been in the forefront of developing and implementing a demand reduction plan on a volunteer basis. The Department should review their program to see whether it should be considered as a model for other States. In addition, the conferees recommend that the New Mexico National Guard conduct a pilot program to rehabilitate youth offenders as an extension of their community relations program.

National Interagency Counter-drug Institute (NICI). The National Interagency Counter-drug Institute (NICI) provides inoperability training among military, federal, state, and local law enforcement personnel in domestic counter-narcotics operations. The conferees believe NICI should be removed from the California State plan and become a permanent, long-term commitment at the national level. Therefore the Department should make available whatever resources are required to staff NICI with a full-time cadre for instruction, coordination and management of the program. Priority consideration should be given to assigning personnel currently associated with NICI in order to maintain continuity of operations. Any future assignments should be competitive.

The ceiling on Active Guard/Reserve positions in Section 8015 has been adjusted to include 20 for the Army National Guard and 5 for the Air National Guard.

Multi-Jurisdictional Task Force Training. The conferees are aware of the need to further assist federal, state and local law enforcement in using the resources available from the National Guard in coordinated efforts which often cross jurisdictional lines. Therefore, the conferees direct the Florida National Guard to execute a need-based, regionally responsive, multi-jurisdictional counter-drug operations training program in order to increase access to military resources and interagency coordination in counter-drug operations and to establish a database of training requirements for successful operational strategies.

Within thirty days after enactment of this Act, the Department is to transfer $1,000,000 through the National Guard Bureau to the Florida National Guard to establish such a training program and database.

Armored Wheeled Vehicles. In fiscal year 1991, the Department was directed to evaluate the use of armored wheeled vehicles in the drug interdiction mission of the Army National Guard. Because of Operation Desert Shield/Storm, the vehicles were not delivered to the Guard until August 1991, which was after the prime drug production season. The conferees therefore direct the Department to extend the evaluation through December 31, 1992 and to report back to the Committees on Appropriations no later than March 1, 1993. In addition, the conferees direct the Department to provide sufficient funds for this evaluation, which is to include night vision capability.

COAST GUARD AEROSTATS AND E-2CS

The conferees agree to provide $54,700,000 for the operation of the land- and sea-based aerostats and E-2C aircraft formerly operated by the United States Coast Guard. This amount reflects the fiscal year 1992 operating costs of these assets from October 29, 1991, forward as well as a $7,000,000 enhancement to allow for the operation of three additional land-based aerostats as requested in the Administration's fiscal year 1992 budget for the Coast Guard. The conferees are aware that while the E-2C aircraft have been transferred back to the Navy, the Coast Guard will operate the land- and sea-based aerostats at Department of Defense expense through November 30, 1991, under the provisions of a Memorandum of Agreement. The conferees direct that the Department of Defense take complete operational control of these assets through an orderly transition process as soon as possible. In addition, the conferees expect the Department to budget for the operation of these programs in fiscal year 1993 and beyond.

Since it should be cost-effective for the Department of Defense to operate these systems, any savings generated may be applied to other approved programs.

CUSTOMS AEROSTATS

The conferees agree that the completion of the radar surveillance network in the Gulf of Mexico and the Caribbean is essential to our national drug interdiction efforts and that the southern border network be completed without further delay. Therefore, bill language has been included which directs the Department of Defense to transfer $60,000,000 in prior year funding from "Missile Procurement, Air Force" to the Drug Interdiction account in order to procure these aerostat radar systems. Of the $60,000,000 provided, the conferees direct the Department to transfer, not later than thirty days after enactment of this Act, such funds as required to the United States Customs Service in order to award, implement, and to facilitate the procurement of no fewer than four aerostat radar systems to be established at predetermined sites at Matagorda Island, Texas; Morgan City, Louisiana; Great Inagua Island; and Horseshoe Beach, Florida.

HH-60J HELICOPTER

The conferees believe that the HH-60J has unique night vision and radar detection capabilities which can provide a strong weapon for detecting small craft smuggling drugs into the United States. Therefore, the conferees agree to provide $30,000,000 for the procurement of one HH–60J. In order to aid the process of interoperability, this airframe should be configured in the same manner as the helicopters operated by the Coast Guard. Additionally, the conferees agree that at the discretion of the Secretary of Defense, this HH–60J may be provided to the Coast Guard in order to support their drug interdiction operations.

CIVIL AIR PATROL

The conferees agree that the Department should adhere to direction provided in both the House and Senate reports. This guidance should be incorporated into DOD guidelines for use of the Civil Air Patrol in drug interdiction missions so that the Committees do not need to address this issue in future years.

COMMERCIAL RECONNAISSANCE

The conferees direct the Department to examine the potential application of commercial reconnaissance and C–3 aircraft with real-time satellite video relay and integral remotely piloted vehicle capabilities in drug interdiction roles. If so warranted, the conferees encourage the Department to budget funds in fiscal year 1993 for a demonstration program, to include operational flight hours in support of Defense Department drug interdiction activities. The results of this examination should be provided to the Committees on Appropriations no later than March 31, 1992.

GULF STATES COUNTER-NARCOTICS INITIATIVE

The conferees agree to provide $7,500,000 and direct the Department of Defense to begin implementation of the Gulf States Counter-Narcotics Initiative as submitted to the Department of Defense on May 15, 1991. The conferees believe this unique multi-state effort is critical to eventually establishing a truly coordinated national program along all of our borders.

The conferees direct the Department to report back by February 1, 1992 to the Committees on Appropriations on actions taken and proposed to be taken to implement the Gulf States Counter-Narcotics Initiative.

INTELLIGENCE AND INTELLIGENCE-RELATED PROGRAMS

See the classified report for details on these adjustments.

Amendment No. 106: Deletes House language which makes $22,290,000 subject to authorization; inserts language transferring $60,000,000 from "Missile Procurement, Air Force, 1991/1993" to the "Drug Interdiction and Counter Drug, Defense" account in order to procure no fewer than four aerostat radar surveillance systems, and inserts language earmarking $7,500,000 for the Gulf States Counter-Narcotics Initiative.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 107: Appropriates $115,900,000 for operation and maintenance and $300,000 for procurement, in all $116,200,000, instead of $121,600,000 for operation and maintenance and $300,000 for procurement as proposed by the House and $116,200,000 for operation and maintenance as proposed by the Senate.

Amendment No. 108: Deletes House provision making a portion of the appropriation subject to authorization.

TITLE VII—RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

Amendment No. 109: Appropriates $28,819,000 as proposed by the Senate, instead of $30,719,000 as proposed by the House.

NATIONAL SECURITY EDUCATION TRUST FUND

Amendment No. 110: Provides $150,000,000 for the National Security Education Trust Fund, instead of $180,000,000 as proposed by the Senate and no funding as proposed by the House.

TITLE VIII—GENERAL PROVISIONS

Amendment No. 111: Provides $1,500,000,000 as the ceiling on transfer authority available to the Department of Defense instead of $3,000,000,000 as proposed by the House and $1,000,000,000 as proposed by the Senate.

Amendment No. 112: Inserts Senate language which allows transfer of working capital funds into the Foreign Currency Fluctuations, Defense and Operation and Maintenance appropriation accounts.

Amendment No. 113: Deletes House language and amends Senate language on heating systems for Defense facilities in the Federal Republic of Germany.

COAL

The conferees continue to be concerned that U.S. military installations in Kaiserslautern, Federal Republic of Germany, be provided with cost-effective, environmentally sound, reliable heating.

The conferees have agreed that the Air Force may implement cost-effective agreements to modernize heating facilities in the Kaiserlautern Military Community, provided such agreements include the use of United States anthracite coal as the base load energy for municipal district heat to the United States defense installations. The conferees direct that the Air Force report to the Committees on Appropriations every ninety days on progress made toward concluding these agreements.

Since existing and operating district heat systems are not in place at the neighboring communities of Landstuhl and Ramstein-Miesenbach, the conferees have agreed that furnished heat may be obtained from private or municipal services at Landstuhl Army Regional Medical Center and Ramstein Air Base, if provision is made for consideration of United States coal as an energy source. The conferees believe that, if energy acquisition agreements are reached which do not provide for the use of U.S. coal for systems providing heat to the U.S. military installations in Landstuhl and Ramstein-Miesenbach, the Air Force should consider negotiations with the municipal authorities in those two locations for an off-set plan for the use of U.S. coal at other locations in the Federal Republic of Germany.

In addition, since the conferees believe that the United States Air Forces in Europe (USAFE) will make a good faith effort to work with the local communities to solve the heating problems of Kaiserslautern Military Community, the $2,000,000 reduction proposed by the House is waived.

Amendment No. 114: Inserts Senate language which changes notification time from thirty days to thirty calendar days in session.

Amendment No. 115: Restores House language which places a floor on military (civilian) technicians, places a ceiling on Active Guard/Reserve (AGR) personnel, and exempts military (civilian) technicians from civilian end strength ceilings and administratively imposed freezes on civilian personnel, and inserts Senate language which requires the Department of Defense to treat governments of native American tribes as local and State governments for purposes of disposing of real property under the provisions of the Base Closure and Realignment Acts.

Amendment No. 116: Restores House language which prohibits management of Department of Defense civilian personnel on the basis of end strength and requires that the 1993 budget not be based on end strength, and deletes Senate language which placed a ceiling on civilian workyears in the Department of Defense.

Amendment No. 117: Restores House language which requires that technicians in the administration and training of the Army Reserve must be members of the unit or in some cases the selected reserve, and inserts Senate language which makes funds available to purchase petroleum products in Israel to meet emergency and other military needs of the United States and Israel.

Amendment No. 118: Deletes House language on wound research, and inserts Senate language which terminates the Army Central Hospital Fund and establishes an appropriated trust fund for the operation and maintenance of "Fisher Houses."

The conferees agree to delete House language which prohibited the use of funds to purchase or use dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds since it is permanent law.

Amendment No. 119: Deletes House language which placed annual cap of 250 Pacific Island patients eligible for treatment at Tripler Army Medical Center since more patients can be treated for the same funding level.

Amendment No. 120: Restores House language concerning procurement of 120mm mortar and 120mm mortar ammunitions, and inserts Senate language which repeals a section in last year's Act which required the acquisition of depleted uranium.

120MM MORTAR

The conference agreement includes a House provision, stricken by the Senate, which requires that 120mm mortars and ammunition be manufactured in the United States. The conferees interpret this language to include components and subcomponents of this system. This interpretation is consistent with requirements which have been part of the system contract for this program since 1987 and with Army interpretation of these contract requirements since then.

Amendment No. 121: Deletes House language prohibiting obligation of funds to deploy the Composite Health Care System (CHCS) beyond initial alpha and beta sites until system development is completed.

Amendment No. 122: Restores and amends House language concerning the CHAMPUS Reform Initiative.

Amendment No. 123: Inserts Senate language which requires the Department of Defense to submit an O–1 justification book detailing funding proposals in the operation and maintenance accounts.

Amendment No. 124: Deletes Senate language which would have relaxed the prohibition on the use of Government-furnished equipment, operating systems, and executive and applications software in the Reserve Component Automation System (RCAS).

SOFTWARE REUSE

The conferees commend the Army for its initiative to establish the Reusable Ada Products for Information Systems Development (RAPID) software library. This effort demonstrates potential for productivity improvements in software development. The conferees direct the Secretary of the Army to submit a detailed plan to the Appropriations Committees by September 1, 1992 which describes how software could be reused once developed for information, command and control, or weapon systems and their associated automated support equipment. The plan should address, at a minimum: the concept and operation of the RAPID library with details of its planned content and schedule; the criteria for identifying software for reuse; the criteria for revalidating it for a new application; who is responsible for determining software reuse in major systems; how contractors are to be reimbursed for their legitimate costs of searching, validating, and incorporating government furnished software into major systems already under contract and whether it is optional or mandatory for them; and the anticipated benefits. In the area of information systems, the Army should identify specific software applications in the Sustaining Base Information System, the Reserve Component Information System, Installation Support modules, Standard Army Management Information Systems, or PERMS/ARPERCEN that could be incorporated into any of the other systems during 1993 along with the amount of funds that could be saved in fiscal year 1993 by so doing. The conferees are not opposed to reevaluating the current prohibition on government furnished software in the RCAS acquisition if the following conditions are met: specific software routines of applications have been identified and reviewed by the Reserve Component; the functionality for these routines is not already under contract and/or started development; the RCAS source selection official certifies to Congress in writing that specific existing software routines are desired by the Reserve community for incorporation into RCAS; the Secretary of the Army certifies that incorporation of this software into RCAS will not adversely affect program cost or schedule; and the RCAS source selection official identifies what contractual changes would be necessary. The conferees remind the Army that software developed for other Army systems which does not duplicate items in the RCAS functional description is not subject to the Congressional prohibition on government furnished software, and may be run on RCAS computers in the future once they are fielded.

Amendment No. 125: Restores House language which prohibits funds to purchase certain molded shipboard anchor and mooring chains outside the United States, and inserts and amends Senate language to require the Department to procure a minimum of 75 percent of coal and petroleum carbon fiber from domestic sources by 1994.

Amendment No. 126: Insert Senate language which changes the notification time from twenty legislative days to twenty calendar days in session.

Amendment No. 127: Restores and amends House language which reduces DOD funding by $300,000,000 to reflect savings resulting from decreased use of consulting services, and deletes Senate language which reduced DOD funding for automated data processing development and modernization.

Amendment No. 128: Deletes House language on Hamilton Air Force Base, and inserts Senate language which places a ceiling on the number of civilian workyears that the Department of Defense may fund overseas. The environmental cleanup at Hamilton Air Force Base is addressed at Amendment No. 187.

Amendment No. 129: Restores House language concerning Naval ADP and personnel actions, and inserts Senate language which appropriates funds and provides transfer authority for Corporate Information Management.

NAVAL ADP AND PERSONNEL ACTIONS

The conferees agree to prohibit certain Naval ADP and personnel actions until 60 days after the Defense Department submits a report under the requirements, terms and conditions specified in section 8049 and the House Report (H.R. 102-95, pages 72-73). The conferees direct the General Accounting Office to certify in writing that any Department of Defense or Navy report or plan is cost effective and meets the requirements, terms and conditions in section 8049 and the House report. If the GAO certifies and the Committees on Appropriations agree that the plans or report are not cost effective and do not meet the requirements, terms and conditions specified above, it is the conferees firm intent that the Department of Defense or Navy not proceed with any consolidations, transfers, or reductions impacting the commands, functions and activities specified in section 8049 and the House report until the GAO has submitted to the Committees on Appropriations its complete review comments on these Department of Defense or Navy reports or plans. These GAO review comments must address the requirements, terms and conditions specified in section 8049 and the House report.

The conferees also agree to the consolidation of Corporate Information Management (CIM) related development and modernization funding into a centralized account under the direction of the Department's Senior Information Resource Management official.

Amendment No. 130: Deletes Senate language authorizing the Department to charge higher coinsurance payments unless beneficiaries enroll in a health care plan.

The conferees have deleted without prejudice a Senate provision authorizing the Department to charge higher coinsurance payments. The conferees agree that steps are needed by the Department to control rapidly escalating medical costs, but that until future managed care medical options are available to beneficiaries, this change should not be granted.

Amendment No. 131: Restores and amends House language concerning Letterkenny Army Depot, and inserts Senate language which makes certain business enterprises eligible under the Mentor-Protege pilot program.

LETTERKENNY ARMY DEPOT

It is not the intention of the conferees to impede the realignment of the Systems Integration Management Activity and Headquarters, Depot Systems Command but to ensure that the Army's plan to establish the Joint Missile Service mission at Letterkenny Army Depot is implemented.

MENTOR PROTEGE PROGRAM

The conference agreement provides $30,000,000 for the Pilot Mentor-Protege program for fiscal year 1992, as proposed by the Senate. The conferees believe that the Army's Family of Medium Tactical Vehicles (FMTV) is a program which may be well-suited for development of a mentor-protege relationship pursuant to section 831 of the fiscal year 1991 Defense authorization act. Under this program, technically qualified, experienced small disadvantaged businesses, including tribal-owned entities, would be made capable of performing subcontracts and supply contracts as proteges. The conferees request the Army to consider providing funding and authority to the FMTV program manager to ensure that the prime contractor is reimbursed for mentor developmental and other costs of protege assistance under any mentor-protege agreements that are reached. If deemed appropriate, the FMTV program funds expended for mentor costs shall be reimbursed from funds specifically appropriated for the Pilot Mentor-Protege Program. The conferees expect the Army to provide a report by July 1, 1992 on the progress of the Army and the contractor in establishing a pilot mentor-protege relationship with the FMTV program.

Amendment No. 132: Restores House language which limits the funds for relocation of an organization, activity or function into or within the National Capital region, and inserts and amends Senate language to cap the Fort Bragg mental health demonstration project at $14,500,000.

MENTAL HEALTH DEMONSTRATION

The conferees have supported the Fort Bragg Mental Health Demonstration Project since its inception. The cost of this project, however, has grown at an alarming rate. Therefore, the conferees have agreed to a "cap" on the Fort Bragg mental health demonstration project, as proposed by the Senate, which equates to the fiscal year 1991 level of effort, plus adjustments for normal and reasonable price and program growth at Fort Bragg. The conferees direct the Department of the Army to work closely with the contractor at Fort Bragg to identify efficiencies which will continue to allow the treatment of eligible beneficiaries. The conferees want to emphasize that this limitation should in no way be construed to mean that the Department can deny eligible beneficiaries service if this limitation is reached. Instead, the Department must provide alternative in-house, cost-effective care for eligible beneficiaries.

The conferees also understand that the project evaluation has been delayed because of problems in obtaining CHAMPUS cost data and information at the comparison sites of Fort Campbell and Fort Stewart. The Department shall provide the necessary assistance to the project to ensure that necessary data and access to information regarding comparison sites are provided in a timely manner.

It has been impossible to determine whether increases at Fort Bragg have been caused by substantial increases in the client population as opposed to the cost per patient served, or the stress associated with the large troop deployments from this catchment area for Operation Desert Shield/Storm.

Amendment No. 133: Deletes House language and restores and amends Senate language concerning the end strength and force structure of the National Guard and Reserve Components.

See the write-up on Guard and Reserve force structure earlier in this statement.

Amendment No. 134: Restores House language which prohibits the closure of a medical treatment facility until the Congress is provided ninety days prior notice, and inserts Senate language whch earmarks funds for the National Defense Science and Engineering Graduate Fellowships.

Amendment No. 135: Deletes House language providing for the closure of the Uniformed Services University of the Health Sciences, and inserts Senate language which places limits on the financing of grants from unobligated balances available in the National Defense Stockpile Transaction Fund, and inserts and amends Senate language which places restrictions on contracting with foreign persons, companies, or entities that support the Arab boycott of Israel.

The conferees agree with the Senate position that the Uniformed Services University of the Health Sciences (USUHS) be maintained as the Department's university for medical training, and with the House position that the Department rename medical scholarship programs after former Representative F. Edward Hébert.

Amendment No. 136: Makes a technical change as proposed by the Senate to adjust wages rates for civilian health care employees.

Amendment No. 137: Restores and amends House language which prohibits the Department from reducing medical personnel at certain locations below authorized levels for fiscal year 1991, and inserts and amends Senate language concerning installation of modification equipment.

HEALTH CARE PERSONNEL

The conferees agree that health care personnel should not be reduced at certain locations just because a base may be undergoing a partial closure or realignment. The Department needs to carefully study the true cost of providing health care at these locations before any personnel changes are made.

INSTALLATION OF MODIFICATION EQUIPMENT

The budget proposed a general provision which allowed obligations in expired procurement appropriations for the installation of modification equipment. Beginning in fiscal year 1990 such costs were funded in the procurement appropriations in the year in which the modification equipment itself was funded. Previously, these costs were funded in operation and maintenance in the year of installation. The House bill did not include this provision. The Senate bill included a modified version.

The conferees believe that obligations for both procurement and installation of modification equipment should be possible within the normal three-year availability of procurement appropriations, if these accounts are properly managed. Difficulties experienced in achieving obligations before appropriation expiration probably come mainly from insufficient management attention to these programs. However, the conferees recognize that during the first year of implementation of the new funding policy (fiscal year 1990) some legitimate problems were and continue to be encountered. The conference agreement, therefore, includes a modified version of the budget proposal. The conference provision includes a one-time, one-year extension for fiscal year 1990 procurement appropriations only for the installation of equipment for which procurement obligations were made before the appropriation expired. The conferees direct that such obligations amount to not more than $600 million and that they be managed by the Comptroller of the Office of the Secretary of Defense. Regular reports of these obligations shall be submitted to the committees. The conferees expect that this provision will not have to be repeated in future years.

Amendment No. 138: Rescinds $1,102,585,000 of prior year funds instead of $1,807,400,000 as proposed by the House and $28,785,000 as proposed by the Senate. The conferees agree to rescind the funds as follows:

RESCISSIONS

	House	Senate	Conference
Procurement of Weapons and Tracked Combat Vehicles, Army, 1990/1992: M–1 Tank (contingencies)	$10,000,000	0	$10,000,000
Total	10,000,000	0	10,000,000
Procurement of Weapons and Tracked Combat Vehicles, Army, 1991/1993:			
Bradley Mods	9,000,000	0	9,000,000
M–1 (upgrade)	64,000,000	0	64,000,000
M–1 (excess)	13,000,000	0	13,000,000
M–1 (reprogramming)	28,000,000	0	28,000,000
Total	114,000,000	0	114,000,000
Procurement of Ammunition, Army, 1991/1993:			
M577 fuze	10,700,000	0	10,700,000
HMX	13,000,000	0	13,000,000
Total	23,700,000	0	23,700,000
Other Procurement, Army, 1990/1992: Area Oriented Depot Modernization	10,300,000	0	10,300,000
Total	10,300,000	0	10,300,000
Other Procurement, Army, 1991/1993:			
Area Oriented Depot Modernization	22,200,000	0	22,200,000
Vehicle Magnetic Signature Duplicator	4,600,000	0	4,600,000
Total	26,800,000	0	26,800,000
Aircraft Procurement, Navy, 1990/1992: A–12	893,500,000	0	0
Total	893,500,000	0	0
Weapons Procurement, Navy, 1991/1993:			
Standard Missile-2	300,000,000	0	300,000,000
Drones and Decoys (ITALD)	0	0	17,000,000
Total	300,000,000	0	317,000,000
Other Procurement, Navy, 1991/1993:			
Surface Combat Systems Trainers	2,700,000	0	2,700,000
Shallow Water Active Kits	0	3,500,000	3,500,000
Total	2,700,000	3,500,000	6,200,000
Procurement, Marine Corps, 1991/1993: ADP	2,000,000	0	2,000,000
Total	2,000,000	0	2,000,000
Missile Procurement, Air Force, 1990/1992: MX Missile	0	0	16,000,000
Total	0	0	16,000,000
Missile Procurement, Air Force, 1991/1993: MX Missile	0	0	80,000,000
Total	0	0	80,000,000
National Guard and Reserve Equipment, 1991/1993: SUSV	8,000,000	0	8,000,000
Total	8,000,000	0	8,000,000
Research, Development, Test and Evaluation, Army, 1991/1992:			
Tacit Rainbow	27,000,000	10,175,000	10,175,000
FOG–M	40,000,000	0	15,000,000
Multi-Purpose Individual Munition	13,000,000	0	13,000,000
Smoke and Obscurants	3,700,000	3,700,000	3,700,000
Nuclear Munitions—Engineering Development	1,500,000	1,500,000	1,500,000
ASAT	0	0	20,000,000
Armament Enhancement Initiative	0	0	17,700,000
Total	85,200,000	15,375,000	81,075,000
Research, Development, Test and Evaluation, Navy, 1991/1992:			
NATO AAW System	15,000,000	0	0
FEWSG Competition	15,000,000	0	8,200,000
Remote Control of Mines	1,300,000	0	1,300,000
E/O Sensor	1,000,000	0	1,000,000
Directed Energy CM	4,600,000	0	4,600,000
AERMIP	1,400,000	0	1,400,000
MC Ground Combat	1,500,000	0	1,500,000
Contract Design	2,000,000	0	0
FOG-S	0	0	10,000,000
Vertical Launch ASROC	0	0	15,000,000
NOMADS	0	0	1,400,000
SQY–1	0	0	0
Submarine Combat System (EMSP)	0	0	6,300,000
LAMPS (EMSP)	0	0	3,600,000
Surfaced ASW System Improvements	0	0	14,000,000
Sea Lance	0	0	71,000,000
Navy ATF	0	0	24,100,000
Naval Gunnery Improvement	0	0	10,000,000
Total	41,800,000	0	173,400,000
Research, Development, Test and Evaluation, Air Force, 1991/1992:			
Advanced Warning System	72,000,000	0	0
Medium Launch Vehicles	20,000,000	0	20,000,000
Tacit Rainbow	30,000,000	0	27,000,000
SRAM–T	77,400,000	0	77,400,000
C–130J	0	9,910,000	9,910,000
ICBM Modernization—MX	0	0	95,500,000
Improved Capability for RDT&E	0	0	2,500,000
Total	199,400,000	9,910,000	232,310,000
Research, Development, Test and Evaluation, Defense Agencies, 1991/1992:			
LRCSOW	15,000,000	0	1,800,000
Manufacturing Technology	25,000,000	0	0
BTI	50,000,000	0	0
Total	90,000,000	0	1,800,000
Grand total	1,807,400,000	28,785,000	1,102,585,000

Amendment No. 139: Restores House language which amends a section in last year's Act on the establishment of a Commission on Defense and National Security, and deletes Senate language concerning the sale of F–15 aircraft to Saudi Arabia.

Amendment No. 140: Deletes House language which earmarks funds to transport U.S. beef to overseas commissaries, and inserts Senate language which permits the Defense Business Operations Fund to provide credits for Army and Air Force operation and maintenance customers purchasing depot level repairables.

Amendment No. 141: Restores House language providing $40,000,000 for the National Drug Intelligence Center, and amends Senate language to provide $30,000,000 for consolidation of Central Intelligence Agency facilities in the Washington, D.C. area.

The conferees have appropriated $10 million for costs associated with the land acquisition and related expenditures necessary to implement the plan developed by the Central Intelligence Agency for consolidation of facilities. The funding may not be obligated to implement the plan until a number of conditions set forth in Sec. 8083A have been met and a period of 60 days beginning on the date on which all of such conditions have been met has expired.

The conferees have appropriated $20 million above the budget request in the Agency Management Base to serve as a source of funds for a reprogramming for the Central Intelligence Agency Consolidation Plan should the Director of Central Intelligence (DCI) determine that funds in addition to the funds specifically appropriated for the consolidation plan by this Act are necessary during fiscal year 1992. If the DCI requests that all, or a portion, of the $20 million be made available, such request shall be considered pursuant to established reprogramming procedures.

Amendment No. 142: Makes a technical change as proposed by the Senate to insert "health care" for "medical."

Amendment No. 143: Deletes House language as proposed by the Senate.

Amendment No. 144: Inserts Senate language to allow health care providers to waive the CHAMPUS copayment for medical services for dependents of active duty personnel until the termination of Operation Desert Shield/Desert Storm.

Amendment No. 145: Deletes House language on Mitchel Field, and inserts and amends Senate language on Uniformed Services Treatment Facilities.

The conferees agree that it is no longer necessary to continue a House provision which provided that Mitchel Field clinic not be funded from within a congressionally imposed ceiling since the conferees have agreed to add a new congressionally imposed funding ceiling on all Uniformed Services Treatment Facilities.

Amendment No. 146: Deletes House language which established a "Foreign National Employees Separation Pay Account, Defense", and inserts and amends Senate language on the Common Airborne Instrumentation System.

Amendment No. 147: Restores a center heading.

Amendment No. 148: Restores and amends House language which establishes a phase II full scale engineering development program for the V-22 program and transfers prior year Aircraft Procurement, Navy funding to Research, Development, Test and Evaluation, Navy.

Amendment No. 149: Restores and amends House language which transfers prior year funds to cover shipbuilding cost increases.

Amendment No. 150: Restores House language which places restrictions on the procurement of Multibeam Sonar Mapping Systems not manufactured in the United States, and inserts and amends Senate language on Strategic Target Systems (STARS).

Amendment No. 151: Restores and amends House language which provides authority for the President to acquire germanium for the National Defense Stockpile, and deletes Senate language concerning oversight of Special Access Programs.

SPECIAL ACCESS PROGRAMS

The conferees are concerned about the adequacy of management of special access programs in the Department of Defense, and intend to initiate a comprehensive review of it. It connection with such review, the conferees direct the Secretary of Defense to address the feasibility, desirability, advantages and disadvantages of developing regulations intended to improve the Department's management, in the following areas:

(A) Standards and procedures for the designation of programs as special access programs.

(B) A requirement for the manager of each special access program to submit to the Secretary of Defense a reclassification schedule whern the total cost of such program is expected to exceed $50,000,000.

(C) Standards and procedures for an annual review of the classification status of each special access program by the Deputy Secretary of Defense.

(D) Standards and procedures for appropriate exchange of information within the Executive branch among technologically related programs.

(E) Standards and procedures to ensure timely oversight by Department of Defense officials with expertise in (i) cost, schedule, and performance reviews, and (ii) applicable intelligence or operational matters.

The Secretary is directed to provide a report on these matters to the appropriate Committees of the House and Senate by April 1, 1992.

Amendment Nos. 152-155: Delete House language and retain Senate language to allow the Department to implement catchment area management (CAM) demonstration projects provided each project is approved by the Assistant Secretary of Defense for Health Affairs before the demonstration begins.

The conferees have agreed to amend the House language placing a cap on the number of CAM projects which can be implemented since the Department has placed a hold on the implementation of all coordinated care projects until a financial cost review is performed by the Comptroller and the Assistant Secretary of Defense for Health Affairs to assess the future financial implications of alternative military managed health care projects.

Amendment No. 156: Restores and amends House language on medical commanders, and deletes Senate language which appropriated funds for environmental programs.

MEDICAL COMMANDER BILLETS

The conferees have revised House language to prohibit the Department from filling military medical facility commander billets with health care professionals who cannot demonstrate professional administrative skills necessary to run a complex medical facility.

The conferees agree that commander positions at any military medical facility should only be filled with a health care professional if the proposed candidate can demonstrate professional administrative skills necessary to run the facility. Formal training should be established to ensure that all commanders have consistent skills necessary for this important, complex task. The Assistant Secretary of Defense for Health Affairs should be prepared to testify during the fiscal year 1993 budget cycle on the progress made in this regard.

Amendment No. 157: Restores and amends House and Senate language on CHAMPUS disabled care.

The conferees agree that all eligible beneficiaries under age 65 should be able to receive CHAMPUS benefits regardless of illness. Therefore, a general provision and $20,000,000 have been included to correct this inequity.

COAST GUARD

Amendment No. 158: Deletes House language which exempted the United States Coast Guard from surcharges assessed against stock and industrial fund customers, and inserts and amends Senate language which provides funding for Coast Guard training and operating expenses.

Amendment No. 159: Deletes House language on acquisition personnel, and inserts Senate language prohibiting the availability of funds for certain space-based wide area surveillance projects or activities.

SPACE BASED WIDE AREA SURVEILLANCE

The conferees agree with the Senate's recommendations about funding for the space-based wide area surveillance projects requested in several Navy, Air Force, and Defense Agencies RDT&E program elements.

The conferees concur with the Senate position that the Office of the Secretary of Defense complete its assessment of alternative ways existing surveillance systems could be used to improve wartime support to combatant commanders. The conferees approve the funds sought for this study. Should the results of this study, and other available information, provide sufficient foundation, the conferees are willing to again consider budget requests by the services in fiscal years 1993 or 1994 for SBWAS technology programs.

Amendment No. 160: Inserts Senate language which changes the percentage cap of total sales from the stock funds.

Amendment No. 161: Inserts Senate language which excludes commissary items, retail operations, and the cost of operations from the cap placed on sales from stock funds.

Amendment No. 162: Restores and amends House language limiting the personnel assigned at certain Navy commands to 90 percent of those assigned as of September 30, 1991, and inserts Senate language transferring $2,500,000 from the Department of the Treasury to the Federal Emergency Management Agency.

The term "number of personnel assigned" means actual strength as of September 30, 1991.

Amendment No. 163: Restores and amends House language concerning P-3 squadrons, and inserts and amends Senate language on B-1B electronic warfare systems.

P-3 SQUADRONS/AIRCRAFT

The conferees agree to modify section 8104 as proposed by the House regarding P-3B aircraft. Under section 8035 of the Department of Defense Appropriations Act, 1991 (Public Law 101-511) and section 8034 of this Act, no funds may be obligated to modernize any equipment which is expected to be retired within five years after the completion of the modification. Further, under section 1437(c) of the National Defense Authorization Act, 1991 (Public Law 101-510), the Navy could not use any funds to operate and maintain P-3B aircraft after fiscal year 1996. In conjunction, the separate provisions proscribe the Navy from spending funds appropriated for the P-3B program. The conferees agree with the modified provision which requires the Navy to obligate funds provided in fiscal year 1991 and in this Act, notwithstanding the aforementioned sections, if the Navy intends to keep the P-3B aircraft in the fleet for five years or more.

To determine its plan for P-3B aircraft, the conferees direct the Navy to review its maritime patrol aircraft requirements and report to the Congressional defense committees on its ten-year plan for P-3 force structure, inventory and modernization by February 15, 1992. Section 8104(b) specifically states that the provisions of section 1437 of the National Defense Authorization Act, 1991 shall not be considered in, or have any effect on, determining whether the Navy intends to maintain P-3B aircraft in its inventory. The conferees further instruct that the Secretary of Defense should propose legislation repealing section 1437(c) if the Navy intends to maintain P-3B aircraft in its inventory after fiscal year 1996.

The conferees remain concerned about the future of the P-3B inventory and the Anti-Submarine Warfare (ASW) mission in the Navy Reserve. The conferees continue to believe that ASW is a priority of our Naval forces. As such, the conferees have included section 8104(a) as proposed by the House which directs the Navy not to reduce or disestablish the operation of the P-3 squadrons of the Navy Reserve below the level funded in this Act. The level funded in this Act is 13 squadrons of eight aircraft each.

Since the decision on the need for P-3B aircraft is under review, the conferees agree that the Department should immediately release $17,000,000 of the $70,000,000 appropriated last year for the Improved Processor and Display System (IPADS) to continue testing of this system.

ADVANCED RADAR WARNING RECEIVERS

The conferees agree to the Senate language with an amendment. This provision denies the use of funds for an advanced radar warning receiver, waives section 132 of the 1992–93 DOD Authorization Bill (H.R. 2100), and directs the expenditure of $8,000,000 for the side-by-side testing of the ALR–62I and the ALR–56M radar warning receivers.

Amendment No. 164: Restores House language which specifies that funds appropriated for C–23 aircraft are for C–23 Sherpa aircraft, and inserts and amends Senate language which appropriates funds to pay claims for damages caused by the volcanic eruption of Mount Pinatubo.

MT. PINATUBO CLAIMS AND RELOCATION COSTS

The conferees agree to the provision proposed in the Senate bill to provide funds for the damage claims and relocation costs of U.S. military and civilian personnel due to the Mt. Pinatubo volcano in the Philippines and the closure of Clark AFB. The conferees make the following modifications to the Senate proposal.

First, that $100,000,000 be available to pay for damages and losses incurred by U.S. military and civilian personnel and their dependents due to the Mt. Pinatubo volcano.

Second, a new proviso, that makes $25,000,000 available for relocation costs due to the closure of Clark AFB. Of that amount, $8,500,000 is available only for the construction of facilities at Eielson Air Force Base to support the Cope Thunder and other exercise and training programs, and $2,500,000 is available only for the modification of facilities for squadron operations at Elmendorf Air Force Base to support Cope Thunder and other training activities.

Third, a new proviso that makes $25,000,000 available to meet unanticipated requirements for disaster relief activities overseas. Increasingly, U.S. military forces have been called to respond to the needs of U.S. friends and allies overseas due to natural disasters. Over the past two years, the U.S. military personnel have participated in numerous relief efforts, most recently in the Philippines and Bangladesh. The conferees commend the Department, and especially the unified commanders in chief, for their willingness and success in responding to these crises. Funding for these activities has generally been borne within the appropriations provided for the operation and training of U.S. military forces. This special appropriation should help ease the burden faced by overseas U.S. commands in conducting these missions.

The conferees expect the Comptroller of the Department of Defense to provide detailed reports explaining the expenditure of funds from the $25,000,000 made available for disaster relief. These reports should be provided to the House and Senate Committees on Appropriations not later than ninety days after the initial obligation of funds for each natural disaster event for which funds are expended from this appropriation.

Amendment No. 165: Restores and amends House language and retains and amends Senate language on Federally Funded Research and Development Centers (FFRDCs). Further explanation is contained in the Research, Development, Test and Evaluation section of this statement.

Amendment No. 166: Restores House language which repeals section 361 of Public Law 101–510 concerning aircraft leasing, and inserts Senate language which prohibits funds to transport any additional chemical weapons to Johnston Atoll after the completion of the European retrograde program.

Amendment No. 167: Deletes House language concerning Navy Comptroller personnel, and inserts Senate language which prohibits funds to prepare studies on the feasibility of removal and transportation of chemical weapons stored in the continental United States.

Amendment No. 168: Restores and amends House language concerning debarment and suspensions, and inserts Senate language which governs Defense contractor hiring in States with unemployment rates exceeding the national rate of unemployment.

DEBARMENT/SUSPENSIONS

The conferees are pleased with the steps the Department has taken to ensure that all debarment/suspension officials use uniform, agreed upon standards in making debarment/suspension decisions. However, the conferees believe that the Department's memorandum dated August 27, 1984, providing that contractors convicted of a felony crime should be suspended for at least one year, unless an exemption is granted, is contrary to the agreed upon "present responsibility" arrangement worked out by the Defense Advisory Panel of Government-Industry Relations in January 1990. In the conferees view, this memorandum may unduly penalize contractors. Therefore, the conferees have amended the House language to direct the Department to rescind the 1984 memorandum from which the imposition of these suspension and debarment guidelines emanated. The conferees request that DOD publish in detail its debarment/suspension practices and procedures for all interested parties.

The conferees agree to retain Senate language which governs Defense contractor hiring in States with unemployment exceeding the national rate of unemployment.

Amendment No. 169: Restores House language which places restrictions on the procurement of carbon, alloy or armor plate, and inserts Senate language which places restrictions on appropriated fund support for procurement of alcoholic beverages in noncontiguous States.

Amendment No. 170: Restores and amends House language to direct the Critical Technologies Institute to conduct a special study of the issues regarding the production and use of machine tools necessary to support the National Defense, and inserts Senate language which sets aside $8,000,000 from the procurement title for incentive payments authorized by the Indian Financing Act.

Amendment No. 171: Restores House language which places restrictions on the procurement of certain sealift ship components, and inserts and amends Senate language concerning DARPA cooperative ventures.

Amendment No. 172: Tranfers $30,000,000 instead of $5,000,000 as proposed by the House and $15,000,000 as proposed by the Senate to the Radiation Exposure Compensation Trust Fund.

Amendment No. 173: Deletes House language which would have placed restrictions on the payment of attorneys' fees.

Amendment No. 174: Restores House language on the Naval Undersea Museum Foundation, and inserts and amends Senate language on diesel submarine construction.

Amendment No. 175: Deletes House language on the enhanced modular signal processor in the SQQ-89 system, and inserts Senate language which defines the term "Congressional Defense Committees."

Amendment No. 176: Restores and amends House language on construction of vessels in foreign shipyards, and inserts Senate language concerning training at Kahoolawe Island, Hawaii.

Amendment No. 177: Deletes House language which places restrictions on the procurement of four-ton dolly jacks, and inserts Senate language which provides funds for a study of potential allied cooperation in defense procurement and research and development.

ALLIED COOPERATION ENHANCEMENT STUDIES

The conferees support the Senate provision mandating the continuance of the Allied cooperation Enhancement Studies begun last year. The conferees are encouraged by the preliminary result of this effort which has identified a broad range of emerging and enabling technology initiatives of potential benefit to United States security and the enhancement of our defense industrial base. The inclusion of language for two new studies in the areas of environmental and critical technologies cooperation underscores the conferees belief that the United States-Israel partnership in research and development is a powerful tool for advancing the industrial competitiveness and economic vitality of both nations.

The conferees believe that cooperative research, development and manufacturing initiatives, undertaken jointly with our allies, can significantly enhance the national security of the United States, lead to job creation and reduce the unit cost of weapons. At a time of shrinking defense budgets, changing external threats, and rapid technological change, allied industrial cooperation permits the United States to maximize its scarce resources and achieve new levels of technical capability in a reasonable period of time. The conferees urge the Department of Defense to use the Studies as a basis for programs which encourage American and NATO/Major Non-NATO Ally defense industries to cooperate in weapons development and the commercialization of defense technologies.

Amendment No. 178: Deletes House language concerning implementation of the Chief Financial Officers Act of 1989, and inserts Senate, language establishing the Defense Business Operations Fund.

Amendment No. 179: Deletes House language and adds Senate language on the overseas workload program.

Amendment No. 180: Restores and amends House language on Reciprocal Trade agreement to conform with the National Defense Authorization Act, 1992, and inserts and amends Senate language on classified provisions to provide that the amounts specified for the specific projects, programs or activities that are to be carried out in the Classified Annex are incorporated by reference.

Amendment No. 181: Deletes House language on consulting services, and adds Senate language on flexible computer integrated manufacturing systems programs.

Amendment No. 182: Deletes Senate language which provided authority to the secretary of Defense to convey all rights, title, and interest of the United States to a State or eligible political subdivision of a military installation that has been closed under the base closure law.

Amendment No. 183: Inserts and amends Senate language to provide authority for the conveyance of certain lands in Alaska to the Department of Interior.

Amendment No. 184: Inserts Senate language which restricts the purchase of bearings for defense application to North American sources.

Amendment No. 185: Inserts and amends Senate language concerning the U.S.S. Kennedy.

Amendment No. 186: Deletes Senate language allowing the Department to provide privately funded abortions for military personnel and their dependents in military medical treatment facilities outside the continental United States.

Amendment No. 187: Inserts and amends Senate language which continues the environmental cleanup of a portion of Hamilton Air Force Base.

Amendment No. 188: Deletes Senate language which expressed the sense of the Senate concerning tax relief for middle income families.

Amendment No. 189: Deletes Senate language concerning Navy R&D base closings. Report language on this issue is contained in the Research, development, Test and Evaluation section of this statement.

Amendment No. 190: Inserts and amends Senate language concerning the disposal of Navy nuclear material.

Amendment No. 191: Deletes Senate language on a national security scholarship, fellowships, and grant program.

REPORT ON ASSISTANCE TO IRAQ

Amendment No. 192. Deletes Senate provision prohibiting certain imports to the United States. The conferees are concerned over reports that Western companies provided assistance to Iraq in its nuclear, biological, chemical (NBC), and ballistic missile programs. The Senate bill contained language giving the President the authority to bar for a period of ten years the imports of companies that knowingly assisted Iraq in its programs for the development of weapons of mass destruction. The conferees reluctantly decided to drop this language for jurisdictional reasons only. The conferees wish to express their strong support for the intent of this provision and hope that it will be adopted on a suitable legislative vehicle.

To further underscore their concern, the conferees request that the President provide, in both classified and unclassified versions, a report to the Appropriations Committee of the House and the Senate, based on recent information, that includes an assessment of the contribution that these companies made to Iraq's NBC and ballistic missile capabilities and a listing of these companies. The companies should include those that provided financial services, transportation, and other essential services as well as hardware and software support.

Amendment No. 193: Inserts and amends Senate language which expresses the sense of the Congress on the responsibilities and duties of the Defense Base Closure Commissions.

Amendment No. 194: Deletes Senate language requesting a study regarding the problems of command, control, and safety of nuclear weapons resulting from changes in the Soviet Union.

Amendment No. 195: Inserts and amends Senate language which establishes a National Commission on the Future Role of Nuclear Weapons in the United States National Security Strategy.

Amendment No. 196: Inserts Senate language which urges the President to consult with allies before making significant modifications to the ABM treaty.

Amendment No. 197: Deletes Senate language which would have established a Joint Commission on Reduction of Nuclear Weapons.

Amendment No. 198: Deletes Senate language which appropriated funds for certain procurement and R&D programs.

Amendment No. 199: Inserts Senate language which provides authority for the Secretary of Commerce to accept transfer of funds to carry out the objectives of the Public Works and Development Act of 1965.

Amendment No. 200: Inserts Senate language which provides continuation pay for deceased aviation officers of the Persian Gulf War, and inserts several new provisions, as follows:

COMMERCIAL SPACE LAUNCH ACT WAIVERS

The conferees agree to permit the Air Force to waive certain launch servies costs as authorized under a 1988 amendment to the Commercial Space Launch Act.

The conferees agree that only normal range support services provided by the Air Force are meant to be waived under the terms of the 1988 amendment to the Commercial Space Launch Act. It is the intent of Congress that these launch services are meant to include only range safety analysis and control, telemetry reception and analysis, radar and optical tracking, data distribution, communications support, physical security services, and associated administrative/management tasks. It is not intended to provide reimbursement of costs beyond these services. Representative examples of non-reimbursable costs include those associated with payload processing, integration, booster launch operations, insurance, or other hardware/material costs related to propellants, flight hardware, and government manufacturing facilities, as well as non-range support services and items which may have been sold or provided to commercial space launch firms by the Air Force. Likewise, the Air Force will be responsible only for reimbursements of range support costs incurred by the Air Force; costs incurred by other government agencies for support of eligible satellites, normally billed through the Air Force for collection, are beyond the scope of this amendment.

As directed in the provision, the Department of Defense shall notify the Committees on Appropriations, in the form of a prior approval reprogramming action, of the proposed amounts and sources of funds for this reimbursement effort.

ARMY DEPOTS SUBCONTRACTING AUTHORITY

The conference agreement includes a new general provision which provides statutory authority allowing Army depots to serve as subcontractors to private prime contractors on Department of Defense contracts.

The conferees note that the Congress has encouraged the Department of Defense to recognize the benefits of utilizing the complementary capabilities of government and industry to achieve savings to the taxpayer. The conferees are concerned about the apparent lack of activity in removing barriers which prevent a better integration of the commercial and government defense industrial sectors. The conferees expect the Army to utilize this new statutory authority in an expeditious manner. However, the conferees further expect that no current production contracts, requests for proposals, or ongoing procurement planning shall be unnecessarily delayed during this transition period. If contractor/depot teams can meet currently published deadlines, they should be allowed to compete. But no deadlines shall be extended for the sole purpose of allowing contractor/depot teams to be arranged.

CANCELLATION OF INDEBTEDNESS

The conferees were concerned to learn that over 122,000 military personnel incurred debt to the United States government, arising from receiving advance pays and for other reasons during Operation Desert Storm/Shield. Many of these personnel are no longer in the military, and for many personnel, including those still in military service, repayment of these debts would constitute a hardship. In an effort to alleviate this hardship, the conferees have agreed to a general provision which will allow the Secretary of Defense to cancel not to exceed $2,500 of debts owed to the United States by a member or former member of a military service, if the indebtedness is determined by the Secretary to have been incurred in connection with Operation Desert Shield/Storm. This provision should affect about 120,000 of those members who incurred this indebtedness. In addition, the conferees agree that, if a member or former member has already repaid debt incurred as a result of Operation Desert Shield/Storm, the amount of repayment shall be refunded to the member, subject to the above limitations.

1992 COLUMBUS QUINCENTENNIAL EXPOSITION

The conferees agree to transfer $5,600,000 from the Board for International Broadcasting, "Israel Relay Station", to the salaries and expenses account of the United States Information Agency (USIA). These funds will be used to continue United States participation in the 1992 Columbus Quincentennial Expositions in Seville, Spain, and Genoa, Italy.

On October 28, 1991, following enactment of the fiscal year 1992 Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, the USIA Director informed the House and Senate Appropriations Committees that private sector contributions for the expositions have fallen far below estimates and that $5,600,000 was required to continue U.S. participation. Without an immediate injection of funds, work on the U.S. exhibit would be halted by January 1992. The conferees believe that the United States should not terminate construction of the exhibits in Seville and Genoa.

As a result of delays in the Israel Relay Station project, $5,600,000 is available for transfer to allow for the full funding of these expositions. The conferees expect the USIA to continue to seek contributions from the private sector, and any additional contributions collected should be utilized in lieu of appropriated funds.

SANTIAM NO. 1 LODE MINING CLAIM

The conferees have included statutory language directing the Secretary of the Interior to issue a patent to the Shiny Rock Mining Corporation for the Santiam No. 1 lode mining claim in Oregon. The patented property, once received by Shiny Rock Mining Corporation, will be part of a gift to The Nature Conservancy. The deed of gift will provide for a reversion to the Forest Service should The Nature Conservancy cease to exist, or otherwise seek to convey the property.

ADVANCED VIDEO PROCESSOR (AVP)

Inserts language which provides for: (1) The expeditious procurement of Advanced Video Processors (AVP) and associated display heads the conferees direct the Navy to procure associated display heads, consoles, associated man/machine interface (MMI) devices, power supplies and the requisite integration with the AVP as an engineering change proposal (ECP) to the AVP; (2) The obligation of Navy RDT&E funds for the development of an integrated display station. The development of an integrated display station shall be accomplished as an ECP to the AVP by the addition of display heads, MMI devices, and appropriate processing devices; and, the Navy shall reestablish and expedite AVP CI mode integration testing.

DESKTOP III

The conferees are particularly concerned with the inadequate contractor response to the Department's Desktop III customer orders. The conferees are unsure why the department would want to extend an option on this contract when the contractor has performed so poorly and the Department should be able to procure more capable personal computers at a comparable price on the new Desktop IV procurement. Accordingly, the conferees have included a general provision which directs the department to end the procurement of personal computers from the Desktop III contract at the time the Desktop IV contract becomes available to receive customer orders. However, the conferees do not object to continued purchase of contract maintenance, service, peripheral equipment and necessary spare parts to maintain systems already delivered.

EXCESS CASH TRANSFER

The conferees agree to insert a new provision which transfers working capital funds to various appropriation accounts.

COMMUNITY TASK FORCES

The conferees agree to insert a new provision prohibiting the Secretary of Defense from withhholding funds from a community task force representing the installation scheduled to be closed.

U.S.S. "ORISKANY"

The conferees agree to insert a new provision that provides transfer of the U.S.S. *Oriskany* to a private organization for conversion to a museum.

SOUTH FRANKFORT FLOOD CONTROL PROJECT

A flood control project was authorized for the Frankfort, Kentucky area in the 1930s as part of an omnibus flood control Bill for the Ohio valley. This project contained several components including a north Frankfort levee/floodwall and a south Frankfort levee/floodwall. The north Frankfort section was built in the 1970s. The south Frankfort section has not yet been constructed.

The conferees have included a provision within the bill which specifically prohibits the inclusion of any expenditures made prior to the beginning of fiscal year 1992 as preliminary design and engineering costs when calculating the benefit/cost ratio for this project.

ENERGY SAVINGS

The conferees agree to insert a new provision that allows obligation of funds resulting from energy cost savings to remain available for the next fiscal year.

SUITLAND PARKWAY

The conferees agree to insert a new provision certifying Suitland Parkway in accordance with Section 210 of Title 23 of the United States Code.

CAMP FOR CRITICALLY-ILL CHILDREN

The conferees believe that as military facilities are declared surplus, an appropriate and beneficial use of such facilities would be for a non-profit camp for children with life-threatening diseases and their families. This camp would provide services free of charge and would serve active-duty and retired military dependents among its attendees. Such a facility should be specially structured to meet the needs of critically-ill children through the provision of positive summer camp and year-round recreational, educational, and support programs designed and staffed to provide a therapeutic environment to meet the special physical and emotional needs of these children. From a medical care perspective, these needs are substantial and are largely unmet by other military or civilian facilities which provide either services focused on healthy children, or services limited to medical care. Development of such a camp or camps on publicly-held property would enable more such children to be served. Consequently, the conferees have included a general provision which provides that such facilities will receive the highest priority for acquiring surplus defense properties and that such facilities will receive a 100% Public Benefit Allowance for the acquisition of federal surplus properties.

SHINNECOCK I CLAIM

The conferees agree to insert a new provision that provides funds to pay a claim to the owner of a boat destroyed by the Navy.

APOLLO SITE

The Apollo site in Pennsylvania, where uranium fuel has been manufactured from the 1950s through 1981, is currently owned by Babcock and Wilcox (B&W). With the funds from B&W and its commercial partners, along with Federal funds, the site is in the final stages of decommissioning to remove radionuclide contamination. The decommissioning is under the sole regulatory jurisdiction of the Nuclear Regulatory Commission (NRC).

The conferees agree that the Department of Energy shall make available in fiscal year 1992 to the Commonwealth of Pennsylvania not to exceed $1,000,000 for independent monitoring and testing of onsite activities in the decommissioning at the Apollo site. The funding should come from the $30,000,000 transferred to the Department of Energy in Section 8089 of last year's Act.

The Commonwealth of Pennsylvania, acting through its Bureau of Radiation Protection in the Department of Environmental Resources, has the capability to provide independent oversight of the Apollo site decommissioning activities on behalf of the people of Pennsylvania. The results of their independent monitoring and testing, and evaluations thereof will be available to the interested public to keep residents of the Apollo community aware of the site situation. In addition, the results will, as appropriate, be furnished to the NRC in the conduct of the regulatory process for the Apollo site. However, such monitoring and testing shall not interfere with conduct of site decommissioning activities. Likewise, nothing in this grant of funds shall be construed or interpreted as preempting or diminishing NRCs sole regulatory jurisdiction over the decommissioning process.

The conferees agree to rescind the January 1993 completion date of the final decontamination and decommissioning. The conferees do so only in order to facilitate release of funds after that date if the decommissioning is not completed. The conferees are adamant that the decommissioning should be completed as expeditiously as possible.

BURDENSHARING

The conferees agree to insert a new provision that accepts burdensharing funds from the Government of Japan.

SMITHSONIAN INSTITUTION

The managers have included bill language in the general provisions shifting $800,000 from the Repair and Restoration of Buildings of the Smithsonian Institution to the Salaries and Expenses account, also under the Smithsonian. Under agreement with the Managers of the Department of Interior and Related Agencies Appropriations Conference, these shifted funds are to be used to prepare initial exhibits on the early contacts between European explorers and Native Americans as part of the quincentennial observance. The managers agree that the funds provided do not include costs for auditorium enhancement and exterior sculpture installation. The exhibition is to be prepared on an expedited basis so that it may open before October 1, 1992 at the National Museum of the American Indian in the New York City Custom House. The Managers are pleased to note that the funds included herein will be matched by an additional $250,000 in private donations for the exhibition.

NAVFAC COMMAND

The conferees agree to insert a new provision that prohibits the Navy from relocating or realigning a Navy Facilities Command division from Philadelphia.

TANKER CHARTER LIMITATIONS

A new provision is added which allows an exemption for petroleum product tankers from current limitations on the length of charters.

SPECIAL OPERATIONS OFFICE

The conferees agree to insert a new provision that amends Section 355(b) of Public Law 101-510 regarding the Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

DEPENDENTS EDUCATION

The conferees have included a general provision (Section 8157) that allows the Department of Defense Dependent Schools (DODDS) to offer summer school programs (such as remedial reading and mathematics, or advanced enhancement programs), national programs (such as Model United Nations), and participation in Math Counts on a fee basis. This provision will allow DODDS to collect fees for these programs and to use the fees to support the programs.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1992 recommended by the Committee of Conference, with comparisons to the fiscal year 1991 amount, the 1992 budget estimates, and the House and Senate bills for 1992 follow:

	Amount
New budget (obligational) authority, fiscal year 1991	$283,388,076,000
Budget estimates of new (obligational) authority, fiscal year 1992	270,936,322,000
House bill, fiscal year 1992	270,565,792,000
Senate bill, fiscal year 1992	270,257,747,000
Conference agreement, fiscal year 1992	269,911,240,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1991	−13,476,836,000
Budget estimates of new (obligational) authority, fiscal year 1992	−1,025,082,000
House bill, fiscal year 1992	−654,552,000
Senate bill, fiscal year 1992	−346,507,000

JOHN P. MURTHA,
NORMAN DICKS,
CHARLES WILSON,
W.G. (BILL) HEFNER,
MARTIN OLAV SABO,
JULIAN C. DIXON,
BERNARD J. DWYER,
JAMIE L. WHITTEN,
JOSEPH M. MCDADE,
BILL YOUNG,
CLARENCE MILLER,
BOB LIVINGSTON,
JERRY LEWIS,
Managers on the Part of the House.

DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
ROBERT C. BYRD,
PAT LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
TED STEVENS,
JAKE GARN,
ROBERT W. KASTEN, JR.,
ALFONSE M. D'AMATO,
WARREN B. RUDMAN,
THAD COCHRAN,
ARLEN SPECTER,
PETE V. DOMENICI,
MARK O. HATFIELD,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 2038

Mr. MCCURDY, submitted the following conference report and statement on the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability system, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-327)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1992".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1992 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATION OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1992, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany H.R. 2038 of the One Hundred Second Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations described in subsection (a) shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1992 under sections 102 and 202 of this Act when he determines that such action is necessary for the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 percent of the number of civilian personnel authorized under those sections for that element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by subsection (a).

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1992 the sum of $31,219,000, of which $6,566,000 shall be available for the Security Evaluation Office and $2,000,000 shall be available for the Foreign Language Committee of the Director of Central Intelligence.

SEC. 202. AUTHORIZATION OF PERSONNEL END-STRENGTH.

(a) AUTHORIZED PERSONNEL LEVEL.—The Intelligence Community Staff is authorized 218 full-time personnel as of September 30, 1992, including 50 full-time personnel who are authorized to serve in the Security Evaluation Office and 3 full-time personnel who are authorized to serve on the Foreign Language Committee of the Director of Central Intelligence. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) REPRESENTATION OF INTELLIGENCE ELEMENTS.—During fiscal year 1992, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) REIMBURSEMENT.—During fiscal year 1992, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

SEC. 203. INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY.

During fiscal year 1992, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund $164,100,000 for fiscal year 1992.

(b) REFERENCES TO CIARDS ACT.—Except as otherwise expressly provided, any amendment or repeal in this title shall be treated as being stated as an amendment or repeal to the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note).

SEC. 302. SURVIVOR BENEFITS FOR CHILDREN WHO HAVE A SURVIVING PARENT.

(a) COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES.—(1) Subsection (c) of section 221 is amended—

(A) in paragraph (1), by striking out "wife or husband and by a child or children, in addition to the annuity payable to the surviving wife or husband, there shall be paid to or on behalf of each" and inserting in lieu thereof "spouse or former spouse who is the natural or adoptive parent of a surviving child of the annuitant, there shall be paid to or on behalf of each such surviving"; and

(B) in paragraph (2), by striking out "wife or husband but by a child or children, each surviving child shall be paid" and inserting in lieu thereof "spouse or former spouse who is the natural or adoptive parent of a surviving child of the annuitant, there shall be paid to or on behalf of each such surviving child".

(2) Subsection (d) of such section is redesignated as paragraph (3) of subsection (c) and as so redesignated is amended to read as follows:

"(3) On the death of a surviving spouse or former spouse or termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the annuitant. If the annuity of a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities of all currently eligible children were then being initiated.".

(3) Subsection (c) of such section is further amended by adding at the end the following new paragraph:

"(4) For purposes of this subsection, the term 'former spouse' includes any former wife or husband of the annuitant, regardless of the length of marriage or the amount of creditable service completed by the annuitant.".

(4) Subsection (e) of such section is redesignated as subsection (d) and is amended by striking out "under paragraph (c) or (d) of this section, or (c) or (d)" and inserting in lieu thereof "under paragraph (1) or (2) of subsection (c) of this section, or subsection (c) or (d)".

(b) DEATH IN SERVICE.—(1) Subsection (c) of section 232 is amended—

(A) by striking out "wife or a husband and a child or children, each" and inserting in lieu thereof "spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, each such";

(B) by striking out "section 221(c)(1)" and inserting in lieu thereof "subsections (c)(1) and (c)(3) of section 221"; and

(C) by striking out the last sentence.

(2) Subsection (d) of such section is amended—

(A) by striking out "wife or husband, but by a child or children, each" and inserting in lieu thereof "spouse or a former spouse who is the natural or adoptive parent of a surviving child of the participant, that";

(B) by striking out "section 221(c)(2)" and inserting in lieu thereof "subsections (c)(2) and (c)(3) of section 221"; and

(C) by striking out the last sentence.

(3) Such section is further amended by adding at the end the following new subsection:

"(e) For purposes of subsections (c) and (d), the term 'former spouse' includes any former wife or husband of the participant, regardless of the length of marriage or the amount of creditable service completed by the participant.".

(c) CONFORMING CROSS-REFERENCE AMENDMENTS.—(1) Sections 204(b)(3), 232(c), and 232(d) are amended by striking out "section 221(e)" and inserting in lieu thereof "section 221(d)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act and shall apply with respect to annuities payable to children by reason of the death of a participant or annuitant on or after that date.

SEC. 303. 18-MONTH PERIOD TO ELECT A SURVIVOR ANNUITY.

(a) ESTABLISHMENT OF PERIOD AFTER RETIREMENT TO MAKE ELECTION.—Section 221 is amended—

(1) by redesignating the second subsection (p) as subsection (r); and

(2) by inserting before that subsection the following new subsection:

"(q)(1)(A) A participant or former participant—

"(i) who, at the time of retirement, is married, and

"(ii) who elects at that time (in accordance with subsection (b)) to waive a survivor annuity for the spouse,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a reduction under subsection (b) made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for that spouse of the participant.

"(B) A participant or former participant—

"(i) who, at the time of retirement, is married, and

"(ii) who, at that time designates (in accordance with subsection (b)) that a portion of the annuity of such participant is to be used as the base for a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.

"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) shall not be considered effective unless the amount specified in subparagraph (B) is deposited into the fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

"(i) the additional cost to the system which is associated with providing a survivor annuity under subsection (b) and results from such election, taking into account (I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this title and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing for the later election; and

"(ii) interest on the additional cost determined under clause (i), computed using the interest rate specified or determined under section 8334(e) of title 5, United States Code, for the calendar year in which the amount to be deposited is determined.

"(3) An election by a participant or former participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant or former participant whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the participant involved elected such annuity at the time of retiring.

"(6) The Director shall, on an annual basis, inform each participant or former participant who is eligible to make an election under this subsection of the right to make such election and the procedures and deadlines applicable to such election.".

(b) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act.

(2)(A) The amendment made by subsection (a)(2) shall apply with respect to participants and former participants regardless of whether they retire before, on, or after the effective date specified in paragraph (1), except that paragraph (1)(A) of section 221(q) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (as added by subsection (a)(2)) shall apply only with respect to participants who retire on or after that effective date.

(B) In applying the provisions of paragraph (1)(B) of section 221(q) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (as added by subsection (a)(2)) to a participant or former participant who retires before the effective date specified in paragraph (1)—

(i) the 18-month period referred to in that paragraph shall be considered to begin on the effective date specified in paragraph (1); and

(ii) the amount referred to in paragraph (2) of that section (as added by subsection (a)(2)) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

SEC. 304. WAIVER OF THIRTY-MONTH APPLICATION REQUIREMENT.

Section 224(c)(2)(A) is amended—

(1) by striking out "require within thirty months after the effective date of this section." and inserting in lieu thereof "require. Any such application and documentation shall be submitted not later than April 1, 1989."; and

(2) by adding at the end the following new sentence: "The Director may waive the deadline in the preceding sentence for submission of an application and supporting documentation under this subparagraph in any case in which the Director determines that the circumstances warrant such a waiver.".

SEC. 305. DISCRETIONARY AUTHORITY FOR PAYMENT OF EXPENSES OF DISABILITY EXAMS FROM CIARDS FUND.

Section 231(b)(1) is amended by striking out "shall" in the sixth sentence and inserting in lieu thereof "may".

SEC. 306. TECHNICAL CORRECTIONS TO PROVISIONS RELATING TO PREVIOUS SPOUSES OF CIARDS PARTICIPANTS.

(a) SURVIVOR ANNUITIES FOR PREVIOUS SPOUSES.—Subsection (a) of section 226 is amended—

(1) by striking out "whose retirement or disability or FECA (chapter 81 of title 5, United States Code) annuity commences after the effective date of this section";

(2) by striking out "applicable to spouses" and inserting in lieu thereof "applicable to former spouses (as defined in section 8331(23) of title 5, United States Code)"; and

(3) by striking out "married for at least nine months with service creditable under section 8332 of title 5, United States Code" and inserting in lieu thereof "as prescribed by the Civil Service Retirement Spouse Equity Act of 1984".

(b) DATE REFERENCE CHANGES.—Such section is further amended—

(1) by striking out "divorced after the effective date of this section" in subsection (a) and inserting in lieu thereof "divorced after September 29, 1988,";

(2) by striking out "within two years after the effective date of this section" in subsection (b) and inserting in lieu thereof "not later than September 29, 1990"; and

(3) by striking out subsection (d).

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a)(1) shall be deemed to have become effective as of September 30, 1990; and shall apply in the case of annuitants whose divorce occurs on or after that date.

(2) The amendments made by subsections (a)(2) and (a)(3) shall be deemed to have become effective as of September 29, 1988.

SEC. 307. TECHNICAL CORRECTION TO CIARDS MANDATORY RETIREMENT PROVISION.

Section 235(b) is amended—

(1) in the first sentence, by striking out "grade GS-18 or above" and inserting in lieu thereof "level 4 or above of the Senior Intelligence Service pay schedule"; and

(2) in the second sentence, by striking out "less than grade GS-18" and inserting in lieu thereof "less than that of level 4 of the Senior Intelligence Service pay schedule".

SEC. 308. EXCLUSION OF CIA FOREIGN NATIONAL EMPLOYEES FROM PARTICIPATION IN THRIFT SAVINGS PLAN.

(a) PARTICIPATION IN THE THRIFT SAVINGS PLAN.—Section 8351 of title 5, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) A foreign national employee of the Central Intelligence Agency whose services are performed outside the United States shall be ineligible to make an election under this section.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall take effect as of January 1, 1987.

(2) Any refund which becomes payable as a result of the effective date specified in paragraph (1) shall, to the extent that that refund involves an individual's contributions to the Thrift Savings Fund (established under section 8437 of title 5, United States Code), be adjusted to reflect any earnings attributable thereto.

SEC. 309. CLARIFICATION OF QUALIFIED FORMER SPOUSE PROVISIONS UNDER FEDERAL EMPLOYEES RETIREMENT SYSTEM.

(a) SPECIAL RULES FOR FORMER SPOUSES.—Section 304 is amended by adding at the end the following new subsection:

"(h)(1) Except as provided in paragraph (2) in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the provisions of sections 224 and 225 shall apply to such employee's former spouse (as defined in section 204(b)(4)) who would otherwise be eligible for benefits under such sections 224 and 225 but for the employee having elected to become subject to such chapter.

"(2) For the purpose of computing such former spouse's benefits under sections 224 and 225—

"(A) the retirement benefits shall be equal to 50 percent of the employee's annuity under subchapter III of chapter 83 of such title, or under title II of this Act (computed in accordance with section 302(a) of the Federal Employees' Retire-

ment System Act of 1986 or section 307 of this Act), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the effective date of the election to transfer bears to the employee's total creditable service before such effective date; and

"(B) the survivor benefits shall be equal to 55 percent of the full amount of the employee's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act.

"(3) Benefits provided pursuant to this subsection shall be payable from the Central Intelligence Agency Retirement and Disability Fund.".

(b) Effective Date.—Subsection (h) of section 304 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as added by subsection (a), shall be deemed to have become effective as of December 2, 1987.

SEC. 310. ELIMINATION OF OVERSEAS SERVICE REQUIREMENT FOR FORMER SPOUSES.

(a) Eligibility.—Section 204(b)(4) is amended by striking out "at least five years" and all that follows through the period and inserting in lieu thereof "at least five years of which were spent by the participant outside the United States during the participant's service as an employee of the Agency or otherwise in a position the duties of which qualified the participant for designation by the Director as a participant pursuant to section 203.".

(b) Applicability.—The amendment made by subsection (a) shall apply only to a former husband or wife of a participant or former participant whose divorce from the participant or former participant becomes final after the date of the enactment of this Act.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 402. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

SEC. 403. INTELLIGENCE COMMUNITY CONTRACTING.

The Director of Central Intelligence shall direct that elements of the Intelligence Community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, shall award contracts in a manner that would maximize the procurement of products in the United States. For purposes of this provision, the term "Intelligence Community" has the same meaning as set forth in paragraph 3.4(f) of Executive Order 12333, dated December 4, 1981, or successor orders.

SEC. 404. RATE OF BASIC PAY FOR CIA INSPECTOR GENERAL.

Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Inspector General, Central Intelligence Agency".

SEC. 405. TRANSPORTATION OF REMAINS OF CERTAIN NSA EMPLOYEES.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new section.

"Sec. 17. (a) The Secretary of Defense may pay the expenses referred to in section 5742(b) of title 5, United States Code, in the case of any employee of the National Security Agency who dies while on a rotational tour of duty within the United States or while in transit to or from such tour of duty.

"(b) For the purposes of this section, the term 'rotational tour of duty', with respect to an employee, means a permanent change of station involving the transfer of the employee from the National Security Agency headquarters to another post of duty for a fixed period established by regulation to be followed at the end of such period by a permanent change of station involving a transfer of the employee back to such headquarters.".

SEC. 406. REPORT CONCERNING CERTAIN UNITED STATES PERSONNEL CLASSIFIED AS PRISONER OF WAR OR MISSING IN ACTION DURING WORLD WAR II OR THE KOREAN CONFLICT.

(a) Report.—The Secretary of Defense shall submit to the Select Committee on POW/MIA Affairs and the Committee on Armed Services of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives a report which sets forth the following:

(1) The number of members of the Armed Forces or civilian employees of the United States who remain unaccounted for as a result of military actions during World War II or the Korean conflict.

(2) A description of the nature and location of any military records which pertain to those individuals, including the extent to which those records are available to family members or members of the public and the process by which access to those records may be obtained.

(3) An identification and description of any military records (including the location of such records) pertaining to those individuals that are not available to family members or members of the public and a statement explaining why those records are not available to family members or the public.

(4) An assessment of the feasibility and costs of identifying, segregating, and relocating all such records to a central location within the United States, including an estimate of the percentage of those records regarding such individuals that are currently maintained by the Department of Defense.

(b) Deadline for Report.—The report under subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

TITLE V—FEDERAL BUREAU OF INVESTIGATION PROVISIONS

SEC. 501. FBI CRITICAL SKILLS SCHOLARSHIP PROGRAM.

(a) Study.—The Director of the Federal Bureau of Investigation shall conduct a study relative to the establishment of an undergraduate training program with respect to employees of the Federal Bureau of Investigation that is similar in purpose, conditions, content, and administration to undergraduate training programs administered by the Central Intelligence Agency (under section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j)), the National Security Agency (under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 (note)), and the Defense Intelligence Agency (under section 1608 of title 10, United States Code).

(b) Implementation.—Any program proposed under subsection (a) may be implemented only after the Department of Justice and the Office of Management and Budget review and approve the implementation of such program.

(c) Availability of Funds.—Any payment made by the Director of the Federal Bureau of Investigation to carry out any program proposed to be established under subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.

TITLE VI—CENTRAL INTELLIGENCE AGENCY CONSOLIDATION PLAN

SEC. 601. CENTRAL INTELLIGENCE AGENCY CONSOLIDATION PLAN.

(a) Funding Limitation.—Of the amount authorized by this Act for the Central Intelligence Agency Program, not more than $10,000,000 is authorized for costs associated with the land acquisition and related expenditures necessary to implement a plan for consolidation of Central Intelligence Agency facilities. None of such funds may be obligated to implement such plan until all of the conditions set forth in subsection (d) have been met and (except as provided in subsection (c)) a period of 60 days beginning on the date on which all of such conditions have been met has expired. Any certification or report required under that subsection shall be provided in writing to the intelligence committees and the appropriations committees. If any of the required certifications cannot be provided, then the Director of Central Intelligence shall reopen the planning process with respect to the consolidation plan to the extent required to address any procedures that were determined to be deficient.

(b) Additional Funding.—Pursuant to the procedures set forth in the joint explanatory statement of managers to accompany the conference report on the bill H.R. 2038 of the 102d Congress, an amount not to exceed $20,000,000 is authorized and may be made available if the Director determines that funds in addition to the amount specified in subsection (a) are required during fiscal year 1992 for costs associated with the land acquisition and related expenditures necessary to implement the consolidation plan.

(c) Limited Waiver of 60-Day Review Period.—The Director may spend not to exceed $500,000 of the funds specified in subsection (a) for options and agreements to ensure the continued availability of property under consideration for the consolidation plan without regard to the 60-day period specified in subsection (a).

(d) Conditions.—The following conditions and certifications must be met before the funds specified in subsection (a) may be obligated:

(1) The Director of Central Intelligence has certified—

(A) that with respect to procedures governing land acquisition by the Central Intelligence Agency—

(i) there are written procedures for such acquisition currently in effect;

(ii) those procedures are consistent with land acquisition procedures of the General Services Administration; and

(iii) the process used by the Central Intelligence Agency in developing the consolidation plan was in accordance with those written procedures; and

(B) that with respect to contracts of the Agency for construction and for the acquisition of movable property, equipment, and services, the procedures of the Agency are consistent with procedures under the Federal Acquisition Regulation.

(2) The Administrator of General Services has provided a written report stating that in the opinion of the Administrator (A) implementing the consolidation plan will result in cost savings to the United States Government, and (B) the consolidation plan will conform to applicable local governmental regulations.

(3) The Director of the Office of Management and Budget has certified—

(A) that the consolidation plan (and associated costs) have been reviewed by the Office of Management and Budget;

(B) that the funding for such plan is consistent with the 1990 budget agreement; and

(C) that funding for such plan has been approved by the Administration for fiscal year 1992.

(4) The Inspector General of the Central Intelligence Agency has certified that corrective actions, if any, recommended as a result of the Inspector General's inquiry into the consolidation plan, and concurred in by the Director of Central Intelligence, will be implemented.

(5) The Director of Central Intelligence has provided to the intelligence committees and appropriations committees a written report on the consolidation plan that includes—

(A) a comprehensive site evaluation, including zoning, site engineering, and environmental requirements, logistics, physical and technical security, and communications compatibility;

(B) a description of the anticipated effect of implementing the consolidation plan on personnel of the Central Intelligence Agency, including a discussion of the organizations and personnel that will be relocated and the rationale for such relocations and the Director's assurance that personnel are consulted and considered in the consolidation effort; and

(C) the Director's assurances that the Director, in evaluating and approving the plan, has considered global changes and budget constraints that may have the effect of reducing Central Intelligence Agency personnel requirements in the future.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) The term "appropriations committees" means the Committees on Appropriations of the Senate and the House of Representatives.

TITLE VII—BUDGET TOTAL FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES

SEC. 701. SENSE OF CONGRESS REGARDING DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET.

It is the sense of Congress that, beginning in 1993, and in each year thereafter, the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner.

TITLE VIII—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS

SEC. 801. SHORT TITLE, FINDINGS, AND PURPOSES.

(a) SHORT TITLE.—This title may be cited as the "National Security Education Act of 1991".

(b) FINDINGS.—The Congress makes the following findings:

(1) The security of the United States is and will continue to depend on the ability of the United States to exercise international leadership.

(2) The ability of the United States to exercise international leadership is, and will increasingly continue to be, based on the political and economic strength of the United States, as well as on United States military strength around the world.

(3) Recent changes in the world pose threats of a new kind to international stability as Cold War tensions continue to decline while economic competition, regional conflicts, terrorist activities, and weapon proliferations have dramatically increased.

(4) The future national security and economic well-being of the United States will depend substantially on the ability of its citizens to communicate and compete by knowing the languages and cultures of other countries.

(5) The Federal Government has an interest in ensuring that the employees of its departments and agencies with national security responsibilities are prepared to meet the challenges of this changing international environment.

(6) The Federal Government also has an interest in taking actions to alleviate the problem of American undergraduate and graduate students being inadequately prepared to meet the challenges posed by increasing global interaction among nations.

(7) American colleges and universities must place a new emphasis on improving the teaching of foreign languages, area studies, and other international fields to help meet those challenges.

(c) PURPOSES.—The purposes of this title are as follows:

(1) To provide the necessary resources, accountability, and flexibility to meet the national security education needs of the United States, especially as such needs change over time.

(2) To increase the quantity, diversity, and quality of the teaching and learning of subjects in the fields of foreign languages, area studies, and other international fields that are critical to the Nation's interest.

(3) To produce an increased pool of applicants for work in the departments and agencies of the United States Government with national security responsibilities.

(4) To expand, in conjunction with other Federal programs, the international experience, knowledge base, and perspectives on which the United States citizenry, Government employees, and leaders rely.

(5) To permit the Federal Government to advocate the cause of international education.

SEC. 802. SCHOLARSHIP, FELLOWSHIP, AND GRANT PROGRAM.

(a) PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall carry out a program for—

(A) awarding scholarships to undergraduate students who are United States citizens in order to enable such students to study, for at least one academic semester, in foreign countries that are critical countries (as determined under section 803(d)(4)(A));

(B) awarding fellowships to graduate students who—

(i) are United States citizens to enable such students to pursue education in the United States in the disciplines of foreign languages, area studies, and other international fields that are critical areas of those disciplines (as determined under section 803(d)(4)(B)); and

(ii) pursuant to subsection (b)(2), enter into an agreement to work for an agency or office of the Federal Government or in the field of education in the area of study for which the fellowship was awarded; and

(C) awarding grants to institutions of higher education to enable such institutions to establish, operate, or improve programs in foreign languages, area studies, and other international fields that are critical areas of those disciplines (as determined under section 803(d)(4)(C)).

(2) FUNDING ALLOCATIONS.—Of the amount available for obligation out of the National Security Education Trust Fund for any fiscal year for the purposes stated in paragraph (1), the Secretary shall have a goal of allocating—

(A) ⅓ of such amount for the awarding of scholarships pursuant to paragraph (1)(A);

(B) ⅓ of such amount for the awarding of fellowships pursuant to paragraph (1)(B); and

(C) ⅓ of such amount for the awarding of grants pursuant to paragraph (1)(C).

(3) CONSULTATION WITH NATIONAL SECURITY EDUCATION BOARD.—The program required under this title shall be carried out in consultation with the National Security Education Board established under section 803.

(4) CONTRACT AUTHORITY.—The Secretary may enter into one or more contracts, with private national organizations having an expertise in foreign languages, area studies, and other international fields, for the awarding of the scholarships, fellowships, and grants described in paragraph (1) in accordance with the provisions of this title. The Secretary may enter into such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law that requires the use of competitive procedures.

(b) SERVICE AGREEMENT.—In awarding a scholarship or fellowship under the program, the Secretary or contract organization referred to in subsection (a)(4), as the case may be, shall require a recipient of any fellowship, or of scholarships that provide assistance for periods that aggregate 12 months or more, to enter into an agreement that, in return for such assistance, the recipient—

(1) will maintain satisfactory academic progress, as determined in accordance with regulations issued by the Secretary, and agrees that failure to maintain such progress shall constitute grounds upon which the Secretary or contract organization referred to in subsection (a)(4) may terminate such assistance;

(2) will, upon completion of such recipient's baccalaureate degree or education under the program, as the case may be, and in accordance with regulations issued by the Secretary, work for the Federal Government or in the field of education in the area of study for which the scholarship or fellowship was awarded for a period specified by the Secretary, which period for the recipients of scholarships shall be no more than the same period for which scholarship assistance was provided and for the recipients of fellowships shall be not less than one and not more than three times the period for which the fellowship assistance was provided; and

(3) if the recipient fails to meet either of the obligations set forth in paragraph (1) or (2), will reimburse the United States Government for the amount of the assistance provided the recipient under the program, together with interest at a rate determined in accordance with regulations issued by the Secretary.

(c) DISTRIBUTION OF ASSISTANCE.—In selecting the recipients for awards of scholarships, fellowships, or grants pursuant to this title, the Secretary or a contract organization referred to in subsection (a)(4), as the case may be, shall take into consideration (1) the extent to which the selections will result in there being an equitable geographic distribution of such scholarships, fellowships, or grants (as the case may be) among the various regions of the United States, and (2) the extent to which the distribution of scholarships and fellowships to individuals reflects the cultural, racial, and ethnic diversity of the population of the United States.

(d) MERIT REVIEW.—The Secretary shall award scholarships, fellowships, and grants under the program based upon a merit review process.

(e) ADMINISTRATION OF PROGRAM THROUGH THE DEFENSE INTELLIGENCE COLLEGE.—The Secretary shall administer the program through the Defense Intelligence College.

(f) LIMITATION ON USE OF PROGRAM PARTICIPANTS.—No person who receives a grant, scholarship, or fellowship or any other type of assistance under this title shall, as a condition of receiving such assistance or under any other circumstances, be used by any department, agency, or entity of the United States Government engaged in intelligence activities to undertake any activity on its behalf during the period such person is pursuing a program of education for which funds are provided under the program carried out under this title.

SEC. 803. NATIONAL SECURITY EDUCATION BOARD.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a National Security Education Board.

(b) COMPOSITION.—The Board shall be composed of the following individuals or the representatives of such individuals:

(1) The Secretary of Defense, who shall serve as the chairman of the Board.

(2) The Secretary of Education.

(3) The Secretary of State.

(4) The Secretary of Commerce.

(5) The Director of Central Intelligence.

(6) The Director of the United States Information Agency.

(7) Four individuals appointed by the President, by and with the advice and consent of the Senate, who shall be experts in the fields of international, language, and area studies education.

(c) TERM OF APPOINTEES.—Each individual appointed to the Board pursuant to subsection (b)(7) shall be appointed for a period specified by the President at the time of the appointment, but not to exceed four years. Such individuals shall receive no compensation for service on the Board but may receive reimbursement for travel and other necessary expenses.

(d) FUNCTIONS.—The Board shall perform the following functions:

(1) Develop criteria for awarding scholarships, fellowships, and grants under this title.

(2) Provide for wide dissemination of information regarding the activities assisted under this title.

(3) Establish qualifications for students desiring scholarships or fellowships, and institutions of higher education desiring grants, under this title, including, in the case of students desiring a scholarship or fellowship, a requirement that the student have a demonstrated commitment to the study of the discipline for which the scholarship or fellowship is to be awarded.

(4) Make recommendations to the Secretary regarding—

(A) which countries are not emphasized in other United States study abroad programs, such as countries in which few United States students are studying, and are, therefore, critical countries for the purposes of section 802(a)(1)(A);

(B) which areas within the disciplines described in section 802(a)(1)(B) are areas of study in which United States students are deficient in learning and are, therefore, critical areas within those disciplines for the purposes of that section;

(C) which areas within the disciplines described in section 802(a)(1)(C) are areas in which United States students, educators, and Government employees are deficient in learning and in which insubstantial numbers of United States institutions of higher education provide training and are, therefore, critical areas within those disciplines for the purposes of that section; and

(D) how students desiring scholarships or fellowships can be encouraged to work for an agency or office of the Federal Government involved in national security affairs or national security policy upon completion of their education.

(5) Review the administration of the program required under this title.

SEC. 804. NATIONAL SECURITY EDUCATION TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "National Security Education Trust Fund". The assets of the Fund consist of amounts appropriated to the Fund and amounts credited to the Fund under subsection (e).

(b) AVAILABILITY OF SUMS IN THE FUND.—(1) Sums in the Fund shall, to the extent provided in appropriations Acts, be available—

(A) for awarding scholarships, fellowships, and grants in accordance with the provisions of this title; and

(B) for properly allocable costs of the Federal Government for the administration of the program under this title.

(2) No amount may be appropriated to the Fund, or obligated from the Fund, unless authorized by law.

(c) INVESTMENT OF FUND ASSETS.—The Secretary of the Treasury shall invest in full the amount in the Fund that is not immediately necessary for obligation. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(d) AUTHORITY TO SELL OBLIGATIONS.—Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(e) AMOUNTS CREDITED TO FUND.—(1) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(2) Any amount paid to the United States under section 802(b)(3) shall be credited to and form a part of the Fund.

SEC. 805. REGULATIONS AND ADMINISTRATIVE PROVISIONS

(a) REGULATIONS.—The Secretary may prescribe regulations to carry out the program required by this title. Before prescribing any such regulations, the Secretary shall submit a copy of the proposed regulations to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives. Such proposed regulations may not take effect until 30 days after the date on which they are submitted to those committees.

(b) ACCEPTANCE AND USE OF GIFTS.—In order to conduct the program required by this title, the Secretary may—

(1) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purpose of conducting the program required by this title; and

(2) may use, sell, or otherwise dispose of such property for that purpose.

(c) VOLUNTARY SERVICES.—In order to conduct the program required by this title, the Secretary may accept and use the services of voluntary and noncompensated personnel.

(d) NECESSARY EXPENDITURES.—Expenditures necessary to conduct the program required by this title shall be paid from the Fund, subject to section 804(b).

SEC. 806. ANNUAL REPORT.

(a) ANNUAL REPORT.—The Secretary shall submit to the President and to the Congress an annual report of the conduct of the program required by this title. The report shall be submitted each year at the time that the President's budget for the next fiscal year is submitted to Congress pursuant to section 1105 of title 31, United States Code.

(b) CONTENTS OF REPORT.—Each such report shall contain—

(1) an analysis of the trends within language, international, and area studies, along with a survey of such areas as the Secretary determines are receiving inadequate attention;

(2) the effect on those trends of activities under the program required by this title;

(3) an analysis of the assistance provided under the program for the previous fiscal year, to include the subject areas being addressed and the nature of the assistance provided;

(4) an analysis of the performance of the individuals who received assistance under the program during the previous fiscal year, to include the degree to which assistance was terminated under the program and the extent to which individual recipients failed to meet their obligations under the program;

(5) an analysis of the results of the program for the previous fiscal year, and cumulatively, to include, at a minimum—

(A) the percentage of individuals who have received assistance under the program who subsequently became employees of the United States Government;

(B) in the case of individuals who did not subsequently become employees of the United States Government, an analysis of the reasons why they did not become employees and an explanation as to what use, if any, was made of the assistance by those recipients; and

(C) the uses made of grants to educational institutions; and

(6) any legislative changes recommended by the Secretary to facilitate the administration of the program or otherwise to enhance its objectives.

(c) SUBMISSION OF INITIAL REPORT.—The first report under this section shall be submitted at the time the budget for fiscal year 1994 is submitted to Congress.

SEC. 807. GENERAL ACCOUNTING OFFICE AUDITS.

The conduct of the program required by this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property of the Department of Defense pertaining to such activities and necessary to facilitate the audit.

SEC. 808. DEFINITIONS.

For the purpose of this title:

(1) The term "Board" means the National Security Education Board established pursuant to section 803.

(2) The term "Fund" means the National Security Education Trust Fund established pursuant to section 804.

(3) The term "institution of higher education" has the meaning given that term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)) .

SEC. 809. FISCAL YEAR 1992 FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS TO THE FUND.—There is hereby authorized to be appropriated to the Fund for fiscal year 1992 the sum of $150,000,000.

(b) AUTHORIZATION OF OBLIGATIONS FROM THE FUND.—During fiscal year 1992, there may

be obligated from the Fund such amounts as may be provided in appropriations Acts, not to exceed $35,000,000. Amounts made available for obligation from the Fund for fiscal year 1992 shall remain available until expended.

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DAVE MCCURDY,
CHARLES WILSON,
BARBARA B. KENNELLY,
DAN GLICKMAN,
NICHOLAS MAVROULES,
BILL RICHARDSON,
STEPHEN J. SOLARZ,
NORMAN DICKS,
RONALD V. DELLUMS,
DAVID BONIOR,
MARTIN OLAV SABO,
WAYNE OWENS,
BUD SHUSTER
(except for titles VII and VIII and dropping section 404 of the House bill),
LARRY COMBEST
(except for titles VII and VIII and dropping section 404 of the House bill),
DOUGLAS BEREUTER
(except for titles VII and VIII and dropping section 404 of the House bill),
ROBERT K. DORNAN
(except for titles VII and VIII and dropping section 404 of the House bill),
C.W. BILL YOUNG
(except for titles VII and VIII and dropping section 404 of the House bill),
DAVID O'B. MARTIN
(except for titles VII and VIII and dropping section 404 of the House bill),
GEORGE W. GEKAS
(except for titles VII and VIII and dropping section 404 of the House bill),

As additional conferees from the Committee on Armed Services, for consideration of matters within the jurisdiction of that committee under clause 1(c) of rule X:

LES ASPIN,
IKE SKELTON,
WILLIAM L. DICKINSON,

As additional conferees from the Committee on Education and Labor, for consideration of title VII of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
PAT WILLIAMS,
CHARLES A. HAYES,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of titles III (except sec. 301) and VI of the Senate amendment, and modifications committed to conference:

WILLIAM L. CLAY,
GERRY SIKORSKI,
GARY L. ACKERMAN,
BENJAMIM A. GILMAN,
JOHN MYERS,
Managers on the Part of the House.

DAVID L. BOREN,
SAM NUNN,
FRITZ HOLLINGS,
BILL BRADLEY,
ALAN CRANSTON,
DENNIS DECONCINI,
HOWARD M. METZENBAUM,
JOHN GLENN,
FRANK H. MURKOWSKI,
JOHN W. WARNER,
ALFONSE D'AMATO,
JOHN C. DANFORTH,
WARREN RUDMAN,
SLADE GORTON,
JOHN H. CHAFEE,
J. JAMES EXON,
STROM THURMOND,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding Dodd intelligence related activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions of the intelligence committees of the House and the Senate, and consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the national Defense Authorization Act for Fiscal Years 1992 and 1993. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriation category of Military Pay.

SECTIONS 101 AND 102

Sections 101 and 102 of the conference report authorize appropriations for the intelligence and intelligence-related activities of the United States Government for fiscal year 1992 and establish personnel ceilings applicable to such activities.

SECTION 103

Section 103 of the conference report authorizes the Director of Central Intelligence to make adjustments in personnel ceilings in certain circumstances. Section 103 of the conference report is identical to section 103 of the House bill and section 103 of the Senate amendment.

The conferees emphasize that the authority conveyed by section 103 is not intended to permit the wholesale raising of personnel strength in each or any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees from retirement, resignation, and so forth. The conferees do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed personnel levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this Act.

TITLE II—INTELLIGENCE COMMUNITY STAFF

Title II of the conference report authorizes appropriations and personnel end-strengths for fiscal year 1992 for the Intelligence Community Staff and provides for administration of the staff during fiscal year 1992 in the same manner as the Central Intelligence Agency. The conference report authorizes $31,219,000 and 218 personnel. Included in the funds authorized for the Intelligence Community Staff are $6,566,000 and 50 personnel for the Security Evaluation Office (SEO), and $2,000,000 and 3 personnel to provide a full-time staff and an operational budget for the Director of Central Intelligence's Foreign Language Committee. The House bill authorized $30,719,000 and 213 personnel. The Senate amendment authorized $28,832,000 and 240 personnel.

The conferees agreed to a net reduction of 22 personnel in the Intelligence Community Staff to underscore their belief that the current structure and activities of the Staff cannot justify the requested personnel levels. If the Director of Central Intelligence concludes that coordination of issues across the intelligence community should be performed by an Intelligence Community Staff with strengthened authority, the conferees expect that the fiscal year 1993 budget request will reflect a clear basis for that conclusion.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SECTION 301

Section 301 of the conference report authorizes appropriations for fiscal year 1992 of $164,100,000 for the Central Intelligence Agency Retirement and Disability Fund. Both Section 301 of the House bill and Section 301 of the Senate amendment authorized $164,100,000.

Section 301 also clarifies that, except as otherwise expressly provided, any amendment or repeal in Title III of the conference report shall be treated as being an amendment or repeal to the Central Intelligence

Agency Retirement and Disability Act of 1964 for Certain Employees (50 U.S.C. 403 note).

The conferees intend to review in 1992 the entire Central Intelligence Agency Retirement Act of 1964 for Certain Employees to amend those provisions of the Act which have been subject to executive order since January 1, 1975 and to make other technical corrections. Therefore, the conferees direct the Central Intelligence Agency to undertake a systematic review of the Act and to submit to the intelligence committees by February 1, 1992, a comprehensive proposal to bring greater clarity and consistency to the Act.

SECTION 302

Section 302 of the Senate amendment amended subsections (c), (d) and (e) of Section 221, and subsections (c) and (d) of Section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees with respect to the computation of survivor benefits for the children of a deceased participant or annuitant in the CIA Retirement and Disability System (CIARDS). The Senate amendment provided that children with a living parent, whether that parent is a surviving spouse or former spouse of the deceased participant or annuitant, shall receive an annuity paid at the rate applicable to single orphans as opposed to double orphans. The House bill did not contain a similar provision.

The conferees agreed to adopt the Senate provisions as Section 302 of the conference report with technical drafting changes and an amendment providing that the change in the computation of survivor benefits shall be applicable only where the death of the participant or annuitant occurs after the first day of the fourth month beginning after the enactment date of the conference report. Children with a living parent who are currently receiving double orphan benefits are to be held harmless. Similar changes were made to the Civil Service Retirement System (CSRS) in 1984 and to the Foreign Service Retirement System (FSRS) in 1988.

SECTION 303

Section 303 of the conference report amends Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to provide a second, 18-month survivor benefit election opportunity during which CIARDS retirees may provide for or increase a current spouse survivor annuity. Section 303 is similar to Section 303 of the Senate amendment, however, Section 303 contains significant technical drafting changes including a redrafted effective date provision which better reflects the description of the provision in the Senate report (S. Rpt. 102-117).

The House bill did not contain a similar provision.

SECTION 304

Section 304 of the conference report amends Section 224(c)(2)(A) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to provide the Director of Central Intelligence the authority to waive the requirement that certain qualified former spouses apply for CIARDS survivor benefits within 30 months of October 1, 1986. Section 304 is identical to Section 304 of the Senate amendment except for technical drafting changes.

The House bill did not contain a similar provision.

SECTION 305

Section 305 of the conference report amends Section 231(b)(1) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to give the Director of Central Intelligence the authority to issue regulations providing for reimbursement of less than 100 percent of the costs associated with CIARDS disability retirement examinations. Section 305 is identical to Section 305 of the Senate amendment except for technical drafting changes.

The House bill did not contain a similar provision.

SECTION 306

Section 306 of the conference report amends subsections (a) and (b) of Section 226 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to allow survivor benefits to be provided for a previous spouse by court order or an election in the case of all CIARDS annuitants (regardless of the annuitant's date of retirement) whose divorce occurs on or after September 30, 1990. Section 306 also makes certain other technical changes in Section 226 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees. Section 306 is identical to Section 306 of the Senate amendment except for technical drafting changes.

The House bill did not contain a similar provision.

SECTION 307

Section 307 of the conference report amends Section 235(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to make a technical correction to the mandatory retirement provisions of CIARDS to link the mandatory retirement age of CIARDS to the pay schedule of the Senior Intelligence Service (SIS). Section 307 is identical to Section 307 of the Senate amendment except for technical drafting changes.

The House bill did not contain a similar provision.

SECTION 308

Section 308 amends Section 8351 of title 5 of the United States Code to clarify that CIA foreign national employees who serve overseas and are subject to the Civil Service Retirement System (CSRS) are precluded from Thrift Savings Plan (TSP) participation effective January 1, 1987. Section 308 also provides for a refund of contributions to the TSP, plus earnings, if any, if such contributions have been made. Section 308 is identical to subsections (b) and (d) of Section 308 of the Senate amendment except for technical drafting changes. The conferees agreed that inclusion of subsections (a) and (c) of Section 308 of the Senate amendment was unnecessary because current law precludes federal employees covered under other federal retirement plans from participation in CSRS or the Federal Employees Retirement System (FERS).

SECTION 309

Section 309 of the Senate amendment redrafted Section 304 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to consolidate the special entitlements and rules that apply to qualified former spouses of CIA employees covered under the Federal Employees' Retirement System (FERS). In addition, Section 309 eliminated the entitlement of former spouses to an automatic statutory share of benefits payable under subchapter III of FERS, the Thrift Savings Plan (TSP).

Although the conferees agreed that Section 304 of the 1964 Act needs to be redrafted, they were not persuaded that the imposition of a pro-rata division of TSP benefits is either unreasonable or unworkable. The conferees were concerned that the TSP represents a major portion of the retirement benefits of retirees under FERS and that any change in the entitlement of qualified former spouses to TSP benefits should be taken only after full and careful consideration of the change.

Nevertheless, the conferees did agree to include one provision of Section 309 of the Senate amendment in the conference report. This provision, which was subsection (g) of the amended Section 304 in the Senate amendment, clarifies that certain former spouses of Agency employees divorced on or before November 15, 1982, will be entitled to receive the retirement and survivor benefits provided under Sections 224 and 225 of the 1964 Act, even if the Agency employee transferred into FERS. Currently, the benefits of Sections 224 and 225, which are provided solely by special appropriation, apply only to those eligible former spouses of Agency employees who are covered under CIARDS or the Civil Service Retirement System. Section 309 of the conference report adds a new subsection (h) to Section 304 of the 1964 Act and is deemed to be effective as of December 2, 1987.

The House bill did not contain a similar provision.

SECTION 310

Section 310 of the conference report amends Section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to eliminate the requirement that a former husband or wife of a participant or former participant must have spent five years outside the United States to qualify for "former spouse" benefits. Under the amended section, to qualify for "former spouse" benefits, the spouse must have been married to the participant for at least ten years during periods of creditable service by the participant, at least five years of which must have been spent by the participant outside the United States as an employee of the Central Intelligence Agency or otherwise in a position whose duties have qualified the participant for designation by the Director as a participant. The amended section or former participant becomes final after the date of enactment of this Act. Section 310 is identical to Section 310 of the Senate amendment except for technical drafting changes.

The House bill did not contain a similar provision.

TITLE IV—GENERAL PROVISIONS

SECTION 401

Section 401 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. Section 401 is identical to section 401 of the House bill and to section 401 of the Senate amendment.

SECTION 402

Section 402 of the conference report provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States. Section 402 is identical to section 402 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 403

Section 403 of the conference report requires the Director of Central Intelligence to direct that elements of the Intelligence Community should award contracts in a manner that would maximize the procurement of products produced in the United States. Such direction shall occur when compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound. The conferees note that the use of a differential in evaluating the bids of domestic and foreign firms is not inconsistent with the meaning of the term "fiscally sound." Section 403 is identical to section 403 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 404

Section 404 of the conference report provides that the position of Inspector General of the Central Intelligence Agency (CIA) will be entitled to compensation at a statutory level comparable to the Inspectors General at other government agencies, including the Departments of State and Defense. The enabling legislation which created the CIA Inspector General did not establish a statutory level of compensation for that office.

Section 404 is identical to section 601 of the Senate amendment. The House bill did not contain a similar provision.

SECTION 405

Section 405 of the conference report authorizes the Secretary of Defense to pay expenses incurred when an employee of the National Security Agency dies while on a rotational tour of duty within the United States or while in transit to or from such tour of duty. The authorization provided by section 405 would extend to the expenses associated with transporting the employee's dependents and family effects, as well as the employee's remains, from the duty location to the employee's former home or official station, or such other place as determined by the Secretary.

A "rotational tour of duty" occurs when the National Security Agency transfers an employee from the headquarters of the agency to another duty site in the United States for a fixed, relatively brief period of time established by regulation, with the intent to return the employee to agency headquarters at the end of that period.

Section 405 is identical to section 801 of the Senate amendment. The House bill did not contain a similar provision.

SECTION 406

Section 406 of the conference report reflects the conferrers' agreement on sections 501-503 of the House bill which required the head of each department or agency which holds or receives any information on personnel listed as prisoner of war or missing in action after 1940 to make available to the public such records or information not later than 180 days after enactment. The House bill prohibited disclosure of information that would reveal sources or methods of intelligence collection, and no records which specifically mention by name a United States service member could be released unless express permission were granted by specified relatives of the service member, if those relatives were alive. In addition, the House bill required agencies within the Department of Defense to compile and make available to the public a complete list of all personnel classified after 1940 as prisoner of war, missing in action or killed in action (body not returned). The amendment did not contain a similar provision.

The conferees noted that the issues raised by sections 501-503 of the House bill had been addressed in the conference on the National Defense Authorization Act for Fiscal Years 1992 and 1993, H.R. 2100. The conferees agreed that it was unnecessary to repeat in the intelligence authorization bill the provisions on the release of information pertaining to Vietnam-era prisoners of war and missing in action which will appear as section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993. These provisions require the Secretary of Defense to place in a library-life facility within the National Capital region for public review and photocopying any record, live-sighting report or other information that relates to the location, treatment or condition of any Vietnam-era POW/MIA (member of the Armed Forces or civilian employee of the United States) whose person or remains have not been returned to United States control.

The conferees also noted that the National Defense Authorization Act for Fiscal Years 1992 and 1993 does not require that records pertaining to World War II or Korean conflict POW/MIA's be made publicly available in the same manner as required for records of Vietnam-era POW/MIA's. The conferees were concerned that there is insufficient information currently available concerning the numbers of United States military and civilian employee personnel who remain unaccounted for as a result of military actions during World War II and the Korean conflict, the location of records pertaining to those personnel, and the feasibility of expanding public access to those records.

Therefore, the conferees agreed to require the Secretary of Defense to submit, within 90 days of enactment, a report to the Select Committee on POW/MIA Affairs and the Armed Services Committee of the Senate, and the Permanent Select Committee on Intelligence and the Armed Services Committee of the House of Representatives setting forth:

(1) The number of members of the Armed Forces or civilian employees who remain unaccounted for as a result of military actions during World War II or the Korean conflict;

(2) A description of the nature and location of any military records which pertain to such individuals, including the extent to which such records are available to family members or members of the public and the process by which access to such records may be obtained;

(3) An identification and description of any military records (including the location of such records) pertaining to such individuals that are not available to family members or members of the public, and a statement explaining why such records are not available to family members or the public; and

(4) An assessment of the feasibility and costs of identifying, segregating, and relocating all such records to a central location within the United States, including an estimate of the percentage of such records regarding such individuals which are currently maintained by the Department of Defense.

The conferees are encouraged by the fact that the issue of public access to information pertaining to missing United States personnel has received significant attention in the Congress and in the Department of Defense since passage of the House bill on June 11, 1991. The conferees believe that the result of the actions taken by Congress on this issue this year will be to ensure greater public availability of this information in a way which will not compromise national security or violate family privacy.

TITLE V—FEDERAL BUREAU OF INVESTIGATION PROVISIONS

SECTION 501

Section 501 of the conference report directs the Director of the Federal Bureau of Investigation (FBI) to conduct a study to determine the feasibility of establishing an undergraduate training program, including training which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the FBI's mission. Any program proposed as a result of the study may be implemented only after the review and approval of the Department of Justice and the Office of Management and Budget, and only to the extent that appropriated funds are available for that purpose.

Section 501 is identical to section 501 of the Senate amendment. The House bill did not contain a similar provision.

TITLE VI—CENTRAL INTELLIGENCE AGENCY CONSOLIDATION PLAN

SECTION 601

Section 601 reflects the conferees' agreement with respect to a matter raised in the classified annex accompanying the report on the Senate amendment (Senate Report 102-117).

The conferees have provided $20 million above the budget request in the Agency Management Base to serve as a source of funds for a reprogramming for the Central Intelligence Agency Consolidation Plan should the Director of Central Intelligence (DCI) determine that funds in addition to the funds specifically authorized for the consolidation plan by this Act are necessary during fiscal year 1992. If the DCI requests that all, or a portion of the $20 million be made available, such request shall be considered pursuant to established reprogramming procedures.

TITLE VII—BUDGET TOTAL FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES

SECTION 701

Section 104 of the Senate amendment required that the President's annual budget submission contain unclassified statements of the total amount of intelligence-related spending requested for the coming year and the total amount expended in the previous fiscal year. Section 105 required that the conference report on the intelligence authorization bill contain an unclassified statement of the total amount authorized for intelligence and intelligence-related activities. Section 106 delayed the effective date of sections 104 and 105 until the enactment of the intelligence authorization bill for fiscal year 1993. The House bill contained no similar provisions.

While agreeing with the objective of the Senate provisions, and believing that Congress should take a clear position in favor of the public disclosure of the intelligence budget total, as recommended by the Senate, the conferees believed it preferable to indicate this position in a "sense of the Congress" provision, rather than mandate such disclosures by law at this time. It is the conferees' hope that the Committees, working with the President, will, in 1993, be able to make such information available to the American people, whose tax dollars fund these activities, in a manner that does not jeopardize U.S. national security interests.

TITLE VIII—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS AND GRANTS

Title VII of the Senate amendment authorized the creation of a National Security Education Trust Fund, funded at a level of

$180,000,000, which would have been invested in interest-bearing obligations of the United States. Interest generated would have been used to fund undergraduate scholarships, graduate fellowships, and grants to educational institutions in the areas of international studies, area studies, and foreign languages. The objectives of this title were to enhance the quality of U.S. educational programs in these fields, as well as enable the United States Government to develop a pool of potential employees with knowledge of particular cultures, languages, or governments by making it possible for many more U.S. students to study abroad.

Under the Senate amendment, funding for the program was authorized to be appropriated to the Secretary of Defense who, in turn, was authorized to transfer such funds to a trust fund to have been established in the Treasury. This trust fund would have been administered in accordance with policies and criteria established by a National Security Education Board, chaired by the Secretary of Defense or his representative. Members of the Board were to have been the Secretaries of Education, State, and Commerce, the Director of Central Intelligence, the Director of the U.S. Information Agency, or their respective representatives, and four individuals appointed by the President with the advice and consent of the Senate. The Board was to identify the areas where, from the standpoint of the Government, U.S. expertise or capability was lacking or deficient, and establish criteria for the award of assistance under the program.

The Senate amendment itself provided a number of general criteria to govern the award of assistance. For example, the annual distribution of assistance would have been apportioned approximately in thirds: one-third to undergraduate scholarships; one-third to graduate fellowships; and one-third to U.S. educational institutions. It also provided that the awards in each category would have been based upon a merit review process, however, the Board was authorized to take into account the need to provide for an equitable distribution of such assistance among the various geographic regions of the United States.

The Senate amendment also provided that persons receiving graduate fellowships under the program would, as a condition of receiving such assistance, enter into an agreement with the Secretary in which such persons agreed to maintain satisfactory academic progress, and agreed to work for the federal government or in the field of education upon the completion of their education, for a period determined by the Secretary of at least one year and no more than three years for each year a fellowship was awarded.

The Senate amendment required the Secretary to administer the program through the Defense Intelligence College but also authorized the Secretary to enter into contracts with private national organizations to carry out the program. It also required that the Secretary submit an annual report to the President and the Congress concerning the operation of the program.

Finally, the Senate amendment provided that from the amounts transferred to the trust fund, the Secretary would reserve for fiscal year 1992: (1) $15,000,000 to award scholarships for undergraduate study abroad; (2) $10,000,000 to award fellowships for graduate school studies; and (3) $10,000,000 for grants to educational institutions.

The conferees support the objectives of the Senate amendment, believing it will make an important and continuing contribution to the nation's security. They also agree generally with the framework for the program proposed by the Senate amendment. Nevertheless, there were a number of modifications to the Senate amendment which the conferees agreed were desirable.

First, the conferees agreed that the objectives of the program could be met with a trust fund authorized at a level of $150,000,000 rather than the $180,000,000 provided by the Senate amendment. Accordingly, section 809 of the conference report authorizes an amount of $150,000,000 to be transferred to the National Security Education Trust Fund established by the Act.

The Senate amendment provided that fellowships and scholarships under the program could be awarded to U.S. citizens and resident aliens. Inasmuch as a primary objective of the program is to develop a pool of potential employees to work in the national security agencies of the U.S. Government, the conferees believe that the assistance awarded to individuals under the program should be limited to U.S. citizens. Subsection 802(a)(1) has been limited accordingly.

The Senate amendment provided that only persons awarded graduate fellowships were required to enter into an agreement under which they would agree to a period of employment with the federal government, or service in the field of education, after completion of their baccalaureate degree. The conferees believe that where scholarships are provided to undergraduates, and such assistance is provided for a period which aggregates 12 months or more, the recipients should also be required, as a condition of such assistance, to agree to work for the federal government, or in the field of education, after the completion of their education for a period not longer than the period such assistance was provided. Section 802(b)(2) of the conference bill reflects this modification.

The conferees also agreed that the Senate amendment required clarification of the obligations of recipients of fellowships (to be known as "International Graduate Fellows") and scholarships (to be known as "International Exchange Scholars") who were required to enter into service agreements. Thus, subsection 802(b)(1) of the conference report provides that a failure of such recipients to maintain satisfactory academic progress, as determined in accordance with regulations issued by the Secretary of Defense, shall constitute grounds for termination of the assistance in question. Subsection 802(b)(3) further provides that should a recipient fail to maintain such progress, or fail to satisfy the commitment to work for the federal government or in the field of education after the completion of his or her baccalaureate degree or education under the program, as the case may be, the recipient is obligated to reimburse the United States Government for the cost of the assistance previously provided under the program, together with interest at a rate determined in accordance with regulations issued by the Secretary of Defense. Section 804(e) provides that any such amount reimbursed to the Government shall be returned to the Fund itself.

The Senate amendment provided that the awards in each category were to be based upon a merit review process, but the Secretary or the contract organization administering the award program was also authorized to take into account the need to provide for an equitable distribution of such assistance among the various geographic regions of the United States. The conferees also believe it desirable that the Secretary or contract organization take into account the need for the recipients of such assistance to reflect the broad cultural, racial, and ethnic diversity that exists among the American people. Thus, subsection 802(c) of the conference bill provides that the need to reflect such diversity be taken into account in the award of assistance to individuals.

The conferees also believe it desirable to modify the Senate amendment to make clear that no person who receives a scholarship or a fellowship under this program shall be used to carry out any activity on the part of any element of the United States Government involved in intelligence activities. It must be clear to foreign governments and organizations who host U.S. citizens receiving assistance under this program that the individuals concerned are engaged in purely academic pursuits. Accordingly, a new subsection 802(f) has been added to the conference bill providing that individual recipients of assistance under this program may not be used to undertake any activity on behalf of an intelligence agency of the U.S. Government during the period assistance is provided.

The Senate amendment was silent with respect to whether the amounts to be expended from the Fund each year were subject to annual congressional authorizations. The conferees agreed that such amounts should be subject to such authorizations and appropriations in order to provide Congress a significant continuing role in the administration of the program. Subsection 804(b)(2) reflects this change to the Senate amendment. The conferees also added a new subsection 805(d) making clear that expenditures necessary to conduct the program are to be paid from the Fund, subject to the annual authorizations.

Although the Senate amendment contained a requirement that Secretary provide an annual report to the President and the Congress concerning the operation of the program, the conference agreed that the requirements specified for the report were deficient in terms of eliciting relevant data concerning the results produced by the program. Accordingly, the conferees added new requirements for the annual report, to include:

An analysis of the assistance provided under the program, to include the subject areas being addressed;

An analysis of the performance of the individuals who received assistance under the program, to include information on the number who failed to meet their obligations under the program;

An analysis of the results of the program, both for the previous fiscal year and cumulatively, to include the percentage of recipients who became employees of the federal government, the uses made by the assistance by other recipients, and the uses made of the assistance by educational institutions, and

Any legislative changes recommended by the Secretary to facilitate the administration of the program or otherwise to enhance its objectives.

The conferees determined that the first such annual report should be submitted at the time the budget for fiscal year 1994 is submitted to the Congress.

Finally, the conferees agreed to add a provision section 809(b), authorizing up to $35 million to be obligated from the fund in fiscal year 1992. Such funds as may be provided through appropriations in fiscal year 1992 are to remain available for obligation until expended.

Organizational Initiatives

Both Committees had directed or endorsed certain organizational initiatives in the report on their respective bills. These were motivated, in large part, by the lessons learned from DESERT SHIELD/DESERT STORM. The recommendations also represented, however, the first steps proposed by each Committee as a result of their respective ongoing reviews of the organizational structure of the intelligence community.

In its actions on the FY 1992 budget, the House—

Transferred three military service-supported S&T centers—Army's Armed Forces Medical Intelligence Command (AFMIC), Army's Missile and Space Technology Center (MSTC), and another activity reflected in the schedule of authorizations—to DIA and designated them field production activities.

Gave DIA direction, control and authority over three additional military service-supported S&T centers—Air Force's Foreign Technology Division (FTD), Army's Foreign Science and Technology Center (FSTC), Navy's Naval Technical Intelligence Command (NTIC), as well as all foreign materiel programs within the GDIP (included in the military service S&T budgets that HPSCI transferred to DIA).

Transferred the military services' human intelligence (HUMINT) budgets as well as DoD's Foreign Counterintelligence (FCI) budget to DIA in order to give the agency clear control over all resources and the authorities to centrally manage all defense HUMINT activities in DoD and manage an integrated HUMINT/CI program.

The Senate, for its part, adopted report language which called for the following organizational changes:

The creation of an Assistant Deputy Director of Operations for Military Support at CIA, to facilitate the interaction between CIA and the military.

A joint study by the Assistant Secretary of Defense (C3I) and Director of Central Intelligence, to identify an "imagery manager" within DoD to provide a focal point for imagery policy and oversight.

Development of a plan to ensure that the theater commanders were able to exercise control of national intelligence systems in peacetime to ensure an orderly transition during crisis and war.

Rotation of the Director and Deputy Director positions at the National Photographic Interpretation Center (NPIC) between CIA and DoD every three years to make NPIC more responsive to military requirements, as well as direction to DIA to remain part of NPIC until the lessons learned from DESERT STORM/DESERT SHIELD could be evaluated.

Integration of representatives of the CIA Directorates of Operations and Intelligence into the Joint Intelligence Centers at theater commands to improve CIA support and responsiveness to those commands.

Submission of an integrated DoD Foreign Counterintelligence and Security Countermeasures Program in the National Foreign Intelligence Program.

Reallocation of personnel to establish a counterintelligence and security component within the Intelligence Policy Support Group.

The conferees have considered each of these initiatives, and agree, at this time, only to the actions set forth below. In some cases, these actions are reflected in the classified Schedule of Authorizations or are further elaborated in the report language which accompanies the classified Schedule of Authorizations.

1. The Armed Forces Medical Intelligence Center and the Army Missile and Space Intelligence Center are to be transferred to DIA. This transfer, in fact, is mandated by section 921 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (H.R. 2100).

2. The funds authorized for research and development (R&D), and for procurement for the three principal science and technology centers for the military departments (i.e., the Air Force Foreign Technology Division (FTD), the Army Foreign Science and Technology Center (FSTC) and the Naval Technical Intelligence Command (NTIC)) and for another activity reflected in the Schedule of Authorizations be transferred to DIA. This funding transfer is consistent with the report language pertaining to section 921 of the National Defense Authorization Act for Fiscal years 1992 and 1993 (H.R. 2100).

3. All R&D and procurement funds authorized for DoD human intelligence activities be transferred to DIA. This funding transfer is consistent with the report language pertaining to section 921 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (H.R. 2100).

4. The DCI should create within the Directorate of Operations at CIA the position of Assistant Deputy Director for Military Support to facilitate the interaction between CIA and the military. This proposal is elaborated in the report language accompanying the classified Schedule of Authorizations.

5. The Director, DIA should delay the withdrawal of DIA personnel from NPIC during fiscal year 1992 in order to provide the Committees with an opportunity to assess the effects of such withdrawal within the context of their overall review of organizational arrangements within the intelligence community.

6. Representatives from the CIA Directorates of Intelligence and Operations should be integrated into Joint Intelligence Centers established at theater commands and DIA—reporting to the J-2s—in order to improve CIA support and responsiveness to those activities.

7. The Assistant Secretary of Defense (C3I) in consultation with the Director of Central Intelligence, should submit by July 1, 1992, a report to the two intelligence committees which discusses the desirability and feasibility of submitting to the Congress an integrated DoD Foreign Counterintelligence and Security Countermeasures Program budget within the National Foreign Intelligence Program.

8. DoD should take appropriate action to reallocate personnel to establish a counterintelligence and security component within the Intelligence Policy Support Group.

9. The Secretary of Defense and Director of Central Intelligence are requested to undertake a baseline review of the imagery community—including national, department, and tactical organization and programs—and develop a management blueprint for the 1990s. The results of this review should be provided the two intelligence committees by June 1, 1992.

The conferees note that one initiative proposed by the Senate, to develop a plan to enable theater commanders to exercise control of national intelligence systems in peacetime, is satisfactorily addressed by section 924 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (H.R. 2100), and, thus, there is no need to include it here.

The conferees also take note of the additional intelligence provisions contained in the National Defense Authorization Act for Fiscal Years 1992 and 1993, in particular, section 921 which assigns until January 1, 1993 certain responsibilities to the Director of the Defense Intelligence Agency. The conferees wish to make clear that during the forthcoming year both Committees intend to review, as part of their respective assessments of intelligence community organization, the authorities and responsibilities of the Director DIA, and to make such recommendations regarding these responsibilities as may be appropriate, within the context of their action on the intelligence authorization bill for fiscal year 1993.

PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

TRANSFER AUTHORITY

Section 104 of the House bill authorized the Director of Central Intelligence to transfer an amount of funds specified in the classified Schedule of Authorizations to a program identified in that schedule. The Senate amendment did not contain a similar provision. The conferees agreed that the transfer authority was not necessary to accomplish the purpose for which it had been intended.

OATH OF SECRECY

Section 404 of the House bill prohibited an element of the United States Government for which funds were authorized by the bill from providing classified intelligence information to a member or employee of the House Intelligence Committee unless the member or employee had executed an oath of secrecy which had then been published in the Congressional Record. The Senate amendment did not contain a similar provision. Since the House Intelligence Committee had, on October 22, 1991, adopted an amendment to its rules to require an oath of secrecy for members and employees, the conferees agreed that the provision was unnecessary.

Section 802 of the Senate amendment authorized the Director of Central Intelligence (DCI) to transfer an amount of funds not to exceed $10 million in the aggregate in any fiscal year, within the National Foreign Intelligence Program (NFIP) to respond to foreign intelligence operational emergencies. The House bill did not contain a similar provision. The conferees agreed that the sufficiency of the flexibility available to the DCI, under the Central Intelligence Agency Act of 1949, to transfer funds within the NFIP should be examined in the context of the consideration of intelligence reorganization proposals, which will occur in 1992.

CLASSIFICATION OF EXCEPTION FOR CERTAIN NATIONAL SECURITY INFORMATION FROM CERCLA DISCLOSURE REQUIREMENTS

Section 803 of the Senate amendment extended to those statutes and regulations authorizing the protection of certain types of unclassified information, the requirements of current law that a grant of access to classified information or restricted data pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), or Title III of the Superfund Amendments and Reauthorization Act of 1986, be governed by all of the requirements of law of Executive Order applicable to that kind of information or data. The House bill did not contain a similar provision. The conferees were aware that the Environmental Protection Agency and the National Security Agency are considering this issue in the broader context of an examination of a proposal to extend toxic chemical reporting requirements to federal facilities. The conferees agreed to exclude the provision from the conference report so as to not prejudge the results of that consideration and examination.

CONSOLIDATION OF AIRBORNE RECONNAISSANCE PROGRAMS

Section 804 of the Senate amendment required the Secretary of Defense to ensure that, beginning in fiscal year 1993, the budget submission for the General Defense Intelligence Program (GDIP) contain the amounts requested to be authorized and appropriated for the TR-1 airborne reconnaissance platform and the Airborne Reconnaissance Program. The Secretary of Defense was additionally required to consolidate management of these programs within the GDIP. The House bill did not contain a similar provision. The conferees noted that, because this issue had been considered and resolved by the conferees on the defense authorization bill for fiscal year 1992, it was necessary to address it in this conference report.

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DAVE MCCURDY,
CHARLES WILSON,
BARBARA B. KENNELLY,
DAN GLICKMAN,
NICHOLAS MAVROULES,
BILL RICHARDSON,
STEPHEN J. SOLARZ,
NORMAN DICKS,
RONALD V. DELLUMS,
DAVID BONIOR,
MARTIN OLAV SABO,
WAYNE OWENS,
BUD SHUSTER,
(except for titles VII and VIII and dropping section 404 of the House bill),
LARRY COMBEST
(except for titles VII and VIII and dropping section 404 of the House bill),
DOUGLAS BEREUTER
(except for titles VII and VIII and dropping section 404 of the House bill),
ROBERT K. DORNAN
(except for titles VII and VIII and dropping section 404 of the House bill),
C.W. BILL YOUNG
(except for titles VII and VIII and dropping section 404 of the House bill),
DAVID O'B. MARTIN
(except for titles VII and VIII and dropping section 404 of the House bill),
GEORGE W. GEKAS
(except for titles VII and VIII and dropping section 404 of the House bill),

As additional conferees from the Committee on Armed Services, for consideration of matters within the jurisdiction of that committee under clause 1(c) of rule X:

LES ASPIN,
IKE SKELTON,
WILLIAM L. DICKINSON,

As additional conferees from the Committee on Education and Labor, for consideration of title VII of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
PAT WILLIAMS,
CHARLES A. HAYES,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of titles III (except sec. 301) and VI of the Senate amendment, and modifications committed to conference:

WILLIAM L. CLAY,
GERRY SIKORSKI,
GARY L. ACKERMAN,
BENJAMIN A. GILMAN,
JOHN MYERS,
Managers on the Part of the House.

DAVID L. BOREN,
SAM NUNN,
FRITZ HOLLINGS,
BILL BRADLEY,
ALAN CRANSTON,
DENNIS DECONCINI,
HOWARD M. METZENBAUM,
JOHN GLENN,
FRANK H. MURKOWSKI,
JOHN W. WARNER,
ALFONSE D'AMATO,
JOHN C. DANFORTH,
WARREN RUDMAN,
SLADE GORTON,
JOHN H. CHAFEE,

From the Committee on Armed Services:

J. JAMES EXON,
STROM THURMOND,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 2521

Mr. MURTHA submitted the following conference report and statement on the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes:

[The conference report on H.R. 2521 will appear in a subsequent issue of the RECORD.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HORTON (at the request of Mr. MICHEL), for today, on account of official business.

Mr. ACKERMAN (at the request of Mr. GEPHARDT), for today after 5 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. EWING, for 60 minutes each day, on November 20 and 21.

Mr. BURTON of Indiana, for 60 minutes each day, on December 2, 3, 4, 5, and 6.

Mr. DREIER of California, for 60 minutes, today.

Mr. DORNAN of California, for 60 minutes each day, on November 23, and 24, and for 5 minutes today and on November 27.

Mr. RHODES, for 60 minutes, on November 20.

Mr. HASTERT, for 60 minutes, on November 20.

(The following Members (at the request of Mr. LEHMAN of California) to revise and extend their remarks and include extraneous material:)

Mr. KOLTER, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. WOLPE, for 60 minutes, today.

Ms. OAKAR, for 60 minutes each day, on today and on November 19, 20, 21, 22, 23, and 24.

Ms. KAPTUR, for 60 minutes each day, today and on November 19, 20, 21, and 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEHMAN of California) and to include extraneous matter:)

Mr. PENNY.
Mr. DYMALLY.
Mr. STARK in two instances.
Mr. DE LUGO in two instances.
Mr. TORRICELLI.
Mr. MAZZOLI.
Mr. LEHMAN of Florida.
Mr. DURBIN.
Mr. FUSTER.
Mr. WEISS.
Mr. CARDIN.
Mr. DIXON.
Mr. EDWARDS of California.
Mr. BENNETT in two instances.
Ms. PELOSI.

(The following Members (at the request of Ms. ROS-LEHTINEN) and to include extraneous matter:)

Mr. BROOMFIELD.
Mr. COX.
Mr. CLINGER.
Mr. GALLEGLY in two instances.
Mr. SHUSTER.
Mr. SUNDQUIST in two instances.
Mr. GINGRICH.
Mr. CUNNINGHAM.
Mr. DORNAN of California.
Mrs. ROUKEMA.
Mr. DANNEMEYER.
Mr. MICHEL.
Mr. GALLO.
Ms. ROS-LEHTINEN.
Ms. MOLINARI.
Mr. NUSSLE.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; to the Committee on Post Office and Civil Service.

S. 1553. An act to establish a program of marriage and family counseling for certain veterans of the Persian Gulf War and the spouses and families of such veterans; to the Committees on Veteran Affairs and Armed Services.

S. 1973. An act to authorize the Secretary of Transportation to transfer a vessel to the City of Warsaw, Kentucky; to the Committee on Merchant Marine and Fisheries.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3575. An act to provide a program of emergency unemployment compensation, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 374. An act to settle all claims of the Aroostock Band of Micmacs resulting from the band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a Joint Resolution of the House of the following titles:

On November 14, 1991:

H.R. 3402. An act to amend the Public Health Service Act to revise and extend certain programs regarding health information and health promotion; and

H. Joint Resolution 374. A joint resolution making further continuing appropriations for the fiscal year 1992, and for other purposes.

On November 15, 1991:

H.R. 3575. An act to provide a program of emergency unemployment compensation, and for other purposes.

ADJOURNMENT

Ms. KAPTUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 35 minutes p.m.) under its previous order, the House adjourned until tomorrow, Tuesday, November 19, 1991, at 1 o'clock p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2368. A letter from the Comptroller General, the General Accounting Office, transmitting a review of the President's seventh special impoundment message for fiscal year 1991, pursuant to 2 U.S.C. 685 (H. Doc. No. 102-164); to the Committee on Appropriations and ordered to be printed.

2369. A letter from the Assistant Secretary of Defense, transmitting a report on the operations of the National Defense Stockpile for the period October 1990 through March 1991, pursuant to 50 U.S.C. 98h-2(b); to the Committee on Armed Service.

2370. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council for North American Affairs for defense articles and services (Transmittal No. 92-08), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2371. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Belgium for defense articles and services (Transmittal No. 92-10), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2372. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to the United Kingdom (Transmittal No. DTC-2-92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2373. A communication from the President of the United States, transmitting a report on the status of efforts to obtain compliance by Iraq with the resolutions adopted by the United Nations Security Council, pursuant to Public Law 102-1, section 3 (105 Stat. 4) (H. Doc. No. 102-165); to the Committee on Foreign Affairs and ordered to be printed.

2374. A letter from the Assistant Secretary of State of Legislative Affairs, transmitting copies of the original report of political contributions of Frederick Vreeland, of the District of Columbia, to be Ambassador to the Kingdom of Morocco, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2375. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting the report on Verification of the CFE Treaty, pursuant to 22 U.S.C. 2577(a); to the Committee on Foreign Affairs.

2376. A letter from the Comptroller General, General Accounting Office, transmitting the results of the audit of the Pension Benefit Guaranty Corporation's financial statements for the fiscal year ended September 30, 1990, pursuant to 31 U.S.C. 9106(a); to the Committee on Government Operations.

2377. A letter from the Assistant Secretary for Legislative Affairs, Departments of the Treasury and State, transmitting the third report on foreign contributions in response to the Persian Gulf crisis, pursuant to Public Law 101-25, section 402 (105 Stat. 101); jointly, to the Committees on Foreign Affairs and Armed Services.

2378. A letter from the Comptroller General of the United States, transmitting a report on the 1991 fiscal year interest rate on rural telephone bank loans, pursuant to 7 U.S.C. 948(b)(3); jointly, to the Committees on Government Operations and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3394. A bill to amend the Indian Self-Determination and Education Assistance Act; with an amendment (Rept. 102-320). Referred to the Committee of Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. A report on S. 1720, an act to amend Public Law 93-531 (25 U.S.C. 640d et seq.) to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program for fiscal years 1992, 1993, 1994, and 1995 (Rept 102-321). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. A report on S. 1284, an act to make certain technical corrections in the Judicial Improvements Act of 1990; with amendments (Rept 102-322). Referred to the Committee of the Whole House on the State of the Union.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 283. Resolution providing for the consideration of H.R. 3595, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider—specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid program and to maintain the treatment of intergovernmental transfers as such a source (Rept. 102-323). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1305. A bill to amend the Communications Act of 1934 to protect the privacy rights of telephone subscribers; with an amendment (Rept. 102-324). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1104. A bill to declare certain portions of Pelican Island, TX, nonnavigable; with an amendment (Rept. 102-325). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3495. A bill to declare certain portions of Wappinger Creek in Dutchess County, N.Y., as nonnavigable waters; with an amendment (Rept. 102-326). Referred to the Committee of the Whole House on the State of the Union.

Mr. MCCURDY: Committee of conference. Conference report on H.R. 2038 (Rept. 102-327). Ordered to be printed.

Mr. MURTHA: Committee of conference. Conference report on H.R. 2521 (Rept. 102-328). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AUCOIN (for himself and Mr. SYNAR):

H.R. 3794. A bill to terminate production by the United States of tritium, plutonium, and highly enriched uranium for weapons, and to direct that the funds saved as a result of such termination be used for environmental restoration activities at nuclear weapons facilities; to the Committee on Armed Services.

By Mr. BROWN (for himself, Mr. LEWIS of California, Mr. COX of California, and Mr. MCCANDLESS):

H.R. 3795. A bill to amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California; to the Committee on the Judiciary.

By Mr. BRYANT (for himself, Mr. RANGEL, Mr. SCHEUER, Mr. TOWNS, Mr. DURBIN, and Mr. STUDDS):

H.R. 3796. A bill to amend the Public Health Service Act to establish certain programs regarding the children of substance abusers; to the Committee on Energy and Commerce.

By Mr. CLINGER:

H.R. 3797. A bill to extend the existing suspension of duty on naphthalic acid anhydride; to the Committee on Ways and Means.

By Mr. GUNDERSON (for himself, Mr. WEBER, Mr. RIGGS, Mr. ZELIFF, Mr. DANNEMEYER, Mr. KYL, Mrs. JOHNSON of Connecticut, and Mr. WALKER):

H.R. 3798. A bill to stimulate economic recovery by providing tax incentives and other benefits to revive the real estate market; jointly, to the Committees on Ways and Means and Banking, Finance and Urban Affairs.

By Mr. KLUG (for himself and Mr. EWING):

H.R. 3799. A bill to amend title VII of the Civil Rights Act of 1964 to prohibit discrimination based on race, color, religion, sex, disability, national origin, or age in employment in the legislative or judicial branches of the Federal Government; and to establish the Employment Review Board composed of senior Federal judges, which shall have authority to adjudicate claims regarding such discrimination; jointly, to the Committees on Education and Labor, House Administration, and the Judiciary.

By Mr. MARTINEZ:

H.R. 3800. A bill to establish a Classrooms for the Future Program, and for other purposes; to the Committee on Education and Labor.

By Mr. RAHALL:

H.R. 3801. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the qualified military benefits received by retired military personnel serving as administrators or instructors in the Junior Reserve Officers Training Corps; to the Committee on Ways and Means.

By Mr. ROHRABACHER (for himself, Mr. DANNEMEYER, Mr. DELAY, Mr. DOOLITTLE, Mr. DUNCAN, and Mr. WEBER):

H.R. 3802. A bill to provide for the distribution to coastal States and counties of revenues collected under the Outer Continental Shelf Lands Act; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. SKAGGS (for himself, Mrs. SCHROEDER, Mr. HYDE, Mr. HUGHES, Mr. SENSENBRENNER, Mr. KOLTER, Mr. STARK, Mr. RIGGS, Mr. SMITH of Florida, and Mr. BERMAN):

H.R. 3803. A bill to amend title 28, United States Code, to require public disclosure of settlements of civil actions to which the United States is a party; to the Committee on the Judiciary.

By Mr. CRANE (for himself, Mr. STUMP, Mr. BEVILL, Mr. ANDERSON, Mr. YATES, Mr. MOODY, Mr. MARTIN, Mr. JEFFERSON, Mr. APPLEGATE, Mr. SCHIFF, Mr. EMERSON, Ms. NORTON, Mr. GEKAS, Mr. SKEEN, Mr. MCNULTY, Mr. DORNAN of California, Mr. TOWNS, Mr. OXLEY, Mr. HUGHES, Mr. RAMSTAD, Mr. LIPINSKI, Mr. QUILLEN, and Mr. VANDER JAGT):

H.J. Res. 375. Joint resolution recognizing December 15, 1991, as the 200th anniversary of the adoption of the Bill of Rights; to the Committee on Post Office and Civil Service.

By Mr. HERTEL (for himself, Mr. FASCELL, Mr. BROOMFIELD, and Mr. YATRON):

H. Con. Res. 242. Concurrent resolution emphasizing the vast extent of environmental damage in the Persian Gulf region and urging expeditious efforts by the United Nations to set aside funds to redress environmental and public health losses; to the Committee on Foreign Affairs.

By Mr. MILLER of California:

H. Res. 282. Resolution providing for the concurrence of the House to the amendment of the Senate to the bill H.R. 355 with an amendment; considered and failed of adoption under a motion to suspend the rules.

By Mr. THORNTON (for himself, Mrs. COLLINS of Michigan, Mr. ROEMER, Mr. BACCHUS, Ms. HORN, Mr. ANDREWS of Maine, Mr. BREWSTER, Mr. MORAN, Mr. PETERSON of Florida, Mr. ABERCROMBIE, Mr. ALEXANDER, Mr. ANDREWS of New Jersey, Mr. ANTHONY, Mr. APPLEGATE, Mr. AUCOIN, Mr. BENNETT, Mr. BERMAN, Mr. BLACKWELL, Mr. BONIOR, Mr. BOUCHER, Mrs. BOXER, Mr. BROWN, Mr. BRYANT, Mr. CARR, Mr. CHAPMAN, Mr. CLAY, Mr. CLEMENT, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. COX of Illinois, Mr. CRAMER, Mr. DARDEN, Ms. DELAURO, Mr. DE LUGO, Mr. DERRICK, Mr. DIXON, Mr. DOOLEY, Mr. DURBIN, Mr. ECKART, Mr. EDWARDS of California, Mr. ESPY, Mr. FAZIO, Mr. FISH, Mr. FLAKE, Mr. FORD of Tennessee, Mr. FRANK of Massachusetts, Mr. GEPHARDT, Mr. GEREN of Texas, Mr. GIBBONS, Mr. GLICKMAN, Mr. GORDON, Mr. HAMILTON, Mr. HAMMERSCHMIDT, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HOAGLAND, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. JEFFERSON, Mr. JONTZ, Ms. KAPTUR, Mr. LANTOS, Mr. LAROCCO, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mrs. LLOYD, Mrs. LOWEY of New York, Mr. LUKEN, Mr. MARTINEZ, Mr. MCCLOSKEY, Mr. MCHUGH, Mr. MCMILLEN of Maryland, Mr. MFUME, Mr. MILLER of California, Mrs. MINK, Mrs. MORELLA, Mr. NEAL of North Carolina, Mr. NICHOLS, Ms. NORTON, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PASTOR, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PERKINS, Mr. PETERSON of Minnesota, Mr. PICKETT, Mr. PICKLE, Mr. RANGEL, Mr. REED, Mr. RICHARDSON, Mr. ROE, Mr. ROWLAND, Mr. SANDERS, Mr. SANGMEISTER, Mrs. SCHROEDER, Mr. SERRANO, Mr. SHAYS, Mr. SIKORSKI, Mr. SKELTON, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. SWETT, Mr. TANNER, Mr. TOWNS, Mr. TRAFICANT, Mrs. UNSOELD, Mr. VALENTINE, Mr. VENTO, Mr. VOLKMER, Ms. WATERS, Mr. WEISS, Mr. WHEAT, and Mr. WOLPE):

H. Res. 284. Resolution expressing the sense of the House of Representatives that there is a need for a comprehensive, coordinated strategy to help the United States achieve its goal of being the strongest Nation on Earth economically and militarily, so that it remain the greatest Nation in support of human dignity, freedom, and democratic ideals; jointly, to the Committees on Education and Labor and Banking, Finance and Urban Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. JEFFERSON and Mr. PASTOR.

H.R. 44: Mr. JONTZ, Mr. LIPINSKI, Mr. HOAGLAND, Mr. STARK, Mr. JONES of North Carolina, Mr. BONIOR, Ms. NORTON, Mr. GILCHREST, Mr. CLEMENT, Mr. RAVENEL, Mr. MCGRATH, Mr. TRAFICANT, Mr. TORRICELLI, Mr. JENKINS, Mr. DOOLITTLE, Mr. SMITH of New Jersey, Mr. MACHTLEY, Mr. SOLOMON, Mr. HUNTER, Mrs. MINK, Mr. HUBBARD, Mr. PORTER, Mr. DELLUMS, Mr. ACKERMAN, and Mr. KILDEE.

H.R. 74: Mr. SWETT.

H.R. 421: Mr. MCNULTY.

H.R. 585: Mr. OLIN.

H.R. 701: Mr. HERGER.

H.R. 727: Mr. PERKINS.

H.R. 784: Mr. HYDE.

H.R. 829: Mr. ALLEN.

H.R. 1049: Mr. CHANDLER, Mr. DREIER of California, Mr. DANNEMEYER, and Mr. MILLER of Washington.

H.R. 1201: Mr. BILIRAKIS.

H.R. 1326: Mr. PETRI and Mr. DICKS.

H.R. 1330: Mr. COLEMAN of Missouri and Mr. VOLKMER.

H.R. 1456: Mr. SMITH of Florida.

H.R. 1472: Mr. PRICE.

H.R. 1559: Mr. SMITH of Florida.

H.R. 1572: Mr. THOMAS of Wyoming and Mr. RITTER.

H.R. 1602: Mr. DELLUMS, Mr. EVANS, and Mr. KOPETSKI.

H.R. 1969: Mr. JACOBS, Mrs. KENNELLY, Mr. OLVER, Mr. TORRES, and Mr. EDWARDS of California.

H.R. 2089: Mr. FASCELL, Mr. ROSE, and Mr. MARKEY.

H.R. 2274: Mr. MINETA.

H.R. 2327: Mr. SMITH of Florida, Mr. MOLLOHAN, Mr. YATRON, Mr. RAMSTAD, Mr. PRICE, Mr. HASTERT, Mr. LIVINGSTON, Mr. MCMILLEN of Maryland, Mr. AUCOIN, Mr. FEIGHAN, Mr. ANDREWS of New Jersey, Mrs. VUCANOVICH, Mr. GALLEGLY, Mr. MILLER of Washington, Mr. SWIFT, and Mr. SCHIFF.

H.R. 2361: Mr. CAMP.

H.R. 2390: Mr. CRANE.

H.R. 2410: Mr. FAWELL and Mr. CHANDLER.

H.R. 2702: Mr. LEWIS of Florida and Mr. KLUG.

H.R. 2703: Mr. LEWIS of Florida, Mr. KLUG, and Mr. SHAYS.

H.R. 2704: Mr. LEWIS of Florida, Mr. KLUG, and Mr. SHAYS.

H.R. 2705: Mr. LEWIS of Florida and Mr. KLUG.

H.R. 2763: Mr. SMITH of Florida and Mr. BACCHUS.

H.R. 2797: Mr. BROWN, Mr. CAMPBELL of California, Mr. CLINGER, Mr. DOWNEY, Mr. ESPY, Mr. FRANK of Massachusetts, Mr. GONZALEZ, Mr. HOAGLAND, Mr. JONES of Georgia, Mrs. MORELLA, Ms. NORTON, Mr. OLIN, Mr. OLVER, Mr. ROSE, Mr. VOLKMER, and Mr. WASHINGTON.

H.R. 2889: Mr. SMITH of Florida.

H.R. 2908: Mr. EVANS.

H.R. 2909: Mr. JEFFERSON, Mr. DELLUMS, Ms. NORTON, Mr. PAYNE of New Jersey, Mr. RANGEL, and Mr. WEISS.

H.R. 3067: Mr. SPENCE.

H.R. 3070: Mr. JENKINS, Mr. PAYNE of New Jersey, Mr. EDWARDS of Oklahoma, Mr. LOWERY of California, and Mr. JAMES.

H.R. 3104: Mr. WAXMAN.

H.R. 3122: Mr. SANDERS.

H.R. 3185: Mr. KLECZKA.

H.R. 3283: Mr. BRYANT, Mr. HUBBARD, Mr. RIDGE, Mr. SHAYS, and Mr. TRAFICANT.

H.R. 3349: Mr. SPENCE, Mr. EMERSON, and Mr. COLEMAN of Texas.

H.R. 3360: Mr. ACKERMAN, Mrs. COLLINS of Michigan, Mr. KOPETSKI, Mr. NEAL of Massachusetts, and Ms. KAPTUR.

H.R. 3373: Mr. QUILLEN, Mr. CARPER, and Mr. OBEY.

H.R. 3412: Mr. FOGLIETTA.

H.R. 3478: Mr. RIGGS.

HR. 3503: Mr. HENRY, Mr. SMITH of Florida, and Mr. RIGGS.

HR. 3518: Mr. KASICH AND Mr. KILDEE.

HR. 3554: Mr. MCNULTY, MS. NORTON, AND Mr. FOGLIETTA.

HR. 3578: Mr. KLECZKA, Mr. WOLPE, Mr. ENGEL, Mrs. LOWEY of New York, Mr. FOGLIETTA, and Mr. EDWARDS of California.

HR. 3585: Mr. RAVENEL, Mr. HEFLEY, Mr. DOOLITTLE, Mr. DARDEN, Mr. HANSEN, Mr. JOHNSTON of Florida, and Mr. MOORHEAD.

HR. 3592: Mr. GALLO, Mr. MOORHEAD, and Mr. SCHIFF.

HR. 3639: Mr. MANTON, Mr. TORRICELLI, and Mr. MCGRATH.

HR. 3640: Mr. MACHTLEY.

HR. 3645: Mr. UPTON, Mr. RICHARDSON, and Mr. STUDDS.

HR. 3678: Mr. SPENCE.

HR. 3740: Mr. KOLTER and Mr. SPENCE.

HR. 3748: Mr. ROYBAL, Mrs. COLLINS of Illinois, Mr. WISE, Mr. JOHNSTON of Florida, Ms. NORTON, Mr. JEFFERSON, Mr. WOLPE, Mr. LEHMAN of California, and Mr. CARDIN.

HR. 3750: Mr. BOUCHER, Mr. PASTOR, and Mr. PETERSON of Minnesota.

HR. 3764: Mr. PETERSON of Florida.

HR. 3769: Mr. BENNETT and Mr. OLVER.

H.J. Res. 1: Mr. JOHNSTON of Florida, and Mr. MCMILLEN of Maryland.

H.J. Res. 348: Mr. FISH, Mr. BEVILL, Mr. MCMILLEN of Maryland, Mr. HENRY, Mrs. JOHNSON of Connecticut, Mr. HORTON, Mr. PERKINS, Mr. CAMP, Mr. SMITH of Florida, Mr. JONTZ, Mr. SKEEN, Mr. BALLENGER, Mr. TOWNS, Mr. LEWIS of Florida, Mrs. MORELLA, Mr. GUARINI, Mr. JEFFERSON, Mr. FROST, Mr. EVANS, Mr. ZIMMER, Mr. WOLF, Mr. GILCHREST, Mr. MCDADE, Mr. COYNE, Mr. QUILLEN, and Mr. CLINGER.

H.J. Res. 364: Mr. BOEHLERT, Mr. BONIOR, Mr. BROOKS, Mr. BUNNING, Mr. BURTON of Indiana, Mrs. BYRON, Mr. CLINGER, Mr. COLEMAN of Texas, Mr. COSTELLO, Mr. DANNEMEYER, Mr. DAVIS, Mr. DELAY, Mr. DREIER of California, Mr. DYMALLY, Mr. ENGEL, Mr. EVANS, Mr. FAWELL, Mr. FIELDS, Mr. FRANKS of Connecticut, Mr. FUSTER, Mr. GALLO, Mr. GEKAS, Mr. GILMAN, Mr. GINGRICH, Mr. HENRY, Mr. HOCHBRUECKNER, Ms. HORN, Mr. HUNTER, Mr. INHOFE, Ms. KAPTUR, Mr. KENNEDY, Mr. KILDEE, Mr. KOSTMAYER, Mr. LANTOS, Ms. LONG, Mr. MARKEY, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCHUGH, Mrs. MORELLA, Mr. NEAL of Massachusetts, Mr. ORTIZ, Mr. ORTON, MR. OWENS of New York, Mr. OXLEY, Mr. PARKER, Mrs. PATTERSON, Ms. PELOSI, Mr. PURSELL, Mr. ROE, Mr. SAVAGE, Mr. SCHUMER, Mr. SMITH of Texas, Mr. SOLARZ, Mr. SOLOMON, Mr. SPENCE, Mr. STOKES, Mr. STUMP, Mr. SUNDQUIST, Mr. TALLON, Mr. TAYLOR of Mississippi, Mr. WEBER, and Mr. ZIMMER.

H.J. Res. 371: Mr. DEFAZIO, Mr. ERDREICH, Mr. JONTZ, Mr. KOPETSKI, Mr. LIPINSKI, Mr. LAFALCE, Mrs. LOWEY of New York, Mr. QUILLEN, Mr. SHAW, Ms. SLAUGHTER of New York, Mr. TOWNS, Mr. VANDER JAGT, Mr. VISCLOSKY, and Mr. WHITTEN.

H.J. Res. 372: Mr. FRANK of Massachusetts, Ms. LONG, Mr. DE LUGO, Mr. CONYERS, Mr. SKEEN, Mr. SCHUMER, Mr. LIVINGSTON, Mr. DELLUMS, Mr. TRAXLER, Mr. SLATTERY, Mr. DYMALLY, Mr. SMITH of New Jersey, Mr. RAVENEL, Mr. ESPY, Mr. BRYANT, Mr. TRAFICANT, Mr. TANNER, Mr. DIXON, Mr. DWYER of New Jersey, Mr. MCCLOSKEY, Mr. LUKEN, Mr. TOWNS, Mr. MURTHA, Mr. JONES of North Carolina, Mr. SMITH of Florida, Mr. JOHNSON of South Dakota, Mr. SMITH of Oregon, Mr. SKELTON, Mr. VALENTINE, Mr. STARK, Mr. DOOLITTLE, Mr. ROE, Mr. RANGEL, Mr. PAYNE of New Jersey, Mr. KOPETSKI, Mr. KILDEE, Mr. DONNELLY, Mr. DOWNEY, Ms. NORTON, Mr. FRANKS of Connecticut, Mr. ABERCROMBIE, Mr. MCMILLEN of Maryland, Mr. ERDREICH, Mr. MCDADE, Mr. EMERSON, Mr. NAGLE, Mr. KOLTER, Mr. OXLEY, Mr. PRICE, Mr. MATSUI, Mr. KENNEDY, Mr. PERKINS, Mr. MOODY, Mr. COYNE, Mr. CARDIN, Mr. LEVIN of Michigan, Mr. STUDDS, Mr. MCGRATH, Mr. OWENS of Utah, Mr. MCNULTY, Mr. JONTZ, Mr. MAVROULES, Mrs. KENNELLY, Ms. OAKAR, Mr. ROSE, Mrs. JOHNSON of Connecticut, Mr. ATKINS, Mr. MORAN, Mr. MOAKLEY, Mr. HOYER, Mr. COLEMAN of Texas, Mr. QUILLEN, Mr. PURSELL, and Mr. CLEMENT.

H. Con. Res. 43: Mr. LAGOMARSINO.

H. Con. Res. 188: Mr. COX of California, Mr. FIELDS, and Mr. OWENS of Utah.

H. Con. Res. 229: Mr. TALLON, Mr. YOUNG of Alaska, Mr. COBLE, Mr. FALEOMAVAEGA, Mr. RAVENEL, Mr. SAXTON, Mr. LAUGHLIN, Mr. WELDON, Mr. HAYES of Louisiana, Mr. HUGHES, Mr. CLEMENT, Mr. HUBBARD, Mr. ORTIZ, Mr. HUTTO, Mr. JONES of North Carolina, Mr. INHOFE, Mr. LIPINSKI, Mr. BATEMAN, and Mr. GOSS.

H. Con. Res. 232: Mr. BROOMFIELD and Mr. ANNUNZIO.

H. Res. 107: Mr. MCDADE.

H. Res. 245: Mr. FAWELL, Mr. ZIMMER, Mr. BROWN, Mr. WALSH, Mr. HUTTO, Mr. GOSS, Ms. NORTON, Mr. RIGGS, Mr. SKEEN, and Mr. BILIRAKIS.

H. Res. 263: Mr. SCHEUER, Mr. RITTER, Mr. PENNY, Mr. BEILENSON, Mr. FRANK of Massachusetts, Mr. HORTON, Mr. TOWNS, Mr. ENGEL, Mr. LANCASTER, Mr. BILBRAY, Mr. WAXMAN, Mr. SMITH of Florida, Mr. ABERCROMBIE, Mrs. MORELLA, Mrs. UNSOELD, and Mr. FOGLIETTA.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1218: Mr. BEREUTER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3595

By Mr. GRADISON:

—Strike section 5 of the bill.

EXTENSIONS OF REMARKS

HUMAN RIGHTS ABUSES IN KOSOVO, YUGOSLAVIA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. BROOMFIELD. Mr. Speaker, while the world watches the tragic destruction of Croatia by the Serbian-led Yugoslav National Army, another equally terrible situation continues in the formerly autonomous Province of Kosovo, a region of Serbia that is over 90 percent ethnic Albanian. Just last week, another innocent ethnic Albanian was brutally murdered by Serbian police. This abuse must stop.

A few years ago, Slobodan Milosevic took away the autonomous status of Kosovo and Vojvodina, another province, in an attempt to use Serbian nationalism to promote his own political ends. In the 1989 street demonstrations in Kosovo protesting that action, nearly 100 ethnic Albanian prisoners by Serbian authorities surfaced and were investigated by credible international human rights groups. In recent months, Serbia has cracked down on ethnic Albanians, and Kosovo has become a police state. Armed patrols, checkpoints, and intimidating police tactics are prevalent.

At the University of Kosovo, an ethnic Albanian institution, freshman enrollment has been cut by more than two-thirds, with those places reserved for Serbo-Croat speakers, even though the majority of Kosovo's 2 million people are ethnic Albanians who speak their native tongue. The university may be renamed after a Serbian saint. More than 70,000 ethnic Albanians have been fired from their jobs in the local government, police force, and local businesses, Even worse, murders of ethnic Albanians continue.

I just learned that Mikel Marku of Kosovo was beaten by Serbian police on November 6 and died 4 days later. The 63-year-old former district judge was reportedly driving with his three nephews to a funeral service when police stopped the vehicle and accused the judge of belonging to an underground human rights organization. After the initial assault on the judge, he was put in prison and beaten during the night. He never regained consciousness and died in a hospital on November 10. Serbian police officers told his family that they wanted the judge to die.

My heart goes out to the family of Mr. Marku, who has many relatives in the Michigan area. If this is what Mr. Milosevic and Serbian authorities think of human rights in Yugoslavia, I can understand why Slovenia, Croatia, Macedonia, Vojvodina, and Kosovo want to distance themselves as much as possible from Serbian control. It is time to put a stop to the fighting in that troubled country. It is also time to end the abuses of the fundamental rights of ethnic Albanians.

A TRIBUTE TO ANTONIA PANTOJA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to an exceptional woman, Dr. Antonia Pantoja. On the occasion of the 30th anniversary of ASPIRA, a community-based organization founded by Dr. Pantoja, I would like to commend her lifelong commitment to the service of the Puerto Rican community both in the United States and in Puerto Rico.

Throughout the past 4 decades, Dr. Pantoja has tirelessly pursued her own, unique philosophy regarding community development. She believes that people can succeed by aspiring to do so and creating the necessary resources through their own intelligence and work. As a result Dr. Pantoja founded numerous institutions like ASPIRA. These organizations provide people with the structure within which to start developing themselves as well as the basic tools to carry through this development.

The first such institution was created in 1953. It was then called the Hispanic Young Adult Association and is known today as the Puerto Rican Association for Community Affairs. Its purpose was to foster the development of a new Puerto Rican leadership in New York City as well as the initiation of diverse community projects. The Puerto Rican Forum was founded just 5 years later with a similar purpose. In addition to encouraging leadership skills among young Puerto Ricans, it worked towards the creation of more Puerto Rican institutions that were severely lacking in the United States at that time.

As a result, just 3 years later, in 1961, ASPIRA was founded. Although this organization was originally located only in New York City, today it is a national entity with offices in a variety of States providing Puerto Rican youth with the tools necessary for their development. ASPIRA has given, and continues to give, many young Puerto Ricans a vision they might otherwise never have had. The word "aspira" means "aspire" in Spanish, and this is precisely what this organization teaches young people to do. ASPIRA shows Puerto Rican youth that they can set goals for themselves and achieve these goals by developing certain skills and utilizing them to create the resources they need to accomplish their objectives. The impact ASPIRA has had on the lives of Puerto Rican youth is clear when one considers the successful careers of former Aspirantes such as Fernando Ferrer, president of the Borough of the Bronx; Joseph Aguayo, general secretary of the International Multiple Sclerosis Society; and Myrna Milan, the first Latin woman to be appointed municipal court judge in the State of New Jersey, not to mention many others.

In the 2 decades following the foundation of ASPIRA, Dr. Pantoja established various educational institutions as well as several research centers. In 1972, Dr. Pantoja founded Universidad Boricua, the first Puerto Rican university in the United States. Today, this institution has two campuses, one in Washington, DC and the other in New York City. Six years later, in 1978, Dr. Pantoja founded the Graduate School for Community Development in San Diego, CA. This institution taught members of community-based organizations, community leaders, youth, and so forth, the skills necessary to bring about the development of their communities.

Dr. Pantoja has also established institutions that compile studies regarding Puerto Rican issues and matters of interest. The Puerto Rican Community Development Project that Dr. Pantoja directed in 1964, for example, produced a study on the poverty conditions of the Puerto Rican community in New York City. Two year later, in 1966, Dr. Pantoja founded Research for Urban Education, Inc., a publishing house that produced materials for Puerto Rican school children. Similarly, the Puerto Rican Research Center founded in 1970, produced a bibliography exclusively on the subject of Puerto Ricans.

Because Dr. Pantoja has spent most of her life in the United States, all of the aforementioned institutions were established here and subsequently in Puerto Rico. Recently, however, Dr. Pantoja decided to return to her native Puerto Rico and it is there that her latest contribution to community service, Producir, was established. Producir, Inc., is a community development organization that works with farm workers in an agricultural town in Puerto Rico to encourage the establishment of a local economy. As is the case with the other organizations Dr. Pantoja has founded, Producir provides people with the structure and the skills necessary to work toward their development.

Besides forming part of the directive body of the institutions she herself established, Dr. Pantoja has served on the governing boards of other community-oriented organizations. In 1967 and 1968 she was a delegate at large to the Constitutional Convention of New York State and a member of the Blue Ribbon Bundy Panel for school decentralization. Dr. Pantoja has also been a member of the national advisory board of the Institute for Puerto Rican Policy, Inc., in New York City and of the board of the Independent Sector in Washington, DC.

For these invaluable contributions to the Puerto Rican community, as well as countless others, Dr. Pantoja has received numerous awards. She has been named "Extraordinary Woman of Achievement in New York City" and National Hispanic Educator of Distinction. In addition, Dr. Pantoja has received the "1980 Award for Exceptional Service and Work to End Poverty" and, just last month, the John W. Gardner Leadership Award.

Dr. Pantoja is also an accomplished scholar and author. She holds a bachelor's degree

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

from the City University of New York Hunter College and in 1980 she was admitted to its alumni hall of fame. Dr. Pantoja also possesses a master's degree in social work from Columbia University and a Ph. D. from the Graduate School of Experimental Colleges and Universities in Yellow Springs, OH. She is the author of many publications on the Puerto Rican community, social work, and community development.

Dr. Pantoja is clearly an exceptional woman of boundless generosity. She has devoted the great part of her life to helping Puerto Ricans improve their situation by showing them how to develop themselves and the community in which they live. Dr. Pantoja has inspired people to do more than just dream and has opened doors for them they never imagined existed. She has brought, and continues to bring, hope for a better future to otherwise hopeless individuals and communities. Dr. Pantoja has displayed a compassion and leadership that has touched the lives of innumerable Puerto Ricans both in the United States and in Puerto Rico. It is thus a great honor for me today to pay tribute to this exemplary woman and express my eternal gratitude for her priceless contributions to the Puerto Rican community.

CONGRESSIONAL SALUTE TO ROBERT A. GEORGINE AND JOE GLAZER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. ROE. Mr. Speaker, it is with great pride and admiration that I rise today in tribute to two outstanding Americans, Robert A. Georgine, president of the AFL–CIO Building and Construction Trades Department, and Joe Glazer, chairman of the Labor Heritage Foundation. Through their actions, these two individuals have contributed so much to the labor movement of our country and working people everywhere.

On November 23, 1991, the ninth annual Sol Stetin Award Dinner will be held in my Eighth Congressional District, at the William Paterson College in Wayne, NJ. This festive occasion will honor President Georgine and Chairman Glazer who are this year's recipients of the prestigious Sol Stetin Award.

The dinner will benefit the Botto House, which was declared a national landmark in 1983. The Botto House played a major role as a haven for free speech and assembly during a stirring chapter of U.S. history, the 1913 Paterson silk strike. The 6-month strike involved more than 23,000 silk workers and is considered to be a milestone toward reform of the American workplace, eventually resulting in the acceptance of the 8-hour day, minimum wage standards, and other worker benefits now broadly enjoyed by Americans.

Mr. Speaker, Robert A. Georgine has enjoyed a long and illustrious career serving the working people of America. Tonight, we pay tribute to his outstanding leadership. I'd like to tell you a little bit about Bob, so you're aware of how his solid values were formed. He was born in Chicago, IL, on July 18, 1932, and received his education at two outstanding schools, the University of Illinois and DePaul University. He is married to the former Mary Rita Greener, with whom he has four wonderful children: Robert, Georgine, Rosemarie, and Mary Beth. A veteran, Bob served in the U.S. Army in 1955–57.

Bob apprenticed with local No. 74 of the Wood, Wire, and Metal Lathers' International Union in 1953. He has held a variety of positions within the labor movement, culminating with his present position as president of the Building and Construction Trades Department of the AFL–CIO. He assumed this august position in 1974.

Mr. Speaker, Bob is truly a man of the people. He has long been involved in a variety of charitable and public interest organizations. These include past membership on the Presidential Commission on Efficiency and Cost of Government as well as the advisory board of the built environment of the National Academy of Sciences. His current membership includes the advisory committee to Harvard—MIT Joint Committee for Urban Studies, the Center for National Policy and Citizens for Tax Justice, and numerous other organizations dedicated to the public good.

Bob's good deeds have not gone unrecognized. He has been commended by the U.S. Department of Labor for his contribution to Occupational Safety and Health Programs. He has received many prestigious awards, such as the Brotherhood Award of the National Conference of Christians and Jews and the National Italian American Foundation's Distinguished Achievement Award. He has truly earned these plaudits.

Mr. Speaker, tonight we also honor Joe Glazer, the chairman of the Labor Heritage Foundation, which is a national organization that promotes labor music, drama and culture in the labor movement, and general public. Joe is affectionately known as "Labor's Troubadour." For 45 years his voice and guitar have been heard on dozens of picket lines, in a hundred union halls and at scores and protest rallies.

Joe's well-known compositions include "The Mill Was Made of Marble," "Automation," and "Too Old to Work." He is coauthor of the book, "Songs of Work and Protest," and is the star of a documentary film "Songs and Stories of Labor." Public television has produced two half hour programs of his songs.

Joe has performed in almost every State in the Union and 60 countries around the world. His most impressive appearences include entertaining at the historic merger of the AFL–CIO in 1955, for President Jimmy Carter at the White House on Labor Day in 1980, and at the Solidarity Day demonstration before 30,000 workers in Washington, DC.

Mr. Speaker, it is, indeed, an honor to pay tribute to these two outstanding American citizens who have done so much to aid the working men and women of our great Nation. I salute Robert A. Georgine and Joe Galzer, the recipients of the 1991 Sol Stetin Award.

SENIOR OLYMPIANS HONORED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. SUNDQUIST. Mr. Speaker, I want to share with my colleagues the wonderful story of Elizabeth Morris of Lexington, TN, who is 84 years young, active, and full of life. Last summer, she competed in the Senior Olympics, where she and her partner, Muriel Miller, won the gold in bowling in the 80–84 age group.

I have had an opportunity to visit with Elizabeth and others who are active in the senior games in west Tennessee and I have never failed to come away cheered by their spirit. I ask that Elizabeth's own account of her gold medal win, published in the Lexington Progress, be reprinted in the CONGRESSIONAL RECORD.

BOWLING TID-BITS

(By Elizabeth Morris)

Muriel Miller and I took 1st place in doubles in State Senior Games [Olympics] in Clarksville last August. I took 1st place in singles.

After a lot of thought, we finally decided to go on to Syracuse, N.Y., for nationals. We took off for Memphis Airport on June 27th, had a 3 hour layover in Detroit. I bowled in singles 3 games 28th, 3-29th and took 4th place. Top six were in roll off which was Saturday. I failed for a chance to bowl for 1st by 1 pin, ended up with bronze medal for 3rd place.

Then we bowled 3 games in doubles, also 3 games Monday, took 1st for roll off with top 6 teams, being first. We only had to bowl one game. It was "goose-pimply" all the way, we were ahead at the half and somehow hung on to win. Thrill, thrill, just to know we won for Henderson County. Can't think of anything more exciting than to bring home the "Gold."

We really appreciate our friends at home pulling for us, also the prayers for a safe trip.

Want to thank Eastgate and Malco Lanes for just being there which gave us a shot at this venture.

We, being in age 80–84 group thought this might be the beginning of "cut off" time but after seeing 95 and up younguns participating, we plan to keep on keeping on.

No one should toot their own horn, sorry if that's the way I sound. Gold medals have a tendency to keep the ole motor running.

We are so thankful we had a chance to show others they shouldn't get "rockin' chair fever" too early. Will hold on to my motto, "Live as long as I'm alive."

Let's try getting special bowling news together that we might have a column more often. It's good to spout off about bowling.

Thanks for your time, this time, til next time.

TIME RUNNING OUT ON RESTORATION OF ARISTIDE AS PRESIDENT OF HAITI

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. FUSTER. Mr. Speaker, I rise today to warn that time is elapsing and that nothing seems to be happening in returning Jean-Bertrand Aristide to his rightful position as President of Haiti. The world was outraged by the military coup which deposed President Aristide on September 30. The United States and the Organization of American States took the correct positions in demanding that President Aristide be restored and in imposing economic sanctions. Alas, nothing has happened.

Mr. Speaker, this is deplorable, and the more time passes the more difficult it will be to restore President Aristide to office. It behooves Congress and the administration to actively explore what else can be done in seeing democracy restored to Haiti.

I say this, Mr. Speaker, because reports from Haiti are not encouraging. To this end, I commend to the attention of my colleagues today an article in the Boston Globe of October 23, 1991, written by Pamela Constable, which succinctly explains the complexities of the situation in Haiti.

The article follows:

[From the Boston Globe, Oct. 13, 1991]

IN HAITI, THE ELITE TOAST THEIR COMEBACK

(By Pamela Constable)

PORT-AU-PRINCE, HAITI.—If there was any doubt that the politics of cynicism and fear have returned to Haiti, it vanished with the popping of champagne corks at the presidential palace Tuesday night.

Giddy with triumph, politicians in shiny suits and soldiers in green helmets gulped from glasses of Veuve Cliquot worth $32 a bottle—the equivalent of two weeks' wages for the small fraction of the Haitian populace that is formally employed.

Seven months after their stunning electoral loss to Jean-Bertrand Aristide, the man capable of stirring hope and anger in the breasts of Haiti's hungry masses, the country's civilian and military elites have firmly restored their partnership of power.

Aristide, overthrown Sept. 30, is safely in exile. An elderly figurehead president has been installed in his place, and the millions of Haitians who danced in the street after Aristide's election last December have been cowed into sullen silence.

Businessmen are starting to grumble over the economic sanctions urged Tuesday by the Organization of American States, but most seem far more offended by the threat of foreign sanctions than by the ouster of their president or the shooting deaths of at least 200 protesters that followed.

Certain human rights advocates, sensitive to the shifting sands of opportunity and power, have waxed boldly indignant over alleged abuses by Aristide's government that never seemed to bother them under previous, more dictatorial regimes.

Members of Parliament, wrapping themselves in constitutional jargon and patriotic rhetoric, managed to ignore a military coup and declare the presidency simply "vacant."

"My heart is bleeding, but I felt I had to come," said Louis de Joie, a conservative political leader, as he arrived at Tuesday's swearing-in for the provisional president, Joseph Nerette. Asked what he thought of Aristide's plight, he shrugged and said, "His heart must be bleeding, too."

Nobody claims to have supported the coup, which was started by a group of disgruntled soldiers. But with each passing day more arguments are polished and articulated as to why Aristide should not be allowed to return no matter what the rest of the world thinks.

He was mentally unstable, insist women shopping in posh Petionville boutiques. He was agitating the poor to attack property, assert factory owners. He trampled on the constitution, complain legislators. He was another dictator in the making, say students of the long, despotic history that began with Haiti's slave revolt 200 years ago.

Some of these charges have a ring of truth, especially if one listens to recordings of Aristide's last speeches before the coup. They are hypnotic, cadenced harangues to the oppressed; religious in tone and unmistakably revolutionary in content.

"If you catch a thief"—someone who has become rich by exploiting the poor—"don't neglect to give them what they deserve," he shouted repeatedly in a recent speech to tens of thousands of cheering people in front of the presidential palace.

Even some sympathizers suggest that Aristide, once a priest in a Port-au-Prince slum, became too intoxicated by his powers, too obsessed with revenge against Haiti's corrupt and oppressive establishment to govern wisely and responsibly.

But Aristide, like the forces that quickly aligned against him, was the product of a society in which fear, greed and envy had always held sway, while institutional concepts like democracy had little meaning.

To many of the 6 million suffering Haitians, he was the avenging angel who would deliver them from poverty, racism and despair.

But to the army and segments of the upper class, which had long divided the spoils of Third World power, Aristide was the first, formidable threat to their way of life.

In shacks abutting factory fences and in hallways of resort hotels, frightened people motion to visiting journalists and ask hopefully, over and over, do you think he will come back?

But in air-conditioned offices, elegant cafes and dingy army barracks, the answer is categorical: Let the world impose economic sanctions or send in international observer teams if it likes, but Aristide is never coming back.

VETERANS' DAY, 1991

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. MAZZOLI. Mr. Speaker, I rise today to add to the tributes paid to our Nation's veterans on Veterans' Day, November 11.

Since the conclusion of Operation Desert Storm, all veterans have been deservedly showered with parades and adulation for their service in protecting American soil, American ideals, and American freedom.

Mr. Speaker, it always seems each Veterans' Day has a unique aspect to it. On this Veterans' Day, survivors of the Pearl Harbor attack joined together across the country to commemorate the 50th anniversary of the attack on the ships of the Pacific Fleet at Pearl Harbor.

In my community of Louisville and Jefferson County, over 45 survivors of the Pearl Harbor attack met at the Robert E. Neuman Veterans of Foreign Wars Post to receive, among other things, a Pearl Harbor Commemorative Medal which we in Congress authorized last year. I applaud the efforts of Ellis O'Neal, the State chairman of the Pearl Harbor Survivors Association, for his work in coordinating this ceremony.

Mr. Speaker, I also commend to the attention of our colleagues the following tribute to the flag sent to me by retired Army Capt. Virgil E. Carrithers from my hometown of Louisville. Captain Carrithers is 94 years old—a spritely, lively veteran of World War I—who reveres the American flag with a passion which is both remarkable and life long

Mr. Speaker, as a veteran of Army service back in the 1950's, I join my fellow veterans in celebrating Veterans' Day, 1991:

I am the flag of the United States of America, also known as Old Glory and the Star Spangled Banner.

My stars and stripes' motif was created on June 14, 1777, when the Continental Congress, Resolved, that the flag of the thirteen United States be thirteen stripes, alternate red and white; that the Union be thirteen stars, white in a blue field, representing a new constellation.

I am the glorious emblem of every United States' citizen and should be so regarded by every one of them; those who should be proud to do so, those who do not do so, should be ashamed and not regarded as citizens of this country.

All of the sacrifices that have been made in my service have not only preserved the freedom to worship as desired, but are worthy of respect to the memory of the ones who made those sacrifices.

Written and distributed by 94-year-old (February 1991) Virgil E. Carrithers, Army Veteran World War I, Capt. USAR (Ret.).

SALUTE TO CLARK DRANE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor a true community and business leader, Clark Drane of Sunland, CA.

Ever since Clark came to California after World War II, he has been active in his community, serving in education, youth groups, service clubs, charitable organizations, civic and governmental groups.

Among his many credits are serving on the committee that brought what is now California State University, Northridge, to the San Fernando Valley; being part of the group that created the United Chambers of Commerce of the San Fernando Valley; helping build a YMCA in the community; and serving as chairman of the California Water Quality Control Board.

In 1987, Clark was recognized for his many accomplishments by receiving the Fernando Award, given to the outstanding resident of the valley.

Mr. Speaker, on November 23, Clark will be presented with the 29th Annual Free Enterprise Award, given each year by the San Fernando Business and Professional Association. He joins such luminaries as President Ronald Reagan, Bob Hope, Pat Boone, Roy Rogers and Dale Evans, and Gene Autry in receiving this honor. I ask my colleagues to join me in saluting Clark Drane for his outstanding record of service to the valley.

FIREFIGHTERS FOUNDATION EDUCATES CHILDREN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize the "Partners in Safety" Family Fair, to be held on December 1, 1991. It is a program hosted by the Firefighters Foundation to benefit safety programs for children in south Florida.

Statistics show that 8,000 children die a year as a result of accident-related injuries. In addition, 50,000 children are disabled and 150,000 children are injured because of accidents. The "Partners in Safety" Program will educate participants, ages 5 to 15, on a wide range of safety issues.

The Firefighters Foundation recognizes the importance of a wide range of safety education in the prevention of accidents. The topics to be covered include fire safety, poison control, drug awareness, lightning and hurricane safety, street safety, bicycle safety, and CPR training. This is just a sampling of the relevant issues that will be covered during this day-long festival.

In addition to the educational programs at the fair, children of all ages will be able to enjoy fun activities which will serve to attract a large number of participants, thus increasing the opportunity to educate the young children in attendance.

The effects of this educational fair are far reaching, as evidenced by the 46 cosponsors of the festival. All proceeds will go to Firefighters Foundation, to be used for safety education in schools throughout south Florida. I wish the foundation and all of its participants the best of luck in fighting the war against accident-related injury. I especially want to congratulate Mr. Norman Teitler, the executive director of the Firefighters Foundation.

THE PASSING OF GOV. RALPH M. PAIEWONSKY

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. DE LUGO. Mr. Speaker, I rise to honor the memory of a great Virgin Islander and personal friend, Gov. Ralph M. Paiewonsky, who passed away Saturday, November 9, 1991 at the age of 84.

Governor Paiewonsky was the man most responsible for bringing the Virgin Islands, in less than a decade, from a sleepy island community to a mecca for Caribbean trade and tourism. His vision, and his ability to translate that vision into action, made possible tremendous leaps in the quality of living for thousands of Virgin Islands residents.

In his inaugural address on April 5, 1961, Governor Paiewonsky boldly announced his administration's objectives: To make island life more abundant; to accelerate the economy; to further advance cultural, moral and spiritual life; and to make greater political progress.

This he certainly did. When Ralph Paiewonsky took office in 1961, the Virgin Islands' average per capita income was $600. By 1970 when the Paiewonsky administration had left office, tourism arrivals had jumped sevenfold, the labor force had more than tripled, and Government spending had increased from $7.1 million to almost $65 million per year. And the average per capita income had risen to $4,933, more than eight times greater than when he became Governor.

But Ralph Paiewonsky's greatest dream was to establish a College of the Virgin Islands. He knew that the key to success for the Virgin Islands and its people was education, and he knew higher education was crucial if Virgin Islanders were to assume positions of leadership in Government and industry. Almost single handedly he forged his vision into reality, pushing the legislation, securing the funding and other resources, and staffing the administration and faculty. As chairman of the board of trustees, Ralph Paiewonsky continued to push for excellence in higher education and transformed the College of the Virgin Islands into the University of the Virgin Islands. It became an institution that served not only the Virgin Islands but the entire Caribbean and became a crossroads for regional cultural, political, and economic exchange.

Ralph M. Paiewonsky was a true giant in the history of the Virgin Islands. He will be sorely missed. But his enormous legacy will live on, in the institutions he created, in those he nurtured, in the prosperity he brought to the Virgin Islands, and in the hearts of those who knew and loved him.

THE OPENING OF THE NEW WORLD

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Ms. DELAURO. Mr. Speaker, as we prepare to celebrate the Christopher Columbus Quincentenary, I would like to bring to the attention of my colleagues an excellent essay which appears in the 1992 Congressional Calendar published by the U.S. Capitol Historical Society. The article was written by a good friend, Robert J. Leeney, who is editor emeritus of the New Haven Register and a director of the New Haven Colony Historical Society.

THE OPENING OF THE NEW WORLD

(By Robert J. Leeney)

When the three ships of Christopher Columbus, the Nina, the Pinta, and the Santa Maria set sail from Spain in 1492 they were, in effect, cockleshells of sailing theory and faith afloat on a dark, unchartered ocean. In so fragile a venture, risk was the only certainty.

But when Columbus returned to Spain from the New World in the spring of 1493, he had launched the Age of Discovery. Humanity's understanding of the round world's possibilities and challenges had been redefined. Europe's burden of decaying empires and old enmities would now be replaced by an almost-universal vision of expansion and change. The Columbus landings launched for centuries wave after wave of political and social revolution by immigration. Profound questions of individuality and human rights—questions that we are still exploring 500 years later—had been seeded in new soil resistant to the Old World's decadent ways.

Christopher Columbus was child of the Middle Ages. He was an adventurer with roots in brawling, ancient Genoa the medieval city-state to which he gave his lifetime loyalty. But he was also a studious sailor, watchful of winds, currents and tides, careful about maps. He had become convinced he could sail west from Europe into a void nobody knew and return—with great mysteries answered and with riches for the crown he served.

The times in which Columbus lived were harsh. Rulers had absolute power. War and death were common. The daily lives of ordinary men and women and their families were imperiled by disease, disorder, and cruel poverty. In popular belief the world's end was considered near. The conversion of all unbelievers was a Christian duty, and Columbus viewed seriously his given name, Christopher or "Christbearer."

For nine years in royal courts Columbus patiently petitioned kings and queens to send him toward his dream. After Ferdinand and Isabella of Spain finally embraced his plan, Columbus boldly pressed fragile ships and fearful men through 33 days of tension on a landless sea. When he knelt in thanksgiving beneath the flag and cross on October 12, 1492, he was not on the shore of Cipangu (Japan) as he thought. He had come instead to an unknown place in a New World. He had found a new dynamic on the earth, and matched the explorer's horizons of the eye with horizons of the mind that are still unfolding.

Whether "discovery," "encounter," or "invasion" is the apt word for the centuries of change that followed the Columbus landings has become a proper subject for scholarship in this quincentennial.

The achievement of Columbus, however, stands unsullied in time. Bold in spirit, resolute in thought, the Admiral of the Ocean Sea revealed the Americas as a fertile modern source for human progress. Here he doubled the size of the earth his generation knew and renewed for uncounted generations the civilized ideals of courage, faith, self-confidence and mutual trust. He had shown that a bold and believing mind, and a brave heart, at work in the natural world, could change times in decline and refresh all human inspiration.

BILL TO REPEAL THE SOCIAL SECURITY EARNINGS TEST

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. HUCKABY. Mr. Speaker, today I want to reiterate my support for this bill. Currently, the Social Security earning limit penalizes seniors between age 65 and 69 by reducing their social security benefits by $1 for every $3 earned per year over $9,720. My colleague, Mr. HASTERT'S bill will repeal this provision.

Studies have estimated that 700,000 seniors would enter the workforce generating a $15.4 billion increase in our annual output of goods and services. Two-thirds of those who would benefit from repeal would have an earned income of less than $40,000. The current system discriminates against low and middle income workers and favors upper income levels. It is unfair that the Government taxes seniors for struggling to be financially independent.

With the current high cost of living especially health care costs many seniors have no option but to try and supplement their income. I simply do not believe that it's equitable or fair to penalize individuals for working in their retirement years. Older Americans deserve independence, dignity, and the opportunity to remain part of our workforce.

Mr. Speaker, I urge my colleagues to join me in eliminating this inequity to our working seniors.

REA LOANS

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. PENNY. Mr. Speaker, the important work of the Nation's rural electric and telephone cooperatives has recently come under attack from certain sectors of the media and the administration.

I certainly have some concerns about low-interest Rural Electrification Administration [REA] loans for rural electric cooperatives that are no longer in need of such funding or not even located in rural areas. It is evident that certain electric and telephone co-ops should no longer receive such low-interest loans at taxpayer expense if those funds are not warranted.

However, hundreds of rural areas are served by rural electric cooperatives that operate in regions that would not otherwise be served with electricity and telephone services. In these cases, REA lending programs have made electricity and telephone service available at affordable rates to the benefit of farms and rural communities. There is no doubt that in my home State of Minnesota and throughout rural America REA programs have made much rural economic development possible.

I would like to include for the RECORD the following editorial from the Rochester, Minnesota Post-Bulletin of November 14, 1991. It outlines the extraordinary efforts to restore electricity service undertaken by rural electric co-ops in Minnesota following a recent ice and snow storm in our State.

[From Agri News (supplement to the Rochester, MN; Post-Bulletin, Nov. 14, 1991]

REA'S SHOW WHY SYSTEM REMAINS SO IMPORTANT

A recent segment of the television news program 60 Minutes suggested that the Rural Electrification Administration has outlived its purpose and should no longer be subsidized by taxpayers.

Bush administration officials were quoted as saying that the power lines are up, the farmers have electricity, so let's quit giving rural electric cooperatives low interest loans and loan guarantees.

The White House Office of Management and Budget has recommended phasing out all REA subsidies to electric cooperatives over a 10-year period.

The 60 Minutes program offered examples of REA low interest loans being use to finance a luxury ski resort in Colorado and a golf course in Florida.

We think it's too bad a 60 Minutes crew wasn't in Iowa and Minnesota last week.

A massive ice storm—the worst anyone can remember—toppled miles of power lines and left thousands of rural residents without electrical power during a week when record cold hit the area.

Some people are just getting their power restored this week.

Damage to RECs throughout the area hit by the storm will be millions of dollars.

As the manager of one Iowa rural electric cooperative put it, "I'd love to see 60 Minutes do a piece on keeping the power on in rural areas under these conditions. They'd see that we don't have any luxury resorts and golf courses out here."

Instead, they would have seen line crews working 16- to 18-hour days in frigid temperatures.

They would have seen farmers assisting line crews by cutting trees, chipping ice, pulling out trucks that were stuck and providing workers with hot coffee and warm meals.

They would have seen farmers operating dairy and hog operations with standby generators.

They would have seen neighbors helping neighbors, people cooking on camp stoves, homes lit with candles and fire departments hauling water for livestock.

Eveyone—including the municipal—and investor owned utilities—did an admirable job of turning the lights back on in rural Minnesota and Iowa last week.

But now the work of restoring systems to their pre-storm condition begins.

The RECs in Minnesota and Iowa can't withstand the type of damage they did without relying on low-interest REA loans. Some RECs would have difficulty finding financing from private-sector sources alone.

Unlke the Bush adminsitration, we don't think that the REA has outlived its purpose.

Yes, the electric lines are up, but maintaining those lines and providing affordable service to rural customers is an ongoing process.

If there are abuses of REA loans, do something about that, but don't turn off the lights on the entire system.

TRIBUTE TO DON LUIS FERRE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. SERRANO. Mr. Speaker, it is with great respect and admiration that I rise today, the 18th of November of 1991, to pay tribute to Don Luis Ferre and offer him my warmest congratulations. Today, Don Luis will receive the Presidential Medal of Freedom. This medal is the highest award the Government of the United States bestows on civilians, and Don Luis is unquestionably a most deserving candidate.

Don Luis is an accomplished engineer who obtained his engineering degree from the Massachusetts Institute of Technology. Upon completing his engineering degree, Don Luis was employed as an engineer at the Puerto Rico Iron Works. He later went on to found the Puerto Rico Cement Co. in Ponce together with his brother. In addition, Don Luis is a trained classical pianist who occasionally performs in public, as well as a lawyer. He obtained his doctorate in music from the New England Conservatory of Music and his doctorate in international law from Florida International University.

Don Luis is probably best known for the invaluable role he has played in Puerto Rico's political stage throughout the past 40 years. He was a member of the Constitutional Convention of Puerto Rico and thus played an integral part in the elaboration of the constitution of 1952. Being a staunch advocate of statehood for Puerto Rico, in 1967 Don Luis founded the New Progressive Party. He then went on to become Governor of Puerto Rico from 1969 to 1972 and president of the Puerto Rican Senate from 1977 to 1980. Today, at 87 years of age, Don Luis still plays an active role in Puerto Rican politics as chairman of the Republican Party.

Yet not only is Don Luis a successful politician, but an esteemed philanthropist as well. Equally noteworthy to his political achievements are the numerous contributions he has made to the people and culture of Puerto Rico. In 1937, Don Luis founded the Ponce Public Library. Thirteen years later, in 1950, Don Luis established the Luis A. Ferre Foundation, a cultural foundation. And in 1952, Don Luis opened the Ponce Museum of Art—an outstanding collection of paintings, including a number of pieces by Don Luis himself. Today, Don Luis plays an active role in the Christopher Columbus Quincentenary Jubilee, of which he is a member by presidential appointment.

For such exemplary contributions, among countless others, Don Luis has received a number of honors and awards. In 1959, he was made a Knight of the Holy Sepulcher by Pope John Paul XXIII and, in 1971, he was awarded the Hoover Medal. Today, he is to receive the Presidential Medal of Freedom—a medal to honor meritorious contributions to the national interest of the United States, world peace, or cultural or other significant public or private endeavors. This is an honor bestowed only upon a select few and there is no question in my mind that Don Luis belongs to this group.

Mr. Speaker, please join me in paying tribute to an exceptional man whose achievements extend above and beyond any political boundaries. Don Luis has dedicated his life to community service in numerous ways and has thus made priceless contributions to Puerto Rican history and culture. His innumerable accomplishments have enriched the lives of millions of people. Don Luis is a man of many talents who has left an indelible imprint on the 20th century. He constitutes an extraordinary role model for one and all to follow, and it is my hope that those of us here now, as well as the generations to come, may learn from his unsurpassable humanity and generosity. It is thus with great pride that I rise today to offer my heartfelt congratulations to Don Luis Ferre' and express my gratitude for his commendable contributions to the Puerto Rican community.

ST. GERARD'S R.C. CHURCH OF PATERSON, NJ HONORS MICHAEL GAROFALO

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute a truly outstanding individual on his accomplishments in conjunction with a truly outstanding institution in my Eighth Congressional District of New Jersey. A man who has given his time, his talent and his heart to improving his community and making a positive difference in the lives of those around him. Michael Garofalo is a man who exemplifies the term "Good Citizen" and has acted in the highest tradition of community involvement.

For his outstanding work over the past 20 years with St. Gerard's Church of Paterson and for his many activities of public service, Michael Garofalo will be honored by his fellow parishioners, family and friends. A dinner-dance will be held by the parish of St. Gerard's as an expression of gratitude on Saturday, November 23 in the St. Joseph Center. I know that this event will bring great pride to Michael and his family, Rev. Louis Bihr, pastor of St. Gerard's and the entire parish.

Mr. Speaker, this is a fitting tribute to a man who has dedicated his life to helping his community. Michael grew up in Garfield, NJ, and was educated in the local public school system. After the sudden loss of his father at the early age of 9, Michael's mother continued to raise her children under the spiritual guidance and shelter of Our Lady of Mount Virgin's Parish in Garfield. After graduating from high school, he pursued a higher education at Newark College where he studied engineering. Michael received his bachelor of science degree in mechanical engineering in June of 1966 and later a master's from the Rutger's University Graduate School of Business Administration in 1981.

In between his educational accomplishments, Michael Garofalo married Donna D'Amico on August 3, 1968 at St. Anthony's Church in Hawthorne, NJ. Blessed with three children; a daughter, Marcia Anne and twin sons, Michael and Daniel, the family settled in Haledon where Michael served as county committeeman, a member of the Haledon Recreation Committee and was police commissioner.

Michael is well-known at St. Gerard's for his many activities within the parish. At the request of Msgr. Mark Giordani, he became involved with bingo, frequent parish social activities, the school parent teacher group, and altar boy service. His dedication and commitment to St. Gerard's community continues with Father Lou Bihr's leadership.

Presently, Michael Garofalo serves several memberships and organizations within the church including: the House Committee, the Knights of Columbus Council 7028, the Holy Name Society, St. Gerard's School Board, coordinator of the Finance Committee, chairman of the Fundraising Committee, he serves as the school financial advisor and a frequent church lector.

Beside these activities, Michael is also employed full time as the general manager of the extruded specialty products division at Ames Rubber Corp. in Hamburg, NJ. He is a senior member of the Society of Manufacturing Engineers and a member of the American Society of Mechanical Engineers.

As you can see, Michael Garofalo is an active caring citizen of his community and of this Nation. He inspires others with his actions and leads by his example. Mr. Garofalo is being honored for his devotion to the fundamental ideals upon which this country was founded and the spirit with which he has carried them to his neighbors. I am proud indeed to represent such a man as this here in the people's House.

JOHN SLOAN REMEMBERED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. SUNDQUIST. Mr. Speaker, like many of my colleagues, I was saddened to learn of the passing of John Sloan Jr., a man I regarded as a friend and respected as a leader of courage and of common sense.

John Sloan will long be remembered for his stewardship at the National Federation of Independent Business, where he served as president and chief executive officer and had much to do with making NFIB an important and influential advocate for America's small businesses.

We Tennesseans will remember his own business success in Nashville and his long service in a variety of civic and charitable causes. John Sloan was a man who gave of himself, who led by example, and who made a difference for good. He will be missed by all of us who were fortunate to enjoy his friendship and by the larger community as well. He will be well and fondly remembered.

A TRIBUTE TO THE UPS FOUNDATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the UPS Foundation, a community project funding program sponsored by the United Parcel Service [UPS]. The foundation was created in the early 1950's with the aim of improving the communities in which UPS workers lived.

On a national level, the foundation has the National Grant Program. It supports education, health, and human welfare programs through providing grants for programs such as academic research, business education, public policy research, minority scholarships, programs for the handicapped, medical research, and aid for families and children in crisis.

The Region/District Grant Program takes a more local, and thus personal, approach to grant funding. The foundation yearly selects UPS employees to serve on region and district grant committees. On these committees, the workers enter the community and evaluate the community needs. The members of these committees then recommend to the foundation what programs they believe should be funded. Projects sponsored on this local level include food warehouses, shelter for the homeless, care for the elderly, and support for teenage mothers. In addition to involving its employees on an evaluatory level, the UPS foundation also encourages its workers to contribute funds to worthy institutions, whether local or national. The foundation will then match all funds dollar-for-dollar.

I would like to recognize and thank members of the south Florida area who have contributed time and money to the foundations work. Specifically, I commend John Saunders, district human resources manager, Herman Radish, safety manager, and Ron Aversa, employment manager. Their efforts have helped to improve the community in which they live.

I am glad to be able to recognize the UPS Foundation for its actions which have improved not only my district and neighborhood but all of our districts and communities. I wish them continued success in their efforts to elevate the environment in which we all live.

SALUTE TO VICKY LEARY

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor an outstanding local official as she retires from public service.

Vicky Leary has ably served the residents of Agoura Hills since before the city incorporated in 1982. Before Agoura Hills became a city, she was a member of planning and homeowners' groups, and was a member of the Cityhood Committee that led the fight for incorporation.

She was elected to the first city council, and was reelected in 1987. During that time, she served two terms as mayor, and has worked hard to help guide Agoura Hills through the inevitable growing pains that accompany the birth of a city.

Among her achievements are increased park and recreation services, an extensive senior citizen program, city beautification programs, more police protection, antidrug efforts in the schools and—not least—a 40-percent reduction in the crime rate.

Mr. Speaker, on November 20, the city council will host a reception to honor Vicky Leary for her years of service to her community. I ask my colleagues to join me in saluting her, and in wishing her well as she retires.

TRIBUTE TO UNION CITY MAYOR TOM KITAYAMA

HON. FORTNEY PETE STARK

OF CALIFORNIA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. STARK. Mr. Speaker, it is with both regret and profound appreciation that we announce today the retirement of one of California's most valued public servants, Mayor Tom Kitayama of Union City, CA.

Tom has been a man of accomplishment in all aspects of his life; family, business, and public service. After graduating from Washington State University in 1945, he began building what is today a nationally known carnation wholesaling business. During that time he and his wife, Heidi, took on the task of raising a family of four children.

These accomplishments give some indication of the talents Tom Kitayama would bring to public service in Union City. Throughout his political career, Tom has been a pioneer and a consensus builder. In 1959, he led the effort to organize several communities into what is now Union City, a city of over 50,000 residents in the east San Francisco Bay area. Once Union City was incorporated, the citizens of that city turned to Tom Kitayama to serve on the city council and as the appointed mayor. Thus, Tom became the first Japanese-American to hold public office in California.

Since 1974, Tom has served as the elected mayor of Union City. In his 32 years of public service, Tom has been a leader in making certain that local government helped provide social services, affordable housing, quality education and helped foster a healthy business community.

Now Tom has decided that it is time for a rest. After 32 years, no one can say that it isn't well-earned. As we understand it, he has to catch up on a lot of fishing and Monday night football. But we hope he will still find the time to share his insight and wisdom with Union City's new mayor, its council and those of us who represent Union City here in the House of Representatives.

As we honor Tom Kitayama on his retirement, we should be grateful not only for his accomplishments in helping to transform Union City into a vibrant community, but also for the example of service to the community he has left us. Tom has shown throughout his career that there is no substitute for integrity and hard work for those who have chosen a life in public service. Tom's accomplishments will never be forgotten, and his day-to-day contributions to life in Union City will be missed deeply.

PUBLIC HOUSING AND ITS DISCONTENTS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. MICHEL. Mr. Speaker, it is no secret that one of the great problems America now faces is housing. Nowhere is that problem more troubling than in the area of public housing.

The Peoria Journal Star recently published an editorial decrying the senseless state of public housing in my home town of Peoria, ILL. According to the editorial there is plenty of blame to spread around: labor unions, businesses, State, local and national bureaucracies, national housing policies in Congress and the administration—we all have to take another look at public housing.

As the Peoria Journal Star puts it:

> The fact is that Americans are pouring billions into public housing annually and part of the return they get is vacancy, vandalism, fraud, crime and more poverty.

Surely we can do better than that.

At this point I wish to insert in the RECORD, "Fed Up With This Nonsense", an editorial of the Peoria Journal Star, Peoria, ILL, Wednesday, November 6, 1991.

FED UP WITH THIS NONSENSE

On Monday's front page a story ran about how vandals have been destroying vacant Peoria Housing Authority apartments, which now number fully one-third of the PHA's housing stock.

Meanwhile, despite all the vacancies, there's a waiting list for PHA housing with more than 500 names on it. If that isn't senseless enough, another story in Monday's paper reported a surge in overnight guests at the city's homeless shelters. We're in for a cold winter.

If you ask us, there's something terribly wrong with the state of operations at the PHA. Can't somebody do better than this?

The PHA's vacancy team of 15 maintenance workers, among them union carpenters being paid $16 an hour to place boards on windows, say they haven't been able to keep up with the vacancies and the vandalism. Well, why doesn't the PHA hire more carpenters and pay for them with the recaptured rent that's now being lost while these units stay empty? If this were a for-profit apartment complex, you can bet the owners would never let this space remain idle for this long. The boarded up windows are virtually an advertisement, an invitation for drug dealers to do business there.

Even better, why doesn't the PHA hire some of its own tenants to help restore these vacant apartments to occupancy quality?

You don't need to be a union carpenter, or a laborer who's paid between $11 and $13 an hour, to carry trash out of a building or wash down the walls and floors. It would be a way for residents to supplement their welfare checks, a way to give some a sense of purpose, a way for them to ensure that their neighborhood remains clean and safe. It would also be a cheaper way for the PHA to solve its vacancy problems. Both sides win.

But what we hear out of the PHA these days is that they're trying hard, that these vacancies are the result of more than a decade of mismanagement, that we should be patient. What we hear is that money is too tight to hire additional workers, and that the PHA can't secure loans on its own to get the up-front money needed to pay them. What we hear is that at least 250 apartments at Harrison Homes are so badly damaged that an outside construction firm must be hired to repair them.

What we hear is that there's yet another grant application to be submitted to the U.S. Department of Housing and Urban Development for apartment rehabilitation, but that HUD already rejected a similar application after pouring $16 million into Harrison—nobody really knows how much, of course—over the last 10 years with little result. What we hear is that the money might be available in 1992; everyone's keeping their fingers crossed.

What we hear is that 80 apartments at Warner Homes have been rehabilitated and are ready for occupancy, but that they're either too small or too dangerous or too whatever for anybody to move into. What we hear is that union contracts make it impossible to hire residents to help themselves. What we hear is that 1992's budget won't balance unless occupancy goes way up. What we hear is that HUD has too many regulations that tie the hands of housing authorities. What we hear is excuse after excuse why public housing in the United States doesn't work and probably never will.

Public housing has become an absolute joke in Peoria, and the needle on our frustration meter has jumped into the red. It has been more than a year and the vacancy rate for the PHA has steadily increased, especially at Harrison Homes, despite promises to the contrary. PHA Director Wence Cunningham's goal of 80 percent occupancy at Harrison by the end of this year is an impossible dream. Maybe 50 percent is, too.

Sure, the $17 million being spent at Taft Homes is giving those buildings a fresh new look, and that's great. But how long will it last?

Editorials like this don't have much of an impact anymore because people in Peoria, at least, have come to expect this kind of news. But the fact is that Americans are pouring billions into public housing annually and part of the return they get is vacancy, vandalism, fraud, crime and more poverty.

America needs a new public housing policy. We join Peoria Mayor Jim Maloof in calling for a local housing summit, with PHA board members and tenants and developers and labor groups, to map out where public housing in Peoria needs to go. And we urge George Bush and Jack Kemp and Bob Michel to call for a national housing summit to fundamentally change a system that really doesn't serve anybody well anymore.

Our patience with all the promises has just about worn out.

A TRIBUTE TO LUIS A. FERRE, RECIPIENT OF THE MEDAL OF FREEDOM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. GINGRICH. Mr. Speaker, today, President Bush honors an outstanding American, former Puerto Rican Gov. Luis A. Ferre, with the Nation's highest civilian award, the Medal of Freedom.

It is my privilege to rise today in the House and pay tribute to Governor Ferre, a man who personifies our Nation's greatest attributes: Patriotism, honor and a deep and abiding belief in helping others.

In Luis Ferre's long and distinguished career, as in his life, we see evidence of a man of profound intellect, who has a deep love for that which makes life more abundant and beautiful: The arts and humanities.

His commitment to those pursuits is evidenced in many museums and buildings of higher learning which bear his name and many more which do not, but nonetheless would have not been erected without his leadership and support. And like all true leaders, Governor Ferre did not build these structures as monuments to his own life. Rather, they were erected so that others—the millions who travel through his museum in Ponce, PR, and the thousands who use the student center at his alma mater, the Massachusetts Institute of Technology—may instead profit from them.

It is for that commitment to helping others, and the selflessness with which he has pursued his life, that President Bush honors him today.

Luis Ferre has been called the "quintessential self-made man." In his lifetime, he has been an extraordinary success in a variety of fields: Business, politics, philanthropy, art and music. He is a skilled concert pianist, an accomplished artist, an individual who is multilingual, and an internationally recognized engineer and scholar.

His résume could easily encompass the lives of three people. A masters graduate of the Massachusetts Institute of Technology [MIT] and an engineer by trade, he achieved great success in the business world as the vice chairman of the Puerto Rican Cement Co., Inc.

An alumnus of the prestigious New England Conservatory of Music in Boston, where he received a doctor of music degree in 1975, Luis Ferre served for several years as a member of the American Society of Arts and Sciences. He also holds doctor of laws degrees from Harvard University and Amherst College, both in Massachusetts.

His sponsorship of the arts, through the Luis A. Ferre Foundation, is known throughout the world, as is his dedication to a sponsorship of higher education and science. Several presidents have singled him out for service on a variety of special advisory committees on the arts and humanities, and most recently, as a member of the President Task Force on Private Sector Initiatives.

But he is also well-known for a distinguished career in public service. He served as Governor of Puerto Rico from 1969–72 and as president of the Puerto Rican Senate from 1977–80. In 1968, he was elected president of Puerto Rico's New Progressive Party, and also served with honor as a member in both the Puerto Rican House of Representatives and the Puerto Rican Senate.

As an eloquent spokesman for statehood for Puerto Rico, he has devoted a goodly portion of his life to the issue of the island's political status. In this capacity, his leadership was recognized when, in 1951, he was chosen as a member of the Constitutional Convention of Puerto Rico, and later as a member of the first United States-Puerto Rico Status Commission.

He currently serves as chairman of the Republican Party of Puerto Rico, and he and his wife Tiody, are longtime friends of President and Mrs. Bush.

I know all of my colleagues in the House join me in congratulating Governor Ferre for this outstanding honor and all that he has done to serve his fellow man.

A TRIBUTE TO TAYLOR ODGEN AND THE MAILMAN CENTER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Taylor Odgen and the Mailman Center for Child Development at the University of Miami School of Medicine. Taylor Odgen, who was born with Down's Syndrome, was fortunate to have the help and counsel of the Mailman Center. Dr. and Mrs. Steven Poliakoff and sponsors cordially invited guests for an evening to acknowledge the facility of the Mailman Center and its tremendous work with both developmentally handicapped children and their parents.

On November 15, Taylor will be honored at the first annual "Fairy Tale Ball," where a very special guest for the evening will be Taylor's very own "Fairy Godmother" and best selling author, Barbara Taylor Bradford. The event in Surfside, FL will benefit the Mailman Center for Child Development at the University of Miami School of Medicine, programs for genetic counseling and early intervention.

I wish to commend Taylor's parents, Dr. and Mrs. Steven Poliakoff, Barbara Taylor Bradford, and the Mailman Center, for their dedication to such a worthy cause.

RESTORATION OF THE GULF'S RAVAGED ENVIRONMENT MUST GET UNDERWAY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. HERTEL. Mr. Speaker, today I am introducing a resolution that asks the United Nations to recognize the importance of damage assessments, cleanup, and restoration in the Persian Gulf region as a result of the vast environmental destruction caused by Saddam Hussein. I am joined by three of my colleagues, who have worked very hard to seek humanitarian assistance and reparations for the war victims, Mr. FASCELL, chairman of the House Committee on Foreign Affairs, Mr. BROOMFIELD, ranking minority member of the House Committee on Foreign Affairs, and Mr. YATRON, chairman of the Subcommittee on Human Rights and International Organizations.

The resolution we present today asks that the Secretary General of the United Nations to provide a special and substantial allocation of the U.N. Compensation Fund to be used for environmental damage in the Persian Gulf region. Upon sale of Iraqi oil, proceeds will flow into the fund to pay and reimburse the extensive personal suffering and property losses caused by Saddam Hussein. In addition, this resolution asks that the disastrous environmental consequences for the people of the gulf region, due to Saddam Hussein's ecoterrorism, be given priority.

Preliminary estimates of the total amount of oil intentionally discharged in the Persian Gulf is over 30 times the amount spilled in Prince William Sound—some 6 to 8 million barrels versus 260,000 in Alaska. Additional hardship from the senseless sabotage of over 600 oilwell fires requires the immediate attention of the world community.

The environmental damage in the gulf region has yet to be fully assessed. Completed environmental damage assessments serve as technical planning guidelines for cleanup and restoration—they are the most important first step to managing the environmental losses in the gulf region.

For its part, the United States has already provided over $10 million of technical assistance and resources through various Federal agencies with expertise in environmental rehabilitation. However, much more remains to be accomplished before the gulf war is behind us.

It is clear that the way of the life for the people of the gulf region will be dramatically altered for generations to come, because of Saddam Hussein's environmental destruction. A full recording of damages to fisheries, grazing lands, crops, and other commercial interests has yet to be made. Public health injuries due to atmospheric, soil, and water pollution have yet to be treated.

It is my hope that this resolution will lead to international efforts to prevent ecoterrorism. Full damage assessments, cleanup, and restoration of the gulf's ravaged environment must get underway. Only then can we close the vast wounds of this horrible war and halt ecoterrorism—once and for all time.

TRIBUTE TO DR. MANUEL TRINIDAD PACHECO—FIRST HISPANIC PRESIDENT OF THE UNIVERSITY OF ARIZONA

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. PASTOR. Mr. Speaker, it is with great pleasure that I address my colleagues in the House today. I wish to recognize Dr. Manuel Pacheco who has just made history as the first Hispanic president of the University of Arizona.

Dr. Pacheco, the oldest of 12 children, was born in Rocky Ford, CO, and was raised on a farm in Maxwell, NM. He served as a role model in his own home by setting an example for his 11 siblings, all of whom later earned a bachelor of arts degree and 4 that earned doctorates. His love for learning made an impact on his own mother when she decided to go back to school and earn a bachelor of arts degree. The high expectations the family had placed before him were fulfilled with his new appointment that make him the highest ranking Hispanic in American higher education.

His professional career started in the classroom. He began his career as a French and Spanish teacher in New Mexico high schools. Following his experience as a lecturer at New Mexico Western University, Dr. Pacheco joined the faculty of Florida State University in 1968 as an assistant professor in the department of foreign language education. In 1971, Dr. Pacheco returned to his native State to teach in the Spanish and Portuguese department in the University of Colorado. Dr. Pacheco was promoted to associated professor in 1972 and also served as coordinator of Mexican-American studies.

In 1972, Dr. Pacheco entered what was to become a strong administrative career in higher education. From 1971 to 1977, Dr. Pacheco was dean of the university and professor of education at Texas A&I University, now called Laredo State University. He left Texas A&I for a year to chair the multicultural education department in San Diego State University. He returned to Texas A&I University in 1978 as executive director for the Bilingual Education Center, and director of the doctoral program.

From 1982 to 1984, Pacheco was at the University of Texas-El Paso, first as associate dean of the college of education and professor of curriculum and then as executive director of planning. From 1984, Dr. Pacheco was on leave from UTEP as chief policy aide to the Governor of New Mexico.

In 1984 Dr. Pacheco was named president of Laredo State University to be followed as president of University of Houston-Downtown in 1988.

As the first Hispanic congressman from Arizona I'm proud to share the admiration and respect I hold for this exceptional member of the Hispanic community with my fellow Arizonans. Dr. Pacheco's achievements are indeed a source of inspiration for all of us.

EASY FOR THEM TO SAY OR ADD MORE HYPOCRISY THAN ENLIGHTENMENT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. STARK. Mr. Speaker, I offer the following letter sent November 14:

THE PARTNERSHIP ON HEALTH CARE & EMPLOYMENT,
P.O. Box 27414
Washington, DC.

DEAR SIRS: I read your full page ad entitled "101 Economists Agree: Mandating Health Benefits is More Disease than Cure." It had a nice list of names of professors who all worked at various colleges and universities.

Hope in your next ad you could tell us how many of them already have health insurance provided by the colleges for which they work?

Thank you.

Sincerely,

PETE STARK,
Member of Congress.

A TRIBUTE TO DR. WAYNE VAN GELDEREN, SR., BEFORE THE U.S. HOUSE OF REPRESENTATIVES

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. FAWELL. Mr. Speaker, I would like to take this opportunity to honor Dr. Wayne Van Gelderen, Sr., who will be celebrating the occasion of his 25th anniversary as pastor of Marquette Manor Baptist Church in Downers Grove, IL, on Sunday, December 1, 1991.

A native of Miami, FL, Dr. Van Gelderen attended and graduated from Bob Jones University, receiving a B.A. in 1946 and an M.A. in 1947. He has been a pastor in Florida, Michigan, Colorado and now in Downers Grove, IL.

Dr. Van Gelderen was called to the historic Marquette Manor Baptist Church in Chicago in 1966. He led the church in moving to Downers Grove in 1970. He was honored with a doctor of divinity degree in 1966 by the San Francisco Baptist Theological Seminary.

Dr. Van Gelderen serves on the board of the Fundamental Baptist Fellowship; is the treasurer of the Baptist World Mission; is a member of the executive board of the American Association of Christian Schools; and is the president of the Illinois Association of Christian Schools. In January, 1992, he will also be recognized for 44 years in the ministry of the Gospel.

Dr. Van Gelderen is best known for his warm, yet uncompromising teaching of the word of God.

A TRIBUTE TO ARTIST PETRONIO CALDERA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Mr. Petronio Caldera is a Nicaraguan artist and caricaturist whose art is characterized by the simplicity of his work, his ability to capture the expression, vitality and movement in his subject. His oil paintings are works of outstanding creativity.

Mr. Caldera's work has been on display for several years in the World Exposition of Caricatures in Montreal, Canada. His display is called "Man and His World."

In 1990, Mr. Caldera received first place in an exhibition at the Cuban Municipal Fair in Miami, FL. He received a trophy and a silver medal for his entry. The following year, Mr. Caldera received second place for his outstanding work of art.

Prior to these awards, Mr. Caldera participated in an expedition called "El Salon de la Historieta Mexicana" which took place in "El Palacio de Bellas Artes" in Mexico City in 1973. In 1978, Mr. Caldera received top honors for his art and was given a gold medal by Ruben Dario's Honor Guard in Managua, Nicaragua.

It is certainly fitting for Mr. Caldera to present his art to us here in the United States during this coming year for the celebration of the quincentennial of the discovery of the new world.

It is truly an honor to have the opportunity to acknowledge Mr. Caldera's work. His artistic talent and sharp skills are certainly a tribute to man and his world.

TRIBUTE TO BEVERLEY YIP

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. CUNNINGHAM. Mr. Speaker, on Monday, November 11, 1991, San Diego lost a great friend and dynamic leader with the passing of Mrs. Beverley Yip. And though she is no longer with us, the fruit of her work remains. Mrs. Yip lead many fights to help San Diego's immigrant communities, particularly the Asian-American community.

In 1974, Beverley Yip founded the Union of Pan Asian Communities [UPAC] with a $30,000 grant and developed it into the largest social service agency for Asians in the San Diego area. Today, UPAC serves over 13,000 Asian-Americans from Cambodia, China, the Philippines, Japan, Korea, Laos, Vietnam and the many island-nations of the Pacific with a budget of $2.6 million.

Mrs. Yip was best known as an advocate for cultural understanding, exercising diplomacy and sensitivity while masterfully asserting the rights and roles of Asian-Americans in government and society. Her commitment to show others how to obtain equal opportunity was not only limited to Asians. Beginning in 1990, Mrs. Yip made sure that UPAC incorporated Ethiopians, Iranians, Eastern Europeans and Soviet Jewish immigrants in their programs.

As executive director of UPAC, Beverley Yip expanded services to provide 24 social programs that included child care, mental health services, physical exercise course, senior citizen assistance, and a child-abuse prevention project in collaboration with the Urban League and Home Start.

In addition to her many years with UPAC, Beverley Yip was also a member of the San Diego Housing Commission, the San Diego County Task Force on Services to Older Minority Persons, and the Board of Overseers of the University of California at San Diego.

With the responsibilities and visibility that distinguished Mrs. Yip's position as a local leader in San Diego, she was a true inspiration to our leaders and our citizens. Beverley Yip did not pursue the prominence that she ultimately attained as part of an ambitious competition for power or publicity; she persisted and triumphed because she spoke out and fought for the immigrants who thought they lacked the means to improve their communities. She showed them, and others who will follow, how to achieve the America and resolve mutual problems—together.

I am honored to pay tribute to this great lady who has done so much for so many. Beverley Yip is survived by her husband Phillip Yip daughter Janice, son Keith and his wife Cindy.

May the RECORD show that she will be greatly missed by all, that she exemplified the finest qualities of our immigrant Nation, and that she served America well.

SPECTRE SCHOLARSHIPS FOR 16TH SPECIAL OPERATIONS SQUADRON

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. DORNAN of California. Mr. Speaker, I rise today to bring to the attention of my colleagues and the citizens of this country the courage and sacrifice of 14 members of the Air Force's elite 16th Special Operations Squadron, who lost their lives in service to their Nation when their AC-130 Spectre gunship was shot down during heavy fighting in the Persian Gulf war.

These brave soldiers are survived by 10 widows and 22 children ranging from newborn to 18 years of age. Although military survivor benefits will be provided to these families, these benefits do not include provisions for college educational assistance. However, a scholarship fund has been created to provide such benefits to these families.

I encourage anyone who can contribute to this fund to consider the personal loss of these families, and the importance that such a scholarship fund will mean to the children of 14 servicemen who made the highest sacrifice for their country.

MR. SIDNEY FRIEDMAN IS NAMED RENAISSANCE SCHOLARSHIP FUND HONOREE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. CLINGER. Mr. Speaker, I rise today to bring the attention of this body to one of my most distinguished constituents, Mr. Sidney Friedman of State College, PA. Mr. Friedman has been named this year's Renaissance Scholarship Fund Honoree by Penn State University.

The Renaissance Fund provides support to financially needy students with strong academic records and since its inception in 1969, it has awarded scholarships worth more than $1.2 million to 757 students. In the last year alone, 151 students were awarded scholarships and allowed to pursue an academic career that might not have been possible otherwise.

This noble Penn State institution is funded through local fundraising events, including the annual Renaissance dinner, where they honor someone who has contributed significantly to helping young people. In choosing someone who has embodied the principles of helping others and contributing to the quality of life in the Centre region, the Fund's board of directors could not have made a better choice than Sid Friedman.

Mr. Friedman was born the youngest of eight children to immigrant parents and had to work hard to put himself through Penn State University. In 1944, he graduated and soon went to work for the area newspaper, the Centre Daily Times.

Throughout the next 3½ decades, Sidney Friedman flourished in a number of area enterprises, always believing that being part of a community means giving something back to your neighbors and helping those in need of a hand. Working to that end, he headed a committee for the campaign for Penn State that raised over $22 million to benefit the university.

The list of Sid Friedman's accomplishments is long, but it is sufficient for me to say that Centre region is truly a better place because of the work of Mr. Sydney Friedman. I invite all of my colleagues to join me today in saluting this fine man and thanking him for his efforts.

CONGRATULATIONS TO STATE CHAMPIONS

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. NUSSLE. Mr. Speaker, I would like to take this opportunity to offer my most enthusiastic congratulations to the members of a high school football team in my hometown of Manchester, IA. Actually, the West Delaware Hawks are not just a football team; on Saturday, November 16, they become the State champions.

Playing before a huge crowd at the University of Northern Iowa Dome, cheering fans watched the unranked Hawks cap a 12-1 season by defeating the top-ranked Spencer Tigers.

This tremendous victory is, in no small part, due to the talent and leadership of the West Delaware quarterback, Adam Tyrrell. Adam not only completed 10 of 17 passes for 133 yards and threw an 11-yard touchdown pass, he also scored a touchdown himself in the third quarter to lead the Hawks to their 27-11 triumph. When asked to comment on the game, Adam said, "Our line does a great job and our running backs are great. And we've got so many receivers we can go to, there's nobody in the State who can cover them all."

As Adam Tyrrell stated, the Hawks' successes this season, and especially Saturday's victory, were due to the hard work of not just a few players, but the result of an entire team's dedication to working together for the benefit of the whole. Like any team, the West Delaware Hawks have their star players, but you don't become the State champions because of a few players. You become the State champions when you understand what it really takes to win; when you understand that individual efforts and successes mean nothing when individuals are driven only by the hopes of personal glory. And you become true champions, in every sense of the word, when you can successfully execute this knowledge as a team.

Coach Dave Jacobson of the unranked West Delaware Hawks played a key role in the success of his wining team. On Saturday, he may have felt much the way New York Mets coach Yogi Berra did before the 1969 World Series against the Baltimore Orioles. He said, "We may be underdogs, but at least we are overwhelming underdogs."

Underdogs or not, today, the West Delaware Hawks are the Iowa State 3A High School football champions.

Congratulations.

A TRIBUTE TO MR. ARNIE MAGENHEIM

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Ms. MOLINARI. Mr. Speaker, at the outbreak of the Persian Gulf War, people around this country attempted to ease the pain of separation by comforting the family members left to wait for the return of their loved ones. In my district, a very special gentleman took it upon himself to reach out to the children of the crew of the USS *Normandy* during this period. This very special person was the student's principal Mr. Arnie Magenheim.

Arnie set up workshops for the children which included guest speakers, such as myself, to encourage them to share their fears and concerns about the war. Indeed, they learned that it was OK to be afraid and to miss their fellow family members. Most importantly, the children learned that there were others who felt the same way.

Arnie recently retired his position as educator to the youth of Staten Island last June. This caused a great loss to the education system of Staten Island. On November 20, a reception will be held in his honor affording the people of Staten Island the opportunity to say thank you for all the time and energy he has devoted to our families.

Arnie Magenheim time and again has dedicated himself to the children of Staten Island. he has been an educator for the past 40 years, not only teaching our children about words and numbers, but about the basic values such as respect, friendship, and understanding. As a teacher and a principal in a multicultural school, he has been an authority figure as well as a friend to his students.

Arnie's many years of commitment and dedication have been an invaluable service to the community. We on Staten Island will all greatly miss him, and we wish him much happiness in the future.

IN TRIBUTE TO MILDRED C. BIRD

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mrs. ROUKEMA. Mr. Speaker, I rise today to pay special tribute to Mildred C. Bird, as she is honored at the New Jersey League of Municipalities Annual Convention in Atlantic City, NJ today, Wednesday, November 20, 1991.

Millie has served the residents of Bloomingdale, NJ in various capacities for over a quarter of a century. She was first appointed as municipal clerk for the borough on February 1, 1966, a position in which she served until her promotion to acting borough administrator in June 1987, and subsequently, borough administrator in August 1989. During her tenure, Millie was responsible for the daily operation of the borough and for the coordination of the various municipal departments.

Millie's service is marked by distinction during this period, as evidenced by her length of tenure and her ultimate promotion to the borough's chief executive position. Her capable management style received bipartisan support during a time of dramatic growth in the community and subsequent pressure on municipal services. She has helped to build and improve the quality of life and sense of community that has endured in this small town of Bloomingdale for so many years.

Millie's experience and ability to get the job done is also recognized by her peers. The Passaic County Municipal Clerks Association saw fit to elect her to serve as their corresponding secretary, recording secretary, treasurer, vice president and ultimately, president. She was also selected to serve as treasurer, secretary, second and first vice president, for the New Jersey Association of Municipal Clerks.

Millie's energies and talents were not confined to her professional career. She has also given of her time to a number of community-based support groups. She is past chairwoman of the Bloomingdale United Way; a long-standing member of the Butler Rotary Club, and a member of the Veterans of Foreign Wars Auxiliary, Post 9458, in Bloomingdale. Millie has demonstrated the true spirit of community involvement; both on a professional level and a personal level.

Mr. Speaker, to paraphrase Ralph Waldo Emerson, the only true gift one can give is a portion of thyself. This week, the New Jersey League of Municipalities will recognize Millie Bird for the many gifts she has given to her community and her State. I ask my colleagues to join with me in that recognition.

THE AWARDING OF THE PRESIDENTIAL MEDAL OF FREEDOM TO FORMER GOVERNOR LUIS A. FERRE OF PUERTO RICO

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. DE LUGO. Mr. Speaker, the President of the United States has just awarded the Presidential Medal of Freedom to several people, including our great former Speaker, Thomas P. "Tip" O'Neill, Jr.

A resident of one of the insular areas, Luis A. Ferre of Puerto Rico, was another of the distinguished Americans honored and it is to Don Luis that I would like to pay tribute for a moment.

News accounts of the award have listed Luis Ferre as a former Governor of Puerto Rico and he certainly deserves recognition for the good works of his administration.

But the President did not give Don Luis the Nation's highest civilian award because he was a good governor * * * or even because this Republican State chairman has long been "Mr. Republican" in Puerto Rico.

He was honored because his life is a model of public service and outstanding dedication to his country.

Don Luis is the patriarch of the statehood movement in Puerto Rico. And, as unfortunately divisive as the issue of future political status is in the commonwealth, he has championed the statehood cause with such dignity that he is acclaimed by supporters of all status options as a statesman.

Luis Ferre advocates statehood because he has a vision of equal rights and responsibilities for his people. At 87, he has led the statehood drive to plurality support (if polls are a reliable guide) and still dreams of seeing Puerto Rico become a full partner in the American Union.

His achievements, however, are not limited only to the political arena.

Don Luis has also had enormous success in business and accomplished much as a philanthropist. One of his family companies was the first Puerto Rican industry listed on the New York Stock Exchange. Among other contributions to education and the arts, his generosity is responsible for the Ponce Museum of Art in his home city.

An engineer who is proficient in the classical piano, he is, above all else, a fine gentleman and a kind human being. It is a privilege to know this inspiring man.

THE FEDERAL COURT SETTLEMENTS SUNSHINE ACT OF 1991

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. SKAGGS. Mr. Speaker, today I'm introducing the Federal Court Settlements Sunshine Act of 1991. I'm pleased to be joined by nine of my colleagues in proposing this legislation to ensure the public's right to know what's happened when Federal agencies settle cases in court.

This bill would set up a tough standard that would have to be met before the U.S. Government could be a party to sealing from public view the settlement of civil cases in Federal court. In any case involving a Federal agency or official, settlement documents would have to remain public unless the trial judge made a written determination that a compelling public interest required the settlement agreement to be kept secret. Since we're talking about the public's business, and large sums of money or significant policy issues may be at stake, it's only right that we all have a chance to see what kind of deals our Government has entered into.

Across the country, various agencies of the Federal Government are routinely involved in litigation concerning matters ranging from the cleanup of toxic waste dumps to the safety of consumer products. Frequently, when these cases are settled, the judge considering a case will seal—or block from public disclosure—the terms of the settlement. The reasons for such sealing can range from speeding up the process to protecting someone's reputation.

I know that many of my colleagues are aware of the case of the Silverado Savings & Loan Association in Colorado. The collapse of this S&L will probably end up costing American taxpayers over $1 billion. But because a Federal court agreed to seal the terms of the settlement reached between Silverado and the Government, those same taxpayers will not be able to learn just why they have to shell out this kind of money.

Settlements involving Federal agencies are the public's business, and they should be open to public scrutiny. It's as simple as that.

Mr. Speaker, we're living at a time when many Americans feel increasingly alienated from their Government. This bill presents one approach that may help restore the trustworthiness of certain Government actions. I hope my colleagues will join me in promoting the public interest by supporting the full disclosure of the public's business in court.

TRIBUTE TO THE BALTIMORE DISTRICT ZOA

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. CARDIN. Mr. Speaker, the Zionist Organization of America has a long history in the establishment of the Jewish homeland, tracing its origins to Theodor Herzl's First Zionist Congress in 1897. It is the oldest Zionist organization in the nation.

In 1904, noted Baltimorean, Dr. Harry Friedenwald, was national president of the Zionist Federation (which became the ZOA). In 1983–86, Baltimore lawyer and communal leader, Alleck A. Resnick, was national president of the Zionist Organization of America.

The Baltimore District is the largest and most productive ZOA district in the Nation and has been cited repeatedly for accomplishments in membership, fundraising campaigns and community action.

For 48 years, the Baltimore District has honored local, national and international celebrities with its Justice Louis D. Brandeis Award. On December 8, 1991 the Baltimore District will hold its 48th annual ZOA Brandeis Banquet honoring Mr. Jan Willem Van Der Hoeven, founder of the International Christian Embassy in Jerusalem.

Established in 1980 in response to the exit of other embassies from Jerusalem, the International Christian Embassy has been a symbol of solidarity and support for the Jewish State. The Embassy has raised monies to bring immigrants from Ethiopia and the Soviet Union and has assisted in supporting their resettlement as well. Mr. Van Der Hoeven has travelled worldwide seeking to gather support for the State of Israel.

Mr. Speaker, I hope you and my colleagues will join me in recognizing the Baltimore District ZOA and Mr. Jan Willem Van Der Hoeven for their efforts on behalf of Israel.

EARVIN "MAGIC" JOHNSON SCORES HIS GREATEST SHOT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. DYMALLY. Mr. Speaker, I rise to pay tribute and to send my best wishes to Magic

Johnson. The courage exhibited by Magic in coming forward to state that he had contracted the HIV virus far exceeds any of his remarkable exploits on the basketball court.

Mr. Speaker, it appears that the leadership qualities which helped lead Magic and the Los Angeles Lakers to five world titles will now be utilized to educate the American public about the risk for HIV disease and ultimately AIDS.

Mr. Speaker, I would like to cite some instances of how serious the problem of AIDS is in the United States. According to the AIDS Action Council:

Since 1981, over 195,718 Americans have been diagnosed with AIDS; 126,159 of those have died;

More than 1 million Americans are infected with HIV, the virus which causes AIDS. About 215,000 of them will die within the next 3 years;

Some 52 percent of American children with AIDS are black, 25 percent are Hispanic, and 22 percent are White;

Deaths and years of potential life lost due to AIDS will rise by 150 percent—350 percent between 1989 and 1992.

Mr. Speaker, I would like to take this opportunity to thank Magic Johnson for 12 years of being a true virtuoso on the court and in the community. Magic Johnson has scored many three-pointers which meant victory for the Lakers. His next game-winning shot may lead to a longer and healthier life for Americans from all walks of life.

HONORING THE CITIZENS OF "SURF CITY"

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. COX of California. Mr. Speaker, it is my privilege in this Congress to represent the citizens of Huntington Beach, CA. Huntington Beach has become known across America as "Surf City"—the perfect place to catch a wave, bask in the warm California sun, and enjoy the endless summer. Now the City of Huntington Beach will soon make that title official. By act of its duly constituted representatives, Huntington Beach will henceforth have as its official nickname, "Surf City."

Surfing is the sport of choice in Huntington Beach, but it's more than just a sport; it's a way of life that blends the spirit of optimism, the enthusiasm of youth, and the artistry of the old. Not only the denizens of Huntington Beach, but visitors from all over California and around the world have enjoyed this upbeat mood. They appreciate our special place in the sun, where nine miles of ocean, sky, and some of the finest beach strands in the world form one of natures most beautiful combinations.

Each year, thousands of people are welcomed to Huntington Beach for the chance to watch the best surfers in the world in international competition. And increasingly, people are coming to see the International Surf Museum—naturally, located in "Surf City."

Mr. Speaker, the citizens of Huntington Beach deserve our hearty congratulations for making their hometown California's official "Surf City." After all, Huntington Beach is not only California's favorite sun and surf town, it is America's too.

AMERICA NEEDS COMMUNITY EDUCATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. LEHMAN of Florida. Mr. Speaker, next week we observe American Education Week. As a former high school teacher, and as a former member and chairman of the Dade County School Board, I have a keen appreciation of the fine teachers, administrators, volunteers, parents, and students who make public education in this country work.

But there is another side to public education that I wish to recognize today.

On Saturday, November 23, the Dade County Coalition for Community Education will gather for its annual awards dinner. Mr. Speaker, I know these people, and I can tell you that I have never seen a more creative, dedicated, or energetic group anywhere. These people are truly "doers."

The idea of using public schools during nontraditional times began during the Great Depression when an educator in Flint, MI named Frank J. Manley, with the help of wealthy industrialist Charles Stewart Mott, started using public schools after school hours.

In Miami, we began using the Flint model during the 1960's. Now, community education is common in school systems throughout the country, and no wonder. It makes a lot of sense to keep the schools open and to use them to the advantage of every citizen. What is particularly attractive is that each of these programs is geared to meet the particular needs and interests of the surrounding communities.

During the 1960's, as a member of the Dade County School Board, I helped to implement community education in our local school system. As a member of the Education and Labor Committee in the 1970's, I was proud to play a role in the development of Federal legislation which help foster the growth of community education programs.

Mr. Speaker, I salute the Dade County Coalition for Community Education and the many fine people who have made community education in Dade County the success that it is. I have every confidence that even greater success is yet to come.

IN MEMORY OF CHRIS LINDBURG

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. SHUSTER. Mr. Speaker, in life there are those rare people you come across who make a difference in your life just by being there.

One of those people was Chris Lindburg. Chris began working for me in the fall of 1987. He worked on my staff for almost 3 years before cancer forced him to retire from a job he told me so often that he loved. Chris passed away on Friday, and he will be sorely missed not only by me, but also by all of the people who had the good fortune to know him.

It's difficult to put into words what was so special about Chris. He was one of those unique individuals who spread cheer wherever he went. If there was ever anyone who could honestly be said to have a good nature, it was Chris. Everyone who met him could not help but like him. None of us could ever really say why it was we liked him so much—it wasn't just his smile, it wasn't just his jokes, it wasn't just his warm nature. It was the fact he was Chris, and that was all anyone needed to know.

One thing that sticks out about Chris is the fact that he loved to help people. While some dread constituent casework, Chris welcomed it. There are countless people in the 9th District of Pennsylvania who benefitted from Chris' tireless work to resolve their problems.

Even after Chris left my office, he continued his efforts to help others by volunteering at the Red Cross until his condition worsened and he had to be hospitalized.

That is what kind of person Chris was. His life was an endless act of courage, struggling to lead a normal life while his body conspired against him. Chris' courage and good nature spread to all those around him. His influence is something that will stay with us forever.

Chris Lindburg was a strong and gracious man who, with his passing, leaves behind his wife Melissa, his family, and many, many friends who are sad he is gone but very, very happy he touched their lives.

PASSIVE LOSS RULES NEED FIXING

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. TORRICELLI. Mr. Speaker, there has been a great deal of discussion in recent days about the need to enact a tax package to provide a stimulus for the economy and to provide relief for beleaguered middle-class taxpayers. I agree with the need for such a package, but I hope that we will not overlook an even simpler change to our Tax Code that will bring similar benefits to working families and to our overall economic health. That change is the long overdue revision of the passive-loss rules for real estate that were created by the Tax Reform Act of 1986.

Under the current passive-loss rules, any loss from rental real estate ownership is classified as passive. At the same time, income from real estate activities, such as development, construction, leasing, and brokerage, is considered active. Since a passive loss may only be used to offset income from other passive activities, people in the real estate business are taxed on the gross income of their real estate business operations and not on their net income. This treatment is completely different from the treatment of other businesses, and it is severely damaging our economic well-being.

The problem is that by denying a deduction to rental property owners, we discourage them from holding on to troubled properties. These owners then turn their properties over to lenders, many of whom are going under or are dangerously close to failing because of the large inventories of real estate they have taken back from borrowers. These large inventories have created a glutted and unstable market that is not conducive to selling assets. As a result, we must continue to pump billions of dollars into the Resolution Trust Corporation to cover the losses of failed S&L's, and we will soon be sending to the President a bill to increase the FDIC's line of credit by a staggering $25 billion.

It's time to allow individuals actively engaged in the real estate business to be treated like individuals in other businesses, and it's time to recognize that the health of the real estate industry is vital to the health of our economy. I am proud to be a cosponsor of H.R. 1414, introduced by my colleagues, MIKE ANDREWS and WILLIAM THOMAS, which will end the unfair treatment of real estate industry by allowing rental real estate activities of a taxpayer actively engaged in the real estate business to be treated in the same manner as the nonrental activities of that taxpayer.

Mr. Speaker, H.R. 1414 has over 300 cosponsors. It is a sensible measure that is desperately needed to promote economic recovery. We need not wait for another tax vehicle to move this legislation. We must act on H.R. 1414, and we must act on it now.

IN RECOGNITION OF THE TENDERLOIN NEIGHBORHOOD DEVELOPMENT CORP.

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Ms. PELOSI. Mr. Speaker, I rise to recognize the 10th anniversary of the Tenderloin Neighborhood Development Corp. [TNDC] of San Francisco, a nonprofit organization that has emerged as a leader in the efforts to build and preserve a better San Francisco.

The Tenderloin, in the heart of the city, has historically been a gateway for immigrant families and people on their way up the economic ladder. The neighborhood has traditionally been a haven for a low-income population with a constantly shifting ethnic and social blend.

Ten years ago, as the area was hit hard by urban problems, the Tenderloin community came together to address a need for safe and affordable housing. Out of these community meetings grew the Tenderloin Neighborhood Development Corp., which would begin to respond to this concern expressed by seniors, families, and other long time residents.

In 1981, the TNDC bought its first residential hotel. It has quickly grown into an organization that provides low-income housing for over 800 residents in eight buildings in the Tenderloin area, making the TNDC the largest nonprofit manager of low-income housing in San Francisco.

Under the leadership of Brother Kelly Cullen, O.F.M., president of the board of directors, the TNDC does more than simply providing housing. Tenants become actively involved in tenant associations established in the building, as well as staffing the maintenance and management positions, which keep the buildings secure. TNDC also houses many community service and social programs, including Saint Anthony Employment, Travelers Aid, Services for Seniors, Swords to Plowshares, the Bay Area Women's Resource Center, and the Tenderloin Community Arts Program.

The TNDC also provides affordable commercial space, assisting local merchants in getting started, improving the Tenderloin business climate and generating much-needed neighborhood jobs.

In its 10th year, the TNDC continues to seek new opportunities to serve the community, empower tenants, and provide more affordable housing. I commend Brother Kelly Cullen and the staff of the TNDC, and wish them many more years of success in aiding the Tenderloin community.

TRIBUTE TO JULIA MORGAN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, it is a pleasure for me to call to the attention of my colleagues here in Congress the accomplishments of an outstanding professional, Ms. Julia Morgan of Hillside, NJ, who is retiring after 31 years of dedicated service to our State.

During the course of her career, Ms. Morgan achieved a number of groundbreaking firsts. She was the first black woman in New Jersey's history to hold the position of director of the Division of Administration, a post to which she was appointed on January 28, 1988. She also served as the only black personnel officer in State service.

In December of 1987, Ms. Morgan received her certified public manager certification, which made her the first female to complete this training at the Board of Public Utilities. In December 1989, she became a member of the Senior Executive Service.

Ms. Morgan began her career in February of 1960 with the State of New Jersey in the Department of Banking and Insurance in the Real Estate Commission. She transferred to the Board of Public Utilities Commissioners in 1973. She moved up through the ranks, serving 11 years as the chief of personnel for the Board of Public Utilities.

In addition to her impressive professional achievements, Ms. Morgan also found the time to make tremendous contributions to her community. Her service to the Newark community includes her position as former president of the Parent's Organization of St. Benedict's Preparatory School, former vice president of Calvary Christian School Board; and former president, Calvary Gospel Church Adult Choir.

Ms. Morgan has also completed a course through the Newark Library Literacy Program to teach reading on a volunteer basis to those who lack basic literacy skills.

Although Ms. Morgan is retiring from government service, hers will be an active and productive retirement. She will be doing volunteer work at University Hospital, helping with boarder babies, in addition to working as a volunteer with court appointed special advocate [CASA] in Union County and the Child Placement Review Board.

Ms. Morgan is the parent of one son, Angelo, who was recently appointed by the Governor to the Juvenile Justice Delinquency Prevention Advisory Committee.

Mr. Speaker, I know my colleagues join me in offering our appreciation to Ms. Morgan for her exemplary public service and in wishing her well on the occasion of her retirement. May she enjoy the same challenges and fulfillment in the coming years that marked her outstanding career over the past 31 years.

THE UNITED STATES SHOULD RECONSIDER VIETNAM TRADE SANCTIONS

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1991

Mr. DURBIN. Mr. Speaker, amid the President's efforts to bring peace and stability to Cambodia and the Southeast Asian region, I wish to encourage further steps to ease trade restrictions against Vietnam. The United States has prohibited diplomatic, commercial, and cultural relations with Vietnam since 1975, an embargo imposed by executive order under the 1917 Trading With the Enemy Act. While the embargo has reflected United States opposition to the Soviet Union and its client, it now undermines United States interests. The President is correct to reconsider our policy. These trade restrictions, imposed as Saigon fell in 1975, are anachronistic today, in light of Vietnam's market reform, the aggressive trade policies of our European and Asian economic rivals, and the decline of Soviet influence.

As a "Group Z" country, Vietnam is currently subject to the most strict and complete form of economic sanctions, a distinction Vietnam will share only with Cuba and North Korea when Cambodian trade normalization begins. Vietnam is denied United States commercial contact, including financial transactions or vital investment by United States firms. The hardship experienced by U.S. firms stands in dramatic contrast to the activities of other nations which have filled the commercial vacuum created by our self-imposed absence. NATO nations and Japan invested approximately $2 billion in Vietnam in 1988 and two-way trade may reach $5 billion this year. Japan's bilateral trade with Vietnam, roughly $800 million in 1990, has now increased by 45 percent.

United States trade and diplomatic relations with Vietnam have properly depended upon progress on two vital issues: A resolution of the conflict in Cambodia and cooperation in accounting for America's Missing in Action and Prisoner's of War. However, Vietnam withdrew from Cambodia in 1989, a step reaffirmed by the signing of the earlier peace accord. Clarification of the status of America's POW's and

MIA's has been furthered by a series of constructive steps, including the opening of an American office in Hanoi, joint search missions and the repatriation of remains. Veterans groups, such as the Vietnam Veterans of America Foundation, support the expansion of economic ties, believing that increased commercial contact will contribute to the resolution of outstanding POW/MIA issues. Elected officials who are, themselves, Vietnam veterans have also argued that expanded commercial contact will contribute to the resolution of POW/MIA issues.

The President has proposed a road map for trade and diplomatic recognition of Vietnam linked to Vietnamese cooperation resolving the conflict in Cambodia and cooperation on POW/MIA issues. The embargo would be eased for United States-organized travel to Vietnam by individuals and groups. Limitations on travel for Vietnamese diplomats accredited to the United Nations will also be lifted. Trade sanctions would be relaxed and, ultimately, lifted 6 months after a full peace accord. Diplomatic relations would be restored following elections in Cambodia. While these steps to ease trade restrictions are encouraging, they suggest a timetable that may provide insufficient assistance for American firms competing internationally.

Efforts to lift the trade sanctions have proceeded on a bipartisan basis in both the House and Senate. Senator FRANK MURKOWSKI, along with Senator JOHN KERRY, deserve credit in this regard, as do my House colleagues JIM KOLBE, TOM CARPER, PETE PETERSON, CHET ATKINS, AND JOHN RHODES.

Vietnam's record involving human rights remains troubling. However, Vietnamese economic reforms have been accompanied by revisions of the criminal code, expanded rights of travel and worship, declarations of amnesty, and reductions in prison populations. Far more egregious violators of United States human rights laws, such as China, are extended the basic trade and diplomatic relations which we now deny to Vietnam. Furthermore, Vietnam's recent practices have demonstrated a moderation of its prior human rights violations, while China appears to be growing more intransigent and intolerant. Increased trade contact can be expected to improve Vietnam's human rights record. Vietnam should receive basic trade and diplomatic relations and no longer be treated as an international trade outlaw.

The people of Vietnam are terribly poor, with a per capita income of less than $200. With the Soviet Union, itself, in turmoil, it will be unable to continue to support Vietnam, its former client. Vietnam desperately looks to the West for assistance and commercial opportunity. United States businesses deserve the opportunity to engage in trade and do business with Vietnam on an equal basis with our international competitors. Eventually, U.S. opposition to multilateral and international financing through the International Monetary Fund and World Bank should be reversed and diplomatic relations restored. The President should be credited for his efforts to promote diplomatic and trade relations with Vietnam. The sanctions have outlived their usefulness. The continuation of the harshest of trade sanctions undermines regional prosperity and thwarts the democratic aspirations of the Vietnamese people.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 19, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 20

9:00 a.m.

Select on Indian Affairs

Business meeting, to mark up S. 1036, Lumbee Recognition Act, and S. 1607, Northern Cheyenne Reserved Water Rights; to be followed by hearings on the nominations of A. David Lester, of Colorado, Wiley T. Buchanan, of the District of Columbia, Robert H. Ames, of California, and William S. Johnson, of New Mexico, each to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development, to be followed by a business meeting to consider the aforementioned nominations; and to be followed by an oversight hearing on Federal court review of tribal court rulings in actions arising under the Indian Civil Rights Act.

SR-485

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Joint Economic

Investment, Jobs, and Prices Subcommittee

To hold hearings to examine the use of public employee pension funds to balance the budgets of state and local governments.

B-318 Rayburn Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the employment situation in rural communities.

SR-332

Armed Services

Readiness, Sustainability and Support Subcommittee

To hold hearings on Department of Defense purchases from the Federal Prison Industries.

SR-232A

Finance

To hold hearings on issues relating to the Uruguay Round of trade negotiations, focusing on the need for agreements that offer improved market access to American firms and protection of intellectual property.

SD-215

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

1:00 p.m.

Governmental Affairs

Government Information and Regulation Subcommittee

To hold hearings on computer security regulation in the Federal government.

SD-342

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

SD-226

NOVEMBER 21

8:00 a.m.

Foreign Relations

Near Eastern and South Asian Affairs Subcommittee

To resume hearings to discuss certain issues relating to the release of the Iranian held hostages in 1980.

SD-419

9:00 a.m.

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To resume hearings to examine allegations of drug trafficking and money laundering activities in the United States by the Bank of Credit and Commerce International (BCCI).

SH-216

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on the effect of the U.S. Forest Service plan and timber sale appeals on timber supply.

SD-366

Environment and Public Works

Nuclear Regulation Subcommittee

To hold hearings to examine international nuclear safety standards.

SD-406

Labor and Human Resources

To hold hearings to examine the status of fetal tissue medical research.

SD-430

Small Business

To hold hearings to examine trade and business opportunities for small American companies in Eastern Europe, the Baltic States and the Republics of the former Soviet Union.

SR-428A

Select on Indian Affairs

To hold hearings on the provisions of S. 1705, to resolve claims of the Sisseton-Wahpeton Sioux Tribe of South Dakota, the Devils Lake Sioux Tribe of North Dakota, and the Sisseton-Wahpeton Sioux Council of the Assiniboine and Sioux Tribes of Montana arising out of a judgment fund distribution.

SR-485

10:00 a.m.

Budget

To resume hearings to examine alleged waste and abuse in the Medicare program, focusing on practices involving payment and coverage of medical equipment and supplies.

SD-608

Foreign Relations

To hold hearings on the International Covenant on Civil and Political Rights, signed on behalf of the United States on October 5, 1977. (Exec. E, 95th Cong. 2nd Sess.)

SD-419

Judiciary

Business meeting, to consider pending calendar business.

SD-226

2:00 p.m.

Foreign Relations

To hold hearings on the nominations of John H. Kelly, of Georgia, to be Ambassador to the Republic of Finland, and William E. Ryerson, of Virginia, to be Ambassador to the Republic of Albania.

S-116, Capitol

Foreign Relations

East Asian and Pacific Affairs Subcommittee

European Affairs Subcommittee

To hold joint hearings on the impact of the European freedom radios broadcasting to China.

SD-419

3:30 p.m.

Foreign Relations

To hold hearings on the nomination of John R. Davis, Jr., of California, to be Ambassador to Romania.

SD-419

4:00 p.m.

Foreign Relations

To hold closed hearings to examine reporting cables of meeting with Saddam Hussein.

S-407, Capitol

NOVEMBER 22

9:00 a.m.

Foreign Relations

Near Eastern and South Asian Affairs Subcommittee

To continue hearings to discuss certain issues relating to the release of the Iranian held hostages in 1980.

SD-419

9:30 a.m.

Governmental Affairs

To hold hearings on the Federal Government's role in promoting energy conservation technology.

SD-342

10:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings to examine proposed revisions to the procedures for determining wetlands jurisdiction.

SD-406

Foreign Relations

Business meeting, to consider pending calendar business.

SD-419

NOVEMBER 26

9:30 a.m.

Select on Indian Affairs

To hold hearings on S. 1602, to ratify a compact between the Assiniboine and Sioux Indian Tribes of the Fort Peck Reservation and the State of Montana.

SR-485

CANCELLATIONS

NOVEMBER 21

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings to review the Department of Defense hospital and medical supplies system.

SD-342

POSTPONEMENTS

NOVEMBER 19

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System.

SD-538

SENATE—*Tuesday, November 19, 1991*

(Legislative day of Wednesday, November 13, 1991)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

* * * *This people honoreth me with their lips, but their heart is far from me, Howbeit in vain do they worship me, teaching for doctrines the commandments of men. For laying aside the commandment of God, ye hold the tradition of men.* * * *

God of Abraham, Isaac, and Israel, the prophet Isaiah rebukes us for our propensity to replace God's truth with religious tradition. How easily manmade religion replaces God in our lives. We emasculate faith, teaching our doctrines instead of biblical truth and wonder why there is no power in our preaching and teaching. Rhetoric replaces reality, substance and meaning are sacrificed for empty words.

Father God, forgive us for allowing our passion for relevance to contemporary culture to rob us of the reality of faith in God which inspired and guided our Founding Fathers. Help us find a way to stop tragic erosion of spiritual and moral reality which so degrades society. Restore in us the faith of our fathers.

In the name of Jesus, the truth incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 19, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 o'clock, with Senators permitted to speak therein.

The Senator from Pennsylvania [Mr. SPECTER] is permitted to speak for up to 30 minutes. The Senator is recognized.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, is it correct the first 30 minutes are reserved for Senator DOMENICI and me?

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania has the ordered time.

Mr. SPECTER. I thank the Chair.

The distinguished Senator from New Mexico [Mr. DOMENICI] and I are about to introduce legislation. It is just striking 8:30, the time for convening, and I am sure my distinguished colleague will be present momentarily, so in the brief interim I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. BINGAMAN assumed the chair.)

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO THOMAS SUTHERLAND

Mr. WIRTH. Mr. President, I rise today to express thanks, joy, and a profound sense of relief that hostage Thomas Sutherland has finally been released.

I know that everyone at Colorado State University, where Tom Sutherland is a faculty member, and everyone throughout my State joins in support of the Sutherland family. After nearly 6 years of cruel imprisonment, Tom Sutherland's release today is both welcomed and bittersweet.

This must, and should be, an intensely private and personal time for the entire Sutherland family, including Tom Sutherland's courageous wife, Jean, and his three daughters, Kit, Joan, and Ann. The fact that their family reunification must be played out on the world stage is just another element of tragedy in the hostage story.

Nevertheless, this is a time of joy and thanksgiving. It is also a day to remember our remaining hostages and to pray for their early release. The world awaits their release and looks forward to a time when kidnaping and hostage-taking are banned from the political discourse of modern international relations.

Mr. President, I would like to close with a personal observation. I met in the past with Kit and Joan Sutherland several years ago—and I was struck by their obvious courage and resolve. Tom Sutherland has every reason to be proud of his family. They are women of tremendous spirit, and today's most welcomed news is, in large part, a reflection of their vigilance and love.

The whole Nation will enjoy a more comforting and peaceful Thanksgiving knowing that Tom Sutherland is coming home. Let us pray that he is quickly followed by all of the hostages remaining in Lebanon.

Mr. President, I ask unanimous consent that there be printed in the RECORD a very nice column from this morning's Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 19, 1991]

HOSTAGES WAITE, SUTHERLAND FREED IN LEBANON

(By Edward Walsh)

AMES, IA, November 18.—Since that dark moment in 1985 when Thomas Sutherland was kidnaped near the Beirut airport, William Murray had looked forward to this day, when he could join in celebrating his son-in-law's release from captivity.

For more than six years, Murray was the family's spokesman in the nightmarish hostage drama. It was a role relished by the retired professor of agricultural economics at Iowa State University here and two-time Republican candidate for governor of Iowa. "He had no problem with the limelight," his eldest son, David G. Murray, recalled today.

But William Murray never got to be spokesman at the drama's most critical moment. He could not relay the family's joyous feelings at news of Sutherland's release in Beirut today.

Murray died of cancer at age 88 here Saturday. According to his son, he knew that a hostage release was expected in the next few weeks but was unaware that it would come so soon and that one of those freed would be his son-in-law. "He missed it by a couple of days," David Murray said.

It has been a time of extraordinary passage for the family. It involved the death of the patriarch here, the expected birth this week of his 10th grandchild to Sutherland's daughter Ann in Berkeley, Calif., and what David Murray called "the rebirth of Tom Sutherland" in the Middle East.

"This is a bittersweet time for those of us in the Murray family," David Murray told about 200 people gathered at a ceremony today on the Iowa State campus to celebrate Sutherland's release and mourn William Murray's death.

News of Sutherland's release overwhelmed the sense of sadness that had touched the spacious, comfortable Murray house near the edge of the campus, alama mater not only of Sutherland but also of Terry Anderson, the Associated Press bureau chief in Beirut held longer than any Western hostage in Lebanon.

An American flag stood in the leaf-covered front yard of the Murray home, and yellow and red, white and blue ribbons encircled a nearby tree. The phone started ringing at 6 a.m. and calls continued all day. Some were from Sutherland's wife, Jean, who arrived in the United States from Beirut Sunday night en route to her father's funeral, which had been scheduled here for Thursday.

According to family members here, Jean Sutherland spent much of the day in a public-telephone booth at the Newark, NJ., airport, confirming her husband's release and rearranging travel plans. They said she was to leave Newark for Frankfurt, Germany, late today and be joined there by the couple's two other daughters, Kit Sutherland of Fort Collins, Colo., and Joan Sutherland of Gresham, Ore.

Thomas Sutherland is expected to be reunited with them at the U.S. air base in Wiesbaden, Germany, that has served as the first extended stop for released hostages since the Iranian hostage crisis more than a decade ago.

Meanwhile, plans were being made here to delay William Murray's funeral until Friday so the Sutherland family, including the newly freed former hostage, can attend.

Sutherland's release also was celebrated in Fort Collins, where he taught animal sciences and genetics for 26 years at Colorado State University.

"He's quite talkative, articulate, full of jokes, the same old Tom," said Gerry Ward, 70, a longtime friend, after watching Sutherland on a televised news conference in Damascus, Syria. "I think I've aged more in the time Tom's been held captive than he has."

David Murray had a similar reaction after watching the news conference on television here. "He looked better than I thought, but I was not totally surprised," Murray said. "He is a resilient guy, and he always had a great sense of humor . . . It was the same old Tom—the smile, the twinkle in the eye."

Love of agriculture and of teaching brought Sutherland, a native of Scotland, here in the mid-1950s for graduate study at one of the nation's preeminent agriculture schools where he met Jean Murray, his future wife. The same interests later took Sutherland to Beirut, where he was dean of the agriculture school at the American University of Beirut and she taught English.

David Murray said their devotion to agriculture and teaching served as a bond between his father and his brother-in-law, whom he described as "just like father and son." William Murray was a founder of the Iowa Living History Farms, a facility near Des Moines that commemorates the history of farming in Iowa. For the last several years of his life, David Murray said, his father had "two focuses—the Living History Farms and Tom Sutherland's release."

"You would have had an earful, I'll tell you," Murray said when asked how his father would have handled today's momentous developments. "It would have been a highlight of his life."

Instead, it was David Murray, chairman of the orthopedic surgery department at State University of New York-Syracuse Medical School, who spoke for the family. An eldest son unexpectedly thrust by death into the role of father, he scurried from interview to interview today with a broad smile on his face.

"At this moment, we can't be anything but happy," he said. "We'll get back to the sadness tomorrow."

Mr. WIRTH. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. Specter pertaining to the introduction of S. 1984 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I see, Mr. President, the hour is 9 o'clock, which is the expiration of my time.

So I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Kohl). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for no more than 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. Domenici pertaining to the introduction of S. 1984 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama for up to 10 minutes.

Mr. HEFLIN. Mr. President, it is my understanding that there has been a unanimous-consent order that sets aside in morning business 10 minutes for myself and 10 minutes for Senator Grassley, is that correct?

The PRESIDING OFFICER. That is correct.

(The remarks of Mr. Heflin and Mr. Grassley pertaining to the introduction of S. 1985 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask how much time remains?

The PRESIDING OFFICER. Twenty-one minutes remain in morning business.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to proceed for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from New Mexico for 10 minutes.

TRADE DEFICIT

Mr. BINGAMAN. Mr. President, this morning, the New York Times has an article on the front page which I think puts in sharp contrast the views that some people have on the state of our economy today. This article starts out, the first sentence says: "President Bush said today"—this is dateline November 18 in Washington, that is yesterday—"President Bush said today that he believed that the American economy was basically sound and that he planned no major new programs to stimulate growth, but he acknowledged having trouble convincing the public that his policies were adequate."

Mr. President, I read that to our 11-year-old son this morning and his question to me was, "What are his policies, Dad? If they are adequate, what are they?"

Mr. President, I had planned to come to the floor to discuss the trade problems of the country because we have new trade figures out this morning showing that the trade deficit has, again, widened. In September, we had a trade deficit of $6.79 billion. I was trying to take an occasion to point out why we have that trade deficit.

I want to show my colleagues one chart, Mr. President, which I think makes the point as graphically as I know how to make it. It is a chart entitled, "Erosion of U.S. Share of Technology Markets." It takes the period from 1970 to 1990. It does not go all the way to 1990 because we did not have the figures when we put the chart together. But it is a chart that the Council on Competitiveness did. When you look at it, in color TV's, audio recorders, VCR's, machine tools, machine sets, semiconductor, semiconductor equipment, in all of those areas there has been a significant and dramatic drop in the share of the world market. We are importing those items at a tremendous rate. We are exporting very little, and we have no domestic capability at all for many of these items.

To my mind, that is the real state of our economy. That is a more accurate description of why the President is having trouble persuading the American people that everything is fine and his policies are adequate.

Mr. President, let me go to a specific example which has come to my attention in the last few days. I am going to send a letter to the President today, I hope with the cosignature of many of our colleagues, about a problem that I think needs attention at the Federal level. This is an announcement by McDonnell Douglas Corp. that it is negotiating and is in range of reaching agreement with a Taiwanese Government-owned operation to sell a 40-percent share of its commercial aircraft business to the Taiwanese company, owned largely by the Taiwanese Government.

The board of McDonnell Douglas feels the only way it can stay in the commercial aircraft business in face of the very unequal competition that it faces from Airbus, out of Europe, is essentially to sell a significant portion of the company to Taiwan.

This is a problem, in my view, Mr. President, and one that deserves the attention of the President and of this administration.

Let me give you some statistics of what we are up against. Many people wonder what is Airbus, what does it amount to. Airbus is a consortium which was put together by four European countries: France, West Germany, the United Kingdom, and Spain. It has been in business now about 21 years.

Airbus provides single-point marketing and customer support for the planes that they deliver and sell. Each partner in the consortium is responsible for financing and R&D and design, and the final assembly of the planes sold by Airbus takes place in Toulouse, France. Unlike the U.S. experience, in Europe, governments, not private companies, bear more of the risks, and Airbus goes to their governments for loans and grants to fund development and production, and so far none of them have been turned down.

Let me just cite the specifics of how much subsidy Airbus has enjoyed. This is the European consortium that is competing with our own private aircraft manufacturing industry.

The subsidy, as best we can calculate at this time, amounts to $13 billion. That is about the subsidy we have been able to calculate. This includes $5.8 billion in various kinds of support, plus specific subsidies for the development of each of the various aircraft that Airbus is now producing. Airbus is now the second largest aircraft manufacturer in the world, Mr. President. McDonnell Douglas used to be. Now Airbus is, this Government-owned consortium out of Europe.

We have a serious problem that has been recognized by a great many commentators and personnel in journalism. The problem has been described in an article in Business Week in April, earlier this year, where they point out that 6 years ago Airbus had orders for just 200 planes worldwide. Its backlog today totals 1,600 planes, worth a cool $70 billion. They have gone from having a 15-percent share of the world market 15 years ago to now having 30 percent, and they have essentially reversed position with McDonnell Douglas. McDonnell Douglas is now struggling to remain in the commercial aircraft business, and that explains the action they have recently taken.

Some people feel strongly about this. Robert Samuelson, a commentator with whom we are all familiar, in an article that he wrote for the Washington Post in July, makes the point strongly in the article "Worth a Trade War With Europe." He points out that, in fact, we have a very serious problem. He says this:

> Between 1990 and the year 2008, worldwide sales of commercial jets are expected to total roughly 11,500, worth about $600 billion in today's dollars.

Mr. President, this is a major loss of industrial capability by the United States. Faced with the large, massive subsidies that McDonnell Douglas has seen going to Airbus, it has seen it has no alternative but to sell out to the Taiwanese.

Our Government, of course, does not provide any direct help; that would be industrial policy; that would be objectionable to this administration. Our Government will take no action to curb the imports of Airbus into this market, and Airbus has grabbed a larger and larger portion of our market each year. It would be protectionism to try to restrict imports into our market.

So with what are we left? We are left with Airbus using Government subsidies to buy more and more of the U.S. market and more and more of the world market. The only way a major United States firm such as McDonnell Douglas can remain in the market in commercial aircraft is to go ahead and sell a significant portion of its equity to Taiwan.

Some would ask, why Taiwan? The answer to that question is the same answer that Jesse James used to give as to why he robbed banks. He said he robbed banks because that was where the money was. Taiwan is where the money is, and Taiwan is where the money is because we have allowed, this Government has allowed, Taiwan to run a consistent and chronic trade surplus with the United States over more than the last decade.

During all that time, while we were losing jobs and while our own ability to export to those markets was being restrained, Taiwan has consistently had a major trade surplus with us. Mr. President, in my view, McDonnell Douglas having to sell part of its equity to remain in business is a classic example of the kind of deterioration of our industrial strength which we have allowed to occur in the last decade.

For 21 years, the Europeans have provided direct subsidies to Airbus. We see those subsidies that have gained Airbus a larger and larger share of the world market. McDonnell Douglas, in order to remain competitive, has to sell equity to another foreign government, in this case Taiwan.

We object to Government action in our own country to maintain a strategic industry, but we stand by and watch a foreign government buy a significant part of a strategic industry.

Mr. President, there are many others on the floor who wish to speak as well. I know the Senator from Connecticut has comments he wants to make on this and related issues. I will at this time yield the floor so that he can do that.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

CONTINUED ECONOMIC SUFFERING

Mr. LIEBERMAN. Mr. President, I congratulate and thank my friend and colleague from New Mexico for his typically incisive, insightful statement about the outrageous turn of events with regard to McDonnell Douglas. I think in so doing he highlights a fundamental problem of our economy and of this administration. It is a fact that this administration sits back on trade policy, on the growth of new technology industries in this country, on consumer credit, on bank credit, and continues to say: Let the market work, let it happen.

Mr. President, we are all for the free market, but the effect of this continued inaction by the administration is continuing economic suffering for the American people and American businesses because it does not recognize the reality of the world today.

My friend and colleague from New Mexico, in citing McDonnell Douglas, describes clearly what a lot of us have been saying for a long time: We have to find at this stage of our economic history a unique American model for Government and business to work together to provide economic growth and jobs for the American people.

If we do not, we are going to continue to slip, and not be the great economic power we want to be; and not provide the standard of living we want to provide. The McDonnell Douglas case is a startling, unsettling case. Here is a business that needs help. It cannot get help from our Government. So it quite literally turns to another government in Taiwan. What an indictment of the American system that we cannot or are not willing to take care of our own.

Mr. President, today's news contains a story that the U.S. trade deficit widened by 4 percent in September. There had previously been an improvement in our trade situation. There was beginning to be a sense of optimism that we were turning a corner. But what this increase in the trade deficit this month shows is that we have short-term and more fundamental problems: That the improvement in our trade picture resulted not from any new strategic American tough trade policy, which we desperately need, but by some factors that were on the margins, that were elsewhere. The dollar lowered in value, and, as a result, our exports increased; we are in a recession, and our imports decreased.

When the trade deficit was improving, it was really a result of the fact that our economy had begun to come out of the recession. Of course, now we are backsliding downward again.

We need a strategic trade policy. You cannot depend on the rises and falls of world economies. We cannot solely depend on the lower dollar and on a recession here. I hope that is not the basis of diminishing our trade deficit; the hope that we have a recession here and, therefore, imports go down.

What we need is a strategic American trade policy that puts the American Government behind American businesses when they trade. Why? Because we are in a world economy today and because the critical factor in our economic strength in the future is our ability to trade successfully, and trading successfully will be critical to our ability to provide jobs for the American people. It is as simple as that.

My home State of Connecticut depends enormously on trade, on exports, to keep our economy going and to employ our people. So long as the American Government sits timidly by the sidelines while our competitors in Asia and Europe have their governments fighting alongside their businesses and our businesses stand alone, we are not going to win those competitions and we are not going to create new jobs.

Mr. President, last week the Office of Technology Assessment issued, I thought, a very impressive report called "Competing Economies—America, Europe, and the Pacific Rim," and it concluded that U.S. manufacturing is still in trouble, that a test of national competitiveness is really whether standards of living improve while world market share holds steady or increases. And the United States is failing on both counts. Over the past two decades the American share of world exports has decreased and imports have captured an increasing share of the American market. At the same time, real incomes of the large majority of all Americans have declined.

Mr. President, let me just share with the Chair and the Members of the Senate a brief anecdote from Connecticut which, to me, sums up our problem. I spoke a while back to the CEO of a large Connecticut company, which was competing for a contract abroad, a large contract, against an European company and an Asian company. Simultaneous negotiations were going on between the purchaser and these three bidders. In one room was the Asian company and its government. In the other room was the European company and its government. In the third room was this Connecticut company all alone. We did not win that contract because the governments of those other companies were there to help their company offering attractive financing. We lose a contract, we lose jobs, and the quality of living in America suffers.

There is no secret about what we should be doing here. There are plenty of ideas available. I was privileged to join earlier this session with Senators BOREN, BENTSEN, BYRD, and BAUCUS in getting the administration to get AID more involved with capital projects as part of our foreign aid program. Ambassador Ernest Preeg, a former chief economist at AID, has said that we are losing as much as $5 billion—$5 billion—annually in new exports because of the lack of support by the Federal Government for our companies in competing for capital projects work abroad. Again, that means a loss of jobs here at home.

Financing for America's exporter is a critical element of our success in the world economy. We have the Export-Import Bank, a marvelous tool to help American businesses, and yet this administration has consistently undersupported the bank. This year, for the first time, in years, the Eximbank used all of its available authority. It needs more to stand by American businesses when they go out to trade.

The Department of Commerce foreign commercial service, really should be not at the margins but at the heart of our foreign policy today because, surely, the active, aggressive support by the Department of Commerce workers in our embassies throughout the world for American businesses trying to get contracts in those countries is as critical to our national security today and the years ahead as any of the employees that we have in our embassies abroad.

OPIC, and the Trade and Development Program, are other excellent examples of government agencies that can assist our businesses when they trade.

Mr. President, today's trade deficit figures are another warning to us that our economy continues to be in trouble and that it is not going to just fix itself, that Government has to be a partner with business in pulling America out of the recession and in getting us on the longer term road to economic growth.

While those facts are increasingly clear with every new economic report we received, this administration continues to stand timidly on the sidelines while governments throughout the world are getting onto the field and helping their businesses win those contracts and protect those jobs.

Mr. President, finally, let me say that here again, I think the American people are ahead of the politicians. It is time we listened to them. Today's Washington Post contains an article in the business section that says "Poll Finds Americans Want Government Role in Business." Sixty-one percent of Americans feel that the Federal Government should play a direct and active role with business to promote the Nation's ability to compete in the world economy. That is a result of a bipartisan poll taken by the Council on Competitiveness, which is a privately funded Washington organization of business, labor, and academia.

I hope that the administration and we, in Congress, hear the voice of the people, and understand that it is time for us to get out there and fight for American businesses—fight to open up markets around the world for them; fight to make sure that they get those contracts which will mean jobs here at home.

I thank the Chair. I yield the floor.

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** The Chair recognizes the Senator from North Dakota.

THE TRADE WAR IN AGRICULTURE

Mr. **CONRAD.** Mr. President, we are engaged in a trade war on many fronts. One of those that has not been well recognized is the trade war in agriculture.

Mr. President, unfortunately, we are losing the fight for agricultural markets. We are losing to Europe and other competitors, because while they have engaged in the battle, our administration is seemingly unaware that one is going on.

Allowing Europe and our other competitors to engage in a winning fight in trade in agriculture has enormous costs to this country. In 1991 it has meant 250,000 lost jobs to America, according to data from USDA.

I brought a chart with me today that shows, what has happened to the United States just in the last 10 years. While our share of world markets has been in decline, Europe has been increasing its share of world agricultural markets year after year.

The loss in United States acreage from the increase in European community grain and soybean production has been enormous. USDA estimates that there has been a European Community increase in net exports over the past decade that now equals 36 million acres of United States grain and soybean production. Mr. President, that is a staggering number. That is 36 million acres that could be active in our country and are now idle, because Europe is winning the trade war in agriculture.

Mr. President, I want to explain why that is happening. Europe is systematically buying markets in commodity after commodity, markets which have traditionally been ours. I know this is little understood and is paid very little attention to in this country. That is our fault, it is our fault not paying more attention, because while America pays little attention, Europe and our competitors are on the march. They are on the move, and they are taking world agricultural markets, one after another. And here is the reason why, Mr. President.

They are spending enormous sums of money—$140 billion a year—to support their agricultural producers, and the results are clear. In sugar, they are providing supports at $30 a hundredweight compared to $18 in this country. In sunflowers, Europe is providing payments to their producers of $28 a hundredweight, compared to $8.80 in the United States; soybeans, $15 a bushel in Europe; $4.92 in the United States; durum wheat, $9.50 in Europe; $4 in the United States. In corn, the pattern is the same, $5.20 a bushel in Europe; $2.75 a bushel in the United States. For wheat and feed grains, these figures do not include mandatory set-asides and the 15-percent upaid base.

Mr. President, how can we ask our producers to compete when, in commodity after commodity, their competitors in Europe are being paid two and three times as much? Our friends in Europe are guaranteeing their producers far more. As a result, they produce massive surpluses, they take those surpluses and dump them on the world market at fire sale prices, and they increase their market share.

If we look at one commodity, wheat, we see that, in the last 10 years, America's world market share has been cut in half because of these practices of our European competitors.

Mr. President, what are we to expect next? Everyone knows we are in the midst of the GATT negotiations, the General Agreement on Tariff and Trade, which will set the rules for international trade in a whole series of areas, including agriculture, for the next 5 to 10 years.

Mr. President, I wish I could report that our negotiators are working to change this reality that is undermining American agriculture. One would expect that our negotiators are there fighting to level the playing field for America's producers so that we do not continue to lose world market share, so we do not continue to lose 250,000 jobs in this country, so that we do not continue to idle 36 million acres in this country, while Europe's agricultural producers are helped to prosper.

Mr. President, I wish that is what was happening but, unfortunately, it is not. In the last few days, we have heard that our negotiators have agreed to equal percentage reductions from these unequal starting points. Can you imagine? Think about this now. They are supporting their commodities at two and three times what we support our producers at, and instead of seeking a level playing field, our negotiators are agreeing to equal percentage reductions from an unequal base.

Mr. President, here is the result of that kind of negotiating policy. If the U.S. proposal is adopted, this will be the result. A U.S. producer of Durum wheat will get $3.67 a bushel; the European producer will get $8.50. The same is true in corn; an American producer will get $2.60, and a European producer will get $4.70. Soybeans, an American producer will get $4.90; a European producer will get $11.80.

Mr. President, this is not free trade. This is not fair trade. It is negotiated trade, and we are losing the negotiation. If we wonder why this country is in trouble, it is because of this kind of trade policy, this kink of trade stance, this kind of negotiation in which the United States, time after time, lets itself be outnegotiated, lets itself see its markets slip away, because we do not have the fortitude to stand up for ourselves, to stand up for our producers.

Mr. President, I will end as I began. We are in a trade war in agriculture. We are losing that fight because our competitors are fully engaged, and we do not seem to understand that there is a fight going on.

I thank the Chair and yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Montana is recognized.

EXTENSION OF MORNING BUSINESS

Mr. BAUCUS. I ask unanimous consent that morning business be extended until 10 o'clock, and that I be permitted to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESSIONAL AGENDA FOR THE URUGUAY ROUND

Mr. BAUCUS. Mr. President, I appreciate the statements of several of my colleagues today on the state of the American economy. No current issue is more important.

The one bright spot in an otherwise bleak economy has been exports. In fact, in 1990, 96.5 percent of the total growth in the U.S. economy was linked to exports.

From supercomputers to beef, international consumers are eager to buy U.S.-made goods. There is a particular premium, therefore, on creating new opportunities for selling U.S. goods abroad.

In the last few days, there have been signs that the Uruguay round of GATT negotiations is rising from the dead.

The agreement recently reached at The Hague between the United States and the EC may help to bridge the gap on agricultural trade issues.

It is far too early to declare a breakthrough. In fact, I have been less than impressed with the details of the supposed breakthrough that have been reported in the press.

But there is a real possibility that a final agreement to conclude the Uruguay round could be reached while the Congress is out of session. For that reason, I believe it is time for Congress to highlight some of the issues that will be critical if the agreement is to win congressional approval.

There are six issues that must be addressed by a Uruguay round agreement if it is to win congressional approval.

AGRICULTURAL EXPORT SUBSIDIES

First, agricultural export subsidies must be reduced worldwide.

Agricultural trade has always been one of the central issues for the round.

Perhaps the U.S. position on agriculture has sometimes appeared too strident. But it is critical that the U.S. win meaningful concessions to eliminate or sharply cut agricultural export subsidies.

In the space of about 10 years, the EC used these agricultural export subsidies to transform itself from the world's largest agricultural importer to its largest exporter.

EC agricultural export subsidies cost U.S. farmers billions in lost exports each year, depress agricultural prices, and force the United States to extend costly export subsidies of its own.

Any agreement to conclude the round must bring an end to the export subsidy war.

TARIFFS

At the beginning of the Uruguay round, the discussion was all on agricultural trade, intellectual property, and services.

But increasingly the debate in Congress is focusing on the oldest trade barrier of all: tariffs.

A number of U.S. industrial sectors, ranging from aluminum to forest products to semiconductors, have proposed that tariffs in those sectors be abolished worldwide.

If these tariff cuts are agreed to, they could create billions in new U.S. exports and substantial economic growth worldwide. These tariff cuts could provide the kind of tangible benefits that Congress will be looking for from the Uruguay round.

I urge our negotiators to ensure that these sweeping tariff cuts are included in any final agreement.

U.S. UNFAIR TRADE LAWS

Recently, there has been considerable discussion in the Uruguay round of

United States unfair trade laws, such as countervailing duty law, antidumping law, and section 301.

Some of our trading partners apparently believe the round provides an opportunity to undermine these critical U.S. laws.

More disturbingly, a recent Wall Street Journal article quoted an unnamed administration official as saying that the Bush administration was willing to trade away section 301 to conclude the Uruguay round.

I am not sure that this unnamed official spoke for the administration. But I know he did not speak for Congress.

U.S. unfair trade laws are designed to break down foreign trade barriers. They are not trade barriers. In fact, they promote free trade.

Let me be absolutely clear on this point—any Uruguay round agreement that weakens U.S. unfair trade laws is dead on arrival in Congress.

INTELLECTUAL PROPERTY

According to an ITC estimate done several years ago, piracy of U.S. intellectual property costs the United States $60 billion in lost exports each year.

This makes piracy of intellectual property the most important issue in the Uruguay round in dollar terms.

The administration has diligently pursued this issue and they have made progress. A strong agreement to protect intellectual property is an essential element of a final Uruguay round agreement.

However, particularly if there are serious weaknesses in the agreement on intellectual property, the United States should not forswear its option of using section 301 to pursue improved protection of intellectual property.

In addition, to pressing for an end to piracy the United States should also seek increased market access for intellectual property. Specifically, the United States should press the EC to eliminate its newly imposed quota on TV programs.

INDUSTRIAL SUBSIDIES

Limiting industrial subsidies should be a high priority for the United States in the Uruguay round. Unfortunately, this issue has not received the attention that it deserves.

Subsidies are just as much a trade barrier as quotas and tariffs. They significantly distort trade in products ranging from commercial aircraft to forest products.

Estimates periodically done by the OECD consistently show that the United States extends fewer subsidies than any other major industrialized nation.

Yet, limiting subsidies has not been at the top of the administration's agenda. The discussions that have gone on seem to have focused on defining a larger category of subsidies as permissible and restricting U.S. countervailing duty laws. This is exactly the wrong direction for the talks.

The United States should demand that the final agreement for the Uruguay round increase limits on subsidies, not decrease them.

THE ENVIRONMENT

There is one final priority that the United States should have for the Uruguay round talks.

The Uruguay round is too far along to include a meaningful agreement that addresses the interaction of trade policy and environmental concerns.

But as the recent GATT panel decision on United States restrictions on Mexican tuna imports makes clear, the conflict between the GATT and environmental policy is too important to ignore.

Before the Uruguay round is sent to Congress, the United States should win a commitment from the members of the GATT to immediately begin negotiations aimed at concluding a GATT environmental agreement.

Almost regardless of its specific terms, any Uruguay round agreement is likely to be controversial in Congress. Interests that stand to lose protection under the agreement will likely oppose it. A heated congressional debate will probably ensue.

If it is to survive this debate, the agreement must include some strong selling points.

I believe that an agreement including the six points I have outlined has an excellent chance of winning approval.

On the other hand, if the agreement is deficient on one or more of these points, its fate in Congress is uncertain at best.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

VRA/MACHINE TOOL INDUSTRY

Mr. D'AMATO. Mr. President, 5 years ago, when the White House negotiated voluntary agreements with Japan and Taiwan limiting imports of machine tools, the future of this old line, American industry brightened. Machine tools, used for punching, cutting, bending, and shearing sheet- metal, have played a crucial role in our industrial economy and national defense since the beginning of the century.

Then, hit by the recession of the early eighties, years of unfair trading practices, America's machine tool industry lost ground to low cost imports. These factors, coupled with a cheap yen, gave the Japanese the opportunity to grab half the United States market for machine tools.

In 1986, citing the importance of the industry to our national defense, the Reagan administration acted to protect domestic machine tool producers and give them time to regroup by negotiating the 5-year voluntary restraint agreements [VRA's]. These VRA's expire December 31 of this year. Unless extended, the U.S. Government will effectively slam the door on an industry that has hustled and kept its promise to use the time wisely.

Solid and permanent gains have been made and the industry's ability to compete in the world market has increased dramatically. Arresting the invasion of foreign built machines allowed the industry to respond by substantially increasing its investments in modern facilities, new product research and development, and new technology in general.

New York-based Strippit, Inc., with annual sales exceeding $50 million and 400-plus employees, redesigned its entire computer-controlled machinery line. This same company now has a patent pending on a personal computer-based machine tool controller that will revolutionize the industry.

Another New York company, Hardinge Brothers, Inc., made substantial investments to modernize its plant and improve product quality. Robert E. Agan, president and CEO of Hardinge, recently testified before the House Ways and Means Committee that his company's emphasis on quality products has evolved into a multimillion-dollar quality commitment program. Elaborating on the program, Mr. Agan said:

> We have aggressively competed for the Malcolm Baldrige National Quality Award for manufacturing excellence, finishing in the top 22 companies in the country—a tribute to the effort we have undertaken. Without the VRA's, Hardinge may not have had the resources to commit to such a program.

And Strippit, Hardinge, and the rest of the U.S. machine tool producers played a vital role in the success of our military operation in Desert Storm. U.S. machine tool technology made possible such sophisticated U.S. weapon systems as the Patriot missile system, Stealth bomber, and the Bradley fighting vehicle. Clearly, our national security would be gravely impaired if we had to depend on foreign sources for our critical industries.

The 70,000-strong skilled workforce is committed to achieving manufacturing superiority. Management and labor have learned the lesson that being competitive requires constant improvements in technology and in the quality of production.

America's machine tool industry was not decimated overnight; it cannot be restored to full competitiveness overnight either. More time is needed to complete the industry's return to health. Certainly, the current recession that has lasted longer than anyone anticipated has not helped.

Extending the VRA's another 5 years makes sense. Let us not jeopardize the jobs of tens of thousands of skilled workers, threaten our national security and risk endangering an entire industry now that its recovery has begun.

The machine tool industry and America deserve better.

Mr. President, why do I stand to make this statement today? Because the VRA's, the voluntary restraint agreements, run out December 31 of this year, and because I hear that the Defense Department has said that it does not think it will come down on the side of extending the voluntary restraint agreements.

And what does that mean? That means that that protection that has been afforded to this industry to give them the opportunity to gear up to compete, to create jobs, and to be competitive, they will no longer be afforded that protection. It means that the kind of predatory price practicing that we have seen in the past will take place once again, that the gains that have taken some 5 years to make—and they have been substantial gains—will be wiped out. It means that we are going to have a further erosion of our industrial base. And it means that eventually, our national security will be impaired.

Now at the same time that the Defense Department will look like it is not going to extend or recommend extensions of the VRA's, they are limiting the export of these machine tools abroad under the Export Control Act because they say national security is impaired. They cannot have it two ways. If, indeed, national security, as it relates to the export of these machine tools, is important, then I am wondering why it is not important to see to it that this industrial base is protected.

If we want to do something to help this economy, extend the VRA's. And we have 22 cosponsors of the Senate resolution calling for the extension of VRA's. It seems to me that we have some people who just take this attitude that well, we are going to let the competitive forces of the world's marketplace take place. And if they do that in this particular case, do not extend the VRA's, you are going to lose what is left of the machine tool industry in this country.

It does not make sense, not during this period of time. It does not make sense on national security interests and needs, and it certainly does not make sense to the 70,000 people who are left in this workforce. We are going to open it up for invasion. It is not the time to undertake this, but the boys down at OMB will be saying—and they are—"Let it go, let it go," and, yes, let 70,000 workers face a loss of their jobs. If they want to get this economy going, then you do not just undertake protective measures but see to it that they are not open, our industries, to the kind of predatory attack that has led in many cases to their being very badly hurt.

Let me say that this is a resolution that has 22 cosponsors. We are looking to get additional cosponsors. We will probably bring it up before the session is out. I hope that my colleagues would look at this very, very closely. Certainly, this industry needs this vital protection that has been afforded by the VRA's.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO PEARL HARBOR VETERANS

Mr. PACKWOOD. Mr. President, I rise today to pay tribute to the veterans of Pearl Harbor who live in my State of Oregon. As the 50th anniversary of their valor approaches, all Americans are reminded of their service in protecting our liberty. We honor their duty, remember their sacrifice, and promise vigilance so that such days occur never again.

The surprise attack on Pearl Harbor shocked America out of isolation and drew us into a war that would forever change world politics. Throughout this war, Pearl Harbor was our "Alamo." We thought of those who were there and found strength in this remembrance.

Everybody over 55 has a story of how they remember the day of the attack. One constituent of mine—Irving Miller of Mt. Angel, OR—was in Hawaii playing football for Willamette University when Pearl Harbor was bombed. Irv put off his college plans, enlisted in the Air Force, and became a B-17 bomber pilot. During the war, he was shot down and taken as a prisoner of war. Mr. Miller and his wife will attend the 50th anniversary ceremony in Hawaii. There, they will be joined by hundreds of other people, each with a story of how that day changed their lives.

Ever since December 7, 1941, America has been aware of the terrible consequences of dropping our guard. We are also aware that the costs of a weak defense are counted in both the intangible—freedom and prosperity—and also with very tangible human lives. Just as we must preserve a strong defense, we must also make sacrifices for those who made sacrifices for us. They deserve our continued assistance as well as our gratitude.

I am honored to know that there are over 300 Pearl Harbor veterans and close relatives of veterans living in Oregon. Along with my fellow Oregonians, it gives me great pride to live among such exemplary citizens. We recognize our debt to them, hope that we can adequately thank them, and wish to live up to the example of service which they set.

Today I give my sincere gratitude and respect to all Pearl Harbor veterans and specifically to those living in Oregon. While December 7, 1991 stands out as a special day of thanks, not a day has passed in 50 years when their valor has been forgotten. From myself, my colleagues, my constituents, and my country, I offer our thanks and continued support for your needs.

TRIBUTE TO SCOTT G. ANDERSON

Mr. BURDICK. Mr. President, cancer has taken away a very good friend of mine, Scott G. Anderson.

Scott was one of the bright lights of North Dakota's Democratic-NPL Party in the early 1960's and the youngest person ever to gain a seat in the North Dakota Legislature. He was just 21 when Jamestown voters chose this recent college graduate to represent them in Bismarck.

Scott directed my 1960 Senate campaign and first moved to Washington to serve on my Senate staff. We became close friends and even shared an apartment for a brief time. I could always count on Scott for good stories, good advice, and a good laugh.

Everyone who had the pleasure of knowing Scott Anderson will miss him. I ask unanimous consent that his obituary from the Dunn County Herald be printed in the RECORD at this point.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the Dunn County (ND) Herald, Nov. 12, 1991]

SCOTT ANDERSON—1937-1991: MEMORIAL SERVICE HELD FOR PRAIRIE PUBLISHER

RESTON, VA.—Scott G. Anderson, 54, North Dakota political strategist, lawyer, film producer, railroad executive and newspaper publisher, died of cancer at his home in Reston, Va., Nov. 3.

Anderson represented Burlington Northern, Inc., in Washington, DC, for the past 14 years, being named Vice President, Legislative Affairs in 1982. A major transportation issue in that period was a proposal of the ETSI Corporation to build a coal slurry pipeline from Wyoming to Texas. He is credited with defeating the proposal by organizing a coalition of agriculture, labor and environmental groups in opposition to the pipeline.

Anderson's political career began when he was chosen by North Dakota Young Democrats as National Committeeman and subsequently elected as the Democratic State Representative to the North Dakota Legislature in 1958 when he was a senior at Jamestown College.

Republicans had won state and national political elections for many years in North Dakota with support of the Non-Partisan League (NPL), an organization of the early 1900's, supporting legislative interests of unhappy and angry farmers.

With a small group of other Democratic legislators and party leaders, Anderson was a member of the Lt. Governor Lloyd Omdahl dubbed "insurgents" who helped switch support of the NPL to the Democrats and was named Executive Director of the merged Democrat-NPL party in 1960. In that position he was also the campaign manager for the election of Democrats William Guy as Governor and Quentin Burdick as United States Senator that year.

Anderson was an unsuccessful Democratic candidate for the United States Congress in 1962 from the East district of North Dakota.

His interest in North Dakota continued throughout his life although he lived in the Washington, DC. area since 1970. He was actively involved in many major North Dakota political events for more than 30 years. His close relationship with Senator Burdick continued all of those years.

Anderson was born April 27, 1937, in Dawson, N.D. He attended Elementary and Junior High School in Dawson and Mandan, and graduated from Jamestown High School in 1955.

He studied philosophy and chemistry at Jamestown (ND) College and was a student pastor at a number of Presbyterian churches while still in college.

Anderson joined the Air National Guard in 1961 and retired as a Lieutenant Colonel in 1984.

On Dec. 7, 1963 he was married to Rosemary Gabriel.

That same year, he entered law school at the University of North Dakota in Grand Forks, and was graduated in 1966. From 1966 to 1970, he was a partner in Solberg, Anderson and Stewart and was City Attorney in Fargo, N.D. During that period he also had interim duties as special counsel to the United States Senate Judiciary Committee. His political activity in this period included being an "advance man" in Hubert Humphrey's presidential campaign.

In 1970, he came to Washington, DC and was associated with William Connell, a former Administrative Assistant of Senator Humphrey, in a documentary film firm. Anderson later began his own film company, Scott Anderson Production/Victoria Films. That firm produced 40 films, including a number about wheat producers. Several of the films received international film awards in their category including six Cine Golden Eagles.

When he became associated with Burlington Northern Inc., his wife took over operation of the film company.

Beginning in 1985, Anderson became associated with DAK Publishing, operating weekly newspapers throughout North Dakota. The North Dakota weekly newspapers of the firm include the: Adams County Record, Hettinger; Bowman Finder and Bowman County Pioneer, Bowman; Slope Messenger and Hettinger County Herald, New England; Mott Pioneer Press and Mott Sunbeam, Mott; Dunn County Herald, Killdeer; Emmons County Record, Linton; and Cavalier County Republican, Langdon.

The firm also owns the Tri-State Livestock News, Sturgis, S.D., the Lemmon Leader, Lemmon, S.D., the Gillette Area Advertiser in Gillette, Wyo. and the Fallon County Times in Baker, Mont.

He is survived by his wife Rosemary and two daughters, Heather and Heidi of Reston, Va., his father Elmer and his brother Dean of Jamestown, N.D., and his sister Sharon Moen of Derwood, Md.

Preceding him in death were his mother, Velma, and his sister LuAnne.

UNITED STATES TRADE POLICY

Mr. BENTSEN. Mr. President, today I join with other Members of the Senate concerned about the economic well-being of the country and in particular our competitive position in the international marketplace.

Events of the last year have demonstrated more than ever that you cannot build first class military might on a second rate economy. The Soviet Union certainly has learned that lesson. Eventually, economic realities overshadow the illusions of grandeur that military power may convey in the short term. Two centuries of freedom and progress have taught Americans that the underlying strength of our country is an economy that creates prosperity for our Nation and opportunity for our people.

At times, Washington policymakers may lose sight of that undeniable truth. But American voters are there to remind us as they did 2 weeks ago, when Pennsylvania voters sent Washington a wakeup call. And last week, I released a report prepared for the Committee on Finance by the Office of Technology Assessment [OTA] which confirmed, indeed, that economic policymakers in this administration have been asleep at the switch.

The report made one thing clear: American manufacturers are falling behind the international competition, and that threatens our standard of living. That is why the Pennsylvania voters called for a change. It is time for policies that will put American manufacturers back in contention.

If we are dropping back, who is moving ahead? The Japanese, among others. Japan's share of world markets has increased while ours has decreased. Real wages of American manufacturing workers today are the same as they were in the mid-1960's. Japanese manufacturing wages increased 3.6 percent of a year on average between 1968 and 1985. Americans today still enjoy a higher living standard, but for most Japanese future prospects are bright. For many Americans they are not.

Through a combination of supportive Government policies and market competition, Japan and other Asian countries are racing ahead of us. Europe is acting to meet that challenge with EC 1992. The question is: Are we? I fear the answer to that question is no.

To put us back in the running, OTA suggests a comprehensive Government strategy to support industries that are vital to our ability to complete abroad. The idea is to combine policies that help industry in general, and critical industries in particular, with our firm commitment to competition and open trade.

For example, the high cost of capital is a big reason American companies do not make the long-term investments needed for world-class competition. Part of the solution to that is increased savings. That is why I have proposed restoration of the fully deductible IRA—a proven incentive to boost savings—for all Americans. Some 78 Senators and more than 250 Representatives have joined in that effort.

OTA also calls for more Government-industry partnerships to promote the development of technology which can have big payoffs but definitely has big risks. Government-industry partnerships, such as Sematech, can make the difference in developing this technology. Our we can forfeit the leadership in technology to others.

Finally, OTA points out how other countries have used trade policy to get ahead. In contrast, our trade policy has been reactive, always at least one step behind. While trade policy is no substitute for good domestic policies, an effective trade policy should be part of any strategy for promoting competitiveness.

But instead, for most of the last decade, we suffered through a turn-the-other-cheek trade policy. We watched as deficits mounted, barriers to our exports were erected, and more than a million high-paying American jobs were exported. Trade continued to be the handmaiden of foreign policy—and every other policy.

With the 1988 Trade Act, Congress demanded a change and put some strong tools in the hands of the executive branch; for example, the general section 301 provisions and, in particular, the special market-opening measures, like Super 301 or the Special 301 provisions on intellectual property protection.

But Congress cannot mandate an effective trade policy alone. It is up to the administration to go out and use the tools provided by the Congress—and on that score, the administration has not done enough. It has backed away from aggressively using these tools, and U.S. exports have suffered as a result. And that means lost jobs, for each $1 billion in exports means 25,000 manufacturing jobs.

The OTA study helps us understand what has gone wrong with the American economy. The election reminds us that the American people expect us to put it right.

RICHARD STONE: OUR NEXT AMBASSADOR TO DENMARK

Mr. PRESSLER. Mr. President, today the Senate Foreign Relations Committee favorably considered the nomination of Richard Stone to be United States Ambassador to Denmark. Unfortunately, I was not able to attend his nomination hearing this morning. However, I would like to wish him well in his new post.

Senator Stone is an excellent choice for Ambassador to Denmark. His resume is impressive, both as a public servant and as a businessman. I remember Senator Stone's service here in the Senate. He was a dedicated colleague. The United States is lucky to have such a fine man representing our country abroad.

Mr. President, I ask unanimous consent that a copy of Senator Stone's biography be printed in the RECORD at the conclusion of my remarks.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

RICHARD B. STONE

Position for which considered: Ambassador to Denmark.

Present position: Chief Operating Officer, Capital Bank, N.A., Washington, D.C.

Born: September 22, 1928, New York, New York.

Legal residence: District of Columbia.

Marital status: Married.

Family: Wife, Marlene Lois Stone; children: Nancy Stone, Amy Stone, Elliot Stone.

Home address: 4508 Foxhall Cresent NW., Washington, D.C. 20007.

Language ability: Spanish and French.

Education: 1950–54, LL.B., Columbia University, N.Y., N.Y.; 1945–49, A.B., Cum Laude, Harvard College, Harvard University, Cambridge, Massachusetts.

Experience: 1989–91, Chief Operating Officer, Capital Bank, N.A.; 1985–91, Vice Chairman and Member, Board of Directors, Capital Bank of California; 1984–85, Vice Chairman and Member, Board of Directors, Capital Bank, N.A., Washington, D.C.;

1984–91, Member, Board of Directors, Capital Bank, Miami, Florida; 1983–84, Presidential Special Envoy for Central American Affairs and Ambassador-at-Large, Department of State; 1982–83, Vice Chairman and Member, Board of Directors, Capital Bank, N.A.; 1981–82, Senior Resident Partner, Attorney Proskauer Rose Goetz & Mendelsohn, Washington, D.C.; 1975–80, U.S. Senator, Florida, Washington, D.C.; 1970–74, Secretary of State, Florida, The Capitol, Tallahassee, Florida 32301; 1967–70, State Senator (Dade County), Florida, The Capitol, Tallahassee, Florida; 1966–67, Miami City Attorney, City Attorney's Office, Miami, Florida; 1958–68, Self-Employed, Attorney-at-Law, Stone, Bittel & Langer, Miami, Florida; 1957, Attorney-at-Law, Private Practice, Miami, Florida; 1956, Associate Attorney for Henry D. Williams, Dupont Building, Miami, Florida.

Memberships: Member, Board of Advisors, Mexico-U.S. Institute, 1988; President, Moroccan American Foundation, 1986–88; Member, Board of Regents, Catholic University of America, 1986–90; Chairman, Advisory Board, Arthur Spitzer Institute for Hemispheric Development Heritage Foundation, 1985–91; Director, International Foundation for Electoral Systems, 1987–89; Member, Royal Academy of Morocco Rabat, Morocco, 1985–91; National Leadership Council on Latin America and Mexican Policy Affairs, Center for Strategic and International Studies, Georgetown University, 1989; Intercontinental Corporation, Member, Board of Advisors, 1990; U.S. Advisory Commission on Public Diplomacy, Presidential Appointment, 1990–91.

Awards: Watchdog of the Treasury, Senate Golden Gavel, Most Outstanding Freshman Senator (Florida State Senate).

SEPTEMBER 1991.

COUNCIL ON COMPETITIVENESS

Mr. KASTEN. Mr. President, we in the Senate are about to confront some of the fundamental choices about our economic future. I'd like to outline what I think we should be doing to cure the economic malaise that is now weakening America.

The problem is not a lack of consumer confidence or business confidence, if by that we mean that American consumers and investors aren't doing their part. The problem in today's economy is a justified lack of confidence in the Federal Government and its ability to make rational economic policy.

The economic slowdown has two chief causes: taxes and regulation. Both are the result of misguided Federal policies. Both were sold to the American people as solutions to major national problems—and both are causing more hardship than they are curing.

Let's begin with taxes. Congress is overtaxing our economy in a counterproductive attempt to reduce the Federal budget deficit. In 1990, we enacted the largest single tax increase in American history. I voted against that budget compromise because I knew that, historically, each tax increase has only resulted in more spending.

Along with Congressman VIN WEBER of Minnesota, I have introduced a major economic growth package that takes the opposite approach from the budget deal. It represents what VIN and I consider to be the essential steps to reincentivize the economy through progrowth and profamily tax incentives.

The Kasten-Weber plan is one such approach, and there are others being discussed. Any plan that returns resources to the private economy is a step in the right direction.

We need to move in a similar direction on regulatory policy.

In the last 3 years, the pages of the Federal Register have increased from 55,000 to nearly 70,000. Each extra page of regulations imposes new requirements on businesses—and especially on small businesses.

I was a small business owner before entering public life, so I know what this means. It means more time—more work—more expense. It means you have to hire extra workers for the sole purpose of filing out forms, as opposed to producing marketable products. In a recession, this added burden becomes a very serious threat to the survival of many businesses.

In 1980, we had 121,000 regulatory personnel. In the Reagan and Bush administrations, they got cut back to a level of 114,000 by 1990.

But this trend has stopped. Next year, we will see a higher level of bureaucrats than in 1980—a projected total of over 122,000.

President Bush himself says that this huge regulatory machine is costing the economy at least $185 billion per year. I understand that new estimates being formulated have increased this figure to $300 to $400 billion annually.

Again, this is sending us in the wrong direction. The President has established a counterforce that is pushing back in the right direction—the Council on Competitiveness, chaired by Vice President DAN QUAYLE.

The Competitiveness Council has been taking some heavy hits from liberal special-interest pressure groups—a sign of its effectiveness. It is taking on the sacred cows of the bureaucracy and, in some cases, prevailing.

The special interests want to drive a wedge between the President and the regulators. They want to reduce his administration's constitutional power to intervene against costly and unreasonable regulations. They complain that this Council is a kind of "secret government" that interferes with the real experts, who reside in Federal agencies.

This is nonsense. The Vice President's Council is a completely democratic—small "d" democratic—response to an important national problem. The American economy simply cannot remain competitive if it is saddled with an enormous—and growing—regulatory burden.

The Competitiveness Council is doing a terrific job of pointing out areas where reform is necessary: our civil justice system, parental choice in schools, product liability laws. The Council exists to create more jobs for Americans.

One of the Council's most important initiatives is the effort to reduce the Federal redtape burden. The Vice President has played a crucial role in reviving the OMB's Office of Information and Regulatory Affairs—OIRA.

OIRA was created under the Carter administration to review Government regulation and paperwork burdens. As President Carter himself put it, OIRA was formed to "regulate the regulators." It has a lot of work to do, and we in Congress ought to support that work.

Regrettably, we have not done this. Congress has left the top slot at OIRA vacant for almost 2 years and refused to reauthorize the agency.

And last week, they put in motion yet another scheme to weaken OIRA. The liberal special interests and their allies on the Government Affairs Committee held a hearing on a bill that will further weaken President Bush's ability to oversee—and control—the development of costly new regulations.

This bill would require greater public disclosure of the rulemaking process. Every memo, every letter, ever communication would be subject to political pressure from outside interests. Clearly, this is no way to run an office—any office. The time for public debate is when officials have a public work product on the table; to force them to disclose every step in the formation of the work product would inhibit the freedom of discussion at the policy planning stage.

This whole system would place more constraints on the Executive Office of the President than it would on the agencies that report to the President. This bill would virtually open the floodgates to new regulations.

And that's not all—it's unconstitutional. Our constitutional system gives the President the constitutional right of Executive privilege in managing the executive branch. Without Executive privilege, the President would not be accountable for the actions of his own Government.

And if we let the special interests dominate the executive branch as well as Congress, America's battle for competitiveness is as good as lost.

The Government Affairs Committee meets to mark up this bill tomorrow, so I think we all have to make it clear that a vote for this bill is a vote for more rules and redtape—a vote against small businesses.

There is an alternative to this special-interest bill. Along with Senators NUNN and BUMPERS, I have introduced the Paperwork Reduction Act of 1991.

Our bill would move in the opposite direction—away from the big-Government approach promoted by the Government Affairs Committee. This bill would strengthen OIRA's ability to block regulations instead of further weakening it. Senators DOLE, BENTSEN, WALLOP, BAUCUS, BOND, and DIXON have helped us build a truly bipartisan base for this legislation.

Since 1981, OIRA has been able to reduce the amount of time the public spends filling out Government paperwork by almost 600 million hours per year. Using a conservative estimate of $10 per hour, this paperwork reduction has saved the economy some $6 billion each year.

If we don't support OIRA, we'll head in the opposite direction pretty fast. Without this kind of oversight, there will be no way to correct the innate tendency toward overregulation that exists in the Federal agencies. We all know about this tendency, and we all have our favorite horror stories about regulatory excess.

One of my own personal favorites is OSHA's hard hat proposal. OSHA wanted every single hard hat in America to be disinfected before use. This would have added some $60 million per year to the cost of doing business—even though there is not a single documented case of any worker catching anything from wearing a hard hat.

Any single anecdote of this kind is relatively unimportant. What is important is what it demonstrates about the regulatory mentality. If there is no counterforce representing the interests of small business and national competitiveness, the result will be economic disaster.

Our paperwork reduction bill is a response to the 1990 Supreme Court ruling in Dole versus United Steelworkers of America. In that ruling, the Court decided that the initial Paperwork Reduction Act of 1980 did not give OMB the power to review regulations requiring the disclosure of information to an individual or employer.

The Court limited OMB's review to those regulations that require disclosure directly to the Government. In effect, this ruling removed one-third of all Federal paperwork from OMB's review.

The paperwork bill I am trying to pass now would reaffirm the purpose of the 1980 bill—to minimize the Federal paperwork burden. The bill would strengthen OIRA's hand and give the public an opportunity to object to unreasonable Government paperwork demands.

Our objective is to reduce Government paperwork by 5 percent annually. This was the goal of the 1980 bill, and it remains necessary today.

American citizens are spending more than 5.3 billion hours per year filling out Government forms. This is enough to keep 2 million people doing nothing but filling out forms all year round.

There is a clear connection between this misplaced emphasis—this bureaucratic excess at the Federal level—and today's struggling economy.

America cannot afford an overtaxed, overregulated economy. If we set bad economic policy at the Federal level, the result is the kind of stagnation and mass unemployment we are experiencing today.

There is a solution. The Kasten-Weber tax plan and the Paperwork Reduction Act are contributions to this debate about our national economic direction. Unless we change course—unless we take this new direction—our workers and small business people will continue to get further and further behind.

We can create an economic boom in this country. We know how; we did it in the 1980's.

We can—we will—do it again.

RETIREMENT OF JAMES L. JOHNSON

Mr. HATFIELD. Mr. President, as we consider this historic bank reform legislation, I would like to take this opportunity to thank a member of my staff who has been an amazing source of knowledge for me during recent months. I refer to Mr. James L. Johnson, a retired senior vice president of the United States Bank of Oregon, who came out of retirement to serve the people of Oregon as the economic issues legislative assistant on my staff. I was fortunate to have him join me this year just as bank reform proposals were starting to receive serious consideration.

Jim Johnson is uniquely qualified to evaluate proposals concerning the banking industry. He has an insight and background which is rare on Capitol Hill. During a distinguished career in bank management and civic leadership in several Oregon communities, Jim gained the experience and expertise which provides him an enlightened viewpoint into the myriad proposals that we have discussed during the course of these deliberations.

Over the past 10 months, Jim has carefully applied his skills in an objective manner to evaluate each proposal as it relates to industry and consumers both in Oregon and nationally. He brought over 30 years of banking experience to this job. During those years, Jim worked in credit administration, was a branch manager, and held the post of regional manager in Salem. He also served for 6 years as a national bank examiner.

I know that after so many years in business management, it must have been frustrating at times for Jim to witness the sometimes disorganized and inefficient aspects of the legislative process. And it must have been a shock for him to walk into our office here on that first day and learn that legislative assistants have nothing like the kind of support staff that executives in the private sector enjoy. But Jim's modesty and work ethic once again served him well as he tackled every problem that has come his way during the past year.

Soon Jim will be returning to a much-deserved retirement in Oregon. He will be greatly missed in my office because, more than an expert on banking issues, Jim served as a conscientious adviser who demonstrated the highest values and spirit of service and dedication that everyone in Government should aspire to achieve.

A TRIBUTE TO THOMAS SUTHERLAND

Mr. WIRTH. Mr. President, I rise today to express thanks, joy, and a profound sense of relief that hostage Thomas Sutherland has finally been released.

I know that everyone at Colorado State University, where Tom Sutherland is a faculty member, and everyone throughout my State joins in support of the Sutherland family at this time. After nearly 6 years of cruel imprisonment, Tom Sutherland's release today is both welcomed and bittersweet.

This must, and should be, an intensely private and personal time for the entire Sutherland family, including Tom Sutherland's courageous wife, Jean, and his three daughters, Kit, Joan, and Ann. The fact that their family reunification must be played out on the world stage is just another element of tragedy in the hostage story.

Nevertheless, today is a day of joy and thanksgiving. It is also a day to remember our remaining hostages and to pray for their early release. The world awaits their release and looks forward to a time when kidnaping and hostage-taking are banned from the political discourse of modern international relations.

Mr. President, I would like to close with a personal observation. I met with Kit and Joan Sutherland several years ago, and I was struck by their obvious courage and resolve. Tom Sutherland has every reason to be proud of his family. They are women of tremendous spirit, and today's most welcomed news is, in large part, a reflection of their vigilance and love.

The whole Nation will enjoy a more comforting and peaceful Thanksgiving knowing that Tom Sutherland is coming home. Let us pray that he is quickly followed by all of the hostages remaining in Lebanon.

ARMS SALES TO THE MIDDLE EAST SINCE THE GULF WAR

Mr. McCAIN. Mr. President, there is no doubt that we won a great victory in liberating Kuwait. That victory will only have lasting meaning, however, if we make every possible effort to ensure that no hostile or aggressive state again arises with the capacity to threaten the region or world peace.

The key to that effort is to shut off the flow of arms to those states whose attitude and conduct threatens world peace, while strengthening those States whose defensive and deterrent capabilities are essential to checking aggression. The issue is not one of embargoing all arms from "Marakesh to Bangladesh." It is one of ensuring that key allies like Israel can defend themselves, and key threats like Iran, Iraq, Libya, and Syria do not make major further additions to their vast arsenals.

I have asked the Congressional Research Service to make an unclassified survey of the flow of arms to the Middle East since the gulf war, and to do so by country. We sometimes confuse the dollar value of new orders with actual deliveries and changes in military potential. History tells us, however, that dollars and new agreements do not kill people, actual weapons transfers do.

This is why I find the CRS analysis so disturbing. It provides frightening proof that Iraq is the only potential aggressor state in the Middle East that is shut off from the flow of arms.

THE NEW THREAT FROM IRAN

The developments in Iran are particularly disturbing. While Iran's rhetoric has moderated since the gulf war, its actions have not. It is posing a new threat to Israel—evidently with Syrian tolerance, if not encouragement. It is using Shi'ite extremist groups to not only launch attacks in southern Lebanon, but to attempt to penetrate into Israel. In fact, Iran has become the center of the hardline rejectionist effort that denies Israel's right to exist.

Regardless of the Arab proverb, the enemy of our enemy is not our friend. We face two major threats in the gulf, not one. The CRS analysis, however, shows that Iran is getting substantial deliveries of Mig-29 aircraft from the U.S.S.R. Other sources indicate that Iran has large orders of both Mig-29's and Su-24's in the process of delivery from the U.S.S.R.

In fact, Iran ordered 9.99 billion dollars' worth of new arms between 1987 and 1990, and $2.86 billion in 1990 alone. It took delivery on 14.5 billion dollars' worth of arms during 1987–90, and 1.4 billion dollars' worth of arms in 1990. It has recently ranked third in new arms orders in the developing world, and fourth in deliveries.

These deliveries would not only greatly increase Iran's ability to threaten the southern gulf states, they would give Iran the training and support capabilities to use the Soviet aircraft it seized from Iraq—which include 24 Su-24 long-range strike aircraft, 44 Su-20/22 attack fighters, and at least 4 more Mig-29's.

It is equally disturbing that Iran seems to be rebuilding its armored forces, and may acquire SA–5 surface-to-air missiles from the U.S.S.R. Reports differ as to whether Iran is acquiring T–72's from the U.S.S.R., or plans to order 1,500 T–72's from Czechoslovakia. Some experts also indicate that Iran is getting large deliveries of artillery from North Korea or China. The key point is that a new threat is clearly building up in the northern gulf.

Further, there are numerous press reports that Iran is linked to Syria, North Korea, and possibly Libya in importing and/or manufacturing a northern Korean upgrade of the Scud with ranges in excess of 500 kilometers. Further, it may be getting short-range ballistic missiles from China.

It is virtually certain that Iran has had Chinese aid for part of its nuclear weapons effort. It is worth noting that Iran's efforts to manufacture chemical weapons and deploy biological weapons were stepped up sharply during 1982–84—because of the Iran-Iraq war and have never been cut back since.

LIBYA

The situation in Libya is more complex. Libya has cut back on its imports of conventional weapons in recent years, although it has made major improvements to its air defenses and some aspects of its naval capabilities. It was one of the top 10 arms importers in terms of new agreements during 1983–86, with 5 billion dollars' worth of agreements, but did not rank among the top 10 in 1987–90. Libya received 2.56 billion dollars' worth of arms during 1987–90, versus 7.1 billion dollars' worth of arms during 1983–90.

These shifts do not, however, reflect any restraint on Libyan ambitions. They reflect the fact that Libya has finally understood that it lacks the manpower and military skills to match the ruthless goals of Colonel Qadhafi. It already has so much armor and so many combat aircraft that nearly 50 percent of them are in storage or simply rotting in the desert. Libya has become the world's largest military parking lot.

As a result, Libya has turned to weapons of mass destruction. Its work on a massive chemical weapons facility continues and there are some indicators that a second such facility is in construction. Libya is working on biological and nuclear weapons, although the latter efforts do not seem particularly advanced. It is clear that Libya intends to threaten its neighbors, Israel, and the West with weapons of mass destruction.

Libya already has Su-24's and refueling capability that can reach Israel. These air strike capabilities, however, are marginal. Qadhafi can only really threaten his neighbors with long-range missiles. As the CRS analysis indicates, he may have gone to North Korea for such weapons. Other sources indicate that he has gone to the PRC. The key point is that Qadhafi has not given up the arms race, he has turned to proliferation.

SYRIA

Syria's actions are equally troubling. Syria's intervention at the Madrid peace talks scarcely promised peace, and it is still far from clear that it has rejected terrorism. President Assad has evidently invited the PLO to move its military headquarters from Iraq to Syria, and has stated that Syria's rejection of terrorism does not include "acts of liberation"—a caveat which could cover all attacks on Israel.

Many experts believe that Syria is a major source of finance for George Habash and the PFLP, and to a variety of other terrorist groups like the DFLP, PSF, PFLP–GC, and Abu Nidal's bases in the Bekaa Valley in Lebanon. Syria also seems to be providing at least tacit aid to the Hezbollah and Islamic Jihad in their efforts to attack Israel, and has failed to aid the Government of Lebanon in controlling these movements.

Syria's actions in terms of weapons purchases are even more disturbing. Syria ordered 5.6 billion dollars' worth of new arms between 1987 and 1990. It took delivery on 14.5 billion dollars' worth of arms during 1987–90, and 960 billion dollars' worth of arms in 1990. It has recently ranked 10th in new arms orders in the developing world, and 8th in deliveries.

The CRS analysis I have discussed earlier reflects the fact that many analysts believe Syria has actively courted the PRC, and sought the M–9 IRBM, ever since the U.S.S.R. refused to sell it the SS–23.

There is far less controversy about the fact that Syria has taken substantial deliveries of North Korean "Scud-C" missiles. Like Iran, these missiles give it a capability to strike at any part of Israel as well as its other neighbors. They have far better range-payload, reliability, and accuracy than the extended range Scuds that Saddam Hussein used in the gulf war. Most experts also believe that these missiles will be armed with nerve gas warheads—joining the large number of sheltered Scud missiles with nerve gas warheads that Syria already deploys.

There is also a general consensus that Syria has ordered enough T-72 tanks to more than double its first line tank strength over the next 2 years. While Czechoslovakia has said it will not sell T-72's to Syria, many experts are certain that Czech T-72's have already been delivered. The U.S.S.R. not only is selling substantial numbers of T-72's, it is selling substantial numbers of Mig-29's and Su-24's.

Syria may be talking peace, but no one can ignore the fact that its military buildup shows that it is also preparing for war. Further, no one can ignore the risk that Syria might tighten its cooperation with Iran, and that the talk of peace may eventually be replaced by the military equivalent of a new rejectionist front.

THE CONTINUING THREAT TO ISRAEL AND OUR OTHER FRIENDS IN THE REGION

Mr. President, the key message is that the threat to the Middle East is not over. Regardless of supplier conferences, and the Chemical Weapons Convention, NPT, and Biological Weapons Convention negotiations, deadly arms transfers continue to States who are still aggressive and terrorist in character.

We can only deal with this situation if we take the four following actions:

We keep up the flow of military assistance and arms transfers to Israel. We provide similar aid to Egypt, and our other friends in the region—when this does not reach excessive levels or introduce destabilizing new technologies.

We do not remove Syria, Iran, or Libya from the list of terrorist States.

We make international arms control agreements a top national priority—bearing in mind that the problem is not all States in the region, but aggressor-terrorist States like Iran, Iraq, Libya, and Syria.

We adopt strong legislation of the kind that I and some of my colleagues in both Houses have recommended to use the power of the American economy to sanction those who sell the weapons and technology that literally threatens the Middle East with mass destruction. This legislation is exemplified by S. 309, The Nonproliferation Arms Transfer Control Act.

Mr. President, we all want peace in the Middle East. More is involved, however, than negotiations and good intentions. We cannot assure the security of Israel, the security of our Arab friends, and the security of the world's economy without checking the flow of arms to aggressor States.

We have made a beginning in checking this flow, but the previous analysis shows we have a long way to go. More importantly it shows that we must never confuse nations like Iran and Syria with being our allies. Unlike Saddam Hussein, strength may force them into the path of peace. Without strength, and a firm understanding of the threat they pose, we will almost certainly blunder down the path to a future war.

Mr. President, I ask unanimous consent that the information provided to me by Richard F. Grimmett and Al Prados of the CRS be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEAR EAST ARMS TRANSFERS (Aug. 2, 1990—Nov. 1, 1991)

Recipient nation	Selling nation	Item case description	Cost	Status	Data source
Algeria					
Bahrain	United States	PAC–2 Patriot missile system	NA	Seeking	DN Oct. 15, 1990, p. 74.
Do	...do	8 AH–64 Apache helicopters	...do	Ordered	DN Oct. 29, 1990, p. 22; JDW June 15, 1991, p. 1001.
Do	...do	27 M60A3 tanks and associated equipment ..	$37 million	...do	36(b) AECA, Notice 90–72, Sept. 27, 1991.
Egypt	...do	212 M151A2 utility trucks	(Excess articles, no price attached).	...do	516 FAA, DOD Letter to Cong., Sept. 19, 1990.
Do	...do	PAC–2 Patriot missile system	NA	Seeking	DN Oct. 15, 1990. p. 74.
Do	...do	24 AH–64 Apache attack helicopters (McDonnell-Douglas).	...do	Ordered	DN Oct. 29, 1990, p. 22.
Do	...do	40 M88A1 tank recovery vehicles, with equipment.	$70 million	...do	36(b) AECA, Notice 90–07, Nov. 14, 1990.
Do	...do	2 Black Hawk VH–60A helicopters with delivery in Dec. 1990.	$18.6 million	...do	JDW Nov. 17, 1990, p. 979.
Do	...do	46 F–16C/D fighters; 240 MK–84 and 1,000 MK–82 bombs; 40 ACM–65D and 40 AGM–65G (Maverick) missiles; 160 CBU–87 and 80 MK–20 cluster bomb units; spares.	$1.6 billion	...do	36(b) AECA, Notice 91–05, Feb. 28, 1991; DN Mar. 4, 1991, p. 28; JDW Mar. 9, 1991, p. 325.
Do	United Kingdom	6 Link-Y data link communications equipment for naval vessels and submarines.	$4.6 million	...do	JDW June 1, 1991, p. 905.
Do	Turkey	46 F–16 C/D fighters	$1.3 million	Seeking	DN June 10, 1991, p. 16; JDW Aug. 3, 1991, p. 197.
Do	United States	12 Phase-III improvement kits for 12 Hawk antiaircraft missile batteries.	$146 million	Ordered	36(b) AECA, Notice 91–35, July 19, 1991; DN Aug. 12, 1991, p. 29.
Iran	U.S.S.R.	14 Mig–29 figher aircraft	NA	Delivered	JDW Oct. 6, 1990, p. 619.
Do	Pakistan	Spare parts for F–4 and F–14 aircraft	$50 million	Seeking	JDW April 4, 1991, p. 733
Do	Iraq	24 Mirage F1, 24 Su–24, 40 Su–22, 4 Su–20C, 7 Su–25, 4 Mig–23, 4 Mig–29, 4 MigG–23ML, 1 Mig–23U flown from Iraq to Iran during Jan.-Feb. 1991.	NA	Delivered	JDW April 27, 1991, p. 684.
Do	U.S.S.R.	Su–24 and Mig–23 and 29 fighter aircraft ...	...do	Seeking	JDW April 27, 1991, p. 684; JDW July 29, 1991, p. 89.
Do	Czechoslovakia	1,500 tanks, possibly T72	...do	...do	DN June 17, 1991, p. 8.
Do	Brazil	Arms and ammunition, including ASTROS rocket system, AMX light attack aircraft, miscellaneous.	...do	Considering	AFJI Aug. 1991, p. 42.
Do	U.S.S.R.	SA–5 surface-to-air missiles	...do	Ordered	AFJI Aug. 1991, p. 42.
Iraq					
Israel	United States	2 MIM–104 Patriot missile fire units	$117 million	...do	506(a) FAA, Sept. 29, 1990; JDW Oct. 13, 1990, p. 686.
Do	Germany	8 FUCHS armored nuclear/chemical reconnaissance vehicles and related equipment.	NA	...do	MT Feb. 1991, p. 86.
Do	...do	2 Dolphin-class submarines	$700 million	...do	JDW Mar. 23, 1991, p. 455; JDW Apr. 6, 1991, p. 519; JDW May 11, 1991, p. 774.
Do	United States	1 Patriot missile fire unit	$150 million	...do	36(b) AECA, Mar. 22, 1991; DN Apr. 8, 1991, p. 29.
Do	Germany	Development of tactical antiballistic missile radar.	$200 to $400 million	Seeking	DN June 24, 1991, p. 3.
Do	United States	10 AH–64 Apache attack helicopters	NA	Delivered	DN June 24, 1991, p. 44.
Do	...do	15 F–15A/B fighter aircraft	$67.3 million	Ordered	516 FAA, Sept. 11, 1991.
Do	...do	10 F–15A/B fighter aircraft	(Drawdown from U.S. stocks)	...do	599(B) PL 101–513.
Jordan	France	20 Mirage-2000 fighter aircraft	NA	Seeking	JDW May 25, 1991, p. 863.
Kuwait	...do	Hot antitank missiles; Exocet missiles; refurbishing Gazelle helicopters and Mirage F–1 fighter aircraft, including engines and spares.	$180 million	Ordered	DN Dec. 3, 1990, p. 36; JDW Dec. 8, 1990, p. 1140.
Do	United States	800 cargo trucks; recovery vehicles; HMMWVs	NA	Seeking	JDW Apr. 20, 1991, p. 634.

NEAR EAST ARMS TRANSFERS (Aug. 2, 1990—Nov. 1, 1991)—Continued

Recipient nation	Selling nation	Item case description	Cost	Status	Data source
Do	do	250 M1-series tanks	do	do	DN July 8, 1991, p. 12.
Do	do	35 F/A–18 fighter aircraft (McDonnell Douglas).	do	do	DN Sept. 9, 1991, p. 1.
Do	do	Emergency restoration, planning, and engineering for two Kuwaiti Air Force bases.	$305 million	Ordered	36(b) AECA, Notice 91–49, Sept. 17, 1991; JDW Aug. 17, 1991, p. 266.
Lebanon					
Libya	North Korea	New intermediate-range ballistic missile under development.	NA	Seeking	AFJI Aug. 19, 1991, p. 44.
Morocco	United States	20 F–16A/B fighter aircraft (without engines), plus new engines and 4 spare engines [valued at $250 million].	(Excess articles, no price attached).	Ordered	516 FAA, DOD Letter to Cong., July 19, 1991; DN July 29, 1991, p. 11; DN Aug. 12, 1991, p. 42.
Do	do	AN/DSM–79 test set for Chaparral missiles, with spares.	do	do	516 FAA, DOD Letter to Cong., July 22, 1991.
Do	do	Military trucks	do	do	516 FAA, DOD Letter to Cong., July 22, 1991.
Oman	France	3 naval patrol vessels (Sofresa)	NA	Seeking	DFAW Jan. 21–27, 1991, p. 3, 8.
Do	United Kingdom	60 Challenger-2 tanks	do	Considering	DN July 8, 1991, p. 12.
Do	United States	119 V–300 Commando armored wheeled vehicles (Cadillac-Gage), with support equipment.	$150 million	Ordered	36(b) AECA, Notice 91–34, July 19, 1991; DN August 12, 1991, p. 29.
Do	do	2 missile corvettes (Vosper-Thorneycroft)	$225 to $254 million	do	JDW September 7, 1991, p. 387; JDW September 14, 1991, p. 455; DN September 16, 1991, p. 37.
Qatar	France	Light armored vehicles	$42 million	Delivered	DFAW February 11–17, 1919, p. 2, 8; AFJI August 1991, p. 42.
Do	South Africa	12 155 mm G5 towed howitzers and ammunition.	NA	Ordered	JDW August 17, 1991, p. 267.
Saudi Arabia	United States	12 F–15 fighters, under an emergency transfer in August 1990.	do	Delivered	DN August 27, 1990, p. 6; JDW September 8, 1990, p. 396.
Do	do	150 M60A3 tanks ($206 million), 15,000 105 mm antitank shells ($13 million); 50 Stinger antiaircraft missiles with 150 reloads ($12 million); 24 F–16C/D aircraft, AIM–9L Sidewinder and AIM–7F Sparrow missiles ($2 billion) under an emergency transfer in August 1990.	Approx. 2.3 billion [See figures in case description].	do	36(b) AECA, Notices 90–67, 68 August 31, 1990); DN August 27, 1990, p. 6; DN September 3, 1990, p. 63; DFAW September 10–16, 1990, p. 8; JDW September 8, 1990, p. 396.
Do	do	150 MIA2 tanks; 200 Bradley FVs; 1,750 Tow IIA missiles; 207 M113 APCs; 50 M548 cargo carriers; 17 M88A1 recovery vehicles; 43 M578 recovery vehicles; 150 Tow missile launchers; 9 mutiple launch rocket systems; 2,880 tactical rockets; 9 M755A2 command post carriers; 20 AN/VRC–46 radio sets; 6 Patriot fire units; 12 AH–64 Apache attack helicopters with Hellfire missiles, plus 24 spare launchers; 6 UH–60 Medevac helicopters; upgrade of naval command/control/communications system; associated spares and support; 10,000 tactical wheeled vehicles; 7 KC–130H tanker aircraft [commercial sale]; 8 C–130H and 2 C–130H–30 transport aircraft [commercial sale].	$7.3 billion	Ordered	36(b) AECA, Notices 90–71/74/77/78/80/82/92/93 (Sept. 27, 1990); CRS IB 91007; JDW Oct. 6, 1990, p. 624.
Do	Germany	100 Fuchs (Fox) armored nuclear/chemical reconnaissance vehicles; 50 Gephard APCs; 100 Marder FVs.	$335 million	Seeking	JDW Oct. 13, 1990, p. 686.
Do	France	4 frigates and helicopters	$3.9 billion	Considering	DN Nov. 22, 1990, p. 4.
Do	Brazil	10,000 Avibras Astros-II rockets	$69 million	Delivered	JDW Nov. 3, 1990, p. 881.
Do	United Kingdom	48 Tornado strike aircraft (BAe)	$1.4 billion	Considering	DN Nov. 5, 1990, p. 4, 36.
Do	France	6 SuperPuma helicopters; 20 Simoneau Marine International small patrol boats.	$200 million	Ordered	DFAW Nov. 5–11, 1990, p. 2.
Do	do	Mistral non-portable air defense missiles and related equipment (Matra).	$600 million	Seeking	DN Dec. 3, 1990, p. 36.
Do	do	12 Batteries of Crotale surface-to-air missiles (Thompson-CSF; Matra; Sofresa).	$680 million	Ordered	DN Dec. 3, 1990, p. 36; JDW Dec. 15, 1990, p. 1205.
Do	United States	550 M2A2 Bradley FVs (FMC)	NA	Seeking	DFAW Mar. 18–24, 1991, p.8.
Do	Japan	Military communications network	do	do	DFAW Mar. 18–24, 1991, p.8.
Do	China	M–9 surface-to-surface missiles	do	Considering	DN Apr. 8, 1991, p. 1.
Do	United Kingdom	Tornado GR–1 ground attack aircraft; 200 Black Hawk helicopters (Westland) ($8.5 billion); 280 Challenger–2 tanks (Vickers).	do	do	DN May 6, 1991, p. 2
Do	United States	2,300 HMMWVs with equipment	$123 milion	Ordered	36(b) AECA, Notice 91–31, July 10, 1991; DN June 3, 1991, p. 15.
Do	do	2,486 BMY trucks (HARSCO)	$247 million	do	JDW July 13, 1991, p. 47.
Do	do	E–3A AWACS and KE–3 tanker contractor and maintenance support.	$350 million	do	36(b) AECA, Notice 91–32, July 14, 1991; DN Aug. 12, 1991, p. 29.
Do	do	Peace Shield air defense system (Hughes Aircraft Co.).	$837 million	do	JDW July 27, 1991, p. 166.
Do	do	2,000 MK–84 bombs; 2,100 CBU–87 cluster munitions; 770 AIM–7M Sparrow missiles; laser guided bomb components; miscellaneous items.	$365 million	do	36(b) AECA; Notice 91–41, July 24, 1991; DN Aug. 5, 1991, p. 39; JDW Aug. 10, 1991, p. 221.
Do	do	14 PAC–2 Partriot antimissile fire units	$2.3 million	Seeking	DN Oct. 7, 1991, p. 4, 37.
Syria	China	M–9 surface-to-surface missiles	NA	do	DN Apr. 8, 1991, p. 1.
Do	Czechoslovakia	300 T72 tanks	$200 million	do	JDW May 18, 1991, p. 813;
Do	North Korea	SCUD-C surface-to-surface missiles	NA	Delivered	DN June 17, 1991, p. 4.
Do	U.S.S.R.	300 T72/T74/T80 tanks; 48–50 MiG–29 fighter aircraft; 24 Su–24 ground attack aircraft; early warning radar; command/control equipment; SA–11, 13, 16 surface-to-air missiles.	$2 billion	Seeking	DN July 8, 1991, p. 3; AFJI Aug. 8, 1991, p. 44.
Do	North Korea	54 Scud-C missiles, with a brigade of missile launchers.	$200 to $400 million	Ordered, some delivered	AFJI Aug. 19, 1991 p. 44.
Tunisia					
United Arab Emirates	United States	PAC–2 Partriot missile system	NA	Seeking	DN Oct. 15, 1990, p. 74.
Do	Peru	12 Mirage–2000 fighters	$600 million	do	DFAW Feb. 25 to Mar. 3, 1991, p. 8.
Do	U.S.S.R.	T–72 tanks (at $1.8 million each) and BMP-series FVs.	NA	Considering	DN Feb. 25, 1991, p. 16; MT July 1991, p. 109, 110.
Do	United States	2 C–130H–30 transport aircraft [commerical]	$54.9 million	Ordered	36(c) AECA, DTC 14–90, Letter to Cong., Mar. 4, 1991.
Do	do	20 AH–64A Apache helicopters (McDonnell Douglas), with 620 Hellfire missiles and Hydro–70 rockets.	$682 million	do	36(b) AECA, Notice 91–03, June 11, 1991; JDW June 15, 1991, p. 1001; DN July 15, 1991, p. 12.
Do	United Kingdom	150 Challenger-2 tanks; Warrior FVs	NA	Considering	DN July 8, 1991, p. 12; MT July 1991, p. 109.
Do	United States	337 M1A1 tanks; 160 Bradley FVs; 800–900 HMMWVs.	do	Seeking	DN July 15, 1991, p. 12.
Do	do	500 Bradley FVs	do	do	MT July 1991, p. 109
Do	South Africa	78 G–6 155 mm self-propelled guns (Armscor).	do	Ordered, 40 delivered	MT July 1991, p. 109.

NEAR EAST ARMS TRANSFERS (Aug. 2, 1990—Nov. 1, 1991)—Continued

Recipient nation	Selling nation	Item case description	Cost	Status	Data source
Do.	United Kingdom	18 Hawk-100 fighters and 16 Hawk trainers (BAe).	$100 million	Seeking	AFJI Aug. 1991, p. 42.
Do.	France	390 Leclerc tanks (GIAT Industries)	NA	do	DN Sept. 16, 1991, p. 38.
Yemen					

Data source abbreviations: AFJI—Armed Forces Journal International; DFAW—Defense and Foreign Affairs Weekly; DN—Defense News; JDW—Jane's Defense Week; MT—Military Technology; PW—Proliferation Watch. Statutory source abbreviations: AECA—Arms Export Control Act; FAA—Foreign Assistance Act.

APPENDIX I—NEAR EAST NUCLEAR/BIOLOGICAL/CHEMICAL ACQUISITION EFFORTS

Recipient Nation	Selling Nation	Item/Case Description	Cost	Status	Data Source
Iran	Germany	180 tons of neophrene and sodium cyanide (mustard gas precursors).	NA	[Seized by Turkish customs]	Der Spiegel, FBIS-WE, Oct. 1, 1990.
Iraq	China	7 tons lithium hydride (nerve agent precursor).	do	Reportedly ordered	Independent (U.K.), FBIS-WE, Oct. 1, 1990.
Iran	Soviet Union	"Several" 440 MW nuclear power reactors	do	Seeking fall 1990	PW 11–12 1990, p. 9 (Nucleonics Week Oct. 25, 1990).
Saudi Arabia	China	Unidentified "nuclear weapon"	do	do	PW 11–12 1990, p. 7 (London Sunday Times Dec. 16, 1990).
Iraq	Germany	1,500 shell chemical artillery shell casings	do	Reportedly delivered	Der Spiegel, FBIS-WEU-91–114, Jan. 22, 1991.
Do.	South Africa	CW-capable artillery casings; South Africa states delivery made before embargo on Iraq.	do	do	Johannesburg Weekly Mail, JPRS, TND-91-003, Feb. 25, 1991.
Israel	U.S.S.R.	Soviet-designed, water-cooled nuclear power reactor named Eastinghouse.	do	Seeking	PW 5/6–91 p. 6 (WSS May 8, 1991).
Do.	Hungary	Assistance in building a 500 MW nuclear power reactor.	do	do	PW 5/6–91 p. 7 (Nucleonics Week June 13, 1991).
Iran	China	Attempts to obtain unspecified nuclear weapons technology, report denied by China.	do	do	PW 5/6–91 p. 4 (FBIS-CHI-91–124, June 27, 1991).
Iraq	United States	2,000 lbs. of cyanide, shipped by a small Florida-based company earlier in the year.	do	Delivered	Reuters, July 3, 1991.

MISSION TO PAKISTAN

Mr. PRESSLER. Mr. President, today, the Reuters News Service printed a story regarding Under Secretary of State Reginald Bartholomew's mission to Pakistan. Today, he is meeting with representatives of Pakistan's Government, to discuss the Pressler amendment, which has stopped any new American aid from going to Pakistan for more than a year. The Pressler amendment requires the administration to certify that Pakistan does not possess nuclear weapons as a condition for further United States economic and military assistance to Pakistan. Mr. President, I ask unanimous consent that the Reuters article appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES, PAKISTAN OPEN TALKS ON NUCLEAR DISPUTE

ISLAMABAD, PAKISTAN.—A senior State Department official opened talks with Pakistan Tuesday over a nuclear weapons dispute that has halted all American aid for more than a year.

Under-Secretary of State Reginald Bartholomew arrived Monday from talks in Beijing that included China's delivery of nuclear-capable missiles to Pakistan.

The main focus of the two days of talks will be nuclear issues and U.S. insistence that Pakistan roll back its efforts to make weapons-grade uranium.

Pakistan rejects widespread claims that it is at least a threshold nuclear power and that it is developing nuclear weapons at its super-secret Kahuta facility outside Islamabad.

It used to be the third highest recipient of U.S. aid, but President Bush halted all military and new economic aid a year ago when he refused to certify under the Pressler Amendment that Pakistan was not becoming a nuclear power.

Bartholomew is the most senior U.S. official to visit Pakistan since relations went into deep freeze, but few people expect his visit to result in a breakthrough.

"We understand the limitations of Pressler. That is why you have probably not heard from the Pakistan side anybody raising the question of revival of aid," Pakistan's top foreign ministry official Akram Zaki said over the weekend.

Both Pakistan and the United States share a belief that non-proliferation should be tackled regionally, Western diplomatic sources said.

The United States and China have backed a plan by Pakistani Prime Minister Nawaz Sharif for a five-power international conference with the Soviet Union and Pakistan's longtime foe India to try to agree on a non-nuclear zone in the region.

India has always rejected any regional approach to nuclear non-proliferation because it fears it would be left vulnerable to its northern neighbor China.

However, it has agreed to consider a regional approach to chemical weapons and both the United States and Pakistan believe there is at least a new willingness in New Delhi to look at the issue again.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If there is no further morning business, morning business will be closed.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions.

The Senate resumed consideration of the bill.

Pending:

Dixon modified amendment No. 1352, to improve the governance of the Resolution Trust Corporation.

Garn (for Murkowski) amendment No. 1356, to strike title V of the bill, regarding consumer protection.

Mr. RIEGLE. Mr. President, I wonder if the Senator from Alaska would be willing to yield just for a brief opening comment before we take up his amendment.

Mr. MURKOWSKI. The Senator from Alaska would be happy to accommodate the floor leader.

Mr. RIEGLE. I thank the Chair and I very much thank the Senator from Alaska. We were just chatting informally a minute ago about the outlook for the remainder of the day.

I want to say at the outset of the debate this morning that I think that three of the four most difficult issues in this bill have now been dealt with and are resolved and behind us. The remaining major issue that I see is the one that the Senator from Alaska, and later the Senator from Mississippi [Mr. COCHRAN] will be bringing forward that related to the consumer title of this bill. The Murkowski amendment would strike that section of the bill. And so we will start there this morning. I think we ought to have a debate on that issue—there are people on both sides—take our votes an let the Senate work its will on that provision.

Beyond that, there are a number of amendments that may be offered to other sections of the bill, but I think the number that would have major consequence are really, now, quite few in number. Here is an amendment by Senator KERRY of Massachusetts and Senator GRAHAM of Florida. I hope we could take those up, set some time agreements, debate those, and get those settled perhaps in the early afternoon right after the caucus lunch.

I hope if we can move along, maybe we can handle these consumer provisions prior to the time of the caucus lunch. But let me say one other thing and not trespass further on the time of the Senator from Alaska. It is essential that this bill be finished today. I say that because this is an urgent legislative item. This is one of the top priorities that the President has announced. He spoke about it again just yesterday, in listing items that have to be handled before the end of this session.

I talked with the President by phone this morning and he feels very strongly about this issue. I have also talked with the Treasury Secretary and I have asked the Treasury Secretary if it was appropriate for me to indicate that it is the desire of the administration to finish this bill in the Senate here today. He indicated that is in fact their intention as well as that of the Senator from Utah and I, the managers of the bill. So that may very well necessitate a late-night session tonight. If so, then that will have to be the instance, in order to get this done.

There is other legislation right behind this unrelated to this bill that has to be dealt with before the Senate can meet its planned adjournment date, so it is essential that the time we have to finish this bill today be used to accomplish that purpose. I believe we can do it, but it is going to take the cooperation of all the Senators working together to accomplish that goal.

The bank fund is virtually empty. It has to be recapitalized and it has to be done in a fashion that protects that taxpayer money from further loss in the future. That means some changes in the bank business charter have to be accomplished. We do that through the interstate compromise we have worked out, and some other changes in this bill.

We also need the other prompt corrective action measures that are in the bill that will safeguard that money that otherwise will be at risk.

So I think that is the work that is laid out. I ask every Senator to help work with us today on this. I will work with every Senator to try to think through any way in which we can resolve an issue that might be taken into a managers' amendment at the end. We have resolved several that way, and that offer remains open and I hope Senators will approach us on things that fell into that category.

I again thank the Senator from Alaska and yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AMENDMENT NO. 1356

Mr. MURKOWSKI. Mr. President, I think as we reflect on the banking bill and the necessity of bringing a resolution and a funding about, I certainly concur we must move this. This is a "must" issue. However, I think it is fair to say as we move through this legislation it is also necessary to reflect on the merits of what is in it. Title V was proposed last night as an amendment on behalf of the Senator from Alaska and I very much appreciate the floor leader proposing that.

Mr. President, the amendment pending is a simple one. We seek to strike title V from this legislation. There are a number of colleagues who are cosponsors I would like to acknowledge at this time: Senator MACK, Senator GARN, Senator SHELBY, Senator WALLOP, Senator HELMS, Senator SYMMS, Senator GRAMM, Senator NICKLES, Senator THURMOND, Senator BROWN, and I believe there are others that are coming in.

It is my understanding, Mr. President, many of these Senators wish to be heard on the amendment to strike title V.

As we reflect on the realities associated with the state of health of America's banking industry today, I think we have to recognize that the industry does not need unnecessary, duplicative, costly burdens which, in the opinion of the Senator from Alaska, title V does impose.

The banking system in this Nation is presently under lots of pressure. We are seeing a record number of bank failures. We are seeing the suffering and ill effects of a credit crunch, even at a time when interest rates are at almost an all-time low. We are experiencing anemic economic growth factors. It is difficult to find areas of growth in the economy. And here we are talking about an additional burden of requirements, which are proposed in title V, that would only worsen these conditions.

I think it is important to note at this time that the broad area of application focuses a little differently on the major city banks vis-a-vis the country banks. The larger banks obviously have the capability to comply by simply automating a significant portion of these requirements, putting it off to additional personnel that are on staff. But for the smaller banks, the smaller country banks, it is an extraordinary burden. I think it has to be addressed in the sense of fairness, equity and just what we are accomplishing in this regard.

In particular, provisions of title V require depository institutions to make specific and additional disclosure of fees and terms of bank accounts, advertisements, and account schedules; to offer some type of basic bank account. I assure my colleagues, this is almost an infringement on the free institutional integrity of competitive organizations to offer services that are in not only the interests of the consumer, but are basically a consequence of ingenuity in offering new services. Now we are saying the Federal Government, or this body, should dictate these types of accounts.

Then there is one that proposes to cash Government checks for noncustomers. I know my friend from Ohio feels very strongly about this, as do others. I am sure no one would suggest that Government automobiles ought to be able to park in parking lots free. Why should individuals who receive Government checks be allowed to cash checks at banks simply because they receive a Government check? There is no consideration for the institution. And it adds an extraordinary risk for the banks to agree to cash checks for noncustomers.

In addition, title V amends the Community Reinvestment Act and the Home Equities Disclosure Act.

Each of these new mandates may sound admirable and worthy because of the generalization that this is intended to protect consumers. However, they all serve as a classic example of legislative overkill—another example of the slings and arrows of outrageous legislation. Moreover, I think we have to recognize the increased costs that they would impose contradict the very purpose of the bill, namely to restore the banking industry's financial health.

As we reflect on what we are attempting to do here in the broad sense of the legislation as stated by the floor manager, my good friend, the Senator from Michigan, we have to keep in mind there is a significant question here of the balance. We are talking about more and more regulation on an industry that is already heavily regulated and, at the same time, we are talking about restoring the banking industry's financial health. How can you have it both ways?

Let us talk about the cost of the regulatory burden for a while. The costs of compliance with the new regulations in title V are certainly substantial.

One money center bank estimates that it will have to spend in the neighborhood of $250,000 to comply with the truth in savings provisions, and another nearly $300,000 to set up a new basic bank account. And even though the bank already provides disclosures similar to those which title V would require, and even though it already offers a low-cost bank account, I would venture to say, Mr. President, that the banks in this country offer a varied number of account relationships, at least six or seven; not only savings accounts, but various types of checking accounts. There are thrift accounts. There are 10 free checks per month. They vary all over the ballpark.

A mid-size bank also estimated that the cost of complying with the truth in savings would be over $250,000, and a small community bank estimated its truth in savings cost would be $15,000.

Here we are, Mr. President, reflecting on additional regulations with no consideration to the cost and just what we are getting for it. If we project these estimates to all banks across the country, just these two provisions of title V—truth in savings and basic banking—banks would spend, it is estimated, about $500 million just to comply. The estimates only represent immediate and direct costs, never mind the indirect costs of continuing the cost of compliance.

I know that there are many who would suggest that these estimates are just that—estimates. But, nevertheless, when you are mandated by law to initiate this detailed type of disclosure, why, you must take responsible action in your organization to adhere to these laws, and you do not take it lightly because of the ramifications associated therewith.

So these provisions add new regulations to the existing mound, if you will. It is kind of interesting. Somebody measured the mound, Mr. President. It is estimated that the mound of regulations is currently 3 feet high. These are unrelated to safety and soundness. Yet, we are redressing this legislation at a time when banks are already under financial stress and are absorbing many different expenses, as well.

As a result of the troubled economic conditions over the past 2 years, I am told that banks have put aside $70 billion in provisions for loan losses and raised their capital by $22 billion. In addition, deposit insurance premiums have nearly tripled since 1989, and accounted for 20 percent of the increase in banks noninterest expense last quarter, according to the Federal Deposit Insurance Corporation. Yet, instead of helping to reduce bank expenses, title V imposes new, costly responsibilities and compliance requirements.

Mr. President, I have heard it stated time and time again that our banks must be more responsive; they must go out and make loans and take advantage of the new interest declines. Yet, at the same time, the banks are being held accountable for increased capital. It is very, very difficult to increase capital in the marketplace for obvious reasons. It is hard to address capital increases when there are difficulties within the industry.

On the one hand, the regulators are being told by Congress to loosen standards and, on the other hand, the regulators must adhere by the increased capital requirements associated with maintaining a sound banking system. So here again, we are talking in this body, of major legislation which would mandate further disclosures at great costs. But yet we are looking at initiating this when the troubled economic conditions we have seen over our banking system in the last 2 years has caused them to have to responsibly increase the provision for loan losses and increase their capital requirements. Their cost of deposit insurance has tripled since 1989, and we have seen an increase in the cost of banks' noninterest expenses as reported by the FDIC.

So, again, I call your attention, Mr. President, to the issue of not being able to have it both ways. As we reflect on the issue of safety and soundness, I am not talking about regulations which have anything to do—absolutely nothing to do—with the banks' safety and soundness. Title V has been proposed in the name of consumer interest. However, there has been little consideration about their duplicate existing bank service, cost necessity, effectiveness, or whether they will convey any measurable benefit—and I emphasize, Mr. President, measurable benefit—to consumers.

Ultimately, as we all know, the consumer pays for these unnecessary statutory requirements which are proposed in the form of higher fees, less interest, and fewer choices among bank products. This is not the consumer protection proponents of title V would have us believe. Moreover, for every dollar spent complying with these requirements, for every dollar spent to subsidize new services, there is $1 less for banks to lend, $1 less in capital.

In fact, when risk-based capital ratios are considered, every dollar saved actually represents $12 in loanable funds. Every dollar that can be lent is important in our troubled economy. Are we willing to jeopardize an economic recovery for the sake of adopting title V? I do not think so, in its entirety, Mr. President.

The provisions of title V purport to address some laudable social interests and their requirements appear on the surface somewhat simpler: Disclose the fees and charges of bank account schedules and advertisements, cash Government checks for everyone with no consideration, offer basic bank accounts. However, as experience with consumer legislation has vividly and repeatedly demonstrated, regardless of the simplicity of the legislative concept, that concept inevitably translates into unnecessary, complicated, and expensive regulation.

Moreover, there has been no great complaint from consumers that they are not receiving in a readable fashion the fees that are available, the charges and interest rates associated with their accounts. They are available in all banks. They are posted. They could be requested by the customer at any time.

Constituents are not complaining they do not have available low-cost accounts. They are there. You can have a savings account. It does not cost you anything. You can walk into a bank, if you have a savings account, with a Government check and cash it. You can put $5 into your account, or none. They are not complaining they cannot cash Government checks. These issues are contrived. They are perhaps politically attractive, but when sculpted into a new statutory mandate, they are pointless and expensive additions. They are not necessary.

Mr. President, we have a regulatory burden to concern ourselves with. It is not an exaggeration to say that banks are already drowning in a sea of regulations. Of grave concern are the significant and ever-escalating resources spent on complaints with regulations unrelated to bank safety and soundness at a time when many of these banks are under the most serious financial strain.

While no single regulation can be characterized as most burdensome, the aggregate burden of the litany of banking regulations ultimately affects banks' operations, their ability to serve customers effectively, and the price paid by consumers for bank products. Why should we add, at this time, particularly, to this ever-increasing list of regulations unrelated to safety and soundness? Banks already contend with a host of regulations, ranging from innumerable consumer disclosures, call reports, cash transaction reports, and certification of tax identification numbers.

The list of consumer legislation alone includes the Truth in Lending Act, the Electronic Funds Transfer Act, the Consumer Leasing Act, the Equal Credit Opportunity Act, the Expedited Funds Availability Act, the Community Reinvestment Act, the Real Estate Settlement Procedures Act, the Home Mortgage Disclosure Act, the Fair Credit Reporting Act, and the Fair Housing Act, just to name a few.

In addition, in the last 4 years, banks have been subjected to 10 new consumer-related laws, many of which have created truckloads of paper reports and disclosure statements.

Specifically, Mr. President, Congress has legislated:

The Expedited Funds Availability Act, requiring banks to make funds from deposits available in a timely fashion and to provide certain notices to customers. The banks are doing that.

An amendment to require all adjustable rate mortgages to include limitations on the maximum interest rate which may apply during the term of a mortgage loan. The banks are complying.

Amendments requiring additional disclosures on or with credit card applications. The banks are doing so.

Amendments to expand the disclosure requirements in advertising, applications, and loan consummation documents of home equity products and to impose substantive restrictions on such products. Another compliance.

Amendments to require additional disclosures of business credit applications and longer record retention period for those loans. The banks are complying.

Amendments to the Community Reinvestment Act to require a new rating system and require disclosure of CRA rating and evaluation reports. The banks are complying.

Mr. RIEGLE. Will the Senator yield at that point momentarily?

Mr. MURKOWSKI. I will yield for a question.

Mr. RIEGLE. I thank the Senator. It is a question. I do not want to interrupt the substance of his presentation. I wonder if the Senator—I have been circulating this for a bit—might be willing to agree to a 2-hour time limit equally divided on his amendment?

Mr. MURKOWSKI. Mr. President, the Senator from Alaska is not at this time willing to enter into a time agreement. I will be happy to discuss the matter with the floor leader upon the completion of my opening statement.

Mr. RIEGLE. Very good. I thank the Senator for yielding.

Mr. MURKOWSKI. Mr. President, I was specifically going into some detail on the legislation that is presently applicable to banks. I intend to continue that because I think it highlights the overregulated application of banks in general, particularly as we address the additional regulations proposed in title V.

Specifically, in addition to the items of expedited funds availability, the amendment to require all adjustable rate mortgages, and amendments requiring additional disclosure of credit cards, we have a mandate for amendments to expand the disclosure requirements in advertising applications, loan documents, and so forth, which the banks are complying with; and to require additional disclosures of business credit applications and longer record retention, which the banks are complying with; amendments to the Community Reinvestment Act to require a new rating system and require disclosures of the CRA rating and evaluation reports; amendments to the Home Mortgage Disclosure Act; to expand data—banks are required to include HMDA reports and to require institutions to report data from applications in addition to the data reports from loans actually made; amendments to the Real Estate Settlement Procedures Act: First, requiring loan originators and servicing organizations to disclose information on past and future practices of selling loan servicing; and second, requiring disclosures of various elements of mortgage escrow accounts, a requirement to mail notices of changes in FDIC coverage, and a requirement that federally insured financial institutions use only State-licensed appraisers.

Mr. President, I think with that litany of particular compliance with various acts, one can clearly see that the banking industry today is very heavily regulated by Government. And the question is how much is enough? What is reasonable and what is unreasonable?

I think it is fair to say that virtually every conceivable application of regulatory requirement has been levied on our banking system, and now we are talking about adding more at a time when, clearly, the objective of those who are fostering an overall banking bill is to provide relief in the areas where the banks need relief. But we are not doing that, Mr. President. We are talking about more and more legislation, regulatory legislation that really provides nothing to the safety and soundness of America's banking institutions.

Mr. President, the Senator from Alaska feels that we are not really accomplishing our objective. Too often when bills are passed, little or no consideration is given to the cost of regulations, whether the laws will actually accomplish the purpose. There is little discussion on whether a less burdensome alternative will achieve the goals of the legislation. And in this regard I think title V of Senate bill 543 is no different.

To illustrate the futility of some of these laws, last year banks were required to mail FDIC notices to all accountholders. The notice was to explain that the Federal insurance of savings and loan deposits was to be changed so as to be identical to bank deposit insurance. A rough but conservative estimate of the banks' cost of this mailing exceeds, Mr. President, $81 million. And this was small change. Yet the brochure, with the FDIC preparation by all accounts was incomprehensible, confusing, and ignored by most accountholders; they could not make sense of it, which is not unusual for Government publications. The $81 million spent on this exercise could have been better spent on loans, perhaps loans made for the Community Reinvestment Act purposes.

Another example of regulatory overkill is regulation CC, the Expedited Funds Availability Act. That act requires depository institutions to make funds available within a specific time period. However, studies have concluded that the law did not alter the availability of funds for the average depositor. Yet, the regulation consumes 124 pages in very small print in the Federal Register. Financial institutions were obliged to invest enormous amounts of time and money just on educational seminars, new and revised disclosure forms, implementation of new procedures, special mailings, new equipment, and other materials, and on and on and on.

Mr. President, another law is the Community Reinvestment Act that has yielded some counterproductive and rather unfair and certainly puzzling results. The Community Reinvestment Act requires bank regulators to take into account a bank's record of meeting the credit needs of its community when evaluating an application for a deposit facility including installation of automatic tellers—ATM's. Two banks have reported that they requested permission to install ATM's in low- and moderate-income areas in order to improve their Community Reinvestment Act ratings. These requests, in turn, were denied. They were denied because the Community Reinvestment Act rating was too low.

The Community Reinvestment Act has also been used unfairly against banks. This past year, two money center banks recently received the highest Community Reinvestment Act rating given. Just weeks later when they applied to acquire additional branches, consumer groups protested the acquisition on the assertion that the banks had not complied with the Community Reinvestment Act.

Mr. SYMMS. Will my colleague yield for a question?

Mr. MURKOWSKI. I am happy to yield for a question by the Senator from Idaho.

Mr. SYMMS. I thank my colleague for yielding.

I am listening with interest as he is talking about this bill and title V. In looking at title V of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, when one looks through title V, I was told, not being a member of the committee, that this was a deregulation bill. This looks like a lot of harsh regulation. Is that not correct?

Mr. MURKOWSKI. I certainly agree with the Senator from Idaho. These are additional, and substantially additional, regulatory requirements that are being proposed at a time when I think what we should focus in on is the safety and soundness of the banking system.

Mr. SYMMS. I find what is interesting, Truth in Savings and Investments as a title.

Does the Senator find it kind of curious that the Senate would use this kind of a title and then use the title of the bill as the reform deposit insurance, et cetera, as the title of the bill? You talk about truth in labeling.

I am fascinated by the remarks of the Senator from Alaska. I am fascinated further that this is called a deregulation bill with this section and title in the bill. I wish him well in his efforts to strike it from the bill.

Mr. MURKOWSKI. I thank my friend from Idaho. I think his observation is certainly on target as we reflect on the merits of truth in lending and full disclosure. The name of the game is hardly represented in the title of this legislation as we look at the realities associated with title V, which are simply more of the regulatory requirements as opposed to focusing in on the safety and soundness of the system. I thank my friend from Idaho for bringing this before us.

Mr. President, as we reflect on the question of complying with the Community Reinvestment Act, we have to recognize the realities associated with the question where banks with outstanding Community Reinvestment Act ratings proposed a merger. However, within days consumer activists proclaimed that they would protest the merger on the grounds that the banks had not complied with the Community Reinvestment Act.

Mr. President, this is an abuse of the law in the mind of the Senator from Alaska. It is simply unfair. Such protests cause expensive and unjustified delays for banks which have already proven their compliance. These delays do not help the cause of community reinvestment. Why should an institution go to substantial expense and effort to meet the highest grade of the Community Reinvestment Act when they are treated as if they have failed to meet that obligation?

Another contradictory result of the Community Reinvestment Act is the manner in which different bank examiners treat the Community Reinvestment Act loan. The banks report that the very loans some community reinvestment examiners demand of banks to satisfy the Community Reinvestment Act are later criticized by other "safety and soundness" examiners as risky and substandard loans.

So you run into a matter of trying to comply with the Community Investment Act. Then you run into the reality of the bank examiners coming into the controller's office or the Federal Deposit Insurance Corporation examining not only your compliance with the Community Reinvestment Act but then turning around and criticizing you for substandard loans which do not fit into a prudent criteria based on the collateral or the ability to collect for those loans.

So it puts the banking community in a dither. Here they are mandated under one law to comply with the Community Reinvestment Act and they, of course, have the prudence test from the standpoint of being able to collect on that loan, having reasonable collateral. So they are subject to criticism on both sides. To be put in that position is confusing, it is unfair, and that is the application of much of the regulatory requirements.

In complying with the regulations, they dictate an outlandish amount of paperwork and other documentation devoted simply to the process of compliance. A single regulation vividly illustrates this point.

Mr. President, let us wander into the Home Mortgage Disclosure Act, because this is another area of title V. The Home Mortgage Disclosure Act requires that certain mortgage lenders report their mortgage and home improvement loans designating the location of the loan origination—obviously where it is—and purchased by census track.

The 1988 Home Mortgage Disclosure Act was amended to expand the data reported and to require the data be collected not only on origination of loans as originally required but also on loan applications. they want to make sure your applications are reflective of the community you serve.

Griffith Garwood, Director of the Division of Consumer and Community Affairs of the Federal Reserve Board, commented on the volume of the Home Mortgage Disclosure Act in an article published in the American Banker:

> The Federal Reserve Board will assemble several times more data under the disclosure act than it has collected on any other subject, monetary policy included in its entire history: 15,000 to 20,000 reporting institutions each year will file information on 5 million to 10 million mortgage applications. * * * The cost to the Federal Reserve Board alone will be in the neighborhood of $1 million a year. That doesn't include the cost to the Reserve Banks, or the other agencies. It also does not encompass the considerable expenses incurred by reporting financial institutions.

What is the purpose of this? Who is going to read it? Who is going to examine? Who is going to enforce it?

> "All told," Mr. Garwood writes, "the Federal Reserve will distribute about 1.7 million pages of reports." If stacked on top of each other, the pile of these reports would probably be higher than the Capitol building itself.
>
> Several time more data * * * than it has collected on any other subject"; costing the Federal Reserve Board alone over $1 million a year; 1.7 million pages of reports.

These numbers and comparisons are astounding when one considers the case of the data that the Federal Reserve Board must collect just on call reports alone. And none of this mortgage information has relevance, again, Mr. President, to the safety and soundness.

It does not make the Federal Deposit Insurance Corporation any safer, which is the whole point of this legislation. In fact, because title V adds considerable cost to institutions, it may weaken their financial position and increase the exposure of the FDIC and the taxpayers.

Again, Mr. President, I point out the difference between the very, very large banks and their ability to comply with this mandate, regulatory duplication, and the smaller institutions that do not have the physical capabilities from the standpoint of their additional burden, and can only acquire that expertise at great cost which, in some cases, may affect the soundness because these costs come out of operating revenues.

Furthermore, Mr. President, the question is how much is enough? How much regulatory requirement is appropriate? I would much rather see the Banking Committee reflect on the realities of what is unnecessary in the process, streamline the process, instead of making the process more burdensome and cumbersome.

Mr. President, the number of reports submitted to regulators represents only one manifestation of the cost of the regulatory burden. The costs of compliance are often understated or ignored because statutory solutions appear deceptively simple and somewhat effortless. Yet implementation and maintenance of a single regulation demands the energy of numerous bank departments.

Let me give you some example of the elements of expenses that are included. Legal fees for interpretation and implementation, another full employment act for the lawyers; collection and destruction of old forms, devising new forms, designing complying programs and products, labeling, internal and external meetings with staffs, computer technology, computer resources, printing new forms, posting, handling inquiries and misunderstanding, purchasing compliance education, auditing tools, training, retraining personnel, monitoring compliance, reporting to regulators, meeting with regulatory examiners.

Mr. President, all the costs of this list will apply to the three entirely new laws in title V; truth in savings, Government check cashing, and basic banking.

In addition, banks will incur other costs associated with maintaining these new products. For example, the fraud cost associated with check cashing, and the subsidy which inevitably will be needed to offer basic bank accounts, is going to be borne by the banking system.

In addition to the cost of implementing and maintaining compliance, there are the costs associated with changes to existing regulations and statutes.

For example, title V requires an additional term to be disclosed in the preapplication notice for home equity loans. This will mean redesigning, reprinting, and replacing forms that were devised by new regulations, which only went into effect 2 years ago.

This apparent minor change is only one change, but regulations are constantly being amended, either by statute or at the initiative of a regulator. On a single day in April of this year, I could count no fewer than 31 outstanding proposed changes to regulations affecting banks. Banks review and comment on these proposals, and when final regulations are adopted, they must then have their lawyers review the new requirements, educate employees about the changes, destroy old forms and design and order new ones, revise procedures, et cetera. These constant changes pose an extraordinary disruption of the banking workplace.

Let us again talk a little bit about the crushing burden on the small banks. In isolation, single regulations may appear relatively innocuous. However, the accumulation of the varied and numerous regulations have reached such heights that even small banks must devote entire staffs exclusively to compliance issues. Some banks, in fact, now dedicate entire departments to a single regulation. The Community Reinvestment Act is an example.

For the small banks in particular, the more employees working in the back office means fewer in the front to serve customers. Should we really be adding to the compliance burden by passing title V? I do not think so, Mr. President, not in its broad form.

One bank with assets of $16 billion calculated the labor cost of complying just with regulations unrelated to safety and soundness to be approximately $12 million—144,000 hours of work on an annual basis, just to maintain compliance with these regulations. It is not difficult to guess how the additional mandates of title V will increase the already outrageous amount of time and money spent on compliance with regulations unrelated to safety and soundness.

Let us talk about passing on the cost to the consumer, because that is where it ends up. These enormous expenses affect not only banks but consumers, and the bank's communities. Ultimately, the banks are compelled to pass some of the cost on to the customer in the form of higher fees, lower interest rates for deposits, and perhaps higher interest rates on loans.

One bank recently estimated that the cost of regulation associated with consumer loans has increased the cost of loans by at least 1 percentage point. In a March 1991 survey of the American Bankers Community Bankers Conference reflected that a rule requiring State-certified appraisers for loans over $50,000 will raise the cost of residential appraisals by nearly 40 percent. Moreover, some lenders report some would-be borrowers walking away from smaller loans because of the cost of that appraisal compared to the amount of the loan.

I am pleased to say that there is an amendment proposed on the appraisal, and the Senator from Alaska supports raising the limit, because in the State of Alaska, this is totally impractical to have to fly a certified appraiser up to Nome, or into Barrow, at a cost of $600 to $1,000, adding on to the price of the appraiser.

Mr. President, we must address the limit range of financial products as well, because the regulations not only affect consumers' costs but also the variety of products available for the consumer. For example, some banks have determined that they can offer only conventional fixed-rate mortgage loans, because the cost of complying with regulations regarding variable-rate mortgages is so onerous.

This is but one example of where our actions are creating serious risks for the FDIC. The problem in the S&L crisis would have been much less if variable-rate mortgages had been allowed.

It is kind of interesting to go back, Mr. President, and reflect on where this problem arose. Perhaps a little review is appropriate at this time, because I think it is fair to say that once we deregulated the savings and loan industry, the handwriting was on the wall.

Here was a segment of the banking industry that traditionally had provided Americans with low-interest rate mortgages for their homes, and they did a good job of it. Then we came along with deregulation, and deregulation set a series of circumstances that basically played out to the collapse in the S&L.

The question is why did that occur, Mr. President? Well, it is relatively easy to look back and recognize that here is a segment of the industry with fixed-rate mortgages that they could not adjust the interest rate on. They were absolutely fixed.

But what the savings and loan institutions had previously enjoyed was a margin where they could pay a little bit more for your passbook savings account than the commercial bank. So they enjoyed this edge. But it was fixed. They enjoyed a mandate that said they may pay a little more than the commercial bank.

We came along with deregulation, and suddenly everybody was out quoting their own rates at what they would pay for savings accounts. And, as a consequence, the savings and loan industry, with fixed-rate mortgages and not variable-rate mortgages, could not react in their portfolio holdings. They were fixed. So they had to go out to be competitive for deposits, pay more, or pay the same as the other banks. But the other institutions were relatively short term in their portfolios and, as a consequence, could increase interest rates to offset additional costs of money. But the savings and loans could not, because they had a fixed portfolio. And as a consequence, deregulation simply left them in a position where they could no longer react competitively. They had to go out and expand their services. As a consequence, unscrupulous people got control of them, and we are seeing the results of that today.

So as we reflect on the problems of the S&L crisis, we can note that had there been variable rate mortgages allowed back then, why that situation undoubtedly would have been lessened and might not have happened at all. One wonders where all the soothsayers and those with foresight were when we made that gigantic leap to deregulation and the results of the collapse of the S&L industry, which were so apparent because of that set of circumstances that were let loose.

Yet, at the very time when variable-rate mortgages become acceptable to consumers, we burden them with such costly rules that, and in many cases for smaller banks it is not worth making available those services. Another example is banks which offer home equity loans, traditional second mortgages, where the consumer receives the loan in a single payment, but do not offer home equity lines of credit because the disclosures are simply too cumbersome. In both of these instances, competition decreases, consumer choice is diminished, and the bank forfeits business.

Similarly, the truth-in-savings and basic banking provisions of S. 543 will inhibit creation of new accounts.

(Mr. ROBB assumed the chair.)

Mr. MURKOWSKI. Eventually, there will only be one type of basic banking account—the one mandated by the Federal Government. What is the Federal Government's business in mandating the type of bank account that competitive banks through their ingenuity want to offer the customer? There would be little incentive for banks to want to expand their resources necessary to continue or to design another. Consumers interested in this type of account will have one choice. In addition, the cost of complying with the truth-in-savings provision will discourage offering new accounts or improving older ones.

Other provisions of title V: Title V serves, I think, as a colorful example of unnecessary and unproductive legislation. While the concepts may appear attractive, there has been no demonstration of the need or the effectiveness of these proposals. The apparently simple concepts will be transformed into lengthy and costly regulation. Ultimately, it is the consumers who pay for the questionable benefits.

And as a consequence, as we speak to each of the major provisions of the title, I want to show how unnecessary and costly and little benefit these are to our constituents.

Mr. President, the truth-in-savings provision requires that banks provide in account schedules the fees and interest rates applicable to the deposit accounts. Advertisements are subject to similar requirements. Yet, no one is complaining that anyone cannot walk into a bank lobby today and pick up a bank schedule of deposit accounts.

S. 543, however, will insist on codifying what is already the industry practice. Some would argue that it will not be costly for banks which are already doing what the legislation would require. This is simply not true. Ensuring that the account schedule fits exactly into the new one required by the legislation imposes costs: lawyers will have to review the new law and existing account schedules and advertisements; new account schedules will have to be designed in the format required by the law as it is highly unlikely that any bank currently discloses and advertises fees in exactly the manner that would be required by this new law; old schedules will have to be retrieved and new ones distributed. Banks would have to audit compliance and prepare for examinations on these new compliances.

This process will have to be repeated every time the bank changes the terms of the account, or develops a new advertisement, or designs a new product. The potential liability for violations, even for technical and harmless ones, adds to the cost and results in higher fees, less interest, fewer choices in bank accounts. This is not consumer protection, as proponents of title V would have us to believe.

BASIC BANKING ACCOUNTS

Similarly, the provision requiring banks to offer basic bank accounts will impose additional costs for duplicating the type of account most already offer and available and inhibit innovation of accounts which are more responsive to individual markets.

As I said, most banks already offer low-cost or a free account. If you open up a savings account, it is a free account. Certainly, in every major metropolitan city, there is available to consumers a free or low-cost bank account. But now under this bill, banks will have to offer a second type of basic account. I venture to say there are not a dozen people in this body who could name a half dozen of the existing bank accounts that are now offered. If there are a half dozen there is probably a dozen.

Few, if any, existing basic bank accounts would match the statutory one exactly which makes the grandfather provisions meaningless. Thus, banks will have to design a new account to have to conform to Government dictate, and I do not think any Member of this body knows what that dictate should be. Again, this means bringing in lawyers to review the requirements and compare and modify the existing accounts or design a new one as if the old one was broke. Software programs are going to have to be modified and installed and account schedules redesigned and reprinted.

Some banks could offer the statutorily mandated account alongside the existing account. However, the cost of this duplicative effort will force banks to discontinue many of their own accounts and offer only the statutory one, even if their own account is more responsive or popular than the statutory one.

So what is the objective, Mr. President? Others which were considering offering a new account will simply adopt the statutory one. So, by the time we are through, we have made a full circle.

The basic bank account is an exercise in overregulation, requiring banks to duplicate what most already are doing. What will the legislation accomplish? Creating an account which does not respond to the marketplace and which will not change the technology or consumer preference. Moreover, consumers are not complaining that they do not have available enough basic bank accounts. They certainly have enough.

Last, the issue of Government check cashing. The Government check-cashing provision also appears deceptively simple and inexpensive. Yet, it has substantial hidden costs.

First, banks will have to set up a bureaucratically sanctioned system of some kind.

Second, the certainty that banks must cash Government checks will serve as an invitation to check fraud—and it really will, Mr. President. It would be easy to devise a scheme to defraud banks of million of dollars with the blessing of this statute.

Proponents of the bill argue that fraud will impose no hardship because of the protections included. Yet, if they are so confident that fraud will be irrelevant, then why do they refuse to have the Government indemnify the banks for any losses? It is clearly an inconsistency.

I have prepared an amendment which would provide for Government indemnification for losses caused by the implementation of this provision, and I may pursue it at my option. But I think it is important to recognize the gross inconsistency.

Finally, Mr. President——

Mr. MACK. Mr. President, will the Senator yield for a question?

Mr. MURKOWSKI. I am happy to yield to my friend from Florida.

Mr. MACK. Going back to the basic bank account for a moment, one could, I guess, conclude that since so many banks are offering a free or certainly a low-cost account, why argue with this? In other words, if I am an institution that provides that account, it is not going to cause a problem for me, is it?

Mr. MURKOWSKI. If I understand the question from the Senator from Florida, is he suggesting that by mandating that a special account be set up, that there is an advantage here relative to the realization that there are other existing accounts, so we might as well comply with the Federal dictates? Or is his question posed in a different manner?

Mr. MACK. Let me take it a step further. I think that what those who will speak later will say is that, look, if you are a bank that is already providing a basic account, you should not worry about this legislation because it is not going to impose anything on you.

But I think that the problem is that it will be so difficult to prove that your basic account falls within all the criteria that has been established under a Government-mandated account that you will spend a fortune trying to prove the fact that your basic account is, in fact, similar to the one that is being required by Government. Probably in the end, you are going to have to set up a new account anyway.

Will the Senator agree with that?

Mr. MURKOWSKI. The Senator from Alaska would agree with that. The difficulty here I think that the Senator from Florida would recognize is it is difficult to try and comprehend just what kind of a special account they are talking about setting up that is not already in existence and provided as a banking service to the consumer.

I would be interested in the debate to hear from those who suggest that is needed, to try and structure in some detail just what kind of a new mousetrap they are proposing because you know a basic savings account is offered by virtually every financial institution that is insured by the FDIC. In fact, all of them offer different type account relationships. I do not know.

Maybe the Senator from Florida can tell me what the proponents feel should be included in this basic account that is not already available out there and makes the very point that the Senator from Florida brings up, why is this needed?

Mr. MACK. I think we will let the proponents of this section of the bill make their own points.

But the point that I am trying to underscore here is that there will be those who will make claim that since banks—for example, I was in the banking business 16 years before I came to the Congress, and one of the things that we attempted to do was offer a free account if someone would just have their Social Security check electronically transferred to our bank.

We saw it as a marketing opportunity to say to people in our community, we will provide a free checking account to you if you will just have your Social Security check, your retirement check, whatever kind of check that you might be getting on a regular basis. If you will agree when you open your account to see that your checks are electronically transferred, we will provide that basic banking service to you at no charge.

Now, my concern is that kind of initiative that is being taken by entrepreneurs in the banking business is basically going to be destroyed because it will be difficult for them to comply with other aspects of this basic account, and that is the point that I am trying to make.

Mr. MURKOWSKI. I would certainly agree with my friend from Florida. It will be interesting, when we get into the further debate, to hear what the proponents have to say about the creation of something that evidently is nonexistent. But as my friend from Florida knows—we both have had some experience in the field of banking, working in compliance with Federal laws and the recognition—while this kind of compliance often has an implication, it is important to recognize that compliance for compliance sake does not necessarily accomplish anything. And as we look at our efforts here to address soundness and safety, it is pretty hard to make a case that there are not enough regulatory applications out in the industry already. And as to those provisions in title V as being necessary, that is something that I think we both agree deserves an examination by this body, and that is why the time is being spent on the presentation.

Mr. President, the provisions of title V, in the opinion of the Senator from Alaska, are unnecessary. They will impose substantial costs on banks at a time when they can ill afford the expense. And, again, there is no outcry from constituents demanding the new products or complaining that they are not already receiving adequate disclosure on bank accounts. Moreover, no one has shown that the provisions will accomplish their objective.

Mr. President, now is not the time to needlessly increase the cost to the industry. But we do need legislation that pursues two goals, and these have been enunciated by the floor managers. First is the recapitalization of the bank insurance fund so that all Americans can rest assured that their life savings are secured; and, second, regulatory reform that bolsters the safety and soundness of the banking system and protects the American taxpayers from bank losses.

The provisions of title V fly in the face of these objectives and really deserve no part of this legislation.

Finally, Mr. President, as I have indicated, now is not the time for additional costs to the industry. The Nation, as we have noted, is seeing a record number of bank failures, suffering the ill effects of a credit crunch, and it is difficult to find in our economy an area of growth at this time. Congress should be debating legislation to promote economic growth and provide America with jobs, not senseless regulations that simply choke off consumer credit.

Mr. SYMMS. Mr. President, will the Senator from Alaska yield on that point?

Mr. MURKOWSKI. I am happy to yield for a question from the Senator from Idaho.

Mr. SYMMS. Mr. President, if the Senator from Alaska would allow me to propose a question, what he is saying is that all of this regulation, bottom line, is that it is going to cost a lot of money, up to $200,000 to $300,000, I think I heard the Senator say, for a mid-sized bank. Is that correct?

Mr. MURKOWSKI. The Senator from Idaho is correct.

Mr. SYMMS. When you add that together, you are talking about some half a billion dollars nationwide in additional burdensome regulatory costs. As a former banker, the $200,000 or $300,000 in the small communities in Alaska, or Idaho, or in Florida, or in Michigan could be a considerable amount of risk capital to lend for startup businesses; is that not correct.

Mr. MURKOWSKI. The Senator from Idaho is absolutely correct. It is my understanding that total cost estimate for current estimated cost of the banking system for implementing title V are at over $500 million. And the truth-in-savings provision alone would cost about $280 million. And banks' leverage capital at a ratio of approximately 10 to 1, so the total credit retraction from enactment of title V will be approximately $4 to $5 billion.

Mr. SYMMS. In money that would be available to lend?

Mr. MURKOWSKI. That is correct. The Senator from Idaho is absolutely correct. A geographical breakdown: New England States, $59 million in costs, or $590 million in lost credit; in my State of Alaska, $700,000 in cost, or $7 million in lost credit; California is estimated at $28 million cost, $280 million in lost credit.

So the question posed by my friend from Idaho with regard to cost data is I think a timely one relative to the realities that what we are addressing here in this banking legislation is soundness of the system, and not additional costs.

Mr. SYMMS. So we are saying here then, if I understand the Senator correctly, that title V of this bill will make it more difficult in its application for people to get needed credit, to get businesses started, to hire people, to put them to work, is basically what the Senator said.

Mr. MURKOWSKI. The Senator from Idaho is absolutely correct.

Mr. SYMMS. Well, I find that fascinating. I have to say to my colleague from Alaska, in view of some of the recent activities of this Senate with respect to imposing artificial regulations on interest rates, it is not a surprise that this would be in the bill. But I think it is rather shocking that we have this in a bill that is supposed to be a bank deregulation bill, a bill that is going to help us get banks to be more efficient, try to relieve the credit crunch which we all agree with.

I certainly hope that our colleagues will come over and vote with the Senator from Alaska to strike this needless bureaucratic nightmare on our small, little banks, to strike it from the bill so they will not have further harassment and antagonism and problems imposed on them by Government when they should be in fact looking to find good credit risks to lend money to, to start new businesses, to help people to get jobs and develop economic opportunity.

I really commend my colleague from Alaska for this amendment and give it my enthusiastic endorsement.

Mr. MACK. Will the Senator from Alaska yield to me so I can respond or make one comment with respect to that question?

Mr. MURKOWSKI. I am happy to yield, without losing my right to the floor.

Mr. MACK. I thank the Senator.

The Senator from Idaho has, I think, raised an interesting point that is related to this issue of cost related to the imposition of more consumer legislation imposed on banks in our Nation. The reason that a half a billion dollar cost becomes a drain on the banking system or the credit system of our Nation is because in essence there is a multiplier effect that takes place. Each time that you take a dollar out lending, it works its way throughout the entire banking system. And so people estimate today that for every dollar that you have increased in cost actually ends up $12 being lost on the lending side.

So, as the Senator has indicated, that roughly, it has been estimated—and I would suggest that the estimate is probably very low—the estimate of the half a billion dollars a year in costs is going to end up being somewhere in the neighborhood of about $6 billion in a withdrawal, if you will, from the credit system of our Nation. I think you are absolutely right to raise the point at this time, that we would be talking about the passage of a banking bill that was intended to increase the strength of our financial institutions in our country, the purpose being to provide more credit to our Nation, that this is an excellent point to make because this is in fact going to further constrict credit in our Nation.

Mr. SYMMS. Could I ask a further question of my two colleagues on the Banking Committee? This was not in the administration's banking reform bill, was it, title V?

Mr. MACK. Not that I am aware of.

Mr. MURKOWSKI. I do not believe it was.

Mr. SYMMS. Maybe the managers of the bill would know. Was title V part of the administration's banking reform bill?

Mr. MURKOWSKI. If I may respond, I understand that Treasury opposed title V. But again I would defer to the floor managers without losing my right to the floor.

Mr. SYMMS. If I could ask a further question to my colleague from Alaska, this reminds me of the famous Hemingway story—he is famous in my State, of course, as well as the State of the Senator from Florida—about "The Old Man and the Sea." They started with a beautiful fish, and by the time they got to port, there was not much left except a skeleton.

Now we find not only are we having trouble getting this, but we are imposing more burdens on small country bankers, and small bankers, whether they are country bankers or not—big bankers, too, with all this consumerism, under the guise of consumerism, that that somehow is going to help people.

Now we find out it is $5 billion. I think we found out from the vote on the Senate floor, from talking to people in the major credit card industry, that about half the people in the country might lose the convenience of credit cards if the Senate tries to impose, or Government edicts try to impose—interfere in the pricing of the cost to operate these things.

I do not know, I would say to my colleague from Alaska, I am sure he senses the frustration this Senator does. I wonder when we are going to wake up in this body and recognize it is about time we let the market work, and get the Government out of the way, or we are going to have everyone in the poorhouse in America. And we will have a real—not only a recession, but even a severe recession on our hands if we are not careful, by continually imposing one regulation after another, whether it is on banks, clean air standards, clean water standards, you name it. About the only thing this Congress seems to be able to do is to assure that America is not as competitive a place to do business as almost any other country in the world.

Mr. RIEGLE. Will the Senator yield for just an answer to the question?

Mr. SYMMS. I do not have the floor.

Mr. MURKOWSKI. The Senator will yield for the answer to a question of the Senator from Idaho without losing his right to the floor.

Mr. RIEGLE. I just wanted to respond to a question to the manager of the bill. It is correct the administration did not ask for the items in title V. It is also accurate to say the administration did not oppose the items that were put into title V.

So I think this is an issue. The committee did debate this at some length. They did vote on it. It was put in here. That issue was dealt with directly by the committee. I think we ought to settle it here on the floor by a vote, which I hope we can take at some point here after we have had some discussion on both sides, and let the Senate decide.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Alaska retains the floor.

Mr. MURKOWSKI. I thank the floor leader.

Mr. MACK. Will the Senator yield for a question on the basic bank account?

Mr. MURKOWSKI. I will be happy to yield to a question without losing my right to the floor.

Mr. MACK. Mr. President, in our previous discussion my colleague referred to the basic bank account and asked me about the criteria. I am going to refer to the criteria as I understand them.

The basic transaction services account features would be available to persons who have annual incomes of less than $20,000 a year, available to those who have an average daily balance of $750 or less, a minimum initial balance of $25. Generally, no fees except a monthly maintenance fee, which does not exceed the real, direct, or demonstrable cost, plus a modest profit not to exceed 10 percent of such cost. Fees shall be based on Federal Reserve's functional cost analysis. Reasonable, cost-based fee for checks returned for insufficient funds, check printing, and for transactions in excess of the minimum allowable. No fees for ATM transactions, stop-payment orders, or other activities. Ten withdrawals per month. Banks may presume the use of direct deposit when an account is opened, provided clear and timely oral and written notice is provided.

My concern is that, as I mentioned to my colleague a little earlier, and I suspect the bank I was involved in is not unique, that many of us made the effort to try to encourage people to do business with our banks by providing free accounts if there was a direct deposit involved.

So here we have a customer who has a Social Security check deposited in through electronic funds transfer, into a banking institution. And an account has been established; no charge. But if that bank should limit the number of checks, let us say, to 12 as opposed to 10, or if there would be a fee for a stop payment, that account would not comply with this Government-created bank account.

And therefore, the first thing I can imagine would happen—and you correct me if I am wrong—is that the bank will turn to its legal advisers, its legal counsel, and ask them to go through the account as they are presently operating it and ask the legal counsel to take a look at the requirements the Government has established and ask the question, Does this, in fact, comply with this requirement?

First of all, you have the legal costs related to finding out whether you are in compliance now or not. If the conclusion is you are close, but you are not close enough, you certainly do not want to take the chance of assuming that you have complied with that regulation. Therefore you now have established a new account. I suspect maybe some of the people who have been doing business with you previous to the establishment of this new account are now going to move from the accounts that you have had into this new one, so they could avoid any other costs related to that account.

Is that correct?

Mr. MURKOWSKI. It is difficult, I reply to the Senator from the State of Florida, to project just how this would be put into effect in the sense of having it functional in relationship to the existing accounts. I assume the attorney would advise the institution that, to comply with the law, this is what you are going to have to do.

So it takes all the innovation away from the organization to come up with some kind of a better mousetrap, so to speak, to beat its competitor. It simply makes uniform a specific account structure as the justification of that, in the sense of whether it be needed or not. I think my friend from Florida would agree the marketplace can dictate the terms and conditions and competitive factors. Why should Government take that away in the form of a law under title V, when it is not needed?

It would be, again, interesting to hear the other side proclaim the justification and necessity of this type of special account. It is almost a mandate of the bureaucracy that says we are going to simply make everything uniform, take away the initiative, and mandate a compliance, which is hardly the American way. There is hardly justification for it. I have not seen one letter of support for this hybrid type of account that would be mandated by title V.

Mr. MACK. I thank the Senator.

Mr. MURKOWSKI. Mr. President, let me just continue, and I will try to wind up my comments because, again, I emphasize that what we should be doing in this body is addressing the recapitalization of the bank insurance fund so all Americans can rest assured that their savings are secure; and second, regulatory reform that bolsters the safety and soundness of the banking system.

I think my friend from Florida would agree that seems to be the consensus of the House of Representatives, but not necessarily this body. This body is proposing to go into this major regulatory reform with no justification, no indication that the administration supports it, or the Secretary of the Treasury.

In all deference to the floor leader, the suggestion that they did not oppose it is hardly, I think, an adequate answer for imposing additional regulatory requirements.

Let me conclude with just a brief note on a sampling of letters of support that I have received from bankers nationwide on this issue.

Before I do, as a followup to the point that the Senator from Idaho brought up that as we reduce the revenues, we also reduce the availability of loanable funds and we reduce the availability of capital capability, I would like to have printed in the RECORD an article from the Anchorage Dialy News of September 29, 1991. It is entitled "Few Will Touch Alaska Loans." I ask unanimous consent that be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MURKOWSKI. Mr. President, it says:

> Savings and loan associations, pension funds and insurance companies outside Alaska that once loaned mortgage money for commercial real estate purchases or develop-

> ments are hanging up on Alaska's bankers. Some are even demanding early repayment of the loans they've already made.
>
> "We're right back to where we were 15 or 20 years ago. Nobody wants to put money here," said Randy Boyd, the vice president who handles real estate lending at Key Bank of Alaska.

Which is a chain out of New York.

> Alaska's credit crunch lingers today, five years after Anchorage's real estate market started collapsing in the late 1980s recession. For years it hardly mattered. Most of the commercial real estate sales were repossessed properties, often bought by investors with lots of cash and financed by the institutions that held the property.
>
> But as Anchorage shakes off the dark days of the late 1980s, businesses and commercial real estate investors are scrambling to find loans to buy buildings, build new ones or expand existing ones. Some bankers fear Alaska's economy could be dragged down if business can't find the money to grow.

It is simply the realization that the demand is out there, Mr. President.

I also have a series of letters which I will just briefly refer to. From the Sovran Bank here in Washington, DC:

> I am writing today to express my views on the basic banking legislation pending before Congress. At stake is my future and that of my industry and of my community. . . .
>
> Bankers are eager to compete in today's marketplace, but we need laws that enable us to do that. By your actions and the actions of Congress to support . . . removing Title V. . . , you can help make a strong future for the banking industry a reality.

A letter from First American Bank:

> I understand that Senate bill 543, title V, consumer provisions is coming up next week for action. I believe that to be a ridiculous bill as the existing regulatory burden on banks has caused the industry inordinate financial and operational excess. I urge you to support Senator MURKOWSKI's bill.

And that is from First American Bank in Maryland.

This is by the South Carolina National Bank:

> I have spent nearly twenty-five years as a banker and have growing concerns with the constantly increasing load of Government regulations which are, in my opinion, unjustly thrust on this industry. We at South Carolina National Bank believe we are good corporate citizens in the highest meaning of those words and consistently demonstrate that in every aspect of our business. However, in addition to being good corporate citizens, we also have an obligation to our shareholders and employees to conduct our business in a manner which ensures the financial stability of the organization. * * * I would urge you to aggressively oppose this particular bill * * *.

The First National Bank of White Sulphur Springs, MT:

> I want to thank you for your leadership. * * * I feel this section is burdensome, unnecessary and would be very costly. * * * I hope that your efforts are successful * * *.

Cross Keys Bank in Louisiana:

> Just wanted to let you know how much I, as a small town community banker, appreciate your efforts to eliminate title V. You obviously understand the cost/benefit ratio of these sorts of regulations is not beneficial to society and the marketplace.

And, more particularly, the small banks of America.

I ask unanimous consent that those letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SOVRAN BANK,
Richmond, VA, October 31, 1991.

Hon. CHARLES S. ROBB,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR ROBB: I am writing today to express my views on the basic banking legislation (S. 543) pending before Congress. At stake is my future and that of my industry and my community. I think that title V of this legislation is unnecessary and would be redundant to the products and services offered by this bank and most of other financial institutions. To me, modernization means allowing banks to compete through the offering of new products and services and reducing the crushing regulatory burden.

Bankers are eager to compete to today's marketplace, but we need laws that enable us to do that. By your actions and the actions of Congress to support Senator Murkowski in removing Title V from S. 543, you can help make a strong future for the banking industry a reality.

Thank you for your consideration.

Sincerely,

STEPHEN A. SCHUTZE,
First Vice President.

1ST AMERICAN BANK,
Silver Spring, October 31, 1991.

Hon. BARBARA MIKULSKI,
U.S. Senate, Senate Hart Building, Washington, DC.

DEAR SENATOR MIKULSKI: I understand that Senate Bill S-543, title 5, Consumer Provisions is coming up next week for your vote. I believe that to be a ridiculous bill as the existing regulatory burden on banks has caused the industry inordinate financial and operational excess. I urge you to support Senator Murkowski's bill.

I enclosed for your information brochures and disclosures which we make available to our customers.

I appreciate your time in reading this correspondence and once again ask you to fervently support Senator Murkowski's bill.

Sincerely,

WILLIAM A. RYAN,
Executive Vice President.

SOUTH CAROLINA NATIONAL BANK,
November 1, 1991.

Hon. ERNEST F. HOLLINGS,
Russell Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: I understand that the Senate is beginning discussions on Senate Bill 543 and specifically Title V which involves consumer issues including Basic Banking and Government Check Cashing. I have spent nearly twenty-five years as a banker and have growing concerns with the constantly increasing load of government regulations which are, in my opinion, unjustly thrust on this industry. We at South Carolina National Bank believe we are good corporate citizens in the highest meaning of those words and consistently demonstrate that in every aspect of our business. However, in addition to being good corporate citizens, we also have an obligation to our shareholders and employees to conduct our business in a manner which ensures the financial stability of this organization.

We currently offer to anyone a checking account (Bargain Checking) with no minimum balance requirement and no fees other than for NSF checks and transactions at ATMs we do not own. Users of this account, therefore, can avoid *all charges* if they handle the account properly and limit their ATM usage to the 166 machines owned by this bank, (see center pages of the enclosed brochure). Without question, this account does provide the opportunity for anyone to have a checking account at this institution with little or no cost.

Accordingly, I would urge you to aggressively oppose this particular bill and certainly any other legislation which would place additional unnecessary, or perhaps more importantly, undeserved regulation or financial burden on this industry. I look forward to hearing from you.

Sincerely,

GEORGE S. KING,
Senior Vice President.

1ST NATIONAL BANK,
White Sulphur Springs, MT, 59645
October 15, 1991.

Senator FRANK H. MURKOWSKI,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: I want to thank you for your leadership in working to have Title 5 of Senate Bill 543 deleted.

As a community banker and former examiner with the Office of the Comptroller of the Currency, I feel this section is burdensome, unnecessary and would be very costly. It also would create just another series of regulations to learn and comply with.

I hope that your efforts are successful and as Chairman of the Agricultural Bankers Division of the American Bankers Association, please know that your efforts are much needed and appreciated.

If I can be of any help, please let me know. With best personal regards, I remain:

Very truly yours,

MICHAEL E. GROVE,
President.

CROSS KEYS BANKS,
St. Joseph, LA, October 21, 1991.

Senator FRANK H. MURKOWSKI,
Senate Hart Building, Washington, DC.

DEAR SENATOR: Just wanted to let you know just how much I, as a small town community banker, appreciate your efforts to eliminate Title 5 of Senate bill 543. As a former banker, you obviously understand that the cost/benefit ratio of these sorts of regulations is not beneficial to society and the marketplace.

Thanks so much for your help, and I am sending copies of this letter to Senator Johnston and Senator Breaux in hopes that they will join in your effort.

Sincerely,

WILLIAM W. WATSON,
President.

Mr. MURKOWSKI. In conclusion, Mr. President, the provisions of title V are absolutely unnecessary. They will impose substantial costs to banks. There is no outcry from constituents demanding new products or complaining that they are not receiving adequate disclosure on bank accounts, and moreover no one has shown that the provisions will accomplish their objectives.

Furthermore, Mr. President, now is not the time to increase the costs of doing business. Again, as we reflect on what is needed in our Nation today, it is a program and legislation to promote economic growth, provide Americans with jobs, not senseless regulations that simply choke off consumer credit.

Let us get on with this banking bill. Let us get on with the capitalization of the bank insurance fund so that Americans can rest assured that their life savings are secure and, second, with regulatory reform that bolsters the safety and soundness of the banking system.

I am glad to see so many of my colleagues feel as strongly as I do and recognize this additional regulatory burden is unnecessary and unwise at this time. I hope that we will address it either in defeating title V as a whole or taking it individually in an amendment process, because I assure the manager that on this matter, as he feels the necessity of getting along with the business at hand, title V simply is not part of that process.

I thank my colleague from Florida and my friend from Idaho, and at this time I yield the floor.

EXHIBIT 1

[From the Anchorage Daily News, Sept. 29, 1991]

FEW WILL TOUCH ALASKA LOANS

(By Bruce Melzer)

Jan Sieberts of National Bank of Alaska can't get anyone to return his calls. Vic Mollozzi at Northrim Bank said he's gotten nothing but "No."

Savings and loan associations, pension funds and insurance companies outside Alaska that once loaned mortgage money for commercial real estate purchases or developments are hanging up on Alaska's bankers. Some are even demanding early repayment of the loans they've already made. "We're right back to where we were 15 or 20 years ago. Nobody wants to put money here," said Randy Boyd, the vice president who handles real estate lending at Key Bank of Alaska.

Alaska's credit crunch lingers today, five years after Anchorage's real estate market started collapsing in the late 1980s recession. For years it hardly mattered. Most of the commercial real estate sales were repossessed properties, often bought by investors with lots of cash and financed by the institutions that held the property.

But as Anchorage shakes off the dark days of the late 1980s, businesses and commercial real estate investors are scrambling to find loans to buy buildings, build new ones or expand existing ones. Some bankers fear Alaska's economy could be dragged down if business can't find the money to grow.

Alaska banks, stung by millions of dollars in soured loans during the 1980s, are picky about who gets their money today: only those who plunk down a lot of their own cash and don't want to borrow the banks funds for very long.

Already bankers are putting pressure on the state to fill the void left by Outside lenders.

Blame it on the national recession, poor investments by the insurance companies and the collapse of many real-estate-based savings and loans around the country, said Boyd and Sieberts. Add to that the pressure by bank regulators to reduce real estate ending up in the nation's banks, the bankers said.

Aggressive real estate lending pulled down most of the nine banks that failed in the recession and that helped taint lenders' views of Alaska, said Glenn Olds, state commissioner of commerce.

"The Outside banks and pension funds had so much fun in Alaska, they don't want to come back," said Wayne Williams, deputy director at the Alaska Industrial Development and Export Authority.

NO TAKERS

Bob Hickel put out 140 calls in his efforts to refinance the loan on his company's University Center shopping mall. Equitable Life Assurance Society held an 11-year loan on the mall. But, this year, the giant insurance company was in the middle of a well-publicized cash squeeze, he said.

When Equitable asked to be paid off early, which it had the right to do under the loan agreement, Hickel spent nearly four frustrating months trying to find another lender.

Potential financiers didn't have a problem with the real estate itself. "There was simply no interest in Alaska," said the president of Hickel Investment Co.

The mall owner is renegotiating the loan with Equitable. The insurer's willingness to keep the mall loan was due in part to its improved financial shape after cash infusion by a French insurance firm, Hickel said.

Banks typically loaned money for construction of projects like Hickel's mall, but often didn't carry the mortgage. Instead the banks sell the loans to companies that make their money with long-term investments, savings and loans, insurance companies and pension funds, said NBA's Sieberts.

Commercial real estate sales work the same way. Local banks often make the loan, then sell it.

This year Sieberts tried to spur interest in some Alaska real estate deals to the few Outside investors still buying commercial mortgages.

"They will go through 49 states before they come here. They won't return my calls anymore," he said.

Alaska's banks will lend for real estate, but only for buildings that are sure-fire moneymakers over relatively short periods. All of the major banks usually require buyers to put up at least 25 percent of the building price, sometimes more.

NBA will make real estate loans to investors for a maximum of 10 years, Sieberts said. Those loans stay in the bank's own portfolio. Interest rates adjust every three years for typical NBA real estate loans.

First National Bank of Anchorage, the state's second largest bank, gives 15-year loans with a minimum 25 percent down payment, typically with variable interest rates, said Richard Enberg, head of the corporate lending division.

Key Bank has the longest terms available. It offers loans between 15 and 20 years. But those loans often include an option to "call" the loan—a demand for full repayment after five to seven years, Boyd said.

Security Pacific Bank, Alaska's fourth largest, gives commercial real estate loans mainly for businesses occupying the building they are buying, said Ralph Holiday, president.

No borrower is immune from the credit crunch. Northrim Bank, Alaska's newest bank, is looking to buy the building it leases on C Street, said Marc Langland, bank president. Even though the sale is still being worked out. Seattle's Sea-first Corp. has already turned down Northrim, said Williams with AIDEA.

Northrim has taken the first steps to get a loan from AIDEA, Williams said.

NATIONAL CRISIS

The credit crunch extends beyond Alaska. "Over the past 18 months a credit crisis of national proportions has developed and grown increasingly severe, particularly for the real estate market," wrote the National Reality Committee, an industry lobbying group.

"Today's credit crisis is marked by unchecked declines in real estate values, illiquid real estate markets, mounting stress on the banking system, increasing unemployment, and an eroding state and local property tax base," the committee wrote.

That real estate group says the banks are being squeezed out of commercial real estate lending by a slumping market throughout the nation, and regulators fearful of excessive real estate lending. As part of a national trend, Alaska's bankers are being pressured by bank regulators to reduce real estate lending, said Sieberts of NBA.

The United States' banking system isn't set up to allow banks to loan long term, bankers said.

Banks rely on depositors for their funds, depositors that can demand their money at any time, said Northrim's Langland. This need for liquidity—the ability to get cash on hand in a hurry—makes it difficult for banks to tie up their money for the 20 or 25 years often needed for real estate deals, he said.

The credit crunch may be real, but bankers and commercial real estate brokers had a hard time pointing to a good, solid deal that died for lack of a loan.

Jeff Thon, broker at Pacific Tower Properties, said the problem may be that buyers are unsatisfied with the loan terms because they have to make too large a down payment or pay off the loan too quickly.

Alaska banks can handle the community's needs, said D.H. Cuddy, president of First National. Despite his confidence in the local banks, Cuddy said he is concerned by the pullout of the life insurance companies. "With the chaos in the real estate market, Outside banks have taken losses in this market, and it will take time to woo them back," he said.

But some bankers worry that if the credit crunch continues, Alaska business will be badly hurt. If the lending system can't allow business to grow, "the economy can slide pretty fast. Coming out of the recession, we need all the tools we can get," Langland said.

TURNING TO THE STATE

Alaska's bankers are looking to the state-owned Alaska Industrial Development and Export Authority to plug the gap left by the exodus of Outside lenders.

"We can't rely on the rest of the United States to take care of us," said Sieberts.

So far the agency's new board has been reluctant to jump headlong into major real estate lending, but that policy is likely to change according to Olds, commerce commissioner and AIDEA board member. The agency's board is in the middle of examining its mandate, he said.

Last month, AIDEA's board turned down a real estate loan for Aleut Corp. to buy a $2 million strip mall on Tudor Road. The board said the project wasn't worthy of funding because it didn't create jobs, said William Scott, agency executive director.

The decision shocked the bankers, who have been selling just such loans to AIDEA for 11 years. Under the program, the bank holds about 20 percent of a loan and AIDEA holds the rest, William said.

"We kind of thought with the new administration, they would open up (to commercial lending). That hasn't been the case," said Sieberts, whose bank brought the Aleut loan to AIDEA.

The deal didn't die, though NBA financed the loan after Aleut agreed to a down payment of nearly 50 percent, said Alice Petrivelli, the Native corporation's president.

Bankers have been leaning on AIDEA to fund real estate, regardless of whether the deal creates jobs.

"My personal feeling is that AIDEA should be making good, solid, well-evaluated loans. I'm not that uptight that only procuring new jobs or products demonstrates economic development," Scott said.

Edgar Blatchford, a board member and the state's commissioner of community and regional affairs, said he supports some real estate investment, but, "I would like to see the generation of local jobs for local people" as the priority for AIDEA funding.

Despite the cries of "credit crunch," AIDEA hasn't seen much demand for loans, Scott said.

Last year only one bank approached AIDEA with a loan, agency records show. This year banks have proposed eight deals, according to the records.

All the tools are in place to make it even easier for AIDEA to get into long-term real estate loans. A new program encourages banks to sell participation in long-term loans to AIDEA, by enabling the banks to get repaid twice as fast as the agency does. That technique already has been used to fund development of the new Carrs Quality Center in Kenai.

But AIDEA's funds are limited. Only about 15 percent of the agency's $900 million assets could be available for lending, Scott said. Real estate loans also would have to compete with other development project, large and small, funded by the authority, he said.

So far the credit crunch appears to be manageable. Real estate buyers aren't breaking down the doors to get loans, bankers said. But Hickel, the mall owner, wonders what will happen if the insurance companies and other Outside lenders want their money sooner, rather than later, or refuse to refinance the loans they already have. "If everyone is going to call their loans, who is going to come up with the money."

Mr. RIEGLE. Mr. President, I will not speak at terribly great length. I know the Senator from Florida has been waiting and has participated before.

I should have shown a document from the Treasury Department dated November 13 where they indicated they do not favor two parts of this title, namely, the items that will be addressed by the Cochran amendment: The lifeline account and the Government-check-cashing account. They do not, in that letter, address the other items in title V.

I might just say with respect to what is in title V, there is nothing radical at all about this title of the bill. All the major provisions of this title have been debated before here on the floor. Most of them have passed the Senate before.

There has been a lot of talk, a lot of discussion working out these issues in terms of having, I think it is fair to say, a broad level of support. There are some items that are new here, and we will get to those in just a moment. But, for example, the Truth in Savings Act, which was authorized by Senator DODD, has already passed the Senate twice, so that is an issue which has been through here. I do not think, frankly, there is great controversy attached to it. That does not mean every Senator favors it, but certainly the Senate has, as a whole, favored it on at least two occasions.

In title V, the Fair Lending Enforcement Act has also passed the Senate twice previously. That has been authored by Senator DIXON. It goes to the issue of patterns of discrimination against minority persons who seek credit. We know it is a major problem. There was a front page national story that ran across the country just 3 weeks ago on a Federal Reserve study on racial discrimination in lending. The results of that study were shocking. The study showed that minority home buyers were turned down for mortgages two to three times more often than white buyers, and furthermore, that nonminority people in the lowest income category were more likely to be approved for a loan than minority persons in the highest income category.

So I do not think this is an issue that is new. It is one that we have looked at before. We know there is a problem in that area. It is an effort to try to deal with that problem. The Senate, as I say, has favorably acted on that twice before.

With respect to the access to financial services by low-income people in the country who do not now have such access, we have written that provision very carefully to not have it become an expensive burden on banks. For example, we specifically allow that these should be money making accounts, that banks should be allowed to earn a 10-percent profit on either a check-cashing service or a basic lifeline account, and so this is not something we are asking them to offer as a gift. To the contrary, we fully expect that it will be run as a business, that it will be run on the basis of earning a profit.

We have a number of other antifraud provisions that are built in here so that people, if they want one of these accounts, have to come in and register. They have to show identification. They have to go through proper steps to establish that kind of a banking relationship.

We have spent great time putting safeguards in here. Also, we allow banks to self-certify in this area. We do not impose some new regulatory burden to go out and put regulators to work to monitor the activity in this area. Many of the banks, of course, in the country already do this. We see that, and we respect that and it is one of the reasons we have been willing to go the self-certification route.

There is also in this bill a Home Equity Protection Act, which, again, requires lenders to disclose the margin that applies to variable rate equity loans. But that is simply a disclosure item. That is simply to allow people to have accurate information upon which to base a choice. I believe in free and open competition, and if lending institutions in a given locale are offering, say, mortgage products and one is offering one rate and one is offering another rate, I think we need to have some comparable way for consumers to understand that so they can decide to which institution they want to go. But that is fully in the nature of just the way our free enterprise system works.

But it is fair to say that oftentimes these financial calculations are very complicated. Sometimes they are made complicated so that they cannot be understood and so people cannot do price comparison shopping. We think that is good for the economy. We think to get the customer informed to the point where they can go and find the low-cost source of mortgage financing is good for everybody. It is good for the person borrowing the money, good for the economy, and makes it more likely that we are going to sell homes in this country and get a little more lift into the economy.

I think, too, that at a time when we are asking the American taxpayers to lend the bank insurance fund $70 billion and they are being asked to lend the money to the bank insurance fund because the bank insurance fund is broke, in a sense this is a loan to the banks and also to the deposit insurance system.

The banks intend to pay this back under the provisions of this bill over the next 15 years. They are under the obligation to do that. But in the meantime, the taxpayers have put their money on the table to allow this extension of credit, if you will, to the banking system in order to maintain the Federal deposit guarantees in place—very important to the banks by the way.

Mr. MACK. Will the Senator yield on that point?

Mr. RIEGLE. Yes.

Mr. MACK. I want to clarify something with respect to BIF recapitalization. That is the loan to the banks?

Mr. RIEGLE. No. It is a loan on behalf of the banks because the banks have to pay it back. It is a loan to the deposit insurance fund backed by the promise of the banks.

Mr. MACK. The purpose of which is?

Mr. RIEGLE. The purpose of the loan is to refinance the fund which is empty and to be able to continue to provide deposit insurance up to $100,000 per account, per insured account, in banking institutions across the country. It is so the banks are in the position to be able to continue to offer deposit insurance, Govern-backed deposit insurance, to the depositors of the individual banks.

Mr. MACK. I just want to clarify the point though. The real purpose of this money I think is to see that depositors who have accounts in failing institutions will be able to receive funds from the FDIC. Is that correct?

Mr. RIEGLE. That is exactly right. But that is only part of the story. That is right but the money that is collected in the fund is from the insurance premium that banks pay into the fund, as the Senator knows, who accumulate the money to provide the insurance for these accounts to all banks.

What has happened is the large volume of failures of banks for multiple reasons have now exhausted the fund so there is essentially no money left in the fund. So individual banks are going to be able to keep that seal on the window that says they provide Federal deposit insurance.

In order to keep that Government guarantee seal on the window, we now have to borrow money to put into the deposit insurance fund because all the bank failures have exhausted the fund and the bankers are saying they will pay it back. They are saying put the money in, and over the next 15 years you can adjust our premiums and we will pay the money in to pay the taxpayers off.

Mr. MACK. The only reason that I reacted to that—I think it is important that we have this little dialog—is that I know for the last 2 years everybody has been running around, and when we talk about the bailout of the S&L's, everybody wanted to make sure people understood it was not the S&L's who were being bailed out. The fact is the money was put forward for the purpose of seeing the depositors get their money back. Without that money, instead of people talking about an S&L crisis, they would have been talking about a loss of thousands, hundreds of thousands of dollars of their own money.

I think we are trying to do the same thing in this case. I did not want it to come across, because I think some of our colleagues, if they had to come down to the floor of the Senate here before too long and would have voted to lend money to the banks without the clarification—the real purpose of it is to provide resources to make good on the insurance commitments that have been made—there might be some people running for the doors.

Mr. RIEGLE. I think what the Senator says is accurate and to be added to it, has to be this point: I think it is fair to say—and the Senator comes from the private sector having been in banking, so he understands banking very thoroughly, perhaps as much as any Senator here today. I take it to be very important to the banking system, to the commercial banks who are within the deposit insurance system. They want to stay there. They want to continue to have deposit insurance.

They feel very strongly because that seal of protection on the window lets depositors know that up to $100,000 of their savings are insured and backstopped by the full faith and credit of the Federal Government. In fact, we actually put that on the seal in the FIRREA legislation so that there was no question about it, because there was some concern on the part of some people as to whether the Government would stand behind those guarantees.

If those seals were taken off the windows of the banks in the country tomorrow, I think that would be very destabilizing. I think the banks would agree with that. They do not want that seal taken off.

I do not want it taken off. But the only thing right now that is going to allow the seal to stay on the window is the fact that the public is now going to put up $70 billion to refinance the bank insurance fund to try to get a positive balance back in to handle future bank failures and paying off depositors under the insurance coverage in the months ahead. That is precisely where the money goes, as the Senator properly points out.

But it is a reciprocal relationship. In other words, that system works almost in a closed loop in the sense that it is very important to the banks that they have that deposit insurance guarantee there to offer to their savers, to bring the savers through the door, put the deposits into the various accounts, and for people to have the confidence to know that if, in the worst case, that bank closes their deposits will be paid back.

Fortunately, in our country, we have redeemed every dime of insured deposits of any citizen in America within the insurance limits up until this very day, whether their money was in an S&L or was in a commercial bank. We intend to continue to do that by this legislation.

But that bond is such that I think it is fair to say that that provision is as important to the banks as it is to the public that comes in and puts some money in, in the form of savings in a given bank. It is very important to the country because if there is one thing we need right now, it is more stability, more confidence, and more of a sense that the problems like this that have emptied the bank insurance fund are being corrected.

Some of them we cannot correct overnight, like too big to fail. We have worked out in this bill, as the Senator knows, a provision that will take 5 years to work us out of that problem and to get us back to a more solid position. But we do it very carefully. We have worked this through to try to come up with a way to do that.

The same thing with the banks paying back the $15 billion over—I should say the $75 billion—over a 15-year timeframe because we did not want too short a period of time that would make weaknesses in the banks even more severe, nor did we want too long a period of time. So that we relieved the pressure of the banks of coming forward with insurance premium income to refinance the fund themselves and take the taxpayer off the hook over the next 15 years.

So I think we are, in effect, sort of making the same points. This is here to protect individual savers. That is very, very important. But it is there also to protect. It is also there to protect the banks and the banking system and, I think, the structure of our economy. That is why if this legislation is not enacted—and I believe it will be enacted—but if it were not to be enacted I think it would be a terribly destabilizing event in the country.

I think that is one of the reasons the President spoke about it yesterday, and said that this bill is one of his top legislative priorities and that he wants it passed. It does not mean that he likes every particular part of it any more than the Senator might or that I might.

But taking that into account, this is legislation that must past. I think it has to pass today, if I may say so.

I know the Senator from Ohio wanted me to yield. Did the Senator have an additional comment that he wanted to direct to me?

Mr. MACK. I guess I really did not until the last statement, and that is I think not only the President wants to see recap of the bank insurance fund take place, but so do I and I would imagine the majority of the Members of the Senate.

But I suggest that the President was talking about much more than just the bank insurance fund, hoping that he would get a bill that provided interstate branching, that provided Glass-Steagall changes and so forth. It is pretty obvious to this Senator that is really not going to take place. It will take place, but we will have to work through the process over the next several days to see what comes out.

Mr. RIEGLE. Some of it will and some of it will not. We had in our bill, as the Senator knows, a Glass-Steagall provision which I supported, which the Senator supported, and which I thought was solid.

We ended up taking it out, in essence, because the House was unwilling to take that, and the administration reached a judgment that it could no longer remain in the bill usefully, so it came out. But it came out with great reluctance on my part.

The interstate banking issue, however, is in the bill. I might say that some of the outside experts have said that the banking system may well be able to save as much as $10 billion over the next few years in operating costs by allowing an orderly consolidation of some banks, using the interstate provision that is in this bill. So that is one area that I think is very important in what we have.

When I talked to the Treasury Secretary this morning, he felt we should take this bill through to conclusion today, recognizing that parts of it are not precisely to his liking, my liking, or the Senator's liking. He was clear in his view that it is essential that this bill be acted on and finished by the Senate today.

Mr. MACK. In response to the last point, I understand the Secretary's desire, and I suspect that a number of Members of the body—I think that the chairman of the Banking Committee himself is anxious to conclude it, but I do not know that that is necessarily going to be possible, given some strong feelings that have been expressed with respect to title V. That is one, as the chairman indicated, we will vote on. But there are many other approaches than just strike title V that may in fact be addressed here as we continue to work on this legislation.

Mr. RIEGLE. I gather we are going to have, at a minimum, two votes here, one on the Murkowski amendment which eliminates all of title V, and I understand there is a Cochran amendment that would strike the lifeline provision and the Government check-cashing provision.

I am willing to have the Senate work its will. That is the nice thing about a democracy. Sometimes we do not know how it is going to turn out until the votes are taken. I hope that once the Senate has had an opportunity to vote, we could move on to the other issues that are here, because they are all important. The whole bill has to be settled. I do not think we ought to hold this part of the economic system, if you will, hostage to the fact that there may be parts of this bill that one or another of us do not like. I can tell you that there are parts I do not like. It is in the nature of give and take that we develop a bill that has balance and symmetry.

Did the Senator from Ohio want me to yield to him for a question?

Mr. METZENBAUM. If the Senator from Michigan is proceeding with his remarks, that is no problem at all. I will come back after the luncheon.

Mr. RIEGLE. One other point, and I will yield to the Senator from Ohio, or anybody that wants to speak. This title is a very straightforward title. There is nothing in here that is extraordinary. They are all items we have debated before.

Many of the points that the Senator from Alaska pointed out relate to other consumer provisions now in the law that have absolutely nothing to do with title V. I realize he was making a broader point, that he wanted to point out what all the regulations are in the consumer areas that apply to banks today. A large part of what he spoke about has nothing to do directly with what is contained in section V of this bill.

As I say, I think with the truth-in-lending aspect of it and the Fair Lending Enforcement Act, these have passed the Senate before. I do not think they have any appreciable degree of controversy in them. That does not mean that some Senators may not favor them. But the Senate has already worked its will in that area, and I think most of the controversy has gone out of those provisions.

I think it is the two accounts, the lifeline account and the Government check-cashing account, that are important to the Senator from Ohio, which are the issues here.

I yield the floor at this time.

Mr. METZENBAUM. Mr. President, let me preface my comments by commending the Senator from Michigan. He has given an unbelievable amount of his time, effort, commitment, and his concern to finally fashion a banking bill that is fair, and I just do not know when I have seen anybody work harder in order to try to accommodate all interests and all concerns, as far as putting together a piece of legislation.

I am pleased that there are consumer provisions in the bill, because I have worked hard for a long time to get check-cashing provisions in the law, make it possible for people not to have to go to those check-cashing operations that charge $8, $10, $12, $20, $25 to cash a check. This is the money that veterans, and senior citizens, and the poor need. But it comes right out of their pockets, and there is an effort in this bill to do something about that.

There is not as much as I would like to see in the bill, I am frank to say, but I recognize the practicalities of the subject, and I strongly support the provisions that are in the bill in connection with check cashing. I strongly support the lifeline provisions that are in the bill, and I accept the concept that the banks will be able, both with respect to check cashing as well as with respect to lifeline accounts, to charge not only their costs but a 10-percent profit as well.

I found it difficult, as I sat here this morning, to listen to the Senator from Alaska talking about what a terrible thing this is going to be for the banks, and they have so much in expense, and he kept talking about $500 million to $1 billion. Let me point out that his figures had nothing at all to do with this bill—nothing to do with this bill. But the average listener would have thought that somehow or other this bill was going to cost the banks $500 million to $1 billion extra. No way. This bill is a bonanza for the banks. This bill is the greatest thing that could happen to the banking industry, and if the bill is sunk, there will be no banking industry in this country, because you will not have a Federal Deposit Insurance Corporation.

This bill provides that all the taxpayers of this country are going to put up $70 billion as an advancement to the FDIC, to be repaid, hopefully, over a period of 15 years. But $70 billion will be put on the line by the taxpayers of this country.

As a result, what are they going to get out of it? Very, very little. If the Murkowski amendment does not prevail, and if the subsequent Cochran amendment does not prevail, they get a little tiny bit; they will get the right for poor people to be able to open lifeline accounts, accounts that are very modest in amount, $25; but the banks will be able to charge a fee in connection with those accounts, plus 10 percent. In other words, their cost plus 10 percent. They will be able to cash checks, but not all people will be able to cash checks under this bill, which is what I believe should happen. I think any Government check, any Veterans Administration check, any Social Security check, any check backed by the Government of the United States ought to be cashed by a bank. But, no, they will not be able to do this, unless their earnings are under $20,000 under this bill.

I am very pleased about the fact that the American Association of Retired People [AARP] is for these consumer provisions in the bill. And I am particularly pleased that the Independent Bankers Association of America is also supporting the consumer provisions of the bill.

That means they are opposed to the Murkowski amendment and opposed to the Cochran amendment. That means that the small bankers of this country recognize that these are fair provisions in the bill.

So I hope that my friend from Alaska, when he returns to the floor, will understand that this is not any imposition on the banks. They are going to make a profit out of it. The banks are also going to be permitted under this bill to sell insurance. This is quite a bill for the bankers.

But do not ask the bankers to give up anything, do not ask them to do something that they do not want to do. The independent bankers are great. The small bankers are great. They are with us. But the large banks say, "Oh, no, we cannot do that. It may cost us." That is a lie, because it cannot cost them because they are permitted to charge and make a 10 percent profit.

I am told by staff that the IBAA supports the check-cashing provisions and the basic banking provisions and is not endorsing the other consumer provisions that are in the bill. But those are two of the most important provisions, and I am very pleased about that support.

There are other provisions that only give depositors information. They should be given that information with respect to interest rates and with respect to fees. What is such a horrible thing about that? And why do we find so many Senators coming here and saying, oh, no, no, we do not want to do that? Is it some secret about interest rates and the fees that are being charged? I would hope not. I would hope the banks would want to do business in the open and let their depositors and customers know what is going on.

There is some grandfather clause in this bill that says that if banks are presently taking care of these provisions, then the provisions of this bill are inapplicable.

So that is another provision taking care of the banks.

There were other provisions accommodating the concerns of the banks.

But when all is said and done, let us not overlook the fact that this is a banker's bill. And if we do not have this bill, there will not be any money to keep the FDIC going. And so if taxpayers are asked to put up $70 billion, with the hope and a prayer that they will get the money back, it is provided for that they are to get it back. It needs some clarification. For the first $25 billion there is no question they will get it back. It is my understanding, in discussions had with the chairman of the committee, that the other $45 billion is also to be repaid by the banks. But I think that language needs some clarification. And it is my understanding that the chairman of the committee is receptive to that.

I want to make it clear that as far as the taxpayers are concerned they are entitled to some consideration—the consumers, the small bank people who need small banking accounts, the poor, they are entitled to the little bit of consideration that is provided for in this bill. And if they do not get that, then it is entirely a banker's bill—$70 billion and a right to go into the insurance business.

Bankers were never before permitted to go into the insurance business except in very, very limited terms. Those terms are expanded in this bill—not as much as the bankers want it, but permitted to go in if the State laws permit that, and that means a major extension with respect to those interstate banks that are operating at the present time.

Mr. President, I intend to address myself at some further length to the consumer provisions of this bill. But let us make it clear that as we look at those, we ought to take into consideration the consumers because it is the consumers who are the taxpayers of this country. And all of us are consumers, and let us not kid ourselves about that. It is the consumers, the taxpayers of this country, who are putting their money on the line in order to preserve the banking system in this country.

And the small provisions that are provided in this bill in order to help the poor, the veterans, the aged are a small enough price for the bankers to pay, and I think it is regrettable, I think it is regrettable, and I kid you not, to have 11 Senators sending a letter around claiming that somehow this is going to hurt the banking system of this country. It is not going to hurt the banking system of this country. It is just a question of every time we come out on the floor of the Senate with a bill having something to do with the banks, the banks want it all their way, all their way—bail them out when they get in trouble; put up $70 billion; but do not ask us to do anything. Oh, no, you might be jeopardizing the banking system.

The jeopardy of the banking system has come about by reason of the banking practices of those who have been running the banks—not the Government, not the people of the country, not the taxpayers—but the executives of those companies who have made bad loans and that is the reason we need to come up with $70 billion here.

The banking system ought to be in here on their hands and knees saying thank you, thank for your consideration, thank you, the taxpayers of this country, thank you for those who are concerned about the way we got the system in trouble. But instead of that, they are in here saying, oh, no, do not touch us, do not touch us.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I will address in a moment the reasons why I support the striking of title V.

But I, first of all, think it is necessary to correct some of the things the Senator from Ohio said at this point in the banking insurance fund.

We are talking about loans that will be paid for with increased premiums by the bankers. Let us not confuse this with the S&L situation where direct taxpayer money is being involved. I remind my colleagues that had we passed the $15 billion FSLIC recap in October 1986, it would have been totally paid for by the S&L themselves which was their responsibility, at least in this Senator's opinion. That is why I stood on this floor late at night to pass that in the Senate and it was not passed by the House. That money that we are talking about in this bill is not taxpayers' money; it is not a bailout. The bankers, themselves, will pay for that. That is why it is so highly important that we do that so that we avoid the taxpayer bailout in the future.

I would also make one other comment. The easiest thing to do in this body is bash business. We are very good at it. And we wonder why we are not competitive with Japan and others.

In Japan, government and business work like this together, they are married, hand in glove for corporate Japan.

We have too many Members of this body who make a career out of getting reelected by bashing business. Certainly, the banks are responsible for a large part of their problem, with loans that should not have been made. But I am not going to take the time of the Senate at this point to go back into the history of lack of action by the Congress of the United States over a decade and a half that could have greatly solved this problem so we would not be in this position.

So everybody has a share in this blame. And if I were to attribute more blame to any one part of the problem, it would be the Congress of the United States for their unwillingness to modernize the banking system and continue to let us operate on 1930's laws that were passed—some of them the year that I was born, and that is 59 years ago, and I think the world has changed a little bit from then.

I support the amendments to strike the consumer title from this bill.

I supported such an amendment in committee markup and I continue to believe there should not be a consumer title in this bill.

The stated purpose of this bill is to recapitalize the bank insurance fund and improve the competitiveness of the banking industry in order to minimize losses to the bank insurance fund.

Imposing a series of expensive consumer mandates on a struggling industry does not accomplish this purpose.

I have been willing to accept consumer legislation in the past as part of broad legislation to improve the competitiveness of the banking industry.

Since we have stripped the Glass-Steagall repeal provisions out of this bill, I am even more convinced that Senator MURKOWSKI is right and that we should strip title V out of the bill.

Truth in savings and fair lending enforcement are included in title V. They certainly have worthy purposes and have passed the Senate before. Nevertheless, they do not do anything to protect the insurance fund, and it is not clear that they should be attached to this legislation.

This argument is even more compelling with regard to the Government check cashing and lifeline banking provisions in title V. I can see no reason why this costly and unjustified burden should be imposed on the banking industry at this time.

I will go into my objections to check cashing in greater detail when we get to the debate on that particular amendment, but I would like to make a few points on that part of the title.

Although it is true this Government check-cashing provision is more flexible than earlier versions of the legislation, the fact remains that the Government is designing a bank account and requiring banks to offer a service.

This mandate does not apply to the other sectors of the financial services industry which offer transaction accounts and compete with the banks.

It is quite a philosophical shift for Congress to require private businesses to sell certain services at a certain price.

It should be noted that on June 27, 1991, the full Senate defeated check-cashing legislation by a vote of 55 to 43.

In addition, it is not at all clear that there is a crying need for this service. There are myriad reasons that some Americans do not have bank accounts, and even if Congress forces the banks to offer these accounts, there is no guarantee that they will be extensively used.

In addition to imposing these additional consumer mandates, title V pays lipservice to reducing the regulatory burden that we have imposed on the banks.

It directs the regulators to reduce the paperwork associated with consumer laws, as if the paperwork burden was totally the creation of the bank regulators.

This ignores the fact that we pass these laws. The responsibility lies here in the Congress.

In the past 4 years alone, we have passed 10 consumer laws:

The Expedited Funds Availability Act; disclosures on adjustable rate mortgages; credit card disclosures; home equity loan disclosures; additional business credit disclosures; amendments to the Community Reinvestment Act to require public disclosure of the ratings; amendments to the Home Mortgage Disclosure Act to expand the amount of data collected; amendments to the Real Estate Settlement Procedures Act to require disclosures about loan servicing and escrow; a requirement to mail notices of changes in FDIC coverage; a requirement that banks used only state licensed, appraisers; and the list goes on.

We want to have our cake and eat it too by requiring the banking industry to do all of these things and then pretending that they have no costs.

If we enact title V, we will be adding to that list I just read. We will be adding truth in savings, fair lending enforcement, Government check-cashing/lifeline banking, and other miscellaneous changes to the consumer laws.

How can we justify doing this as part of emergency legislation to recapitalize the bank insurance fund?

The benefits of title V to consumers are dubious, but the costs to the banking industry are certain. In any case, consumers also pay taxes and anything we do to increase the costs to the industry, increases the possibility that taxpayer dollars will be needed for the bank insurance fund.

We should strike title V, and I will vote to do so.

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed for 3 additional minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. RIEGLE. Mr. President, I want to make an additional point, and that is I was handed a note a minute ago that the stock market today was down 63 points as of a few moments ago. So the market is under continuing pressure. It was attributed in part to the fact that there were some bad trade numbers announced this morning. But I think anyone looking at the trading data yesterday, while the Dow Jones average came back some, secondary stocks were not strong yesterday.

Now, this bill and this legislation relates importantly to what is going on and will go on in the economy. There is a reason why the President has made this banking reform issue a top operational priority of his and sent a proposal up here a year ago, which we have been working on and brought to this point.

I know there are some who say, you know, do not pass a package of any real consequence; narrow it down, narrow it down; simply put the money into the fund, roll the problems forward into the future. In the Senate, under our rules, if one or two or three people decide that they want to do it that way, particularly when a session is ending, they have the power to obstruct the process and keep us from completing it. I think that would be exactly the wrong signal to send today. We need confidence-building accomplishments taking place here.

This is a bill that we have worked on in conjunction with the administration. it is not precisely to their liking, not precisely to my liking, or the Senator from Utah, but it is a solid bill and it will help strengthen the system and it will send a signal that we are able to take complicated problems like this, work them through reasonably, and not just put them off and roll them forward to another time period.

I think we need strong signals like that. There is a chance to send one today. I hope that my colleagues will come this afternoon and present their amendments. We have had a good debate on the Murkowski amendment. At some point, I am going to move to table that amendment so we will have a vote on it and then move on to the Cochran amendment and let that issue be settled.

But these issues will not wait for another time. They ought to be settled now. But that is going to take the Senate reaching a decision to face these issues and take them on, and I hope that will be the decision that we make today. I hope that can be discussed in both of the party caucuses, because we have important work to complete here. It is ready to be completed. We have to take these issues through one by one to conclusion and to decision and take a bill on into the conference with the House.

I thank the Chair, and I yield the floor.

RECESS UNTIL 2:15 P.M. TODAY

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS.]

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana, I believe, was on his feet first.

Mr. BREAUX. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LOUISIANA ELECTION

Mr. BREAUX. Mr. President, I return to the Senate today filled with pride in my home State of Louisiana. As Governor-elect Edwin Edwards said on election night, "Reason and compassion reign in Louisiana * * * . Concern and respect for all people of all races, faiths * * * bloomed."

While the entire world watched and waited, Louisianians rejected the politics of hate and division. They sent a message around the world that Louisiana's people are smarter and more compassionate than David Duke ever thought they were.

Mr. President, Louisiana's economy is hurting. Our unemployment lines are growing. From Lake Providence to Lake Charles, people are angry and frustrated with government and its inability to deal effectively with their problems. David Duke exploited and fed upon that anger. He feasted on the frustrations and fears of Louisianians gripped by the despair of our Nation's cruel recession.

But Louisiana was smarter than David Duke. An almost unnoticed incident in a small northwest Louisiana town last week illustrates what I mean.

It happened in Choushatta, the parish seat of Red River Parish, just south of Shreveport. Today, ashes are all that remain of Rev. Johnny Cox's house. Revered Cox, pastor to the Will of God Ministry, was the only black candidate in the October primary for the district 24 seat in the Louisiana Legislature.

Although he finished a strong third, Reverend Cox did not stop campaigning. For the last 4 weeks, he worked tirelessly for another candidate who needed his help. Reverend Cox signed on as the black campaign coordinator for Edwin Edwards in his home parish of Red River. It was not an easy job. Reverend Cox received numerous threatening phone calls. Several of his yard signs were burned. Then, last Friday night, the unthinkable happened.

Reverend Cox returned home Saturday morning to find his house burned and the charred remains of a cross in his front yard. It was a malicious, hateful act. Everything Reverend Cox owned was gone. But, instead of allowing this despicable deed push him to vengeance, Reverend Cox remained self-possessed and tranquil.

"There were two fires here today," Revered Cox said. "One lit up a cross and burned down my house. The other ignited the souls of people to get out and vote."

That day, the people of Red River Parish voted in record numbers. Last year, their parish voted for David Duke. On Saturday, they rejected the candidate whose message of hate drove someone to burn down Johnny Cox's house.

That fire sent a surge of loving, compassionate people to the polls to reject the repulsive sentiment represented by the fire which destroyed this good man's home.

Mr. President, Louisiana rejected David Duke because he offered no solutions, only blame. He blamed blacks and welfare recipients and affirmative action and big government and high taxes and rampant crime. But, Mr. President, David Duke offered no solutions, no programs to lift Louisiana out of its desperation.

He pointed an ugly finger of hate at almost every problem in our State. But guess what? By an overwhelming majority—and in record numbers—Louisiana's people went to the polls on Saturday to tell David Duke to take his message of hate, discord, and division elsewhere. Louisianians knew the only way to alleviate our State's problems is to work together, in unity, to find real solutions to very real problems.

Blame was not enough. Louisiana wanted effective leadership.

I believe Edwin Edwards will succeed. In Governor Edwards I see a man exhilarated at the historic opportunity Louisiana's people have given him to lead Louisiana during this century's last decade. Never before have so many diverse groups banded together in my State for the common good. Never before has business and labor, industry and environmentalists, blacks and whites, Jews and gentiles, north Louisiana and South Louisiana come together in such overwhelming numbers for the same cause. I think good things are about to happen in my State.

When all is said and done, Louisiana will survive David Duke. Our State and our country have survived demagogues and bigots before. But as I said at the outset, this election is about a fundamental breakdown in our political system. The problems that David Duke sought to exploit are not limited only to Louisiana. The frustration people feel about their Government is felt in almost every community of every State in this Nation.

If you do not believe me, just take a look at the election returns in Pennsylvania or Mississippi. Voters are not voting against Republicans or Democrats. Their target has little to do with ideology or party affiliation.

They want a Government that works for them. They want a President and a Congress who shares their concerns about the future of this Nation, and more specifically, about the future of their families.

In many ways, Mr. President, this Government has failed those people. David Duke may have been the wrong messenger for their frustrations, but those frustrations are very real. Those of us who do not listen to them—and act upon them—may pay a steep price.

So, to my colleagues, I say, beware—David Duke, or someone much like him, is coming soon to your State. You may reject or ignore the messenger—but please, do not make the mistake of ignoring the message.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized.

Mr. COHEN. I ask unanimous consent I be allowed to proceed for 3 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Maine is recognized.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN pertaining to the introduction of S. 1988 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from West Virginia [Mr. ROCKEFELLER] is recognized.

Mr. ROCKEFELLER. I ask unanimous consent I may proceed as if in morning business for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. MACK. Reserving the right to object, my intention is not really to object. I am inquiring as to the status of the banking bill. Do we intend to bring the banking bill back to the floor?

The PRESIDING OFFICER. The status of the banking bill is the pending amendment of Senator MURKOWSKI. That is the pending business.

Unanimous-consent requests have been made by several Senators to proceed as if in morning business. There has been no objection to this point so they have been allowed to do so.

But the pending business is the banking bill, and the pending amendment is the Murkowski amendment.

Mr. MACK. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Hearing no objection, it is so ordered. The Senator from West Virginia is recognized for not to exceed 15 minutes.

Mr. ROCKEFELLER. I thank the Chair.

(The remarks of Mr. ROCKEFELLER pertaining to the introduction of S. 1989 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROCKEFELLER. I thank the Presiding Officer. I yield the floor.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1356

Mr. RIEGLE. Mr. President, both sides have been in their party caucuses. I had inquired of the Senator from Alaska as to the possibility of the time agreement on this amendment earlier this morning at about 10:30, between 10:30 and 10:45, in that area. At that time he was polite enough, and I appreciated his interrupting his remarks to entertain my request. He did not at that time want to enter into a time agreement. He said he would discuss it later.

I am wondering now, and would like to engage in a colloquy, as to whether we can set a time limit to finish debate and go to a vote on the Murkowski amendment.

I yield to the Senator from Alaska for the purposes of responding to the question.

Mr. MURKOWSKI. Mr. President, I thank my colleague from Michigan.

I think that there are at least two more Senators that we know of on this side that intend to speak on the proposed amendment to strike title V.

Further, we are in the process of getting clarification with regard to the administration's position on this from the Secretary of Treasury. That came up at a caucus luncheon this afternoon. I anticipate having that very shortly and would therefore decline from entering into a time agreement at this time.

But I assure my friend from Michigan that it is the desire of the Senator from Alaska to proceed with the basic objective, and that, of course, coincides with the Senator from Michigan regarding recapitalization of the bank insurance funds and regulatory reform that bolsters the safety and soundness of the banking system. But, of course, I take exception with what title V addresses.

Mr. RIEGLE. I thank the Senator for his response. Let me say that I understand that the Senator does not support title V and has offered an amendment to strike title V, which he is within his rights to do.

We have discussed it for about 2 hours. I can appreciate the fact that other Senators have indicated they wish to speak on it. I would like to propose that we finish this debate at about 3:15. That would give us another 35 minutes on the Senator's side. I say that for two reasons. One, that we have other amendments coming from both sides of the aisle that also will need time, and in looking at just according every Senator a fair chance to offer his amendment up against the situation of the session itself coming to an end, and other legislation that will have to come behind this, I am very mindful of the fact that we have to find some equitable way to try to divide this time up for all Senators who have amendments.

I think there should be an adequate debate, and I think we have had a good one. I think it could go on for a while. I do not want to have to move to table the amendment. I do not want to do that. I would much rather come to an understanding of a reasonable time limit. I do not want to have our day eaten up by a quasi-filibuster on an issue that has been thoroughly discussed.

I think we ought to vote, and I am quite happy to abide by the vote. If the votes are there to support the Senator's amendment, so be it, and we can move on from that point. If not, Senator COCHRAN has an amendment that would strike part of it. I have no way of knowing what the votes would be on either amendment. I am quite happy to live with the outcome. But we have to get the work done, and there comes a time when the talk should end and voting should start.

I would like to again ask, would the Senator be willing to enter into a time agreement and take the time between now and 3:15? I would be happy to give the Senator 20 minutes of that time and reserve 10 minutes for our side.

Mr. MURKOWSKI. Mr. President, I respond to my friend from Michigan that it is not the intent of the Senator from Alaska to enter into a filibuster, by any means. We saw a filibuster the other day on the Energy Committee bill, relative to the energy comprehensive package.

This is a major piece of legislation, as the Senator from Michigan is well aware, that has come out of his committee. I think we have a little difference of opinion as to the ultimate disposition of it in its current form. I cannot help but reflect that the reality is that the House has seen fit to take action to support a narrow bill. Yet, the Senate is proceeding with a very broad one, to which the Senator from Alaska has exception. That is, specifically, to title V.

My friend from Michigan also addresses the Cochran amendment, which is the one pending, which would address a certain title or certain section, section G, as a matter of fact, of title V. I think it is fair to say that there will probably be other amendments relative to title V that are addressed individually, and it seems to me that there might be some other more expeditious ways to resolve the disposition of the pending amendment.

But clearly, the Senator from Alaska is not in a position at this time to enter into a time agreement. But I would be willing to pursue some other alternatives that our staffs might address jointly.

If that is inconclusive or not possible to achieve some type of consideration, then the Senator from Alaska would have to look at other alternatives. I appreciate the concern of my friend from Michigan who wants to move the bill. I assure him that our objectives are the same: Follow the recapitalization issue and responsible regulatory protection of the American taxpayer from bank losses. I encourage that we address, as we go through this bill, that objective primarily.

Mr. RIEGLE. Mr. President, if I may say further to the Senator from Alaska, I accept what he says, that he does not mean for this to be a filibuster, and that he would not say that if it were not the case. But I think he would also have to acknowledge that if the debate goes on endlessly, it has the same effect, whether it is a designed filibuster or not. At some point, I think we have to bring this debate to a conclusion and let the Senate vote.

The Senator has also indicated that the House has a bill. I just want to make it very clear that I have no knowledge that the House of Representatives has passed a bill on banking. In fact, they have turned down two bills on banking, and the prospect of their passing a bill on banking, which involves not only the full committee but the Rules Committee in the House acting, and the full House acting, as far as I know, no time schedule has ever been set for that to happen, let alone it having happened.

There is no bill from the House. I do not want anybody to be misled by that. I wish there were. But the House has acted on this twice and has not passed a bill. That, in any regard, does not relieve us of our obligation to pass a bill here in the Senate. We have an obligation to act. The President has asked us to act, and he and the Secretary of Treasury have asked us to act today. I think we ought to, and in an expeditious manner.

If it takes 2 or 2½ hours on this fine. I think, at some point, we ought to have a disposition of the issue. Quite frankly, if we are going to run into what in effect has the impact of being a filibuster, you leave us no choice on this side. Are we to tell all the other Senators they cannot offer their amendments because it takes 3, 4, 5 hours on one Senator's amendment? I do not think that is fair when these issues have been ventilated.

Mr. MURKOWSKI. Mr. President, if I may respond, I think he brought up an interesting point, and I stand corrected. I think it is fair to note that the House has twice refused to accept a broad bill, and we are attempting to pursue it over here. Further, I advise my friend from Michigan——

Mr. RIEGLE. Let me say on that one issue of interstate banking, we have adopted a compromise here in the Senate on interstate banking that has passed the House by an overwhelming vote. It is somewhat different, but it is essentially in line with what we have passed here. The vote in the House was 360-4, only 4 against. So the notion that what we have here is somehow at odds with votes taken in the House, again, that may be the Senator's view. I do not think the facts bear that out.

I yield for a further comment.

Mr. MURKOWSKI. I would——

Mr. METZENBAUM. Mr. President, who has the foor?

The PRESIDING OFFICER. The Senator from Michigan has the floor. He has yielded to the Senator from Alaska for the purpose of answering a question that he has propounded to him.

The Senator from Michigan has the floor.

Mr. RIEGLE. Does the Senator from Alaska want to respond?

Mr. MURKOWSKI. Mr. President, the issue is not the concern of the Senator from Alaska over the issue of interstate banking. As we both know, it is title V and the parameters of what the Senate is considering in this banking bill as compared to what the House has seen fit not to accept.

The second part of the point of the Senator from Michigan with regard to the Secretary of the Treasury, and it is my understanding that the official—I will read this brief paragraph from a statement of administration policy, Executive Office of the President, November 13, and I ask that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET
Washington, DC, November 13, 1991.

STATEMENT OF ADMINISTRATION POLICY

(S. 543—Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991—Riegle of Michigan and 2 others)

The Administration supports S. 543, as reported by the Senate Committee on Banking, Housing, and Urban Affairs, with the amendments described below. However, the Administration strongly opposes the bill's restrictions on existing insurance activities by banks. If (1) significant additional restrictions are placed on the ability of banking organizations to diversify safely into new financial activities, (2) the interstate branching provisions are substantially weakened, or (3) deposit insurance losses are required to be financed in a way that violates last year's budget agreement, the President's senior advisers would recommend a veto.

S. 543, as reported by the Banking Committee, is comprehensive legislation designed to create a safer, more competitive banking system. S. 543 recapitalizes the bank deposit insurance fund, sets clear standards for prompt corrective action by regulators to resolve troubled banks, permits banks to reduce risk by diversifying safely into new securities activities and across more geographic areas, and addresses in the lender liability title an important element of the credit crunch by encouraging lenders to become willing partners in environmental cleanup efforts. The Administration strongly supports all of these efforts, but believes that certain modifications would make S. 543 even more effective in strengthening the banking system and reducing taxpayer risk.

AMENDMENTS SUPPORTED BY THE ADMINISTRATION

The Administration believes that the following amendments would substantially strengthen the bill:

Eliminating the restrictions on the sale of insurance by interstate branches of banks where such insurance activities are permitted by State law for State banks.

Modifying the provision that limits *all* insurance sales authority of national banks to that provided by State law. The provision rolls back current law in the majority of States and undermines the dual banking system.

Allowing commercial firms to affiliate with banks, subject to strict firewalls. Commercial firms will be an important source of much-needed capital for the banking industry and should at least be able to purchase failing banks, where the benefit to the taxpayer is substantial and immediate.

Limiting deposit insurance coverage to $100,000 per person per bank, with a separate $100,000 in coverage for certain retirement accounts. This will reduce taxpayer exposure by limiting insurance coverage to protection of the average depositor.

Treating interstate branches of national banks the same as separately chartered national banks, not the same as State bank branches. This preserves current law and the dual banking system.

Eliminating provisions that discriminate against foreign banks with respect to interstate branching or banking.

Eliminating the arbitrary concentration limitations on mergers and acquisitions. Mergers and acquisitions involving depository institutions are fully subject to antitrust review, and arbitrary limitations may prevent efficient or procompetitive transactions.

Eliminating the requirement that banks provide Government check cashing or basic banking accounts and produce unnecessary additional reports. These provisions impose burdensome regulatory costs on banks without demonstrating sufficient public benefit.

Making important technical and clarifying amendments to the lender liability title.

Providing somewhat greater flexibility for bank regulators to avoid the premature shutdown of a weak bank that has significant prospects for recovery.

Eliminating provisions that reduce the regulatory authority of the Office of the Comptroller of the Currency in certain areas (e.g., enforcement, supervision, and the resolution of troubled institutions).

Including provisions that, when combined with the extension of the statute of limitations for securities lawsuits now in the bill, would help curtail meritless litigation. The Administration would oppose an extension of the statute of limitations without such reforms.

Deleting the proposed exclusion of the employees of the Securities and Exchange Commission from the normal Federal employee compensation provisions. The Federal Employees Pay Comparability Act of 1990 provides sufficient pay flexibility to enable the Commission to recruit and retain the caliber of employees it needs.

Allowing Federal banking regulators to conduct litigation on their own behalf, but only with the prior consent of the Attorney General and subject to the Attorney General's direction and control.

Deleting provisions requiring production of a one dollar gold coin honoring Christopher Columbus.

AMENDMENTS OPPOSED BY THE ADMINISTRATION

The Administration would strongly oppose any amendment to S. 543 that would:

Move bank and thrift regulation from the Treasury Department to an independent agency.

Impose new, unworkable "firewalls" on bank securities activities or further limit the ability of regulators to make technical modifications to the firewalls in light of developing banking practices.

Substantially weaken the interstate banking provisions, especially any amendment that would only authorize interstate branching if each State "opted in" by a new State statute, which would virtually eliminate benefits from interstate activity.

Establish inflexibly high capital standards in statute as a precondition for banks to engage in interstate branching. Such a requirement would deter regional diversification and increase the likelihood of bank failures.

Expand the Community Reinvestment Act and other consumer protection laws to impose burdensome new requirements that would impede interstate branching and new financial activities for banks.

Require deposit insurance losses not paid for by the industry to be funded in a deficit neutral manner. This amendment violates last year's budget agreement, which recognized that currently outstanding deposit insurance liabilities should not be subject to pay-as-you-go offsets.

Expand pass-through insurance coverage for pension plans or other large depositors.

Limit the flexibility of regulators, in consultation with the Administration, to protect against systemic risk in the banking system, with costs borne by the banking industry.

OTHER MATTERS

The Department of State and the Office of the United States Trade Representative have testified regarding very serious objections our trading partners are likely to raise about the effect of the Fair Trade in Financial Services Act (contained in S. 543 as Subtitle VI–C) on U.S. treaty obligations, the possibility of uncoordinated and inconsistent measures imposed by independent regulatory agencies, and the importance of "grandfathering" current foreign participants in the United States financial sector. In addition, the provisions requiring negotiations with foreign governments and reports on current negotiations intrude on the President's authority over the conduct of foreign affairs and raise serious constitutional concerns.

However, the Treasury Department has testified that the subtitle provides sufficient discretion to the Secretary to meet treaty obligations, to provide satisfactory coordination with regulators, and to provide grandfathering where appropriate.

SCORING FOR PURPOSES OF PAY-AS-YOU-GO

OMB's preliminary scoring estimate of this bill is that its net effect for pay-as-you-go purposes would be zero. Final scoring of this legislation may deviate from this estimate. If S. 543 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by the Omnibus Budget Reconciliation Act of 1990. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to the Congress.

The impact of the requirement that banks and thrifts register their securities with the SEC would result in a negligible increase in registration fees and decrease outlays. The change in the definition of bank holding companies would have a negligible effect on tax receipts.

The following provisions are scored at zero for pay-as-you-go purposes: lender liability; Rhode Island loan guarantees; establishment of "lifeline banking accounts"; the Fair Lending Enforcement Act; the Truth in Savings Act; the new $1 coin; new penalties for illegal money transmission; and the removal of cost limitations on the construction of Federal Reserve Bank buildings.

The bill's "too big to fail" provisions would decrease outlays, but it is not possible to estimate the size of the decrease. Similarly, estimates of the pay-as-you-go impact of the bill's provisions on pass-through insurance are not available at this time.

Mr. MURKOWSKI. It specifically states:

> Eliminating the requirement that banks provide government check cashing or basic bank accounts and produce unnecessary additional reports. These provisions impose burdensome regulatory costs on banks without demonstrating sufficient public benefit.

I think that fairly states the position of the administration. I take exception to my friend's interpretation.

Mr. RIEGLE. Let me say to the Senator from Alaska that he has read that accurately. I read that, too, and I made that comment earlier in the RECORD. That is not the Murkowski amendment, however, which proposes to strike all of title V.

The paragraph that was just read from the Treasury Department only deals with a part of title V.

In fact it deals with part of title V that is contained in the Cochran amemdment which presumably would come next. So, what the Senator said is accurate insofar as it goes, that is, it deals with only a part of title V. His amendment does away with all of title V.

Mr. MURKOWSKI. I ask my friend from Michigan is he prepared to accept that portion that deals with title V as proposed in the statement of administration policy?

Mr. RIEGLE. I will tell the Senator this. It was voted out of the committee, as the Senator knows, and is here on the floor. I am happy to have the Senate settle that issue. I do not know what issues are in the Cochran amendment. I know there are Senators on this side who will tend to vote for it. I will not be one of them.

I will support the bill as it comes to the floor. I do now know what the outcome of that vote will be. The best way to find out is to have a brief and focused debate and let us vote on it and find out.

The same thing on the Murkowski amendment. That covers all of title V. But the Senator from Ohio asked me to yield. I am happy to yield to him if he has a question or point he wanted to make.

Mr. METZENBAUM. No; I want to address the Senate when the Senator is finished.

Mr. MACK. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield for a question or comment.

Mr. MACK. With respect to raising the point about filibuster, to suggest that we are in a situation similar to a filibuster I think frankly is really stretching the imagination. As far as I know there has been only one person who has addressed this issue on the floor of the Senate today. That is the Senator from Alaska. I have been here all morning long. I am a member of the committee. This is a very important issue from my perspective. I do not know how long I am going to take.

I must say to my colleague from Michigan I am not known for someone who gets on the floor and speaks for hours. I do have things I would like to express. I resent the position taken, however, saying that we would just like to hear a couple of our thoughts. We are trying to get to the bottom of the issue and trying to have a debate.

Mr. RIEGLE. Let me say to my friend from Florida, for whom I have great regard, I enjoy the comments of the Senator from Florida and enjoy hearing him. I do not want him to find himself in a situation where he cannot say what he thinks. The Senator will also, I think, acknowledge that when in a tight time situation, about to end the session here shortly, other legislation and amendments come along. We have a device for dealing with that in the Senate. That is structuring time agreements.

We take the amendment—the Senator in fact did make a brief passing comment in a colloquy earlier with the Senator from Alaska, as did the Senator from Idaho. So there have been some comments made in the course of that debate for a period of time this morning.

I want the Senator to have time. But I do not think you can argue fairly that it is unreasonable for me, as a manager of the bill, to try to set a time period, which we do on most of the bills that come through here. Frankly, when under tight time circumstances that is our standard practice. And the Senator knows I do not say that.

The Senator ought to tell me does he need 5 minutes, does he need 7 minutes, does he need 10 minutes? How much time does the Senator need?

Mr. MACK. I say to my friend at this particular point I have no idea.

Mr. RIEGLE. That is the problem.

Mr. MACK. Let me also suggest, while the Senator from Michigan certainly has been around here longer than I have, the realization that the technique or idea of putting a particular piece of legislation toward the tail end of a session so there is a lot of pressure on people to cut short their comments, I understand how that works. All I am saying is, I offered this amendment in committee. Unfortunately, it failed. I have not had an opportunity to address it to its fullest extent, and I will not have that opportunity.

Mr. RIEGLE. Let me just say to the Senator—and I have great regard for him and I want him to speak—if someone here is trying to prevent him from speaking, I join him in the argument against that. I want him to be heard. He knows that is a genuine feeling and the way we operate in the committee, where he is an active and able member.

Let me also make it clear, at some point we are going to have to deal with the amendments. I do not want to move to table them, which I clearly could do. I do not want to do that. I want to have an orderly, reasonable time for debate. I would like to arrange it back and forth so there is some understanding of time. That idea has not sounded attractive to the other side.

I think we ought to go to 3:15 in that, and see where we are. But at some point here I just have to tell you in deference to moving the bill and to accommodating other Senators—the Senator from Florida's views are very important, no more important than any other Senator's views here, including this Senator. I did not ask that the bill be scheduled at the end of the session either. The fact that we were interrupted by the extended unemployment compensation problem late last week was not a matter of any of our doing, that was an extraneous event. It took time away from us. I think we would have the bill done now had that not happened.

In any event, the Senator has a right to say what he has to say on this issue or others.

I must tell you I have no choice but to keep an eye on the clock. At some point, if we cannot have an orderly understanding with a time agreement, I will move to table, and the Senator does not have to vote to table. At least let the Senate decide.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I ask unanimous consent to be permitted to yield 2 minutes to the Senator from New Mexico without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized for 2 minutes on the time of the Senator from Ohio.

Mr. DOMENICI. I thank the Chair and I thank my friend, Senator METZENBAUM. I truly appreciate it. I have been waiting a long time.

I want to state something for the record. I hope the chairman will listen, and Senator BRYAN from Nevada who has a certain interest in a certain amendment. There is in the basic bill an extension of the statute of limitations with reference to 10(b) provisions of the rules of procedure of the U.S. Federal courts. There is in that measure a provision that provides for some retroactivity for cases that might have been dismissed because of the short statute of limitations that the U.S. Supreme Court has imposed.

First, I am not opposed to the extension or retroactivity if we are able to attach some amendments that address the issues of attorney's fees, who pays the cost for these various lawsuits which are going to be extended in terms of the statute.

The Senator from New Mexico is very worried about a pattern that he is seeing of excessive litigation through this class action mechanism. It seems to me that we ought to impose some different rule with reference to who pays costs in the event of a loss.

I will propose that something like the English rule be used for these kind of cases. That is, if the plaintiffs had no case at all in the opinion of the judge, they might have to pay the costs instead of the defendants, as currently is the law. They have to pay the defendants' cost.

Second, there are a number of practices out there that are frightening, that some say are not being perpetrated, in which event the amendment saying they are illegal ought to be accepted. I call those miscellaneous provisions.

Third, there is a provision that would attempt to alleviate the excess burden of those defendants in these kinds of State suits that truly were not primarily liable. A corporate board of directors is liable, but is the accounting firm liable to the same degree.

They are all brought into the cases. Many firms are paying enormous amounts of money because they are being brought into the cases. We want to try establish some proportion there. That is a tough one. In the draft I think we have done it right. I want it. I know the team wants the amendment that is in the bill to become law. This Senator intends to spend as much time on the floor as necessary, to either take that amendment 10(b) that is in the bill out, which I support, or to amend it so as to make it more equitable for the defendants who are being sued by the hundreds across America, to see if we cannot create some fairness. I hope everyone understands I do not do this very often. On this one I am absolutely serious.

The PRESIDING OFFICER. The time has expired. The Senator from Ohio has the floor. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to speak on the bankers' bailout bill. Let no one kid themselves about it. This is the bailout of the bankers of this country who have caused so much havoc and failed to administer their own banks in an adequate manner and have caused so many billions and billions to go out through their doors, sometimes by reason of impropriety, some times by reason of stupidity.

I do not rise to oppose the bankers' bailout bill, but I do not want anybody to kid themselves. We are talking about $70 billion to bail out the banks of this country, coming from the American taxpayers with the hope and a prayer that the money will be repaid.

I do not stand here on the floor to speak for the bill or to speak against it. But I rise in support of the consumer protection provisions in the bill and I must confess that they are de minimis. They are very moderate. They are not what I think they ought to be, but they are better than nothing.

Yet some of my colleagues over on that side of the aisle are so determined that the consumer, that the veteran, that the senior citizen, that the poor, not get anything out of this bill, that they have been speaking for hours and apparently intend to speak for hours more, and then try to knock the provisions out of the bill.

The title V provisions dealing with truth in savings and fair lending enforcement and basic banking Government check cashing will help. It will not solve the problem but it will help ensure that the consumers get a fair shake from banks.

The truth-in-saving provisions will require banks to disclose basic uniform information on yields and fees associated with deposited accounts. Somehow the Senator from Alaska thinks that that is a terrible thing. Why should they be willing to tell the customers who do business with the bank what the yields are and what the fees associated with the deposit accounts are? Why should they be required to do that?

Why should they be required to do that? What a terrible idea that is. Provisions dealing with fair lending enforcement would help combat mortgage discrimination. And the basic banking/Government check-cashing provisions will not go as far as this Senator thinks that they should, as this Senator has advocated previously on the floor of the Senate.

But I commend the Banking Committee for having moved forward in this area and at least tried to do the best they could. It will provide poor veterans and low-income and elderly people access to financial services which are currently denied them.

The banks will not lose a penny, because the Banking Committee saw to it that they not only get back their cost but they get a 10 percent profit as well. And I am willing to go along with that. But this is not good enough for the Senator from Alaska or the Senator from Mississippi. No; we have to take everything away from them to just make this a bill to bail out banks.

I do not know what the people of Mississippi think about that. I do not know what the people of Alaska think about that. But I know what I think about it. I think it is a horrendous idea to try to take out this little bit of advantage given to senior citizens, the aged, veterans.

Mr. MURKOWSKI. Will my colleague yield for a question?

Mr. METZENBAUM. No; not at this point. The Senator from Alaska has been on the floor almost all morning.

Mr. MURKOWSKI. At the conclusion of his remarks, I will ask a question of my friend from Ohio.

The PRESIDING OFFICER. The Senator from Ohio has the floor. The Senator from Ohio.

Mr. METZENBAUM. I think the consumer protections that are in the bill are a step in the right direction, and I commend my colleagues on the Banking Committee for including them in their bill. These proposals make sense. They are fair. They should remain in the overall bill. To take them out, what an idea that is. What kind of concept can that be? Why?

The Senator from Alaska talks about $500 million to $1 billion that it costs banks with respect to regulation. Not in this bill. That is what he says is being paid at the present time. That is what has already been paid. I do not know if the figure is correct or incorrect. But that has nothing to do with this amendment because there is no regulation provided for in this bill with respect to low income, with lifeline banking accounts or with respect to check cashing. There should be some regulation in it.

But the Banking Committee did not feel they had sufficient strength and made a concession in that respect. And I am not trying to add to it. But the point is, there was no regulation provided for in this bill.

Let us look at the Government check-cashing, basic-banking language from a moment. This measure reflects a compromise that helps consumers, yet addresses bank concerns.

As I said previously, it is not all I had hoped it would be. For one thing, it does not require financial institutions to provide Government check cashing and basic low-cost banking accounts to customers. No, it does not do that. This legislation sets up an umbrella account which permits customers to choose either, either a basic transaction or Government check-cashing account. Do not ask me why the Banking Committee required that choice. But at least it is better than nothing.

But the Senator from Alaska and the Senator from Mississippi would like to take that away. This bill requires a customer to pick one or the other. You cannot pick both services; you cannot get the basic, the low-cost banking arrangement and the check-cashing services, so you must pick one or another.

I worked on these issues for many years. I fought the cause of providing Americans greater access to financial services. I believe that low-income and elderly Americans and veterans, poor veterans, would benefit greatly from both basic bank accounts and Government check-cashing services. But this bill does not provide for them. But it is still better than nothing. Even though this compromise does not mandate that both services be provided, I hope, sincerely hope, that financial institutions will see fit to offer such services to their customers.

Now before I go further on this subject, let me make it very clear that there is a division in the banking industry. And I want to commend the Independent Bankers Association of America. They support keeping these provisions in the bill. I commend them for doing so.

My remarks with respect to the banks apply to those large banks who are fighting this provision in the bill, and who are supporting the amendment of the Senator from Alaska and will support the amendment of the Senator from Mississippi.

Despite the fact that the individuals are required to make a choice, I want to say that I believe that the enactment of this legislation will be a plus, a big plus, for the more than 20 million Americans who do not currently have bank accounts. Many of these people have no choice now but to use expensive check-cashing outlets where they are charged $5, $10, even $25 to cash a Social Security, a veterans benefit, or a Government welfare check. Drive through the community, any community in America, and look at the lovely buildings, the fine decor, the fancy appearance inside and out of the check-cashing operations because those are big moneymakers and they can afford to provide those fancy offices.

In 1987, the Senate approved a Government check-cashing proposal I offered to the bill recapitalizing the Federal Savings and Loan Insurance Corporation. Unfortunately, that measure was dropped in conference. Ring one up for the bankers of America.

In 1988, my check-cashing language was included in former Senator Proxmire's bill expanding the powers of banks. The bill never made it out of the Senate. Ring a second one up for the bankers of America.

In 1988, I sought to add a Government check-cashing and low-cost bank account measure to a housing reform bill. I was prevailed upon and convinced by my colleagues on the Banking Committee to wait for a more opportune vehicle. They would conduct hearings. They would consider the matter. They would try to be helpful. They also convinced me to hold back when, in that same year, the Senate took up and passed the measure bailing out the savings and loan industry.

Last year, I could wait no longer and I offered a check-cashing compromise proposal to the affordable housing bill. That measure came close to passing. We garnered 43 votes for its passage.

But the train is moving forward on this issue, and that is because it is the right thing to do. And the fact is that the measure that is before us is less severe, less advantageous, less desirable from the standpoint of the veterans, the senior citizens, and the poor who need the right to cash checks or to have lifeline accounts. But it is better than nothing.

As AARP noted last year in a survey it conducted of major metropolitan areas, 9 out of 10 financial institutions refused to cash Government checks for nonaccount holders. That is the AARP study. Nine out of 10 financial institutions refused to cash Government checks for nonaccount holders.

What a great sense of civic responsibility. It is the kind of civic responsibility that makes every one of us here in the Senate want to rush forward and provide $70 billion of the taxpayers' money to bailout these great citizens of America.

Clearly we must do something about the problem. Unlike last year, as I previously mentioned, the Independent Bankers Association of America has endorsed a basic banking/Government check-cashing language contained in this bill. I commend them for it, and my remarks with respect to banks are not with reference to the small banks of America. They are with respect to those powerful institutions that have so much influence upon this body.

The independent bankers realize that providing low-cost bank accounts and Government check-cashing services to low-income Americans makes good business sense.

Indeed, let me read from a November 8, 1991, American Banker article entitled "In Selling Service to Poor, Banks Badly Lag Rivals." That is the heading on the story in the American Banker in the issue of just a few days ago. The article goes on to say. "There is money to be made selling financial services to America's poor, but banks are only beginning to wake up to that fact." That did not come from the AFL–CIO. That did not come from the AARP. That did not come from the independent bankers. That did not come from any particular group, or Common Cause, or some other group. That was the statement made in the American Banker.

> There is money to be made selling financial services to America's poor, but banks are only beginning to wake up to that fact.

The article speaks of Western Union and American Express going full speed ahead into the check-cashing and money-transfer business for the 20 million households the article labels as the "unbanked underclass." But the article goes on to say that—

> * * * Some bankers are beginning to realize that they can potentially make a modest profit by doing good.

It quotes Banc One chairman John McCoy of Ohio as saying, "We look at basic banking as the lead end of our customer base."

That is the bank that was written up nationally, recently, as being one of the most outstanding banks in the entire country, as being one of the finest run banks in the entire country.

John McCoy, the head of that bank goes on to say, "Our goal is to take a person from that basic account and open doors to other services."

I commend him for that statement. And I commend him for his leadership in being willing to do basic banking and pointing out it is the "lead end of our customer base."

The Independent Bankers Association of America's support, along with that of the legislation's traditional allies, such as the American Association of Retired Persons, Consumer Federation of America, U.S. PIRG, Acorn, Consumers Union, and civil rights groups such as the Urban League and the NAACP, all support the consumer provisions of this bill.

That support, I hope, would encourage enough Senators to fight against efforts to strike the consumer provisions in this bill or to strike the check-cashing provisions, as Senator COCHRAN, I understand, intends to make an effort to do at a later point.

Let me repeat. The basic banking/Government check-cashing proposal is a very modest attempt to bring more people back into the banking system. It will not hurt the banking industry one iota. In fact, it will help the banks by bringing in new customers. And, most importantly, it will give low-income and elderly Americans access to affordable banking services once and for all.

I urge my colleagues to oppose any attempts to weaken or delete the basic banking/Government check-cashing language or any other consumer protection provisions contained in this bill.

I want to repeat what I said before. We are doing a tremendous amount for the banking industry in this bill. do not get mixed up about that fact. The banking industry needs this bill. The administration knows it, and every member of Congress knows it. If we are going to bail out the banking industry, let us do a little for the consumer as well. Let us do a little for the little guy because this bill specifically provides that provisions are only available to those whose income is less than $20,000.

This bill does something else for the banks of this country. It opens the door for national banks to get into the insurance business. We take care of the banks. We just do not want to take care of the consumers.

The bill removes State barriers on branching, allowing banks greater freedom to go interstate. We take care of the banks.

We recapitalize the FDIC to the tune of $70 billion. Without that recapitalization, the banks are not in a position to continue receiving deposits, or depositors would not be willing to make those deposits.

We even allow foreign banks to participate more fully in our banking system under this bill. But nobody is objecting to that. All they want to do is delete the only provisions in the bill that help some little average Joes, some little people who do not want to spend $10, $15, $25 to cash a check.

All we are trying to do is do a little something for them, not much, just a little something, not nearly as much as we ought to be doing.

But here the bankers are, lobbying against this particular provision of the bill. They are not lobbying against that provision of our bailing them out to the extent of $70 billion.

It is stated they are going to repay that within 15 years. But I suggest you do not get your violin out and play that to music because later on, my guess is they will be coming in to say they are not able to do it, the rates are too high. "You are pushing up the rates too high. If you push the rates up too high, we will be forced out of business or we will not be able to get any deposits."

They will be coming back, I predict, asking for some relief from the provisions of this bill, indicating that they are unable to continue to pay to make up the $70 billion shortage.

Mr. President, it will be a sad day on the floor of the U.S. Senate if the Senator from Alaska prevails and takes out this entire title which has to do with protecting consumers; which has to do with protecting the poor; which has to do with seniors, protecting senior citizens; which has to do with protecting veterans; and which has to do in a number of other places, protecting just the average Joes of America.

I say if we took all of that out, the bankers' bailout bill really would not have much more reason for its passage.

I yield the floor.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. Mr. President, I am, indeed, disappointed at the comments of my good friend from Ohio, because oftentimes we seem to be on the opposite side of issues. I do not know whether opposites attract, but perhaps there is some truth in that. The rebuttal to the Senator from Alaska with regard to his feelings on the merits of title V, as reflected in the comments from my friend from Ohio, I think deserve some detailed examination. I am prepared to do it.

First, I think it is important to note there was a reference in the statement of the Senator from Ohio to the position of the Independent Bankers Association of America.

I offer for the RECORD a letter dated November 7. I will read the appropriate paragraph:

> Among the proposals which the IBAA has been a strong opponent of is the Truth in Savings Act.

I defer further to the last paragraph:

> IBAA will continue to work to balance legitimate consumer concerns with profitable and feasible banking operations. The IBAA/AARP compromise meets the test. But the Truth in Savings Act does not. We will be glad to work with you on an attempt to delete the Truth in Savings Act from S. 543 and any other burdensome legislation not meeting the same test* * *.

Mr. President, I ask unanimous consent the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INDEPENDENT BANKERS
ASSOCIATION OF AMERICA,
Washington, DC, November 7, 1991.

Hon. FRANK H. MURKOWSKI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: I am writing to you in anticipation of your upcoming role in the debate over the consumer provisions of S. 543, the "Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991."

The IBAA has worked closely with you and your staff in the past to fight against legislation that would heap additional paperwork and compliance burden on the banking industry. As the only banking trade association that exclusively represents the interests of the nation's community banks, we have been particularly concerned that such legislation has and will continue to impair the ability of small banks to remain profitable and able to serve their communities. We have consistently called on lawmakers and regulators to assess existing and proposed laws to determine their usefulness and consistency and to streamline paperwork requirements. We have also consistently made the case for small bank exemptions, recognizing, for example, that the same regulatory shoe may not fit the $50 million agricultural bank and a $50 billion multinational banking corporation.

Among the proposals which the IBAA has been a strong opponent of is the Truth in Savings Act. While it is another in a series of similar proposals with seemingly laudable goals, it attempts to impose many restrictions which go far beyond its purpose. Furthermore, it would not apply equally to other providers of comparable services and it is drafted in such a way that it could easily lead to another regulatory nightmare, similar to what happened with the Expedited Funds Availability Act.

Our membership has also consistently supported the goal of providing access to essential banking services to all citizens by means which encourage an account relationship and educate the consumer on the value of using a bank. The compromise on government check cashing and basic banking accounts which we struck with the American Association of Retired Persons (AARP) achieves that result. In addition, it enabled us to work closely together to oppose any cutbacks in current levels of deposit insurance, the overwhelming top concern of the community banks of this nation. It is our strong belief that the role that the AARP has played in the deposit insurance debate has been decisive, and that the compromise we have agreed to is one which will allow bankers to provide basic services at a profit, while being carefully crafted to mitigate against fraud. Additionally, it will require an account relationship and avoid additional regulations and civil fines or penalties.

IBAA will continue to work to balance legitimate consumer concerns with profitable and feasible banking operations. The IBAA/AARP compromise meets that test, but the Truth in Savings Act does not. We will be glad to work with you on an attempt to delete the Truth in Savings Act from S. 543, or any other burdensome legislation not meeting the same test as the IBAA/AARP compromise.

Sincerely,

GARY J. KOHN,
Legislative Counsel.

Mr. METZENBAUM. Will the Senator yield on that?

Mr. MURKOWSKI. No; I will complete my response, in deference to the Senator from Ohio.

Another point I think that needs identification. The Senator from Ohio mentions a legitimate concern about the aged, the veterans, the poor, the manner in which he suggests somehow they are not properly being served. It would be interesting to see a specific reference to the inability or the nonwillingness of the banking industry to provide for the veteran, the poor, the aged a check-cashing service. I use the word "service," because there is nothing in it, necessarily on the surface, for the recipient of that Government check where he comes in or she comes in and says "I would like to cash the check."

What the financial institution does offer—and I am sure the Senator from Ohio is aware of that—is, if that individual wants to open a savings account, he can open a savings account. Or she can open a savings account. Deposit that Government check, establish a relationship. Maybe there is only $5 that would be deposited in the savings account. But to suggest that somehow the banks are insensitive to that person of low income is simply not true.

There is a reference in the statement of the Senator from Ohio that somehow we have to come up with some protection for the aged, the veteran, the poor. There is nothing that suggests these people that legitimately have a retirement check, a veteran's check, have any difficulty whatsoever, upon identifying themselves, in cashing that check. Or, more important, if they care to open an account, why, there is no charge.

The charges are, of course, for checking accounts and those things that cause a specific mechanical function that identifies a particular task and a particular liability.

The Senator from Ohio has failed to address the liability to the banks for forgery. Let me tell you a little bit about what forgery does and how it works, because I am sure the Senator from Ohio reflects on the reality that all people are not honest, even those who appear before a teller with a Government check in his hand. Yet, he wants to mandate that they should have that check cashed as a matter of statutory law. This is a letter from one of the bankers of my State, and it gives a case history on a IRS cash refund check which was charged back to their Federal Reserve account for approximately $2,300. The reason for the chargeback was a lost check.

So you understand when a customer files an affidavit of forgery or lost check or whatever, the IRS does not try to ascertain the details concerning that statement. So with the affidavit in hand, they simply back up, if you will, the check through the banking system to the bank that accepted it for cash or deposit. The bank's account at the Federal Reserve System is simply debited and the bank has no opportunity to reclaim these funds and has no recourse against the IRS or other Federal agencies in the matter.

In a case like this, the check had been negotiated over 5 years previously, Mr. President. All proper steps to identify the payee had been taken and he was personally known to the individual cashing the check. That individual even remembered the incident of the check cashing and that the individual named payee had received the funds.

Thus, we have the situation where the payee fundamentally filed an affidavit of lost check and not only did he receive the cash of $2,200 previously, he was then issued another refund check by the IRS based on the affidavit. This then became a civil matter. And to add to the story, the payee had obviously left my State and was nowhere to be found.

Since that time, the regulations have changed and now that is not the case. But the reality of a situation where a forged endorsement can appear on a Government check and the Senator from Ohio would provide no recourse back simply does not flow with the reality of what kind of service he is asking the banks to provide at no cost.

I wonder if the Senator from Ohio would expect a Government car to go into a parking lot in Cleveland and have free parking simply because it was a Government car. I assume the Senator from Ohio would say, no, the Government ought to pay as well. The situation is true for a bank that accepts a Government check in good faith and has no recourse.

It is almost without justification that there should be no provision for charging back on these services that are provided. But to suggest that there is a need for this type of legislation simply does not bear, I think, any serious justification whatsoever.

The Senator from Ohio reflects on what we are here to accomplish. What we are here to accomplish is to recapitalize the bank insurance fund so that all Americans can rest assured that their life savings are secure. Yet, he wants to go beyond that.

We are here also to bolster the safety and soundness of the banking system and protect the taxpayer from bank losses. This is the type of responsible, regulatory reform that is appropriate, but is not included in title V. When we look at a process of suggesting that a portion of the public are denied bank services and the suggestion that this body mandate a specific profit for banks on services is absolutely unrealistic in relationship to the competitive factors that are out in the marketplace working.

The realization is that you have your large money center banks and you have your small community banks and the cost of providing services is different in each case, but nevertheless significant in both cases.

The check-cashing provision, the bank accounts, the fee structure—the conversation is addressed to fee structure. The Senator from Ohio wants to mandate, in law, statutory law, the fees. The fees are posted in the lobby. The fees are reviewed by the Controller of Currency through the examiners who go into those banks.

But it is more and more Government. And for what purpose? I defy the Senator from Ohio to come up with a proposal that suggests that a person who wants to open up a savings account with his Government check is prohibited because he is poor or because he is a veteran or because he is aged. That simply does not exist. Those institutions are there to provide that service and they will do it for a legitimate customer, a customer who cares to identify himself so they know at least the check is not stolen.

We are not asking for unreasonable matters in this relationship of oversight for the consumers. Heaven's sake, it has been interesting to reflect that the consumer legislation and oversight relative to banking matters is almost 3 feet high. It is costing our banks $1 billion a year.

We need consumer protection, but we simply do not need to overload it to the point where we have put more on than is necessary.

It is interesting further to note as we look at this title, the general consensus of those who have studied it, I think, is that it is anticonsumer. Contrary to what some people would argue, title V should be labeled the "Anticonsumer Credit Crunch Extension and Enhancement Act of 1991."

The title passes all these needless costs on the banking system that will inevitably be passed on to consumers. The Senator from Ohio does not address what it is going to cost the consumers. He ignores it.

Title V will result in less choice for bank consumers by requiring Government-mandated products and services. Government-mandated. The Senator from Ohio suggests the Government should mandate these as opposed to the free flowing market. Title V will hurt consumers by choking off $4 to $5 billion in consumer credit nationwide. That is just what you do when you increase the cost of services. Obviously, you decrease profits, you decrease your lending ability and, as a consequence, you cut off creditworthy customers throughout the Nation. And you do so at the wrong time. Now is not the time to place additional, needless costs on the banking system in this country.

We have seen a record number of bank failures. We have seen a nationwide credit crunch. We are seeing little or no economic growth in this country. The total cost of the banking system of implementing this title is anywhere as, I have said, from $500 million to $1 billion. Banks leverage capital at a ratio of approximately 10 to 1, so total credit restriction from enhancement of title V would be approximately $4 to $5 billion. This, I remind the Senator from Ohio, is a contraction of credit, less credit available for the small businessmen to go in and hire people and get them working again.

What we should be doing in this legislation, instead of debating the merits of the position of the Senator from Ohio, is to promote economic growth, provide Americans with jobs, to make credit available, not senseless regulations that choke off consumer credit. And that is just what we are doing here.

We have a credit crunch. Small businesses nationwide are dying from lack of credit. Many businesses, in my State, have become unbankable as a consequence of the difficulties of finding credit, and the enhancement of this title will worsen the credit crunch. How is that going to help the consumers?

The New England States, hit hardest from the recession under title V, another $59 million would be drained from the New England banking system and leveraged into $590 million in consumer credit. Congress should be debating legislation to promote economic growth, jobs, not senseless regulations that choke off consumer credit.

So I think as we address the realities and the mechanics here, we find we do not have a problem. The legitimate recipient of a Government check can go into a financial institution. He or she can open up a passbook savings account. There is no charge. They can deposit a portion, withdraw the other portion. And to suggest that we should suddenly have a mandated law which suggests that this is a God-given right because you have a Government check and you should be allowed to cash it as a matter of law—what is the next step?

Where are we going to move next? Are we going to move to, as I said before, the realization that if you want to park your Government car in a parking lot, you have a right to do so? Well, I do not think that is the case, any more than the argument that has been posed by my good friend from Ohio.

Special-type bank accounts. We have a variety of bank accounts prevailing as a consequence of the competitive aspects, and now we are suggesting the Government should design a bank account, a super bank account. What is wrong with the competitive bank accounts that we have? Is the Senator from Ohio suggesting that the customers are being held up? The customers obviously have many, many alternatives and unfortunately those who use those high-priced check-cashing systems do so out of choice. They do not have to use them. The can go establish an account relationship. They can go to their credit union. There are many other outlets for this.

So do not be fooled for this as a panacea, as suggested, consumer legislation that is needed in this country. It is simply not needed. It is duplicative. It is costly. It constricts credit, and it does not provide any services that the private sector is not already provided. To suggest that access is being denied is simply unrealistic. Access is not being denied to those who hold government checks.

Furthermore, Mr. President, as we try to get down to a resolve or just what this is about, I encourage my colleagues to recognize the significance of the position of the administration, which I think has been referred to by the manager, the Senator from Michigan. I have just been informed by a telephone call from the Treasury Department that the administration does in fact oppose all—all—of title V, and supports the pending amendment.

If there are any questions about this, why, I am sure that we can get further identification.

Mr. RIEGLE. Will the Senator yield at that point?

Mr. MURKOWSKI. I would yield without losing my right to the floor.

Mr. RIEGLE. I thank the Senator for yielding. I know the Senator from Florida has been waiting to speak, and I have indicated I would like to see his request accommodated. We have gone now almost 3 hours on this amendment. Can we accommodate the Senator from Florida?

Mr. MURKOWSKI. I would hope we could, but the Senator from Alaska is not at this time willing to enter into a time agreement.

Mr. RIEGLE. I thank the Senator.

Mr. MURKOWSKI. The Senator from Alaska yields the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, shortly I am going to move to table this amendment, but I want to accommodate, before doing so, the request of the Senator from Florida to speak, which he has indicated he wants to make and I would like him to make.

I asked nearly 45 minutes ago if we could work out some kind of a time understanding, split 2 to 1 in favor of the Members on that side of the aisle, precisely for the purpose of accommodating the Senator from Florida. There was no interest in that time agreement. I want the Senator from Florida—he has been waiting here for some time—to have a chance to speak, and I am prepared to find a way now to accord him that opportunity.

I will move shortly to table this amendment. But I do not want to do that until the Senator from Florida has had the chance to speak. Would 5 minutes, 7 minutes, do for the Senator from Florida?

Mr. MACK. Absolutely not. I have been waiting here all day, and I might suggest I do not think I am the last Senator who wants to speak on this issue. I just think it is unreasonable to look to me at 3:30 in the afternoon after—again, I think I have been here since about 10:15 this morning, not complaining, waiting for my opportunity to speak. But to then turn to me and say could I do this in 5 to 7 minutes absolutely not.

I feel as strongly about the issue as does the Senator from Ohio. We have a different perspective. I understand and respect his right to offer the amendment.

Mr. RIEGLE. What time period would the Senator suggest that he would need?

Mr. MACK. As I indicated to the Senator a few moments ago, I have no idea. I have notes written down here, things that have been said during the day that I want to respond to. I have no planned presentation. I do not have a 15-, 20-, 25-minute speech prepared. Most of my comments will be as I think about them and as I react to the comments that have been made.

Senator GRAMM from Texas is here. He wants to speak.

Mr. RIEGLE. Let me just say to the Senator, we have to make those decisions all the time. Is the Senator thinking that what he has to say will take 5 minutes, 10 minutes, might it take an hour?

Mr. MACK. It might take an hour. I doubt that.

Mr. RIEGLE. Let me say to the Senator, I want to accommodate him, but I will not and cannot accommodate a filibuster, and I think that is what this turns into.

Mr. MACK. I have not even started to speak yet.

Mr. RIEGLE. I understand that. But the Senator is not willing to give any idea as to how long he may require to speak. I would like to see to it he is granted the time he needs. But after we have been on this amendment for 3 solid hours, and the Senator is unwilling to give any estimate, meaningful estimate as to how long it is going to take him to make his remarks, which I want to accommodate, we have a filibuster going on.

Mr. GARN. Will the Senator yield?

Mr. RIEGLE. Let; us just strip bare as to what is going on here.

Mr. GARN. Will the Senator yield?

Mr. RIEGLE. Yes, I yield the floor without losing my right to it.

The PRESIDING OFFICER. The Chair asks Senators to follow the rules and address comments to any other Senator through the Chair.

Mr. GARN. Mr. President, I would ask whoever has the floor to yield to me.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. RIEGLE. I yield to the Senator from Utah, the ranking member, without losing my right to the floor.

Mr. GARN. Mr. President, I simply observe that no one knows better than the chairman that I have supported him on this legislation. We fashioned it together in the committee. We have made joint decisions on its progress. No one wants it to proceed more than I to a conclusion.

But I do have to stand up in defense of the Senator from Florida in that he has not had an opportunity to speak, and I do not know of any time, except when we have time agreements, that we have demanded of Senators on either side of the aisle on many other bills that they tell us exactly how long they are going to speak.

I wish we had a time agreement on the whole bill. I wish we had a time agreement on every amendment. But we do not. I would suggest that we might proceed more expeditiously if we let the Senator from Florida speak, because we have spent about 20 minutes talking about his right to speak a few minutes ago, and now we are spending more time.

I think we might proceed more rapidly if we just allowed the Senator to speak, rather than trying to get him to tell us how long he is going to speak.

Mr. RIEGLE. Let me just say to the Senator from Utah, he has been around here a long time, as have I. And when this issue has been, I think, well ventilated—as you can ventilate an issue like this. This is not the first time it has been to the floor. We have been on it now for 3 hours, and Members have had a chance to say a variety of things.

We find ourselves after a 3-hour debate—we know we are at the end of the session, we have other amendments coming behind this. Other Senators have to be accommodated, some on this side of the aisle, some on the other side of the aisle. I frankly think, after 3 hours of debate, it is unreasonable for a Senator to not be willing to give some estimate as to how long he is going to go. If he needs 10 minutes, I am happy to accommodate him 10 minutes.

Mr. MACK. If I might respond, Mr. President, I was asked a moment ago how long I intended to speak. I indicated that I did not know exactly how long. I do not have a prepared presentation here. I was then asked if I would take 5 to 7 minutes, and then it was asked, again, whether I would take an hour. I said I do not think I would take more than an hour.

Mr. RIEGLE. Let me just say further, because I think it is obvious what is going on, and I say this without any disrespect to my friend from Florida, who I like very much, as he knows, we have all been here long enough to see what is happening here. We have, in effect, a de facto filibuster going on on this issue.

Now, the Senator can shake his head no when he has no idea how long he is going to speak; when other Members are here to speak. I listened with great care to the Senator from Alaska. With all due respect to him, at lest half of the time that he spent were on items not contained within the scope of title V. I was listening to what he was saying. He can certainly talk about whatever he wants. But the point is, it becomes obvious after a period of time that there is a conscious effort to delay moving forward on this bill and to keep us tied up on this section for a long period of time.

I am willing to have the Senate decide this issue, and I will live by the votes of the Senate. If the votes are there for the amendment by the Senator from Alaska, so be it. We will leave this issue and we will go on.

Following that if the Cochran amendment is offered—if the Murkowski amendment is not accepted, the Cochran amendment is offered, and if it is accepted, so be it. We will move on from there.

I do not think there is any reasonable claim that we cannot at that point set a time agreement allowing time for Members who want to speak, that has some degree of reason to it, and agree to vote. I am not hearing that. I am not hearing that.

I am listening very carefully to what is being said. What I am hearing is there is no idea how long it will take, an hour or more. Another Senator, well, he just told me a moment ago, that he did not know how long he would take. We have another Senator waiting to speak. There may be others. I think we have to settle this issue.

I do not want to move to table the issue. But at some point I have to do that. Otherwise, you know, I think we break faith with the effort to move this legislation. I think we injure the rights of other Senators who are waiting to offer amendments. But it is obvious that I think this is a delaying tactic.

I would like somebody to explain to me why. Why are we delaying on that side of the aisle?

Mr. MACK. If I could respond, Mr. President.

Mr. RIEGLE. I yield for the purpose of response.

Mr. MACK. There may be a delaying tactic here, but I am not participating in it. It sounds to me like the delaying tactic is coming from the other side. All I am asking for is an opportunity to speak. I just do not want to be encumbered by the exact number of moments that I might speak. There may very well be a delaying tactic, but I am not involved in it.

I have been here since 10 o'clock this morning waiting to speak. I have never spoken more than an hour on the floor of the U.S. Senate and I probably never will. But I resent trying to be forced into saying I am going to speak 5 minutes, 7 minutes or 10 minutes.

Mr. GRAMM addressed the Chair.

Mr. RIEGLE. Let me say this. The Senator from Florida says he is not engaged in filibuster. That may not be his purpose. I would say to him, very frankly, that is the effect. The effect in a combination of speeches that has gone on at great length without any agreement for time, after there has already been a 3-hour debate, that has the effect of creating a filibuster, whether that is the Senator's intention or not.

I am not going to prevent the Senator from speaking because as I said before I want him to speak. I accord him the respect of his rights to speak. I regret the fact that he will not enter into a time agreement, which I think is an appropriate request on my part after 3 hours of debate on this issue. He is unwilling to do that.

But let me serve notice that at the next opportunity I have after the Senator speaks when I will be able to get the floor I will move to table the amendment because I think the Senate ought to work its will. If the Senate does not want to table it, if the Senate wants to adopt it, that is fine with me. I want the Senate to work its will. The Senate ought to have the chance to work its will.

Mr. GARN. Mr. President, will the Senator yield for one more comment?

Mr. RIEGLE. Yes.

Mr. GARN. I emphasize the fact we have worked together on this bill. I would like it finished as well. But I must stand up in defense of my colleagues that I am not aware of a conscious filibuster going on, nor in the 17 years I have been here is 3 hours a long time on an amendment. I have sometimes seen amendments on this floor for days, when no one accused somebody else of filibustering.

Again, I would repeat, I suggest we go along. But I would resist, much as I would have liked to have had this whole bill finished last Friday, let alone before today is over. As long as different colleagues who have not even been on the floor would like to speak, I will defend that right and also for those on the other side, for other amendments for Members on your side, to be given an opportunity to speak.

So I would hope we would accord our colleagues the normal courtesies of the Senate and then when there is no one left to speak, or when it is determined, if it is determined, that there is a conscious plan, that is a different story. But I think in all fairness right now we should proceed.

Mr. RIEGLE. Let me ask this. I wonder if my colleagues on the other side would enter into a time agreement as to how much longer we need to debate this amendment that would accommodate all Senators remaining that wish to speak on it.

Mr. MACK. If I might respond, I would be glad to enter into discussion with the chairman of the Banking Committee at the time I conclude my statement with respect to time agreements, but not until.

Mr. RIEGLE. The Senator again has no idea how long he may speak?

Mr. DOLE. He would have been finished, if you would let him finish, an hour ago.

Mr. GRAMM. Will the distinguished chairman yield?

Mr. RIEGLE. Yes.

Mr. GRAMM. It seems to me we all understand the rules here. If the distinguished chairman would like to move to table, he can do that while he has the floor. If we table the amendment, then a Member could take the amendment, change the last word in it or move a comma, offer it again, and then we are going to have an opportunity to debate it again.

So I do not know what has been going on here. I have been trying to work. I have not viewed the work the Senate has been doing here as very productive. I do not believe this bill is going to become law in anything like the form it is written. I have been embarrassed by this whole debate. I am sure the Nation has.

I think it is time for us to move toward closure, but I am going to speak on this subject. I am not here to filibuster or delay the vote on this amendment. I do not have any doubt about what is going to happen on this amendment. Socialism is a powerful force on the floor of the U.S. Senate. But I am going to speak on this amendment.

If the distinguished Senator wants to table it, I urge him to do it. I will simply offer it again in a slightly modified form and speak. I am not going to be denied my rights to speak on the floor. The Senator cannot deny that right by moving to table.

So we can sit here and talk about debating or we can debate. I suggest we are going to get further debate.

Mr. RIEGLE. It seems obvious to me that there is a de facto filibuster going on and it can be called anything it wants. Maybe it is not conscious, maybe it is unconscious. But it is obvious to the naked eye that is what is happening.

I regret that, because all the appeals I have heard from the administration are that they want this legislation enacted, and they would like it finished today. That is what I have been told.

Maybe there is a different signal that you fellows have heard since the conversations that I had this morning. That is what I have been told. I do not want to foreclose anybody from speaking.

I also know there are series of other amendments coming down the track that also deserve their time, some from your side of the aisle. I want Members to have the chance to offer those, some reasonable period of debate, and the Senate to work its will.

I am not trying to preordain the outcome. I could not do that even if he wanted me to. I think the Senate should have a chance to decide. When we have gone 3 hours on one amendment, that is a long time around here, time on an issue that we have seen before, and that we have discussed before.

Mr. MACK. If I could respond to that last point, again may I say that again, observing the debate that took place here there was an issue that was raised by Senator METZENBAUM with respect to the failing of banks to cash checks for 9 out of 10 people who did not have an account. That was stated I think maybe 15 minutes, a half-hour ago.

That was an issue that has not been discussed at all during debate. My colleague from Alaska felt it was necessary to respond. Frankly, I would like to respond to that that particular point that was raised by the Senator who is supporting this particular title of the bill.

Mr. RIEGLE. If the Senator will suspend for a moment, because I am going to yield the floor so he will have the opportunity to speak, I think what we have here, unfortunately is an effort to delay the bill, stall the bill. I am not quite sure what the purpose is. But it is clear that is happening. I think it regrettable. I think it is regrettable that it is coming from that side of the aisle.

I have proceeded on the basis all the way along in working with the administration, and with Members on this side of the aisle, that we would try to resolve this issue. We did in committee and we attempted to do it here.

I want to do it fairly. I want the appropriate time to be given to these issues. Three hours on one amendment, when there is the possibility of some number of additional hours of debate, when we have other amendments waiting in the wings every bit as important as this one, is not a reasonable posture to take under these floor conditions. It is not.

I think if the Senator were in my shoes, responsible for trying to manage the bill through here—I have had requests as recently as yesterday from the President of the United States. He considers this one of his main legislative priorities. We did not put that on his list. He created that list. He has asked us to do this.

Certainly, the Senator from Florida knows how many hours we have spent as a committee endeavoring to do it. I think he has the right and the country has a right for us to take these issues through to conclusion. We ought to vote on them. If the Senator has the votes, all well and good. If the votes are not there, we ought to at least let the will of the majority of the Senate decide this issue.

The stock market is having problems today because there is some difficulties with confidence out there about the economy, and even our financial system. The bank insurance fund is empty. We are about to borrow $70 billion to refinance that bank insurance fund.

I think we have an obligation to face these issues, vote them up or down and settle this matter, and get a responsible package in place. I would hope that we could expedite this debate. I hope the Senator would say what he has to say, we could bring this to a conclusion, and we would vote.

I yield the floor.

Mr. MACK. Mr. President, let me again respond to the chairman of the committee.

I am not involved in any attempt to filibuster this bill. As the chairman notes, I offered an amendment in committee to strike this provision. This is not something that is new to me. I feel very strongly about this particular piece of legislation.

So let me assure the Senator that I am not involved in any kind of organized attempt to filibuster this legislation. I make the comment that I probably, of everyone on the floor, have spoken the least today with respect to this issue.

As I mentioned a moment ago, the Senator from Ohio raised the issue of forgery. The Senator from Alaska responded to that. I think it is only fair that I have an opportunity to respond as well, regardless of the other things I had intended to say. Let me start with that point, the issue of forgery.

The way that whole debate or issue got started was that the Senator from Ohio said that he had a letter—I think from the AARP—which said that 9 out of 10 individuals without accounts in a bank could not get a check cashed. Said the way he said it, and without any response to it, boy, the impression you get is it is just a mean bunch of people that want to make sure people who do not have accounts cannot cash checks.

There is something a lot more to it than that. It is very simple. The concern is that if you take the check and cash it, and it comes back to the financial institution, the bank, as a forgery and there is no account, there is no way to get recourse.

Some people are going to indicate that there is an opportunity for recourse. There are exemptions put in the provision. I can tell you, in looking over the four provisions that have been stated in this title, there is no protection for the bank that cashed that Government check.

The next thing someone might say is, well, they can just go to their insurance company. Certainly, they have insurance to cover the cashing of forged checks. The problem is that the deductibility on insurance covering fraud has gotten so great that you have to accumulate, in some cases, as much as $5 million worth of forged checks. In other words, the deductible is so large that it is not going to protect most of the banks. There is no protection. And I might add that the State of Connecticut, which does in fact require the cashing of State checks, provides an indemnity to the bank for doing so. So I suggest that if somebody was serious about this idea of forgery protection, they might offer that indemnity in this provision.

Mr. President, the purpose of this bill—at least as it started out—was to strengthen the banking industry, to increase the industry's ability to compete internationally, to increase profitability of financial institutions, which then would encourage capital to flow into the commercial banking industry in this Nation. The theory behind all of that was, as capital grows, more loans can be made, more funds will flow into our communities, more jobs will be created, new businesses will be started, and the economy will start to grow at a faster pace.

The problem is that this bill, from my perspective, is going in the opposite direction. You cannot add additional legislative burden on the private sector of this country without expecting there to be a reaction. I spent 16 years in the banking business. Just so that nobody gets the wrong idea, it was not in a large bank located in New York, or a large bank located in all of the major money centers of our country. The first bank I went to work for was a tiny, little organization in a community called Cape Coral, FL, with total assets of about $5 million, in a community of just a few thousand. It was a very small institution. I left the banking business after having worked for another bank, which had total assets of about $60 million—again not very large—and probably somewhere in the neighborhood of 60, 65 employees.

The point I am making here is that I am talking about how I perceive this banking bill through the eyes of an individual who has been involved in community banking. I make the claim that there is a much greater percentage of our banking organizations that fall into those very small categories, and are significantly hit as a result of the legislation that is passed by the Congress.

I might say again that I happen to believe that this title was well-intentioned. I do not believe that it has been offered by the Senator from Ohio because he is trying to get somebody. I believe he is clearly properly motivated. He thinks this is a way to help people in his State and around the country. I just argue that I think he is going about it totally wrong.

The Senator from Texas, a few moments ago, said that socialism is on the march. I think that is a pretty decent claim. You cannot just keep layering more and more and more legislation on small private industries in this country.

I remember when I started in banking back in that little town, in that little bank. At that time, we might have had 14, 15, 16 employees—again, a very small organization. Can you imagine for a moment what it must be like when you get a notification from the Federal Reserve, the Comptroller of the Currency, or FDIC, that a new piece of legislation has been imposed from Washington on your little community bank?

They do not have a large—if at all—legal staff. The first thing most of the community bankers do is try to figure it out themselves. And I suggest most of them got in trouble when they have not involved legal counsel to determine whether they have done a particular activity correctly. But in that period of time, in the last 16 years that I was in the banking business, I saw how regulation and legislation passed by the Congress of the United States affected what I did on a day-to-day basis, which I would then say is indicative of what impact it must have had, not only on myself, but on the rest of my employees, and other banks as well.

I used to spend at least 95 percent of my time trying to be involved in what I called "productive activities," trying to figure a way how to get this bank growing, how to make it more profitable. I would come back in the evening and sit at my desk and try to figure out new services to offer to our customers and to the rest of the community, with the hope and desire that I could entice them away from where else they might have been doing their business; or if they did not have an account, maybe they would open an account in my bank.

As a matter of fact, we started providing drive-in teller service at 7:30 in the morning. I make that point to illustrate that most community banks in this country are doing everything they can to provide services to their community.

In addition, as I mentioned earlier this morning, with a question to my colleague from Alaska about this basic bank account, whether an account which was opened and it was agreed between the parties that if you had a direct deposit, that is electronic funds transfer, and the bank agreed them to not charge for that service, whether that particular account would fall under the guidelines that have been established with title V. As I look through the various criteria which have been set up to make a determination as to whether that basic account would fall within the guidelines, I have to conclude that I did not think it would.

Mr. MURKOWSKI. I agree with the Senator from Florida. The Senator from Alaska does not think it would fall into that category.

Mr. MACK. Again, as I indicated earlier this morning, I do not believe it would fall in there either. That would then require the bank to offer a new service, a new account, and probably after they had spent some time with legal counsel to try to determine whether or not that first account fit into that category.

Again, I think it is obvious on its face that we have wasted a tremendous amount of time on the part of that particular small business in trying to make a determination about whether they have in fact complied with this title V.

Mr. MURKOWSKI. To respond to the Senator's question, in followup, in all likelihood the organization would be advised by counsel to proceed with the Government format because that would ensure them of compliance free of any potential liability if anyone were to challenge it as to whether or not their particular type of account was conforming and met the intent of the law as opposed, as the Senator from Florida knows, to the current variety of accounts that are available, and suddenly, a mandate comes in and says that you must meet the Federal mandate and then the question of interpretation is deferred to the lawyers for the institution. The lawyers come in, and I assume would adopt the standard of uniform structure which would then ensure the organization their liability exposure was de minimis in the sense of the other alternative because if you were in noncompliance, the penalty could be substantial. So the organization similarly would not want to risk that possibility.

Mr. MACK. Again, what we are saying here there are many accounts. In fact, I have seen figures that anywhere from 60 to 85 percent of the banking organizations provide some kind of account that would accommodate the needs of everyone interested in having a bank account, but they would, unfortunately, not fit within these guidelines and, therefore, have to be rewritten.

So even those accounts that offer those kind of services—and many of them at no charge—would, in essence, have to rewrite their account plans and offer these under the circumstances that have been outlined in the legislation.

Mr. MURKOWSKI. The Senator is correct. Of course, that is the question, what is the necessity of this? And that is what the Senator from Alaska asked time and time again. I do not think it has been responded to in the debate we had.

I think the Senator from Florida would agree that many of the mechanical questions that we have posed have not been answered by the other side that mandates that title V is in the national interest of the banking system, when clearly the mechanics suggest that these services are available in an extraordinary variety. But to suggest that there should be a mandate that would come in from the Federal Government outlining in great detail all the aspects of a specific type of account, it would be interesting, and then I think to depart and guarantee a 10-percent profit is an extraordinary departure from the norm.

Mr. MACK. I thank the Senator for his comments. It is also interesting that during this debate on the very same bill in which the Senate decided in its wisdom to place a cap on interest rates charged on credit cards that now we are beginning to go into the banking industry and say in this area we agree that you have a 10-percent markup. If anyone really is not aware of the fact that day by day, slowly but surely, Government is becoming involved in every aspect of business. The point that was made by the Senator from Texas again about socialism being on the rise is absolutely correct. It was mentioned earlier this morning that this title V is not a radical proposal, and I would agree with that; it is not radical from the perspective of this body.

What would be radical is if we ever decided we are not going to impose more regulation on the banking community. That would be radical. It also said we want you to run banks as a business. We want those individual community-based community banks out there to operate as a business. If you are going to offer a checking account, here is the account you must offer, here is the fee you must charge, here is the markup you can have. I think this is a disgrace.

What is happening here is the Congress of the United States again slowly but surely is turning the banking industry into a utility. And, in addition to establishing a utility, we are now finding that the Congress of the United States is dictating the type of products that will be offered by institutions.

I want to move now to talk about the burden that is being placed on the banking industry as a result of this type of legislation. Again, I know it would be easy for people to think of this as only the major money banks, those huge, huge corporations with thousands and thousands of people. There are something in the neighborhood of about 12,000 banks in the country—down from 14,500 several years ago, and I would say that roughly 10,000 of those banks would fall into what we would call small country banks or community banks, and it is from that perspective that I want people to listen to this and it is also from the perspective of those people all over this country that are operating small businesses of 10, 15, 20, 25 employees.

What you see happening here to the banking industry ought to be a signal to you of what is going to happen to you in your business in the future. Day by day, step by step, slowly but surely, the Congress of the United States is going to impose on you, through the concept of central government and central planning, the idea of how you should operate your business.

Banks contend with a host of regulations unrelated to safety and soundness, ranging from innumerable consumer disclosures, to call reports, to cash transaction reports, to certification of tax identification numbers, to reports of interest received and paid by consumers.

The list of consumer legislation alone includes—and again this is only consumer legislation: Truth in Lending Act, the Electronic Funds Transfer Act, the Consumer Leasing Act, the Equal Credit Opportunity Act, and let me just stop here for a moment—again when I started in the banking business back in 1966, to my knowledge, I do not believe any of these were in effect at that time. I believe the first one that was imposed was the Truth in Lending Act back probably in 1967–68.

So all of this has occurred since 1967–68. Truth in Lending Act, Electronic Fund Transfer Act, the Consumer Leasing Act, the Equal Credit Opportunity Act, the Expedited Funds Availability Act, and let me, just to make a point here, say the legislation that established the Expedited Funds Availability Act took about 14 pages of legislation. We have ended up now with 114 pages in the Code of Federal Regulations. That is a pretty good jump from 14, 15, 16 pages of legislation to 114 pages of regulation. And then if you were to take that regulation and see the amount of paperwork, the amount of detailed reports, the amount of training, the cost for legal services that are necessary just because of 14 pages of legislation, what I am saying to you is the impact on business grows geometrically and it is having a major impact in slowing down business in this country.

I stopped here at the Expedited Funds Availability Act. So let me continue—the Community Reinvestment Act, the Home Mortgage Disclosure Act, the Real Estate Settlement Procedures Act, the Fair Credit Reporting Act.

Again, stop and think for just a moment, that each time one of these new ideas makes its way through the House and the Senate and becomes law, it then develops pages and pages of regulation, and then it is imposed on the small institution, and I would suspect that there are very, very few small business people in this country that cannot relate to what I have just said. It does not have to be the banking industry. It can be almost any business in this country.

We are strangling American business. We are bringing it to its knees. Small business in this country during the 1980's accounted for over 80 percent of the new jobs. The number of new business starts in this country is declining now, not increasing, and I make the charge it is because of just this kind of mentality. In fact, there was a statement that was made here a little bit earlier. This is really no big deal. I think the words were something like, this is just a little initiative that we are taking here. Every one of those items that I called out a minute ago it was suggested, "Do not worry about it. It is just some little initiative. Do not worry about it. It is not large enough to have an impact and make a difference."

I say to you it has had an impact on small business and in banking in our country.

The last item I would mention in that group is that we then passed the Fair Housing Act. And again, mind you, most of those have been passed—I think maybe all of those have been passed since 1967 or 1968.

In addition, in the last 4 years, banks have been subjected to 10 new consumer-related laws, many of which have created huge amounts of paperwork and disclosure requirements.

Specifically, Congress has added legislative burdens related to the Expedited Funds Availability Act. And again I remember when that one made it through the Congress just a few years ago. Everybody said, "Don't worry about that."

I wish I had the figure available with me to indicate just what the cost to implement the regulations from the Federal Reserve's perspective was. It was a very, very large number.

In addition to the Expedited Funds Availability Act, there was adjustable rate mortgages, credit card disclosure—let me just stop right here.

How many of you have received an envelope from your bank which included credit card disclosures and many other items? I would guess—and again I wish I knew this—but I would guess 5 percent of the people read it. I can tell you from my perspective, I get so much of that stuff, I look into my statement, I get my checks, I get the statement, I throw the rest of it away. I would suggest that most people do the same thing.

Again, to illustrate that there truly is a cost related to that, earlier in the discussions that we had there was the indication that when we passed FIRREA it was necessary for the commercial banks in the country to notify their customers that the insurance with S&L's was no different than the insurance customers of commercial accounts or commerce banks had. It cost the banks $81 million just to send out a notice that said it does not directly affect you—just in case you might know somebody, I guess, that has an account in some S&L, we just want you to know that the insurance you have got is the same that they have got—$81 million to do that.

To go on down further through this list, the Equal Credit Opportunity Act, the Community Reinvestment Act, the Home Mortgage Disclosure Act, Real Estate Settlement Procedures Act, mailing notices of changes in FDIC coverage, which I just mentioned, and a requirement to use only State-licensed appraisers.

Now, early this morning my colleague from Alaska talked about the Home Mortgage Disclosure Act. I just want to pick on this one as well, because I think it really makes quite a point. The Federal Reserve, who is involved in this Home Mortgage Disclosure Act, actually collects data to the extent that it is 2½ times greater than the data that they collect for anything else. Now, mind you, the primary purpose of the Federal Reserve is to determine further monetary policy for this Nation. We collect 2½ times the data on home mortgage disclosure than we do in trying to make a determination about what the proper course of monetary policy in this country should be. I think that is a disgrace.

With respect to the costs of the legislation, this type of legislation that I have been referring to, let me read a couple of comments from an article that appeared in the American Banker earlier this year. The headline was "Complying with Regulations: A Costly and Growing Burden."

> CoreStates Financial Corp. decided last year to calculate what it cost to comply with regulations. It was astonished by the results.
>
> The Philadelphia-based company found it had spent $12 million in 1989—an amount equal to 6.1 percent of its $198 million in profits that year."

Six point one percent, a fairly low number compared to some of the others.

> CoreStates dedicated 144,294 hours to complying with various regulations, the equivalent of 70 full-time employees.

Mind you, nothing more than just trying to make sure that its bank complied with regulations.

> And the cost is growing. Among regional banks alone, compliance expenses are rising at a compounded rate of 15 percent to 25 percent per day.
>
> Experts claim costs are even heftier for small banks with tiny staffs.

Again, I would ask my colleagues to think about the effect on small organizations. There are literally thousands of little banks scattered all over America with new employees. And when you keep imposing on them this legislation, this regulation, it is taking them away from what they are in business to do, and that is to see that credit makes its way through our communities.

There was another company that has $24 billion in assets and earned $233 million in 1990. With all of the compliance people needed, this individual says, "'all of a sudden I am operating a government agency.'"

I believe that those kind of statements could be made over and over and over again. That individual goes on to say that in reviewing their cost for regulations, "The figure comes to 17.8 percent of earnings."

That is significant number. And they were shocked to find that out.

Mr. President, as I said a little while ago, I believe that the Senator from Ohio clearly offers this with good intentions. He is well-motivated. But those ideas are destroying the backbone as of American business in this country. There is only so much one can layer on. At some point the system begins to break down and the reality is that small businesses today cannot even keep up with the legislation that has already been passed, let alone try to absorb all of this additional legislation.

I am going to close my remarks with a thought to try to illustrate what the problem is. I did this during the Banking Committee markup. And in some respects, it is kind of funny. There are a lot of people I am sure that will remember the "Ed Sullivan Show." In fact, I understand that the "Ed Sullivan Show," "The Best of Ed Sullivan" may be on television this weekend.

Those of you who remember the "Ed Sullivan Show" may remember one of those variety acts that he had. Remember the guy that had the little swivel stick and he would put on top of that little swivel stick a plate. And he would spin it, he would get it just right. He would get that thing going and then he would go back to discussing his thoughts with the audience. And in a moment, you started to see this plate begin to waver a little bit as if it were going to fall, and of course he would have to come back and get that plate going again. You would see him standing over there getting that plate going. Well, I suggest that first plate was the Truth-in-Lending Act back in 1967 or 1968.

The lending officer, the individual in charge of the branch, got up from his or her desk, went over and got that plate of the Truth-in-Lending Act going, and he got it just fine-tuned, going real well, and then he went back to try to take care of his customers.

Well, before too much time went by, the Congress did something else. It passed the Electronic Funds Transfer Act. Before he could take care of his customers, he had to make sure that this Truth-in-Lending Act was together. Then he got the Electronic Funds Transfer Act going. And then he had to make sure that the Truth-in-Lending Act was doing all right. And then he went back down and sat at his desk to see whether there were any customers to take care of.

Well, before he could get too far in this loan request, the Congress then passed the Consumer Leasing Act and, of course, before he could spend some time on the Consumer Leasing Act, he had the go back and make sure that the Truth-in-Lending Act was in good shape and make sure the Electronic Funds Transfer Act was in good shape, and then to begin the activity of making sure he was going to comply with the Consumer Leasing Act, and then go back and make sure all of those were in good shape. Maybe even get someone now who just specialized in doing that. The only thing that individual does now is to make sure that plate is going, too. But he has to make sure that individual is carrying out those responsibilities.

After a while, believe it or not, after you add the Equal Credit Opportunity Act and the Expedited Funds Availability Act, that guy over there whose specialty it is not to make sure that these acts are all being done correctly says: I cannot do it anymore. Mr. Lender, chief of the branch, you have to come help me. Take some more resources away from the job they are supposed to be doing, and that is to see that credit flows within our communities.

But that is not enough. Along comes the next plate of the Community Reinvestment Act. Let us get that one going. I think you get my point. I could go on and on and on.

What we find at the end of this is that the individual that was performing that act on television, when he got to the end, no longer was able to carry out a discussion with the audience. The only thing they were involved in was, in fact, keeping all those plates going: Truth-in-Lending, electronic funds transfer, the Consumer Leasing Act, the Equal Credit Opportunity Act, the Expedited Funds Availability Act, Community Reinvestment Act, the Home Mortgage Disclosure Act, the Real Estate Settlement Procedures Act, the Fair Credit Reporting Act, and the Fair Housing Act. That is only for consumers, let alone all the other things that the banks have to do.

I close with this point. You heard me say that, when I started in the banking business in 1966, with a nice, little country bank with about $5 million in assets, I spent the overwhelming majority of my time trying to do what I considered productive things, which, by the way, eventually translates into more jobs for more people. But that is what I was doing.

How do you expand the size of your institution? How do you increase the profitability? What kind of services do you have to design to get more people to do business with you?

When I left in 1981 to run for the Congress, you can be guaranteed that no longer was my time being spent that way. The overwhelming majority of my time—and I suggest it has to be somewhere between 75 and 95 percent of my time—was focused on making sure that my bank complied with Government regulations. It is not difficult for me to understand why we, as a Nation, are having difficulty in competing around the world. It is not difficult for me to understand why our Nation today is having difficulty in getting the economy moving. We have moved our resources away from production and placed them into compliance and regulation. If we do not stop this slow, steady march that is killing our economy, our children and our grandchildren are going to be asking us what in the world were we thinking about?

Again, concluding my remarks, I ask my colleagues to support the amendment that has been offered by the Senator from Alaska. If we are truly interested in a bank reform bill that is going to strengthen the industry, increase competitiveness, increase profitability, and entice capital into our banking industry, then we should support this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there further debate? The Chair recognizes the Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. Mr. President, I thank the Chair and I thank the Senator from Florida. I think his remarks certainly were on target relative to the issue before us, and that is the disposition of title V.

I think it important the manager of the bill—unfortunately, the majority manager, the Senator from Michigan, is not here. But relative to the suggestion there is a filibuster going on, a few minutes ago I was given the time as of probably 15 minutes ago relative to what each side had used on this amendment.

The Democrats at that time had used 54 minutes; the Republicans had used 1 hour and 50 minutes. I think the Senator from Florida would agree, on a bill as significant as the banking bill, with the emphasis on title V and what it does to costs, and the realization it does not affect the soundness, clearly that is not an excessive time. Nor should it be construed as any extended filibuster of that nature.

Would the Senator from Florida agree with that?

Mr. MACK. As I have said to the Senator from Alaska before, Mr. President, I do not know how long I ended up speaking. I think we ended up, probably, debating longer on how long I should speak as opposed to how long I actually spent speaking. But it was never my intention to filibuster the legislation. It just so happens I feel very strongly about this. It is anticompetitive; it is antigrowth; it will reduce credit in the economy; it does not carry out the purposes of the bill which, as I said before, I believe the original intent was—to try to strengthen the banking community, to increase its profitability.

As you increase profitability, not only do you have the opportunity to encourage capital to flow into either your institution or into the industry itself, but more important, what you do is you make more credit available in your community.

As the Senator from Alaska knows, there is a multiplying effect that takes place as a result of lending. Depending on the reserve requirements in place at the time, you can have a 4, 5, 6, 7-times deposit increase as a result of the loans that have been made.

So, in fact, it has a very negative impact on local communities when dollars are drawn away as a result of increased expenses. Dollars are drawn away from profitability, reducing the amount of money that can be loaned, reducing profitability again, and undermining the institution's ability to raise capital. And, as a result of the lost capital, again a further reduction of the loans that could have been made in that community.

Again, I think it is a significant enough piece of legislation that it warrants a discussion of the issues. And, as I mentioned earlier, the Senator from Ohio raised the point that in banks, I think it was 9 out of 10 individuals who want to cash a check that do not have accounts cannot get them cashed, and just left it hanging out there. He does not understand the significance of the concern of a banking organization as to potential losses as a result of fraud.

So I think it is, in fact, an issue that needs to be debated.

To claim I am involved in a filibuster when I probably spoke no more than—I do not know—half an hour, or something like that, I think is absurd.

Mr. MURKOWSKI. I certainly agree. I think as we reflect on the regulatory burden, there has been a great deal of conversation here today. We have talked about the regulatory burden. We have talked about the drain on available credit, and the realization that the industry carries a large and growing burden of paperwork and compliance, which is not, I advise my friend from Ohio, not necessarily imposed on other financial service providers.

There is a question of legitimate equity here. General Electric Credit and some of the other majors—Sears, Roebuck; Penney's—that pay actual interest on a credit account are not covered in this.

We are not suggesting other coverage be included. But clearly, the equity issue, I think, is appropriate to reflect on. Because other financial service providers are not mandated under this particular provision for compliance. The question one would have to ask is why?

Clearly, the Banking Committee chose to address just federally insured, FDIC-insured agencies.

I wonder if my friend from Florida could indicate an explanation of why it was limited to just the banking community, and not other uses of credit?

Mr. MACK. I must say in response to the Senator from Alaska, Mr. President, I do not have an answer to that question. I can only surmise as to what might be going on.

Any time you take an idea and begin to expand it to include more and more organizations, the more resistance you get to the idea. What I am saying to my colleague is at some point, you cross a bound in which, if you do cross it, you have such political opposition to the idea that it cannot—just cannot—be passed. So there always has been that approach with respect to legislation.

Since you have raised the issue of treating one group of institutions different than another one, it is exactly for that reason that the idea of moving forward with a bank reform bill came about. The idea was that we had to increase the ability of banking organizations within our Nation to compete.

What we have seen over the years is that banks that traditionally were the primary lenders in the commercial ventures in the country lost a lot of that business to institutions that in essence acted as the intermediary for commercial paper. So all of a sudden there is a loss of that particular kind of lending activity.

We have seen other organizations, for example, involved in credit cards which take away a certain amount of activity from commercial banks. And one that I think is obvious to many people is organizations like GMAC, Ford Motor Credit that have been involved now for many years in automobile leasing.

What has happened is we have seen the market for bank products shrink slowly but surely over a period of time. And it was for that reason that there was an attempt to begin the development of the ideas to expand banking powers which would, in essence, expand the markets in which banks can do business.

But to go back to the central question that the Senator from Alaska raised, I suggest that the reason that it did not go far enough to be imposed on a whole other group of institutions is because they probably felt it was not politically feasible to do so.

Let me raise one last point with respect to that question. It has to do with the Community Reinvestment Act. What is interesting to me is to see today that there are some bankers who believe that rather than repeal or modify the Community Reinvestment Act, which has become a tremendous burden on banks around the country, that their response now is since we are at a competitive disadvantage, even though I would think most bankers believe that this is the early form of credit allocation, for some bankers to be saying that we ought to take those bad ideas and impose it on our competition because they do not have to deal with it. I think is the wrong approach to take. It is a bad idea.

Credit allocation from a Government source is a bad idea. Mark my words, I say to the Senator from Alaska, it is only a matter of time before we see some specific numerical requirements under the Community Reinvestment Act as to how much a particular depository or lending institution should return to the community, whether it is economically feasible or not. It is only a matter of time, considering the way this Congress and past Congresses have been acting with respect to this type of legislation.

Mr. MURKOWSKI. I thank my friend from Florida. I think we would agree that the banking bill currently before us would place these additional burdens on banks and, as we have pointed out time and time again, they are not related to their safety and soundness.

On their own, each new requirement may not seem burdensome. But taken together, I think it is fair to say it is staggering. In fact, it has been estimated if all the regulations uniquely affecting banks were stacked up, the pile of papers, I have stated, would be 3 feet high. I think that is a monument to the fact that no matter how seemingly simple the laws of this body appear to feel is in the interest of the public, it invariably gets translated into complicated, voluminous, expensive regulations.

Of course, we are all aware of the reason for that. The reason for that is we do not have to do it. We simply sit here and pass on laws and pass on requirements and regulatory aspects that are statutory, but we do not have to do the paperwork. It is just like the realization that many of us find the income tax so complicated that we cannot do it ourselves anymore.

I think it is fair to say that the Senator from Florida and the Senator from Alaska have a little experience in this area. We have done it. We have waded in. We have seen what it means to live under a growing, crippling, almost snowstorm of implementations, regulations that are mandated by law with no reference to the issue, of looking objectively and trying to determine how many of these are duplicative, how many serve a current purpose, how many should be done away with. There is no effort to go in and reorganize the type of restrictive consumer legislation that is needed. It is simply a matter of whoever can articulate most eloquently that this is something that affects the consumer and, therefore, is good. There is no relation to the reality of what it costs the consumer.

I think that is what the Senator from Florida and myself are attempting to do here.

As we look at the burden that is growing with bank operations and customer relationships, it is fair to say that there are serious differences that are occurring. I am told that each year an army of nearly 75,000 bank employees does nothing but fill out forms. And the estimated cost, I have stated before, is between $500 million and $1 billion a year for every dollar consumed by this regulatory burden. One less dollar is available for the real business of banking, and banking is making loans to the community. That is what it is all about. The cumulative effect of those compliance costs has seriously affected the credit availability in the system.

So I think that is a responsibility of this body to address. As expenses mount, less money can be plowed back into capital which, in turn, supports additional bank lending. Moreover, banks will find it more difficult to attract funds for capital markets and investors will increasingly shy away from the high regulatory cost of banking for other financial services industries which are not subject to the same consumer laws and regulatory requirements.

Make no mistake about it, Mr. President, that is occurring. Other financial services are moving into the traditional areas of banking. There is nothing wrong with that. The competition is fine, but they are not under the same statute, the same regulatory requirements and, as a consequence, there is a lack of equity.

Limiting the ability to raise capital from internal and external forces is important to credit availability because $1 of capital, as we have indicated previously, supports $8 to $12 of lending. You reduce your capital and ability to lend services to the community. In other words, any additional regulatory burdens may reduce the supply of credit and, therefore, jeopardize a strong economic recovery.

Again, Mr. President, that is what we should be doing. We have an obligation to promote economic growth, provide Americans with jobs, not senseless regulations that simply choke off consumer credit. That is what this whole circle does. It does not provide the consumer with benefits; it cuts the consumer's ability to borrow.

The added compliance costs contained in the Senate Banking Committee bill comes at a time when banking is absorbing many other expenses as a result of the troubled economic conditions over the last 2 years. Banks have put aside $70 billion in provision for loan losses and raised capital by $22 billion. In addition, deposit insurance premiums have nearly trippled since 1989 and accounted for 20 percent of the increases of banks' noninterest expense last quarter according to the Federal Deposit Insurance Corporation.

Safety and soundness regulations, to the extent that they are not duplicative, helped to achieve the goal of reducing the banks' insurance fund exposure to loss, but increasing additions to the total regulatory burden have come in areas unrelated to safety and soundness. In the last 4 years alone, banks have been subject to 10, Mr. President, 10 new major consumer-related laws. Now we have the proposal in title V to add to those.

Most of these laws spawn lengthy regulations. Now Congress is considering additional laws that if adopted are certain to significantly increase the compliance burden. These include mandated basic banking accounts, mandated government check services for noncustomers and truth in savings.

In considering changes in the existing law and regulations, it is essential to keep in mind the large number of consumer laws which already apply to banks. The banking industry, of course, feels that any extra burdens and duplicative paperwork requirements that are not directly related to bank safety and soundness are not necessary at this time.

Mr. President, the regulations uniquely affecting banking organizations are so numerous that the Senator from Alaska is reluctant to go through them at this time, but just to give you some idea under the miscellaneous category we have the Environmental Protection Agency environmental lender liability regulation. If you have ever seen the curtailment of gas stations in this country, you can recognize that no longer are banks simply loaning money on gas stations. The realization that the compliance under the Environmental Protection Act provides for a deep-pocket theory and a mortgage holder is liable if there is leakage associated with tanks and any hazardous residue is forthcoming.

The miscellaneous category also contains EPA underground storage tank regulations-financial responsibility. IRS summons of customer records; IRS levies; certification of foreign status; foreclosures and abandonment reporting; individual retirement account reporting; mortgage interest reporting; broker and real estate transaction reporting; interest information reporting; Bank Security Act: Currency Recordkeeping and Reporting Act; international investment survey; availability of call report; Employee Retirement Income Security Act or ERISA, we are all familiar with that; depository for Government (tax deposits); savings bond payment requirements; Treasury check payment requirements; HUD-homeownership counseling; membership in Federal Reserve System-regulation H; reimbursement to banks for providing records under regulation S.

Even areas having special flood hazards of consumer protection; interest on deposits; Real Estate Settlement Procedures Act of 1974; funds availability, regulation CC; Electronic Funds Transfer Act, regulation E; consumer leasing regulation M; truth in lending: home equity lines of credit disclosure; truth in lending: Fair Credit and Charge Card Disclosure Act; truth in lending, regulation Z; Home Mortgage Disclosure Act; fair housing; Community Reinvestment Act; Fair Credit Reporting Act; credit practice rule, regulation AA; Equal Credit Opportunity Act, regulation B. That is under "fair" distribution of credit.

Under bank safety and soundness, bank bribery guidelines; lending limits adverse contracts regulation. That is proposed. Conflicts of interest regulation, proposed; accounting for financial instruments, proposed; accounting for income taxes; statement of cash flows; accounting for loan fees and costs; chartering, branching, relocating offices, powers; credit by banks for the purpose of purchasing or carrying margin stock; management official interlocks, regulation L; assessment of fees; rapid growth regulation; appraisal regulations; restrictions on insider loans, regulation O: criminal referral forms; Bank Protection Act regulations; capital adequacy regulation; change in bank control; written policies required by supervisors; deposits: reserve requirements, regulation D; transactions with affiliates-section 23A and 23B; bank holding company reports; bank quarterly call reports.

Mr. President, I could go on and on and on. If that does not set the stage for a legitimate question by this body of the necessity of further regulation, why, the Senator from Alaska certainly does not know what does.

The regulatory burden is large and it is growing. The volume of regulations already stands 3 feet high. No one regulation is a problem but the aggregate has become overwhelming. Each dollar consumed by regulatory burden is one less dollar devoted to the real business of banking, making loans to the community. That is their business. Many burdens are unrelated to bank safety and soundness and the burden as I have indicated is not shared equally.

We have gone over the costs, Mr. President, and we have gone over the logic, but what we have not done is we have not heard the other side of the issue, the justification for this. It is simply in the consumer's interest and therefore it should be adopted.

Mr. President, there are a few of us here in this body who think we ought to have some sense of understanding on the necessity of some of the laws that are passed on to the people that we expect to serve our community needs, namely the banking community. I think the Senator from Florida along with myself and others have certainly done that to a large degree today.

So as we make reference to the status of where we are at this time, I think it is appropriate to note that we have probably spent a little more than a total of 3½ hours on this legislation. That is not extreme for an amendment of this magnitude.

I think it is fair to say that we all agree there is a tremendous need at this time to recapitalize bank insurance funds so all Americans can rest assured their life savings are secure.

Secondly, that the regulatory reform which bolsters the safety and soundness of the banking system is provided and protects the American taxpayer from bank losses. That is our charge. Our charge is not to levy additional pages of restrictions. So as a consequence, Mr. President, I think after a half-a-day debate on this controversial amendment, certainly we have not seen an unusual set of circumstances.

This is not a Republican effort, I remind my colleagues. We have cosponsors from the other side as well. It is my understanding that several Members on the other side support the pending amendment.

And further, this is not a filibuster, Mr. President. The effort that killed the energy bill was a real filibuster. So the Senator from Alaska, along with those who have spoken so far, has made an adequate case for the realities associated with the necessity of having this amendment included in the banking bill and clearly the justification is no longer evident I think as a consequence of the arguments that have been made.

I see my friend from Texas, who has indicated an interest in speaking on behalf of the amendment, is here, so I will yield the floor at this time.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I know the Senator from Michigan is interested in offering a motion to table. But I also see my colleague from Texas is on the floor. On behalf of the Senator from Michigan, I am inclined to offer such a motion but I do not want to cut off the Senator from Texas. Would the Senator from Texas indicate how much time he feels he needs?

Mr. GRAMM. Mr. President, I had not intended to speak very long. Much of this ground has already been plowed. I just simply wanted to talk about what I believe to be the underlying issue. I had not planned to speak very long. I do not know what others may wish to speak on the subject. But I have found that people do not get any more information if you speak a long time around here than they do if you speak a short period of time.

Mr. METZENBAUM. If the Senator from Texas will allow the Senator from Ohio, I will speak for just a few minutes and then yield the floor, without any offense to him.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. METZENBAUM. Mr. President, what we have here on the floor of the Senate at the moment is a filibuster. I think it is a filibuster with a specific objective in mind, and that objective is to get a stripped-down bill and provide the booty for the bankers and nothing else.

What amazes me about that is this—and I doubt very much that this Senate is prepared to enact a stripped-down bill and just provide $70 billion for the banks in this country without providing some other corrections that are needed in the banking laws of this country, and certainly some consideration for the consumers or the customers of those banks. We are debating that very issue at the moment.

Now, I have difficulty in comprehending the position of those on the other side of the aisle, and I want to exclude from that the manager of the bill on the other side of the aisle because I do not believe he is a party to it, at least so far as I know. It is my understanding that the President of the United States says there is a need for this money, for the $70 billion or some lesser sum. It is my understanding that the manager of the bill, Senator RIEGLE, is prepared and is supporting that $70 billion but expects a more comprehensive bill to be enacted.

And I doubt very much that the Senator from Michigan, the manager of the bill, the chairman of the Banking Committee, would be willing to come to this body and say let us have just a stripped down bill.

Senator BRYAN has a provision in the bill that is very important and very relevant. It would mean that is gone. There are consumer provisions in the bill providing for the senior citizens, the poor, veterans, and that would be gone. There are a number of other provisions in the bill having to do with the right of banks to sell insurance, but this Senator is not particularly concerned about, particularly interested in, certainly not particularly supportive of. I would guess there are those who want that. There are other protective provisions I am told—I think it is a 150-page bill—and there is a lot of work and time that has gone into that bill.

But here we are spending all day on this one particular provision, and the Senator from Michigan has been very considerate in not offering a motion to table with the thought in mind that he would be fair and open, and permitted—he was ready to do so before but he saw the Senator from Florida on the floor. So he wanted to accommodate him. He tried to get some agreement from the Senator from Florida as to how long he would speak, but the Senator from Florida was not willing to do that. But notwithstanding that, the manager of the bill was still considerate enough to provide him whatever time he needed.

Therefore, we heard from the Senator from Alaska, my good friend, who went on at further length to discuss some of the provisions of the title V, the consumer protection provision.

I think that we are all aware of the fact we are in the closing days of this session. And this Senator would not get panicky if there were no banking bill. But my opinion is, according to the advice we received, that the President of the United States would be concerned about it.

Only this afternoon, only late this afternoon, did we learn that the Treasury now does not want any part of title V in the bill. Where have they been? What kind of Treasury is that? What kind of administration is that waiting until this bill has been on the floor for days and sends over a letter, according to the Senator from Alaska, that all of title V is something they would like to see out of the bill? All of the consumer protection provisions—what kind of procedure? How do they work down there at the Treasury, at the White House?

Do they not have any concept of the kind of relationship that should exist and could exist between this body and the House and the administration? What kind of good relationship can exist when in the midst of debates having to do with the consumer protection provision they send a letter down suddenly saying "We do not want to support any of those provisions. We want them to leave it."

Why should we pass this bill? Why should any of us come out here and bail out the banks? It is they who got themselves into trouble. It is they who required us to or urged us to come up with $70 billion to bail them out. Let us give them $5 billion. Let us give them $10 billion. Maybe we ought to give them the amount of money that is needed on a pay-as-you-go basis, as they can fail and as the shortage of money—maybe we could come up with that kind of money.

Why should we sit here and give them $70 billion? You do not get any cooperation from this administration. All you get is a letter in the midst of the debate saying "We do not support any of the consumer protection provisions." I think it is an odd way to have a cooperative relationship. It is an odd way to lead, so-called lead, this country, for them to be acting in this manner. I believe that if we cannot get a total bill, a bill that has some protection for various segments of the community, we ought not to have any bill at all. Let us go home without a bill. Let the administration accept that responsibility. That is where the blame would lay, and that is where it belongs.

One of the most respected Members of the Senate, one of my best supporters of consumer protection provisions in this bill—I say that with a little question mark after it—has indicated that he would like to speak for 5 minutes. I know that the Senator from Texas is waiting and the Senator from Ohio now finds himself in a somewhat embarrassing position. I am willing to yield the floor, but the Senator from Texas was aware of what I had indicated——

Mr. GRAMM. Mr. President, if the distinguished Senator from Ohio would yield, I would be happy to allow the distinguished Senator from Illinois to speak. I have a 5 o'clock meeting on the RTC, in fact, on an amendment that is being offered by the distinguished Senator from Illinois. I am going there in the spirit of trying to work out a compromise so we can move forward with this bill. The problem is I cannot be in both places at the same time.

Mr. DIXON. May I say to my colleague from Texas that the very reason I would like to speak very briefly now is that I am going to that meeting, as he knows, because it is on my amendment. If I could speak for just a very brief period, I would thank both my colleagues for their indulgence. I promise it will be not more than 5 minutes.

Mr. GRAMM. Mr. President, I will withhold. I am going to go to the meeting. I would like to have an opportunity to speak when I get back.

Mr. DIXON. I thank my friend from Texas and my friend from Ohio for their indulgence. I assure both of them that I will conclude at 5 o'clock.

Mr. METZENBAUM. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DIXON. Mr. President, we are considering this bill at a time of real turmoil in our economy. We are in a double-dip recession, and it is unlike other recessions in the post-World War II era.

This is a recession that has hit the average middle-class American hard. And it comes after a decade in which ordinary Americans have seemed to lose ground.

It now often takes two paychecks for families to enjoy the standard of living their parents did with only one. Housing costs are at once both too high and too low. Young families increasingly cannot make the transition from renting their home to owning a home. And more and more homeowners feel trapped in their current houses, unable to trade up or move because moving would mean losing part—or even all—of their equity.

Health care costs accelerate rapidly, while more and more Americans with health insurance are concerned about the rising costs of inadequate coverage, fearing that a major illness in the family would bankrupt them—and over 37 million Americans don't have health insurance at all.

We will soon be in the Christmas season, traditionally a season of optimism and good will. But many American do not feel optimistic at the moment. Instead, the mood in the country is sour and anxious.

Consumers are drowning in debt, as are too many American corporations. And the Federal Government is the biggest debtor of all. The Federal budget deficit was an all-time record $268 billion last year, and the national debt is now well over $2.8 trillion dollars.

That crushing debt burden means the traditional tools for getting the economy working again are not working very well. The Federal Reserve Board has brought interest rates down dramatically in the last 18 months—lowering the key discount rate to 5 percent during that period—yet the economy is not responding.

The reason it is not responding is all too simple. Because middle-class Americans already feel too burdened by debt, lower interest rates are not enticing them to borrow more so that they can spend more. Instead, Americans are paying down their debts, and using lower interest rates to refinance existing debts. Instead of making major new purchases, such as buying a new car, for example, Americans are trying to make their old cars last another year, or buying used cars if they buy a car at all.

Increasing numbers of Americans are fearful about the future; that sense of optimism that has been so uniquely American is under assault. What is worse is that ordinary Americans no longer seem to trust their Government to act in ways that will make things better.

There is only one way to restore that trust—and that is for Government to act decisively and firmly in the public interest to get the economy moving again and to address the problems that Americans really care about.

That means we have to provide leadership. That means we have to consider new approaches to solve new problems. That means we have to act.

My colleagues may ask what this all has to do with the banking bill now before us, Mr. President. I think the answer to that is clear. We need to act on banking legislation that ensures that:

American taxpayers will not be asked to help restore the deposit insurance fund;

Depositors can be confident that their money is safe in banks;

Working Americans can get the credit they need at reasonable, competitive rates; and

That the banking industry's ability to be an engine of economic growth in our economy is restored.

What we need is a bill that makes a banking industry both safer and more competitive. What we need is a bill that allows a banking industry to meet the financing needs of all of its customers. What we need is a banking industry that can make loans that will create new jobs and help get our economy moving again. What we have, however, Mr. President, is a bill that falls short of meeting those objectives.

What we have is a bill that does not address many of the basic causes of the problems facing the banking industry. What we have is a bill that is unfortunately based on a number of misconceptions with respect to our banking industry and our financial services industry in general that seriously handicaps its ability to work effectively in meeting the objectives I have outlined.

At the turn of this century, banking dominated America's economy and our corporations. Now, the situation is reversed. The banking industry's share of the financial services market in this country has dropped from 40 percent to 29 percent in the last 16 years. And the best corporations now get much of their money from the securities markets instead of banks.

Our banks are now losing business to foreign banks both abroad and here at home. Foreign banks now have 14 percent of the U.S. market—and over 25 percent of the California market—while the share of overseas markets controlled by our banks has steadily declined.

Technology, communications, and our economy in general have all changed in fundamental ways since the time that most of the structure of our banking laws was enacted. The result is that our financial system has changed, but that our banks have been unable, because of regulatory constraints, to respond effectively to those changes.

And the result of that is a banking system that is steadily more risky and steadily less profitable, one that is increasingly becoming the financial services provider of last resort. As I stated earlier in this debate, people now talk seriously about taking their money out of federally insured bank CD's, or checking or savings accounts, and putting the money into money market mutual funds—so it will be safer.

That, it seems to this Senator, is a devastating indictment of our regulatory system. It makes it clear that bank regulation is out of date, and that it prevents banks from competing effectively. The bill, however, does not do enough to bring banking law back into line with the changed economic situation. It does not do enough to make banks more competitive, and therefore more safe.

In 1887, Congress passed the Interstate Commerce Act to protect shippers and passengers from the then-vast, monopolistic power of the railroads. By 1975, however, the Federal Government was spending over $7.5 billion trying to prop up railroading. And even that didn't help. Airlines, automobiles, trucks, barges, and pipelines had taken customer after customer from a railroad industry that, because of the regulatory system, could not effectively respond. In 1980, Congress and the President agreed that there were only two alternatives left: Eventual nationalization of large segments of the railroad industry at tremendous public cost, or regulatory reform. They chose reform.

We have a similar choice before us now, but, unlike 1980, the Senate now seems to be trying to avoid facing that choice. Instead, we have arguments about big bank mistakes. Instead, we debate whether the bill deregulates—it does not, instead of whether it reforms our banking laws.

In my view, without fundamental reform, a future of continuing deposit insurance and credit crunch problems is probably inevitable. Reform does not mean deregulation. It does not mean providing banks with even a single new power. What it does mean is considering safety and soundness issues in the new, more highly competitive environment banks face. What is does mean is facing the new economic reality that we seem to be trying to deny.

We still need regulation—tough, fair, regulation that assures taxpayers that they won't be asked to make good deposit insurance losses, and that protects those that have the least access to banking services—but it must be regulation that fits the changed economic environment in which banks must now compete.

In the 1970's, railroads were in danger of becoming the transportation alternative of last resort, not because of economic obsolescence, but because of regulatory obsolescence. Our banking system is also being crippled by an obsolete regulatory system. Unfortunately, this bill does not do enough to change that fact, and the results of that failure mean:

Unnecessary risks for taxpayers and depositors;

Unnecessary harm to our banking industry; and

Unnecessary damage to our economy, our ability to create new jobs, and to compete internationally, and to our future growth and prosperity.

Americans are challenging us to act boldly and decisively, and to provide real leadership to solve the real problems they face. The sad truth is that this bill does not adequately meet that challenge.

I say once again that I thank my colleague from Ohio and my colleague from Texas for accommodating me. I simply say, in conclusion, that I am now going to a meeting with folks from the Treasury Department and the administration to see if we can resolve the conflict on the RTC situation with respect to a one-board RTC board and a chief executive officer confirmed by the Senate that has the power to do a good job to run the board.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MURKOWSKI. Mr. President, reserving the right to object, and I shall not object, I believe that the floor manager recognizes that we have one Member one our side who wants to be heard.

Mr. RIEGLE. I am going to comment on that right now.

Mr. MURKOWSKI. I have no objection.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I am told there is one Senator remaining on the Republican side who wants to speak on the Murkowski amendment. That is Senator GRAMM of Texas. He was on the floor earlier and indicated his desire to speak.

I have expressed myself before with respect to my view, and notwithstanding the other things that have been said, the length of time that this debate has taken, particularly on that side of the aisle, I take to mean an effort to slow down the bill and perhaps stop the bill.

We are in a situation where if Members insist on speaking, they can do so unless I exercise an arbitrary step to seek to table the amendment before a Member has had the chance to speak. I have been reluctant to do that.

But I think what is taking place is obvious on its face, and I realize Members on the other side dispute that.

But when you take up an amendment of this sort at 10:30 in the morning and we have not had a vote on it—although it is well known to Members, I think Members are ready to vote on it—by nearly 5:30 in the afternoon, I think that is an extraordinary delay, particularly given the fact that we are late in the session, we have other amendments to consider, we have other legislation coming behind this legislation.

So I want to put the signal out to the Senator from Texas. I know he is in another meeting, but I would appreciate it if the word could be gotten to him that I am going to wait a bit longer for him to have a chance to come to the floor and to make his remarks. I do not want to be arbitrary about moving to table the amendment, but I think I have been as reasonable as it is appropriate to be, and at some point, if he has not come back, I will feel compelled to move on the issue.

Does the Senator from Maryland wish the Senator from Michigan to yield?

Mr. SARBANES. As I understand it, we are still on the amendment that was laid down last night to be taken up first thing this morning, is that correct?

Mr. RIEGLE. That is correct.

Mr. SARBANES. And that amendment was turned to at about 10:30 this morning?

Mr. RIEGLE. Thereabouts, yes.

I say to the Senator, if I may, my sense for what we are dealing with here is a de facto filibuster carried out in the debate on this amendment.

Mr. SARBANES. Well, I say to the Senator, it is an important amendment. I mean I recognize that. It is not a frivolous amendment. It would strike, as I understand it, a title of the bill, an important title.

Mr. RIEGLE. Yes.

Mr. SARBANES. And a title that I very strongly support and I think is an essential part of the bill.

But it would seem to me, we are now at 5:25 in the afternoon, that we ought to be able to get to a vote on this, on or with respect to this amendment. And then, I take it, if this amendment is defeated, there may be another amendment that deals with only part of the title of the bill.

Mr. RIEGLE. That is correct. There is no way of knowing at this time how either vote might turn out.

Mr. SARBANES. So in effect we have two. I recognize they are serious amendments. I am not trying to in any way diminish the importance of the amendments and I recognize that. But we have two amendments; one that would completely eliminate the title and another, if that fails, which would strike out part of the title.

They could have, I guess, by now, been dealt with at this point in the consideration of the bill, thereby allowing us to move onto other amendments. I do not think there are many other amendments, if any, comparable pending. I ask the chairman, is that correct?

Mr. RIEGLE. I think that is accurate. There is an amendment on the RTC issue that Senator DIXON has proposed adding here. But he is flexible on the issue of whether or not that is taken up here, depending upon what can be worked out because we will have another bill later that that addresses.

But in terms of the substance of this bill, I will say title V, the consumer section, is the main remaining section. There were four, three of which have been dealt with, settled by the Senate. This is the one that remains to be settled.

My own judgment is the Senate is ready to vote on this. I think the Senate knows how it feels on this issue, and I think we have run into a delaying tactic in the guise of an extended debate.

Mr. SARBANES. I guess I really would put a question to the proponent of the amendment, who I see on the floor, the distinguished junior Senator from Alaska, as to whether in his view we might be able to vote on or in relation to his amendment sometime shortly.

My impression has been, although I have not been able to be on the floor throughout the day, that the chairman has tried very hard to accommodate the Senator in terms of a lengthy, indeed an extensive debate period with respect to the amendment. I am sure Members want some idea at this point about what the prospects are. I wonder if the Senator sees it likely that we would be able to vote soon.

Mr. RIEGLE. I yield to the Senator from Alaska so that he might respond to that question.

Mr. MURKOWSKI. I thank my friend from Michigan and my friend from Maryland.

Let me respond by saying I believe that we have spent close to 5 hours and 20 minutes, give or take, and I believe the time that has been spent on the amendment to strike title V has been about 2 hours on your side and about 3½ hours on ours, give or take a few minutes. So I do not think that this should be construed as a filibuster.

We had a filibuster the other day on the energy bill, which I think was a true filibuster. There is a concern, of course, on the status of the title V and its necessity at a time when clearly the objective of this body is to address a couple of things, recapitalizing the insurance fund and the regulatory reform that bolster the safety and the soundness of the banking system. The Senator from Alaska and the Senator from Florida and a number of others have taken issue that title V really is extraneous and goes beyond ultimately what our objective here is.

However, to be specific, the Senator from Texas has indicated an interest in speaking on this matter. I am not certain as to what his time requirements are. There may be other Senators wishing to speak, I do not know at this time. I am only aware of the Senator from Texas.

There is currently a meeting of a portion of the leadership on the RTC matter which should be concluded, I am told, quite soon, because I was advised that it would take about a half hour.

That meeting began at 5 o'clock. It is almost 5:30 now. So I would anticipate that that meeting will be concluded within the allocated time that was given to me. I have no assurance, obviously. But I would anticipate that as soon as that meeting is concluded the Senator from Texas will speak.

As I said, I have no idea of the disposition of any other Senators at this time. But I would be happy to advise my friend from Maryland or the floor leader if there is anyone further desiring to speak on our side. I do not know if Senator ROTH is here seeking recognition on this matter or not.

Mr. SARBANES. I know the Senator still has the floor, but could we possibly get a time agreement at this point that permits so much additional debate and then go to a vote on this amendment?

Mr. RIEGLE. If the Senator would yield, I think Senator GRAMM, as far as I know, is the only other Senator of which I am aware who wants to speak and has asked for time to speak, and he is now on the floor. May I ask if the Senator has some sense as to how long he will need?

Mr. GRAMM. Mr. President, let me say to the distinguished chairman that I cannot imagine that I would speak 10 minutes. In fact, I was here earlier and deferred so the Senator from Illinois could speak so we could go meet to talk about the follow-on amendment to this amendment. So all I would like is a simple opportunity to say a few words. I will be brief and then we can vote.

Mr. RIEGLE. I am wondering if the Senator would be agreeable then—I want him to have the 10 minutes. We were just chatting about that. I would like to propose a unanimous-consent request then that after the Senator from Texas has had his 10 minutes on this issue, we then go to a vote.

Mr. MURKOWSKI. Mr. President, reserving the right to object, I am prepared and willing to have a vote on the pending amendment. As I have indicated, I am not desirous to filibuster, but I want to have the assurance that all on this side have had the opportunity to address it. So if no other Senator on our side is willing to or feels compelled to come forward, then I would be willing to enter into a time agreement at the conclusion of the remarks of the Senator from Texas.

Mr. RIEGLE. I am wondering if the Senator from Alaska would be willing to enter into a 15-minute time agreement and give the first 10 minutes of it to the Senator from Texas, and if he finishes before that time reserve the remainder of that time?

Mr. MURKOWSKI. I am reluctant, in all deference to my friend from Michigan. I think it is fair, since the Senator from Texas has been on the floor seeking recognition, that he be allowed to speak and, after that time, if there are not other Senators, I would be willing to accept or enter into a time agreement.

Mr. SARBANES. Could we set it a little later and set the vote so it is 6 o'clock and reserve 5 minutes for the chairman, and let the Senator from Alaska have the balance of the time? That would be many times more than the Senator from Texas has indicated he requires, and would leave the Senator with some additional time if he chose to use it. Then we would know there would be a vote here at 6 o'clock?

Mr. RIEGLE. That might help Senators, also, do their planning for the evening. That works to the general good, if I may say so.

Mr. MURKOWSKI. All right. I propose a time agreement for a vote certain at 6 o'clock that would be on the amendment pending, if that would meet the criteria of both the floor manager and the Senator from Maryland?

Mr. RIEGLE. And the manager of the bill has 5 minutes, with which to summarize?

Mr. MURKOWSKI. I think we would share—I intend to take a few minutes in summary. I propose, in deference to the floor leader——

Mr. GRAMM. My colleague ought to have the last 5 minutes on his amendment.

Mr. RIEGLE. I will only say then the vote on or in relation to this amendment occur at 6 o'clock under the arrangement just described, and the Senator from Texas have the next 10 minutes.

Mr. MURKOWSKI. With the provision the Senator from Alaska have the last 5 minutes to speak on that amendment? Or I will split whatever——

Mr. RIEGLE. Fine. Let us split the last 5 minutes, 2½ minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank the distinguished chairman for working out an agreement where I could speak. I do not have any profound thoughts on this amendment. I simply wanted to make some observations.

We have now, for several hours, been debating the technical aspects of the amendment. I simply wanted to try to take one step back from the amendment and reflect on what we are doing here.

All over the world today people are debating a revolutionary idea called economic freedom. We call it free enterprise, here in the United States. And the basic idea is getting Government out of the way and allowing people to act, to allow the economy to be driven by the profit motive in providing goods and services, trying to create wealth, trying to create jobs.

It is a revolutionary debate, and it is a debate that we all rejoice in.

Mr. President, I cannot help but be struck by the fact that here for the last couple of days we have been debating exactly the same issue that is being debated in Eastern Europe and the Soviet Union and in the developing world, but we have been coming to exactly the opposite conclusion on these issues. Our conclusions have been exactly opposite to the conclusions that are being reached in Eastern Europe and the Soviet Union and the developing world.

On the floor of this Senate we have voted to have Government set interest rates, usury limits, a notion that is rejected today in Eastern Europe, the Soviet Union, the developing world, and every spot on the Earth where there is any economic enlightenment.

We are here today considering a provision in this bill that says that we are going to force banks to provide certain kinds of services.

This flies in the face of everything we should be trying to do in this bill. I remind my colleagues that the purpose of this bill is to allow banks to be more competitive. The whole purpose of this bill is to try to allow banks to provide more services, to try to allow banks to be more competitive on the world market so that they will be prospering instead of failing in record numbers.

We have been losing market share. None of the largest banks in the world today are American. What we are trying to do in this bill is to try to make it possible for banks to be more competitive, to have a stronger bottom line, to rebuild their balance sheet, and to enable them to pay the cost of deposit insurance to protect the taxpayers.

In fact, in this bill we are going to provide the wherewithal whereby banks can borrow $70 billion to replenish the insurance fund, and replenish it not for the banks but for the depositors. And the whole purpose of the rest of the bill is to make it possible for banks to be competitive. The purpose of the bill is to take the shackles of regulation off.

Now we come in with a provision which our dear colleague from Ohio has promoted, which has been offered to every banking bill since I have been in the Senate. It is a practice that I liken to piracy. It seems that every time a bill comes along having anything to do with banking, we are faced with the proposal to make banks provide these services.

I am struck by the fact that this flies in the face of everything that we stand for in the world. Why should we be requiring banks to provide services to cash checks? There are 14,000 banks in the United States. The vast majority of them provide these services. If a bank does not want to cash checks for people who do not bank at that bank, why should we be making them do it?

The distinguished Senator from Ohio says it is good business. It is going to affect their bottom line, it is going to make them more profitable. Maybe he ought to be in banking. Maybe he knows something that people in banking do not know. I suspect he does not.

But the point is, what are we doing, writing a law that tells banks they have to cash checks that are brought into the bank by people who do not bank with them? And if we set off a situation where we have stolen checks, or fraudulent checks, and that imposes costs on the bank, who is ultimately going to pay that? The people that are borrowing money to buy a new Ford truck will pay it; the people who are borrowing money to buy a new home will pay it. We want them to borrow that money. We want that truck to be bought. We want that home to be built.

The point I am trying to make—and I do not want to string out the debate—is we are doing something here that does not make any sense, that flies in the face of everything happening in the world. It is the last thing we ought to be debating, by Government edict telling people how to run banks. We ought to get out of the way and within the constraints of banks having to abide by the laws of the country, having to do with contracts, we ought to let banks provide services based on what they want to sell.

If they do not want to provide checking accounts to anybody, if they simply want to engage in lending and buy their money from another bank, who are we to say they ought not to do it? If they do not want to cash anybody's check, who are we to say they have to cash checks? What we are doing here is treating banks like public utilities.

That is not startling, that we would do that. That is the way we thought about banking in this country for a long time. But it is exactly counter to what we should be trying to do in this bill.

What this provision really does—the provision that the distinguished Senator from Alaska is trying to strike—is that it collectivizes a little piece of the banking system.

I know the Senator from Ohio is sincere about it. He, basically, does not believe in letting markets work. He believes that the Government ought to tell people how to run their businesses. I do not.

But I think what is startling is, in a world that is rejecting collectivization, in a world that is moving toward individual initiative and the profit motive, in a world that is dramatically changing the way the economies work, and institutions work, and banks work, is what here on the floor of the United States Senate we have done in the course of 1 week. It is something that in this year the Soviet Union and Eastern Europe have rejected.

We have, by law, set interest rates. I am not aware today of any major country on Earth doing that. We are doing it. We are here mandating the provision of services by private companies, saying that banks have to cash people's checks whether they bank with that bank or not.

I ask my colleagues, does that really make any sense? Should we really be doing that? I submit that we should not; that we ought to adopt this amendment. And I think if we do adopt it we will be taking a step forward to seeing this bill become law. If we do not adopt this amendment, I think we clearly have provisions in this bill that should not become law.

Let me, finally, say before I yield the floor so we can get on with the vote, I think it is clear to a blind man that this bill as it is currently structured is not going to become law. I do not know how long we have to go on with this debate before the managers of this bill are going to say: Look, we are not going to be able to adopt this sweeping reform. We have taken on a lot of little tacky provisions here that do not deserve to become law, and the only way we can get rid of them is to narrow the scope of the bill down to the things that need to be done.

I think the longer we wait to do that, the longer we are going to be here—which wastes our time. I am not sure how harmful that is, but I think it simply is a waste of time when we are trying to finish and trying to adjourn.

But I think we are also going to end up in voting on a lot of things that send bad signals to the financial markets and must make a puzzled world wonder what is going on in the United States of America.

I yield the floor.

Mr. RIEGLE. Mr. President, I will not speak at any great length here. I just want to summarize again briefly what is in title V. There are two matters in here that the Senate has acted on favorably twice before. One is a truth in savings proposal that would make sure that the calculation of interest being paid on a saver's account is done in a uniform fashion so people can understand accurately what it is and can compare from one institution to another as to where they want to put their savings. The other is a fair lending requirement aspect and this is to make sure that people, minority people, in the country are not being denied lending opportunities, particularly, home mortgages based on the fact that they are members of a minority group.

We just had a major study done by the Federal Reserve that shows we have a real problem out in the country; that there is a lot of discrimination going on in the lending area based on a person being in a minority status. Obviously, that is not right. We want to take and clean that problem up. We think we can with respect to that part of it. That has passed the Senate twice before as well.

The other area, which I know some of the Senators have spoken to today, has to do with these two accounts for low-income people. It might be a senior citizen. It might be a single parent. It might be a person at a low-income level who now does not have a banking relationship. The best data that we have indicates that about 20 percent of the American people have no affiliation with any bank. They have no bank account. Many of those people when they need to either cash a Government check, it might be Social Security or Veterans' Administration check, they often have to go to a check-cashing service which are these storefront operations that often charge a very high fee just to let somebody cash a Government check.

What we have done here is to require the banks to offer a check-cashing service account to a person. That person just cannot walk in off the street and offer a check. They have to come in. They have to sit down with the bank, establish a banking relationship, and the bank not only is entitled to fully recover the cost of providing that simple check-cashing service for Government checks, but they are allowed under the law to earn a 10-percent profit on top of that.

We think that is fair. We think it gives people a chance to become connected to the banking system and have bank accounts. We think it is safer for them oftentimes to do it and they do not get ripped off the way they often do in these check-cashing services.

The other account that banks would offer—and a person coming in could only pick one or the other, they could not pick both—that is what is called a lifeline checking account where a limited number of checks a month could be written against an account where the person puts their money into the account to create obviously a deposit balance. And then they would have this limited number of checks that they could write against that account each month. The bank would charge them a fee for this service to fully recover the cost and, in turn, earn a 10-percent profit on that account.

So we are not asking the banks to provide this service at cost. We are allowing them to do it and specifically saying that they ought to structure the account in a way that earns a profit for the bank, albeit a 10-percent profit, which we think is reasonable. Many banks do this. Many banks offer one kind of an account or the other. So this would take a practice already out there at a number of banks and see all banks do it.

We do not impose regulatory burdens. We do not lay down regulations. We do not require banks to submit to examinations in this area. What they do is simply self-certify that they have undertaken to provide these accounts. There are no fines or penalties built into the bill that are sometimes attached to banking provisions.

I know some of my friends on the other side feel anything being done in this area is too much, particularly when you look at a lot of rural settings and inner-city settings. You have people living at very low-income levels who would be helped by having a proper and legitimate banking relationship.

There are safeguards built in where people have to show their identification and the bank has to be certain they are dealing with a person who is a reputable person. So there are safeguards built in that way.

I guess the other side of it is—and I know the Senator from Ohio has said this—and that is here we are as a citizenry providing a $70 billion loan to the banking industry because the banking industry got into trouble. A lot of banks have failed and the deposit insurance fund—premiums in there paid in by the banks—is now broke. The banks, because there are more bank failures coming, need a loan from the Government to put some money in the bank insurance fund.

So the centerpiece of this bill is to provide the banking system a $70 billion loan so that there will be enough money in the deposit insurance system to pay off the insured deposits for future bank failures. That is something that just has to be done here.

But as we are doing that to help the banking industry stabilize itself and overcome this extraordinary pattern of bank losses and bank failures, what we have asked them to do in the area of trying to extend their services to low-income people, recovering their costs, earning a 10-percent profit we think is reasonable, particularly when you have an estimated 20 percent of the people today who are finding today they cannot establish a relationship with a bank. I think it is good for the bank and good for the individual who may be at a low-income situation to be able to have this relationship. I think it is good for the country, and I do not consider it to be onerous.

I realize that some of my colleagues feel to the contrary. But I must say we have written this with great care to make this be a reasonable provision.

That is the essence of what is here. That is what the debate has been about for the better part of the legislative day.

I might just say the Senator from Mississippi [Mr. COCHRAN], who is on the floor, spoke to me a moment ago. He indicated—paraphrasing now and he can obviously speak for himself—that he will be prepared, upon the disposition of this amendment if title V is not stricken, to then offer an amendment that he has prepared. He feels he will not need much time to debate it, maybe as little as 5, 10 minutes. Whatever time is required, if it is modest in amount, I think we ought to be able to debate that proposition, put that in a vote and have a vote on that matter as well.

I am frank to say the Senator from Mississippi may very well carry his amendment. My sense for the votes is the Senator from Alaska probably will not—but I do not know. He may well carry his amendment. But I think the outcome is very much in doubt.

So I think it would be helpful to let the Senate express itself, and we will know where we are on first one, and then the other.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. I yield 3 minutes to the Senator from Connecticut.

I ask the Chair to keep track of the time so there is a fair division of time with the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 3 minutes.

Mr. DODD. Mr. President, let me thank the chairman and the manager of the legislation.

I want to take a couple of minutes to address the amendment being offered by the Senator from Alaska as it pertains to the truth-in-savings portion of this legislation.

The consumer title of this legislation is an essential piece. In fact, Mr. President, we have spent some time over a number of years, having brought up this particular provision or a provision very much like it only to lose it because the House, the other body, has failed to act over the last number of years. So this legislation has died on numerous occasions.

In fact, 4 years ago, when the subcommittee looked into bank disclosures of basic information about the rates offered on consumer accounts and the basic conditions of such accounts, we found a whole array of confusing terms, Mr. President, out there which would make it very difficult for consumers to try and understand exactly what was being offered to them. That is really all this section does, is to try and clear up for people what exactly it is they are being offered by the institution that they are putting their hard-earned money into.

Banks advertised rates differently so that consumers did not know which rate was better. Some banks applied the rates to the lowest balance a consumer had in the account during the month, and some banks paid interest on only a portion of the consumer's balance in the account.

Twice in the last 3 years, Mr. President, the Senate has adopted essentially this legislation, as I mentioned a moment ago. Unfortunately, we have never been able to complete the process with the House and, as a result, the language has fallen.

Mr. President, I am just going to take a minute and describe what radical—radical—ideas are included in the consumer title of this legislation that we may be otherwise striking out. These are "radical" ideas:

First, it requires banks to disclose the key terms and conditions of accounts. That is a radical idea, I know, to make sure you know exactly what the terms and conditions are.

Second, it gives people one standardized annual percentage yield figure so that they will know that whenever they see a higher figure advertised, it will produce a greater yield.

That is something I think we all assume is the case, but, frankly, that does not actually work out. That provision says that if you see that higher rate you can anticipate a higher yield.

Third, it requires banks to use comparable balance calculation methods, either the average daily balance or the day-of-depoist-to-day-of-withdrawal method of credit insurance so the consumers will know they are getting their interest on the amount of money they have in their accounts each day.

Finally, Mr. President, it outlaws the investable balance method whereby banks give you interest on less than the full amount you have in your account, typically on only 80 percent of their money, to reflect the reserves put aside for the Fed. This legislation, Mr. President, would outlaw this device so that people would know the true amount of interest we are getting and be able to shop for the best return, which is what we are trying to encourage. Banks would still be free to offer whatever interest rate, of course, they wanted. But it would have to be on the full balance in the consumer's account.

Mr. President, these are the radical ideas included in this title. It seems to me that, by anyone's measurement, to try to make it understandable for the consumer and the depositor, to require the institutions to lay out this information in as understandable a fashion as possible is in everyone's interest.

Mr. President, there are numerous lending institutions that have no difficulties with these provisions whatsoever. In fact, many already do what we are advocating in the consumer title of this bill. So it would be unfair and wrong to suggest that all institutions are not engaging in the kind of disclosure and the kind of fairness included in this title.

I would certainly hope, with all due respect to the author of the amendment, that we keep this title intact and that we give the consumer this kind of break when it comes to dealing with institutions and, of course, the money that they place in these institutions so that they can shop intelligently as to which bank with which they want to do business. That is all this section is designed to do.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MURKOWSKI. Mr. President, I think from the comments that our colleagues have heard from the Senator from Connecticut and the Senator from Michigan, clearly this legislation means different things to different people. The Senator from Michigan suggests that the magnitude of the $70 billion loan fund to protect depositors is, as a consequence, the most significant part of this proposed bill, and I would agree with that. But to suggest that that $70 billion loan fund necessary to protect the depositors on the surface is simply an obligation of the Congress I think reflects shortchanging reality.

What causes this situation in this country? Is it a combination of real estate values declining? Is it a combination of bad loans and what makes a bad loan?

I remind the Chair and my colleagues that all loans are good when you make them. It is simply a reality that conditions change, terms change, economies change, and when that happens, Mr. President, it is drawn down on the banks' capital accounts because the capital acounts are charged as a consequence of the loans that have to be charged off. There is no magic to it. Income is reduced. When income is reduced why, obviously you have the inability to provide credit to creditworthy borrowers.

The interesting thing about the discussion that has gone on is that we are discriminating against responsible borrowers, and we need legislation to mandate that those borrowers be taken care of. This is one of the dilemmas that the banker faces. He is damned if he does and damned if he does not. If he does not make loans into the area of marginal credit, he is discriminated against in the sense of oversight by the regulators, by saying you are not doing a proper job in those areas that clearly need it. Then the comptroller's office and the examiners come in and say, why, this is not a creditworthy borrower. But we are attempting to legislate, if you will, creditworthiness of borrowers.

That is absolutely impossible. It is ridiculous, as the Senator from Texas has said. It has no place in the system. And certainly the realities associated with it in this title are not only inappropriate but simply have no application in the system.

The need for the account, we have heard some comments on that, and the situation with regard to storefronts cashing checks. The recipient of a Government check does not have to go to a storefront. The recipient of a Government check can walk into any commercial institution, walk into a credit union, open up a savings account at no cost, and get adequate service. He can get his check cashed and put some money into the savings account.

To suggest that the Government should mandate this is an exception that simply has no application. And now we are going about suggesting that we have a mandatory 10-percent profit on some kind of a lifeline checking account.

There are all kinds of checking account services out there, Mr. President, that the public takes advantage of, and the public that does not take advantage of it does so by choice. Now we are mandating a Government requirement that has absolutely no application whatsoever.

Mr. President, I and a few others know something about banking in rural America. We have done it. I can tell you the small banks are out there ready to provide services for a customer. They want customers. They want people who have Government checks to come in and use their facilities. What we are doing is mandating for a group that evidently prefers to go down to a check-cashing service and pay an exorbitant fee when they can walk into a bank and get that service.

Mr. President, this simply is not needed. Now is not the time to be placing additional needless costs on the banking system in America. The Nation is seeing a record number of bank failures, suffering ill effects of a credit crunch, and experiencing anemic economic growth. Congress should be debating legislation to promote economic growth, to provide Americans with jobs, not senseless regulations that choke off consumer credit.

Last week several colleagues from the Northeast offered an amendment to ease the credit crunch called the Small Business Recovery Act. One colleague quoted a Wall Street Journal article saying the credit crunch is "the domestic equivalent of Saddam Hussein."

I tend to agree with my colleague. Unfortunately, enactment of title V of this bill would be the banking equivalent of a run on deposits and the economic equivalent of the Great Depression.

Mr. President, nobody seems to want to consider cost data. Current estimated costs indicate that title V would run somewhere between $500 million and, including truth-in-savings, another $300 million, somewhere close to $1 billion. The banks leverage capital at a ratio of approximately 10 to 1. As a consequence, total credit retraction from enactment of title V would be approximately $4 billion to $5 billion that we are pulling out of available credit in the marketplace.

The breakdown by geographic regions—I think it is important that our colleagues from the Northeast region recognize for the New England States, $59 million in costs or $590 million in credit. That is credit that is not available in those areas. In my State, $700,000 in costs and $7 million in credit loss; California, $28 million in cost, and $280 million in credit loss.

It is anticonsumer is the charge; contrary to what some argue, title V should be labeled the "Anticonsumer Credit Crunch Extension Enhancement Act of 1991." Title V will pass needless costs on to a banking system that inevitably will be passed on to the consumer. Title V will result in less choice for bank customers by requiring Government-mandated products and services, and title V will hurt consumers by choking off $4 billion to $5 billion in consumer credit nationwide.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WOFFORD. Mr. President, I want to urge my colleagues to support the provisions of this legislation that strengthen consumer protection and expand the availability of vital banking services to our Nation's families by voting against the amendment offered by my colleague the Senator from Alaska.

The people of my State want Washington to take action against this recession. They want to reverse a decade-long trend in Government policies which have helped the rich get richer while everyone else struggled harder against the economic tide.

They want Washington to take care of Americans for a change, especially the working families for whom the American dream has become further and further out of reach.

Like our Nation's health care system, our banking system leaves too many out and too many behind.

As Members have heard, according to the General Accounting Office, nearly one in five American families do not have bank accounts of any kind. These families suffer real hardships in managing their daily affairs; in paying the bills and putting food on the table.

Lower income households often face especially high costs at check cashing outlets—between 1 and 10 percent of a check's value. What is more, individuals and families without bank accounts must rely on each to pay their bills. If you stop and think about it, you begin to realize what a hardship and hassle even the most basic financial matter can become without a checkbook, a cash care or any kind of credit.

This reliance on using cash places these citizens—many of whom are elderly—at a far higher risk of robbery and theft. A risk which, all too often, becomes a reality.

This legislation helps low-income Americans by requiring banks and thrifts to offer basic transaction service accounts. The consumer will be able to choose between what's called a lifeline checking account or a Government check-cashing service.

Mr. President, we may well hear concerns that this legislation would expose financial institutions to fraud as a result of cashing Government checks. That is not true. This bill will not allow anyone to walk in off the street and demand that a bank cash a check. Consumers will need to apply for the service. And banks will be allowed to refuse to cash a check if it believes the check if fraudulent, altered or forged.

We will also hear concerns that the lifeline checking accounts could impose new financial burdens on banks. But that's also not true. The bill specifically allows banks to make a profit for providing these services—cost plus 10 percent.

The fact of the matter is that this legislation will help Americans climb out of poverty and the dependency system by allowing them to put their feet on the first rung of the financial ladder.

This legislation also responds to disturbing evidence that racial discrimination persists in the home lending market.

Minority working families still find it far more difficult than white families to obtain a mortgage.

A study in the November issue of the Federal Reserve Bulletin disclosed that while about 14.4 percent of white applicants for conventional home loans were denied credit in 1990, the rate of denial for black applicants was 33.9 and for Hispanics 21.4 percent.

This evidence reinforced the conclusions of the study done by the Urban Institute and Syracuse University showing that 56 percent of black homebuyers and 45 percent for Hispanic homebuyers experienced unfavorable treatment at some stage in the process of purchasing a home.

We have laws on the books that prohibit such discrimination in home lending. Apparently they are not being well enough enforced. This legislation will encourage such enforcement. It will help regulatory agencies to monitor more closely and to respond more aggressively to lending patterns which suggest discrimination, as well as to individual complaints of discrimination.

Buying a home is hard enough today for all working people without the additional obstacle of racial prejudice. We need to at least take the steps contained in this legislation to make sure that the housing market is more fair and open to all Americans.

Financial security is at the core of the American dream: the dream of owning your own home if you save; of helping your children go to college if they study; of moving up to a better job if you work hard; of being able to see a doctor if you're sick.

I again urge my colleagues to support the consumer provisions contained in this legislation because it will help bring these dreams closer to reality for all Americans. I urge them to vote against the Murkowski amendment.

Mr. President, I yield the floor.

Mr. SANFORD. Mr. President, I rise today to applaud the efforts of the two managers of this bill. There is no dispute that crafting this complicated measure in the wake of continual opposition has been an arduous task. Passage of this bill is crucial to maintain safety and soundness in the banking system.

When we started, this bill possessed balance. Not only did it allow banks to diversify and offer more financial services to remain competitive, but it also required banks to offer certain services which could be very costly. I am concerned that this bill has lost its balance over the last week. We have taken out most of the provisions in title VII and the end result is that the banks are getting very little in the way of opportunities to remain profitable and boost their capital. More regulations are imposed on this declining industry without including measures to help them build capital to maintain safety and soundness. I was pleased to see that the interstate branching provision was included, however, its inclusion does not restore balance to this legislation.

Now the Senate is faced with the choice to take two actions regarding title V, the consumer protection title of this bill. As I understand it, the Senate will first vote on an amendment by my colleague from Alaska, Mr. MURKOWSKI, to strip out the entire title and if that amendment fails, we will vote on an amendment to strike the provisions relating to Government check-cashing and life-line accounts.

I want to make it clear that I do not believe the Senate should strike the entire title V. Two of the major provisions of that title, the truth in savings provisions and the fair lending provisions have passed the Senate before. They are not considered controversial and ought to be passed. Particularly in light of recently released HMDA data indicating very problematic lending patterns throughout the nations, I think we need to enact the Fair Lending Enforcement Act in order to push the regulatory agencies to monitor more closely and to respond more forcefully to patterns of discrimination in mortgage lending.

In addition, title V contains some other provisions that I think are important and useful and deserve to stay in the bill. First, the title includes language to force the regulators to examine whether a number of consumer statutes are placing a disproportionate burden on small banks. If that finding is made, the regulators must amend the regulations to ensure that these statutes are not placing an undue burden on smaller banks. I believe that Senate should act on this provision. Banks throughout my State of North Carolina have impressed upon me the burden that they struggle under to comply with these statutes and speak of the excessive burden on smaller banks. I hope this provision will help address that problem.

Also, title V contains clarifications to the Expedited Funds Act which have been sought for some time by the banks. The regulations regarding this act are simply too cumbersome and have caused a number of ambiguities. The provisions contained in title V will address some of those issues and will extend some of the timeframes contained in the act to September 1, 1994, in the hope that either computer technology or check processing procedures will advance sufficiently by that date to make the shorter timeframes for deposits made at ATM's more feasible.

For these and other reasons, I do not believe that all of title V should be stripped out of the bill.

However, I do intend to support the amendment to eliminate the requirement that banks must offer certain check-cashing and life-line banking accounts. I don't think we should mandate these services which require costly reporting measures to verify compliance without giving the banks an opportunity to improve their capital position. Moreover, most of the banks in my State already offer these services, so I am not certain that a new Federal mandate is necessary as part of this bill. I am afraid that it will entail added costs to the already burdened banks to ensure that they are meeting the requirements of the new Federal mandate, yet there is very little in this bill that allow banks to earn the return necessary to offset the cost of these new mandates. Therefore, I support efforts to separate out these provisions from this bill.

In the end, this bill must create a structure that allows our banking industry to become healthy, so that banks can meet the credit needs of the communities they serve and can pay the deposit insurance premiums required in this bill to recapitalize the bank insurance fund. They cannot do so if we do not provide sufficient opportunities to compete and at the same time, add new regulations that place additional cost burdens on the banks.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent I may have 30 seconds to conclude my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. So, Mr. President, as a consequence of the debate that we have had, I think this body should recognize that our priority is in two specific areas: To recapitalize the bank insurance fund so that all Americans can rest assured that their life savings are secure and that regulatory reform is done responsibly in that it affects the safety and soundness of the banking system and protects the American taxpayer from bank loss.

I urge my colleagues to vote no on the tabling motion. I would like to thank the floor manager for his courtesies, my good friend from Michigan.

Finally, Mr. President, I encourage this body to get on with the job at hand, and that is making jobs available for Americans.

I thank the Chair.

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I only do so not to get into the merits of this discussion but to indicate that I have talked to the Senator from Mississippi [Mr. COCHRAN] who has an amendment that he will offer if the Murkowski amendment does not prevail.

He thinks he may need 5 minutes of time himself. He does not know what other Members might need. I am going to ask that we circulate a unanimous-consent request among Members that when this vote ends, at approximately 6:30, I will seek to have a vote on the Cochran amendment at 7:30. That would allow roughly an hour's time to be divided between people on both sides. I do not know how many wish to speak. But in any event, I just say that so people can weigh that and then, at the end of this vote, which is about to start, I will seek that kind of unanimous-consent agreement.

Mr. COCHRAN. We might, also, Mr. President, if the Senator will yield, ask unanimous consent now that the Senator from Mississippi be recognized at the conclusion of the vote to offer his amendment.

Mr. RIEGLE. I make such a request.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Mr. President, I have been waiting for an opportunity to speak. I would like to make some general comments following this vote for about 15 minutes.

Mr. RIEGLE. I wonder if me might do this: The Senator from Delaware has indicated he would like to be recognized at the conclusion of this vote for 15 minutes for general comments on the bill. I am wondering, would it then be acceptable at that point that we then take up the Cochran amendment immediately following the remarks of the Senator from Delaware, and that would be at approximately 6:45? Then it would again be my intention to try to schedule the debate to last for 1 hour on the Cochran amendment. If we do not need that much time, we can yield it back. But that is to see how many people have an interest in wanting to speak. The Senator from Mississippi indicates he will only need about 5 minutes. I think an hour may be sufficient. But in any event, let us shop that around. I make that unanimous-consent request that the Senator from Delaware be recognized immediately at the end of this vote for 15 minutes for comments, to be followed by a Cochran amendment to be laid down.

Mr. SPECTER. If the Senator will yield before the unanimous-consent request is acted upon, might it be possible to set the time certain at 7:45?

Mr. RIEGLE. I would love to do that. It was simply a courtesy to Senators who might wish to speak and require more time. I know of no one now seeking that. I would be happy to include that in the unanimous-consent request if there is no objection.

Mr. DODD. If the Senator will yield, why do we not say earlier? If it will only take 5 minutes, say half an hour, we could have that vote at 7:15 and move right on.

Mr. SPECTER. If the Senator will yield, my interest would be either to do it right away or later so that, if we can have a time certain not to vote earlier than 7:45, that would accommodate my schedule.

Mr. RIEGLE. By the time we finish this rollcall and the Roth comments, that will be 6:45. I am willing to do it either way. I would rather do it with the shorter time period. I do not want to disadvantage somebody in so doing that had not been notified.

Maybe I will just put the unanimous-consent request and see if anyone objects. That would be that at the conclusion of this vote which is about to commence, Senator ROTH be recognized for 15 minutes; following Senator ROTH that Senator COCHRAN lay down his amendment, that the Cochran amendment be scheduled for 30 minutes of time equally divided—45 minutes?

Mr. COCHRAN. Mr. President, if the Senator will yield, the problem with that agreement is there are other Senators with other problems as well as the Senator from Pennsylvania. I have no objection to entering into that kind of agreement, but other Senators may. It is important, in fairness to all Senators, to suggest the unanimous-consent agreement you would put to the Senate, and then let us wait until after the vote and see what the reaction of Senators to that agreement is.

Mr. RIEGLE. I think that is a very good suggestion. If I could, the amended unanimous-consent request would be: At the conclusion of this vote, the Senator from Delaware [Mr. ROTH] be recognized for 15 minutes; following Senator ROTH, that Senator COCHRAN be recognized to lay down his amendment, and at that time we will seek to obtain a time agreement on that amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan to lay on the table the amendment of the Senator from Alaska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—55

Adams
Akaka
Bentsen
Biden
Bingaman
Bond
Bradley
Bryan
Burdick
Byrd
Chafee
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Hatfield
Hollings
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—42

Baucus
Boren
Breaux
Brown
Bumpers
Burns
Coats
Cochran
Craig
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Inouye
Johnston
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—3

Cranston
Harkin
Kerrey

So the motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, may I now propound a unanimous-consent request?

The Senator from Delaware [Mr. ROTH] in previous consent is now scheduled to speak for 15 minutes.

I ask unanimous consent that, following the Senator from Delaware, 1 hour be provided for the Cochran amendment, which is already scheduled to be laid down after the Senator from Delaware, and that a vote on the Cochran amendment occur at 7:45.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. RIEGLE. Mr. President, I would amend that only to say that the vote should be on or in relationship to the Cochran amendment at 7:45.

The PRESIDING OFFICER. That 1 hour is to be divided in accordance with the usual form?

Mr. RIEGLE. Yes.

The PRESIDING OFFICER. Is there objection?

The Chair hearing none, the unanimous-consent request propounded by the Senator from Michigan is agreed to.

Under the previous order, the Senator from Delaware [Mr. ROTH] is recognized for 15 minutes.

If the Senator would suspend for a moment, the Senate is not in order. Senators will conduct their conversations in the Cloakroom.

The Senator from Delaware [Mr. ROTH] is recognized for 15 minutes.

Mr. RIEGLE. Mr. President, if the Senator from Delaware would yield, I want to further modify the unanimous consent request to include that no other amendments be in order to the Cochran amendment prior to the time it is voted on at 7:45.

The PRESIDING OFFICER. Is there objection?

The Chair hearing none, without objection, the unanimous-consent request, as modified, is agreed to.

Again, pursuant to the previous order, the Senator from Delaware [Mr. ROTH] is recognized for 15 minutes.

Mr. ROTH. Mr. President, the final days of this session are at hand. Yet we have not acted on a matter of the highest priority. By all accounts, the bank insurance fund is insolvent. It is that fund which the average depositor relies on when he places his earnings in a bank.

Unfortunately, the necessity to aid the depositor has been viewed by the banking industry's competitors as a wonderful opportunity to confine banking activity and thereby limit profitability of banks. Moreover, a floor amendment adopted last week has sought to deprive the industry of its major profitability line; namely, credit card interest. That amendment would probably have the opposite effect from that intended by its sponsors. The rest of the bill is also likely to be counterproductive.

As I said last week, this bill drives a stake into the heart of the banking industry. The House of Representatives has twice voted down its banking reform proposal in circumstances demonstrating to most observers that neither good reform nor bad reform can pass the Congress this year. Yet, the Senate continues to press forward with its version of bad reform.

The bill is opposed by every segment of the banking industry—the Independent Bankers Association, the Association of Bank Holding Companies, the American Bankers Association, the Financial Services Council, as well as the Consumer Federation of America, the National Council of State Legislators and the Council of State Bank Supervisors.

What this means to me is clear. It is time for the Senate to abandon S. 543 in its current form and adopt a bill limited to what we must do, recapitalizing the bank insurance fund. In doing this, it is important that neither the banks nor their competitors be able to retain any provision that affects the market share in the financial sector of any of its players. It is the intense rivalry among the financial sector participants that has helped cause the legislation to fail in the House on two separate occasions. We must learn from that lesson from the House or relive it in the Senate. And, Mr. President, we do not have time to relive it. The wise course in these circumstances is to enact a narrow bill to recapitalize the fund.

Early on, I was an advocate of broad comprehensive banking reform. Someday, we must enact legislation to make banks more profitable. But the time for true reform, in view of the present circumstances is not this Congress. I can understand the reluctance on the part of the administration to relent in their efforts at comprehensive reform. Treasury has worked long and hard. So have the members of the Banking Committee. But, as the majority leader said last week in another context, "the perfect is the enemy of the good."

It is time to recognize that the perfect is not attainable here. Unless we become realistic, recapitalization of the fund may fall victim to efforts to do too much. It is time to jettison controversy so that the pledge of the Federal Government to insured depositors may be honored.

While much attention is now focused on the implications of the credit card cap, let us not lose sight of the fact that opposition was mounting to this legislation before the Senate's adoption of the credit card amendment. The House defeated similar legislation that did not contain a credit card cap.

The opposition by the banking community that I referred to earlier in my statement arose through the interaction of various parts of the bill and before the Senate acted on the credit card amendment. In this regard, yesterday, I received a letter—and so did each of you—from a coalition of forces opposed to the pending bill and asking that we "reject any legislation and/or amendments that go beyond BIF recapitalization." At this point, I would like to read the entire letter to my colleagues:

> We, the undersigned, support legislation to recapitalize the Bank Insurance Fund [BIF] and impose additional protections for the deposit insurance system. We support a very narrow bill and see no need to include in the BIF recapitalization measure any extraneous provisions that would do little or nothing to ensure the continued protection of our nation's depositors and, very likely, could have a negative effect on our nation's economy.
>
> The House of Representatives has repeatedly rejected loading this important legislation with controversial provisions that are not integral to the basic goal of the bill: recapitalizing the BIF fund and restoring confidence in the deposit insurance system. Now the Senate is in the process of including numerous extraneous provisions as well. As users and providers of financial services, we believe the Senate and the House should reject any legislation and/or any amendments that go beyond BIF recapitalization.
>
> We urge you to support a very narrow bill.
>
> Sincerely,
>
> ACACIA Group.
> American Association of Crop Insurers.
> American Consulting Engineers Council.
> American Express Company.
> American Federation of Small Business.
> American Financial Services Association.
> American Small Business Association.
> Association of Banks in Insurance.
> Bankers Trust.
> Barnett Banks, Inc.
> Beneficial Management Corporation.
> Capital Holding Corporation.
> Chase Manhattan.
> Conference of State Bank Supervisors.
> Coldwell Banker Real Estate Group.
> Dean Witter Financial Services Group.
> Financial Services Council.
> Ford Financial Services Group.
> Hispanic-American Builders.
> Household International.
> Independent Bakers' Association.
> Independent Bankers Association of America.
> Kemper Financial Services, Inc.
> Keycorp.
> Meridian Bancorp, Inc.
> Merrill Lynch & Co., Inc.
> National Association of Development Organizations.
> National Association of Manufacturers.
> National Association of State Departments of Agriculture.
> National Cattlemen's Association.
> National Conference of State Legislatures.
> National Family Farm Coalition.
> National Farmers Organization.
> National Farmers Union.
> National Grange.
> National Society of Public Accountants.
> Sears, Roebuck and Co.
> Shearson Lehman Bros.
> USAA.
> U.S. Chamber of Commerce.

Likewise, I have a letter from ABA, in which it says:

> At this point in the Senate consideration, we believe that S. 543 is a seriously flawed bill which should not be passed. In its current form it would not only make the banking industry less, not more, competitive, but it would do serious damage to the economy as well.

Then it goes on and states:

> First, the adoption of the amendment to impose an interest rate cap on credit cards is alone sufficient to result in the ABA's opposition to this legislation. This form of price control on the highly competitive market for credit cards is not only unjustified, but would result in potentially millions of Americans losing their access to credit cards. In addition, billions of dollars in credit would be withdrawn from the economy at a time when our nation can least afford it. Already, the $60 billion market for the securitization of credit card receivables has come to a virtual standstill, removing a critical source of funding for credit card lending. Enclosed is a fact sheet on the credit card market and the impact of this amendment.

I could go on and read the rest of the letter, and will, if time permits—but let me just continue at this stage with the final paragraph.

For the above reasons, the American Bankers Association must oppose S. 543; we urge the U.S. Senate instead to consider an alternative approach to provide for a recapitalization of the bank insurance fund, as well as providing needed reforms for the deposit insurance system. On behalf of the Association, thank you for considering our views on this critical legislation.

This is, indeed, a broad coalition of forces. It is unprecedented for a group such as that to come together. They all want a narrow bill. It is time to ask ourselves who wants this bill and why. I urge my colleagues to reflect on the votes in the House and the Senate. They are omens calling for a course correction. It is time to proceed to enact a narrow bill.

If we do proceed to a narrow bill stripped of the many items of controversy, we will be able to fulfill our responsibility to the insured depositor. But if we continue on course, it should be noted that title V is not the only source of controversy. There are many items of controversy, many possible amendments, many possible speeches.

Mr. President, the time to change course is now. The time for common sense is now. The time for a narrow bill is now.

Mr. President, time does permit me to continue to read from the letter of the ABA in opposition to the legislation before us.

Mr. BIDEN. Will the Senator yield for 30 seconds?

Mr. ROTH. I will be happy to yield to my distinguished colleague.

Mr. BIDEN. Mr. President, for the remaining 10 or 15 seconds let me suggest the Senator from Delaware is absolutely correct. This is a time for us to become practical. A narrow bill is the only reasonable alternative. It is not only the right thing to do, in my view, on the merits; it is also the practical thing to do in light of what the House has not done and what the House is likely to do.

Notwithstanding all the efforts of the chairman and the ranking member of the Banking Committee—their intentions are well founded, they have a great investment in this bill being passed—but I respectfully suggest that a narrow bill is the proper bill, is the correct way for us to go, and is the only practical way. Frankly that is the reason why I voted for the credit card cap, because I hoped it would kill this bill. The fact of the matter is, this is not a good bill as it is in fact now being presented to us.

As I stated earlier, after all the work that has gone into developing a comprehensive banking reform bill, it is difficult to call for a much more narrow effort. But I believe the votes and actions in both the House and the Senate during the past few weeks clearly indicates that a narrow bill is what we need.

Banking reform has proven to be an incredibly contentious issue. To make progress in those situations, there must be a certain degree of comfort which the public feels about a bill. The bill before us does not meet that requirement.

The administration's position has evolved from support to opposition and may yet continue to evolve. But their basic call is all too similar to what happened with the savings and loan industry. That has many of us concerned.

Bankers, from independents to the large money center banks, have all raised strong objections to various sections. The public has found it impossible to grasp the effect of the reforms that are called for in these bills.

Much of the confusion has resulted from the moving target that bank reform bills have presented. Insurance agents hate the reform bill one day, and love it the next. The opinion of the securities industry has gone through similar, rapid swings. Consumer groups have also joined in this most unusual tug-of-war.

The result is a bill before the Senate, rushing forward under the artificial deadline of adjournment, which very few people understand, fewer support and will do little to address the huge problems before us in the banking and financial industry.

And we all recognize that those problems are not going to go away. We must deal with an industry that is in desperate need of reform. We must strengthen the banks, reform deposit insurance, address interstate branching, allow our financial industry to be competitive internationally; the list goes on. But we should do the reform properly.

Even if this were the middle of the session, I do not believe it would be wise to pass this bill. The bottom line is that no consensus has emerged on the future of our banking system. None. That is not the fault of any member of the Banking Committee, nor is it necessarily their responsibility, but we cannot ignore that a very important piece is missing.

The public is understandably wary of banking reform proposals, having seen what has happened to the industry over the past decade. They are far from convinced that Congress is taking the right step with this bill.

We cannot move forward with a broad bill at this time for many reasons. We should not try to force this issue. It is much better that we limit our actions to a narrow bill, and await next session to pass needed reforms in a manner that will stand the test of time.

I thank my colleague.

I yield the floor and compliment him as a member of the Banking Committee on his hard work to bring about a saner resolution to this situation.

Mr. ROTH. Mr. President I thank my distinguished colleague for his articulating why this legislation should not be enacted at the present time. I agree strongly with him that the committee has worked extraordinarily hard to develop a good bill. What we have before us does not improve the financial strength of the banking industry. In fact, it would go to the contrary. Consequently, it is not in the interests of anyone.

Mr. President, I ask unanimous consent that the letter I was reading be printed in its entirety in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN BANKERS ASSOCIATION,
Washington, DC, November 19, 1991.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR ROTH: As the Senate continues its consideration of S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, I am writing to give you the position of the American Bankers Association (ABA) on this legislation. At this point in the Senate consideration, we believe that S. 543 is a seriously flawed bill which should not be passed. In its current form it would not only make the banking industry less, not more, competitive, but it would do serious damage to the economy as well.

First, the adoption of the amendment to impose an interest rate cap on credit cards is alone sufficient to result in the ABA's opposition to this legislation. This form of price control on the highly competitive market for credit cards is not only unjustified, but would result in potentially millions of Americans losing their access to credit cards. In addition, billions of dollars in credit would be withdrawn from the economy at a time when our nation can least afford it. Already, the $60 billion market for the securitization of credit card receivables has come to a virtual standstill, removing a critical source of funding for credit card lending. Enclosed is a fact sheet on the credit card market and the impact of this amendment.

The ABA is also strongly opposed to the provisions contained in Title V of the bill, relating to additional "consumer" laws. It is noteworthy that the original justification for putting this title in the bill related to a *quid pro quo* for additional bank products and services. However, all additional products and services authorities for banks have now been stripped from the bill; in fact the only remaining provisions on products and services—relating to bank insurance services—actually restrict current bank insurance authorities. Therefore, we are strongly opposed to consumer provisions being contained in this legislation.

Finally, this bill does nothing to make the average bank more competitive and better able to attract the capital necessary to strengthen the industry or enable banks to expand credit availability. Despite the fact that the Senate in 1988 approved a bill containing a phase-out of the Glass-Steagall Act by the overwhelming vote of 94–2, the provisions of S. 543 repealing that Act and enabling banking institutions to offer securities services through a separate affiliate have now been stripped from the bill. In addition, while an amendment has been adopted improving the insurance provisions contained in the bill as reported by the Banking Committee, on the whole these insurance provisions lessen the current authorities for banking institutions to offer insurance. Thus the original purpose of the bill—to promote a more competitive financial system and strengthen the banking industry—has been turned on its head.

For the above reasons, the American Bankers Association must oppose S. 543; we urge the U.S. Senate instead to consider an alternative approach to provide for a recapitalization of the bank insurance fund, as well as providing needed reforms for the deposit insurance system. On behalf of the Association, thank you for considering our views on this critical legislation.

Sincerely,

EDWARD L. YINGLING.

The PRESIDING OFFICER. The Chair informs the Senator the time under the previous agreement allocated to him has expired.

Mr. ROTH. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. COCHRAN] is recognized.

AMENDMENT NO. 1357

(Purpose: To strike the check cashing and basic banking provisions)

Mr. COCHRAN. Mr. President, under the order and for myself and the distinguished Senator from Hawaii [Mr. INOUYE] I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. INOUYE, proposes an amendment numbered 1357.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 450, line 17, strike all through page 471, line 22; on page 477, strike lines 12 through 18; and redesignate the remaining sections accordingly.

Mr. COCHRAN. Mr. President, the amendment I am offering with my distinguished colleague from Hawaii, Senator INOUYE, will strike the mandatory Government check-cashing and basic banking account services section of the bill.

The Senate has been faced over the past few years, on other occasions, with efforts to require banks by law to offer such services. Each time, the Senate has rejected the proposal. The most recent was in June of last year, when the Senate voted 55 to 43 against it.

This year, we are faced again with the issue. The proponents of the requirement may argue that the current version is different from those that have been voted down in the past. The committee report says that the mandate has been made less burdensome by "including no authorization for the issuance of implementing regulations, limiting procedures available for enforcing compliance, and prohibiting both civil liability and administrative fines."

I think the likelihood is for this sugar coating to be dissolved in conference if this provision stays in the bill.

In the conference on this bill, this provision will be strengthened to provide for enforcement and for burdensome paperwork requirements making banks prove their compliance with these new mandates.

Regulatory action will necessarily follow this bill's enactment; maybe not this year, but surely before long. In other words, no matter how you look at it, this provision if left in this bill will result in eventual imposition of more rules and requirements on the banks of this country that will make the costs of doing business escalate and the financial strength of the institutions less secure.

The Federal Reserve Board will have the authority to design forms for banks to use in offering these accounts. These forms will include a variety of information, including "information the Board * * * determines to be necessary" to comply with the mandates of this bill. The Fed will also be required to develop a complaint form for customers to use to "report possible violations."

The bill requires each bank to "conspicuously display in its lobby and other public areas of the institution brochures, pamphlets, or other written information that inform account holders and potential account holders that basic financial services accounts are available," and then the bill proceeds to describe what information must be included in those brochures, pamphlets, and other information.

In addition, banks will have to provide written notice to any applicant who is turned down for one of these accounts, stating the reasons for the denial. They will also have to maintain "records and files with regard to each denial * * * for a minimum period of 1 year from the date of denial." Incidentally, the Fed will also be charged with developing a model form for notifying applicants of denial of one of these accounts.

The bill also sets out the conditions under which a bank would be permitted to deny a basic services account. Among these conditions are fraudulent claims by the applicants about themselves, a history of writing bad checks, a credit record of delinquent accounts or unpaid judgments, or closure of a similar account due to any of these conditions.

One interesting note along that line is that the bill sets forth what constitutes grounds to close one of these accounts: overdrafts, returned checks, or rejected electronic debits with respect to an account on three distinct occasions within any 6-month period. That's right. A person can bounce up to three checks in any 6-month period and not be subject to closure of their account. This is yet another example of the Government in Washington substituting its regulations for prudent business practices.

These requirements that I have described do not even include the additional regulations and studies required by the bill upon which banks will be asked to comment. For instance, the Federal Reserve Board is supposed to study "various types of depository institutions" to determine what price is reasonable for banks to charge for these accounts. In order for that to be a fair determination, it will be necessary for many banks of all sizes to provide comments to the Fed. Another study called for in the bill is one to determine whether losses due to fraud exceed revenues from the service fees collected for these accounts.

One of the problems with new regulations is that smaller banks are disproportionately burdened in meeting the criteria for compliance. This makes it important for smaller banks to comment on proposed regulations or studies in order to point out the unique circumstances of these small banks. The unfortunate difficulty is that these are the very banks which have no staff capability to comply with all of these social regulations, or offer insight to the agencies conducting these studies and, at the same time, do what they are in business to do: make loans, serve the community, and ensure that the institution is run on a safe and sound basis.

Not only are all these paperwork requirements hidden in the section we are proposing to strike, but there is also a small paragraph on page 467 of the bill which supersedes any pledge made on this floor or in the committee report of "limited enforcement powers." That paragraph states:

In addition to the appropriate Federal banking agency's powers under any provision of law referred to [in this section of the bill], each such agency may exercise, for purposes of enforcing this subtitle, any other authority conferred on such agency by any other law.

That is unlimited enforcement authority.

I hope my point is clear. The Federal Government has no business telling banks what kind of services they have to provide and what price they can charge to anyone who may walk in the door. Forcing all banks to offer both check cashing and basic services accounts to all customers, whether or not they are trustworthy or a common criminal, is simply going too far.

There are other problems in this part of the bill. For instance, those exercising the check cashing privilege may designate at least three offices of a bank at which they will cash checks. Combined with a requirement that banks cash checks for individuals up to the amount of $1,500, a person who cashes bad checks could expose a bank to $4,500 in losses in 1 day. This could be a serious loss for small banks which would be the target of fraud artists.

Another problem is the limitation of the fees which may be charged for these accounts. What if a bank offers an account that includes more than the basic services specified in this bill? Can they charge a higher fee? How much higher? Who decides? What if the bank would simply trim down their account to one that meets the mandates of this bill? The consumer would not be better off then.

In closing, Mr. President, let me say that there is no need for this provision in this bill. The fact of the matter is that most banks are offering similar services now, and many are charging either no fee or a minimal fee for these accounts.

If the Senate has a desire to ensure even greater access to check-cashing services, we should look at other alternatives to enlarge that access. Until we have explored other options, it is unnecessarily punitive to include in this bill a requirement that all banks perform this service in a Government-specified form at a Government-specified price.

I hope the Senate will approve our amendment.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, I yield such time as he may consume to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. INOUYE] is recognized.

Mr. INOUYE. Mr. President, I thank my distinguished friend from Mississippi.

Mr. President. I join my dear colleague from Mississippi in support of this amendment to strike the basic banking services and Government check-cashing provision from this bill. S. 543 requires insured depository institutions to provide a basic transaction service account and Government check-cashing services to low-income individuals for a fee. That is a fine goal, and I support that, but I support striking these provisions for two reasons. First, I believe the basic transaction service provision is duplicative of current services offered by most banks. Most banks in this land do provide these services. And, contrary to what proponents say it will impose additional burdens on banks, and I believe this has been made clear to us by the Senator from Mississippi.

Second, I believe the potential for check-cashing fraud will continue to exist and I think this, again, was clearly set forth by my friend from Mississippi, despite all of the so-called safeguards that have been included in this bill.

This basic transaction service provision in this bill requires a basic transaction account which will allow at least 10 free withdrawals per month and will prohibit minimum initial deposits and minimum account balances in excess of $25. We are now telling the banks how to run their business.

Mr. President, because of the competitive nature of the banking business, most banks in the United States already provide some form of basic transaction services in most cities and regions of our Nation. In fact, over 60 percent, or two-thirds, of all banks, including three quarters of all large banks, already offer basic banking accounts priced at $2 to $3 per month or less.

The majority of banks in my State offer similar services ranging from no cost to low-cost checking with either no minimum or low minimum balance requirements.

Although S. 543 ostensibly exempts banks already offering basic transaction services, Mr. President, I really doubt any bank would qualify for the exemption given the complexity and the rigidity of the provisions contained in the bill. For example, to qualify for this exemption, the basic transaction service account must be crafted from, and I quote this from the bill "an account holder's perspective, comparable to or more favorable than the services" prescribed by the bill.

Mr. President, I ask you, what constitutes a comparable service from the account holder's perspective? None of my colleagues here in support of this bill have been able to respond to this.

For example, a major bank in the State of Hawaii offers basic limited checking account services and has done so since 1986. This service, called life checking, is priced at $3 per month. It requires a $25 minimum to open an account. It includes a free ATM card with an unlimited number of free transactions when utilized at the bank. Other account charges, such as overdrafts, foreign ATM transactions, stop payments do apply. This service line constitutes approximately 9 percent of the bank's total noninterest personal checking accounts. Yet, based upon my review of this provision, this service line will not merit the exemption because it allows only 5 instead of 10 free withdrawals per month and will apply other nonroutine charges.

This provision may, in fact, force this bank in my State to discontinue their own basic bank account, even if it is more popular or cheaper, because they cannot afford both, or it is simply too confusing and complicated to offer two basic accounts.

Proponents will also argue that the provisions are structured so as to "impose minimal burdens" on depository institutions by not requiring the bank regulator agencies to promulgate regulations. The fact that banks must still comply with the statute and still be examined for compliance does impose costly burdens on them. For example, to recover costs, S. 543 allows depository institutions to charge fees for basic transaction and Government check cashing services accounts. This will require depository institutions to conduct their own cost analysis to ensure that fees charged are within compliance with the average costs established by the Federal Reserve Board.

In addition to the problems caused by the basic transaction service provisions, S. 543 requires insured depository institutions to provide check cashing services to low-income individuals for a reasonable fee. I believe this provision, though meritorious, must be stricken because it still presents a potential for fraud despite minimal safeguards included in this bill.

According to the provisions of S. 543, at a minimum, the Government check cashing services account must include three features. First, the account must permit the account holder to cash Government checks up to $1,500. My friend from Mississippi gave examples of how this can be carried to a fraudulent end. Second, the depository institution must not require the account holder to pay a monthly service charge or maintenance fee but can charge a Government check cashing fee. Third, the depository institution must allow the account holder to designate at least three offices of the depository institution at which to cash Government checks.

Given today's high technology, readily available computerized desk-top publishing systems can create extraordinarily high quality counterfeit checks. Under S. 543, a scam artist could register for Government check cashing privileges in a number of banks, wait 15 days, and then cash a series of $1,500 counterfeit Government checks at various institutions and their numerous branches. By the time banks are notified that the checks are counterfeit, the scam artist has disappeared.

The bill requires an applicant identification, which sounds very good, and an "account" relationship as a means by which to reduce the potential fraud. What do you mean by an "account" relationship? It simply means a relationship in which the depository institution, that is, the bank, cashes a Government check for customers upon presentation. Under S. 543, a person may open an account simply by presenting a photo identification or a birth certificate. As any college or high school student seeking a false identification in order to buy alcohol will tell you, false drivers licenses are easily and cheaply available. It is a common occurrence, I am sad to report. False birth certificates are even simpler. Thus, establishing either a basic bank account or a Government check cashing relationship for fraudulent purposes is easily accomplished.

Labeling the relationship as an "account" does little to limit fraud, particularly with respect to Government check cashing. The check cashing account does not establish an account where funds are deposited. Thus, when a check is returned unpaid, there are no funds to offset the funds paid out. Even for the basic bank account, if no funds are in the account to offset deliberate overdrafts, the bank loses the funds it paid out. Certainly, a person intent on fraud will be sure the account is empty when writing the uncollectible check. Whether or not there is an "account" relationship, the potential for fraud is still substantial and justifies opposition to the Government check-cashing provision.

Supposedly, as an acceptable concession to protect depository institutions from fraud, S. 543 includes a provision that requires banks to cash only U.S. Government checks, or State and local government checks issued in the institution's geographical locality. This is not a concession. Clearly, banks should not be required to cash Government checks issued by State or local governments about which they have no familiarity. Otherwise, a State like Hawaii would be a haven for Government check fraud.

The safeguards included in S. 543 will not solve the problem. For example, a Government check-cashing account is not considered a bank transaction or deposit account, thus requiring Government checks, under the Expedited Funds Availability Act, to be cashed immediately upon presentation.

Further, S. 543 allows the Federal Reserve Board to suspend any Government check-cashing services, or any obligation to cash any check belonging to a class of Government checks, if it is determined that depository institutions are experiencing unacceptable losses. How can these provisions be safeguards against fraud, when they are invoked only after substantial losses have been incurred?

While some argue that current losses to banks from uncollectible Treasury checks are low, such statistics are not reliable for gauging the bill's impact. First, the statistics only represent losses from U.S. Treasury checks and do not show losses from State or local government checks. Second, the statistics reflect the losses experienced in an environment in which banks and other check cashers may protect themselves by refusing, without the restrictions of a Government standard, to cash checks for strangers at their discretion. Without these current preventive measures on which banks rely, losses from counterfeit Government checks will rise dramatically.

If a criminal knows that the bank must cash an apparently legitimate Government check, they will not merely be encouraged, but invited to engage in counterfeiting Government checks. Similarly, if they know that the bank must open a checking account for them, they can use the account for check fraud schemes.

For these reasons, I urge my colleagues to support this amendment to strike the basic transaction services and Government check-cashing provisions from S. 543.

Mr. INOUYE. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GLENN). Who yields time?

If no one desire time, time will be charged equally against both sides.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I believe the pending amendment is the Cochran-Inouye amendment. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LOTT. Mr. President, I do want to rise in support of this amendment. This amendment, as I understand it, would strike the Government check-cashing and low-cost account requirements from title V.

You know, as I said yesterday, banks are not public utilities. For the Government to get into the business of dictating who must cash checks, or what kind of requirements that must be imposed, I think is going beyond what we should be doing in the interest of our consumers and in the interest of good banking.

So I endorse this amendment. I am certain it will pass.

But the real reason I came over to be heard at this particular time is to ask the question, did I miss something? Is this the drive to adjourn the Congress for the year by Friday? I do not feel the pulse.

I mean I came in on the floor here at 7:15. It was like a tomb. Not only was nothing being said, nobody was here. This is the drive?

Thank goodness, Mr. President, the Chair was occupied by the distinguished Senator from Ohio. But I do not know who is kidding whom around here.

This is a joke. I presume that we are going to get serious tomorrow, and we will begin passing some of the conference reports and some of the bills that need to be passed in the best interest of the country, for the defense of the country, and for the intelligence community. I assume we will get that done at some point.

I really wish the leadership would come out and give us some leadership in moving toward adjourning this session. I think it would be in the best interest of the American people.

But in talking about this particular piece of legislation, for 2 days, we have been dragging along on this bill. We went all day yesterday. When the Sun went down, we had a vote. We went all day today on one amendment. The Sun went down, and we had one vote. I think we have had two, maybe three votes in 2 days, while we debated a bill that everybody in here knows is going nowhere.

We know this bill is not going anywhere. The House has defeated, twice, somewhat similar bank reform legislation. What we are going to do later on this week, or early next week, is we are going to pass a very narrow, basically, a recapitalization of BIF, and that will be it. We all know that.

So why are we going through this exercise? What are we trying to prove here? Even if we stay here all night tonight and all day tomorrow and finally finish action on whatever this thing is that we are going to wind up with, what is going to happen then? Is there a conference waiting? Is there going to be a conference with the House in the next couple of days? Are we going to get a banking reform bill that we should have? If it is legitimate reform that would ensure the safety of the banks of this country and protect the consumers, that is not going to happen. There will not be a conference on this until the next calendar year. So why the rush to judgment to try to pass a bad bill that is going nowhere? Nowhere. This is absolute insanity.

I wish that somebody would wake up and let us move to strike all after the enacting clause, or all after the enacting clause with certain parts, or more wisely, walk in here and say: Fellows, we are never going to take up serious legislation.

I plead with the leaders of the committee and the leaders of this body on both sides of the aisle, let us get serious and start doing the work that needs to be done, can be done, should be done, and quit dipping around with a bill that we know is not going anywhere.

Mr. President, maybe silence was golden, so I will allow the Senate to fall back into its previous condition.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. Without objection, the Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, the Senate voted just a few minutes ago 55 to 42 to table an amendment striking the entire consumer title from this bill.

The Senate should now reject the amendment of the Senator from Mississippi to strike the very modest proposal to provide low-income and elderly Americans access to basic financial services.

The need for this legislation is clear. Right now, many Americans do not have any relationship with a bank. As a matter of fact, according to the GAO, approximately 18 percent of American families—18 percent—do not even have a bank account. Of these families, 4.3 million, 26 percent, receive Treasury checks; and 3 million, 18 percent receive State or local government checks.

Some 7 million families, 42 percent of all families without bank accounts, receive at least one regular check from a Federal, State, or local government.

That is not a problem for any Member of the U.S. Senate, or any Member of Congress who receives a check. It is a Government check; it is easy for him or her to cash it. But for these families, it is not easy to cash it. And, as a matter of fact, they pay a price, and it comes out of the meager number of dollars that they have on which to survive.

What do they do? They go to one of those fancy check cashing places. And just understand this: If you vote with the Senator from Mississippi on this amendment—because some big banker called you and said: I want you to vote that way—just remember that you are voting against a lot of people in your State, no matter which State it is, who do not have any access to you. They cannot pick up the phone and reach you. Oh, you say, sure, I am available to my constituents.

But the fact is that it is the lobbyists around here, the banking lobbyists who are dictating the course of this bill's movement, or lack of movement. It is those lobbyists who are representing the banks, the big banks, who are at the trough of the American taxpayer for $70 billion that is in this bill. And the word around here is: Well, what are you trying to get a bill through for? It is not that important. We are just going to have to put up the $70 billion.

The 100 Members of the U.S. Senate and the 435 Members of the House are not going to decide what happens to this bill. It is going to be the lobbyists—not the lobbyists for those who want to cash checks, not the lobbyists for the poor, not the lobbyists for the senior citizens, not the lobbyists for those who do not have any spokespersons around this body; no, it will be a vote for the lobbyists representing the banks of this country.

Let me make it clear: When I say the banks, I want to make a distinction. I am talking about the big banks of this country, because I am proud to say to you that the Independent Bankers Association of America sides with us. These are the small banks; these are the little banks in Mississippi, North Carolina, South Carolina, Ohio, Illinois, and every other State. But it is the big banks that have the powerful lobby, the big PAC's, who contribute to the campaign funds of the Members of the U.S. Senate. So it is not what the little banks are saying. They are saying this is a good amendment, this is right.

The National Banking Newspaper talks about what a potential there is for banks in this country to do business with these people. But some are not willing to, and they are disinterested. No, they want to lend money to some of the foreign nations around the world and some of the large corporations, and to participate in leveraged buyouts and put junk bonds in their portfolios. Those are the bankers you are going to be voting for tonight if you oppose this amendment, if you move to table it.

Mr. President, the figures that I have mentioned previously come from the Senate Banking Committee report accompanying this legislation. The committee report says that "the cost of essential banking services appears to be a major reason that so many families do not have bank accounts." They cannot afford to have the bank accounts.

I thank we made some headway on that on the previous amendment. But the fact is, with respect to cashing their checks, without having a lifeline banking account, you cannot do it. What happens to these families that do not have bank accounts? They are left to the mercy of those check-cashing outlets where they have to pay $5, $10, $25 to cash their Social Security, and veteran's benefit, and public assistance checks.

I went into one of those places one day just to see for myself what the charges were. I was impressed. It was a lovely place and had very nice decor, well decorated. It looked as good as a bank, maybe better than some banks. And that is understandable, because with the kind of money they make cashing Government checks, they can afford to live high off the hog.

I do not blame them. I blame us. They are only charging what the traffic will bear. And we are the ones making it possible for them to do so instead of standing up and being concerned about people who get Government checks, Social Security checks, veterans checks, disability checks. No. We are not really worried about them. Let us take care of our own. Let us take care of the bank lobbyists. They will be around tomorrow with the PAC dollars to indicate how much they appreciate our vote. Enough is enough.

As I said earlier, we have gone over this matter many times before. The Senate even passed a Government check-cashing proposal that provided for free check cashing back in 1987, but we are a long ways from that proposal today. The provision in this bill is not for free check cashing. The provision in this bill is very modest. It will allow banks to recoup their costs for providing Government check cashing or basic bank accounts plus earn a 10-percent profit.

The Banking Committee felt that the banks were entitled to make a profit, and I have no fault to find with that, permitting them to earn a 10-percent profit. But the Senator from Mississippi is not satisfied with that, and too many of my colleagues across the aisle were not satisfied, and some on this side of the aisle are not satisfied as well. No. They want to do what the banks want.

This measure has in it stringent antifraud provisions. For instance, consumers that want a basic bank account or check-cashing service account will have to register with the bank by filling out an application form and presenting appropriate identification.

Banks will have 15 days from the date the application is filed to perform whatever background checks may be necessary. And they can require identification, including a bank-issued identification card, before cashing any checks.

Banks only have to cash checks that are issued to the person who has registered with the bank for the check-cashing service. Banks do not have to cash Government checks written to third parties.

These protections and others should minimize any fraud losses for banks.

The question really is: Do we have the compassion, do we have the concern, do we have the heart, to do something for those veterans, those senior citizens, those low-income wage earners, who cannot afford to have a regular checking account, who cannot get their Government check cashed in any place other than a check-cashing outlet, or are we just going to stand here this evening and yield to the big banks of this country?

I hope that we do not. I hope that we indicate some concern. I am concerned as to whether we will have the votes to beat back the motion of the Senator from Mississippi. It will be a sad day for the people of this country. And it is only fair to point out that there are too many Members of this body who really do not care anything about the people who are involved; all they want to do is make available the taxpayers' dollars, $70 billion of those dollars, in order to see to it that the the Federal Deposit Insurance Corporation continues to be well-funded. That is all they are worried about. That is all they want in this bill.

Let Joe Suffer, the taxpayer, come up with the money to bail out the big banks of this country so when they close down their doors and when they get done making their wheeling and dealing and they fail, that the taxpayers of this country will bail them out, $70 billion.

We are told that the money will be repaid. But do not hold your breath while it is being repaid over a period of 15 years, or whether it ever will be repaid.

Mr. President, I hope that this body sees fit to table the amendment of the Senator from Mississippi.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, let me add a few thoughts to this discussion. In the course of dealing with the Murkowski amendment earlier, we addressed the two items in this bill that are the subject of and the focus on the Cochran amendment. And the reason that we have put these two provisions in here is to enable lower-income people in our society—and they come in all ages and they are found in all areas of the country—to enable them to have a way of establishing a formal banking relationship, where they are not going to be cheated when they go in, where they have the opportunity to preregistering with the bank, by going in and identifying themselves and bringing proper identification, and so forth, would have the option of opening one of two new kinds of accounts.

Some banks already have accounts of this sort. They travel by different names. But what this bill would do would be to require banks across the country to offer one of two accounts. One would be an account where a person could come in and cash a Government check. This is after they established a relationship with the bank. And the bank would be allowed to charge a fee for this service sufficient to cover all the costs of doing it, plus a profit of 10 percent. That is how the calculation is to work. And the thought is for that class of customers who today—many of them never even see the inside of a bank—that they would have an opportunity to establish a banking relationship and be able to cash their Government checks, maybe Social Security or pension check from the Veterans' Administration, and to do so in a manner where they are dealing with a reputable institution, namely a bank. They are not compelled to go to a kind of storefront check cashing operation that one finds in some areas that charge a very high fee for this purpose. And low-income people often, in my experience, have been ripped off by going to those places to get their Government checks cashed. Just dealing with Government checks. Not talking about cashing checks for anybody else.

There are several safeguards built into this bill enumerated earlier, and they are in the text of the bill that has been printed.

The other account is called a lifeline account. This is an act where again the low-income people; having gone in the bank, introduced themselves, having established a banking relationship, would be able to have this particular account available to them to deposit their money, or deposit their Social Security check when it comes in. They would be able to write a limited number of checks each month. They have to be people in a low-income status to qualify for this account. So we cannot have somebody not eligible for it come in and have it.

But there again the banks would be specifically allowed to operate those kinds of bank accounts at a profit, recover all of their costs and a 10-percent profit.

Again, this is a try to help poor people, in many cases, or older people who have to write checks for utility bills and have to deposit checks, in many cases from Social Security, to have a way to do it where they actually fit into our banking system, which is where I think they ought to be.

I think they are valuable as citizens and they have financial needs like everyone else, and there ought to be a reasonable way in which they can connect to our banking system.

Why is that important? The banking system receives really enormous help from the Federal Government. It comes in the form of access to the Federal Reserve discount operations in one instance. But even more importantly, the Federal deposit insurance guarantee, that seal on the window that makes sure that every account up to $100,000 is fully insured by the Federal Government, that the Federal Government, the full faith and credit of the country stands behind the bank insurance fund.

Right now that has become terribly relevant because the bank insurance fund is broke, is now empty, and it has to be replenished and the banks do not have the money right now themselves to replenish the bank insurance fund in order to keep that Federal deposit insurance, so they are asking all the citizens of the country to chip in a total of $70 billion, that every person in this country who pays Federal taxes will have the opportunity to participate in this $70 billion loan to the bank insurance fund, so that that fund is protected, so depositors, in the event of a bank failure, will have their deposits protected and when they go to the bank their deposits will be redeemed at least up to a level of $100,000.

But importantly, it has a tremendous value to the banks themselves because it helps them in attracting deposits. Because somebody that has money to save can save that money a lot of different places. They do not have to take it to a bank. Many people put their savings in a bank because they know there is Federal deposit insurance that protects their deposit at the bank and that even if the bank fails, even if the bank mismanages the assets and the savings of the people who have deposited the money there, that in the end, if the bank squanders the money, the insurance fund will stand behind that bank and see to it that those people have their money paid back at least up to $100,000 amount that is protected by Federal deposit insurance. So that is a very, very valuable thing for the banks to have.

In the past the banks themselves have paid for this through their deposit insurance premiums. But the profile of bank failures has been so high and so significant and so vast that the bank insurance fund is empty, and that is what necessitates this $70 billion loan.

So in a sense there is a certain balance here. We are saying on the one hand all the citizens of this country who pay taxes are now being asked to put in $70 billion to refinance the bank insurance fund so that banks can keep that deposit sticker on the window and can attract the savings of people, and that is extraordinarily valuable to the banks.

We have asked them time and again in committee hearings what would happen if we take away deposit insurance protection to individual banks, and they react to that with true horror because they know that, if that happened, money in large amounts would leave institutions. So that is a very valuable Government-granted privilege that they have and especially so now that the fund is empty and the taxpayers are having to pony up the $70 billion. So that is what you have on the one side.

On the other side, we are saying look to the 20 percent of the people in the country that now have no banking relationship but nevertheless have financial needs. They have to pay their bills like everybody else. They have to pay the utility bills and, to the extent they have earnings, they have to go cash their checks and deposit their checks somewhere. They should not have to carry the check around in their pocket or take it home and put it in their mattress. They ought to be able, even if they are at low-income levels, to have a relationship with a banking institution where it can be good for that saver and also good for the bank.

And, as I say, we think we provided aptly and appropriately for the banks to providing certain safeguards. There is no regulation that goes with this. We do not ask the banks to send any papers to anybody or any regulators to go out and check this. We simply ask that the banks self-certify that they are offering these two accounts and the person who is in that category, that lower-income category, can come and avail themselves of one of the two accounts. They cannot have both; they can only select one, but whichever one best suits their needs. They would have a chance to get connected to this banking system of ours in a formal way.

I think it is good public policy. I think it is fair. I think, in a sense, in the broad equation of the important financial help that we are lending to the bank insurance fund on behalf of the banks, that the banks ought to support this. And, in fact, many banks do. The Independent Bankers Association, representing small independent banks around the country, supports this provision. In fact, they supported it in the committee. That is one of the reasons it is in the bill.

I do not want to take the rest of the time. I know my colleague from Florida wants to speak. Let me yield the floor at this point.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. I am under the impression I have no further time.

Mr. RIEGLE. I am happy to yield to the Senator 2 minutes of my time.

The PRESIDING OFFICER. The Senator has 3 minutes and 3 seconds remaining.

Mr. RIEGLE. I yield the Senator 2½ minutes.

Mr. MACK. I thank the Senator for yielding. I do not believe I will take that long. I just feel a requirement to respond to an impression that was created, if I could get the chairman's attention for just a moment.

The chairman was making a statement about why it is important that these people have an opportunity to participate in the banking system. Maybe I misunderstood him, but it sounded as if, since the Federal Reserve is involved in this and the FDIC is involved, that, therefore, there is an obligation to individuals that receive Government checks, as if, because of this Federal role in the banking community, there is an obligation to provide federally legislated services in the form of basic banking and Government check cashing.

I just wanted to make several points. First of all, the Federal Reserve was funded by the commercial banking system in this Nation. It continues to provide revenues, via a kind of tax on financial institutions if you will, to the General Treasury. The FDIC so far has not paid out any taxpayers' dollars. I would also make the point that we are talking about the banks supposedly borrowing $70 billion under the proposal that is being put forward, and I think most people are going to end up supporting it because of the belief that the banks are on the hook for this and will pay it back.

So I just want to reemphasize that the banks are the ones that funded the Federal Reserve System which is providing revenues to the General Treasury. The FDIC so far has not paid out any taxpayers' dollars, and the money that we are talking about providing or providing the authority to borrow—$70 billion—at least from this Senator's perspective, is going to be paid back by our financial institutions through higher premiums in the future.

Mr. RIEGLE. I would say that is the prospect, although we do not know that the cost and the losses to the fund may not go higher than has been anticipated. Those estimates have just been increased, as you know. And it may turn out the loan later is going to have to be increased and the banks may, in fact, not have the financial strength in the future to pay it back. It is anticipated that they will. But, as I said before, there are no guarantees on that.

I know the Senator from Ohio wanted the last minute or so. And I think we are nearly down to that time.

The PRESIDING OFFICER. Forty-three seconds.

Mr. RIEGLE. I yield that to the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator.

Mr. President, I want to make the last point clear. This is a much more limited provision than that which we had in the past. This applies only to people who earn less than $20,000 a year. This requires a waiting period before you can get identified. And this provides that the bank may charge its actual costs plus 10 percent. That was not in the amendment that we had when we considered it previously. I just wanted to be certain that issue was clarified.

Mr. ADAMS. Mr. President, I rise today to oppose this amendment.

The amendment before us would strip from this bill one critical section of the consumer provisions. This issue has been around for many years, too many years.

I commend my colleague from Ohio, Senator Metzenbaum, for his persistence and fortitude in keeping us focused on this issue.

The section, of course, deals with basic services and check cashing. An estimated 16 million American families, 1 out of every 6 families, do not currently have banking accounts. Many low-income households have simply been forced out of the banking arena, due to the high fees and costs associated with maintaining an account. Yet these families still need to pay their bills and cash checks, just as you and I do. To add insult to injury, these same families are barred from maintaining a savings account because fees are simply to high.

As chairman of the Senate Labor and Human Resources Aging Subcommittee, I have been contacted by seniors organizations across this country calling my attention to the need for these provisions. The picture of an elderly person, fighting to make ends meet on Social Security, having no other choice but to visit one of those check cashing rip-off shops in order to cash their monthly checks is simply too much. Older Americans are banks' best customers. I simply cannot understand why bankers have such a hard time offering a basic service account to the elderly, or any low-income individual for that matter.

Mr. President, I do not know who those against these provision are listening to. They certainly aren't listening to their constituents. A Gallup Poll recently found that over 70 percent of Americans believe that banks should offer basic banking services that low-income people can afford, even if it means less profit for institutions.

Many banks across the country already offer basic service accounts. They should be commended for their commitment to their communities.

In fact, a November 8 article in the American Banker points out the success forward-thinking banks have had in turning their basic service accounts into a important component of their overall new customer base. I quote from that article, "Once forced into the business, some bankers are beginning to realize that they can potentially make a modest profit by fulfilling a community need." The article then goes on to quote Banc One Chairman, John McCoy, "We look at basic banking as the lead end of our customer base. * * * Our goal is to take a person from that basic account and open doors to other services."

The day this provision was included in the committee draft, the American Bankers Association went on the offensive. I heard some of their lobbyists proclaim that stripping this provision was their number one priority. I find it hard to believe that their number one priority in a bill that included expanded powers and interstate branching was this little provision. However, I do believe older Americans when they tell me this is their number one priority on the bill. So you can believe the bankers or you can believe the elderly.

Mr. President, this provision will not force banks to lose money. It clearly allows banks to make a profit of 10 percent. The bill expressly states that a bank can make a profit of up to 10 percent over all costs associated with these accounts, including fraud losses and deposit premiums.

I simply cannot understand the vehemence of the opposition to this provision. New fees and prohibitive balance requirements have forced low-income Americans out of banks. I urge my colleagues to restore a sense fairness and equality. Vote for the elderly of this country by voting against this amendment.

The PRESIDING OFFICER. All time has expired.

Mr. RIEGLE. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan [Mr. RIEGLE] to table the amendment of the Senator from Mississippi [Mr. COCHRAN]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

The PRESIDING OFFICER (Mr. LEVIN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 34, nays 62, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—34

Adams
Biden
Bradley
Breaux
Burdick
Chafee
Coats
Cohen
Daschle
DeConcini
Dodd
Glenn
Gore
Graham
Hatfield
Hollings
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mitchell
Moynihan
Pell
Riegle
Rockefeller
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NAYS—62

Akaka
Baucus
Bentsen
Bingaman
Bond
Boren
Brown
Bryan
Bumpers
Burns
Byrd
Cochran
Conrad
Craig
D'Amato
Danforth
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kohl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Robb
Roth
Rudman
Sanford
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—4

Cranston
Harkin
Kerrey
Mikulski

So the motion to lay on the table the amendment (No. 1357) was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Could we then vote on the amendment? Can we now vote on the amendment, Mr. President?

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1357) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

UNANIMOUS-CONSENT AGREEMENT—ETHICS COMMITTEE FINAL REPORT

Mr. MITCHELL. Mr. President, and Members of the Senate, the Ethics Committee has completed its review of Senator CRANSTON with respect to the savings and loan matter. I now ask unanimous consent that at 1:40 p.m. tomorrow, notwithstanding the pendency of any Legislative or Executive Calendar business, the majority leader be recognized to make a motion to instruct the Sergeant at Arms to request the presence of absent Senators, on which there will be a rollcall vote, and that at 2 p.m. tomorrow, there be 2 hours and 15 minutes equally divided and controlled between Senators HEFLIN and CRANSTON, or their designees, for presentation to the Senate of the Ethics Committee's final report on the matter; and that at the conclusion of the presentation, the Senate resume consideration of the pending business.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. There will then be a rollcall vote at 1:40 p.m. tomorrow on a motion to instruct the Sergeant at Arms to request the presence of absent Senators.

At 2 p.m. there will occur 2 hours and 15 minutes for presentation to the Senate of the Ethics Committee's final report on this matter. All Senators are requested to be present at that time.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes, certainly.

Mr. DOLE. Am I to understand committees will not meet during that time?

Mr. MITCHELL. That is correct. There will be no committees meeting during that time. All Senators should be present on the floor at that time.

Mr. DOLE. Mr. President, will the leader yield for another inquiry?

Mr. MITCHELL. Certainly.

Mr. DOLE. Mr. President, last night I had an exchange with the distinguished manager of the bill, Senator RIEGLE, on the bill now pending, and it was indicated to me that we were going to finish it maybe last night, not tonight.

Now, I have a list of amendments here, single spaced, a full page, and I understand a number of them are very controversial amendments. They are not the kind you are going to accept. They are 40 by count on this list, I guess less 2 or 3 that have been adopted.

I thank we all would like to finish this bill, but it is not going to happen tonight. It is probably not going to happen tomorrow night. It is probably not going to happen the next night if we spent all day and all night on this particular bill.

I know the Secretary of the Treasury wants a banking reform bill. I know the chairman does. I know the ranking Republican, Senator GARN, does, but I guess my question is, Mr. President, whether or not there is any reason to stay here and just vote on amendments to 10, 12 at night if we have no intention, not because of unwillingness but just not capable of finishing this bill. We are not going to finish this bill tonight. We are not going to kid anybody any longer. This bill is not going to be finished.

Mr. RIEGLE. If the Senator will yield, I think that may well be so. He would be in a position to know that. I would gather that the overwhelming majority of amendments on that list are from Members on his side, not all, because some are on this side but it is a very small number. I know that in terms of the amendments from our side, the people are willing to enter into time agreements or, if not, work the issues out.

I think the problem here is—and let us be very frank about it—that there are a number of Senators who do not like the legislation in its present form, and I think there are probably some on both sides, but I think the larger part of that group is on the Senator's side.

The amendment that we took up this morning on this title V took over 5 hours. It did not need to take 5 hours, quite frankly, in my view. I think that was an effort to run the clock and to create precisely this impasse. I regret that because, as we all know, the administration, for their part, has asked that this bill be moved through in as comprehensive a fashion as possible to final conclusion.

It is what the Treasury Secretary said to me this morning when I talked to him. I was not in the caucus on that side today when he appeared. My sense is that he said something along those lines at that time, but I cannot say that in the first person. That does not change the fact that I think there is a body of resistance principally on that side of the aisle to moving ahead with the bill in the configuration that we now have it. I regret that. I think it ought to be the broader bill. I think the country would be better off if we took the time that was necessary to work through these amendments.

We have now settled the four major areas of controversy in this bill. We have settled insurance. We have settled interstate banking. We have settled now the consumer section. In that area, some changes were made reflecting the will of the Senate. And the Glass-Steagall issue, which was taken out of the bill at an earlier date, again, I think it is fair to say certainly at the urging or concurrence of the administration.

So those four issues have been settled.

Now the problem is, quite frankly, that what is in the bill that is left I think has 51 votes to pass this Senate.

It does not have 100 votes. And it does not necessarily have enough votes to override a determined filibuster, especially at the end of the session. And that is part of our problem. We no longer make decisions by majority rule in situations like this. The rules here and the circumstances here, especially when we are in a time crunch, allow legislation to be stopped by something less than a majority, and that is what is happening. I regret that fact.

I think we would be much better off to try to finish this legislation as we have been asked by the President to do. He has listed it just as recently as yesterday as one of his major legislative priorities which he thinks can help the economy.

Now, you may disagree with him, but that has been his view, and we have attempted to try to respond with a bill that addresses these issues. And so if folks do not want to proceed with it, I do not have the power to change that as such. And we clearly got the signal.

Mr. DOLE. Will the Senator yield?

Mr. RIEGLE. Of course.

Mr. DOLE. That is one of the problems. The Senator talks at length. But I have just counted the amendments. There are 43, and I think 21 are on that side and 22 are on this side. So it is pretty evenly divided on where the amendments are. In fact, I notice one Senator has three on bank mergers. So that is three that we count as one.

But I think it is time for a little truth or a little reality around here instead of to keep saying, "I want to finish this bill; I want to finish this bill."

That may be true. We would all like to finish this bill. But I would hope if that is the case, then we can go around and get some time agreements on these amendments and have it in some form to know whether we are going to finish.

The Senator from New Mexico is prepared to offer an amendment. That will take a couple of hours, and we will be here until 10:15 or 11 o'clock. Then we are down to 42 amendments and some are controversial. Some of these are not going to be settled, I do not think, taking 3 or 4 hours. In fact, I counted up the time. In the first 3 hours, members on that side used 56 minutes. So we did not use 3 hours. We used about an hour and 50 minutes, members on that side used 56 minutes, and the chairman jumps up and blames us for trying to stall the bill. We are not stalling the bill.

Mr. GARN. Will the Senator yield?

Mr. DOLE. I will be willing to bet right now if you take a look at the time, had the Journal clerk figure up the time, there has been more time spent on this bill from debate on that side of the aisle than on this side of the aisle.

Mr. RIEGLE. Will the Senator yield?

Mr. DOLE. I will be happy to yield.

Mr. GARN. If I might make a statement to clarify my position, I think it is fair to say to all of my colleagues who have been here a few years, if for no other reason than seniority, no one has worked longer, 17 years, to try to produce comprehensive banking legislation than I. And no one feels more badly that on three occasions I passed bills in the Senate that did not pass the House. I regret that. I have said many times in the last 2 or 3 days I thought the Senate was making a mistake, that I regretted taking parts of this bill out, and I do because now I realize I am going to spend 18 years of my life fighting for something that will not take place before I leave the Senate. I do not know whether it ever will or not because of all the special interest groups that do not care what happens to the country as long as they get their way—and they are so fractured out there.

So having said that and established my credentials of wanting to pass a comprehensive bill, let me say how I feel. On last Thursday, after the House defeated their bill for the second time, I called the Secretary of the Treasury and I said I think it is time to pull the plug. No matter what we do in the Senate, the House is not going to agree. And while I would like to exert my manhood again and say we did something in the Senate, it was the House's fault, well, maybe if it were August we would have time to do that.

But in the last week of the session, with the other things that we have to do, I would take no great pride in saying, fine, we did something responsible, and the House turned it down. Maybe I am wrong. Maybe the House would cave in to a Senate bill. But I just had Congressman CARPER from Delaware come over on the floor and say what are you doing?

There is no way. We do not even know whether we can pass this very narrow bill that came out of the House Banking Committee today.

So I think a reality check needs to come around here—and I hate to say this because the Senator and I, the chairman, have worked together very closely. We spent months fashioning this bill together in private conversations. We worked it through, and he is to be commended for a superb leadership job in putting this bill together. I wish we could pass the whole thing just as it came out of the Senate Banking Committee, but we cannot.

The Senator from Illinois feels very badly. He was very upset on Thursday about taking out the securities section. He did not want to support the bill anymore. So I just wish we would face reality.

The only criticism I may have of my good friend from Michigan is I do think it is unfair now to try to make this a partisan thing, that Republican were delaying.

It is not unusual for one controversial amendment to take 4 or 5 hours around here. We did have a vote. We proceeded rapidly to another one.

Some people feel strongly. I know of no attempt to delay on this side of the aisle. That is not taking place. And I do not think it serves any useful purpose at this point in the debate to try to point fingers either way, Democrat or Republican. I do not even see these as Democrat or Republican issues.

The banking system is in trouble in this country. I do not think in any way it is important to try to blame somebody if this bill is not going to become law, as the Senator, the distinguished chairman, and I would like it to become law.

What I suggested on Thursday is we pull it down, the House and the Senate banking leadership meet with the Treasury, and see if we could fashion something that would pass in both Houses. I was turned down by the administration and others here in the Senate who wanted to press on. I would like to, too.

If I am wrong, fine; somebody stand up and tell me. But I think it is time for a reality check, and not to go through all those amendments endlessly. If we could cut them in half, by 10, and we could get time agreements on them.

It does not make any sense to me to continue this process. I do not want to undermine the chairman. I am just trying to face reality. He could not feel nearly as badly as I do at the direction this bill is taking.

If it were July, fine. I will stay here for 3 weeks and see what we could do and let the House kill it. But I have no information that they think they will take anything comprehensive that we send over, even interstate banking, which if I had my way that would be the bottom line.

BIF, recap, and interstate branching: I think that would be helpful. I just got the message not 10 minutes ago that they cannot pass any of that on the House side.

So I regretfully even make these remarks. But I think for the good of the Senate we ought to see what we can fashion and pass it over here, and then go to conference with the House as quickly as we can.

Mr. RIEGLE. Could I ask a question at that point? I know the Senator from Illinois wants to speak.

I put a call in today, talked to the President, talked to the Treasury Secretary, on exactly this issue, as to whether or not we should press ahead with the comprehensive bill. I told the Senator from Utah that the answer that I got back was that it was their wish and intention that we do so.

I have not gotten any contrary message. Is there a contrary message? Has the word been delivered on the other side to stop seeking a comprehensive bill?

Mr. DOLE. No. No word has been delivered. We had a conference policy luncheon; nobody said they were not going to take time. The Senator from Michigan is out here; he points his finger at our side, saying there is a filibuster going on because somebody is debating it for an hour and 50 minutes and 56 minutes on that side. We are not filibustering. That is not the case.

Maybe the Senator from Michigan wants to make it appear that he wants to pass this bill, knowing it is not going to pass, and when it is all over somebody else will be blamed. That is transparent. That is not going to work.

When are we going to pass these 40 amendments? We did one yesterday and two today. So another 30 days, we will be finished?

Mr. RIEGLE. Will the Senator yield at that point? In fact, we have handled more amendments than that. I do not have a copy of the list the Senator just referred to. We have not been able to look at it.

Mr. DOLE. I would be happy to give you this one. I do not need it. I am not involved in this bill. I did not want to stay until midnight tonight.

Mr. RIEGLE. A number of these amendments have in fact been settled out.

Mr. DOLE. Last night I was told there were five. There are more than five, as I understand it.

Mr. RIEGLE. I think we are getting a clear signal from the minority leader that it is his view we ought not to press any further on this bill. That is the sense I am getting.

Mr. DOLE. No. The clear signal is that it is not going to happen. I think the managers ought to be able to make the judgment. The Senator from Michigan knows it is not going to happen. When would the Senator finish the bill?

Mr. RIEGLE. If this is an effort to keep it from being finished——

Mr. DOLE. What did we do all day today, all day yesterday?

Mr. RIEGLE. If the Senator will yield on that point, the record will bear this out: On the amendment that took so long today I sought a time agreement on that of any length. I asked probably a half dozen times. As I think the Senator knows, I could not get a time agreement on that. I could not get one. I tried. That amendment I think took a long time. Maybe it needed to take that long. But I sought time after time to get a time agreement on that, and I was turned down. I regret that because I was not looking for any particular time agreement. But there was an effort to get a time agreement yesterday.

The day is going by. But I still would like to know for the record whether the signal that I got earlier from the administration has changed. If it has, the word has not reached me. They would like to press ahead. If somebody else has been told the contrary, if so, I would like to know, because at least I would like to be able to have that part of the RECORD.

Mr. DOLE. I think if you explained to the President—I do not know how long the Senator from Michigan talked with him. If he went over those 40 amendments with him and told him how long each one would take, he might understand, too, that this was probably not going to happen if we intend to leave on Friday of this week. The House is now saying Tuesday of next week.

That is secondary to the importance of the banking bill. Since it has been killed twice in the House, as the Senator from Utah pointed out, since we have had pretty good information this is going to take very much more time, there gets to be a point at which you are beating your head against the wall for the fun of it.

Maybe the Senator from Michigan knows something we do not. If he can get a 2-hour time agreement, go to third reading, I would be happy to stay here and vote on the bill.

We are not going to finish this bill if we stay here until 10 or 12.

Mr. RIEGLE. If I could engage the Senator 1 more minute, then yield to the Senator from Illinois, I am open to trying to work the bill out whatever way we can. The House, I must say, has now defeated the bill twice on the House floor. There is no guarantee that the next time through it is going to pass. We have a bill here, and I think it is a pretty good bill. We altered it; just accepted the amendment from the Senator from Mississippi, the Cochran amendment.

Somebody, sometime, has to produce a bill. I would like to see us finish our work and produce a bill, not just wait to see if the House can produce one. I hope they can. They tried twice now. It has gone down on the floor both times.

I think there are 51 votes here. Maybe it will take awhile. I do not want to take any longer than anybody else. But it does have to be done. We have to complete this legislation in one form or another.

So I am open to any reasonable formulation as to how we get it done. I do not hear anybody saying we are going to leave here without doing it. We obviously have to finish it. We have to get it done. There are going to have to be 51 votes in the end to pass it. There are going to have to be 218 votes over in the House to pass it.

Mr. DOLE. I know the Senator from Michigan has already thought of this. It occurs to me if you really want to get serious about this you ought to get people in the room, you ought to knock some heads together, whoever may be around, and say, OK, we whittle it down to 10 amendments, an hour on each one. Then we are making progress.

It is sort of a turkey shoot now. We just keep shooting out here. My view is that I understand you may be doing that.

Mr. RIEGLE. We are endeavoring to. It is fair to say we have been trying to do that. I am open to any Member's ideas and thought on that. I have not rebuffed anybody, because we have been trying to do exactly that, and to take as many of those in agreed form.

Mr. DOLE. We would be happy on this side to go down the list of Republican amendments and see if they really are going to offer the amendments. That is how you start. The Senator can go down the Democratic side, and see how many he can talk out of doing business on this bill. We may have some success, but it is going to take awhile to do that.

I am certain the manager on this side would be happy to do that, report that to the chairman and the leader to give the Senator some idea of where we are. That might be helpful.

Mr. RIEGLE. I appreciate that. Let me just say to the Senator from Kansas, I have no desire to have this take any longer than it has to take. We have to get the bill done—the Senator knows that—in one form or another. We cannot leave here without doing it. I want to get it done in a way that fits the will of the Senate. We have been trying to do that. We moved in an orderly way. We have been settling amendments as we can.

Maybe we can follow the suggestion that the minority leader says and see if there is some basis upon which to come up with time agreements, narrow the scope of this, and try to find an answer that can shorten the time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I rise as a member of the Banking Committee with a heavy heart because I do not know of two people in my Senate career of a brief almost 11 years who have done more to try to produce a really first-class banking bill of significance than the two managers, the present chairman and the ranking member, a former chairman, who was the chairman when I came here in 1980.

But I am going to tell you something. I voted for this bill in the markup and it came out of committee 12 to 9. Everybody here that was around knows that is so. I contributed in a significant way over a long time. Several years ago—I think everybody in this room that is on the committee—or was then—knows that I was a major player when we marked up in committee what we later called the Proxmire Financial Modernization Act, 18 to 2.

And we brought it to the floor and we passed it 94 to 2. I want to say that the two managers of this bill brought to this floor, before we messed with it, an absolutely quality bill that we could all have been proud to go home about, as good as the bill that we passed once before 94 to 2, and I do not know what happened, or where we went wrong.

But, my friends on both sides, I tell you this in a nonpartisan spirit. This bill has been killed by a thousand cuts.

We are here tonight at a time when we want to go home soon, arguing about a bill that will not pass. The House cannot pass any bill. The chances of their passing a narrow bill that has some money for the FDIC, and a little regulatory reform, is slightly better than slim. But they might do it, if we are lucky.

I just want to say what I think we ought to do. It is worth it if everybody wants to listen to it and that is all. We either ought to wait and catch the House narrow bill, if they pass one—and I pray they will—or we ought to take the managers and others involved that have made significant contributions, and the administration's folks from the Treasury, and try to salvage some kind of a bill out of this and pass it. We are out here fighting on something that is not worth battling about anymore.

I say that with candor and with the fondest regard for the two managers. This is not a partisan matter anymore. We do not have much worth saving here anymore. I see my friend from Rhode Island, who liked the bill that came out of committee and others on both sides.

I say that at the expense of having somebody misinterpret the facts, that I am passing judgment on something that I originally embraced. But this is not that bill any more. This bill is not worth spending all night about, or anything like that. We ought to find some kind of a way to get a bill we can live with and pass, and I am willing to stay here and vote on all of the amendments, if that is what the leaders want to do. But I can tell you something—we do not have anything here anymore that we can conference and get a decent result out of. I think anybody involved in the process suspects that is so. We ought to get the best we can get, and resolve it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask the distinguished chairman and ranking member a question. I have the floor now for the purpose of offering an amendment. I think as both of you know, I waited a long time. I am not interested in offering an amendment just for the purpose of offering one. Is it the chairman's opinion that we are going to proceed with amendments, or are we going to try something else in an effort to get a bill?

Mr. RIEGLE. If the Senator will yield, and I appreciate the fact that he has been ready to go, and he was ready yesterday and was not able to get the recognition at the time. I appreciate that fact. I think at this point, in light of what has been said, that rather than start on another amendment right now, we probably ought to put in a quorum call, talk about it, and see whether that course of action is going to lead to a result.

I have just heard the minority leader express a view that he does not think it will in the time that we have.

Mr. DOMENICI. I thank the chairman, and I clearly will not offer the amendment at this time, because he has asked me not to.

But I suggest that there are many extraneous provisions in this bill. In its current form it is much more than a banking bill. I am interested tonight, and will be until we finally arrive at a conclusion, in a provision in this bill that has nothing to do with the banking laws, but rather to do with our securities laws and class action lawsuits that are brought under rule 10(b) of the Federal rules against American corporations. The target corporations are principally the small, new ones that are starting up. They desperately need capital and their stock is volatile.

It seems to this Senator that a provision extending the deadline to file these lawsuits should not be in a banking bill, if we are not going to thoroughly debate the issue. I am not saying I am going to filibuster, but I have at least five, if not seven amendments. I think I know what I am doing with reference to it. I can speak for awhile, but I want a few Senators to listen, because it is a dramatic situation in the United States today. A few law firms are using 10(b) to file lawsuits as if they have a computer. Certain things happen to a corporation, and the lawsuit is filed. These suits are settled way out of proportion to other types of lawsuits. The money is split nicely between a whole group of lawyers and stockholders. Frequently, the same stockholder brings the multiple suits. We have evidence that one gentleman in America was the class representative or stockholder of record for 90 lawsuits, I say to my friend from Washington. It seems to me that that is preposterous that anybody would say that it is just an accident of stock ownership. It cannot be.

The same law firm represented the fellow most of the time. We wonder what it is costing American corporations. How are they able to compete? It is not one big giant thing. It is a whole bunch of little things that are diminishing our competitiveness. We have to have a number of amendments. If you choose to leave it out of the bill, as you run it through, then obviously, we will live to have another day and debate it, and that is all right with the Senator from New Mexico.

I voted for this bill in committee. I was 1 of the 12. I spent some time in committee. This statute of limitations for 10(b) cases would be extended, thereby overturning the Supreme Court. In addition, we are even going to allow cases that have been dismissed to be refiled. This makes some of them retroactive. I was unaware of that provision on the committee's bill, Mr. President. I might have voted for the committee bill anyway, but I might not have with that provision in it. We are going to have to vote a number of times on various amendments addressing it, and I am pleased that the chairman will try to work something out. I hope he understands that as far as the Senator from New Mexico and many who support him, we cannot have that provision extending the statute of limitations in the bill and expect to have an easy, free-sailing bill that we can take to the House. That just will not happen.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to say to the distinguished chairman of our committee that I supported him in the committee. I supported the Proxmire bill 3 years ago, which was a wonderful bill, in my judgment. Unfortunately, it got nowhere in the House of Representatives. It got tangled up in jurisdictional disputes.

I am sympathetic with the efforts of the chairman to press forward. I must say that the bill certainly has been emasculated in many effects, unfortunately, over the course of several days. It seems to me that, as we look at this list of amendments, the suggestion that the distinguished chairman of the committee take some time out and just see what can be done now, what can be salvaged—obviously, I have a personal interest. There is a feature in this bill that I care a lot about that affects my State. I certainly hope that will survive. I am willing to stay here and stick it out. But I must say that it looks discouraging. I want to tell the chairman that I am with him. I voted with him in the committee, because I thought we had an outstanding bill. I will stick with him, but I say that the tide seems to be running against this.

Mr. RIEGLE. Mr. President, let me say to my friend, Senator CHAFEE, the former Navy Secretary, he would be a good man to slug it out in terms of grinding on through this. I have looked down the list the minority leader had before. There are 45 amendments on this list. There are 11 of those on this side of the aisle. My estimate is that at least half of those would be worked out and go into a managers' amendment. I cannot speak for the ones on the other side. I think the thing to do here, in light of what we have been told, is to meet among ourselves, and see if we can find a formulation. I do not know if that guarantees, I might say, that the House will find a formulation.

We have been having difficulty doing it. I think we have a bill, quite frankly. If we can get to final passage, we will have at least 51 votes. I cannot prove that, certainly not if we do not get to final passage. But the problem, as we all know it, is the nature of the way that we work this legislation. Fifty-one votes any time, and particularly at the end of the session, if in fact my surmise is correct, is not necessarily enough to get a bill passed around here.

I think we need to talk it over and see. And I do not know what the scope of a revised bill might look like. I think we need to discuss that.

Mr. DOMENICI. Will the Senator yield for a moment?

Mr. RIEGLE. Yes; I need to yield to the majority leader.

Mr. DOMENICI. I want to ask that the record be corrected. I said 10(b) of the Federal rules. It is 10(b) of the security laws of the United States.

Mr. GORTON addressed the Chair.

Mr. RIEGLE. Did the Senator want me to yield? I am happy to do so.

Mr. GORTON. I thank the distinguished chairman for yielding.

I speak as a former member of the committee and, therefore, I think with a degree of sensitivity and sympathy for the dilemma which he finds facing him.

I too, though not a member of the committee, was generally supportive of the direction in which this broad reform goes. It does, however, seem to this Senator that it is now impossible to get from here to there. That even if the distinguished chairman managed to get through this debate on 40 amendments or however many of them remain, and found the 51 votes, that would do no good in the short term we have because of the emergent nature of one or two of these titles with respect to the House.

I have been prepared to add one amendment to the list which the chairman has there, an amendment which would strike everything after title II of the bill simply because it seems to me that would leave a bill that was parallel to what may very well get through the House. In looking through the various titles of the bill, however, since that idea came to me, I am not certain right now that that is the direction to go.

It does seem to me there are certain elements in several of the other titles that are not controversial but are yet important. Perhaps there are even some of those that would not cause a further erosion of support in the House of Representatives.

So while I reserve the right to propose such an amendment simply just striking everything after title II, I would urge as a friend of the chairman, as a friend of the distinguished ranking minority member of the committee, that the two of them, perhaps with a few others, work through this bill, get rid of those things which are going to take a tremendous amount of time, because of the negative feelings on the bill like that described by the Senator from New Mexico, take some things perhaps out of title IV, out of title XI, and come up with a bill that perhaps is not quite so thin as the House bill will be, but one which has a realistic chance of passing this body in the next 2 days and passing the House of Representatives. I believe that if the chairman and the ranking minority member were to do that, the chairman will have made a tremendous contribution; he has not gotten all he wanted but gotten some significant degree of reform.

Several Senators addressed the Chair.

Mr. RIEGLE. If I may, one quick comment. The Senator from Connecticut, and the Senator from Illinois will want to comment as well.

I appreciate the constructive nature of the suggestion the Senator makes. I suggest to him he and I would be in agreement in titles I and II, and titles are essential to any bill that finally emerges. I recommend he take a look at title VI that deals with the BCCI problem. I think clearly that it is important that that be in the law so we close the door on that kind of problem.

I must just say in terms of going through other parts, picking and choosing, there is a terrible difficulty in that. I am certainly willing to spend what time is needed, but what happens is you know every Member has a different point of view. One person's good idea is somebody else's terrible idea.

So the problem of finding that balance going through piece by piece within titles is extraordinarily difficult. In effect we do that in a committee structure and we bring it out here and do it on the floor exactly as we have been doing. I am not sure how successful we will be in getting very far in terms of dismembering parts and finding that constitutes an acceptable, you know, give and take for the majority Members. We can certainly try that.

Mr. DIXON. Mr. President, if the Senator will yield for a moment so I may say one thing, I know my friend from Connecticut wants to make a speech.

I want to support what my friend has said from Washington State for this reason. There are 11 titles in this bill, and as my friend the manager has pointed out, there are several noncontroversial excellent titles like the BCCI stuff, the money laundering stuff, and a lot of things like that. I would assert that out of these 11 titles you could get a half dozen that make a good so-called narrow bill that is still fundamentally sound and great for the country. And I would urge us to reconsider once again the possibility the distinguished chairman on both sides, with the administration spokesmen from the Secretary of the Treasury, and anybody else who wants to be involved, trying to find a bill we can all vote for and get out of here. I mean to tell you we can still get, not the bill I want—I want to be candid—but still a pretty doggone good bill.

Mr. GORTON. Will the Senator yield for a suggestion?

Mr. RIEGLE. May I add one other point which may be helpful to the Senator, and respond. That is, the newest narrow House bill is 350 pages and it borrows things from six different titles and so, you know, the definition of "narrow" changes from Member to Member. I just want to illustrate that a narrow bill is by no means narrow, and that is part of the dilemma.

Mr. GORTON. Are we bordering on a broad-narrow bill?

Obviously, I make this suggestion how to reach the goals that my friend from Illinois has just asserted and my own. You might, to start, simply take a look through the 45 amendments you have there and have as your agreed bill all of the sections or titles which are not subject to one of those amendments. That might be a way in which you could start and get a pretty good bill and get it through here fairly quickly.

Mr. RIEGLE. I appreciate the suggestion.

The Senator from Connecticut asked me to yield. I yield.

Mr. DODD. Mr. President, my intention is not to make a speech but merely to suggest here that I regret that. I wanted to associate myself with the remarks of the Senator from Rhode Island.

I know it is late. We are getting near the holiday recess and people want to go home and quit and not have to deal with a piece of legislation like this. But this has been literally months in the making, in fact arguably years if you go back to days of the early 1980's when Senator GARN, chairing the committee, came forward. So it is disappointing to me to hear all of sudden, because people are running out of a little patience—this is not an easy piece of legislation to deal with. You are dealing with the financial services structure of this country and, frankly, it is complicated. You have some significant competing interests in this country. It takes hard work to resolve those interests and sometimes the only way you can resolve it is by coming out to this Chamber and having at it for an hour or 2 or 3 and finding out where 51 votes are, because contrary to what other people think, some issues are not resolvable through a process of negotiation or diplomacy.

I just want, for my own part, to say if we are going to come back with this so-called narrow bill that just involves nothing more than a $70 billion recapitalization, this Member is going to vote "no", because we are not doing the job if we do that. Or some minor little garnishing around the side, some feel-good provisions, because we do not have the intestinal fortitude to deal with some of the highly controversial ones.

It is November. But this country is in trouble. Its financial services are in trouble. In my State almost $13 billion has been lost through failed institutions. Ten percent of all the failed banks in the country come from Connecticut. It is spreading across the country. We are losing market shares globally because our institutions are getting weaker.

This is a complicated bill, it is a confusing bill. It is one that a lot of people, a lot of Members do not understand. They want it to go away because it is confusing and it evokes controversy and fights.

But, Mr. President, that is our job. That is our job. And this committee has spent a long time trying to resolve these issues.

I for one regret that we may come to a point here where we are going to fold our tent and go home. I am not going to end that fight by voting for a nice and tidy little package that makes a couple people happy because we could not take on the other questions. In my view we ought to stay and work out these issues whether you do it by sitting down and trying to resolve amendments, trying to find out what people can live with.

This is not uncommon, 42 amendments. On Armed Services bills, on tax bills, the list is usually a three digit set of amendments. It is not uncommon to have 100 amendments on a bill around here when you start out, and then you sit down and find out which ones you can live with or which ones you cannot. At least you try.

In my view we really have not spent the time here to try to see if we cannot work some of these amendments out.

I want to pay my respects to the manager of the bill and the ranking minority member who have done a herculean job, truly a herculean job and urge if at all possible we try and plow ahead here and see if we cannot bring this bill to a natural conclusion and deal with the tough issues. If that is not possible, then try something else. But I am not going to support a $70 billion program for the banks and not do anything else about the underlying problems that created that mess to begin with.

Mr. RIEGLE. If I may say to the Senator from Connecticut—first of all I appreciate his comments and I share the sentiment he was expressing—I do not think there will be 51 votes here for just a straight recapitalization of the bank fund. Nor should there be. I would not vote for that and I would not advise anybody on either side to vote for that because that money is going to leak away the way the other money leaked away if we do not have in place some fundamental reforms that need to be in this bill. So that is just absolutely essential.

But I will just make one other point and then I will yield the floor, and it is this. Make no mistake about it. The economic system is in trouble. You have a Cabinet officer, Jack Kemp, a person I like very much, who has been saying that, and he has one particular view and other people in the Cabinet have a different point of view.

But there are a number of people around in the executive branch, legislative branch, out in the business community, that have a great sense of apprehension about our economic and financial situation. The financial structure is in a very weakened condition. And everybody here needs to understand that and not fool themselves on that question.

You know, we have never before had to go through a situation where we have had to provide a $70 billion loan for the bank insurance system. And neither I nor the Senator from Utah could guarantee, nor have we tried to, that that is going to be enough to solve the problems that are already baked into the banking situation that we are going to have to deal with later.

I wish I could make that assertion. But the numbers have continued to worsen with each successive estimate, and the economy is weak. I have heard information today that quarterly data we are going to get back on the economy is going to show additional serious weakness in the economy.

The stock market has been very unsettled last week, and today again, and even yesterday to an extent, but again today. And we need some confidence-building measures. We ought to try to be working on a bipartisan basis. And I have tried to do that with the administration, and with the ranking minority member from Utah.

We have not approached this bill in a march right down through the committee, vote in the committee on the bill and through the floor. We have not tried to settle these issues on a partisan basis, nor should we.

And the call I initiated today with the administration was to make sure again that their sense of concern about the economic and financial system was such that they, having weighed everything, felt they want to press ahead for a comprehensive bill. And that is clearly the signal I got today. And I have not received to this minute a contrary signal and I think they are right. I think they are right.

We have a duty to the country here to do this work; not to say, well, we cannot do it because we do not know what the House will take or will not take. I have no disrespect for the House in pointing out they have tried to do this twice and they have not been able to get it done. We can get it done here if we want to get it done. But if there are enough people who do not want to get it done, then under our situation here it is impossible to do it.

We have a little taste of that in my view today because, you know, I think we could resolve these issues far more quickly and we ought to try. Now I respect the fact that others have a different view. But it does not discharge our obligation to the country.

We are getting flashing red lights in our economic and financial system everywhere you look. It is in the pension guarantee system. Some lights are flashing in the insurance system. I am talking about insurance not connected to Federal deposit insurance. We know the problems in insured financial institutions, the S&L's earlier and the banks now. These are real problems. They dwarf what happened in the 1930's.

Quite frankly, we have an obligation to act. We have an obligation to face these issues and settle them. That does not mean that my point of view would prevail. I am not here to try to make my point of view prevail. I want the Senate to be able to work its will step by step and produce a piece of legislation that the President himself has told us is urgent and is a top priority of this administration. We have attempted in every way we can to keep faith with that request to bring this bill forward.

Just for one Senator, I do not think we ought to stop when the needs are such as I have described in the country. I think in this case we have a special obligation to act.

I do not know how long it will take. I have been in here different times all night long on different issues where we frittered away the whole night on quorum calls and nonsense without dealing with substance. This is 70 billion dollars' worth of substance.

And if that is not enough for you in the form of a taxpayer loan that we are going out and taking from the American people, within another week there is going to be another 160 billion dollar bill come through here. And that may come through here on cat's paws too, because nobody is going to want to vote for that one, I can tell you right now. Eighty billion dollars in new lost moneys for the S&L's, and $80 billion in additional working capital. So that is $160 billion. And that is another bill that is going to be through here next week, and that fund is out of money. So you can add that $160 billion to the $70 billion in this bill now, and that is $230 billion.

And we cannot take the time to sort through these amendments? Why are we here? Why are we here?

I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I wanted to respond to the comments made a few moments ago by the distinguished Senator from New Mexico, and my friend, when he made reference to several amendments that he intends to offer at a later time and debate those. Let me just say I welcome the opportunity to engage in a colloquy with him at the appropriate time and would simply add for the record that we have made some progress. I think it is fair to say, with respect to four of those items, we are near agreement; with respect to two, I think it is fair to say we have not a reached agreement.

The Senator did go along to make the comment that I interpreted as saying that there is a provision in the committee print that deals with the modification of the statute of limitation, the so-called Lamp decision, and questioned whether it was relevant or truly a part of this bill.

Let me just say to my colleagues what is at issue here is redress for victims of perhaps the most massive securities fraud in the history of the financial institutions of this country. Twenty-three thousand victims of the Charles Keating securities actions are at risk in having their cases dismissed if we do not modify the decision of the Supreme Court in the Lamp decision as the committee print does, tens of thousands of others who are victims of the fraud perpetuated by the Michael Milken's, the Ivan Boesky's, and the Fred Carr's, also will lose their day in court. So I would respectfully submit that this is an important and relevant consideration for us.

Finally in terms of its relevance to the bill that we are being asked to act upon, the chairman appropriately points out that we are asked to come up with $70 billion to bail out the bank fund. At the hearing held on the modification of the Lamp decision, the General Counsel of the FDIC, the Federal Deposit Insurance Corporation, made it very clear that failure on the part of the Senate and the Congress to modify the Lamp decision will add to the cost of the bailout, will add to the cost, because frequently the Federal Deposit Insurance Corporation is subrogated to the rights of the victims of these securities frauds and unless this decision is modified the FDIC will be unable to recover the damages as a consequence of the fraud perpetrated against those from whom their rights are inherited.

So let me just say that I welcome a chance to discuss this at a different time and at greater length, but I would not want the record, Mr. President, to be bereft of the fact that there is clearly a relevance in terms of the cost of the bailout that we are asked to consider and that those costs will be enhanced, added to, and that comes from hearing testimony offered by the General Counsel of the FDIC. And I assure my colleague and friend from New Mexico that I am pleased to try to enter into any type of reasonable time constraints so the progress on this piece of legislation is not unduly prolonged.

I thank the Chair.

RTC RESTRUCTURING

• Mr. KERREY. Mr. President, I would briefly like to address the Resolution Trust Corporation restructuring amendment offered by Senator DIXON of Illinois to the banking reform bill yesterday. I am pleased that he has joined the call for critically needed reform of the Resolution Trust Corporation.

Senator DIXON's amendment would provide for a single five-member Board to oversee the work of the Resolution Trust Corporation under the leadership of a strong Chair and Chief Executive Officer. The new Board would replace the current dual Board structure and would be composed of a non-Government majority.

I have been arguing for precisely this change in the Resolution Trust Corporation's structure since the Senate passed the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] legislation in April, 1989. During consideration of FIRREA, I offered an amendment to create a single board under the leadership of a strong Chair and Chief Executive Officer made up of a non-Government majority to direct the work of the Resolution Trust Corporation [RTC]. Unfortunately, that amendment failed.

I have continued to push this restructuring proposal in the wake of passage of the FIRREA legislation because of my concern that the current structure does not provide accountability where tough decisions can be made and carried out. I welcome the Senator from Illinois to the debate because we must not lose additional time and waste more taxpayer money before we restructure the RTC.

The chairman of the Banking Committee has held a number of hearings on this issue and has documented the importance of changing the RTC's structure. In the meantime, Senator WIRTH and I have formulated the proposal that was incorporated into legislation that we introduced along with Senators RIEGLE, DIXON, DODD, and GRAHAM on November 7, 1991 as the Resolution Trust Corporation Reform Act of 1991 (S. 1943). Senator DIXON has introduced the text of S. 1943 as his amendment.

Mr. President, the time to change the Board is long overdue. The Board, as it is currently structured, simply does not allow for proper public oversight of the RTC's work.

The RTC recently reversed its policy of preventing accounting firms linked to the failure of the savings and loan institutions from participating in contracts with the agency. This is a good example of how little the public knows of what is occurring within the RTC. Here is a decision made to begin doing business with firms that played a role in the crisis of the savings and loan industry. This policy reversal occurred without public hearing and public input.

Mr. President, this is just one example of policy decisions that are made without public input. These are decisions that involve literally billions and billions of dollars of public money. We need an accountable structure and we cannot remain passive for another year.•

SCHEDULE

Mr. MITCHELL. Mr. President, having considered carefully the various points of view expressed here in this most recent debate; having discussed the matter with the distinguished Republican leader, the managers of the bill and others, I have concluded that the best course of action now will be to discontinue this session for this evening; to exercise the authority previously granted to me to proceed to S. 869 and S. 775, two important bills affecting veterans, tomorrow morning; and then, under a prior agreement, the Senate will devote approximately 2½ hours tomorrow to the Ethics Committee report, which will bring us to the late afternoon hour at which time this pending legislation will recur as the pending business. That will give the managers and all of the interested Senators the opportunity in the next—not quite 24 hours; about—but between now and approximately 5 p.m. tomorrow, to reassess the situation, to consider what the best and most appropriate course of action will be with respect to this legislation.

I recognize that there are some who would prefer to proceed this evening; some who prefer not to proceed at all. And my decision reflects a middle ground between those two points. It merely is to say that there will be no further rollcall votes this evening.

Tomorrow morning, at 10 a.m., we will proceed to the two veterans bills to which I referred. Under the agreement governing those bills, they will take approximately the time up until 1:30 or 2, when, by a separate order approved earlier this evening, we will proceed to the Ethics Committee matter, which will take us until about 5 p.m.

And I understand from my discussions with the managers and others that they will, during the remainder of this evening and tomorrow, reconsider the situation and be in a position to make a recommendation to me and to the distinguished Republican leader as to how best we should proceed at that time.

Mr. DOMENICI. Will the distinguished leader yield for a moment?

Mr. MITCHELL. Yes, sir.

Mr. DOMENICI. Let me just for purposes of clarifying the record and what the Senator from New Mexico said about the statute of limitations extension—I said today, earlier, that I support the extension, including the retroactivity. But I also support the reforms that the administration believes are necessary. The administration supported the extension of the statute of limitations and the retroactivity provided that it was coupled with some reforms.

I would call the Members' attention to a November 4 letter sent to Senator GARN which so indicates. And it is in that context that I was speaking.

I thank the Senator for raising the question.

Mr. RIEGLE. Let me, if I may, Mr. President, just make one other comment for the consideration of the ranking minority member and other colleagues who are particularly interested in this bill—and the Senator from Texas as well.

Another avenue that we might take here, I say to the Senator from Connecticut, what we might do in the way of a bill that is somewhat reduced in scope—it is presumably going to be at least 350 pages if the House bill we heard about is to be the standard on broad or narrow—and perhaps what we could do it take the provisions that the Senate has already acted upon and settled, take those four. That divides title V, for example. Part of it stays, part of it goes. It would take what has been done on interstate, take what has been done on insurance, take what has been done on Glass-Steagall, and certainly take titles I and II. Beyond that, we would have to see what would be generally acceptable to the Members of the Senate. There will be differences of opinion about that. But what we might well do is to take the part of the bill where the Senate has worked its will, where we have debated, we have voted, we have decided it, and take that as a set of core elements, and then add to that titles I, II and VI. And then in terms of what is left in any other title, you would have the approach I just referred to.

That would be another way of preserving the work that the Senate has already done, and where the Senate has already expressed itself. And we know what the will of the Senate is in those areas. I think there is something to be said for taking that part of the work product and incorporating it. That is an idea. Others will have to react to it, but it is another way to think about how we move from where we are and take full value from the work already done and incorporate that in a package that would further meet the will of the Senate.

I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

Mr. SARBANES. Will the leader refrain on that for a moment?

Mr. MITCHELL. I withhold my request.

Mr. SARBANES. Mr. President, could I ask the chairman of the committee, I take it it is his intention between now and when the bill reoccurs tomorrow, to investigate these various approaches, is that correct?

Mr. RIEGLE. Yes, indeed, because this is legislation in one form or another that must pass, as we agree.

Mr. SARBANES. I simply make this observation. There are many things in this bill that are relatively noncontroversial, that constitute a positive and constructive contribution in terms of addressing problems, improving the situation. I hope we could make some effort to hold on to those aspects of the bill.

Second, on many of these issues the Senate has worked its way through time, even if controversial, and has reached a decision. Now, maybe that should be incorporated as well. Otherwise those issues would have to be revisited.

So Members, I think, would realize they are simply going to be putting themselves back through the same traces, at least with respect to some of those problems and the solutions that are contained in this legislation, to try to address them.

Mr. RIEGLE. If the Senator will yield, I am sure the thought has crossed his mind on debates that we have already had and issues that we have already settled where there was a winning side and a losing side, that people who may have been on the losing side of that issue may very well decide and have decided that if they can prevent the bill from going on through in its complete form to passage they can, in effect, win a provision—by having it omitted—that otherwise has been lost in terms of the will of the Senate in terms of the debate and a vote.

I think there is something to be said, where the Senate has worked its will on critical provisions here, that we consider very carefully whether those can be part of a core set of items that, in effect, then are settled and would not have to be reopened next spring or some other time that otherwise would be the case.

Mr. GARN. Will the chairman—the Senator from Maryland yield for a very brief comment about something that has been happening? This has been going on. I have instructed my staff to go through that list of amendments, and I would like to know from the Republican side as early in the morning as I possibly can—I want those amendments culled out. I want to know what Senators are really going to offer. I do not want to have to deal with an amorphous list that I do not know.

So I suggest on both sides we try to come up with a list that is a serious list so that we know what we are dealing with. For 3 days we have not known what we are dealing with.

I am going to try to give the chairman a list as early as possible tomorrow of what Republican amendments are real, that people do intend to offer.

Mr. SARBANES. That strikes me as something that would be very helpful. The only point I want to make is that if you jettison certain provisions, it does not mean you will not have to address them again. And, in that sense, if we have already worked through them, there may be something to retaining them in the legislation. Otherwise you will end up revisiting the issue; which, if Members pause and think about it a bit, they may conclude that is not the wisest way to proceed.

Mr. RIEGLE. If the Senator will yield, I will give an example that might not have occurred to him in terms of his view of the bill. Senator GARN has pressed hard and effectively over a time for a provision on lender liability, and the committee has incorporated that in this bill. I think it is a good provision, and I am very reluctant to see it go over the side. If we go the narrow bill route, that may happen.

The Senator said to me if that is what has to be done, he will swallow hard and he will do it. It is to his credit. But the point is if that is a good provision—and I think it is, and I think it will save us some money in terms of the expenditure otherwise that the public will have to meet—I do not understand, quite frankly, why that has to go over the side. It can stay in or go out.

But I just cite that as an example, at least from this Senator's point of view, of the fact that some of the good work we have done I think ought to be preserved in something, especially when the narrow bill we heard advertised from the House—which, of course, has not passed the House—is 1,350 pages and covers ground corresponding to six different titles in our bill. That is the so-called narrow bill from the House. By any meaningful definition, it is not a narrow bill. That is my point.

Mr. SARBANES. I thank the chairman. I thank the leader. Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it it so ordered.

SECRETARY BAKER'S MISSION TO BEIJING: THE REALITIES OF CHINESE INTRANSIGENCE

Mr. BIDEN. Mr. President, Secretary of State Baker has just completed a mission to China that should mark a turning point in United States-Sino relations. Normally we think of an historic turning point as a moment when great developments occur. In this case, it is precisely the absence of any real progress that is the defining characteristic.

Had Sherlock Holmes been in Beijing, he might have likened what he saw to the dog that did not bark. In Beijing, Mr. President, no dog barked.

Given the Bush administration's established policy of constructive engagement with China, I do not fault the Secretary of State for traveling to Beijing in an attempt to salvage that policy.

But what this trip should underscore for all to see is the utter intransigence of the Chinese gerontocracy and thus the utter inefficacy of so-called constructive engagement with Beijing's ruling Communist regime.

What President Bush and Secretary Baker have been seeking to engage is the world's last major Communist regime; it is a regime marked by brutality at home and irresponsibility abroad; and it is a regime the United States should now cease to court and must no longer appease.

Mr. President, let us get back to basics. We have two profound interests in China. To promote the first—a democratic China that upholds human rights—we must combine purpose with patience, advancing Western values while recognizing limits on our influence.

Our second interest, Mr. President, is to foster China's responsible involvement in the global community: on security, economics, and, increasingly, the environment. Here, too, patience is required—until patience becomes folly.

Sadly, the Bush administration's preference for open channels and nonconfrontational diplomacy has availed us little in promoting either interest. A policy that was once perhaps defensible—in theory—has failed. It is no longer defensible, and it is time to stop hemming and hawing.

For too long we have hemmed and hawed, failing to underscore our allegiance to China's democratic opposition. We can no longer haw as China acts as a rogue elephant in the world arms trade.

We do not know exactly what transpired in Beijing. But I believe that Secretary Baker's principal message should have been nothing less than a well-worded ultimatum:

> If China persists in selling mass destruction technologies to the Middle East, the United States will revoke its most-favored-nation trade status, which now yields China a surplus of $15 billion a year.

I am well aware that geopolitical realists will claim that the proud Chinese would never succumb to threats; indeed, they will point to Secretary Baker's recent trip as proof of it.

I am less certain; it may depend on which threat and how firmly and effectively it is delivered.

What we know beyond doubt is that with the President's indulgence, China's leaders have come to expect the best of both worlds: hard currency from the United States retail market and from the Mideast arms market as well.

It is past time that they be forced to choose: between the American market, worth billions, or the arms bazaar, worth millions.

As yet, no Chinese misdeed, however detrimental to international security, has swayed the President's determined passivity. In June, amidst reports of advanced Chinese ballistic missile sales to Syria and Pakistan—the M-9 to Syria and the M-11 to Pakistan—the President renewed China's MFN status.

Now, despite news that Beijing is dispensing technology that could give the Ayatollah Khomeini's successors an Islamic bomb, the administration has still not taken decisive action.

It is no joke to say that the administration's contradictions comprise a China syndrome.

Proclaiming Saddam Hussein "worse than Hitler," in large part because of his awesome arsenal, the President went to war to protect gulf stability. The administration has also revived a Middle East peace process that entails implicit American pressure on Israel to trade land for peace. Yet, in a perverse paradox, the administration has stood idle as China has undertaken sales of weapons equally as lethal to Syria and Iran, regimes no less radical than Iraq and just as uncompromising toward Israel.

Bombing these new buyers may be out of bounds, though we must recognize that a preemptive strike might well become necessary if they acquire and threaten to use these horrifying weapons of mass destruction. But refusing to sanction the seller immediately is unconscionable.

Another wispy Chinese pledge to curb weapons sales, Mr. President, is not enough. A stack of empty promises precedes it. Indeed, what occurred in Beijing is all too typical.

Struggling to salvage something from the trip, Secretary Baker announced that China had agreed to adhere to the principles and parameters of the missile technology control regime, but only if the United States lifts sanctions against Chinese companies previously engaged in proliferation. This, if true, might be a welcome step.

But Secretary Baker had no sooner boarded his plane than the official Chinese news agency issued Beijing's own interpretation, saying that China's leadership had agreed only that it may consider adherence to the missile technology control regime.

Listen carefully now: Can you hear the sound of no dog barking?

In fact, the events in Beijing constitute a refutation of those who believe that the Chinese leadership will not respond to sanctions. Beijing did respond—to mild sanctions already imposed. Chinese leaders have shown their concern about sanctions; they are recognizing and acting upon the very linkage the Bush administration refuses to see.

But Beijing's leaders are playing hardball in the belief that they can force the Bush administration to back down.

The point, Mr. President, is that if this trip offers any lesson at all, it is a demonstration that China's leaders are attuned to the linkage between their proliferation policies and their access to United States trade.

The so-called geopolitical realists who said the proud Chinese would not respond to sanctions were dead wrong. Maybe the Council on Foreign Relations had better hold another seminar.

How then, Mr. President, should Congress respond?

Pending legislation would link MFN to a Chinese turnabout on forced abortion, slave labor, democratic freedoms, arms proliferation, unfair trade practices, and Cambodia, Hong Kong, Taiwan, and Tibet.

China's record on these issues is, as we all understand, reprehensible. But enacting a multitude of conditions—which means demanding everything we want—can be as futile as demanding nothing.

Instead, we must set priorities. One realistic goal, absolutely vital to American interests, is to ensure that a future Middle East conflict could not be launched with modern missiles and nuclear warheads.

I believe our China policy must assign this objective the very highest priority. By acting now and speaking in one voice with that single compelling objective, I believe Congress and the President can effectively do so, by focusing Beijing squarely on its own self-interest.

Constructive engagement with China may—I repeat may—still be feasible, but only if Beijing sees that irresponsibility has its price.

Let me emphasize that giving priority to arms sales implies no lessening of concern for human rights. Indeed, I sponsored legislation, just enacted as a part of the Foreign Relations Authorization Act, that will convene an experts' commission to examine the startup of a Freedom Radio for China, modeled on the Radio Free Europe broadcasts that spurred democratic movements in the Soviet Empire.

On Thursday of this week, the Foreign Relations Committee will hold an extensive hearing to discuss implementation of this legislation.

The key is using tools that work. Democracy is built on ideas, which we should promote—and broadcast. Rogue behavior on arms can be deterred, or punished, by our clear-cut economic leverage.

In sum, I believe that China's participation in the proliferation of weapons of mass destruction is a crucial issue of the very highest priority in American foreign policy, and we must not allow the President the easy dodge of vetoing a China bill with multiple provisions and then letting the matter drop.

Mr. President, in the case of the Soviet Union over the years before its collapse, I believe American foreign policy struck a sound balance between engagement and distance.

We maintained diplomatic relations, fostered a continuing program of educational, cultural, and professional exchanges, and sought arms control agreements where possible.

Meanwhile, we denied most-favored-nation trade status and supported an unceasing stream of Radio Liberty broadcasts that helped keep alive the spirit of democracy in that large and unhappy nation.

Given its proven success, this policy has much to recommend it as a model. The Bush administration tried another approach in China—and it failed. It is now time to return to the tried and true.

We can offer Beijing one last chance to behave responsibly in the international arena, a chance China's leaders should have every reason to seize. But if they are too intransigent—too indifferent to China's own self-interest—to make the right choice, then we should not hesitate to respond with a policy that reflects both toughness and principle.

Our policy now lacks both and must not continue. If the President will not change it, Congress must.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today we rejoice with Thomas Sutherland and Terry Waite. With their family and friends. But as Tom Sutherland's daughter Kit noted yesterday, our joy is tempered by the continued captivity of Terry Anderson, Alann Steen, and Joseph Cicippio.

Terry Anderson is the longest held hostage, abducted March 16, 1985. Today marks his 2,439th day held captive in Lebanon.

Mr. President, Terry Waite brings news of the imminent release of all three American men still held in Lebanon. I pray that their captors fulfill this pledge.

Mr. President, I ask unanimous consent that the New York Times article announcing the release of Mr. Sutherland and Mr. Waite be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FURTHER RELEASES OFFERED SOON, WAITE SAYS

(By Elaine Sciolino)

WASHINGTON, NOVEMBER 18.—The anglican envoy, Terry Waite, and an American educator, Thomas M. Sutherland, were released by their Shiite Muslim captors in Lebanon today, amid signs that the remaining Western hostages may be freed soon.

The release today of two of the longest-held hostages came after intense negotiations by the United Nations that have led to the freeing of four other Western hostages since August and represents a dramatic leap toward ending the nearly eight-year hostage ordeal.

At an impromptu, chaotic appearance before reporters in Damascus after their release to Syrian officials, Mr. Waite said his captors had told him just before his release that they would free two American hostages, Joseph J. Cicippio and Alann Steen, in the next five days and the other American, Terry A. Anderson, the longest-held hostage, by the end of the month.

Mr. Waite said he did not know when two other Western hostages—Heinrich Strübig and Thomas Kemptner, German relief workers—would be set free. He did not mention Alberto Molinari, an Italian businessman who has been missing since 1985. Some Lebanese security officials have said they believe he is dead.

REMARKS BY U.N. LEADER

In brief remarks to reporters at the United Nations this morning, the usually cautious Secretary General, Javier Pérez de Cuéllár, said that both the groups holding the hostages and the Iranian Government "offered" to release all of the hostages by Christmas.

The next move may be up to Israel, which has freed a number of Arab prisoners since August as part of the negotiations, but is still holding Sheik Abdul-Karim Obeid, an Islamic fundamentalist leader captured by Israeli commandos in southern Lebanon in 1989 and its most valuable bargaining chip.

Israel said tonight that it would not release any more of the 300 Arab prisoners in its hands until it receives word about the fate of an Israeli Air Force navigator who was shot down over Lebanon in 1986.

ROLES OF SYRIA AND IRAN

The quickening pace of hostage releases also reflects the pivotal roles played by both Syria and Iran, which have much to gain by a resolution of the thorny issue. Teheran, which has considerable influence over the Shiite Muslim groups holding the hostages, is eager to improve its political standing in the West and rebuild its economy with extensive Western help. Syria, the main power broker in Lebanon and a player in the Middle East peace talks, has tried to move closer to the West with the breakup of the Soviet Union.

Both Mr. Waite, who had been held since January 1987, and Mr. Sutherland, who was taken captive in June 1985, appeared in both good health and good spirits as they addressed reporters under a portrait of President Hafez al-Assad of Syria. But their upbeat remarks also captured some of the pain they endured during their difficult captivity, as well as the changing sentiment of their captors about the value of keeping hostages.

"This afternoon, when we were sitting together in our cell, chained to the wall as we have been chained to the wall for the last five years and, in some cases of Tom and others, for seven years, 23 hours and 50 minutes a day, one of our captors came in and told us that Tom and myself would be freed this evening," said the 52-year-old Mr. Waite, looking thinner, his hair grayer, than when he was abducted in January 1987 during a mediation effort on behalf of other hostages. "He also said to me, 'We apologize for having captured you. We recognize that now this was a wrong thing to do, that holding hostages achieves no useful, constructive purpose.' "

A TIME OF JOY

The White House press spokesman, Marlin Fitzwater, described the release today as "a time of joy," and praised the United Nations and the governments of Iran, Syria and Lebanon for their assistance. But he also called for the release of the remaining hostages, adding, "Our joy is mixed, however, with deep concern over those who remain in captivity."

President Bush has repeatedly said he would not move to improve relations with Teheran until all American hostages are released, and even then, Iran's continuing support for international terrorism remains an obstacle in building the relationship, Bush Administration officials said today.

The two countries also continue to haggle in a special tribunal in The Hague over claims stemming from the seizure of the American Embassy in Teheran in 1979. The most nettlesome are Teheran's compensation claims for United States military equipment it says it paid for before the 1979 revolution but never received and claims of dual nationals against Iran.

"People are thinking about what to do, but it would be wrong to leap to the conclusion that we are about to restore relations or anything like that," said one senior Administration official. "But there may be some small steps in that direction once all Americans are freed and if the Iranians make some statement disavowing terrorism."

MAJOR IS DELIGHTED

In London today, Prime Minister John Major said he was "absolutely delighted" by the hostage release, and stressed that it was accomplished with "no backstage deals."

The release of Mr. Waite, the last British hostage, removes the most serious obstacle for an improvement in British-Iranian relations. Britain is now in a position to upgrade its diplomatic representation in Iran by sending an ambassador to its embassy in Iran, and to offer Iran much-needed financial help in the form of loans, credits, joint ventures and other commercial deals.

In his remarks today, Mr. Sutherland, a 60-year-old former Dean of Agriculture at the American University of Beirut, thanked the United Nations, Syria, Iran and Israel for their efforts on behalf of the detainees.

But in a thinly-veiled criticism of Israel's occupation of southern Lebanon, Mr. Waite described how he and the other captives had been living under constant shelling in the last year.

"All of us, all hostages, would plead with those who are holding the people of South Lebanon, innocent people being held as hostages, to release them soon, to put an end to this problem, to put an end to terrorism, and to find peaceful, humane and civilized ways of resolving the very complex problems that face the people of the Middle East," said Mr. Waite, special envoy for the Archbishop of Canterbury who over the years had successfully won the freedom of detainees in Iran, Libya and Lebanon before he himself was seized while trying to free American captives in Lebanon.

Mr. Pérez de Cuéllar had confided to colleagues last week that he expected all of the remaining hostages to be released together before the end of the month. United Nations officials said the release today, which they had known about for more than a week, was somewhat surprising. Still, the officials added, he is confident that the last hostage will be freed before he leaves office at the end of the year.

CONDITION OF ANDERSON

Mr. Sutherland offered fresh information on the condition of Mr. Anderson, who was chief Middle East correspondent for the Associated Press when he was abducted in

March 1985. Mr. Sutherland, who said he spent most of his captivity with Mr. Anderson, said, "We left Terry Anderson about three of four hours ago in Lebanon and he is no longer chained to the wall, thank God, but he is still in a room that has very little fresh air and no daylight whatsoever."

Still, Mr. Sutherland said, "He is in very good health right now; he is in very good spirits," adding that the American journalist has been writing poetry during captivity, which he hopes to publish eventually.

Mr. Anderson is considered the captors' most valuable bargaining chip, both because of the length of time he has spent in captivity and the extensive publicity his plight has been given over the years, and the Bush Administration has assumed that he will be among the last to be released.

Both freed hostages were in such high spirits that they used their first public statements to crack jokes about each other.

"All I can say, though, about the English—they take a hell of a long time to get things done," said Mr. Sutherland of Mr. Waite's attempts to free him. "He came to get me out of there about five years ago and it has taken him five years to get me out."

THE FALLEN CROATIAN CITY OF VUKOVAR

Mr. DOLE. Mr. President, the morning news was filled with pictures of the fallen Croatian city of Vukovar. To me, the most tragic scene was that of a long line of people, mostly women and children, carrying what few belongings they still possessed; in their faces you could see sorrow, disappointment, and despair.

Until today, many of them had not walked outside for 3 months; they hid in their dark basements—without running water and without electricity—in the hopes that they could resist constant and ruthless bombardment by the Yugoslav military and Serbian militants. Sadly, they emerged from their basements to leave the rubble that was once their home—that only 4 months ago was a beautiful and prosperous city on the Danube.

Six months ago, the people of Vukovar, Dubrovnik, and other Croatian cities and villages voted overwhelmingly for freedom. Instead they got the brutal onslaught of the Yugoslav Army, air force, and the Serbian militants.

Perhaps the people of Vukovar would not have been so courageous if they had known that the world would remain largely silent as hundreds of thousands of people lost their homes, and as thousands of civilians lost their lives throughout Croatia.

The United States and other democratic governments declared victory when Communist leaders were ousted from office in Slovenia, Croatia, Bosnia, and Macedonia last year, in the first free elections in over 45 years. But, at the same time, the United States and other democracies underestimated both the staying power of hardline Serbian President Milosevic and the uncivilized aggression of his Communist allies in the Yugoslav Army.

For 3 years, we have seen Milosevic's increasing repression of the 2 million Albanians in Kosova. He devoted significant resources in order to create a police state in Kosova. But, few expected that Milosevic would harness the vast resources of the Yugoslav army and elements of the central government to pursue his goal of a greater Serbia.

Mr. President, I hope that the photos from Vukovar will shock the nations of the world, including this country, out of our numb and apathetic attitude toward the war in Croatia; I hope that the pictures of destroyed Vukovar will shock the world into action. In that way perhaps, the suffering of the people of Vukovar will not be entirely in vain.

There is no more time for debate, for handwringing, for policy reviews. The situation is absolutely clear: Milosevic wants a greater Serbia and he doesn't care how many civilians are displaced or killed in the process. Now is the time to act.

I welcome the decision by some west European governments to create a humanitarian corridor to protect red cross vessels evacuating the wounded from war-ravaged towns on the Croatian coast.

However, there is more to be done in the area of humanitarian assistance. There are over 400,000 refugees in the Republic of Croatia and in neighboring Slovenia, Bosnia, and Hungary. Three weeks ago I made a request to the Pentagon and State Department for humanitarian aid to needy civilians in Croatia. Specifically, I requested that a portion of the Department of Defense's excess food supplies be airlifted to Austria or Italy and then trucked or shipped to Croatia, to be distributed by private voluntary organizations, such as the Red Cross. Today I was informed by Secretary Baker that he has approved the airlift of food supplies for the people of Croatia. I am very pleased that the Secretary has approved my request and that the United States will soon join the Europeans in helping the victims of this war.

But, I do not believe that our efforts should stop there. Together with the international community, we need to isolate the Government of Serbia economically and politically—through expanded trade sanctions and an oil embargo. I also believe we must seriously pursue the option of deploying U.N. peacekeeping forces to Yugoslavia. But, we must do so in a way that does not legitimize the occupation of Croatia, or any other Republic, by the Yugoslav army.

Mr. President, Serbian President Milosevic has waged a war against freedom, democracy and innocent civilians in Croatia. He will continue that war—in Kosova, Bosnia, and Macedonia—if the world does not unite to stop him.

THE TREATMENT OF THE BAHA'IS IN IRAN

Mr. DODD. Mr. President, today the Foreign Relations Committee passed by a unanimous vote Senate Concurrent Resolution 43, a resolution condemning the Government of Iran for its continuing persecution of a religious minority know as the Baha'is. Much has changed in Iran since I introduced that resolution on May 22 of this year. Sadly, the plight of the Baha'is has not improved.

While the release of two more American hostages yesterday and the bombing of Pan Am 103 having been traced to Libya, recent events have brought a distinct warming trend to United States-Iran relations. In many ways, I welcome that trend. It is certainly time for Iran to cast off the shackles of intolerance and join the world of civilization and democracy.

But as we search for some way to determine the extent of Iran's progress into the modern world, as we cast about for a yardstick to measure the progress we look to the case of the Baha'is. And for 12 long years, Mr. President, the plight of the Baha'is has been torturous indeed.

Mr. President, since the Iranian Revolution of 1979, the Baha'is have been the victims of a brutal wave of persecution and repression. The reason for this persecution is no secret. The Iranians have made it painfully clear from the start: The Baha'is are being persecuted for their religious beliefs.

Since 1979, Mr. President, 197 Baha'is have been killed, and 15 others are missing and presumed dead. Baha'is have been arbitrarily imprisoned and detained, for no reason other than their faith. And the Baha'is have been on the receiving end of a brazen policy of discrimination; in fact, more than 10,000 Baha'is were dismissed from their positions in government and education in the early 1980's.

Mr. President, the United States and the United Nations have repeatedly passed resolutions calling on Iran to improve its treatment of the Baha'is. And make no mistake: Those resolutions have had an effect. Thanks to international pressure, no Baha'is have been executed since December 1988. And as a result of the efforts of the world community, detentions of Baha'is are only a fraction of their mid-1980 level.

But Mr. President, it would be a tragic mistake to assume that past success implies future results. As we make note of the steps taken by Iran to enter the community of nations, we must hold Iran accountable to common standards of decency and fairness. And we can start, Mr. President, with the Baha'is.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCarthran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 5:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House having proceeded to reconsider the bill (H.R. 2707) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was:

Resolved, That the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

ENROLLED BILL SIGNED

At 5:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1720. An act to amend Public Law 93-531 (25 U.S.C. 640d et seq.) to reauthorize appropriations for the Navajo-Hopi relocation Housing Program for fiscal years 1992, 1993, 1994, and 1995.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

H..R. 3371. An act to control and prevent crime.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2162. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated November 1, 1991; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986 referred jointly to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition and Forestry, to the Committee on Commerce, Science and Transportation, to the Committee on Environment and Public Works, to the Committee on Finance, and to the Committee on Foreign Relations.

EC-2163. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the status of budget authority that was proposed for rescission for fiscal year 1990, dated July 24, 1991, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Armed Services, and to the Committee on Foreign Relations.

EC-2164. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on certain properties to be transferred to the Republic of Panama; to the Committee on Armed Services.

EC-2165. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to amend section 2350c of title 10, United States Code, to change the requirement for liquidating credits and liabilities accrued under cooperative airlift agreements from every 3 months to a period agreed upon by the parties or on a regular basis, not to exceed every 24 months; to provide for space available travel for the military forces of an allied nation; and for other purposes; to the Committee on Armed Services.

EC-2166. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving United States exports to Venezuela; to the Committee on Banking, Housing and Urban Affairs.

EC-2167. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving United States exports to Venezuela; to the Committee on Banking, Housing and Urban Affairs.

EC-2168. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2169. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, transmitting, pursuant to law, a report on certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2170. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2171. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Child Support Enforcement Program; to the Committee on Finance.

EC-2172. A communication from the Chief of Staff of the Office of the United States Nuclear Negotiator, transmitting, pursuant to law, a report on audit and investigative coverage; to the Committee on Governmental Affairs.

EC-2173. A communication from the Secretary of Education, transmitting, pursuant to law, a report on final regulations for a program for children and youth with serious emotional disturbance; to the Committee on Labor and Human Resources.

EC-2174. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final priority on bilingual education; to the Committee on Labor and Human Resources.

EC-2175. A communication from the Secretary of Education, transmitting, pursuant to law, a report on final regulations on the Pell Grant program; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 452. A bill to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes (Rept. No. 102-220).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1504. A bill to authorize appropriations for public broadcasting, and for other purposes (Rept. No. 102-221).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1528. A bill to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes (Rept. No. 102-222).

By Mr. PELL, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amendment to the title and an amended preamble:

S. Res. 95. A resolution urging the Administrator of the Environmental Protection Agency to accelerate the scheduled phaseout of production of ozone-destroying substances in the United States as required pursuant to the Clean Air Act Amendments of 1990 and calling on the President to urge the United Nations to call a special session of the Contracting Parties to the Montreal Protocol in order to conclude an agreement accelerating the scheduled phaseout of such substances and for other purposes based on recent scientific findings concerning the degradation of the stratospheric ozone layer and increased atmospheric concentrations of substances that lead to the degradation of the stratospheric ozone layer.

By Mr. PELL, from the Committee on Foreign Relations, with amendments:

S. 503. A bill to establish certain environmental protection procedures within the area comprising the border region between the United States and the Republic of Mexico.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 1987. An original bill to amend the Arms Control Act to authorize the President to transfer battle tanks, artillery pieces, and armed combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the treaty on Conventional Armed Forces in Europe.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 43. A concurrent resolution concerning the emancipation of the Baha'i community of Iran.

By Mr. PELL, from the Committee on Foreign Relations, with amendments:

S. Con. Res. 77. A concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Michael B. McCaskey, of Illinois, to be a member of the Peace Corps National Advisory Council for a term expiring October 6, 1992.

The following-named persons to be members of the Peace Corps National Advisory Council:

Richard N. Bond, of New York, for a term expiring October 6, 1992, vice Sue Wagner.

Tom G. Kessinger, of Pennsylvania, for a term expiring October 6, 1993. (Reappointment)

The following-named persons to be members of the Peace Corps National Advisory Council for terms expiring October 6, 1993:

Ruth Gardner Cox, of Texas. (Reappointment)

Roland H. Johnson, of Pennsylvania, vice Peter L. Boynton.

Reginald J. Brown, of Virginia, to be an Assistant Administrator of the Agency for International Development;

Andrew S. Natsios, of Massachusetts, to be an Assistant Administrator of the Agency for International Development; and

Henrietta Holsman Fore, of California, to be an Assistant Administrator of the Agency for International Development.

The following-named persons to be members of the Board for International Broadcasting:

Penn Kemble, of the District of Columbia, for a term expiring April 28, 1992, vice Ben J. Wattenberg, resigned.

Daniel A. Mica, of Florida, for a term expiring April 28, 1993, vice James Albert Michener, term expired.

Cheryl Feldman Halpern, of New Jersey, for a term expiring April 28, 1994. (Reappointment)

Mark McCampbell, Collins, Jr., of the District of Columbia, to be United States Alternative Executive Director of the International Bank for Reconstruction and Development for a term of two years;

John Condayan, of Virginia, to be an Associate Director of the United States Information Agency.

The following-named persons to be members of the Advisory Board for Cuba Broadcasting for terms expiring October 27, 1994:

Jose A. Costa, Jr., of Florida, vice Danford L. Sawyer, Jr., term expired.

Joseph Francis Glennon, of Florida. (Reappointment)

Charles Tyroler II, of Virginia, to be a member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1992;

Pamela J. Turner, of the District of Columbia, to be a member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1992;

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the Forty-sixth Session of the General Assembly of the United Nations:

REPRESENTATIVES

Thomas R. Pickering, of New Jersey.

Alexander Fletcher Watson, of Massachusetts.

Joseph Verner Reed, Jr., of Connecticut.

Dan Burton, of Indiana.

Mervyn M. Dymally, of California.

ALTERNATE REPRESENTATIVES

George Edward Moose, of Maryland.

Jonathan Moore, of Massachusetts.

Shirin Raziuddin Tahir-Kheli, of Pennsylvania.

Oscar Padilla, of California.

Margaretta F. Rockefeller, of New York.

John Kenneth Blackwell, of Ohio, for the rank of Ambassador during his tenure of service as Representative of the United States on the Human Rights Commission of the Economic and Social Council of the United Nations;

A. Peter Burleigh, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Coordinator for Counter-Terrorism.

William Caldwell Harrop, of New Jersey, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William C. Harrop.

Post: Tel Aviv, Israel.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: Ann D. Harrop, None.

3. Children and spouses names: Mark D. and Lucy M. Harrop, none; Caldwell and Susan S. Harrop, $25, 1987 Congressional Agenda for the 1980's; $75, 1987 Democratic National Committee; $200, 1987 Dukakis for President Committee; $100, 1987 National Women's Political Caucus; $55, 1988 National Women's Political Caucus; $50, 1988 Congressional Agenda for the 1980's; $100, 1988 Dukakis for President Committee; $100, 1988 Democratic National Committee' 20, 1990 National Women's Political Caucus; Scott N. and Caroline Harrop, none; George H. Harrop, none.

4. Parents names: George A. Harrop (deceased) Esther C. Harrop, none.

5. Grandparents names: George A. and Mary C. Harrop (deceased); Otis W. and Cora B. Caldwell (deceased).

6. Brothers and spouses names: George A. Harrop III (deceased; David C. Harrop, none.

7. Sisters and Spouses names: Esther H. Godfrey (deceased); William Godfrey, $15, 1988 George Bush for President.

John Giffen Weinmann, of Louisiana, for the rank of Ambassador during his tenure of service as Chief of Protocol for the White House.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John G. Weinmann.

Post: Rank of Ambassador as Chief of Protocol.

Contributions, amount, date, and donee:

1. Self: $100, 1987, Baker for Congress; $10,000, 1987, Republican Eagles; $5,000, 1987, Fund for America's Future; $1,000, 1987, George Bush for President; $100, 1987, Russell B. Long Committee; $1,500, 1987, The President's Dinner; $10,000, 1988, The Presidential Trust; $250, 1988, McCrery for Congress; $500, 1988, Pete Dawkins Campaign Fund; $1,000, 1988, Clyde Holloway Campaign Fund, First Primary; $250, 1988, Clyde Holloway Second Primary; $200, 1989, RNSEC; $100, 1989, Richard Baker Congress; $1,500, 1989, The President's Dinner; $250, 1989, People for Boschwitz; $15,000, 1989, Republican Eagles; $1,000, 1990, Honorable Richard Baker; $15,000, 1990, Republican Eagles; $500, 1991, Lee Atwater Trust.

2. Spouse: Virginia E., $1,000, 1987, George Bush for President; $5,000, 1988, Victory 88.

3. Children and spouses names: Winston E. Weinmann, $200, 1987, GOP Victory Fund; $250, 1988, George Bush for President; Brooke T. Weinmann (Mrs. Winston E. Weinmann), none; Robert T. Weinmann, $1,000, 1988, George Bush for President; John G. Weinmann, Jr., $200, 1988, George Bush for President; Clifford L. Weinmann (Mrs. John Giffen Weinmann, Jr.), none; Mary Virginia Weinmann, none; George G. Weinmann, none.

4. Parents names: Rudolph and Mary Victoria Weinmann, deceased.

5. Grandparents names: Herman and Sophie Weinmann, deceased.

6. Brothers and spouses names: none.

7. Sisters and spouses names: none.

Richard B. Stone, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Richard Bernard Stone.

Post: Copenhagen.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: none.

3. Children and spouses names: Nancy and Joel Poznansky; Amy R. Stone (unmarried); and Elliot N. Stone (unmarried), none.

4. Parents names: Alfred and Lily Stone, none.

5. Grandparents names: All deceased.

6. Brothers and spouses names: Robert and Becky Stone; Ben and Cherie Stone; Nathaniel and Beverly Stone, none.

7. Sisters and spouses names: No sisters.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORD of October 29, 1991, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 102–8. Treaty on Conventional Armed Forces in Europe (Exec. Rept. No. 102–22).

TEXT OF RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION REPORTED BY THE COMMITTEE ON FOREIGN RELATIONS

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty on Conventional Armed Forces in Europe (CFE), with protocols on existing types (with annex), aircraft reclassification, reduction, helicopter recategorization, information exchange (with annex), inspection, the Joint Consultative Group, and provisional application; all signed at Paris on November 19, 1990 (Treaty Doc. 102–8), provided that the Senate's advice and consent to ratification of the CFE Treaty is subject to the following conditions, which shall be binding upon the Executive, and the following declarations, which express the intent of the Senate.

(a) CONDITIONS.—

(1) TREATY-LIMITED EQUIPMENT.—The United States shall regard actions inconsistent with the Statement by the Union of Soviet Socialist Republics, dated June 14, 1991, resolving a dispute concerning the application of the Treaty's principal counting rules in Article III, as equivalent under international law to actions inconsistent with the CFE Treaty.

(2) DATA.—Whereas data supplied by the Government of the Union of Soviet Socialist Republics pursuant to Article XIII and the Protocol on Information Exchange, regarding its equipment holdings in the Atlantic to the Urals area as of November 19, 1990, differed from United States estimates of such equipment, the United States shall—

(A) continue to seek clarification of those holdings of Treaty-limited equipment as of November 19, 1990; and

(B) seek to obtain additional reductions of equipment in Treaty-limited categories in the event the president determines that actual holdings of Treaty-limited equipment by any state party exceeded its declaration concerning its holdings of such equipment as of November 19, 1990.

(3) EQUIPMENT EAST OF THE URALS.—The United States shall regard militarily significant actions inconsistent with the Statement by the Representative of the Union of Soviet Socialist Republics to the Joint Consultative Group, dated June 14, 1991, with respect to certain equipment in Treaty-limited categories located outside of the Atlantic to the Urals area, as potentially warranting a United States response pursuant to Article XIX, and, in the event of such actions, the President shall report to the Senate concerning the approriate United States response.

(4) SOVIET EQUIPMENT TEMPORARILY IN THE BALTICS.—The United States shall regard actions inconsistent with the Statement of the Chairman of the Joint Consultative Group on October 18, 1991, with respect to the inclusion in the reduction liabilities set forth in the Treaty of equipment owned by the Union of Soviet Socialist Republics and temporarily located on the territory of Estonia, Latvia, or Lithuania, as equivalent under international law to actions inconsistent with the CFE Treaty.

(5) AREA OF APPLICATION AND NEW STATES.—If in the future a new state is formed in the "area of application" that existed on the date of Treaty signature and such state declines to accept the obligations of the Treaty, the President—

(A) shall consult with the Senate regarding the effect on the Treaty of such developments;

(B) shall, if he determines that such state's holdings, or potential holdings, of equipment in Treaty-limited categories are of such military significance as to constitute a changed circumstance affecting the Treaty's object and purpose, and if he decides not to invoke the withdrawal right under Article XIX, request the depositary to convene, in accordance with paragraph (2) of Article XXI, an extraordinary conference to assess the viability of the Treaty and to determine if an amendment is needed to accommodate the changed circumstance, or undertake other appropriate diplomatic steps; and

(C) shall, if he has made the determination described in paragraph (B), submit for the Senate's advice and consent any change in the obligations of the states parties under the Treaty that is designed to accommodate such circumstance and is agreed to by all states parties, unless such change is a minor matter of an administrative or technical nature.

(b) DECLARATIONS.—

(1) ACCESSION TO THE CFE TREATY.—The Senate urges the President to seek the accession to the Treaty by any new state that may in the future be formed in the land area that constituted the "area of application" on the date of Treaty signature.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in condition (1) in the resolution of ratification approved by the Senate on May 27, 1988, with respect to the INF Treaty.

(3) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intent to approve international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the Treaty Power as set forth in Article II, Section 2, Clause 2 of the Constitution.

(4) COMPLIANCE ISSUES AND FUTURE STRATEGIC ARMS TREATIES.—The Senate declares that it will take into account, as part of its consideration of the START Treaty, whether—

(A) the SS–23 missiles of Soviet origin that the President has determined constitute a probable violation of the INF Treaty have been dismantled in accordance with procedures consistent with such Treaty; and

(B) the large phased-array radar located at Krasnoyarsk, which constitutes a violation of the 1972 ABM Treaty, has been dismantled in compliance with such treaty.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER (for himself and Mr. DOMENICI):

S. 1984. A bill to provide an incentive for increased consumer spending and to provide a short-term economic stimulus by waiving the penalty under the Internal Revenue Code of 1986 on certain withdrawals from pension plans which are used to purchase consumer goods and other items and by extending for 1 year the research and experimentation tax credit, the low-income housing tax credit, the mortgage revenue bond tax provisions, and the targeted jobs tax credit; to the Committee on Finance.

By Mr. HEFLIN (for himself and Mr. GRASSLEY):

S. 1985. A bill to establish a commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1986. A bill to extend the existing suspension of duty on diflunisal, and to suspend temporarily the duty on finasteride, finasteride tablets, and famotidine; to the Committee on Finance.

By Mr. PELL, from the Committee on Foreign Relations:

S. 1987. An original bill to amend the Arms Control Act to authorize the President to transfer battle tanks, artillery pieces, and armed combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the treaty on Conventional Armed Forces in Europe; placed on the calendar.

By Mr. COHEN (for himself, Mr. PRYOR, Mr. SPECTER, Mr. BURNS, Mr. SIMPSON and Mr. GRASSLEY):

S. 1988. A bill to amend title XVIII of the Social Security Act to provide for improved standards to prevent fraud and abuse in the purchasing and rental of durable medical equipment and supplies, and prosthetics and orthotics, and prosthetic devices under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. BYRD, Mr. SPECTER, Mr. WOFFORD, Mr. RIEGLE, Mr. DIXON and Mr. SIMON):

S. 1989. A bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes; to the Committee on Finance.

By Mr. GORTON:

S. 1990. A bill to authorize the transfer of certain facilities and lands in the Wenatchee National Forest, Washington; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1991. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. THURMOND, Mr. KENNEDY, Mr. HATCH, Mr. DECONCINI, Mr. GRASSLEY, Mr. HEFLIN, Mr. SPECTER, Mr. SIMON, Mr. BROWN and Mr. KOHL):

S.J. Res. 233. Joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week;" to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRESSLER (for himself, Mr. DECONCINI and Mr. HELMS):

S. Res. 222. A resolution to express the sense of the Senate that the United States should support the right to freedom and independence for the people of the Republic of Moldavia; to the Committee on Foreign Relations.

By Mr. PRESSLER:

S. Res. 223. A resolution to support the activities of the Peace Corps in the republics of the former Soviet Union; to the Committee on Foreign Relations.

By Mr. DECONCINI:

S. Res. 224. A resolution relative to recognition of the Yugoslav republics; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself and Mr. DOMENICI):

S. 1984. A bill to provide an incentive for increased consumer spending and to provide a short-term economic stimulus by waiving the penalty under the Internal Revenue Code of 1986 on certain withdrawals from pension plans which are used to purchase consumer goods and other items and by extending for 1 year the research and experimentation tax credit, the low-income housing tax credit, the mortgage revenue bond tax provisions, and the targeted jobs tax credit; to the Committee on Finance.

CONSUMER CONFIDENCE AND FINANCIAL FLEXIBILITY ACT OF 1991

Mr. SPECTER. Mr. President, on behalf of Senator Domenici and myself, I am introducing today a bill to provide for incentives for increased consumer spending and to provide a short-term economic stimulus. The bill would waive the penalty under the Internal Revenue Code of 1986 on certain withdrawals from pension plans which are used to purchase consumer goods and would extend for 1 year the research and experimentation tax credit, the low-income housing tax credit, the mortgage revenue bond tax provisions, and the targeted jobs tax credit.

It is well known that there are serious problems with our economy; we are, in fact, in a recession. As a body, we recognized this very serious situation in passing an extension of unemployment compensation.

Housing starts and resales are down. Purchase of durable goods are down. Job growth is almost nonexistent. Unemployment is high, nationwide and in the Commonwealth of Pennsylvania, and is rising. According to figures released last week by the Labor Department for the week ending November 2, new claims for unemployment benefits increased to 454,000, an increase of 33,000 from the previous week.

The newly released Consumer Price Report for October showed retail sales were down, reversing September's increase, suggesting that the economy remains sluggish. Generally, consumer spending, which accounts for approximately two-thirds of the economy, drives its recovery.

As we review the options to provide some legislative stimulus to the economy, we have an extraordinarily difficult problem because of the constraints imposed by the budget agreement.

There has been some suggestion of a cut in the Social Security payroll tax, which this Senator has supported. There has been consideration of reducing the capital gains tax, again which this Senator has supported. However, reduction in the payroll tax would be very expensive; it simply cannot be done without breaking the budget agreement. And, reduction in the capital gains tax remains highly controversial. So, we have faced great difficulty in finding an appropriate way to stimulate the economy by spurring consumer purchasing power.

The idea has arisen that we might make use of the more than $800 billion in assets currently existing in IRA accounts, individual retirement accounts, and Keogh retirement plans. Legislation is now pending, Mr. President, which would reauthorize IRA's to allow penalty-free withdrawals for certain important items, such as firsttime home purchases, college tuition, or medical expenses.

Our legislation is fashioned, in part, from these proposals. It is structured to permit individuals with incomes under $75,000—$100,000 for married couples filing jointly—to make penalty-free withdrawals of up to $10,000 from their individual retirement accounts, 401(k) pension plans, and Keogh plans, in order for those funds to be used to purchase durable goods or purchase home improvements.

Durable goods would include new and used automobiles and accessories, furniture, and other major household appliances. It is not intended to include ordinary expenses, such as food, clothing, and fuel.

The thrust here would be to make available very, very substantial funds for consumer purchasing power, which would be an enormous impetus and a stimulus to the economy.

This idea has been broadly discussed, Mr. President, with the Secretary of the Treasury, Nicholas Brady; with the Chairman of the Federal Reserve Board, Alan Greenspan; and the Chairman of the President's Council of Economic Advisers, Michael Boskin. All were receptive and thought the idea was worth exploring, although no final comments were given.

Senator DOMENICI and I have been, and will continue to be, refining our legislation. At first, we considered taxing the $10,000 withdrawal with no penalty provision. The IRA's have a provision currently existing that they may not be withdrawn until a person achieves the age of 59½ without a very substantial penalty.

We decided, however, that there ought not to be any tax paid at all on the IRA's, with the tax being payable for a period of some 4 years in installments.

Yesterday, when exploring the idea further with an experienced financier, another interesting aspect was brought to my attention. Perhaps we could include an optional provision that the taxpayer could replenish the IRA with a $2,000 deposit during each of the 5 succeeding years after the current taxable year; or as an alternative, the taxpayer could pay the tax on the $2,000. That would mirror the provisions of the IRA's that have been in effect where taxpayers were permitted to contribute to the IRA accounts $2,000, with that contribution being deductible so that no tax was paid on that income.

There are a variety of ways in which we may structure this proposal, but we think that it has enormous possibility for stimulating consumer purchasing power in a way which would not break the budget, in a way which would not reduce revenue, and in a way which would not draw off spending from other areas of the budget. There is in excess of $800 billion in these accounts, as I have noted. Utilizing these assets, in part, would be a good stimulus to consumer purchasing power, and it would not be, realistically viewed, inconsistent with the savings provisions of IRA's because of its short-term duration, and because of its relatively limited time span. I regret that we have had some difficulty in receiving specific estimates as to just what this would do in a dollar amount, but I think it is fair to say, and realistic, that it would be a very, very substantial stimulus to the economy. As for the second part of the legislation we do believe that there ought to be very intensive efforts made to find ways to extend, before the end of this year, the low-income housing tax credit. Absent such as extension, there will be a significant, negative impact on the economy. Estimates in Pennsylvania alone are for the loss of 1,000 jobs and $25 million in wages. There ought to be a way found for extending the targeted jobs tax credit and the research and development tax credit, as those items are very important for economic growth. There is great concern in our country today by people whose businesses are affected by the failure to extend those accounts. The structure on the financing there is something which has yet to be worked out. Nonetheless, extension of these provision is necessary to provide substantial stimulus for the economy.

Mr. President, it is my suggestion that the Congress not adjourn before Thanksgiving, but remain in session during the month of December to deal with the serious economic problems which currently face our country. I make that statement with my own personal interest in recessing. However, I view the problems in our economy today, serious enough to demand that the Congress remain in session to deal with these problems.

It has appeared that the President's plan may be to suggest specific items on an economic recovery in his State of the Union speech, which would be after we reconvened in January. My prediction is that when the President submits a proposal for economic growth after we return, and the Congress has a projected indefinite period of time to deal with that program, we will take an indefinite period of time. If submitted in early January or early February, and there is no pressure on the Congress, we will consider it in January, February, March, April, May, June, and into the months beyond, because we have a great capacity to use whatever time that conceivably could be available.

If, on the other hand, the Congress considers issues for an economic recovery, such as the specific proposal which Senator DOMENICI and I are making today, and we consider that in December, there will be considerable pressure on the Congress to move forward and to make decisions. We have seen on this floor, when time is limitless, that it will be consumed totally with endless discussions of every last detail. We saw last year, exemplified by the almost total paralysis of the Congress until we were finally able, in late 1990, to move ahead with the budget agreement. I took the floor, at that time, sensing the great discomfort of my own State and nationally, and I said that there were going to be 537 people in Washington out of jobs, 100 in the Senate, 435 in the House, and the President and Vice President, unless the Congress acted quickly on the budget agreement. Finally, we did.

It was not a very good agreement. Many Congressmen voted against it. It passed closely in this body at around 1:30 one Friday morning, and the votes were obtained because it was indispensable to move ahead, even though it was not what most of us would have liked. We have seen over a 4-month period, from July through last Friday night, the Congress engaged in virtually endless debate over unemployment compensation, an issue which should have been concluded in 4 days.

It is well known, Mr. President, that there is a very acute loss of confidence in Congress by the American public today. They watch our work and they wonder what we are doing. Without getting involved in the many issues reflecting on the ethics of the Congress, suffice it to say that we have not been able to attend to the Nation's business. For the Congress to adjourn sine die prior to Thanksgiving, would be very unwise indeed.

There is, in our country, anger and frustration and despair. It seems to me that we ought to move ahead to do the best we can right now to face up to these economic problems. What has become the order of the day has been the politics of blame—an effort by Democrats to blame Republicans and Republicans to blame Democrats, the executive branch to blame the Congress, the Congress to blame the executive branch. The American people are understandably fed up, sick and tired of the politics of blame.

I am not at all sure that if we stay in session during the month of December, we will be able to solve the serious economic problems confronting our country. It is very difficult for the Congress to have a real impact on the economy. It is difficult for anyone to figure out precisely how you do have an impact on the economy. But I think we should make the effort. I sit on the Appropriations Committee; we hear three economists and get four opinions as to what ought to be done. These problems are not going to be solved by ignoring them, and they are not going to be solved if the Congress takes a recess, as much as I would like to do that.

Last week I wrote to President Bush urging him to exercise a leadership role in calling on the Congress to stay in session, calling for the President to come forward with best ideas which he and his economic advisers have. And I believe, Mr. President, that the legislation which is being introduced today could be very, very significant.

It may be that this legislation alone would be a significant factor in helping us from the current economic recession. But I urge the President and I urge my colleagues to give serious consideration to the proposals that we remain in session to do our very best to deal with the very serious economic problems confronting the President.

Mr. President, I now ask unanimous consent that the legislation proposed by Senator DOMENICI and myself be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1984

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Confidence and Financial Flexibility Act of 1991."

SEC. 2. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) IN GENERAL.—In the case of any qualified withdrawal—.

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue code of 1986 with respect to such qualified withdrawal, and

(2) any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for the taxpayer's first taxable year beginning in 1991 exceeds—

(1) $100,000 in the case of married individuals filing a joint return,

(2) $50,000 in the case of a married individual filing a separate return, and

(3) $75,000 in the case of any other taxpayer.

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during the period beginning on the date of the enactment of this Act and ending on December 31, 1992,

(B) which is made from—

(i) an individual retirement plan (as define din section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 4029g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is spent by the individual, not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs.

to purchase or improve real property or to purchase durable goods.

(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in subsection

(c)(1)(B) shall not exceed $10,000.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

SEC. 3. ONE-YEAR EXTENSION OF RESEARCH AND EXPERIMENTATION TAX CREDIT, LOW-INCOME HOUSING TAX CREDIT, MORTGAGE REVENUE BOND TAX PROVISIONS, AND TARGETED JOBS TAX CREDIT.

(a) ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(1) IN GENERAL.—Paragraph (5) of section 864(f) of the Internal Revenue Code of 1986 (relating to allocation of research and experimental expenditures) is amended—

(A) by striking "2 taxable years" and inserting "3 taxable years", and

(B) by striking "August 1, 1991" and inserting "August 1, 1991".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after August 1, 1991.

(b) LOW-INCOME HOUSING CREDIT.—

(1) IN GENERAL.—Subsection (o) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended)—

(A) by striking "1991" each place it appears and inserting "1992",

(B) by striking "1992" each place it appears in paragraph (2) and inserting "1993",

(C) by striking "1993" in paragraph (2)(B) and inserting "1994", and

(D) by striking "1994" in paragraph (2)(C) and inserting "1995".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years after 1991.

(c) MORTGAGE REVENUE BONDS.—

(1) IN GENERAL.—Subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "December 31, 1992".

(3) EFFECTIVE DATES.—

(A) BONDS.—The amendments made by paragraph (1) shall apply to bonds issued after December 31, 1991.

(B) CERTIFICATES.—The amendment made by paragraph (2) shall apply to elections for periods after December 31, 1991.

(d) TARGETED JOBS CREDIT.—

(1) IN GENERAL.—Paragraph (4) of section 51(c) of the Internal Revenue Code of 1986 is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to individuals who begin work for the employer after December 31, 1991.

Mr. DOMENICI. Mr. President, earlier this morning Senator SPECTER from Pennsylvania spoke on the floor of the Senate. I was to have been with him. I understand he introduced a bill that is his, and that I am a cosponsor of and helped him work on.

Since I could not make it earlier, I thought I would drop by the Senate floor now and speak for a few moments about what we intend in that measure. We think it ought to be seriously considered as part of any package for rehabilitation of the economy or for stimulus of economic growth.

We all know that many millions of Americans have either IRA accounts or 401(k) pension type accounts. We know that those accounts have accumulated wealth in the depository system of America.

The combination of the two is in excess of $600 billion. It bodes well for Americans. Saving for retirement is a good idea. Clearly we want, as any long-term plans for our Nation, to seek more, not less, of that kind of activity on the part of our people.

But for now, Senator SPECTER and I think that that very money, as it is owned by millions of Americans, could be used by the owners thereof to spend on items of purchase in the American economy, items like a house, an automobile, an icebox and the like.

We want to create a temporary situation where Americans can take out up to $10,000 penalty-free. They can spend it on the items I just described within 6 months, and they can do that for themselves, a child, or a grandchild. So that means that a grandparent living in New York or Florida could help to the tune of $10,000 a grandchild with the purchase of a car. If they are getting a new house, it could be the down payment on the house, or it could be used for the appliance necessary in the house.

We think that if people will do that, we will grant the privilege of paying the taxes that are due on that $10,000 in four annual installments, so that all the money will really be available to spend in the year of the withdrawal.

And, second, we think this justifies eliminating the 10-percent penalty that is imposed on early withdrawal of these accounts.

So we would say withdraw up to $10,000, with no penalty, and use it within a short period of time for the purchase of the items that I have described. Regular income taxes are due on the $10,000; let us say it was $3,000, 30 percent. You do not pay the entire amount in the first year, but in four annual installments.

We think that this is an exciting approach, encouraging Americans to purchase more during this period of time. It is what we need to stimulate the economy by giving a boost to consumer confidence and consumer activity.

Now, obviously, we are of the impression that this will generate revenue, but we are not sure of that. We cannot get a reading on it from the official scorekeeping entity. Our request is too quick and they cannot do it that quickly; neither can the Treasury Department.

So, in our legislation, we say if it yields sufficient revenues, then we want to extend four of the expiring tax provisions in the order of priority that we have listed them. We think the priority should be a 1-year extension of the research and development tax credit, which is in and of itself a productivity tax item; a 1-year extension of the low-income housing tax credit; a 1-year extension of mortgage revenue bonds, and a 1-year extension of the targeted jobs tax credit.

Now this is not a total package, but we think it is a very exciting component, and we believe it will work. No one can tell us for certain, but we have tried it on with a very large and diverse spectrum of people and they think that indeed if we can get it passed in this kind of a manner much as I have described it, giving them 6 months to spend the money we will have to eventually negotiate that out—that a lot of people will take advantage of it and spend that money on the kinds of things that we must spend money on to get the economy going.

If it stimulates home buying, it would be a marvelous use of that money. We clearly do not want to make this a permanent practice, but it is there to be used at this particular difficult moment. Furthermore, it does not cause the Federal Government to have to spend money. People will spend their own in a very real sense. They will make the choices. The marketplace will work in terms of what they buy and from whom. Everyone will benefit.

I was hopeful we could do this quickly. It looks like now we will not be able to do it until the beginning of next year, but when that time comes, we will present it and hopefully there will be support for it.

Mr. President, I ask unanimous consent that a more detailed statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DOMENICI ON CONSUMER CONFIDENCE AND FINANCIAL FLEXIBILITY ACT OF 1991

Mr. President, Senator Specter and I are introducing a bill today which we believe will provide a needed short-term economic stimulus to the economy. Our legislation would allow individuals with incomes under $75,000 to withdraw up to $10,000, one time, from an IRA, 401(k), or other elective income deferral plan. The withdrawal would be penalty-free provided the money is used to pay for a purchase or improvement of a home or a purchase of durable personal property within six months. As is typical in business cycle downturns, our economy currently is suffering from too little consumption. Everyone agrees: more consumption now will energize the economy, particularly here in the next few months when we enter the traditional holiday buying season.

There are many ways to spur consumption; one of the most popular solutions, judging from what many of my colleagues are advocating, is a tax cut. Under certain circumstances, I support a tax cut that will not add to the long term debt of this country. But, Mr. President, a tax cut that raises the federal debt in order to provide economic stimulus is the last thing we need. The financial markets' nervousness at even the hint of tax cut discussions is testament to that.

The beauty of this proposal is that it would result in more consumption without materially affecting the federal debt. New consumption will come from private, not public, savings.

The current feeble consumption in our economy is a result of both long-term and short-term influences. The long-term influence is a response to the over-consumption and under-saving in the 1980s. I have repeatedly argued that there needs to be a long-term realignment of consumption to address the excessive debt that has resulted from too little saving. I would further argue that this realignment is healthy and should not be distorted by new long-run policies that favor consumption.

The short-term influence is the effect of poor consumer confidence. Currently, people apparently do not feel good about their personal financial situation for a variety of reasons, including an increase in unemployment and poor income gains over the past year-and-a-half. This situation is a direct result of the business cycle downturn. The Specter/Domenici proposal aims at reversing this short-term influence by shoring up confidence. This proposal frees up "trapped" savings. Consumers will feel that their economic situation is improved, have more cash available, and increase consumer expenditures in the near term.

There is a lot of money out there in retirement accounts. In 1990, IRA assets were nearly $455 billion. Keogh assets were $110 billion. In 1988, the latest data we have, there was $277 billion in 401(k) accounts. But let me make it clear, Mr. President. It is not our intention to have individuals raid their retirement accounts in order to pay for frivolous purchases. We simply want to make some of this money available to those who could really use it.

Neither is it my intention to distort the consumption vs. saving decision over the long term. Rather, this legislation would provide the economy with a needed shot in the arm, without materially affecting the federal debt.

Mr. President, we don't have any revenue estimate on this part of the legislation yet. But I contend, and I am pretty sure about this, that this proposal would not add to the deficit. It may very well be the case that it increases revenues. Individuals who withdraw money from their retirement accounts will not face a penalty under this proposal. Individuals will have to pay regular income tax on the money that is withdrawn, provided it had not been taxed before. The regular income tax will be payable in installments over four years. This is the way the legislation is written now. However, as authors of this bill, we would reserve the right to change this provision in the effort to make the bill revenue neutral.

To the extent that this proposal may raise revenue, Mr. President, there are four important priorities I would like to address.

First, I would propose extending the research and development tax credit for one year. I would prefer to extend it permanently, and not piecemeal as we have in recent years, so that businesses could establish and expand research facilities without fear that the tax incentive would not be available when the research is carried out. But that is costly, and while we probably don't have enough revenue here for the permanent extension, we may have enough for a one-year extension.

Next I would extend the low income housing tax credit for one year, which encourages the private sector to construct and rehabilitate the nation's rental housing stock. Third, I'd extend the mortgage revenue bond provisions for one year, and finally, the targeted jobs tax credit.

In any case, I do not advocate increasing the deficit to accomplish any of these goals. The retirement plan withdrawal provisions in this bill provide the short-term consumption stimulus necessary to get this economy on the upswing. It may even raise revenues. And, if it does, we should use them to, in this order, extend for one year the R&D tax credit, the low income housing tax credit, the mortgage revenue bond provisions, and the targeted jobs tax credit.

By Mr. HEFLIN (for himself and Mr. GRASSLEY):

S. 1985. A bill to establish a Commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes; to the Committee on the Judiciary.

BANKRUPTCY CODE REFORM

Mr. HEFLIN. Mr. President, I rise today to introduce legislation which I believe will significantly reform the bankruptcy system. This legislation is the result of a bipartisan effort with the ranking member of the Subcommittee on Courts and Administrative Practice, Senator GRASSLEY, to what we hope to be consensus legislation.

During the current calendar year, this Nation is facing a record number of bankruptcy court filings from both individuals and corporations. In the next few weeks, it is anticipated by the Administrative Office of the U.S. Courts, that we will reach over 1 million bankruptcy filings for 1991. This is nearly a threefold increase in filings in a little more than a decade. In response to the significant warnings that these numbers signal, my subcommittee commited itself to a significant review of the bankruptcy system.

This bill developed out of a series of hearings conducted this spring and summer. During those hearings, the subcommittee heard from nearly 40 witnesses over 5 hearings, and received numerous additional statements and communications from those participating in making suggestions to the subcommittee. This legislation is designed to address a number of important bankruptcy issues which were identified during the course of those hearings. I know that this bill will not resolve all questions and all significant bankruptcy issues, but I believe that it is an important step forward in improving our Nation's bankruptcy laws. This legislation, as drafted, is not set in concrete. Over the upcoming recess I expect to hear from a great many people concerning suggested changes.

Contained in this legislation are five titles which cut across the Bankruptcy Code and address many important issues. The first title of the bill establishes a new National Bankruptcy Review Commission. This Commission would be similar to the Burdick Commission of the early 1970's that resulted in the current Bankruptcy Code. It should be noted that this Commission is not designed to rewrite the entire Bankruptcy Code. Rather, its purpose is to allow further thoughtful study of the functions and balances which are currently built into the Bankruptcy Code, and to provide Congress with recommendations to address areas in which the Bankruptcy Code may be improved and modernized.

Title two of the bill addresses commercial and credit issues in bankruptcy. Highlighting this section is a proposal to aid small business bankruptcies. The current code is required to handle both the corporate reorganizations of a multibillion-dollar international company and that of the small, rural grocery store. Trying to make the same set of laws apply to vastly different corporate enterprises has created problems and inefficiencies in the handling of individual bankruptcy cases. As a result, this legislation conceives of a proposed small business bankruptcy chapter to be tested in eight judicial districts for a period of 3 years. I believe that such an approach balances the concerns of substantially rewriting the Bankruptcy Code without enough experience and information, with the need for congressional action to address the problems faced by small businesses when they are forced to face a bankruptcy. I believe that this is a thoughtful, balanced, and measured method of addressing problems found in the Bankruptcy Code.

The third title of this bankruptcy bill addresses the application of the code when individual debtors are involved in the bankruptcy system. This title seeks to substantially aid the bankruptcy process and is the most important part of this legislation. Rather than following the current trend of going into straight bankruptcies under chapter 7, the title seeks to increase and encourage the use of chapter 13 bankruptcies, in which wage earners reorganize their debts and are given the opportunity over time to pay creditors the money owed. The bill provides for important procedures by which debtors who file for straight bankruptcy can learn that they have other alternatives, including filing under chapter 13 of the Bankruptcy Code. In addition, they learn the consequences of filing bankruptcy. Also, this legislation seeks to enhance the ability of home buyers to receive financing by protecting the mortgage-backed securities market. This title is drafted with the clear view of encouraging the use of chapter 13 bankruptcies. During the course of our hearings it became very apparent that chapter 13 is often the best overall process for debtors, creditors, and the national economy. Numerous bankruptcy judges have indicated, that when fully informed, that most individuals want to pay their debts in a manner similar to the program offered under chapter 13 of the code. Unfortunately, the use of this chapter is not widespread throughout the country, and many people are simply not informed that this option is available when they seek the Bankruptcy Code's protection. This title contains many provisions that take into account these concerns and encourage the use of chapter 13.

The fourth title of this bill contains miscellaneous provisions to update the Bankruptcy Code. Included in this title are changes in monetary figures to adjust for inflation, provisions to address compensation questions, and reforms to clarify tax issues in the Bankruptcy Code.

The final title of this legislation is a technical title which seeks to correct a number of minor problems which have arisen since the Bankruptcy Code was enacted in 1978.

I know that this bill will not be all things for all people. We have done our best to legislate in some important areas of the code, and still be able to craft a bipartisan, consensus piece of legislation. Some issues which are not addressed in the current bill will be the subject of further attention. I wish to work with the judicial conference's bankruptcy rules committee to continue to respond to constructive criticisms over how the current bankruptcy rules and forms operate. Also, I will be seeking to work with parties who are involved in credit reporting services to update and accurately reflect how bankruptcies should be treated for purposes of credit reporting. All these efforts are designed to ensure equity and fairness in our Nation's bankruptcy laws, and I pledge to be vigorous in actively overseeing this Nation's bankruptcy laws and practices.

In conclusion, I urge my colleagues to join with Senator GRASSLEY and me in actively cosponsoring and supporting this important bankruptcy reform legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) there will be a record number of Federal bankruptcy filings for the calendar year of 1991;

(2) the smooth and efficient operation of the bankruptcy system is vital to the continued growth and vitality of our Nation's economy;

(3) debtors that file for bankruptcy are entitled and deserve full and complete information regarding the effects and consequences of filing for bankruptcy;

(4) creditors of a debtor that files for bankruptcy deserve and need full and timely information regarding the circumstances of a debtor's bankruptcy filing; and

(5) individual debtors, creditors, the bankruptcy system, and the national economy are generally better served by the successful completion of a reorganization of debts under chapter 13 of the Bankruptcy Code than under chapter 7 of the Bankruptcy Code.

TITLE I—BANKRUPTCY REVIEW COMMISSION

SEC. 101. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

SEC. 102. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

SEC. 103. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems; and

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 105.

SEC. 104. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President;

(2) Two members of the Senate, 1 from each of the 2 major political parties, appointed by the President pro tempore of the Senate;

(3) Two members of the House of Representatives, 1 from each of the 2 major political parties, appointed by the Speaker of the House of Representatives; and

(4) Two members appointed by the Chief Justice.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

SEC. 105. COMPENSATION OF THE COMMITTEE.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 106. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 107. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 108. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 109. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 108.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE II—COMMERCIAL AND CREDIT MATTERS

SEC. 201. DEFINITION OF PERSON FOR PURPOSES OF SECTION 1102.

Section 101(42) of title 11, United States Code, as redesignated by section 501, is amended to read as follows:

"(42) 'person' includes an individual, a partnership, and a corporation, but does not include a governmental unit, except that a governmental unit—

"(A) acquires an asset from a person as a result of operation of a loan guarantee agreement;

"(B) is a receiver or liquidating agent of a person;

"(C) is a guarantor of pension benefits of the debtor or an affiliate of the debtor; or

"(D) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan as defined in section 457(b) of the Internal Revenue Code of 1986,

is a person for purposes of section 1102;

SEC. 202. ANTI-ALIENATION.

(a) Automatic Stay.—Section 362(b) of title 11, United States Code, as amended by section 503, is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by adding "or" at the end of paragraph (17); and

(3) by adding at the end the following new paragraph:

"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing such withholding and collection for the benefit of a pension, profitsharing, stock bonus, or annuity plan qualified under section 401(a), 403(a) or 403(b) of the Internal Revenue Code of 1986, which is sponsored by the employer of the debtor, or an affiliate, successor or predecessor of such employer, to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)).".

(b) Exceptions to Discharge.—Subsection 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) owed to a pension, profitsharing, stock bonus, or plan qualified under section 401(a), 403(a), or 403(b) of the Internal Revenue Code of 1986 pursuant to a loan described in section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)).".

(c) Property of the Estate.—Subsection 541(c) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), assets and benefits accumulated for the benefits of a debtor pursuant to a pension, profitsharing, stock bonus, or annuity plan qualified under section 401(a), 403(a), or 403(b) of the Internal Revenue Code of 1986 and any rights of debtor to such assets or benefits shall be excluded from the property of the estate.

"(B) Subparagraph (A) does not apply to plan assets or benefits attributable to contributions of the debtor during the 12 calendar months preceding the date of the filing to the extent such contributions were in excess of the applicable limits on such contributions under section 401(k), 401(m), or 415 of the Internal Revenue Code of 1986.".

(d) Plan Contents.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The plan may not materially alter the terms of a loan described in section 362(b)(17).".

(e) Plan Confirmation.—Section 1325 of title 11, United States Code, is amended—

(1) in subsection (b)(2) by striking "debtor and" and inserting "debtor (not including income that is withheld from the debtor's wages for the purposes stated in section 362(b)(17)) and"; and

(2) in subsection (c) by striking "income to" and inserting "income (except income that is withheld from a debtor's wages for the purposes stated in section 362(b)(17) after confirmation of a plan) to".

(f) Application of Bankruptcy Code to Employee Pension Benefit Plan Assets.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) in subsection (d) by striking "sections 111 and 507(b)" and inserting "subsection (e) and sections 111 and 507(b)"; and

(2) by adding at the end the following new subsection:

"(e) Title 11, United States Code, shall have no application to assets held in or benefits provided under an employee pension benefit plan that is qualified under section 401(a) or 403 (a) or (b) or the Internal Revenue Code of 1986.".

SEC. 203. CASH COLLATERAL.

Section 363(a) of title 11, United States Code, is amended by adding at the end the following new sentence: "If the cash collateral includes an interest in rents or leases, in real property, held by a creditor and duly recorded in the public records, such interest shall be deemed perfected for purposes of this title upon the filing of a petition under section 301 or 302, or upon the entry of an order for relief under section 303.".

SEC. 204. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) in paragraph (6) by striking "or";

(2) in paragraph (7) by striking the period and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(8) if the transfer sought to be recovered to an insider is on account of goods or services sold and delivered to the debtor in the ordinary course of business and the transferee is deemed to be an insider under section 101(31) solely because the transferee holds a guaranty of payment or performance from another insider of the debtor.".

SEC. 205. SMALL BUSINESS CHAPTER.

(a) Definition.—Section 101 of title 11, United States Code, as amended by section 501, is amended—

(1) by redesignating paragraphs (54), (55), (56), (57), (58), (59), (60), (61), (62), and (63) as paragraphs (55), (56), (57), (58), (59), (60), (61), (62), (63)), and (64); and

(2) by inserting after paragraph (53) the following new paragraph:

"(54) 'small business' means a person engaged in commercial and business activities where, if appropriate, after court determination, it is found that the best interests of an estate will be served by having such person deemed to be a small business, in light of—

"(A) the number of employees of the person's business activity;

"(B) the number of creditors of the person's business activity;

"(C) the number of secured, priority, and unsecured creditors of the person's business activity;

"(D) the value of the assets of the person's business activity;

"(E) the dollar volume of sales of the person's business activity;

"(F) the nature and substance of the person's business activity;

"(G) the history of the person's business activity;

"(H) the nature and substance of the person's business activity as measured by similar persons engaged in the same business activity; and

"(I) other pertinent factors.";

(b) Who May Be a Debtor Under Chapter 10.—Section 109 is amended by adding at the end the following new subsection:

"(h) Only a small business may be a debtor under chapter 10.".

(c) Temporary Chapter Applicable to Small Businesses.—Title 11, United States Code, is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10—SMALL BUSINESSES

"SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

"Sec.

"1001. Definitions for this chapter.
"1002. Commencement of action.
"1003. Creditors' committee.
"1004. Powers and duties of the committee.
"1005. Trustee.
"1006. Rights and powers of debtor.
"1007. Removal of debtor as debtor-in-possession.
"1008. Property of the estate.
"1009. Conversion or dismissal.

"SUBCHAPTER II—THE PLAN

"1021. Filing of plan.
"1022. Contents of plan.
"1023. Postpetition disclosure and solicitation.
"1024. Modification of plan before confirmation.
"1025. Confirmation hearing.
"1026. Confirmation of plan.
"1027. Payments.
"1028. Effect of confirmation.
"1029. Modification of plan after confirmation.
"1030. Revocation of order of confirmation.

"Subchapter I—Officers, Administration, and the Estate

"§ 1001. Definitions for this chapter

"In this chapter, 'disposable income' means income that is received by a debtor and that is not reasonably necessary to be expended—

"(1) for the maintenance or support of an individual debtor or of a dependent of an individual debtor; or

"(2) for the payment of expenditures necessary for the continuation, preservation, and operation of the debtor's business.

"§ 1002. Commencement of case

"(a) Election by Debtor.—A person that is eligible to be a small business debtor may commence a case under this chapter by filing a voluntary petition electing to be treated as a small business.

"(b) Conversion.—

"(1) Chapter 11 to this chapter.—Upon the motion of a party in interest, and after notice and hearing, the court may designate a debtor against whom an order for relief has been entered in a case under chapter 11 as a small business and order that the case be converted to a case under this chapter.

"(2) This chapter to title 11.—Upon the motion of a party in interest, and after notice and a hearing, the court may determine that a person subject to an order for relief electing treatment under this chapter does not qualify as a small business, and that the case shall be converted to a case under chapter 11.

"(c) Relevant Factors.—In determining whether a person qualifies to be a small business under this chapter, the court shall examine all relevant factors pertaining to the business activities of the debtor, including those set forth in section 101(54).

"(d) No Appeal.—An order under subsection (b) determining whether a person qualifies as a small business and any consequent conversion of a case from one chapter to another are not reviewable by appeal or otherwise.

"§ 1003. Creditors' committee

"(a) Appointment.—On request of a party in interest, after notice and hearing, the court may order the appointment of a committee of creditors if necessary to protect the interests of creditors and to ensure confirmation of a plan. The United States trustee shall appoint any such committee.

"(b) Representation.—A committee of creditors appointed under subsection (a) shall ordinarily consist of the persons, willing to serve, that hold the 7 largest claims against the debtor of the kinds represented on the committee, or of the members of the committee organized by creditors before the commencement of the case under this chapter, if the committee was fairly chosen and is representative of the various kinds of claims to be represented.

"§ 1004. Powers and duties of the committee

"(a) Employment of Professionals.—If a committee is appointed under section 1003, upon motion of the committee, after notice and hearing, the committee may select and authorize the employment by the committee of 1 or more attorneys, accountants, or other agents to represent or perform services for the committee.

"(b) Adverse Interest.—An attorney or accountant employed to represent a committee authorized under section 1003 may not, while employed by the committee, represent any other entity having an adverse interest in connection with the case. Representation of 1 or more creditors of the same class as a class of creditors represented by the committee does not by itself constitute the representation of an adverse interest.

"(c) Duties.—A committee appointed under section 1003 may—

"(1) consult with the trustee and the debtor concerning the administration of the case;

"(2) investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of continuance of such business, and any other matter relevant to the case or to the formulation of a plan;

"(3) participate in the formulation of a plan and advise those represented by the committee of the committee's determination as to any plan that is formulated;

"(4) object to the confirmation of a plan; and

"(5) perform such other services as are in the interest of those represented by the committee.

"§ 1005. Trustee

"(a) Person To Serve.—If the United States trustee has appointed a person under section 586(b) of title 28 to serve as a standing trustee in cases under this chapter and if that person qualifies as a trustee under section 322, that person shall serve as a trustee in any case filed under this chapter. If such a person has not been appointed, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case.

"(b) Duties.—The trustee shall—

"(1) perform the duties described in section 704 (2), (3), (5), (6), (7), and (9);

"(2) perform the duties described in section 1106(a) (3) and (4) if the court, for cause and on a request of a party in interest, the trustee, or the United States trustee, so orders;

"(3) appear and be heard at any hearing that concerns—

"(A) the value of property subject to a lien;

"(B) the operation of the business activity of the person by the debtor;

"(C) the filing of a plan and the approval of a disclosure statement;

"(D) confirmation of a plan;

"(E) modification of a plan after confirmation; or

"(F) the sale of property of the estate;

"(4) ensure that the debtor timely files a plan and disclosure statement;

"(5) ensure that the debtor commences making timely payments required by a confirmed plan; and

"(6) if the debtor ceases to be a debtor-in-possession, perform the duties described in sections 704(8) and 1106(a) (1), (2), (6), and (7).

"§ 1006. Rights and powers of debtor

"Subject to such limitations as the court may prescribe, a debtor-in-possession shall have all the rights, other than the right to compensation under section 330, and powers, and shall perform all the functions and duties, except the duties described in section 1106(a) (3) and (4), of a trustee serving in a case under this chapter, including operating the debtor's business activities.

"§ 1007. Removal of debtor as debtor-in-possession

"(a) Order for Cause.—On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor-in-possession if cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case, is shown.

"(b) Reinstatement.—On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor-in-possession.

"§ 1008. Property of the estate

"(a) Property Included.—Property of the estate includes, in addition to property described in section 541, all property of the kind specified in that section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, whichever comes first.

"(b) Possession.—Except as provided in section 1007 or in a confirmed plan or order confirming a plan, a debtor shall remain in possession of all property of the estate.

"§ 1009. Conversion or dismissal

"(a) Conversion by Debtor.—A debtor may convert a case under this chapter to a case under chapter 7 at any time if the debtor may be a debtor under that chapter. Any waiver of the right to convert under this subsection is unenforceable.

"(b) Dismissal by Debtor.—On request of the debtor at any time, if the case has not been converted under section 706 or 1112, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable.

"(c) Conversion or Dismissal at Request of Party in Interest.—

"(1) In general.—On request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 (if the debtor may be a debtor under this chapter) or may dismiss the case for cause.

"(2) Cause.—For purposes of paragraph (1), cause includes—

"(A) unreasonable delay or gross mismanagement by the debtor that is prejudicial to creditors;

"(B) nonpayment of any fees and charges required under chapter 123 of title 28;

"(C) failure to file a plan timely under section 1021;

"(D) failure to file a disclosure statement timely under section 1023;

"(E) failure to commence making timely payments required by a confirmed plan;

"(F) denial of confirmation of a plan under section 1026 or denial of a request made for additional time to filing another plan or a modification of a plan;

"(G) material default by a debtor with respect to a term of a confirmed plan;

"(H) revocation of an order of confirmation under section 1030 or denial of confirmation of a modified plan under section 1029;

"(I) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(J) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation.

"Subchapter II—The Plan

"§ 1021. Filing of plan

"The debtor shall file a plan not later than 90 days after the date of entry of the order for relief under this chapter, except that the court may, for cause shown, and after notice and hearing, shorten or extend that period if such shortening or extension is substantially justified.

"§ 1022. Contents of plan

"(a) Required Contents.—Notwithstanding any otherwise applicable nonbankruptcy law, a plan shall—

"(1) designate, subject to section 1122, classes of claims, other than claims of a kind described in section 507(a)(7), and classes of interests;

"(2) specify any class of claims or interests that is not impaired under the plan;

"(3) specify the treatment of any class of claims or interests that is impaired under the plan;

"(4) provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of a particular claim or interest;

"(5) provide adequate means for the plan's implementation, such as—

"(A) retention by the debtor of all or any part of the property of the estate;

"(B) transfer of all or any part of the property of the estate to 1 or more entities, whether organized before or after the confirmation of such plan;

"(C) merger or consolidation of the debtor with 1 or more persons;

"(D) sale of all or any part of the property of the estate, either subject to or free of any lien, or the distribution of all or any part of the property of the estate among persons having an interest in the property of the estate;

"(E) satisfaction or modification of liens;

"(F) cancellation or modification of indentures and similar instruments;

"(G) curing or waiving of defaults;

"(H) extension of a maturity date or a change in an interest rate or other term of outstanding securities;

"(I) amendment of the debtor's charter; or

"(J) issuance of securities of the debtor or of an entity described in subparagraph (B) or (C)—

"(i) in exchange for cash, property, existing securities, or claims or interests in property; or

"(ii) for any other appropriate purpose;

"(6) provide for the inclusion in the charter of the debtor, if the debtor is a corporation, or of a corporation described in paragraph (5) (B) or (C), of a provision prohibiting the issuance of nonvoting equity securities, and providing, as to the several classes of securities possessing voting power, an appropriate distribution of such power among such classes, including in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends, adequate provisions for the election of directors representing the preferred class in the event of default in the payment of dividends; and

"(7) contain only provisions that are consistent with the interests of creditors and equity security holders and with public policy with respect to the manner of selection of any officer, director, or trustee under the plan and any successor to an officer, director, or trustee.

"(b) ADDITIONAL CONTENTS.—Subject to subsection (a), a plan may—

"(1) impair or leave unimpaired any class of claims, secured or unsecured, or of interests;

"(2) subject to section 365, provide for the assumption, rejection, or assignment of any executory contract or unexpired lease of the debtor not previously rejected under that section;

"(3) provide for—

"(A) settlement or adjustment of any claim or interest belonging to the debtor or to the estate; or

"(B) retention and enforcement by the debtor, the trustee, or a representative of the estate appointed for such purpose, of any such claim or interest;

"(4) provide for the sale of all or substantially all of the property of the estate and the distribution of the proceeds of the sale among holders of claims or interests; and

"(5) include any other appropriate provision not inconsistent with this title.

"(c) PROPERTY EXEMPTED UNDER SECTION 522.—In a case concerning an individual, a plan proposed by an entity other than the debtor may not provide for the use, sale, or lease of property exempted under section 522, unless the debtor consents to the use, sale, or lease.

"§ 1023. Post petition disclosure and solicitation

"In a case under this chapter, an acceptance or rejection of a plan may not be solicited after the commencement of the case from a holder of a claim or interest with respect to the claim or interest unless, at the time or before such solicitation, there is transmitted to the holder the plan or a summary of the plan and a written disclosure statement that includes information sufficient to show whether or not the plan meets the requirements of section 1026.

"§ 1024. Modification of plan before confirmation

"(a) IN GENERAL.—A debtor may modify a plan at any time before confirmation but may not modify the plan so that the plan as modified fails to meet the requirements of section 1022.

"(b) EFFECT.—After a debtor files a modification under this section, the plan as modified becomes the plan.

"(c) ACCEPTANCE.—A holder of a secured claim that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless—

"(1) the modification provides for a change in the rights of the holder under the plan before modification; and

"(2) the holder changes the holder's previous acceptance or rejection.

"§ 1025. Confirmation hearing

"(a) HEARING.—After expedited notice, the court shall hold a hearing on confirmation of the plan.

"(b) OBJECTION TO CONFIRMATION.—A party in interest, the trustee, or the United States trustee may object to the confirmation of the plan.

"(c) OBJECTION TO DISCLOSURE OF INFORMATION.—A party in interest, the trustee, or the United States trustee may object to the disclosure of information that is required to be disclosed under section 1023.

"(d) CONCLUSION OF HEARING.—Except for cause, the hearing shall be concluded not later than 45 days after the filing of the plan.

"§ 1026. Confirmation of plan

"(a) CRITERIA.—Except as provided in subsection (b), the court shall confirm a plan if—

"(1) the plan complies with all applicable provisions of this title;

"(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

"(3) the plan has been proposed in good faith and not by any means forbidden by law;

"(4) the value of property to be distributed under the plan on account of each unsecured claim, as of the effective date of the plan, is not less than the amount that would be paid on the claim if the estate of the debtor were to be liquidated under chapter 7 on that date;

"(5) with respect to each allowed secured claim provided for by the plan—

"(A) the holder of the claim has accepted the plan;

"(B)(i) the plan provides that the holder of the claim will retain the lien securing the claim; and

"(ii) the value of property to be distributed by the trustee or the debtor under the plan on account of the claim, as of the effective date of the plan, is not less than the allowed amount of the claim; or

"(C) the debtor surrenders the property securing the claim to the holder;

"(6) the debtor will be able to make all payments under the plan and to comply with the plan;

"(7) except to the extent that the holder of a claim has agreed to a different treatment of the claim, the plan provides that—

"(A) with respect to a claim of a kind described in section 507(a) (1) or (2), on the effective date of the plan, the holder of the claim will receive on account of the claim cash equal to the allowed amount of the claim;

"(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will receive—

"(i) if the class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; or

"(ii) if the class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claims; and

"(C) with respect to a claim of a kind described in section 507(a)(7), the holder of the claim will receive on account of the claim deferred cash payments, over a period not to exceed 6 years after the date of assessment of the claim, of a value, as of the effective date of the plan, equal to the allowed amount of the claim; and

"(8) confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor or any successor to the debtor under the plan, unless liquidation or reorganization is proposed in the plan.

"(b) CONFIRMATION NOTWITHSTANDING NONCONFORMANCE OR OBJECTION.—

"(1) IN GENERAL.—If all of the applicable requirements of subsection (a) other than paragraph (5) are met with respect to the plan, or if an objection to confirmation is filed by any party in interest, the court, on request of the debtor, shall confirm the plan notwithstanding the requirements of that paragraph or notwithstanding the objection if the plan does not discriminate unfairly, and is equitable and fair, with respect to each class of claims or interest that is impaired under the plan.

"(2) CRITERIA FOR DETERMINATION.—(A) A plan shall be considered to be equitable and fair with respect to a class of unsecured creditors if the plan provides that all of the debtor's projected disposable income to be received in the 3-year period, or such other period as the court may approve, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.

"(B) Confirmation of a plan shall not be denied solely because the interest of a debtor or class of interests will be preserved under the plan.

"§ 1027. Payments

"(a) RETENTION BY TRUSTEE.—Payments and funds received by the trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan.

"(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If a plan is confirmed, the trustee shall distribute in accordance with the plan payments and funds retained pursuant to subsection (a).

"(c) RETURN FOLLOWING NONCONFIRMATION.—If a plan is not confirmed, the trustee shall return any payments and funds retained pursuant to subsection (a), after deducting—

"(1) any unpaid claim allowed under section 503(b); and

"(2) if a standing trustee is serving in the case, the percentage fixed for the standing trustee under section 1005.

"(d) PAYMENTS PRECEDING PAYMENTS TO CREDITORS.—Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of a kind described in section 507(a)(1); and

"(2) if a standing trustee is serving in the case, the percentage fee fixed for such standing trustee under section 1005.

"(e) PAYMENTS TO CREDITORS.—Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

"§ 1028. Effect of confirmation

"(a) PERSONS BOUND.—Except as provided in subsection (d) (2) and (3), a confirmed plan binds the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner of the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.

"(b) VESTING OF PROPERTY.—Except as otherwise provided in the plan or order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

"(c) FREEDOM OF PROPERTY FROM CLAIMS AND INTERESTS.—Except as provided in subsection (d) (2) and (3), and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and general partners of the debtor.

"(d) DISCHARGE OF DEBTOR.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, in the plan or in the order confirming the plan, the confirmation of a plan—

"(A) discharges the debtor from any debt that arose before the date of confirmation and any debt of a kind described in section 502 (g), (h), or (i), whether or not—

"(i) a proof of claim based on a debt is filed or deemed to be filed under section 501;

"(ii) such claim is allowed under section 502; or

"(iii) the holder of such claim has accepted the plan; and

"(B) terminates all rights and interests of equity security holders and general partners provided for by the plan.

"(2) DEBTS EXCEPTED UNDER SECTION 523.—The confirmation of a plan does not discharge a debtor from a debt excepted from discharge under section 523.

"(3) NONDISCHARGE IN CERTAIN CIRCUMSTANCES.—The confirmation of a plan does not discharge a debtor if—

"(A) the plan provides for the liquidation of all or substantially all of the property of the estate;

"(B) the debtor does not engage in business after consummation of the plan; or

"(C) the debtor would be denied a discharge under section 727(a) if the case were a case under chapter 7.

"§ 1029. Modification of plan after confirmation

"(a) IN GENERAL.—At any time after confirmation of a plan but before the completion of payments under the plan, the plan may be modified, on request of the debtor, the trustee, or the holder of any allowed unsecured claim, to—

"(1) increase or reduce the amount of payments of claims of a particular class provided for by the plan;

"(2) extend or reduce the time for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of the claim other than under the plan.

"(b) APPLICABILITY OF REQUIREMENTS.—Sections 1022 (a) and (b) and 1024 and the requirements of section 1025(a) apply to a modification under subsection (a).

"(c) LIMITATION.—A plan modified under subsection (a) may not provide for payments over a period that expires after 3 years after the date on which the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after 5 years after that date.

"§ 1030. Revocation of order of confirmation

"(a) REVOCATION FOR FRAUD.—On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1028, and after notice and a hearing, the court may revoke the order if the order was procured by fraud.

"(b) DISPOSITION OF CASE AFTER REVOCATION.—If the court revokes an order of confirmation under subsection (a), the court shall dispose of the case under section 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029.".

(d) TECHNICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:

"10. Small Businesses .... 1001".

(2) CROSS-REFERENCES IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended—

(A) in section 321(a) by inserting "10," after "7," each place it appears;

(B) in section 322(a) by inserting "1005" after "703,";

(C) in section 326(b)—

(i) by striking "12 or 13" and inserting "10, 12, or 13"; and

(ii) by striking "1202(a) or 1302(a)" and inserting "1005, 1202(a), or 1302(a)";

(D) in section 327—

(i) in subsection (b) by inserting "1005," after "721,"; and

(ii) in subsection (c) by inserting "10," after "7,";

(E) in section 329(b)(1)(B) by inserting "10," after "chapter";

(F) in section 330(c) by striking "12 or 13" and inserting "10, 12, or 13";

(G) in section 346—

(i) in subsection (b) by inserting "10," after "7,";

(ii) in subsection (g)(1)(C) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (i)(1) by inserting "10," after "7,";

(H) in section 347—

(i) in subsection (a)—

(I) by inserting "1027," after "726,"; and

(II) by inserting "10," after "7,"; and

(ii) in subsection (b)—

(I) by inserting "10," after "9,"; and

(II) by inserting "1026," after "943(b),";

(I) in section 348—

(i) in subsection (b), as amended by section 501, by inserting "1021, 1028," after "728 (a) and (b),";

(ii) in subsections (b), (c), and (e) by inserting "1009," after "706," each place it appears; and

(iii) in subsection (d) by inserting "1009," after "section";

(J) in section 362(c)(2)(C) by inserting "10" after "9,";

(K) in section 363—

(i) in subsection (c)(1) by inserting "1006," after "721,"; and

(ii) in subsection (l) by inserting "10," after "chapter";

(L) in section 364(a) by inserting "1006, 1007," after "721,";

(M) in section 365—

(i) in subsections (d)(2) and (g) (1) and (2) by inserting "10," after "9," each place it appears; and

(ii) in subsection (g)(2) (A) and (B) by inserting "1009," after "section" each place it appears;

(N) in section 502(g) by inserting "10," after "9,";

(O) in section 523(a) by inserting "1028(d)," after "727,";

(P) in section 524—

(i) in subsections (a)(1), (c)(1), and (d) by inserting "1028(d)," after "727," each place it appears; and

(ii) in subsection (a)(3) by inserting "1028(d)," after "523,";

(Q) in section 546(a)(1) by inserting "1005," after "702,";

(R) in section 557(d)(3) by inserting "1005," after "703,";

(S) in section 706—

(i) in subsection (a)—

(I) by inserting "10," before "11,"; and

(II) by inserting "1009," after "section"; and

(ii) in subsection (c) by striking "12 or 13" and inserting "10, 12, or 13";

(T) in section 726(b) by inserting "1009," after "chapter under section";

(U) in section 1106(a)(5) by inserting "10," after "7,";

(V) in section 1306(a) (1) and (2) by inserting "10," after "7," each place it appears; and

(W) in section 1307—

(i) in subsection (b) by inserting "1009," after "706,";

(ii) in subsection (d) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (e) by inserting "10," after "7,".

(3) BANKRUPTCY RULES.—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act shall apply to cases filed under chapter 10 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by this Act.

(4) AMENDMENT OF TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended—

(A) in section 157(b)(2)(B) by inserting "10," after "chapter";

(B) in section 586—

(i) in subsection (a)—

(I) in paragraph (1)(C)—

(aa) by striking "12 and 13" and inserting "10, 12, and 13"; and

(bb) by inserting "1025, 1029," after "sections"; and

(II) in paragraph (3) in the matter preceding subparagraph (A), by inserting "10," after "7,"; and

(B) in subsections (b), (d), and (e) by striking "12 or 13" each place it appears and inserting "10, 12, or 13"; and

(C) in section 1930(a)—

(i) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph:

"(3) For a case commenced under chapter 10 of title 11, $600.".

(5) AMENDMENT OF THE BANKRUPTCY, JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986.—Section 301 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (100 Stat. 3118) is amended in subsections (d) and (e) by inserting "10," after "7," each place it appears.

(e) APPLICATION OF CHAPTER 10 OF TITLE 11.—

(1) SELECTION OF DEMONSTRATION DISTRICTS.—Not later than 90 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall—

(A) select 8 judicial districts in which chapter 10 of title 11, United States Code, shall be effective for a period of 3 years; and

(B) identify those districts by notice in the Federal Register.

(2) EFFECTIVE PERIOD.—Chapter 10 of title 11, United States Code, shall become effective only in the 8 judicial districts selected under paragraph (1), beginning on the date that is 90 days after the date of enactment of this Act and ending on the date that is 3 years after that date.

(3) REPEAL.—(A) Chapter 10 of title 11, United States Code, is repealed on the date that is 3 years after the date that is 90 days after the date of enactment of this Act. All

cases commenced or pending under that chapter and all matters and proceedings in or relating to those cases shall be conducted and determined under that chapter as if the chapter had not been repealed. The substantive rights of parties in connection with those cases, matters, and proceedings as if the chapter had not been repealed.

(B) The Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall prepare and report to the Senate and the House of Representatives, respectively, not later than 90 days before the repeal date described in subparagraph (A), legislation proposing such technical amendments as may be necessary or appropriate at that time in view of the repeal made by subparagraph (A).

SEC. 206. SUPPLEMENTAL PERMANENT INJUNCTIONS.

Section 524 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue an injunction to supplement the injunctive effect of a discharge under this section.

"(2) An injunction may be issued under paragraph (1) to enjoin persons and governmental units from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery of, on, or with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (3)(A)(i), except such legal action as is expressly allowed by the injunction or plan of reorganization.

"(3)(A) If the requirements of subparagraph (B) are met, after entry of an injunction under paragraph (1) any proceeding that involves the validity, application, construction, or modification of the injunction or of this subsection in respect to the injunction may be commenced only in the district court in which the injunction was entered, and that shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to be funded in whole or in part by the securities of a debtor involved in the plan of reorganization and by the obligation of the debtor to make future payments;

"(II) is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of each such debtor or of the parent corporation of each such debtor; and

"(III) will use its assets or income to pay claims and demands; and

"(ii) the court finds that—

"(I) the debtor may be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by the plan may threaten the plan's purpose to deal equitably with claims and future demands; and

"(IV) as part of the process of seeking approval of the plan of reorganization, a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 90 percent of those voting, in favor of the plan.

"(4)(A) If the requirements of paragraph (3)(B) are met and the order approving the plan of reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization proceedings, after the time for appeal of the order that issues or affirms the plan of reorganization—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal under in paragraph (7);

"(ii) no direct or indirect transferee of or successor to any assets of a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against it by reason of its becoming such a transferee or successor; and

"(iii) no entity that makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making such loan, be liable with respect to any claim or demand made against it, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) is not intended to—

"(i) imply that such an entity would, if this paragraph were not applicable, have liability by reason of any of the acts described in subparagraph (A);

"(ii) relieve any entity of the duty to comply with or relieve any person of liability under any Federal or State law regarding the making of a fraudulent conveyance; or

"(iii) relieve any debtor of its obligation to comply with the terms of the plan of reorganization or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(5)(A) Subject to subparagraph (B), an injunction issued under paragraph (1) shall be valid and enforceable against all entities and governmental units that it addresses.

"(B) With respect to demand that is made subsequent to the confirmation of a plan against any debtor or trust that is the subject of an injunction issued under paragraph (1), the injunction shall be valid and enforceable if, as part of the proceedings leading to its issuance, the court appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert such a demand.

"(6) In this subsection, the term 'demand' means a demand for payment, present or future, that was not a claim within the meaning of section 101 during the proceedings leading to the confirmation of a plan of reorganization, but arises out of the same or similar conduct or events that gave rise to the claims addressed by the injunction, the payment of which demand, by a trust described in paragraph 3(A)(i), is provided for by the plan.

"(7) Paragraph (5)(A) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(8) This subsection governs any injunction entered before or after the date of enactment of this subsection.

"(9) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of enactment of this subsection.

"(10) A debtor or trust that is the subject of an injunction issued under paragraph (1)—

"(A) shall be deemed to be a settling and paying defendant in any Federal and State action arising out of the same or similar conduct or events that gave rise to the claims addressed by the injunction; and

"(B) shall be treated as such a defendant in accordance with State law generally applicable to defendants in personal injury tort actions.

TITLE III—INDIVIDUAL DEBTORS

SEC. 301. POWER OF COURT.

Section 105(a) of title 11, United States Code, is amended by adding at the end the following new sentence: "The court may issue an order to enjoin action by a person under this title, including the filing of a petition under section 301, 302, or 303.".

SEC. 302. WHO MAY BE A DEBTOR.

Section 109(e) of title 11, United States Code, is amended to read as follows:

"(e)(1) An individual with regular income that owes, on the date of filing the petition, noncontingent, liquidated debts of less than $1,000,000, or an individual with regular income and such individual's spouse, except a stock broker or commodity broker, may be a debtor under chapter 13.

"(2) An individual with regular income that owes, on the date of filing the petition, noncontingent, liquidated debts of more than $1,000,000, or an individual with regular income and such individual's spouse, except a stock broker or commodity broker, may be a debtor under chapter 13 if there is no objection raised on the record by any creditor prior to the date that is 10 days after the date on which the meeting of creditors pursuant to section 341 is concluded, and no order of confirmation shall be entered prior to the date by which such an objection is required to be made.".

SEC. 303. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Prior to the conclusion of the meeting of creditors or equity security holders, the United States trustee shall orally examine the debtor and make recommendations on the record regarding—

"(1) the debtor's knowledge of the potential consequences of seeking a dismissal in bankruptcy, including the effects on credit history;

"(2) the debtor's knowledge of the debtor's ability to file a petition under a different chapter of this title;

"(3) the debtor's knowledge of the effect of receiving a dismissal of debts under this title;

"(4) the debtor's knowledge of the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d);

"(5) the debtor's knowledge of the debtor's duties under section 521;

"(6) the debtor's knowledge of the potential penalties and fines for committing fraud or other abuses of this title; and

"(7) whether or not substantial abuse under section 707(b) has occurred.".

SEC. 304. AUTOMATIC STAY.

Section 362(e) of title 11, United States Code, is amended by adding at the end the following new sentence: "In no event shall the final hearing on a request under subsection (d) be concluded later than 60 days after the filing of the request, except upon a finding of good cause by the court.".

SEC. 305. EXEMPTIONS.

Section 522(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1) and redesignating that paragraph as paragraph (2);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) 'antique' means an item that was more than 100 years old at the time it was acquired by the debtor, including such an item that has been repaired or renovated without changing its original form or character;";

(3) by redesignating paragraph (2), as designated prior to the date of enactment of this Act, as paragraph (4); and

(4) by inserting after paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(3) 'household goods' means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the debtor and the debtor's dependents, but does not include—

"(A) works of art;

"(B) electronic entertainment equipment (except to the extent of 1 television and 1 radio);

"(C) antiques; and

"(D) jewelry other than wedding rings.".

SEC. 306. EFFECT OF DISCHARGE.

Section 524(d) of title 11, United States Code, is amended in the second and third sentences by striking "that a discharge has been granted or the reason why a discharge has not been granted. If a discharge has been granted and if the debtor desires to make an agreement of the kind specified in subsection (c) of this section, then the court" and inserting "of the court's determination and, if the court has determined not to grant a discharge, of the reasons for the determination. If the court has determined to grant a discharge and the debtor desires to make an agreement described in subsection (c), the court, prior to granting the discharge,".

SEC. 307. PREFERENCES.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "property" and inserting "property, or with respect to which the creditor has taken all necessary steps to perfect under State law and the failure to perfect within 10 days is due solely to the operations of a governmental unit;".

SEC. 308. DISMISSAL.

Section 707(b) of title 11, United States Code, is amended by adding at the end the following new sentence: "Nothing in this subsection prohibits a party in interest from providing information concerning the debtor's assets, liabilities, or financial affairs to the United States trustee.".

SEC. 309. CONVERSION OR DISMISSAL.

Section 1307 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g) The clerk of the court shall give notice to all creditors not later than 30 days after the entry of an order of conversion or dismissal.".

SEC. 310. CONTENTS OF PLAN.

Section 1322(b)(2) of title 11, United States Code, is amended by striking "default;" and inserting ", but the plan may not modify a claim pursuant to section 506 of a person holding a primary security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence;".

SEC. 311. PAYMENTS.

Section 1326(a)(2) of title 11, United States Code, is amended in the second sentence by striking the period and inserting "as soon as practicable.".

SEC. 312. STAY OF ACTION AGAINST CODEBTOR.

Section 1301 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(4) the claim is for an amount valued at not greater than $25,000, and such relief is not a substantial impediment to an effective reorganization by the debtor, and unless the codebtor has demonstrated an inability to pay such claim or a substantial portion of such claim."; and

(2) by adding at the end the following new subsection:

"(e) If the relief sought by the creditor pursuant to subsection (c)(4) is granted by the court, the codebtor shall by subrogation have the same rights as the creditor against the debtor to the extent of the amount of relief obtained from the codebtor. Pending any delay in obtaining relief from the codebtor, after the court order, payment by the debtor shall continue to be paid to the creditor, but subject to the developing subrogation rights of the codebtor.".

TITLE IV—MISCELLANEOUS

SEC. 401. DELAY OF REPEAL OF CHAPTER 12 (FAMILY FARMERS).

Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note; 100 Stat. 3124) is amended by striking "October 1, 1993" and inserting "October 1, 1995".

SEC. 402. DOLLAR ADJUSTMENTS.

(a) INVOLUNTARY CASES.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$5,000" and inserting "$10,000"; and

(2) in paragraph (2) by striking "$5,000" and inserting "$10,000".

(b) PRIORITIES.—Section 507(a)(3)(B) of title 11, United States Code, is amended by striking "$2,000" and inserting "$4,000".

(c) EXEMPTIONS.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$7,500" and inserting "$15,000";

(2) in paragraph (2) by striking "$1,200" and inserting "$2,400";

(3) in paragraph (3)—

(A) by striking "$200" and inserting "$400"; and

(B) by striking "$4,000" and inserting "$8,000";

(4) in paragraph (4) by striking "$500" and inserting "$1,000";

(5) in paragraph (5)—

(A) by striking "$400" and inserting "$800"; and

(B) by striking "$3,750" and inserting "$7,500";

(6) in paragraph (6) by striking "$750' and inserting "$1,500";

(7) in paragraph (8) by striking "$4,000" and inserting "$8,000"; and

(8) in paragraph (11)(D) by striking "$7,500" and inserting "$15,000".

(d) APPOINTMENT OF EXAMINER IN CERTAIN CIRCUMSTANCES.—Section 1104(b)(2) of title 11, United States Code, is amended by striking "$5,000,000" and inserting "$10,000,000".

SEC. 403. TRUSTEE COMPENSATION.

Section 326(a) of title 11, United States Code, is amended to read as follows:

"(a) In a case under chapter 7 or chapter 11, the court may allow reasonable compensation under section 330 for the trustee's services, payable after the trustee renders such services, computed as a percentage of all monies disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor for the debtor's exemptions, but including holders of secured claims, as follows:

"(1) In a case in which such moneys do not exceed $1,000,000, reasonable compensation may be 25 percent of the first $5,000 or less, 10 percent on any amount in excess of $5,000 but not in excess of $50,000, and 5 percent of any amount in excess of $50,000.

"(2) In a case in which such moneys exceed $1,000,000, reasonable compensation, in addition to that prescribed in paragraph (1), may be 3 percent of the excess of those moneys over $1,000,000, but the court may allow additional compensation to the trustee for exceptional services not to exceed 25 percent of the compensation otherwise due.".

SEC. 404. TAX PROVISIONS.

(a) SPECIAL TAX PROVISIONS.—Section 346 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(k) A trustee or debtor in possession shall establish and maintain a separate bank account for post-petition taxes that are required to be withheld or collected from third parties, and shall also make deposit of such taxes therein when withheld or collected and remit such taxes to a governmental unit at the time and in the manner required under Federal, State, or local government law, unless ordered by the court to do otherwise.".

(b) AUTOMATIC STAY.—Section 362(b)(9) of title 11, United States Code, is amended read as follows:

"(9) under subsection (a), of an audit by a governmental unit to determine tax liability, of the issuance to the debtor by a governmental unit of a notice of tax deficiency, of a demand for tax returns, or of an assessment of an uncontested or agreed upon tax liability;".

(c) CONVERSION OR DISMISSAL OF CHAPTER 11 CASE.—Section 1112(b) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by laws applicable to such taxes subsequent to the date of the order for relief under this chapter.".

(d) CONFIRMATION OF PLAN.—Section 1129(a)(9)(C) of title 11, United States Code, is amended by striking "such claim, of a value" and inserting "such claim, or, if a claim has not been assessed, after the date of confirmation of the claim, of a value".

(e) CONVERSION OR DISMISSAL OF CHAPTER 12 CASE.—(1) Section 1208(c) of title 11, United States Code, is amended—

(A) by striking "or" at the end of paragraph (8);

(B) by striking a period at the end of paragraph (9) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(10) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by the laws applicable to such taxes subsequent to the date of the order for relief under this chapter.".

(2) Section 1307(c) of title 11, United States Code, is amended—

(A) by striking "or" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(11) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by laws applicable to such taxes subsequent to the date of order for relief under this chapter.".

SEC. 405. CREDITOR COMMITTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the actual, necessary expenses incurred by a committee representing creditors or equity security holders appointed under section 1102 in the performance of its powers and duties under that section.".

SEC. 406. JUDICIAL CONFERENCE REPORT.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall produce and submit to the appropriate committees of Congress a report containing a description of—

(1) the efforts of the Federal judiciary to automate and computerize the Federal bankruptcy courts;

(2) the types of information that are currently available to Congress and the public regarding the number, size, and types of bankruptcy cases filed in the Federal courts;

(3) the types of additional information that the Federal judiciary believes are necessary and desirable to enhance its ability to manage the affairs of the bankruptcy system; and

(4) the projected timetable for being able to supply those additional types of information to Congress and the public in the future.

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. TITLE 11, UNITED STATES CODE.

Title 11, United States Code, is amended—

(1) in the table of chapters by striking the item relating to chapter 15;

(2) in section 101—

(A) by striking paragraph (39);

(B) by redesignating paragraphs (40) through (51) as paragraphs (41) through (52), respectively;

(C) by redesignating paragraphs (36) through (38) as paragraphs (37) through (39), respectively;

(D) by inserting after paragraph (35) the following paragraph:

"(36) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, or plant protected under title 35;

"(C) patent application;

"(D) plant variety;

"(E) work of authorship protected under title 17; and

"(F) mask work protected under chapter 9 of title 17, to the extent protected by applicable nonbankruptcy law;";

(E) in paragraph (39) (as redesignated by subparagraph (C)) by striking "and" after the semicolon;

(F) by inserting after paragraph (39) (as redesignated by subparagraph (C)) the following paragraph:

"(40) 'mask work' has the meaning given it in section 901(a)(2) of title 17;";

(G) in paragraph (42) (as redesignated by subparagraph (B))—

(i) by striking "*Provided, however*, That" and inserting "except that"; and

(ii) by striking the period and inserting a semicolon;

(H) by redesignating paragraphs (52) and (53) (as designated before the date of enactment of this Act) as paragraphs (54) and (55), respectively;

(I) by inserting after paragraph (52) (as redesignated by subparagraph (B)) the following paragraph:

"(53) 'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, a partial settlement payment, an interim settlement payment, a settlement payment on account, a final settlement payment, a net settlement payment, or any other similar payment commonly used in the forward contract trade;"; and

(J) by striking both paragraphs (54), both paragraphs (55), both paragraphs (56), and both paragraphs (57) (as designated before the date of enactment of this Act) and inserting the following:

"(56) 'stockbroker' means a person—

"(A) with respect to which there is a customer, as defined in section 741(2) of this title; and

"(B) that is engaged in the business of effecting transactions in securities—

"(i) for the account of others; or

"(ii) with members of the general public, from or for such person's own account;

"(57) 'swap agreement' means—

"(A) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any other similar agreement (including any option to enter into any of the foregoing);

"(B) any combination of the foregoing; or

"(C) a master agreement for any of the foregoing together with all supplements;

"(58) 'swap participant' means an entity that, at any time before the filing of the petition, has an outstanding swap agreement with the debtor;

"(59) 'timeshare interest' means that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan;

"(60) 'timeshare plan' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years;

"(61) 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption; and

"(62) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.";

(3) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302";

(4) in section 346 (a) and (g)(1)(C) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(5) in section 348—

(A) in subsection (b) by striking "728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "728 (a) and (b), 1102(a), 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146 (a) and (b), 1201(a), 1221, 1228(a), 1301(a), and 1305(a)"; and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(6) in section 349(a) by striking "109(f)" and inserting "109(g)";

(7) in section 362(b)—

(A) by striking "or" at the end of paragraph (10);

(B) in paragraphs (12) and (13) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" each place it appears and inserting "section 31325 of title 46, United States Code";

(C) in paragraph (14), as added by section 102 of Public Law 101–311 (104 Stat. 267) at the end of the subsection, by removing it from the end of the subsection, inserting it after paragraph (13), and striking the period at the end and inserting a semicolon; and

(D) by redesignating paragraphs (14), (15), and (16), as added by section 3007(a) of the Student Loan Default Prevention Initiative Act of 1990 (104 Stat. 1388–28), as paragraphs (15), (16), and (17), striking "or" at the end of paragraph (16), as redesignated by this subparagraph, and adding "or" at the end of paragraph (17), as redesignated by this subparagraph;

(8) in section 363(c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(9) in section 364(a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(10) in section 365—

(A) in subsection (g)(2) (A) and (B) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307"; and

(B) in subsection (n)(1)(B) by striking "to to" and inserting "to";

(11) in section 507(d) by striking "(a)(3), (a)(4), (a)(5), or (a)(6)" and inserting "(a) (3), (4), (6), or (7)";

(12) in section 522(d)(10)(E)(iii) by striking "408, or 409 Internal Revenue Code of 1954" and inserting "section 401(b), 403(b), 408, or 409" of the Internal Revenue Code of 1986";

(13) in section 523(a) by striking "1141., 1228(a), 1228(b)," and inserting "1141, 1228 (a) or (b),";

(14) in section 524—

(A) in subsection (a)(3) by striking "or 1328(c)(1)" and inserting "1328(a)(1)";

(B) in subsection (c)(4) by striking "recission" and inserting "rescission"; and

(C) by inserting "and" at the end of subsection (d)(1)(B)(ii);

(15) in section 542(e) by striking "to to" and inserting "to";

(16) in section 543(d)(1) by striking "of equity holders" and inserting "if equity holders";

(17) in section 546(a)(1) by striking "1302, or 1202" and inserting "1202, or 1302";

(18) in section 553—

(A) in subsection (a)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(B) in subsection (b)(1) by striking "362(b)(7),," and inserting "362(b)(7),";

(19) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307";

(20) in section 724(d) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(21) in section 726(b) by striking "section 1112 1208" and inserting "section 1112, 1208,";

(22) in section 743 by striking "clerk" and all that follows through "Commission" and inserting "clerk shall give the notice required by section 342 to SIPC and to the Commission";

(23) in section 745(c) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(24) in section 1104(c) by striking "then the United States trustee, after consultation with parties in interest shall" and inserting "the United States trustee, after consultation with parties in interest, shall";

(25) in section 1110(a) by striking "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301), or vessels of the United States, as defined in subsection (B)(4) of the Ship Mortgage Act, 1920 (46 U.S.C. 911(4))" and inserting "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301), or documented vessels, as defined in section 30101(1) of title 46, United States Code";

(26) in section 1129(a)—

(A) by striking the semicolon at the end of paragraph (4) and inserting a period; and

(B) in paragraph (12) by striking "section 1930," and inserting "section 1930 of title 28,";

(27) in section 1226(b)(2)—

(A) by striking "section 1202(d) of this title" and inserting "section 586(b) of title 28"; and

(B) by striking "section 1202(e) of this title" and inserting "section 586(e) of title 28";

(28) in section 1302(b) by striking "and" at the end of paragraph (3); and

(29) in section 1328(a)(2) by striking "of" and all that follows through the semicolon and inserting "of the kind described in section 523(a) (5), (8), or (9);".

SEC. 502. TITLE 28, UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11,".

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. First of all, Mr. President, thanks to Senator HEFLIN for his leadership in this area as chairman of the subcommittee that has jurisdiction over bankruptcy legislation. He has done a very good job, a very thorough job with the hearings. I spent a great deal of time in these hearings, and I applaud him for putting all the energy and all the time into this subject matter that is needed.

Also, when the issue of bankruptcy legislation is addressed it might look to the public at large that somehow Congress, in proposing this legislation, endorses the idea of bankruptcy as a goal that should be accomplished. We do not in any way endorse bankruptcy or encourage bankruptcy. What we are doing here is acknowledging that bankruptcy is a fact of economic life in a free society and that historically in the United States, we have always had some bankruptcy legislation.

Now on the books is a very good piece of legislation adopted in 1978, but that legislation needs some fine tuning from time to time. In a free society and free market like ours, bankruptcy does exist. We do not in any way encourage bankruptcy, and we hope we do not pass legislation that encourages bankruptcy, but we must have some rules by which everybody can settle their economic differences when a person is in that position.

And that is the idea behind the legislation that is being introduced. And I am very happy to follow Senator HEFLIN'S leadership and to sign on this legislation, as the ranking Republican on this subcommittee.

Mr. President, it is a sign of our economic times that bankruptcy is a growth industry. Experts such as those at the American Bankruptcy Institute project that the bankruptcy boom will hit close to 1 million cases filed this calendar year. This would be a new record. This continues a trend from the mid-1980's, as each year since 1985 has brought a new high in the number of bankruptcies. In the last 6 years, bankruptcies have increased by 142 percent. They embrace both the sophisticated chapter 11 business reorganizations, the no asset personal bankruptcies, and everything in between.

No region of the country or personal income level is immune from the bankruptcy boom. The chances of an individual or couple filing for chapter 13 during their lifetime is about 1 in 10. Thus, this bill could not be more timely. Even as the economy improves, there are likely to be record numbers of bankruptcies for the foreseeable future because individual debt loads continue at record levels as well.

All Americans have an important stake in ensuring that our Nation's bankruptcy procedures operate efficiently and fairly so that individuals and corporations seeking bankruptcy and the protection therein may again contribute to our Nation's economic vitality.

The bill that Senator HEFLIN and I introduced today is lengthy and complicated, as I think his presentation indicates. It has been drafted as a bipartisan response to some of the issues facing bankruptcy law, issues that were the subject of a series of hearings held this spring and summer in the Courts Subcommittee. The bill changes substantive bankruptcy law only in those instances where a broad range of experts who testified before us reached a consensus, Mr. President, on what these proposals should include. I will take this opportunity to discuss just three of these, not as thoroughly as Senator HEFLIN did.

In regard to the Bankruptcy Review Commission, heretofore referred to, this Commission of experts from the bench and the bar will investigate and study issues and problems relating to the Bankruptcy Code, evaluate proposals with respect to these issues, and prepare a report setting forth their conclusions on these issues.

This Commission is needed for several reasons. One is that the Bankruptcy Code was enacted in 1978 and has now been in operation for more than a dozen years. So we have a great deal of experience with that code.

That experience may suggest changes that should be made to the code in light of its actual operation. Additionally, new circumstances have arisen that were unknown to the Congress when the code was adopted 13 years ago. For instance, the leveraged buyouts of the 1980's are many of the corporate bankruptcies of the 1990's. Likewise, the world economy is far more integrated today than it was in 1978. The Commission may find that issues of international bankruptcy should be addressed, such as venue for the bankruptcy filings of multinational corporations.

Finally, I believe that policy changes in this complex area ought to be the product of coherent analysis and expert opinion, not the piecemeal special interest amendments that have characterized too much of our legislation in recent years. So a special Commission, limited in duration and insulated from special interest politics, can then give Congress sound advice that we need to make the Bankruptcy Code work in the decade of the 1990's and the next century.

I want to stress that the bill, in creating a National Bankruptcy Review Commission, is not designed, Mr. President, to produce major overhaul of the Bankruptcy Code. That was done just 13 years ago. The current Bankruptcy Code functions largely well today. The primary goal of the Commission is to find ways of fine-tuning the operations of the code by addressing those problems that have arisen since 1978.

A second provision that I would like to specifically remind my colleagues of was enacted in 1986 and applies to family farmers. Under current law, chapter 12 will expire October 1, 1993. Under this bill, we would extend that to October 1, 1995. As author of chapter 12, I have taken a keen interest in the record of this legislation to date. I think that record is an excellent one, and I continue to believe that a separate chapter of the code is necessary because of the special needs of the family farming operation.

The extension of time for the operation of chapter 12 then will permit a careful review of how well this portion of the code functions. I hope the Courts Subcommittee will hold oversight hearings on how well chapter 12 is meeting its objectives. In the meantime, the extension of the provision for 2 years will continue to assist family farmers who have a special need of a separate chapter.

The last portion of the bill that I want to discuss are its small business bankruptcy provisions. These provisions are based upon a current experiment that has been going on under a bankruptcy judge in North Carolina. This experimental system has been widely regarded as both innovative and successful. The bill would create a set of pilot programs in judicial districts around the country that would operate a new chapter 10 for small business bankruptcies.

Among its features, the new small business chapter would shorten the timeframe for filing to 90 days and truncate the process in other ways such as combining the hearing on approval of the disclosure statement with the hearing on plan confirmation, eliminating the automatic appointment of a creditor's committee and, lastly, eliminating the absolute priority rule presently found in chapter 11 cases.

To qualify, as a small business eligible for chapter 10 treatment, a debtor must meet a totality of circumstances test that includes the following nonexclusive indicia: The number of employees of the debtor, the number of creditors of the debtor, the total amount of secured, priority and unsecured obligations of the debtor, the total value of the assets of the debtor, the total volume of the sales of the debtor, the nature and substance of the debtor's business activity, the history of the debtor's business activity, and the substance of the debtor's business activity as measured by small businesses engaged in the same type of activity.

The new chapter 10 would go into effect initially as an eight-district pilot program and for a 3-year period. The Federal Judicial Center would be charged with the responsibility to study the experience of the chapter 10 pilot and report back to Congress on the success of the program.

So I commend, Mr. President, the chairman of the subcommittee once again for his hard work in crafting the legislation, and I look forward to working with him in the important months ahead as we pass this legislation finetuning the Bankruptcy Code.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, I want to thank Senator GRASSLEY and his staff for the hard work they have done in drafting this legislation. My staff, Scott Williams, has worked diligently on it. We will continue to work.

We have discussed this with a great number of people and groups, bankruptcy judges, people from all walks of life, consumer groups and others, and we believe at this time we have a consensus proposed piece of legislation. We hope we can move forward to help in regard to an area that certainly does need attention at this time.

Thank you, Mr. President.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1986. A bill to extend the existing suspension of duty on diflunisal, and to suspend temporarily the duty on finasteride, finasteride tablets, and famotidine; to the Committee on Finance.

EXTENSION OF EXISTING DUTY SUSPENSIONS

• Mr. BRADLEY. Mr. President, I rise to introduce legislation which temporarily suspends the duties on famotidine, finasteride, and diflunisal. Joining me is my friend and colleague Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 1807, H.R. 1939, and H.R. 1861.

According to the International Trade Commission, these chemicals do not have domestic producers and are imported by Merck & Co., a pharmaceutical located in New Jersey. All three chemicals are used for medicinal purposes.

A temporary duty suspension on these products benefit those whose ailments require them. Often inflated costs of medicines are impediments to those who need them. These duty suspensions would allow the pharmaceutical company to import the drugs at reasonable prices without the consumer paying the ultimate price.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY DUTY SUSPENSIONS.

(a) EXTENSION OF EXISTING SUSPENSION OF DUTY.—Heading 9902.30.23 (relating to diflunisal) of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting "12/31/95".

(b) FINASTERIDE AND FAMOTIDINE.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"9902.31.12	N-(1,1-dimethylethyl-3-oxo-4-aza-5-alpha-androst-1-ene-17-beta-carboxamide (finasteride) (provided for in subheading 2933.79.50)	Free	No change	No change	On or before 12/31/94
9902.31.13	N-(1,1-dimethylethyl-3-oxo-4-aza-5-alpha-androst-1-ene-17-beta-carboxamide tablets (finasteride tablets) (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/94
9902.31.14	N-(aminosulfonyl)-3-[[[2-[(diaminomethylene)amino]-4-thiazolyl]-methyl]thio] propanimidamide (famotidine) (provided for in subheading 2935.00.46)	Free	No change	No change	On or before 12/31/94".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.•

By Mr. COHEN (for himself, Mr. PRYOR, Mr. SPECTER, Mr. BURNS, Mr. SIMPSON, and Mr. GRASSLEY):

S. 1988. A bill to amend title XVIII of the Social Security Act to provide for improved standards to prevent fraud and abuse in the purchasing and rental of durable medical equipment and supplies, and prosthetics and orthotics, and prosthetic devices under the Medicare Program, and for other purposes; to the Committee on Finance.

QUALITY IN MEDICAL EQUIPMENT AND SUPPLIES ACT OF 1991

Mr. COHEN. Mr. President, today I am introducing legislation on behalf of myself, and Senators PRYOR, SPECTER, BURNS, SIMPSON, and GRASSLEY to protect the Medicare Program from fraud and abuse by unscrupulous medical equipment vendors who provide inferior equipment to Medicare beneficiaries and then bill Medicare at grossly inflated prices.

These legislative reforms are a result of a year-long investigation conducted by the minority staff of the Senate Special Committee on Aging, on which I serve as the ranking Republican member, of the practices of greedy durable medical equipment telemarketers who take advantage of the current weaknesses in the system to bleed millions of dollars from the Medicare Program.

The investigation revealed shocking practices of fly-by-night operations which establish telephone boiler rooms where teenagers and others with no medical backgrounds are given lists of names and telephone numbers of Medicare beneficiaries. Call after call is made to induce unsuspecting senior citizens to accept what is described as "free medical equipment"—equipment that is rarely needed, generally of inferior quality, of little or no therapeutic value, and which even prove dangerous.

The telemarketers manipulate the Medicare system by shopping around for the States paying the highest reimbursement rates for equipment and supplies, and then target Medicare beneficiaries to buy their wares. The telemarketers would not stop even if the senior citizen refused to buy the item—rather, they would simply bill Medicare anyway, at times forging a doctor's authorization for the item.

The examples of abuse are staggering:

A plain piece of beige foam cost a DME supplier about $23, and was then billed to Medicare for more than $240 as a "flotation pad for a wheelchair."

A simple heating pad that could be purchased through the Sears catalog for about $23 was purchased by a DME telemarketer for $9.68, and then billed to Medicare for $67. That is three times the Sears price and six times the original purchase price of the item.

Finally, a bed-sized flimsy piece of pink foam was billed to Medicare as a "dry flotation mattress" to prevent bed sores. This item, which is obviously very ineffective, was purchased by a supplier for about $28 and then billed to Medicare for more than $1,100 in New York. That represents a profit of more than 3,800 percent.

While outrageous, these examples are, unfortunately, commonplace.

So, just when we thought that the days of the Government purchasing the $600 toilet seat were behind us, these kinds of items are being paid for with scarce Medicare dollars that should be funding necessary health care.

The Aging Committee's investigation and hearings revealed how it is far too easy for telemarketers and other fraudulent suppliers to gain access to the Medicare system in the first place. Currently, neither the carriers which process Medicare claims, nor the Federal Government, does enough to shut the door to fraudulent providers, and, once in the system, the carriers and the Health Care Financing Administration do very poor jobs of policing the Medicare billing system.

The current system for giving out provider numbers is far too lax. These numbers act as the credit card to Medicare and allow suppliers to submit bills to Medicare. Most carriers ask few questions about the suppliers which are applying for numbers, and then do little to check up on the suppliers which have been issued numbers.

This laxity is tremendously costly for Medicare. Often, suppliers can obtain multiple billing numbers, enabling them to overbill or double-bill Medicare, as well as to avoid being detected for Medicare fraud.

The current system simply invites abuse. It is like the Government issuing a lifetime gold card with an unlimited balance and no annual service fee to these suppliers without first running a credit check. And, from what our investigation revealed, many of these suppliers certainly "don't leave home without it" and use their cards freely to bilk the taxpayers and defraud senior citizens.

The bill I am introducing today will go far in shutting the door to Medicare on fraudulent suppliers. The bill would require suppliers to meet strict criteria and disclosure requirements in order to obtain and renew provider numbers, so that fraudulent or inferior suppliers are kept out of the system and detected more easily. This new provider number system would also strengthen the ability of carriers to act against fraudulent suppliers.

The bill would also end the practice of carrier shopping through which some suppliers seek out the carrier which pays the highest reimbursement rates in order to get the best price from Medicare for their overpriced items. The bill achieves this by limiting the number of carriers paying claims for equipment and supplies, by requiring that claims generally be submitted to the carrier with jurisdiction over the area in which the beneficiary resides, and through the development of uniform coverage and utilization criteria, requiring that all Medicare carriers have the same rules governing when they will pay for an item.

The bill also includes provisions barring physicians from referring patients to supply companies in which the doctors have financial interests and includes provisions to better ensure the quality of the items that the Government is paying for with Medicare dollars.

Mr. President, the reforms I am introducing today are critical to ensure that scarce Medicare dollars are not wasted on useless or overpriced medical equipment.

In the past several months, a bright light has been focused on the shady practices of some DME suppliers, and we have already seen some results from these oversight efforts. In response to the intense congressional scrutiny of these DME scams, Secretary Sullivan of the Department of Health and Human Services proposed regulations and outlined legislative recommendations on how to fix the Medicare system to deter DME fraud. I welcome the response of the administration and look forward to working with Secretary Sullivan, Dr. Gail Wilensky of HCFA, and others within the administration to stem these abuses.

In fairness, I must point out that the vast majority of durable medical equipment suppliers are honest business men and women who provide necessary and quality services to patients. In developing this legislation, many representatives of the medical equipment and supplies industries have been very forthright and supportive of efforts to reform the DME reimbursement system, so that the practices of unscrupulous suppliers do not taint the reputation of the entire industry.

I want to thank the inspector general of the Department of Health and Human Services, who conducted an extensive investigation of DME abuses. Once again, this office has provided first-class work and invaluable assistance in fighting fraud and abuse in Medicare.

Finally, I want to add a special note of thanks to my good friend and chairman of the Special Committee on Aging, Senator PRYOR, for his cooperation and assistance in this investigation. This investigation is one of the first issues that I have undertaken in my capacity as the ranking member of the committee, and Senator PRYOR and his staff have been most gracious and supportive of my efforts. I look forward to a long and productive partnership with him at the helm of the Aging Committee.

Mr. President, we must stop these DME suppliers from billing Medicare for a Cadillac and then delivering senior citizens a Yugo. I hope my colleagues will support the reforms I am introducing today so we can ensure that Medicare is truly getting what it is paying for.

I ask unanimous consent that the text of the Quality in Medical Equipment and Supplies Act and a summary of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quality in Medical Equipment and Supplies Act of 1991".

SEC. 2. RESTRICTION ON CARRIER FORUM SHOPPING FOR DURABLE MEDICAL EQUIPMENT, PROSTHETICS AND ORTHOTICS, AND PROSTHETIC DEVICES.

(a) IN GENERAL.—Section 1835 of the Social Security Act (42 U.S.C. 1395n) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (3), no supplier of a covered item (as defined in section 1834(a)(13)), or prosthetic devices and orthotics and prosthetics for which payment is made under section 1834(h) may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate carrier.

"(2) For purposes of paragraph (1), the term 'appropriate carrier' means the carrier having jurisdiction over the geographic area of the residence of the patient to whom the item is furnished.

"(3) A claim for an item described in paragraph (1) may be presented to a carrier other than an appropriate carrier as defined in paragraph (2) if—

"(A) the patient to whom the item is furnished resides within 60 miles of the border of the carrier jurisdiction;

"(B) the patient to whom the item is furnished whose primary residence is in one carrier's jurisdiction is temporarily residing in another carrier's jurisdiction; or

"(C) the Secretary provides by regulation for further exceptions to ensure patient access or administrative efficiency.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to claims for payment made on or after January 1, 1993.

SEC. 3. CONSOLIDATION OF CARRIER BY REGION FOR CERTAIN MEDICAL EQUIPMENT AND SUPPLIES AND PROSTHETICS AND ORTHOTICS AND PROSTHETIC DEVICES AND IMPLEMENTATION OF UNIFORM COVERAGE AND UTILIZATION CRITERIA.

(a) IN GENERAL.—Section 1834(a)(12) of the Social Security Act (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

"(12) REGIONAL CARRIERS.—

"(A) IN GENERAL.—The Secretary shall designate no more than 5 regional carriers to process all claims for all covered items furnished under this subsection and for items furnished under subsection (h).

"(B) IMPLEMENTATION OF UNIFORM COVERAGE AND UTILIZATION CRITERIA.—The Secretary, in consultation with representatives of various groups (including physicians, nursing home administrators, suppliers of equipment and supplies for which payment is made under this subsection and subsection (h), carriers, home health agencies, and consumers), shall develop and implement by no later than January 1, 1993, criteria providing for uniform coverage and utilization among all carriers for items furnished under this subsection and for items furnished under subsection (h). The Secretary, in consultation with representatives of the various groups described in the previous sentence, shall periodically review and update the criteria developed and implemented under this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1993.

SEC. 4. DEVELOPMENT AND APPLICATION OF NATIONAL UNIFORM STANDARDS FOR THE APPLICATION AND ISSUANCE OF PROVIDER NUMBERS TO SUPPLIERS OF DURABLE MEDICAL EQUIPMENT AND PROSTHETICS AND ORTHOTICS AND PROSTHETIC DEVICES.

(a) IN GENERAL.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(i) REQUIREMENTS FOR ISSUANCE AND RENEWAL OF PROVIDER NUMBERS FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT AND PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

"(1) IN GENERAL.—

"(A) REQUIREMENTS FOR APPLICATION AND ISSUANCE OF PROVIDER NUMBERS.—The Secretary, in consultation with representatives of various groups (including physicians, nursing home administrators, suppliers of equipment and supplies for which payment is made under subsections (a) and (h), carriers, home health agencies and consumers), shall by no later than January 1, 1993, establish national uniform standards for the application and issuance of provider numbers to suppliers of items for which payment is made under subsections (a) and (h). The standards established by the Secretary under this subsection shall require that in order for a provider number to be issued to a supplier of items for which payment is made under subsections (a) and (h) on or after January 1, 1993, that the supplier—

"(i) complies with all applicable State and Federal licensure and regulatory requirements;

"(ii) maintains a physical facility on a site zoned for commercial purposes (which site houses both personnel and inventory);

"(iii) has proof of product and professional liability insurance; and

"(iv) meets such other requirements as the Secretary may specify (including additional requirements for suppliers providing equipment or supplies described in paragraphs (3) and (5) of subsection (a), or parenteral and enteral equipment and supplies).

"(B) DISCLOSURE REQUIREMENTS FOR ISSUANCE AND RENEWAL OF PROVIDER NUMBERS.—The Secretary, in consultation with the groups listed in subparagraph (A) shall establish requirements for disclosure by applicants for issuance or renewal of provider numbers. Such disclosure requirements shall require that an applicant for a provider number under this subsection provides the following information:

"(i) The identity of each person with an ownership or control interest in the provider or in any subcontractor (as defined by the Secretary in regulations) in which the provider directly or indirectly has a 5 percent or more ownership interest.

"(ii) The identity of any other entities providing items or services for which payment may be made under title XVIII of the Social Security Act with respect to which such person or managing employee is a person with an ownership or control interest at the time such information is supplied or at any time during the 3-year period ending on the date such information is supplied.

"(iii) Whether any penalties, assessments, or exclusions have been assessed against such person or managing employee under section 1128, 1128A, or 1128B.

"(iv) Whether the supplies provided by the provider are directly purchased, warehoused, and shipped by the entity, or supplied under arrangement with other suppliers.

"(v) The identity and existence of subcontracting or subsidiary business entities with which the provider is affiliated or with which the provider is doing business which are advertising or marketing firms directly or indirectly involved in sales of medical equipment or supplies to individuals who are eligible for benefits under part B of title XVIII and for which payment is made under such title.

"(vi) A description of all supplier items and services provided by the provider to individuals eligible for benefits under part B of title XVIII and for other providers of services under such title.

"(vii) Identification of all States and localities in which the provider provides items, services, or supplies for which payment is made under title XVIII and XIX.

"(viii) Identification of provider numbers under which the applicant is submitting or has submitted claims for payment under title XVIII.

"(C) REQUIREMENTS FOR PERIODIC RENEWAL OF PROVIDER NUMBERS.—

"(i) IN GENERAL.—The Secretary shall require the renewal of provider numbers issued under this subsection every 3 years. The Secretary may require more frequent renewal of provider numbers with respect to certain suppliers of items for which payment is made under subsections (a) and (h) based on such factors as change of ownership and history of abusive practices and such other factors as the Secretary may specify.

"(ii) CURRENT SUPPLIERS.—The Secretary shall require all suppliers currently receiving payments under this part for items for which payments are made under subsections (a) and (h) to submit an application to the Secretary for renewal of such suppliers' provider numbers in conformity with the requirements of this subsection by no later than July 1, 1994.

"(2) DEVELOPMENT AND PUBLICATION OF STANDARDIZED PROVIDER NUMBER APPLICATION.—The Secretary shall by no later than July 1, 1993, develop and publish in the Federal Register a standardized application form to be utilized for the issuance and renewal of provider numbers under this subsection. Such form shall include—

"(A) a certification that a supplier is in compliance with the requirements of the standards described in paragraph (1);

"(B) a statement that willful and intentional misrepresentation of fact by the supplier on the form constitutes a violation of 18 U.S.C. 1001; and

"(C) a sworn statement by the supplier attesting to the accuracy and truthfulness of the information provided by the supplier on the form.

"(3) ADMINISTRATION AND VERIFICATION.—

"(A) IN GENERAL.—The Secretary shall establish verification procedures to be utilized by carriers in receiving and assessing the application of suppliers for issuance and renewal of provider numbers under this subsection. Such verification procedures shall include random audits and on-site inspections of suppliers. Such audits and on-site inspections may also be conducted for cause (as determined by the Secretary).

"(B) APPLICATION FEE.—The Secretary may charge an application fee to suppliers for the issuance and renewal of provider numbers under this subsection in an amount calculated not to exceed the administrative costs associated with issuing and renewing and verifying provider numbers under this subsection.".

(b) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to provider numbers issued or renewed on or after January 1, 1993.

SEC. 5. REQUIREMENTS RELATED TO FORMS DOCUMENTING MEDICAL NECESSITY.

(a) LIMITATION ON PROHIBITION RESTRICTED TO POTENTIALLY OVERUSED ITEMS.—Section 1834(a)(16) of the Social Security Act (42 U.S.C. 1395m(a)(16)) is amended—

(1) in subparagraph (A)—

(A) by striking "a covered item" the first place it appears and inserting "an item included on the list developed by the Secretary under paragraph (15)(A)"; and

(B) by striking "a covered item" the second place it appears and inserting "the item"; and

(2) in subparagraph (B), by striking "a covered item" and inserting "an item".

(b) STANDARDIZED FORM ON MEDICAL NECESSITY.—Section 1834(a)(16) of such Act (42 U.S.C. 1395m(a)(16)) is further amended—

(1) in subparagraph (A), by striking "forms or other documents" and inserting "form (described in subparagraph (B))";

(2) in subparagraph (B), by striking "1,000" and inserting "2,000";

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) STANDARDIZED FORM.—The Secretary, in consultation with representatives of various groups (including physicians, nursing home administrators, suppliers of equipment and supplies for which payment is made under this subsection and subsection (h), carriers, home health agencies and consumers) shall develop a standardized form for use by suppliers in documenting that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. The form developed by the Secretary under this subparagraph shall include—

"(i) a statement that knowing and willful misrepresentation of fact by the supplier on the form will result in the imposition of the penalty described in subparagraph (C);

"(ii) a sworn statement by the supplier attesting to the accuracy and truthfulness of the information provided by the supplier on the form; and

"(iii) a statement by the physician signing the form attesting that the information on the form is accurate and truthful to the best knowledge of the physician."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1993.

SEC. 6. PROHIBITION AGAINST CERTAIN FINANCIAL ARRANGEMENTS BETWEEN REFERRING PHYSICIANS AND SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended by inserting "or durable medical equipment" after "clinical laboratory services" each place it appears in subsections (a)(1), (b)(2)(A)(ii)(I), (d)(1), (d)(2), and (d)(3).

(b) OTHER CONFORMING AMENDMENTS.—Section 1877 of such Act (42 U.S.C. 1395nn) is further amended—

(1) in subsection (b)(2)(A)(ii)(I), by inserting "or furnishing of the groups' durable medical equipment," after "laboratory services";

(2) in subsection (d)(2), by inserting "or the supplier furnishing the equipment" after "furnishing the services";

(3) in subsection (d)(3)—

(A) by inserting "or furnished" after "provided"; and

(B) in subparagraph (A), by inserting "or furnish equipment" after "perform services";

(4) in subsection (g)(1), by inserting "or an item of durable medical equipment" after "laboratory service";

(5) in subsection (g)(3), by inserting "or item" after "service" each place it appears; and

(6) in subsection (h)(7)(B)—

(A) by inserting "or an item of durable medical equipment" after "laboratory service" the first place it appears; and

(B) by inserting "or the furnishing of the item of durable medical equipment" after "laboratory service" the second place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 7. STUDIES AND REPORTS TO CONGRESS ON PAYMENTS UNDER MEDICARE FOR DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—The Secretary of Health and Human Services shall study and report to Congress by no later than January 1, 1994, on whether payments made under subsections (a) and (h) of section 1834 of the Social Security Act, adequately reflect services provided by the suppliers which are necessary to ensure quality of care. Such report shall include recommendations to the Congress on changes in payment rates that may be necessary to ensure beneficiary access to quality services.

(b) RECOMMENDATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the Government Accounting Office shall study and make recommendations to the Congress no later than January 1, 1994, on whether payments made under subsections (a) and (h) of section 1834 of the Social Security Act, adequately reflect variations in the quality of equipment or supplies provided.

QUALITY IN MEDICAL EQUIPMENT AND SUPPLIES ACT OF 1991—SENATOR WILLIAM S. COHEN, NOVEMBER 19, 1991

SUMMARY OF THE LEGISLATION

The Quality in Medical Equipment and Supplies Act of 1991 addresses problems of quality and overpricing of durable medical equipment and supplies that are reimbursed under Medicare part B. This legislation has been drafted in response to an investigation of telemarketing and other practices of durable medical equipment suppliers which bill Medicare for inferior or overpriced items. The legislation is also in response to an investigation conducted by the minority staff of the Senate Special Committee on Aging of how lax practices by Medicare carriers and HCFA in assigning and maintaining provider numbers result in overbilling, double-billing and other types of Medicare fraud by unscrupulous medical suppliers.

SECTION 1—TITLE: THE TITLE OF THIS LEGISLATION IS "THE QUALITY IN MEDICAL EQUIPMENT AND SUPPLIERS ACT OF 1991"

SECTION 2—RESTRICTION ON CARRIER SHOPPING

Section 2 requires suppliers of durable medical equipment, prosthetics and orthotics, and prosthetic devices to submit claims for payment under Medicare part B only to the carrier having jurisdiction over the geographic area in which the patient resides. The bill provides exceptions to this requirement if the patient lives within 60 miles of the border of the carrier jurisdiction or if the patient is temporarily residing in another jurisdiction. The Secretary of HHS is given authority under this section to provide further exceptions to ensure patient access or administrative efficiency.

Background: The Aging Committee's investigation revealed major problems of medical suppliers being able to shop around for the jurisdiction in which Medicare pays the highest reimbursement rates for equipment and supplies. Under the current system, carrier jurisdiction over claims is based on either the location of the DME business or the point of sale. This system allows some DME companies to develop schemes, such as mail drops and telemarketing boiler rooms, through which they can make their sales from the localities which have the highest reimbursement rates. Requiring that claims be submitted to the carrier with jurisdiction over the patient's residence will prevent such carrier shopping.

SECTION 3: CONSOLIDATION OF CARRIERS AND ESTABLISHMENT OF UNIFORM COVERAGE AND UTILIZATION CRITERIA

Section 3 requires the Secretary of HHS to consolidate the number of carriers processing durable medical equipment, prosthetics and orthotics, and prosthetic devices to five or fewer carriers.

Section 3 further requires the Secretary of HHS to develop, in consultation with private sector representatives, uniform coverage and utilization criteria among all carriers for DME, prosthetics and orthotics and prosthetic devices.

Background: There are currently over 30 carriers that process DME claims. This system encourages differences in the amount, coverage, and payment practices for claims submitted under Medicare part B. Reducing the number of carriers to five or fewer regional carriers will increase efficiency in claims processing, reduce variations in payments and coverage requirements, and allow carriers to become more specialized in processing claims and reviewing and enforcing payment requirements. HCFA has recently proposed reducing the number of carriers paying part B claims to four regional carriers.

In addition to carrier shopping for a carrier which will pay the best price for an item, some DME suppliers shop around for the carrier which has the best coverage policies for reimbursement. For example, one carrier may pay for only a box of ostomy kits per month per beneficiary, while another carrier may pay for an unlimited number of kits per month. Requiring HCFA to develop uniform coverage and utilization criteria will limit efforts to shop around for the best carrier coverage.

SECTION 4: REFORMS TO THE PROVIDER NUMBER SYSTEM THROUGH WHICH SUPPLIERS BILL PART B OF MEDICARE

Section 4 requires the Secretary of HHS to develop national uniform standards that suppliers must meet in order to obtain and renew provider numbers allowing them to bill under part B of Medicare. This section requires the Secretary to develop standards that must be met by suppliers in order to obtain and renew provider numbers. The section also requires the Secretary to establish requirements for disclosure for suppliers to make to carriers indicating their ownership, services, location on services, other provider numbers and additional information in order to qualify for a provider number.

Section 4 further requires the periodic renewal of provider numbers every 3 years and requires the Secretary of HHS to develop a standard provider number application form, as well as verification procedures to be used by carriers to verify information provided for the issuance and renewal of provider numbers. Suppliers must certify that the information they are providing is true. Willful misrepresentation of facts constitutes a false statement under 18 U.S.C. section 1001. The Secretary of HHS may charge an application fee to suppliers to cover the cost of the provider number application, renewal, and verification system.

Background: The Aging Committee's investigation focused on the extremely lax procedures now followed by carriers and HCFA in issuing and monitoring provider numbers, which can act as the credit card under which suppliers bill Medicare. There is little scrutiny of suppliers in issuing numbers and suppliers can easily have multiple provider numbers, allowing them to double-bill, overbill, or escape detection from Government or carrier investigators through jumping from one provider number of another. Placing controls on the issuance and renewal of provider numbers will allow the carriers to keep shoddy suppliers out of the system in the first place and better detect and take enforcement actions against suppliers which do not meet business and quality criteria, or misrepresent information to the Medicare carriers.

SECTION 5: CHANGES IN THE CERTIFICATES OF MEDICAL NECESSITY SUBMITTED BY SUPPLIERS

Section 5 modifies the current prohibition on suppliers filling out the certificate of medical necessity forms that are created by the carrier, and submitted to the beneficiary's physician for completing in order for payment to be made by Medicare. Section 5 continues the prohibition for overused or abused items as designated by the Secretary. Section 5 further requires the development of a standard certificate of medical necessity from which includes a statement that knowing and willful misrepresentations on the form by the supplier will result in imposition of monetary penalties. The section also increases the penalty for violations of these prohibitions.

Background: The Inspector General of HHS has found that some DME suppliers have prepared false CMN's and have had physicians sign the forms, or, in other instances, have forged physicians' signatures in order to authorize payments for supplies or equipment. Section 5 retains the prohibition on filling out these forms for highly abused items, and increases the penalties for falsification on these forms, while allowing some completion of these forms by suppliers, in order to address the problem of delays by physicians in filling out CMN's for necessary supplies and equipment for beneficiaries.

SECTION 6: PROHIBITION OF CERTAIN FINANCIAL ARRANGEMENTS BY PHYSICIANS AND SUPPLIERS

Section 6 prohibits physicians from referring patients for covered items to DME companies in which the physician or an immediate family member has an ownership or investment interest other financial arrangement.

Background: OBRA 1989 prohibited physicians from referring patients to clinical labs in which the physician has specified financial interests. The prohibition extends the same prohibition to referrals of patients to DME suppliers.

SECTION 7: STUDIES ON PAYMENTS FOR DME

Section 7 requires the General Accounting Office to report and make recommendations to the Congress by January 1, 1994, on whether payments for equipment and supplies adequately reflect variations in the quality of equipment and supplies supplied to beneficiaries and paid by Medicare part B.

Section 7 further requires the Secretary of HHS to study and report to Congress by January 1, 1994, on whether the payments made for durable medical equipment, prosthetics and orthotics, and prosthetic devices adequately reflect the services provided by suppliers to ensure quality of care.

Background: The investigation conducted by the Aging Committee revealed major variations in the quality of the items paid under Medicare part B. Under the current HCFA Common Procedure Coding System, there is little description of the type of items that qualify for payment. For example, one payment code specifies payment for bed board, while another specifies payment for flotation pad for wheelchair, with no further description of the item. Such broad definitions in payment codes enable suppliers to be paid the same amount for both inferior and high quality items meeting the scant payment code descriptions. Section 7 requires the GAO to recommend to Congress ways to better specify the level of quality of items that is necessary to qualify for reimbursement under the HCFA Common Procedure Coding System.

The investigation also examined the problem of suppliers that provide quality services to beneficiaries being inadequately reimbursed for the service component that they provide. For example, small suppliers of oxygen may not be adequately reimbursed for the training, personnel, delivery costs, and other associated services provided with the oxygen. Failure to reflect services beneficiaries can skew the reimbursement system in favor of suppliers which do not provide necessary services to beneficiaries, but instead provide inferior supplies with poor or little service. Section 7 requires the Secretary to report and recommend to Congress on how to better reflect these services to beneficiaries in the reimbursement rates.

• Mr. PRYOR. Mr. President, as chairman of the Senate Special Committee on Aging, I am pleased to join my colleague, the ranking member of the Aging Committee, Senator COHEN in introducing the Quality in Medical Equipment and Supplies Act of 1991. This legislation addresses durable medical equipment scams in the Medicare Program uncovered by a recent Aging Committee investigation and revealed in a subsequent committee hearing initiated by Senator COHEN. Senator COHEN has played an important leadership role on this issue and I look forward to working with him on this greatly needed legislation.

At the Aging Committee hearing, we learned how procedures governing the administration of durable medical equipment payment are far too lax. With the Medicare bureaucracy asleep at the switch, fraudulent medical equipment suppliers have been able to use and abuse the Medicare system to the tune—some estimates say—of over $200 million a year. When Medicare spending is going through the roof, failure to address known scams and administrative problems is inexcusable.

In response to the recent Aging Committee hearing, which showcases the results of Senator COHEN's investigation, the Health Care Financing Administration [HCFA] is finally taking steps to curb abuses by unscrupulous medical equipment suppliers. While HCFA's response is encouraging, we are concerned that it does not go far enough. We will work closely with our colleagues in the Senate to ensure that necessary changes to the system are made.

Taxpayers and Medicare beneficiaries alike will no longer accept continued inaction on Medicare fraud and abuse. With evidence provided by numerous congressional hearings, it is time to take action. Although the great majority of suppliers are honest, a small number of unscrupulous suppliers continue to bilk Medicare out of enormous amounts of money.

Mr. President, I would also like to take this opportunity to recognize Senator SASSER's ongoing efforts and commitment to address the fraud and abuse within this segment of Medicare. S. 1736, the Medicare Durable Medical Equipment Payment Improvement Act of 1991, introduced by Senator SASSER, will help ensure appropriate purchasing of durable medical equipment in the Medicare Program. I would like to lend my support by cosponsoring S. 1736.

Medical equipment suppliers in my home State of Arkansas have urged me to take quick action to prohibit those unscrupulous suppliers from continuing to bilk the system. I urge my colleagues to join us in these efforts. I look forward to hearing from all interested parties about ways to strengthen these legislative initiatives in order to protect taxpayers, Medicare beneficiaries and the Medicare Program itself from unpardonable fraud and abuse.•

By Mr. ROCKEFELLER (for himself, Mr. BYRD, Mr. SPECTER, Mr. WOFFORD, Mr. RIEGLE, Mr. DIXON, and Mr. SIMON):

S. 1989. A bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes; to the Committee on Finance.

COAL INDUSTRY RETIREE HEALTH BENEFIT ACT OF 1991

Mr. ROCKEFELLER. Mr. President, today I am introducing the Coal Industry Retiree Health Benefit Act of 1991.

This bill addresses a crisis in health care in America's coalfields. Rising costs and a dwindling contribution base threaten the financial future of the health benefit trust funds for retired coal miners.

This legislation is vital to the health care, the well-being, the survival of thousands of elderly people. It is vital to the honoring of industry and national commitments to decency for those who have given so much of themselves for the country.

In general, the bill follows the recommendations of the Secretary of Labor's Coal Commission on ways to address the financial problems of the trust funds that provide health benefits for retired coal miners.

Before I get into legal and other technicalities, I want to make clear that the principle at stake here is actually quite simple: keeping commitments. We are talking about thousands of elderly, retired miners who spent their lives laboring to carve coal out of the Earth to create energy and comfort for the rest of the Nation. We are talking about their widows. We are talking about their dependents. As the Secretary of Labor's Coal Commission said, we have thousands of people, entitled to health benefits, and the commitment to those beneficiaries must be honored. The rest is drafting details.

There is a second simple principle that I hope will help guide us through this complex and potentially volatile issue. This problem is going to be resolved, and it will be much better for all concerned if it is resolved by building a consensus among reasonable people, rather than through an adversarial approach. This is a situation that requires the best from everyone. The stakes are too high for anything else.

The bill that I am introducing reflects a remarkable consensus negotiated between labor and management, the United Mine Workers of America and the Bituminous Coal Operators Association. The bill also reflects modifications to address the concerns of other industry participants. Nevertheless, this is a very complex subject and the circumstances very across the country and throughout the industry in many ways. I therefore welcome further suggestions from all concerned, and I look forward to working with all parties to assure that legislation to resolve this problem will reflect the broadest possible consensus.

Over a generation ago, this issue was part of a dispute that paralyzed the coal industry and might have paralyzed the country. It triggered an extraordinary Government seizure of the mines and pulled President Truman into the negotiations in the Oval Office.

That chain of events led to establishment of the trust funds providing health benefits for retirees and to commitments to the retirees which were reinforced over decades. As the Coal Commission report says, the health benefits were part of a deal that permitted mechanization of the mines. Even though they knew mechanization would drastically reduce jobs, the miners considered secure benefits to be worth it.

And for a while, the deal worked. The report of Admiral Boone regarding health conditions in the coal fields called those conditions a disgrace. But the new health program transformed those conditions into a model for the industrial world—an achievement of which all Americans can and should be proud.

Now, of course, financial difficulties have arisen in the UMWA health funds. It has been implied by some that we can no longer meet high standards—American standards—that we must turn back the clock.

But that would return us to old ways that were bad for miners and bad for the country. Those who would undermine basic standards of decent health care invite a return to a dark chapter in our labor relations and will serve to further America's industrial decline.

I believe that the vast majority of cloak industry leaders reject an approach that would turn the clock back. Certainly the Secretary of Labor's Coal Commission rejected that approach. I commend the Commission for that and I commend the administration for its role in establishing the Commission.

I understand that many who agree there is a problem disagree over who should be responsible for solving it. I simply suggest to you that this problem affects the entire industry and in fact the entire country. There is an industry interest, there is a national interest, in resolving this problem and keeping the commitment to tens of thousands of retired miners and their families.

One of those tens of thousands of beneficiaries, from the small town of Cinderella in my own State of West Virginia, came to testify on this subject in September before my subcommittee. Her name is Dixie Woolum. Ms. Woolum lives not far from the city of Williamson, WV—a town which is known by its motto—the heart of the billion-dollar coal field.

That motto is a good symbol of the riches for the coal industry and for all America brought out of the earth by people like Dixie's late husband, Jimmy Woolum, with the support of their families. And don't think for a moment that America could have the greatest coal industry in the world without the support of those families for the miners down below.

But all riches, and especially those symbolized by the motto "heart of the billion-dollar coal field," have a price. The price of coal is backbreaking labor under conditions in which few of us would wish to work. The price is disease, and danger, and not infrequently, accident and sudden, violent injury, and death.

They paid the price. Jimmy and his family and many thousands paid the price. They paid it because they come from an America that still exists in places like Cinderella, WV—an America of hard work, of deeply held values, of faith and of trust. An America where people make promises to each other. An America that believes that promises should be kept.

The promise made was a great achievement. Even advances in technology could not remove the cloud of disease and the threat of accident and injury from coal mining. But a civilized Nation through its Government and the past statesmanship of industry and labor made promises to lessen the pain. They made commitments so that in return for the sweat and blood of miners, the pain and the price of the riches in places like the billion-dollar coal field would be mitigated.

Now the pact that underlies the past achievement is in jeopardy and Dixie Woolum came to the Senate to help tell America what was threatened, what our challenge is, and why Congress must not fail to meet it. She spoke for tens of thousands of elderly and often infirm people who long ago earned the health benefits at issue by firing the furnaces of American industry in war and in peace. The industry and national commitments to health care for these miners and their families must be kept.

HISTORY AND SUMMARY OF THE BILL

Mr. President, for the benefit of our colleagues let me summarize what the Coal Industry Retiree Health Benefit Act of 1991 does.

It is important to understand that the crux of the financial crisis in these benefit trust funds is that a dwindling number of contributors are paying rising costs for a group of beneficiaries comprised largely of people who are not retirees of those contributing companies.

Under successive agreements between the United Mine Workers of America [UMWA] and the Bituminous Coal Operators Association [BCOA] which can be traced to a 1946 agreement between the UMWA and the United States when the Government seized the mines, multiemployer trust funds were established to provide pension and health care benefits to retired coal miners. The 1950 pension trust and the 1950 benefit trust provide benefits to miners who retired prior to 1976. Over 50 percent of the beneficiaries are orphans whose companies no longer exist or contribute to the funds. The 1974 benefit trust provides health benefits to miners who retired since 1976 and all of these retirees are orphans. These multiemployer trust funds are financed by contributions from companies who are signatories to national bituminous coal wage agreements. There are currently approximately 120,000 beneficiaries covered by the two health benefit funds. Beneficiaries live in 48 States and the District of Columbia.

The 1950 pension trust is currently overfunded. However, the 1950 Benefit Trust was in deficit by approximately $80 million in June 1991 and the deficit could reach over $100 million in January 1992. The 1974 benefit trust was in deficit by approximately $10 million in June 1991 and the deficit could reach about $20 million by January 1992.

In March 1990 then Secretary of Labor Elizabeth Dole appointed former Labor Secretary William J. Usery, Jr., to chair the Coal Commission, charged with recommending long-term solutions for a financial crisis facing retiree coal miners' health care funds. Secretary Dole said, "During the negotiations of the Pittston-UMWA labor dispute it became clear to all parties involved that the issue of health care benefits for retirees affects the entire industry. Although the Pittston dispute was successfully negotiated, a comprehensive, industrywide solution is desperately needed." The Dole Commission submitted its report in November 1990.

The Dole Commission observed that the UMWA benefit funds are unique, having been created in the White House in a contract between the Federal Government and the UMWA. * * * Unfortunately, the combination of skyrocketing health care costs, an increasing number of retirees who have been abandoned by their employers, and a smaller percentage of coal producers making contributions have created a financial crisis. The Commission found that by 1993, the funds will have an estimated deficit of $300 million, much of that attributable to orphan retirees whose companies are out of business or have ceased to pay for health benefits.

The Commission observed that health benefits are an emotional subject in the coal industry, not only because coal miners have been promised and guaranteed health care benefits for life, but also because coal miners in their labor contracts have traded lower pensions over the years for better health care benefits. The current national bituminous coal wage agreement will end on February 1, 1993.

The Dole Commission said it firmly believes that the retired miners are entitled to the health care benefits that were promised and guaranteed them and that such commitments must be honored. To implement this conclusion, the Coal Industry Retiree Health Benefit Act of 1991 follows a number of options suggested by the Commission.

Two new entities are created by the bill to replace the 1950 and 1974 health funds referred to previously. The new entities are a Government entity called the Coal Industry Retiree Health Benefit Corporation and the 1991 Benefit Fund. Sixty percent of the current beneficiaries are orphans whose former employers are, in general, out of business. These would be covered by the corporation. So would the 15 percent whose former employers are still in business but who generally ceased contributing to the funds when the companies ceased to be signatories of the union contract. The remaining 25 percent are retirees of employers who are still signatories of the union contract and those retirees would, in general, be taken care of by the 1991 fund.

Employers would pay a per beneficiary premium to finance the health benefits under the 1991 fund. In other words, the 1991 fund would be financed on a pro rata basis, with the responsibility of each employer proportionate to the number of its former employees who are beneficiaries covered by the fund. The same would be true for the new health benefit corporation with respect to those beneficiaries whose companies are still in business. However, since the majority of those covered by the corporation are former employees of companies no longer in business, the financing for those orphans would come from an industrywide hourly fee on all coal production.

In addition, the bill provides that excess assets from the UMWA 1950 pension fund would be used to help retire the current deficits of the health funds and to provide initial funding for the two new entities. Finally, the bill provides for state-of-the-art managed care techniques to improve quality of care and reduce costs.

There are several points about the bill that I wish to highlight. Some critics of the Coal Commission recommendations suggest that the UMWA and the BCOA are somehow responsible for the funding crisis. But that is not what the Commission found. The Commission indicated that the dwindling number of contributors and the dumping of retirees by departing companies, coupled with rising costs of care for people who are not retirees of the remaining companies are the source of the problem. Moreover, the bill is designed to apportion the expenses for retirees of existing former employers according to responsibility. It ensures that such employers contribute in proportion to the number of their retirees in the funds. In addition the UMWA and BCOA will contribute surplus from the pension fund to help retire the current deficit.

The funding mechanisms under the bill are straightforward. Former signatories who ceased to pay are required to pay because of their obligation for the retirees who once worked for them who are covered by the funds. In a 1989 editorial, Business Week suggested that the promises of such companies are a moral obligation that should be honored. Our legislation would ensure that this obligation is embodied in law.

The funding of benefits for orphans whose employers no longer exist is by an industrywide fee. Some people ask how the Coal Commission could have suggested an option with a fee on companies that were not party to the UMWA–BCOA funds agreements. The answer is that the orphan retirees are an industry problem and therefore the industry as a whole, not the general taxpayer, would pay. The orphan miners are not retirees from the companies now paying for them. Benefit costs are rising and the base of contributors is dwindling as companies have left the agreements supporting the funds. The BCOA members will pay for their own retirees but feel that paying for their competitors' retirees is increasingly intolerable. The result is that when the current UMWA–BCOA contract expires, tens of thousands of retirees across the country face the prospect of losing health benefits.

Just as the entire industry pays for abandoned minelands, it seemed to the Coal Commission that the whole industry should pay for abandoned people. Moreover, the entire industry has benefited from the UMWA health funds. In return for commitments on health care, the entire industry was able to mechanize the mines without opposition from miners. Also, the UMWA health program produced funding of health care infrastructure that benefited employers and employees throughout the industry.

Mr. President, this is a difficult and complex issue. I do not suggest that the bill I introduce today is beyond improvement. On the contrary, I welcome all suggestions and there may be special situations in the industry that we were not aware of that should be addressed. If with respect to some part of the bill, someone thinks they have a better idea, I would like to hear it. I will study any and all suggestions that promise to solve the problem. But what I hope not to hear is the argument that this cannot be done, that it is too difficult, that we cannot maintain the decent health care for retired coal miners that has been an example for the industrial world.

Understandably, the Nation at large and the Congress do not know too much about coal. That is understandable because since the passing of the days of the home coal furnace, for most Americans coal is out of sight. Yet coal miners are still vital to our energy security, as more than half the electricity in the Nation today comes from coal-fired utilities. Generations of coal miners among the retirees we speak of today helped create the comfort and strength of America.

We are faced with a very tough challenge. But I put my faith in the good sense and fairness of the American people. When presented with the case for these retired coal miners and their families, I believe the American people will agree that the commitments to these miners must be kept.

I ask unanimous consent that the full text of the Coal Industry Retiree Health Benefit Act of 1991 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1989

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coal Industry Retiree Health Benefit Act of 1991".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) coal provides a significant portion of the energy used in the United States;

(2) the production, transportation and use of coal effects interstate and foreign commerce and the national public interest;

(3) a significant portion of the national work force has been employed in the production of coal for interstate and foreign commerce and in the national interest;

(4) the Government of the United States has regulated the coal industry, employment in the industry, and the provision or retirement benefits within the industry;

(5) the continued well-being and security of employees, retirees and their dependents within the coal industry are directly affected by the provision of health benefits to retirees and their dependents;

(6) for many decades, the provision of adequate health care for retirees has been an essential element in maintaining a stable and strong coal industry as an important component in a strong United States economy;

(7) an important element in the privately maintained benefit plans now experiencing financial difficulty has been the provision of health benefits for retirees of companies no longer in business; and

(8) withdrawals of contributing employees from privately maintained benefit plans under collective bargaining agreements derived from an agreement with the United States, covering retirees within the coal industry, result in substantially increased funding burdens for employees that continue to contribute to such plans, adversely affect labor-management relations and the stability and strength of the coal industry, and impair the provision of health care to retirees.

(b) ADDITIONAL FINDINGS.—The Congress further finds that—

(1) it is necessary to modify and reform the current private benefit plan structure for retirees within the coal industry in order to stabilize the provision of health care benefits to such retirees; and

(2) it is necessary to supplement the current private benefit plan structure with a benefit protection program that will secure continued funding and contain program costs.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this Act—

(1) to remedy problems that discourage the provision, funding, and delivery of health care to coal industry retirees;

(2) to provide reasonable protection for the health benefits of coal industry retirees;

(3) to require use of state-of-the-art cost containment and managed care measures as part of the overall package of health care delivery and financing; and

(4) to provide a financially self-sufficient program for the provision of retiree health benefits in the coal industry.

SEC. 3. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. Coal Industry Health Benefits.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A. Coal Industry Retiree Health Benefit Corporation.
"SUBCHAPTER B. Eligibility for and payment of benefits.
"SUBCHAPTER C. Other provisions.

"Subchapter A—Coal Industry Retiree Health Benefit Corporation

"Sec. 9701. Establishment of the Corporation.
"Sec. 9702. Directors of Corporation.
"Sec. 9703. Powers; tax status.
"Sec. 9704. Operation of Corporation.

"SEC. 9701. ESTABLISHMENT OF THE CORPORATION.

"There is hereby created the Coal Industry Retiree Health Benefit Corporation (hereafter in this chapter referred to as the 'Corporation'), which shall be a governmental body corporate under the direction of a board of directors. Within the limitations of law and regulation, the board of directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

"SEC. 9702. DIRECTORS OF CORPORATION.

"(a) APPOINTMENT.—The board of directors of the Corporation shall consist of 5 persons, who shall be appointed by the Secretary of Labor. The board shall at all times have the following as members:

"(1) 2 persons from employers in the coal-mining industry (only 1 of whom shall be from an entity that is or was a settlor of a plan described in section 404(c));

"(2) 1 person from an organization that represents coal industry employees (and that is or was a settlor of a plan described in section 404(c));

"(3) 1 person from another labor organization representing employees (whether or not in the coal industry); and

"(4) 1 other person who shall serve as the chairman.

"(b) TERMS OF OFFICE; SUCCESSORS.—Each director shall be appointed for a term of 3 years, except for the initial term. The initial terms of the directors shall be as follows::

"Coal industry employee representative (section 404(c) settlor)	4 years
Coal-mining industry employer (section 404(c) settlor)	3 years
Other employee representative	3 years
Other coal-mining industry employer	2 years
Chairman	1 year.

A vacancy on the board shall be filled in the same manner as the original appointment was made. Any director appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term. A director may serve after the expiration of a term until a successor has taken office.

"(c) QUORUMS.—Vacancies on the board shall not impair the powers of the board to execute the functions of the Corporation so long as there are 3 members in office. The presence of 3 members shall constitute a quorum for the transaction of the business of the board.

"(d) INDEPENDENT AUDIT.—The Corporation shall annually employ an independent certified or licensed public accountant who shall examine and audit the books and financial transactions of the Corporation. The Corporation shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this chapter.

"(e) ADOPTION OF BYLAWS; AMENDMENT; ALTERATION; PUBLICATION IN THE FEDERAL REGISTER.—As soon as practicable, but not later than 180 days after the date of the enactment of this chapter, the board shall adopt initial bylaws and rules relating to the conduct of the business of the Corporation. Thereafter, the board may alter, supplement or repeal any existing bylaw or rule, and may adopt additional bylaws and rules from time to time as may be necessary. Any bylaw or rule relating to the conduct or business of the Corporation shall be adopted in compliance with the Administrative Procedure Act, including the notice and comment provisions thereof.

"SEC. 9703. POWERS; TAX STATUS.

"(a) POWERS OF CORPORATION.—The Corporation shall have power—

"(1) to adopt, alter, and use a corporate seal;

"(2) to have succession until dissolved by Act of Congress;

"(3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter;

"(4) to make and perform contracts, agreements, and commitments;

"(5) to prescribe and impose fees and charges for services by the Corporation;

"(6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation, to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation;

"(7) to sue and be sued, complain and defend, in any State, Federal, or other court;

"(8) to acquire, take, hold, and own, and to deal with and dispose of any property;

"(9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and to appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents;

"(10) to borrow funds from the United States Treasury for startup and operating costs;

"(11) to collect delinquent accounts; and

"(12) to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this chapter.

"(b) EXEMPTION FROM TAXATION.—The Corporation, its property, its franchise, capital, reserves, surplus, and its income (including but not limited to, any income of any fund established under section 9704(f)), shall be exempt form all taxation now or hereafter imposed by the United States (other than taxes imposed under chapter 21, relating to the Federal Insurance Contributions Act and chapter 23, relating to the Federal Unemployment Tax Act) or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the Corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.

"(c) CORPORATION AS AGENCY.—Notwithstanding section 1349 of title 28 or any other provision of law—

"(1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28;

"(2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and

"(3) Any civil or other action, case or controversy in a court of a State, or any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation to the United States district court for the district and division embracing the place where the same is pending, or if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

"(d) EXEMPTION FROM BUDGET LIMITATIONS; UNITED STATES NOT LIABLE.—The receipts and disbursements of the Corporation shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitations imposed by statute, concurrent resolution, or other budgetary mechanism of the United States. The United States is not liable for any obligation or liability incurred by the Corporation.

"(e) REPORT TO CONGRESS.—No later than 5 years after the effective date of this chapter, the Corporation shall present a report to Congress on its activities, including an evaluation of the effectiveness of the Corporation in achieving its goals, and recommending any changes to this chapter as it considers beneficial. At such time, Congress shall review the activities and operations of the Corporation.

SEC. 9704. OPERATION OF CORPORATION.

"(a) INVESTIGATORY AUTHORITY.—

"(1) The Corporation may make such investigations as it deems necessary to enforce any provision of this chapter or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Corporation shall determine, as to all the facts and circumstances concerning the matter to be investigated.

"(2) The Corporation shall keep strictly confidential all information received relating to—

"(A) trade secrets or financial or commercial information pertaining specifically to a given person, the disclosure of which could cause competitive injury to such person, or

"(B) personnel or medical data or similar data, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,

unless the portions containing such matters, information, or data have been excised, but may use such information to the extent necessary to enforce the premium obligation imposed under subsection (g).

"(b) Discovery Powers Vested in Board or Designated Officers.—For the purpose of any investigation described in subsection (a), or any other proceeding under this chapter, the board or any officer designated by the board, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records which the Corporation deems relevant or material to the inquiry.

"(c) Contempt.—In case of contumacy by, or refusal to obey, a subpoena issued to any person, the Corporation may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on (or where such person resides or carries on business) in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records. The court may issue an order requiring such person to appear before the Corporation, and to produce records or to give testimony related to the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district in which such person is an inhabitant or may be found.

"(d) Cooperation With Governmental Agencies.—In order to avoid unnecessary expense and duplication of functions among government agencies, the Corporation may make such arrangements or agreements for cooperation or mutual assistance in the performance of its functions under this chapter as is practicable and consistent with law. The Corporation may utilize the facilities or services of any department agency or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency or establishment. The head of each department, agency or establishment of the United States shall cooperate with the Corporation and, to the extent permitted by law, provide such information and facilities as it may request for its assistance in the performance of its functions under this chapter.

"(e) Civil Actions.—

"(1) Civil actions may be brought by the Corporation for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(2) Except as otherwise provided in this chapter, if an action is brought in a district court of the United States, it may be brought in the district where the Corporation is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(3) The district courts of the United States shall have jurisdiction of actions brought by the Corporation under this chapter without regard to the amount in controversy in any such action.

"(4)(A) An action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose; or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B) The applicable date specified in this subparagraph is the earliest date on which the Corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(C) For purposes of this paragraph, in an action by the Corporation to collect premiums due under this chapter, the cause of action shall be treated as having arisen no earlier than the date on which the premium was due.

"(5) In any action brought under this chapter, whether to collect premiums, penalties (in the amount determined by the Corporation, which shall be no greater than the greater of interest on the unpaid premium or 20 percent of the amount of the unpaid premium), or interest (at the rate determined by the Corporation) or for any other purpose, in which a judgment in favor of the Corporation is awarded, the court shall award the Corporation its costs and reasonable counsel fees.

"(f) Establishment of Coal Industry Retiree Benefit Fund.—

"(1) The Corporation shall establish a Coal Industry Retiree Benefit Fund (hereafter in this chapter referred to as the 'Fund'). All amounts received by the Corporation shall be deposited in the Fund, and all expenditures made by the Corporation shall be made out of the Fund.

"(2) Except as otherwise provided in this chapter, the balance of the Fund shall at any time consist of the aggregate at such time of the following items:

"(A) Cash on hand or on deposit.

"(B) Amounts invested in United States Government or agency securities.

"(g) Imposition of Premium Payment Obligation.—

"(1)(A) There is hereby imposed on each person that produces coal for use or for sale the obligation to pay to the corporation an hourly premium equal to 75 cents on each hour worked in coal production work by such person's employees.

"(B)(i) There is hereby imposed on coal imported to the United States, for use or for sale, a per-ton premium obligation to be paid to the Corporation. Such premium is intended to be equivalent to the premium imposed on domestically produced coal.

"(ii) The amount of the per-ton premium shall be the tonnage equivalent of the hourly premium imposed pursuant to subparagraph (A). The initial amount of the per-ton premium shall be 15 cents per ton of coal imported to the United States for use or sale.

"(iii) For purposes of this subparagraph, the 'tonnage equivalent' shall mean a premium rate assessed upon each ton of coal imported to the United States that is equivalent to the hourly premium, based upon typical productivity as determined under rules established by the Corporation. Prior to the establishment of such rules, the tonnage equivalent to the hourly premium shall be ⅕ the amount of that hourly premium.

"(iv) In the event an importer of coal has reason to believe that the amount of the tonnage equivalent determined pursuant to the preceding clauses does not accurately reflect the actual productivity involved in producing coal, such importer may provide evidence to the Corporation demonstrating such inaccuracies. The Corporation shall reevaluate the tonnage equivalent premium amount for the complaining importer, and shall take such evidence into account.

"(v) For purposes of this subparagraph, the term 'ton' means 2,000 pounds, and the term 'United States' means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

"(C)(i) In addition to the amounts specified in subparagraphs (A) and (B), each last signatory operator and each other employer referred to in this subparagraph shall pay to the Corporation an annual per beneficiary premium. The amount of the annual per beneficiary premium shall be the product of the total number of orphan miners, spouses, surviving spouses, and dependents (determined under section 9711) attributable to such last signatory operator or employer and the per beneficiary premium as calculated in clause (iii).

"(ii) For purposes of this subparagraph, an orphan miner (and his spouse, surviving spouse and dependents) shall be attributable—

"(I) to an employer if his employment with such employer resulted in his eligibility under section 9711(b)(1)(E); or

"(II) to a last signatory operator meeting the conditions described in section 9723(6) with respect to such orphan miner.

"(iii)(I) The Corporation shall establish the amount of the per beneficiary premium each year, which shall be equal to the quotient of the projected cost of operating the Corporation during the succeeding year divided by the total number of orphan miners, spouses, surviving spouses, and dependents receiving benefits during the current year. In projecting the cost of operating the Corporation, the anticipated benefit experience and administrative expenses as a whole, and amounts needed to eliminate any accumulated deficit, shall be taken into account.

"(II) The Corporation shall have the power to adjust the amount of the annual per beneficiary premium where necessary to take into account unanticipated changes in the cost of operating the Corporation, unanticipated changes in the number of orphan miners, spouses, surviving spouses, and dependents attributable to the last signatory operator or employer, or both.

"(III) As of the date any per beneficiary premium obligation is due under this subparagraph, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator or employer shall be treated as such last signatory operator or employer, and shall be jointly and severally liable for such obligation.

"(iv) A last signatory operator shall have no liability under this subparagraph if—

"(I) as of November 5, 1990, and for all periods thereafter, such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the mining, production, preparation, marketing, sale, distribution, transportation, leasing or licensing of coal; and

"(II) such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, were, in the aggregate, involved in the production of fewer than 50,000 tons of coal during each of the 3 years immediately preceding the cessation of such involvement. The limitation of liability set forth in the preceding sentence shall cease to apply at any time that a last signatory operator, or any persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, ceases to meet the conditions described in subclause (I).

"(v) The annual per beneficiary premium shall be payable in equal monthly installments, due by the tenth day of each month. In no event shall a last signatory operator be obligated to pay a per beneficiary premium for an individual for any month for which the last signatory operator has paid its required assessment for such individual under section 9713(d).

"(2)(A) In the event that a person required to make payments under paragraph (1) fails to do so, the Corporation shall assess liability against the person, based upon the Corporation's estimate of the person's liability.

"(B) No later than 90 days after the assessment of liability by the Corporation, the person may request administrative review of the Corporation's assessment, in accordance with procedures adopted by the Corporation.

"(C) Notwithstanding the pendency of administrative review of any assessment of liability, the person shall, no later than 30 days after the assessment of such liability, pay all amounts required by the assessment in accordance with any payment schedule applied by the Corporation. In the event a person fails to make such payments, all amounts owed by the person shall become immediately due and payable.

"(D) In the event the person that has made payments in accordance with subparagraph (C) is ultimately determined, in accordance with subparagraph (B), to have paid in excess of the amounts actually due, the person shall receive a refund of such excess amounts, with interest.

"(3) The Corporation shall have the power to adjust the amount of the premiums imposed under subparagraphs (A) and (B) of paragraph (1) where necessary to enable the provision of benefits under section 9712.

"(4) Premiums owed under subparagraphs (A) and (B) of paragraph (1) shall be due on the tenth day of each calendar month immediately following the month in which the coal is produced or imported, and shall be paid to the Corporation in accordance with forms and schedules promulgated by the Corporation.

"(5) The premium obligation imposed under this section shall take effect on January 1, 1992. Premiums paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"Subchapter B—Eligibility for and Payment of Benefits

"Sec. 9711. Eligibility; orphan miners.
"Sec. 9712. Payments of benefits.
"Sec. 9713. Establishment of Coal Industry 1991 Benefit Fund.
"Sec. 9714. Obligation of last signatory operator to provide benefits to retirees.
"Sec. 9715. Transition benefits; premium nonpayment; transfers between 1991 Fund and Corporation.

"SEC. 9711. ELIGIBILITY; ORPHAN MINERS.

"(a) IN GENERAL.—Any person who is an orphan miner, as defined in subsection (b), or who meets the conditions set forth in subsection (c), shall be eligible to receive benefits provided by the Corporation pursuant to section 9712, except that no person shall be eligible to receive benefits from the Corporation because of a failure to receive benefits resulting from a temporary labor dispute.

"(b) ORPHAN MINER STATUS.—For purposes of this section—

"(1) An orphan miner is any person who—

"(A)(i) as of the date of enactment of this chapter, was eligible to receive benefits as a retiree from a plan described in section 9721(d) (or, but for the enactment of this chapter, would be eligible to receive benefits as a retiree from the plan described in section 9721(d)(2)(A)), and

"(ii) is not receiving benefits as a retiree from a plan described in section 9721(d) or from the plan established pursuant to section 9713;

"(B) is not described in subparagraph (A), but was eligible to receive benefits as a retiree from the plan established pursuant to section 9713 and is not receiving benefits from such plan;

"(C)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c)),

"(ii) but for the enactment of this chapter, would be eligible to receive medical benefits as a retiree as of February 1, 1993, from the plan described in section 9721(d)(2)(B), and

"(iii) is not receiving medical benefits as a retiree from the plan described in section 9721(d)(2)(B) or from any other plan;

"(D)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c));

"(ii) as of February 1, 1993, had earned 20 years of credit service under such plan;

"(iii) is at any time after beginning to receive such pension not receiving retiree medical benefits equal to the benefits in effect at that time under the plans described in section 9712(b)(3); and

"(iv) meets the eligibility requirements for retiree medical benefits then in effect under such plans; or

"(E)(i) was eligible as a result of coal production work performed in the bituminous, sub-bituminous or lignite coal industry to receive retiree medical benefits from a health care plan that met the requirements of subparagraphs (D) and (E) of paragraph (2);

"(ii) initially ceased to receive retiree medical benefits on or after the date of enactment of this chapter, despite continued eligibility therefore;

"(iii) had been receiving such benefits from a plan that had been in existence for at least 3 years prior to the cessation of benefits; and

"(iv) was included in a category of retirees that had been eligible to receive benefits for at least 3 years prior to the cessation of benefits.

"(2) For purposes of paragraph (1)(E), the following rules shall apply:

"(A) Eligibility is continuing where benefits ceased incident to an employer's cessation of operations, but is not continuing where benefits ceased pursuant to a lawful termination or modification of a plan (under circumstances other than a cessation of operations).

"(B) In the case of any individual who has 20 years of credited service under a defined benefit pension plan maintained pursuant to the agreement described in section 9723(7), or who was otherwise eligible to receive retiree medical benefits from a single employer health care plan pursuant to a coal wage agreement, all health care plans in which such individual was a participant during a period of such credited service or during such period of eligibility shall be taken into account in determining whether the 3-year tests have been met.

"(C) In the case of an employer that established a new health care plan as a replacement for a prior plan, such prior plan shall be taken into account in determining whether the 3-year tests have been met.

"(D) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of the plan to the Corporation within 180 days from the later of—

"(i) the date of establishment of the plan; or

"(ii) the date of enactment of this chapter.

"(E) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of any amendment or modification to the plan to the Corporation within 180 days from the later of—

"(i) the date of such amendment or modification; or

"(ii) the date of enactment of this chapter.

"(c) ELIGIBILITY OF SPOUSES AND DEPENDENTS.—

"(1) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual was eligible to receive benefits from a plan described in section 9721(d) as of the date of enactment of this chapter, and is not receiving benefits from that plan or from the plan established pursuant to section 9713.

"(2) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual is not described in paragraph (1), but was eligible to receive benefits from the plan established pursuant to section 9713 and is not receiving benefits from such plan.

"(3) In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(A) or (b)(1)(C) of this section, eligibility shall be based upon the rules set forth in the plans described in section 9721(d) as of the date of enactment of this chapter. In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(D), eligibility shall be based upon the rules set forth in individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation. In all other cases, eligibility shall be based upon the rules of the plan that was or would have been applicable to the orphan miner or deceased coal miner for the 3-year period preceding eligiblility for benefits from the Corporation. The Corporation is authorized to promulgate regulations consistent with this paragraph establishing the eligibility of other spouses, surviving spouses and dependents of orphan miners of deceased coal miners for health benefits.

"(d) REENROLLMENT OF ORPHAN MINERS AND BENEFICIARIES.—The Corporation and the joint board of trustees of the plan established pursuant to section 9713 shall cooperate to review the eligibility of individuals under this section. Pending such review, any individual receiving benefits from a plan described in section 9721(d) as of the date of enactment of this chapter shall be presumed to meet the first part of the eligibility tests of subsections (b)(1)(A) and (c)(1). However, no individual shall be considered eligible to receive benefits provided by the Corporation unless a determination is made that such individual in fact met or meets all eligibility requirements necessary to receive benefits as required under subsection (b) or (c). No individual shall be eligible under subsection (b)(1)(A) or (c)(1) if such individual was finally determined to be ineligible to receive benefits for a plan described in section 9721(d) prior to the date of enactment of this chapter.

"SEC. 9712. PAYMENT OF BENEFITS.

"(a) IN GENERAL.—The Corporation shall provide medical benefits to orphan miners, their spouses, surviving spouses and dependents, who meet the eligiblity requirements of section 9711, and shall provide coverage for death benefits to orphan miners eligible for such benefits. The board shall establish schedules of benefits applicable to classes of orphan miners, their spouses, surviving spouses and dependents, in accordance with this section. All benefit obligations of the Corporation shall be contingent on the continued imposition of an hourly premium payment obligation as specified in section 9704(g)(1)(A).

"(b) BENEFIT LEVELS.—

"(1) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(A) or 9711(b)(1)(C) shall be entitled to benefit coverage that is substantially the same as (but not exceeding) the coverage provided by the plans described in section 9721(d) as of the date of enactment of this chapter, and shall be subject to all limitations of such coverage. Such orphan miner shall also be eligible for death benefits, which shall be equal to the death benefits provided as of the date of enactment of this chapter under the plan described in section 9721(c).

"(2) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(B) or 9711(b)(1)(E) shall be entitled to a level of benefits and benefit coverage that is substantially the same as (but not exceeding) the retiree benefit coverage applicable to him immediately preceding his eligibility for benefits from the Corporation, and shall be subject to all limitations of such coverage. Notwithstanding the foregoing, the following rules shall apply:

"(A) The level of benefits and benefit coverage provided under this paragraph shall not exceed that which is provided under paragraph (1) of this subsection.

"(B) In determining the retiree benefit coverage applicable to an orphan miner for purposes of this paragraph, the Corporation shall disregard any increases or decreases in benefits or benefit coverage that were in effect for fewer than 3 years preceding the orphan miner's eligibility for benefits from the Corporation, except that—

"(i) any death benefit applicable to an orphan miner as a result of 1991 amendments to the agreement described in section 9723(7) shall not be disregarded; and

"(ii) increases or decreases in benefits or benefit coverage that were the subject of a collective bargaining agreement shall not be disregarded.

"(3) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(D) shall be entitled to a level of benefits and benefit coverage equivalent to the level of benefits and benefit coverage, if any, provided under individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation, and shall be subject to all limitations of such coverage.

"(4) An individual eligible for benefits pursuant to section 9711(c) shall be entitled to medical benefit coverage that does not exceed the medical benefit coverage that is or would have been applicable to the coal miner through whom the individual claims eligibility, and the individual shall be subject to all limitations of such coverage.

"(5) The Corporation may make increases to its schedules of benefits that are desirable for efficiency of administration, except that such adjustments to benefits may not result in an increase in cost to the Corporation or an increase in any premium under section 9704(g).

"(6) Notwithstanding any other provision of law, to the extent a participant or beneficiary who is eligible for benefits from the Corporation is also eligible for benefits under title XVIII or XIX of the Social Security Act, or under any other plan maintained by the State or the Federal Government or any agency or subdivision thereof, or pursuant to any State or Federal law in existence on the date of enactment of this chapter or thereafter enacted, benefits under such title or under such other plan shall be considered to be primary to benefits provided by the Corporation, and shall be provided without regard to any benefits provided by the Corporation. In such case, the benefits provided by the Corporation shall be reduced so that the total benefits paid from all sources shall not exceed the total allowable expense for the covered good or service.

"(c) MANDATORY MANAGED CARE.—The Corporation shall develop managed care rules which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules shall include, but not be limited to—

"(1) implementing formulary for drugs and subjecting the prescription program to a regorous review of appropriate use;

"(2) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(3) limiting benefit payment to physicians to the medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(4) utilizing medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(5) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(6) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(7) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) EFFECTIVE DATE.—Benefits shall be payable under this section as of January 1, 1992. Pursuant to section 9715, the Corporation shall pay the trustees of the plans described in section 9721(d) and the plan established pursuant to section 9713 for all benefit and administrative costs expended with respect to eligible orphan miners, spouses, surviving spouses and dependents, from the effective date to the date that such individuals are transferred to the Corporation.

"(e) ELECTIVE COVERAGE.—

"(1) An employer may elect to provide retirement health coverage to its employees by meeting the following conditions:

"(A) The employer must employ workers in the coal industry.

"(B) The employer agrees to pay an annual premium, as determined by the Corporation, sufficient to provide retirement health coverage to all of its employees who perform classified work as determined under the agreement described in section 9723(7), or any successor agreement, who have worked a total of 20 years, including both service with that employer, service for any other employer described in this subsection, and service for any other employer that is credited for purposes of eligibility by a plan described in section 404(c).

"(C) The employer is not currently obligated by a collective bargaining agreement to make contributions to the plan established pursuant to section 9713.

"(D) The employer's election, once made, is irrevocable.

"(2) Upon the retirement of an employee of an employer described in paragraph (1), with 20 or more years of service, upon such terms and conditions as established by the Corporation, such employee and his or her dependents shall receive benefits, upon such terms and conditions as determined by the Corporation.

"SEC. 9713. ESTABLISHMENT OF UNITED MINE WORKERS OF AMERICA 1991 BENEFIT FUND.

"(a) MERGER OF RETIREE BENEFIT PLANS.—

"(1) As soon as practicable after the enactment of this chapter, and in no event later than 60 days, the settlors of the plans described in section 9721(d) shall cause such plans to be merged, and shall appoint a joint board of trustees to manage the operation and administration of the merged plan. The merged plan shall be known as the United Mine Workers of America 1991 Benefit Fund (hereinafter referred to as the '1991 Fund'). The 1991 Fund shall be an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) and a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(2) The settlors shall design the structure and administration of the 1991 Fund. The settlors may at any time and for any reason change the number and identity of the members comprising the board of trustees of the 1991 Fund.

"(b) ELIGIBILITY.—

"(1) The following individuals shall be eligible to receive benefits from the 1991 Fund:

"(A) Any individual who, as of the date of enactment of this chapter, was eligible to receive benefits from the plan described in section 9721(d)(2)(A) (or who, but for the enactment of this chapter, would be eligible for benefits from such plan), and with respect to whom the last signatory operator is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement.

"(B) Any individual who retired from classified employment under an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement, and any spouse, surviving spouse or dependent of such retiree, with respect to whom the last signatory operator makes an election prior to February 1, 1993, to pay premiums to the 1991 Fund for such benefits and is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement. Any election made pursuant to this subparagraph must cover, at a minimum, all of the last signatory operator's retirees who retired from classified employment as of February 1, 1993.

"(2) No individual shall be eligible under subparagraph (A) of paragraph (1) unless the joint board of trustees of the 1991 Fund determines that such individual in fact met all eligibility requirements of the plan described in section 9721(d)(2)(A) as of the date of enactment of this chapter. Any individual who was finally determined to have been ineligible for benefits from a plan described in section 9721(d)(2)(A) prior to such date of enactment shall be ineligible under subparagraph (A) of paragraph (1).

"(c) BENEFITS.—

"(1) Except as otherwise provided in this subsection, health care benefits provided under the 1991 Fund shall be identical to the benefits provided under the plans described in section 9721(d). The 1991 Fund shall provide coverage for death benefits to retirees, equal to the death benefits provided under the plan described in section 9721(c).

"(2) The joint board of trustees of the 1991 Fund shall develop managed care rules, subject to section 9714(b), which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. The board of trustees shall permit any last signatory operator subject to section 9714 to utilize the managed care and cost containment rules and programs developed pursuant to this paragraph, at the election of such last signatory operator. Major elements of such rules shall include, but not be limited to—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(C) limiting benefit payments to physicians to the medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(D) utilizing medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(G) utilizing a managed care network provider system as practices in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(3) Notwithstanding any other provision of law, to the extent a participant or beneficiary who is eligible for benefits from the 1991 Fund is also eligible for benefits under title XVIII or XIX of the Social Security Act, or under any other plan maintained by a State or the Federal Government or any agency or subdivision thereof, or pursuant to any State or Federal law in existence on the date of enactment of this chapter or thereafter enacted, benefits under such titles or under such other plan shall be considered to be primary to benefits provided by the 1991 Fund and shall be provided without regard to any benefits provided by the 1991 Fund. In such case, the benefits provided by the 1991 Fund shall be reduced so that the total benefits paid from all sources shall not exceed the total allowable expense for the covered good or service.

"(d) ASSESSMENTS.—

"(1) As of November 30 of each plan year, the joint board of trustees of the 1991 Fund shall set a monthly assessment for each person required to pay assessments pursuant to paragraph (2). The monthly assessment for each such person shall be equal to $1/12$ of the product of—

"(A) the projected cost of operating the 1991 Fund during the succeeding plan year (less any assets received from a plan described in section 9721(c) and any other surplus assets) divided by the number of participants and beneficiaries for the current plan year; and

"(B) the projected number of the 1991 Fund's eligible participants and beneficiaries attributable to such person, determined as of the nearest November 1.

In projecting the cost of operating the 1991 Fund, the board of trustees shall take into account the anticipated benefit experience and administrative expenses of the 1991 Fund as a whole, and amounts needed to eliminate any accumulated deficit. The monthly assessment determined under this paragraph shall be verified by an independent auditor, and shall continue in effect for each month of the succeeding plan year, except that the joint board of trustees shall determine a monthly assessment for any new contributor or other person for whom a monthly assessment has not been established, and a revised monthly assessment for any last signatory operator that makes the election described in subsection (b)(1)(B) and with respect to which new participants and beneficiaries become eligible for benefits. Any new monthly assessment or revised monthly assessment shall be based upon the number of projected participants and beneficiaries attributable to the contributor as of the date the new or revised assessment is made. Each person required to pay assessments pursuant to paragraph (2) shall continue to pay to the plans described in section 9721(d) the contributions required under the applicable coal wage agreement, until the first month for which the assessment described in this paragraph is set. In no event shall a person required to pay assessments pursuant to paragraph (2) be required to make any payment to the 1991 Fund for the same period for which a contribution to a plan described in section 9721(d) is required.

"(2) Each last signatory operator with respect to any person described in subsection (b)(1)(A), and each last signatory operator with respect to any person described in subsection (b)(1)(B) that has agreed to provide benefits coverage through the 1991 Fund, shall pay to the 1991 Fund for each month the assessment determined by the joint board of trustees pursuant to paragraph (1). The assessments paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(3) Either of the settlors shall have the right to audit the accounts, books and records, and operation of the 1991 Fund, at any time and for any reason, upon reasonable notice to the joint board of trustees. The joint board of trustees shall cooperate fully with the settlors in connection with any such audit and shall make available appropriate personnel and records deemed necessary by the auditors for inspection and copying at reasonable times and places.

"(4) Each last signatory operator obligated to pay assessments to the 1991 Fund pursuant to paragraph (2) shall be bound by all of the provisions of the plan and trust documents establishing and governing the 1991 Fund.

"(5) As of the date any assessment owed under this subsection is due, the persons described in section 9723(5) (B) or (C) with respect to any last signatory operator shall be treated as such last signatory operator and shall be jointly and severally liable for such assessment.

"(e) EXCLUSIVE OBLIGATION.—Except as provided in this chapter, no employer that was a signatory to the 1978 or any subsequent coal wage agreement and that had an obligation to provide health care benefits to coal mine retirees shall be obligated to provide benefits to individuals covered by the plans described in section 9721(d), or to make contributions to any plan described in section 9721(d), or to the 1991 Fund, with respect to work performed or coal mined after the date of enactment of this chapter, or to pay withdrawal liability to a plan described in section 9721(d) as a result of the change in the contribution obligation required by this chapter.

"SEC. 9714. OBLIGATION OF LAST SIGNATORY OPERATOR TO PROVIDE BENEFITS TO RETIREES.

"(a) DURATION OF OBLIGATION.—The last signatory operator of any individual receiving retiree health care benefits as of February 1, 1993 (including retiree, spouse, surviving spouse and dependent benefits) from an individual employer plan maintained pursuant to a coal wage agreement (or who has applied for such benefits as of February 1, 1993, and has met every eligibility requirement for such benefits as of such date) shall provide retiree health care benefits to such individual equal to the benefits required to be provided by such last signatory operator's individual employer plan as of January 1, 1992, as limited by any managed care or cost containment rules of the type described in sections 9712(c) and 9713(c)(2), and subject to subsection (b), for as long as the last signatory operator remains in business. The existence, level and duration of benefits provided to a last signatory operator's former employees (and their spouses, surviving spouses and dependents), other than those described in this subsection, who are or were covered by a coal wage agreement, shall only be as determined by and subject to collective bargaining or lawful unilateral action, except that this subsection shall not be construed to impair the eligibility of any individual described in section 9711(b)(1)(D) for the benefit coverage in section 9712(b)(3).

"(b) MANAGED CARE PROVIDER SYSTEM QUALITY CONTROL.—Any managed care provider system adopted by a last signatory operator as permitted under subsection (a), or by the joint board of trustees of the 1991 Fund, pursuant to section 9713(c)(2), shall be subject to the following requirements of this subsection:

"(1) The settlors shall establish a medical peer review panel, which shall determine standards of quality for managed care provider systems. Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending upon the nature of the medical need. Each settlor shall have the power to appoint and remove 2 individuals who shall serve on the panel. A panel member shall be either a medical practitioner knowledgeable in managed care, or an individual who is expert in managed care.

"(2) Each last signatory operator and the joint board of trustees of the 1991 Fund shall submit a description of any managed care provider system to the panel prior to implementation of the system, and shall, on the same date or prior to such submission, provide notice of the submission to the participants of the affected employee benefit plan or plans. The last signatory employer or the joint board of trustees may implement the proposed system on a provisional basis on or after the 120th day after the submission to the panel, unless the panel issues a preliminary determination that the system has not been shown to meet the requisite standards. The requirements of this paragraph shall not apply to a last signatory operator electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(3)(A) Upon receipt of a submission by a last signatory operator or by the joint board of trustees, the panel shall conduct a preliminary examination of the managed care provider system. In the event that the preliminary review reveals a failure to show compliance with established standards such that provisional implementation by a last signatory operator or by the joint board of trustees may be detrimental to participants subject to the system, the panel shall, within 120 days of the submission, issue a preliminary determination that the system has not been shown to meet the requisite standards.

"(B) Within 240 days from the date of any submission, the panel shall issue a final determination of whether the system has been shown to meet the established standards of quality. In the event of a negative determination, the panel shall list specific steps that may be taken by the list signatory operator or by the joint board of trustees to qualify the system under the established standards.

"(C) The first-named settlor in section 9723(8) shall have the authority to review submissions made under paragraph (2), and to designate the order in which such submissions shall be considered by the panel.

"(D) In the event that the members of the panel deadlock on a determination to be made under this paragraph, they shall, by majority vote, appoint a neutral person, who would be qualified to serve as a panel member, to break such deadlock.

"(4) In the event of a negative determination by the panel, the last signatory operator shall have the options described in subparagraph (A), (B) or (C), and the joint board of trustees shall have the options described in subparagraphs (A) and (B):

"(A) implementing the specific steps outlined by the panel pursuant to paragraph (3);

"(B) consistent with the requirements of this subsection, establishing a new managed care provider system that meets the requisite standards; or

"(C) electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(5) The panel shall develop rules for the periodic review of determinations made, except that reviews shall be no more frequent than once every 3 years; and for the reconsideration of any prior determination upon a showing that the managed care provider system does not or has ceased to meet the established standards. The panel may take into account written complaints received from affected participants and beneficiaries, but the authority of the panel shall be limited to determining the continued qualification of a managed care provider system under the established standards, and shall not extend to resolving claims of medical malpractice or any other issue.

"(6) The panel shall withhold from all persons not connected with the conduct of a reconsideration or review described in paragraph (5) (other than the first-named settlor in section 9723(8)) all information relating to the subject of any written complaint received by an affected participant or beneficiary; and may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such information. Notwithstanding the foregoing, the panel shall provide the last signatory operator or the joint board of trustees of the 1991 Fund with a copy of any written complaint relating to a managed care provider system maintained by such last signatory operator or joint board of trustees.

"(7)(A) The panel, any person acting as a member or staff to the panel, any person under a contract or other formal agreement with the panel, and any person who participates with or assists the panel with respect to any action taken pursuant to this subsection, shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action. The preceding sentence shall not apply to damages under any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the Civil Rights Acts (42 U.S.C. 1981 et seq.). Nothing in this subparagraph shall prevent the United States or any attorney general of a State from bringing action, where such an action is otherwise authorized.

"(B) Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to the panel regarding the competence or professional conduct of a physician shall be held, by reason of having provided such information, to be liable in damages under any law of the United States or of any State (or political subdivision thereof) unless such information is false and the person providing it knew that such information was false.

"(8) The joint board of trustees of the 1991 Fund and each last signatory operator that makes a submission pursuant to subsection (b)(2) shall be liable for reasonable fees assessed by the panel in connection with the review of managed care provider systems.

"(c) SATISFACTION OF OBLIGATIONS.—Subject to the provisions of sections 9711 and 9713, the obligations of a last signatory operator under this section may be satisfied for any period with respect to any individual by payment of the required assessment under section 9713(d) or the premium under section 9704(g)(1)(C), or by the provision of the required benefits under an individual employer plan.

"(d) CONTROL GROUP LIABILITY.—As of the date that any benefit obligation owed pursuant to this section is due, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator shall be treated as such last signatory operator, and shall be jointly and severally liable for such benefit obligation.

"SEC. 9715. TRANSITION BENEFITS; PREMIUM NONPAYMENT; TRANSFERS BETWEEN 1991 FUND AND CORPORATION.

"(a) PAYMENT OF BENEFITS TO ORPHAN MINERS.—The plans described in section 9721(d) and the 1991 Fund shall continue to provide benefits to orphan miners, spouses, surviving spouses and dependents described in section 9711 (b) and (c), until the end of the second month beginning after the effective date of section 9712(d). Such orphan miners, spouses, surviving spouses and dependents shall be transferred to the Corporation as of the first day of the third month following the effective date of section 9712(d). The defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) shall, on behalf of the Corporation and the 1991 Fund, continue to provide death benefits to orphan miners described in section 9711(b) and to retirees described in section 9713(b)(1) until the end of the second month beginning after the effective date of section 9712(d). Such pension plans shall have no liability for death benefits for the orphan miners described in section 9711(b), or for the retirees described in section 9713(b)(1), as of the first day of the third month following the effective date of section 9712(d). The Corporation may elect to pay the plans described in section 9721(d), the 1991 Fund, or the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) to continue to provide transition benefits after the end of the second month beginning after the effective date of section 9712(d), and for a prior not to exceed 6 months. If the Corporation so elects, it shall pay such plans all amounts necessary to enable the provision of benefits and to cover all costs of administration associated with the provision of benefits. The schedule for such payments shall be determined by the board of trustees of the plans, and may require advance payments. Amounts paid pursuant to this subsection shall not be included in the amounts to be reimbursed pursuant to subsection (b).

"(b) REIMBURSEMENT OF COST FOR TRANSITION BENEFITS.—No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation shall reimburse the plans described in section 9721(d) and the 1991 Fund, with interest, for the amounts of benefits paid and administrative expenses incurred pursuant to subsection (a). No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation and the 1991 Fund shall reimburse the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7), with interest, for the amount of death benefits paid and administrative expenses incurred pursuant to subsection (a).

"(c) ACCESS TO RECORDS.—The joint boards of trustees of the plans described in section 9721(d) and the 1991 Fund shall share with the Corporation all records, files and documents related to the orphan miners, spouses, surviving spouses and dependents transferred to the Corporation, to the extent necessary for the Corporation to administer the payment of benefits to such individuals.

"(d) PREMIUM NONPAYMENT.—

"(1) No individual shall be eligible for benefits from the 1991 Fund during any month for which the assessments required under section 9713(d) have not been paid by such individual's last signatory operator. Such individual shall be immediately eligible to receive benefits from the Corporation and the Corporation shall have a cause of action against such individual's last signatory operator for the per beneficiary premium imposed under section 9704(g)(1)(C).

"(2) The 1991 Fund shall continue to treat an individual described in paragraph (1) as if he or she were eligible for benefits until the end of the third month for which an assessment due has not been paid. If the last signatory operator with respect to such individual has not paid its assessments due by the end of such month (with such interest and liquidated damages imposed by the board of trustees in their discretion, up to the amounts provided in section 9722(d)(2) (B) and (C)), the 1991 Fund shall notify the Corporation that the individual is transferred to the Corporation pursuant to paragraph (1), and the Corporation shall reimburse the 1991 Fund, with interest, for any benefits paid to or on behalf of such individual for all months for which assessments have not been paid.

"Subchapter C—Other Provisions

"Sec. 9721. Determination and disposition of excess assets.
"Sec. 9722. Civil enforcement.
"Sec. 9723. Definitions.
"Sec. 9724. Sham transactions.

"SEC. 9721. DETERMINATION AND DISPOSITION OF EXCESS PENSION ASSETS.

"(a) Determination of Excess Pension Assets.—

"(1) Within 30 days after the enactment of this chapter, the joint board of trustees of the plan described in subsection (c) shall, through the independent actuaries of the plan, calculate the amount of the excess pension assets. The trustees of the plan described in subsection (c) shall recalculate the excess pension assets at any time that the are directed to do so by the settlors.

"(2) Immediately following the calculation (or recalculation) of the excess pension assets, the trustees of the plan described in subsection (c) shall segregate the excess pension assets from the remaining assets of such plan. The segregated excess pension assets (including all earnings thereon) shall be held in the plan until disbursed pursuant to subsection (b).

"(b) Disposition of Excess Pension Assets.—Notwithstanding any other provision of law, the excess pension assets (including all earnings thereon) shall be expended in the following order:

"(1) Fifty million dollars shall be added to the general assets of the Corporation.

"(d) The deficits in the plan described in subsection (d) as of the date of enactment of this chapter shall be reduced to zero.

"(3) Fifty million dollars shall be added to the general assets of the 1991 Fund.

"(4) The remainder of the excess pension assets, if any, shall be added to the general assets of the 1991 Fund, at such times and in such amounts as may be directed by the settlors.

"(c) Plan Containing Excess Pension Assets.—A plan is described in this subsection if it is a pension plan and—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(d) Related Welfare Plans.—A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) it provides health benefits to retirees and beneficiaries of the industry which maintained the plan described in subsection (c); and

"(A) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976; or

"(B) participation in the plan is substantially limited to individuals who retired on or after January 1, 1976.

"(e) Tax Treatment, Validity of Transfer of Excess Pension Assets.—

"(1) No deduction shall be allowed under this title with respect to the expenditure of excess pension assets pursuant to subsection (a), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers or amounts hereafter contributed by employers to the plans described in subsection (c) or (d), or the 1991 Fund.

"(2) The expenditure of excess pension assets pursuant to subsection (b)—

"(A) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(B) shall not be includible in the gross income of any employer maintaining a plan described in subsection (c).

"(3) Neither the segregation of excess pension assets pursuant to subsection (a)(2), the expenditure of excess pension assets pursuant to subsection (b), nor any direction made by the settlors pursuant to subsection (a)(1) or (b)(4) shall be deemed to violate or be prohibited by any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to taxes, fines, or penalties of any kind whatsoever.

"SEC. 9722. CIVIL ENFORCEMENT.

"(a) Civil actions may be brought by the 1991 Fund for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(b) Except as otherwise provided in this chapter, where such an action is brought in a district court of the United States, it may be brought in the district where the 1991 Fund is administered, in the district where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(c) The district courts of the United States shall have jurisdiction of actions brought by the 1991 Fund under this chapter without regard to the amount in controversy in any such action.

"(d)(1) In any action brought under subsection (a) (other than an action described in paragraph (2)), the court in its discretion may award to the 1991 Fund all or a portion of the costs of litigation, including reasonable attorneys' fees, incurred by the 1991 Fund in connection with such action

"(2) In any action by the 1991 Fund to enforce section 9713(d)(2), in which a judgment in favor of the 1991 Fund is awarded, the court shall award the 1991 Fund—

"(A) the unpaid assessments;

"(B) interest on the unpaid assessments;

"(C) an amount equal to the greater of—

"(i) interest on the unpaid assessments; or

"(ii) liquidated damages in the amount of 20 percent of the amount determined by the court under subparagraph (A);

"(D) reasonable attorneys' fees and costs of the action, to be paid by the defendant; and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid assessments shall be determined by using the rate provided under the rules of the 1991 Fund or, if none, the rate prescribed under section 6621.

"(e)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the 1991 Fund acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(b) shall be extended to 6 years after the applicable date.

"(f) Any person who is an employer, a last signatory operator, a person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, a bituminous coal industry retiree, or any spouse, surviving spouse or dependent of a bituminous coal industry retiree, and is adversely affected by any act or omission of any party under this chapter, or who is an employee organization of which such a coal industry retiree is a member, or an employer association of which such an employer is a member, may bring an action for appropriate equitable relief in the appropriate court.

"(1) During the pendency of any proceeding under this subsection by an employer, employer association, last signatory operator, or person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, all potentially affected retirees, spouses, surviving spouses and dependents eligible for benefits from the 1991 Fund shall be transferred to the Corporation, which shall—

"(A) provide such benefits as would have been provided from the 1991 Fund, and

"(B) have and exercise all of the rights and obligations of the 1991 Fund with respect to—

"(i) the collection of assessments relating to such retirees and spouses, surviving spouses and dependents, and

"(ii) the defense of the proceeding.

"(2) In the event that a last signatory operator or other person pays to the 1991 Fund the assessments required pursuant to section 9713(d) for any month during the pendency of a proceeding described in paragraph (1), the 1991 Fund, and not the Corporation, shall be responsible for providing any benefits required to be paid for that month to eligible individuals under section 9713(b).

"(g) In any action brought under subsection (f), the court may award all or a portion of the costs and expenses, including reasonable attorneys' fees, incurred in connection with such action to any party that prevails or substantially prevails in such action.

"(h) This subsection shall be the exclusive means for bringing actions against the Corporation or the 1991 Fund under this chapter.

"(i)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(B) shall extended to 6 years after the applicable date.

"(j) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

"(k) In any suit, action or proceeding in which the 1991 Fund is party, in any State court, the 1991 Fund may, without bond or security, remove such suit, action, or proceeding from the State court to the United States district court for the district or division in which such suit, action or proceeding is pending by following any procedure for removal now or hereafter in effect.

"SEC. 9723. DEFINITIONS.

"For purposes of this chapter—

"(1) The term 'coal production work' shall mean work in which an individual engages in physical operations consisting of the mining, preparation, handling, processing, cleaning and loading of coal, including removal of overburden and coal waste, the transportation of coal (except by waterway or rail not owned by an employer engaged in the production of coal), repair and maintenance work normally performed at a mine site or central shop of an employer engaged in the production of coal, maintenance of gob piles and mine roads, construction of mine or mine-related facilities including the erection of mine tipples and sinking of mine shafts or slopes performed by employees of the employer engaged in the production of coal, and work of the type customarily related to the foregoing; except that the term shall not mean managerial, supervisory, warehouse, clerical or technical work, unless such work is performed subject to a coal wage agreement binding the employer engaged in the production of coal.

"(2) The term 'coal wage agreement' shall mean—

"(A) the National Bituminous Coal Wage Agreement;

"(B) any agreement substantially identical or substantially similar to such agreement, but only if, as of the date of enactment of this chapter, such agreement provided for contributions to be made to the plans described in section 9721(d); or

"(C) any other agreement entered into between an employer in the bituminous coal industry and the United Mine Workers of America that requires the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan.

"(3) The term 'credited service' shall have the same meaning as determined under the applicable defined benefit pension plan, but only if such service was of the type used to determine eligibility under the plan described in section 9721(d)(2)(B).

"(4) The term 'excess pension assets' shall mean the excess of the current value of plan assets (as defined in section 3(26) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(26)) of the plan described in section 9721(c) over the actuarial present value of all benefits for all plan participants under such plan, determined as of the date of enactment, in accordance with the actuarial assumptions and methods which reflect the plan actuary's best estimate of anticipated experience under such plan, except that where excess pension assets are recalculated as required under section 9721(a)(1), the amount of excess pension assets shall be determined as of the July 1 next preceding the date of the recalculation.

"(5) A last signatory operator shall be considered to be in business for purposes of this chapter if any of the following conducts or derives revenue from any business, whether or not within the coal industry—

"(A) such last signatory operator;

"(B) any member of the controlled group of corporations (within the meaning of section 414(b)) of such last signatory operator; or

"(C) any trade or business which is under common control (as determined under section 414(c)) with last signatory operator.

If a last signatory operator is no longer in business and there is no successor, the relationships described in paragraphs (2) and (3) shall be determined at the time it ceased to be in business.

"(6)(A) The term 'last signatory operator' shall mean, with respect to any orphan miner or other coal industry retiree eligible for medical benefits, a person that meets or at one time met the following conditions:

"(i) A person meets the conditions of this clause if such person is—

"(I) an owner, lessee or other person who operates, controls or supervises a coal mine;

"(II) an independent contractor who operates, controls or supervises a coal mine; or

"(III) in the event a person described in (I) or (II) is no longer in business, any successor to such person, except that a purchaser shall not be considered to be a successor with respect to any orphan miner or other coal industry retiree eligible for medical benefits, if responsibility for the medical benefits of such orphan miner or other coal industry retiree was retained by the seller in the purchase and sale transaction.

"(ii) A person meets the conditions of this clause if such person or, in the case of a person described in clause (i)(III), such person's predecessor—

"(I) was a signatory to a 1978 coal wage agreement, or any subsequent coal wage agreement; and

"(II) was the last coal industry employer of such orphan miner or other retiree.

"(B) Notwithstanding subparagraph (A), if, as of the date of enactment of this chapter, a person has assumed or retained responsibility for retiree medical benefit obligations for individuals who retired from employment under a coal wage agreement, then such person shall be treated as the last signatory operator with respect to such individuals for purposes of this chapter, and any person from whom such responsibility was assumed shall not be treated as the last signatory operator.

"(C) For purposes of this chapter, the last signatory operator of any orphan miner or other coal industry retiree shall be considered to be the last signatory operator with respect to such orphan miner's or other coal industry retiree's spouse, surviving spouse and dependents, if any.

"(7) The term 'National Bituminous Coal Wage Agreement' shall mean the collective bargaining agreement negotiated by the settlors.

"(8) The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (hereinafter referred to as the 'BCOA'), except that if the BCOA ceases to exist, members of the BCOA representing more than 50 percent of the tonnage membership of BCOA on the date of enactment of this Act shall collectively be considered a settlor.

"SEC. 9724. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and liability shall be imposed) without regard to such transaction. A bona fide, arm's-length sale of an entity subject to liability under this chapter to an unrelated party (within the meaning of section 4204(d) of the Employee Retirement Income Security Act of 1974, as amended), shall not by itself be sufficient to establish a principal purpose to evade or avoid liability within the meaning of this section."

(b) CONFORMING AMENDMENT.—The table of subtitles for the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"SUBTITLE J. Coal Industry health benefits."

Mr. BYRD. Mr. President, today, I am pleased to join my colleague from West Virginia, Senator ROCKEFELLER, as a cosponsor of S. 1989, the Coal Industry Retiree Health Benefit Act of 1991. The financial difficulties of the 1950 and 1974 United Mine Workers of America [UMWA] Benefit Trusts have been the focus of concern for several years now. I believe S. 1989 represents a responsible and balanced solution to the problems which threaten the long-term solvency of these funds.

More than 125,000 retired coal miners, their spouses, and their dependents look to these trust funds for their health benefits. Yet, both the 1950 and 1974 funds face serious financial strains which jeopardize the access of these retired miners and their families to adequate and affordable health care. Unless action is taken, and taken quickly, to restore the solvency of the UMWA benefit funds, these retirees and their families are likely to find themselves among the large and growing number of Americans who struggle to survive without health care coverage.

To allow the financial problems which threaten these funds to go unresolved would be both a tragedy for the retirees involved, as well as a short-sighted abdication of responsibility on our part. The absence of adequate and affordable health care coverage is a serious national problem. Today, more than 30 million Americans are without medical insurance, and, as we all know, the cost of providing care for those who lack private insurance often falls upon the back of the American taxpayer.

As a nation and as individuals, we are too compassionate, and rightly so, to simply deny medical care to those among us who, often for reasons beyond their own control, lack the financial resources needed to obtain adequate medical care. To let pass an opportunity to preserve the long-term viability of a private insurance system which provides much needed medical coverage to retired workers—an opportunity presented by the Coal Industry Retiree Health Benefit Act of 1991—would be a serious error.

The problems affecting the 1950 and 1974 UMWA Benefit Trusts are not difficult to identify. While the number of coal operators contributing to the funds has declined over time, the number of "orphan" retirees—those whose former employers have either gone out of business or have ceased making contributions to the funds—has steadily increased. Additionally, just as overall health care costs in the United States have risen dramatically in recent years, the cost of providing care to retirees under the UMWA health plans has also increased. It is these trends which have undermined and which now, if not reversed, threaten to destroy the long-term viability of the UMWA health funds.

There is no reason to expect any near-term reversal of these trends. To the contrary, absent enactment of legislation such as S. 1989, the financial imbalances caused by a shrinking contribution base and a growing beneficiary pool are certain to grow only worse. As the companies which remain a part of the Bituminous Coal Operators' Association [BCOA] are forced to pay for the health care benefits of an ever-increasing number of orphan retirees, the likelihood increases that those operators will leave the BCOA and attempt to cease making contributions to the UMWA health funds. Such a development would only exacerbate the problems currently confronting the benefit funds, and could ignite a potentially explosive labor situation.

In short, we are confronted by a situation—a crisis—which demands our immediate attention, and I strongly believe that any real resolution of the problems plaguing the UMWA retiree health funds will require action by the Federal Government. This is not an issue that can be solved, as some might suggest, through the collective bargaining process. Throughout the history of the coal industry's retiree health care program, the Federal Government has played a uniquely active and critical role. As noted in the November 1990 report of the Secretary of Labor's Advisory Commission on United Mine Workers of America Retiree Health Benefits—the "Coal Commission":

> The medical care program for retired coal miners represents a unique history of cooperation and confrontation between the private sector and the government. The UMWA Health and Retirement Funds were created in an agreement between the federal government and the United Mine Workers of America during a period of government seizure of the mines. It was shaped by a federally-appointed commission charged with examining health care in America's coal fields. Over the years, it has been recognized by specific legislative treatment, reshaped by numerous court decisions and kept alive in times of peril by government intervention in the collective bargaining process. * * *
>
> The escalating cost of providing adequate health care to coal miners and their families, particularly the increasing population of orphan retirees, cannot properly or fairly be solved by the parties through collective bargaining. The Secretary of Labor's creation of this Commission is evidence in itself that the issue facing the Funds is not one that lends itself to resolution through negotiation and mediation.

In my view, the issue before us is not whether Congress should take action to help restore the financial solvency of the UMWA health funds. The issue is what action must Congress take, and, in this regard, I commend my colleague from West Virginia for putting together a bill that I believe is balanced and fair.

As recommended by the Coal Commission, S. 1989 would authorize the use of excess assets in the 1950 UMWA pension trust to help reduce the financial shortfalls affecting the health benefit funds. The 1950 pension plan is a closed plan, covering only those individuals who retired before 1976. As such, its future liabilities and obligations can be reliably estimated. As a result of a past policy of rapid funding and conservative actuarial assumptions, the 1950 pension plan has accumulated a significant surplus. With the assets of this pension fund safely invested in a dedicated bond portfolio, this surplus can be safely transferred without lessening, in any way, the ability of the plan to pay future pension benefits.

Second, as also recommended by the Coal Commission, through the merger of the 1950 and 1974 UMWA benefit plans, S. 1989 would establish a new 1991 benefit fund. This new fund would be used to provide health care coverage to retirees of any company that was a signatory to the 1978 or later National Bituminous Coal Wage Agreement [NBCWA], or other collective bargaining agreement with the UMWA that requires the provision of medical benefits to coal industry retirees, and that remains in business. By reaching back and capturing those former signatory companies which, over time, ceased making contributions to the 1950 and 1974 benefit funds, S. 1989 would prevent former signatories that remain in business from dumping responsibility for their retirees onto the industry's multiemployer health plan.

According to the Coal Commission's findings, "more than half of current beneficiaries of the 1974 Trust are former employees or widows of companies still in the coal business or in other business ventures." As the Commission correctly noted, "dumping liability is fatal to any multiemployer fund," and the reachback provisions of S. 1989 represent a critical component of the effort to develop an equitable solution to the problems plaguing the industry's health benefit funds. Companies that remain in business simply cannot be allowed to transfer the health insurance costs of their retirees to other companies within the coal industry.

Finally, S. 1989 would create the Coal Industry Retiree Benefit Fund for the purpose of providing health benefits to retirees who truly are "orphan retirees"—those whose last employer is no longer in business. This again would be in conformance with the recommendations of the Coal Commission. This new fund would be financed by an industrywide levy based on each employee-hour worked in coal production work. Although such a levy is certain to attract opposition from some segments of the coal industry, I believe reliance upon an industrywide levy to cover the health care costs of orphan retirees represents a fair and balanced solution. The problem of providing health care coverage to orphan retirees is an industry problem and it requires an industry solution.

Mr. President, Senator Rockefeller has introduced a good bill, and deserves much credit for all of his efforts in this area. Two years ago, he introduced legislation that would have addressed the problems confronting the UMWA health funds at that time. I was pleased to be a cosponsor of that legislation, and I am pleased to join my colleague and my friend again today. It is my hope that we will be able to act on this legislation in a timely fashion. We are confronted by a serious challenge, and today we have been presented with a legislative solution to that challenge. I hope that the Senate will take up this legislation, act upon it favorably, and provide to those men and women who once risked their lives to provide our nation with the energy with which we have built and powered our modern economy, the assurance that they can look forward to their retirement knowing they will be provided with the health care coverage they so much deserve.

THE "COAL INDUSTRY RETIREE HEALTH BENEFIT ACT OF 1991"

Mr. SPECTER. Mr. President, I join my colleague from West Virginia, Senator ROCKEFELLER, in introducing the Coal Industry Retiree Health Benefit Act of 1991. This legislation is very important to the 120,000 retired mine workers who rely on two benefit trust funds for their health care benefits. Many of these retirees worked and live in my home State of Pennsylvania.

Currently, the two benefit trust funds which pay retired miners health benefits are in poor financial shape. It is estimated that the deficits for these funds could reach over $120 million by January 1992. The problem stems from reduced payments into the trust funds over the last 40 years as a result of companies choosing not to contribute to the fund or companies going out of business. These company shutdowns and corporate decisions to no longer pay into the fund created beneficiaries who we commonly call "orphans." Over 50 percent of the beneficiaries who retired prior to 1976 are classified as "orphans."

Mr. President, we saw the importance of health benefits to the mine workers of our country when the United Mine Workers of America had a long and bitter contract dispute with the Pittston Coal Co. In 1990, then Secretary of Labor Dole formed a commission to study this complex and controversial issue. Much of the legislation introduced today has its genesis from the final report and recommendations of that Commission.

The legislation is designed to create two new funds to pay retiree benefits.

Payments into the funds would be based on an annual per beneficiary premium paid in monthly installments and by an hourly premium on all production hours worked at U.S. coal mines. Excess assets in the UMWA 1950 pension trust would be used to retire the current deficit in the benefit funds and provide initial funding for the new benefit funds.

Unfortunately, the skyrocketing cost of health care costs along with the increasing number of "orphans," and a dwindling number of companies making contributions into the current funds have created a financial crisis in the current trust funds. Congress must address this crisis before it becomes too costly or too burdensome to address. Certainly there will be concerns with this legislation from companies in the coal industry. It is my hope that these concerns will be addressed during further consideration of this important legislation, and I urge my colleagues to support this legislation.

Mr. RIEGLE. Mr. President, I am pleased today to join my colleague from West Virginia, Senator ROCKEFELLER, in cosponsoring S. 1989, the Coal Industry Retiree Health Benefit Act of 1991. This legislation is needed to ensure that coal industry workers receive retiree health employee benefits promised to them.

More and more Americans are worried about losing their health care benefits due to the rising costs of health care and changes in employment status. This is particularly true in the area of retiree health benefits where some employers have recently been terminating or greatly reducing such coverage. As we all know, the loss of health care benefits can be devastating for individuals and their families. Retirees and their dependents who are under age 65 would be without any coverage whatsoever.

In my home State of Michigan, retiree health care benefits have been a major issue in many UAW collective bargaining negotiations and the UAW continues to protect its members against cutbacks in retiree benefits. Many companies that provide retiree health care coverage have been encountering competitive pressures to cut back on benefits. In the auto industry, our competitors spend less on health care benefits and have fewer retirees. Clearly, there needs to be a mechanism to spread the costs more equally among employers.

Mr. President, this legislation we are introducing today will help retiree mine workers retain their health benefits by spreading the costs among the entire industry. S. 1985 is an excellent model to use in other industries facing similar problems with rising retiree health care benefits. I commend Senator ROCKEFELLER for his efforts in this area and look forward to working together with him on the area of retiree health care benefits.

By Mr. GORTON:

S. 1990. A bill to authorize the transfer of certain facilities and lands in the Wenatchee National Forest, WA to the Committee on Energy and Natural Resources.

TRANSFER OF CERTAIN LANDS

Mr. GORTON. Mr. President, Lake Wenatchee is a beautiful, glacier-fed lake in the Wenatchee National Forest in the eastern portion of Washington State. More than 300 private individuals own property on the lake and more than 100 make it their summer and winter vacation spot. The beauty of this spot, however, is deceiving. Below the surface lies evidence that these property owners are dumping most of their sewage directly into Lake Wenatchee. The residents of Lake Wenatchee need a sewage treatment system to replace their failing septic systems.

The U.S. Forest Service operates a ranger station and campground on Lake Wenatchee. A small sewage treatment system, built in the 1920's, serves these facilities. Although this treatment system is relatively small, it can be expanded to serve the entire Lake Wenatchee area. In fact, Supervisor Sonny O'Neal and his staff have suggested that they are willing to transfer the sewage system to the Chelan County Public Utility District No. 1 for expansion and use by all the property owners at Lake Wenatchee. In order to accomplish this, however, Congress must authorize the Secretary of Agriculture to make the transfer. In exchange, Supervisor O'Neal has suggested that the PUD grant to the Wenatchee forest either a credit for free treatment service, or land in the amount of the value of the sewage treatment system.

Supervisor O'Neal has taken steps to mitigate this problem during the short-term. He has issued a special-use permit that allows the PUD to operate the sewage treatment system. A permit does not, however, grant sufficient control to the PUD over the land upon which the treatment facility is situated. He still believes that the 80 acres of land that the facility occupies must be transferred, in fee, to the PUD. He is also investigating the possibility of a land exchange for the transfer of the sewage treatment facility. This transfer is the only long-term solution to the problem at Lake Wenatchee.

The legislation I introduce today authorizes the Secretary of Agriculture to transfer the sewage treatment facility to the PUD in exchange for an equivalent value of sewage services. Congressman SID MORRISON, whose district includes Lake Wenatchee, has introduced the same legislation in the House of Representatives. For the sake of the health of Lake Wenatchee and the property owners there, I hope this legislation can be enacted into law as soon as possible.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to transfer all right, title, and interest of the United States in and to the sewage collection and treatment system facilities located at the Lake Wenatchee Ranger District, Wenatchee National Forest, to Public Utility District No. 1 of Chelan County, Washington, in exchange for equal value in charges for sewer service and/or construction of additional facilities serving federal lands to the Secretary from such facilities and lands. The transfer shall include those lands now occupied by the existing treatment plant and ponds, plus such additional acreage as is necessary to enlarge the system to provide service to the entire Lake Wenatchee community. The value received by the Secretary shall be the appraised market value of both the existing improvements and the land being transferred.

By Mr. LAUTENBERG:

S. 1991. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN CHEMICALS

• Mr. LAUTENBERG. Mr. President, I rise to introduce a bill to suspend for 3 years duties on Hexafluoroisopropylidene-2,2-bis(phtalic acid anhydride) and 6-methyl-1,2,3-oxathiazine-4-(3H)-one 2,2-dioxide, potassium salt (Acesulfame K). Joining me is my colleague Senator BRADLEY. The same bill has been introduced in the House of Representatives by Representative RINALDO.

The first of these materials is an ingredient in the manufacture of polymide resins used to produce high temperature composites. These composites are used primarily in military and aerospace applications. The other product, Acesulfame K, is used in the production of nonnutrient sweeteners used in food and cosmetics.

According to the International Trade Commission, these chemicals are not produced in this country, and are imported to meet demand by Hoechst Celanese, a chemical company whose headquarters are in New Jersey. Import duties on these chemicals simply add to the total manufacturing cost without protecting any U.S. industry. The end result of these tariffs is to inflate the cost of the finished products to consumers.

For these reasons, I urge my colleagues to support this bill. I ask unanimous consent that the bill be included in the RECORD at the conclusion of this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSIONS OF DUTY ON CERTAIN CHEMICALS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheadings:

"9902.31.17	Hexafluoroisopropylidene-2,2,-bis(phthalic acid anhydride) (CAS No. 1107–00–2) (provided for in subheading 2932.90.45)	Free	No change	No change	On or before 12/31/94
9902.31.18	6—methyl-1,2,3-oxathiazine-4 (3 H)-one-2,2,-dioxide potassium salt and 3,4—Dihydro-6-methyl-1,2,3-oxathiazine-4,2,2-dioxide potassium salt (Acesulfame K) (CAS No. 55589-6-3) (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.●

By Mr. BIDEN (for himself, Mr. THURMOND, Mr. KENNEDY, Mr. HATCH, Mr. DECONCINI, Mr. GRASSLEY, Mr. HEFLIN, Mr. SPECTER, Mr. SIMON, Mr. BROWN, and Mr. KOHL):

S.J. Res. 233. Joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week;" to the Committee on the Judiciary.

NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

● Mr. BIDEN. Mr. President, today, I am introducing a joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week." This resolution recognizes the more than one-half million public safety dispatchers who respond to our telephone calls requesting police, firefighting, and emergency medical services [EMS]. These men and women are unsung heros who faithfully defend our families and homes.

Police, fire, and EMS communication officers are among the most dedicated and committed of our public employees. They work behind the scenes, day and night, to secure the vital link between citizens in need of help and emergency personnel. If it were not for their expertise, countless lives might be lost to fire and violent crime as critical minutes are wasted before emergency officers arrive at the scene.

For years, public safety telecommunicators have not received proper recognition. Though we are familiar with programs such as 911 emergency service, the individual behind the phone is seldom noticed by the public. This resolution honors the outstanding performance of these public servants.

Every American depends on the men and women operating the emergency response systems, and we should recognize the indispensable services they perform throughout the United States. Today, we wish to express our sincere appreciation to all public safety telecommunicators for dedicating their careers to the protection of our lives and property.

I want to thank Congressman MARKEY for introducing this resolution in the House of Repesentatives. I look forward to working with him to ensure swift passage of this legislation, and I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 233

Whereas over one-half million dedicated men and women are engaged in the operation of emergency response systems for federal, state and local governmental entities throughout the United States;

Whereas these individuals are responsible for responding to the telephone calls of the general public for police, fire and emergency medical assistance and for dispatching such assistance to help save the lives and property of our citizens;

Whereas such calls include not only police, fire and emergency medical service calls but those governmental communications related to forestry and conservation operations, highway safety and maintenance activities, and all of the other operations which modern governmental agencies must conduct; and

Whereas America's public safety telecommunicators daily serve the public in countless ways without due recognition by the beneficiaries of their services: Now, therefore, be it

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 12, 1992, is hereby designated as "National Public Safety Telecommunicators Week." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 55

At the request of Mr. METZENBAUM, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

S. 98

At the request of Mr. PRESSLER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 98, a bill to amend the National Aeronautics and Space Administration Authorization Act, fiscal year 1989.

S. 140

At the request of Mr. WIRTH, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 1159

At the request of Mr. GORE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1159, a bill to provide for the labeling or marking of tropical wood and tropical wood products sold in the United States.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1381, a bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation.

S. 1424

At the request of Mr. CONRAD, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1424, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States.

S. 1505

At the request of Mr. DECONCINI, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 1505, a bill to amend the law relating to the Martin Luther King, Jr. Federal Holiday Commission.

S. 1723

At the request of Mr. REID, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1723, a bill to amend the Older Americans Act of 1965 to establish music therapy services for older individuals, to establish music therapy demonstration projects, and for other purposes.

S. 1827

At the request of Mr. BOND, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1827, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House.

S. 1829

At the request of Mr. D'AMATO, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1829, a bill to expand the exclusion of service of election officials or election workers from Social Security coverage.

S. 1845

At the request of Mr. SIMON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1845, a bill to ensure that all Americans have the opportunity for a higher education.

S. 1866

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 1886

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1886, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source.

S. 1912

At the request of Mr. DOMENICI, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1912, a bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes.

S. 1962

At the request of Mr. ADAMS, the names of the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1962, a bill to amend the Civil Rights Act of 1991 to apply the act to certain workers, and for other purposes.

S. 1977

At the request of Mr. HOLLINGS, his name was withdrawn as a cosponsor of S. 1977, a bill to amend the Federal Aviation Act of 1958 to permit the Secretary of Transportation to authorize certain foreign investment in U.S. air carriers in excess of 25 percent.

S. 1980

At the request of Mr. HOLLINGS, his name was withdrawn as a cosponsor of S. 1980, a bill to amend the Federal Aviation Act of 1958 to permit the Secretary of Transportation to authorize certain foreign investment in U.S. air carriers in excess of 25 percent.

SENATE JOINT RESOLUTION 124

At the request of Mr. BRADLEY, the names of the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from Texas [Mr. BENTSEN], the Senator from Nevada [Mr. BRYAN], the Senator from Montana [Mr. BURNS], the Senator from Idaho [Mr. CRAIG], the Senator from Kansas [Mr. DOLE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Nebraska [Mr. KERREY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from North Carolina [Mr. SANFORD], the Senator from Tennessee [Mr. SASSER], the Senator from Wyoming [Mr. SIMPSON], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 124, a joint resolution to designate "National Visiting Nurse Associations Week" for 1992.

SENATE JOINT RESOLUTION 198

At the request of Mr. AKAKA, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Colorado [Mr. BROWN], the Senator from Vermont [Mr. JEFFORDS], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 198, a joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from California [Mr. SEYMOUR], the Senator from Colorado [Mr. BROWN], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 228

At the request of Mr. D'AMATO, the names of the Senator from Colorado [Mr. BROWN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 228, a joint resolution to designate the week beginning February 23, 1992, as "National Manufacturing Week."

SENATE JOINT RESOLUTION 229

At the request of Mr. BYRD, the names of the Senator from Indiana [Mr. COATS], the Senator from North Dakota [Mr. CONRAD], the Senator from Kansas [Mr. DOLE], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 229, a joint resolution designating the month of May, 1992, as "National Trauma Awareness Month."

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. PELL, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Concurrent Resolution 7, a concurrent resolution urging the establishment of an international tribunal with jurisdiction to judge and punish Saddam Hussein for offenses committed against the citizens of Kuwait and Israel and against prisoners of war.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. DECONCINI, the names of the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Concurrent Resolution 74, a concurrent resolution calling for acceptance and implementation by certain republics of the commitments on human rights, fundamental freedoms, and humanitarian cooperation contained in the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. PELL, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Virginia [Mr. ROBB], the Senator from Arizona [Mr. MCCAIN], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Concurrent Resolution 77, a concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military.

SENATE RESOLUTION 217

At the request of Mr. GORE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Resolution 217, a resolution urging the Administrator of the Environmental Protection Agency to accelerate the scheduled phaseout of ozone-destroying substances in the United States as required pursuant to the Clean Air Act Amendments of 1990; calling on the President to urge the contracting parties to the Montreal protocol to modify the protocol in order to accelerate the phaseout of such substances; and for other purposes based on scientific findings concerning the degradation of the stratospheric ozone layer.

SENATE RESOLUTION 222—RELATIVE TO FREEDOM AND INDEPENDENCE FOR MOLDAVIA

Mr. PRESSLER (for himself, Mr. DECONCINI, and Mr. HELMS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 222

Whereas the Romanian principality of Moldavia emerged as an independent state in the 14th century;

Whereas Moldavia was invaded in 1806 by the Russian Army and was annexed by the Russian Empire in 1812 as a result of the Russo-Turkish Treaty of Bucharest;

Whereas on November 15, 1917, the Soviet Government proclaimed the right of the peoples of the Russian Empire to self-determination and the establishment of separate states;

Whereas on January 24, 1918, the democratically elected Moldavian constituent assembly, the Sfatul Tsarii, proclaimed Moldavia an independent republic;

Whereas on April 9, 1918, the Constituent Assembly voted to unite Moldavia with the Kingdom of Romania;

Whereas the United States, France, Italy, Great Britain, Japan, and the other allied states specifically sanctioned and recognized the reunion of Moldavia with Romania in the Peace Treaty of Paris of October 28, 1920;

Whereas the Soviet Union's armed forces invaded the Kingdom of Romania on June 28, 1940, and occupied eastern Moldavia and Northern Bucovina, and Hertsa in contravention of the Charter of the League of Nations; the Treaty of Paris of 1920; the General Treaty for the Renunciation of War of 1928; the Romanian-Union of Soviet Socialist Republics Mutual Assistance Pact of 1936; the Conventions for the Definition of Aggression of 1933; and generally recognized principles of international law;

Whereas the annexation of Moldavia was prospectively agreed to in certain secret protocols to a treaty of nonagression concluded between the Government of the Soviet Union and the German Reich on August 23, 1939;

Whereas from 1940 to 1953 hundreds of thousands of Romanians from Moldavia and Northern Bucovina were deported by the Union of Soviet Socialist Republics to Central Asia and Siberia;

Whereas the United States Government has repeatedly stated its refusal to recognize forcible seizure of territory pursuant to the terms of the so-called Stalin-Hitler Pact, including the 1940 Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas on August 31, 1989, the Supreme Council of the Republic of Moldavia declared Romanian to be the official language of the Republic and reestablished the Latin alphabet forbidden by the Soviet Government during the occupation of Moldavia as the alphabet of written Romanian;

Whereas in February 1990, the Romanian people of Moldavia were able to vote in free and fair elections for deputies to the Supreme Council of Moldavia;

Whereas on April 27, 1990, the Supreme Council of Moldavia restored the flag of Romania as the official flag of the republic;

Whereas on June 23, 1990, the Supreme Council of Moldavia declared the Republic of Moldavia a sovereign state;

Whereas on December 16, 1990, more than eight hundred thousand Romanians gathered at the Second Grand National Assembly in the Moldavian capital of Chisinau to declare the national independence of Romanians in occupied territories;

Whereas on August 27, 1991, the Parliament of the Republic of Moldavia adopted the declaration of independence of the Republic of Moldavia.

Whereas the Republic of Moldavia has pledged to adhere to all international agreements concerning respect for human rights and minorities, including the Helsinki Final Act and the United Nations Charter;

Whereas the signatory states of the Helsinki Final Act have accepted the principle of the equal rights of people and their right to self-determination; and

Whereas pursuant to article 8 of the Helsinki Final Act "all peoples always have the right, in full freedom, to determine, when and if they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social, and cultural development": Now, therefore, be it

Resolved, That it is the sense of the Senate that the U.S. Government should—

(1) support the right of the people of Soviet-occupied Moldavia to freedom and independence and issue a statement to that effect.

Mr. PRESSLER. Mr. President, today I submit a resolution with Senators DECONCINI and HELMS supporting the Romanian people of Moldavia in their quest for freedom and independence.

In June of this year I submitted a similar resolution with Senator HELMS. The resolution I submit today reflects the Moldavian Parliament's declaration of independence on August 27, 1991, and calls for United States support of this declaration.

Mr. President, I ask unanimous consent that a copy of the Moldavian Parliament's declaration of independence be printed in the RECORD at the conclusion of my remarks.

This resolution presents Moldavia's historical and legal rights to freedom and independence. Moldavia is historic Romanian land. Following its freedom from the Russian Empire in 1917, Moldavia voted democratically to join Romania.

In 1939, Moldavia's union with Romania was shattered by the two greatest tyrants of this century—Stalin and Hitler. In a secret protocol to the Nazi-Soviet Pact of August 23, 1939, Bessarabia, today known as the Republic of Moldavia, along with Estonia, Latvia, and Lithuania—was given as a prize to Stalin. As in the Baltic States, Moldavia, including the territories of Bessarabia, Northern Bukovina and Hertsa, was forcibly militarily occupied and the new Communist regime instituted brutal mass deportations and a campaign of Sovietization.

Mr. President, I ask unanimous consent that a copy of an article from New York Newsday on October 3, 1991, discussing the Soviet occupation of Northern Bukovina be printed in the RECORD at the conclusion of my remarks.

Today, Moldavia, with a population of 4.5 million people, seeks United States support for its efforts towards representative government and free-market economics. The democrats of Moldavia are committed to achieving their goals through peaceful means. The Parliament of the Republic of Moldavia has pledged to adhere to international human rights documents including the Helsinki Final Act and the Paris Charter and has pledged to protect the rights of minorities living in Moldavia.

Mr. President, I ask unanimous consent that a copy of a resolution of the Moldavian Parliament on adherence to the Helsinki Final Act be printed in the RECORD in the conclusion of my remarks.

Mr. President, Moldavia's struggle is not yet over. However, Moldavia is gifted with dynamic democratic leaders such as Iurie Rosca, the leader of the Popular Front, and Alexandru Mosanu, the Chairman of the Parliament. I met with both of these leaders during their visit to Washington and was impressed by their commitment to democracy. Both of these men are working against the same entrenched leaders and bureaucracies in Moldavia that have kept communism alive in Romania.

Mr. President, I urge my colleagues to support this resolution. Estonia, Latvia, and Lithuania have achieved their well-deserved independence. The time has come to help the fourth victim of the Nazi-Soviet Pact.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION OF INDEPENDENCE OF THE REPUBLIC OF MOLDOVA

The Parliament of the Republic of Moldova, constituted after free and democratic elections;

Taking into account the millenary history of our people and its uninterrupted statehood within its historical and ethnic area of its national making;

Considering the acts of dismemberment of its national territory between 1775 and 1812 as being contradictory to the historical right of its people and the judicial stature of the principality of Moldova, acts recalled by the entire historical evolution and the free will of the population of Bassarabia and Bukovina;

Underlining the existence of Moldovians in Transnistria, a component part of the historical and ethnic territory of our people;

Acknowledging that declarations by many parliaments of many states consider the agreement of August 23, 1939 between the government of the USSR and the government of Germany null and void ab initio and demand that the political and judicial consequences of the above be eliminated, a fact revealed also by the declaration of the international conference "The Molotov-Ribbentrop pact and its consequences for Bassarabia", adopted on June 28, 1991;

Pointing out that, without the prior consultation of the population of Bassarabia, Northern Bukovina and Hertza District, occupied by force on June 28, 1940 as well as the Moldavian Soviet Socialist Autonomous Republic (Transnistria) established on Oct. 12, 1924, the Supreme Soviet of the USSR, by infringing its constitutional prerogatives, adopted the "Law of the USSR on the establishment of the Moldavian SSR" on August 2, 1940, and its Presidium issued "The Decree concerning the frontiers between the Ukrainian SSR and the Moldavian SSR", on November 4, 1940, judicial acts whereby; in the absence of any real legal basis, it was attempted to justify the dismantlement of those territories and the incorporation of the new republic into the USSR;

Recalling that during the recent years the democratic national liberation movement of the population of the Republic of Moldova reaffirmed its aspirations for freedom, independence and national unity, expressed in final documents of the Great National Reunion of Kishinau on August 27, 1989, December 16, 1990 and August 27, 1991, laws and decisions of the Parliament of the Republic of Moldova concerning the laws reintroducing Romanian as the state language and the Latin alphabet on August 31, 1989, the state flag on April 27, 1990, the state emblem on November 3, 1990 and the change of the official name of the republic on May 23, 1991;

Taking as a basis the declaration concerning State Sovereignty of the Republic of Moldova, adopted by the parliament on June 23, 1990, and the fact that the population of the Republic of Moldova, in its own right as a sovereign people, did not participate at the referendum on the preservation of the USSR, held on March 17, 1991, inspite of the pressures exercised by the state organs of the USSR;

Taking into account the irreversible processes taking place in Europe and elsewhere in the world calling for democracy, freedom and national unity, for the establishment of a state of law and the transformation towards a free market.

Reaffirming the equal rights of peoples and their right to self-determination, as laid down in the UN Charter, the Helsinki Final Act and the norms of international law pertaining to the above;

Considering, in view of all of the above, that the time has come for the proclamation of a judicial act, in accordance with the history of our people and moral norms of international law; proclaims solemnly, in the virtue of the right of self-determination of peoples, in the name of the entire population of the Republic of Moldova, and in front of the whole world, that: the Republic of Moldova is a sovereign, independent and democratic state, free to decide its present and future, without any external interference, keeping with the ideals and aspiration of the people within its historical and ethnic area of its national making.

In its quality as a sovereign and independent state, the Republic of Moldova, hereby

Requests all states and world governments to recognize the independence of the Republic of Moldova, as proclaimed by the freely elected parliament of the republic and is willing to establish political, economic and cultural relations and any other relations of common interest with European countries and all other countries of the world, and is ready to establish diplomatic relations with the above, in accordance with the norms of international law and common practice on the above matter.

Requests the United Nations to admit the Republic of Moldova as a full member of the world organization and its specialized agencies;

Declares that is ready to adher to the Helsinki Final Act and the Paris Charter for a new Europe, equally asking to be admitted to the CSCE and its mechanisms, with equal rights;

Requests the USSR to begin negotiations with the government of the Republic of Moldova to terminate the illegal state of occupation and annexation and the withdrawal of Soviet troops from its national territory;

Decides that no other laws should be respected on its territory but those that are in conformity with the republic's constitution, laws and all other legal acts adopted by the legally constituted organs of the Republic of Moldova;

Guarantees the exercise of social, economic, cultural and political rights for all citizens of the Republic of Moldova, including those of national, ethnic, religious and linguistic groups, in conformity with the provisions of the Helsinki Final Act and documents adopted afterwards, as well as the Paris Charter for a new Europe.

So help us God!

Adopted in Kishinau, by the Parliament of the Republic of Moldova on this day, the 27th of August, 1991.

THIS IS ROMANIAN LAND

(By Roy Gutman)

CHERNOVTSY, USSR.—Maria Snegurak's face turns ashen and her eyes become vacant when she recalls the day in July, 1940, that Soviet power arrived in this far corner of Europe. That was the day four Soviet soldiers "raped me in the house of my mother and father."

She was just 15 when Joseph Stalin sent the Red Army to seize the region of northern Bukovina from Romania. "It was not easy to get over," she said of the rape. "It drove my mother mad."

Lazar Furnica was the same age in April of the following year when he witnessed Soviet troops execute 1,500 Romanian peasants in the village of Fintina Alba, on the newly created Ukrainian frontier with Romania.

Driven by desperation, thousands started marching to the border, Furnica among them. "The border guards walked alongside, pointing their machine guns. When we got to an open field, they opened fire," he recalled recently.

Four hundred to 500 died at the site, another 1,000 while trying to escape, Furnica said. The dead were buried "with their heads above ground" so their families could recognize them, Furnica said.

Snegurak and Furnica were among thousands of ethnic Romanians who took to the streets last month in this capital of northern Bukovina seeking redress for a lifetime of grievances against the Soviet Union. They demanded the right to teach their children the Romanian language, the return of buildings connected with Romanian culture, the restoration of title to seized property, and above all, the return of the Romanian flag, which flew over northern Bukovina from 1918 to 1941. Most long for reunification with Romania.

"This is our home. This is our home," a crowd of several hundred chanted at one rally outside the Chernovtsy Soviet, or ruling council. "Raise our tricolor," they chanted, waving red, blue and yellow Romanian flags and singing songs banned just a year ago. "This is Romanian land. Romanians are the masters of this land. . . . They will never leave this land."

Because there were no Romanians on the 30-member council nor in the Ukrainian parliament in Kiev, the local Romanian cultural society, revived three years ago, negotiated as the crowds chanted. The rally lasted eight hours, as long as the meeting itself. The Soviet rebuffed them and postponed the matter, but staged a show of force by sending Interior Ministry troops out to guard the building and its flag stand. The Romanians marched off peacefully.

Organizers say there have been half a dozen rallies attracting 10,000 or more people each in recent months and an equal number of smaller demonstrations, as astonishing rebirth of national feeling after a half-century of Soviet efforts to snuff it out.

Bukovina, a rich agricultural region, has been contested by many empires over the centuries—Turkey, Austria, the Russian czars, and then the Soviets—but in modern times its inhabitants have been mainly Romanian, with large representations of other minorities, including Jews, Germans, Russians and Ukrainians. In 1918, after the collapse of the Austrian empire, a national congress voted for unity with Romania.

Under the 1939 German-Soviet pact that divided Europe between the two dictatorships, Stalin took control of the three Baltic states as well as Romanian Bessarabia, east of here. Northern Bukovina "was not part of the pact. It was just grabbed," said Vasile Chlopin, a leader of the local Romanian community.

To secure the area, Stalin set out to destroy its identity. He handed the territory not to the Moldavian republic, as he renamed Romanian Bessarabia, but to the Ukraine. He collectivized agriculture. He ordered a massive population exchange. Romanians were deported en masse to Siberia or executed; Ukrainians were sent in to colonize the region.

Maria Snegurak and her family were sent to Siberia for seven years when her brother failed in an attempt to escape to Romania. Olga Timciuc, 40, a schoolteacher from a village outside Chernovtsy, grew up practically without relatives. "My parents were deported to Siberia, my grandparents, all our relatives. Everyone who was taken there died except for our parents. People died in the train. They wouldn't stop to bury them. Their corpses were thrown out of the window," she said.

The conquest shocked Romania and led to the abdication of King Charles in favor of Marshal Ion Antonescu, who formed an alliance with Hitler. Romania joined Germany in the invasion of the Soviet Union and recaptured its lost territory in June, 1941, holding it until 1944, when Stalin retook control and resumed his plan to incorporate the territory with brutal force. The United States raised no objections.

Today in Chernovtsy, capital of the region, 80 percent of the 300,000 residents are said by authorities to be Ukrainian. Of the million living elsewhere in Bukovina, only 250,000 are said to be Romanian. But thousands, possibly hundreds of thousands of Romanians, were arbitrarily reclassified into other nationalities.

Ion Frunze, 63, has a certificate issued in 1942 stating his nationality as Romanian. A document certifying his Soviet military service, issued in 1963, state he is a Moldavian. His passport issued in 1979 lists his nationality as Ukrainian.

Tensions with Ukrainians are running high. Midway through a rally Tuesday, a stout Ukrainian peasant woman approached the crowd and declared, "Out with you Romanian dogs from our Ukrainian land."

For most of this century time stood still in this handsome, though rundown city whose sturdy buildings in pastel hues recall the more placid days of the pre-World-War I Austrian empire. The world largely forgot Bukovina, partly because the brutal Ceausescu regime in Romania, until its overthrow in 1989, avoided any mention of the lost Romanian territories.

Moldavia, controlled by anti-Communist ethnic Romanians, opened its border to Romania and last month declared independence. But Bukovina still lives in another era.

Chernovtsy is a cultural shrine for Romanians, the city where its greatest 19-Century poet, Mihai Eminescu, spent his formative years. But not one bust of him is seen in the city, and the school he attended has been renamed "School No. 1." Ukrainian became the language of the region, taught in all its schools. All contact between ethnic Romanians and their relatives in Romania was effectively cut off.

"We have no room in which to hold our meetings," said Mihail Ivasuk, a tall, bearded Romanian Orthodox priest who heads the religious cultural society in the region and led the demonstration last month.

The Romanian cathedral has been lost to the Ukrainian and Russian Orthodox clergy. "You can't hear a word there in Romanian. Just Russian," said Dimitri Mandrescu, 66, protopope of the Romanian Orthodox Church, who was also at the rally.

Three years ago Romanian intellectuals here formed the Eminescu society "to tell people the real history of Bukovina and give them courage," Chlopin said. Hopes rose in the past year as the Ukrainian leadership divided. "Then I realized he had a chance," he said. The symbols of the division are the two flags now flying over the Chernovtsy Soviet, a red and blue flag with hammer and sickle for the hard-liners, and a blue and yellow flag for the Rukh anti-Communist nationalists.

While the Romanians have not yet gotten their own flag raised at the Chernovtsy Soviet, the defeat of the coup in Moscow and the dramatic moves to dissolve the empire have given them new heart. The local Soviet published the hard-liners' statements in the local press; now the Soviet's power is severely diminished. The Ukrainians are divided between hardliners and anti-communists.

Townspeople removed the Lenin statue from Lenin Boulevard and hauled down the red hammer and sickle flag from the town hall. The Romanians moved in to fill the vacuum. "We put up our flag," Chlopin said. "For the past week, this has been a Romanian town."

Not everybody thinks so. "It's going to be very difficult to resolve," Mandrescu said. "I am afraid the Romanian people will have to make a lot of sacrifices before they gain their rights, including the sacrifice of life.

DECISION OF THE PARLIAMENT OF THE REPUBLIC OF MOLDOVA ABOUT THE REQUEST OF THE REPUBLIC OF MOLDOVA TO BECOME A MEMBER OF THE INTERNATIONAL LEGAL INSTRUMENTS ON HUMAN RIGHTS

Confirming that, with respect to the provisions of the International Declaration of Human Rights and the Human Rights Pacts—international legal instruments recognized by the Parliament of the Republic of Moldova on 28 July 1990—the adjustment of the Republic's legislation to the norms of international law is in full process.

Realizing the necessity to intensify the effort of developing and encouraging the universal and effective observance of fundamental human rights and freedoms, with no discrimination as to ethnic origin, language, religion or sex.

The Parliament of the Republic of Moldova decides:

1. Recognizing the great importance of the International Legal instruments on the fundamental human rights and freedoms adopted by the United Nations Organization and its specialized institutions, as well as by the Conference on Security and Co-operation in Europe and its meetings held in Helsinki, Madrid, Vienna, Copenhagen and Paris, the Republic of Moldova joins the following international legal instruments:

The Final Act of the CSCE (Helsinki, 1 August 1975);

The Final Document of the Follow-up Meeting of the CSCE (Madrid, 11 November 1980–9 September 1983);

The Final Document of the Vienna Meeting of Representatives of the CSCE States (4 November 1986–19 January 1989);

The Document of the Copenhagen Meeting on the Human Dimension of the CSCE (29 June 1990);

The Paris Charter for a New Europe (21 November 1990);

The Convention on the Political Rights of Woman (20 December 1952);

The Declaration on the Promotion Among the Youth of the Ideals of Peace, Mutual Respect and Understanding Between Peoples (7 December 1965);

The International Convention on the Elimination of All Forms of Racial Discrimination (21 December 1965);

The Convention on the Struggle Against Discrimination in the Field of Education (14 December 1960);

The Convention on the Abolition of Forced Labor (25 June 1957);

The Convention on the Imprescriptibility of War Crimes and Crimes Against Humanity (26 November 1968);

The Convention for the Prevention and Repression of the Crime of Genocide (9 December 1948);

The Declaration on the Granting of Independence of Colonial Countries and Peoples (14 December 1960).

2. Recognizing the role of the Council of Europe and of the European Parliament in the guarantee and protection of fundamental human rights and freedoms, the Parliament of the Republic of Moldova pledges to abide by the documents on human rights adopted by these organizations.

3. The permanent commissions of the Parliament and the Government of the Republic of Moldova, the Commission for the Draft Constitution of the Republic will present bills and modifications to the existing laws of the Republic of Moldova in keeping with the provisions of the above mentioned international legal instruments.

4. The Ministry of Foreign Affairs of the Republic of Moldova will prepare and deliver the necessary membership instruments at the Secretariat of the United Nations Organization.

ALEXANDRU MOSANU,
Chairman, The Parliament of the Republic of Moldova.

SENATE RESOLUTION 223—SUPPORTING THE ACTIVITIES OF THE PEACE CORPS IN THE REPUBLICS OF THE FORMER SOVIET UNION

Mr. PRESSLER submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 223

Whereas the United States supports the emergence of democracy, the rule of law, and a free-market economic system in the Republics of the former Soviet Union;

Whereas over 50 years of Soviet occupation have devastated the economies, environment, agriculture, and educational systems of the republics of the former Soviet Union;

Whereas the people of Armenia, Belarus, Georgia, Moldavia, and Ukraine have expressed their desire for freedom and independence and have sought United States support and assistance;

Whereas the Peace Corps was founded in 1961 to utilize America's entrepreneurial and volunteer spirit in areas of the world in need of technical and educational assistance;

Whereas the Peace Corps has met the challenge of assisting previously Soviet-controlled states, such as Poland, Hungary, Czechoslovakia, Bulgaria, and Romania;

Whereas on September 12, 1991, President Bush announced the initiation of Peace Corps activities in Estonia, Latvia, and Lithuania, and on September 27, 1991, in Ukraine;

Whereas on November 15, President Bush stated his willingness to begin a Peace Corps program in Armenia;

Whereas the Peace Corps has added greatly to its effectiveness by employing senior volunteers with experience in agriculture, health care, business, education and other occupations; and

Whereas the people of the aforementioned nations welcome Peace Corps assistance: Now, therefore, be it

Resolved,

SECTION 1. FINDINGS.

Congress finds that—

(1) Peace Corps activities to promote entrepreneurial training, environmental cleanup and improved agricultural technology directly and immediately would enhance the efforts of the republics of the former Soviet Union to establish viable, free market economic systems.

(2) United States Peace Corps volunteers represent tangible United States support for the efforts of these nations to establish democratic institutions.

(3) The Peace Corps expeditiously has made commendable plans to send 60 volunteers to Estonia, Latvia, and Lithuania, 35 volunteers to Ukraine by the summer of 1992 and is willing to send volunteers to Armenia.

SEC. 2. POLICY.

(1) The U.S. Peace Corps is well equipped to provide low-cost and effective technical assistance programs to the peoples of the republics of the former Soviet Union.

(2) The Peace Corps should explore ways to implement programs in those republics which make a formal request for such assistance.

(3) The President should take immediate steps to encourage and support United States Peace Corps activities in the republics of the former Soviet Union.

Mr. PRESSLER. Mr. President, I rise to submit a resolution supporting further United States Peace Corps activities in the former Soviet Union. Specifically, the resolution urges United States Peace Corps activities in the Republics of the former Soviet Union. The breakup of the former Soviet empire requires a reorientation of policy toward nations such as Armenia, Moldavia, and Ukraine.

The successful transformation of the governments of these nations to representative government and the practice of free-market economics is in the best interest of the United States. In fact, United States policy should be aimed at supporting the nations of the former Soviet Union that support these goals—including Russia and the Central Asian Republics.

Practical technical and educational assistance is the key to realizing peace, prosperity, and freedom in the former Soviet Union. The United States Peace Corps is a respected leader in providing technical assistance. I have long admired the activities of the Peace Corps. Over the last few years the Peace Corps has established successful programs in Poland, Hungary, the Czech and Slovak Federal Republic, Bulgaria, Romania, and Albania. Their activities have made a difference in transforming these economies and improving the quality of life for their citizens.

In August, I traveled to the newly liberated States of Estonia, Latvia, and Lithuania. I noted the need for English-language training, practical business courses, and agricultural expertise. Upon my return, I introduced a resolution calling for Peace Corps involvement in the Baltic States. I am pleased that in September, President Bush announced that Peace Corps activities would be initiated in the Baltic States and Ukraine. I commend President Bush for his commitment to the rebuilding of these nations.

Last week the President of the Republic of Armenia, Levon Ter-Petrossian met with Members of the Senate. After over 70 years of Soviet occupation, Armenia is asking for U.S. support. President Ter-Petrossian came here with the backing of the overwhelming majority of his people who have voted, freely and fairly, for independence. I understand that he made a formal request for Peace Corps activities in his earthquake-devastated country.

Mr. President, on November 15, President Bush stated his willingness to begin a Peace Corps program in Armenia. I commend the President for expanding Peace Corps programs.

Mr. President, the people of Belarus, formally Belorussia, need technical advice to extricate themselves from the devastating legacy of Chernobyl. Greater knowledge and expertise will help lead the people of Georgia out of their current political morass. The people of Moldavia need business training to help reorient their economy toward the West and to find markets for their products.

Mr. President, the U.S. Peace Corps has made significant contributions throughout the world for 30 years. It offers a cost-effective alternative to costly and ineffective foreign aid projects. I urge my colleagues to cosponsor my resolution to extend Peace Corps authorization to the new nations arising from the former Soviet Union.

SENATE RESOLUTION 224—RELATIVE TO RECOGNITION OF THE YUGOSLAV REPUBLICS

Mr. DECONCINI submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 224

Whereas the United States and other concerned countries view the future of Yugoslavia to be a matter only for the peoples of Yugoslavia themselves to decide;

Whereas the United States and other concerned countries have urged the people of Yugoslavia to resolve their differences peacefully through negotiations;

Whereas negotiations between the political leaders of Yugoslavia and its republics and provinces have thus far failed to produce a mutually acceptable agreement on the future character of their relations with each other;

Whereas the representatives of most of the republics of Yugoslavia have nevertheless acted in good-faith in seeking a peacefully achieved, mutually acceptable agreement, as well as in accordance with the general will of the people of the republics they represent;

Whereas the Government of the Republic of Serbia and is current supporters at the federal, republic, provincial and local levels have attempted instead to resolve differences not through good-faith negotiations but through the threat and use of force;

Whereas the Federal Armed Forces of Yugoslavia have not acted as a neutral party to bring an end to the fighting but have instead openly sided against the Republic of Croatia;

Whereas these actions are in clear violation of the principles and provisions of the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe (CSCE);

Whereas these actions have caused the death of thousands of Yugoslav citizens, including innocent civilians, and the bodily and material harm of countless others;

Whereas there is a great potential for the conflict to spread to other republics and provinces in Yugoslavia;

Whereas the member states of the European Community and other concerned countries have sought to restore and maintain peace in Yugoslavia, as well as to encourage negotiations that would lead to a peaceful resolution of difference;

Whereas these efforts have been supported throughout by the CSCE and its Committee of Senior Officials;

Whereas a continuation of the threat and use of force to resolve the crisis in Yugoslavia makes it impossible to achieve a mutually acceptable and democratic agreement on the country's future and especially one in which the republics and provinces would remain together; and

Whereas, under such circumstances, the future of those in Yugoslavia who have made good-faith efforts to find a mutually agreeable solution that is peacefully attained and reflects the will of the people should no longer be determined by those who have not: Now, therefore, be it

Resolved, That the Senate of the United States—

(1) condemns the ongoing use of force and violence in Yugoslavia;

(2) opposes and refuses to recognize any changes in the internal or external borders of Yugoslavia achieved through the use of force;

(3) supports the efforts of the European Community and other concerned countries, as mandated by the CSCE, to restore and maintain peace as well as to encourage negotiations leading to a peaceful resolution of differences;

(4) calls upon all parties in Yugoslavia to refrain from the further use of force and violence, and to separate, withdraw and disarm in accordance with the provisions of the most recent ceasefire;

(5) calls upon all parties in Yugoslavia also to declare their commitment to all principles and provisions of the Helsinki Final Act and subsequent CSCE documents, and to implement immediately these commitments in their relations to each other;

(6) recommends that the participating States in the CSCE convene at the level of foreign ministers and consider the formation of a peacekeeping force to be deployed where needed in Yugoslavia to deter the resumption of fighting and its spreading to other parts of the country;

(7) urges the President of the United States to give more active support to international efforts to restore peace and to achieve a resolution of differences in Yugoslavia;

(8) urges the President to work closely with the European Community and other countries in imposing, enhancing and enforcing necessary diplomatic and economic sanctions against governments in Yugoslavia at any level which violate cease-fire agreements;

(9) urges the President to extend immediate and formal recognition, upon request, to any of the Yugoslav republics where declarations of sovereignty and independence have been based on the clear will of the people; and

(10) notes that this recognition is in accordance with the European Community proposal for on transforming Yugoslavia into an association of independent states, and therefore calls upon the leaders of all republics which have supported this proposal to use it as the basis for their future mutual relations, and calls on those who have not supported this proposal to do so.

• Mr. DECONCINI. Mr. President, I rise to introduce a sense-of-the-Senate resolution calling for the United States to recognize, upon request, the independence of those Yugoslav republics which have declared their independence. While I believe that it is important that we consult with the Europeans in the hope of having a common, multilateral approach to this issue, we must do more than consult. We should encourage recognition, and the United States should itself take a stand and recognize the Republics now. The United States stands in this world as a symbol of freedom and independence for all peoples, and it is critical that we do not abandon our principles in our response to the crisis in Yugoslavia.

The conflict in Yugoslavia has a complex network of intertwining historical roots, and the mutual accusations and one-sided reporting coming from the disputing parties makes it difficult for us to find easy answers. I would nevertheless like to make the following comments, which I believe justify recognition of the sovereignty and independence of the individual republic.

First, it is a simple fact that the Yugoslavia we once knew has now disintegrated. The blame for this rests not on the so-called separatist governments of Slovenia and Croatia, but on the government of Serbia and its ally, the Yugoslav military, which claim to be preserving the Yugoslav state. In other words, the best arguments for recognition have come not from Ljubljana and Zagreb, but from Belgrade itself.

It is true that the people of Slovenia and Croatia elected governments which indeed have sought to break up the existing federation, and exercise of their right to self-determination. It is also true that this right is, for these two peoples and for all others, tempered by the principle of the equal rights of peoples. This means that, instead of taking unilateral actions, they must take into account the aspirations of others, in this case their countrymen in the other Yugolav republic and provinces. In fact, for the first 6 months of this year, Slovenian and Croatian officials engaged in negotiations that attempted to do just that. Even after the conflict started, the Croatian officials remained in the federal system in the hope of working things out.

During that same time, Serbian officials sought to undermine the federal system they were claiming to defend. They stole federal funds. They ensured that the representatives of Kosovo and Vojvodina were not the independent voices they constitutionally should be at the federal level. They resigned from the federal presidency, only to return and then block the normal rotation of the head of that body. Most recently, they claimed to take control of the presidency and assumed the powers of the federal assembly. These arbitrary actions created the political chaos that denied Yugoslavia the legitimacy it otherwise had. With these acts, they have provided the other republics with the most genuine reason for wanting to leave the federation. And while they all nevertheless agreed to create a new Yugoslavia on the basis of a plan proposed by the European Community for an association of sovereign and independent states, Serbia turned the plan down. As a result, I believe that the future of those who have attempted to negotiate a mutually agreeable solution should not forever be determined by those who have not.

Second, the boundaries between the Yugoslav republics were not internationally recognized frontiers, but that does not mean that changing these boundaries by the threat or use of force is in any way an acceptable practice. By seeking to change these boundaries by force, the efforts of the Yugoslav Army and the Serbian government have made them the equivalent of international frontiers. Indeed, it is likely that we would not feel compelled here today to recognize the republics and their existing borders were it not for the Yugoslav Army attacks on them.

Finally, with all the violence that has occurred, whether we like it or not Yugoslavia has been shattered to the extent that it cannot be put back together except by the free will of its peoples. Given what has happened, reconciliation among the neighboring peoples of Yugoslavia is more likely to occur if they each first have their own sovereignty and independence.

I am under no illusion, however, about what recognition means. Like sanctions, it is unlikely to bring a sudden and complete halt to the fighting, since the fighting is really over territory and not maintenance of a federation. Recognition will not mean foreign intervention or military assistance to the independent republics, and it would be foolhardy, if not dangerous, to interpret it as such.

Recognition also does not mean approval of the policies of the republican governments, most of which have espoused nationalism, sometimes at the expense of democratic development, economic reform and respect for the rights of all peoples on their territories. None of the republics, including Croatia, can claim to be fully democratic. Of course, building democratic institutions might be difficult during the course of civil war, but such an effort cannot be abandoned. While independence may now be a precondition for further democratic development, I wish to make clear that, to the United States, democracy is far more important than either the unity of Yugoslavia or the independence of its republics, and opting to recognize the republics does not, in and of itself, mean full acceptance in the community of democratic nations.

While it is no cureall, recognition does take a stand on what we and hopefully the rest of world will now accept as the best response to the Yugoslav crisis. Until recently, the Europeans and the United States have kept the door open to both sides of the dispute; we could have, were asked to, but chose not to recognize the republics earlier in the crisis. That open door has now been slammed shut by the Serbian government and the Yugoslav military, first and foremost by its wholly unwarranted assault on Dubrovnik.

Recognition will also provide needed symbolic support to those republics which have never been independent before and may have a difficult time achieving it now. As hard as it may be to realize, these republics may in fact be the scene of even more bloodshed than has been seen thus far in Croatia, and they desperately need our support.

In return for recognition, we should ask that those republics willing to develop relations on the basis of the EC plan should in fact do so. The plan is a good one, and the EC should proceed with it. It contains important elements on respecting human rights and fundamental freedoms for all people, without discrimination on the basis of their ethnicity or religious belief, that should not be quickly abandoned by governments genuinely committed to the development of democracy. And just as they were neighbors within the Yugoslavia of past, so too shall they be neighbors as separate, sovereign entities, making cooperation among them as envisaged in the EC plan inevitable.

If the Serbian government continues to choose to reject the plan, so be it—they choose their own isolation from the remaining Yugoslav republics and also from the rest of Europe. In the end, I hope the people of Serbia will decide to join the community of free European nations rather than accept the isolation their government has brought them. When that time comes, Serbia's neighbors must be prepared to extend their welcome.•

AMENDMENTS SUBMITTED

COMPREHENSIVE DEPOSIT REFORM AND TAXPAYER PROTECTION ACT OF 1991

COCHRAN (AND INOUYE) AMENDMENT NO. 1357

Mr. COCHRAN (for himself and Mr. INOUYE) proposed an amendment to the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions, as follows:

Beginning with page 450, line 17, strike all through page 471, line 22; on page 477, strike lines 12 through 18; and redesignate the remaining sections accordingly.

NOTICE OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Thursday, November 21, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 1705, a bill to resolve claims of the Sisseton-Wahpeton Sioux Tribe of South Dakota, the Devils Lake Sioux Tribe of North Dakota, and the Sisseton-Wahpeton Sioux Council of the Assiniboine Sioux Tribe of Montana arising out of a judgment fund distribution.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian affairs will be holding a markup on Wednesday, November 20, 1991, beginning at 9 a.m., 485 Russell Senate Office Building on H.R. 1426, the Lumbee Recognition Act, to be followed immediately by a nomination hearing on David Lester, Wiley Buchanan, Robert Ames, and William Johnson to be members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development, to be followed immediately by an oversight hearing on Federal Court Review of Tribal Court Rulings in Actions Arising Under the Indian Civil Rights Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry, will hold a hearing on the nomination of Charles R. Hilty to be Assistant Secretary of Agriculture for Administration, Wednesday, November 22, 1991, at 10 a.m., in SR-332.

For further information please contact Kathleen Merrigan of the Committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 19, at 10 a.m. to hold a business meeting.

BUSINESS MEETING

The Committee will consider and vote on the following business items:

TREATY

Resolution of Ratification, Treaty on Conventional Armed Forces in Europe (Treaty Doc. 102-8)

LEGISLATION

(1) Original bill authorizing transfers of equipment covered by the CFE Treaty.

(2) S. Res. 95, Gore resolution on Ozone depletion, with an amendment in the form of a substitute.

(3) S. Con. Res. 43, concerning the emancipation of the Baha'i community of Iran, sponsored by Senator Dodd.

(4) S. 503, The U.S.-Mexico Border Environmental Protection Act, sponsored by Senators McCain and DeConcini.

(5) S. Con. Res. 77, Pell-Helms resolution condemning the massacre of East Timorese civilians by the Indonesia military.

NOMINATIONS[1]

(1) Richard B. Stone, of the District of Columbia, to be Ambassador to Denmark.

(2) William Caldwell Harrop, of New Jersey, to be Ambassador to Israel.

(3) John Giffen Weinmann, of Louisiana, for the rank of Ambassador during his tenure of service as Chief of Protocol for the White House.

(4) John Kenneth Blackwell, of Ohio, for the rank of Ambassador during his tenure of service as U.S. Representative on the Human Rights Commission of the Economic and Social Council of the United Nations.

(5) A. Peter Burleigh, of California, for the rank of Ambassador during his tenuer of service as Coordinator for Counter-Terrorism.

(6) John Condayan, of Virginia, to be an Associate Director of the U.S. Information Agency.

(7) U.S. delegation to the 46th Session of the U.N. General Assembly:

Representatives: Thomas R. Pickering, of New Jersey; Alexander Fletcher Watson, of Massachusetts; Joseph Verner Reed, Jr., of Connecticut; Dan Burton, of Indiana; and Mervyn M. Dymally, of California.

Alternate Representatives: George Edward Moose, of Maryland; Jonathan Moore, of Massachusetts; Shirin Raziuddin Tahir-Kheli, of Pennsylvania; Oscar Padilla, of California; and Margaretta F. Rockefeller, of New York.

(8) Members of the Board for International Broadcasting:

Penn Kemble, of the District of Columbia, for a term expiring April 28, 1992.

Daniel A. Mica, of Flordia, for a term expiring April 28, 1993.

Cheryl Feldman Halpern, of New Jersey, for a term expiring April 28, 1994. (Reappointment)

(9) To be Assistant Administrators of the Agency for International Development: Reginald J. Brown, of Virginia; Andrew S. Natsios, of Massachusetts; and Henrietta Holsman Fore, of California

(10) Members of the Peace Corps National Advisory Council:

Richard N. Bond, of New York, for a term expiring October 6, 1992;

Michael B. McCaskey, of Illinois, for a term expiring October 6, 1992;

Tom G. Kessinger, of Pennsylvania, for a term expiring October 6, 1993 (reappointment)

Ruth Gardner Cox, of Texas, for a term expiring October 6, 1993

Roland H. Johnson, of Pennsylvania, for a term expiring October 6, 1993.

(11) Mark McCampbell Collins, Jr., of the District of Columbia, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development for a term of two years.

(12) Pamela J. Turner, of the District of Columbia, to be a Member of the U.S. Advisory Commission on Public Diplomacy, for a term expiring July 1, 1992.

(13) Two foreign Service Officers' Promotion lists: Richard M. Brown, et al; and David A. Alarid, et al, dated October 29, 1991.

(14) Members of the Advisory Board for Cuba Broadcasting:

Jose A. Costa, Jr., of Florida, for a term expiring October 27, 1994;

Joseph F. Glennon, of Florida, for a term expiring October 27, 1994; and

Charles Tyroler II, of Virginia, for a term expiring October 27, 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 19, 1991, at 10 a.m. to hold a hearing on a proposed regulation that limits the ways in which State and local governments can pay their share of Medicaid costs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., November 19, 1991, to receive testimony from Leo Duffy, nominee to be Assistant Secretary for Environmental Restoration and Waste Management, Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, November 19, 1991, at 10 a.m. for a hearing on "Health Promotion and Disease Prevention: Improving Health Status, Reducing Health Disparities and Achieving Access to Preventative Services by the Year 2000."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Tuesday, November 19, 1991, at 10 a.m. to conduct a hearing on the nomination of Alan Greenspan to be a member and Chairman of the Board of Governors of the Federal Reserve System.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Tuesday, November 19, 1991, at 3 p.m., for a hearing on the nominations of Reggie B. Walton, to be associate judge, Superior Court of the District of Columbia; and Emmet Gael Sullivan to be associate judge, District of Columbia Court of Appeals.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Tuesday, November 19, at 9:30 a.m., for a joint hearing between the Governmental Affairs Committee and the Special Committee on Aging on the subject of: "Cutting Health Care Costs: The Experiences of France, Germany, and Japan."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, November 19, 1991, at 2:30 p.m., in executive session, to receive a briefing and report on the DOD and committee investigation of the Air Force promotion selection process.

The PRESIDING OFFICER. Without objection, it is so ordered.

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[1] All nominations are contingent upon the successful completion of their hearings.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 19, 1991, at 9:30 a.m. on nomination of Karen Borlaug Phillips to be a member of the Interstate Commerce Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 19, at 9:30 a.m. to hold a hearing on the nomination of former Senator Richard Stone to be Ambassador to Denmark.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, November 19, 1991, at 9:30 a.m., to receive testimony on Senate Concurrent Res. 57, to establish a Joint Committee on the Organization of Congress. Witnesses include the following: Senator DAVID L. BOREN, Senator PETE V. DOMENICI, Representative LEE H. HAMILTON, Representative WILLIS D. GRADISON, JR., Dr. Norman J. Ornstein of the American Enterprise Institute for Public Policy Research, Dr. Thomas E. Mann of the Brookings Institution, and Dr. James A. Thurber of American University.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 19, 1991, at 10 a.m. on oversight of the Exon-Florio amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A TRIBUTE TO DOROTHY WALKER, EDITOR

• Mr. SASSER. Mr. President, earlier this month, Dorothy Walker retired after 26 years as editor of the Smithville Review in Smithville, TN.

Dorothy Walker's journalism career has not come to an abrupt end, however. She will remain the editor emeritus of the newspaper. Dorothy has told everyone that retirement means she will trim her 60-plus-hour workweek in half. However, those of us who have known Dorothy through the years know that she will remain an active and involved citizen of Smithville and DeKalb County.

Dorothy Walker is a woman who has contributed a great deal to the newspaper and the community she loves. More than once Dorothy was threatened because she dared to print the truth, but she always remained true to her principles and never gave in to fear.

Dorothy Walker has been an editor who believed in the best for her community. She has, through the years, been a leading supporter of Smithville and DeKalb County's progress and development.

Dorothy came to Smithville in 1965, having been a manager of the Weekly County Press in Martin, TN, for a number of years.

Smithville, of course, is the home of the late Congressman Joe L. Evins, a powerful Member of the House of Representatives until his retirement in 1976. Joe. L. Evins, like Dorothy Walker, was dedicated to his hometown of Smithville. He succeeded in getting Smithville named a Federal "Model City" by the Department of Housing and Urban Development. Dorothy was a strong supporter of Congressman Evins' efforts and helped promote the community support and community spirit to make the Model Cities Program a success.

In recent years, even an arthritic condition has not slowed Dorothy's devotion to her community and the newspaper. Though in obvious pain, she has remained diligent and never missed a story. Someone once told me "Dorothy is always in the office, day and night."

We all wish Dorothy the very best in her semiretirement. Her contributions to community journalism and her contributions to Smithville and DeKalb County will serve as an inspiration for generations to come.

Dorothy Walker succeeded in what was traditionally a man's world. Her dedication and professionalism are indeed an inspiration to us all.•

IN CELEBRATION OF OREGON'S LITERARY TALENT

• Mr. HATFIELD. Mr. President, it gave me great pleasure earlier this month to discover an article in the Book World section of the Sunday edition of the Washington Post, entitled "The City of Roses and Writers." I ask that this article appear in the RECORD following my remarks.

As several of my colleagues know, I am a true bibliophile, that is a lover of books of all kinds. I have spent many a day in Oregon and in Washington searching through various bookstores and libraries to find both old and new literary treasures.

I am proud to confirm the Post's assertion that the largest city in my State is ascending as one of the great literary cities in the United States. Although Portland is only the 32d largest city in America, it has the second highest rate of per capita public library usage. It is also among the top 10 American cities in per capita bookstores.

Four of Oregon's talented writers are spotlighted in the Post article and I am therefore delighted to take this opportunity to applaud their efforts as well as to commend the development of the literary industry in my State. It truly speaks to my heart to represent a State with such diverse talents, particularly in an area which I believe is critical to our continued understanding and cultivation as a great nation.

The article follows:

THE CITY OF ROSES AND WRITERS

(By Angie Jabine)

PORTLAND, Ore.—Long considered the burg on Interstate 5 least likely to detain a motorist headed north to Seattle, or south to San Francisco, Portland, Ore., was briefly hailed in the late 1970s as the nation's most livable city. Gang shootings and traffic jams have lately driven Portland down the livability list, but in literary terms, Portland is still on the ascent. The nation's 32nd largest city has an ungodly number of active writers.

Portland author Katherine Dunn thinks the writers here are no more numerous lately, just more successful and better organized. Since the early 1960s, Oregon has been a mecca for urban dropouts. Inspired by Sometimes a Great Notion, Ken Kesey's marijuana-laced logging epic, many of them vanished into the coastal ranges, near towns with names like Jewel and Mist. Like Kesey, who still lives on a rural Oregon dairy farm, they rarely come into Portland. But many eventually did settle in the city, and a lot of them began writing for such newly minted journals as Willamette Week, the Oregon Times and Clinton St. Quarterly.

These new Portlanders discovered a city brimming with people as likely to organize reading clubs as Tupperware parties. No doubt because of the gray drizzle that drips from the eaves from November till June, public libraries here are second only to Boston's in per capita usage.

And the literary life has accelerated. Portland is now among the top 10 American cities in per capita bookstores. Powell's Books, nerve central to the literary scene, has acquired an international reputation. Writer's groups, readings and workshops have been sprouting up like mushrooms in an Oregon cow pasture. On Sept. 30, Pacific Northwest PEN, the newly formed fifth branch of PEN America, gathered outside Portland at the sprawling estate of Jean (Clan of the Cave Bear) Auel to elect its first officers.

If there is a universal complaint among Portland's literati, it is that the local media aren't keeping up. Portland writer Ursula K. Le Guin recently wrote to the Oregonian, the state's largest daily paper, to decry its skimpy literary reporting, which is usually confined to one full-length book review and a book-chat column per week. But even book people are hard-pressed to keep track. Last month, the Oregonian reported that southern Oregon novelist Sandra Scofield had been nominated for the National Book Award for her second book, *Beyond Deserving*. All that day, bewildered Portland booksellers were calling each other up, asking, "Who the hell is Sandra Scofield?"

CREATIVE CATALYST

Nobody in Portland has to ask who Ursula Le Guin is. Raised in California, Le Guin has lived in Portland for 32 years, during which time she has raised three children, written 15 novels and won three Nebula Awards, four Hugos, the Newbery, the World Fantasy Award and a National Book Award. In 1986, she helped found the Oregon Institution of Literary Arts, which sponsors annual book awards and offers grants to writers for everything from word processors to child-care payments.

While the outside world knows Le Guin best for her speculative fiction, Portland's artists know her as a bold and generous collaborator. This fall at Artquake, Portland's annual arts festival, Le Guin composed and narrated her own creation myth, the core of an extraordinarily synergistic performance piece encompassing dance, visual art, choral music and chamber music—all of it composed by artists better known in Portland than elsewhere.

While writing her current book, *Searoad: The Chronicles of Klatsand*, Le Guin met regularly with two informal writing groups, one for poetry, one for fiction. The fiction group includes a former protege, Molly Gloss, whose historical novel, *The Jump-Off Creek*, was nominated in 1990 for the PEN Faulkner Award.

"The general mood here is supportive, and kind of anti-establishment," says Le Guin. "There are not a lot of people here just dying to break into the East Coast establishment and be John Cheever." In Portland, she says, "people do let you be . . . A writer of my age and position in San Francisco or New York can be constantly fending off the community. Here, they allow me to be a housewife living in an old house in the northwest of the city."

GOLD-HEARTED GONZO

If Le Guin is literary Portland's mentor/mom, Katherine Dunn is its gonzo queen. A boxing fanatic who favors skin-tight jeans and electric blue high-heels, Dunn is known for having what New Yorkers fondly call *attitude*. But beneath the pugnacious demeanor beats a sentimental heart. When it became clear that her third novel, *Geek Love*, would attain the same cult status as the vampire novels of Anne Rice, Dunn finally abandoned the column she'd been writing for Willamette Week, Portland's largest weekly. But, ever faithful to the underdog, she still writes her boxing column for the Skanner, a tiny, black-owned Portland weekly.

That same affection for the disenfranchised led Dunn and other freelance writers to found Northwest Writers Inc. in 1986. Today the group offers dental insurance (Dunn still does the paperwork) and defends its members in disputes with editors. "I've always tried to work against that ludicrous and self-destructive rivalry that writers tend to have," she says. "The enemy is somebody else—not always editors, but often." In 1987, Dunn and fellow freelancer Steve Beard joined forces with Willamette Week and Portland's independent bookstores to found LitEruption, a book fair aimed at celebrating this region's authors, LitEruption now attracts nearly 5,000 visitors a year.

It is indicative of Dunn's devotion to free expression—and the gonzo streak that keeps surfacing—that when she read at LitEruption this spring, she read not from her own work, but from Bret Easton Ellis's *American Psycho*. She recently halted work on her upcoming boxing thriller to collaborate with Seattle artist Mare Blocker on *Mystery Girls' Circus*, a limited-edition art book commissioned by the National Museum of Woman in the Arts (a fact that might surprise the Portland feminists who regard Dunn with intense suspicion, expecially after her recent critique of feminism in Esquire magazine). Dunn chuckled mightily when she heard that Barbara Bush, a patron of the museum, was planning to order a copy.

ANTI-MUSE MATERIAL

Despite all the ink spilled within its city limits, Portland itself doesn't seem to inspire indelible images. This region's most stunning literary landscapes come out of the boondocks, in works like Craig Lesley's *Winterkill*, or Tom Spanbauer's *The Man Who Fell in Love with the Moon*. Former screenwriter Karen Karbo, who moved to Portland to write her two L.A. novels, *Trespassers Welcome Here* and *The Diamond Lane*, remarks that "there still isn't the sort of novel that does for Portland what William Kennedy did for Albany, New York." Curiously, the vividest, grittiest pictures of Portland have appeared, not in books, but in local director Gus Van Sant's filmed adaptations of books by Northwest authors.

Van Sant's latest movie, "My Own Private Idaho," is based on his own screenplay about Portland's teenage street hustlers, but his first feature, "Mala Noche," was based on a novella by Walt Curtis, a poet of intense local renown. "Drugstore Cowbody," set largely in pre-gentrified Northwest Portland, CA. 1972, is based on a story of itinerant drug addicts written by former Washington State Penitentiary inmate James Fogle. Van Sant's next feature: "Even Cowgirls Get the Blues," based on the best-seller by Seattle-area writer Tom Robbins.

THE EASTIE BOYS

"Just do it," urges the sneaker slogan coined by Wieden & Kennedy, Portland's best-known advertising agency. "Just do it" pretty much describes the approach of the Eastie Boys, a group of writer-journalists who live on the flat, affordable, east side of Portland. All of them were struggling in solitude with their first book contracts until one of them—Tom Bates, they think—had the bright idea of meeting now and then to complain.

Bates wrote the early drafts of his book, Rads: A True Story of the '60s, due next fall, hunched in a basement room next to a churning washing machine. His friend Larry Colton suffered similar privations, trying to make his two-year advance stretch to cover four years of research. Colton's book, Goat Brothers, a memoir of the frat boys he met at Berkeley in the 1960s, is also due next fall. West-sider Katherine Dunn is an honorary Eastie Boy, and so is essayist Sallie Tisdale, whose fourth book, Stepping Westward, just came out.

Susan Stanley, a long-time journalist and Eastie Boy whose first book, Maternity Ward, will appear in April, recalls an early meeting of the group. "We were all sitting around bitching and moaning, and Tom Bates said, 'Well, a real writer would do such-and-such.' And I said, 'Listen, we have contracts. We have advances. We have publishers. I think this is about as real as it's going to get.' The funny thing is, I thought I would be tall and thin and blond by the time I got around to being a real writer."

Although he's seldom physically present, the person who has, in a sense, brought these sweating writers together is New York literary agent Richard Pine. A combined fairy godmother and spiritual scoutmaster, Pine has negotiated comfy contracts for Bates, Colton and Stanley. He also represents Katherine Dunn, John (Driving the Green) Strawn, former Portlander Susan (Saturday Night) Orlean, Mark Christensen (his first Portland client) and Mike Gilmore, an L.A.-based Portland native whose upcoming family memoir was the object of a major bidding war. (The book will focus on Gilmore's brother, Gary, who was executed in 1977 after a Utah murder spree.)

Pine professes awe for Portland. "There's something in the water, something in the rain," he says, laughing. Of his "wonderful, talented, mature, reliable" clients, he adds, "They are writing about things that are bigger than the region. And none of them are kids." True enough. As Larry Colton points out, most Portland writers started out as something else. Colton played pro football. Tisdale was a nurse. Strawn was a college professor and building contractor. And Katherine Dunn waited tables for years.

As Stanley says, "We're just grateful that Mark Christensen wasn't from Grand Rapids, Michigan, or he never would have introduced us to Richard Pine."•

A STRONG MACHINE TOOL INDUSTRY IS CRITICAL TO AMERICAN ECONOMIC SUCCESS AND U.S. NATIONAL SECURITY

• Mr. DIXON. Mr. President, my colleagues know that one of my major concerns, since I arrived in the Senate, is the issue of preserving a strong defense industrial base. A major component of that base is the machine tool industry.

Machine tool companies have long been an important part of my State's economy. They provide thousands of skilled jobs for Illinois residents. They are at the heart, not only of our industrial competitiveness, but also of our national security.

Last March, the Office of Science and Technology Policy [OSTP] issued a report that lists 22 national critical technologies deemed essential to satisfy our Nation's economic competitiveness, public health, energy, and national security needs. Of the 22 technologies listed, 8 depend upon the machine tool industry and continuing machine tool developments for effective advances to be made.

The critical technologies of flexible computer-integrated manufacturing, intelligent processing equipment, and systems management, for example, are obviously dependent upon machine tools. In fact, some of the systems in these areas that were described in the OSTP report are simply groups of machine tools working together to manufacture a certain product. Flexible computer-integrated manufacturing specifically emphasizes machine tools, and we know, Mr. President, that this type of equipment is going to be critical to America's industrial competitiveness in the future.

The OSTP report concluded that a significant portion of the jobs in the services and trade sectors of our economy depend on the manufacturing sector. The report went on to state that:

"Failure to maintain world class manufacturing capabilities would compromise our nation's ability to compete in domestic and international markets, and would threaten our ability to continue economic growth and obtain access to the full range of components and equipment required for a strong national defense."

Thus, Mr. President, machine tools are seen by the OSTP panel and by most experts in the field to be a key to our international competitiveness.

That is why, Mr. President, I was so dismayed when I heard reports recently that a group of Defense Department analysts have argued that there is no conceivable wargame scenario which would justify the continuation of any special trade protection such as the current voluntary restraint arrangement with Japan and Taiwan on the import of certain categories of machine tools. That voluntary restraint arrangement is due to expire at the end of this year, and the Bush administration is currently considering whether to renew it for an additional 5 years. It is my understanding that the Defense Department has taken the position that machine tools are no longer worthy of special protection.

If that is the case, Mr. President—if machine tools are no longer the key to manufacturing weapons systems of high sophistication; if they are no longer the key to maintaining our national security—then I see no reason whatsoever for maintaining the current stringent regime of export controls that so highly restrict our U.S. producers of machine tools in trying to make sales abroad.

If that is the case, then I will have to consider offering an amendment to the Export Administration Act that would direct the President to seek an immediate decontrol of all machine tools with our allies at the next meeting of Cocom, the international export control body. If machine tools are not important to our national security, there certainly is no reason to maintain the stringent controls which prevents the sale of hundreds of millions of dollars worth of U.S. machine tools in foreign markets.

I have to confess, Mr. President, that I cannot understand why members of the administration are denying the strategic importance of these machine tools and the necessity of preserving a strong, competitive, world-leading machine tool industry for our own defense industrial base. Recently, the administration's core-list exercise lifted a large number of export controls on machine tools so that they could be more freely traded in world markets. If machine tools are no longer essential to our national security, however, then what is the justification for maintaining the rest of the still-stringent system of machine tool export control restrictions?

For the past 42 years, the United States, in coordination with its major Western allies, has consistently prohibited the sale of sophisticated dual-use products such as machine tools to the Soviet Union and other potentially hostile countries. But if, as the Defense Department seems to feel today, machine tools are no longer a critical part of our defense industrial base and our national security, they must also agree that they are no longer relevant to the development of weapons abroad either.

The Defense Department cannot have it both ways. Either machine tools are important enough to keep from our potential adversaries so we can maintain a technological edge, or they are not important to our defense industrial base, and therefore, ought to be traded freely and without restriction.

In my view, the correct choice is obvious. If it is not equally obvious to some of our Defense Department officials, I will be glad to explain it to them personally.•

WELCOME HOME

• Mr. WELLSTONE. Mr. President, I recently attended a gathering at the site of what will be the Minnesota Vietnam Veterans Memorial. Richard Verner Bergling, who is the president of the Minnesota State Council of the Vietnam Veterans of America, and who served two tours in Vietnam in the U.S. Navy, spoke very eloquently on that occasion. I would like his statement to be printed in the RECORD.

The statement follows:

COMPARING ONE WAR TO ANOTHER

(Statement of Richard Verner Bergling)

I have, over the last few weeks and months and even years, contemplated on how best to put into words what I feel as I read and listen about comparisons on a number of topics and issues. One such issue that finally got me to sit down and write these feelings, after reading the commentary page in the Minneapolis Star July 1st, 1991. The title of the article was "Readjustment Takes Its Toll on a Gulf War Vet". What really irritated me about the article was the last paragraph in which he said, "Unlike the guys who came home from Vietnam, we vets in the gulf have had our parades and then some. Don't look for us to spend a lot of time wearing our old desert uniforms, hugging and crying on each other's shoulder. There is no need for that. Our country is with us this time, even if it truly doesn't understand us."

There is no way anybody can compare what happened in Vietnam to what happened in the Persian Gulf or Korea with World War II or World War I with the Spanish American War or any combination thereof with all the wars that our country has been involved in. Each had its own identity and personality. All the wars previous to the Gulf lasted years, not just a few months. It took thousands of U.S. lives, not just a handful killed by friendly fire as in the Gulf. Korea and Vietnam were wars fought against an ideology, not one individual you can point your finger at. We lost approximately 110,000 lives in these two wars. These soldiers were also volunteers and also draftees. Not all were from poor economic or social class, but that is the nature of war—to send society's least accepted people. It is only when the upper classes are affected that people stand up and take notice.

All that have been in a war situation come away changed, for the imprint of that experience is etched in your brain. As you can see, it is easy to compare but it is hard to define one's experiences. Korea and Vietnam were set apart because of the political and social ideologies of the times. Korea, of course, during the Big Red Scare and the advent of McCarthyism, when these vets came back it was unacceptable to speak out about the way the government handled the war and it was also fought in the shadow of the Big One, World War II, as it is referred to by the vets of that one. Korean vets, in a sense, were forced into the woodwork and forgotten. Most Vietnam veterans were just children during the Korean War but we grew up knowing that Korea was a war not talked about much and that World War II was the one that counted. It is called the Forgotten War and our society has done a very good job of making that possible.

Korean War vets are now just organizing and doing things to get the recognition they deserve. When the Vietnam commitment started in 1954. America was tired of war in Asia, but according to our government, there was a treaty to uphold and, therefore, committed the U.S. to economic advisory and eventually military aid and intervention. To the Vietnam veteran, growing up in the shadow of the previous wars, we as sons and daughters, wanted to do what our fathers, mothers, aunts and uncles had done before us. We believed that what we were doing was right and just. I still believe that. I also feel that a majority of my brothers and sisters do too.

When John F. Kennedy in his inaugural address in January, 1961 said, "Ask not what your country can do for you, ask what you can do for your country." That one phrase was a reference point for my generation. We were the generation that was going to change the world to be a better place. To some it meant the Peace Corp or Vista. To others it meant serving in our country's military. We went with the hope of all the generations before us, to make a difference in the world around us. I feel that we as Veterans of Vietnam did our part to change the world to be a better place, because men and women were willing, even if drafted, the Korean War and the Vietnam War resulted in the destruction of communism. Some of you, of course, don't believe that, but I do. Think for a moment about Europe, Cuba, Angola, Korea, Vietnam and China. Everywhere communism is on the decline. If we had not fought in Korea and Vietnam, then the Big Red Scare would still be with us.

Gulf War vets should thank us and many have, for setting the stage for a place of honor in America. For they made the same commitment that we did, only this time it was a commitment endorsed by society also. One thing to remember is that if the Gulf War had had more casualties and went for a longer period of time, society would not have been so strong. We, as Americans, want things done fast and with the least amount of pain. Korea and Vietnam did not fall into those categories. Vietnam vets hug and cry on each other's shoulders and wear our old jungle fatigues, because not to do so would mean turning our backs on our fallen brothers and sisters. America turned her back on us so we cling together to maintain our identity and sanity. Over 100,000 brothers and sisters have committed suicide since returning. That is the reason we cry and hug each other—so that we don't lose any more.

America always wants winners and can't stand losers. Just look at a sports event. The winner gets champagne, the loser gets ignored. We, as Vietnam veterans, didn't lose the war or the commitment to do so. Society did, and I think that America took a long hard look at itself in Vietnam and blinked, because it wasn't fast enough and too painful. But no pain, no gain as the cliche goes. We bore the pain and I feel the world feels the gain. I love my country as I feel every veteran does, even if they were drafted. We pledged to lay down our lives for her and to defend her. All of America's veterans have done that—27 million. But we are different because we were in different wars. So you can't compare them. It's hard for people that have never been in the military to understand us because we are different and we look at the world differently.

If you love your freedom, thank a veteran. If you go to church and are involved in other activities that this country offers, thank a veteran. If you feel pride in the flag, thank a veteran because the red in our flag represents the blood shed for our country. When you meet someone, ask them if they are a veteran and if they are, thank them. America is purging itself of the guilt it carries about Korea and Vietnam. I hope that we did learn one thing from Vietnam and that is to separate the war from the warriors. I don't have to feel that I need society's acceptance for Vietnam because I did what I felt was right and so do my brothers and sisters. Welcome home.•

VOLUNTARY RESTRAINT AGREEMENTS

• Mr. KASTEN. Mr. President, I rise today in support of the renewal of the voluntary restraint agreements—or VRA's—for the machine tool industry.

The 5-year term of the VRA's is set to expire this year. This would be a disaster for the U.S. machine tool industry and for the economy as a whole.

Machine tools have been described as "the semiconductors of the manufacturing world." They are high-technology machines that are used to manufacture everything from medical equipment to missile components. Every weapon used in the gulf war was made on a machine tool.

It is important for both the economy and our national security that we keep our machine tool industry healthy. Between 1981 and 1986, the overvalued dollar put hundreds of machine tool manufacturers out of business—and the industry's highly skilled work force shrank by 30,000 jobs.

The VRA in 1986 gave the industry an opportunity to reorganize in order to survive. From 1987 to 1989, U.S. machine tool manufacturers have seen an average productivity gain of 11.3 percent annually. Huge investments have increased the efficiency and value of this industry.

Our machine tool industry is getting back on track. We need to stay the course. I urge my colleagues to vote to protect this vital industry until its restructuring process is complete.

Our economic future depends on the survival and success of the machine tool industry. I vote yes for the continuance of the VRA's.•

COLLOQUY BETWEEN SENATORS LEVIN AND RUDMAN ON THE RUDMAN AMENDMENT TO THE CIVIL RIGHTS ACT OF 1991

• Mr. LEVIN. In a conversation off the Senate floor during consideration of the Civil Rights Act of 1991, I asked the Senator from New Hampshire relative to the amendment he was offering whether a Senator would be personally liable for the actions of a staff member who violated provisions of that legislation. The Senator responded that it was not the intention of his amendment to make a Senator personally liable for the actions of a staff member, and I thought I would place that assurance in the RECORD.

Mr. RUDMAN. The Senator is correct. A Senator is personally liable under my amendment which passed the Senate only for his own actions.

Mr. LEVIN. I thank the Senator. On a related point, a number of our colleagues have wondered whether the Senator from New Hampshire's amendment would apply to an alleged activity of a Senator which took place prior to the effective date of the Civil Rights Act of 1991.

Mr. RUDMAN. It was the intention of the amendment that it apply prospectively from the date of enactment of the Civil Rights Act of 1991, and only, therefore, to actions occurring on and after that date.•

THE ANNIVERSARY OF THE MURDER OF SIX JESUIT PRIESTS IN EL SALVADOR

• Mr. DIXON. Mr. President, 2 years ago this past Saturday was the second anniversary of a dark moment in the history of El Salvador. It was on November 16, 1989, that Salvadoran military officers entered the home of the Jesuit community at the University of Central America in San Salvador, dragged six Jesuits into the courtyard, and killed them in cold blood as they prayed on their knees for their lives.

No other event in the muddle that is El Salvador so focused the attention of the world on the crisis in that country.

I was outraged at the Jesuit murders. In September 1990, I said that the military's efforts to block the prosecution of those responsible for the murders was intolerable. Unfortunately, it now appears that these efforts were successful.

In a leap of judicial logic, the jury in the case convicted Colonel Benavides, who was charged with ordering the murder, but acquitted the eight other military officers, some of whom had even admitted to shooting the Jesuits. The presence of military officers in the courtroom, and the flight of military planes and helicopters over the courthouse chilled the atmosphere, making it impossible to obtain real justice.

Congressman JOE MOAKLEY, who chaired the Speaker's Task Force on El Salvador, has issued a memorandum stating there is considerable evidence that top Salvadoran military officers, including the present Salvadoran Defense Minister, Rene Emilio Ponce, conspired to murder the Jesuits in a meeting the day before the killings. Witnesses to those meetings refuse to come forward for fear of reprisal.

The Moakley report strengthens the charges of obstruction and deceit leveled against it by churches and humanitarian organizations.

For me, this case was a key factor in my vote to withhold 50 percent of military aid to El Salvador. However, even with the aid cuts, the Salvadoran military still does not seem to get the message. They continue to terrorize repopulated communities in the north, and refuse to cooperate with the Cristiani government's efforts at the bargaining table.

They are the obstacle to peace, Mr. President. They have never been short of bullets, just principle.

On this second anniversary of the Jesuit murders, Mr. President, we must keep the focus on peace. That was, and remains, the goal of the Jesuits in El Salvador. We must work to ensure the success of the peace talks. That will be a fitting legacy to the Jesuits whose lives and work were brutally cut short 2 years ago.

I thank my colleagues.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Kay Davies, a member of the staff of Senator KASTEN, to participate in a program in China sponsored by the People's Republic of China on November 30 to December 15, 1991.

The committee has determined that participation by Ms. Davies in this program, at the expense of the People's Republic of China is in the interest of the Senate and the United States.•

HONORING THE MANDEL CO.

• Mr. KASTEN. Mr. President, I rise today to honor the achievement of a truly outstanding corporate citizen—the Mandel Co. of Milwaukee, WI.

For 100 years, the Mandel Co. has been a pioneer in the print production industry. It is one of the Milwaukee area's leading custom filmmakers and printers.

In 1892, Emanuel Mandel started this company with a true commitment to excellence. Ever since, the Mandel Co. has followed the path pointed out by its founder. It is not in its fourth generation, with Emanuel Mandel's grandson, Robert Mandel, at the helm.

All of the employees at the Mandel Co. deserve the respect of Wisconsinites for their hard work and the high quality of their products. I ask my colleagues to join me in wishing everyone at the Mandel Co. a happy 100th anniversary.•

IN OPPOSITION TO SERBIAN AGGRESSION AGAINST CROATIA

• Mr. DIXON. Mr. President, Croatia is burning. The Serbian dominated federal army is bombing the ancient city of Dubrovnik and Vukovar, and trying to pummel them into submission. All freedom-loving people must condemn this wanton destruction of a great people.

I rise today to announce my cosponsorship of Senate Resolution 213, introduced by my distinguished colleague, Senator GORE, which expresses the sense of the Senate on United States policy toward Yugoslavia.

Yugoslavia was an artificial creation from the start, Mr. President. The Republics which constitute the Federal Republic have a history of conflict with each other. The Republics have distinct cultural and religious backgrounds as well. The late dictator Josef Tito held these conflicting Republics together for decades, but even he could not hold them together forever.

Tito is gone, and so is Yugoslavia as we knew it. The sooner the administration recognizes that, the sooner the people of Slovenia, Croatia, Serbia and the other Republics will be able to get on with their future—a future in which they are able to determine their own course.

Mr. President, let us be clear about the players involved in this age-old conflict. Serbia, the largest Republic in Yugoslavia, and the Republic in which the federal capital is located, has chosen to follow the sorry road of communism. The Croatians, Slovenes, and others, have chosen the promise of democracy. They wish to leave the federal structure currently dominated by the Serbians, and go their own way. The United States has welcomed such decisions by republics and nations in the past, including the Baltic States, Poland, Namibia, and others. Why cannot this administration change its course on Yugoslavia?

The administration has pursued a policy of keeping Yugoslavia together as one country. That is not the expressed desire of the people in four of the six Republics. At what point does the expressed desire of the Croatians, Slovenians, and others matter in the administration's consideration of their policy? I would urge them to take their desires into serious consideration at this fragile moment in Croatia's struggle for independence.

Every day there are pictures in the paper, and stories on the news, of the violence and destruction taking place in Croatia. The federal army, populated by Serbians, has imposed naval blockages, slaughtered the elderly, women, and children in Croatian villages, and destroyed hospitals, schools, and churches, in a campaign to break the spirit of the Croatian people.

It is a most remarkable, and tragic occurence, that war has broken out once again in Europe.

The United States, in conjunction with our European allies, and international organization such as the United Nations, must do all in their power to end the bloodshed and restore peace in Croatia. Once the bullets and bombs have ceased, we must intensify our efforts to achieve peace.

In conclusion, Mr. President, the people of Croatia are wondering why the administration is so silent in the face of the federal army's destruction of Croatia. Are we willing to stand on the side of democracy? We must do no less! I urge the administration to change its policy toward Yugoslavia, and clearly side with the forces of democracy over the forces of oppression.

I thank my colleagues.•

VIETNAMESE-AMERICAN CULTURAL ALLIANCE OF COLORADO STUDENT AWARDS

• Mr. WIRTH. Mr. President, I would like to take this opportunity to honor several Vietnamese-American students from the State of Colorado whose outstanding academic performance merits special notice by this Congress.

The Vietnamese-American Cultural Alliance of Colorado, a nonprofit service organization composed of Vietnamese immigrants and Americans of Vietnamese origin, has selected several young people, along with their parents, to be honored in recognition of their exemplary academic standing. These youngsters have made a highly successful transition from one distant and different culture to another and now, because of their courage, perseverance, and excellence as citizens of this country, have become exemplary students. For this reason I feel each one of these students deserves special acknowledgment by the Senate.

The recipients of the 1991 Colorado Awards for Academic Excellence are: Sabrina Andersen, Le Thi Trinh, grade 4; Nguyen Tuyet, grade 6; Bernadette Hoatam, grade 3; John To, grade 3; Brian Le, grade 4; Nguyen Thinh, grade 1; Joseph Haotam, grade 1; Hoang T. Thu-Huong, grade 8; Hoang T. Thu-Huyen, grade 7; Chau Cam Giang, grade 7; Nguyen Thuy, grade 7; Mary Hoatma, grade 7; Jim Nguyen, grade 8; Tom Chen, grade 8; Tom Beshears, grade 8; Lyna Nguyen, grade 10; Richard Vuong, grade 12; Cao Thinh, grade 12; Hoang T. Thu-Hang, grade 10; Nguyen Huy Cuong, grade 12; Ngo Tu, grade 11; Ngo Tai, grade 11; Vo Vy, grade 9; Nguyen Hoang, grade 9; Meggie A. Duong, grade 11; Pham Hoang Yen, grade 12; Patricia Tran, grade 10.

Unfortunately, space does not permit a description of each student's accomplishments. However, I can say that each of these students has achieved an extraordinary academic standing—earning a perfect 4.0 grade point average or better. Congratulations should also be extended to the families, friends, and teachers of these students. Their encouragement during difficult times and guidance toward the limitless opportunities has contributed immeasurably to the success of these award recipients.

Let me also extend my thanks to the Vietnamese-American Cultural Alliance of Colorado, without whose support and dedication to community service, these exceptional students would not have been recognized. Henry Tuoc V. Pham, the president of the alliance, has done an outstanding job of encouraging academic excellence among young Vietnamese-Americans. His hard work, along with the love and support of their families, certainly shows in the fine academic performance of these 27 young Coloradans.•

TRIBUTE TO DAVE MOORE

• Mr. DURENBERGER. Mr. President, I rise today to tip my hat to a man many in the St. Paul and Minneapolis area consider a member of the family. For more than 40 years, Dave Moore has been a familiar face on WCCO-TV. In the coming weeks, Dave, at the top of his game, will end a distinguished career as a nightly news anchorman. Although his viewers will see him on a new Sunday morning local public affairs program, Dave's comfortable style and gravely voice will be missed.

Dave Moore, a Minneapolis native, studied drama at the University of Minnesota and joined the staff at then-WTCN television in 1950. As was typical in those days, Dave did a variety of local programming stints including children's and quiz shows, a bowling show, and a nightly 1-hour program opposite Steve Allen's "Tonight Show." He was at the helm after the station changed its call letters to WCCO and launched a 10 p.m. news program in 1957.

Even in the 1960's, Dave was on the cutting edge of local programming. Years before "Saturday Night Live" broke the national barriers and popularized outrageous topical humor, Dave Moore presented his weekly "Bedtime Nooz." At a point in our recent history when everyone was taking things very seriously, Dave Moore reminded us that laughter made a difference, too.

He changes his focus from late night comedy to primetime public affairs in 1971 when Dave brought "Moore on Tuesday," later "Moore on Sunday," into our homes. The award-winning documentary series was one of the reasons WCCO has enjoyed a reputation for top-rated television journalism.

Soon, the screen will fade to black on Dave Moore's evening news career. His audience will get used to the idea that he's not there every night at 5 or 6 or 10. But, I am sure all of those who have grown accustomed to his face will remember when he told them about the first Moon landing, the passing of great leaders, the triumphs and trials of the Minnesota Twins, the events of everyday Twin Citians' lives; all with a pure Minnesota accent. Thanks for a job well done.•

ITALIAN HERITAGE AWARD WINNERS

• Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to five distinguished citizens of the State of New Jersey whose civic contributions have earned them a special award from the Italian Heritage organization in Vineland. Through their efforts, they have improved community participation and strengthened local Italian ties in Vineland. I am proud to have these five individuals as my constituents.

I join the organization honoring every one of these fine awardees. Dr. Anthony Catrambone has devoted himself to improving the school system in southern New Jersey for the last 44 years. He has contributed to the growth of students as a teacher, assistant principal, principal, professor, and superintendent. This is a man who is truly devoted to the education of New Jersey's youth. Dr. Catranbone's accomplishments in education and outstanding service to the community should be applauded.

The late Dorothy Ferrari is another honoree deserving of tribute. She was a woman with tremendous character, a heart of gold, and boundless energy for helping others. Mrs. Ferrari was actively involved in the PTA, the Red Cross, the March of Dimes Leukemia Foundation, and the Cancer Society. She also managed to find time to visit shut-ins and assist them with their special needs. It is a rare privilege to find someone so selfless that they put the needs of others before their own. Religion also held a special place in Mrs. Ferrari's life. She served as the publicity chairperson for Our Lady of Pompeii Parish and president of the Altar-Rosary Society and helped with numerous other functions for her church. Perhaps her most distinguished honor was a special recognition from Pope John Paul II for her gracious service to her parish and community.

Another active member of the Vineland community is Peter Galetto. As an 8-year-old child, he left Tonco, Italy, to join his father, who had found work in America. Like many immigrant families, the Galettos worked hard and managed to survive the Depression by turning to farming. The Galettos could not afford to have Peter attend school, so he never completed his formal education. Though determination and hard work, Mr. Galetto overcame the obstacles that faced him as an immigrant by relying on his Italian heritage as a source of personal strength. Mr. Galetto enjoyed a very successful career in the construction field and laid the foundation for homes and businesses in Vineland. His involvement with the Local 415, Local 33, Sierra Club, and St. Isadore's Parish demonstrates his concern for the community and his desire to put back into Vineland what it has given him.

Vineland has also had the good fortune to have Joseph Magazzu as a lifelong resident. It is fitting that he is receiving recognition as an Italian heritage award winner. He is also the son of Italian immigrants who came to America looking for a better way life for their children. They should be proud to have such a successful son. After graduating from Temple Law School, he joined the service for 2 years. When his military duties were complete, he returned to Vineland where he began his own family. Mr. Magazzu has contributed to the political, religious and educational life of Vineland by being an active and concerned member of the community.

John Rossi is also being honored for his commitment to Vineland. He has distinguished himself by overcoming a physical handicap, becoming an example of what determination can achieve. His concern for the youth is evident from his active involvement in the Boy Scouts. he worked to make this organization more accessible for the handicapped. Mr. Rossi also actively works with his church in other charitable endeavors such as assisting the elderly and working on behalf of the American Cancer Society.

Mr. President, I applaud these five outstanding individuals and commend them for serving their communities selflessly. Italian-Americans have added richness to our culture and diversity to our educational, political, and social systems. I thank Dr. Catrambone, Mrs. Ferrari, Mr. Galetto, Mr. Magazzu, and Mr. Rossi for making Vineland a better place to live.•

NORTH AMERICAN TRADE CORRIDORS

• Mr. DURENBERGER. Mr. President, as a conferee on the surface transportation reauthorization legislation, I and my colleagues are striving to achieve an intermodal transportation system to serve our country in the post-interstate era.

Both bodies of Congress have recognized the importance of preserving an integrated system to serve major population centers, ports, airports, interstate, and interregional travel, and international border crossings by including a national highway system program.

In addition, both bills direct the Secretary of the Department of Transportation to conduct a study regarding international border crossings. Although, there are differences in each bill's approach to the problem, I am confident that this issue will be addressed in the final agreement.

The Red River Trade Corridor serves Minnesota, North Dakota, and Manitoba, Canada. This region of my State moves 8 billion dollars' worth of goods annually. The studies included in the surface transportation bill will provide a much needed assessment of trade corridor needs and potentials. Also, the focus on intermodality, as set forth by the bills, will strengthen the development of the Red River Trade Corridor and the surrounding areas it serves.

At this time, Mr. President, I would request that a resolution passed unanimously by the Red River Trade Council's board of directors be submitted into the RECORD.

The resolution follows:

RESOLUTION—RED RIVER TRADE COUNCIL

Whereas the Red River Basin is emerging as an important central North American Trade Corridor for trade between the United States and Canada; and

Whereas the United States Senate and House of Representatives 1992 surface transportation Bill recognizes the growing trend towards intermodal transportation, the changes in transportation technologies, the role of telecommunications in information transportation and the growth of north-south trade corridors to accommodate North American trade; and

Whereas there is a strong need to further the development of intermodal transportation planning and resources and the need for research regarding these emerging trade corridors and the role transportation plays in facilitating North American trade flows: Therefore be it

Resolved That the Red River Trade Council supports the development of regional trade associations established upon shared economic, commercial, cultural and historic interest; and

That the Red River Trade Council supports public and private efforts to develop system-wide integration of transportation services to facilitate North American trade; and

That the Red River Trade Council supports U.S. Federal initiatives to refocus the national highway investment strategy on trade corridor development and strategic planning to target investments; and

That the Red River Trade Council supports an intermodal regional assessment that would involve appropriate Canadian officials and provide information regarding the adequacy of current U.S.-Canada border crossings and regional infrastructure needs of current trade corridors.

In addition the Red River Trade Council directs its staff to monitor and advocate for a U.S. intermodal regional assessment and research agenda that identifies infrastructure improvements and associated costs necessary to expand services; and

Directs its staff to investigate opportunities for public-private cooperative efforts to develop a regional transportation data system and investment strategy to facilitate trade corridor development; and

Directs its staff to send copies of this Resolution to the North Dakota and Minnesota Congressional delegations.

Passed unanimously at the October 9, 1991 meeting of the Red River Trade Council Board of Directors.•

THE FRIENDS OF FREDERICK DOUGLASS

• Mr. D'AMATO. Mr. President, I rise today to speak of an event that is going to take place this Friday, November 22, 1991. The event is a tree planting ceremony in honor of the 100th birthday of Mrs. Eudora Gilmore, trustee of the Frederick Douglass Memorial and Historical Associations. The occasion will be marked by the planting of trees at the Frederick Douglass National Historic Site in Anacostia.

On this auspicious occasion, a cedar tree will be planted in honor of Mrs. Eudora Gilmore and two dogwood trees will be planted to memorialize Misses Mabel Diggs and Wilhelmina Crosson. All three woman were emeritus trustees of Frederick Douglass Memorial Historical Association and members of NACWC, Inc.

This program is being sponsored in part by the Friends of Frederick Douglass of Rochester, NY, in cooperation with the Frederick Douglass Memorial and Historical Association, Inc., Frederick Douglass Housing Corp., and the National Park Service.

Mr. President, I regret that a pressing prior commitment will keep me from attending this very special event, but the planting of the actual trees is merely the beginning of living monuments that will stand for decades to come to commemorate this day and help us to remember these three special ladies, their respective contribution and the life of the man, Frederick Douglass, whose life's work they sought to rekindle.•

SCHOOL READINESS

• Mr. SIMON. Mr. President, I want to thank my friend Ernest L. Boyer, president of the Carnegie Foundation for the Advancement of Teaching, for comments he recently made on the importance of having all children in school ready to learn. He not only believes in this goal, but he has set up a plan of action to solve this problem.

In his remarks at the Fortune Education Summit, Mr. Boyer reflects on how the needs of the whole child ought to be addressed. This means that a child's physical, social, and moral needs should be addressed if they are going to be ready to learn. Focusing on the means to attain this goal of school readiness is where President Bush, Congress, and the American people need to put their attention if we are going to solve this problem.

Education is the best investment we can make in our future, and I am committed to ensuring that all children both enter school ready to learn, and have a real opportunity to learn once they are in school. I would ask to enter Mr. Boyer's remarks into the RECORD.

The remarks follow:

READY TO LEARN: A NATIONAL MANDATE

(Remarks by Ernest L. Boyer, Fortune Education Summit, Washington, DC, September 16, 1991)

On January 31, 1990, President Bush delivered to Congress and the American people his first State of the Union message. After focusing on a host of international and domestic matters, the President turned to education. And—in one bold, unprecedented stroke—he announced six ambitious education goals for all the nation's schools.

By the year 2000, the President declared, all children in America must come to school ready to learn, we must reduce school dropouts, become world class in math and science, have schools that are disciplined and drug free, test students in all the basic subjects, and achieve adult literacy for all.

Every one of these new goals is crucial—and must be vigorously pursued. But I must confess it was the Presidents first goal that—I found—most authentic and compeling. To propose that—within a decade—every child in America will come to school "ready to learn" is a daring, huge optimistic proposition. And yet, if we as a nation can indeed give all children a good beginning, if "every single child" can—during the decade of the 90's—be well prepared for school, then it seems reasonable to conclude that all of the other goals—will in large measure—be fulfilled.

During the past year I've been chairing a committee to advice the National Goals Panel on how to evaluate goal one. And very early we concluded that ready to learn means far more memorizing the ABC's or reciting nursery rhymes or learning to count from one to 20 little exercises that grownups find so appealing.

It was our conviction that school readiness involves the whole child. It includes every dimension of the child's life from the physical, to the social, to the moral. And given the acute problems many children in this country face I'm convinced the time has come to move beyond the goal and begin to focus on how we plan to get there.

I. HEALTH

And surely the first and most essential step in this national campaign is to reserve for all children a healthy start. The harsh truth is that, in America today, nearly one out of every four children is officially classified as poor. They are undernourished, hugely disadvantaged. And if we continue to neglect children most at risk both the quality of education and the future of the nation will be threatened.

We know, for example, that the brain cells of a child develop before birth and yet, one quarter of all pregnant women in this country receive belated prenatal care—or none at all. We know that babies who are not well nourished are two to three times as likely to be blind, deaf or intellectually deficient. And yet in America today nearly half a million children are malnourished. We know that children who suffer from "iron deficiency" risk developing poor coordination skills. And yet one tenth of all the nation's babies are iron deficient—during their first two years of life.

Today, it's estimated that 350,000 crack children will be entering our elementary schools for the first time. And on Wednesday of this week The Journal of the American Medical Association will release figures showing that this country is spending $500 million a year on babies born to cocaine using mothers. And then we talk about all children coming to school ready to learn!

Frankly, I find it an unspeakable disgrace that hundreds of thousands of our children are physically at risk. And if Ready to Learn is to be something more than an empty slogan we simply must give a healthy start to every child and this means—at the very least—good prenatal care and good nutrition.

II. PRESCHOOL

But beyond a good healthy start readiness to learn also means preschool education for every disadvantaged child to help them overcome not just poor nutrition, but linguistic deprivation, too.

Frankly, I consider it a national disgrace that twenty-five years after Head Start was authorized by Congress less than half the eligible children are being served. And—to put it as directly as I can if we want all children to come to school Ready to Learn this surely means full funding of Head Start. And I applaud the President for proposing this objective. But we need preschool education for other children, too. And I'd like to see school districts all across the country offer preschool for three and four year olds on a fee-for-service basis giving vouchers to those who can't afford to pay.

Let's also have preschool at the workplace. And the good news is that companies ranging from IBM to Ben and Jerry's already have such arrangements for their employees. For example, Ben and Jerry's preschool program in Waterbury, Vermont is located in a renovated farm house—near the worksite. It serves children from six weeks to six years and parents can drop in over lunch time. It's an "educare" program, as Bettye Caldwell puts it.

In highlighting the Ready to Learn mandate President Bush put the challenge this way: "Let no child in America be forsaken or forgotten." And I'm convinced that fulfilling this inspired vision means good nutrition. And it also means universal preschool education.

III. PARENTING

But let's also recognize that the home is the first classroom. Parents are the first and most essential teachers. And that its wholly unrealistic to expect children to succeed in school if they have not had a socially, educationally and enormously supportive environment at home.

The naturalist Rachel Carson put the challenge this way: "If a child is to keep alive his inborn sense of wonder, he needs the companionship of at least one adult who can share it, rediscovering with him the joy, excitement, and mystery of the world we live in." That's what good parenting is all about.

And I'm convinced that if the School Readiness Campaign is fully to succeed we also need parent education programs in all 50 states modeled after what's happening in Minnesota and in Arkansas and in Missouri. Programs that focus not only on good health, but on good language too.

Lewis Thomas wrote on one occasion that childhood is for language. It's in the early years when children are empowered in the use of words. This is the time when the vocabulary exponentially expands. And it's absolutely ludicrous to expect children to be Ready to Learn if they grow up in an environment that is linguistically empoverished.

Recent research reveals that children whose mothers talk with them regularly during the first years of life will have—at school time—at least 300 more words in their vocabulary than will those who are not verbally engaged. And yet in today's world children are not getting the verbal stimulation that's required and when we asked kindergarten teachers what problem was restricting their children's capacity to learn their response was "Deficiency in Language."

I'm suggesting that parents are the first and most essential language teachers. And this means reading aloud to children every day, responding to their questions, and helping each child discover both the miracle and magic of words.

IV. WORKPLACE

Good parenting takes time, of course. And for most parents, time is in very short supply. Recently a single mother told a Carnegie researcher: "The biggest problem in my life is what I call after work 'burn out' trying to meet both work and family obligations." I mention this not only because the lament is very common, but also because it's clear that if the Ready to Learn Campaign is to succeed, business too will have a very special role to play. Not only in advocacy, but most especially in employee policies that help bring the family and the workplace back together.

The family remains the nucleus of civilization is the way Will Durant put it. And if all children are to come to school Ready to Learn we simply will need in the decade of the 90's family friendly policies at the workplace that include parental leave at birth and flextime arrangements and let's also give parents an occasional day off so they can spend time with their child at the day care center or at preschool. And here again, leading CEO's are beginning to advocate aggressively addressing their problem.

Stephen Ewing, for example, President and CEO of Michigan Consolidated Gas Company put the challenge this way. We need to see day care not just as a personal need but rather as a way to invest in the youth of this nation starting at birth.

V. TELEVISION FOR LEARNING

I'm suggesting that to achieve school readiness parents must become empowered—but to parents, television is, without doubt, the child's most influential teacher. And it's absolutely clear that T.V. also must become a constructive partner in our Ready to Learn Campaign. It's been estimated that a six-month-old infant watches T.V. about 1½ hours every day. Before marching off to school a typical child—here in the United States—has watched T.V. more than 4,000 hours. And—adding it all up—the nation's 19 million preschoolers watch a total of 56 billion hours of television from birth to age five.

Television, at its best, can take children to the moon or on a journey to the bottom of the sea. Television can bring history alive and stir the imagination through stories. Television can guide the child's development socially and morally as well. Television, at its best, can—dramatically expand the child's horizon—and be mind enriching. It's been established—for example—that children who watch, with regularity, "Sesame Street" and "Mr. Rogers" gain in both language and social skills, to say nothing of the information they receive.

What is frustrating is that children's programming is today virtually nonexistent. But I'm convinced that, if the Nation's Ready to Learn Campaign is to succeed, we simply must have television that with regularity will intellectually and socially and linguistically enrich the lives of children.

VI. CONNECTIONS

This brings me to one final observation. Anthropologist Margaret Mead wrote on one occasion that the health of any culture depends on the living presence of at least three generations. The problem is that—in America today this feeling of continuity has all but disappeared. Today, infants are in nurseries, toddlers in day care centers, older children are in school, adults are in the workplace, and retirees are living all alone. The generations are simply not connected to each other.

Last year John Gato, New York City's Teacher of the Year, said that we live in a time of great social crisis, children and old people are locked away from the business of the world and nobody talks to them anymore. The tragedy is that when children are cut off from older people they lose perspective and fail to receive the wisdom and the moral guidance needed not just for learning, but for life.

Vachel Lindsay said that "it's the world's one crime, its babes grow dull, not that they sow—but that they seldom reap, not that they serve—but have no God to serve, not that they die—but that they die like sheep." And it seems more than "mere sentiment' to suggest that if young children are to be fully prepared for school they need intimate intergenerational connections that give both purpose and perspective. The challenge is to create for all children a community of caring.

CONCLUSION

Here, then, is my conclusion, the nation's first education goal is an urgent mandate around which everyone can rally, and while "School Readiness" must begin with parents it inevitably reaches out to health clinics, to day care centers, to the work place, to state capitals, and eventually to Washington, D.C.

To put it simply, Readiness to Learn is everybody's business and our success will in the end not only enrich the lives of children, but also profoundly shape the destiny of the nation.●

THE DEPLORABLE RETURN

● Mr. D'AMATO. Mr. President, I rise today to condemn the forcible repatriation of 1,800 Haitian refugees to Haiti. The State Department decision to return the refugees is a moral outrage and one that deserves severe condemnation.

To return these helpless refugees is an unconscionable and deplorable act. The continuing climate of obscene violence in Haiti makes their return equal to a sentence of death. How can we throw these innocent Haitians back into the Haitian dungeon? How can we return these people to a nation that we refuse to even recognize?

We have rightfully clamped sanctions on the illegal military junta of Haiti, yet we return refugees there who have a well-placed fear for their lives. There is clearly a discrepancy in our policy.

Our actions seem startlingly similiary to the forced repatriation of the Vietnamese boat people by the British authorities in Hong Kong. We must always stand up for those who flee totalitarianism for the shores of democracy. I deplore the forced return of the Haitian refugees. This reprehensible act must end immediately.●

BILL INDEFINITELY POSTPONED

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar No. 309 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3394, a bill to amend the Indian Self-Determination and Education Assistance Act, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3394) to amend the Indian Self-Determination and Education Assistance Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, yesterday, the House passed H.R. 3394, the Tribal Self-Governance Demonstration Project Act. H.R. 3394 is nearly identical to S. 1287, a bill I introduced earlier this year on the same subject and which the Senate passed on November 12, 1991. I urge the Senate to pass H.R. 3394.

The only difference between the House and Senate bills is that during consideration of H.R. 3394, the House Committee on Interior and Insular Affairs adopted an amendment which provides the Secretary of Health and Human Services with the discretionary authority to establish an Office of Self-Governance within the Department. That Office would be similar to the Office of Self-Governance which currently exists in the Office of the Secretary at the Department of the Interior.

Mr. President, I have no objection to the authorizing provision added by the House. The provision is entirely consistent with the study language included in both bills which requires the Indian Health Service [IHS], to report back to the Congress on the feasibility of extending the Self-Governance Project to the activities, programs, functions, and services of the IHS.

Finally, I want to add that although 12 months is provided in H.R. 3394 to complete the two studies required under the bill—one by the Department of the Interior and one by the Department of Health and Human Services—I strongly urge both Departments to complete their specific study and to report back to the Congress as soon as possible.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 3394) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SEA GRANT COLLEGE PROGRAM AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1563.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1563) entitled "An Act to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Sea Grant College Program Authorization Act of 1991".

SEC. 2. NATIONAL SEA GRANT OFFICE.

(a) Maintenance of Office.—Section 204(a) of the National Sea Grant College Program Act (33 U.S.C. 1123(a)) is amended to read as follows:

"(a) The Secretary shall maintain, within the Administration, a program to be known as the National Sea Grant College Program. The National Sea Grant College Program shall consist of the financial assistance and other activities provided for in this Act, and shall be administered by a National Sea Grant Office within the Administration. The Secretary shall establish long-range planning guidelines and priorities for, and adequately evaluate, this program.".

(b) Oversight.—Section 204(c) of the National Sea Grant College Program Act (33 U.S.C. 1123(c)) is amended—

(1) in paragraph (6), by striking "; and" and inserting a semicolon;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) oversee the operation of the National Sea Grant Office established under subsection (a) of this section.".

(c) Powers of Secretary.—Section 204(d)(6) of the National Sea Grant College Program Act (33 U.S.C. 1123(d)(6)) is amended by inserting "and add to" after "pay for".

SEC. 3. AUTHORIZATION.

Subsections (a) through (c) of section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131(a)-(c)) are amended to read as follows:

"(a) There is authorized to be appropriated to carry out the provisions of sections 205 and 208 of this Act, and section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a), an amount—

"(1) for fiscal year 1991, not to exceed $44,398,000;

"(2) for fiscal year 1992, not to exceed $46,014,000;

"(3) for fiscal year 1993, not to exceed $47,695,000;

"(4) for fiscal year 1994, not to exceed $49,443,000;

"(5) for fiscal year 1995, not to exceed $51,261,000.

"(b)(1) There is authorized to be appropriated for administration of this Act, including section 209, by the National Sea Grant Office and the Administration, an amount—

"(A) for fiscal year 1991, not to exceed $2,500,000;

"(B) for fiscal year 1992, not to exceed $2,600,000;

"(C) for fiscal year 1993, not to exceed $2,700,000;

"(D) for fiscal year 1994, not to exceed $2,800,000; and

"(E) for fiscal year 1995, not to exceed $2,900,000.

"(2) Sums appropriated under the authority of subsections (a) and (c) shall not be available for administration of this Act by the National Sea Grant Office, or for Administration program or administrative expenses.

"(c) In addition to sums authorized under subsection (a), there is authorized to be appropriated for priority oyster disease research under section 205 of this Act, an amount—

"(1) for fiscal year 1992, not to exceed $1,400,000;

"(2) for fiscal year 1993, not to exceed $3,000,000;

"(3) for fiscal year 1994, not to exceed $3,000,000; and

"(4) for fiscal year 1995, not to exceed $3,000,000.".

SEC. 4. REPEAL OF STRATEGIC MARINE RESEARCH PROGRAM.

(a) Repeal.—Section 206 of the National Sea Grant College Program Act (33 U.S.C. 1125) is repealed.

(b) Conforming Amendments.—

(1) The National Sea Grant College Program Act (33 U.S.C. 1121 et seq.) is amended—

(A) in section 204(c)(3) by striking "sections 205 and 206" and inserting "section 205";

(B) in section 205(b)(3) by striking "or section 206 of this title";

(C) in section 208(c)(5) by inserting "and" after the semicolon;

(D) by striking section 208(c)(6) and redesignating the subsequent paragraph accordingly;

(E) in section 209(b)(1) by striking "sections 205 and 206" and inserting "section 205"; and

(F) in section 209(c)(1) by striking "or 206".

(2) Section 1301(b)(4)(A) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4741(b)(4)(A)) is amended to read as follows:

"(A) $3,375,000 to fund grants under the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), and of this amount, $2,500,000 to fund grants in the Great Lakes region; and".

SEC. 5. REPEAL OF MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

(a) Repeal.—Section 211 of the National Sea Grant College Program Act (33 U.S.C. 1130) is repealed.

(b) Conforming Amendments.—The National Sea Grant College Program Act (33 U.S.C. 1121 et seq.) is amended—

(1) in section 203(4) by inserting "marine affairs and resource management," after "education,"; and

(2) in section 209(c)(1) by inserting "marine affairs and resource management," after "education," in the fourth sentence.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is an agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL READ FOR FIRST TIME—H.R. 3371

Mr. MITCHELL. Mr. President, I understand that the Senate has received from the House H.R. 3371, a bill to prevent and control crime. On behalf of Senator Biden, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 3371) to control and prevent crime.

Mr. MITCHELL. Mr. President, I now ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The bill will go on the calendar, read for the first time.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 1 minute and, when the Senate reconvenes, the Journal of proceedings be deemed approved to date; that the call of the calendar be waived; that no motions or resolutions come over under the rule; that the morning hour be deemed to have expired following the second reading of bills and joint resolutions; that the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT FOR 1 MINUTE

The PRESIDING OFFICER. The Senate stands adjourned for 1 minute.

Thereupon, at 9:15 p.m. on Tuesday, November 19, 1991, the Senate adjourned until 9:16 p.m., the same day.

AFTER ADJOURNMENT

TUESDAY, NOVEMBER 19, 1991

The Senate met at 9:16 p.m., pursuant to adjournment, and was called to order by the Honorable PAUL WELLSTONE, a Senator from the State of Minnesota.

MEASURE PLACED ON CALENDAR—H.R. 3371

The PRESIDING OFFICER. The clerk will read H.R. 3371 for the second time.

The legislative clerk read as follows:

A bill (H.R. 3371) to control and prevent crimes.

Mr. MITCHELL. Mr. President, I object to further consideration.

The PRESIDING OFFICER. Objection is heard to further consideration. The bill will be placed on the calendar.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

COMPREHENSIVE CRIME CONTROL

Mr. MITCHELL. Mr. President, the Senate passed the comprehensive crime control bill on July 11. The House passed its own crime bill and delivered that bill to the Senate on October 31. We have been trying to go to conference with the House on the crime bill since that date, almost 3 weeks. To this date we have been prevented from even going to conference by Republican objections. It is ironic that the President has been traveling around the country criticizing the Congress for failing to send him a crime bill while Republican Senators have objected to letting the Senate proceed to act on this legislation.

This crime bill is important legislation. We want to act on it immediately, but Republican Senators are still objecting to moving this legislation forward by sending it to conference with the House. This puts us in an untenable and unacceptable position.

When used to their full extent, the rules of the Senate make it possible for a minority of Senators to prevent action even though a majority favors action. That is the case here. Eventually, we can get it done. It will take time. It will cause inconvenience. But I have today begun the procedure under the Senate rules to get the House bill put on the Senate calendar.

Tomorrow, once the House bill is put on the Senate calendar, I will consider moving to proceed to the bill and filing a cloture motion against that motion. If the effort to prevent action on the crime bill continues, the Senate will be unable to vote on cloture on the motion to proceed to the crime bill before Friday. I hope all of this will not be necessary. I hope that our Republican colleagues will reassess their positions and will permit the Senate to send this crime bill to conference.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. MITCHELL. Yes.

Mr. SARBANES. I did not catch all of that, but I heard a rather elaborate and complicated and involved procedure in some effort to get it to conference. Why cannot we just go to conference on the crime bill with the House? We have passed a crime bill and they have passed a crime bill. Ordinarily, in that situation, the two Houses have a conference on the crime bill and resolve their differences and have a piece of legislation. Why not simply go to conference?

I think I missed part of the leader's statement, but why can we not have a conference?

Mr. MITCHELL. Because our Republican colleagues have objected to going to conference.

Mr. SARBANES. Is that right? I cannot believe that. The President has constantly insisted on a crime bill, and we are precluded from getting to a crime bill by an objection from the Republicans to going to conference on the crime bill?

Mr. MITCHELL. That is correct.

Mr. SARBANES. Mr. President, I am astounded and distressed to hear this, but I yield the floor.

Mr. THURMOND. Mr. President, I want to say at the outset we do not object to going to conference. What we object to is the ratio. We have eight Democrats and six Republicans on the committee. We are willing to take half of each, half the Democrats would be four, half of the Republicans would be three.

That way we can go to conference. We can take four and three, or we can take six and four if they go down according to seniority, or we can take the whole committee. That is frequently done.

On H.R. 2508, the foreign assistance authorization bill, there were six Democrats and five Republicans. On H.R. 2707, the Labor-HHS-Education appropriations bill, we had eight Democrats and seven Republicans. On H.R. 2521, the Defense appropriations bill, we had 10 Democrats and 9 Republicans. On H.R. 2038, intelligence authorization bill, we had nine Democrats and eight Republicans. On H.R. 2194, the Federal Facilities Compliance Act, we had five Democrats and four Republicans. On H.R. 707, the Commodities Futures Trading Commission authorization bill, we had four Democrats and three Republicans. On H.R. 2698, the agriculture appropriations bill, we had seven Democrats and six Republicans. On all of these major bills there was only one more Democrat than Republican. Why do they not do the same way here?

Mr. President, as every Member of the Senate knows, I worked closely with Senator BIDEN to ensure that the Senate passed a tough crime bill. The Senate did so when it passed the Biden-Thurmond Violent Crime Control Act of 1991 on July 11, 1991, by a vote of 71 to 26. The House recently passed that crime bill by a vote of 305 to 118 on October 2, only a few weeks ago. The House delayed over a week in delivering the bill to the Senate. My objection has nothing to do with whether the Senate proceeds to a crime bill conference with the House. In fact, I want to proceed, as I said, to conference. Nevertheless, I object to the unfair proposal that has been discussed by the Democrats.

Mr. President, the Democrats have previously proposed that the conference be made up of five Democrats and three Republicans. A fair and proportionate proposal, one which I have made on numerous occasions, would be four Democrats and three Republicans. Each of these conferees would be chosen in order of seniority on the committee. This accurately reflects the 14 members of the Judiciary Committee which has 8 Democrats and 6 Republicans.

At the very least the entire Judiciary Committee could be appointed as conferees, as I said a few moments ago. This is both fair and reasonable.

It has been argued that my proposal does not adequately represent the makeup of the Senate. Yet a proposal of 8 to 6 does in fact proportionately represent the Senate. Nevertheless, neither does the 5 to 3 conference nor does the 6 to 4 conference. Furthermore, this argument is inconsistent with what has been the Senate's practice all session on many bills, and those I just enumerated.

The committee or subcommittee of jurisdiction on the bill has had all of its members appointed as conferees. For example, on every appropriations bill all of the subcommittee members with jurisdiction are appointed as conferees. On virtually every major armed services bill, all of the Armed Services Committee members were appointed.

Mr. President, I must note that my proposal is nothing new to the Democrats. On November 1, I wrote the distinguished chairman of the Judiciary Committee, and stated that the conference should be comprised of four Democrats and three Republicans. My letter followed preliminary discussion on the crime bill at which time it was made clear that I planned to proceed to conference with this session. I have even proposed that the entire Judiciary Committee be named as conferees. All of my proposals have been rejected.

Frankly, despite negotiations to resolve this issue, I feel the Democrats are trying to stack the deck in their favor. For the RECORD, a majority of the proposed Democratic conference voted against the Senate crime bill. Of the five proposed Democrats, three have voted against the bill. If six Democrats were to be appointed, it is likely that the additional Democrat will be one of the few who voted against the crime bill.

Mr. President, a conference comprised of six Democrats and four Republicans is agreeable, provided they be appointed according to seniority on the Judiciary Committee. But the Democrats do not want that. They want to ensure—and I repeat—they want to ensure that a majority of their conferees are opposed to this tough Senate crime bill.

Mr. President, I strongly fear that there is an effort underway to strip all of the tough measure reforms contained in both the House and Senate bills. Last year, when the Senate informally conferenced with the House on a crime bill, I found that many conferees worked to strip both the House and the Senate crime bill of every tough reform proposal. The Federal death penalty was removed. Habeas corpus reform was removed. Exclusionary rule reform was stripped out. The drug kingpin death penalty was removed. All of these provisions are once again the subject of the crime bill conference. The Senate must not allow this to happen again, by appointing conferees who are staunchly opposed to these tough provisions.

It has been argued that there is precedent for having a 5 to 3 conference appointed. Nevertheless, last year's 5 to 3 conference brought about the result I fear will happen again this year if we do not have a balanced conference. Last year, I did not believe that five Democrats and three Republicans was fair. Yet, at the time there was no choice. We were about to adjourn Congress and if we did not meet informally, the crime bill would be killed. This is not the case now. I will not, I simply cannot, stand by and let an unfair conference be forced down our throats again.

Mr. President, my colleagues on the other side of the aisle are mistaken in saying that I do not want to go to conference. I have told you again we want to go to conference. We are ready today to go to conference provided we get the right ratio.

I remain truly committed to go about resolving the differences with the House and sending the President a tough crime bill containing a death penalty, effective habeas reform, and exclusionary rule reform, that he can sign into law. However, I refuse to enter into a situation which will lead to the removal of the true effective reform proposals contained in the Senate crime bill.

I continue to remain hopeful that my colleagues will work to ensure that a fair and balanced conference is appointed. Anyone who opposes such a balanced conference does not truly want a tough crime bill.

If the majority leader wants to put this bill on the Senate Calendar and work from that, then that is something that can be considered.

Mr. BIDEN addresses the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I have been in the Senate a while now, and not nearly as long as my distinguished colleague from South Carolina.

I think in the years that he and I have worked together, I do not remember us really being in many arguments. I am going to avoid one tonight with my good friend.

I will simply say this: The Senator from South Carolina may be opposed to proceeding to the crime bill as proposed because of the ratios, but that is not the real reason why the Senator from South Carolina may be opposed. The real reason we are where we are now is because of the antigun provision.

Senator SYMMS was straightforward and honest with the Senate. To put it another way, he let the cat out of the bag, but he always does in the sense that he says what he thinks, believes what he says, and he does not fool around. He said very straightforward that the Senate-passed antigun bill "will not be sent to conference this session of the Congress if this Senator has anything to do with it."

I never doubt, and I take at face value what my friend from South Carolina says. I mean that. I do not doubt that he believes everything he is saying and means it. But even if I were prepared to do what he suggested and allow him to name my conferees—and I always call him chairman, and he is always my chairman, even though I control the committee as a chairman, even though we have 57 Democrats and only 43 Republicans. And he never fails to amaze me in every positive way. One of the things he said—for example, I came back when they said they did not like 5 to 3, and I said let us make it 6 to 4. He said, "OK, we can name your conferees." That usually takes a general election—usually.

He has convinced me to do things that I have later sat back and said: Why did I do that? But even I am not prepared, as chairman of the committee, to say to my ranking member, notwithstanding my respect, which is real, and say: By the way, I say to the ranking member, we will make it 6 to 4, you go ahead and name my team that goes in there. I am not going to do that.

But to get right to the crux of the matter, he and I can argue about ratios all night. But if we settle a ratio this instant, if I were foolish enough to say: Let the Republicans name the Democrats who are going to go to conference, if I were foolish enough to do that, I will bet everything I own, which is not much, Senator SYMMS would be on the floor in about one-tenth of 1 second saying: "I object."

He told us what he is going to do. I have never known Senator SYMMS to bluff. So let us understand that the crux of this matter is that the progun folks are not going to let this happen anyway.

So from where I stand, it seems to me we might as well just go to town on this. Look, my friend from South Carolina points out what the fair ratio would be from his perspective. Eight years ago when he was chairman of the committee, or 9 years ago, the committee was made up of 10 Republicans and 8 Democrats. There were a total of 53 Republicans and 47 Democrats in the Senate. We had a major crime bill. Guess what the ratio was? 5 to 3. Now, today, there are 57 Democrats and 43 Republicans, and I am saying the ratio should be 5 to 3.

I kind of find it interesting. What was good for the goose ain't no good for the gander, even though this gander is bigger than that goose was. It is kind of interesting. We have four more Democrats than they had Republicans at a time they insisted on a 5-to-3 ratio. We went along with it.

And then last year, we had a crime bill. We had two fewer Democrats last year than we have now. It was 55 to 45. The ratio was 5 to 3.

This is not about ratios. What this is about are two separate agendas: One, my distinguished friend from South Carolina, who feels strongly about every provision in the Senate bill—and he does, and we have worked together; that is why it is called the Biden-Thurmond crime bill—wants to make sure that the deck is stacked when he does not run the show, when his team is not the one that controls the field.

I respect that. I never underestimate it. But think of this. I will play a little game here with you. I will bet you if I say, Mr. Chairman, how about if we have a 3-to-2 ratio, will you accept that, and we can go to conference tonight? That gives you a better percentage than you would have under any other circumstance. How about 3 to 2?

Mr. THURMOND. Senator, I think 4 to 3 would be a fair ratio. Mr. President, I want to say this: It has been argued that in 1982, when the Republicans were in the majority, the crime conference was 5 to 3. Yet, this argument is misleading because one of the Republican conferees was the only Senator to have voted against the bill which had passed 95 to 1. Clearly, he was not going to represent the position of the Senate. Arguably, that conference was truly a 4-to-3 conference. Furthermore, that same year, another bill of major importance to law enforcement and crime prevention—the Department of Justice authorization bill—had a 4-to-3 conference.

Furthermore, as I stated earlier, we saw what a 5-to-3 conference got the Nation last year—a gutted crime bill.

I want to say this with regard to Senator SYMMS and his objections to proceeding to conference: I cannot say what he will do, but I will promise you this—I will do everything I can to get a conference. I will do anything I can provided a fair and balanced conference is appointed. In other words, I will even vote to invoke cloture on the House bill if necessary to get this matter resolved. If the Senator wants to take up the House bill and put it on the calendar and work from that, I would be willing to consider doing that. But I will not agree to a conference ratio which ensures that the crime bill will be stripped of its tough reform proposals.

Mr. BIDEN. Mr. President, I suggest to my good friend—and I know the public hears us say good friend. In this case, this guy really is my good friend. I suggest to my friend that we really did that. We had a House bill up, and that is what we amended to get the Senate crime bill. We have been that route once.

I do not do this to do anything other than make a point. The argument is that the ratio is not fair enough. That is, that there is not a high enough percentage of Republicans relative to Democrats to go to conference. That is ostensibly the reason why they do not like 5 to 3. So I say, give them 3 to 2, which is a better ratio than 5 to 3 for them, a higher percentage of people.

And, yet, it is rejected because they really want to name my conferees. They want to tell me, as chairman of the committee, which Democrats I have to send to a conference. That is unprecedented. That is an unusual request. I understand why.

The reason why I understand is they want to make sure on all the close votes on that committee that my distinguished friend from South Carolina, not the chairman of the committee, is able to control the Senate side. I thought that is the reason why I was chairman. I thought that was the purpose, one of the prerequisites that came with being chairman, because this team won the election.

Every time I say something about the President, or we talk about anything with the courts or anything, everybody bounces up on that side and says: You know, there was an election, and the President won the election. If you want to change it, win the election.

Well, in this case there was an election. I am chairman. I want to be fair, but I do not want to say—by the way, if there is anybody I would give my proxy to, it would be the Senator from South Carolina—I do not want to say: Senator THURMOND, I am going to effectively relinquish control of the committee in conference, and I am going to hand it over to you, because I am going to guarantee you that you will have certain members on the Democratic side who you can be sure will vote with you on every issue you wish.

That is not how it is supposed to work. With all due respect, it is not going to work that way this time either.

Mr. SARBANES. Will the Senator yield for a question?

Mr. BIDEN. I am happy to yield for a question.

Mr. SARBANES. Is it correct that in 1982, when the Republicans had control of the Senate—53 Republicans and 47 Democrats, so it was a very relatively narrow margin—that you went to conference on a crime bill, and that the Republicans who controlled the Senate insisted on a ratio of 5 Republican conferees and 3 Democratic conferees at that time, and that that was acceded to; is that correct?

Mr. BIDEN. That is correct. And things are much changed now. But, look, one of the things I, unfortunately, have a bad reputation, too, is being fairly blunt. I mean we all change our mind. The Senator from South Carolina changes—he is smiling right now. I am smiling. This is about who is going to control. That is what this is about.

Mr. THURMOND addressed the Chair.

Mr. BIDEN. I will yield in just a moment.

That is what this is about. I do not blame the Senator saying just because it was 5 to 3 last time when I ran the show, it should not be 5 to 3 now. He is entitled to do that. I might do that next time.

Mr. SARBANES. When he had 5 to 3 running the show, he had 53 Senators. We have 57 Senators in this body now and are seeking a 5-to-3 ratio.

Mr. BIDEN. I agree, we Democrats do that on occasion, too. This is just about who is going to control the conference. Generally speaking, it is the party in the majority that gets to control the conference to the best of their ability from this body which they represent. That is all this is. It is real simple. I do not want to make it more complicated.

Even if the Senator from South Carolina can solve our problems, "his honor," Senator SYMMS, "hain't" going to let this go anywhere anyway.

I am almost tempted to yield control of the committee and pass the gavel over to my friend from South Carolina just to make the point that the Republicans are not going to let this happen anyway, and it is not going to happen.

I can see staff saying to the Senator ask him for it. I am tempted to give him the gavel, but I am not going to because I am chairman of the committee.

And, look, on an eight, when you have a total of eight people going to a conference, based on raw percentages, which is not the way we have done it in the past, we would be entitled to 4.56 people out of 8. That is what we would be entitled to.

My daughter is in fifth grade. She just had a chapter in math on rounding. Anybody who has fifth graders, parents of fifth graders, know that they are doing rounding, that is, what do you round a number up to or down to?

I learned in fifth grade—maybe it was earlier or maybe it was later—but I was reminded about this last chapter with working my daughter's homework, that if it is 4.56, you round it to 5; if it is 4.47, you round it to 4. It is 4.56.

So even by the desire to accomplish the ratios that are suggested, it would still be 5 to 3. if you change the number to 9 or to 10 or to 3 or to 7, then it changes. But one of the lucky things about being the chairman is you get to pick the number instead of letting the minority decide what the number is.

So the folks listening to this are probably wondering why are these guys talking about numbers, let us just get a crime bill. I cannot guarantee the Chair nor can I guarantee my friend from South Carolina that I know how a 5 to 3 split will work out on the major issues.

For example, the House of Representatives has the provision. They essentially have the Biden habeas provision I lost on in their bill. I would love to see that provision. They have the exclusionary rule the Senator from South Carolina lost on in their bill. We do not know how this all is going to work out. We have guns in our bill. They do not have guns in their bill.

But what the Senator from South Carolina—God bless him—wants me to do is say, by the way, not only am I going to give up the opportunity to get the best out of both bills and still be faithful to the Senate positions, overall, but he wants me to say, look, it is like those old ads with Allstate—you know you are in good hands—he wants me to walk over and say, "Here, you do it, Mr. Chairman, you do it Senator THURMOND, you make the decision as to how we are going to work this thing out."

I commit to this body that whatever ratio we go to the Senate on, and it will be 5 to 3 or we are not going to go, that I will be faithful to the essence of the Senate bill. We will get a bill back here if we have one at all. I will try to have guns in it. I do not know I am going to get guns in it from the House side. There is a death penalty in it. There will be tough mandatory provisions on a whole range of things. But I am not, on the things that are in dispute, going to say I guarantee you everything that has to break the compromise is going to break the way he wants it to break.

All the years we have worked together there has never been a harsh word between the Senator and me. There will not be one now, and I do not think he thinks there will be either. There will not be one. I respect him, I understand him. He is the most relentless, he is the most significant person with regard to the issue of law enforcement on crime and the death penalty, and he is not going to let go.

I thought bulldogs were English, but I think they must be South Carolinians. He will not let up on it. I know that and I respect him. But I am not going to, in effect, say, Senator THURMOND, why do you not be chairman of the Judiciary Committee, when we go to the conference? I am not going to do that.

I would hope that we could get over this, get to a crime bill. The folks looking at us on the whole thing are probably thinking why are they arguing about this? Why do we not do something about crime?

We have two bills that have death penalties in them. We have two bills that have incredibly tough provisions relating to drugs and relating to street crime, relating to aid to police. We have two bills that are 95 percent in agreement.

What the Senator from South Carolina wants to do is be able to control the last 5 percent the way he wants to go and that is the prerogative to the extent that I am able to do that and I cannot guarantee that. I am of the team that has 57 players out of 100.

I yield the floor to my friend, and I understand I know nothing I said will convince him. We have worked together too long. But I just hope he understands that, even when I offered the ratio that would be one that he would like, 6 to 4, which was done about 4 days ago, a week ago. He came back and said 6 to 4 is a good ratio but now let me pick your players.

I understand that. I compliment him for trying to do it. I respect him for trying to do it. I hope he understands why I am not going to do it, and I suspect as a former colleague of ours, Barry Goldwater, would say, to paraphrase him, in his heart he respects the fact I am not about to give in because he knows if he was in my spot, he would no more consider allowing me to appoint his conferees than jump off the balcony.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I say to the distinguished chairman that he knows I am not trying to usurp his authority as chairman. We work together well. I respect him as chairman.

I believe the distinguished chairman and the Senator from Maryland said something about 1982, we had 5 to 3 conference. That is true. However, the Democrats did not raise any objection at that time. I am now objecting.

Now, I want to say this: Under both of the chairman's proposals, either 5 to 3 or 3 to 2, two-thirds of the Democratic conferees voted against the bill, voted against habeas corpus, and voted against the death penalty. On this side, we simply cannot agree to an unfair balance.

I just suggested we take half of the committee. The committee has eight Democrats and six Republicans—just take half of each. Either that, or take the whole committee. That is frequently done. Take the whole committee.

The Appropriations Committee appoints the whole committee. The Armed Services Committee names the whole committee. There is no objection to that—take the whole committee. Is that not fair? Is that not proportionate? Why should the crime bill be different?

Mr. President, it seems to me, that on this other part about Senator SYMMS—I cannot speak for Senator SYMMS but I will work with the chairman of this committee to get this bill up and get it acted on, and if he wants to bring up the House bill here in the Senate, I will help him. I will even vote, if necessary, to invoke cloture to get a bill. I will cooperate with him any way I can to get this bill passed. And it seems to me that we ought to be able to work this thing out and get a crime bill. The people of this country are demanding a crime bill, and we simply want a ratio that is fair, rather than one which ensures that the tough provisions, passed by the Senate, are removed in conference.

Again, I repeat, we have eight Democrats and six Republicans. Take half of each. Is that not fair? That is the same ratio as the Judiciary Committee. That is all we are asking. Or either take the whole committee. We will do it either way. Taking the whole committee is the most proportionate proposal. I think that is fair. It seems to me that we could move on to conference. Or, if the distinguished chairman wants to take it up here in the Senate, we will try to do that. And I will will take any step I can to get it voted on here in the Senate and I will try to influence my colleagues to take every step we can on this side of the aisle to get a vote here in the Senate. Let us not forget, however, we would not be in this predicament had the House leadership not sent the Senate bill back on technical grounds.

Mr. BIDEN. Mr. President, I have nothing further to say tonight. I have made my points to the extent I think they should be made. I thank my colleague from South Carolina and anyone else for listening. But I do not want to prolong the matter tonight.

I think we should go to conference. I think we should go to conference like we have in the past. I think we should get ready to go.

I think if there is any compromise—one was offered, 6 to 4. I am not prepared to do that. I am not prepared, at 6 to 4, for him to say, "By the way, now I will tell you what six." That is not fair, either. So it has been 5 to 3 the last two times we had a crime bill when the ratios were much less favorable to the side that had five than they are now.

I think that is fair. I think mathematically it is fair if you have eight people. But we have made those arguments and I have nothing further to say on that issue. But I do not want to cut the Senator from South Carolina off.

Mr. THURMOND. Mr. President, I simply say again: Why not put on the conference the same ratio as we have on the committee, and that would be 8 and 6, or either 4 and 3.

Now, I ask unanimous consent that examples of conferees appointed on major bills in this session be printed in the RECORD at this point. And this shows I repeat again where all these bills—one, two, three, four, five, six, seven bills—and only one difference in the number of conferees.

There being no objection, the examples were ordered to be printed in the RECORD, as follows:

EXAMPLES OF CONFEREES APPOINTED ON MAJOR BILLS THIS SESSION

1. H.R. 2508—The Foreign Assistance Authorization bill. 6 Democrats and 5 Republicans.
2. H.R. 2707—The Labor, HHS, Education Appropriations 8 Democrats and 7 Republicans.
3. H.R. 2521—The Defense Appropriations bill. 10 Democrats and 9 Republicans.
4. H.R. 2038—The Intelligence Authorization bill. 9 Democrats and 8 Republicans.
5. H.R. 2194—The Federal Facilities Compliance Act: 5 Democrats and 4 Republicans.
6. H.R. 707—The Commodity Futures Trading Commission authorization bill: 4 Democrats and 3 Republicans.
7. H.R. 2698—The Agriculture Appropriations bill: 7 Democrats and 6 Republicans.

The PRESIDING OFFICER. Does the Senator from South Carolina yield the floor?

Mr. THURMOND. Yes; I yield the floor.

Mr. BIDEN. I probably should not do this. But for the record I just want to make a point. Of the conferees that the Senator I am told is considering appointing as Republican members to this conference, two of them voted against the crime bill. Two of them voted against the crime bill. Senator SIMPSON voted against the crime bill and Senator HATCH voted against the crime bill. I guarantee you they will be, if there is three, they will be two of the three. If there are four, they will be two of the four.

So what is this argument about? Who voted for what? I am not here saying, by the way, since I support the strong provisions that the Senator voted for as well with regard to assault weapons, I will only agree to a conference that has a percentage made up of people who does not include Senator HATCH, and does not include Senator SIMPSON, both of whom are are against assault weapons. The Senate voted for it here. The Senator from South Carolina would look at me and say, "Hey, JOE, wait a minute. You can't tell me who is on the conference." Those folks not only voted against, and are adamantly against, the issue relating to guns, assault weapons, the things that are causing murder rates to skyrocket—in my opinion—they also voted against the overall crime bill.

Yet, if we go to a 3-to-2 ratio, which I have offered, all three of the Democrats that would go all voted for the crime bill. I take that back. We would be even. We would have two that did not vote for the crime bill. So let us make it 3-to-2. One who voted for the crime bill and two who voted against it. And one Republican voted for it and one who voted against the crime bill. They will have 50 percent going to conference who voted against the crime bill. We will have 66⅔ going to conference against the crime bill. Make it 5 to 3. They will have over 60 percent voting against the crime bill as their folks, and we will have 67 percent who voted against.

Or, we can forget that. Just let me name all the conferees, and I will pick people all of whom voted for the crime bill. Pretty good. If that is the issue. Let us pick the ones who voted for the crime bill.

But surely we cannot have Senator SIMPSON under that condition—God love him. We cannot have Senator HATCH. They should not be over there. They voted against this crime bill. If you apply the logic of my friend from South Carolina—look, this is a big dance. The issue is—not my friend from South Carolina—but the Republicans do not want a crime bill because it has guns in it.

Mr. THURMOND. Mr. President, that is not true. I want a tough crime bill, so do my colleagues on this side of the aisle.

Mr. BIDEN. It is not you, Mr. Chairman. But your friends over here do not. Because the logic based on—look, I am just saying this and then I will yield the floor.

First, if you look at historical precendent on crime bills, this is fairer than anything that has been proposed in the past. No. 1, totally consistent, but fairer than what has been done in the past. If you look at pure unadulaterated ratio, absolute representation of the Senate, 4.56 people out of 8 should be Democrats. You cannot take five-sixths of a person, so you round it up. It makes sense under that.

If you are going to go the route about who voted for the crime bill and who voted against the crime bill, which is really what is at stake here, because, my friend when I say OK, make 6–4, he says OK, let me pick the ones who will be your people. Well, you know, because, he says some of your folks voted against it.

Well, the two people that he is going to pick whether it is 6 to 4, whether it is 5 to 3, whether it is 7 to 5, are going to be people who voted against the crime bill. So by any measure we should just get on with it. It should be 5 to 3.

We have done it before. We should do it again. We should stop fooling around. We should go to a crime bill. I believe if we agree to 5 to 3, the Senator and I could agree on a united position for the Senate and go into that conference before noon time tomorrow. We could have a conference tomorrow with the House and we could, by Friday, get back here with a bill.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from South Carolina is recognized.

Mr. THURMOND. I just want to say the fair ratio would be the same proportion on the committee. They have eight members. We have six. They take four members. We take three. Or appoint the whole committee. What is fairer than that?

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President I ask unanimous consent that when the Senate completes its business today, it stands adjourned until 8:45 a.m. on Wednesday and that when the Senate reconvenes on Wednesday the Journal of proceedings be deemed to have been approved to date, the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired. I further ask unanimous consent that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m. with Senators permitted to speak therein, with the following Senators recognized to speak: Senator LEAHY for up to 10 minutes; Senators BOREN and LUGAR for 15 minutes equally divided and controlled; Senator LIEBERMAN for up to 5 minutes; Senator DURENBERGER for up to 10 minutes; and for up to 30 minutes under the control of the majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL TOMORROW AT 8:45 A.M.

Mr. BIDEN. Mr. President, if the Senator from South Carolina has nothing further on this issue and I have nothing further to say on these issues, as the designated person by the leader, and if there is no further business today, I ask unanimous consent that the Senate stand adjourned as ordered.

There being no objection, the Senate, at 9:58 p.m., adjourned until Wednesday, November 20, 1991, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate November 19, 1991:

THE JUDICIARY

PAUL J. KELLY, JR., OF NEW MEXICO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF DEFENSE

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT AS VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF UNDER TITLE 10, UNITED STATES CODE, SECTION 154:

To be vice chairman of the Joint Chiefs of Staff

To be admiral

ADM. DAVID E. JEREMIAH, [redacted] U.S. NAVY.

HOUSE OF REPRESENTATIVES—*Tuesday, November 19, 1991*

The House met at 1 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We rejoice, O God, that some hostages have been released and we join with them and their families that the days of darkness and solitude and chains are past and a new day has begun. As these men have received deliverance from captivity, may each person from every background or nation, reaffirm the gifts of liberty and freedom and celebrate these gifts each day. As we give thanks for these freedoms, we remember those hostages who have not yet experienced release, and we earnestly pray that unification with those they love will be soon. May Your blessings, gracious God, that are new each day, be with the hostages and with us all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia [Mr. JONES] please come forward and lead the House in the Pledge of Allegiance.

Mr. JONES of Georgia led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 130. Joint resolution designating January 1, 1992, as "National Ellis Island Day"; and

H.J. Res. 327. Joint resolution designating 1992 as the "Year of the Gulf of Mexico".

The message also announced that the Senate had passed with amendments in which the concurrences of the House is requested, a bill of the House of the following title:

H.R. 2967. An act to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a 1993 National Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2967) "An act to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a 1993 National Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints from the Committee on Labor and Human Resources: Mr. KENNEDY, Mr. METZENBAUM, Mr. ADAMS, Mr. HATCH, and Mr. COCHRAN; from the Committee on Finance (solely for the Social Security Retirement Earnings provisions): Mr. BENTSEN, Mr. MOYNIHAN, and Mr. PACKWOOD; to be the conferees on the part of the Senate to the above-entitled bill.

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

PILAR MEJIA WEISS

The Clerk called the bill (H.R. 458) for the relief of Pilar Mejia Weiss.

There being no objection, the Clerk read the bill as follows:

H.R. 458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLASSIFICATION OF PILAR MEJIA WEISS AS AN ADOPTED CHILD.

(a) IN GENERAL.—Subject to subsection (b), Pilar Mejia Weiss shall be classified as a child under section 101(b)(1)(E) of the Immigration and Nationality Act upon the approval of a petition filed under section 204 of such Act by Charles Weiss and Teena Weiss, citizens of the United States. Thereafter, Pilar Mejia Weiss will be eligible for processing under section 245 of the Immigration and Nationality Act.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall only apply if the petition referred to in such subsection is filed within 2 years after the date of the enactment of this Act.

(c) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Pilar Mejia Weiss shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 7, strike "101(b)(1)(F)" and insert "101(b)(1)(E)".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ABBY COOKE

The Clerk called the bill (H.R. 635) for the relief of Abby Cooke.

There being no objection, the Clerk read the bill as follows:

H.R. 635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR ABBY COOKE.

(a) IN GENERAL.—Subject to subsection (b), for the purposes of the Immigration and Nationality Act, Abby Cooke, the widow of a citizen of the United States, shall be considered to be an immediate relative within the meaning of section 210(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in this case.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if Abby Cooke applies to the Attorney General for relief pursuant to such subsection within 2 years after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MICHAEL WU

The Clerk called the bill (H.R. 1917) for the relief of Michael Wu.

There being no objection, the Clerk read the bill, as follows:

H.R. 1917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATURALIZATION OF MICHAEL WU.

(a) IN GENERAL.—For purposes of section 322(a) of the Immigration and Nationality Act, Michael Wu shall be considered to be a child under 18 years of age.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if a petition under section 322(a) of such Act is filed by Chi Shiang Wu or Caroline Wu, citizens of the United States, within 2 years after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA ERICA BARTSKI

The Clerk called the Senate bill (S. 159) for the relief of Maria Erica Bartski.

There being no objection, the Clerk read the Senate bill, as follows:

S. 159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Maria Erica Bartski shall be issued a visa and admitted to the United States for permanent residence upon filing an application for a visa and payment of the required visa fees. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act (8 U.S.C. 1152(e)).

AMENDMENT OFFERED BY MR. BOUCHER

Mr. BOUCHER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOUCHER: At the end of the bill, add the following: "No natural parent, brother, or sister, if any, of Maria Erica Bartski shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.".

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER. The question is on the amendment offered by the gentleman from Virginia [Mr. BOUCHER].

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

THE SOUND OF FREE SPEECH UNDER GEORGE BUSH

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker (period of silence) that's the sound of free speech under George Bush. Please vote against the President's gag rule. Vote for the Labor-HHS Appropriations Act.

EDUCATION REFORM: THE CONGRESS IS FLUNKING OUT

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker, we have many matters to complete before we conclude this first session of the 102d Congress. However, it does not look like we will get to the President's education plan.

We hear Democrats constantly complain about the President's inattention to the domestic agenda. We hear how the President doesn't care about the children of this country, or about our Nation's future.

But, Mr. Speaker, the public should know one thing. The Democrat leadership decides which matters will come to the House floor.

Instead of having the President's America 2000 plan on the agenda, the majority has decided to waste time and money on an investigation of the so-called October surprise.

When the President said he wanted our students to have a better understanding of history, he did not mean for the Congress to launch a partisan inquiry into wild allegations about the recent past.

The Democrats rhetoric says they care about our Nation's children, but their actions show they care more about the October surprise.

When it comes to education, the American people must learn one thing: The Democrat-controlled Congress is flunking out.

PRESIDENTIAL PICTURE ON EDUCATION BECOMES CLEARER

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, President Bush is warming up the well-worn veto pen to sign the 24th veto message of the Presidency.

Last September, he used $26,750 of the taxpayers' education funds to promote himself as the education President by turning a classroom into a television studio and turning students into props.

But today, he is about to veto the education budget that would turn his expressions of concern into action—real results. What we have is a gap between photo-opportunities and reality.

In photo-opportunities, the President says he supports college student aid, chapter one programs, and Head Start.

In reality he vetoes legislation that would expand opportunity for college students, for the educationally disadvantaged, and for children qualified for Head Start.

The bill that the kinder, gentler President is preparing to veto will also provide funds for the Social Security Administration; it will fund vaccines for measles, mumps, and rubella; it will fund programs to help stop the spread of AIDS; and it will allow family planning clinics to provide honest, sound, medical advice to their clients.

If George Bush has a domestic agenda, this is it: Posing for domestic policy photographs while vetoing the domestic agenda our country needs.

Mr. President, we get the picture.

ONLY THE EDUCATED ARE FREE

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, an ancient philosopher once said "only the educated are free."

America prides itself as the land of the free. Yet, our education system has failed to provide many of the tools necessary to succeed in a rapidly changing world.

In May of this year, President Bush proposed an ambitious program to overhaul our education system. This proposal looked forward instead of backward, challenged old assumptions, and offered new alternatives to educating our young and old alike.

Unfortunately, the Congress has yet to act on the most important aspects of the President's plan.

The new American schools and merit schools programs have yet to be addressed. School choice has yet to be fully debated on the House floor.

If Republicans were in control of this Congress, we would make education a top priority. Instead of delaying open debate on these issues, we would bring them to the floor.

Adequately educating all of our people means preserving our Nation's freedom for generations to come. Failing in that endeavor, we risk undermining a vital component of our form of government.

Unfortunately, it looks like the Democrat leadership will not address this important issue this session, and our people and our democracy will suffer as a result.

□ 1310

GOVERNMENT BY VETO

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, my son, Will, has a way of getting to the heart of things. Will is 12. The other day, when I could not be home in time to take him to Scouts because we were in session and I would miss a vote, he asked: "What difference does it make? Bush will just veto it anyway—he's the only one who makes the laws anymore."

To paraphrase the President, all kinds of crazy things can happen with this crowd that controls the White House. And, today, another of those crazy things happened. The veto President struck again.

When you do not know where you want to take this country, when you do not have a program for health or economic growth, then at least keep the other guys from doing anything.

The origin of the word "veto" is interesting. Of course, it is Latin for "I forbid." The language of the Caesars and the Emperors of Rome. I suspect the regal aspect of the veto makes it especially appealing to the President. It is quick and antiseptic—it does not require you to get involved. Just say "no."

So, now he has said "no" to funding for schools and student loans. He has said "no" to job training and worker safety—forget the recession or the tragic fire at the Imperial Food chicken plant. Winter is coming, but it is a "no" for heating assistance to the poor. And while everybody else worries about paying for health insurance, he says "no" to immunizing our children.

Must be some pretty powerful reasons. What? He's determined to keep doctors and nurses from talking to pregnant women—even victims of rape or incest or some other God-awful tragedy—talking to them about the legal choice of an abortion.

Now there's a guy who's really got his priorities straight.

UNIVERSITY OF FLORIDA'S SEC CHAMPIONSHIP ADDS TO STATE'S RICH FOOTBALL TRADITION

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, since Steve Spurrier came to the University of Florida 2½ years ago he has brought a lot of excitement to Gainesville, FL, located in my district. But the excitement his Florida Gator football team delivered last Saturday was unprecedented in the State of Florida's glorious football history.

With a victory over Kentucky, Spurrier's Gators won the school's first outright Southeast Conference championship with an undefeated conference record. With great football programs like Alabama, Auburn, Georgia, and Tennessee in the Southeast Conference an undefeated conference record is a tremendous achievement.

Of course tremendous achievement on the gridiron has almost become commonplace in the State of Florida. One look at the Associated Press top 25 shows three Florida teams, Miami, Florida State, and Florida, in the top five. No other State in America comes close to the State of Florida's college football achievement this year.

Mr. Speaker, I salute Coach Steve Spurrier for bringing the Southeast Conference championship to Gainesville. The achievement puts another feather in the cap of America's greatest college football State.

PILAR MEJIA WEISS

(Mr. LEHMAN of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN of Florida. Mr. Speaker, I would like to express my sincere thanks to the gentleman from Kentucky [Mr. MAZZOLI] for his compassion and cooperation in bringing to the floor this morning H.R. 458, a private bill on behalf of Pilar Mejia Weiss. This legislation, once it becomes law, will bring great joy to a wonderful family in Miami Beach.

The Weiss family adopted Pilar and her younger brother 4 years ago, but because Pilar was over the age of 16 at the time she was not eligible for permanent resident status. Knowing the Weisses, there is no doubt in my mind that they have a loving and close-knit family. Pilar was born in Colombia and came to know the Weiss family when she and her brother stayed with them during a visit to her grandmother, who was employed by the Weisses. This visit blossomed into a warm and loving family relationship that was eventually formalized by adoption proceedings.

Pilar Weiss is exactly the kind of citizen we want in this Nation. She arrived knowing little English, and yet she learned quickly and excelled in school. She was accepted by Wellesley College and graduated from there with honors in 1990. Presently she is in medical school at the University of Pennsylvania. I am certain that she will make great contributions to our Nation, and by putting her on the road to citizenship we will enable her to stay here, near her wonderful adopted family and ready to serve others as a physician.

Mr. Speaker, I would again like to thank the chairman of the subcommittee for all his help.

PRESIDENT BUSH SPEAKS OUT ON BEHALF OF SBA

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, I would like to commend President Bush and SBA Administrator Pat Saiki on their recent public service announcements. These announcements, highlighting the importance of small businesses and available SBA services, have been sent to television and radio stations nationwide.

The spots highlight SBA's International Trade Program by focusing on a couple in Seattle who owns a sonar manufacturing firm and exports their equipment to 15 countries. They received an SBA-guaranteed loan and credit SBA with helping them achieve success.

Here is what the President says about small business:

> Small businesses helped build our nation. Today more than 20 million small businesses employ half of America's workforce. Small business: building America's future.

The President and Ms. Saiki are doing their part to help keep American small businesses competitive at home and abroad.

I remind my colleagues that we can do our part by remembering that it is easy to say you are all for small business, but it is how you vote that really counts.

PRESIDENT'S EXPECTED VETO OF THE LABOR-HHS BILL

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, because the President does not want women to be informed of their choices when making the intensely personal decision of whether or not to terminate a pregnancy, he will veto a bill that would provide: $3 billion for job training, $280 million for the Ryan White AIDS Program, $1.5 billion in low-income energy assistance, $39 billion for Medicare and Medicaid, $15 billion in family support, $744 million in child care grants, more than $100 million for research on women's health issues, nearly $2 billion for Head Start, and $804 million in programs for seniors.

And, Mr. Speaker, that is not the half of it. This President, who calls himself the education President, is vetoing his own education initiative and 27 billion dollars' worth of additional education programs.

He is ignoring the most basic needs of our children, families, sick, and elderly in order to keep women in the dark. It is time to end government by veto. Let Congress lead. The President won't. Vote to override.

AMERICA 2000

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, if Republicans were in charge of the House today, we would have already passed President Bush's education initiative, America 2000.

America 2000 is a bold strategy for education reform that focuses on energizing local communities and urging greater local participation in education. America 2000 will help all of America's communities refocus their attention on our most important resource, our children.

By graduation, a student will have spent only 9 percent of their time in the classroom, and 91 percent of their time as members of their community. Too often this time is wasted. The President's education proposal tries to refocus the time spent in the community as beneficial and educational.

Mr. Speaker, my colleagues on the other side of the aisle try to blame President Bush for the weaknesses in our education system. But it is the Democratic leadership that refuses to bring initiatives like America 2000 to the floor for a vote. The American people want us to improve the education in our country, why will the Democrats not allow us to vote on America 2000?

It is time for the Democratic leadership to get serious about education. Let us act on the President's plan, America 2000. Our children need our help.

DOES THE PRESIDENT CARE ABOUT AMERICA?

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, once again, President Bush has shown his lack of concern for the working families of America.

By vetoing the Labor-HHS appropriations bill, our President is telling the American people that partisan politics are more important than the well-being of our families.

With one stroke of his pen, our President is willing to jeopardize student aid, vocational and adult education, Head Start and infant mortality programs, community health centers, and even unemployment and job training programs—all to protect the gag rule and score points with rightwing ideologies.

But he's not scoring points with most Americans. By a margin of 2 to 1, Americans oppose the gag rule. They believe low-income women deserve the same access to the same quality of care as women who can afford private family clinics.

The American Medical Association says that it's an intrusion into the physician-patient relationship. Our colleagues JIM MCDERMOTT and J. ROY ROWLAND, the only two physicians serving in the House, say "when we are forbidden from talking honestly with our patients, they are not getting the best care."

Even some pro-life advocates say this is about freedom of speech, not abortion rights. The administration's regulations would stifle free speech, blatantly intrude into the doctor-patient relationship, and deny women complete access to information on reproductive matters.

Our President is ignoring the will—and the problems—of the American people to pay a political debt. I urge my colleagues to override this veto and let the American people know that Congress, at least, is listening.

□ 1320

WHO IS RESPONSIBLE FOR OUR DOMESTIC AGENDA?

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the public hears so much criticism of the President coming from this side of the aisle, sometimes one wonders who is in charge. Let us take a look at who is in charge.

The President is in charge of foreign policy. That is what the Constitution grants the President of the United States. By and large, he has a large area of authority in foreign affairs, and he has received accolades from everyone for his successes in foreign affairs.

Yes, we have had some miserable performances when it comes to the domestic economy, and the issues that affect our economy and jobs, et cetera.

The President does not have control of those policies. Instead, he has to rely on Congress being responsible. So when we hear criticism of the President about the recession that we are in, let us remember who taxed, regulated, mandated, and spent us into that recession. Those people who are worrying about their jobs should look and find out who is responsible for putting them out of work.

SUPPORT THE LABOR-HHS BILL

Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, I am deeply disappointed the President has vetoed the Labor-HHS appropriations bill.

This bill contains critical funds for preventive health care, research, treatment, and education.

One message of the recent elections is that the American people want better health care.

But the President has decided to ignore that message and veto the first major health bill that comes before him.

The President vetoed this bill because of the so-called gag rule.

The gag rule is bad policy and bad medicine.

It is bad for women, who deserve better from their President than his relentless attacks on their integrity and judgment when it comes to decisions about their reproduction.

It is bad for health care professionals, who are trained to provide health care, not to promote political ideology.

And it is bad for everyone when we limit informed consent and invite malpractice.

This is not the time to sacrifice ethical medical care for political purposes. I urge my colleagues to override the President's veto and vote for honest health care for all Americans.

PRESIDENT BUSH'S EDUCATION PROGRAM—DEMOCRATS WILL NOT BRING IT TO THE FLOOR

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I yield to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, if Republicans were in charge of the House, we would have already addressed legislation to improve the quality of education in our country.

President Bush announced the America 2000 Program earlier this year. America 2000 is an innovative proposal designed to make our education system the best in the world. But the Democrat leadership has refused to bring this legislation to the floor for a vote. Instead, the Democrats spend their time and energy blaming President Bush for the problems our children are experiencing today.

America 2000 challenges everyone in our country to become involved in education. From the Federal Government to the local communities, all individuals will help our children become better educated so that they may lead productive lives.

Mr. Speaker, why can the Democrats not rise to this challenge? What are the Democrats afraid of? The American people want us in Congress to address this issue. Why does the Democrat leadership continue to put it off?

Our children can't begin to improve their lives through a better education system until we in Congress pass legislation to help them do so. Let us pass President Bush's America 2000 Program. Let us show our constituents that we care.

Mr. SOLOMON. Mr. Speaker, I say to the gentleman from Florida, "Well said." Let us get behind our President.

OVERRIDE THE VETO ON LABOR-HHS BILL

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Georgia. Mr. Speaker, we have only got one first amendment, only one Bill of Rights, only one constitutional guarantee of freedom of speech. The President's promised veto today of the Labor, Education and HHS appropriations bill because of his insistence on the gag rule is an outrageous attempt to limit the right of patients to knowledge of their medical options. It is a clear attack on the freedom of discourse and opinion. It is an affront to the first amendment freedom of speech and it must be met with an unequivocal bipartisan veto override.

Mr. Speaker, this should not be made into a battle between pro-choice and right-to-life arguments. This is clearly a battle between free thought and government oppression. The American people overwhelmingly oppose this gag rule. When the people lead, Mr. Speaker, the leaders should follow.

DEMOCRATS BLOCK THE PRESIDENT'S DOMESTIC AGENDA

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I am always intrigued listening to some of these 1-minute speeches that come here to the well. I have to say to my good friend from Georgia [Mr. JONES] and others if they are truly so committed to what they are saying, why does their leadership not bring up the title X reauthorization? The fact is if they succeed in overriding the President's veto this afternoon, all they are doing is creating a 1-year delay. But should we be surprised that they are not going to bring up title X reauthorization? It is because they do not want parental consent and a number of other amendments to be offered. It is typical of the Democratic agenda in this Congress, which is do not let the Republicans have a chance. Do not let the American people have a chance to enact the President's domestic agenda.

If we talk about the economy, way back in 1989 the President first came and twice since then has come to this Congress and asked us to pass an economic growth package. The President asked us in that famous speech in March can we pass a crime bill and a highway bill in 100 days, and we have not done it; can we pass an energy bill, can we pass education reform. No, we have done none of the above, but it is time we do.

TWO REPUBLICAN SENATORS HOLD UP CRIME BILL

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, the previous speaker brought up the crime bill and I am glad he did, because the President challenged us to pass a crime bill and we have passed a crime bill and sent it to the other House. The other House has passed their bill, and what has happened, two Republican Members of the other House have put a hold on the crime bill. If the President truly wants a crime bill then he should shake those two Republican Senators and get that bill out of there, get conferees appointed and we will get a crime bill, Mr. President, because if you do not get those conferees appointed we will not have a crime bill this year.

It is not the Democrats' fault, it is not the fault of the Republicans in the House. It is two Republican Members of that other House who have put a hold on that bill, will not let it out, will not let conferees be appointed, and the American people are suffering because of it.

Mr. President, call on those two Senators today and get them to release that bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair will advise Members that all remarks should be directed to the Chair.

WE SHOULD SAVE AMERICA'S MILITARY ACADEMIES

(Mr. JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. JOHNSON of Texas. Mr. Speaker, last night this House passed the Defense authorization bill. The bill marks the beginning of the end of one of America's finest traditions—our service academies.

Beginning in 1997, academy graduates will no longer receive a regular commission as an officer in our Armed Forces. Instead, they will be placed in a reserve pool with ROTC graduates from 4-year universities.

Academy cadets have already passed a rigorous selection process before appointment. They don't deserve another competition after graduation.

America's service academies train our best and brightest young men and women to be tomorrow's military leaders. Parents and prospective appointees are already asking—if academy graduates are not allowed to become regular officers—what is the point of an academy appointment?

Mr. Speaker, the President should veto this bill and the Congress should save these important American military institutions.

THE PRESIDENT SHOULD GET OFF THE BACKS OF THE AMERICAN PEOPLE

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, I am surprised that the President tried to run away from David Duke. After all, much of the rhetoric used by the Duke campaign came right from the White House. And when we talk about the message they tried to send, it was a message to divide Americans, to make Americans fearful about race and religion.

Today we have another battle on the same kind of lines. The President talked about getting government off our backs, but what we find is the government that this President wants goes into our doctors' offices and prevents our doctors from giving our people the kind of qualified medical advice that every citizen ought to expect to get in this society.

The buzz words of the Duke campaign ought to end. They ought to end on racial bases, on religious bases, and on issues like abortion. There are legitimate differences in the abortion debate, but one of them ought not be that doctors not be allowed to give their patients medical advice.

Mr. Speaker, ask the President to get government off our backs.

□ 1330

CLAMP DOWN ON ILLEGAL TRADE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, America's trade deficit for September is close to $7 billion. It is no wonder America is bankrupt. While the President concerns himself with school prayer and abortion, American jobs keep going overseas and Wall Street keeps going up and down like a yo-yo. This is ridiculous.

Mr. Speaker, let me remind Members that illegal trade is a crime. About the only thing we are allowing the President to do is suggest that people go out and buy a house or buy a car who do not have a job.

What is next? Is he going to recommend that everybody play Ed McMahon's Publishers Clearing House jackpot program?

I think it is time to clamp down on illegal trade. We might solve some of our economic problems.

CREDIT CARD DISTRIBUTION

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, in the past week the Hill has been buzzing about credit card rates. This buzz began with the President expressing his concern about increasing credit card rates. The other body soon followed with an amendment that caps credit card rates. Then Wall Street started buzzing and the result was the Dow falling 120 points.

It is my belief that the No. 1 concern should be credit card distribution. The credit card industry freely gives out credit cards and this leads to an increase in defaults. Ultimately, it is default that leads to a higher rate.

In order to make up for losses, banks are targeting a new group for credit cards—college students. College students are a growing new market with 3.68 million spenders. Students can often obtain credit cards without the usual requirements such as credit histories and parental consent.

Student credit cards are creating a new generation of debt addicts. For these reasons, I am introducing legislation that will address this issue. The legislation is targeted at full-time students who have minimal income and are dependents.

The legislation would allow for the student to have a credit card but with restrictions on the limit. The student would be able to have a higher limit with parental consent and the parent would be liable if the student fails to pay.

I am not trying to prevent students from obtaining credit cards. The purpose of this legislation is to protect students and to prevent them from facing unsurmountable expenses.

THE PRESIDENT MUST CAPTAIN OUR NATION TO ECONOMIC RECOVERY

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, the President must propose an economic recovery program now, not later.

Members of Congress can be viewed as 535 sailors, each charting a separate course to pilot our economy over troubled seas.

But, no ship can have 535 captains. We must have Presidential leadership to get the economy moving again.

I personally favor a broad recovery package—one combining tax relief for middle-income Americans, restoring deductions for IRA's with incentives for business—lowering the capital gains tax rate, adopting new passive loss rules and offering an investment tax credit. But I am just a lone sailor.

Oliver Wendell Holmes said:

> I find the great thing in this world is not so much where we stand, as in what direction we are moving:
>
> To reach the port of heaven, we must sail * * * sometimes with the wind and sometimes against it * * * but, we must sail, and not drift, nor lie at anchor!

The President must come forward to captain our recovery. We need "the vision thing." We need a great "point of light" to illuminate our way to economic recovery.

IN SUPPORT OF CROATIAN INDEPENDENCE

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, I rise today in ardent support of Croatian independence and to call upon President Bush to exercise all of this great Nation's influence in the United Nations in an effort to bring peace to that worn-torn region of eastern Europe.

Yesterday, after 3 months of courageous fighting, the Croatian resistance in Vukovar fell to the relentless bombardment of the Serbian-controlled, Yugoslavian Federal forces. I join Croatian families here in America in their grief of the atrocities committed against innocent civilians and in their pride for the heroic efforts of the Croatian defense forces. In the face of this vicious onslaught against the Croatian people, the United States must aggressively pursue all means to protect Croatian families fleeing the systematic destruction of their homeland.

Croatia is a longtime friend of the United States. Croatia recognized our fledgling Nation in 1776 during our struggle for independence, and now we should assist them in their time of need. Mr. Speaker, United States recognition of Croatian independence is important, but the United States has the power to effect change in the region. We were once a friend in need. It is time for us to be a friend in deed.

THE G-7 NATIONS SHOULD NOT INVOLVE THEMSELVES IN REWRITING SOVIET DEFICIT

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, first of all, I would like to associate myself with the remarks of the distinguished gentleman from Louisiana wholeheartedly and call upon the President to do what needs to be done on behalf of freedom-loving people everywhere and support the independence of Croatia against the attack of the Communist military under its Serbian leadership.

Mr. Speaker, I rise particularly today because the newspapers are full of the suggestion that the G-7 nations should involve themselves in rewriting the $80 billion deficit the Soviet Union has.

Now, very quickly, I ask this: Who is this $80 billion owed to? Over a third of it is owed to German banks, a significant number to British banks, Belgian banks, and others.

The United States is now being encouraged through the State Department for the American taxpayer to join in underwriting the obligation of the Soviet Government to German and Japanese banks.

Mr. Speaker, I ask, why? They have the wherewithal. In Japan the first $50,000 of savings is tax free. They are going to underwrite most of those loans. They will pick them up. They will get the interest. The United States taxpayer does not need to step in between the German bankers and the Soviet Government. They should deal with their problems on their own and leave the taxpayers out of it.

WHO ARE THE POOR IN AMERICA?

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, there has been a lot of talk about the rich getting richer and the poor getting poorer. What type of people are we talking about?

In this country today, if you earn less than $10,000 you are in the bottom 10 percent of Americans. If you earn $100,000, you are in the top 5 percent of Americans.

Today in this country, 50 percent of Americans earn less than $30,000. The top 1 percent earn $617,000.

Do you know what is sickening, Mr. Speaker? The bottom 10 percent of Americans contributed 5.5 percent of their income to charity, while the top 1 percent only gave 2.9 percent of their income to charity, but yet the Government gave them an $84 billion tax cut.

Mr. Speaker, it is time for us to start listening to the middle- and low-income people.

THE OUTRAGEOUS TREATMENT OF HAITIAN REFUGEES

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, I ask my colleagues to join with me in expressing outrage that our Government would send back to Haiti the people who have been forced to flee because of the illegal and outrageous conduct of the military in that country.

To our credit, we have condemned the coup. We have attempted to organize the Organization of American States. We have imposed an embargo.

In retaliation, many Haitians, hundreds, indeed thousands, have been shot and many have been killed.

These people have fled seeking a better way of life. That is what America is all about.

It seems to me that our President could exercise the same leadership that he did when Kuwait was being attacked by Saddam Hussein, to call countries and ask them to assist us to provide safe haven for these people, but to ship them back to these ruthless killers to me is inconsistent with what a great democracy is all about.

No one downtown would put their fingerprints on this. Please join and give some type of asylum to these human beings who need it.

THE WORSENING MERCHANDISE TRADE DEFICIT

(Mr. LEVIN of Michigan asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, the merchandise trade deficit increased to $6.7 billion in September. That is the third straight month the deficit has worsened.

Japan represents over three-fifths of our trade deficit.

This administration has no economic policy. It has no trade policy clearly vis-a-vis Japan, though it represents more than half our trade deficit.

Sweet talk is certainly not a policy, even if it is spiced now and then with a dash of tough talk. The result of talk, talk, talk, is what Secretary Baker got in his trip to Japan; nothing, nothing, nothing.

The answer is action, not reckless, but resolute action.

Mr. Speaker, saying "It ain't so" is not an economic policy.

LEGISLATION ESTABLISHING NATIONAL FALLEN FIREFIGHTERS FOUNDATION

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, I rise today to recognize the firefighters from Maryland and Pennsylvania who bravely served and protected the people of Westminster, MD.

On Sunday evening, 150 firefighters from Carroll, Frederick, and Baltimore counties, and Adams County, PA, battled a seven-alarm fire in downtown Westminster. All but 1 of the 22 fire companies answering the call were volunteer. Although two businesses were burned out and three firefighters were injured, the professionalism and dedication of these men and women prevented any loss of life and held damage to a minimum.

I would like to take this opportunity to introduce legislation to establish a National Fall Firefighters Foundation that will commemorate firefighters who have died in the line of duty and to assist family members left behind. The foundation will be a charitable, nonprofit corporation to help maintain and preserve the National Fallen Firefighters Memorial.

This past year, 105 career and volunteer firefighters lost their lives in the line of duty. The National Fallen Firefighters Foundation will give these heroes the recognition and thanks they deserve. I invite my colleagues to join me in sponsoring this important piece of legislation, and look forward to its consideration and passage.

□ 1340

SUPPORT FOR BILL PROVIDING FOR NATURALIZATION OF MICHAEL WU

(Mr. LOWERY of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWERY of California. Mr. Speaker, I rise to ask for the support and to thank the House for approval of H.R. 1917, which would enable a special and deserving young man to become a citizen of the United States. H.R. 1917 will provide for the naturalization of Michael Wu of San Diego, CA.

First, I would like to extend my sincere thanks to Chairman RON MAZZOLI of the Immigration Subcommittee and BILL MCCOLLUM, the ranking minority member, for their evaluation and support of this legislation.

In addition, I appreciate the support of Chairman BROOKS, Congressman FISH, and the Judiciary Committee to enable this legislation to come to the floor.

Mr. Speaker, Michael Wu is 25 years old and was born on the island of Taiwan. He has been a permanent resident of the United States since April 18, 1980. Unfortunately, Michael has Down's syndrome.

Despite his handicap, Michael strongly desires to become a citizen of this great Nation. His parents and brothers are naturalized citizens. They are all hard-working, responsible residents of San Diego who contribute to this country and would like to see Michael join them as full citizens.

Michael has taken the naturalization exam six times since 1985, but because of his condition, he has been unable to complete the history and government portion of the exam. Despite his inability to meet this requirement, Michael understands the concept of citizenship and wants to achieve this goal.

All who know Michael will attest to his hard work and desire to learn. He is currently enrolled at the Association for Retarded Citizens in San Diego, where he is developing skills to enable him to support himself and contribute to our society. He can speak both English and Chinese and his teachers describe him as an intelligent, friendly, and hard-working individual.

Michael if the kind of person who represents the best of what this Nation is about: He is someone who has serious obstacles to overcome, but who does his best to succeed and is grateful for the opportunities given to him.

Mr. Speaker, private legislation should be used to grant citizenship to an individual only in the most special of cases. This is such a case. Michael's desire to become a citizen is perhaps stronger than anyone I have ever known. This legislation would allow Michael to achieve his dream and I thank the House for giving him this chance and approving H.R. 1917.

REPUBLICANS HOLDING BACK THE CRIME BILL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, nearly a year ago the President went on television and told us that he had two domestic priorities which had to be passed in 100 days. One of them was the crime bill, and then month after month the President got on television saying to the Congress and the Democrats, "Where's the crime bill?"

Well, we passed a crime bill 27 days ago, and now, lo and behold, who is holding up the crime bill but Members of the other body of the President's own party?

Mr. Speaker, I ask, "Why is the President so strangely silent? Why doesn't the President jet around the country, going from dinner to dinner, blaming his own Republican colleagues for failure to pass a tough crime bill?"

Mr. Speaker, we are in the last days of session. The President is strangely silent. We do not hear a peep out of him about getting his conferees, his own party members, to stop holding up this desperately needed bill, and Mr. Speaker, if the President cannot get his own Republicans to stop from holding back the crime bill, let him not utter a word of criticism about Democrats and the crime bill when we adjourn in November, because then it will be too late.

INTRODUCTION OF DOMESTIC MARSHALL PLAN RESOLUTION

(Mrs. COLLINS of Michigan asked and was given permission to address the House for 1 minute to revise and extend her remarks.)

Mrs. COLLINS of Michigan. Mr. Speaker, this Nation continues down a path of economic and social despair. All around us we see failed businesses; we see roads, bridges, and other structures which have been damaged or destroyed; and, we see a school system which fails to meet the ever-expanding needs of a world which demands increasingly sophisticated knowledge. These problems are multiplied many times over in my own district in Detroit.

Following World War II, the Marshall plan was developed to assist in Europe's recovery. Because of the planned, comprehensive, and coordinated effort to aid Europe, the countries of Western Europe are now amongst the world's leaders in both developing human resources, and in economic power.

Many of us have grown tired of the inaction of policymakers today toward moving this Nation forward once more into a world financial and social leadership position. Yesterday, Congressman RAY THORNTON, Congressman TIM ROEMER, and myself introduced a resolution calling for a domestic Marshall plan. I urge all of my colleagues to support this urgently needed congressional mandate.

OVERRIDE GOVERNMENT BY INACTION

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, we all know the economy is stalled, but the leadership of this Nation is in reverse.

For months, the President blocked urgently needed unemployment benefits. Now he is about to veto one of the most important bills to aid working people and jump start the economy.

He promised to help working people, but he is about to veto job training, funding for unemployment compensation operations, and aid for workers harmed by unfair foreign trade.

He promised to be the education President, but he is ready to veto Head Start, chapter I, and aid for our college students.

He promised action on health care, but he is set to veto childhood immunizations, AIDS prevention, and medical research.

Mr. Speaker, our broken down economy is the logical result of broken promises and absent leadership.

The President may think he can ride out the storm by putting Air Force One on autopilot, but the American people are on a collision course with economic disaster.

Today, we have a chance to take real action to help real people. We can override the President's autopilot and chart a new course for economic growth and prosperity.

Mr. Speaker, override government by inaction. Override this veto.

TAX DOLLARS SHOULD NOT SUBSIDIZE REFERRAL OR COUNSELING FOR ABORTION

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, everyone who berates the President for vetoing the Labor-HHS bill knows that the veto has nothing whatsoever to do with cancer research, education, student aid, Head Start, or immunization. The President and most House Members support these and other vital programs in the bill. Framing the President's veto as opposition to these programs just is not in touch with reality. It is, unfortunately, intellectual dishonesty, and I believe everybody in this Chamber knows it.

The issue in dispute, Mr. Speaker, is a new title X regulation which wisely separates abortion from family planning. The purpose of the new title X regulation is to ensure that Federal tax dollars do not subsidize the promotion, referral, or counseling for abortions as a method of family planning.

Sustain the President's veto.

LET US NOT BE GAGGED BY THE PRESIDENT

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, today the President is vetoing the Labor-Health and Human Services appropriation, and he says one of the main reasons is the gag rule. He does not believe that doctors and federally funded commissions ought to be able to advise women of all their medical options when one of them is abortion.

But let me show who else gets gagged by this single-issue politics. The millions of students that would have gotten Pell grants under this appropriation, they get gagged because their money is in here, too. The millions of students who would pass for guaranteed student loans, they get gagged because their money is in here, too. The millions of those who would get job training spots, 426,000, they get gagged because of this veto. Their money is in there. Mine health and safety inspectors in the State of West Virginia has had a cataclysmic increase in mine fatalities. Those Federal mining inspectors get gagged because of the President's veto over the gag rule. OSHA inspectors, black lung, medical training, NIH research, medical research, for Pete's sake, is gagged because of the President's veto of this appropriation.

That is why I hope that my colleagues will dispel and repudiate single-issue politics and vote to override the President's veto. Let us not be gagged by the President.

A NATIONAL ELECTRONIC BILLING SYSTEM WOULD CUT HEALTH CARE COSTS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, let us cut the talk and do something about health care costs. This summer I advocated in a white paper, that this Nation needs to standardize the billing process as part of health care reform. In my paper, I noted that standardization can be achieved through a new national electronic billing system. The technology is available, so let us use it now.

Just 2 weeks ago, Secretary Sullivan recognized the possibility of standardization. The Secretary agreed in a meeting with the American Association of Retired Persons and U.S. Chamber of Commerce, that standardization could save between $20 and $50 billion.

Mr. Speaker. I challenge the Secretary to make standardization a priority and a reality before it is too late.

☐ 1350

THE REAL VICTIMS OF THE PRESIDENT'S VETO

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, if this attempt to override the President's veto fails, there will be those who will see it as a defeat for the Democratic Party or indeed for this Congress generally, but in fact it will only be the loss of the moment. The real victims will not be in this Chamber but across America—40,000 4-year-olds who seek a start in Head Start, 7 million young Americans who want an opportunity to seek student loans and go to college, and millions of children who are vulnerable to contagious disease and seek vaccines. These will be the real victims.

And indeed, Mr. Speaker, there is one other group: millions of American women who want only the opportunity at a vulnerable and important moment in their own lives to speak to a doctor and get honest and straightforward advice about a most important decision in their own lives.

These are the victims, Mr. Speaker. These are the people today who are victimized by this veto, and it is with them that Members of this House must stand.

PRESIDENT'S VETO PUTS FUEL ASSISTANCE FUNDING IN JEOPARDY

(Mr. OLVER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, I urge my colleagues to override the President's veto of the Labor-HHS bill.

There are many important reasons for overriding this veto, but none is more important than the fuel assistance program which needs immediate funding.

I met a young family in Pittsfield last week who were waiting in line to apply for fuel assistance for the first time. The young father was struggling to find work, and their 18-month-old had been cold in their own apartment. They were worried that Federal money had not yet come for fuel assistance this year, and every day is a struggle for this family and thousands of others like them.

They should not have to suffer the stress and pain of uncertain fuel funding because some folks in Washington are more interested in keeping the President's veto streak alive than keeping people in western Massachusetts warm this winter.

Winter has arrived, and the cold nights are getting longer. Children are getting cold, and in the Berkshires and in Hampshire, Hampden, and Franklin Counties there are thousands of new applicants for fuel assistance, people who have been looking for jobs.

Mr. Speaker, in the name of the kids who are cold, we should override the President's veto today.

DOMESTIC AGENDA NEEDED TO FACE ECONOMIC PROBLEMS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, it is a tortured trail that Republicans have followed to come to the well of this House for years while the economy was growing and to say that "this is our economy, our responsibility, a Republican success." But now when the economy goes sour and we have a recession, they come to the floor and say, "It's not ours; it is somebody else's fault. We didn't do it."

Today we hear this from them: That the problem is that we did not follow President Bush's agenda. The question is, what agenda? President Bush has not had a domestic agenda. The American people know that.

He has traveled the equivalent of three times around the Equator, creating a "new world order." He has not had time for a national agenda. Education, health care, agriculture, all are failing in this country.

If the President had a national agenda, a real agenda that helped real people, he would find plenty of support from people here who want to roll up their sleeves and go to work to put America back on track, because we believe it is time to take care of our needs here at home. When and if the President comes to us with that kind of an agenda, he will find plenty of willing followers. But first he has to park Air Force One and focus on needs here at home.

PRESIDENT'S VETO AN OUTRAGE, TARGETS AMERICAN WOMEN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, any moment down this aisle will come someone with a message from the President, and the President will say that he is going to veto the entire kinder, gentler bill for all America dealing with education, cancer research, and all the things that really make life better for Americans, because he does not want to treat women as first class citizens. That is the bottom line.

This is not about abortion. This is not about anything else. What is this about? This is about the fact that a President does not want a woman in a federally funded family planning clinic to be able to get a straight answer from a doctor or a nurse, and that if they ask a question, they will not be able to answer it.

Anybody who does not vote to override this veto is really saying to America's women, "We don't think you are adult enough to have your rights explained to you and your options explained to you by a medical doctor or a nurse."

Mr. Speaker, I think it is probably illegal for doctors and nurses to even participate in a clinic where they cannot talk and tell adults the full story. I ask the Members to please vote to override this veto. This is an absolute outrage.

THE FAILED BUSH CHINA POLICY

(Ms. PELOSI asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, the initial results of the Baker visit to China demonstrate that the Bush China policy has failed. Despite the best efforts of Secretary Baker, the foggy message of the President's unwise China policy was too much to overcome.

It is time to pull the veil of mystery away from United States-China relations. It is time to encourage democratic change behind the Great Wall, as we did behind the Berlin Wall. It is time for the administration to join Congress in granting most-favored-nation status to China only if China begins to act like a responsible world player by taking action to make the world safer, trade fairer, and its political climate freer. China must stop selling nuclear capability to unsafeguarded countries. China must stop clobbering American workers with its unfair trade practices in violation of our trade agreements with them, and China must free the prisoners who risked their lives and their security in Tiananmen Square.

A PLEA TO RETURN JOBS TO AMERICA

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the American economy is in shambles. I just listened to the television and learned that the stock market is down again. The last time I heard, it was down over 60 points. And all the answers and all that Congress can come up with is a bunch of tax gimmicks and short-term solutions.

What we are doing is sending our jobs overseas, and we are sending our industries overseas. Consumer confidence is down. Why is it down? Because people do not have the money to buy anything.

We have got to get our jobs back, and we have got to get our industries back. We have got to stop passing legislation that is forcing our industries to go out of the country. We can do this through some equitable trade policies, not what we have today, so we can put Americans back to work.

We have a highway bill that will create 2 million jobs. We ought to do that now. Americans do not want handouts. They want to work. They want jobs to take care of their families. Congress and the administration have the power to do it, so let us get down and do it.

IN SUPPORT OF THE PRESIDENT'S VETO

(Mr. VOLKMER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I rise today to support the President in the veto of the Labor-HHS bill. I support that veto because the language in the title X regulations does not prevent a physician from advising any patient, any woman, of their health care.

I would like to read to the Members from a statement of the Secretary of Health and Human Services:

> Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.
>
> Title X projects are to provide necessary referrals to appropriate health care facilities when medically indicated.
>
> If a woman is found to be pregnant and to have a medical problem, she should be referred for complete medical care, even if the ultimate result may be the termination of her pregnancy.

Mr. Speaker, these regulations do not prevent a physician from fully advising any patient on medical treatment and medical care. Therefore, I rise in support of the President's veto in the name of saving human life and young children.

□ 1400

A $3,000 TAX BREAK FOR EVERY AMERICAN FAMILY

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, if you ask most American families what they would most like right now in terms of getting their own economies started, most of them would like a substantial tax cut. Most of them could use another $3,000 a year in their pocket. Not just $3,000 a year for 1 year, but $3,000 a year as far out as they can see. In other words, they would like to almost win the lottery and have some real money.

How can they do that? How could 70 million American families get a $3,000 tax cut?

One of the ways would be if we were not spending the money in the bill that the President vetoed and we were spending the money instead on the American family, with them having a tax cut. That is right, 70 million American families could get a $3,000 tax cut with just the money that we are going to spend in the Labor-HHS bill. Seventy million American families would be $3,000 better off with just the money that we spend in that bill. Seventy million American families would have real money in their pocketbook, real money to spend on the things that would help drive our economy forward.

Mr. Speaker, I think a lot of American families would prefer the tax cut to the Government spending.

OVERRIDE LABOR-HHS VETO FOR THE GOOD OF AMERICA

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, the suggestion of the previous speaker is incredible. What the gentleman has just suggested is that the United States should stop all medical research to find a cure for AIDS, to find a cure for cancer, and to find a cure for heart disease. This is what is in this appropriation bill.

The gentleman just called for eliminating all assistance, Federal assistance for America's college students. That is what is in this bill.

The gentleman thinks that is the way to get America moving again, keep us sick and uneducated.

Thank goodness, this House of Representatives, Democrat and Republican, thinks otherwise. I urge Members to vote to override President Bush's veto in the Labor-HHS appropriation.

RESPONSIBILITY NECESSARY TO AVERT ECONOMIC CHAOS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I do not think that is what the gentleman from Pennsylvania [Mr. WALKER] said. But let me just say one thing, and I think this is very, very important: The reason we have the economic problems we have today started a long time ago, and they have been building and building and building because of the liberal welfare state mentality of Members on this side of the aisle.

The deficit this year is going to be $400 billion, the largest in U.S. history. We have increased the national debt from $1 trillion to $4 trillion in just 10 years, and the responsibility rests with this body. This is where all spending originates.

Mr. Speaker, they try to pass the buck to the White House to say the President is responsible, but the economic problems facing this country rests with the big spenders here. If we get control of our appetite for spending and start living within our means, this country will survive and do well economically. If we continue down the path that these people have put us on, we are going to have economic chaos.

CAMPAIGN REFORM LEGISLATION SHOULD PROTECT WORKERS' POLITICAL RIGHTS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I think it is safe to say that the majority of my colleagues, like myself, are interested in seeing campaign reform. There are many proposals floating around a lot of disagreement over which direction to take these reforms. However, I hope that my colleagues agree that no American should be forced to give financial support to political candidates or to causes they oppose.

Sadly enough, thousands of American workers contribute millions of dollars every election cycle against their will. I am talking about the use of forced dues spent on politics. I am speaking of workers who are forced to pay union dues as a condition of employment. And a large percentage of those dues goes toward activities that are unrelated to collective bargaining, including political activity. Quite often these forced dues come from workers who oppose the candidates or causes their dues are financially supporting.

I ask my colleagues to join me in ending this blatant disregard for the rights of dissenting workers by outlawing the use of compulsory union dues for politics. I oppose any campaign reform legislation which does not protect workers' political rights.

ONE SIZE FITS ALL ISN'T PART OF THE SOLUTION

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, health care costs are out of control. The Nation's spending on health reached $666.2 billion in 1990, an increase of 10.5 percent in a single year. Clearly, reining in skyrocketing costs is imperative.

There are some who propose simple solutions like mandating that all providers accept Medicare payment levels for all their services—Medicare and non-Medicare patients, alike.

I asked my hospitals what this would mean to them. To date, five of them have responded. The Charlotte Hungerford Hospital, Connecticut's eighth lowest cost hospital, would have a decrease in patient revenues of $8.3 million and turn a small positive operating margin into a $7.4 million operating loss. The John Dempsey Hospital would go from a positive operating balance of $1.2 million to a loss of $19 million. If the Medicare rates excluded graduate medical education and indirect medical education adjustments, this teaching hospital would realize an astounding operating loss of $35.5 million. My hometown hospital, New Britain General, would experience a shortfall of net patient revenues of 2 to 3 percent over existing new patient revenues. Johnson Memorial Hospital would have lost $4 million in fiscal year 1991, an operating loss of 15.7 percent which they estimate would rise to $6.2 million and 22.5 percent in fiscal year 1992. And the small hospital of Winsted Memorial Hospital estimates its operating loss for 1991 would have been approximately $2 million.

Mandating Medicare rates for all sounds like a solution to skyrocketing costs. But ask your hospitals to run their numbers for you. We might be solving the cost problem simply by eliminating care.

OVERRIDE ILL-ADVISED PRESIDENTIAL VETO ON LABOR-HHS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, we will soon consider the President's veto. I want to read from a letter dated November 12, 1991, from the following list of health organizations:

American Academy of Family Physicians.
American Academy of Nurse Practitioners.
American Academy of Pediatrics.
American College of Nurse Midwives.
American College of Obstetricians and Gynecologists.
American College of Physicians.
American College of Preventive Medicine.
American Fertility Society.
American Group Practice Association.
American Medical Association.
American Medical Women's Association.
American Nurses Association.
Association of Reproductive Health Professionals.
NAACOG: The Organization for Obstetric, Gynecologic & Neonatal Nurses.
National Association of Community Health Centers.
National Association of Neonatal Nurses.
National Association of Nurse Practitioners in Reproductive Health.
National Association of School Nurses.
National Association of Gerontological Nurse Practitioners.
National Medical Association.
National Organization of Nurse Practioner Faculties.

They say;

The President's November 5th memo to Secretary Sullivan "clarifying" the regulations has no legal standing and does not affect the law—it merely confuses the issue.

We are—

All the medical practitioners and medical advisers in our country, the doctors of our country,

opposed to the White House's intention to exempt physicians from the counseling and referral restrictions but not other health professionals. This is unacceptable to all members of the health care team—physicians, nurses, and licensed counselors.

Mr. Speaker, let us vote for education, let us vote for health care, let us vote for worker safety. Let us override this ill-advised Presidential veto.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

CALL OF THE HOUSE

Mr. TRAXLER. Mr. Speaker, in view of the important matter to next come before the House, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 402]

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Armey
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

☐ 1430

The SPEAKER. On this rollcall, 409 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-166)

The Speaker laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 2707, the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992."

H.R.2707 contains a provision that would prohibit implementation of rules related to the Title X family planning program and abortion. I am therefore compelled to disapprove H.R. 2707. I will sign a bill that does not include language that prohibits implementation of the abortion counseling and referral rule.

I have informed the Congress on numerous occasions that, consistent with the intent of the statute originally establishing Title X, I would veto any legislation that would entangle Title X with abortion. Accordingly, it is my intention to ensure that no Federal funds are used to support abortion except in cases where the life of the mother would be endangered if the fetus were carried to term.

Under the regulations upheld by the Supreme Court, pregnant women who seek services from projects funded by Title X are appropriately referred to qualified providers for prenatal care and other social services, including counseling. The Administration seeks to ensure the integrity of Title X as a prepregnancy family planning program and to ensure that women who are pregnant, or have a medical problem, are referred to providers who can ensure continuity of care. We do not seek to limit in any way the counseling pregnant women receive when they seek services from those providers.

In a memorandum to Secretary Sullivan on November 5, 1991, I reiterated my commitment to preserving the confidentiality of the doctor/patient relationship and seeing that the operation of the Title X family planning program is compatible with free speech and the highest standards of medical care. My memorandum makes clear that there is no "gag rule" to interfere with the doctor/patient relationship. I have directed that in implementing these regulations, nothing prevent a woman from receiving complete information about her condition from a physician. There can be no doubt that my Administration is committed to the protection of free speech. The United States Supreme Court specifically found that the regulations in no way violate free speech rights.

H.R. 2707 contains several provisions that would delay the obligation of over $4.4 billion until the last few weeks of FY 1992 and early FY 1993. The magnitude of the delays contained in H.R. 2707 would make it much more difficult to remain within the FY 1993 spending limits required by the Budget Enforcement Act.

I urge the Congress to pass promptly an acceptable bill, one without objectionable language relating to Title X, to provide needed funding for the many important programs contained in this legislation.

GEORGE BUSH.

THE WHITE HOUSE, *November 19, 1991*.

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from kentucky [Mr. NATCHER] for 1 hour.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the Presidential veto of the bill, H.R. 2707.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Michigan [Mr. PURSELL] and I ask unanimous consent that he be permitted to yield time to other Members.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise today to urge the House to override the President's veto of H.R. 2707, a bill that makes provisions for appropriations for the Department of Labor, the Department of Health and Human Services, and the Department of Education.

This bill, Mr. Speaker, is under the ceilings established by section 602(b) of the Budget Enforcement Act. We are $70 million under the ceiling for budget authority and we are $33 million under in outlays.

It required 14½ weeks to hold the hearings on this bill. We had 730 witnesses, 127 Members of the House appeared before our subcommittee justifying to the subcommittee various appropriation requests including new programs and increases in other programs.

Mr. Speaker, I believe that these Members will tell you that this is a good bill.

This bill, Mr. Speaker, is the bill that helps the poor, the elderly, the sick, the unemployed, and our children. That is what this bill is about.

Please keep in mind that in the bill we have, Mr. Speaker, $2,020,000,000 for Head Start; $31,965,000,000 for education; $9,010,000,000 for the National Institutes of Health for biomedical research; $298 million for childhood immunization; $1,921,000,000 for AIDS; $825 million for child care grants; $771 million for impact aid; $1,500,000,000 for low-income fuel assistance; $650 million for maternal and child care health grants; $1,043,000,000 for vocational and adult education; $22.5 million for rural health outreach grants; $226 million for trade adjustment; $3,081,000,000 for alcohol, drug abuse, and mental health; $4,582,000,000 for Social Security Administration administrative costs; $2,025,000,000 for unemployment compensation operations.

□ 1440

Mr. Speaker, these are just a few of the programs in this bill, and, Mr. Speaker, at this time I would like to call the House's attention to the "Dear Colleague" which they received this morning. All of the ladies in the House, on both sides of the aisle, Mr. Speaker, that know as much about this bill as anyone on the subcommittee or on the full committee, signed this "Dear Colleague" letter with the exception of two, Mr. Speaker. This is a bill that the center aisle does not mean a thing to. It means the same thing to every Member in this House, Republican or Democrat. Mr. Speaker, at this time I ask my colleagues respectfully, I ask the Members of the House today, to please, override this veto.

Mr. PURSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our subcommittee spent 8 long months putting this bill together. This is my first opportunity to be ranking on this committee. I have had the honor to serve on this committee 14 years, and I do not think I have seen a better, more professional effort to put together an outstanding bill.

Now I know title X is in this bill. I am sorry that it did not have the opportunity to be addressed by the authorizing committee, and our appropriation committee would have fulfilled its responsibility by passing a good clean appropriation bill. We would not have gotten into a debate on authorizing language, but the realities are here.

Mr. Speaker, as our chairman said, the outstanding gentleman from Kentucky [Mr. NATCHER], we have some outstanding, programs in this bill that were a result of bipartisan support. Head Start, one of the outstanding programs for our young children of America. Student loans, for students going on to college. Our jewel in our committee, in my opinion, the National Institutes of Health, 13 of them who are working on dramatic breakthroughs into cancer research, Alzheimer disease, and other critical illnesses. We also have impact aid. We have 55 Members of the House on both sides of the aisle who came to us and pleaded for impact aid. I assume that they will be voting with the chairman and minority ranking members today. President Bush's America 2000, the first breakthrough in education in years, and the result of some very creative work by Lamar Alexander and the President of the United States.

Therefore, Mr. Speaker, I must come down on the side of the committee and vote to override this veto.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I ask the House to override this veto. The 1991 funding this bill for entitlements and discretionary funding was $185 billion. The 1992 amount for these programs is $203 billion. That is an $18 billion difference. That increase is being denied to all these programs and all these departments that every day that we go into the 1992 fiscal year without this bill being enacted.

Mr. Speaker, we should not wait another day to enact this bill into law. This bill affects almost everyone in the United States. In fact, it affects everyone from conception through death. We have all kinds of programs in here, prebirth programs, children's programs, elementary and secondary education, college funding, training programs, Social Security, all of those kinds of programs in this bill and their funding should not be held up because of one emotional issue that is in this bill.

Mr. Speaker, that issue should be resolved in a separate bill, enacted as a separate law, and a 1-year delay in implementation should not hold up this important piece of legislation, so I ask my colleagues today to not let these programs go another day without the 1992 level of funding. Vote to override this veto.

Mr. PURSELL. Mr. Speaker, I yield 3 minutes to our distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, at the very outset may I pay my respects to the very distinguished chairman, the gentleman from Kentucky [Mr. NATCHER], and the ranking member of my old Subcommittee on Appropriations, the gentleman from Michigan [Mr. PURSELL], for the great job that they both do, and their committee members, in meeting so many of the pressing needs of the country on that very important subcommittee. But I must say, Mr. Speaker, and I rise to urge the Members, to support the veto of the President; in other words, to sustain his veto.

Mr. Speaker, after listening to the veto message itself, I was encouraged to see that the President vetoed the bill, not only because of the provisions on the so-called gag rule, but also because of the abuses that have taken place on the money side.

As I indicated when we had the conference report on the floor, I do regret that so much attention is placed on the legislative language that should be considered separately as an individual piece of legislation, as the gentleman from Iowa [Mr. SMITH] just pointed out. I have seen numerous expressions of concern from the chairman of the Committee on Energy and Commerce over the usurpation of the committee's jurisdiction by the appropriation process, but I do not recall seeing any such expression on the title X regulation. I wish I had, because that is clearly where this issue belongs, over in the Committee on Energy and Commerce.

Mr. Speaker, what we have before us is a $200 billion bill, vetoed in part because of the gimmicks employed to get around a budget ceiling, and I urge that we pay attention to this aspect because what we are talking about here is $4 billion in abuses.

Now I know the administration itself proposed some of these deferred obligations but certainly not to the extent undertaken in this bill. The distinguished chairman of the committee brought that to my attention during our earlier discussion of that, and I concede that openly and above board here as we discuss it today. As I say, however, one wrong does not justify tripling the wrong by what was done in the committee.

So, if we go ahead and spend this $4 billion in deferred obligations, we will actually be requiring cuts next year of nearly $8 billion below this year's appropriation in order to live within the budget caps. What this really means is that we are going to see $8 billion in education and health cuts next year or a busted budget agreement.

Now, Mr. Speaker, the phrase "gag rule" has been used by those opposed to title X regulations, but when it comes to shifting expenditures, the majority has come up with something new, a blindfold rule in which we simply shut our eyes to the shell game being played here.

So, I urge we remove the blindfold and see things as they are, and that means that we sustain the veto and urge the committee to then come back with a bill that legitimately lives within the budget guidelines we have established for ourselves in this body.

Mr. Speaker, I thank the gentleman from Michigan [Mr. PURSELL] sincerely for having yielded this time to me.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, for 45 years the American people have paid taxes to defend the world against the Soviet Union. The average family share of the cold war cost has been about $80,000 per family. The Soviet Union has now collapsed. The American people have earned the right to bring some of those dollars home to take care of our own.

Mr. Speaker, the new threat to America is economic. We need to do more to strengthen education, we need to do more to prepare our young people for the world of work, and this bill, more than any other we will deal with, does just that. It is aimed at meeting the health, and education, and job training needs of the American people, and we owe it to them to pass it.

Let me say just a word on title X.

□ 1450

My wife is a social worker. Like her, I hope that every pregnant woman served by title X will choose not to have an abortion, but they all have the right to be fully informed when they make that choice, without vague and uncertain information from their Government about that choice. This bill provides that information and that is all it does.

Mr. Speaker, I urge the Members to support the bill and override the President's veto.

Mr. PURSELL. Mr. speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. WEBER], a member of our committee.

Mr. WEBER. Mr. Speaker, once again let me compliment my chairman, the gentleman from Kentucky [Mr. NATCHER], and my ranking member, the gentleman from Michigan [Mr. PURSELL]. It is a pleasure to serve with them on this subcommittee, and it is truly an act of sadness to have to oppose them on this fine, fine bill with an unfortunate but fatal flaw. The President said that this bill would entangle title X with abortion, and that is the fatal flaw. That and that alone causes me to oppose overriding the President's veto.

What is this vote not about, Mr. Speaker? This vote is not about education. This vote is not about cancer research or job training. I support all those progams in my work on this subcommittee.

The President's message clearly states:

> I will sign a bill that does not include language that prohibits implementation of the abortion counseling and referral rule.

These programs will all be funded once we have stripped out the objectionable language regarding abortion. That is not what is at issue.

This bill is also not about gagging anybody. The President's message makes it clear that the doctor-patient confidentiality will be preserved. I repeat, there is no gag on physicians in this bill.

Let me say also that this bill is not or should not be about partisan politics. The arm-twisting on the other side of the aisle has been well-reported on this bill. I think that is unfortunate.

Mr. Speaker, what this bill is about is abortion. A majority of the Members of this body have voted to oppose taxpayer-financed abortion in the Hyde amendment again and again. Without the regulations against abortion counseling and referral in this bill, we will basically put the title X program in the business of abortion referral and abortion promotion, and that, Mr. Speaker, is the issue. Will we tear down the wall between family planning and abortion and establish a nationwide system of taxpayer-financed abortion referral centers?

Mr. Speaker, that and that alone is the issue in this bill, and that is why the President's veto should be sustained.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I want to speak to Members who have been weighing their consciences over this vote because of the gag rule.

On many past occasions this bill has not been consistent with my conscience because it contained the Hyde amendment denying poor women the right to choose, but I have often voted for this bill on final passage and for the conference report anyway because of the crucial health, education, and human services that are in this bill. I urge pro-gag rule Members to approach this vote today in this same spirit.

Let us keep in mind that the Hyde amendment is in this bill that the President vetoed. We should also keep in mind that the Porter amendment would merely restore free-speech rights to health-care professionals. It does not even require that a pregnant woman receive counseling and referral about a full range of legal options.

Mr. Speaker, if my conscience can allow me to override a veto of this bill containing the Hyde amendment, I would hope that Members' consciences would allow them to vote to override a veto and pass a bill that contains the Porter amendment.

Mr. PURSELL. Mr. Speaker, I have the honor to yield 2 minutes to the distinguished gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I rise in support of overriding the President's veto, and I deeply regret the fact that the President has vetoed this legislation.

Make no mistake about it, the failure to override is something that women would not forget in this country, nor should they. Let there be no question among us as to what this really means if there is a vote to sustain the President's veto. We will have sent a message to American women that it is unequivocal and disdainful.

A vote to sustain means that we feel women do not deserve the same doctor-patient relationship as men have. No male patient is affected by this gag rule; we are creating a situation for women only.

A vote to sustain means that we approve of the Federal Government's intrusion into what has always been a very confidential relationship, that between doctor and patient, and we believe that a woman and a doctor are not to be trusted.

I wonder if you are willing to inject the Government into this relationship on this basis, where will you inject the Government next? To those Members who say doing so is unthinkable, I would suggest that just a very few years ago the step that we are contemplating her today with this gag rule would be totally unthinkable, and certainly it has always been.

A vote to sustain means that fundamentally you believe women are second-class citizens that deserve second-class treatment.

Let me note the irony in this legislation. Before us today we have health-care initiatives to reverse decades of discrimination and neglect toward women's health issues such as breast cancer and ovarian and cervical cancer. These are hard-won issues. With the repeal of the gag rule and the womens' health research in this legislation, we would bring to an end society's penalty against women because of their gender.

So, Mr. Speaker, I would hope that Members would vote to override the President's veto.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. McDERMOTT].

Mr. McDERMOTT. Mr. Speaker, I want to speak today as I rarely do—as a physician and a member of the medical community.

Recently, the President indicated that he believed in the Hippocratic oath, which says that above all else, do no harm.

He was talking about the economy, but we need to remember that oath in this debate as well.

Do no harm. Yet the President has vetoed funding for health care that our children, our elderly, our sick, and our disabled desperately need. And for what?

The concept of a President saying to me, as a physician, what I can and cannot tell a patient of mine about life-and-death issues is the worst sort of Government intrusion into people's private lives.

The doctor-patient relationship is built on trust, not politics.

It must be defined by a patient's medical needs, not White House political strategy.

Today the President wants to step between a physician and a woman faced with a critical medical decision. This is a precedent that needs to be reversed.

What is next? Who is next?

Are we to sit back and allow medical care to be decided in the Oval Office instead of the doctor's office?

I urge my colleagues to examine the consequences of this precedent. It is a dangerous policy, relinquishing our authority to a Government authority. It is voodoo medicine and we should reject it.

Mr. PURSELL. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I'd like to direct my remarks to pro-life Members—especially to my good friends on the Democratic side of the aisle—who have been subjected to extreme pressure to violate their consciences on this vote.

It seems to me that you are being asked today—my friends, you are being pressured by the proabortionists today—to do something you believe to be ethically wrong. You are being pressured to facilitate abortion by overriding this veto.

No one has the right to demand and expect you to override your conscience. No one has the right to demand that you trash your own deeply held convictions. This vote is—or at least should be—a matter of conscience. Yet a network of special interest groups and influential Members of this House are pressuring you to bar implementation of the most important pro-life policy of the year—the new title X regulations.

You are being pressured to flip-flop on a profoundly important moral issue. Abortion.

You are being pressured to turn your back on hundreds of thousands of vulnerable unborn children who will die, if this humane health regulation is stymied or overturned.

Of course for the proabortion Members, this isn't a problem at all. Under the guise of choice, unborn children by the millions are slaughtered without so much as an eyebrow being raised. Abortion is, from their perspective, a service rendered. The proabortionists treat pregnancy as a disease—the unwanted child as the moral equivalent of a diseased kidney, pancreas, tumor, or cyst—to be excised and destroyed. But as a pro-life legislator who both recognizes and respects the sacredness, dignity, and worth of every mother and every unborn baby, you see it differently. As a pro-lifer you want to help the mother—medically and otherwise—and shield her baby from the clutches of the abortionist.

Notwithstanding two decades of clever euphemisms and slick marketing by the abortion industry—from the squeal rule, to the so-called gag rule, to the bogus rhetoric of choice—there still is nothing benign about what the abortionist does—he kills kids.

I say to my pro-life colleagues, I have no doubt whatsoever that the consequence of overturning the new title X regulations will be both more dead babies, and mothers denied the enormous blessings of modern-day maternal and prenatal care. Conveniently overlooked by those who oppose the regulations is the fact that the new title X regulations actually require referrals for prenatal care. Thus, this policy is more aptly described as the prenatal care rule, not a gag rule.

Recently, the head of the U.S. Public Health Service, Dr. James O. Mason, pointed out that the President's new title X regulations—the prenatal care rule—would have a positive impact on the utilization of prenatal care in the country and would result in reduction in infant mortality.

Dr. Mason said on June 24, 1991:

> Let me underscore the importance of this program as a key component in our Department's effort to reduce the national problem of infant mortality. I believe that an important and often overlooked aspect of this regulation is its requirement that if a client is pregnant she will be assisted in obtaining access to vital prenatal care. From the point that pregnancy is confirmed, the public health role is to provide quality medical care for two patients, the mother, and her unborn child.

Your vote—perhaps as never before—will mean the difference between an unborn child receiving referrals for life affirming prenatal care as prescribed by the regulations or violent death by abortion.

As a pro-lifer, by now you know that every year, a $380 plus million corporation called Planned Parenthood—a major recipient of title X funds—counsels, refers, or performs over 200,000 abortions. Every year 200,000 of our daughters and sons lose their lives at the hands of Planned Parenthood.

Every year, tens of thousands of teenage mothers—many of them poor, vulnerable, frightened, and extremely impressionable—walk into Planned Parenthood carrying perfectly healthy babies only to leave the clinic having had their babies shredded and ripped apart by powerful suction machines, or chemically killed, or maimed by injections of poison. And in many of the cases, the teenager's parents aren't even notified about their daughter's abortion.

By sustaining the President's veto today, we can save some of these kids from a cruel fate.

While I know it isn't always easy or pleasant to remain faithful to principle—in this case protecting human life—let me encourage you to firmly stand your ground. Resist the pressure. And the arm twisting.

Bending with the wind—bending with the pressure—may be the momentarily easy path for some. However, bending into the wind, remaining true to your convictions, takes tremendous moral courage, and strength, and character. Many are counting on you.

I say to my pro-life colleagues, when all the dust settles after today's vote, either the pro-life or proabortion cause will be advanced.

Either babies will be at more risk of death or less.

You can be sure, however, that if the pro-life side fails to win the day today, the proabortion lobby will rush to greet the television cameras to declare a proabortion victory. And all the cheap sophistry and issue framing that preceded the vote concerning free speech will be seen yet as another successful ploy intended to divert attention from the real issue: abortion.

Vote to sustain the President's veto. This is the most important pro-life policy of the year.

□ 1500

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I resent the remarks of the gentleman from

New Jersey [Mr. SMITH]. I think they are hateful remarks, and they have nothing to do with what we are talking about today.

Let word go out from this House today that this is the land of the free, not the land of the gagged. Here we are, facing a veto override. No because Federal funds in this bill can be used for abortion. They cannot be used for abortion. Not a penny can be used for abortion. Not even if a woman is the victim of rape of incest, can they be used for abortion.

We are facing this override because our President has put a gag around the mouths of doctors and health professionals and is stopping them from speaking the truth. And he is stopping women who need to hear about all their options. He is stopping them from hearing the truth.

Let me tell the minority of this House who may be thinking of voting against freedom of speech—read the Constitution. That is what this is about. It is a precious document. It is being sent for by every country in this world.

Vote for the Constitution, vote for our freedom, vote to override.

The SPEAKER pro tempore (Mr. MFUME). The Chair would advise Members controlling debate time that the gentleman from Michigan [Mr. PURSELL] has 17 minutes remaining, and the gentleman from Kentucky [Mr. NATCHER] has 22 minutes remaining.

Mr. PURSELL. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I urge my colleagues to vote to override the President's veto of the Labor-Health and Human Services-Education Appropriations bill. It provides important funding increases for health and education, and it denies the use of funding in the bill to implement the gag rule.

The gag rule is anathema to the founding principles and freedoms of our Nation. With the imminent celebration of the 200th anniversary of the Bill of Rights, this threat to the freedom of speech should not be tolerated.

Family planning providers will have to chose between providing complete information to their clients and losing Federal funding, or providing only Government-approved information in order to receive Federal support. Even worse, in the overwhelming majority of cases, complete medical information will not be available even for victims of rape, incest, or potentially life-threatening illnesses, such as cancer or diabetes.

In fact, this decision is expected to result in the departure of many family planning providers from the title X program, thereby further eroding the health of poor women and increasing the number of unintended pregnancies and abortions.

This issue is one that should have the support of every Member of the House, regardless of their view on abortion.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I rise in support of overriding the President's veto of this bill. This bill provides $204 billion for those entitlement and discretionary programs which help to keep Americans employed, healthy, and educated.

This bill provides significant funding increases for compensatory education for the disadvantaged, for cancer research, for minority health improvement activities, for higher education, and many other programs.

I am proud to have been able to help secure increased funding for many of these programs, as well as those programs which improve the quality of life for my constituents, as well as persons across the country.

For the Department of Education this bill provides $6.6 billion for compensatory education for the disadvantaged representing a $900 million increase over last year's figures. This program provides grants to support supplementary educational and related services designed to increase the attainment of educationally disadvantaged children.

For lead poisoning prevention and screening activities, this bill provides $23 million. Currently it is estimated that 17 percent of our Nation's children are exposed to lead concentrations which place them at risk of adverse health effects.

Mr. Speaker, this is a good bill. I support the bill. I urge my colleagues to override the veto.

Mr. PURSELL. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, this is yesterday's newspaper, the metropolitan section, which deals with all the death and mayhem of crime and traffic accidents. Here is the opening lines of a story by Margaret Rankin. The headline is, "Police chase results in the death of innocents."

> A pregnant woman, her 3-year-old daughter, and her unborn child were killed yesterday when their car crashed into a metropolitan police cruiser hurrying to assist in a car chase.

Her unborn child. Unborn child. Is Margaret Rankin wrong to write those words? Are those words politically incorrect for a newspaper? No. We all know that it is an unborn child.

Now, one of the gentlewomen from California got up and said my distinguished and noble and courageous young colleague, the gentleman from New Jersey [Mr. SMITH] had used hateful words. I went over to our Parliamentarian, bipartisan as he is in all of his wise renderings, and he said that was a close call. In other words, she characterized his remarks and not him.

Well, generally we find hateful people making hateful remarks, and Mr. SMITH is certainly not a hateful person. I would not characterize the words of the opposition as anything but misguided, horribly misguided. I will make a challenge to all of my colleagues who are pro abortion, covering it under the words "pro choice" or "free speech" or so-called gag rule in this House.

I ask you this question seriously, as a philosophical, rhetorical question. I want you to give me a credible answer sometime in the Cloakroom or in the Halls or at committee. Can we teach our teenage daughters not to touch drugs, not to lie to their parents about not doing homework, not to be promiscuous, but tell them they can kill their unborn child in their womb without their parents' consent?

□ 1510

Those young women in the hall with the sticker that says "Family planning is not abortion," they are women, too. This is not a women's issue. It is an issue of life. It is an issue of decency. Support the President's veto.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, early this year when I became chairman of the Committee on Education and Labor, I made a pledge to my committee and a public pledge to do everything in my power to make George Bush the education President that he wants to be. With this veto he is making it very, very tough for me.

I have demonstrated my good faith by moving the legislation that he asked us to move, his Education 2000. As a matter of fact, he even vetoed the money for that, that is in this bill.

The President has pledged to prepare American school children for the Nation's future and make American workers more competitive in the workplace. But he vetoed a bill that provides the funding for those goals. And he talked about goals all across this country. It has become the new in thing to go to a meeting and hear somebody from the Secretary of Education's Department talk about the education goals.

Members will remember that earlier this year we came and asked them to make education a priority, and we had a budget fight when we adopted the budget for the coming year, and we upped the ante on education in that budget with the home front initiative that this House overwhelmingly supported saying, if there is a window open and there is a little more money that can be spent, we want to stake it out for education.

We then came back to Members with the bill of the gentleman from Kentucky [Mr. NATCHER] that appropriated that money to the most important education programs that can make a difference between now and the year 2000 in the work force of this country and the education of our people. And overwhelmingly, I think it was 353 Members of this House voted for it. And then he had to go and fight with the people from the other body to keep the education commitment that this House made at the level we made it.

What the President did today with his veto was just to roll the clock back and say, "All of this effort to increase our commitment to education, to say we really believe what we have been saying about it being a front-burner issue, an issue entitled to high priority in our country, was wrong."

The President's veto denies an additional 600,000 disadvantaged children the opportunity to receive compensatory education in grade schools so that they can learn to read and compute up to the standard of their peers. I can tell my colleagues without that, that 600,000, they are immediately placed in peril of dropping out of school. The President's veto leaves in doubt the future education of 3.2 million college students who are waiting for the Pell grant money that is in this appropriation, and 56,000 kids that we would have added to the Head Start Program, a program nobody speaks against, will be denied that access if we do not override the President's veto.

Mr. PURSELL. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, government should serve our needs, not dictate our choices. Government should serve our needs, not dictate our choices. Government should serve our needs, not dictate our choices. How many times do the American people have to say that before it sinks in?

What we have to do is learn to listen. That is a critical function of a Representative. If we listen and pay attention, as we do so, among the things we will discover is that American women do not want the government at any level to impose itself into the doctor-patient relationship. That is a very special relationship. It should be a very privileged and a very confidential relationship.

American women and the medical community do not want a gag imposed upon health professionals as they guide, counsel, treat their patients.

Make no mistake about it, the gag rule is what today's debate is all about. It is time to repeal the gag rule and to override this ill-advised veto.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I support overriding the President's veto, and I want to say to my colleagues who are pro-life that the Hyde language is intact. I want to talk about life. I want to talk about what this bill does.

It contains for one of the few times funds for elder abuse, something very neglected in our country. It contains funds for senior nutrition programs. Indeed, it covers American people from the cradle to the end of their lives. It contains job training, summer youth employment, dollars for dislocated workers who are unemployed.

It contains funds for infant mortality, for health care for the homeless, for maternity and child health care, for Head Start, for grants so that our young people can have access to education, for the disabled.

It is a pro-life bill. It contains for the first time in my judgment an increase for women's health programs. We have an epidemic in breast cancer. This Congress has neglected that.

I am proud of the fact that they dramatically increased the research so that we can find a care for breast cancer, a cure to prostate cancer, a cure to cervical cancer, a cure to ovarian cancer.

I believe that this is a pro-life bill because it also contains finally more funds to combat alcoholism, which is destroying our country. So I hope we do support the chairman of the committee and override the President's veto.

Mr. PURSELL. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. MOLINARI].

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. MOLINARI].

The SPEAKER pro tempore. The gentlewoman from New York [Ms. MOLINARI] is recognized for 2 minutes.

Ms. MOLINARI. Mr. Speaker, I thank the gentleman for yielding time to me.

It is true, as those who have gone before me have stated, that the implications and the ramifications of our vote here today will be felt by many, if not all Americans. It will be felt by those who are hungry, by those who are cold, by those who are lonely.

But the debate today, Mr. Speaker, is about freedom of speech. It is about freedom of speech with regard to a woman's legal right to abortion. We have finally gotten through, everyone has been honest enough to say. The President has finally come before this Nation and said, "That is my problem with this bill." The opponents of this bill have finally come before this Nation and said, "That is my problem with this bill."

So thankfully for the first time since we have discussed this bill, we all know what this issue is all about.

It is difficult, Mr. Speaker, to step back and say that we disagree with the law and yet we will be a servant to it. But I believe that that is what we must do when we stand in this well and take a pledge. No, that is what we must do when we admit that we are Americans, that we admit that we are willing to fight for freedom and democracy on every shore in this world, that we will be a servant to laws that we do not like, that we disagree with.

That is what the debate is about in this House today, my colleagues, to be a servant to a law that is a legal option in this country today in America to every woman and, therefore, we have no option. We have no option to the law but to say, yes, America, we will support this conference report. We will support the right to free speech.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Speaker, I thank the gentleman for yielding time to me.

It grieves me that this is being debated as an abortion issue. This is a health care issue. This is an issue of whether or not a physician or other health care worker can discuss without hesitation or a sense of evasion the status of the health of a pregnant woman. This is an issue of whether or not physicians will become more vulnerable to malpractice ligitation.

Already, wrongful redress suits have been filed in my own State of Georgia when a pregnant woman was not fully informed of the status of her pregnancy.

□ 1520

It is an issue of whether or not appropriate health care will be given, and I am particularly concerned about what will happen in rural areas such as the Eighth District in my own State of Georgia, which I represent.

It has been said there is no gag rule here. Let me read from the veto message of the President. It is pretty clear to me. "I will sign a bill that does not include language that prohibits implementation of the abortion counseling and referral rule." That is pretty plain. That is plain enough to me.

Vote for override.

Mr. PURSELL. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I will vote today to override the President's veto of H.R. 2707, the appropriation bill for Labor, Health and Human Services, and Education Departments.

My decision to override is not made easily. Only a few days ago, I voted against the conference report because of the excessive use of budgetary gimmicks. The $4.3 billion in delayed obligations is a gross violation of the budget summit agreement this body—and the President—enacted last Fall. Weak as the discipline in that agreement is, creative as this Congress may be in devising loopholes to avoid it—it remains the only budgetary discipline available to us. We should abide by it. This bill does not.

However, on the issue of permitting the regulations to stand which deny some pregnancy counseling services to women, I disagree emphatically with the President. It is bad medicine; it is worse public policy.

In his veto message, the President has made clear that he will accept a bill that eliminates this one provi-

sion—enforcement of the gag rule. I am faced with the worst of both worlds. The President insists on denying counseling services to women. The House insists on doing violence to the budget agreement. We will get both.

My vote to override is an attempt—admittedly probably fruitless—to salvage at least one good provision of this otherwise terrible bill. I urge all my colleagues that believe that women should not be denied the right to a full range of pregnancy counseling services to vote to override the veto of H.R. 2707.

I include with my remarks a copy of a letter which the ranking Republican on the Budget Committee, Mr. GRADISON, and I sent to President Bush yesterday.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 18, 1991.

President GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to seek some guidance with regard to your position on the continuing dispute over H.R. 2707, the FY 1992 appropriation for the Departments of Labor and Health and Human Services.

We have been encouraged by your statements that your intended veto rests as much on your strong objections to the extensive use of delayed obligations as it does to your views on the so-called "gag rule". As you may know, both of us differ with your position on the latter issue. We believe strongly that such a prohibition, even with the recent revisions to the regulations, violates sound medical counseling practices.

However, we are both members of the House Budget Committee and find ourselves dismayed at the continuous assault on the 1991 budget summit agreement. The discipline contained in the agreement is certainly not perfect. But it is the only discipline available and both Congress and the Administration should be required to adhere to its mandate. The use of delayed obligations in excess of $4 billion in this appropriation bill constitutes a gross violation of the spirit of the budget summit agreement. It was for this reason, and because of our long term concern about the impact of deficit spending on our economy, that we voted against adoption of the Labor-HHS conference report on November 6.

Several different scenarios are possible in the event your veto of H.R. 2707 is sustained. One that has been widely suggested is that the bill would be returned without the prohibition against enforcing the "gag rule" but with all the same offensive budgetary gimmicks that led us to vote against the conference report. If that event occurs, it is important for us to know what your position would be. While we want to be helpful in your efforts to enforce the summit agreement and its budget discipline, if we are faced with the prospect of losing both the prohibition on enforcement of the "gag rule" and the limited budget discipline available to us, our position on a veto override would be different.

We ask that you assure us that you would continue to veto any Labor-HHS appropriation bill that goes further than the bill originally enacted by the House in its use of delayed obligations and other budget gimmicks.

We look forward to your early response to our inquiry.

Sincerely,

WILLIS D. GRADISON, Jr.
JIM KOLBE.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, this is a very tragic debate because of what it says about the politics of our country in the early 1990's. Make no mistake about it, this is a single issue veto for a single special interest group. I would like to contrast briefly the decision our chairman, Mr. NATCHER, made with that of the President to veto this bill. The gentleman from Kentucky [Mr. NATCHER] make no mistake about it, opposes abortion, but he understands that this is not about abortion. He has been willing to compromise on a broadly popular group of concerns about the First Amendment, freedom of speech, and the ability of a doctor and a patient to have a full and open relationship about a health problem. He is leading in this Congress to bring us together. This President is not leading. In fact, instead of reconciliation, he is bringing us confrontation and conflict. He has opposed every effort to compromise the gag rule and we are here now because we have been unable to reach an accord.

Today he places at risk the very funds that go to the quality of life issues, the concerns that affect every American after 45 years of cold war, the investments we need to make in the health care system and in our children. BILL NATCHER knows a pro-life vote when he sees one. This, more than any other vote we will cast on this floor this year, is a pro-life vote because it invests in the quality of all our lives, all the lives of the American people.

We have to send a message back to this President that we need to come together in this country. We need to have an end to the politics of division. We need to stop playing political games with the very lives of people. Let this overwhelming two-thirds majority of those of us in the people's House reflect on an even greater majority of American people, and let us send this tragic veto down to defeat. Let us override this President of confrontation and support this man of reconciliation.

Mr. PURSELL. Mr. Speaker, I yield 30 seconds to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, a note to sustain the President's veto is a note of respect for women. I urge my colleagues to vote to sustain the President's veto.

Mr. Speaker, I find the most offensive and inaccurate argument that opponents of the title X reform regulations have put forth are arguments that promoting abortion as a family planning option protects women. Given that this argument comes from organizations who most vociferously oppose informed consent legislation requiring full disclosure of fetal development and abortion procedures, it also strikes me as hypocritical. I suggest, Mr. Speaker, that the best planning program is to keep the Federal Government out of the decision over whether she should abort her child or not.

The fact is that these reforms were a response to evidence that the interests of women were not being protected—that the letter of the statute was not being carried out. It became clear to HHS officials that abuse of the title X preventive, preconception family planning program called for reform.

If there were ever any doubt about how the reforms treated the confidential relationship between a woman and her doctor, those doubts have been put to rest by the President's November 5 memorandum to Secretary Sullivan and today's memorandum ordering enforcement of that directive from the Secretary to Dr. James Mason, Assistant Secretary for Health. Both documents make it clear that nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician. Today, Secretary Sullivan has instructed the Public Health Service to implement the letter and the spirit of the President's directives.

As a woman, a mother, and a grandmother, it concerns me greatly that without this regulation, the program would return to the preregulation position in which abortion was promoted as a method of birth control. This would renew a policy of providing abortion counseling and referral to a minor without her parents' knowledge. Abortion is not a matter to be treated lightly, certainly with a frightened teenager experiencing the pain of a crisis pregnancy. She needs the support of those who know her emotional and medical needs most—her parents. A very reasonable compromise parental notification amendment was struck from this bill, thereby eliminating one more protection for women—the young women who need the most protecion—our daughters. Striking this measure on the House floor was an extreme action in the eyes of most Americans, and one that makes this bill even more objectionable. I rise in support of sustaining the President's veto.

Mr. Speaker, I have worked to obtain adequate funding levels for several programs in this bill, especially for breast cancer research. And I know that not one single program is at risk of losing its funding in this bill—not cancer research, not education funding, or any other. There is absolutely no question as to the issue at hand in this veto. That issue is abortion, and the conference report was vetoed because of this issue only. If you don't beleive me, believe the President. Read his veto message. The President has committed to signing this bill if the abortion language is removed.

Finally, Mr. Speaker, the behind-the-scenes politicking that has occurred, and is going on now regarding this vote, is enough to cause a tremendous amount of concern to Americans who trust in this Congress to carry out its wishes. So intent upon overriding the President's veto, the power of the House's leadership is being brought to bear on the consciences of pro-life Members. No Member should every be presured into voting against his or her conscience—especially concerning a matter of such extreme moral weight as the issue of abortion. I implore my colleagues to listen to their consciences.

Mr. Speaker, the wishes of 88 percent of the American public who oppose abortion as a method of birth control should not be ignored. Women's health and the right to accurate information must be protected. A vote to sustain the President's veto is a vote to keep the Federal Government and the Nation's tax dollars out of the abortion decision, a vote for integrity in the Nation's preventive family planning program, and a vote of respect for women.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I have heard my Republican colleagues here today say that this vote is not about education, or health care, or children.

But it is clearly about those issues. The President has vetoed a bill that would provide billions of dollars for education, seniors, Head Start, health care, and job training.

The President's veto unveils his priorities. He would rather bar women from having the information they need to make a difficult and personal choice, than provide for our children, seniors, and families.

This vote to override the President's veto is a test of what we value. It is about freedom of speech for health care professionals and the right of people making a critical decision to have full information.

And it is also about our desire to see health care, education, and job training provided to people, working families, who deserve at least this much.

They are looking to us for leadership. Let us show them Congress cares. Please vote to override.

Mr. PURSELL. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. GREEN], an outstanding leader from his State.

Mr. GREEN of New York. Mr. Speaker, no letter, not even from a President to a Cabinet Secretary, can change a duly adopted regulation like the gag rule. We must vote to override if we are going to assure poor women that when they go to a family planning clinic, perhaps their only access to health care, they will get the whole truth from the health professional they see. To my colleagues on this side of the aisle I simply say, we could do George Bush no greater political favor than to override this veto and get this sorry situation behind us.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, when this legislation came before the Appropriations Committee I told my colleagues at that time that for the first time in many years it reminded me of a debate that I attended when I was in high school. Imagine when arriving at that extemporaneous debate speech the topic was, "Do Women Think?" I had not thought about that for a long time until the gag rule came up, because that is what this is about. The President vetoing this legislation says that women do not have the same opportunities as men to think, or to hear, or to learn about what medical options are available to them.

This veto today is not about abortion. It is not about who controls a woman's body. This is something more serious even than that.

□ 1530

This event is about who controls a woman's mind. This vote today is not only about who controls a woman's body, this vote today is about who control's a woman's mind.

My colleagues, I ask you, I plead with you, do not go along with this veto of the President. Do not deprive your daughters of their right to have equal protection under the Constitution of the United States to freedom of speech and discussion. Vote to override the veto.

Mr. Speaker, unfortunately we are again debating a bill that should already be law. And I rise today in strong suport of this vote to override the President's veto of the Labor-HHS appropriations bill. There are many good reasons to support ths legislation—funding for programs necessary to our Nation's children, poor and elderly, language barring enforcement of the gag rule regulation, and increased funding for women's health research.

Mr. Speaker, we have all heard the arguments for and against the gag rule regulation but I would like to add that this vote is not only a vote on abortion or reproductive rights; it is a vote to protect our first amendment rights by not allowing the Federal Government to violate the confidential physician-patient relationship. It is a vote to say that we in Congress will not allow the President to create a two-tier health care system—one in which poor women are allowed to hear only some of their medical options while wealthy women are able to hear all of the available options.

Mr. Speaker, I would like to add further that my constituents, and women across the country, are demanding an increase in funding for women's health research. Yet, the President has spoken and, unfortunately, his message is clear—women's health concerns are secondary. He wants to restrict access to health care options and not make women's health concerns a priority. But frankly, it is time that this body listened to the women of this country and demonstrate that their health concerns are taken seriously.

Mr. PURSELL. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise to strongly urge my colleagues to vote to sustain the President's veto of the Labor-HHS appropriations bill. Let's get one thing straight—this vote is about one thing, and one thing only. This vote is an abortion vote. A vote to sustain the veto is not a vote against education, or against cancer funding, or against the doctor-patient relationship, as some of our colleagues would have us believe. A vote to sustain is a vote against taxpayer-assisted abortion—and that's it.

I do not like to see the funding for all these important programs held up; none of us do. But the President was clear from the beginning that if this bill contained abortion language, it would be vetoed. How many times must we go through this exercise? Abortion supporters knew that the abortion language would draw a veto; still they insisted on abortion language in this bill. Abortion supporters are holding cancer research and education funding hostage to their single-minded purpose of overturning the administration's title X regulations.

Abortion supporters have managed to cloud much of the debate so far—first, they said that the regulations were untenable because they violated the doctor-patient relationship. But they were wrong—under the regulations, doctors must give patients complete medical information about their condition. Next, they conceded that the regulations had no effect on the physician-patient relationship, but they said that fact was unimportant. What was important, they said, is that women could never hear about abortion, regardless of what her circumstance is. Well, they were wrong about that, too. If a pregnant woman has a medical problem, she is to be referred for complete medical care, even if the ultimate result is an abortion.

The regulations only prohibit clinic staff from referring a woman to an entity whose primary business is abortions. We're talking about abortion mills, Mr. Speaker. We are not talking about health clinics, in the true sense of the word. We're talking about the multimillion dollar business of abortion in this country. The title X regulations prohibit the spending of taxpayers' dollars to send a woman to a profit-motivated abortion mill. Vote "no" on the vote to override the President's veto, and don't subsidize abortionists who would get rich on hard-earned taxpayer dollars.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. MINK].

Mr. SCHEUER. Mr. Speaker, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, I rise in strong support of overriding the President's veto.

Mr. Speaker, I am here to discuss the unfortunate Presidential veto of the Labor, HHS, and Education appropriations bill. Instead of repeating the rhetoric about federally funded clinics that offer abortion counseling, I will focus on the heart of this bill—the increasing in funding levels that make education and literacy a national priority.

This bill provides a significant increase in funding for programs that have proven to be effective in the education of our children and still remains within last year's budget agreement. The bill provides:

A $239 million increase for special education; $25 million for education of homeless children and youth; a $139 million increase for vocational education programs; $40 million for dropout prevention demonstration programs; and $6.9 billion for student financial assistance.

Mr. Speaker, this bill expands the number of preschoolers eligible for Head Start by providing $2.4 billion for this program.

This veto, in effect, disavows his pledge to become the education President. The President can go back on his word, but this Congress has a responsibility to American families and must override the Presidential veto.

Mrs. MINK. Mr. Speaker, this is a sad and tragic day, another veto placing this country at risk. The very heart and soul of our democracy is being put to risk today over a principle which is incomprehensible. There is a contest being lodged by the President of the United States that says that a physician in consultation with his patient cannot have the freedom to discuss all the options that his medical expertise and knowledge have equipped him with.

We are putting to risk the hard work and the negotiations of our chairman and the committee members on Appropriations that have fashioned together the most incredible progressive bill that will put us forward in the areas of health and human services and education.

I came back to Congress because I wanted to help the people of this country, and yet we are putting ourselves again through a litmus test of one issue and sacrificing all these millions and billions of dollars for the education and for the quality of life which holds this Nation together. I ask my colleagues to please vote to override.

Mr. Speaker, I rise today in outrage, in utter disbelief that the President of the United States would deny women access to health care and the benefits of this most fundamental right in this country—the right to privately consult your physician to have advice and counsel on your reproductive needs. Today's veto of the Labor, Health and Human Services, and Education appropriations bill based on the sole issue of upholding the gag rule on title X family planning clinics is an affront to all women across this Nation.

Once again, with a mere stroke of his pen, the President has proved that he does not care about women's rights or women's health.

He has in effect created an inequitable health system which denies poor and disadvantaged women full and accurate information about all their legal reproductive options—information that is available to wealthier women—solely because they are unable to pay for a private physician or clinic.

The gag rule exacerbates the already insufficient health care available to poor women and it further erodes their ability to obtain health services, even when they are the victims of rape, incest, or life-threatening illnesses.

Make no mistake, Mr. President, the women of America will not tolerate this brash and insensitive behavior without a fight. And, Mr. President, this is a fight that you are not going to win.

This is an issue that has been debated in this very Chamber over and over again and each time we have prevailed.

The tactic of using this one issue as a litmus test for the entire bill is narrow minded and detrimental to the welfare of this country, and it will not work.

The $204 billion Labor-HHS-Education bill touches the lives of virtually every person in the United States—whether a high school student in New York City attending a chapter I school, an unemployed Detroit autoworker in a retraining program, an elderly person here in Washington who receives meals on wheels, or a child in my State who goes to Head Start, the impact of this bill is far reaching. And the people of this Nation should not be denied the benefits of this bill because of a divisive, political issue that will never be reconciled.

With his veto, the President has singlehandedly abrogated the hard work and resolution of the Congress to make education, women's health, and overall assistance to the disadvantaged funding priorities, while keeping in line with the budget agreement.

I personally worked hard this year to get increased funding for research on an early detection test for ovarian cancer. This year over 12,000 women will die of ovarian cancer because there is no way to detect the disease in the early stages. By the time the disease is discovered it is usually in its advanced stages, leaving women with little hope of survival. With the help of many of my colleagues we were able to get language included in this bill which directs the NIH to increase funding in this area. But now, it is all in jeopardy.

Once again, the President will have us turn our backs on women, children, and poor, the elderly, the sick, and the unemployed by denying funding levels which include:

A $1.8 billion increase for education which will provide an additional 600,000 disadvantaged children access to reading and math; $2.20 billion for Head Start; $25 million for the Women's Health Initiative and additional funds for ovarian, breast, and cervical cancer; $1.9 billion for AIDS research, education, and care; $298 million for childhood immunization; and $1.5 billion for low income energy assistance.

Mr. Speaker, let us not turn our backs on the American people. Vote "aye" to override the veto of the Labor, Health and Human Services, and Education appropriations bill.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, the issue we debate today is not one that is receiving its first debate on this floor. It is an old issue, one that will be with us a long time.

It is an issue that divides this country and divides all those in this Chamber. It is an issue to which many feel personally deeply committed on one side or the other. let us recognize that first and let us be tolerant and understanding of each other's views on this critical issue, because as I said, it is something that divides this country very deeply.

Second, let us not talk about whether we are debating free speech. the Supreme Court has already ruled on this, the Supreme Court that ruled that burning an American flag is free speech, and has ruled that this is not a free speech issue. It is not. We are debating simply the question of whether or not abortion counseling ought to occur in federally funded clinics. We are not debating whether doctors can talk to patients in general or that doctors can advise patients in general. We are debating whether abortion counseling ought to occur in federally funded clinics, in an area where people in America are deeply divided, where we are likely to see a Supreme Court deeply divided, making a decision very soon on whether or not this issue of abortion ought to be one that does in fact come out one way or the other, depending on how you feel on the issue.

The bottom line is we debate today the Presidential veto on that single point, not on the bill as a whole. You know he signed the bill. We settled that issue.

I suggest to you that we ought to sustain the President's veto for the sake of allowing this issue to go forward in places where it ought to go forward and not on a bill of this importance to the American public.

We all feel strongly about abortion. We all feel deeply about it, and some of us feel so deeply about it that it is a part of our religious convictions here in this body and in America. I do not think we ought to confuse all these things under a bill that requires so much good to be done in so many areas.

Let us sustain the President's veto, get the bill back up, and pass these programs that are vital to America.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, I rise in support of the override of the veto of H.R. 2707, the Labor, Health and Human Services, Education, and related agencies appropriations bill for fiscal year 1992. The President has vetoed this appropriation because he is opposed to provisions within the bill which prohibit funding to enforce or implement the administration's gag rule. Mr. Speaker, the President is wrong in this regard. I believe that the policy set forth by this regulation is an infringement upon a woman's right to make informed decisions about her health, and also an unwise restriction on freedom of speech for those who work in family planning clinics. The regulation promulgated by the gag rule is antithetical to democratic principles. Regardless of one's personal beliefs about abortion, this regulation jeopardizes the relationship between the people and their government. The gag-rule regulation is also detrimental to the relationship between a woman and her doctor. It is a professional responsibility to provide all available information to a patient in any circumstance. The gag rule prevents this dissemination of information—a complete denial of a woman's right to know and understand all of her options, and her ability to make an educated decision.

I must remind my colleagues that this bill provides funding for all the major labor, health, social services, and education programs of importance to the American people. This appropriations bill provides many significant increases within the Department of Labor, especially additional funds for the Job Corps Program. The expansion of existing centers and implementation of new programs will allow additional young persons to receive training and a new opportunity. Also within the Department of Labor, the migrant and seasonal farmworkers programs received an increase of more than $7 million to augment existing services for these workers. The number of farmworkers who are potentially eligible for, and who need these services, has grown significantly in recent years. This funding increase is a step forward in meeting this additional demand.

Within the Health Resources and Services Administration, the bill establishes priorities for services to minority communities in several key areas. The community health centers along with migrant community health centers received a substantial increase to be used, in part, for the healthy start initiative.

The Hispanic and Native American Centers of Excellence both received increases in appropriations and report language specifying that additional centers be established to better serve these communities. These minority centers of excellence seek to improve recruitment and retention of minority students in the medical and health professions. The centers will focus on removing cultural, education, and other barriers that historically have discouraged Hispanic and minority students from pursuing the health professions and have impeded Hispanic communities from receiving quality health care.

Moneys were also provided within the Centers for Disease Control for a tuberculosis demonstration project that will target underserved minority and innercity communities in an effort to immunize all children for TB.

The Labor, Health and Human Services, Education appropriations bill continues to strengthen the Ryan White AIDS care programs by adding $55.7 million to the three titles. The increased funding in title I will allow additional urban centers to receive emergency assistance to combat this deadly epidemic. The bill also provides increased funding for the reimbursement to dental schools for services provided to HIV–AIDS infected patients. These funds also provide an increase for the special projects of national significance to support the priority areas designated by HRSA, especially mental health, rural, and native American priorities.

This bill retains a Federal commitment that ensures continued research and services in the area of Alzheimer's disease and I am pleased that the Alzheimer's care grants now received funding for needed demonstration projects, training, and research. Grants such as this demonstrate our understanding of the growing problem and our commitment to finding its solution.

Included in this appropriations bill is a significant increase for the National Institute on Aging. These moneys will be dedicated not only for Alzheimer's research, but also to other high priority areas such as osteoporosis, incontinence, minority aging initiatives, the Claude D. Pepper Centers, and frailty research.

I am particularly proud of the increases for research on illnesses that affect women. Within the National Institutes of Health, the National Cancer Institute was substantially increased, and the agency was directed to spend this increase on breast, ovarian, and prostate cancer. The NCI will be working in conjunction with other institutes to expand research initiatives in the field of women's health.

Included in this appropriations bill is funding for a variety of aging programs under the Older Americans Act such as nutrition, elder abuse, transportation services, social services, ombudsmen activities, as well as community employment for older persons. I am pleased to report an increase of $3 million for the elder abuse and ombudsmen programs, and will continue to advocate for the authorized funding level for the other facets of the Older Americans Act.

The Congress has demonstrated its commitment to the education of our Nation by providing significant increases in many education programs. The appropriations for chapter I and impact aid increased substantially, allowing for further assistance to disadvantaged children and school districts. Bilingual education also received an increase of over $27 million, $12 million of which will be used to fund competitive grants for communities with large numbers of new immigrants. Domestic activities within international education programs and urban community service grants as well as the Star School Program are three other areas which received the renewed focus of the Congress and increases in funding.

I urge my colleagues to override the President's veto.

Mr. PURSELL. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. McMILLAN].

Mr. McMILLAN of North Carolina. Mr. Speaker, I rise in support of sustaining the veto.

I rise in support of the veto of this Labor-HHS appropriations bill, H.R. 2707, for budgetary reasons, not because it removes the gag rule.

Through a variety of budgetary gimmicks, this bill tries to shoehorn spending obligations into fiscal year 1992 to the tune of close to $4.2 billion. What this bill really does is force additional spending into fiscal year 1993 under the already tight fiscal year 1993 budgetary cap while claiming credit for instituting programs on the last day of fiscal year 1992. I can't believe that there are still those in Congress who buy this shell game but as a member of the Budget Committee and one who strongly feels that it is up to us in the 102d Congress to adhere strictly to the spending cap agreements of the budget enforcement agreement of 1990, I cannot ignore these shenanigans.

As a result, I am voting to sustain the Presidential veto of this bill.

I have a different view of the repeal of the so-called gag rule than the President. I have shared his views and have consistently opposed Federal funding of abortion, except where the life of the mother was threatened or where rape or incest is established, throughout my time in Congress. I have taken this stance because of my personal moral beliefs and out of respect for those who also oppose abortion.

However, I do not support the gag rule, which has been sustained by a Supreme Court decision. While I do not support abortion or Federal funding of abortion, I don't see how a professional can be legally bound not to discuss abortion to the extent that it is permitted by State law. This is, in my judgment, an issue of free speech.

When the Labor-HHS appropriations bill was first on the House floor, I voted against it, not because of the gag rule issue, but because of budgetary concerns. As a member of the Budget Committee, I am committed to adhering to the President's budget and the budget deficit reduction agreement that was passed last year.

On the other hand, in the Health and Environment Subcommittee and the full Energy and Commerce Committee, I voted for H.R. 3090, the bill that reauthorizes title X funding, in which it also overturns the gag rule. I did not have the same budgetary concerns with that bill as I do with H.R. 2707.

It is my hope that this bill will be sent back to the Appropriations Committee so the problems with the budget can be corrected in an above-board, honest manner. I also hope that H.R. 3090, which contains language to overturn the existing title X regulations, will come to the floor so we can deal with it in a proper legislative manner and not improperly as legislation in law appropriations bill.

Mr. PURSELL. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. HYDE] one of the leaders in our House on our side of the aisle.

Mr. HYDE. Mr. Speaker, this is a very sad day for me and I have had some sad ones, I can assure you. I have heard so many fine people, good compassionate sensitive people step into this well and talk about this legislation and not care one scintilla about the unborn, the tiny voiceless defenseless unborn, that cannot vote, cannot escape, cannot rise up in the streets, totally vulnerable to an uncaring society.

The fallacy of the false alternative—in logic they call that the fallacy of the false alternative—if you do not override the veto you lose cancer research, you lose all these good things. That is nonsense, and for people to come up here and list all the wonderful sparkling glittering things in this bill, and they are here, as though if you sustain the veto they are gone, you are being deceived. You are being deceived.

This whole debate on abortion lacks a certain honesty. When people who really want abortion refuse to use the word, they hide behind the language of civil liberties, they talk about choice, they talk about free speech.

Well, what they are talking about is the extermination of unborn children because somebody does not want them, and there is no concern about that unborn child.

Now, family planning clinics concern themselves with helping women get pregnant or avoiding pregnancy. Once you are pregnant, you are no longer within the purview of family planning. You need prenatal care. That is for another type of clinic, beyond family planning.

□ 1540

Now, if you want to turn family planning clinics into steering committees for Planned Parenthood to get abortions, if you want to turn them into sales offices for abortion clinics, that is fine, you can do so; but not at taxpayer expense, because that is not what the family planning program was set up to do.

Now, the doctor-patient relationship is inviolable, it is unimpaired, and I have heard so many people come in the well and talk about the regulations standing between a doctor and his or her patient. The doctor-patient relationship is unimpaired. That is not what you are concerned about. What you pro-abortion people want are counselors and receptionists to steer people to Planned Parenthood. The doctor can give any medical advice his medical knowledge tells him to do. Read the regulations, read the President's veto. It is counselors that you want to steer people to for abortions. And that is wrong. Counselors are not trained to give medical advice. Read Planned Parenthood's own analysis of their counselors; they are volunteers, young, untrained. You want them to give medical advice?

Now, choice and free speech are very neat and very painless. Abortion, by the way is violence and destroys an unborn child, a human being, and turns that human being into a puree of blood and bone. I quite understand why you do not want to talk about that.

The gag rule? The last thing in the world Planned Parenthood wants, and many of you who advocate their agenda, is informed consent. You do not want a pregnant woman to look at the video cassettes of the fetus in the womb; God forbid. Someone might then understand that is a living child in the womb.

No, you do not want informed consent and you do not want parental consent; you do not even want parental notification. Who has got the gag, who has got the blindfold?

The last thing Planned Parenthood wants and the last thing the abortion forces want is informed consent and parental consent.

Now, Government should serve our needs, yes, it should; but what about the unborn? What about the woman who is pregnant using crack cocaine, does that bother you at all? It ought to.

Why? Is that a nothing in her womb, or is that a human being, a member of the human family?

You civil libertarians, I ask you to include within the circle of people that you are responsible for the unwanted, the homeless, the handicapped and the unborn. They are members of the human family. That is what this is about. It is not about cancer research. I am for cancer research more than maybe anybody in this building, I can assure you. But we are going to get cancer research once we take the baggage, the stain of a pro-abortion amendment out of this bill.

I plead, plead with you, and it breaks my heart to go against BILL NATCHER, but I plead with you on behalf of the unborn who have no voice, who have no eyes to weep with; I plead with you to sustain the President's veto. We will get the bill back, and we will have all of these good things included.

Call it abortion, not choice and come up here on a freestanding bill, do not bury it in the middle of this good bill. Sustain the President.

The SPEAKER pro tempore (Mr. MFUME). The Chair will advise Members controlling the time that the gentleman from Kentucky [Mr. NATCHER] has 9 minutes remaining and the gentleman from Michigan [Mr. PURSELL] has 2 minutes remaining.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker and colleagues, our very able friend from Illinois said that Members will not speak about abortion. Let me: This bill does not cover abortion, period. It cannot pay for abortion.

The fact of the matter is that the gag rule turns mainstream medicine on its head. What we want doctors in this country to do is tell patients what their options are, what their choices are. This legislation does not permit it. It in effect zips the collective lips of the physicians in this country so that patients cannot be told of their choices.

That is what is at stake here.

I will mention abortion to our colleague from Illinois, that is because this bill does not pay for abortions and does not cover them.

Mr. PURSELL. Mr. Speaker, I reserve the balance of my time. I have a closing speaker.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I do not want anybody to make any mistake about what we are doing here today. We have heard one speaker after another saying, that women simply do not have the ability to make any choice of their own, and that the country is deeply divided on this issue. Neither statement is true.

Americans that have been polled on the question say that they believe every American woman, child, man, male, female, black, white, deserves the best medical care and advice that they can get. This veto says that the women of the United States are not entitled to it.

We hear all the time about our lack of concern for the unborn—that some of us do not care about the unborn. Let me tell you about some of the items in this bill that affect the "born". There are a million homeless already born children in America today—a million of them. For 5 years, since I have been in Congress, I have been trying to eke out a penny or two here and there to try to educate them.

I would like once to hear all my prolife friends over there say, "All right, these babies are already here. What are we going to do about them? How are we going to vaccinate them? How are we going to feed them? How are we going to educate them?" I never hear that. Part of the education needs of these million homeless children will be met by this bill, only part. The children living in the subways, the children moving from shelter to shelter, need this help. This time, override this veto for the born children.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding this time to me.

Mr. Speaker, 1 minute is not enough time, of course, to debate the substance of this bill. Some have talked about this bill and the twisting of arms. Maybe arms have been twisted. Three-hundred and fifty-three Members of this body, just a few months ago, including those who have voiced support for the veto today, voted for this bill. They knew that this provision, the gag rule, was in the bill. Not a jot nor a tittle has been changed in this bill.

Three-hundred and fifty-three people stood up and said this bill is good for America, for our education, for our health care, for workers' safety, for the vaccination of children, for research for breast cancer and cervical cancer, ovarian cancer and, yes, prostate cancer.

There were 353 of us who stood up. Are we divided on the issue of abortion? Yes, we are. We did not perceive this issue as an abortion vote until this issue was politicized. That is what happened. For political benefit, it was politicized. There were 353 people who voted for this bill. There are not 353 people in this House that are for or against the right to choose, and you know it. But in June, there were 353 people who stood in the well and voted in these machines and said, "Yes, we are for this bill."

Let us stand up for America, override this veto.

Mr. Speaker, the President had made a grave error, and this House must not sustain it.

On June 26, 353 Members of this House—81 percent—voted to approve the Labor-HHS funding bill. Why did we do this?

We did this because this is a bill about America's future: About our ability to compete, about our ability to care for our parents, about keeping our families together, about keeping America healthy, and it is about our children.

This bill is a bill for all Americans, not special interests. The Labor-HHS appropriation bill is the bill which helps all Americans here at home.

The only special interests this veto hurts are the 12,000 children who are vulnerable to a disease that could be prevented with a simple vaccination, but did not get the shots last year—the 39,000 children who will not have the opportunity to participate in the Head Start Program—the 56,000 women who die of breast and ovarian cancer each year, whose hopes are dashed as critical research is delayed—the 4 million students, and their families, who receive college loans—the 600,000 additional school children who will not have access to the reading and math instruction in the chapter I program because the education President vetoed this bill—and the millions of others who will benefit from the many other important priorities in this legislation.

This bill is the domestic agenda of the country. It is our effort to improve education, giving children and their families the opportunities America promises to all, and fight the health and nutrition threats to the fabric of our society.

This veto ignores the forest and focuses on a tree. Congress must focus on the concerns of the American people; of concerns expressed by the voters of Pennsylvania and Mississippi last week. Joblessness, health care, anxiety about the future: this is what you point to when you go home for the holidays; this is what the American people want and need to hear about. And a vote to sustain the President's veto is a vote to ignore those concerns.

We all have a personal responsibility to work to improve our lives, those of our children and our community. This bill is the Federal Government's end of the bargain: The funding in this bill supports our schools, our children and families, our very health and traditional values. President Bush one hour ago, abdicated that responsibility for a short-term political objective. He is wrong. Let us vote to override.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to our majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I thank the gentleman for yielding this time to me.

Mr. Speaker, Members of the House, for a very long time the President has promised that he wanted to be the education President. But he breaks this promise every time that he vetos a bill that can make a difference, a real difference in the lives of the American people.

When he vetoed this legislation, he vetoed college loans and Head Start funds, he vetoed the dreams of disabled children who want to participate fully in the programs in their schools.

He even vetoed an education program to stop the spread of AIDS.

□ 1550

The President says that we can send him another bill without the gag rule, and then all of these programs can be properly funded. That may be true, but we should not hold hostage all of the education programs of this country that everybody supports so that the President can assert an indefensible position on the gag rule that few people in this country support. That is why we must override this veto today.

In the past 3 years the President has vetoed unemployment compensation, the minimum wage, family and medical leave, protections for Chinese students, protections for textile jobs, civil rights, legislation to prevent Japan from grabbing United States aerospace jobs and money, to a dozen other good ideas that this House supported.

I say to my colleagues, If you're looking for George Bush's domestic program, and many people are, this is it, this is it. This veto pen is more powerful than 66 Senators and 289 Representatives of this country. The President can stop what the American people want through this pen if we allow it to happen.

Mr. Speaker, this should be the first time that this Congress rises up and says, "This pen is not more powerful than the American people," and I say to my colleagues, "Stand up for what you believe, and vote to override this veto."

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to close debate on our side of the aisle to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, this is an issue beyond abortion. It goes to the essence of the relationship between the Government and the governed. Are people coming to a Government-funded agency for help entitled to be told the truth? Is there anyone, regardless of their feelings about abortion, that believes that they are not? Apparently, Mr. Speaker, there are. Apparently there are.

JOHN CHAFEE and the White House negotiated a package that included information on the developing fetus and prenatal care, but that language, balanced in its approach, was rejected because it included telling people about the medical right to have an abortion.

This is America, Mr. Speaker. We do not attempt to control people by withholding the truth from them. We do not lie to people to control their conduct. We do not interfere in the relationship between physician and patient and tell health professionals what they can or cannot say to their patients.

The essential relationship of trust between the Government and its citizens was enshrined in our Constitution and our Bill of Rights over 200 years ago. But if this gag rule is allowed to stand, America will enter into a new era of government by mind control, and there will be no court, Mr. Speaker, to protect against it. The court has already, wrongfully, said in Rust versus Sullivan that, if the Government provides the funds, it can control the speech.

Please do not let this happen. We cannot let this happen. The President has been right so many times, but he has received some terrible advice and made a decision that flies in the face of basic American principles.

Vote to override this ill-advised veto. Suspend the enforcement of the gag rule and allow more balanced regulations to be drafted. Vote to preserve the relationship of honesty and trust that must exist in a free society between the Government and its citizens. Vote to override.

Mr. PURSELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Speaker, I understand the concern for what some may think is a restriction of the flow of information between a patient and her physician. However, there is another side to this issue that deserves mention: Based upon the results of several nationwide polls it is clear that the majority of Americans consider it immoral to use abortion as a method of family planning.

A June poll by the Wirthlin Group revealed that a full 83 percent of Americans oppose the use of abortion as a method of birth control. Simply stated, American taxpayers feel strongly that they should not be forced to subsidize abortion advocacy of any kind.

It's time to tell the truth about the title X regulations. It is clearly an issue of taxpayer's choice. It is wrong to expect the majority of Americans, who oppose abortion as family planning, to support a program that makes no distinction between the two. It also provides no way for parents to have input in their daughter's decisions.

The fact is that title X was created as a pregnancy prevention program. It was intended to help poor women avoid unplanned pregnancy and plan for the arrival of each child. All discussion regarding title X makes it very clear that there was never intended to be any connection between title X activities and abortion-related activities. These regulations have corrected abuses of taxpayer dollars and restored integrity to the program.

The Supreme Court recently concluded in Rust versus Sullivan that the Government may make a value judgment favoring childbirth over abortion, and implement that judgment by the allocation of public funds. Critics of this decision have argued heatedly that the court is encouraging a lack of communication between the doctor and patient. That is misleading. The flaw in that argument is that we can never give more consideration to one individual's right to freedom of opinion and free speech than we do to the other individual's right to be born.

What is most difficult to understand is why some of the Members feel that the taxpayers are somehow obligated to fund an activity that most Americans find morally wrong—the promotion of abortion as family planning. Family planning prevents pregnancy. Abortion stops a beating heart.

The taxpayers, not proabortion forces, pay for title X. I ask my colleagues to support taxpayer choice and family planning with integrity.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to our Speaker, the distinguished gentleman from the State of Washington [Mr. FOLEY], to close debate.

Mr. FOLEY. Mr. Speaker, I take the well as the Representative of the 5th Congressional District of Washington to urge my colleagues to vote to override the President's veto.

The gentleman who has preceded me, the gentleman from Illinois [Mr. PORTER], has said that, as a Republican, he feels the President has been in error in this veto. This is not an issue between Democrats and Republicans. This bill represents the hopes and aspirations of the Members of this Congress on both sides of the aisle in education, in health, in biomedical research, and in so many other critical endeavors. In a hundred ways it speaks to the social policies and needs of our Nation, and does so with tremendous unanimity and consensus.

Mr. Speaker, it is the President that has involved this in the question of abortion. It is he who has attenpted to bring that divisive issue into a legislative package that has otherwise enormously broad support, and on the mistaken principle that these women who seek counseling at family planning centers should be denied, denied, information that all other women are entitled to, indeed, have the right to receive under the Constitution as well as under the laws of our Nation.

This is a mistake the President has made, and it is for this Congress to rectify it. It can by overriding this veto.

We have before us an important opportunity to send a clear message that not only is this legislation strongly supported by both sides of the aisle, but that the principles of truth, honesty, openness, and fairness will attach to all that we do in our laws, regardless of the financial circumstances of women who need the health care and counsel of this bill.

I ask all Members of Congress to override the President's veto. We have it in our hands to pass a good bill and to rectify a serious mistake. Override the President's veto.

Mr. GRADISON. Mr. Speaker, I rise reluctantly to support the motion to override the President's veto of H.R. 2707, the Fiscal Year 1992 Appropriations Act for the Departments of Labor, Health and Human Services, and Education.

I voted against H.R. 2707 when the House first considered the bill. I objected to the emergency spending designations in the legislation that clearly violated the Budget Enforcement Act of 1990. I voted against the conference report on H.R. 2707 and explained my reasons for doing so in some detail in my statement of November 7, 1991. Principally, I objected to the serious budgetary problems in the bill—totalling over $4.2 billion. I also expressed my concern at the continuing impasse over the title X program and hoped that by returning the bill to conference a compromise could be reached. I took the President's November 5, 1991, memorandum to Secretary Sullivan as a hopeful sign.

Over the last several months, I, like many of my colleagues, have suggested what I consider to be eminently reasonable changes to the title X regulations to the administration that also, in my view, retain the necessary wall of separation between preventive Federal family planning programs and abortion. Notwithstanding the President's recent memorandum and Secretary Sullivan's directive to Assistant Secretary for Health, James Mason, issued today, my suggestions have been entirely rejected. I do not rise, out of pride of authorship, to vote to override this veto. I am concerned and disappointed that all suggestions to compromise have been rejected.

The President's veto message lays the entire veto on the title X question. I believe that is unfortunate, unnecessary, and was totally avoidable.

With regard to the budgetary problems of this bill which I, and other Members of this House have decried, the President's veto message virtually ignores these serious problems. In spite of the fact that the administration opposes forward funding, the President's message states: "I will sign a bill that does not include language that prohibits implementation of the abortion counseling and referral rule."

The administration is prepared to accept budget gimmicks to get its way on a provision that could be compromised. The precedent is disturbing to me.

I voted against last year's budget agreement thinking we could do better. However, as the ranking Republican member on the House Budget Committee, I have defended that agreement as the only barrier between this House and fiscal chaos. In this case, the administration is willing to walk away from strict budget discipline.

I continue to believe that a compromise on the title X program is necessary, desirable, and achieveable. I have come to the conclusion that the only way to accomplish this will be to override the President's veto. From here forward, if the administration makes an honest attempt to work out the problems of the title X program, I will be with them. However, on this vote, and in this context, I cannot join with those who would sustain the President's position.

Mrs. KENNELLY. Mr. Speaker, it is indeed unfortunate that I must stand in this well today to urge my colleagues to override the veto of the Labor, HHS, and Education appropriations bill. It is unfortunate because this legislation has come back to this body, not because its fiscal merits are in question, but because the first amendment rights of health care providers are disregarded and the constitutional rights of women carry no weight in the eyes of the administration.

Two hundred billion dollars in vital programs such as child support enforcement, foster care, and child care are being held hostage. The ransom note has gone to poor, pregnant women. The price? Complete and balanced information about their health options. I am talking, Mr. Speaker, about the gag rule.

For years, family planning counselors provided their clients with full information about pregnancy options. Then, in 1988, the Reagan administration issued a rule, prohibiting health care providers in federally funded clinics from telling women what is law in these United States of America; 3.7 million women in America are served by federally funded clinics. And because of their economic status or where they live, most of these women have no other medical services for primary care. On top of this, an estimated 600,000 of these women have a history of health problems.

Yet under the gag rule, a doctor is barred from telling a woman all her medical options, even if she has cancer, diabetes or AIDS. Can you imagine what a dilemma this poses for a doctor, whose professional responsibility it is to provide sound advice for his or her patient?

Mr. Speaker, we debate the gag rule today as a first amendment issue; a right that is suppressed is no longer a right. If we do not turn back the gag rule today, our constitutional rights and our freedom will be in serious danger.

This debate is about freedom of information. If we fail to override this veto, we will be sending a loud and clear message to women—particularly poor women—across this country. The message will be: we in Congress, the men and women you have chosen to represent you, do not care about your rights, do not care about your doctor-patient relationships, and frankly, do not care very much about your health and your future. Please, let's not send this message. It is wrong; it is unfair; it is dangerous.

Mr. MORAN. Mr. Speaker, there is a crisis facing this Nation—a crisis in education, a crisis in health care, and a crisis in employment—and our constituents have sent us to Washington to find a remedy for these crises. Now after months of deliberation, hearings, and several days of debate on the floor of the House of Representatives and in the Senate, we have done just this.

Our Nation is facing a crisis in education. One out of every four American students does not graduate from high school and many of those that do graduate are ill-prepared to enter the labor force. On both sides of this aisle, in both houses of Congress, and in all branches of Government, we have repeatedly expressed our concern over our declining international competitiveness and have, in response, pledged to improve our education system. Today, we are debating legislation that goes beyond rhetoric and empty promises and seeks to improve our Nation's education system. The Labor, and HHS appropriations bill we are debating today contains $2.2 billion in funding for the Head Start Program and extends this crucial program to an additional 39,000 children. It provides $3 billion in funding for the Guaranteed Student Loan Program and $5.4 billion for the Pell Grant Program which together help 7 million American students attain a college eduction. Furthermore, this bill contains $631 million in funding for the Chapter One Program, a program which gives disadvantaged students access to much needed reading and math instruction. This Labor, HHS appropriations bill addresses the needs of our children and will make our Nation more competitive. The President—who claimed to be the "Education President"—has vetoed this legislation.

Our Nation is facing a crisis in health care. Every year there are more than 24,690 infant mortalities that could have been prevented with adequate pre-natal care. In 1989, there were 21,675 deaths from the AIDS virus and in 1990, 89 children died from measles for want of a simple immunization. To fight this tragedy and end these preventable deaths, we have passed an appropriations bill which contains $650 million in funding for maternal and child care; $1.9 billion in funding for AIDS research, education and care; and $298 million in funding for childhood immunizations. This appropriations bill specifically addresses the health problems of this Nation and seeks to protect our children and underprivileged families. The President—who claims to be interested in health care reform—has vetoed this legislation.

Our Nation is in the throes of a lingering recession which refuses to subside. Unemployment across the country is 6.8 percent. More than 8.6 million Americans can't find jobs and more than 2.5 million of those unemployed have exhausted their unemployment benefits. While we were finally able to sign into law legislation extending unemployment benefits for those hardest hit by the recession, the legislation we passed last week, did not address those who are chronically unemployable because of a lack of education or those who must be retrained to work in an America that is shifting from a manufacturing to a service economy. It is through this Labor, HHS appropriations bill that Congress is working to reverse these trends and improve America's workforce by providing unemployed men and women across the country the tools to find work and to be more productive. This bill contains over $1.4 billion in funding for vocational and adult education. It also contains $1.7 billion in funding for the Job Training Partnership Act—a program that help more than 425,000 Americans get off the unemployment rolls and back to work. The legislation we are debating today specifically addresses the needs of those Americans unemployed and helps them once again become productive contributors to our society. The President who claimed he would create over 500,000 new jobs in his first term, has vetoed this bill.

The legislation we are debating today—legislation addressing our Nation's education, health, and employment needs—is being held hostage by an administration that refuses to compromise on its repressive and discriminatory "gag rule". In the past months the House of Representatives has repeatedly opposed this gag rule and has vetoed overwhelmingly to overturn this provision. Our refusal to accept this "gag rule" has met with support from medical professionals and an overwhelming number of our constituents. We must not allow the administration to defeat this provision and veto this important bill to advance its own partisan agenda.

I urge my colleagues to join me in voting to override the President's veto.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in strong support of overriding the veto of the Labor-HHS appropriations measure.

I am very sorry to see that the President is still insistent upon denying access to complete health care information to those women who use publicly funded family planning health centers. In vetoing the appropriations measure because it prohibits the use of funding to implement the gag rule, the President is trying to sustain a regulation that threatens women's lives, curbs the judgment of medical professionals and unfairly penalizes the women who use these facilities. In the process of doing this, he is also holding hostage funding for a variety of valuable and vital health programs, as well as, the implementation of reforms that will help bring some parity to the field of women's health research.

From where I stand, the President's obstinance on this bill is just another indication of his disregard for the needs and lives of American women. You see, the gag rule may only affect women who use federally funded family planning clinics, but the research dollars that are redirected toward breast, ovarian, and cervical cancer programs, the increased funding for the women's health office at NIH would help all women. These are some of the many important programs that are now at the mercy of the President's veto pen.

Fortunately, we in Congress have a chance to undo what the President has done. We have a chance to do something that is in the best interests of women and our Nation's health care system. We can tell the President, "enough is enough, Mr. President" on his specious demagoguery. Let us seize this opportunity and vote to override the President's veto.

Mr. GAYDOS. Mr. Speaker, H.R. 2707, making appropriations for the Departments of Labor, Health and Human Services, and Education is a bill that is too important for any further delay.

As the chairman of the Subcommittee on Health and Safety within the Committee on Education and Labor, I know firsthand the difficulties faced by those Federal agencies responsible for worker health and safety—OSHA and MSHA in the Department of Labor, and NIOSH in HHS.

For the past several years, these three agencies have struggled to keep up with a rapidly changing arena. Resources have been limited, forcing the Congress to hold the line on worker health and safety. And occasional sequestrations have eaten into already appropriated funds, making it difficult for the agencies to perform their functions as effectively as we would hope.

So it is important to commend the conferees, especially the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] for their hard work this year because this conference report reflects increasing attention to worker safety and health.

OSHA, with responsibility for enforcing safety and health standards and regulations in almost 6 million workplaces with only some 1,200 inspectors, needs every dollar we can provide. MSHA, while covering fewer worksites, is directed toward protecting workers in one of the three most hazardous occupations in this country, and desperately needs resources to continue its job of eliminating all preventable deaths and injuries. And NIOSH, the unit that does basic research into both safety and health job hazards must have sufficient resources to continue conducting its studies which can then be translated into standards and regulations.

This conference report, as I just said, shows the concern of the Congress for the well-being of America's working men and women. All we have to do is to look at the numbers being made available for each of the three agencies.

OSHA is destined to receive $304 million, almost $19 million above the funding level for 1991. While the bulk of the increase is directed toward Federal compliance and enforcement, $10 million over 1991 funding amounts, two other areas in OSHA also get significant increases: State enforcement, up by more than $2.5 million, and consultation programs, up by more than $3.3 million. This last item is important because it is through the consultation programs that OSHA reaches out to employers to help them understand the safety and health programs, regulations, and standards that are in place.

Let me touch on just one other OSHA issue before I go on. We have known for some time that many small businesses, often those with 10 or fewer employees are not as safe as they should be. For a great many years, because of language in various appropriations bills, OSHA was prohibited from using any of its resources to inspect and otherwise enforce its standards, regulations, or rules in those workplaces with 10 or fewer employees.

This conference report reflects a significant change in that prohibition. In the past, OSHA has been permitted to take action in the wake of an accident that resulted in either one or more fatalities or the hospitalization of five or more employees. In the original House version of H.R. 2707, the number of hospitalizations was reduced to one or more. The conference report has adjusted the number to two or more hospitalizations.

I supported the original change because, in my view, in a place of employment with 10 or fewer workers, an accident resulting in the hospitalization of five of those employees is not just an accident, it is an unmitigated catastrophe. An accident in which even one worker is injured and hospitalized, is, in itself, a serious occurrence.

Still, I can understand the compromise, and I support it because it dovetails very well with other occupational safety and health legislation that is in the hopper as we speak. H.R. 1063, the Construction Safety, Health, and Education Improvement Act, which has been ordered reported by the Committee on Education and Labor, would require notice to OSHA if two or more construction workers were to be hospitalized following an accident, and H.R. 3160, the Comprehensive Occupational Safety and Health Reform Act also modifies OSHA's current regulation on reporting accidents to either one fatality or two hospitalizations.

I must admit to being somewhat disappointed by the appropriation proposed for MSHA, but the $185.4 million does represent an increase of $11.8 million over 1991 funding.

There has been some concern that because mining deaths have been dropping consistently in recent years, there is a lesser problem. That is not the case. America's miners still need the presence of MSHA and its inspectors.

Anyone who fails to recognize that fact just doesn't understand the ever-present dangers facing those who work in our underground mines. And, beyond the safety hazards, we should all be aware of the threats to the health of our miners. In 1991, we have seen MSHA initiate two separate cases against underground coal mining companies for falsifying coal dust samples.

In one case, several hundred mining companies have been cited for tampering with dust sampling devices and, in the second, just 2 weeks ago, several small coal mining companies in Virginia, West Virginia, and Kentucky were cited for submitting fraudulent dust samples.

The 1969 Federal Coal Mine Safety Act and the 1977 amendments to that act sought to limit the amounts of dust in coal mines to protect miners from black lung disease. Given the two pending investigations, MSHA certainly needs substantial resources to do the followup investigations.

For NIOSH, the present picture is one of the brightest in years. During the past several years, Congress has had to override funding requests from the current and immediately past administrations as they have sought to eliminate NIOSH from the safety and health equation.

This year, Congress again has taken the step of ensuring that NIOSH continues to be a factor in occupational safety and health. By increasing funding by $9.6 million from 1991 levels to $106.6 million, we have given NIOSH the opportunity to continue its important investigations into injuries and fatalities in construction and agriculture, which along with mining, are the highest hazard work activities.

While the three agencies have moved forward in the ongoing effort to reduce workplace deaths and injuries, employers still need to prevent and eliminate unnecessary and preventable deaths and injuries on the job. And, while we continue to work on these long-time persistent problems, we now have to address new concerns related to health and well-being.

Ten or fifteen years ago, repetitive motion trauma was a phrase known only to a small group of medical and health professionals. Today, it is the fastest growing form of occupational illness, affecting men and women in the production plant as well as in the front office. In 1981, 23,000 cases of repetitive motion trauma were reported. In 1989, 147,000 cases were reported. And we haven't got any clue as to how many cases went unreported because the workers were afraid of losing their jobs.

In recent years, we have seen some leveling off of deaths and serious injuries in most industrial categories—except for construction, where we still have as many as 2,500 annual deaths and some 200,000 serious and disabling injuries. But, even with these modest gains, we find, to our great chagrin, that today's injuries result in more lost time. In just a 1-year period, from 1988 to 1989, each lost workday case lost an extra half day.

Clearly, OSHA, MSHA, and NIOSH need whatever fiscal and manpower resources we can provide. This is a difficult task during this time of limited funds overall, but this conference report makes more than just a passing attempt to address real and ongoing problems that affect each and every one of us.

Mr. Speaker, we must override this veto of the conference report on H.R. 2707.

Mrs. LLOYD. Mr. Speaker, I rise in support to the motion to override the Presidential veto of H.R. 2707. The conference report has already garnered strong support in both the House and Senate and should be enacted as swiftly as possible. This bill invests crucial resources in essential domestic programs which provide vital services to millions of children and adults.

The funding levels set in the bill make education and literacy a national priority. The bill funds Head Start, vocational education, adult education, student financial assistance, math and science education, dropout prevention and drug free schools grants. Without Federal support for these programs, many deserving students would not be able to benefit from educational resources which prepare them for productive lives and careers.

The conference agreement also funds such diverse areas as low income energy assistance, maternal and child health, rural health care, infant mortality initiatives, biomedical research grants, cancer research, childhood immunization, child care State grants, jobs training, veterans employment and training, congregate nutrition services, home delivered meals for the elderly, foster care, adoption assistance, and administrative costs of State unemployment insurance programs. These programs and services are essential given the tough economic times the Nation is experiencing. It is more important than ever that they be maintained.

The conference agreement provides funding for women's health care programs that I worked hard to enact. The bill significantly increases funding for research on women's health by urging the National Cancer Institute [NCI] in the strongest way, to make breast, ovarian, and cervical cancer its top priorities.

The conference report includes $2 billion for the National Cancer Institute—an increase in funding of $275 million. As a result of our efforts, the National Cancer Institute has indicated that it will increase funds for research on breast cancer by $42 million, in fiscal year 1992, for total funding of nearly $133 million.

Further, the conference agreement contains $10.3 million for the NIH Office for Research on Women's Health. The Breast and Cervical Cancer Mortality Prevention Program receives full funding of $50 million for fiscal year 1992. These provisions are good news for the women of America because it shows that Congress is finally getting serious about funding women's health research.

The conference report also blocks implementation of the adminstration's gag rule. This is not a debate about abortion. The title X program has barred use of Federal funds for abortions since its inception in 1970. This is an important health care issue.

Although its central purpose is to provide family planning services, for many low-income women, a title X doctor is the only physician they see; 8 out of 10 title X patients have incomes below 150 percent of the poverty level and cannot afford the services of a private physician.

Title X clinics allow low-income women to receive high quality medical services when otherwise they would have to do without. Family planning programs are the entry point into the health care system for many patients who need other health care services, ranging from prenatal care to screening for cervical and breast cancer, anemia, hypertension, and diabetes.

The issue at stake is essentially the right of health care professionals to give and the right of women to receive medical information. Low-income women should not be denied comprehensive information of the full range of legal reproductive health care services because they cannot afford the services of a private physican. There are instances where a woman's health may be compromised by pregnancy, and an informed decision is essential.

I urge my colleagues to join with me in overriding the Presidential veto of the conference agreement on H.R. 2707.

Mrs. LOWEY of New York. Mr. Speaker, I rise today in strong support of the Labor-HHS appropriations bill and I urge my colleagues to override President Bush's veto.

More than politics are at stake with this vote. If we do not override the President's veto we will place our most fundamental rights in jeopardy. With this veto the President has said it is OK to gag health care professionals who work in federally funded clinics; and he has said it is OK to provide low-income women with substandard health care.

Well, the American people say it's not OK. Americans do not want the Government interfering in their most personal and private family decisions.

Medical professionals say it's not OK. Virtually every professional medical organization in this Nation says that the gag rule interferes with their right to provide the best medical care possible.

Now the Congress must stand up and say it is not OK. It is not OK to gag our doctors by censoring information about our right to choose safe, legal abortion. It is not OK to play politics in the examining room. Vote to override the President's veto.

Mr. DELLUMS. Mr. Speaker, I rise in support of the bill H.R. 2707 and urge passage notwithstanding the President's veto.

Mr. Speaker, few Members of the House stand with more distinction than does the gentleman from Kentucky, the chair of the Labor, Health and Human Services, and Education Subcommittee. The bill before us, H.R. 2707, directly or indirectly affects the lives of nearly every family in this nation as reflected by the 275 formal requests to the distinguished Chair by Members from both sides of the aisle. H.R. 2707 is a fair and just piece of legislation, worthy of the support of every Member of this body.

Mr. Speaker, H.R. 2707 was vetoed by the President because of the courage of this body to support an override of the Supreme Court action that placed a wedge between the sacred compact a female patient has with her doctor.

Mr. Speaker, for this and for the other reasons stated by the distinguished gentleman from Kentucky, I urge support of the bill H.R. 2707, notwithstanding the President's veto.

I yield the balance of my time.

Mr. SYNAR. Mr. Speaker, I rise in support of the override of the veto of the Labor/HHS appropriation bill.

I know that the conferees struggled under the constraints of the Budget Enforcement Act to arrive at a balanced bill, I know that this balance was most difficult to achieve between the education and health programs, and I commend the conferees on this agreement.

I wish to center my remarks today on the so-called gag rule which denies women the benefits of the total medical information relating to their pregnancy.

I feel compelled to speak today on behalf of the physicians from my district who have contacted me about this issue. I share their concern that the gag rule is an unwise and unprecedented intrusion on the doctor-patient relationship.

Imagine the clamor that would ensue in the legal community if we were to pass a law that prohibited lawyers from giving their clients the full range of legal options—but this is exactly the effect of this rule in a medical context.

This rule should be changed.

Mr. KOSTMAYER. Mr. Speaker, this House has had many passionate and legitimate debates on issues of funding and policy.

This isn't one of them.

This debate is certainly passionate, but it is not legitimate, and it's not about funding or policy.

This debate is about the Government's effort to censor information, to withhold from American women medical information they may want and they may need.

We should never have to have this debate.

We should never have to question whether the Government should interfere in the conversation between a woman and her doctor.

We should never have to debate an administration that fights policies it does not like by robbing physicians of their rights of free speech, and by robbing women of their right to complete medical advice.

We should not have to have this debate. But on May 23, the Supreme Court ruled that women who rely on federally funded clinics do not have the same rights to complete information about their health as women who don't.

Rather, the administration would have us tell an AIDS infected woman about prenatal care and adoption services. The President would not permit her physician to tell her that continuing this pregnancy may significantly shorten her life, nor would the President allow her to know the likelihood of her baby being born HIV infected. Instead of allowing this woman to get information about abortion so that she could make an informed decision, he would prefer this woman exist in ignorance. Abortion is still a legal right in this country, but according to the President, you may only be informed of this right if you can afford a private physician.

The President has already prohibited the use of Federal funds for abortions for women who are victims of rape or incest. Now the President would deny these innocent victims the right to even know about the legal right to an abortion.

With his support for the gag rule, the President has declared a war on women. Simply because a women accepts Federal assistance, the President would deny her legal information about her health.

Our President would like to promote a two-tier health care system where only those who can afford it may receive complete health information. Those who are less fortunate and must rely on Federal assistance will have their personal health information censored by the President.

Will the President next declare a war on seniors and prohibit any senior American from receiving any information about the treatment of Alzheimer's disease? Will he declare a war on students and prohibit any student receiving Federal financial aid from studying political science?

An overwhelming majority of Americans support free speech, and an overwhelming majority support a woman's right to choose, but not our President.

Initially the President denied funds; now the President would have us deny information.

I thought this country had moved beyond the days of censorship, but the President would like to bring us back to them.

Support the veto override.

Mr. MATSUI. Mr. Speaker, millions of women across the United States depend on the services of title X family planning clinics. We must vote today to protect the right of these women to receive information about all of the medical options available. I urge my colleagues to vote to override the President's veto.

As my colleagues have said repeatedly today, this debate is not about whether abortion is right or wrong. That is not the issue before us today. The issue before us today is whether a health care provider in a federally funded family planning clinic can provide information about safe, legal medical procedures. The gag rule deprives women of the opportunity to make an informed, educated decision as to how to treat an unintended pregnancy.

The gag rule infringes upon the rights not only of women to receive complete information, but upon the right of health care providers to speak openly and freely about medical options. The gag rule violates the most personal of free speech.

The title X family planning program is based on the principle of providing women with comprehensive basic health services. To do so without providing women with comprehensive information about health services is to compromise the integrity of the program. Title X clinics have never paid for abortions, and nothing in this bill changes that prohibition. However, the law has been clear that these clinics should provide information on all the options available to care for an unintended pregnancy, including abortion.

Federal family planning clinics provide care disproportionately to low-income women. If we cut off the free discussion of health care options for women receiving care at a title X clinic, we will be cutting off the health options of millions of American women.

This debate is about free speech. Free speech is a principle upon which this country was founded. It is a right that should not be provided to just a few, but that should apply broadly to all citizens of the United States.

Today we will be voting to decide whether women who seek medical care at a federally funded clinic have the right to the same information as women who seek services from a private physician. I urge my colleagues to strongly reject the gag rule and vote to override the President's veto of the Labor-HHS-Education appropriations bill.

Mr. BORSKI. Mr. Speaker, I rise today in support of sustaining the President's veto of H.R. 2707, the Departments of Labor, Health and Human Services [HHS], and Education Appropriations for fiscal year 1992. I oppose H.R. 2707 in its present form because of my opposition to federally funded abortion referral and counseling.

Mr. Speaker, I cannot support H.R. 2707 in its present form because of my strong belief that abortion is not a morally acceptable method of family planning or birth control. Counseling for abortion or referring a pregnant woman to an abortion clinic contradicts my conviction that family planning is meant to prevent or promote pregnancy, not to promote pregnancy termination.

H.R. 2707 would prevent the administration from implementing or enforcing its regulations barring federally funded title X abortion referral and counseling. It would require title X clinics to continue operating for another year under current title X regulations. These regulations actually require clinics to provide abortion referral as a condition for receiving Federal funding.

In 1970, Congress created the title X program for one principal purpose: To provide family planning services. The title X regulations we are considering today were issued to clarify and maintain the wall of separation that must exist between family planning and abortion. They ensure that pregnant women will not be referred to a facility whose principal function is to provide abortions.

If the House votes to override this veto today, it will send a message to the American public that abortion referral and counseling is an acceptable method of family planning and birth control. The House will be telling all Americans that, regardless of their views on abortion, their Federal tax dollars should be used to subsidize abortion referral and counseling.

It is unfortunate that the abortion referral and counseling provision was included in this bill by those seeking to overturn the administration's regulations. Regrettably, the increased funding contained in the bill for Head Start, education, cancer research, and childhood immunization is being held hostage by this provision, which was inserted into the bill before it came to the floor. It is simply unfair to the beneficiaries of these increases to make the enactment of this bill contingent upon the resolution of an abortion-related matter.

Mr. Speaker, I hope that my colleagues will join me in sustaining the President's veto of H.R. 2707 so that we can send this bill back to him without the abortion referral and counseling provision. If the President's veto is sustained, I can assure my colleagues that I will support this bill once this egregious provision has been removed.

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise in support of the Labor, Health and Human Services appropriations bill and plan to cast my vote to override the President's veto of this legislation.

There are many excellent programs funded through this legislation which will be jeopardized should it not be passed by this body. For example, the Head Start Program receives $2.2 billion under this legislation, there is also $298 million for childhood immunization, and $1.921 billion is allocated under this legislation for AIDS research education and care. But, as we all know, we are not here to debate the merits of these programs, although there may be the usual debate over funding levels. Instead, we are here today to seek an override of the President's veto because of the so called gag rule.

I have been actively seeking to lift the gag rule since its inception. The gag rule denies access to information to women who are dependent upon the Federal Government for health care. This is not, as some of my colleagues will suggest, an abortion issue. Lifting of the gag rule will not alter the existing prohibition on using Federal money to fund abortion. Title X clinics will not turn into abortion mills by lifting the gag rule.

The gag rule is the most insidious form of censorship. The heart of the debate today is not should abortion be legal or should the Federal Government provide health care for the poor. Rather, the debate today is whether it is OK for the Federal Government to decide what information it will or will not make available to a poor women in need of health care. Any other women going to a private physician would be apprised of all health care options and would have all of her questions answered directly and honestly. In fact, if this were not the case, that same women could sue the doctor for malpractice.

Let us then contrast this with a woman going to a title X clinic subject to the gag rule. The gag rule would prevent counselors and physicians at the title X clinic form discussing abortion. A physician at this clinic could not even answer a direct question if asked if it had to do with abortion. The gag rule would also prevent these physicians from referring a patient to someone who could talk about this legal option. So, not only are we saying to these poor women who have no where else to turn that we will not give them all of the pertinent information, but we won't even tell them where they can go to get their questions answered.

Do we believe that it is somehow acceptable to operate under different rules because the Federal Government is paying for the doctor? Do the Members of this body believe that this practice will not open doctors up to malpractice suits? Is it OK to create a two-tier health system where those who can pay are entitled to information and those who cannot are limited to the morally acceptable line of the day—information not based on medicine or science but on political winds.

I do not believe that this is the message that the U.S. House of Representatives wants to send. In America you don't have to buy information. I can think of no principal which is more interwoven into the fabric that has made this country great. We must not allow the gag rule to stand. It will hurt women, it will hurt families, but equally devastating it will erode the principles that we have all been elected to uphold. I urge my colleagues to vote to override the President's veto.

Mr. RANGEL. Mr. Speaker, I rise in strong opposition to President Bush's mean-spirited and narrow-minded veto of the Labor-HHS-Education appropriations package and I am deeply concerned that collectively we were unable to successfully override the veto.

Why has President Bush decided to veto this appropriations package which would provide crucial health, education, and social programs with $204.9 billion in Federal funds?

Is it because the bill will provide $804 million, $38 million more than President Bush wanted, for support services and home delivered means for the elderly?

Or is it because the bill provides $75 million, a $50 million increase from last year, for infant mortality initiatives?

Or perhaps it is the $2.2 billion that the bill provides for the Head Start Preschool Program which would serve an estimated 40,000 more preschoolers than last year?

No, I trust that President Bush indeed does support these programs, although his budget requests were far lower than the ones proposed recently by the House. The administration, however, has held hostage this entire appropriations package because, among all the vital programs and services that the package provided, the bill contained a measure to eliminate the existing administration's gag rule that prohibits federally funding family planning clinics from mentioning abortion as a viable medical option.

Ever since last May, when the Supreme Court upheld in Rust versus Sullivan, the gag rule, title X of the Human and Health Service Act has been in danger of extinction.

Title X provides Federal funds to over 80 percent of all the family planning agencies across the Nation. These services provide over 4 million low-income women and teenagers and contraception, preventative medical care, and counseling.

These clinics provide poor women with what wealthy women can afford: The opportunity to make an informed choice about their pregnancy.

Mr. Speaker, the elimination of the gag rule is crucial if we are to continue this Nation's efforts to reduce unintended pregnancy and providing low-income women with all available choices when it comes to family planning decisions.

President Bush has succeeded in forcing all federally funded clinics all over the country to make a devastating choice: Either give up desperately needed funds and reduce the number of patients they can serve or provide substandard care to residents in the area.

The President's successful veto of the appropriations bill is disastrous for women, young and old, in my district. These women depend on these clinics for complete information and support on family planning matter. For many women, these clinics are their sole source of accurate and accessible information. Most of the clinic's clients—nearly 8 out of 10—fall below the Federal poverty level and are unable to afford a doctor.

By prohibiting doctors and health care counselors in title X clinics from providing patients with medically appropriate referrals or information on options for handling an unintended pregnancy President Bush will be setting up to two kinds of health care in this country: Quality care for the affluent and second-rate care for the poor.

Women, teenagers, and their partners need voluntary family planning services with counseling on all methods of contraception before deciding what is most appropriate for them. And poor people deserve access to the same medical information as wealthy people.

Mr. Speaker, the people in my district struggle daily against crime, drugs, racism, and unemployment. By restricting their access to crucial medical options, the administration is only adding to their problems.

By failing to override the veto we have been unable to secure funding for these family planning services, services that title X clients so desperately need. I am deeply disappointed that the necessary two-thirds of my colleagues could not join me in opposing the veto.

Our only recourse at this time is to join in support of Representative WAXMAN's Family Planning Amendments Act of 1991, H.R. 3090, which reauthorizes title X and essentially overturns the gag rule. I strongly urge all my colleagues to support this new bill in order to successfully overturn the President's veto.

Mr. COLEMAN of Texas. Mr. Speaker, I rise today in support of H.R. 2707 and urge my colleagues to override President Bush's veto. It is irresponsible of the President to veto this legislation, which provides funding for hundreds of essential programs, just so that his administration can proceed with their plans to deny poor women their basic right to uncensored medical information. The fact that he is determined to impose the gag rule and thereby thrust the Government into what should be a confidential discussion between a woman and her doctor is bad enough. But his action also affects millions of innocent bystanders. So we'll let the President explain to the homeless why there is no funding available for their health care. We'll let him explain to handicapped children why there is no funding available for their special education program. And we'll let him explain to disadvantaged youth why there is no funding available to provide them with job training. Better yet, let's override his veto and send a clear message to the American people that even if the President doesn't care about their needs, the Congress does.

Mr. HAYES of Illinois. Mr. Speaker, today I rise to express my support for the Presidential veto override of H.R. 2707, the fiscal year 1992 spending bill for Labor-HHS-Education. The bill before us today includes many crucial provisions. Provisions which are crucial to the day-to-day quality of life for many Americans. H.R. 2707 funds every major health, education and social service program in this Nation. Mr. Speaker, I believe that most sane members of this body certainly understand the critical need to fund such programs as Head Start, Pell Grants, Medicare and Medicaid, Low-Income Energy Assistance, and AIDS research. However, it is unfortunate today that for unfounded reasons there is opposition to this measure.

Some in this body believe that the provisions which block this administration's gag rule regulations concerning the dissemination of health information by health care providers, encourages the use of abortions. In my opinion, the gag rule is one of the most destructive federal health policies ever proposed. Not only does it violate the first amendment right, it denies poor and minority women the right to well informed, quality health care. Mr. Speaker, I assure you, this issue is not about abortion, it is about the Federal Government dictating to health care providers what information can and cannot be disseminated. Such public policy is wrong—dead wrong.

Mr. Speaker, I ask my colleagues to think long and hard today before they vote and remember that the politics of the abortion issue ought to be removed from today's debate. The issue is good public policy, in addition to the need to fund programs that have overwhelming support in this Congress and for which many here have fought long and hard to gain increased funding. I ask that my colleagues vote in support of today's bill, and that we express to the President the need to quit playing politics with this Nation's domestic needs and sign this bill into law.

Vote to override this veto.

Mr. ROGERS. Mr. Speaker, no legislation written by this Congress has the level of human impact nor does more good for this Nation than the bill written each year by the gentleman from Kentucky, the dean of its delegation, and my friend [Mr. NATCHER]. I have supported this bill for many years because of his efforts, and I look forward to voting for it this year.

The folks back home in my district worry about getting good medical care, about educating themselves and their children, about feeding themselves and their children, and about training to work in a rapidly changing world. They are concerned about our future, and about getting a boost when the future brings hard times.

This bill, as it always has, responds to those concerns. It contains $2.2 billion for Head Start, a 13-percent increase over last year, $32 billion for education programs, $1.43 billion for vocational and adult education, a 15-percent increase over last year, $22.5 million for rural health grants, a 15-percent increase over last year, $771 million for impact aid, and billions more for health related programs.

Unfortunately, my constituents are concerned about something else in this bill, which is important but unrelated to the bill's purpose. H.R. 2707 contains a rider which would allow or, in some circumstances, require federally funded family planning clinics to counsel or refer clients on abortion as a method of family planning. The provision's authors intend to reverse current regulations which prevent such counseling, and which were upheld by the Supreme Court. My constituents oppose this rider, as does the President, who early on signaled the Congress that such a rider would draw a veto.

Mr. Speaker, the gentleman from Kentucky [Mr. NATCHER] did not include this controversial provision when he recommended the bill to the Appropriations Committee. In fact, regardless of one's view on the issue, the provision does not belong on an appropriations bill. But the failure of the Congress to deal with this issue through the normal legislative process led to its inclusion on this spending bill.

The Labor-HHS-Education appropriations bill is an annual, must-pass bill. Millions of people depend on it each year to fund the vital programs I described. Because it is must-pass legislation, it being used by proabortion advocates to shortcut and end run the normal legislative process. If those opposing the administration's regulations want them changed, they should propose legislation, obtain hearings, and work with the authorizing committees of the House to achieve their goal. In this instance, they have bypassed the normal process because they are impatient or afraid of failure. Neither this bill, nor the gentleman from Kentucky, should be their savior.

Mr. Speaker, I fully support H.R. 2707, except for the family planning rider, which I and my constituents find unacceptable. Therefore, with reluctance and extreme respect for my Kentucky colleague, I have absolutely no alternative but to vote against the bill and support President Bush's veto.

We have faced this type of situation before. In previous years the House has had to completely reconsider the Labor-HHS-Education appropriations bill because abortion-related riders drew a Presidential veto. I will vote no, therefore, with the hope and expectation that we will repeat past practice by passing out a clean bill that the President will sign and which I will support.

Mr. NATCHER. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 276, nays 156, not voting 3, as follows:

[Roll No. 403]

YEAS—276

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hamilton
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Markey
Martin
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Oakar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickett
Pickle
Porter
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Riggs
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp

Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Spratt
Stark
Stokes
Studds
Swett
Swift
Synar
Tanner
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Zeliff
Zimmer

NAYS—156

Allard
Annunzio
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bilirakis
Bliley
Boehner
Borski
Broomfield
Bunning
Burton
Callahan
Camp
Coble
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
de la Garza
DeLay
Dickinson
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Gallegly
Gillmor
Gingrich
Goss
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Holloway
Hopkins
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Kasich
Kildee
Kolter
Kyl
LaFalce
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Luken
Manton
Marlenee
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Murphy
Nichols
Nowak
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Poshard
Quillen
Ray
Rhodes
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Smith (NJ)
Smith (OR)
Solomon
Spence
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—3

Hatcher
LaRocco
Levine (CA)

□ 1618

Mr. ANNUNZIO changed his vote from "yea" to "nay."

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MFUME). The message and the bill are referred to the Committee on Appropriations.

The Clerk will notify the Senate of the Action of the House.

PERSONAL EXPLANATION

Mr. LAROCCO. Mr. Speaker, during the vote to override the President's veto of H.R. 2707, I deeply regret that I was unavoidably detained. Had I been present, I would have voted "aye".

□ 1620

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I wanted to take a moment to have a dialog with the minority leader about our schedule for the rest of the week.

I would simply say to Members, a lot of Members have been asking what is the schedule for the rest of the week, what can we expect about the weekend, what about next week, can we finish our business?

Let me simply say to Members that we are trying very heard to see if we can finish our business by at least Tuesday evening of next week. We do not know whether votes will be held over the weekend. We obviously would like to not have votes over the weekend, but we cannot at this point predict with certainty that there will not be votes over the weekend.

Let me just reiterate the bills that are before us that we have to try to finish: the banking bill, which will probably be back on Thursday, recapitalization of the RTC. We have a Medicaid bill that is up this afternoon. The highway bill is in conference. The crime bill is in conference.

We would like to get a conference report finished on both. We have a campaign finance bill that we would like to consider the early part of next week.

There are other pieces of legislation that can be fit into the schedule. There is no reason that this legislation cannot be finished, all of this that I have read, by Tuesday night of next week. But it is impossible at this point to say for certain when each of these will be done.

We have had obviously problems with the banking legislation. If it for some reason fails, it makes it very difficult to see how we get a conference on that and get done by Tuesday night. But this is the program we are trying to finish.

Mr. MICHEL. Mr. Speaker, if the gentleman will yield, the gentleman has said that we would like to finish up by Tuesday night and the Members ought to be alerted to be available for this weekend for votes.

I would assume then we are talking about surely being in session Friday and possibly Saturday and Sunday. Do we give our Members any kind of indication if we get to that point that they need not be here Saturday or Sunday but still going over to Monday or Tuesday, or do we just play that by ear?

Mr. GEPHARDT. Mr. Speaker, I think we will give Members as much notice about where we are and what our plans are and what the possibilities are as we go along. Obviously if on Thursday we cannot pass a piece of banking legislation, it is going to be very hard to say to Members, we can finish everything by Tuesday night, so let us stay through the weekend.

If on the other hand we are able to pass it, then I think we can begin to lay out a schedule with the RTC coming behind it that we could get out by Tuesday night. We will keep Members informed as best we can each step of the way so they can plan their lives as one best can.

Mr. MICHEL. Mr. Speaker, if the gentleman will continue to yield, is there any possibility that if when we got to the weekend we found that we could not complete the business by Tuesday and for whatever reason were going to be obliged to take a break, to come back, that that determination would be made before the weekend?

Mr. GEPHARDT. Mr. Speaker, we will try to make that determination on Friday.

Mr. MICHEL. Bearing in mind, of course, that, as I understand from years past, the transportation schedule for Thanksgiving week is the worst for the airlines, even worse than Christmas, and that cancellation of flights, et cetera, et cetera, obviously in order to accommodate members, I think the earlier we can tell them what they will be able to do for Thanksgiving would be greatly appreciated, I am sure, on both sides.

Mr. GEPHARDT. Mr. Speaker, we obviously will do that. I think Members could plan today, if they wanted to make a specific reservation, Wednesday, when the sun comes up, I think Members can be ready to go.

Mr. MICHEL. I thank the distinguished gentleman.

ORDER OF BUSINESS

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that my name be transposed with that of the gentleman from New York [Mr. OWENS] on the list of special orders for Wednesday, November 20, 1991.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Missouri?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2038, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–331) on the resolution (H.

Res. 285) waiving all points of order against the conference report on the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for the intelligence activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2521, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1992, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–332) on the resolution (H. Res. 286) waiving all points of order against the conference report on the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 20, 1992, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 3595, MEDICAID MORATORIUM AMENDMENTS OF 1991

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 283 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 283

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered as having been read for amendment under the five-minute rule. Consideration of all amendments to the bill shall not exceed three hours. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House resolution 283 is the rule providing for the consideration of H.R. 3595, the Medicaid Moratorium Amendment of 1991.

The rule provides for one hour of general debate, to be equally divided and controlled by the chairman and ranking member of the Committee on Energy and Commerce.

This is an open rule. Any member can offer germane amendments under the 5-minute rule.

In order to ensure that the House can expeditiously attend to its full legislative program this week, the rule provides that consideration of all amendments to the bill shall not exceed 3 hours.

Finally, the rule provides for one motion to recommit.

Mr. Speaker, this open rule will allow for consideration of H.R. 3595. This bill has been necessitated by differing interpretations of compromise language negotiated in the conference on the Omnibus Budget Reconciliation Act of 1990, concerning matching Federal Medicaid funds for voluntary contributions, provider-specific taxes, and intergovernmental transfers. The administrations has promulgated regulations which have been criticized as unclear and unworkable and which run counter to the Energy and Commerce Committee's understanding of the OBRA language.

H.R. 3595 does not provide a final resolution of this dispute, but provides for a moratorium on new regulations in this area to allow the administration the Enegy and Commerce Committee, the States, and other interested parties to work out clear and workable guidelines to resolve this complex issue. Without this legislation, the Medicaid programs in as many as 39 States would be thrown into chaos and confusion. They would have only 6 weeks to either replace billions of dollars in funding or make severe cuts in Medicaid eligibility or benefits.

I commend Chairmen WAXMAN and DINGELL for expeditiously moving this legislation to avert this disruption. I ask all members to join me in supporting this open rule, which will allow full and fair debate on the provisions of this necessary and timely bill.

□ 1630

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentlewoman from New York has explained, the House has before it a proposed open rule. It is worth noting that only open rules allow for the unfettered and free debate which the American people rightfully expect from the House.

I would like to take this opportunity to thank the Committee on Rules and particularly the gentleman from Massachusetts [Mr. MOAKLEY], its chairman, for bringing this open rule before us. I also congratulate the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], as well as the chairman of the Subcommittee on Health and the Environment, the gentleman from California [Mr. WAXMAN], for requesting that the rule be open so the House can fully work its will in this important legislation.

H.R. 3595 will avoid the crisis in numerous State Medicaid programs that we are facing just 6 weeks from now. Mr. Speaker, although I will support this rule and urge my colleagues to do likewise, there are some portions of it that do cause me concern.

I would mention that the bill has also been drafted as an amendment to the Technical and Miscellaneous Revenue Act of 1988. By drafting the bill with just such a narrow scope, amendments which one would have expected to be germane to Medicaid legislation would not be made in order with this bill. Nevertheless, it has been said that "The perfect is often the enemy of the good," and therefore I will support both this rule and the bill, for they are good if they are not perfect. The gentleman from California [Mr. DANNEMEYER] will point out exactly why the legislation was drafted in the manner that it is in comments later on.

The House needs to consider bills under open rules because they are an essential part of the legislative process. Mr. Speaker, this bill will impose a moratorium on the implementation of regulations published by the Secretary of Health and Human Services which deny States the right to use revenues from provider-specific taxes and intergovernmental transfers to help pay for Medicaid programs. These regulations would go into effect on January 1. This moratorium will be in effect until next September 30.

This bill is not a perfect solution to this complex issue. It simply provides the time and is needed for either a negotiated settlement, a court ruling, or further legislative action to resolve the concerns with a number of provider-specific Medicaid tax programs. The National Governors Association is working with the administration to develop a workable compromise, and we need to provide time to avoid a critical disruption of Medicaid services to the various States.

There are legitimate concerns which have been expressed by the administration regarding some States' provider-specific Medicaid tax programs, but the answer is not to simply eliminate all of them without any legislative authority. Instead, time is needed to develop a compromise solution.

So I conclude, Mr. Speaker, by asking my colleagues to support this fair rule, to work the House's will on the amendments offered to the bill, and to pass H.R. 3595 in a form that will avoid chaos in Medicaid programs around the country.

I include for the RECORD the statement of administration policy, as follows:

STATEMENT OF ADMINISTRATION POLICY

H.R. 3595—MEDICAID MORATORIUM AMENDMENTS OF 1991

The Administration strongly opposes H.R. 3595. If it were presented to the President, his senior advisers would recommend a veto.

H.R. 3595 would extend through September 30, 1992, the moratorium on Medicaid regulations pertaining to the use of provider-specific taxes and donations to increase Federal funding for State Medicaid programs. The current moratorium would otherwise expire on December 31, 1991. H.R. 3595 would also allow voluntary contributions to be used as the State share for Medicaid through December 31, 1992. In addition, a new and permanent moratorium would be applied to any regulation changing the treatment of intergovernmental transfers of funds as a source of the State share of Medicaid costs.

H.R. 3595 is unacceptable legislation because:

Inappropriate State spending through these schemes, if unchecked, could increase the Federal deficit—adding an estimated $5.5 billion this year and $40 to $50 billion for FYs 1992 through 1996.

The bill violates the Budget Enforcement Act of 1990 (BEA). It designates the provisions of the bill as emergency requirements under the BEA and prohibits the added costs from being counted under the pay-as-you-go provisions of the BEA. In addition, H.R. 3595 includes a "directed scorekeeping" provision that specifies the dollar amounts that are to be used in estimating costs under the bill. The President has stated previously that he would veto any legislation that contained such a provision.

The moratorium on provider-specific taxes and donations was established in 1988 and has been extended twice in Administration-opposed provisions in OBRA 1989 and OBRA 1990 that received little congressional attention. Congress and the States have been on notice since 1988 that the Federal Government was planning to act in this area. Yet Congress has twice extended the moratorium, declaring that more time is needed to examine the issue. During this time, the number of States with provider-specific taxes, donations programs, or both has skyrocketed from seven States and $200 million in 1990 to over 40 States and an estimated $5.5 billion in 1992. Last year's moratorium alone resulted in at least a tenfold increase in Federal funding associated with States' use of provider tax and contribution programs. Many more billions of dollars will be provided to the States inappropriately through a distorted match system under another moratorium.

A permanent moratorium on changing the treatment of intergovernmental transfers is unnecessary and unwise. The Health Care Financing Administration (HCFA) is not eliminating the use of traditional intergovernmental transfers in Medicaid. Under the HCFA regulation, public funds transferred between different levels of local government will continue to be matched by the Federal Government.

State donation and provider-specific tax programs, if unchecked, will undermine a basic premise of the Medicaid program—that States have a stake in the costs of the program. The Administration cannot condone the alteration of the Medicaid program through financing mechanisms that go beyond the conventional matching rate structure. States are accountable for the appropriate management and financing of their programs and the Federal Government is responsible for holding them accountable to operating fairly and appropriately in the Medicaid partnership.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, in strong support of H.R. 3595, if the administration's regulations regarding the States use of provider-specific taxes are implemented they will result in the loss of more than $1.1 billion in care for Tennesseans.

Tennessee has an infant mortality rate of 10.3 infant deaths per 1,000 births, its lowest ever. The rate is directly attributed to the assistance programs funded under the Medicaid program. Prior to the introduction of the Medicaid Programs, Tennessee's infant mortality rate was 22.7 infant deaths per 1,000 births. These numbers indicate that Medicaid dollars have made a significant difference in the quality of life for pregnant women, their babies and preschool children of Tennessee.

The administration claims that infant mortality is a grave concern and that they are committed to solving this problem. Mr. Speaker, if that be the case then why does the administration now pull the rug out from under the one program which has proven to be effective in accomplishing the very goal the administration says it desires. We cannot tie the States hands. The implementation of these regulations would spell certain doom for these programs in Tennessee.

Mr. Speaker, the State of Tennessee relies heavily on provider-specific taxes to raise its share of the Medicaid matching funds. Denying Tennessee the ability to raise its share of the Medicaid matching funds would make it impossible for the State to raise the $345 million necessary to qualify for the $750 million in Federal matching funds.

The HCFA regulations conflict with legislation Congress passed last fall and infringe on the States' rights to determine both the method they use to raise funds and how these funds will be used. Furthermore, it is beyond HCFA's authority to impose such regulations.

Mr. Speaker, on behalf of the thousands of women and children of Tennessee, I rise in full support of this legislation and urge my colleagues to support it. We must not allow these regulations to be implemented.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. MCGRATH], a member of the Committee on Ways and Means.

Mr. MCGRATH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of H.R. 3595, the Medicaid Moratorium Amendments of 1991.

If enacted, it would allow the administration and the States to move forward toward an agreement on the difficult issue of provider-specific taxes, and their treatment under the Medicaid Program.

As my colleagues are well aware, the Health Care Financing Administration, on September 12, issued a regulation prohibiting the use of a broad range of revenues currently applied toward Medicaid by State governments. This regulation, if permitted to be implemented, would disrupt the State of New York's Medicaid program. It would cost my State approximately $500 million in lost Federal Medicaid matching funds.

There is no question about the need to establish a reasonable and rational policy for financing Medicaid Programs through voluntary donations, and provider-specific taxes. However, with adjournment right around the corner, and in light of the complexity of the issues involved, we simply need more time—time to come back next year to resolve this issue in a thoughtful and thorough way.

If Congress does not act to delay the HCFA rule, and if the administration and the States do not reach an agreement on this issue, we will see chaos result when the rule's January 1, 1992, effective date forces States to radically adjust programs in the middle of budget cycles. The result will be drastic cuts in basic medical services, as well as long-term care for millions of low-income mothers, children, disabled, elderly, and mentally ill individuals.

Even if an agreement is hastily put together in the next several days before adjournment, such a solution is unlikely to be equitable both to the administration and the States. We will be back in 3 months trying to solve this problem again.

H.R. 3595 will give the administration the necessary breathing room to craft a meaningful solution to this difficult problem. This moratorium would delay the implementation of HCFA's proposed rule until September 30, 1992.

Mr. Speaker, this bill represents a rational, reasonable approach to our current dilemma over Medicaid provider-tax and voluntary donation programs. I believe this bill will allow us to avoid a crisis in programs that work at providing health care to the poor and disabled, and I urge its immediate adoption.

☐ 1640

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Alabama [Mr. ERDREICH]

Mr. ERDREICH. Mr. Speaker, I would like to encourage my colleagues to support this rule and this measure which I cosponsored, and put a stop to this dangerous precedent promulgated by the Bush administration.

The administration's cruel decision puts our most vulnerable citizens—the very old and the very young—at risk in my State and 21 other States, and carries serious implications for all 50 States.

I can find no law, statute or authority that gives the Federal Government the right to tell a State what type of taxes it can use. It is nothing short of arrogant for the Federal Government to arrogate to itself the tax decisions of State government.

As an editorial in the Birmingham News points out: "How the State of Alabama taxes itself to get money for Medicaid is hardly any business of the Federal bureaucracy."

Not only is this a fundamental assault on our system of federalism, it is an assault on a health care system that is beginning to make inroads in my State's infant mortality rate, one of the highest in the Nation.

If this administrative rule were to stand, some 10,000 Alabama nursing home residents will be swept off Medicaid, and more Alabama rural hospitals might be forced to close. Health care for the very young and the very old is jeopardized unless this bill passes.

I ask my colleagues to vote for this measure, and vote to protect our most vulnerable citizens.

Mr. McEWEN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, when the writers of the textbooks on civics sit down to write a text on how to engage in a game of mirrors, "now you see it, now you don't" as part of the legislative process, watch what we are doing on this bill today. It is a classic illustration, exhibit A, of how the spenders who control this shop not only have a majority vote on the liberal Democrat side to work their will, but they brought to the floor of the House today a legislative vehicle where, even though they claim it is an open rule, as a practical matter the amendment that will have significance for the debate in order to reduce Medicaid spending that the National Governors Association wants to have happen, will not even be germane.

They can stand here and say this is an open rule, and the majority says that is what the minority always wants is an open rule, but they know full well that if I offer the amendment that will reduce some of the spending going on in Medicaid in this country, they will assert a point of order that it is not germane, and the Parliamentarian has indicated that it is not germane.

It is all part of the game, appear to be open-handed, appear to be reasonable, yet structure the debate on the floor of the House in such a way so that an amendment that will reduce some of this hemorrhaging that is going on in this country cannot take place.

That is why I rise in opposition to this rule. I came to the Rules Committee and asked that my amendment be made in order through a wavier of germaneness, because it is appropriate that the House be given an opportunity to do that.

I want to call the attention of my colleagues to what is going on here today. If the majority Democrats are successful with their effort today, the adoption of this measure is going to result in an increased expenditure in Medicaid in this fiscal year of $5.8 billion. That quantity of additional spending is going to bust the budget summit agreement that was adopted last November. I did not happen to vote for that inappropriate piece of legislation, but it expressed the sense of Congress and was adopted.

But what we are talking about is a budget-buster on this floor today, and I think we should understand that. To put it in perspective, just in 1985, for instance, in Medicaid we spent $22.6 billion; in 1990 we spent $40 billion; between 1981 and 1990 Medicaid spending went up 152 percent when the CPI went up 59 percent.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, I want to compliment the gentleman on his statement and what he has said, because it is so true. While the amendment that we intended to offer would require that we would have to waive a point of order in order to make it germane, I think it is very appropriate. As the gentleman so well indicated, the administration has been in touch with the Governor's Conference in an effort to work something out here. Frankly, what we are doing is simply putting off again and again to another day and it is costing us in spades by failing to face up to what we really ought to be doing here.

It is really a sham, as the gentleman has expressed, because had we an opportunity earlier on to clearly define what is legitimate by way of reimbursement and what is not, then the States obviously would not have gone on to the extent that they have to just really circumvent and undermine the whole program. It is a big rip-off of the Federal Government, quite frankly, and it ought to be corrected; but unfortunately, we are not going to have that opportunity to do so because of the Rules Committee failing to waive a point of order on an amendment that I feel, other than being technically nongermane, very, very much points the way to address the problem that the gentleman so well lays out for us.

I will have something more to say when we get into actual discussion of the bill.

Mr. DANNEMEYER. Mr. Speaker, I thank the minority leader for his comments.

Mr. CALLAHAN. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend, the gentleman from Alabama.

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman from California for yielding to me.

As the gentleman knows, I have been one of his most ardent supporters on almost every cause he has brought before this House.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for that.

Mr. CALLAHAN. Mr. Speaker, I think the gentleman is absolutely sincere in his efforts to stop this growth of government that we have, but will the gentleman put himself in my position.

The State of Alabama is caught in the middle of this. I agree with the gentleman and I agree with the minority leader that indeed we should stop these schemes from taking place; however, the timing on this is impossible for the State of Alabama to comply with; $795 million out of a $1.5 billion program, it will cost us unless we have some solution passed by this Congress this week.

We must begin notifying the people in Alabama on Medicaid that they must be aware of the fact, we notify them on December 1, that they will have to move out of nursing homes on January 1.

So what do we do? I agree with the gentleman and I will work with the gentleman. I pledge my total support to stop this type of activity because it is wrong; but the timing of trying to correct it through the administration is just virtually impossible.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague for his comments, and I sympathize.

The answer to what we should be doing here today is to have an amendment that will reduce the Medicaid mandates that now are in existence. The reality that all of us must face is that over the last 5 years my good friend, the gentleman from California [Mr. WAXMAN], chairman of the Health and Environment Subcommittee, has been able to raise Medicaid mandates across this country to the point that 49

Governors of the 50 of the Union have in writing asked the Congress of the United States, "Stop loading up mandates on us. You are bankrupting us."

□ 1650

Let me quote from the Governor of Arkansas, Bill Clinton:

> The annual cost in Arkansas of federal Medicaid mandates now exceeds $100 million per year, severely taxing the ability of a poor, rural state to do all we are required to do.

Now here is Republican Thompson of Wisconsin:

> The reason I haven't been able to do more for education, infrastructure or health care is the $100 million that federal mandates took out of my budget.

What is going on here today is an effort on the part of this Congress to bring national health insurance in through the back door. These Medicaid mandates over the last 5 years are literally bankrupting some of the States of the Union, one of which is Alabama.

The answer to how we should proceed is to consider some amendments on the floor, and I have one available. I went to the Committee on Rules in order to make it in order, and they denied it.

My amendment will implement some of the recommendations of the National Governors' Association. I did not dream this up out of the air. These are what the Governors of this country are asking the Congress to do in order to reduce the financial burden that Medicaid has placed on the States of this Union. That is what this struggle is all about.

The administration wants to stop this nonsense. My colleague from New York, Mr. LENT, will describe some of the shams that are going on. We are ripping off the Federal Government by the States of the Union being required to respond to the financial pressures and mandates that Congress has imposed on them by these mandates.

And the answer is not bless the scam and let it continue; the answer is to reduce the mandates, and the way we reduce the mandates is to consider an amendment on the floor that will achieve that purpose.

We can debate this issue.

But I commend the chairman of the committee, the gentleman from Michigan [Mr. DINGELL], and his colleague, the gentleman from California [Mr. WAXMAN]; they are adroit in the use of the legislative process. If they brought this measure to the floor of the House under title XIX Medicaid, they would know full well my amendment would be in order. They are too smart to do that. They attached this bill to the Technical and Miscellaneous Revenue Act of 1988, and as a result of them using this Technical Act of 1988, my amendment is not in order because it is subject to the imposition of a point of order that it is not germane to that particular bill.

So all I am saying is please vote down this rule. If you have any sense of commitment to save the taxpayers of this country from further driving ourselves into debt, vote "no" on this rule so that some of us will have an opportunity to further debate what is involved.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I am taking this opportunity to address my serious concerns about the proposed regulations which would discontinue Federal matching funds for Medicaid expenditures financed at the State by donations and certain provider taxes. From the reports that I have seen, the proposed regulation would eliminate West Virginia's recently enacted provider tax program. To further dilute the ability of my State to deliver adequate health care services to its citizens is unconscionable. The West Virginia State Legislature, with the leadership of Governor Caperton and House Speaker Chuck Chambers, made some very tough choices in order to protect those who depend on Medicaid. I find it outlandish that the administration would then try to force us to switch horses midstream.

West Virginia, ranks 49th in the Nation in per capita personal income. Additionally, it is in the bottom third of all States in per capita personal health care expenditures. Medicaid serves as the only form of health care for nearly one quarter of a million West Virginians annually. On top of this, according to 1986 data, 16 percent of all West Virginians have no health insurance at all. As a result, providers of health care in my State have increasingly absorbed the cost of uncompensated care. With these numbers in mind, is it any wonder that out of 55 West Virginia counties, 49 counties or parts of counties are designated as medically underserved areas, and 43 counties or parts of counties are designated as primary care, health manpower shortage areas.

With this in mind, it is essential that Congress pass and the Presient sign H.R. 3595, the Medicaid Moratorium Amendments of 1991. This legislation would allow all of the concerned parties to continue their negotiations without the pressure of an arbitrary deadline hanging over them. I hope my colleagues will join me in supporting this important legislation.

Additionally, I would like to bring to your attention the problems with the current negotiations between the National Governors Association and the Health Care Financing Administration on Medicaid reimbursement for donations and provider taxes.

I understand one aspect of the ongoing negotiations would be to place a cap on the percentage of State share derived from provider taxes. West Virginia does not have the revenue base to adequately fund its Medicaid Program, because of burdensome mandated benefits, which have increased the State cost to the point where provider taxes have become an absolute necessity. The cap under consideration by HCFA would unfairly limit West Virginia's ability to raise revenue for Medicaid reimbursement.

Another aspect of the current negotiations is the enactment of a grandfather provision for a State's use of provider taxes. Current dates that are being discussed would protect plans in place before September 1991. Both of these dates would exclude the West Virginia program which was passed by the legislature on October 18, and signed by the Governor on November 1, 1991.

In closing I would like to summarize my concerns about the ongoing negotiations with HCFA as they pertain to the State of West Virginia:

First, the limitations as to taxable activities and degrees of Medicaid participation should be removed;

Second, the Health Care Financing Administration should not prohibit or otherwise restrict the use of intergovernmental transfers;

Third, the upper limit on revenues derived from provider taxes for purposes of Federal financial participation should be no less than 60 percent of the aggregate State share of Medicaid expenditures;

Fourth, these tax programs should be permitted to remain in effect indefinitely and there should be no transition period for the permissible use of excess revenues;

Fifth, remove the limitation on disproportionate share hospital payments;

Sixth, allow States to tax institutional providers, and;

Seventh, adopt a grandfather provision that would exempt plans adopted or approved prior to January 1, 1992.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Speaker, HCFA is attempting to decide by regulation what should be decided by individual States. The HCFA regulations grant broad discretionary authority to the administration to decide what types of taxes will be acceptable in each State. Such a position is not appropriate for an administration which supports a more decentralized government.

Georgia understands that voluntary contributions are no longer allowable, but the State needs a reasonable period of time to change to a new system and a clear signal about what type of system which would be allowed.

These rules clearly violate congressional intent as established in OBRA 90. They are untimely, unfair, and illegal.

The large increases in the cost of the Medicaid Program are not solely due to these programs. They are also a result of increased Federal mandates and a bad economy. In Georgia this year, for example, the recipient caseload increased by 23 percent.

The clarification issued on October 31 by HCFA does not completely address the problem regarding intergovernmental transfers, which almost all States use to some extent. In cases where the unit of Government making the transfer is also a health care provider, the transfer would be disallowed as a voluntary contribution by or on behalf of a health care provider.

The State of Georgia passed a constitutional amendment overwhelmingly by referendum in 1988, to authorize the creation of the voluntary contributions program. A number of constitutional amendments were on the ballot that year, and this was the only one approved. The amendment on the ballot specifically mentioned a program for the purposes of expanding eligibility for the uninsured.

Funds for this program in Georgia go through the appropriations process. The contributions made by providers are put in the State's treasury, and they must be appropriated by the general assembly. The Governor feels that the services therefore come from State spending and that the services are being financed in accord with the intent of Medicaid. They are definitely being financed in accord with the letter of the law in Georgia.

In my opinion, the Medicaid Program is severely flawed. I think we need to look for some other system to provide care for the poor. I think this is an example that we see here today of what could happen in Medicaid and not only put a drain on the Federal Treasury but also the States.

Georgia could lose a total of $250 million in funds, about $95 million of which is contributed by State providers.

Mr. Speaker, I believe we should vote on this rule, and I think we ought to vote on the bill when it comes up for our assessment.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentlewoman from New York for yielding this time to me.

Mr. Speaker, I rise today in support of the rule and H.R. 3595. I do so, in part, because of the compelling picture of our Nation's most vulnerable citizens—low-income children in need of health care—who may well be left unprotected without this bill. I also support H.R. 3595 because of my long-held convictions about how we, the Federal Government, ought to treat the 50 States, as opposed to how we usually do treat them.

But I cannot say the decision to cast this "yea" vote is an easy one for me.

Despite criticisms from both conservatives and liberals, I am one Member who continues to defend last year's budget agreement, and argues that we must resist efforts to break that agreement. I maintain that the agreement's provision on declaring emergencies should be invoked only in the most dire of circumstances. I believe that my record, both on votes and cosponsorships, supports that claim.

For the past several weeks I have participated in an excellent series of Budget Committee caucuses led by Chairman PANETTA. These caucuses have painted the most graphic picture I have yet seen of the complete and catastrophic train wreck our country is rushing toward unless we switch tracks toward fiscal responsibility and away from budget deficits whose interest demands are devouring ever-increasing portions of our GNP.

Next to the growing obesity of interest payments, health care costs place the most serious strain on our Nation's Treasury, and Medicaid is growing faster than any other health program. Medicaid is projected to cost the Federal Government $65 billion in fiscal 1992, up from $41 billion in 1990, and $14 billion in 1980. Sustaining that kind of growth is simply not possible.

With these concerns in mind how can I still support H.R. 3595? There are several reasons.

First, I must question OMB's forthrightness and handling of the scoring this issue. No explanation has been offered for OMB's vastly enlarged estimates over the months of this year. In addition, CBO has scored this legislation as having no effect on Federal Medicaid outlays. Let me state here and now, however, that should this bill be enacted into law and results in increased Federal Medicaid outlays, I believe we must answer that cost either with decreased spending in areas of our own choosing or with a general sequestration.

Second, I support H.R. 3595 because I adamantly insist that we must stop placing mandates on States without providing them the means to meet these mandates. In the Medicaid Program alone, 50 new mandates have been laid on the backs of States during the past 5 years. As a result, Medicaid expenditures have become the second-fastest growing portion of the State budgets. Since provider taxes, intergovernmental transfers and voluntary contributions have given States the ability to meet those Federal mandates, I believe we have no right to hastily remove those funding options from States while leaving the mandates in place.

Third, and in a related vein, the time frame of the regulations is extremely unfair to States. The regulations are set to take effect in the middle of most States' fiscal years, at a time when most State legislatures are out of session. In my own State of Texas, the potential financial shortfall is estimated to be at least $800 million. Obviously, States would need time to adjust to such a severe change in fiscal conditions.

Fourth, I believe HCFA has gone beyond its bounds in the regulation which it has proposed. Under last year's budget reconciliation bill, the administration was given authority to ban voluntary contributions as of January 1, 1992, but virtually all provider taxes were to be permanently allowed. In my opinion, the ambition of the regulation exceeds the statutory authority.

Finally, I am of the opinion that, given time and discussion, some reasonable compromises are possible among HCFA, Congress, the States, and the providers. As I have already indicated, I am most sympathetic to HCFA and OMB's concerns about the increasing potential cost of the Medicaid Program. I, for one, would be happy to see and work toward caps being placed on the percentage of overall State Medicaid contributions which were achieved through provider taxes and/or voluntary contributions. Furthermore, I believe it is possible to more clearly define acceptable and unacceptable State plans so that those operating legitimate plans are not penalized while those States engaged in schemes which Congress never intended and the budget could never sustain are punished. These things are achievable but will take some time, and I believe this 9-month moratorium will secure that necessary time.

I remain less than totally comfortable voting for a bill which designates an emergency for budgeting purposes. Nonetheless, both because I generally place stock in CBO's estimates, which is zero in this case, and because of the additional reasons just outlined, I urge my colleagues to support H.R. 3595.

□ 1700

Mr. McEWEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, on behalf of the Republican leadership and myself I testified before the Committee on Rules yesterday and requested that an amendment be made in order with a waiver of a point of order on germaneness. In short, our request was denied by the Committee on Rules. This is really very regrettable because the Republican amendment could have provided the Members of the House with a much needed alternative to the legislation now before us. Our only alternative now, as I see it, is to vote "no" on this rule.

As my colleagues are no doubt aware, the administration strongly opposes

H.R. 3595 in its present form. As my colleagues may also be aware, the National Governors Association and the administration have been in negotiations for the past several weeks to resolve the problem of provider-specific taxes and the so-called voluntary donations in the Medicaid Program, and they had actually reached a tentative agreement last week which was contained in the amendment which I submitted yesterday to the Committee on Rules.

If the Committee on Rules had granted our request, the Members today could have had a very valuable alternative for consideration. As it is, we have absolutely no alternative at all, despite the problems which H.R. 3595 does not address at all.

So, Mr. Speaker, we are at the threshold of yet another veto, which undoubtedly will be sustained as was the veto which we just sustained a few minutes ago. Let me just give my colleagues an example.

One of the Medicaid directors for 1 of our 50 States made a presentation in April of this year on Medicaid to hundreds of people in Washington at a national health policy forum. In his presentation this medical director talked in a very joking manner about his State's program as a "scheme to get Federal money." He presented a detailed diagram which he distributed and told the audience that this was a case study on how to get 100 percent money for the Medicaid Program. He then said, "This is how we tap the Federal Treasury to finance our Medicaid Program without using any money at all."

Now, Mr. Speaker, there are some people in this Chamber who would like to see the day when Medicaid is 100 percent financed by the Federal Government, and I am sure the gentleman from California [Mr. WAXMAN] who just applauded me is one of those people. But, nonetheless, Medicaid is supposed to be roughly a 50-50 sharing program between the Federal Government and the State government.

Now this particular State apparently was having trouble making Medicaid payment to hospitals. It was faced with a Medicaid shortfall of about $208 million. Under this scheme, which was described in the Financial Times as a "miraculous new Medicaid funding plan," they had the hospitals in this State go out and form a nonprofit corporation. On Monday the corporation went to the hospital and borrowed $365 million from a bank. On Tuesday, the hospital corporation deposited those moneys to the State. On Wednesday that State applied for matching grants and received $385 million, Federal money. On Thursday the State turned around and refunded to the hospital corporation the entire $365 million, which the hospital corporation then used to pay off the bank loan. So, the net result was that this particular State; it happened to be Pennsylvania, got $385 million in Federal money without putting up a single cent of its own money.

So, Mr. Speaker, this is the kind of scheme that is being perpetrated in all of the States. Some of the Members who support this legislation have come forward today say, "Well, you know, this is like the friendly cashier down at the local bank. We discovered he was embezzling, and he has a wonderful wife and kids, and he's supporting his family with embezzled money. We ought to let him continue doing it for—let's give him another year to continue to embezzle."

We have inspectors general in the Medicaid system. The purpose of these inspectors general, which we in the Congress created, is to make sure there are no scams on Medicaid. What these inspectors general have pointed out, is that even the legislators at the State levels who enacted these schemes at first admitted they were scams, and then a little bit of time went by, and they called them schemes. Now they are calling them "financing mechanisms," and they are becoming almost respectable, and, as the gentleman from California [Mr. DANNEMEYER] indicated before. Instead of only nine States being in this scam business, we are now up to 30-some States are perpetrating these scams on the Federal Government.

Now we in Congress are supposed to be the trustees of the Federal Treasury, and yet we let this kind of conduct go on. Let me sum up by saying:

H.R. 3595 specifically allows the States to continue to use these fiscal scams to finance their Medicaid programs for another year. As a matter of fact, even if the HCFA people could work out a solution, it embargoes the HCFA people for an entire year from passing any regulation that would put a stop to this sort of scam, and this bill also contains a waiver to allow the busting of the budget agreement, some $5.5 billion for the coming year.

Mr. Speaker, the administration is going to veto this bill. There is no question about it. We are going to go through with a whole afternoon here of debating this bill. It is going to pass, it is going to be vetoed, and the veto then will be sustained. I say, if we can defeat this rule right at the inception, we can save an awful lot of trouble and perhaps do something much more worthwhile for the people of this country.

Mr. CALLAHAN. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Speaker, I could not agree with the ranking member on my committee more with respect to the scams and with respect to all of the schemes. But let me tell my colleagues that the State of Alabama has not participated in such scams, but we are caught in the middle, and this is the only vehicle we have to get out of the dilemma that we are in.

Mr. Speaker, I say to the gentleman from New York [Mr. LENT], I'll stand by your side, and I'll pass legislation or vote for legislation that will correct the inequities that are existing in the law that permit this type of activity. But on December 1, we in Alabama, unless there is a corrective measure in place, are going to have to notify people in nursing homes that they're going to have to move out of the nursing homes.

☐ 1710

All we are trying to do is pass an interim permissibility of continuation of Medicaid in Alabama without the scams.

Ms. SLAUGHTER of New York. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Speaker, I rise in support of this rule, and I rise in support of H.R. 3595.

I think I am now beginning to see what the President meant by "a thousand points of light." He must have been talking about closing the lights or turning out the lights on over a thousand hospitals across this country. I cannot think of any piece of legislation or any vision the President has given this body that did not make any more sense than this.

Here is a President who comes to us and asks us to vote to eliminate a $6.8 billion debt to Egypt and who asks us to vote for a capital gains tax, and then on the other hand he is looking at closing hundreds and thousands of hospitals across this country. The gentleman just talked about nursing homes in his State of Alabama. In the State of Mississippi every nursing home will be closed there. In my State of Texas it will cost us over $1 billion.

We are talking about health care, health care for senior citizens and health care for children. We are talking about drug treatment programs. Today in this country 98 percent of the drug addicts who finally admit that they have a problem and go to seek help are turned away because the facilities are full.

We are talking about programs for the mentally ill or the mentally retarded. Many of us, when we came to work today in this Capitol, saw people sleeping on the streets, and unfortunately a high percentage of those people are people who are mentally ill. We are talking about a program that was designed to help those people, and here is the President and some Members in this Chamber who feel like those programs are not worthy and they should be eliminated.

Mr. Speaker, I encourage my colleagues to strongly support this rule and to strongly support H.R. 3597.

Mr. McEWEN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, just to reiterate exactly what this bill does, it creates a moratorium on a funding mechanism for States to come up with. What it says is that HCFA, the Health Care Financing Administration, has said that we could help the States by giving them some money for Medicaid, but they will have to put in half and we will put in half.

Well, it took a couple of accountants a short time to realize that if they go out and borrow the money, then they can match them 50-50, and then they will pay the other back and they would have free money. So a couple of States did that. By the beginning of the year, 9 States had done it, by May, 18 States had done it, and now 30 States have done it. Probably by the end of the year all 50 States will have done it.

So it is an effort to say that this really is not the way the system was designed, but we do not want to throw the baby out with the bath water. We do want to do it in a responsible manner, but this is now the third moratorium that takes us up to next August. Some feel it is fair, others think it is unfair. Some of us think we could have done it more rapidly, and others think we could have done it longer, but to say that somehow or another the President of the United States is disingenuous in this relationship is stretching the imagination, in my judgment.

The fault lies in the idea that the States are playing a game, and more power to them. In the State of Ohio we elected a Governor four times because in 1960, when he saw that they needed to come up with a 20-percent match for the Interstate Highway System, he went out, floated a bunch of bonds at 3 percent, put down his 20 percent, and finished the Interstate Highway System before any other State in the Union.

So it is not a new idea. It has been around for a while, but somehow or another we have to make sure we do it in a manner which we can afford and which is fair to all the States and not just have one State doing it and then have the other States feel they are obligated in order to go along.

Mr. Speaker, this is a fair compromise, in my judgment. It does provide the moratorium.

Ms. SLAUGHTER of New York. Mr. Speaker, I reserve the balance of my time.

Mr. McEWEN. Mr. Speaker, I yield such time as he may consume to the ranking member of the Rules Committee, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

I was over in my office, and I was not going to get involved in the debate on this matter. But we all know that we have a serious problem in this country, and it is called a deficit. We have a $3.5 trillion deficit. There is a total of $350 billion which is going to be added to that deficit this year. The debt servicing we have to carry with that kind of a cumulative deficit now runs over $300 billion annually. That is more than the entire defense budget of this country.

I want the Members to know what they are voting on when they vote for this bill. Reading from the inspector general's report, which we discussed up at the Rules Committee a little while ago, the inspector general reports that $497 million in matching funds were requested by nine States. That was back in October 1990. That is a little under $500 million, a half a billion dollars. By May 1991, which is 6 months later, 18 States had requested $2.5 billion. By July 1991, only 2 months after that, 30 States had requested $3.8 billion in Federal funds.

I have heard all the stories that Members are worried about what this does to their States. Well, I ask, what are we doing to this country? Do we realize that 1 year from now, after this moratorium goes into effect, we will have increased the deficit by another $6 billion? We are also declaring an emergency in this bill. We are putting an emergency into effect, thus exempting these costs from the budget agreement.

When are we going to be responsible around here? I have always had great respect for this institution, and for years I opposed all kinds of term limitations. But I am going to say that a couple of months ago, when I saw what has happened around here, I just sort of lost faith in this place. This is no way to do business. We ought to be dealing with this problem right now. If there is a Federal problem, let us finance it and let us take care of it. If we think it is a State problem, we should let them solve it, but we should not do what we are doing here today with this bill.

And as far as term limitations are concerned, I hope the public will seek out the names of Members who keep voting for these budget-busters and throw them out of office. If we cannot be disciplined—if self-discipline doesn't work here in Washington—the voters will have to provide the discipline. If we cannot bite the bullet, the voters should hold us accountable.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, I want to thank the gentleman for coming down. I know that he did not intend to speak on this rule, and I really want to commend him for taking this forthright position.

I just want to add one thing here. I mentioned the one State that phonied up $365 million through hospital charitable contributions to the State and then used that as a basis for getting a $385 million matching grant, and then in turn they refunded the charitable contributions to the various hospitals.

At the time that issue was before the Committee on Energy and Commerce, I asked the counsel, chief counsel for the Energy and Commerce Committee, I said, "Suppose that State, instead of borrowing only $365 million, had borrowed $3 billion; could they have gotten the matching grants from the Federal Government?"

He said, "Oh, yes."

Then I said, "Well, suppose he asked for $30 million and then conjured up $30 billion; would they have been entitled to matching funds then?"

He said, "Oh, yes, that's true." And the inspector general who, after all, is appointed to watch out and be the guardian of the purse strings in our behalf, acknowledged that that was actually the case.

So there is no limit on how much the Federal Treasury could be ravaged under one of these Ponzi schemes that would make Michael Miliken or Ivan Boesky blush with shame. This is one reason why the public is fed up with Members of Congress, because here is an open and shut case where we are being victimized by a Ponzi scheme and are sitting back and allowing it to continue to happen.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, the worst part of it is that 1 year from now we will be 2 weeks within the end of this moratorium, and then we will be trying to make this whole thing permanent. That is just wrong. What the gentleman says is exactly right. In just 9 months we have gone from 9 States which have figured out this scheme up to 30 States. And now after this debate, the other 20 States are going to find out about it. They are going to come in, and we will be hit with about $6 billion in deficit spending; that is wrong.

□ 1720

We ought not to enact this measure. We ought to deal with the real problems.

Mr. Speaker, I am not going to ask for Members to vote against the rule. This is an open rule, and that is what we fight for around here, to have a fair fight. We are getting a fair fight.

Mr. Speaker, I support the rule, but I am opposed to the bill. I hope all Members vote against the bill.

Mr. McEWEN. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 41, not voting 11, as follows:

[Roll No. 404]

YEAS—382

Abercrombie
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Bacchus
Barnard
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—41

Allard
Armey
Baker
Ballenger
Barrett
Burton
Chandler
Crane
Dannemeyer
Dorgan (ND)
Gallegly
Gekas
Grandy
Hancock
Hansen
Herger
Holloway
Hunter
Inhofe
Lagomarsino
Lent
Lightfoot
Livingston
Michel
Penny
Petri
Rohrabacher
Roth
Schaefer
Schiff
Sensenbrenner
Shuster
Smith (IA)
Smith (OR)
Stump
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Young (AK)

NOT VOTING—11

Ackerman
AuCoin
Carr
Fazio
Frank (MA)
Hatcher
Ireland
Levine (CA)
Manton
Mrazek
Scheuer

□ 1741

Mr. COX of California, Mrs. BENTLEY, Mr. DOOLITTLE, and Mr. MOORHEAD changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1790

Mr. FAWELL. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1790.

The SPEAKER pro tempore. (Mr. MFUME). Is there objection to the request of the gentleman from Illinois?

There was no objection.

VACATION OF SPECIAL ORDER AND INSTITUTION OF SPECIAL ORDER

Mr. ROEMER. Mr. Speaker, I ask unanimous consent to vacate my special order of Tuesday, November 19, 1991, and that my time be given to the gentleman from New York [Mr. OWENS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON INTERNATIONAL DEVELOPMENT, FINANCE, TRADE AND MONETARY POLICY OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Subcommittee on International Development, Trade, Finance and Monetary Policy of the Committee on Banking, Finance and Urban Affairs be permitted to hold its scheduled hearing at 10 tomorrow, November 20, 1991, while the House is in the Committee of the Whole under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, we on the minority side would like to have some information as to what is involved in this request.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I have checked with the minority and the minority leader of the committee, et cetera. Basically what we want to do is have a hearing on the role of Japanese banks and the rules relative to Japanese banks compared to what American banks have.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I was not aware of the unanimous-consent request until I just came to the floor. But we are going to have a markup in the full Committee on Banking, Finance and Urban Affairs again starting at 9:30 tomorrow morning. What time is the hearing of the gentlewoman from Ohio?

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. Reserving the right to object, Mr. Speaker, I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, our hearing is at 10 a.m. It is a very, very short hearing and it has been planned for 3 weeks.

Mr. WYLIE. Has this been cleared with our ranking member of the subcommittee?

Ms. OAKAR. Absolutely, yes.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

MEDICAID MORATORIUM AMENDMENTS OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 283 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 3595.

☐ 1745

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source, with Ms. PELOSI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes and the gentleman from New York [Mr. LENT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Madam Chairman, I yield myself 4 minutes.

Madam Chairman, in just 7 short weeks, State budgets and Medicaid Programs will be thrown into chaos—unless we pass the legislation before us today. As the result of regulations issued by the Secretary of Health and Human Services, many States will have no choice but to cut eligibility, cut benefits, and cut provider reimbursement—in some cases, drastically. This would be disastrous for the elderly and disabled and mothers and children who depend on Medicaid for access to basic health or long-term care.

The Medicaid Moratorium Amendments of 1991 would prohibit the Secretary from implementing these regulations until September 30, 1992. This would protect the States and Medicaid beneficiaries on January 1 and would give the Congress and the administration time to work out a permanent solution.

The bill is cosponsored by Mr. GEPHARDT, Mr. DINGELL, myself and 148 other Members on both sides of the aisle. Due to an administrative error, the following Members who had sought to be added as cosponsors were inadvertently not listed: Mr. JEFFERSON, Mr. BILBRAY, Mr. THOMAS from Georgia, Mr. PETERSON from Florida, Mr. SARPALIUS, Mr. HALL from Ohio, and Mr. ANDREWS from Maine. I apologize for this oversight and want to express my appreciation for their support for this legislation.

It has broad bipartisan support, including 9 out of 16 Republicans on the Committee on Energy and Commerce, which reported the bill by a vote of 36–7.

H.R. 3595 is simple and straightforward. On October 31 the Secretary of Health and Human Services published regulations that will deny States the right to use revenues from voluntary contributions, provider-specific taxes and intergovernmental transfers to help pay for their Medicaid Programs. These regulations are effective this coming January 1. According to the Department, a total of 38 States currently rely on either donations or provider-specific taxes to help fund their share of Medicaid.

This bill would impose a moratorium on any action by the Secretary to implement this regulation in order to protect the States and the beneficiaries while the Congress works out a permanent solution.

The bill has four main elements. First, it would prevent the Secretary from implementing the October 31 regulation by extending from December 31, 1991, to September 30, 1992, the current moratorium on the issuance of any regulation changing the treatment of voluntary contributions or provider-specific taxes. The bill also gives States until December 31, 1992, to transition off of a reliance on voluntary contributions, so long as they do not spend more using voluntary contributions than they did during fiscal year 1991.

Second, the bill would impose a permanent moratorium, effective on enactment, on the issuance of any regulation that changes the treatment of intergovernmental transfers as a source of the State share of Medicaid spending. The bill clarifies that transfers made by counties and other units of Government that also provide health care are to be treated as intergovernmental transfers, not as provider donations or taxes.

Third, the bill would prevent the Health Care Financing Administration from doing through administrative processes what it would not be allowed to do by regulation. Specifically, HCFA would be prohibited from reducing Federal Medicaid matching payments to the States through either the estimation or disallowance processes on the grounds that the State expenditures for which the matching funds are claimed are attributable to voluntary contributions, intergovernmental transfers, or provider-specific taxes.

Finally, the bill would require the Secretary to submit to the congressional committees of jurisdiction by no later than February 3, 1992—the date that the President's fiscal year 1993 budget is due—a report describing: First, any regulation the Secretary intends to issue limiting the use of provider-specific taxes; second, the types of provider-specific taxes that would be permissible under such a regulation; and third, any legislation that the Secretary believes is appropriate.

H.R. 3595 would not make any change in the current law treatment of provider-specific taxes as reflected in section 4701 or OBRA '90. It does, however, provide an additional 9 months for the courts to strike down the October 31 regulation as not in conformity with this statutory language.

According to the Congressional Budget Office, this legislation would not result in any increase in Federal Medicaid outlays in fiscal years 1992, 1993, 1994, or 1995.

What many of you may have heard is that the administration and the Governors have reached an agreement that resolves this controversy and makes it unnecessary for Congress to impose this moratorium. That is simply incorrect.

What has happened is that the administration and National Governors' Association staff have negotiated a so-called proposed agreement which was then sent to each Governor for review. Of the 33 Governors who responded to the NGA poll, 22 of them voted to reject the administration proposal, including those from Alabama, Arkansas, Colorado, Florida, Georgia, Hawaii, Kansas, Kentucky, Maryland, Mississippi, New Hampshire, New Jersey, New York, Oklahoma, Pennsylvania, Tennessee, Texas, Washington, West Virginia, and Wisconsin.

As of today, there is no agreement. This morning, the NGA testified on this subject before the Senate Finance Committee. The Governors, and I quote, "strongly urge the committee to consider a moratorium on regulations affecting provider-based taxes and donated funds. This would allow negotiations to proceed without throwing Medicaid Programs and State budgets across the country into chaos." This is, of course, precisely what H.R. 3595 would do.

In addition to the Governors, H.R. 3595 also has the support of the National Conference of State Legislatures, the National Association of Counties, the U.S. Conference of Mayors, the National Association of Manufacturers, and the U.S. Chamber of Commerce, among others.

Why is this bill before the House today? Because, on October 31, the Secretary of HHS issued a regulation that would deny Federal matching funds to States for Medicaid expenditures that are paid for by revenues from donations, provider-specific taxes, or intergovernmental transfers. The regulation would cost the States at least $1 to $1.5 billion in Federal Medicaid matching funds this year alone.

The abrupt loss of such large amounts of Federal funds will leave many States with no practical alternative but to cut back on eligibility, benefits, and reimbursement. For example, the State of Alabama has indicated it will have no choice but to terminate Medicaid eligibility for 10,000 nursing home residents, eliminate all prescription drug coverage, and slash reimbursement to rural disproportionate share hospitals.

The National Governors' Association made the same point in its testimony before the Senate Finance Committee just this morning. I quote:

> As States have suffered the effects of economic downturns in the economy, they have turned to nontraditional revenue sources such as provider taxes to avoid undesirable program cuts and to make important expansions. Without the continued ability to draw on such revenue sources, States will have no option but to make severe program cuts.

There is nothing in the Medicaid statute which authorizes—much less requires—the issuance of this regulation. To the contrary, it is flatly illegal. Two lawsuits have already been filed to block the regulations, one by the State of Alabama, the other by Grady Memorial Hospital in Atlanta. I fully expect that the courts will eventually declare this regulation illegal and enjoin it, but I'm concerned that they may not do so before January 1. To prevent the budgetary and programmatic chaos that would otherwise result, we have to intervene.

The Secretary could put an end to this crisis by simply withdrawing the regulation. In a letter to Secretary Sullivan on October 7, Chairman DINGELL, Chairman PANETTA, Chairman BENTSEN, Chairman SASSER, Chairman RIEGLE, and I urged that the administration withdraw this regulation. We told the Secretary that the regulation "violates congressional intent, as expressed in the Omnibus Budget Reconciliation Act [OBRA] of 1990. With one narrow exception, section 4701 of that act gave States the flexibility to use provider-specific taxes toward their share of Medicaid costs."

Despite these and other requests that the regulation be withdrawn, the administration seems determined to move ahead.

This morning, Dr. Gail Wilensky, the head of the Health Care Financing Administration, testified on this subject before the Senate Finance Committee. She admitted that the October 31 regulation is "potentially disruptive." She also conceded that a legislative change is, in her words, "preferable to the rule taking effect." But she did not put forth a legislative proposal. And she gave no indication that the rule would be withdrawn.

This puts the States and 28 million poor people in an untenable position. The administration will not withdraw regulations that it knows will wreak havoc with State budgets and Medicaid Programs, and it will not come forward with a concrete legislative proposal.

This is no way to run a railroad, much less a health care program that buys basic medical services and long-term care for 28 million low-income mothers, children, disabled, and elderly. And it is certainly ironic behavior from an administration that prides itself on its commitment to federalism and a collegial partnership with the States.

I and the other members of the Committee on Energy and Commerce are ready to review any concrete legislative proposal the administration wishes to offer. I will make every effort to get input from all affected parties—including the public hospitals and children's hospitals—and to expedite its consideration by the Subcommittee on Health and the Environment. I am confident that Chairman DINGELL shares my interest in thoughtful but expeditious consideration of this issue by the full committee.

Until we have a concrete proposal, however, the only thing on the table is the October 31 regulation. That has to be stopped, or we will have chaos on January 1.

You're going to hear from opponents of this bill that States that use voluntary contributions of provider-specific taxes are "raiding the Federal Treasury," that they're running "scams," that they're putting together "schemes" that are "wrong and morally corrupt." This rhetoric is powerful, but it misses the point.

Federal Medicaid matching funds are only available when a State spends money to buy a covered, medically necessary service from a qualified provider on behalf of an eligible poor person. Federal Medicaid funds are simply not available—under current law or under this bill—for the construction of highways or the maintenance of bridges or any other purpose unrelated to the purchase of health care for the poor.

Even the administration will concede this point. As Dr. Wilensky testified before the Senate Finance Committee this morning, and I quote, "We recognize that some States have put the additional funding to good use." But instead of protecting the good and prohibiting the bad, their regulation prohibits the use of virtually all voluntary contribution and provider-specific tax arrangements. In a program that covers over 12 million children, this is truly throwing out the baby with the bathwater.

If the administration is unhappy with current law, I am willing to consider their suggestions for statutory change. However, I am not willing to let them legislate by regulation—which is that they're trying to do with their October 31 rule.

A vote for this moratorium is a vote for a workable, permanent statutory policy that is fair to the States and to the Federal Government.

A moratorium will give Congress the time we need to develop a legislative solution that works.

A moratorium will assure that the administration stays at the bargaining table and comes forward with a concrete proposal of its own.

And a moratorium will protect the States—and the poor—in the event that a satisfactory solution cannot be worked out before we adjourn for this year.

I urge the Members to support this bill.

□ 1750

Mr. LENT. Madam Chairman, I yield myself such time as I shall consume.

Mr. LENT. Madam Chairman, the circumstances surrounding this legislation remind me of an incident which occurred in my district. A trusted cashier at a local bank was caught red-handed, embezzling funds to support his wife and children. Should the law give him another year to continue his practices lest we lower his family's standard of living? Better yet, let us blame the bank for not posting guidelines for proper conduct.

Today, in the real world of Medicaid, it is the States that are ripping off the Federal Treasury right under our noses this year to the tune of $5½ billion, and it is this bill which grants another year's moratorium to permit the scam on our Federal taxpayers to continue.

H.R. 3595 is a deeply flawed bill. Not only does it allow States to use what the inspector general has called fiscal scams to finance their Medicare Program for another year, but in addition it busts the 1990 budget agreement to pay for it.

I strongly oppose the bill, and let me add that the administration has informed me that this bill would be vetoed in its current form.

Now, the bookkeeping devices the States use are called provider taxes and donation programs. They threaten to fundamentally alter the intended funding relationship between Federal and State governments. Without a limit on these evolving State donation and tax programs, we are marching very rapidly toward a fulfillment of a key plank in the liberal platform, namely, a 100-percent federally financed program for Medicaid. And no one who cares about the Federal budget deficit wants that.

Estimates of Federal funds now routinely being demanded by States to match their phony charitable contributions and phony provider taxes illustrate the rapid growth of these programs, and I would simply ask that you refer to this chart. You will see that in October 1990, the inspector general reported that using these scams, $497 million in matching funds was requested by only nine States. By May 1991, 18 States had joined the scam and requested $2.5 billion, or five times the amount requested just over a half year earlier. By July 1991, 30 States using these flimflam schemes had requested $3.8 billion in Federal funds and today HCFA's best estimates are that States will request at least $5.5 billion in fiscal year 1992.

This bill that you are going to be voting upon in just a few minutes, H.R. 3595, not only permits this scheme, but waives the Budget Act so that the check kiting cannot be interrupted.

Now, these numbers are truly disturbing, but even worse is the fact that everyone involved, the Federal Government, the States, and the providers, know that these financing schemes are corrupt, they are wrong, and they are morally improper. It is blue smoke and mirrors masquerading as a valid means of financing health care.

Let me just give you a quote from the Inspector General's Office concerning the uneasiness of participants in these programs. Remember the inspector general? He is the watchdog that we here in Congress created to watch out for Medicaid scammers. From the July 1991, I.G. Report, I quote:

> At first, legislative leaders employing these phony taxes and charitable donations were calling it a scam. They then began calling it a scheme, and now they are referring to it as a funding mechanism.

And you will hear that word used by some of our colleagues on the other side of the aisle.

Madam Chairman and my colleagues, how dumb can we get, deliberately looking the other way while our Treasury is being looted?

Madam Chairman, we can all agree that the States are facing terrible financial troubles. Many of these troubles are admittedly associated with the astronomical growth of the Federal Medicaid Program that we have foisted upon them; however, fiscal manipulations, leveraging agreements, Ponzi schemes which would make Michael Milken, Ivan Boesky, and the sheiks of BCCI blush with shame, are simply not the answer.

Madam Chairman, I cannot support any bill which allows these schemes to continue, and I urge my colleagues to oppose the bill.

Mr. WAXMAN. Madam Chairman, I am pleased to yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the distinguished chairman of the Energy and Commerce Committee.

Mr. DINGELL. Madam Chairman, I rise in strong support of the bill.

The House is considering this legislation today because the administration has created an emergency. That emergency threatens States, health care providers, and the Nation's poor.

The administration created this emergency by promulgating a regulation on October 31, 1991, in contravention of current law. The courts will likely determine that the regulation is illegal; but we do not know when they will act.

The underlying question here is the relative responsibility of different levels of government to finance health care for the poor. But, the immediate issue is whether an ill-conceived—and illegal—regulation should be substituted for a reasoned approach to this complex question. I think it should not.

The virtue of this bill is obvious: It prevents the administration from recklessly implementing regulations that would throw States into chaos. It also permits meaningful negotiations on the underlying question of State financing of health care programs. A long-term solution to this problem is essential—it is as essential as our need to assure that all Americans have access to affordable health care—a matter for which this administration has evidenced sheer apathy.

Most of the crisis that the Congress confronts in health care result from a fragmented and flawed system. This is no exception. In the Committee on Energy and Commerce, which approved this bill by a vote of 36 to 7, critics of this legislation asserted that a better alternative to the bill was to stop requiring States to insure poor children and pregnant women, to stop requiring States to maintain decent standards in nursing homes, and to stop requiring States to pay out of pocket medical costs for elderly poor people. I disagree and I think most Americans would too.

What we need to be debating today, is how this Nation could have sunk so low. How can we seriously be discussing whether a Nation that will soon spend a trillion dollars annually on health care can afford prenatal care or decent treatment for nursing home residents? And how can we tolerate characterizing State efforts to maximize payments for medical and nursing care for the poor as scams or scandals?

Our health care system is ridden with scandal. It is scandalous that 12 million children have no health insurance. It is scandalous that our immunization rates are worse than those in Bulgaria and Brazil and that 60 children died last year from measles in this country. It is scandalous that American babies die in their first year of life at a greater rate than in at least 16 other countries.

Is it really scandalous when States look for new ways to attack and pay for these problems?

Let us turn our collective outrage in a constructive direction. We can fix the immediate problem that brings us here today with time and serious negotiations. But we cannot stop it from reoccurring unless we address ourselves to fundamental reform of our health care system.

□ 1800

Mr. WAXMAN. Madam Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Madam Chairman, I rise in support of H.R. 3595, the Medicaid Moratorium Amendments of 1991. This bill extends through September 30, 1992 a moratorium banning the Health Care Financing Administration from restricting the ability of States to raise funds for the Federal Medicaid match.

Medicaid is a shared responsibility between States and the Federal Government. Many States now use voluntary contributions and provider-specific assessments to qualify for additional Federal Medicaid funds. These options allow them to meet their obligations in providing health care to the poor, elderly, and disabled.

New State mandates and increasing numbers of eligible beneficiaries have placed a great strain on State Medicaid budgets. Administration regulations to restrict the use of these contributions and assessments would hinder the ability of States to meet their health care obligations. If these regulations go into effect, States may have no choice but to cut vital medical services and eliminate people from the Medicaid rolls.

States must retain the flexibility to raise funds to meet health care needs through the Medicaid program. The ability of Missouri hospitals to meet the needs of the poor, elderly and disabled would be drastically affected by the administration's proposed regulations. I urge my colleagues to support this important legislation.

Mr. LENT. Madam Chairman, I yield 4 minutes to the gentleman from California [Mr. DANNEMEYER], the ranking member of the Subcommittee on Health.

Mr. DANNEMEYER. I thank the gentleman for yielding this time to me.

Members, I thought I had seen everything in my 13 years here, but this is a first.

You know, I kid, as I suspect some of you would, in town hall forums, that Congress believes it has the ability to repeal the tide, we can command the Sun to stand still; well, what we are doing in this bill today, we are saying that there is no cost to this measure.

I have specific reference to page 11, lines 9 through 14. This is the ultimate in fiction by an act of Congress. Here is a measure that is going to cost about $5.8 billion in fiscal 1992, but we wipe all of that out. The language in this bill says there is no cost as a result of the adoption of this measure.

Now, that is about as filled with duplicity as I think you can get, but I guess as wonders never cease, if we can add in this fiscal year $480 billion to the national debt of this country, I suppose we can pass a law which says that an increased expenditure of $5.8 billion does not cost anything.

What is the answer how to get out of this mess? I think we should be offering an amendment that is supported by the National Governors' Association. I do not want to say that they have specifically asked me to offer it, but the elements of this amendment that I want to offer today come right out of their recommendations to the Congress.

We should be reducing the Federal mandates on the States, in the way of Medicaid. In other words, we ought to lower the water behind the dam that is causing this flooding around the country, rather than looking for plugs we are going to put in the wall of the dam, which is what this bill does.

Let me tell you how adroit the State of Maryland has become, how fraudulent this program is. They pay physicians in Maryland $18.50 for a Medicaid visit, but they bill the Feds $90. Of course the Feds pay half of that, $45. The State of Maryland gives $18.50 to the medical practitioner and keeps $26.60. Every billing of Medicaid in the State of Maryland is producing additional revenue to the State of Maryland by $26.50.

Now, I suspect the Members from Maryland are probably going to vote for this bill because they will be hearing from their local people to do just that.

Well, that is not the kind of scam that I was sent here to support. I hope that we will vote down this bill.

Let me talk just briefly in the time that I have remaining about the amendment that I would like to offer, which contains the recommendation of the National Governors' Association.

The first one is to delay the implementation of the 1990 round of Medicaid mandates for 2 years. These mandates require States to cover children up to 100 percent of poverty on a phase-in basis and to pay Medicare premiums for certain individuals up 120 percent of poverty. CBO estimated savings from 1992 to 1996: $269 million.

Second, protect States against disallowances for good faith compliance with Medicaid provisions where HCFA has not promulgated a regulation. This would not require States to read HCFA's mind on the specifics of how to comply with Medicaid law if HCFA is required to promulgate a regulation, and has not done so. Some States have attempted, in good faith, to anticipate what HCFA will do and have subsequently had certain actions disallowed for failing to comply with a regulation that was not in existence at the time the State acted. CBO estimated cost from 1992 to 1996: $150 million.

Third, allow the Secretary to waive certain provisions of the 1987 nursing home reforms. The Secretary would be able to waive the nursing home reforms where a State can demonstrate that its own approach provides the same quality of care to nursing home residents. Many States have complained about these reforms, and have argued that they can provide the same quality of care at much less expense. CBO estimated savings from 1992 to 1996: $1,575 million.

Fourth, States would be able to provide only those early periodic screening, diagnosis, and treatment services that are currently offered in the State's program. CBO estimated savings from 1992 to 1996: $330 million.

Total savings from 1992 to 1996: $2.1 billion.

I have heard Mr. DINGELL and Mr. WAXMAN speak eloquently about the need to watch out for the health of the children and the infants and the elderly in America. Who speaks for the taxpayers of this country who put up the money to provide the wherewithal for some in this Chamber to pass out for the benefit of somebody else?

How about the working men and women who get up every day of their lives and go out to work, fight traffic, whatever, raise their children, pay their taxes, pay their bills, who speaks for them here?

I say somebody has to be speaking for these men and women who make this system go, who produce the wealth this Nation has, as well as have concern about the beneficiaries of this program.

Mr. WAXMAN. Madam Chairman, I yield 1 minute to the gentleman from Texas [Mr. FROST].

Mr. FROST. Madam Chairman, I rise in support of H.R. 3595.

Let's be very clear about what the Bush administration is trying to do: they are trying to cut Medicaid spending by regulation. They are trying to do by regulation what they couldn't do by legislation.

If we let them get away with this devious, back-door attempt to cut the Medicaid program, what will the impact be?

In my State, Texas, the most recent estimates indicate the regulations will cost the State $1.15 billion over the next 2 years. Hospitals throughout the State would bear the loss of these matching funds. In my area alone, in Dallas and Tarrant Counties, we stand to lose over $70 million as a result of these regulations. This money would be used to help hospitals partially offset large losses incurred from treating an increasing number of indigent patients.

Madam Chairman, the people that would really be hurt by the Bush administration's regulations are the poor who receive medical services from these hospitals. Most of the people served by Medicaid are either pregnant women, children, or the elderly. These are the people who will bear the brunt of the Bush proposal as States search for ways to make up the loss of Federal funds. The result will almost certainly be deep cuts in eligibility, benefits, and services to the most vulnerable in our society.

Madam Chairman, more than 34 million Americans, including 8 million children, are without health insurance. It's vital that we find ways to improve their access to health care and insure that no American is denied needed health services.

However, the Bush administration is making our task of helping the poor obtain health care more difficult with regulations such as these. I simply do not understand why the Bush administration is going out of its way to severely limit the States' ability to provide health care for these millions of Americans.

I urge my colleagues to put a stop to the administration's bashing of the Medicaid program. Vote "aye" on H.R. 3595.

Mr. LENT. Madam Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Madam Chairman, I rise in support of this bill, to defer implementation of the Health Care Financing Administration's [HCFA's] regulations concerning provider-based taxes, voluntary donations, and intergovernmental transfers. While I have long maintained that our budget deficit is public enemy No. 1, I cannot support this effort by HCFA to balance the budget on the backs of the sick and elderly.

I am advised by the hospital association of my State, that should these regulations move forward, New Jersey could lose more than $225 million in the next year alone, and more than $380 million in the years to come. I remind my colleagues that these are the funds that will provide desperately needed health care to low-income pregnant women, and infants; increase local health planning; and expand the hours of operation for community health centers. In short, these are lifeline programs, and for their participants, the only access to health care available. They are not the programs in which we can allow unelected bureaucrats to make radical budget cuts.

I am further opposed to these regulations because I am gravely concerned that these regulations are overreaching, and go far beyond congressional intent. We all recall the budget debacle of last fall—a budget which I did not, and do not support. Indeed, I maintain that the accord reached by Congress and the administration remains fundamentally flawed. Regardless of that assessment, however, that reconciliation represented a commitment on the part of both bodies to certain good-faith agreements—notably in Medicare and Medicaid funding. The agreements were clear—voluntary contributions would be disallowed, but provider-specific taxes would continue to be treated as legitimate funding mechanisms for the State governments. In its recent rulemakings, HCFA has reneged on that deal.

In putting forth regulations to disallow these revenue plans, HCFA has broadly overreached its authority. Indeed, we can likely expect the courts to strike down these regulations—but with the implementation scheduled for January 1, 1992, we cannot afford to wait for the courts to act. We must take legislative action today.

When we consider the dimensions of the present health care crisis facing America—the growing number of indigent, uninsured, and underinsured; the increase in our aging population; the enormous drain on our health care system of the AIDS and drug abuse epidemics; and the ballooning costs of long-term care; the need to oppose measures as draconian as these is painfully clear. I urge my colleagues to join me in supporting this legislation, act decisively to prohibit HCFA from taking a slash and burn approach to Medicaid, and ensure that we make good on our promises to this society's most vulnerable members. And avoid further cost shifting onto insured Americans. Cost-shifting burdens are already out of control.

Mr. WAXMAN. Madam Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Madam Chairman, I rise in support of H.R. 3595, the Medicaid moratorium amendments. This bill would shut down the administration's effort to rewrite legislation enacted by Congress and the President. Bureaucrats are bullying the States on health care policy. The State of Texas may well lose $800 million in Federal funds—that is one-fifth of the State Medicaid budget—by the end of this year unless Congress enacts this legislation.

Such a loss would have severe consequences. In my home city of Houston, hospitals have found it impossible at times to care for all trauma patients. The receipt of Federal Medicaid funds and a tax increase solved a serious crisis. Losing these funds would mean closing hospital doors to residents or increasing taxes to make up the difference.

Furthermore, Texas Governor Ann Richards would have to call a special session of the Texas Legislature either to cut spending or to raise taxes. The Harris County Hospital District would face a fiscal crisis as bad as the one that just ended. Many more rural hospitals would have to close due to the loss of funding.

Last year, Congress passed legislation last year to protect the kind of plans that the Texas Legislature has enacted. Congress and the administration agreed to permit States to tax providers and use this revenue to meet Federal requirements for Medicaid funding. Such plans are necessary to correct the inequity facing Texas taxpayers.

This inequity exists because taxpayers in Harris County and other Texas counties pay for indigent health care without receiving a fair share of Medicaid funding. Because Texans pay taxes at the county level, the money does not get funneled through the State budget, which would make it easier to meet Federal requirements. This problem has existed for years, and that's one reason why Congress decided to fix the problem last year.

But the administration has reversed its position and now wants to undermine the law enacted by Congress, arguing that the States scam the Medicaid system. This is partly true. Using accounting gimmicks some States misuse Federal funds to satisfy the States' share for Federal matching funds requirements. No one disagrees that this practice should be banned, but the administration has gone far beyond this problem.

The administration is threatening billions of dollars in funding for critical programs. Without these programs, the recent Harris County Hospital District tax rate increase would have to double. Health care coverage for 200,000 Texans is at risk. Pregnant women and infants could lose preventive care that saves expensive health care later in life.

The zealotry of a few bureaucrats has led the administration down the path of extremism. For example, the new regulations would prevent Texas officials from collecting fees from hospitals to pay for health and safety inspections. It is ironic that the administration which claims to favor reducing Federal interference, would intervene so deeply in local affairs.

Just when our country needs a reform of the health care system, the administration would take us one giant step backward. If we want to improve access to health care and hold down costs, the Federal Government cannot undermine its partnership with the States and shirk its fiscal responsibilities. I urge passage of this important legislation.

□ 1810

Mr. WAXMAN. Madam Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Madam Chairman, I am pleased to support H.R. 3595, the Medicaid Moratorium Amendments of 1991.

This bill would assure that States continue for at least a year to receive essential matching payments for Medicaid costs funded with revenues from voluntary contributions and provider-specific taxes. It would permanently prohibit changes in the current policy regarding intergovernmental transfers.

On September 12, 1991, the Health Care Financing Administration published interim final regulations that would severely restrict Federal matching payments to States.

This regulation would create financial chaos for many State Medicaid programs. It is clearly contrary to the letter and spirit of the Medicaid provisions of the 1990 Budget Reconciliation Act.

If implemented, this regulation would be devastating for the Medicaid beneficiaries and health care providers in many States. Many Illinois hospitals which are already vulnerable would be unable to survive.

Because the regulation would take effect in the middle of most States' 1992 fiscal year, Illinois and many other States would have no choice but to cut payments for disproportionate share providers, eliminate important benefits, or restrict eligibility. Numerous hospitals which are on the threshold of insolvency could be forced to close, leaving the State's health care system in a fragile condition.

The State of Illinois acted responsibly in relying on Federal law when it enacted the Provider Assessment Program, and the State, its hospitals, and its economy should not be thrown into disarray because of unwarranted and arbitrary Federal agency decisions.

This is a complicated issue. There should and will be regulations in this area. But the last thing we need is a quick fix.

Both we in the Congress and the States need time to understand what the effect of the proposed changes will be.

That is just what H.R. 3595 would do. This moratorium would allow Congress, working with the administration and the States, to develop a legislative solution that is both feasible and fair.

I urge all of my colleagues to join me in supporting this bill.

Mr. LENT. Madam Chairman, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Madam Chairman and my colleagues, the Medicaid shell games and scams that many States, including my own, have undertaken as a means to come up with additional Federal dollars are wrong and should be rectified.

Now some people have defended these programs as being permitted by last year's budget agreement, but I have a hard time believing that anybody here really intended to open the door to the types of things that have taken place.

The gentleman from New York [Mr. LENT] earlier, under consideration of the rule, outlined the case in Pennsylvania where the director there just laughed at what he was able to do by stealing from the Congress for all practical purposes. A provider tax across the board that goes into a general fund designed to help finance the State's share of Medicaid is one thing. But a provider tax that is collected only to obtain a Federal matching payment and then is rebated back to the provider is something entirely different and cannot be condoned.

Madam Chairman, Congress, it seems to me, has a responsibility to clarify the law in this regard. We have a proposal basically worked out in discussion between the administration and the Governors of the 50 States which would provide such clarification and in a reasonable fashion. Our own Governor, Jim Edgar in Illinois, has supported it. Unfortunately, as we outlined earlier, the Committee on Rules chose not to allow us to offer it because it would have required waiving a point of order on the grounds of germaneness. Madam Chairman, this bill before us simply provides a moratorium on the implementation of the administration's regulations. It does not clarify the law. It does not tell the States what was intended. As a matter of fact, it actually permits the States to expand their scam practices. It is a one-sided moratorium for all practical purposes. It prevents the administration from restricting these practices, but does not prevent the States from expanding them.

So, Madam Chairman, we are going to be without a correction here. We are going to be taken to the cleaner's over and over again.

Now I agree with those Members from States, even my own, who have counted on the funds as part of their budgets. It is a tough thing to vote against. This thing is going to pass overwhelmingly, no question about it. I am just up here raising the argument that what we permit to happen, because we have not got the guts to say no and to clean it up, is going to take us right to the cleaner's time and time again, and to the tune of substantial dollars, not chicken feed. My colleagues know what it is: $5½ billion or more in this one alone. And what are we telling the States to do? Not a doggone thing, and, if we do not tell them to make some changes, believe me they are not going to do it. They will just say, "Hey, just keep it coming, folks. Just keep it coming."

Madam Chairman, some may argue we can address this thing next year. Well, we have to remember that State legislatures meet early in the year. Many finish their business in 60 days. They will have already acted on their budgets before we act on anything around here. So, even if we enacted something, we are going to get requests for another moratorium in order to give the States a chance to enact changes in their 1993 legislative sessions.

Madam Chairman, we are simply delaying the day of reckoning.

Fortunately we have an opportunity to rectify the situation through the motion to recommit that I understand will be offered by the distinguished gentleman from New York [Mr. LENT]. That motion will instruct the committee to develop provisions that clarify the law and report back prior to our adjourning. I urge support of the motion as the only way we can both provide a moratorium and outline for the States exactly what they must do to end these abuses.

Mr. WAXMAN. Madam Chairman, I yield 2½ minutes to the gentleman from Alabama [Mr. HARRIS], a key leader in moving this bill forward.

Mr. HARRIS. Madam Chairman, I thank the gentleman from California [Mr. WAXMAN] for yielding this time to me.

Madam Chairman, this legislation is as crucial as it is necessary. We are here today solely due to the uncaring, uncompromising attitude of the administration when it comes to States rights and medical care for our most vulnerable citizens. Because of the high stakes for those who depend on Medicaid, this legislation is crucial.

Madam Chairman, this whole issue could have been resolved by good-faith negotiations, but good faith has not been shown, and this legislation has become necessary.

Congress never intended to forbid States making their own judgments about how to fund State Medicaid programs. Indeed the choice of how to raise and allocate revenues is the most basic prerogative of any State.

Yet, Madam Chairman, this is exactly what the Darmanian number crunchers at OMB and HCFA are trying to do. They are dictating what type of taxes a State may use to fund these programs. Is this contrary to the intent of Congress? I say to my colleagues, "You bet it is." Is this running roughshod over our sovereign States? I say to my colleagues, "You bet it is." Will it put people out of nursing homes, deny them medicine or a doctor's care? I say to my colleagues, "You bet it will."

Madam Chairman, these people just do not care. For them human suffering does not show up on the bottom line.

Without this legislation my own State will lose 49 percent of its Medicaid funding. We are a poor State suffering from this recession, and the loss of $795 million is simply something we cannot absorb. Thirty-eight other States share this problem. It is clearly national in scope and requires a national response.

Madam Chairman, I urge my colleagues to support this measure which imposes a 1-year moratorium and gives all parties a chance to resolve their differences.

Mr. LENT. Madam Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], a member of the Committee on Energy and Commerce.

Mr. FIELDS. Madam Chairman, I am not particularly pleased with all aspects of this legislation, but I am going to support this bill. I think the debate today is diligence, due diligence, which means working within the rules, within the context of congressional intent.

□ 1820

Texas began its Medicaid program in 1988. We passed our Medicaid funding in three parts, three separate bills, and in each of those bills Texas consulted with HCFA, and then Texas made changes suggested by HCFA. Then HCFA signed off on the Texas legislation. You can imagine the shock when Texas learned that its Medicaid programs would be eliminated and there would be a $1.6 billion loss to our people over a 2-year cycle.

After meeting with health care providers from Texas several months ago, I arranged a meeting with Dr. Wilensky, the Administrator of HCFA, in Senator GRAMM'S office to talk about the problems in Texas and elsewhere, the problems caused by HCFA when HCFA changed the rules. At that meeting Senator GRAMM and I encouraged discussion, agreement, and compromise, to no avail.

At a subsequent Health Care Subcommittee meeting, again I urged discussion, agreement, and compromise, to no avail. So I think it is important for HCFA to be reminded of congressional intent, what the rules were, and what the rules should be, and today, with my vote, I am again encouraging discussion, agreement, and compromise.

Madam Chairman, this issue is too important to do otherwise.

Mr. WAXMAN. Madam Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Madam Chairman, I rise today in support of Mr. WAXMAN'S bill, H.R. 3595, the Medicaid moratorium amendments. H.R. 3595 will impose a freeze on the implementation of dangerous HCFA regulations scheduled to go into effect on January 1, 1992. These regulations will deny Federal matching funds for contributions and provider taxes.

If implemented, these regulations will have a grave impact on my constituents in south Florida. Programs that provide essential Medicaid services to those living between 133 and 185 percent of the poverty level face serious cutbacks. In Florida, 15,000 low-income people may be left without health care coverage if these hazardous regulations go into effect.

Furthermore, programs providing crucial services to at risk pregnant women and their newborns are at stake. These pregnant women could lose some important outreach services such as parental education, nutrition counseling, birthing classes, and home visits. Studies have found time and time again that these critical preventive services can actually save money. Funds are much better spent teaching women about preventive care than struggling to take care of sick infants born to high-risk women.

Madam Chairman, low-income people depend on these Medicaid services. I urge all Members to vote for H.R. 3595 and provide States and the administration time to work out regulations which do not deprive the needy of the programs they so desperately rely on.

Mr. LENT. Madam Chairman, I yield 4 minutes to the gentleman from Florida [Mr. BILIRAKIS], a member of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Madam Chairman, the easy vote today is to support the bill before us. Most members of Congress support the Medicaid Program and want to preserve it. We all know Medicaid is necessary and desperately needed in this country by those who cannot afford to pay for basic health services. In my opinion, government does have a responsibility to take care of individuals who cannot pay for health care.

However, today, it disturbs me to be put in the position. This is not a vote either for or against Medicaid.

Let me set the record straight—I support and will continue to support health programs for the poor. The gentleman from California, Mr. WAXMAN, knows how strongly I have supported medical programs for the poor. However, I do not support questionable activities by States that cost the Federal Government billions of dollars each year and will continue to cost even more money unless these activities are stopped.

As a member of the Health and Environment Subcommittee, I heard HCFA Administrator Gail Wilensky testify about certain States taking advantage of the Medicaid Program. In the past, these States have engaged in unscrupulous activities involving provider specific taxes and voluntary contributions programs regarding State Medicaid programs.

For the past 3 years, HCFA has issued fair warnings to States that these practices were not going to be tolerated. States have known HCFA regulations were coming and in my opinion, they should have been more adequately prepared for the HCFA regulations. Because some States didn't prepare for these changes, they now could face severe budgetary problems.

It can be argued that here it is November and States have not had adequate time to prepare for these budget changes. Mr. Speaker, HCFA Administrator Gail Wilensky has promised members of the Health and Environment Subcommittee on numerous occasions—HCFA is willing to meet with State officials and will extend the deadlines for States that need additional time to plan their State budgets.

Many hold the mistaken idea that the legislation we are considering is going to be a cure-all and will solve States' fiscal problems. Before we vote, I think my colleagues need to ask themselves—why are these States in jeopardy?

I submit to you, they are in jeopardy to a large degree because we in the Congress impose requirements on State Medicaid programs without any consideration for how these programs will be financed. Last year, Congress approved legislation, which was later signed into law, that will eliminate voluntary contributions by the end of this year. I repeat, Congress approved this last year in the Budget Reconciliation Act. Did Members of the House vote for that Act? If they did, they voted to eliminate voluntary contributions as a portion of a State's share.

Madam Chairman, some members of this body may resent the terms "scam" or "scheme." I don't care what term is used—the fact of the matter is, I fear this legislation is going to encourage more and more States to engage in questionable activities. Is that what we really want? I believe all of us have the same intent—to preserve the Medicaid Program and to strengthen it. We want to retain the good of the program; it has provided health care to many who couldn't afford it otherwise, but we do not want to put States in the position where they are doing something that is contrary to the law as we designed it.

Madam Chairman, I did not support last fall's budget act however, those who supported the pay-as-you-go rules of that legislation did so with good reason, and now we are placed in a position where we are supposed to cast a vote contrary to views supported by many Members of both bodies of Congress.

If we want to truly retain and improve Medicaid, let us work together—do not make low-income people pawns in the political process, and quite frankly, I think this is what has been happening since the bill was introduced earlier this fall.

I will oppose this legislation, principally because we created the problem in the first place. We are the architects and now we think we can wave a magic wand and the problem will go away—it won't.

Mr. WAXMAN. Madam Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I rise in very strong support of H.R. 3595, and I congratulate the gentleman from California [Mr. WAXMAN] on his stalwart devotion to duty in bringing this bill forward.

I believe this does not solve the underlying problems of Medicaid or of our health care system but it does provide a moratorium until next September 30, for us to get to that problem. I would like to thank the gentleman from California for the hospitality he showed the Governor of Kentucky, Governor Wilkinson, at the September 30 meeting, in which the Governor suggested how very devastating the loss of this program would be to the State of Kentucky.

Madam Chairman, I include in the RECORD a November 17, 1991 letter from Governor Wilkinson to his fellow Governors in which he says that this deal or this so-called agreement is not a deal and it is not an agreement that is favorable enough to be supported.

Madam Chairman, the text of the letter is as follows:

FRANKFORT, KY, 40601
November 14, 1991.

DEAR GOVERNOR: I am writing to bring you up-to-date on events which have occurred since my September 30 testimony before the House Subcommittee on Health and the Environment on the impact of Medicaid reimbursement rule changes proposed by the Health Care Financing Administration.

HCFA has issued a clarification of its proposed provider tax and donation regulation which the Commonwealth of Kentucky and other sovereign states contend is *patently without legal authority* granted to that agency by the Congress.

In that clarification notice, HCFA announced further plans to toughen the conditions under which state Medicaid programs operate by removing virtually all state decision making with regard to the designation of "disproportionate share" hospitals, i.e., hospitals whose patients include a high ratio of Medicaid-eligible clients.

In Kentucky alone, this would reduce reimbursements to an estimated 60 percent of all hospitals which provide care to the State's 450,000-plus Medicaid-eligible population. Such action would further reduce a state's ability to ensure even the most basic inpatient hospital care for indigent citizens.

On November 1, HCFA's Medicaid Bureau, notified all states of the agency's decision to allow states that believe the regulation will have a negative impact to *apply* for a deferred implementation date of no later than July 1, 1992. Applications must be filed by January 2, 1992.

However, the offer carries no assurance that such a deferral will be granted nor any guarantee that HCFA will not simply wait until July and then sanction states retroactively for its own interpretation of noncompliance.

You should also be aware that the letter goes on to ask states intending to apply for a deferral to notify HCFA of such plans by November 15.

I *firmly* believe this request for a November 15 notification of intent to seek a deferral is nothing less than a continuing campaign by HCFA to short circuit the legislative effort being made.

It is my believe that HCFA hopes to be able to demonstrate to the Congress, prior to any vote on legislation blocking the regulation, that such legislation is unnecessary, claiming that a majority of states have come around to HCFA's way of thinking on the provider taxes and donations issues, and have so indicated their decisions to alter their state plans via the filed deferral notifications.

Please be assured that the Commonwealth of Kentucky remains firm on the legal contention that HCFA has no authority to dictate to a sovereign state government how it may raise state revenues to be used in meeting Medicaid matching funds requirements. This state, and I believe many others of like mind, maintains that this illegal regulation must be stopped by legislation.

Staff of the National Governors Association, HCFA and the Office of Management and Budget have prepared a compromise and have asked all states to express their position by close of business today. It is Kentucky's position that any legislation or regulation which imposes a cap on Medicaid Federal funding or dictates how states can raise revenue for state matching purposes must be opposed.

Congressman Waxman's bill, H.R. 3595 would extend the moratorium on HCFA's proposed regulations until September 30, 1992, and I urge you to contact your Congressional delegation to support this legislation.

Sincerely,

WALLACE G. WILKINSON,
Governor.

Madam Chairman, we must move this bill forward, and the quicker the better, in order to save Medicaid, not just for Kentucky but across the Nation.

Mr. WAXMAN. Madam Chairman, I yield 1½ minutes to the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Madam Chairman, I rise today in support of H.R. 3595, the Medicaid Moratorium Amendments of 1992.

On October 10, 1991, I met with Gail Wilensky, administrator for the Health Care Financing Administration to affirm my opposition to the new regulations that would prohibit States from using taxes from hospitals, nursing homes and their health care providers to generate Federal Medicaid matching funds. In the meeting, I urged Ms. Wilensky to withdraw the ruling, stressing that thousands of my constituents in the Ninth Congressional District, as well as the United States would be affected.

If implemented, the regulations would cut $1.1 billion from Tennessee's $2.3 billion Medicaid budget. The extra money gained from using health provider taxes has allowed Tennessee to raise Medicaid payments enough to get more doctors and hospitals to accept Medicaid patients, thus providing health care to more of the States most needy.

America's health care system is in a crisis. Virtually everyone who has even remote contact with the health care system will agree that it is in need of serious reform. Financing Medicaid through health provider taxes provides just one solution to the growing crises in the health care system. Prohibiting States from using Health provider taxes to generate Federal matching funds would affect 600,000 Tennesseans and add to the problems of providing adequate health care.

The affects would be catastrophic in my home district of Memphis, TN, where a large percentage of the poor depend on the Memphis Regional Medical Center for health care service. If Tennessee were forced to abandon health provider taxes, the Regional Medical Center would lose more than $20 million causing hundreds of indigent individuals to lose health care.

In this drastic stroke, HCFA seeks to deny the use of a legitimate source of revenues and to bring immediate chaos to the Medicaid program and to the lives of countless low income individuals and their families. These regulations will ultimately affect the infants, children, pregnant women, the elderly, and the disabled who rely on Medicaid for their health needs.

During the past few months, HCFA has tried to appease the States by releasing a series of regulations and proposals that would set forth a clearer understanding created by portions of the rules. The first of these, delayed the effective date to July 1992, contingent on the fact that States followed a list of criteria that would assure States the 6-month delay.

On November 12, 1991, the Bush administration and the Nation's Governors Association proposed a compromise that would sharply limit the amount of taxes that States can levy on hospitals and other health care providers to fund the States' share of Medicaid. In Tennessee, about 70 percent of the $2.3 billion spent on Medicaid is paid by the Federal Government and the other 30 percent is paid by the State.

The proposed deal would have allowed States to collect up to only 22 percent of their States share from provider taxes, penalizing some States like Tennessee which rely on these taxes for more than half their States Medicaid budget.

These proposals are not enough. They look good when you see them. But upon further inspection, it is clear that it would still leave thousands of poor individuals out in the cold. This loss of a source of matching funds would shut down the Medicaid Program in Tennessee.

The real health care dilemma confronting Federal and State governments is the lack of a comprehensive solution to health access, long-term care, and health cost containment. It is this dilemma that needs expeditious resolution. The proposed regulation in no way addresses our Nation's real needs. Instead, they selectively thwart what few mechanisms States have available to ensure against the deprivation of health care. The Nation's legislators cannot support regulations that make such mockery of the basic principles of federalism.

I strongly object to the new regulations and ask my colleagues to join me in supporting this piece of legislation.

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Mr. WAXMAN. Madam Chairman, I am pleased to yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Madam Chairman, I would like to congratulate the distinguished gentleman from California [Mr. WAXMAN], the chairman of the Subcommittee on Health and the Environment, for his outstanding leadership on these and other issues.

Madam Chairman, in just 43 days, 43 days from now, on January 1, 1992, one of the cruelest blows that could ever be delivered to the poor of this Nation will be delivered unless we pass the Waxman bill. It is a moratorium. People do not like moratoriums, but we need that breathing space to work out a sensible and fashionable and fair solution to this awesomely complex problem.

Tennessee alone stands to lose $1 billion as a result of this precipitant OMB action. I would agree with many Members on the other side of the aisle: we need to take a fiscally responsible approach. But I would suggest these unclear, illegal OMB regulations are not the way to answer this important public policy question.

Madam Chairman, I would urge Members in an overwhelming vote to support Chairman WAXMAN and send this administration a message.

Mr. WAXMAN. Madam Chairman, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Madam Chairman, in my State of Texas alone, although Texas pays its hospitals only 71 percent of Medicaid, our Medicaid Program has doubled in size twice since 1983, and will double again by 1994. Virtually all of this growth is due to rising caseloads, increased intensity of services, and the uninsured program.

Madam Chairman, my State is being terribly hurt. These States have expected to receive this money, and it has been agreed to. My State alone would lose approximately $1 billion.

Today my Governor, Ann Richards, testified before the Senate Finance Committee. I received messages also from Gov. Bob Bullock and our speaker, Gib Lewis, telling us what a terrible disaster this will be for our State. We had this agreement with the administration.

For HCFA to come in now and reverse its course in the middle of these negotiations, it deprives States of money they have counted on, depended on, and must have. So we must reverse this trend by passing the Waxman bill today.

I rise in strong support of this legislation to help restore to States some budgetary certainty over their Medicaid spending. Some people may see this issue as a budget issue alone, and of course it's impossible to separate out medical care issues from spending. But this particular issue is also about equity for States, and ultimately about the availability of health care for people.

In my State, although Texas pays its hospitals only 71 percent of cost in Medicaid, our Medicaid Program has doubled in size twice since 1983, and will double again by 1994. Virtually all of this growth is due to rising caseloads, increased intensity of services, and growth in the uninsured population.

Despite the efforts of my State—and I know other States have made similar efforts—the administration's proposed rule would cost Texas hospitals that participate in disproportionate share programs more than $1 billion that they rightly expected to receive over the next 2 years for indigent charity health care services. Our distinguished Governor, Ann Richards, today testified before the Senate Finance Committee on the terrible effect this rule would have on Texas—not only the $1 billion in lost funds for the State, but the cutback in services at 110 urban and rural hospitals in our State. Governor Richards, Texas Lt. Gov. Bob Bullock, and Texas House Speaker Gib Lewis are united on the devastating effect this rule would have on our State's health care system.

The Congress has spoken out on this issue repeatedly in the past. Just last year we reached an agreement with the administration during budget negotiations. However, despite this agreement the administration issued interim regulations which would deny Federal matching funds for revenues from voluntary contributions and provider-specific taxes under all circumstances.

The administration did this after States had already completed their regular or special legislative sessions setting budgets to provide funding for their Medicaid Programs. States based their legislative programs on the agreement reached between the Congress and the President. For the administration to change the rules at this point in time is not fair to any State, and is in fact an attempt to balance the deficit on the backs of the indigent and poor and uninsured. It is unfair. We must pass this bill to reverse this action by the administration.

Madam Chairman, I will include for the RECORD an article about Governor Richards.

[From the American Statesman, Nov. 19, 1991]

RICHARDS TO TESTIFY ON MEDICAID FUNDING

(By Bruce Hight)

Gov. Ann Richards will testify before a congressional panel today about proposed changes in Medicaid funding that would cost Texas more than $1 billion over the next two years.

The loss of money would reduce medical care to the poor and could force some hospitals to close, state officials said.

At issue are three "disproportionate share" programs that aid hospitals with unusually large numbers of Medicaid and other indigent patients. The hospitals receive the additional federal funds to defray the cost of treating patients without private health insurance.

If approved, the rule changes would cost Texas hospitals $1.1 billion, and the Texas Department of Human Services $250 million, over the next biennium, state officials said.

The changes would affect about 110 hospitals in Texas, including Brackenridge Hospital in Austin, Central Texas Medical Center in San Marcos, Edgar Davis Memorial Hospital in Luling, Lee Memorial Hospital in Giddings, Smithville Hospital in Smithville, Hillcrest Baptist Medical Center in Waco and Scott & White Hospital in Temple.

Loss of the federal money "would have a very significant impact on these hospitals" and could shut some of them down, said DeAnn Friedholm, who advises Lt. Gov. Bob Bullock on health care issues.

"These dollars that we're talking about are dollars to the hospitals that are in many cases the only place where people can go to get health care if they don't have health insurance," Friedholm said.

"These are not just hospitals that serve Medicaid, and these are not dollars that are tied to people who get Medicaid. These are dollars that go to these hospitals that provide a lot of Medicaid, but they (also) provide a lot of charity care, or uncompensated care. And Texas has the largest uncompensated care load of any state in the country."

Texas and other states have found a way to get the most federal funds out of the programs—to the point that the Bush administration has sought to change the rules. The U.S. Office of Management and Budget has proposed regulations that would alter the way states can raise their matching share of the programs.

Today, the U.S. House of Representatives is scheduled to consider legislation that would block the regulations.

Also, Richards will go to Washington to testify before the Senate Finance Committee, which is holding a hearing on the problem. The committee is chaired by U.S. Sen. Lloyd Bentsen, D-Texas.

Federal lawmakers thought last week they had devised a compromise. But Rafe Greenlee, press secretary to Lt. Gov. Bob Bullock, said the agreement "is wasn't what the states wanted."

On Monday, Friedholm briefed the Legislative Budget Board, led by Bullock and House Speaker Gib Lewis, on the problem.

She said officials with the Office of Management and Budget and the U.S. Department of Health and Human Services were negotiating, but "these negotiations have not resulted in an agreement that adequately protects the Texas programs."

Texas and other states plan to file suit over the regulations on grounds that the Bush administration exceeded its authority in issuing them, Friedholm said.

Mr. WAXMAN. Madam Chairman, I yield 1 minute to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Madam Chairman, I regularly receive letters from my constituents expressing their concern for the inadequacies of the Medicaid Program and their inability to receive quality care. Due to the number of seniors and retirees in Florida, you can imagine how great a burden Medicaid is on the State. However, Florida, like other States, is facing tremendous budgetary shortfalls. Clearly, one of the greatest causes of the budget problem is the amount of pressure from the Federal Government on the States to expand Medicaid services. At the same time the Federal Government is saying provide more, they are going to offer the States less.

Today, I, along with other members of the Florida delegation received a letter from Governor Chiles asking our support for H.R. 3595. He explained the economic situation in Florida and stressed that severe cuts in services were going to be necessary to comply with Florida's balanced budget constitutional requirements. In fact, the Governor was forced to call a special session of the legislature to address this serious budgetary issue.

Already, 30 percent of the budget cuts the Governor has recommended will likely come from health and human services of which Florida's Medicaid Program will bear 70 percent of those reductions. In light of the Health Care Financing Administration's proposal, the Florida Medicaid Program will potentially lose $250 million in Federal matching funds. Clearly, a cost the State of Florida, particularly older and disabled Floridians, cannot pay at this time.

I agree that serious changes need to be made to improve the effectiveness of the Medicaid Program. In addition, I support viable means of reducing our Nation's spiraling health care costs. However, the administration's recommendation will not adequately address the problem and has come at a time when making qualified changes is not possible. Therefore, I will support H.R. 3595 and I urge my colleagues to do so as well.

Mr. LENT. Madam Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, I rise today as a cosponsor of H.R. 3595 to urge my colleagues to support this urgently needed legislation.

Madam Chairman, under current law, the Federal Government and the States have an agreement to share the costs of the Medicaid Program which covers health care for the poor, elderly, and disabled. Many States and health care providers count on the Federal Government to keep its part of the bargain when it comes to Medicaid reimbursement.

In September, however, HCFA decided to change the rules in the middle of the game by issuing regulations to eliminate Federal matching funds for provider-specific taxes and voluntary contributions. Since implementation of these regulations is scheduled to take effect on January 1, HCFA gave Congress, the States, and health care providers only 4 months to come up with a workable solution to this problem.

These groups have been working with HCFA to solve this problem, but time is running out. If these regulations go into effect, providers across the country will lose millions of dollars in Federal matching funds and, as a result, will be forced to compromise on the quality of health care they provide for the poor.

A number of my colleagues have pointed out examples of States abusing the Medicaid reimbursement system. My own State of Minnesota is not one of them. Yet, these regulations punish our providers for the actions of others. I believe that a solution can be worked out, but we need more time.

For these reasons, I urge my colleagues to support this bill and give health care providers a fighting chance to reform the Medicaid system.

Mr. LENT. Madam Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. CALLAHAN], a member of the Committee on Energy and Commerce.

Mr. CALLAHAN. Madam Chairman, I rise today to express my support for H.R. 3595, the Medicaid Moratorium Amendments of 1991, which is being offered by my colleague on the Energy and Commerce Committee, Mr. WAXMAN.

It is not often that I find myself allied with the chairman of the Health and Environment Subcommittee, but I believe this legislation is necessary to stop the Health Care Financing Administration from going ahead with its September 12 interim-final regulations, and its recently promulgated revised proposal that would limit State's use of provider-specific taxes to help finance its share of the Medicaid Program.

Let me first say, that I am not here today to speak on behalf of provider-specific taxes. While some States, like Alabama, have used this financing mechanism to increase and expand Medicaid services to their poor and needy, other States have devised schemes using these taxes that are nothing more than fraudulent manipulations of the law that rob the Federal Treasury. This must be stopped, and I commend HCFA for taking the initiative to curb these practices.

However, I strongly object to this rulemaking and the manner in which it has been put forth.

First, I find it very objectionable that an agency of the Federal Government would try to tell States what taxes they can and cannot legislate.

Second, the time limitation this regulation gives States for compliance is impossible to meet as most State legislatures are no longer in session. For that reason, I believe we must pass H.R. 3595. This bill would give State legislatures until September 30, 1992, to reform their tax structure and find other ways to finance their portions of the Medicaid Program.

Third, and most importantly, Madam Chairman, I object to this regulation because of the devastating impact it will have on the elderly, the pregnant women, and children in the State of Alabama.

Currently, Alabama, like many other States, uses revenues from provider-specific taxes to finance a part of its Medicaid Program. By utilizing these taxes, Alabama has made great strides in improving health care for our most vulnerable citizens. In fact, because of expanded and enhanced maternal and child health care programs, Alabama's infant mortality rate has in 1 year declined from 12.1 deaths per 1,000 births to 10.9.

If HCFA's rule goes into effect and provider-specific taxes are prohibited, Alabama will be require to cut its $1.6 billion Medicaid budget by $795 million—a 49-percent reduction. With almost half of its budget eliminated, the State will have to consider whether or not it is able to afford a Medicaid Program at all.

Madam Chairman, just last year this body included a provision in the Omnibus Budget Reconciliation Act which prohibited HCFA from denying Federal matching payments to States for Medicaid spending financed by provider-specific taxes. I ask then, where does HCFA get its authority to promulgate this regulation? This was certainly not the intent of Congress.

Madam Chairman, I urge my colleagues to join me in supporting H.R. 3595 and protecting our States' Medicaid Programs.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Madam Chairman, I rise in strong support of H.R. 3595, the Medicaid moratorium amendments implementing a moratorium through September 1992 of any regulations issued by the Health Care Financing Administration changing the ability of States to use revenues received from voluntary contributions and provider-specific taxes as part of the State share of Medicaid costs for Federal matching payments.

I am seriously concerned about the implications of HCFA's interim rule on the Medicaid Program in my own State of New Mexico. New Mexico does not currently use provider-specific taxes to help finance its Medicaid Program, but the rule does call into question several practices used now in New Mexico.

New Mexico is a poor State that relies heavily on oil and gas revenues to finance its general fund. The importing of cheap oil from the Middle East and elsewhere in the late seventies and early eighties has had the obvious effect of reducing oil and gas revenues that would otherwise have been generated.

Thus while New Mexico may not be immediately impacted by HCFA's rule, we have considered implementing provider-specific taxes as one mechanism to help finance the State's growing Medicaid Program. Over the last decade and with the effects of the extended recession and the resulting expanded welfare rolls, New Mexico's percentage of single-mother teen births has increased 71 percent compared to a nationwide increase of only 10 percent. New Mexico now ranks 47th among States and the District of Columbia in this category. And while New Mexico reduced its infant mortality rate by 15 percent in the 1980's, we are still ranked 49th in the Nation in infant mortality and child deaths.

The situation has become even more critical as New Mexico is expecting a $5 million shortfall in State Medicaid revenues in this fiscal year. Obviously, the language of OBRA 1990, negotiated and agreed to by HCFA, and allowing the limited use of provider-specific taxes has encouraged not only New Mexico but other States to look at this particular area to meet Medicaid needs. Many States have already enacted provider-specific taxes.

Finally, and more importantly for New Mexico, the interim rule calls into question New Mexico's practice of matching Federal funds with the State's gross receipts tax as well as the transfer of intergovernmental funds from local governments to the State.

Mr. LENT. Madam Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Madam Chairman, I rise today to voice my reluctant support for H.R. 3595.

Madam Chairman, I rise today to voice my reluctant support of H.R. 3595—reluctant because I have difficulty supporting a bill I know will end up costing the Federal Government an additional $5.5 billion in the next year.

On the other hand, I can empathize with the States who have used this loophole to increase their Medicaid budgets so they could provide much-needed services to the poor and elderly. To cut the States off in midstream isn't fair, especially when their Medicaid budgets are already in place for next year and they have no way of making up the Federal dollars they were already counting on.

Therefore, today I will vote for H.R. 3595. However, I want to send a message to the 1992 Kentucky General Assembly and the other States—they will have to come up with a way to round out their Medicaid budgets. They can no longer use gimmicks to increase their Federal match without actually increasing their own contributions. The Federal Government can no longer tolerate or afford this type of interpretation of HCFA rules. The ball is not in their court.

Mr. LENT. Madam Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Madam Chairman, I want to share with my colleagues my support for H.R. 3595.

Established in 1989 with Federal approval, Ohio's provider tax program has helped ensure access to health care services to 1.2 million uninsured Ohioans.

For the past 2 weeks, the National Governors Association has been negotiating with HCFA and OMB to establish new rules that would eliminate abuses in certain programs while protecting the effective ones.

It appears the negotiators have not been able to reach an agreement that would allow for the continuation of these valuable programs. Ohio's program provides vital health care to the working poor, which we cannot afford to lose. These failing negotiations have forced the hand of Congress and left the approval of this legislation as our only alternative.

This legislation is not the final answer to abuses in the Medicaid provider tax program. It is clear that some programs abuse the use of Federal dollars and have expanded beyond the intentions of HCFA.

However, the current rule cuts off funds to States in the middle of their budget cycles. If the Federal Government is going to continue to mandate that States provide access to health care services for the uninsured, then it must also give them the flexibility to establish effective programs.

With current budget constraints in mind, I agree with the need to control Medicaid costs, and I was hopeful that a negotiated resolution would have been possible. This legislation will simply postpone enactment of the rule, giving Congress, the States and HCFA additional time to work out a compromise that allows the continuation of responsible programs.

Considering the many health care programs that do not work, we cannot afford to abolish programs that do work.

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Mr. WAXMAN. Madam Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Madam Chairman, I rise to speak in enthusiastic support for H.R. 3595.

It was my privilege to testify before the House Subcommittee on Health and the Environment a few weeks ago in support of H.R. 3595.

In just 7 weeks, 38 State budgets and Medicaid programs will be thrown into chaos—unless we pass this legislation.

As a result of regulations issued by the Secretary of Health and Human Services, many States, including Kentucky, will have no choice but to cut Medicaid eligibility, cut benefits, and cut provider reimbursement. This would be very harmful to millions of Americans who depend on Medicaid for access to basic health or long-term care.

The four States most adversely affected by this administrative regulation, according to the American Public Welfare Association, are Alabama, Illinois, Tennessee, and Kentucky.

This legislation—the Medicaid Moratorium Amendments of 1991—would prohibit the Secretary from implementing these regulations until September 30, 1992.

If implemented, this regulation would be devastating for Kentucky's Medicaid Program and the health care needs of an estimated 675,000 Kentuckians.

I urge my colleagues to vote "yes" on H.R. 3595.

Mr. LENT. Madam Chairman, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Madam Chairman, I want to commend the committee for bringing the legislation to the floor. This is another example of how we are so badly managing our budget that we must tell HCFA that they have to shave here and there in order to get the money to make our numbers come out right, and then we dishonestly force upon the States budgetary problems that are of our creation and not theirs.

In OBRA 1990, we explicitly told the States that they could proceed for another fiscal year with the same provider assessment programs that they had previously. We wrote that into the law. But here is HCFA ignoring the law, publishing a regulation that prohibits the kind of assessments that we had specifically approved of in our Budget Reconcilation Act.

This HCFA regulation which will take effect if this legislation fails, would cost Illinois $320 million in the first 6 months of the year and, very frankly, would devastate our Illinois budget.

The States are entitled to complete this fiscal year with the provider assessment programs we authorized in OBRA 1990. After next June, however, they must adopt new funding mechanisms. For now we must live up to the promises we made last fall, however painful. It would be unfair and wrong to do otherwise.

I urge the Members to support this legislation.

Mr. LENT. Madam Chairman, I yield the balance of my time to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Madam Chairman, I rise in opposition to this bill, which will allow States to continue to raid the U.S. Treasury to expand their Medicaid programs.

No one likes to vote against Medicaid—including me. But that is how we got into this mess in the first place.

In recent years, Congress has refused to exercise discipline. Instead, we have imposed numerous mandates on the States, expanding Medicaid eligibility to cover thousands of new people. We are well on the road to federalizing the Medicaid Program entirely.

This has been done primarily at the urging of the chairman of the Health Subcommittee, the gentleman from California, who now is trying to be the knight in shining armor and ride to the rescue of the States.

This bill is a budget buster. During the next year, there is no incentive for the States not to spend more and more Federal taxpayer dollars. The gentleman from New York, the ranking member of the full committee, has already shown how much Federal spending has already increased, and how much more it will go up if H.R. 3595 is passed—$5.8 billion in fiscal year 1992. It also busts last year's budget agreement.

Madam Chairman, we cannot have it both ways. It is time that we realize that if we keep mandating to States and we do not sometime stop, they are going to have to go to the people and increase taxes or we are going to have to cut benefits. We cannot have it both ways. We cannot be everything to everyone in this Nation unless we are going to be willing to pay for it. We have got a $400 billion deficit, and here we are going to increase it by another $5.8 billion.

The President has promised to veto this bill. There is no use to continue offering false hopes to States.

It is time that we say that we are going to have to get our House in order. This body faces a choice. We are either going to raise taxes or we are going to quit requiring States to offer more and more and more.

We give no incentives to get off programs. We give no incentives for people to get out of poverty; we merely continue to provide 100-percent benefits.

It is time that we realize the taxpayers of this Nation are fed up. They are fed up with us continuing to dictate to both businesses and States.

I rise in opposition to this bill. As a House we have to discipline ourselves and say, "Enough is enough." We have given extensions time and again. We continue to grow.

State after State that abuses this. It is time that they realize that the Federal Government has got to stop, has got to change its ways.

I hope that the Members of this House will see the need to vote against this bill.

Mr. WAXMAN. Madam Chairman, to close the debate, I yield such time as he may consume to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader of the House.

Mr. GEPHARDT. Madam Chairman, I thank the gentleman for yielding time to me.

Today the House has both an opportunity and an obligation: To stop the administration from acting illegally, throwing dozens of State budgets into disarray, and threatening the health care of millions of our country's most vulnerable people—28 million poor and disabled citizens, half of whom are children.

This rule represents the Bush administration at its worst. An administration that espouses a commitment to federalism writes a rule that would deprive States of their authority to levy taxes and fulfill their obligations under Medicaid law. An administration that boasts that 49 States function under balanced-budget laws writes a rule that would throw all States budgets into chaos.

An administration that gives lip service to health care for children writes a rule that would deny health care to the children most in need of it. Now it is time for Congress to right a wrong: for this is a case study of the gap between promise and performance that has characterized the Bush administration from the moment George Bush pledged to us a kinder, gentler nation.

The legislation we are considering today is simply a moratorium on the implementation of this disastrous rule. It enables the States to continue providing health care under Medicaid as they can today until September 30, 1992, to give Congress, the administration, and the States adequate time to develop a permanent legislative solution. And more time is needed.

This rule has been the subject of much confusion and consternation; it has been modified several times. In recent weeks, the administration has attempted to negotiate a permanent solution with the National Governors Association. Their attempt has failed.

The problems with certain State Medicaid financing mechanisms alleged by HCFA and OMB deserve the attention of Congress. But the problems created by the administration's rule require the attention of Congress—immediately.

If Congress does not stop this rule, the impact will be especially harsh in the midst of the current recession. States—most in perilous financial condition—are attempting to maintain the safety net for the unemployed, whose health care benefits were lost along with their jobs. Now the same people who brought them the recession threaten them with the loss of the health care that Medicaid provides.

My own State of Missouri, like many other States, faces a tremendous challenge. In Missouri, Medicaid covers 25 percent more people now than it did just 4 years ago, and health care costs continue to skyrocket. As a result, State Medicaid costs are rising dramatically, in Missouri and all across the Nation.

On top of this escalating burden, this rule will cost the States billions of dollars in Federal Medicaid matching funds this year alone, denying Federal matching funds for Medicaid expenditures that are paid for by revenues from donations, provider-specific taxes, or intergovernmental transfers.

More important than State budgets, however, are the ultimate victims of this rule. Thousands of pregnant women, children, and disabled individuals will be denied care when the programs they depend on face deep cuts or even cease to exist.

A rule that would have such harmful consequences must be stopped. We must protect the States' ability—and their legal obligation—to finance the delivery of health care to our Nation's most vulnerable citizens against an onslaught by an administration that seems more interested in controlling the actions of the States than in improving the health of the American people.

Mr. STOKES. I rise today in strong support of H.R. 3595, the Medicaid Moratorium Amendments Act of 1991. This bill is the last hope for millions of needy Americans—women, children, the elderly—dependent upon Medicaid for health care.

I commend the leadership of our colleague, HENRY WAXMAN, whose immediate action on this issue gives us an opportunity to prevent an impending crisis. He has worked steadily to negotiate with the administration on the issue of revenue-raising practices to match Federal Medicaid expenditures and, in the absence of a firm resolution, moved to protect our States and those individuals served by Medicaid.

Madam Chairman, there are an estimated 37 million Americans who lack health care insurance, and millions more who are underinsured. Medicaid has served as the Federal-State program to assist poor families who otherwise would also go without care. This program is now the fastest growing portion of State budgets. If the administration's regulations on Medicaid funding rules go into effect, States across the Nation would be faced with greater numbers of individuals to provide uncompensated care.

I am outraged, Madam Chairman, that there is such a lack of sensitivity to our citizens when, as the polls indicate, lack of quality and affordable health care is the one issue with which they are personally concerned. This issue has captured the hue and cry of the American public. It has moved legislators, corporations, labor unions, among others, to demand national health care reform. Yet, despite this crisis, the administration has issued regulations that would further this plight and throw millions more into the ranks of those without health coverage.

Madam Chairman, my own State of Ohio could be severely impacted under the administration's plan. Last year alone, Ohio's hospitals provided more than $600 million in care to persons unable or willing to pay their bills. While it is unclear as to the impact of the negotiated proposal by the administration on the care assurance program, Ohio's program for the uninsured, an approved expansion of this program, scheduled to take effect January 1, 1992, would be eliminated.

At a time when we are faced with a depressed economy, with increasing unemployment, with greater hardships confronting the American public, we need to ensure that we do everything we can to help States meet their commitment to our poor. Thus, I urge my colleagues to support H.R. 3595 and protect our Nation's poor.

Ms. LONG. Madam Chairman, I rise to express my concerns about H.R. 3595, the Medicaid Moratorium Amendments Act.

Like many of my colleagues, I want to ensure that the needs of those least fortunate among us are met—and this legislation could be of assistance in this regard. However, I am concerned about the possibility of a sequestration or an increase in the budget deficit which this legislation may cause.

Madam Chairman, I did not support the Budget Reconciliation Act last year, but I do believe that one of the positive items contained in that measure was a provision which requires an emergency declaration in order to increase spending beyond what was approved as part of the budget agreement. It should not be an easy thing to abrogate the budget deal.

While I understand that passage of this legislation will respond to many important—and some would say emergency-related needs, I am increasingly concerned about the continued use of emergency declarations as a means of bypassing tough choices which could decrease our budget deficit.

Ms. HORN. Madam Chairman, I will vote today in favor of H.R. 3595, the Medicaid Moratorium Amendments of 1991. I urge my colleagues to do the same. I would like to thank Mr. WAXMAN and Majority Leader GEPHARDT for their work on this bill, as well as to commend the leadership of Chairman DINGELL for bringing this important legislation to the floor so quickly.

Action is needed because the Health Care Financing Administration [HCFA] issued a regulation that is completely contrary to both the law and congressional intent. If permitted to go into effect, these rules would have a drastic impact on State budgets in the middle of a fiscal year. These changes could mean a loss of up to $300 million to Missouri in fiscal year 1992. I know continuation of this funding mechanism is vital to Medicaid Programs in many other States as well.

Although HCFA has tried to clarify the issued interim rules, it remains unclear what practices will be permitted to continue. Under these conditions, States do not know how to plan their budgets for the future. All of this hurts the Medicaid Program and many of our most vulnerable citizens.

If implemented, H.R. 3595 would delay changes in the present program. The moratorium would extend to September 30, 1992, for provider-specific taxes and include a transitional period to enable States to phase out voluntary contributions by December 31, 1992. The moratorium for intergovernmental transfers would be permanent. This bill would also require the Secretary of HHS to report to Congress, no later than February 3, 1992, on proposed changes. Most importantly, H.R. 3595 would give more time to develop a fair rule, consistent with OBRA 1990, and protect areas of Medicaid that Congress considers to be basic to the program.

Medicaid is already severely underfunded and lowering States' abilities to raise money for a Federal match will only make it worse. Medicaid serves our most vulnerable citizens. Forcing States to cut costs will deny access to health care for many of them. We need more access to adequate health care, primary and preventive care for the uninsured to reduce the serious or chronic illnesses that require lengthy, high-cost treatment or hospitalization.

Madam Chairman, the question is do we want policies that will hurt millions of children and seniors? I know the answer to that is no. Instead, we should take the time to work with the States and hospitals to develop a fair and balanced way of dealing with this situation.

Mr. MATSUI. Madam Chairman, the delivery of health care in the United States is in dire straits. This proposed rule by the administration will only serve to further limit the care available to low-income Americans.

In California, there are some 6 million people without insurance. The 26 county safety-net hospitals cared for an average of 73 percent of all MediCal and poor, uninsured patients in 1989. Between 1987 and 1991, State general fund expenditures for the MediCal program in California grew from $2.8 to $4.7 billion.

Today, I will vote for the Medicaid Moratorium Amendments of 1991, because I believe the administration bargained in bad faith during last year's budget negotiations. The agreement that was reached was specific in enunciating the manner in which the administration could limit State revenues for Medicaid purposes. The rule issued by the President this fall is in clear violation of this agreement.

This attempt by the administration to limit the types of voluntary contributions and provider-specific taxes as a source of State funds for Medicaid reimbursement purposes is another example of the administration trying to shift onto the States a burden they are not willing to shoulder. What is most disturbing about this rule is the effect it will have on the ability of low-income citizens to obtain health care services. These are people whose access already is limited. In further cutback funds for health care services to low-income women, children, and senior citizens is an affront to this population.

This legislation would stop the implementation of these regulations, the very minimum required at this point in time. This would give Congress an opportunity to reexamine this issue closely and it would delay until next year the implementation of the administration's proposed rules.

I strongly urge my colleagues to vote for this bill. We owe it to our constituents, and to any individual who seeks hospital care, to turn back the administration's attempt to limit the types of revenues a State may use to make up their Medicaid share.

Mr. COSTELLO. Madam Chairman, as we know, the Health Care Financing Administration [HCFA] issued regulations which will curtail States' use of provider taxes to fund Medicaid, effective January 1, 1992. This will have a disastrous effect on many States, including my home State of Illinois.

Each day we hear from constituents who are dissatisfied and frustrated with our Nation's health care system. Frankly, Madam Chairman, I share these feelings. It is unconscionable that, when the United States ranks near the bottom of industrialized nations in adequate health care, the administration demands further cuts in the area of health care. The recent election in Pennsylvania further proves that the American people demand a change. These regulations are a step backward from the positive initiatives the American people want and deserve.

Since the inception of the Medicaid Program, States have had authority to use receipts from provider taxes to fund a portion of their share of the Medicaid partnership. This authority was reaffirmed under last year's budget agreement. A provider tax program is an integral component of many States' Medicaid system. Under existing law, provider tax programs are clearly a legally valid mechanism to maximize the Federal matching funds available.

When the Illinois General Assembly approved its program this year, the legislature took action which was consistent with all Federal laws and regulations. Now, under the administration's direction, HCFA seeks to go back on Federal regulations and deny Illinois' and other States' use of a legitimate source of revenue.

In my own area of southwestern Illinois, these regulations threaten the welfare of an entire community. Currently, there is only one hospital in East St. Louis. St. Mary's Hospital is a small, 100-bed hospital. More than 90 percent of its patients receive public aid: Medicaid, public assistance, or no-pay patients. Under HCFA's regulations, losses to St. Mary's Hospital would be over $2 million annually.

Additionally, HCFA's rules will take effect in the middle of the fiscal year. Such a midyear change would cause fiscal chaos in the States. Under Illinois' constitutional requirement for a balanced budget, Illinois would be in an immediate budget crisis.

States will lose access to vital Federal funding which was the cornerstone of their fiscal year 1992 budget, and hospitals will be forced into receiving even more inadequate payment for services. Since many hospitals, such as St. Mary's which serve significant numbers of Medicaid patients, already face a grim financial future, the worsening of underpayment will force them to discontinue certain needed services or to cease operations altogether. The harshest result, and quite simply the reality, is that accessibility to quality health care for hundreds of thousands of Illinoisans will be in jeopardy.

I would like to commend my colleague, Mr. WAXMAN, for offering H.R. 3595, a bill to delay the administration's restrictive rules until September 30, 1992. I strongly support this legislation. This bill would ensure that Illinois' and other at-risk States' current fiscal year expenditures remain intact.

Madam Chairman, this cannot be a partisan vote. This issue is too important for political favoritism and allegiance to an administration which lacks commitment to health care to take precedence over the welfare of the 27 million low-income Americans who rely on Medicaid.

It has been estimated that six hospitals in Illinois may close in 1992 if additional Medicaid funding is not available. It is more than likely that St. Mary's would be one of those hospitals. Should St. Mary's Hospital be forced to close its doors on the people of East St. Louis, an entire community will be without accessible health care. I urge my colleagues to support H.R. 3595.

Mrs. LLOYD. Madam Chairman, I rise in strong support of H.R. 3595, the Medicaid Moratorium Amendments of 1991. Medicaid as a combined federally and State-financed health program for the Nation's most vulnerable population is in jeopardy. My own State of Tennessee would be particularly hard hit by the proposed regulations. In past years, Tennessee has made some important improvements in Medicaid, especially for pregnant women, children, and senior citizens. Over 800,000 Tennesseans receive their health care through the Medicaid Program. If this program is cut because of the new regulations proposed by the administration, thousands of Tennesseans who depend on Medicaid for their health care needs, many of them cancer patients, will suffer. According to a study conducted by the Southern Governors' Association and the Southern Regional Project on Infant Mortality, not only Tennessee but seven other States in the region stand to lose all or most of their nonmandated Medicaid services. Tennessee alone stands to lose over $1 billion. A cut of this magnitude would be catastrophic to Tennessee's Medicaid Program. I am equally concerned that the many smaller hospitals in Tennessee which depend on Medicaid will be lost without the protection of this bill. Madam Chairman, in my office alone I have received over 1,000 letters from hosptial employees in my congressional district expressing concern that if HCFA's regulations are allowed to go into effect, the cure will surely be fatal. This makes the passage of H.R. 3595 essential. Like many States across the Nation, escalating health care costs have forced the State of Tennessee to look for new ways to pay for Medicaid. Some hospitals are already teetering on the edge. Let's not weaken States' ability to administer the Medicaid Program and force many rural hospitals to close. I find it unconscionable that the administration would even consider denying access to health care to the medically indigent of our States. The collapse of the matching funds will impose dire consequences. I urge my colleagues to support this bill and protect States' use of this practice to supplement Medicaid. The health and well-being of thousands are dependent on it. And please remember, the costs will be higher in the long run.

Mr. MINETA. Madam Chairman, I rise today in strong support of the Medicaid Moratorium Amendments of 1991.

This important legislation blocks implementation of a new Health Care Financing Administration regulation that would deny Federal reimbursements for State Medicaid costs paid for with revenues from voluntary contributions, most provider-specific taxes, and from intergovernmental taxes.

Madam Chairman, if this regulation was allowed to go into effect, it would destroy the Medicaid budgets for many States.

Under ordinary circumstances, States simply cannot do without this Federal funding. But to impose such a drastic cutoff of Federal money during a recession is to invite increased hardship among Medicaid recipients.

States that lose these funds will have no practical choice but to enact cutbacks in eligibility, cutbacks in benefits, and cutbacks in reimbursement. For many States, including my home State of California, these cutbacks will have tragic results.

Women and infants will lose coverage for pre- and post-natal care. Nursing home residents will lose their Medicaid eligibility. Many private and public hospitals that serve a disproportionately high number of Medicaid patients will either cut needed programs or shut their doors altogether, leaving for-profit institutions with the burden of caring for the medically underserved.

Madam Chairman, the Medicaid moratorium amendments do not propose to fix our health care system, although it needs fixing badly. This legislation merely maintains the status quo until further changes can be made through the legislative process.

Preserving health care services for our most needy citizens is of vital importance to all Americans, and that is why I urge my colleagues to support this legislation.

Mr. DICKINSON. Madam Chairman, a new rule issued by the Health Care Financing Administration will restrict the use of State taxes on Medicaid providers, such as hospitals and nursing homes, to increase a State's share of Federal Medicaid matching funds. The new rule will take effect January 1, 1992, eliminating Federal matching funds for State revenues raised by voluntary donations from Medicaid providers.

The HCFA rule would eliminate nearly half of Alabama's $1.6 billion Medicaid budget—about $795 million a year in health care funding for the poor and disabled. Without the money, some 9,000 nursing home patients will be turned out of their facilities, rural health services will be cut back substantially, and children's health care programs will be curtailed.

The rule could literally wipe out Alabama's Medicaid Program if Congress does not rescind the many mandates put upon the States or delay the HCFA rule. States need some breathing room to find alternative methods of funding or they will have no choice but to cut Medicaid services.

Alabama is struggling to meet rising Medicaid costs, but Congress continues to burden the effort with additional mandates. Alabama has put its money to good use and expanded eligiblity, covered additional services, and implemented prevention programs that, over time, will save money.

The people of Alabama cannot afford such a drastic change in fundamental policy. The HCFA rule should be delayed until Congress repeals unnecessary mandates or provides alternative revenue sources for the States.

Mr. WEBER. Madam Chairman, I rise in support of H.R. 3595, legislation placing a moratorium on the rule issued by the Health Care Financing Administration prohibiting matching payments for State medicaid funds generated by taxes on providers.

I recognize that some States have been abusive in designing provider tax and voluntary contribution plans to draw down additional Federal matching dollars. I hoped that a negotiated settlement which included the States and the health care provider community could have been reached to allow responsible State plans to continue while excising abusive plans. In voting for this legislation, I am signaling my hope that negotiations will continue and that this issue can be resolved in a reasonable and timely manner.

Congress has put Minnesota and many states and health care providers in a very difficult position. Since 1984, we have imposed mandates increasing the number of individuals States must cover under their Medicaid Programs. We have also imposed a number of costly regulatory reforms, such as the nursing home reform provisions of the Omnibus Budget Reconciliation Act of 1987. Medicaid expenditures are now swallowing State budgets.

States with balanced budget requirements, such as Minnesota, are forced in response to either reduce funding for other necessary services, raise taxes, and/or hold Medicaid reimbursement rates well below the actual cost of providing care. Low Medicaid rates, in turn, undermine access to care and quality of care for Medicaid beneficiaries.

Minnesota enacted a provider tax to draw in more Federal dollars to improve reimbursement rates and better ensure that Medicaid beneficiaries have access to care and receive quality care. Eliminating the Federal match for the provider tax revenues would cost our State $52 million over the next 18 months.

While all health care providers will be negatively affected by the elimination of the Federal match for funds generated through provider taxes, Minnesota's nursing homes and their residents will be especially hard-hit. Minnesota law prohibits nursing homes from charging private pay patients any more than Medicaid reimbursement rates. This has had the effect of improving access to care and quality of care for nursing home residents covered by Medicaid and means that repealing the match for the enhanced payments the provider tax makes possible will have consequences for all Minnesota nursing home residents, not only those covered by Medicaid.

I recognize that the provider tax is a questionable alternative for addressing the very real problems that States are having in funding their Medicaid Programs. I would note, however, that many of us in Congress were under the impression that while voluntary contributions as a means of drawing down Federal matching dollars would probably be prohibited, provider taxes of modest scope would be allowed to continue. The interim final rule on this issue thus came as a shock to the States and to many of us in Congress.

My commitment to access to high-quality care for Minnesota's medicaid beneficiaries compels me to vote for H.R. 3595.

Mrs. COLLINS of Illinois. Madam Chairman, I rise in strong support of H.R. 3595.

As much as it pains me to say this, Illinois has had a dismal record in the Medicaid Program. It offers notoriously low reimbursement rates and is phenomenally slow to send providers what meager reimbursement it does provide. However, to the credit of the State house and the Governor, when the window of opportunity was opened and a way was shown how to increase the State's Medicaid funds, they seized upon it on good faith. A law was enacted to assess medical providers with a tax, based on their Medicaid revenues, with the proceeds from this special tax going to the State's Medicaid Program.

Then, lo and behold, HCFA changed its mind and decided that these provider assessments would no longer be viable options for a State to use to supplement its Medicaid Program. Not only was the provider assessment deemed inappropriate by HCFA, but to pull the rug completely out from under the States, the ban on provider assessments is set to go into effect right smack in the middle of the State's fiscal year. H.R. 3595 is a balanced and necessary measure that will provide a relief for the States that are caught in HCFA's bait and switch trap.

Now is not the time to ambush States that are trying desperately to deal with an increased load of Medicaid eligible persons and an extremely high demand for services. In Illinois, the money raised via the provider assessments will be used to reach all of the Medicaid eligibles and to increase the abysmally low reimbursement rate. Our Medicaid system is overburdened and the State is trying to find ways to provide services to the millions who are in need of assistance. The effect of the ruling disallowing this program would be devastating to Illinois hospitals which serve disproportionately high volumes of Medicaid clients. In my district, three such hospitals have recently closed and others will be at serious risk if this rule is implemented.

The provider specific tax program is a legitimate way to represent the true costs of health care throughout the State, bring reimbursement rates in line with actual hospital costs and enable the State to balance its budget throughout the fiscal year.

The measure before us is vitrually necessary to prevent financial disaster and chaos in Illinois and other States that have taken advantage of this program. It provides for a moratorium on the implementation of rules affecting the provider-specific taxes until September 30, 1992. In addition, the HHS Secretary would be required to submit to Congress a report describing the rules the agency intends to implement on voluntary contributions and provider assessments.

Recently, we have heard about an agreement between HCFA and the National Governors Association that would render this bill unnecessary. Let me emphatically state that some States may possibly benefit from such an agreement, Illinois would not. The terms of the agreement are vague and would require virtually impossible actions by the State. In the final analysis, HCFA could still declare the State's new program to be in noncompliance and disallow Medicaid reimbursement payments made to the State. The agreement does not address the problems encountered by Illinois and many other States. For this and other reasons, I urge my colleagues to support H.R. 3595.

Mr. BORSKI. Madam Chairman, I rise today in strong support of H.R. 3595, the Medicaid Moritorium Amendments of 1991. As a cosponsor of this legislation, I would like to commend Chairman WAXMAN of the Energy and Commerce Subcommittee on Health and the Environment for bringing this urgent matter to the floor of the House in a timely fashion.

On September 12, the Bush administration issued regulations that threaten disaster for the elderly, disabled, women and children who depend on Medicaid for basic health and long-term care. These regulations would deny Federal matching funds for revenues from voluntary contributions and provider-specific taxes used to finance the State share of Medicaid. These regulations will take effect on January 1, 1992, unless Congress acts now to delay them.

The September 12 regulations violate the agreement between Congress and the President that was included in the Omnibus Budget Reconciliation Act of 1990. This agreement allows the administration to ban, beginning January 1, 1992, Federal matching payments for revenues from voluntary contributions. However, it specifically prohibits the administration from doing the same for revenue generated from provider-specific taxes.

Madam Chairman, if these regulations go into effect as planned, they will result in over $300 million in lost Federal Medicaid funds for Pennsylvania. Every hospital and nursing home in my district and in Pennsylvania will be adversely affected. These regulations threaten to diminish or eliminate services for

Pennsylvania's 1.4 million Medicaid recipients and the hundreds of thousands of unisured who rely on financially sound health care facilities to meet their needs.

Pennsylvania simply cannot assume this additional burden on its own without having to resort to cutting Medicaid services or tightening eligibility. Since January 1990, the number of Pennsylvania eligible for Medicaid has increased by 13 percent. Skyrocketing Medicaid costs, combined with the impact of the recession, have put a severe strain on the Commonwealth's budget and its ability to maintain vital health services.

H.R. 3595 would give Congress and the administration more time to reach a workable solution on this contentious issue. The bill would delay the implementation of the September 12 regulations until September 30, 1992, and would require the administration to report to Congress by February 3, 1992, any legislative recommendations regarding voluntary contributions and provider-specific taxes. This would give Congress, the administration, and health care providers a reasonable opportunity to consider any appropriate changes to current Medicaid financing arrangements.

H.R. 3595 would also give a State until December 31, 1992, to phase out voluntary contribution programs, as long as a State does not spend more from contributions raised in fiscal year 1993 than it does in fiscal year 1991. Furthermore, intergovernmental transfers would be permanently protected from regulatory intrusions.

Madam Chairman, I support H.R. 3595 because it will give States the time they need to adjust to regulatory changes in the Medicaid Program. The bill will keep the Bush administration at the bargaining table and force it to give this issue the attention it deserves. A vote for H.R. 3595 is a vote to avert a catastrophe that our health care providers cannot afford to endure.

Again, I would like to thank Chairman WAXMAN for his fine work on this legislation. As a cosponsor, I urge my colleagues to vote on behalf of our hospitals, nursing homes, and Medicaid patients and to support this much-needed moritorium.

Ms. SNOWE. Madam Chairman, I rise to express my strong support for H.R. 3595, which would place a moratorium on the implementation of the Health Care Financing Administration's [HCFA's] attempt to disrupt the ability of the States to run their Medicaid programs.

We here in Congress are more than willing to tell States how to run their programs, who should be covered and what benefits they should get, but we aren't willing to provide the necessary funds to carry them out. We leave that issue up to the States. Therefore, 21 States now use voluntary contributions and 27 States use provider-specific taxes to ensure they have sufficient funds to meet Federal Medicaid mandates.

In my State of Maine, Medicaid costs have doubled since 1986 and there has been an 18-percent increase in the number of people eligible for the program. Due to this increase the State, in order to ensure adequate funding for Medicaid, adopted a provider-specific tax in its recent biannual budget after close consultation with HCFA.

Today, 30 States, Maine included, are facing tough budget decisions because of the recession. If we allow HCFA's rule to take effect on January 1, State legislatures will have to reconvene to decide where to cut bare boned budgets to cover the loss of Medicaid funds. These difficult decisions will be made because, unlike the Federal Government, most States—39 in fact—have balanced budget clauses that require them to spend only the money they have.

The individual State's ability to stay afloat is perilous enough in these tough economic times; we cannot let HCFA weigh down the ship of State any further by changing the rules in the middle of the stream. I urge my colleagues to join me, therefore, in passing H.R. 3595.

Mr. ATKINS. Madam Chairman, last summer, Massachusetts' Gov. William Weld announced a $489 million increase in Medicaid reimbursements for uncompensated care from the Health Care Financed Administration [HCFA]. These funds were found through a Federal law passed in November 1990 which made it possible to increase Federal matching funds through provider taxes and voluntary contributions from hospitals throughout the State.

Madam Chairman, although the process of using provider taxes for revenue is by no means ideal, these voluntary contributions and provider taxes have enabled the State to retain many programs which would have otherwise been cut as a result of the recession.

The President's advisors have called these efforts to raise more Medicaid funds a scam, and have penned new regulations that would disallow matching Federal funds for voluntary contributions and provider taxes. H.R. 3595 bars the administration from doing so until October 1992.

Frankly, Madam Chairman, these are times of great economic uncertainty throughout New England. Our overburdened hospitals, even with this program which helps us to meet our existing Medicaid commitments, are still underfunded by HCFA. I will support any efforts to help meet our Medicaid obligations so that our citizens can provide for their medical needs in these hard times. H.R. 3595 is one such effort. Madam Chairman, I thank my colleagues from Massachusetts, Representative GERRY STUDDS and Representative BARNEY FRANK, for their leadership on this issue; and I urge all of my colleagues in the House to join me in passing this important piece of legislation.

Mr. COX of Illinois. Madam Chairman, I would like to express my strong support for H.R. 3595, the Medicaid Moratorium Amendments of 1991. I am a cosponsor of this bill, which is critical for the continuation and development of health care services to Medicaid patients across the country. This bill is the lifeline to Illinois' extensive Medicaid Program that serves so many citizens who depend on their continued access to providers.

This past summer, my home State of Illinois enacted a provider assessment program to give hospitals, nursing homes, long-term care facilities and community mental health centers rate increases. This program also gives special payments to hospitals that serve high numbers Medicaid patients. Without Federal matching funds for the new Illinois program, the State would face the prospect of significant reductions in its Medicaid budget.

The removal of this provider assessment program could result in severe reductions for Illinois' Medicaid budget. Without Federal matching funds for the new Illinois program, the State could face a loss of $320 million this fiscal year. Further, if the State attempts to continue its extensive services, the program could face a 5-percent across-the-board cut.

In order for Illinois to maintain its broad-based Medicaid Program, it must be given the ability to decide how to raise the revenue for this program. The Health Care Financing Administration's September 12, 1991, regulation would deny States the flexibility to finance their own Medicaid programs which provide critical health care to so many citizens in need.

H.R. 3595 secures the right of States to establish a tax base for financing their own programs. This bill also provides the key to ensuring that vital health care services continue to reach the many Americans who depend on the Medicaid Program. It is for these reasons that I stand in support of H.R. 3595.

Mr. POSHARD. Madam Chairman, I rise in strong support of H.R. 3595, the Medicaid Moratorium Amendments of 1991.

Passing this measure will delay issuance of administration regulations that significantly change the treatment of voluntary contributions and provider-specific taxes by States as a source of their expenditures for which Federal financial participation is available under the Medicaid program.

My southern Illinois district is a rural area already pressured by limited health care access. Without this legislation, our hospitals and health care facilities will be especially hard hit. Implementation of the Department of Health and Human Services September 12 ruling would result in drastic reductions of medical care for a substantial part of our population. It would have specifically defeating impact on those with low incomes, the aged and disabled, pregnant women, children, and all who depend on primary-care clinics, the very people who lack for proper medical attention.

At a time when State Medicaid budgets are stretched to the limits, with Federal mandates to cover new populations and services, and thousands of families falling below the poverty level every year, every legitimate means of revenue enhancement for this Federal/State health care program is needed. To illustrate this need, Illinois Medicaid providers are today waiting over 100 days for reimbursement of over $700 million worth of backlogged Medicaid claims. If the HHS rule is enforced as proposed in January 1992, this crisis will only increase, with little hope of resolution in the future.

The HHS rule prohibiting Federal matching funds for voluntary donations and provider-specific taxes can only be viewed as another step by the administration to avoid recognition of the tremendous problems facing millions of American families. They are attempting to cope with a failing economy, and our failure to act today will result in further disenfranchisement of our poorest citizens, who most often through no fault of their own must depend on the Government to receive medical care they rightly deserve as Americans.

Madam Chairman, I cannot urge strongly enough passage of H.R. 3595, so that at least there will be an opportunity to develop a reasonable and long-term resolution to the distressing dilemma of Medicaid reimbursement.

Mr. ENGEL. Mr. Speaker, I rise today in support of the override of the President's veto of H.R. 2707. I find it appalling that we even have to debate this issue once more.The administration is trying to simplify this bill into one, lone issue—whether or not federally funded family planning clinics may provide information about abortions to women who inquire about all their legal options.

Every person has a right to full medical knowledge whether or not they are able to afford a private doctor, or must use a public family planning clinic. It is very difficult for a woman to be faced with such a difficult choice, but she must be allowed to make an educated decision about all of her legal options. The Congress, the Supreme Court, and the President do not have the right to interfere with the relationship between a doctor and his/her patient.

This legislation is about more than abortion, a woman's constitutional right to choose, and a doctor's right to free speech. It's about more than an individual's right to privacy and a poor woman's access to affordable, legal medical care. These issues should not even have to be debated. They are basic rights of every American citizen.

But we must not allow one emotional issue to cloud the whole picture. This legislation is about job training programs, AIDS research, health care for the homeless, Medicaid and Medicare, student financial aid, school improvement programs, cancer research, and child care. It is about $204.9 billion worth of vital social and scientific programs.

I urge my colleagues to override the President's veto. We cannot allow one man to deny women their basic reproductive rights. We cannot allow one man to deny the American people their constitutional right to fundamental Government programs.

□ 1850

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 3595 is as follows:

H.R. 3595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Moratorium Amendments of 1991".

SEC. 2. FINDINGS; PURPOSES.

(a) Findings.—Congress finds the following:

(1) In the Omnibus Budget Reconciliation Act of 1990, Congress extended until December 31, 1991, a moratorium that prohibits the Secretary of Health and Human Services from changing the treatment of voluntary contributions and provider specific taxes by States as a source of a State's share of Federal financial participation under the medicaid program. Congress expressed no intention to change the treatment of intergovernmental transfers as such a source.

(2) In OBRA '90, Congress amended title XIX of the Social Security Act to permit the Secretary (upon the expiration of such moratorium) to deny or limit payments under the medicaid program to States for expenditures attributable to taxes imposed with respect to the provision of items and services under the program only if, in the case of certain facilities reimbursed on a cost basis, such expenditures were for costs attributable to taxes imposed solely with respect to such facilities.

(3) On September 12, 1991, the Secretary published an interim final regulation purporting to implement the provisions in OBRA '90. Such interim final regulation—

(A) proposes restrictions on the use of State revenues attributable to provider-specific taxes that go far beyond the limited exception to the Secretary's authority to impose restrictions on the use of such revenues amendments made by OBRA '90;

(B) may have the effect of denying Federal matching payments for expenditures under the program that are attributable to intergovernmental transfers, an outcome that was never intended by Congress when it enacted OBRA '90; and

(C) does not provide adequate guidance to the States with respect to which specific types of provider-specific taxes may be used as a source of a State's expenditures for which Federal financial participation is available.

(4) The Secretary intends to republish this interim final regulation as a final regulation on or about January 1, 1992, effective as of the date of republication. States enacted budgets for State fiscal years which began before the date of publication of the interim final regulation, in anticipation of an appropriate interpretation of the provisions of OBRA '90.

(5) Because of the unanticipated financial impact of such a regulation in the middle of State fiscal years, many States will be required to enact emergency legislation or to take other emergency measures, including reductions in eligibility, benefits, or reimbursement under their medicaid plans, in order to continue to assure that previously enacted State budgets remain balanced.

(6) The Federal Government should not take unilateral administrative actions that have the practical effect of prohibiting States from using State and local taxes to pay for covered services on behalf of eligible individuals under the medicaid program.

(b) Purposes.—The purposes of this Act are—

(1) to delay the issuance of regulations changing the treatment under the medicaid program of voluntary contributions and provider-specific taxes in order (A) to avoid disruptions in State budgets during the middle of State fiscal years and (B) to provide the Secretary of Health and Human Services with additional time to issue regulations that conform to OBRA '90;

(2) to maintain current regulations that permit Federal financial participation under the medicaid program or intergovernmental transfers; and

(3) to provide Congress with information in order to enact legislation to maintain Federal financial participation under the medicaid program for State revenues generated by legitimate voluntary contributions.

SEC. 3. USE OF VOLUNTARY CONTRIBUTIONS, PROVIDER-SPECIFIC TAXES, AND INTERGOVERNMENTAL TRANSFERS BY STATES TO RECEIVE FEDERAL MATCHING FUNDS UNDER MEDICAID.

(A) Delay in Changes in Regulations Concerning Voluntary Contributions and Provider-Specific Taxes.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 is amended.

(1) in the heading by striking "Final"; and

(2) by in striking "any final regulation prior to December 31, 1991" and inserting "any regulation prior to September 30".

(b) Maintaining Treatment of Intergovernmental Transfers.—Such section is further amended—

(1) by inserting "(a) In General.—" before "The Secretary", and

(2) by adding at the end the following new subsection:

"(b) Maintaining Treatment of Intergovernmental Transfers.—Secretary shall not issue any regulation that changes the treatment (specified in section 433.45(a) of title 42, Code of Federal Regulations) of public funds as a source of State share of financial participation under title XIX of the Social Security Act.

(c) Transition for Voluntary Contributions.—Such section is further amended by adding at the end the following new subsections:

"(c) Transaction.—Any regulation that changes the treatment of voluntary contributions utilized by States to receive Federal matchings funds under title XIX of the Social Security Act shall not apply to voluntary contributions made before January 1, 1993, except that, with respect to a State, the amount of Federal financial participation during fiscal year 1993 that results from the State's use of voluntary contributions under such title may not exceed the amount of Federal financial participation during fiscal year 1991 that resulted from the State's use of voluntary contributions.".

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4. REPORT.

By not later than February 3, 1992, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report describing—

(1) any regulation the Secretary intends to issue to limit the use of voluntary contributions and provider-specific taxes to obtain Federal financial participation (including any regulation to implement section 1903(i)(10) of the Social Security Act);

(2) the specific types of voluntary contributions and provider-specific taxes that may be used under the regulation as sources of a State's expenditures for which Federal financial participation is available; and

(3) any legislation that the Secretary believes is appropriate.

SEC. 5. BUDGET COMPLIANCE PROVISIONS.

(A) Cost Estimate.—The applicable cost estimate of this Act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows: For each of fiscal years 1991 through 1995, the increase in outlays is 0 and the increase in receipts is 0.

(b) Treatment Under Pay-As-You-Go Procedures.—Notwithstanding subsection (a)—

(1) the provisions of (and amendments made by) this Act shall be treated as provisions designated as emergency requirements by the President and Congress under section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, and

(2) any amount of new budget authority or outlays resulting from the provisions (and amendments made by) this Act shall not be considered for any purposes under the Balanced Budget and Emergency Deficit Control Act of 1985.

The CHAIRMAN. Consideration of all amendments to the bill shall not exceed 3 hours.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. WAXMAN. Madam Chairman, I ask unanimous consent that the committee amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 3, beginning line 7, strike "and provide-specific taxes".

Page 3, strike line 13 through line 22, and insert the following:

(2) In OBRA'90, Congress amended title XIX of the Social Security Act to prohibit the Secretary from denying or limiting Federal financial participation under the medicaid program to States for expenditures attributable to provider-specific taxes, except that the Secretary is permitted to deny or limit Federal financial participation if, in the case of certain facilities reimbursed on a cost basis, such expenditures are for costs attributable to taxes imposed solely with respect to such facilities.

Page 4, line 8, insert before "an interim" the following: "(and on October 31, 1991, withdrew, canceled, and republished)".

Page 4, beginning line 13, strike "the limited" and all that follows through "such revenues" and insert the following: "the Secretary's authority to impose such restrictions".

Page 7, line 3, strike "September 30" and insert "October 1".

Page 7, line 15, strike "Act." and insert the following: "Act, including the treatment of such funds as a source of State share of financial participation under such title regardless of whether the public agency contributing the funds provides services under the State plan under such title.".

Page 7, line 23, strike "TRANSACTION" and insert "TRANSITION".

Page 8, strike lines 10 through 12 and insert the following:

(d) MORATORIUM ON REVISIONS OF ESTIMATED AMOUNTS.—Such section is further amended by adding at the end the following new subsection:

"(d) MORATORIUM ON REVISIONS OF ESTIMATED AMOUNTS.—

(1) IN GENERAL.—In estimating the amount to which a State will be entitled for a quarter under subsections (a) and (b) of section 1903 of the Social Security Act under section 1903(d)(1) of such Act, the Secretary may not withhold any amounts estimated to be expanded during the quarter (or reduce any amount so estimated pursuant to section 1903(d)92)(A) of such Act) solely because the amounts are attributable to voluntary contributions, intergovernmental transfers, or provider-taxes.

(2) PERIOD OF APPLICABILITY.—Paragraph (1) shall apply—

(A) in the case of amounts attributable to intergovernmental transfers or provider-paid taxes, with respect to quarters beginning on or after January 1, 1992, and ending on or before September 30, 1992; and

(B) in the case of amounts attributable to voluntary contributions, with respect to quarters beginning on or after January 1, 1992, and ending on or before December 31, 1992.".

(e) MORATORIUM ON PENALTIES AND OTHER REGULATORY ACTIONS.—Such section is further amended by adding at the end the following new subsection:

"(e) MORATORIUM ON PENALTIES AND OTHER REGULATORY ACTIONS.—

"(a) IN GENERAL.—The Secretary may not assess a penalty or take any compliance, disallowance, or other regulatory action against a State under or pursuant to title XIX of the Social Security Act on the basis of the State's use of voluntary contributions, intergovernmental transfers, or taxes (Whether or not of general applicability) paid by, assessed against, or received from an individual or entity providing medical assistance under the State plan under such title to receive Federal matching funds under such title.

"(2) PERIOD OF APPLICABILITY.—Paragraph (1) shall apply with respect to actions taken by the Secretary—

"(A) on the basis of a State's use of intergovernmental transfers or taxes during the period beginning on or after January 1, 1992, and ending on or before September 30, 1992; and

"(B) on the basis of a State's use of voluntary contributions during the period beginning on or after January 1, 1992, and ending on or before December 31, 1992".

Mr. WAXMAN (during the reading). Madam Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DANNEMEYER. Madam Chairman, reserving the right to object, would the gentleman explain what he means by committee amendments?

Mr. WAXMAN. Madam Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. WAXMAN. Madam Chairman, these are amendments adopted by the committee which must be adopted by this Committee on the Whole. The amendments that would be considered en bloc would be to put the bill before us as it was reported from the Committee on Energy and Commerce.

Mr. DANNEMEYER. Further reserving the right to object, would the adoption of these amendments have an effect upon the amendment that I seek to offer relating to reducing the Federal mandates on the States by Medicaid?

Mr. WAXMAN. The gentleman would not be affected by this action. He may be affected by the rules of the House.

Mr. DANNEMEYER. That is an interesting response.

Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Madam Chairman, I offer an amendment.

Mr. WAXMAN. Madam Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from California reserves a point of order on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER:

SEC. 6. 2-YEAR DELAY IN CERTAIN STATE MEDICAID MANDATES.

(a) PHASED-IN EXTENSION OF MEDICAID PAYMENTS FOR MEDICARE PREMIUMS FOR CERTAIN INDIVIDUALS WITH INCOME BELOW 120 PERCENT OF THE OFFICIAL POVERTY LINE.—Section 1902(a)(10)(E)(iii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iii)), as added by section 4501(b)(3) of the Omnibus Budget Reconciliation Act of 1990, is amended by striking "1993 and 1994" and "1995" and inserting "1995 and 1996 (and, at a State's option, in 1993, in 1994, or in both)" and "1997 (and, at a State's option, in 1995, in 1996, or in both)", respectively.

(b) PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.—Section 4601(b) of the Omnibus Budget Reconciliation Act of 1990 is amended—

(1) in paragraph (1), by striking "July 1, 1991" and inserting "July 1, 1993", and

(2) by amending paragraph (2) to read as follows:

"(2) A State plan for medical assistance under title XIX of the Social Security Act may provide for implementation of the amendments made by this section for any calendar quarter beginning before July 1, 1993, but not before July 1, 1991.".

(c) MANDATORY USE OF OUTREACH LOCATIONS OTHER THAN WELFARE OFFICES.—Section 4602(b) of the Omnibus Budget Reconciliation Act of 1990 is amended by striking "July 1, 1991" and inserting "July 1, 1993".

(d) ADJUSTMENT IN PAYMENT FOR HOSPITAL SERVICES FURNISHED TO LOW-INCOME CHILDREN UNDER THE AGE OF 6 YEARS.—Section 4604(d)(1) of the Omnibus budget Reconciliation Act of 1990 is amended by striking "July 1, 1991" and inserting "July 1, 1993".

SEC. 7. PROTECTION AGAINST DISALLOWANCES FOR GOOD FAITH COMPLIANCE WITH REQUIREMENTS.

(a) IN GENERAL.—Section 1904 of the Social Security Act (42 U.S.C. 1396c) is amended—

(1) by inserting "(a)" after "1904.", and

(2) by adding at the end the following new subsection:

"(b)(1) The Secretary may not take any action against a State under subsection (a) or under section 1116 with respect to a State's failure to comply with a requirement of this title, for actions or inactions occurring before the date a final regulation to carry out such requirement has been promulgated, if—

"(A) the State has complied in good faith with such requirement, or

"(B) the State has not complied with such requirement and a regulation is required in order for the State to implement properly the requirement. Subparagraph (B) shall be applied without regard to whether or not a provision of law states the requirement takes effect without regard to the timely promulgation of regulations.

"(2) Within 60 days of the date of the enactment of any Act which has the effect of changing any requirements for States under this title, the Secretary shall provide, by notice in the Federal Register, a statement as to whether or not, with respect to each such requirement, a regulation is needed in order for States to implement properly such requirement.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to disallowances taken on or after such date, regardless or whether or not the action (or inaction) giving rise to the disallowance occurred before, on, or after such date.

SEC. 8. AUTHORIZING WAIVER OF NURSING HOME REFORM REQUIREMENTS.

The Secretary of Health and Human Services may waive specified requirements of subsections (b) through (e) of section 1919 of the Social Security Act with respect to nursing facilities located in a State if the State provides assurances satisfactory to the Secretary (including, if appropriate, the implementation of an alternative State program) that the waiver of such requirements will not adversely affect the quality of life of the residents in such facilities.

SEC. 9. MODIFICATION OF REQUIREMENTS RELATING TO PROVISIONS OF EPSDT SERVICES.

(a) FLEXIBILITY IN THE USE OF PROVIDERS.—Section 1905(r) of the Social Security Act (42 U.S.C. 1396d(r)) is amended, in the sentence following paragraph (5)—

(1) by striking "as limiting" and inserting "as preventing a State from limiting", and

(2) by striking "or as preventing a provider" and all that follows up to the period at the end of the sentence.

(b) LIMITING REQUIRED FOLLOW-UP TREATMENT SERVICES.—Section 1905(r)(5) of such Act is amended by striking "whether or not such services are covered under the State plan" and inserting "if such services are otherwise covered under the State or (at the option of the State) whether or not such services are so covered".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1990.

Mr. WAXMAN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

POINT OF ORDER

Mr. WAXMAN. Madam Chairman, I do make a point of order on this amendment.

The CHAIRMAN. Does the gentleman reserve a point of order?

Mr. WAXMAN. No, Madam Chairman, I assert a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WAXMAN. Madam Chairman, the amendment is not germane to the bill that is before us. It is broader in scope than the bill that is before the House. The bill simply prevents the Secretary from issuing regulations. The amendment delays substantive Medicaid provisions, including coverage for children who are in poverty, payments for Medicare premiums for the poor, elderly, and nursing home reform.

The amendment affects two laws that are not under consideration in the bill before us, and I make that point of order.

The CHAIRMAN. Does the gentleman from California [Mr. DANNEMEYER] wish to be heard on the point of order?

Mr. DANNEMEYER. Madam Chairman, yes, I do.

Madam Chairman, my point of order essentially is that we are dealing with a piece of legislation, the net effect of which will raise Medicaid spending, at the Federal level, $5.8 billion over the next year. My amendment seeks to reduce the Federal mandates on the States by reducing over the next 5 years some $2.1 billion of mandates.

I think the logic of my position is essentially this: If the bill before us raises Medicaid spending at the Federal level, how could it possibly be that my amendment to reduce the Federal mandate on the State would not be in order? I do not understand that. That is the point.

Another point of order I would make, or I guess as a part of my point of order I would like to ask a parliamentary inquiry, if I may.

The CHAIRMAN. The gentleman is arguing the point of order now.

Mr. DANNEMEYER. Madam Chairman, a parliamentary inquiry. May I ask as a part of a point of order a parliamentary inquiry?

The CHAIRMAN. The gentleman may ask a parliamentary inquiry.

The DANNEMEYER. Here is the parliamentary inquiry. This legislation on page 6, lines 23 and 24, seeks to use as a linchpin for being here today the Technical and Miscellaneous Revenue Act of 1988. My parliamentary inquiry is this: If this legislation would reference title XIX of the Medicaid law, would my amendment be in order?

The CHAIRMAN. The Chair will not make a ruling on a hypothetical inquiry, but the Chair is prepared to make a decision on the point of order.

Mr. DANNEMEYER. With all due respect, I do not believe that is a hypothetical. It is fairly front and center. If this bill was predicated upon title XIX of the Medicaid law would my amendment be in order?

The CHAIRMAN. The Chair is not called upon to rule on that inquiry. The Chair is called upon to rule on the point of order. The Chair is prepared to rule on the point of order.

Mr. DANNEMEYER. I thank the Chair.

The CHAIRMAN (Ms. PELOSI). The gentleman from California makes a point of order that the amendment offered by the gentleman from California is not germane to the bill. H.R. 3595 would delay until September 30, 1992, the issuance of certain regulations issued by the Department of Health and Human Services concerning the treatment by the States of revenues from voluntary contributions, provider-specific taxes, and intergovernmental transfers to finance their share of the Medicaid Program. Thus the fundamental purpose of H.R. 3595 is focused narrowly on what funds many States use to pay their share of Medicaid Program expenditures and receive Federal matching funds and only for a temporary period of time—until September 30, 1992. The bill makes no direct changes of either a temporary or permanent nature in the Medicaid law, title XIX of the Social Security Act. The amendment, on the other hand, makes permanent changes in the Medicaid law, including modifications in who may provide certain diagnostic treatment benefits. To a bill proposing a temporary change in law, an amendment making permanent changes in that law is not germane—Deschler's Procedure, chapter 28, section 19.1. The Chair sustains the point of order.

□ 1900

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Page 11, strike lines 17 through 22.

Mr. PANETTA. Madam Chairman, the purpose of the amendment that I have offered here would strike the emergency designation contained in the bill, because I do not believe it is needed to protect against what the CBO says are no costs that are involved with this moratorium.

Second, because I am concerned that it does not meet the tests we have established for an emergency designation pursuant to the budget agreement.

First of all, let me make some general comments about the situation with regard to the issues that are confronted in this legislation. This is obviously a very complicated area in which both the committees and the administration have struggled to try to see if there was a way to develop regulations to control these areas.

As a matter of fact, in the reconciliation bill last year, we included guidelines to indicate very clearly that, first of all, we would put off regulations again for a year in a moratorium, but second, there were some clear guidelines about how the regulations should be adopted. Unfortunately, HCFA and the administration basically ignored the guidelines that were provided in reconciliation and went ahead to propose these regulations.

The problem is, even though I think everyone acknowledges that there are potential abuses and abuses that are taking place now that are of concern and that have to be dealt with, the way to deal with this is in negotiations between the committee, the Governors, and the Administration, trying to come up with regulations to confront what everyone admits is a very difficult issue; but you cannot just slamdunk regulations the way HCFA is trying to do and expect that you can control the situation. All you wind up doing is creating chaos.

So this issue does need to be put on hold and that is why I support the general thrust of the legislation that is before the Congress.

Let me also refer to the scorekeeping issue, which is the budget issue. Are there costs involved here? The Congressional Budget Office says there are zero costs involved with this proposal. The reasons are basically two: First, it is the scorekeeping precedent that has always been used when you are dealing with proposed regulations. We have never, when it comes to scorekeeping, assumed that proposed regulations or savings that flow from proposed regulations are automatically part of the base line.

Neither the CBO nor OMB, for that matter, for 10 years has ever used that kind of approach in scorekeeping. What CBO basically is saying is that these are proposed regulations, they assume a certain amount of savings, that you ought not to assume that they are part of the baseline; for that reason if you put a moratorium on these regulations, it does not involve any costs.

The second reason is because under the pay-go requirement in the budget agreement, the requirement for pay-go is where you increase benefits, where you liberalize benefits, they are to be paid for.

These regulations do not involve liberalizing benefits. They do involve potential savings, but again it is not incorporated within the pay-go definition that was included in the budget agreement.

So I think the Congressional Budget Office is absolutely correct here in terms of scoring this zero, because it does not meet the precedent on scorekeeping for proposed regulations, and second, because it does not fit the pay-go requirement under the budget agreement.

If you allow HCFA or the administration to be able to use regulations to implement their legislative strategy, then you really are depriving this institution of what is legitimately the role of the Congress, which is to legislate on issues. You cannot do it through proposed regulations.

Mr. HUCKABY. Madam Chairman, will the gentleman yield?

Mr. PANETTA. I am happy to yield to the gentleman from Louisiana.

Mr. HUCKABY. Madam Chairman, I thank the gentleman for yielding to me.

Is it my understanding, and I want to commend the chairman of the Budget Committee for being what I consider to be an extremely good watch dog as far as making sure that we stay within the bounds of the budget agreement, and what the gentleman is suggesting to our colleagues is that these changes in regulations do not impact the budget in an adverse way at all; is that correct?

Mr. PANETTA. The Congressional Budget Office has said that if we adopt this moratorium, the cost would be zero.

Now, the OMB has at least indicated there might be some cost. I have to be frank with the gentleman. I have yet to get from the Office of Management and Budget what the costs would be that are involved here. HCFA has suggested that the costs might be $80 million. We have heard numbers of $5.8 billion. We have not received from the Office of Management and Budget a specific cost number with regard to this proposal.

We do know from the Congressional Budget Office that they believe it is zero because these are proposed regulations that have not been implemented.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 2 additional minutes.)

Mr. HUCKABY. Madam Chairman, if the gentleman will yield further, then of course it is our Congressional Budget Office that is the nonpartisan bookkeeper for the Congress.

Mr. PANETTA. That is the view of this gentleman.

Mr. HUCKABY. Madam Chairman, I thank the gentleman.

Mr. PANETTA. Madam Chairman, with regard to the specific amendment that is before the House, it deals with the emergency designation. Because the CBO scores this as zero, I do not believe that the emergency designation is warranted here.

Beyond that, we had established certain tests for what is an emergency that we have done in conjunction with the Office of Management and Budget, that an emergency response to something that is sudden, unforeseeable, and a temporary crisis.

Very frankly here it is not sudden because we knew very well that we had been trying to deal with this issue for 3 years.

It was certainly not unforeseeable, because we knew clearly it was coming, and third, it was not a temporary crisis, because I am afraid we are going to have to confront the problem of Medicaid and Medicaid funding for a long time to come.

So it is for those reasons that I think the use of the emergency designation is not well placed in the context of this legislation, and therefore I would move to strike it.

Mr. WAXMAN. Madam Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from California.

Mr. WAXMAN. Madam Chairman, I support the gentleman's amendment.

The purpose of section 5(b)(1) of the bill, which the gentleman's amendment would strike, is to avoid the sequestration of nonexempt entitlement programs, especially Medicare.

This same purpose is accomplished by sections 5(a) and 5(b)(2) of the bill, which the gentleman's amendment would not disturb.

Thus, under the bill as amended by the gentleman's amendment, there would be no sequestration, regardless of whether the Office of Management and Budget chose to disregard the estimate of the Congressional Budget Office.

Under section 5(a), the CBO estimates would control; since they are zero cost, this bill would not trigger a sequester.

Under what is now section 5(b)(2), any budget authority or outlays that OMB might attribute to this bill would be disregarded for purposes of enforcing pay-as you-go rules and deficit targets under the Budget Act. Thus, there could be no offsetting sequestration as a result of this legislation.

Mr. DANNEMEYER. Madam Chairman, I move to strike the last word.

Madam Chairman, previously this Member from California offered an amendment that was ruled not germane. Had I been offered the opportunity of having the House consider that amendment, it would have permitted the House to get to what really the struggle is.

Over the last 5 years we have seen a horrendous increase in Medicaid mandates on the States of the Union that have caused 49 Governors of this Union to say to the Congress in writing, "Stop expanding Medicaid mandates. We are going broke."

Well, my amendment would address this issue. The House would have an opportunity of debating whether or not we want to reduce some of the mandates that Congress has adopted over the last 5 years by a modest amount. It is $2.1 billion over 5 years in the total Medicaid stream. It is a lot of money, but it is not the whole program.

I think the House should have the opportunity of really putting its finger on what is going on here. On the one hand, Congress as an institution has forced the States to increase their spending for Medicaid. The States have struggled to find a way to finance it, and have come up with these schemes and these scams in order to comply with the requirement that the Federal Government has mandated on them. So this legislation comes along and says, "We're going to open up the door of the Treasury even more."

I say the way to proceed with this is to address the issue of reducing the mandates, not increasing the spending.

I would like to draw the attention of the gentleman from California [Mr. PANETTA], the chairman of the Budget Committee for a moment here. I have often admired the way the gentleman adroitly works his way through the legislative process, but I am puzzled as to the gentleman's logic in wanting to strike this provision, because really, you know, this legislation is very creative today. By an act of Congress, we are saying that this measure that is going to cost $5.8 billion in 1 year does not cost anything.

Now, since we are doing that by law, this is the provision on page 11, lines 9 through 14, we are saying it does not cost anything. We are incorporating the analyses of CBO, and since it does not cost any money how can the gentleman possibly have concern that we are going to have a consideration where we have to have an emergency to justify additional spending?

I suspect in the gentleman's own mind he may doubt whether or not the CBO has come up with an accurate recommendation of cost impact. Is that what motivates the gentleman?

Mr. PANETTA. Madam Chairman, if the gentleman will yield, I feel the Congressional Budget Office is absolutely on the mark, because it is following basically pecedent on scorekeeping which we established for 10 years on proposed regulations.

□ 1910

What I am saying is the emergency designation does not belong here and it is not needed.

Mr. DANNEMEYER. Well, if that is an example of the work of the Congressional Budget Office that is on target and is fairly assessed, I guess I can begin to understand why in this fiscal year we are scheduled to add $480 billion to the national debt.

Maybe one day we will find a Congressional Budget Office which can accurately reflect what is going on in the spending stream.

Madam Chairman, I thank the gentleman for his observation.

Mr. GINGRICH. Madam Chairman, I move to strike the requisite number of words, and let me say first of all that I am going to vote for the bill.

I think the bill is the only reasonable step at a point which I wish we were not at, in which frankly I think the Office of Management and Budget has not done its job and has not been responsive.

I hope the bill will be amended in the other body and will be improved and come back as a moratorium on both the States and on the Federal regulations and give us a year without dramatic increase in cost.

But I think if anybody wants to understand why term limitation is leading the land and why people are angry at politicians, this debate is a perfect example because everybody here has been technically correct in gobbledygook. The truth is there has been a huge increase in Medicaid costs, largely driven by Federal mandates, largely driven by the gentleman from California, that has now led the States to find a loophole.

The loophole cost $200 million; it now costs $5.8 billion. Given this bill, if it were to pass the Senate and final passage and be signed into law in its current form, I believe by the end of next year it will cost $35 billion and real citizens in the real world will know that, because the Treasury would go to the market and borrow $35 billion.

If you want to have any example of how intellectually bankrupt the congressional system is, look at the CBO, the Congressional Budget Office, scoring of "no cost." It is absolutely correct, as my good friend, the chairman of the Budget Committee, said, under the procedures we follow in this House, which are a disaster, we once again systematically misinform the people of the United States. We once again stand up and say voting for this will not increase any costs.

The truth is, in the real world of real money and real borrowing which affects real interest rates, this is going to raise the cost. And again I do not have any, not an inch, of give on this issue for my good friends down at the Office of Management and Budget. They have totally mishandled this issue. They deserve to have a massive vote against them today.

I am urging every Republican to vote for this package. I am then saying I hope it will be improved in the Senate, I hope it will become a double moratorium on both the States and the Feds, but I also had to rise because I heard this debate. And it is no wonder that average, everyday, commonsense citizens who write checks that are not allowed to bounce, who have credit cards they actually have to pay, listen to this malarkey, listen to us say, "Oh, once again Santa Claus has arrived, there will be no additional cost."

Mr. WAXMAN. Madam Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

And I thank the gentleman for his intended support for our legislation. I think it is important to have a moratorium in place so we can figure out what to do with this Medicaid Program. And beyond that, enact major reform in health care in this Nation.

The Medicaid Program has increased dramatically in costs, and the reason is because health care has gone up so dramatically in terms of the costs.

When Medicaid does not provide care for less than half the people who are below the poverty line, those others who do get care have the costs shifted onto those who do have insurance. Every American who is watching this debate who has insurance knows the high costs they are paying year after year.

So let us not be fooled by what is happening. Health care costs are increasing because we do not have leadership from the White House for major reform in this area. This is not an answer to the problem, but it allows us to address the real underlying problems.

Mr. GINGRICH. May I say to the subcommittee chairman, since he rose, and I appreciate his comments, as a cochairman of the House Republican Task Force on Health, I frankly hope we are going to have some very major building blocks toward a better system on a bipartisan basis.

Could I say, though, is it not a fact technically true that as a result of the moratorium the Treasury will in the end borrow more money, even through CBO does not score it that way?

Mr. WAXMAN. If the gentleman will continue to yield to me, the only thing I can tell you is that the Congressional Budget Office says that there will not be a cost if we have a moratorium in place. That is not to say, however, if we have a moratorium in place that we do not have work to do to deal with this problem.

Mr. GINGRICH. Again, I ask the gentleman, in the spirit of bipartisanship, is it not true that in terms of dollars going through the U.S. Treasury, more dollars will in fact be expended because of the enactment of this legislation than would be spent without it?

Mr. WAXMAN. That is, I do not believe that is an accurate statement, and I have to——

Mr. GINGRICH. Then why are we passing the moratorium?

Mr. WAXMAN. The Congressional Budget Office——

Mr. GINGRICH. Wait a second. I say to my friend, why pass the moratorium if in fact it does not mean more dollars going to the States?

Mr. WAXMAN. What the moratorium is to prevent is rulemaking that would throw the whole issue into chaos and the States would be tremendously disturbed in their budget plans.

Mr. GINGRICH. Right. But is it not true——

The CHAIRMAN. The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

(By unanimous consent, Mr. GINGRICH was allowed to proceed for 2 additional minutes.)

Mr. GINGRICH. I say to the chairman, is it not true, because in fact without the moratorium the States would get less money?

I yield to the gentleman.

Mr. WAXMAN. If the States do not have a moratorium and the regulations that are being proposed go into effect, there would be less money going to the States to help them pay for their Medicare costs.

Mr. GINGRICH. So, despite the CBO scoring, the fact is less money would go out from the Federal Government in the absence of this bill.

Again, I am going to vote for it. I think this is where we find ourselves. I think it is a correct vote. But I do think it would be nice if the Congressional Budget Office could stop living in a fantasyland.

Mr. LENT. Madam Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Madam Chairman, I am a little confused here because I do not pretend to be a budget expert, but I do know that under this program the inspector general said that in 1990 we spent $497 million in matching funds to 9 States that by May of 1991, 18 States had requested $2.5 billion, or 5 times the amount requested over just a half-year earlier, and by July 1991 now, 30 States had requested $3.8 billion in Federal funds. HCFA currently estimates that this moratorium will cost the Federal Government $5.5 billion.

Now, I do not know how the chairman of the Committee on the Budget can say that it is not going to cost anything, because there is a chart over there which we used during the debate which shows that the costs is just skyrocketing. I think we are being intellectually bankrupt if we are willing to swallow a Congressional Budget Office estimate that says it is not going to cost anything, because it is obviously going to cost millions of dollars. Maybe the gentleman's amendment is designed to avoid the need to cut spending or sequester, or perhaps raise taxes. Maybe that is what the gentleman is desiring to do.

Mr. WAXMAN. Madam Chairman, I move to strike the requisite number of words, and I yield to the chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA] in order to respond.

Mr. PANETTA. I thank the gentleman for yielding.

First of all, we are dealing with what is exactly the cost of this based on proposed regulations. We have never had a situation where proposed regulations suddenly involve a cost as being somehow being assumed as taking effect. We just have never done that. OMB has never done that, CBO has never done that. And it is easy for all of us to pull numbers out of our pockets. All of us can do that.

Is Medicaid an expensive program? Yes, it is. Is it costing money? Yes, it is. But do proposed regulations that HCFA has suddenly thrown out there automatically mean a certain savings? We don't know. And the Congressional Budget Office says "no." Now, those are the individuals that we turn to as our primary scorekeepers in the House of Representatives and in the Congress. Now, if the gentleman knows something magic beyond what they do, I would like to hear it. But I have yet to see from the Office of Management and Budget—if the gentleman has a letter describing what the costs are, I would like to see that too, but I have yet to see from the Office of Management and budget a specific cost on this issue.

Mr. GRADISON. Madam Chairman, will the gentleman yield?

Mr. WAXMAN. Madam Chairman, reclaiming my time, the reason that the CBO claims there is no additional cost is because they claim that this is a moratorium that would keep the present law in place and would not allow proposed regulations to go into effect.

Madam Chairman, I do want to yield to the gentleman from Ohio [Mr. GRADISON] if he wishes me to yield to him.

Mr. LENT. Madam Chairman, the gentleman from Ohio [Mr. GRADISON] is involved. Would the gentleman from California [Mr. WAXMAN] yield to me in the meanwhile?

Mr. WAXMAN. Madam Chairman, I yield to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding.

Madam Chairman, we have the inspector general who says it is going to cost $5.5 billion if this bill passes, we have HCFA actuaries saying it is going to cost $5.5 billion if the bill passes, and we have OMB that says it is going to cost $5.5 billion if the bill passes. Now, somehow out of all that, CBO says it is going to cost nothing and, therefore, we can pass this thing willy-nilly.

□ 1920

Madam Chairman, I really think anyone who can look at that chart and who knows what the history of this practice has been; and this is the third moratorium we have granted to the States, by the way, can tell very quickly that this bill has an enormous price tag, and we have no idea what it is going to be down the road.

Mr. WAXMAN. Madam Chairman, I want to thank the gentleman from New York [Mr. LENT] for his comments. All I can point out is we go by the CBO estimates, and we cannot say what, and we have not heard from OMB, what they claim this might cost if their proposal does not become law because under the Budget Act OMB is not required to give Congress an estimate until 5 days after enactment. We need to rely on the CBO, and that is why I would support the amendment of the gentleman from California [Mr. PANETTA].

Mr. GRADISON. Madam Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Ohio.

Mr. GRADISON. Madam Chairman, I think the gentleman from California [Mr. WAXMAN] might have an argument that the cost is very small if this were a true moratorium. In my view a true moratorium would freeze everyone in place, but this does not do that. This permits States which have small programs using this loophole to expand them and those States which have not used them in the past to add to them, and it is that opportunity that leads to a great deal of uncertainty about the costs, but certainly an expectation that they will be much larger. Were the gentleman to offer a moratorium which says, "No new laws, folks; we're going to freeze this in place while we negotiate," I think he would be in a stronger position to argue with regard to the financing.

I have one other point with regard to—

Mr. WAXMAN. Reclaiming my time, Madam Chairman, if the gentleman would permit, on that point, we expressed to the administration our willingness to discuss that issue because I do think the gentleman raises a valid point in terms of what the costs may be down the road. But the Congressional Budget Office in scoring this looks at present law. If we want to get them to change their minds on the cost estimates, we would probably want to raise that with them directly.

Mr. GRADISON. Madam Chairman, the gentleman brought this bill forward. If he wanted a true moratorium, he could have done so. He chose not to do so, and, therefore, there is a great deal of opportunity for fun and games in expanding this program at the State and local level, and then come back and say, "Well, we took the Congress at its word."

Mr. WAXMAN. Reclaiming my time, Madam Chairman, fun and games and all that we are doing under existing law, letting States do whatever is permitted, and the existing law, by the way, which everyone finds so troublesome, was what the Reagan administration put in place by way of regulation in 1985.

Madam Chairman, I agree there needs to be a change, and we, in fact, agreed to a change in the last budget reconciliation bill which the administration walked away from.

Mr. GRADISON. Madam Chairman, I move to strike the requisite number of words.

I do this, my colleagues, simply to make a point about what my understanding is of why there is a disagreement between the Congressional Budget Office and the Office of Management and Budget, or very likely a disagreement, about cost. Under the old law, until it was changed last year, only final regulations were taken into account in measuring the baseline against which these costs would be figured. We repealed that, and, therefore, my understanding of it is that it is not inappropriate. My colleagues may not like it, but it is not inappropriate for the Office of Management and Budget to assign costs, not just to final regulations, but to proposed regulations, and that is where we are, and I just think it is useful to recognize that we are in this situation because of an action which the Congress took a year ago in repealing the former base on which the baseline was calculated.

I know that is an arcane point, but the notion that the CBO are the good guys and the OMB are the bad guys is really not a fair representation of why there is a difference. There is a legitimate technical difference of opinion, and, as I will explain when I get into my amendment after the amendment of the gentleman from California is acted upon, there is still a need to perfect this bill if we are going to avoid a major risk of a sequester of other programs, including health programs.

Ms. OAKAR. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I want to compliment the distinguished chairman of this Health Subcommittee, the gentleman from California [Mr. WAXMAN]. He is a real national leader with respect to health care, and I am honored to support his proposal, and I am also supportive of the amendment of the chairman of the Committee on the Budget which just tells the truth.

Madam Chairman, CBO; believe me, I know, having dealt with them on issues like scoring, mammography coverage and so on, is very, very conservative. They would not say that this is not a cost factor if it were not true, believe me, because they always tend to be on the more liberal side with respect to figures.

But I want to just say this: For those who would oppose the gentleman from California [Mr. WAXMAN] bill, what they would say basically is, "Let the States take care of the indigent, the poor, alone."

As my colleagues know, by the way, we have a lot of middle-class people who become poorer when they are older, for example. They cannot afford a nursing home because it costs $25,000 a year. The only place they can go is to Medicaid to get some kind of coverage for some type of nursing care. We say, "Let the States worry about health care," or we say, "Let the hospitals worry about serving those in need who don't have health insurance or who have this limited program."

Madam Chairman, I think that is an immoral, wrongful philosophy. I have got to tell my colleagues that. I think when we see that, for example, in my city, in Greater Cleveland, northeast Ohio, our hospitals spend $150 million annually for serving the poor, for charity cases, people show up, and they do not have health insurance. They still serve them because they have pulled together statewide on how to address the needs of the poor, and this was done in conjunction with the law as formed by the State legislature and in conjunction with the Federal Government.

Now HCFA is notorious for putting up roadblocks and regulations that do not permit this type of cooperation. I recall the regulation when we passed a bill that would permit the care of people who were dying of cancer, hospice care. In fact the gentleman from California [Mr. PANETTA] was very instrumental in making sure that hospice care was covered. I recall when we passed mammography legislation late in the wee hours last session, they put all kinds of roadblocks so that people could not even take advantage of that bill.

So, the fact is there are artificial and antiquated regulations, and we ought to just throw in the towel and say, "We are for health care for our people once and for all." This is a small gesture to take care of a segment of the population that needs Medicaid, and the States have cooperated with the hospital associations in dealing with this issue.

So, I want to compliment the gentleman from California, and I hope we pass this, and acknowledge the CBO is right and get on with the bigger question, and that is: How do we address the needs of the 77 million people who have no or little health insurance and the 8 million people who need long-term care?

Mr. VOLKMER. Madam Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Missouri.

Mr. VOLKMER. Madam Chairman, I wish to commend the gentlewoman from Ohio [Ms. OAKAR] for her remarks, and I wish to join with her in those remarks.

Madam Chairman, I wish to rise in support of H.R. 3595 and in support of the amendment of the gentleman from California [Mr. PANETTA] and in opposition to the possible amendment of the gentleman from Ohio [Mr. GRADISON], and again I wish to commend the gentlewoman from Ohio [Ms. OAKAR] for her observations on the legislation.

Ms. OAKAR. Madam Chairman, I thank the gentleman from Missouri [Mr. VOLKMER], and I want to again compliment the chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. PANETTA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GRADISON

Mr. GRADISON. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRADISON: Strike Section 5 of the bill.

Mr. GRADISON. Madam Chairman, I rise to offer this amendment to strike section 5. The amendment of the gentleman from California [Mr. PANETTA] has already eliminated the emergency designation part of title 5. My amendment would eliminate the two remaining objectionable budget enforcement provisions in the bill which interfere with our abiding by the terms of the bipartisan budget agreement passed just a year ago.

□ 1930

Those two provisions are the following: first, directed scoring. These provisions would have the Medicaid moratorium scored at zero even though the actual cost should be measured in the hundreds of millions, if not billions of dollars.

The President has stated in writing that he would veto any legislation that contained directed scorekeeping.

The second point or the second item that would be eliminated by this amendment is the exemption from the Deficit Control Act. This provision exempts the bill from all requirements of the Deficit Control Act, including pay-as-you-go requirements and Gramm-Rudman maximum deficit sequesters.

How much would the moratorium on H.R. 3595 cost? We have talked about that already. In the October 31, 1991, interim final rule, HCFA estimated that provider-tax programs and provider-donation or other voluntary payment programs would generate an estimated $3 billion in Federal matching funds in fiscal year 1991 and at least $5.5 billion in the current fiscal year. We must remember that this is on top of the projected doubling of the Federal Medicaid outlays over the next 5 years.

On that point, Madam Chairman, I want to address myself to some comments which were made earlier in the debate that might give the uninformed the impression that the Government, the Congress, and the White House, together or separately, are somehow being chintzy in their attitude toward Medicaid spending. The fact is that over the 1991 through 1996 period—and these are CBO numbers—a period during which Medicaid outlays are expected to double, Medicare outlays are expected to increase 70 percent and national health expenditures as a whole, 59 percent. In other words, Medicaid is coming along quite well actually, as compared with overall health care costs, and our flagship program, the Medicare Program.

The Budget Enforcement Act of 1990 established a paygo sequester system to control mandatory spending and revenues. A paygo sequester can be triggered if mandatory spending rises or revenues fall because of legislation enacted by the Congress. The Director of the Office of Management and Budget maintains a running total of enacted bills changing mandatory spending and revenues to assure that the net effect of all such changes does not increase the paygo baseline.

If the net effect of such changes were to increase the baseline, then an end-of-session sequester cutting mandatory programs would occur 15 days after the Congress adjourns for the session.

Madam Chairman, the irony of this discussion is that the heaviest hit under the sequester which this legislation could trigger would be health care programs, specifically Medicare. OMB, as we have already been told, does not score this legislation. They do not score any of this legislation, paygo legislation, until after enactment. That is not their policy. It is not limited to this bill.

In contrast, CBO, as we have already been told would score the moratorium as zero, because CBO, scores legislation on the basis of change from current law, and current law, to be sure, allows States to use provider tax and donation programs.

Official scorekeeping aside—and I think this is an important point—CBO currently estimates that disallowing the prohibition of such practices after January 1, 1992, would in reality increase Federal outlays by an estimated $750 million in the current fiscal year. In other words, while they say they are not required to score it because of their interpretation of the budget agreement, they are also telling us that really it is three-quarters of a billion dollars of additional cost.

In conclusion, Madam Chairman, let us debate the moratorium of its merits, but also let us make sure that whatever decision we make, we pay for it instead of simply increasing the deficit again. I urge the Members to strike the remainder of title V.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. GRADISON] has expired.

(By unanimous consent, Mr. GRADISON was allowed to proceed for 2 additional minutes.)

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to my colleague on the Budget Committee, the gentleman from Ohio.

Mr. KASICH. Madam Chairman, I would like to rise in support of the Gradison amendment. Unfortunately, the discussion we are involved in now is basically arcane. Unfortunately, the implications of what we did at the very beginning of this congressional term, which was to say that we would not abide by the original budget agreement and stay with OMB, has profound consequences and implications to so many of the things that we have done.

We have heard many people sing the praises of the budget deal, but let us just remember that directing CBO to score rather than OMB and to estimate the cost of this program at zero underscores why so many of us are so frustrated at the budget deal that was approved.

What the gentleman from Ohio [Mr. GRADISON] was trying to say is that we ought to pay for what we have. I give credit to the gentleman who is the chairman of the Budget Committee for striking the emergency clause, but at the same time he strikes the emergency clause, we find there are additional problems when it comes to adhering to the budget agreement in this bill.

It is just unfortunate that in January we changed the rules of the budget deal, although I did not think the budget deal was very good from the beginning, and then we watered it down even more. What the gentleman is trying to do—and he has done this on several other occasions—is to try to say that we ought to have an accurate estimate of the cost of this program. Unfortunately, this bill does not do it.

Mr. Chairman, I urge all Members to support the Gradison amendment. I think it makes great sense for fiscal sanity.

Mr. GRADISON. Madam Chairman, I thank the gentleman for his comments.

Mr. WAXMAN. Madam Chairman, I rise in opposition to the Gradison amendment.

Madam Chairman, I want to point out to the Members that the Gradison amendment has been offered in the House on a number of other issues. It is fundamentally a challenge to clause 8 of House Rule XXI.

The House has already rejected similar challenges, not just in adopting the rule but in considering legislation earlier this year.

The Gradison amendment would challenge the ability of the Congressional Budget Office to make its estimates and have that binding. I appreciate the fact that we have a difference with the gentleman from Ohio, but nevertheless I must respectfully urge that we defeat this amendment.

Mr. GRADISON. Madam Chairman, will the gentleman yield briefly?

Mr. WAXMAN. I yield to the gentleman from Ohio.

Mr. GRADISON. Madam Chairman, I would just like to point out that while it is certainly true that we have had directed scorekeeping as the democratically approved rules require, not a single bill to my knowledge has gone to the President with directed scorekeeping. In other words, we pass it, it gets knocked out in conference, and we go on our way.

I do not intend to belabor this point because it is one we have debated many times in the past, but if this session is going to end within a week and we really want this bill to become law, it would speed us on our way to recognize that sending it downtown with directed scorekeeping is a sure invitation for a veto.

Madam Chairman, I thank the gentleman for yielding.

Mr. WAXMAN. Madam Chairman, I appreciate the gentleman's statement.

Mr. DANNEMEYER. Madam Chairman, I move to strike the last word.

Madam Chairman, now we are getting to what this struggle is all about, in the sense that the budget agreement last November was considered by Mr. Darman, head of OMB, who negotiated on behalf of the Bush administration elements of a victory, in that when a dispute arises as to how something is going to be scored on the funding side, the deciding issue reposes in the hands of the administration, the OMB.

What this legislation does is change that budget agreement. This is why the gentleman from California [Mr. PANETTA] is here on the floor striking out the emergency language, out of sensitivity for his having blessed that aberration which passed the Congress last November.

□ 1940

Now this section 5, we passed laws repealing the tide that I alluded to earlier. Now we are going to undo the budget agreement of last November by saying if this measure is adopted, that the scoring is going to take place by CBO. CBO works for Congress, works for the Democrats. They run this place. With this magnificent work product of these mathematicians with their computers, they have come up with an estimate in this legislation, this amendment, where an increased cost of $5.8 billion is scored as no additional cost.

Now, that is total nonsense. It is just an abomination and a nuisance.

Madam Chairman, I wish members would adopt this amendment offered by the gentleman from Ohio [Mr. GRADISON]. I commend the gentleman from bringing it to the floor. I do not think the gentleman is aware of it, but I intend to ask for a rollcall vote on this amendment because I want to give Members an opportunity of voting up or down on whether or not they want to breach that budget agreement that was adopted last November, which says to all of us that the scoring is going to take place by OMB, not CBO.

Madam Chairman, if Members want to bust the budget agreement here today, this will give them an opportunity to do that. I did not vote for that aberration to begin with. I thought it was something the Nation did not need. It raised taxes by $165 billion over five years. This will give us an opportunity of voting whether or not we want to break that agreement, and I ask for an aye vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. GRADISON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 262, not voting 16, as follows:

[Roll No. 405]

AYES—156

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Camp
Campbell (CA)

Chandler
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Ewing
Fawell
Franks (CT)
Gallegly
Gallo
Gilchrest
Gillmor
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Olin
Orton
Oxley
Packard
Pallone
Paxon
Penny
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Visclosky
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOES—262

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Barton
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Feighan
Fields
Foglietta
Ford (MI)
Ford (TN)
Frost
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—16

Ackerman
AuCoin
Fazio
Fish
Flake
Frank (MA)
Gingrich
Hatcher
Hayes (LA)
Levine (CA)
Manton
Mrazek
Scheuer
Stark
Traxler
Young (AK)

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Messrs. JEFFERSON, RICHARDSON, and BERMAN changed their vote from "aye" to "no."

Mr. JOHNSON of Texas and Mr. PALLONE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any other amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BONIOR) having assumed the chair, Ms. PELOSI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source, pursuant to H.R. 283, she reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LENT

Mr. LENT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LENT. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LENT moves to recommit the bill H.R. 3595 to the Committee on Energy and Commerce with instructions that the Committee report the bill back to the House—

(1) with appropriate provisions to eliminate fraudulent and abusive State tax and voluntary contribution schemes, to restore the integrity of the financial relationship between the States and the Federal Government, and to take into account the needs of all parties affected by the medicaid program, including States, hospitals and other providers of services, beneficiaries, and taxpayers; and

(2) at a time sufficient to ensure that the bill may be sent to the President before Congress adjourns sine die.

Mr. LENT (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. LENT] is recognized for 5 minutes in support of his motion to recommit.

Mr. LENT. Mr. Speaker, we have had a long day, and we have had a very extensive debate on this bill, so I will be brief.

This motion instructs the Committee on Energy and Commerce to report back to the House a bill, before adjournment, that eliminates the fraudulent and abusive State tax and voluntary contribution schemes, and restores the integrity of the financial relationship between the States and the Federal Government and takes into account the needs of all those affected by the Medicaid Program, including hospitals, beneficiaries, States and taxpayers.

Mr. WAXMAN. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, this is a thinly disguised effort to defeat the moratorium—a moratorium which will protect the States and program beneficiaries from the administration's illegal regulations. It is far too late in the day to go back to committee. Since the administration first issued that regulation on September 12, my subcommittee has held two hearings and one markup. The full Energy and Commerce Committee has held one markup. At no time did the administration come forward with a concrete legislative proposal. Even as we debate this bill today, we still have no proposal from the administration. All that the administration has on the table is the October 31 regulation.

We all recognize that this is a complicated issue. If the administration has not come forth with a proposal over the last 3 months, it will not do so over the next 8 days, and we certainly will not have time to work this out. We need to move this bill forward.

I urge we defeat this motion.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LENT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 117, noes 302, not voting 15, as follows:

[Roll No. 406]

AYES—117

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Bunning
Burton
Campbell (CA)
Chandler
Clinger
Coble
Coughlin
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Ewing
Fawell
Franks (CT)
Gallegly
Gilchrest
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Herger
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
McCandless
McCollum
McCrery
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Morrison
Myers
Nichols
Nussle
Packard
Paxon
Penny
Petri
Porter
Rhodes
Riggs
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (IA)
Smith (OR)
Solomon
Stearns
Stump
Taylor (NC)
Thomas (CA)
Thomas (WY)
Walker
Walsh
Williams
Wylie
Young (FL)
Zeliff
Zimmer

NOES—302

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Barton
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Feighan
Fields
Foglietta
Ford (MI)
Ford (TN)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron

NOT VOTING—15

Ackerman
AuCoin
Fazio
Fish
Flake
Frank (MA)
Hatcher
Hayes (LA)
Levine (CA)
Manton
Mrazek
Scheuer
Stark
Traxler
Young (AK)

☐ 2025

Mr. JONTZ changed his vote from "aye" to "no."

Mr. RITTER and Mr. JOHNSON of South Dakota changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BONIOR). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WAXMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 348, nays 71, not voting 15, as follows:

[Roll No. 407]

YEAS—348

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Bacchus
Barnard
Barton
Bennett
Bentley
Berman
Bevill
Bilbray
Blackwell
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Feighan
Fields
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hammerschmidt
Hansen

Harris
Hastert
Hayes (IL)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

NAYS—71

Allard
Allen
Armey
Baker
Ballenger
Barrett
Bateman
Beilenson
Bereuter
Bilirakis
Bliley
Burton
Campbell (CA)
Coble
Cox (CA)
Crane
Dannemeyer
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Fawell
Goss
Gradison
Grandy
Gunderson
Hamilton
Hancock
Herger
Holloway
Johnson (CT)
Kasich
Klug
Kyl
Leach
Lent
Lewis (FL)
Lightfoot
Livingston
Marlenee
McCollum
McCrery
McMillan (NC)
Meyers
Michel
Miller (WA)
Moorhead
Nichols
Nussle
Olin
Packard
Pease
Penny
Petri
Roberts
Rohrabacher
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Smith (IA)
Smith (OR)
Solomon
Stump
Taylor (NC)
Thomas (WY)
Walker
Williams
Zeliff
Zimmer

NOT VOTING—15

Ackerman
AuCoin
Fazio
Fish
Flake
Frank (MA)
Hatcher
Hayes (LA)
Levine (CA)
Manton
Mrazek
Scheuer
Traxler
Unsoeld
Young (AK)

□ 2033

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3595, MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 3595, the Clerk be authorized to correct section numbers, cross-references, punctuation, and indentation, and to make other technical and conforming changes necessary to reflect the actions of the House.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 3595, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR APPOINTMENT OF CONFEREES ON H.R. 355, RECLAMATION STATES EMERGENCY DROUGHT RELIEF ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 355) to provide emergency drought relief to the reclamation States, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HUBBARD. Mr. Speaker, reserving the right to object, the gentleman from California [Mr. MILLER] knows the House and the Senate have each passed drought bills and it seems to me that the chairman of the Interior Committee, Mr. MILLER, should work with his counterparts in the other body to iron out the differences rather than call on the House twice in 2 days—yesterday and again today—to pass this legislation.

Mr. MILLER probably will tell us this is emergency legislation. He should have thought of that yesterday before putting the legislation at risk by promoting controversial amendments which caused the bill to die.

I object to the unanimous-consent request of the Congressman from California.

The SPEAKER pro tempore. Objection is heard.

REPORT ON RESOLUTION CREATING A TASK FORCE OF MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS TO INVESTIGATE CERTAIN ALLEGATIONS CONCERNING THE HOLDING OF AMERICANS AS HOSTAGES BY IRAN IN 1980

Mr. ROSE, from the Committee on House Administration, submitted a privileged report (Rept. No. 102-296 Part 2 on the resolution (H. Res. 258) creating a task force of members of the Foreign Affairs Committee to investigate certain allegations concerning the holding of Americans as hostages by Iran in 1980, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE ON TOMORROW, WEDNESDAY, NOVEMBER 20, ON THURSDAY, NOVEMBER 21, AND ON FRIDAY, NOVEMBER 22, 1991

Mr. WEISS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Human Resources and Intergovernmental Relations of the Committee on Government Operations be permitted to sit on tomorrow, Wednesday, November 20, 1991, on Thursday, November 21, 1991, and on Friday, November 22, 1991, during the 5-minute rule in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if posponed, will be taken on Wednesday, November 20, 1991.

JUDICIAL IMPROVEMENTS ACT TECHNICAL CORRECTION

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1284) to make certain technical corrections in the Judicial Improvements Act of 1990, as amended.

The Clerk read as follows:

S. 1284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUDICIAL COUNCILS OF CIRCUITS.

Section 332(a)(1) of title 28, United States Code, as amended by section 323 of the Judicial Improvements Act of 1990, is amended by—

(1) striking "such member" and inserting "such number"; and

(2) striking "services" and inserting "service".

SEC. 2. CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

Chapter 23 of title 28, United States Code, as added by section 103 of the Judicial Improvements Act of 1990, is amended—

(1) in section 471 by striking "this title" and inserting "this chapter"; and

(2) in section 474(a)—

(A) in paragraph (1)—

(i) by striking "chief judges" and inserting "chief judge"; and

(ii) by striking "court of appeals for such"; and

(B) in paragraph (2)—

(i) by striking "a court of appeals" and inserting "a circuit may designate another judge of the court of appeals of that circuit,"; and

(ii) by striking "court to perform the chief" and inserting "court, to perform that chief".

SEC. 3. VENUE.

Section 1391(b) of title 28, United States Code, as amended by section 311 of the Judicial Improvements Act of 1990, is amended by striking "if (1)" and inserting "in (1)".

SEC. 4. REMOVAL OF SEPARATE AND INDEPENDENT CLAIMS.

Section 1441(c) of title 28, United States Code, as amended by section 312 of the Judicial Improvements Act of 1990, is amended by—

(1) striking the comma after "title" and

(2) striking "may may" and inserting "may".

SEC. 5. APPEAL OF ABSTENTION DETERMINATIONS UNDER TITLE 11 OF THE UNITED STATES CODE.

Section 305(c) of title 11, United States Code, as amended by section 309 of the Judicial Improvements Act of 1990, is amended by striking "this title" both places it appears and inserting "title 28".

SEC. 6. OUTSIDE EARNED INCOME LIMITATIONS.

Section 502(b) of the Ethics in Government Act of 1978 (5 U.S.C. App. 7 502(b)), as amended by section 601(a) of the Ethics Reform Act of 1989 and section 319 of the Judicial Improvements Act of 1990, is amended to read as follows:

"(b) Teaching Compensation of Justices and Judges Retired From Regular Active Service.—For purposes of the limitation under section 501(a), any compensation for teaching approved under subsection (a)(5) of this section shall not be treated as outside earned income—

"(1) when received by a justice of the United States retired from regular active service under section 371(b) of title 28, United State Code;

"(2) when received by a judge of the United States retired from regular active service under section 371(b) of title 28, United States Code, for teaching performed during any calendar year for which such judge has met the requirements of subsection (f) of section 371 of title 28, United Stated Code, as certified in accordance with such subsection; or

"(3) when received by a justice or judge of the United States retired from regular active service under section 372(a) of title 28, United States Code.".

SEC. 7. RETIREMENT SYSTEM FOR CLAIMS COURT JUDGES.

(a) Retirement of Judges of the Claims Court.—Section 178 of title 28, United States Code, as added by section 306(a) of the Judicial Improvements Act of 1990, is amended—

(1) in subsection (f)(2)(A) by inserting "(except for subchapters III and VII)" after "chapter 84"; and

(2) in subsection (j)—

(A) in paragraph (1)—

(i) by striking "(2)" and inserting "(4)"; and

(ii) by striking "so practices law" and inserting "engages in any such activity";

(B) in paragraph (2) by striking "If" and inserting "Subject to paragraph (4), if"; and

(C) in paragraph (3) by inserting "for" after "(other than".

(b) Civil Service Retirement System.—Section 8339(n) of title 5, United States Code, as amended by section 306(c)(4) of the Judicial Improvements Act of 1990, is amended by inserting a comma after "United States commissioner".

(c) Thrift Savings Plan.—(1) The section 8440b of title 5, United States Code, entitled "Claims Court Judges", as added by section 306(d) of the Judicial Improvements Act of 1990, is amended—

(A) by redesignating such section as section 8440c; and

(B) in subsection (b)—

(i) in paragraph (4)(A) by striking "subsection (d)" and inserting "subsection (c)";

(ii) by striking paragraph (7) and redesignating paragraph (8) as (7); and

(iii) by adding at the end the following:

"(8) Notwithstanding paragraph (4)(B), if any Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) retires before becoming entitled to an annuity under section 178 of title 28, and such judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in section 8433(e).

"(9) Notwithstanding paragraph (4)(A), if any Claims Court judge retires under circumstances making such judge eligible to make an election under section 8433(b), and such judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b).".

(2) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by striking

"8440b. Claims Court judges.".

and inserting after the last item under subchapter III the following:

"8440c. Claims Court judges.".

(3) Paragraphs (8) and (9) of section 8440c(b) of title 5, United States Code (as added by paragraph (1)) shall be effective as of January 1, 1991, and shall apply to any Claims Court judge retiring on or after such date.

(4)(A) The section 8440c of title 5, United States Code, entitled "Judges of the United States Court of Veterans Appeals" is amended by redesignating such section as section 2440d.

(B) The table of sections at the beginning of subchapter III of chapter 84 of title 5, United States Code, is amended by striking

"8440c. Judges of the United States Court of Veterans Appeals."

and inserting

"8440d. Judges of the United States Court of Veterans Appeals.".

(C) Section 5(b) of Public Law 102–82 is amended—

(i) by striking "8440c" and inserting "8440d"; and

(ii) by striking "(as added by subsection (a))".

(D) section 7296(f)(2)(A) of title 38, United States Code, as amended by section 5(c)(1) of Public Law 102–82, is amended by striking "8440c" and inserting "8440d".

(E) section 7297(n) of title 38, United States Code, is amended by striking "8440c" and inserting "8440d".

(d) Federal Employees' Retirement System.—Section 8402(g) of title 5, United States Code, as added by section 306(e) of the Judicial Improvements Act of 1990, is amended by inserting a comma after "such chapter".

SEC. 8. NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL.

(A) Membership.—Section 411 of the National Commission on Judicial Discipline and Removal Act (title IV of the Judicial Improvements Act of 1990) (28 U.S.C. 372 note) is amended by striking subsections (e) and (f) and redesignating subsections (g) through (h) as subsections (e) through (f), respectively.

(b) Clerical Amendments.—(1) The subtitle heading for subtitle II of the Judicial Discipline and Removal Reform Act of 1990 is amended by striking "Impeachment" and inserting "Discipline and Removal".

(2) Section 409 of the National Commission on Judicial Discipline and Removal Act (28 U.S.C. 372 note) is amended by striking "hereafter" and inserting "hereinafter".

SEC. 9. STUDY OF CRIMINAL JUSTICE ACT PROGRAM.

Section 318(c) of the Judicial Improvements Act of 1990 is amended by striking "March 31, 1992" and inserting "March 31, 1993".

SEC. 10. OTHER TECHNICAL CORRECTIONS TO TITLE 28, UNITED STATES CODE.

(a) Procedure for Removal.—Section 1446 of title 28, United States Code, is amended—

(1) by striking "petition for" each place it appears and inserting "notice of";

(2) in subsection (c)(3), by striking "petition is first denied" and inserting "prosecution is first remanded";

(3) by striking paragraphs (4) and (5) of subsection (c) and inserting the following:

"(4) The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

"(5) If the United States district court does not order the summary remand of such prosecution, it shall order an evidentiary hearing to be held promptly and after such hearing shall make such disposition of the prosecution as justice shall require. If the United States district court determines that removal shall be permitted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.";

(4) by striking "petition" each place it appears and inserting "notice"; and

(5) in subsection (d)—

(A) by striking "the removal" and inserting "removal"; and

(B) by striking out "and bond".

(b) PROCEDURE AFTER REMOVAL GENERALLY.—Section 1447(b) of title 28, United States Code, is amended by striking "petitioner" and inserting "removing party".

(c) APPOINTMENT OF CIRCUIT JUDGES.—Section 44(c) of title 28, United States Code, is amended by striking "this Act" and inserting "the Federal Courts Improvement Act of 1982".

SEC. 11. AMENDMENTS TO RULES OF CIVIL PROCEDURE.

(a) TECHNICAL AMENDMENT.—Rule 15(c)(3) of the Federal Rules of Civil Procedure for the United States Courts, as transmitted to the Congress by the Supreme Court pursuant to section 2074 of title 28, United States Code, to become effective on December 1, 1991, is amended by striking "Rule 4(m)" and inserting "Rule 4(j)".

(b) AMENDMENT OF FORMS.—Form 1-A, Notice of Lawsuit and Request for Waiver of Service of Summons, and Form 1-B, Waiver of Service of Summons, included in the transmittal by the Supreme Court described in subsection (a), shall not be effective and Form 18-A, Notice and Acknowledgment for Service by Mail, abrogated by the Supreme Court in such transmittal, effective December 1, 1991, shall continue in effect on or after that date.

SEC. 12. CONFORMITY WITH RULES OF APPELLATE PROCEDURE.

Section 2107 of title 28, United States Code, is amended—

(1) by designating the first and second paragraphs as subsections (a) and (b), respectively;

(2) by striking the third and fourth paragraphs;

(3) by designating the fifth paragraph as subsection (d); and

(4) by inserting after subsection (b), as so designated, the following:

"(c) The district court may, upon motion filed not later than 30 days after the expiration of the time otherwise set for bringing appeal, extend the time for appeal upon a showing of excusable neglect or good cause. In addition, if the district court finds—

"(1) that a party entitled to notice of the entry of a judgment or order did not receive such notice from the clerk or any party within 21 days of its entry, and

"(2) that no party would be prejudiced, the district court may, upon motion filed within 180 days after entry of the judgment or order or within 7 days after receipt of such notice, whichever is earlier, reopen the time for appeal for a period of 14 days from the date of entry of the order reopening the time for appeal.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will make several brief comments in support of S. 1284, a bill to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts.

The bill passed the Senate on June 12, 1991, and was approved by my subcommittee on Intellectual Property and Judicial Administration—on October 1, 1991, with an amendment in the nature of a substitute, and the full committee on October 29, 1991.

As passed by the Senate, S. 1284 makes technical corrections to the Judicial Improvements Act of 1990, which passed on the final day of the last Congress and was signed by President Bush on December 1, 1990. The subcommittee developed an amendment in the nature of a substitute to S. 1284 because other technical problems in the judicial improvement act, not addressed in the Senate bill, were brought to our attention. Moreover, two technical amendments are necessary to the proposed modifications to the Federal Rules of Civil Procedure. Finally, in order to prevent the potential supersession of a statute by a proposed modification to the Federal Rules of Appellate Procedure, a conforming amendment to the underlying statute is required.

The proposed changes to the civil and appellate rules were referred to the Congress by the Supreme Court on May 1, 1991, to become effective 180 days later—or on December 1, 1991—if not rejected. I hope that the other body will act expeditiously on the technical changes in the proposed legislation so that the President can sign the bill prior to December 1.

As regards the Federal rules, the subcommittee worked closely with the chairman of the Standing Committee on Federal Rules—Robert F. Keeton—to develop the technical amendments. As a member of the legal profession, I have always dreamed of remanding a case to the Supreme Court. The drafting errors in the proposed Federal rules have given me that opportunity, but I opted to work cooperatively with the Federal judiciary to cure the deficiencies rather than in a confrontational way to exacerbate them.

Mr. Speaker, all of the amendments in the bill are technical and clarifying in nature. The substitute amendment was drafted with the full cooperation of the ranking minority member and his able staff with assistance from the House legislative counsel's office. I would like to thank the ranking minority member of the subcommittee, the gentleman from California [Mr. MOORHEAD] for his assistance.

Two provisions of the bill represent a cooperative working relationship between my subcommittee and other congressional subcommittees and committees.

First, the bill amends the Ethics in Government Act which deals with teaching income for certain retired judges and justices. Prior to the Judicial Improvements Act of 1990, outside earned income by a Federal judge or Justice could not exceed 15 percent. Last year, in the Judicial Improvements Act, Congress allowed teaching income for senior judges to be exempt from the 15-percent cap on outside earned income. S. 1284, as amended would extend the same exemption to retired Justices of the U.S. Supreme Court. The subcommittee worked cooperatively on this provision with the House Judiciary Subcommittee on Administrative Law and Governmental Relations, ably chaired by the gentleman from Massachusetts [Mr. FRANK] who is also a member of my subcommittee.

Second, another section of bill clarifies the relationship of the U.S. Claims Court and the Thrift Savings Plan. The subcommittee developed the curative language with the House Committee on Post Office and Civil Service.

In conclusion, we should act to resolve all the technical deficiencies found in several recent judicial housekeeping proposals and promote the effective implementation of these laws. Given the breadth and detail of recently enacted court reform proposals, the number of technical problems is surprisingly low. Nonetheless, we need to enact the legislation pending before us.

There is no known opposition to the proposed legislation. And I urge your support.

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Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1284 which passed the other body on June 12 of this year. The thrust of S. 1284 is to make technical amendments to the Judicial Improvements Act of 1990 and to other court related provisions found in title 28 of the United States Code. The bill also makes two technical amendments to proposed modifications of the Federal Rules of Civil Procedure that were suggested by the Administrative Office of U.S. Courts. The proposed changes to the Federal Rules of Civil Procedure were transmitted to Congress by the Supreme Court on May 1, 1991, and will become effective 180 days thereafter unless Congress acts.

Mr. Speaker I think it is clear that S. 1284 is a technical amendments bill that represents responsible judicial housekeeping and I would like to commend the chairman of the Intellectual Property and Judicial Administration Subcommittee BILL HUGHES for his fine work on this issue. The legislation is without opposition and accordingly I urge my colleagues' support for it.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the Senate bill, S. 1284, as amended.

The question was taken and—two-thirds having voted in favor thereof—the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to make certain technical corrections in the Judicial Improvements Act of 1990, and other provisions of law relating to the courts."

A motion to reconsider was laid on the table.

PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS AMENDMENTS ACT OF 1991

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1475) to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such act, and for other purposes.

The Clerk read as follows:

S. 1475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991".

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

SEC. 3. FINDINGS.

Section 101(a) (42 U.S.C. 10801(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1), the following new paragraph:

"(2) family members of individuals with mental illness play a crucial role in being advocates for the rights of individuals with mental illness where the individuals are minors, the individuals are legally competent and choose to involve the family members, and the individuals are legally incompetent and the legal guardians, conservators, or other legal representatives are members of the family;".

SEC. 4. DEFINITIONS.

Section 102 (42 U.S.C. 10802) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting after paragraph (2), the following new paragraph:

"(3) The term 'facilities' may include, but need not be limited to, hospitals, nursing homes, community facilities for individuals with mental illness, board and care homes, homeless shelters, and jails and prisons.".

SEC. 5. USE OF ALLOTMENTS.

Section 104 (42 U.S.C. 10804) is amended by adding at the end thereof the following new subsection:

"(c) An eligible system may use its allotment under this title to provide representation to individuals with mental illness in Federal facilities who request representation by the eligible system. Representatives of such individuals from such system shall be accorded all the rights and authority accorded to other representatives of residents of such facilities pursuant to State law and other Federal laws.".

SEC. 6. SYSTEMS REQUIREMENTS.

(a) ACCESS TO RECORDS.—Section 105(a)(4) (42 U.S.C. 10805(a)(4)) is amended—

(1) in subparagraph (A), by striking out "and" at the end thereof;

(2) in subparagraph (B)(iii)—

(A) by inserting "as a result of monitoring or other activities (either of which result from a complaint or other evidence)" before "there is"; and

(B) by adding "and" at the end thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(C) any individual with a mental illness, who has a legal guardian, conservator, or other legal representative, with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy, whenever—

"(i) such representative has been contacted by such system upon receipt of the name and address of such representative;

"(ii) such system has offered assistance to such representative to resolve the situation; and

"(iii) such representative has failed or refused to act on behalf of the individual;".

(b) ADVISORY COUNCIL.—Section 105(a)(6) (42 U.S.C. 10805(a)(6)) is amended—

(1) in subparagraph (A), by striking out "and" at the end thereof;

(1) in subparagraph (B), by striking out "one-half" and inserting in lieu thereof "60 percent"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) which shall be chaired by an individual who has received or is receiving mental health services or who is a family member of such an individual;".

(c) GRIEVANCE PROCEDURE.—Section 105(a)(9) (42 U.S.C. 10805(a)(9)) is amended by inserting before the period the following: "and for individuals who have received or are receiving mental health services, family members of such individuals with mental illnesses, or representatives of such individuals with mental illnesses, or representatives of such individuals or family members to assure that the eligible system is operating in compliance with the provisions of this title and title III".

(d) GOVERNING AUTHORITY.—Section 105(c)(1)(B) (42 U.S.C. 10805(c)(1)(B)) is amended by adding at the end thereof the following new sentence: "As used in this subparagraph, the term 'members who broadly represent or are knowledgeable about the needs of the clients served by the system' shall be construed to include individuals who have received or are receiving mental health services and family members of such individuals.".

SEC. 7. TRAINING.

Section 111 (42 U.S.C. 10821) is amended—

(1) in subsection (a)(2), by inserting before the semicolon the following: "and to work with family members of clients served by the system where the individuals with mental illness are minors, legally competent and do not object, and legally incompetent and the legal guardians, conservators, or other legal representatives are family members";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a), the following new subsection:

"(b) The assurance required under subsection (a)(2) regarding trained staff may be satisfied through the provision of training by individuals who have received or are receiving mental health services and family members of such individuals.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 117 (42 U.S.C. 10827) is amended to read as follows:

SEC. 117. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for allotments under this title, $19,500,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and through 1995.".

SEC. 9. REGULATIONS.

Section 116 (42 U.S.C. 10826) is amended—

(1) by inserting "(a) IN GENERAL.—before "The Secretary"; and

"(2) by adding at the end thereof the following new subsection:

"(b) REGULATIONS.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall promulgate final regulations to carry out this title and title III.

SEC. 10. TECHNICAL AMENDMENTS.

The Act (42 U.S.C. 10801 et seq.) is amended—

(1) by striking out "mentally ill individual" each place that such occurs and inserting in lieu thereof "individual with mental illness"; and

(2) by striking out "mentally ill individuals" each place that such occurs and inserting in lieu thereof "individuals with mental illnesses".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1475 revises and extends the authorization of appropriations for the Protection and Advocacy for Mentally Ill Individuals Act of 1986.

The purposes of this important act are to ensure that the rights of individuals with mental illness are protected and that incidents of abuse and neglect are investigated.

The legislation includes several amendments that strengthen the ability of the protection and advocacy [P&A] systems to carry out their responsibilities.

The bill recognizes the important role played in P&A systems by individuals who have received or who are receiving mental health services and their family members. The bill includes language authorizing the use of P&A funds for representation of individuals with mental illness residing in Federal facilities.

The bill sets the authorization of appropriations at $19.5 million for fiscal year 1992, and "such sums as may be necessary" for each of fiscal years 1993 through 1995.

Mr. Speaker, S. 1475 was reported by the Senate on July 31 by voice vote. The legislation was reported from the Energy and Commerce Committee without amendment.

I urge support for the legislation.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise today in support of S. 1475, the Protection and Advocacy for Mentally Ill Individuals Act of 1991. Additionally, I would like to commend the gentleman in the other body from Iowa, Mr. HARKIN, for introducing this very important measure, and the distinguished chairman from California, Mr. WAXMAN, and the ranking minority member, the gentleman from California [Mr. DANNEMEYER].

The Protection and Advocacy for Mentally Ill Individuals Act of 1991 was enacted to protect the rights for mentally ill individuals and assist States in investigating incidence of abuse and neglect—the so-called Protection and Advocacy Program. Funds are allocated to States according to a formula based on population and per capita income. The program was last reauthorized at $14.3 million in fiscal year 1989 and such sums in fiscal years 1990 and 1991.

Specifically, the bill states the important role family members of people with mental illness play as advocates for the rights of mentally ill individuals. Also, this act defines "facilities"—places where mentally ill patients or residents are protected by the Protection and Advocacy for Mentally Ill Individuals Act of 1991—to include hospitals, nursing homes, community facilities for mentally ill individuals, board and care homes, homeless shelters, and jails and prisons.

Additionally, this measure increases the percentage of persons on the advisory council that must be receiving, or have received, mental health services, or who are family members of such individuals, from 50 to 60 percent. This act broadens grievance procedures to allow individuals who are receiving, or have received, mental health services and their family members to formally file grievances against protection and advocacy groups. Finally, S. 1475 provides for family representation on all governing boards of protection and advocacy groups and specifies additional training required for protection and advocacy staff.

Mr. Speaker, as we know, since 1973, Federal law has prohibited discrimination on the grounds of mental illness in federally funded programs. Those provisions, however, have not removed all barriers that have kept our Nation's mentally disabled people from participating fully on the job and in the activities of daily life.

Accordingly, Mr. Speaker, I urge all of colleagues to support S. 1475 as it helps to remove barriers in the lives of our Nation's mentally ill.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purposes of the Protection and Advocacy for Mentally Ill Individuals Act are: To ensure that the rights of individuals with mental illness are protected and to assist States to establish and operate protection and advocacy systems that will: First, protect and advocate for the rights of those individuals; and second, investigate incidents of abuse and neglect.

Currently, there are 56 protection and advocacy systems which handled approximately 20,000 cases in 1990.

While the program has had its successes, concerns have been raised that family members are often ignored or disregarded by P&A advocates and administrators.

During the subcommittee's hearing on this legislation, we heard testimony from the National Association of the Mentally Ill [NAMI] that many of the protection and advocacy organizations were created and operated without family input. This organization was also concerned that, in the statute, there was no formal mechanism for families of the mentally ill to file grievances against a protection and advocacy program.

In light of this, I am pleased that this legislation acknowledges that the involvement of family members is crucial to the successful care and treatment of individuals with mental illness. Specifically, the bill does the following:

First, it requires that 60 percent of the advisory council consist of family members of those who are mentally ill;

Second, it guarantees family representation on all governing boards of protection and advocacy groups; and

Third, it provides in statute that family members have a formal grievance process to file grievances against protection and advocacy groups.

I urge my colleagues to support this legislation.

Mr. DANNEMEYER. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the Senate bill, S. 1475.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

PREVENTIVE HEALTH AMENDMENTS OF 1991

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preventive Health Amendments of 1991".

TITLE I—PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

SUBTITLE A—GENERAL PROGRAM

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking "For the purpose" and all that follows and inserting the following: "For the purpose of allotments under section 1902, there are authorized to be appropriated $135,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

(b) ALLOCATION FOR SERVICES FOR RAPE VICTIMS AND FOR RAPE PREVENTION.—Section 1901(b) of the Public Health Service Act (42 U.S.C. 300w(b)) is amended by striking "$3,500,000" and inserting "$7,000,000".

SEC. 102. ALLOTMENTS.

Section 1902(a) of the Public Health Service Act (42 U.S.C. 300w-1(a)) is amended to read as follows: "(a)(1) Subject to paragraph (2), the Secretary shall each fiscal year allot to each State an amount equal to the product of—

"(A) the amount appropriated under section 1901 for the fiscal year and available for allotment under this subsection; and

"(B) the percentage through which the allotment under this subsection was made for the State for fiscal year 1991.

"(2) For fiscal year 1993 and subsequent fiscal years, if the amount appropriated under section 1901 and available for allotment under this subsection exceeds the amount so appropriated and available for fiscal year 1992—

"(A) the amount equal to the amount so appropriated and available for fiscal year

1992 shall be allotted in accordance with paragraph (1); and

"(B) the amount in excess of the amount specified in subparagraph (A) shall be allotted to the States on the basis of the population of the States.".

SEC. 103. USE OF ALLOTMENTS.

(a) EMERGENCY MEDICAL SERVICES.—

(1) IN GENERAL.—Section 1904(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)(F)) is amended by adding at the end of the following new sentence: "Amounts may be expended for feasibility studies or planning for the trauma-care components of such systems only if the studies of planning, respectively, is consistent with the requirements of section 1213(a).".

(2) ADMINISTRATION OF RELATED PROGRAM.—Section 1211(a) of the Public Health Service Act (42 U.S.C. 300d-11(a)), as added by Public Law 101-590, is amended in the first sentence by inserting after "Secretary" the following: ", acting through the Director of the Center for Disease Control,".

(b) MONITORING AND EVALUATIONS.—Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)) is amended in the matter after and below subparagraph (H)—

(1) by striking "in the preceding sentence" and inserting "in subparagraphs (A) through (H)"; and

(2) by inserting before the period the following: ", and for the monitoring and evaluation of activities carried out under this paragraph".

(c) TRANSFERS FROM CERTAIN ALLOTMENT.—Section 1904(c) of the Public Health Service Act (42 U.S.C. 300w-3(c)) is amended by striking "parts B and C" and inserting "part B".

SEC. 104. REPORTS AND AUDITS.

(a) UNIFORM USE OF CRITERIA.—Section 1906(a) of the Public Health Service Act (42 U.S.C. 300w-5(a)) is amended by adding at the end the following new paragraph:

"(4) The Secretary shall establish criteria for the preparation and submission of the annual reports required in paragraph (1), including criteria for the collection and presentation of information, and shall ensure the uniform use by the States of the criteria in carrying out the requirements of such paragraph.".

(b) DATE FOR SUBMISSION OF REPORTS.—Section 1906(a) of the Public Health Service Act, as amended by subsection (a) of this section, is amended by adding at the end the following new paragraph:

"(5) Each annual report required in paragraph (1) shall be submitted to the Secretary not later than February 1 of the fiscal year following the fiscal year for which the report is prepared.".

SEC. 105. WITHHOLDING.

Section 1907(b)(1) of the Public Health Service Act (42 U.S.C. 300w-6(b)(1)) is amended by striking "shall conduct" and inserting "may conduct".

SEC. 106. TECHNICAL AMENDMENTS.

Part A of title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended—

(1) in section 1902, by striking subsection (e);

(2) in section 1905(c)—

(A) in paragraph (1), by striking "alloted" and inserting "allotted"; and

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) in section 1906(a)(1), by striking "section 1905(c)(6)" and inserting "section 1905(c)(4)".

SUBTITLE B—REVISION AND TRANSFER OF PROGRAM REGARDING YEAR 2000 HEALTH OBJECTIVES

SEC. 111. REVISIONS IN PROGRAM.

(a) REQUIRED DETERMINATIONS IN STATEWIDE ASSESSMENTS.—Section 2(b)(2) of the Year 2000 Health Objectives Planning Act (Public Law 101-582; 42 U.S.C. 246 note) is amended to read as follows:

"(2) REQUIRED DETERMINATIONS.—

"(A) Not later than April 1, 1992, the Secretary, in consultation with the States, shall select from among the year 2000 objectives a list of objectives that are to be required subjects for purposes of statewide assessments under paragraph (1). The Secretary may not make a grant under subsection (a) unless the State involved agrees that the assessment under such paragraph will be conducted with respect to each of the objectives so selected.

"(B) Subject to compliance with subparagraph (A), the Secretary may authorize a State to conduct a stateside assessment under paragraph (1) with respect to year 2000 objectives that are not selected for purposes of subparagraph (A).".

(b) SUBMISSION OF STATE PLAN.—Section 2(c)(3) of the Year 2000 Health Objectives Planning Act (Public Law 101-582; 42 U.S.C. 246 note) is amended—

(1) by striking "1992," and inserting "1993,"; and

(2) by inserting before the period the following: ", and will, for each subsequent fiscal year for which the State receives a grant under subsection (a), make revisions in the plan as appropriate and submit the revisions to the Secretary not later than April 1 of the following fiscal year".

(c) REPORT TO CONGRESS.—Section 4(c) of the Year 2000 Health Objectives Planning Act (Public Law 101-582; 42 U.S.C. 246 note) is amended by striking "there is authorized" and all that follows and inserting the following: "there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 through 1996.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 7 of the Year 2000 Health Objectives Planning Act Public Law 101-582; 42 U.S.C. 246 note) is amended by striking "there is authorized" and all that follows and inserting the following: "there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 through 1996.".

(e) TECHNICAL AMENDMENT.—Section 2(b)(1) of the Year 2000 Health Objectives Planning Act (Public Law 101-582; 42 U.S.C. 246 note) is amended by striking "agrees" and inserting "agrees,".

SEC. 112. TRANSFER OF PROGRAM.

(a) IN GENERAL.—Sections 2 through 7 of the Year 2000 Health Objectives Planning Act, as amended by section 111 of this Act, are—

(1) transferred to part A of title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

(2) redesignated as sections 1910A through 1910F, respectively; and

(3) in the appropriate sequence, inserted after section 1910 of such part.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Part A of title XIX of the Public Health Service Act, as amended by subsection (a) of this section, is amended—

(A) by inserting before section 1901 the following new heading:

"Subpart 1—General program"; and

(B) by inserting before section 1910A the following new heading:

"Subpart 2—State Plans for Year 2000 Health Objectives".

(2) CROSS-REFERENCES.—Subpart 2 of part A of title XIX of the Public Health Service Act, as designated by paragraph (1) of this subsection, is amended—

(a) by striking "section 2(a)" each place such term appears and inserting "section 1910A(a)";

(B) in section 1910B(a), by striking "section 2(b)(1)" and inserting "section 1910A(b)(1)";

(C) in section 1910C—

(i) in section (a)—

(I) in the matter preceding paragraph (1), by striking "section 3(b)" and inserting "section 1910B(b)"; and

(ii) in paragraph (2), by striking "section 3(a)" and inserting "section 1910B(a)"; and

(ii) in subsection (c), by striking "section 2(c)(3)" and inserting "section 1910A(c)(3)";

(D) in section 1910E, by striking "For purposes of" and all that follows and inserting the following:

"For purposes of this subpart, the term 'year 2000 objectives' means the objectives described in section 1910A(b)(1)."; and

(E) in section 1910F, by striking "this Act," and inserting "this subpart,".

(3) MISCELLANEOUS.—Section 1910A(a) of the Public Health Service Act, as redesignated by subsection (a) of this section, is amended by striking "Secretary of Health and Human Services," and inserting "Secretary,".

TITLE II—NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL

SEC. 201. ESTABLISHMENT OF FOUNDATION.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 101 of Public Law 101-616, is amended by adding at the end the following new part:

PART M—NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL

"SEC. 399B. ESTABLISHMENT AND DUTIES OF FOUNDATION.

"(a) IN GENERAL.—There shall be established in accordance with this section a nonprofit private corporation to be known as the National Foundation for the Centers for Disease Control (in this part referred to as the 'Foundation'). The Foundation shall not be an agency or instrumentality of the Federal Government, and officers, employees, and members of the board of the Foundation shall not be officers or employees of the Federal Government.

"(b) PURPOSE OF FOUNDATION.—The purpose of the Foundation shall be to support and carry out activities for the prevention and control of diseases, disorders, injuries, and disabilities, and for promotion of public health.

"(c) ENDOWMENT FUND.—

"(1) IN GENERAL.—In carrying out subsection (b), the Foundation shall establish a fund for providing endowments for positions that are associated with the Centers for Disease Control and dedicated to the purpose described in such subsection. Subject to subsection (f)(1)(B), the fund shall consist of such donations as may be provided by non-Federal entities and such non-Federal assets of the Foundation (including earnings of the Foundation and the fund) as the Foundation may elect to transfer to the fund.

"(2) AUTHORIZED EXPENDITURES OF FUND.—The provision of endowments under paragraph (1) shall be the exclusive function of the fund established under such paragraph. Such endowments may be expended only for the compensation of individuals holding the positions, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the positions, and for recruiting individuals to hold the positions endowed by the fund.

"(d) CERTAIN ACTIVITIES OF FOUNDATION.—In carrying out subsection (b), the Foundation may provide for the following with respect to the purpose described in such subsection:

"(1) Programs of fellowships for State and local public health officials to work and study in association with the Centers for Disease Control.

"(2) Programs of international arrangements to provide opportunities for public health officials of other countries to serve in public health capacities in the United States in association with the Centers for Disease Control or elsewhere, or opportunities for employees of such Centers (or other public health officials in the United States) to serve in such capacities in other countries, or both.

"(3) Studies, projects, and research (which may include applied research on the effectiveness of prevention activities, demonstration projects, and programs and projects involving international, Federal, State, and local governments).

"(4) Forums for government officials and appropriate private entities to exchange information. Participants in such forums may include institutions of higher education and appropriate international organizations.

"(5) Meetings, conferences courses, and training workshops.

"(6) Programs to improve the collection and analysis of data on the health status of various populations.

"(7) Programs for writing, editing, printing, and publishing of books and other materials.

"(8) Other activities to carry out the purpose described in subsection (b)

"(e) General Structure of Foundation; Nonprofit Status.—

"(1) Board of Directors.—The Foundation shall have a board of directors (in this part referred to as the 'Board'), which shall be established and conducted in accordance with subsection (f). The Board shall establish the general policies of the Foundation for carrying out subsection (b), including the establishment of the bylaws of the Foundation.

"(2) Executive director.—The Foundation shall have an executive director (in this part referred to as the 'Director'), who shall be appointed by the Board, who shall serve at the pleasure of the Board, and for whom the Board shall establish the rate of compensation. Subject to compliance with the policies and bylaws established by the Board pursuant to paragraph (1), the Director shall be responsible for the daily operations of the Foundation in carrying out subsection (b).

"(3) Nonprofit status.—In carrying out subsection (b), the Board shall establish such policies and bylaws under paragraph (1), and the Director shall carry out such activities under paragraph (2), as may be necessary to ensure that the Foundation maintains status as an organization that—

"(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986; and

"(B) is, under subsection (a) of such section, exempt from taxation.

"(f) Board of Directors.—

"(1) Certain bylaws.—

"(A) In establishing bylaws under subsection (e)(1), the Board shall ensure that the bylaws of the Foundation include bylaws for the following:

"(i) Policies for the selection of the officers, employees, agents, and contractors of the Foundation.

"(ii) Policies, including ethical standards, for the acceptance and disposition of donations to the Foundation and for the disposition of the assets of the Foundation.

"(iii) Policies for the conduct of the general operations of the Foundation.

"(iv) Policies for writing, editing, printing, and publishing of books and other materials, and the acquisition of patents and licenses for devices and procedures developed by the Foundation.

"(B) In establishing bylaws under subsection (e)(1), the Board shall ensure that the bylaws of the Foundation (and activities carried out under the bylaws) do not—

"(i) reflect unfavorably upon the ability of the Foundation, or the Centers for Disease Control, to carry out its responsibilities or official duties in a fair and objective manner; or

"(ii) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in such program.

"(2) Composition.—

"(A) Subject to paragraph (B), the Board shall be composed of 7 individuals, appointed in accordance with paragraph (4), who collectively possess education or experience appropriate for representing the general field of public health, the general field of international health, and the general public. Each such individual shall be a voting member of the Board.

"(B) The Board may, through amendments to the bylaws of the Foundation, provide that the number of appointed members of the Board shall be a greater number than the number specified in paragraph (A).

"(3) Chair.—The Board shall, from the appointed members of the Board, designate an individual to serve as the chair of the Board (in this subsection referred to as the 'Chair').

"(4) Appointments, vacancies, and terms.—Subject to subsection (j) (regarding the initial membership of the Board), the following shall apply to the Board:

"(A) Any vacancy in the membership of the Board shall be filled by appointment by the Board, after consideration of suggestions made by the Chair and the Director regarding the appointments. Any such vacancy shall be filled not later than the expiration of the 180-day period beginning on the date on which the vacancy occurs.

"(B) The term of office of each member of the Board appointed under subparagraph (A) shall be 5 years. A member of the Board may continue to serve after the expiration of the term of the member until the expiration of the 180-day period beginning on the date on which the term of the member expires.

"(C) A vacancy in the membership of the Board shall not affect the power of the Board to carry out the duties of the Board. If a member of the Board does not serve the full term applicable under subparagraph (B), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(5) Compensation.—Members of the Board may not receive compensation for service on the Board. The members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board.

"(g) Certain Responsibilities of Executive Director of Foundation.—In carrying out subsection (e)(2), the Director shall carry out the following functions:

"(1) Hire, promote, compensate, and discharge officers and employees of the Foundation, and define the duties of the officers and employees.

"(2) Accept and administer donations to the Foundation, and administer the assets of the Foundation.

"(3) Establish a process for the selection of candidates for holding endowed positions under subsection (c).

"(4) Enter into such financial agreements as are appropriate in carrying out the activities of the Foundation.

"(5) Take such action as may be necessary to acquire patents and licenses for devices and procedures developed by the Foundation and the employees of the Foundation.

"(6) Adopt, alter, and use a corporate seal, which shall be judicially noticed.

"(7) Commence and respond to judicial proceedings in the name of the Foundation.

"(8) Other functions that are appropriate in the determination of the Director.

"(h) General Provisions.—

"(1) Authority for accepting funds.—The Director of the Centers for Disease Control may accept and utilize, on behalf of the Federal Government, any gift, donation, bequest, or devise of real and personal property from the Foundation for the purpose of aiding or facilitating the work of such Centers. Funds may be accepted and utilized by such Director under the preceding sentence without regard to whether the funds are designated as general-purpose or special-purpose funds.

"(2) Authority for acceptance of voluntary services.—

"(A) The Director of the Centers for Disease Control may accept, on behalf of the Federal Government, any voluntary services provided to such Centers by the Foundation for the purpose of aiding or facilitating the work of such Centers. In the case of an individual, such Director may accept the services provided under the preceding sentence by the individual for not more than 2 years.

"(B) The limitation established in subparagraph (A) regarding the period of time in which services may be accepted applies to each individual who is not an employee of the Federal Government and who serves in association with the Centers for Disease Control pursuant to financial support from the Foundation.

"(3) Administrative control.—No officer, employee, or member of the Board of the Foundation may exercise any administrative or managerial control over any Federal employee.

"(4) Applicability of certain standards to non-federal employees.—In the case of any individual who is not an employee of the Federal Government and who serves in association with the Centers for Disease Control pursuant to financial support from the Foundation, the Foundation shall negotiate a memorandum of understanding with the individual and the Director of the Centers for Disease Control specifying that the individual—

"(A) shall be subject to the ethical and procedural standards regulating Federal employment, scientific investigation, and research findings (including publications and patents) that are required of individuals employed by the Centers for Disease Control, including standards under this Act, the Ethics in Government Act, and the Technology Transfer Act; and

"(B) shall be subject to such ethical and procedural standards under chapter 11 of title 18, United States Code (relating to conflicts of interest), as the Director of such Centers determines is appropriate, except such memorandum may not provide that the individual shall be subject to the standards of section 209 of such chapter.

"(5) Financial conflicts of interest.—Any individual who is an officer, employee, or member of the Board of the Foundation may not directly or indirectly participate in the consideration or determination by the Foundation of any question affecting—

"(A) any direct or indirect financial interest of the individual; or

"(B) any direct or indirect financial interest of any business organization or other entity of which the individual is an officer or employee or in which the individual has a direct or indirect financial interest.

"(6) AUDITS.—The Foundation shall provide for biennial audits of the financial condition of the Foundation.

"(7) REPORTS.—Not later than February 1 of each fiscal year, the Foundation shall publish a report describing the activities of the foundation during the preceding fiscal year. Each such report shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation.

"(8) LIAISON FROM CENTERS FOR DISEASE CONTROL.—The Director of the Centers for Disease Control shall serve as the liaison representative of such Centers to the Board and the Foundation.

"(i) FEDERAL FUNDING.—

"(1) AUTHORITY FOR ANNUAL GRANTS.—

"(A) The Secretary, acting through the Director of the Centers for Disease Control, shall—

"(i) for year 1992, make a grant to an entity described in subsection (j)(9) (relating to the establishment of a committee to establish the Foundation);

"(ii) for fiscal year 1993, make a grant to the committee established under such subsection, or if the Foundation has been established, to the Foundation; and

"(iii) for fiscal year 1994 and each subsequent fiscal year, make a grant to the Foundation.

"(B) A grant under subparagraph (A) maybe expended—

"(i) in the case of an entity receiving the grant under subparagraph (A)(i), only for the purpose of carrying out the duties established in subsection (j)(9) for the entity;

"(ii) in the case of the committee established under such subsection, only for the purpose of carrying out the duties established in subsection (j) for the committee; and

"(iii) in the case of the Foundation, only for the purpose of the administrative expenses of the Foundation.

"(C) A grant under subparagraph (A) may not be expended to provide amounts for the fund established under subsection (c).

"(D) For the purposes described in subparagraph (B)—

"(i) any portion of the grant made under subparagraph (A)(i) for fiscal year 1992 that remains unobligated after the entity receiving the grant completes the duties established in subsection (j)(9) for the entity shall be available to the committee established under such subsection; and

"(ii) any portion of a grant under subparagraph (A) made for fiscal year 1992 or 1993 that remains unobligated after such committee completes the duties established in such subsection for the committee shall be available to the Foundation.

"(2) FUNDING FOR GRANTS.—

"(A) For the purpose of grants under paragraph (1), there is authorized to be appropriated $500,000 for each fiscal year.

"(B) For the purpose of grants under paragraph (1), the Secretary may for each fiscal year make available not more than $500,000 from the amounts appropriated for the fiscal year for the programs of the Department of Health and Human Services. Such amounts may be made available without regard to whether amounts have been appropriated under subparagraph (A).

"(j) COMMITTEE FOR ESTABLISHMENT OF FOUNDATION.—

"(1) IN GENERAL.—There shall be established in accordance with this subsection a committee to carry out the functions described in paragraph (2) (which committee is referred to in this subsection as the 'Committee').

"(2) FUNCTIONS.—The Committee shall carry out the following functions:

"(2) FUNCTIONS.—The Committee shall carry out the following functions:

"(A) Carry out such activities as may be necessary to incorporate the Foundation under the laws of the State involved, including serving as incorporators for the Foundation. Such activities shall include ensuring that the articles of incorporation for the Foundation require that the Foundation be established and operated in accordance with the applicable provisions of this part (or any successor to this part), including such provisions as may be in effect pursuant to amendments enacted after the date of the enactment of the Preventive Health Amendments of 1991.

"(B) Ensure that the Foundation qualifies for and maintains the status described in subsection (e)(3) regarding taxation).

"(C) Establish the general policies and initial bylaws of the Foundation, which bylaws shall include the bylaws described in subsections (e)(3) and (f)(1).

"(D) Provide for the initial operation of the Foundation, including providing for quarters, equipment, and staff.

"(E) Appoint the initial members of the Board in accordance with the requirements established in subsection (f)(2)(A) for the composition of the Board, and in accordance with such other qualifications as the Committee may determine to be appropriate regarding such composition. Of the members so appointed—

"(i) 2 shall be appointed to serve for a term of 3 years;

"(ii) 2 shall be appointed to serve for a term of 4 years; and

"(iii) 3 shall be appointed to serve for a term of 5 years.

"(3) COMPLETION OF FUNCTIONS OF COMMITTEE; INITIAL MEETING OF BOARD.—

"(A) The Committee shall complete the functions required in paragraph (1) not later than September 30, 1993. The Committee shall terminate upon the expiration of the 30-day period beginning on the date on which the Secretary determines that the functions have been completed.

"(B) The initial meeting of the Board shall be held not later than November 1, 1993.

"(4) COMPOSITION.—The Committee shall be composed of 5 members, each of whom shall be a voting member. Of the members of the Committee—

"(A) no fewer than 2 shall have broad, general experience in public health; and

"(B) no fewer than 2 shall have broad, general experience in nonprofit private organizations (without regard to whether the individuals have experience in public health).

"(5) CHAIR.—The Committee shall, from among the appointed members of the Committee, designate an individual to serve as the Chair of the Committee.

"(6) TERMS; VACANCIES.—The term of members of the Committee shall be for the duration of the Committee. A vacancy in the membership of the Committee shall not affect the power of the Committee to carry out the duties of the Committee. If a member of the Committee does not serve the full term, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(7) COMPENSATION.—Members of the Committee may not receive compensation for service on the Committee. Members of the Committee may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Committee.

"(8) COMMITTEE SUPPORT.—The Director of the Centers for Disease Control may, from amounts available to the Director for the general administration of such Centers, provide staff and financial support to assist the Committee with carrying out the functions described in paragraph (2). In providing such staff and support, the Director may both detail employees and contract for assistance.".

"(9) GRANT FOR ESTABLISHMENT OF COMMITTEE.—

"(A) With respect to a grant under paragraph (1)(A)(i) of subsection (i) for fiscal year 1992, an entity described in this paragraph is a private nonprofit entity with significant experience in domestic and international issues of public health. Not later than 180 days after the date of the enactment of the Preventive Health Amendments of 1991, the Secretary shall make the grant to such an entity (subject to the availability of funds under paragraph (2) of such subsection).

"(B) The grant referred to in subparagraph (A) may be made to an entity only if the entity agrees that—

"(i) the entity will establish a committee that is composed in accordance with paragraph (4); and

"(ii) the entity will not select an individual for membership on the Committee unless the individual agrees that the Committee will operate in accordance with each of the provisions of this subsection that relate to the operation of the Committee.

"(C) The Secretary may make a grant referred to in subparagraph (A) only if the applicant for the grant makes an agreement that the grant will not be expended for any purpose other than carrying out subparagraph (B). Such a grant may be made only if an application for the grant is submitted to the Secretary containing such agreement, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Secretary determines to be necessary to carry out this paragraph.".

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The SPEAKER pro tempore (Mr. HOCHBRUECKNER). Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3635, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill reauthorizes the preventive health block grant as well as the Year 2000 Health Objectives Act. In addition, it authorizes a nonprofit foundation for the Centers for Disease Control to work with both the private and public sector on disease control and public health issues.

These programs are relatively small, but in some ways provide the mortar for the States to piece together their own preventive health programs. I urge Members to support these efforts.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. I rise in support of H.R. 3635, legislation to reauthorize the preventive health and health services block grant. This program, which was created in 1982 by consolidating a number of categorical programs, provides the States with the needed flexibility to address their individual health needs.

Under this program, the States can use the funds for a variety of public health activities including the detection of hypertension, fluoridation control, cholesterol screening, early prenatal care, and childhood immunizations. It is up to the States to decide on which area they most need to focus.

I was unable to support the bill as originally introduced because it included an authorization level of $150 million, which represented an increase of 62 percent above fiscal year 1991 appropriations. The bill before us now reflects an authorization which is more in keeping with reality since it is at the fiscal year 1992 level of $135 million provided for in the fiscal year 1992 Labor/HHS appropriations conference report.

In addition, the provisions of this bill create a private sector national foundation for the centers of disease control. The Office of Government Ethics had a number of concerns about the provisions that were reported out by the committee. I believe our amended version resolves these concerns.

I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California. [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3635, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ABANDONED INFANTS ASSISTANCE ACT OF 1991

Mr. PAYNE of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2722) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, as amended.

The Clerk read as follows:

H.R. 2722

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Infants Assistance Act Amendments of 1991"

SEC. 2. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in paragraph (3), by striking "the vast majority" and inserting "an unacceptable number";

(2) in paragraph (6), by striking "the number of cases" and all that follows and inserting the following: "the number of infants and young children who are infected with the human immunodeficiency virus (which is believed to cause acquired deficiency syndrome and which is commonly known as HIV) or who have been perinatally exposed to the virus or to a dangerous drug;";

(3) in paragraph (7)—

(A) by striking "more than 80 percent of" and inserting "many such" before "infants"; and

(B) by striking "with acquired immune deficiency syndrome";

(4) in paragraph (8)—

(A) by inserting "such" before "infants"; and

(B) by striking "with acquired immune deficiency syndrome"; and

(5)(A) in paragraph (9), by striking "and" at the end;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) by inserting after paragraph (9) the following new paragraph:

"(10) there is a need to support the families of such infants and young children through the provision of services that will prevent the abandonment of the infants and children; and".

SEC. 3. PROGRAM OF DEMONSTRATION PROJECTS REGARDING INFANTS AND YOUNG CHILDREN ABANDONED IN HOSPITALS.

(a) PRIORITY REGARDING CERTAIN INFANTS AND YOUNG CHILDREN.—

(1) IN GENERAL.—Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(A) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in carrying out the purpose described in subsection (a) (other than with respect to paragraph (6) of such subsection), the applicant will give priority to abandoned infants and young children—

"(1) who are infected with the human immunodeficiency virus or who have been perinatally exposed to the virus; or

"(2) who have been perinatally exposed to a dangerous drug.".

(2) CONFORMING AMENDMENTS.—Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(A) in subsection (a)—

(i) in paragraph (6), by striking "with acquired immune deficiency syndrome" and inserting "described in subsection (b)";

(ii) in each of paragraphs (2), (4), (5), and (7), by striking ", particularly those with acquired immune deficiency syndrome"; and

(iii) in paragraph (3), by striking ", particularly those with acquired immune deficiency syndrome,"; and

(B) in subsection (d)(1) (as redesignated by paragraph (1)(A) of this subsection), by striking "(d)" and inserting "(e)".

(b) COMPREHENSIVE SERVICE CENTERS.—Section 101(a) of the Abandoned Infants Assistance Act of 1988, as amended by subsection (a) of this section, is amended—

(1) in paragraph (6), by striking "and" after the semicolon at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to prevent the abandonment of infants and young children, and to care for the infants and young children who have been abandoned, through model programs providing health, educational, and social services at a single site in a geographic area in which a significant number of infants and young children described in subsection (b) reside (with special consideration given to applications from entities that will provide the services of the project through community-based organizations).".

(c) OTHER REVISIONS REGARDING PURPOSE OF GRANTS.—Section 101(a) of the Abandoned Infants Assistance Act of 1988, as amended by subsections (a) and (b) of this section, is amended—

(1) in paragraph (1), by inserting before the semicolon the following: ", including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child"; and

(2) in paragraph (5), by inserting before the semicolon the following: "who are unable to reside with their families or to be placed in foster care".

(d) ADMINISTRATION OF GRANT.—Section 101(d) of the Abandoned Infants Assistance Act of 1988, as redesignated and amended by subsection (a) of this section, is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) in the matter preceding subparagraph (A) (as so redesignated), by striking "(d) ADMINISTRATION" and all that follows through "The Secretary" and inserting the following:

"(d) ADMINISTRATION OF GRANT.—

"(1) The Secretary";

(3) by moving each of subparagraphs (A) through (D) (as so redesignated) 2 ems to the right; and

(4) by adding at the end the following new paragraph:

"(2) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a grant under subsection (a) shall be for a period of 3 years, except that the Secretary—

"(A) may terminate the grant if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the grant; and

"(B) shall continue the grant for one additional year if the Secretary determines that the entity has satisfactorily complied with such agreements.".

SEC. 4. EVALUTIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—

"(1)(A) The Secretary may enter into contracts or cooperative agreements with public or nonprofit private entities for the development and operation of model projects to disseminate the information described in subparagraph (B) to individuals who are disproportionately at risk of dysfunctional behaviors that lead to the abandonment of infants or young children.

"(B) The information referred to in subparagraph (A) is information on the availability to individuals described in such subparagraph, and the families of the individuals, of financial assistance and services under Federal, State, local, and private programs providing health services, mental health services, educational services, housing services, social services, or other appropriate services.

"(2) The Secretary may not provide a contract or cooperative agreement under paragraph (1) to an entity unless—

"(A) the entity has demonstrated expertise in the functions with respect to which such financial assistance is to be provided; and

"(B) the entity agrees that in disseminating information on programs described in such paragraph, the entity will give priority—

"(i) to providing the information to individuals described in such paragraph who—

"(I) engage in the abuse of alcohol or drugs, who are infected with the human immunodeficiency virus, or who have limited proficiency in speaking the English language; or

"(II) have been historically underserved in the provision of the information; and

"(ii) to providing information on programs that are operated in the geographic area in which the individuals involved reside and that will assist in eliminating or reducing the extent of behaviors described in such paragraph.

"(3) In providing contracts and cooperative agreements under paragraph (1), the Secretary may not provide more than 1 such contract or agreement with respect to any geographic area.

"(4) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a contract or cooperative agreement under paragraph (1) shall be for a period of 3 years, except that the Secretary may terminate such financial assistance if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the assistance.".

(b) STUDY.—Section 102(c) of the Abandoned Infants Assistance Act of 1988, as amended by subsection (a) of this subsection, is amended—

(1) in paragraph (1)(A), by striking "infants who have acquired immune deficiency syndrome" and inserting "infants and young children who are infants and young children described in section 101(b)"; and

(2) in paragraph (2), by striking "The Secretary" and all that follows through "Act," and inserting the following: "Not later than April 1, 1992, the Secretary shall".

SEC. 5. DEFINITIONS.

Section 103 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"SEC. 103. DEFINITIONS.

"For purposes of this title:

"(1) The terms 'abandoned' and 'abandonment', with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

"(2) The term 'dangerous drug' means a controlled substance, as defined in section 102 of the Controlled Substances Act.

"(3) The term 'natural family' shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation with respect to infants and young children covered under this Act.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "For the purpose" and all that follows and inserting the following:

"(a) IN GENERAL.—

"(1) For the purpose of carrying out this title (other than section 102(b)), there are authorized to be appropriated $20,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, $30,000,000 for fiscal year 1994, and $35,000,000 for fiscal year 1995.

"(2)(A) Of the amounts appropriated under paragraph (1) for any fiscal year in excess of the amount appropriated under this subsection for fiscal year 1991, as adjusted in accordance with subparagraph (B), the Secretary shall make available not less than 50 percent for grants under section 101(a) to carry out projects described in paragraph (8) of such section.

"(B) For purpose of subparagraph (A), the amount relating to fiscal year 1991 shall be adjusted for a fiscal year to a greater amount to the extent necessary to reflect the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.

"(3) Not more than 5 percent of the amounts appropriated under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).

"(b) DISSEMINATION OF INFORMATION FOR INDIVIDUALS WITH SPECIAL NEEDS.—For the purposes of carrying out section 102(b), there is authorized to be appropriated $5,000,000 for each of the fiscal year 1992 through 1995.

"(c) ADMINISTRATIVE EXPENSES.—

"(1) For the purpose of the administration of this title by the Secretary, there is authorized to be appropriated for each fiscal year specified in subsection (a)(1) an amount equal to 5 percent of the amount authorized in such subsection to be appropriated for the fiscal year. With respect to the amounts appropriated under subsection, the preceding sentence may not be construed to prohibit the expenditures of the amounts for the purpose described in such sentence.

"(2) The Secretary may not obligate any of the amounts appropriated under paragraph (1) for a fiscal year unless, from the amounts appropriated under subsection (a)(1) for the fiscal year, the Secretary has obligated for the purpose described in such paragraph an amount equal to the amounts obligated by the Secretary for such purpose in fiscal year 1991.

"(d) AVAILABILITY OF FUNDS.—Amounts appropriated under this section shall remain available until expended.".

SEC. 7. CONFORMING AMENDMENT.

The heading for title I of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"TITLE I—PROJECTS REGARDING ABANDONMENT OF INFANTS AND YOUNG CHILDREN IN HOSPITALS".

SEC. 8. TERMINATION OF PROGRAM.

Section 105 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. PAYNE] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. KLUG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 3 years ago Congress responded to the problems associated with substance abusing parents, HIV-infected parents, and the increase in the number of boarder babies abandoned in the hospitals, by enacting the Abandoned Infants Assistance Act of 1988.

Through the leadership of Senator METZENBAUM, Congressman OWENS, and Congressman WAXMAN, we were able to develop an initiative, designed to keep us ahead of the curve.

Our intent was twofold; to assist the hardest hit districts by developing effective programs in response to the crisis and to allow other communities to benefit from their experiences.

Recently, we had the benefit of discovering the range and variety of these programs. Last spring, I requested a field hearing and Chairman OWENS generously called one in Newark, NJ, which is in my district.

The Abandoned Infants Assistance Act funds discretionary grants to public and private nonprofit organizations for a number of activities relating to the needs of drug-exposed and HIV-exposed children as well as the needs of their families.

The act has been funded since 1989, and since then many of the grantees have been busy providing innovative social services to numerous families nationwide. Since that date 32 programs have been developed and funded.

Our amendments seek to enhance the services that are already being provided. The comprehensive services that are provided for in the act should be in support of the family in the broadest sense of the term, both with respect to those involved in the service and the coordinated and comprehensive services provided, with the goal of the prevention of the abandonment of the child.

There was a need to provide a one-stop-shopping approach to providing services to families to assist them with various social services and providing them with training all under the same roof. The comprehensive service center model was developed to prevent families from falling through the cracks because of expenses and time involved in traveling across the State in order to obtain various services.

There has been a tremendous amount of negotiations and compromise involved in bringing this bill to the floor and I appreciate the efforts of everyone involved. I would particularly like to express my appreciation to the members and staff of the Energy and Commerce Committee who shared jurisdiction with the Education and Labor Committee on this bill.

Mr. Speaker, indeed this is a worthy cause, the numbers of children exposed to drugs or with AIDS has increased dramatically, and hopefully, through some of the amendments proposed in this act, we can prevent an increase in the abandonment of infants and help their families cope with the various issues that they face.

Mr. KLUG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to offer my support for H.R. 2722, to extend and amend the Abandoned Infants Assistance Act. The grants authorized by this act are designed to prevent abandonment and provide care for infants and young children who have been exposed to drugs or HIV before their birth. It is an unfortunate fact of life that each year we are witnessing the birth of more of these children whose special needs require intense social and medical services. Over 32 demonstration programs have been funded by abandoned-infants grants over the past several years to develop and provide access to these critical services.

The bill we are considering today builds on the program's early success and authorizes several additional activities which I believe will significantly improve services to children in need. In particular, the bill authorizes demonstration grants to create single-site programs that would bring together child protection, health, social support, and education services in a coordinated fashion. This single-site model would eliminate fragmented services and improve access for families and children who are seeking help.

It is a mistaken belief that the incidence of infant exposure to HIV and drugs is limited to our largest urban centers. In my own State of Wisconsin we conducted a study this year that looked at the prevalence of drug exposure among new borns. The study found that 1 in 10 women in Wisconsin used cocaine or some other illegal drug during their pregnancies. The risks associated with drug use during pregnancy are well documented—they include birth defects, developmental disabilities, premature birth, and, in the worst case, infant mortality. In addition to the tremendous human costs associated with these outcomes, there are significant financial costs. Medical costs for a single infant who is born prematurely can easily exceed $100,000 in just the first few months of the child's life.

The Wisconsin study also documented what other States have found in trying to address this problem: that traditional approaches are not sufficient to meet the complex needs of addicted women and their children. If we are to find approaches that do work, we must be willing to experiment with innovative prevention-and-treatment models. The bill we are considering today does just that. It provides funds for public and private agencies to test new ways of identifying women at risk, many of whom now go undetected, and providing those women with a comprehensive package of services. It also ensures that when an experimental grant program is successful in one area, the blueprint for that program will be shared with other cities and States. Although the funds we authorize for these activities are relatively modest, the return on investment will be high as we discover and duplicate effective models.

In closing, I would like to commend my colleague, Mr. PAYNE, and our subcommittee chairman, Mr. OWENS, for their leadership and their bipartisan efforts on behalf of the mothers and children this bill will serve.

Mr. WAXMAN. Mr. Speaker, I rise to support the legislation proposed by the gentleman from New Jersey.

This legislation addresses a problem of growing severity in the Nation's health care system—children who remain in the hospital not because of any illness but because they have nowhere else to go.

These children often present complex legal, social, and medical problems: They are born to parents who are themselves often drug-addicted and sometimes ill with AIDS and who are frequently unable to provide the care and family support necessary. They have a high potential for becoming ill and for being developmentally delayed or disabled. They are sometimes abandoned in the hospitals in which they are born or in which they are treated for initial symptoms or illness.

They are not wanted by adoptive and foster care families or by residential care facilities, sometimes because of their short life expectancy, sometimes because of unwarranted fears that they may infect others, and sometimes because of the financial and emotional support needed to care for them.

The result of these problems has been the growth in boarder babies, a phrase used for infants and young children who are medically cleared for discharge from the hospital but who nonetheless remain as inpatients simply because there is no place else for them to go. Not only is this detrimental to the child's well-being, but such a placement also costs thousands of dollars per child per year, costs that are frequently borne by the Federal and State Governments in the form of Medicaid and by local governments in the form of increased debt for public hospitals.

Most of these children do not need the technology and supervision that accompany pediatric hospitalization. Most would be much better suited to foster or adoptive family care. In many cases, the addition of key support services could, in fact, allow the child to remain with its natural family and prevent the abandonment itself. Governmental costs would be reduced by providing for such prevention services and, if unsuccessful, for the placement of such children outside of a hospital.

While the Abandoned Infants Assistance Act has never been an ultimate solution for the continuing problem of financing the health care of those children who need hospital care, it has created demonstration programs for the provision of nonhospital care so that as the number of children with such problems increases, other States and cities might replicate successful models of treatment and care.

I urge Members to support reauthorization of this program.

Mr. DANNEMEYER. Mr. Speaker, I rise in support of H.R. 2722, the Abandoned Infants Assistance Act of 1991. This legislation represents an agreement between the Energy and Commerce Committee and the Education and Labor Committee.

In 1988, this legislation was first enacted in response to the growing crisis in the number of infants left abandoned in hospitals due primarily to the spread of acquired immune deficiency syndrome [AIDS] and the increased use of illegal drugs among pregnant women. The primary purpose of this legislation was to assist abandoned infants, particularly those with AIDS, to reside with their natural families or in foster care.

This program helps provide foster care for babies with AIDS or other life-threatening diseases who are well enough to be discharged from the hospital but have no place to go. Often the mother is an IV drug abuser with AIDS who either rejects her baby or whose health problems prevent her from caring for her baby.

Until we can eliminate the epidemics of drug abuse and AIDS, this program provides a small step to help those children who are their victims.

Mr. Speaker, I urge my colleagues to join me in supporting the reauthorization of this program.

Mr. OWENS of New York. Mr. Speaker, I am pleased to rise in support of H.R. 2722, the Abandoned Infants Assistance Act. First, I want to commend Mr. DONALD PAYNE, the author of this legislation, who is a member of the Subcommittee on Select Education, which I chair. Mr. PAYNE has been able to forge a bipartisan coalition with members of both the Committee on Education and Labor and the Committee on Energy and Commerce, which represents a tribute to his leadership.

The HIV epidemic continues to ravage minority communities. Yesterday, the New York Times reported that African-Americans comprise nearly a third of the 36,000 cases reported in New York City. The AIDS epidemic, which underlies so much of the problem of abandonment, is the ninth leading cause of death in children. National statistics indicate that minority children, particularly African-American and Hispanics, are disproportionately represented. Of the 26,083 cases in children under 5 diagnosed with the AIDS virus, 56 percent are African-American.

A key strength of this legislation is that it represents an effort to stay ahead of the curve by continuing the search for promising cost-effective approaches to the deeply troubling problem of abandoned children. It also responds to the need to integrate services at a single site—a model approach which can be replicated throughout the country. Additionally, the bill places special emphasis on the dissemination of information to historically underserved populations. The specific needs of limited English proficient populations are also accommodated in this bill.

I urge my colleagues to support this urgently needed legislation.

Mr. KLUG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PAYNE of New Jersey. Mr. Speaker, I have no further requests for time.

Mr. SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. PAYNE], that the House suspend the rules and pass the bill, H.R. 2722, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2722, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent to take from the Senate bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Infants Assistance Act Amendments of 1991".

SEC. 2. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in paragraph (6), by striking ", and the number of cases has doubled within the last 13 months;

(2) in paragraph (9)—

(A) by inserting after "counseling services" the following: "early intervention and developmental services,"; and

(B) by striking "and" at the end thereof;

(3) by redesignating paragraph (10) as paragraph (11); and

(4) by inserting after paragraph (9) the following new paragraph:

"(10) one of the goals of these comprehensive services shall be to support the family, which includes the child and the natural, foster and adoptive families, with the aim of preventing abandonment of the child; and".

SEC. 3. PROGRAM OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Section 101(a) of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in the matter preceding paragraph (1), by striking "may make grants" and inserting the following: "shall make grants from funds appropriated pursuant to section 104(a)";

(2) in paragraph (1), by inserting before the semicolon the following: ", including the provision of services to all members of the natural family for any condition that increases the probability of abandonment of an infant or young child";

(3) in paragraph (2), by inserting before the semicolon "or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or those who are medically fragile";

(4) in paragraph (3), by inserting after "those with acquired immune deficiency syndrome" the following: "or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or those who are medically fragile,";

(5) in paragraph (4)—

(A) by striking "children," and inserting the following: "children (including the actual expenses of the persons receiving the services),"; and

(B) by inserting "or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or medically fragile children" before the semicolon;

(6) in paragraph (5), to read as follows:

"(5) to provide residential care programs for abandoned infants and young children who are unable to reside with their natural families or be placed in foster family care, particularly those with acquired immune deficiency or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or those who are medically fragile;"

(7) in paragraph (6), by amending the paragraph to read as follows:

"(6) to carry out programs and services including respite care, family support groups, parenting skills, in-home support services, the use of volunteers and individual counselors and payment of expenses to attend such groups and provide alternative care) for natural, foster, and adoptive families of infants and young children with acquired immune deficiency syndrome, or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or medically fragile children and young persons; and"; and

(8) in paragraph (7), by inserting before the period "or those who are pre-or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or those who are medically fragile."

(b) COMPREHENSIVE SERVICE CENTERS.—Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g); and

(2) by inserting after subsection 9a) the following new subsection:

"(b) COMPREHENSIVE SERVICE CENTERS.—

"(1) The Secretary shall make grants from funds appropriated pursuant to subsection 104(b) to fund a demonstration program to enable public and nonprofit private entities to plan, coordinate and establish model comprehensive service centers. These centers shall provide or offer access to children and to natural, foster and adoptive families covered under the Act in order to strengthen the family unit, or ameliorate or prevent conditions that increase the probability of improper care or abandonment. These centers shall—

"(A) coordinate, at one location (which may include schools) the provision of services, including social service, child protection, health, and education/training components, to those family members in need of such services;

"(B) be conducted in a setting convenient to, and easily accessible by, large numbers of natural, foster, and adoptive families, particularly those providing services to infants and children with acquired immune deficiency syndrome or medically fragile conditions, or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol; and

"(C) involve, to the maximum extent possible, community-based and nonprofit organizations that have demonstrated expertise in the operation of such programs or that demonstrate the potential expertise.

The Secretary shall make grants under this subsection based on the necessity and number of services to be offered. The Secretary shall prioritize the applications upon the need for such services, as evidenced by the relative numbers of infants and young children covered under this Act to be served.

"(2) In the case of public or nonprofit private entities that have been providing similar comprehensive services under grants made under subsection (a) before the date of the enactment of the Abandoned Infants Assistance Act Amendments of 1991, the Secretary shall make provisions to transition these projects, upon application by said public or nonprofit private entity for such transition, to this program during the first period for which funds are made available under section 104(b) for this subsection, provided that the Secretary shall make provision in such transition for the expansion, over a period of no more than 2 years, to encompass all of the services required under this subsection.".

(c) ADMINISTRATION OF GRANT.—Section 101(d) of the Abandoned Infants Assistance Act of 1988, as redesignated by subsection (b)(1) of this section, is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) in the matter preceding subparagraph (A) (as so redesignated), by striking "(d) ADMINISTRATION" and all that follows through "The Secretary" and inserting the following:

"(d) ADMINISTRATION OF GRANT.—

"(1) The Secretary";

(3) by moving each of subparagraphs (A) through (D) (as so redesignated) 2 ems to the right; and

(4) by adding at the end the following new paragraph:

"(2) Subject to the availability of funds, the Secretary shall make grants under this section for periods of not less than 3 years, with there being 2 automatic extensions of the grants being made absent a finding by the Secretary of substantial nonperformance.".

SEC. 4. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) Evaluations of Demonstration Projects.—Section 102(a) of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "shall," and inserting "shall from funds appropriated under section 104(c),".

(b) Special Needs Dissemination.—Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a) the following new subsection:

"(b) Special Needs Dissemination.—

"(1) The Secretary shall, from amounts appropriated under section 104(d), maintain the National Resource Center for Programs Serving Abandoned Infants and Infants at Risk of Abandonment and Their Families established by the Secretary pursuant to the Abandoned Infants Assistance Act of 1988. The National Resource Center shall assist in identifying, developing and utilizing effective program practices, information and materials in order to meet the service needs of specific groups of individuals, who, on a national or State basis, are disproportionately effected by the drug and alcohol epidemics or who have been historically underserved with respect to the provision of information and services.

"(2) The National Resource Center described in paragraph (1) shall—

"(A) identify innovative or exemplary programs, public and private agencies, resources and support groups;

"(B) disseminate information on prevention and preventive services;

"(C) provide technical assistance, training and consultation to service providers and to State agencies to promote professional competency, service coordination, utilization of resources and the best practices related to the management and administration of abandoned infants assistance programs;

"(D) develop a national network of professionals in the field to serve as consultants and to link such individuals with persons and agencies requiring assistance; and

"(E) identify emerging issues with respect to child welfare, developmental disabilities and maternal and child health, particularly as such issues related to pre- and post-natal alcohol, drug and pediatric HIV exposure.

"(3) Among the groups to be given priority for these services under this provision are those who are drug or alcohol addicted, individuals with acquired immune deficiency syndrome, minorities, limited English proficient individuals, or those individuals who have been statistically and historically underserved by such information services and dissemination. Information on prevention and services shall also be distributed to the communities of such individuals.

"(4) The Secretary shall enter into contracts or cooperative services under this subsection for periods of not less than 3 years. The Secretary shall extend the contract or grant for 2 additional consecutive 1-year periods absent a finding by the Secretary of substantial nonperformance.";

(3) in paragraph (1)(A) of subsection (c) (as so redesignated), by inserting after "infants who have acquired immune deficiency syndrome", the following: "or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or who are medically fragile,"; and

(4) in paragraph (2) of subsection (d) (as so redesignated), by striking "April 1, 1991" and inserting "April 1, 1992".

SEC. 5 DEFINITIONS.

Section 103 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking "**SEC.**" and all that follows through "the term" and inserting the following:

"SEC. 103. DEFINITIONS.

"For purposes of this title:

"(1) The term"; and

(2) by adding at the end the following new paragraphs:

"(2) The term 'natural family' shall be interpreted to include natural parents, grandparents, familial members (including all siblings and children resident in the household), and others (on a continuing basis) who reside in the household and are in a care-giving situation with respect to infants and young children covered under this Act.

"(3) The term 'medically fragile' includes those infants and young children who exhibit medical, physical or developmental conditions occasioned by pre- or post-natal alcohol and drug exposure.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "For the purpose" and all that follows and inserting the following:

"(a) Demonstration Grants in General.—For the purpose of making grants under section 101(a), there are authorized to be appropriated $15,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.

"(b) Comprehensive Service Centers.—For the purpose of making grants under section 101(b), there are authorized to be appropriated $1,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.

"(c) Evaluations of Demonstration Projects.—For the purpose of making grants under section 102(a), there are authorized to be appropriated $1,500,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.

"(d) Special Needs Dissemination.—For the purpose of making grants under section 102(b), there are authorized to be appropriated $5,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.

"(e) Administrative expenses.—

"(1) In addition to the funds authorized above, there shall be an amount authorized for the purpose of administering this program of 5 percent of the amount appropriated for the programs in fiscal years 1992, 1993, 1994, and 1995.

"(2) The Secretary may not obligate any of the amounts appropriated under paragraph (1) for a fiscal year unless, from the aggregate amounts appropriated under subsections (a) through (d) for the fiscal year, the Secretary has obligated for the purpose described in paragraph (1) an amount equal to the amounts obligated by the Secretary for such purpose in fiscal year 1991.

"(f) Availability of Funds.—Funds appropriated under this authority shall remain available until expended.".

SEC. 7. CONFORMING AMENDMENT.

The heading for title I of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by adding at the end the following: "AND ABANDONMENT PREVENTION PROGRAMS".

SEC. 8. TERMINATION OF PROGRAMS."

Section 105 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is repealed.

MOTION OFFERED BY MR. PAYNE OF NEW JERSEY

Mr. PAYNE of New Jersey. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Payne of New Jersey moves to strike all after the enacting clause of the Senate bill, S. 1532, and to insert in lieu thereof the text of H.R. 2722, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read, "A bill to revise and extend the programs under the Abandoned Infants Assistance Act of 1988."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2722) was laid on the table.

CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The Clerk read as follows:

H.R. 3807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Conventional Forces in Europe Treaty Implementation Act of 1991".

SEC. 2. AUTHORITY TO TRANSFER CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS.

The Arms Export Control Act is amended by adding at the end the following:

"CHAPTER 8—TRANSFER OF CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS

"SEC. 81. PURPOSE.

"The purpose of this chapter is to authorize the President to support, consistent with the CFE Treaty, a NATO equipment transfer program that will—

"(1) enhance NATO's forces,

"(2) increase NATO standardization and interoperability, and

"(3) better distribute defense burdens within the NATO alliance.

"SEC. 82. CFE TREATY OBLIGATIONS.

"The authorities provided in this chapter shall be exercised consistent with the obligations incurred by the United States in connection with the CFE Treaty.

"SEC. 83. AUTHORITIES.

"(a) General Authority.—The President may transfer to any NATO/CFE country, in accordance with NATO plans, defense articles—

"(1) that are battle tanks, armoured combat vehicles, or artillery included within the CFE Treaty's definition of 'conventional armaments and equipment limited by the Treaty';

"(2) that were, as of the date of signature of the CFE Treaty, in the stocks of the Department of Defense and located in the CFE Treaty's area of application; and

"(3) that the President determines are not needed by United States military forces within the CFE Treaty's area of application.

"(b) ACCEPTANCE OF NATO ASSISTANCE IN ELIMINATING DIRECT COSTS OF TRANSFERS.—In order to eliminate direct costs of facilitating transfers of defense articles under subsection (a), the United States may utilize services provided by NATO or any NATO/CFE country, including inspection, repair, or transportation services with respect to defense articles so transferred.

"(c) ACCEPTANCE OF NATO ASSISTANCE IN MEETING CERTAIN UNITED STATES OBLIGATIONS.—In order to facilitate United States compliance with the CFE Treaty-mandated obligations for destruction of conventional armaments and equipment limited by the CFE Treaty, the United States may utilize services or funds provided by NATO or any NATO/CFE country.

"(d) AUTHORITY TO TRANSFER ON A GRANT BASIS.—Defense articles may be transferred under subsection (a) without cost to the recipient country.

"(e) THIRD COUNTRY TRANSFERS RESTRICTIONS.—For purposes of sections 3(a)(2), 3(a)(3), 3(c), and 3(d) of this Act, defense articles transferred under subsection (a) of this section shall be deemed to have been sold under this Act.

"(f) MAINTENANCE OF MILITARY BALANCE IN THE EASTERN MEDITERRANEAN.—The President shall ensure that transfers by the United States under subsection (a), taken together with transfers by other NATO/CFE countries in implementing the CFE Treaty, are of such valuations so as to be consistent with the United States policy, embodied in section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the Eastern Mediterranean.

"(g) EXPIRATION OF AUTHORITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the authority of subsection (a) expires at the end of the 40-month period beginning on the date on which the CFE Treaty enters into force.

"(2) TRANSITION RULE.—Paragraph (1) does not apply with respect to a transfer of defense articles for which notification under section 84(a) is submitted before the end of the period described in that paragraph.

"SEC. 84. NOTIFICATIONS AND REPORTS TO CONGRESS.

"(a) NOTIFICATIONS.—Not less than 15 days before transferring any defense articles pursuant to section 83(a), the President shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of the Foreign Assistance Act of 1961.

"(b) ANNUAL REPORTS.—Not later than February 1 each year, the President shall submit to the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report that—

"(1) lists all transfers made to each recipient NATO/CFE country by the United States under section 83(a) during the preceding calendar year;

"(2) describes how those transfers further the purposes described in paragraphs (1) through (3) of section 81; and

"(3) lists, on a country-by-country basis, all transfers to another country of conventional armaments and equipment limited by the CFE Treaty—

"(A) by each NATO/CFE country (other than the United States) in implementing the CFE Treaty, and

"(B) by each Warsaw Pact country in implementing the CFE Treaty.

"SEC. 85. DEFINITIONS.

"As used in this chapter—

"(1) the term 'CFE Treaty' means the Treaty on Conventional Armed Forces in Europe (signed at Paris, November 19, 1990);

"(2) the term 'conventional armaments and equipment limited by the CFR Treaty' has the same meaning as the term 'conventional armaments and equipment limited by the Treaty' does under paragraph 1(J) of article II of the CFR Treaty;

"(3) the term 'NATO' means the North Atlantic Treaty Organization;

"(4) the term 'NATO/CFE country' means a member country of NATO that is a party to the CFR Treaty and is listed in paragraph 1(A) of article II of the CFR Treaty within the group of States Parties that signed or acceded to the Treaty of Brussels of 1948 or the Treaty of Washington of 1949 (the North Atlantic Treaty); and

"(5) the term 'Warsaw Pact country' means a country that is listed in paragraph 1(A) of article II of the CFR Treaty within the group of States Parties that signed the Treaty of Warsaw of 1955.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3807, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3807 authorizing the President to transfer certain limited equipment pursuant to the CFE Treaty. One year ago, on November 19, 1990, 22 nations met at a summit of the Conference on Security and Cooperation in Europe in Paris and signed the Treaty on Conventional Armed Forces in Europe [CFE Treaty]. The CFE Treaty is an agreement that mandates reductions and limits on military equipment such as tanks, armored vehicles, artillery, combat aircraft, and helicopters in Europe from the Atlantic Ocean to the Ural Mountains. This treaty is another major arms control achievement of the post-cold-war era. It culminates a long, arduous process of negotiations between NATO and the Warsaw Pact on force reductions in Europe which began in 1973, but didn't become a realistic opportunity until the Berlin Wall came down.

The CFE Treaty requires that each state which is a party to the treaty submit extensive data on its military forces, adhere to detailed provisions for the destruction or conversion of excess equipment, and open military installations to intrusive inspection.

The CFE Treaty was formally submitted to the Senate on July 1, 1991. The Senate Foreign Relations Committee reported the CFE Treaty to the full Senate today along with the implementing legislation we are now considering. The Senate is scheduled to consider and give its advice and consent to this treaty on Thursday.

The legislation that we are considering today is a key component of the CFE Treaty and is considered to be part of the implementation of that treaty. Specifically, the transfer program authorized by this legislation would enable the United States, Germany, and other allies to adjust their reduction liabilities by transferring treaty limited equipment to other allies, allowing the Alliance to achieve an effective overall defense capability at lower force levels. I would like to also point out that this is a NATO program and not solely a U.S. portion representing only 30 percent of the overall program. Therefore, 70 percent of the costs associated with the program will not be incurred by the United States and 70 percent of the actual equipment transfers will come from other NATO member countries.

Briefly the legislation:

Clarifies that the transfers are consistent with the obligations incurred by the U.S. and other allies in connection with the CFE Treaty;

Limits the articles eligible for transfer only to battle tanks, armored combat vehicles, or artillery included within the CFE Treaty's definition of conventional armaments and equipment limited by the treaty;

Clarifies that the United States will not incur any additional costs for such transfers;

Includes language concerning the military balance in the Eastern Mediterranean; and

Stipulates congressional reporting requirements prior to any transfer.

This legislation does not include authority requested by the executive branch concerning follow-on support for the initial transfers. This language was deleted to reflect concerns raised by some of our colleagues and with the concurrence of the executive branch.

I would like to commend my colleagues on both sides of the aisle of the Foreign Affairs Committee and also on the Armed Services Committee for working with us to fashion this legislation which now enjoys broad bipartisan support. I would also note that this legislation in its current form is fully supported by the executive branch.

In closing, Mr. Speaker, I would like to express my support for the legislation before us and for the CFE Treaty. I believe this treaty enhances stability and security in Europe and that this implementing legislation further complements the treaty objectives and I urge my colleagues to support this measure.

I include for the RECORD the fact sheet on this subject.

THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE

INTRODUCTION

For more than four decades, the tragic division of Europe was maintained by the massive conventional forces of the Soviet Union and its Warsaw Pact allies. The mobility, firepower and disproportionate size of this force, and its capacity for surprise attack, constituted a major threat to the West. The signing of the Treaty on Conventional Armed Forces in Europe (CFE), on November 19, 1990, signalled the end of the Soviet Union's military dominance of Europe and locked in the welcome political changes of the previous year. In doing so, it fulfilled one of NATO's long-held ambitions: to lower and equalize conventional force levels from the Atlantic to the Urals and thereby enhance the security and stability of all of Europe.

Implementation of the CFE Treaty will involve one of the largest disarmament programs in history. The Soviet Union alone will have to destroy the military capacity of many thousands of tanks, artillery and other pieces of equipment. Furthermore, it will constrain Soviet conventional forces even within the Western Soviet Union. When the Treaty is fully implemented, the Soviets will retain in Europe only 35 percent of the equipment they held in 1988. Moreover, a provision of the Treaty known as the "sufficiency rule," will prevent any nation from creating a conventional force greater than one-third of the total armaments permitted in the area. This provision applies to all Treaty signatories; however, in practice, it only affects the Soviet Union. Finally, the CFE Treaty will, through a system of regional sublimits, curb any nation's ability to concentrate forces in a manner threatening to its neighbors.

A stringent verification regime will ensure that reductions prescribed under CFE are carried out. The inspections and information exchanges will make it difficult to hide militarily significant violations of the Treaty. In addition, it will hamper any nation's ability to amass equipment in excess of the Treaty's limits. The verification measures thus act as a hedge against future militarism or political excess and provide a standard by which we can judge the actions of the other signatories. The Treaty's required reductions and provisions for intrusive monitoring constitute obligations that go well beyond the unilateral and bilateral withdrawal agreements the Soviet Union concluded following the revolutions of 1989. As Secretary of State James Baker noted, "Where tens of thousands of Soviet tanks previously were poised for an offensive, now hundreds of inspectors will stand, and this will help ensure stability and provide warning even if political conditions change."

The binding nature of the CFE Treaty, its extensive verification regime and the strict regulations on destruction, location and storage of equipment will make a significant contribution to the security and confidence needed to produce a new, more stable European order.

ZONAL LIMITS TO GROUND EQUIPMENT IN ACTIVE UNITS

Ground equipment in active units	Central	Expanded central	Extended	Flanks
Tanks	7,500	10,300	11,800	4,700
Artillery	5,000	9,100	11,000	6,000
Armored combat vehicles	11,200	19,260	21,400	5,900

The CFE Treaty includes geographic subzones within the overall Atlantic to the Urals region with limits on the amount of active ground equipment which can be stationed in them. Equipment in excess of these limits—up to overall permitted ceilings—must be kept at designated storage sites. The Central, Expanded Central, and Extended zones are "nested". The other words, the Expanded Central Zone includes all of the territory of the Central Zone plus the four Soviet military districts, Italy, France, The United Kingdom, and Denmark.

Equipment Ceilings—Atlantic to the Urals

Treaty limited equipment:	*Active Ceiling per side*
Tanks	20,000
Artillery	20,000
Armored combat vehicles	30,000
Combat aircraft	6,800
Attack helicopters	2,000

Active Unit Ceilings

Treaty limited equipment:	*Active ceiling per side*
Tanks	16,500
Artillery	17,000
Armored combat vehicles	27,300

SUFFICIENCY RULE

Treaty limited equipment	Any one country	Percentage of the total
Tanks	13,300	33.3
Artillery	13,700	34.3
Armored combat vehicles	20,000	33.3
Total ground equipment	47,000	33.6
Combat aircraft	5,150	37.8
Attack helicopters	1,500	37.5
Total equipment	53,650	34.0

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Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend Chairman FASCELL for bringing this legislation expeditiously to the floor for consideration. This legislation is important to the President and the Nation and warrants our strong support.

This legislation authorizes the President to transfer tanks, armored combat vehicles [ACV's], and artillery to members of the NATO Alliance in connection with implementation of the CFE Treaty agreed to last November in Paris.

This legislation will help NATO modernize its forces, increase efficiency, and shift defense burdens.

In addition, it clarifies the authority of the President to ensure that the United States will not incur any additional budgetary expense as a result of the transfers.

Finally, I would like to point out that this legislation mandates the President to ensure that any equipment transfer to Greece and Turkey under this program is consistent with United States policy of maintaining the military balance in the Eastern Mediterranean.

I urge my colleagues to support this important legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL], that the House suspend the rules and pass the bill, H.R. 3807.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REGARDING FORCED LABOR IN CHINESE PRISONS

Mr. GEJDENSON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con Res. 216) concerning the use of forced labor in Chinese prisons, as amended.

The Clerk read as follows:

H. CON. RES. 216

Whereas the Government of the People's Republic of China maintains up to 5,000 prison, labor reform, reeducation, and juvenile detention facilities holding a large number of political prisoners, including thousands of young men and women jailed after that government's June 1989 suppression of the prodemocracy movement in China;

Whereas many Chinese prisoners are sent to Chinese prisons without any judicial hearing whatsoever and others are forced to stay on after their sentences expire;

Whereas forced labor is an integral part of the Chinese prison system, and Chinese prisoners are forced to labor under extremely inhumane and dangerous conditions with little or no compensation for their work;

Whereas the recent investigations by Harry Wu, a former Chinese political prisoner, and by independent human rights organizations such as Asia Watch, clearly demonstrate that Chinese prisons seek to export forced labor products to the United States, and have devised numerous methods to evade United States laws;

Whereas numerous Chinese government publications explicitly describe the export of forced labor products, and encourage all Chinese prisons to sell their products on the international market;

Whereas Chinese forced labor exports threaten American jobs in many sectors of the United States economy, including the shoe, toy, garment, handtool, and electronics industries; and

Whereas China's $10,000,000,000 trade surplus with the United States in 1990 can be partly attributed to Chinese forced labor exports: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) the Congress finds that the Government of the People's Republic of China—

(1) systematically exploits the labor of prisoners in the Chinese gulag to produce cheap products for export;

(2) detains many prisoners past the expiration of their sentences in violation of internationally recognized human rights; and

(3) holds many prisoners in conditions that fall below international standards for the treatment of prisoners.

(b) The Congress—

(1) urges the Government of the People's Republic of China to—

(A) allow international inspections of places of detention that are suspected of producing export goods in order to ensure that such production does not take place;

(B) release the texts of any government directives, regulations, or policies regarding the exportation of products made in Chinese prisons, other than the October 10, 1991, joint declaration by the Chinese Ministry of Foreign Economic Relations and the Chinese Ministry of Justice banning prison-made exports;

(C) detail publicly the steps it will take to enforce the joint declaration of October 10, 1991, and any other policy prohibiting forced labor exports, at all levels of the Chinese government and Chinese prison system; and

(D) vigorously reform the Chinese political, judicial, penal, and economic systems so that Chinese citizens are not jailed for their political and religious beliefs, all Chinese citizens accused of crimes receive fair and open trials, Chinese prisoners are adequately compensated for their work, and workplace conditions in Chinese prisons are safe and humane; and

(2) urges the Government of Hong Kong, and the governments of other nations through which Chinese products are transhipped, to prohibit the importation of Chinese forced labor products and to investigate thoroughly trading companies suspected of dealing in prison-made goods.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Secretary of State James Baker returned yesterday from a weekend in Beijing. Baker's visit was a political plum for China's hard-line leaders.

For the United States, however, Secretary Baker's visit was an unquestionable failure. China's aging leaders absolutely refused to budge on human rights, trade barriers, and arms control.

The intransigence of China's leaders, however, should not come as a surprise. Beijing knows there will be no price to pay for ignoring American concerns. By refusing to support legislation placing limits on China's MFN status, President Bush has given carte blanche to Beijing to trample on the human rights of its citizens and the jobs of American workers.

The resolution before the House today addresses one aspect of the Chinese Government's brutality toward its citizens: The use of forced labor in Chinese prisons. In compelling testimony before the Subcommittee on International Economic Policy and Trade, human rights groups presented concrete evidence that thousands of Chinese political prisoners are forced to work long hours in dangerous factories, receiving no compensation for their work.

Products made by Chinese forced labor, furthermore, are routinely exported to the United States in direct violation of United States law. Since 1930, the United States has wisely prohibited the importation of goods made with forced labor, not only to promote human rights, but also to protect American workers against cheap, slave-labor imports.

Late last week, Asia Watch and NBC News revealed new evidence that Chinese forced labor products, some made by jailed Tiananmen demonstrators, are making their way onto American shelves. NBC cameras caught a Chinese businessman at a trade show in San Francisco selling steel pipe which was positively made by Chinese forced labor.

The new evidence makes a mockery of China's October 10, 1991, declaration that China would no longer export forced labor products to the United States.

The new evidence demonstrates that the Memorandum of Understanding between the United States and China on prison labor exports, agreed upon last weekend, will not stop the export of Chinese slave-labor products.

Finally, the new evidence shows that the U.S. Customs Service is simply not doing its job. Customs must redouble its enforcement efforts and ban the importation of entire categories of Chinese forced labor products.

This resolution, Mr. Speaker, does more than condemn the Chinese Government for its policy of promoting forced labor exports. House Concurrent Resolution 216 urges the Chinese Government to take a series of steps to publish and strictly enforce a no-forced-labor-exports policy.

Given the large percentage of Chinese exports which are shipped through Hong Kong, the resolution also urges the Hong Kong government to prohibit forced labor imports.

Mr. Speaker, House Concurrent Resolution 216 puts Beijing on notice that Congress will not tolerate this gross violation of human rights and growing threat to American jobs. I urge its passage.

Finally, on a personal note, Mr. Speaker, my family during World War II was in Europe. For people who are oppressed in the midst of a crisis, it is an awfully lonely feeling. It is doubly lonely if it is felt that the most powerful democracy on the face of this planet is looking the other way.

We have had times in history where America did not speak out quickly enough when human beings, fellow human beings on this planet were being tortured and murdered. For us today I think is a good time to speak out for what is happening to those young heroes of Tiananmen Square, people who wanted little more than democracy from their own government. I would hope that we overwhelmingly pass this resolution and send a strong message to the Chinese Government.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution would urge the Chinese Government to take further steps to prevent the export of goods produced by forced labor. It also requests other nations to take actions to prevent shipments of Chinese prison-made products to the United States.

I wish to recognize the efforts of its sponsor, Congressman GEJDENSON, chairman of the Subcommittee on International Economic Policy and Trade, and also the work of the Asian and Pacific Affairs Subcommittee, headed by Congressmen SOLARZ and LEACH, on the resolution.

It is abundantly clear by now that the People's Republic of China has had a policy of employing forced labor to manufacture products for export. I am especially pleased that our committee has followed this issue closely, through hearings and legislative action.

Our colleagues, Congressmen CHRIS SMITH and FRANK WOLF, actually visited a Chinese prison and found textile products being made for export. In addition, CBS News recently ran a "60 Minutes" segment based on personal research by Hoover Institite scholar Harry Wu. This footage showed not only human rights abuses in Chinese prisons and detention camps, but clear evidence that the products made by the prisoners were intended for export.

The administration has strongly protested China's abuses of human rights and has cracked down on imports of forced-labor products. Recently, the U.S. Customs Service halted importation of all hand tools manufactured by a machinery plant in Shanghai.

The Chinese Government has long claimed that its policy is not to export prison-made goods, but announced on October 10, that it would take additional steps to prohibit the export of such products. It also apparently made further commitments on this subject during Secretary Baker's recent visit.

Despite the progress that has been made thus far, we need to send a strong message to China that exporting prison-made goods is unacceptable. I support the resolution.

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Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], a member of our committee.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Congressional Resolution 216, a resolution concerning the use of forced labor in China and I commend the gentleman from Connecticut [Mr. GEJDENSON], the distinguished chairman of the Subcommittee on International Economic Policy and Trade.

Mr. Speaker, Asia Watch recently stated in a report titled, "Prison Labor in China," that they have hard evidence that links prison labor in China to Chinese exports to this country. The report states:

> The United States has long known that China used prison labor extensively in manufacturing and agriculture, yet there was no "smoking gun" to link prison labor to Chinese exports to this country. Now that smoking gun is available. The official Chinese documents attached demonstrate that the government of China is systematically exploiting the labor of prisoners to produce cheap products for export—and specifically targeting the United States, West Germany and Japan. The documents show conclusively that Chinese government officials * * * who have consistently denied that China exports prison-made goods, have been deliberately lying. It is time to apply the letter of U.S. law to China and prohibit the importation of prison-made products.

I am deeply concerned that our Nation is playing a supporting role for Chinese Communist labor camps. Prodemocracy demonstrators, who stood up and risked their lives for ideals we hold so dear, are forced to toil in unspeakable conditions with no pay in these camps. Their blood and sweat enrich the children of China's elite who own these enterprises and force workers in our Nation to compete with what can only be referred to as slave labor. Asia Watch reports that millions of those who have served out their sentences since 1945 remain in the Chinese gulag as a captive labor force as a result of forcible retention policy."

Accordingly, Mr. Speaker, I urge my colleagues to support House Congressional Resolution 216.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. ENGEL], who has played a great role in moving this legislation forward.

Mr. ENGEL. Mr. Speaker, I rise in strong support of House Congressional Resolution 216. On a trip to China this past summer, along with many of my colleagues on both sides of the aisle, we repeatedly spoke with the Chinese leadership and told them of our displeasure over their abysmal human rights record and forced labor in prison camps. I am sad to say that the replies we got were not much better than the ones Secretary Baker just recently received.

It is very, very important that we in the Congress speak with one voice and say that we here in the United States will not tolerate the kinds of human rights abuses that go on in China and in Chinese prisons. The heroes of Tiananmen Square have really pointed the way for freedom in the world and we here in the United States must stand behind them. The Chinese Government cannot continue to close its eyes and brazenly pretend that this is simply an internal matter and that the world ought to not care at all. We care very, very much and we will not tolerate these human rights policies.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentlemen on both sides of the aisle, the gentleman from Florida [Mr. FASCELL], the chairman of the committee, the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from Wisconsin [Mr. ROTH], and other Members who have been so helpful on this issue. For human rights reasons and for economic reasons American workers competing with slave labor just does not make sense in cities around my State and across this country.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 216, as amended, concerning the use of forced labor in Chinese prisons. The Committee on Foreign Affairs considered this resolution this morning. I commend the author of the resolution, the chairman of the Subcommittee on International Economic Policy and Trade, Mr. GEJDENSON, for his leadership on this important initiative and urge its immediate passage.

Recent independent investigations by international human rights and news organizations have clearly documented the export of goods produced by forced prison labor in China. Some of those goods have found their way into the United States. This reprehensible practice is in violation of both international human rights law and U.S. law and should be strongly condemned.

House Concurrent Resolution 216, as amended, provides an opportunity for Congress to express its condemnation of this deplorable practice and urge the Chinese Government to adopt policies that will put an end to the use of forced labor as well as to improve the dismal conditions under which most prisoners are held in China. House Concurrent Resolution 216 further urges the Chinese Government to vigorously reform its political, judicial, penal, and economic systems so that Chinese citizens are no longer jailed for their political or religious beliefs, that all Chinese citizens accused of crimes receive fair and open trials, and that the workplace conditions in Chinese prisons are safe and humane.

One of the specific measures we urge the Chinese to adopt in this resolution is to allow international inspections of prisons and other places of detention. Access to Chinese prisons and detention centers by the International Committee of the Red Cross, for instance, is an important step for ending the practice of forced labor as well as ensuring that torture and other forms of mistreatment are ended. This one action would do much to improve the plight of Chinese prisoners and lend credence to the Chinese Government's claims that forced labor is prohibited. I urge the Chinese Government to allow such inspections immediately and urge unanimous adoption of this resolution.

Mr. PORTER. Mr. Speaker, I rise in strong support of House Concurrent Resolution 216, regarding forced labor in Chinese prisons.

It is impossible to ignore the blatant human rights violations perpetrated by the Beijing government on its people. Over the past several years we have watched innocent civilians brutally shot down in the streets of China and Tibet. Freedom of religion, speech, and association are nonexistent and imprisonment solely for political beliefs is widespread.

Now a more subtle, yet equally disturbing situation has more recently come to my attention, that of Chinese prisoners reportedly being forced to work while in prison.

No human rights violation is a matter of internal affairs as the Government of the People's Republic of China would have us believe. But this problem has found its way into the stores and warehouses of the United States as United States importers have unwittingly brought products made by Chinese prisoners to this country.

To think that those peaceful demonstrators from Tiananmen Square, now languishing in prison, are being forced to work and that these products can be found on the international market is extremely unsettling.

Mr. Speaker, the Chinese Government must treat its prisoners according to international standards and must cease the forcible production of goods for export in the Chinese prison system.

Mr. WOLF. Mr. Speaker, I rise in support of House Concurrent Resolution 216 offered by the gentleman from Connecticut [Mr. GEJDENSON].

The Tariff Act of 1930 states clearly that—

> All goods, wares articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor and/or forced labor * * * shall not be entitled to entry at any of the ports of the United States.

Notwithstanding United States law and assurances to President Bush that goods made with forced labor are strictly for domestic markets, China continues to openly and cavalierly export prisoner-made goods.

Many of my colleagues may have watched the NBC news segment last Thursday which provided more evidence of China's gross violation of United States trade law and internationally recognized human rights standards. Last week at a trade fair in San Francisco, Chinese businessmen, calculators at the ready, were eager to do business. Among goods available for export were products made at plants in Laiyang, Taian, and Dezhous, all listed in official Chinese documents obtained by Asia Watch as being labor reform enterprises.

If any of my colleagues are hesitant about these internal documents, take a look at the brochure which was being distributed at the trade fair. The page devoted to Dezhou Shengjian Machinery Plant has a picture of the plant—guardtowers and all. Another advertisement for the Shandong Laiyang Heavy-duty Machinery Factory includes a photograph of the factory gates where the Chinese characters for "labor reform" are visible.

Congressman SMITH and I saw the Chinese prison labor system at work when I visited Beijing Prison No. 1 earlier this year. After officials refused to let us visit imprisoned prodemocracy demonstrators, we toured the prison and watched inmates making goods which likely were intended for Western markets.

While I appreciate the administration's stepping up efforts to stem the stream of prisoner-made goods entering United States ports, it is time for the United States Government to enforce its laws and make it clear to the Chinese and any other country producing goods with forced labor, that these goods will not be permitted in the United States. Should we stand by as consumers, unknowingly contributing to the oppression of Chinese citizens imprisoned for professing their religious faith, or who crusaded for democracy in 1989? Should we stand by as American companies and labor unions competing with foreign exports made with little or no labor costs? The reply from this Congress should be a resounding "no." Every effort should be taken to end these abuses.

Secretary Baker's trip to China has resulted in few concessions by the Chinese on human rights. In fact, China's immediate reaction to Mr. Baker's demands was the detainment of two prominent dissidents. Timidity and weak-hearted responses will not be enough. I urge the President to demand that the Government of the People's Republic of China comply with the content of House Concurrent Resolution 216.

Mr. GEJDENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 216, as amended.

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 12, noes 0.

So, (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on House Concurrent Resolution 216, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

CONGRATULATING DAW AUNG SAN SUU KYI ON RECEIVING THE NOBEL PEACE PRIZE AND EXPRESSING CONTINUED CONGRESSIONAL CONCERN ABOUT HUMAN RIGHTS ABUSES IN BURMA

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 262) congratulating Daw Aung San Suu Kyi on receiving the Nobel Peace Prize and expressing continued congressional concern about human rights abuse in Burma, as amended.

The Clerk read as follows:

H. RES. 262

Whereas since 1962 the people of Burma have lived under brutal military repression;

Whereas in 1988 the people of Burma rebelled against military rule through massive peaceful demonstrations in support of democratic reform;

Whereas Daw Aung San Suu Kyi emerged as the leader of the Burmese people seeking peaceful and democratic change;

Whereas Daw Aung San Suu Kyi was one of the founders of the National League for Democracy in Burma, which contested and overwhelmingly won the elections of May 1990;

Whereas Daw Aung San Suu Kyi has been kept under house arrest by the Burmese military junta since July 1989 and denied all visits from family and friends;

Whereas the Burmese military junta has disregarded the election results of May 1990 and the Burmese people still suffer the harshest forms of repression by the junta;

Whereas Daw Aung San Suu Kyi remains the symbol of hope and dignity for the Burmese people seeking peaceful and democratic change;

Whereas on October 14, 1991, Daw Aung San Suu Kyi was awarded the Nobel Peace Prize in recognition of her struggle and that of the Burmese people;

Whereas due to the human rights situation in Burma, the Administration has suspended foreign assistance and trade preferences and has elected not to renew the textile agreement with Burma;

Whereas despite United States sanctions against Burma, several other countries have provided military supplies to the junta and have, thereby, lent support to its policies of repression; and

Whereas China has provided the junta with economic aid and has served as its major source of military supplies, providing support that is crucial to its survival including tanks, jet fighters, rocket launchers, assault rifles, anti-aircraft guns, armored personnel carriers, patrol boats, and other arms and equipment whose value has been estimated at $500,000,000 to $1,000,000,000: Now therefore, be it

Resolved, That in recognition of the heroism and inspiring struggle of Daw Aung San Suu Kyi to bring peace and democracy to Burma, the House of Representatives—

(1) congratulates Daw Aung San Suu Kyi on being awarded the Nobel Peace Prize;

(2) expresses in the strongest possible terms its continued condemnation of the Burmese military regime for abuses of internationally recognized human rights;

(3) voices its continued and unwavering support for Daw Aung San Suu Kyi and the people of Burma in their struggle for peaceful and democratic change;

(4) urges the Government of the People's Republic of China to suspend all economic aid and transfers of military supplies to Burma until Daw Aung San Suu Kyi and all other prisoners of conscience are released, martial law is lifted, and the results of the May 1990 elections are implemented;

(5) welcomes the Administration's efforts to promote human rights in Burma, and calls upon the President and the Secretary of State to—

(A) continue to encourage the restoration of democracy in Burma and condemn violations of human rights there;

(B) continue to advocate the immediate and unconditional release of Daw Aung San Suu Kyi and all other prisoners of conscience;

(C) impose additional economic sanctions on Burma; and

(D) call privately and publicly for an end to China's military transfers and economic aid to Burma and advise the Government of China that its willingness to end such support will play an important role in the development of United States relations with China;

(6) further calls upon the President and the Secretary of State to promote multilateral efforts, including an international arms embargo and international economic sanctions, designed to encourage the military regime to bring its practices into conformity with internationally recognized human rights standards; and

(7) out of respect and recognition of the efforts of Daw Aung San Suu Kyi to promote peace and human rights, would welcome a decision to invite Daw Aung San Suu Kyi to address a joint meeting of the United States Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be brief. This resolution congratulates Aung San Suu Kyi on being awarded the Nobel Peace Prize and expresses continuing congressional concern about human rights abuses in Burma.

In the fall of 1988, in the midst of a massive nationwide uprising on the part of the Burmese people in which they were seeking to peacefully bring about the establishment of a democratic government in their country, the existing regime in Rangoon, with a burst of military fury, cracked down against the uprising which was then taking place. In a significant bloodbath, the regime managed to suppress the democratic aspirations of the Burmese people, and thousands of innocent Burmese lost their lives. It made the crackdown in Tiananmen Square look a little bit like a tea party by comparison, but since there were no television cameras present in Burma at the time, it never received the kind of attention which the crackdown in Tiananmen Square did roughly a year later.

Subsequent to the crackdown in Burma, Aung San Suu Kyi, an extraordinarily impressive woman who I was privileged to meet when I was in Rangoon a week before the crackdown, and who is the daughter of the founding father of Burma, Aung San, led a movement for democracy in her country, during the course of which she demonstrated great courage and commitment to the principles of peaceful and nonviolent change. The rulers in the regime, however, clearly concluded that they could not permit her to continue moving about the country, mobilizing the people, and speaking out against the Government, and so they incarcerated Aung San Suu Kyi, not by putting her into prison but by placing her under house arrest, where she has languished now for a considerable period of time.

And after an election was held which the regime said would give the people of Burma the opportunity to choose their own government, but which the regime badly lost, and which Aung San Suu Kyi's political party, the National League for Democracy, won, the rulers in Burma promptly threw out the election.

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A short while ago, the Nobel Prize Committee, taking note of this woman's extraordinary courage and commitment to democracy, decided to bestow the Nobel Peace Prize upon her. It was entirely deserved and it also had the ancillary and very useful purpose of focusing international attention on the continued plight of the Burmese people.

This resolution reaffirms the support of the Congress of the United States and of the American people to democracy in Burma. It pays tribute to Aung San Suu Kyi for her courage and for her commitment to the principles of political pluralism upon which our own great Nation was founded. It takes note of the efforts on the part of the administration to bring pressure to bear on the Burmese authorities to permit a peaceful transition to democracy, but also calls on the administration to join with us in ratcheting up the pressure by imposing comprehensive economic sanctions against Burma.

It also takes note of the extent to which the Chinese Government is providing hundreds of millions of dollars' worth of arms to the Burmese authorities which they in turn can use to oppress their own people. It calls upon the Chinese leaders to terminate the transfer of these weapons and lets them know in no uncertain terms that how they respond to this plea will have a significant influence on the future relationship between our two countries.

Mr. Speaker, it is true that the adoption of this resolution will probably not garner much attention in the American press; it is not going to be on the front page tomorrow of the Washington Post or the New York Times. It is not going to make the network news. I doubt that anyone will hear a discussion of it on Nightline or MacNeil/Lehrer. But I can assure you that within 24 hours of the adoption of this resolution, virtually everyone in Burma will know about it, because they listen to the Voice of America and they will take heart from the fact that the United States, the greatest and most powerful democracy in the world, is on their side.

I suspect that somehow or other word may even reach Aung San Suu Kyi in the midst of her confinement, and I have no doubt that it will be a source of encouragement for her as well.

Sooner or later democracy will come to Burma, and I have no doubt that when it does, the adoption of this resolution and the measures Congress and the administration and our country have already taken will have earned for the United States a very special place in the hearts of the Burmese people, who know that in their moment of need we were with them.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support for this resolution and commend its sponsors for bringing it through the committee and to the floor. Special recognition is due the efforts of the chairman of the Asian and Pacific Affairs Subcommittee, Congressman SOLARZ, and the ranking member, Mr. LEACH; to the Human Rights Subcommittee headed by Congressmen YATRON and BEREUTER; and to Congressman GILMAN for his contribution to the resolution.

House Resolution 262 expresses the congratulations of the House of Representatives to San Suu Kyi—Sahn Soo Jee—and the Burmese people on her being awarded the Nobel Peace Prize. It also urges the administration to continue its efforts to promote human rights and political reform in that country.

Events in Burma have been a real roller coaster. We have witnessed the depths of despair as the military government oppressed the people of Burma and violated their internationally recognized human rights. We have also experienced the heights of great hope as the massive democracy demonstrations of 1988 forced the government to hold elections.

In May 1990, the National League for Democracy and its leader, Miss San Suu Kyi—Sahn Soo Jee—won overwhelming popular support. But then the military government refused to abide by the results of those elections and began a campaign of persecution of its political opponents.

The decision by the Nobel Peace Prize Committee to award the peace prize to San Suu Kyi—Sahn Soo Jee—recognizes her struggle and that of the Burmese people to bring democracy and respect for human rights to Burma. Perhaps the presentation of the award will bring the Burmese Government to understand that the world is watching what is going on in its country.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 262, a resolution congratulating Aung San Suu Kyi on receiving the Nobel Peace Prize and expressing continued congressional concern about human rights abuse in Burma, and I commend Mr. SOLARZ, the distinguished chairman of the Asia and Pacific Subcommittee, for bringing this measure to the floor at this time. The people of Burma, Mr. Chairman, are living in a nightmare.

According to Asia Watch, the Burmese Government has imprisoned more than 10,000 citizens for political offenses since the August 1988 uprising. Execution and torture by the authorities are common.

Burmese people are picked up by the military and forced to porter for months at a time. Many are shot or left for dead if they fall behind or fall ill.

Regrettably, the only freedom today in Burma is the freedom to feel fear.

The winner of the 1991 Nobel Peace Prize, Aung San Suu Kyi, has been under house arrest in Rangoon for the past 2 years. Recently, an excerpted unpublished essay she wrote appeared in the June 10 New York Times, titled "Burma's Fear, Burma's Corruption." I was moved by the author's understanding and strength of character. She truly knows and has compassion for her jailers and those who torment the Burmese people.

Mr. Speaker, what concerns me most is that this article can also apply to us. If we allow Burma to continue to suffer we would be perceived to lack courage and would be perceived to be unwilling to take on those who arm and support SLORC. And SLORC, as we all know, produces and traffics most of the world's illicit opium.

Mr. Speaker, I urge our colleagues to support House Resolution 262 and ask that Aung San Suu Kyi's article be printed in full at this point in the RECORD:

[From the New York Times, July 10, 1991]

BURMA'S FEAR, BURMA'S CORRUPTION

(By Aung San Suu Kyi)

Aung San Suu Kyi, the leading dissident and most popular political figure in Myanmar (formerly Burma), today will be awarded the Sakharov Prize for Freedom of Thought by the European Parliament. She will not be in Strasbourg for the ceremony because for two years she has been under house arrest in Rangoon. The previous winners were Nelson Mandela, new president of the African National Congress, Alexander Dubcek, Czechoslovakia's leader during the Prague Spring in 1968, and Anatoly Marchenko, a dissident who died in a Soviet labor camp.

What follows, excerpted, is an unpublished essay she intended to include in a volume honoring her father, U Aung San, the architect of modern Burma, who was assassinated in 1947 when she was 2 years old. Despite her party's overwhelming electoral victory in May 1990, Aung San Suu Kyi and many supporters remain in political detention. The military authorities have refused to transfer power to a civilian government despite their promise to do so.

It is not power that corrupts but fear. Fear of losing power corrupts those who wield it, and fear of the scourge of power corrupts those who are subject to it. With so close a relationship between fear and corruption it is small wonder that in any society where fear is rife, corruption in all forms becomes deeply entrenched.

Public dissatisfaction with economic hardship has been seen as the chief cause of the movement for democracy in Burma, sparked by the student demonstrations of 1988. It is true that years of incoherent policies, burgeoning inflation and falling real income had turned the country into an economic shambles.

But it was more than the difficulties of eking out a barely acceptable standard of living that had eroded the patience of a traditionally good-natured, quiescent people; it was also the humiliation of a way of life disfigured by corruption and fear.

The students were protesting not just the death of their comrades but the denial of their right to life by a totalitarian regime that deprived the present of meaningfulness and held out no hope for the future. And because the students articulated the frustrations of the people at large, the demonstrations quickly grew into a nationwide movement.

The people of Burma had wearied of a precarious state of passive apprehension in which they were "as water in the cupped hands" of the powers that be.

Emerald cool we may be
As water in cupped hands
But oh that we might be
As splinters of glass
In cupped hands.

Glass splinters, the smallest with its sharp, glinting power to defend itself against hands that try to crush, could be seen as a vivid symbol of the spark of courage that is an essential attribute of those who would free attribute of those who would free themselves from the grip of oppression.

My father, Bogyoke Aung San, regarded himself as a revolutionary and searched tirelessly for answers to the problems that beset Burma during its times of trial.

He exhorted the people to develop courage: "Don't just depend on the courage and intrepidity of others. Each and every one of you must make sacrifices to become a hero possessed of courage and intrepidity. Then only shall we all be able to enjoy true freedom."

A revolution that aims merely at changing official policies and institutions with a view to an improvement in material conditions has little chance of genuine success. Without a revolution of the spirit, the forces that had produced the iniquities of the old order would continue to pose a constant threat to the process of reform and regeneration.

It is not enough merely to call for freedom, democracy and human rights. There has to be a united determination to persevere in the struggle, to make sacrifices in the name of enduring truths, to resist the corrupting influences of desire, ill will, ignorance and fear.

Saints, it has been said, are the sinners who go on trying. So free men are the oppressed who go on trying and who in the process make themselves fit to bear the responsibilities and to uphold the disciplines that will maintain a free society.

Among the basic freedoms to which men aspire that their lives might be full and uncramped, freedom from fear stands out as both a means and an end.

A people who would build a nation in which strong, democratic institutions are firmly established as a guarantee against state-induced power must first learn to liberate their own minds from apathy and fear.

Mr. SOLARZ. Mr. Speaker, I yield 2 minutes to my very good friend, the distinguished gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to commend Chairman SOLARZ for not only highlighting the extraordinary courage of Nobel Prize winner Aung San Suu Kyi, but for also focusing the attention of the world on the deplorable human rights situation in Burma, which continues to this day.

Throughout the years, I have followed with great interest events in Burma and have been deeply impressed with the dignity, wisdom, and courage of Aung San Suu Kyi.

Her willingness to lay her life on the line for democracy and to take whatever risks were necessary to carry out her campaign for nonviolent change in Burma, has served as an inspiration to the Burmese people and captured the imagination of the international community.

Sadly, and despite the efforts of Aung San Suu Kyi and thousands of her followers, the military regime has continued to reject the Democratic aspirations of the Burmese people.

Aung San Suu Kyi remains under house arrest, and thousands of opposition figures remain behind bars. The military regime has also given no indication that it plans to implement the results of the May 1990, election, which Aung San Suu Kyi's National League for Democracy won overwhelmingly.

The regime in Rangoon and the people of Burma should be under no illusions about the position of the United States Congress on Burma. The Congress has already indicated its strong support for the administration's decision to suspend our aid program and trade preferences for Burma, as well as the decision not to renew a textile agreement with Burma.

There are other countries in the world with oppressive regimes where the government has at least some base of support in the population. That is not the case in Burma. The Burmese people, a kind and gentle people, are ready and yearning for democracy. The military regime rests on nothing other than bullets and bayonets.

In a world in which governments of this character are disappearing, I hope that the spirit of Aung San Suu Kyi and the Burmese people will prevail.

I again congratulate Aung San Suu Kyi on receiving the Nobel Prize and hope the award will renew worldwide efforts to alleviate the suffering of the people of Burma.

Mr. Speaker, I include the following material:

THE HEROINE AGAINST THE HEROIN

Who is she? Why should I care?

Those questions must have occurred to many Westerners in learning that this year's Nobel Peace Prize has gone to Daw Aung San Suu Kyi, leader of the opposition in Myanmar, or Burma. It's a country as unfamiliar as it is remote.

There are many reasons to care.

One is pure self-interest. Mrs. Aung San Suu Kyi is the implacable foe of a military government that has collusive ties to suppliers of the No. 1 pipeline of heroin to North America. What Colombia is to cocaine, Burma is to heroin—with one big difference. Colombia's government is battling drug lords while Burma's rulers have turned a blind eye to them in exchange for their laying down of arms against the government.

Mrs. Aung San Suu Kyi has shown extraordinary courage in opposing these military thugs. In doing so, and in refusing to submit despite being under house arrest for 17 months, she is indirectly allying herself with all those on this side of the ocean who are trying with such difficulty to block the drugs before they reach our schools and streets.

But the drug trade is hardly the main focus of this woman's campaign. She wants nothing less than the freedom of her people, all 40 million of them. That's another reason we should care: she is leader of a non-violent struggle against political repression, and any advance she makes advances the cause for non-violence and democracy around the world.

The Burmese government's treatment of this 46-year-old leader perfectly illustrates the oppression against which she fights. She was the leader of the opposition forces that won a 1990 election fair and square; the military rulers—stunned by her forces' victory—refused to let the victors govern. In addition to confining her to her home, they have arrested or suppressed some of her allies.

The Nobel prize is like a big Amnesty International letter to Mrs. Aung San Sui Kyi's jailers. It says, "Let this lawful leader lead."

It is a message that Haiti's new regime should not ignore, either. The khaki junta in that country has also ousted the winner of a historic election, Jean-Bertrand Aristide, He, too, had successfully preached non-violence in coming to power.

Finally, the prize should send a message to the West to step up economic sanctions against Burma. Which of these makes more sense: for Western democracies to barge into a country forcibly to oust a dictator and restore democracy, as the United States did in Panama to remove another drug-linked regime? Or for the West to support non-violently a non-violent reform movement?

The 1991 Nobel Peace Prize is more than a prize. It is, if other countries can take the hint, part of the solution.

BURMESE OPPOSITION LEADER WINS THE NOBEL PEACE PRIZE

(By Craig R. Whitney)

OSLO, Oct. 14.—Daw Aung San Suu Kyi, who became the leader of the opposition to the Burmese military Government after returning to her homeland three years ago, was awarded the Nobel Peace Prize today "for her nonviolent struggle for democracy and human rights."

Mrs. Aung San Suu Kyi, the daughter of U Aung San, the assassinated founder of modern Burma, has been under strict house arrest in the capital since July 1989.

The Norwegian Nobel Committee, which announced the award here today, could not reach her to give her the news. The chairman of the Committee, Prof. Francis Sejerstedt of the University of Oslo, sent a telegram instead to Gen. Saw Maung, the head of the ruling State Law and Order Restoration Council, asking the Government to pass the citation on to her.

ETHNIC CONCILIATION

"She became the leader of a democratic opposition which employs nonviolent means to resist a regime characterized by brutality," the citation said. The Nobel Committee said it wanted "to show its support for the many people throughout the world who are striving to attain democracy, human rights and ethnic conciliation by peaceful means."

"Suu Kyi's struggle is one of the most extraordinary examples of civil courage in Asia in recent decades," the citation said.

Professor Sejersted said today that he had called Mrs. Aung San Suu Kyi's husband, Prof. Michael Aris of St. Antony's College, Oxford, about half an hour before the official public announcement here today. He reached him at about 5:20 a.m. in Cambridge, Mass., where he has begun a second year as visiting professor of Tibetan and Himalayan studies at Harvard University.

Asked later what his reaction had been, Professor Aris said: "It was not surprise. It was great emotion, great joy and pride, and also sadness and continued apprehension about her situation." The couple has been married for 19 years.

Although it was her dying mother's illness that had brought her back to Burma in April 1988, Mrs. Aung San Suu Kyi, 46 years old, was propelled into politics by the violent protests that struck the country that year and forced U Ne Win, the country's longtime military strongman, to resign that July.

THREATENED WITH RIFLES

The army, which Mrs. Aung San Suu Kyi said she had been brought up to think of as "friends," killed 1,000 people in further protests in September 1988. She began to speak out against Mr. Ne Win, who was continuing to wield power behind the scenes.

She soon became the leader of the National League of Democracy, the strongest party in the democratic movement.

"Suu Kyi's goal was a democratic system of government in which all the regions and ethnic groups would be represented," the Nobel Committee said today. "Thousands of people joined her movement. Even in regions which had been ravaged by civil war for decades, large masses of people gathered to hear her speak."

But the military issued orders under martial law prohibiting gatherings of more than five people and banning public criticism of the armed forces.

JUNTA BLOCKS NEW PARLIAMENT

The governing military council carried out a pledge to hold parliamentary elections in May 1990, but then simply ignored the results, which gave Ms. Aung San Suu Kyi's party 392 of the 485 contested seats.

Instead the military authorities began a campaign of personal vilification against the opposition leader, attacking her and the "tainted race" of her children, who are both at boarding schools in Britain but have retained Burmese citizenship.

Professor Sejersted said today that he hoped the Peace Prize, which like the other Nobel awards this year carries a stipend of about $1 million, would put pressure on the Burmese authorities to speed her release.

The junta has offered to let Mrs. Aung San Suu Kyi leave the country, but she has refused to do so unless the military authorities free all political prisoners, turn power over to civilians, let her address the country over television and radio for 50 minutes, and allow her to make a public procession to the Yangon airport.

PLAYED THE PIANO

During her enforced isolation in the Burmese capital, she often played Mozart on the piano. The music stopped last year, and anxious neighbors feared she had been forced to sell the piano to buy food. Diplomats in Yangon believe she now spends much of her time in meditation.

The Nobel recipient's name is derived from both her parent's names. The "Daw" preceding it is the Burmese honorific equivalent of Mrs.

Alfred Nobel, who invented dynamite and thereby revolutionized modern warfare, established the prizes in his name in a will written in 1895. He specified that the Peace Prize should go "to the person who shall have done the most or the best work for fraternity between nations, for the abolition or reduction of standing armies and for the holding and promotion of peace congresses."

In practice the Nobel Committee has frequently used the Peace Prize to endorse nonviolent struggles waged by political opposition leaders against repressive governments. In recent years such recipients have included Lech Walesa of Poland, Andrei D. Sakharov of the Soviet Union, Bishop Desmond M. Tutu of South Africa and the Dalai Lama, the spiritual leader of Tibet.

Professor Sejerstedt said that he and his four colleagues, all Norwegians, had received 90 nominations for the Peace Prize.

OPPOSITION HAILS AWARD

UNITED NATIONS, October 14.—The head of the nominal government that the Burmese opposition set up after the military disregarded its electoral victory last year declared today that the Nobel prize awarded to Mrs. Aung San Suu Kyi would give new hope to the Burmese people.

U Sein Win, Prime Minister of the National Coalition Government of the Union of Burma and a cousin of the Nobel winner, said the award would refocus world attention on the military regime's abuse of human rights.

Some recent Nobel Peace Prize winners who were involved in political movements in their countries and whose award was viewed as a political endorsement by the Nobel committee.

1989: Dalai Lama—Tibet

1985: International Physicians for the Prevention of Nuclear War—United States

1984: Bishop Desmond M. Tutu—South Africa

1983: Lech Walesa—Poland

1976: Mairead Corrigan and Betty Williams—Northern Ireland

1975: Andrei D. Sakharov—Soviet Union

1964: Martin Luther King Jr.—United States

WOMAN IN THE NEWS; BURMESE WHOSE SILENCED VOICE ECHOES: AUNG SAN SUU KYI

(By Steven Erlanger)

Daw Aung San Suu Kyi, the daughter of the founder of modern Burma, always understood that she had a special obligation to her father, U Aung San, martyred by an assassin's bullet in 1947 when she was only 2 years old, and to her country. But for many years the nature of that responsibility was unclear to her.

In 1988, however, after nearly 30 years of isolationist, autocratic rule under U Ne Win, a revolution swept her up and pushed her forward, until she become its leader and most potent symbol. Paradoxically, she is even more powerful today, after more than two years of forced silence and isolation under a repressive military regime.

When she married her British husband, Prof. Michael Aris, in 1972, "I made him promise that if there was ever a time I had to go back to my country, he would not stand in my way," she said in an interview in December 1988 in Yangon, formerly known as Rangoon, "And he promised."

Listening then in the house of her mother at 46 University Avenue, where Mrs. Aung San Suu Kyi would be detained incommunicado starting in July 1989, Professor Aris broke in to say: "That's true. She made me promise."

SEPARATED FROM HER FAMILY

But it is unlikely that Professor Aris could have understood at the time the personal cost of the commitment and courage that would earn this year's Nobel Peace Prize for Mrs. Aung San Suu Kyi. Mr. Aris and their two teen-age sons have not been allowed to visit Mrs. Aung San Suu Kyi since Christmas 1989, and the Burmese authorities have tried to play on her love of family to persuade her to abandon her political goals and leave the country voluntarily.

At the same time, the military has publicly scorned her marriage to a foreigner, a national of Burma's former colonial power, and made other derogatory remarks about her private life.

Aung San Suu Kyi was born in Rangoon on June 19, 1945. She left Burma in 1960, when her mother was named Ambassador to India. After studying in India she attended Oxford University in Britain, where she took a degree in politics, philosophy, and economics, and met Professor Aris, a scholar of Tibetan anthropology. He is currently a visiting professor at Harvard University.

Her trademark short jacket and Kachin longyi, or sarong, have become chic fashion statements in a country where overtly political ones are dangerous. Many Burmese wear miniature pins bearing her photograph, and young people, especially in the countryside, often wear T-shirts showing the symbol of her party, a peasant's hat.

FOR MY FATHER

"I'm doing this for my father," she said in the 1988 interview. "I'm quite happy that they see me as my father's daughter. My only concern is that I prove worthy of him."

In an essay she wrote to be included in a volume published in honor of her father, Mrs. Aung San Suu Kyi gives readers a glimpse of the mettle that has sustained her. "Fearlessness may be a gift," she wrote, "but perhaps more precious is the courage acquired through endeavor, courage that comes from cultivating the habit of refusing to let fear dictate one's actions, courage that could be described as 'grace under pressure'—grace renewed repeatedly in the face of harsh, unremitting pressure."

Before they married, Mrs. Aung San Suu Kyi told her husband that her name meant, "A Bright Collection of Strange Victories." To someone who was tending her family in an academic town only four years ago, the Nobel Peace Prize is a significant addition to that collection, but it is likely to bring little pleasure to her unless it helps to shorten the suffering of ordinary Burmese.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I would like to personally thank the gentleman from New York [Mr. SOLARZ], the gentleman from New York [Mr. GILMAN], and the gentleman from Michigan [Mr. BROOMFIELD] for the time and effort that they have put forward on this resolution.

This resolution goes to the heart and soul of what America is all about, because we have absolutely no strategic interest in Burma whatsoever. It is not important to the United States in terms of our security, in terms of the safety of our people. Our country is not going to go one direction or the other no matter if there is a dictatorship in Burma or whether there is a democracy in Burma.

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So what we are doing and what we say and how we act and the principles we stand on when it comes to this country that means so little to our own national security speaks volumes about our soul as a Nation.

That, in fact, is one of the reasons that I am so upset with our administration when it comes to Burma and other countries, whether it be Red China or whether it be other nations in which we do not live up to that commitment which we as Americans should have, that legacy left to us by our founding fathers.

When our Founding Fathers fought for freedom and democracy, they put in their founding document that the rights of life, liberty, and the pursuit of happiness are not the property of Caucasian Americans; that is not what they put in their founding documents. What they put in our documents is that the rights of every individual are God given and they are given to every individual on this planet, not simply Americans.

And when we fall short, when we do not stand for those principles, when we cut deals with gangsters and dictators in the name of stability or temporary progress and we cut off those from our sanctions, those people who are struggling for freedom, we are negating the things that this country was supposed to stand for. We are negating the deaths of people who fought from the American Revolution all the way through to Desert Storm because the young men and women who fought in these battles over the years did not fight and did not die for special interests of the United States to make our country wealthy; they fought because America stands for something different, something higher.

America has to stand for freedom, America has to be the hope of the world and America stands for nothing where America is nothing but a cynical group of individuals who are gathered together in the name of personal gain.

What we do today to say to the people of Burma that we are on the side of Aung San Suu Kyi, we are on the side of the people who are struggling for freedom speaks volumes not about Burma but about ourselves.

For that reason I am very proud to be in this hall tonight backing this resolution. And I accept that a representative of the provisional Government of Burma, Aung San Suu Kyi's cousin, who is in town today and has been in town for a week has not been received by our State Department and has been shunned by representatives of this administration.

I think that speaks volumes about some of the people and the values of those people who are supposedly representing our values to the world in the State Department and, yes, in the White House itself.

Mr. Speaker, in the fall of 1988 the people of Burma rose against the world's most vicious dictatorship and, as was so eloquently described by Congressman SOLARZ, their fight and the repression and bloodletting and gangsterism that was unleashed against them made what happened in Tiananmen Square look like a tea party.

I was privileged in the fall of November 1988 to sneak across the border from Thailand into one of the camps of the student leaders and the students who had fought against the Burmese dictatorship. These young students, most of them in their teens, had trekked through the jungle—these were city young people—they trekked through the jungle and they were bloodied and they had lost many of their friends, but they stood, even without weapons, they stood tall and said, "We are going to fight this dictatorship because we love the same principles that you Americans love and we want to be like you." That is what they told me, "We want to be like you."

Well, let us hope that America stands tall for freedom so that the oppressed people all over the world will want to be like us, because that is a force that is stronger than any weapons system that we can buy.

And when we send Haitians back to Haiti to their dictatorship, that too is a violation of our principles. And when we cut deals with the Red Chinese, that too is a violation of our principles.

These are things that there should not be a debate about among free people who are a people—rather who are the forebears, or the people who are inheritors of George Washington and Thomas Jefferson and, yes, the one person that we have here who came here, LaFayette, from another country to help us fight for our freedom.

So this resolution tonight is reconfirming our commitment to the spirit of LaFayette in that those people who are struggling anywhere on this planet for freedom and democracy will know that we are on their side and that we are not on the side of the gangsters who are usurping power in the name of the state.

We believe that there is no government if those individuals in power do not have the consent of the governed. That is the essence of our democracy; that is the essence of freedom that has tied our people together.

When we cut deals with people who do not have the sanction of their own people, we are not making deals with the government, we are associating with gangsters and murderers, whether those gangsters and murderers be Chinese, or whether those gangsters and murders be South Africans, or whether those gangsters and murderers be of any race or ethnic group, but those individuals happen to have their hands, have gripped the throats of those people who are their citizens.

The true government, the true government is the individuals who receive a vote from their own people. Everyone else is a usurper.

How does freedom come to a country in this world? It comes because the good and decent people of the world stand together. That is a force, that is a force that does not require the biggest military establishment on the planet. But if we have the biggest military establishment on the planet and we are still cutting deals with gangsters, it is an even greater travesty because we have nothing to fear from those gangsters who are torturing and murdering their people and making a travesty out of everything that this country believes in.

Aung San Suu Kyi is a person of incredible courage. Her courage speaks out to us. It should speak out to the American soul. Just as those students in Tiananmen Square, just as our own Founding Fathers in their struggle for freedom spoke out to the world.

Today I would ask that we recommit ourselves to the principles of democracy with this resolution and that we say that freedom and democracy is not just the birthright of white Caucasians but instead every man, woman, and child on this planet.

I would think that this administration, when Dr. Win, who represents an elected government in Burma, comes to this city, that we would receive them.

I again would like to congratulate the gentleman from New York, Mr. SOLARZ, for the effort that he has put into this.

You know, we have had some heroes in our time—Sakharov, Bishop Tutu, and others—who are heroes on this planet, and their courage spoke to so many people around the world that it created a change in their own country. And tonight, with this resolution, we are recognizing one of those brave individuals who can change reality in their country and speak, speak so much to the principles of human dignity and freedom for which we should all stand.

Mr. COUGHLIN. Mr. Speaker, I want to register today my strong support for House Resolution 262, congratulating Daw Aung San Suu Kyi on receiving the 1991 Nobel Peace Prize for her work to promote peaceful democratic change in Burma. Her courage has not only been an inspiration to the people in her own country, but to all those who believe in liberty and justice.

The human rights violations of the Burmese military dictatorship are infamous. The State Department's Country Reports on Human Rights for 1990 states that "[t]orture, disappearances, arbitrary arrests and detentions, unfair trials, and compulsory labor persisted" in 1990, and the most recent information from Burma indicates no change for 1991. The military regime's treatment of Burma's population "remained capricious and apparently unrestrained by legal, institutional, or moral considerations," according to the State Department.

In addition to severe and worrisome human rights abuses, Burma is deeply involved in drug trafficking. Burma alone produces 63 percent of the world's supply of illicit opium. Burma was denied certification for lack of cooperation with the United States on narcotics in 1989, 1990, and 1991. The Burmese Government has made only very limited efforts to stop the flow of narcotics. The United States Government would like to work with the Burmese Government to combat narcotics production and trafficking problems. However, it is impossible to move forward while the Government of Burma continues to violate the basic human rights of its own people.

Daw Aung San Suu Kyi represents the future of Burma, if that nation is going to have a future among the civilized nations of the world. Her Nobel Prize is deeply deserved. I join my colleagues, including the distinguished sponsor of this legislation, the gentleman from New York [Mr. SOLARZ], in looking forward to the day she will be allowed to receive this high honor in person and to the day she will be allowed to assume her rightful place in the leadership of a democratic Burma.

Mr. PORTER. Mr. Speaker, it is with great pleasure that I rise in support of House Resolution 262, congratulating Aung San Suu Kyi—Ang San Sue Chee—winner of the 1991 Nobel Peace Prize.

As cochairman of the Congressional Human Rights Caucus, I have paid close attention to the plight of the Burmese people. In 1988, we condemned the brutal killing of thousands of innocent students and civilians who were peacefully calling for an end to the one-party dictatorship.

To the surprise of us all the military government of Burma allowed elections to be held in 1990 and was subsequently defeated by an overwhelming majority by members of the main opposition party, the National League for Democracy.

Unfortunately, the military regime has refused to transfer power to those freely elected and has arrested members of the National League for Democracy. They have remained deaf to pressure from the international community and to strong opposition within Burma.

Just 1 month ago, there was an historic breakthrough in the struggle for human rights and democracy in Burma when Aung San Suu Kyi, one of the founders of the National League for Democracy, was awarded the Nobel Peace Prize.

Even though she has been under house arrest for 3 years and was prevented from running in the 1990 elections, her popularity as a peaceful leader has continued to grow.

Since winning the Nobel Prize, I have received deeply disturbing reports that Aung San Suu Kyi has been on a hunger strike and is in very poor condition. Because Burmese authorities have not allowed anyone to see her, we cannot confirm her current state of health and have urged Burmese authorities to allow a member of an internationally respected humanitarian organization to visit her in order to verify her condition.

Mr. Speaker, I hold Burmese officials responsible for the health and safety of Aung San Suu Kyi. She should be permitted to travel to Oslo to receive the Nobel Peace Prize this December. I hope that Aung San Suu Kyi will soon have the opportunity to address a joint meeting of Congress, as expressed in House Resolution 262.

Mr. FASCELL. Mr. Speaker, I rise in support of House Resolution 262, as amended, congratulating Daw Aung San Suu Kyi on being awarded the 1991 Nobel Peace Prize and expressing continued concern about human rights abuses in Burma. The resolution was considered favorably by the Committee on Foreign Affairs this morning. I commend the author of the resolution, the chairman of the Subcommittee on Asian and Pacific Affairs, Mr. SOLARZ, for his leadership in bringing this important issue to the attention of the committee and the House.

Mr. Speaker, in 1988, the brave and peaceful people of Burma engaged in massive demonstrations against the 26 years of repressive military rule they had by then endured. As a result of these demonstrations, the military rulers of Burma were forced to allow the people to participate in elections to choose their leaders. Despite the fact that she had been under house arrest since July 1989, Daw Aung San Suu Kyi's National League for Democracy in Burma, overwhelmingly won the May 1990 election. Tragically, the Burmese military junta refused to acknowledge its defeat and disregarded the election results. The democratic aspirations of the Burmese people, although temporarily dashed, remain strong.

In recognition of the determination of the Burmese people and for her leadership in waging the struggle for democracy and respect for human rights, the Nobel Peace Prize will be awarded to Daw Aung Suu San Kyi on December 10, 1991. It is fitting that the award will be bestowed on International Human Rights Day since, like previous laureates Andrei Sakharov, Lech Walesa and His Holiness the Dalai Lama, Daw Aung San Suu Kyi personifies the integral link between enduring peace and respect for human rights. While it is unlikely that her Burmese captors will allow her to accept the award in person, Daw Aung San Suu Kyi will rightly take her place among the illustrious ranks of those champions of democracy and human rights.

This resolution expresses Congress' continued concern about ongoing human rights abuses and expresses our unwavering support for Daw Aung San Suu Kyi and the people of Burma in their struggle for peaceful and democratic change. I urge its unanimous adoption.

Mr. RANGEL. Mr. Speaker, I rise in strong support of House Resolution 262, congratulating Daw Aung San Suu Kyi on receiving the Nobel Peace Prize and expressing continued congressional concern about human rights abuse in Burma.

As chairman of the Select Committee on Narcotics Abuse and Control, I have long been interested in Burma, the largest producer of opium and heroin in the world. For years the citizens of this poor country have struggled under the repression of a strong and brutal military.

I have watched with admiration how a peaceful movement for democratic change has developed under the leadership of a brave young woman. Daw Aung San Suu Kyi founded the National League for Democracy in Burma, which overwhelmingly won the elections of May 1990 in spite of the fact that she and other party leaders had been under house arrest throughout most of the campaign period. In fact she remains to this day under house arrest, unable to receive visits from family or friends. Her steadfast commitment to a peaceful transition to democracy in Burma has made her a symbol of hope and dignity for the people, not only of Burma, but throughout the world.

Other elected party leaders have escaped to Thailand where they have formed a government in exile. The exiled leaders have been outspoken about their goals of democracy and freedom in their homeland. Among the freedoms they desire is the freedom from the corruptive influence of drug traffickers.

As the largest producer of opium and heroin in the world, Burma is key to any international effort to control the supply of those dangerous substances. But for any international plan to be effective, there must be a dedicated and trustworthy government in place with whom the international community can work. The junta that so brutally continues to repress Daw Aung San Suu Kyi's nonviolent struggle for an honest, open democracy in Burma has paid little attention to the drug production and trafficking which occurs in many areas of Burma. Indeed, drug production and trafficking have escalated since the junta has signed new agreements with the tribal leaders of some of the key drug producing regions of Burma.

Not only would the restoration of democracy and the recognition of the legitimate, elected officials in Burma be the humanely right thing to do, but with the new government there would be hope for some successes in international drug control activities.

I congratulate the Nobel Committee for recognizing the sacrifices made by this young woman and her followers for the cause of human rights, dignity, and freedom in Burma. I congratulate Daw Aung San Suu Kyi. Her steadfast determination to eschew violence in the face of brutal repression for the causes in which she so strongly believes have been an inspiration to freedom-loving people around the world.

I would like to thank the gentleman from New York [Mr. SOLARZ] for offering this resolution, and I join him in urging unanimous support for passage of House Resolution 262.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the resolution, House Resolution 262, as amended.

The question was taken and (two-thirds having voted in favor thereof), the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Resolution congratulating Daw Aung San Suu Kyi on being awarded the Nobel Peace Prize and expressing continued congressional concern about human rights abuses in Burma."

A motion to reconsider was laid on the table.

□ 2140

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered and agreed to.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). Is there objection to the request of the gentleman from New York?

There was no objection.

SUPPORTING ZAMBIA'S TRANSITION TO DEMOCRACY

Mr. DYMALLY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 241) expressing support for Zambia's transition to democracy.

The Clerk read as follows:

H. CON. RES. 241

Whereas the Nation of Zambia achieved independence from British rule in 1964;

Whereas Zambia has been administered under a state-of-emergency decree for the past 26 years and has been subjected to one-party rule for the past 17 years;

Whereas the Zambian economy has faced a continuous decrease in commodity prices and by 1989 maintained a per capita income level that was half its mid-1970s level;

Whereas the Zambian economy is in a steady decline and the Zambian Government now incurs an external debt of $7,500,000,000;

Whereas in 1990 the government had begun to institute a macroeconomic arrangement with the International Monetary Fund and World Bank;

Whereas in 1991 the government failed to meet its economic reform program with the World Bank and was subsequently suspended from $200,000,000 in international assistance;

Whereas in addition, United States Government assistance has been suspended;

Whereas the people of Zambia have ceaselessly expressed their opposition to the government's policies;

Whereas the Zambian Government has responded to such opposition by releasing political detainees, pardoning political prisoners, and enacting a law in December 1990 that allowed additional parties to participate in elections slated for October 1991;

Whereas on October 31, 1991, President Kenneth Kaunda and the people of Zambia demonstrated great courage and determination by conducting free and fair elections;

Whereas the Movement for Multiparty Democracy (MMD) won nearly 90 percent of the vote and secured approximately 125 positions in the 150-seat parliament; and

Whereas the elections were found to be free and fair without incidents of violence or corruption: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) commends the people of Zambia for their commitment to democracy;

(2) congratulates President Frederick Chiluba on his historic election as Zambia's President;

(3) commends former President Kaunda and the United National Independence Party (UNIP) on their cooperation in allowing open participation in the recent elections;

(4) calls on President Chiluba to restore respect for internationally recognized human rights and establish a system of governance that fosters open political participation and encourages the development of democratic institutions;

(5) urges President Chiluba to take steps to strengthen Zambia's economy, renew its debt service payments to the International Monetary Fund, and restore Zambia's commitment to implementing its economic restructuring obligations with the World Bank;

(6) calls on the President of the United States to take steps to implement a comprehensive assistance program, in coordination with other western donors, to the newly elected government and its people that supports democratic and economic development in Zambia; and

(7) urges President Bush to encourage other industrialized nations to participate in supporting Zambia's newly-elected government.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DYMALLY] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Subcommittee on Africa and the Committee on Foreign Affairs, I would like to join with others in the international commendation to the Zambian people who forged ahead, despite numerous obstacles, to effect an orderly transfer of power. Dr. Kenneth Kaunda has handed the reigns of power to the newly elected President, Mr. Frederick Chiluba.

Mr. Speaker, the United States must acknowledge and endorse the democratic process when it yields such a success. The road to democracy can be a winding, twisting route. We must be prepared to provide the moral and practical support to see these democratic movements survive. Zambia is but the latest in a string of African nations to make the democratic transition and hold multiparty elections. We, as the strongest democracy on Earth, must make equally strong and positive statements of support.

I commend the original sponsor of this resolution, Mr. WEISS, for his leadership on this issue.

Mr. Speaker, I support a favorable recommendation of this measure, which passed the Committee on Foreign Affairs unanimously, and urge the support of the full House in its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I would like to express my appreciation to the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], the gentleman from California [Mr. DYMALLY], the gentleman from Michigan [Mr. BROOMFIELD], and the other members of the Committee on Foreign Affairs on both sides of the aisle for their support of this resolution.

In particular, I would like to thank Senator PAUL SIMON for his support of the bill and his commitment to introduce a similar measure in the Senate later this session.

As we know, many nations around the world have taken steps to embrace democracy in recent years. But few countries have made the transition as peacefully and orderly as Zambia did just over 2 weeks ago. After 26 years under a state-of-emergency decree and 17 years of one-party rule, the Zambian people have thrown off the yokes of authoritarianism without shedding a drop of blood or firing a single shot. It is an unprecedented feat in Africa, Asia, or Latin America.

House Concurrent Resolution 241 is a sense-of-the-Congress resolution that gives credit where credit is due, while also outlining a broad approach for future United States policy toward Zambia. Specifically, the resolution applauds the Zambian people, the Movement for Multiparty Democracy, and newly elected President Frederick Chiluba for the success of the election. It also commends former President Kenneth Kaunda for graciously honoring the election results.

Additionally, the resolution encourages President Chiluba to restore internationally recognized human rights practices and urges him to renew relations with the World Bank and IMF. Finally, it calls on President Bush to implement an assistance program, in coordination with other international donors, that reflects comprehensive support for Zambia's accomplishment.

Mr. Speaker, the recent coup in Haiti reminds us that democracy in the developing world is still quite ephemeral. While the Zambian people have stood for the first time and courageously crossed over a new threshold in self-governance, the country remains in the midst of a political and economic crisis. Its ability to support democratic institutions is still undefined, and its excessive debt severely threatens its economic stability.

The United States and other industrial nations have the opportunity to nurture democracy in Zambia by extending economic and political support. If we reach out early, we send a message that the United States stands behind its commitment to democratic values and behind the people who embrace those ideals. But if we waste this opportunity, we not only run the risk of weakening our relations toward the new administration but we undermine the Government's legitimacy with Zambia's own people.

Tonight we have the chance to send a message early in the process and to build up confidence between our two nations. I hope that my colleagues will join me in that effort and vote to pass House Concurrent Resolution 241.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution and commend the sponsor, Mr. WEISS, and the Africa Subcommittee under Congressmen DYMALLY and BURTON for bringing it through the committee and to the floor.

Like so many countries in Africa, Zambia has suffered from human rights abuse, economic mismanagement, corruption, and increasing poverty since achieving independence. On October 31, however, Zambia democratically elected a new Government.

While a handful of other African states have voted nonelected leaders out of office, to date, Zambia is the largest and most important country to do so. In fact, the movement toward democracy appears to be gaining strength in Africa.

Last month's election in Zambia represented a landslide for the forces of democracy. Former President Kaunda has announced his intention to abide by the will of the people, and the new Government has already been installed.

I encourage support for this resolution in the hope that the developments in Zambia will serve as a model throughout the African Continent.

Mr. FASCELL. Mr. Speaker, House Concurrent Resolution 241 is a noncontroversial sense-of-the-Congress resolution that commends the people of Zambia for their transition to democracy; congratulates President Frederick Chiluba on his historic election as Zambia's President; recognizes former President Kaunda for his decision to allow free and fair elections; and calls on the President of the United States to implement an assistance program that supports democratic and economic development in Zambia.

The peaceful and speedy transition in Zambia from President Kaunda's authoritarian leadership to the democratically elected Government of newly elected President Chiluba is likely to send a strong message to other autocrats throughout Africa. The message will hopefully be heeded by Africa's so-called big men that now is the beginning of the end of postcolonial autocrats who have ruled their countries as their own personal kingdoms.

President Kaunda is to be congratulated for his decision to allow democratic elections and to abide by those results. In so doing, President Kaunda will be remembered as a person who not only led his country to independence but as the person who agreed to multiparty democracy.

I urge the speedy adoption of this timely resolution by this body.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. DYMALLY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 241).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 241, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REGARDING THE IMPLEMENTATION OF THE U.N. PEACE PLAN FOR THE WESTERN SAHARA

Mr. DYMALLY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 214) expressing the sense of the Congress with respect to the implementation of the U.N. peace plan for the Western Sahara, as amended.

The Clerk read as follows:

H. CON. RES. 214

Whereas the United Nations, on April 19, 1991, adopted a peace plan calling for a free and fair referendum of self-determination in the Western Sahara;

Whereas it was also determined that a United Nations mission (MINURSO) should be established to organize and supervise the United Nations peace plan in the Western Sahara;

Whereas a cease-fire went into effect on September 6, 1991, between Morocco and the Polisario marking the first phase of the implementation of the peace plan;

Whereas the United States is playing an integral role in this process by participating in the United Nations peacekeeping forces in the Western Sahara and by making a significant financial contribution to this undertaking; and

Whereas a referendum conducted in accordance with the terms of the United Nations peace plan will reinforce the stability of the region as well as strengthen democratization efforts in Africa: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) commends the President and executive branch officials for their involvement in key diplomatic initiatives within the United Nations and their commitment in their bilateral relations to a free and fair referendum for self-determination in the Western Sahara;

(2) recognizes United Nations Secretary Javier Perez de Cuellar's tireless efforts in negotiating the terms of the peace plan adopted by the United Nations relating to the Western Sahara;

(3) calls upon Morocco and the Polisario to comply with the terms of the peace plan as endorsed by the United Nations Security Council; and

(4) calls upon the President to—

(A) continue the current United States policy of strong advocacy, within the United Nations and bilateral relationships, of the peace plan;

(B) support the efforts of the Secretary-General of the United Nations to ensure that independent international observers be allowed to monitor the referendum until its results have been published; and

(C) encourage the Secretary-General of the United Nations to take appropriate steps to ensure that the Security Council will take firm action in the event of any failure to comply with, or attempt to delay, the peace plan which has been adopted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DYMALLY] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. DYMALLY. Mr. Speaker, House Concurrent Resolution 214 as amended on the Western Sahara, basically supports the U.N. peace plan and the upcoming referendum. It commends the President and the Secretary General for their involvement in key initiatives and calls upon Morocco and the Polisario to comply with the terms of the peace plan.

The resolution asks the President to continue the U.S. policy of strong advocacy and to support the efforts of the Secretary General of the United Nations to ensure that independent international observers be allowed to monitor the referendum until its results have been published. This measure also encourages the Secretary General to take appropriate steps to ensure that the Security Council will take firm action in the event of any failure to comply with the U.N. peace plan.

I have talked to Ambassador Pickering at the United Nations about this initiative, as well as Ambassador Manz who is the Secretary General's representative for the Western Sahara. Both of these individuals have been encouraged by Congress taking this action. I also have a letter from Brent Scowcroft on behalf of the President signifying support for the U.N. plan for a referendum in the Western Sahara which I will submit for the RECORD.

This same resolution has been introduced in the Senate by Senators KENNEDY, KASSEBAUM, SIMON, and CRANSTON. A similar resolution passed by the United Nations 2 weeks ago also reiterated this body's strong support of the right of self-determination for the Sahrawi people.

This measure, which passed the Subcommittee on Africa unanimously and today passed the Committee on Foreign Affairs, is very straightforward and basic. It is intended to show the commitment of the Congress to the peaceful resolution of conflicts throughout Africa as well as its support of democratic elections.

Joining me in sponsoring House Concurrent Resolution 214 are Mr. PAYNE, Mr. FALEOMAVAEGA, Mr. FUSTER, Mr. GILMAN, Mr. WOLPE, Mr. HAMILTON, Mr. BURTON, Mr. TORRES, and Mr. PENNY. Since the United States is playing an integral role through our financial contributions and our participation in the peacekeeping forces, we should make every effort to ensure the success of this undertaking.

The Subcommittee on Africa held a hearing on the Western Sahara, together with the Subcommittee on Human Rights and International Organizations, with administration and private witnesses in an attempt to thoroughly examine this issue. We have had numerous meetings with State Department officials, and representatives from both sides of this conflict and asked for the views of subcommittee members, including the ranking minority member, Mr. BURTON, prior to this resolution's being introduced. We discussed it again at the subcommittee markup. During this entire process, no opposition to this measure was expressed.

I want to thank my colleagues, Mr. YATRON and Mr. BEREUTER, for waiving their jurisdiction on this issue. I also want to commend Mr. YATRON for his friendly amendment which incorporates language amendable to both the Department of State and the subcommittee and full committee staff. This is not a partisan initiative. Instead it encourages the mandate already adopted by the United Nations and the administration. I ask my colleagues on both sides of the aisle to vote "aye" on House Concurrent Resolution 214 as amended.

□ 2150

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Concurrent Resolution 214, regarding the implementation of the U.N. peace plan for the Western Sahara.

The Western Sahara is a disputed piece of territory just south of Morocco, and the land has been under Moroccan control for decades. Fighting has occurred in the territory for some time between Polisario and Moroccan forces.

On April 19, 1991, the United Nations adopted a peace plan calling for a free and fair referendum of self-determination in the Western Sahara. As part of this peace plan, the United States is participating in a U.N. peacekeeping force. A cease-fire, called for under the first part of the peace plan, went into effect on September 6, 1991.

The House concurrent resolution commends President Bush and the executive branch officials for their part in executing key diplomatic initiatives that led the U.N. peace plan. Furthermore, the resolution recognizes and salutes the long and tireless efforts of U.N. Secretary General De Cuellar in negotiating the agreement. Also, and most important, the House resolution calls for Morocco and the Palisario to comply with the peace plan, and the resolution calls upon President Bush to make every effort to ensure the continued successful implementation of the peace plan.

As a world leader and a supporter of the United Nations, our Nation should make every effort to help make the peace plan work. It is extremely important that the Congress supports the initiatives by President Bush and U.N. Secretary General De Cuellar. It is hoped that all the members of the United Nations will help in this important peaceful resolution of hostilities.

Mr. Speaker, I urge all my colleagues to support House Concurrent Resolution 214 to help bring peace to this unstable area in Africa.

Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentleman for yielding time to me.

Mr. Speaker, I rise this evening not to ask for a vote against this resolution but merely to point out that I am concerned that it may send an inappropriate message at this time. The United Nations has been laboring for three painstaking years to get to where we are today, with a peace plan in place to resolve the conflict in the Western Sahara.

The resolution we are considering this evening may seek to convey, albeit subtly and between the lines, that Morocco is refusing to cooperate with the United Nations in the organization of the referendum. Indeed the last lines make provisions for how to deal with a failure to comply with the peace plan itself, anticipating some such outcome, I suppose. But, Mr. Speaker, the United Nations continues to reaffirm its confidence in this peace process and in the cooperation of the parties. A resolution of the U.N. Fourth Committee, which I had the privilege of serving on a few years ago when I was assigned to the United Nations, called on the two parties to continue to cooperate with the U.N. efforts. Why, then, should the U.S. Congress question the commitment of the parties to this process?

For the Congress to pass an imbalanced resolution at this sensitive moment would be, I think, a very grave mistake. We would risk undermining the peace process that is underway and inadvertently calling into question the loyalty of our friendship for Morocco.

Let us not forget, I say to my colleagues on both sides of the aisle, that King Hassan II has been so helpful in advancing the Middle East peace process and in supporting the United States through the gulf crisis. They were our strongest supporters over there, and they were one of the first to condemn Iraq's invasion of Kuwait. They offered the U.S. military access and transit rights to its bases, as they have done for many, many years. Yes, Morocco is a loyal and moderate friend in the Middle East and, Mr. Speaker, that friendship is important to American foreign policy goals of peace and stability in that part of the world.

In pursuit of that goal, I ask the chairman of the subcommittee, for whom I have the greatest respect, having served on the committee with him for many, many years, is this resolution intended to single out Morocco as violating the U.N. peace plan for the Western Sahara, or is it intended to be neutral and impartial? I think it is important for us to clear that up.

Mr. DYMALLY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to my good friend, the gentleman from California.

Mr. DYMALLY. First, the answer is that it is a neutral resolution. But let me just give the gentleman a little reassurance. First, let me say that we miss the gentleman on the Subcommittee on Africa, and I am sure if the gentleman were there, he would have participated in the writing of this resolution.

Mr. SOLOMON. I am sure I would.

Mr. DYMALLY. First, I went to Rabat, and from Rabat I flew down to the section of Western Sahara administered by Morocco. Then I went to Algiers and flew down to Tindouf and met with the Polisario. Then I came back and met with the Foreign Minister of Morocco, and I met with the Foreign Minister of the Polisario. I met with the Ambassador of Morocco, and I met with the Ambassador of the Polisario. I went to New York and met with Ambassador Pickering and went to the ITUB and met with Mr. Manz, who was particularly objective.

In fact, I recall one time when he was asked the question, "Is it true that Morocco is obstructing the U.N.?" He says, "I have read about it, but I have no knowledge of it."

Then I had a private meeting with him later on and got his reassurance about his objectivity there. We came back, and again I met with the Ambassador from Morocco and took three of the amendments, what I consider to be very innocent technical amendments, from him. I submitted those to the committee. The committee staff assembled every interested party to this resolution, and the gentleman from Pennsylvania [Mr. YATRON] had another amendment. They came to a consensus agreement on this amendment which is offered today.

I want to reassure my good friend, the gentleman from New York, that I am an impartial, objective observer in this play, and I do not want to do anything that might raise the whole question of bias in this resolution.

Mr. Speaker, let me conclude by reading a letter from the White House dated October 25, 1991, addressed to me:

THE WHITE HOUSE,
Washington, October 25, 1991.

Hon. MERVYN DYMALLY,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN DYMALLY: I am responding on behalf of the President to your letter of September 25 in which you encourage him to reiterate his support for the UN peace plan for the Western Sahara in the context of the visit of King Hassan of Morocco.

We share your concern. In his address to the UN General Assembly on September 23, the President specifically cited the Western Sahara as an area in which he looked forward to working with UN Secretary General Perez de Cuellar and his successor in the months to come. Subsequently, in his statement welcoming King Hassan, The President cited the UN's plan for a referendum in the Western Sahara and confirmed "America's willingness to play its role in promoting a just and lasting settlement in the Sahara, in accordance with that plan." The President also emphasized this theme in his private discussions with the King during his visit here earlier this month.

Thank you again for writing on this important issue.

Sincerely,

BRENT SCOWCROFT.

□ 2200

Mr. SOLOMON. Mr. Speaker, let me just say to the chairman, he is one of the most respected Members of this House. The gentleman's assurance makes me feel a lot better, because it is such a sensitive issue. Having been involved in this for so long, I see my good friend, the gentleman from Michigan [Mr. WOLPE] over there that I served on the committee with. The gentleman and I went to Morocco and the Sahara. The chairman of the full committee, the gentleman from Florida [Mr. FASCELL] and I were in Morocco not too long ago.

Mr. Speaker, I appreciate the effort that the gentleman from California [Mr. DYMALLY] went through to make sure this is impartial, evenhanded, and very fair.

Mr. Speaker, again, we all feel much better about it. I commend the gentleman on the resolution.

Mr. DYMALLY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise as a cosponsor of this resolution and do intend to support it. I do so because it is a very clear expression of the support of the United States for the peace plan that has been adopted by the United Nations.

One of the things, however, that I think needs to be noted in the course of this discussion is the absolutely remarkable efforts that the Moroccan Government has gone to in an effort to weaken what was a wholly evenhanded, I think perhaps innocuous might be an even more accurate description of the resolution, as it was introduced. I say that because if I have any problem with the resolution as it has been introduced, it is that this resolution does not address the growing body of evidence that raises serious questions about the good faith of the Moroccan Government in implementing the U.N. peace plan.

In the course of the debate before the Committee on Foreign Affairs today I entered into the record some press accounts that had appeared in the British press, which has given far more attention to what is developing in the Western Sahara than the American media, that lay out a whole series of concerns as they relate to Moroccan Government conduct and the implementation of the U.N. peace plan.

Moroccan troops have not been withdrawn from the Western Sahara as had been promised. The Moroccan Government is engaged in an effort to transport into the Sahara some 170,000 population, in an effort clearly to make much more difficult the implementation of the original understanding of how the electoral role would be constituted. It is trying to stack the electoral base, in effect.

There are serious human rights violations documented by Amnesty International that have occurred. There has been a blocking by the Moroccan Government of the logistical effort needed to support the United Nations team that is in the area to try to facilitate the implementation of the peace process.

The fact that the Moroccan Government has spent as much energy as it has spent, and has had its representatives working assiduously in the past several weeks in an effort to block or weaken this resolution, in my view really lends credence to those who have raised concerns about the good faith of the Moroccan Government.

Mr. Speaker, there is nothing in and of itself inappropriate about this resolution. That is why I give it my support. But I certainly hope that the administration will speak very directly to King Hassan and will do everything within its power to see to it that the U.N. resolution that we embrace by this resolution this evening will in fact be implemented honestly, faithfully, and expeditiously, by all parties and, since at this moment at least it is really the Moroccan Government that has been charged with almost exclusive responsibility for the delays and problems that have occurred, that that kind of communication be conveyed with particular specificity and clarity to the Government of Morocco.

Mr. DYMALLY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I thank the gentleman for yielding. Let me compliment the gentleman from California [Mr. DYMALLY] for this very timely and important resolution.

Mr. Speaker, the right of self determination for the people of Western Sahara is long overdue.

Like Kuwait with rich oil deposits, Western Sahara has uranium-grade phosphates. But unlike Kuwait there was no western response when Morocco and Mauritania occupied the entire area upon the withdrawal of Spain in 1975. Nor, was there any public outcry when thousands of fleeing Sahrawis were bombed and napalmed by the Moroccan Air Force.

Since that time Mauritania has withdrawn and Morocco has built a wall of sand around Western Sahara cutting it off from the Polisario Front, that represents the Sahrawis people. Inside the sand wall they have built better housing, health clinics and other improvements all to win the hearts and minds of the Sahrawis people that remained behind, and living side-by-side with the many Moroccan people that have moved into the area.

With the intervention of the Organization of African Unity [OAU], and the subsequent admittance of Sahrawi Arab Democratic Republic, represented by the Polisario, the historic efforts of the United Nations to bring about self-determination for the area have been enhanced.

The recent cease-fire and plans for a referendum next year, although backed by the United Nations, must continue to be monitored by the United States and others who want to see fairness in this process.

Mr. Speaker, as I indicated earlier, although this resolution is neutral, as it has been indicated, we have seen in similar situations when a dominant power has a right to determine elections and a right to allow people in a place control the so-called right of self-determination, we find that in many instances fairness is not always followed. So we would hope that we do not see what happened in Namibia under the domination of South Africa, where many situations had to be corrected before fair and free elections could be held, occurs.

Mr. Speaker, once again I strongly support this resolution.

Mr. DYMALLY. Mr. Speaker, I yield 4 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I certainly would like to thank the distinguished gentleman from California [Mr. DYMALLY] chairman of the Subcommittee on Africa of the Committee on Foreign Affairs for bringing this resolution forward for the Members of this body to consider. In addition, I would like to thank the gentleman from New York [Mr. GILMAN] for his support.

In January 1992, the people of Western Sahara will hold a U.N. supervised referendum to determine the course of its political future. Since the departure of the Spanish from Western Sahara, the residents of this region have struggled for the right of self-determination, and freedom from domination by its more powerful neighbor, the Kingdom of Morocco.

The Polisario Front, representing the people of Western Sahara have paid a tremendous price in their struggle for freedom. The most recent report from Amnesty International states that the Moroccan Government has consistently refused to make an accounting for the fate of hundreds of people of Western Saharan origin reported to have disappeared since 1975, in the custody of Moroccan Security Forces.

Mr. Speaker, while U.N.-sponsored peace processes seem to be working in Angola, Cambodia, and El Salvador, there is a lot of anxiety about the progress in the Moroccan-controlled Western Sahara, where the U.N. announced a cease-fire on September 6.

It is obvious that King Hassan of Morocco has no intention of allowing the elections to take place under the guidelines proposed by the United Nations. A month before the cease-fire, King Hassan told Mr. Javier Perez de Cuellar, the U.N. Secretary General, that he would not accept the deployment of military and civilian personnel of the U.N. Mission for Referendum in Western Sahara—Minurso—until he was satisfied with the U.N. criteria for deciding who would be eligible to vote in the referendum.

United Nations personnel have already been hampered in their task because key equipment has been delayed at Moroccan ports. Observers from the U.N. High Commissioner for Refugees and the International Committee of the Red Cross are virtually barred from the area. In addition, Morocco has yet to withdraw any of its 130,000 troops and is reported to be moving into the territory some 170,000 civilians who it says are of West Saharan origin. Immigrants from Morocco already far outnumber those of the indigenous Saharawis who remained in the country when Morocco took control.

Mr. Speaker, we should call on the King of Morocco to respect the timetable of the peace plan and stop all obstruction of the U.N.. We should also call on King Hassan not to delay any further the work of the Identification Commission and, most importantly, to cease immediately the resettlement of 170,000 Moroccans in the occupied territory.

Mr. Speaker, this resolution expresses the sense of the Congress that we support the immediate implementation of all the provisions of the U.N. peace plan, and I strongly urge my colleagues to support House Concurrent Resolution 214.

I include for the RECORD a series of newspaper articles.

FEARS OVER UN'S SAHARAN PEACE DEAL

(By Francis Ghiles)

While United Nations-sponsored peace processes seem to be working well in Angola, Cambodia and El Salvador, anxiety is mounting about progress in the moroccan-controlled western Sahara, where the UN announced a ceasefire on September 6.

King Hassan of Morroco is here to visit the territory's capital, El Aiun, today to mark the anniversary of the "green march", in which hundreds of thousands of Moroccans marched to the border of what was then a Spanish colony and claimed it by historical and religious right. With General Franco close to death in Madrid, the Spanish government withdrew its forces and the territory was divided between Morocco and Mauritania.

A bitter conflict followed between Morocco and the Polisario Front, backed by Algeria, which proclaimed the Sahara an independent Arab republic. Mauritania, its economy destroyed by the conflict, withdrew and handed over its share to Morocco in the late 1970s.

Although a referendum to decide the territory's future is officially scheduled for January, preparations are not going smoothly. This has raised doubts about whether King Hassan is prepared to let the vote go ahead on the terms previously agreed.

A month before the ceasefire, King Hassan told Mr. Javier Pérez de Cuéllar, the UN secretary-general, that he would not accept the deployment of military and civilian personnel of The United Nations Mission for Referendum in Western Sahara (Minurso) until he was satisfied with the UN criteria for deciding who would be eligible to vote in the referendum.

However, Mr. Pérez de Cuéllar decided to go ahead with the ceasefire on the agreed date, despite the risk of subsequent misunderstandings. Only 200 Minurso personnel have so far been deployed in the territory, strictly for the purpose of monitoring the ceasefire. To ensure a free and fair vote in January the UN reckons it will need at least 2,000.

The men already there have been hampered in their task because key equipment has been delayed at Moroccan ports. Observers from the UN High Commissioner for Refugees and the International Committee of the Red Cross are virtually barred from the area. Morocco has yet to withdraw any of its 130,000 troops and is reported to be moving into the territory some 170,000 civilians who it says are of West Saharan origin. Immigrants from Morocco already far outnumber those of the indigenous Saharawis who remained in the country when Morocco took control.

Military operations all but ceased in the mid-1980s but the bulk of the Saharawis population is still living in refugee camps, controlled by the Polisario, around the south-western Algerian town of Tindouf.

All three parties to the conflict—Morocco, Algeria and the Polisario—have agreed since 1981 on the need for a referendum to settle the issue, while King Hassan insists that the result can only "ratify" the status quo.

The battleground has increasingly shifted to the list of those "genuine" Saharawis who will be entitled to vote. Hence Morocco's determination to add names. It submitted 120,000 new ones to the UN last summer. Polisario made an important concession by accepting the Spanish census list, having earlier been foiled by Spain in an attempt to get fake old identity documents printed in Barcelona.

Colonel Rodriguez de Viguri, who as secretary general of the colony supervised the 1974 census, is adamant that the 74,000-name list is accurate. Checking the names on the list, which King Hassan refuses to let the UN publish, could be helped by the discovery three years ago in Madrid of duplicates of 50,000 national identity documents issued to Saharawis in the early 1970s. The documents include the bearer's name, tribe and clan.

The confusion has added to the scepticism among senior western diplomats about the UN's ability to organise a referendum early next year. King Hassan could, if he wishes, help clarify some of these issue in El Aiun today.

U.N. OFFICIALS "WORKED AGAINST POLISARIO"

(By Leonard Doyle)

An internationally organized referendum due to take place in Western Sahara in January is being stymied by mismanagement and questionable practices by senior UN officials sympathetic to the Moroccan cause, an investigation by The Independent found.

Confidential computer diskettes showing the identities of people whom the Polisario guerrilla movement says are dead have allegedly been provided to the Moroccan side and there are fears that people claiming their identity, along with tens of thousands of other Moroccans, will show up to vote in the territory in January.

Serious questions have been raised about the role of senior officials in the UN negotiation team and about the political judgement of Johames Manz, the Swiss former protocol officer in charge of the operation.

Diplomats and UN sources claim that a senior UN official provided confidential census lists to the Moroccan government. Polisario officials say military information was also handed over. Senior UN officials are believed to have been swayed by Morocco to change the rates for the referendum in a way that may put Polisario at a disadvantage. Questions have been raised about links between a key UN negotiator and the Moroccan Royal Palace. It has been further alleged that a senior UN official in New York attempted on several occasions and eventually succeeded in handing confidential information to Morocco which was given to the UN by Polisario to help identify those eligible to vote. *The Independent* has obtained copies of internal UN documents expressing concern about the named official's attempts to take confidential computer diskettes to Morocco last summer. The official succeeded in handing over the disk- ettes despite the objections of other UN officials, according to senior diplomatic sources. The official did not answer enquiries this week about these allegations.

Under the UN plan, expected to cost $150m (£85m) some 2,700 election monitors, military observers and guards are to supervise the referendum. It will give the people of the former Spanish colony of Western Sahara the choice between independence and full integration with Morocco. Britain is providing 15 military officers as observers who are already on the ground and $8m for the operation, known as Mimurso after its Spanish acronym.

A census taken by Spain in 1974 is supposed to provide the benchmark for the referendum, but Morocco wants to change the eligibility rules so that the children of those who left the desert decades ago are allowed to vote. This will show the outcome in Morocco's favor and ensure that the territory never becomes independent, diplomats fear. Polisario and Algeria reject the proposed changes.

Morocco is not co-operating with the UN according to diplomatic and UN sources, and has refused to allow the full deployment of the Mimurso force until it is satisfied with the criteria for the referendum. No journalists have been allowed to accompany the advance team of 250 or so UN officials and peacekeepers.

The Western Sahara issue may be affected by the election of the next Secretary-General, and Mr. Perez de Cuellar is said to be apprehensive that an African Secretary-General—say, Bernard Chidzcro of Zimbabwe—could set back the peace process since the Organization of African Unity recognizes Polisario's claims to statehood.

Mr. Perez de Cuellar may be bending under pressure from the King of Morocco to change the criteria which determine who may vote in the referendum. Mr. Perez de Cuellar has not yet protested against King Hassan's recent announcement that he was sending 170,000 Moroccans into Western Sahara before the vote, an act in clear violation of the peace plan drafted after months of careful negotiation by the five permanent members of the Security Council.

"This is potentially a serious failure in a major UN peacekeeping operation and it must cast a shadow over the reputation of the Secretary-General as he leaves office," a diplomat familiar with the allegations of misconduct in the UN operation said this week.

EUROPEAN PARLIAMENT RESOLUTION ON THE WESTERN SAHARA PEACE PLAN

A. whereas the UN Security Council and Assembly unanimously adopted in April and May 1991 the peace plan drawn up by the Secretary-General on holding a referendum in the Western Sahara and setting up the United Nations mission to the Western Sahara,

B. having regard to the formal agreement which the two parties to the conflict have given to the peace plan and their undertakings that it should be carried out to the letter,

C. whereas the peace plan for the Western Sahara is of great importance for the political stability of the Maghreb and of a large part of the Arab world, as is evidenced by the constant interest shown by the various countries in the area and the condemnations of countries which do not belong to this political region,

D. having regard to the declaration issued by the EC Council of Ministers on 29 June 1991 in Luxembourg supporting the continued efforts of the UN Secretary-General and his special envoy to ensure the smooth progress of the peace process,

E. concerned at the request submitted on 24 August 1991 to the UN by the Kingdom of Morocco that the referendum be postponed,

F. concerned also that the Kingdom of Morocco has asked the United Nations to make changes to the electoral registers, which are incompatible with the principles and procedures laid down in the peace plan,

G. whereas the recent attacks by Moroccan forces have significantly exacerbated the situation, forcing sections of the Sahrawi population to begin a new exodus and causing deaths and injuries amongst civilians,

H. whereas the statements by the King of Morocco concerning an amnesty for certain political prisoners provided they declare the Western Sahara to be an integral part of Morocco amount to a denial of freedom of opinion,

I. having regard to its resolutions of 15 March 1989 on the political situation in the Western Sahara[1] and 18 April 1991 on support for the United Nations Western Sahara peace plan.[2]

1. Considers that the achievement of the UN peace plan represents an historic opportunity to put an end to the war which has afflicted this region since 1975 and thereby to bring to a close the final chapter of the decolonization of Africa;

2. Confirms its support for the UN peace plan and calls for it to be implemented promptly and in full; condemns any military offensive which jeopardizes the peace plan;

3. Welcomes the entry into force of the ceasefire on 6 September 1991 as a crucial step towards the referendum on self-determination; congratulates the UN Secretary-General on his resolute approach to maintaining the date of the ceasefire;

4. Draws attention to the fact that the 1974 Spanish census forms the basis of the electoral registers and that any addition thereto is only possible following individual requests by Sahrawi persons and assessment by the UN mission's identification committee;

5. Stresses the need for all political prisoners to be released, for prisoners of war to be exchanged and for the Sahrawi refugees who have fled to neighbouring countries to be repatriated;

6. Considers it essential that the UN mission's teams be given immediate access to the territory, and that equipment be transported without hindrance, so that they can fulfil the tasks and obligations conferred upon them by the peace plan;

7. Urges that, in view of their special political and trade links with Morocco, the Community and the Member States use all possible influence to ensure that the peace plan is respected;

8. Calls on the UN Security Council, the European Community and the governments of the Member States to take firm action in the event of any failure to comply with or attempts to hold up the peace plan which has been adopted;

9. Considers it a matter of urgency, in view of the serious threats to the peace process, that international observers from parliaments and NGOs be allowed to monitor the peace process in situ in the Western Sahara with immediate effect until the results of the referendum have been published and decides to send a delegation to observe the referendum; urges the parliaments of the Member States to do likewise;

10. Calls on the Commission to make a financial contribution to the repatriation and reintegration of Sahrawi refugees by the UNHCR through the UN mission and to maintain, where necessary, aid to the refugees in the Tindouf camps;

11. Congratulates the Spanish and Greek governments which have already made their contributions to the UNHCR and calls on the other governments to follow suit as a matter of urgency;

12. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the UN Secretary-General, the President-in-Office of the Conference of Heads of State or Government of the OAU, the Moroccan Government and the Polisario Front.

REPORT BY THE U.N. SECRETARY-GENERAL—THE SITUATION CONCERNING WESTERN SAHARA

INTRODUCTION

1. At its 2929th meeting on 27 June 1990, the Security Council adopted resolution 658 (1990) concerning the situation in Western Sahara which, inter alia, as requested the Secretary-General to transmit to the Security Council, as soon as possible, a further detailed report on his plan for the implementation of the settlement proposals for Western Sahara. The full text of the resolution reads as follows:

"The Security Council,

"Recalling its resolution 621 (1988) of 20 September 1988, by which it decided to authorize the Secretary-General to appoint a Special Representative for Western Sahara and to request the Secretary-General to transmit to it as soon as possible a report on the holding of a referendum for self-determination of the people of Western Sahara and on ways and means to ensure the organization and supervision of such a referendum by the United Nations in co-operation with the Organization of African Unity,

"Recalling also that, on 30 August 1988, the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Rio de Oro gave their agreement in principle to the proposals of the United Nations Secretary-General and the current Chairman of the Organization of African Unity in the framework of their joint mission of good offices,

"Having considered the report of the Secretary-General on the situation concerning Western Sahara (S/21360),

"1. Expresses its full support to the Secretary-General in his mission of good offices, pursued jointly with the current Chairman of the Organization of African Unity, with a view of settling the question of Western Sahara;

"2. Approves the report of the Secretary-General, transmitted to the Security Council in accordance with resolution 621 (1988) with a view to settling the question of Western Sahara, which contains the full text of the settlement proposals as accepted by the two parties on 30 August 1988 as well as an outline of the plan provided by the Secretary-General in order to implement those proposals;

"3. Calls upon the two parties to co-operate fully with the Secretary-General of the United Nations and the current Chairman of the Organization of African Unity in their efforts aimed at an early settlement of the question of Western Sahara;

"4. Welcomes the intention of the Secretary-General to dispatch, in the immediate future, a technical mission to the territory and to neighboring countries, in particular to refine the administrative aspects of the outline plan and to obtain the necessary information for the preparation of a further report to the Security Council;

"5. Requests the Secretary-General to transmit to the Security Council as soon as possible a further detailed report on his implementation plan, containing in particular an estimate of the cost of the United Nations Mission for the Referendum in Western Sahara (MINURSO), on the understanding that this further report should be the basis on which the Security Council would authorize the establishment of MINURSO."

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[1] OJ No. C 96, 17.4.1989, p. 59.

[2] OJ No. C 129, 20.5.1991, p. 126.

2. The present report is submitted pursuant to paragraph 5 of resolution 658 (1990). It takes account of the work of the technical mission referred to in paragraph 4 of the resolution. It also reflects the clarification of certain points that I mentioned to the Security Council at its informal consultations on 20 June 1990 and which I have since pursued with the parties. After a brief description of the technical mission, the report addresses each of the main elements of the implementation plan contained in paragraphs 48 to 76 of my report of 18 June 1990 (S/21360), adding any detail which may be of assistance to members of the Security Council in their consideration of my recommendation that this mission should now proceed. The report then amplifies the information contained in paragraphs 77 to 82 of document S/21360 about the personnel and financial requirements of the United Nations Mission for the Referendum in Western Sahara (MINURSO), including an estimate of its overall cost. After describing the proposed timetable and recommendation that the Security Council should now decide to establish MINURSO and set a target date, subject to the necessary appropriation action by the General Assembly, for the commencement of its operations in the mission area.

I. THE TECHNICAL SURVEY MISSION

3. Upon the adoption of resolution 658 (1990), I dispatched a technical mission to the Territory and to neighbouring countries for the purpose of gathering and updating all available information relevant to the plan for the implementation of the settlement proposals. In addition to its visit to the Territory, the mission visited Morocco, as well as the neighbouring countries of Mauritania and Algeria. The mission, which was led by Mr. Issa Diallo, my Special Assistant, spent 16 days in the region, from 28 July to 13 August 1990. A staff member of the General Secretariat of the Organization of African Unity (OAU) participated in the mission. It was assisted in its task by the generous provision of air transport and other facilities by the Governments of Algeria, Mauritania, Morocco and Switzerland.

4. The mission was received at Rabat by His Majesty King Hassan II of Morocco. Extensive technical discussions were also held with senior officials of the Moroccan administration, both at Rabat and in Western Sahara. Field visits were made to various localities and to a command post at the sand wall constructed by Morocco close to the eastern and southern frontiers of the Territory.

5. The mission also met with Mr. Mohammed Abdelaziz, Secretary-General of the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO) and held technical meetings with senior POLISARIO officials in the area of Tindouf. It undertook field visits to a number of localities in the area between the Territory's eastern border and the sand wall.

6. In Mauritania, the mission was received by President Mouawiya Ould Sidi-Ahmed El-Taya. In Algeria, it met with Mr. Sid Ahmad Ghozali, the Minister of Foreign Affairs.

7. These visits enabled the mission to discuss matters related to the implementation plan and to update the information available to the Secretariat about logistic and other conditions in the Territory. On its return, the mission recommended the refinement of certain administrative aspects of the plan. Its work made it possible to elaborate, in more precise terms, the operational requirements and cost estimate of MINURSO.

II. MAIN ELEMENTS OF THE IMPLEMENTATION PLAN

The Special Representative of the Secretary-General and the United Nations Mission for the Referendum in Western Sahara

8. The mandate and functions of my Special Representative are summarized in paragraphs 48 and 49 of document S/21360. He will report to me and make such recommendations as he considers necessary with respect to the discharge of his responsibilities.

9. The two parties, namely the kingdom of Morocco and the Frente POLISARIO, recognize in the settlement proposals that sole and exclusive responsibility for the organization and conduct of the referendum is vested in the United Nations. Accordingly, I will issue regulations governing the organization and conduct of the referendum that will essentially embody the relevant provisions of the settlement proposals agreed to by parties. My Special Representative, acting under my authority and, as necessary, on instructions over all matters with regard to the organization and conduct of the referendum. He will be authorized to issue rules and instructions consistent with the regulation issued by me. The arrangements relating to these rules, instructions and regulations are described in paragraph 58 of document S/21360.

10. The Special Representative will be assisted by MINURSO, which, in addition to the Special Representative's office, will consist of civilian, security and military units. The Special Representative will head and direct MINURSO, which will be large enough to enable him to perform his functions. MINURSO will function as an intergrated operation under the overall authority of the Special Representative as described above and will have its headquarters of Laayoune. The Special Representative will have a Deputy Special Representative, who will be in charge of the mission during any absence of the Special Representative from the mission area. This area includes the Territory of Western Sahara and designated locations in neighboring countries, particularly the Tindouf refugee camps, where numbers of Western Saharans are known to be living. In accordance with paragraph 70 of document S/21360, the Special Representative will also be assisted by an independent jurist to be designated by the Secretary-General.

11. The Office of the Special Representative will provide support to him in the exercise of his responsibilities and authority as well as in his liaison and coordination functions. In addition to a section dealing with political affairs, the Office will have sections dealing with legal affairs and with information and public relations. It will also be assisted by an appropriate number of field offices.

Transitional period

12. As stated in paragraph 50 of document S/21360, the transitional period will begin with the coming into effect of the cease-fire on D-Day and end with the proclamation of the results of the referendum, although MINURSO will continue to discharge the responsibilities described in paragraph 75 of document S/21360 for a period of some weeks thereafter. In accordance with the timetable set out in section V of the present report, it is envisaged that the transitional period will last for 20 weeks and that MINURSO will remain in the Territory for up to 26 weeks from the coming into effect of the cease-fire (D-Day). It should be noted, however, that the periods of time allowed for the various processes in the timetable are estimates and it is possible that some of the processes may be completed in a shorter period than that indicated. It is also possible, of course, that a longer period will be required. In either case, the Special Representative may, after consultation with me, determine whether circumstances require any alteration in the timetable, in accordance with the authority given to him.

Cease-fire

13. The arrangements relating to the cease-fire are described in paragraphs 51 to 53 of document S/21360.

Moroccan military presence

14. In the course of my consultations with its authorities, Morocco has undertaken to reduce its troops in the Territory to a level not exceeding 65,000 all ranks, within a period of 11 weeks from the coming into effect of the cease-fire on D-Day. I have accepted this as an appropriate, substantial and phased reduction in accordance with the settlement proposals.

Confinement of each party's troops to designated locations

15. In accordance with paragraph 56 of document S/21360, all remaining Moroccan troops will be located in static or defensive positions along the sand wall, with the limited exceptions mentioned in that paragraph. All will be monitored by the military observers of MINURSO, who will be colocated with Moroccan subsector headquarters on the sand wall and with the support and logistics units remaining elsewhere in the Territory. The military observers will conduct extensive patrols by land and air to ensure observance of the cease-fire and the confinement of the Moroccan troops to the designated locations. They will also monitor the custody of certain arms and ammunition.

16. As regards Frente POLISARIO troops, my Special Representative will, in accordance with the settlement proposals, designate the locations to which they will be confined, with their arms, ammunition and military equipment, with effect from the coming into force of the cease-fire on D-Day. They will be monitored by the military observers of MINURSO, who will be deployed at each of the designated locations.

Release of political prisoners and detainees

17. The arrangements relating to the release of political prisoners and detainees are described in paragraphs 33 (b) and 70 of document S/21360.

Exchange of prisoners-of-war

18. The settlement proposals also provide for the exchange of prisoners-of-war (POWs) (see para. 20 of S/21360). This will take place under the auspices of the International Committee of the Red Cross (ICRC). My Special Representative will establish early contact with ICRC with a view to implementation of the exchange of prisoners as soon as possible after the cease-fire comes into effect on D-Day.

Identification and registration of voters

19. A central element in the settlement proposals is the identification and registration of all Western Saharans eligible to vote in the referendum. This work will be entrusted to the Identification Commission. It is stated in the settlement proposals (S/21360, para. 25) that "the Commission will perform

its task during the transitional period". It has, however, become clear that, as explained below, certain tasks can, and indeed must, be completed outside and inside the Territory before the cease-fire comes into effect. I accordingly intend to appoint the members of the Identification Commission as soon as the Security Council has decided to establish MINURSO, so that, under the direction of my Special Representative, they can begin the necessary preparatory work without delay, beginning with the establishment of the Commission's rules of procedure.

20. The Identification Commission's task will be to implement the proposals, agreed upon by the two parties, that all Western Saharans to whom the 1974 census undertaken by the Spanish authorities related and who are aged 18 years or over will have the right to vote, whether they are currently present in the Territory or living outside it as refugees or for other reasons. The Commission's mandate to update the 1974 census will include (a) removing from the lists the names of persons who have since died and (b) considering applications from persons who claim the right to participate in the referendum on the grounds that they are Western Saharans and were omitted from the 1974 census. The tribal chiefs of Western Sahara will be asked to contribute to the Identification Commission's work. A preliminary meeting took place with a representative group of tribal chiefs at Geneva in June 1990. Further discussions with tribal chiefs will be held, after the decision has been taken to establish MINURSO, in order to refine the Commission's operational procedures. The parties and representatives of OAU will, as appropriate, participate as official observers in the work of the Identification Commission.

21. The first stage of the Commission's work will be to update the 1974 census list. As a preparatory step, a copy of this list was transmitted to each of the parties on 16 October 1990, with a request for any available information about persons who have died since 1974 and about the whereabouts of those who remain alive, whether inside or outside the Territory. Both of the parties have been asked to provide this information soon. Its early receipt will facilitate the Identification Commission's work, which is to commence immediately after the General Assembly has approved MINURSO's budget. The Commission, having made such revisions to the 1974 list as seem to it appropriate, will arrange for the revised list to be published in the Territory and in places outside where numbers of Western Saharans are known to be living. At the same time, the Commission will publish instructions on how individual Western Saharans can apply in writing, before a specified date, for inclusion in the list on the grounds that they were omitted from the 1974 census. It is estimated that four weeks will be required for this part of the Commission's work. A further period of four weeks will be set for the Commission to receive individual written applications for the inclusion of names in the list. The applications will be classified and the Commission, assisted by the tribal chiefs and in the presence of observers from OAU and the parties, will meet in New York or Geneva to review them under the supervision of the Special Representative. It is estimated that this review will take up to four weeks. When it has been completed and prior to D-Day, a consolidated list of the names of persons who, on the basis of the revised 1974 census and the review of applications received, have been judged to be eligible to vote will, with my clearance, be published in the Territory and in places outside where numbers of Saharans are known to be living.

22. By D-Day the Identification Commission will be fully established in the mission area. The Commission will be assisted in its work by the field offices established at principal population centres as well as by static and mobile teams, consisting of a leader, three identification/registration officers, a clerk/typist, two civilian police monitors and support staff such as interpreters and drivers.

23. At this second stage in its work, the Commission will undertake two main functions, in each of which it will be assisted by the tribal chiefs. The functions will be:

(a) To identify, and issue registration cards to, persons whose names are on the published list of eligible voters;

(b) To provide, and organize procedures, for appeals against non-inclusion of names in the published list or against decisions made under subparagraph (a) above.

Arrangements will be made for the Commission to identify and register, at the designated locations, all Frente POLISARIO troops who are eligible to vote, as well as any Western Saharans who are similarly eligible and may be serving in the Moroccan forces.

24. It is envisaged that a period of up to 11 weeks will be required for this second stage of the Committee's work. When it has been completed, the Special Representative will submit to me, for consideration in consultation with the current Chairman of OAU, a consolidated list of all registered voters. The final voters list will be published as soon as it has been authorized by me.

Organization of the referendum

25. The Referendum Commission will assist the Special Representative in all aspects of the organization and conduct of the referendum in the context of the sole and exclusive responsibility vested in him. The Commission's functions are specified in paragraphs 63 to 66 of document S/21360. It will advise the Special Representative on measures necessary to ensure that the referendum is free and fair, without military or administrative constraints, and that there is no intimidation or interference in the referendum process. The two parties and the representatives of OAU will, as appropriate, be associated as official observers in the Commission's work.

26. As envisaged in paragraph 63 of document S/21360, I shall appoint the Referendum Commission as soon as the General Assembly has approved MINURSO's budget, so that it can undertake the necessary preparatory work. The main part of this work, which will be performed in New York, will be to prepare the regulations, rules and instructions that will establish the legal framework for the United Nations to organize and conduct the referendum and which will be promulgated in the Territory as soon as possible after D-Day.

27. A small core staff of the Referendum Commission will begin work in the Territory after D-Day. With the assistance of the field offices, it will become fully operational as the Identification Commission is concluding its work. The Referendum Commission will be augmented by appropriately qualified personnel from the Identification Commission whose own tasks are to be completed by D-Day + 11 weeks.

28. In recent consultations with me, both parties have accepted my proposal to establish a code that would govern their conduct and behavior and that of their supporters during the referendum campaign. The purpose of the code of conduct will be to ensure that, while there is freedom of political campaigning, there will also be a consequent responsibility placed on all concerned to accept others' freedom to campaign. The Special Representative will initiate discussions with the two parties about the code of conduct as soon as possible.

29. The Special Representative will determine the starting date of the referendum campaign when he is satisfied that the necessary arrangements have been made to ensure that all Western Saharans, without restriction and in complete equity, will have the opportunity to participate in the campaign. It is envisaged that it will begin at D-Day + 17 weeks, subject to the authority given to the Special Representative to alter the timetable if he should determine the circumstances so require.

30. An adequate number of polling stations will be established throughout the Territory in order to give all eligible Western Saharans the opportunity to vote in the referendum. Voting will take place only in the Territory. The precise locations of the polling stations will be determined on the basis of the data collected during the registration of voters, as well as existing population centres and areas where returning Western Saharans have been located.

31. Two weeks before the referendum itself, the Referendum Commission will be strengthened by additional personnel who will serve as polling officers, presiding officers and counting officers. These additional personnel will leave the Territory immediately after the referendum, but essential staff of the Referendum Commission will remain until the referendum results have been certified and related matters have been disposed of.

Other responsibilities of the Special Representative during the transitional period

32. In discharging the responsibilities described in paragraphs 67 to 69 of document S/21360, the Special Representative will be assisted by his office, including the field offices, and by the Security Unit, whose functions and organization are outlined in paragraphs 79 and 80 of document S/21360.

33. There are only two points to add. First, firearms will be kept in a weapons storage safe at each Security Unit location, but Security Unit personnel (who will be known as CIVPOL) will actually carry arms only in cases where they are so authorized by the Police Commissioner, acting upon instructions from the Special Representative. The firing of arms will be limited to clear cases of self-defense. Secondly, the Security Unit will establish a number of district headquarters that will, as far as possible, be colocated with the Special Representative's field officers.

Return of refugees, other Western Saharans and members of the Frente POLISARIO entitled to vote

34. An essential element in the implementation of the settlement proposals will be the repatriation of those Western Saharans who are identified as being eligible to vote in the referendum and who wish to return to the Territory to do so. A programme will therefore be required to facilitate the voluntary return of such persons, along with their immediate families, from designated locations in neighbouring countries, with security to be provided by the military unit of MINURSO. It will require the prior promulgation of a general and complete amnesty for all returnees, in order to ensure the necessary conditions for their free and unimpeded return.

35. The United Nations High Commissioner for Refugees (UNHCR) will be responsible for the implementation of the repatriation programme, which will form an integral part of the MINURSO operation and will be carried out in accordance with UNHCR's mandate. Its task will be threefold: to ascertain and record the repatriation wishes of each Western Saharan as he or she is registered as a voter by the Identification Commission; to issue the necessary documentation to the members of his or her immediate family; and to establish and manage, in cooperation with MINURSO which will provide security, the reception centres that will be established in the Territory for the returning Western Saharans.

36. It is intended that repatriation will begin immediately after the Identification Commission's work is completed, i.e. not later than D-Day + 11 weeks, and that it will be completed within a period of 6 weeks, i.e. immediately before the referendum campaign begins. The UNHCR will thereafter maintain a presence in the Territory, as necessary, in order to fulfill its monitoring role for returnees, in accordance with its internationally accepted responsibilities.

The referendum and proclamation of its result

37. The purpose of the referendum is to enable the people of Western Sahara to choose freely between integration with Morocco and independence. Voting will be by secret ballot and arrangements will be made for voters who cannot read or write or who are incapacitated. The regulations that I shall issue concerning the referendum will provide that the results will be determined by a simple majority of valid votes cast.

38. The action to be taken by MINURSO after the proclamation of the referendum result remains as described in paragraphs 75 and 76 of document S/21360. Every effort will be made to complete that action as expeditiously as possible.

III. PERSONNEL AND FINANCIAL REQUIREMENTS OF MINURSO

39. As already indicated, MINURSO will consist of the Special Representative and his office and civilian, security and military units. It will function as an integrated operation under the overall authority of the Special Representative.

40. The Office of the Special Representative, whose functions are described in paragraph 11 above, will consist of some 24 international personnel, with an additional 25 persons to staff the field offices.

Civilian Unit

41. The Civilian Unit will include three components: the personnel of the Identification Commission and the Referendum Commission; a component to implement the repatriation programme; and a component responsible for all administrative matters pertaining to the mission. It will consist largely of personnel from the United Nations system. However, as indicated below, it will be necessary to ask Governments to contribute a significant number of qualified personnel, mostly on short-term assignments, to assist in the organization and conduct of the referendum.

42. The Identification Commission will initially be based in New York or Geneva, as required, with a small staff to carry out the first stage of its work, which is described in paragraph 21 above. A small mobile team will also be dispatched to the mission area during that preparatory stage. By D-Day the Commission will deploy static and mobile teams in the Territory and in other places where numbers of Western Saharans are known to be living, with a full strength of some 187 international personnel, a substantial proportion of whom will be contributed by Governments.

43. The Referendum Commission will also begin with a small staff, based in New York, to carry out the preparatory work described in paragraph 26 above. It will establish itself in the Territory after D-Day, again with a small staff initially. By D-Day + 11 weeks it will absorb appropriately qualified staff of the Identification Commission, whose identification tasks will by then have been completed, bringing its strength to about 51 international personnel. The additional international personnel required for the referendum itself (see para. 31) will number up to 285, some from the United Nations, but most contributed by Governments.

44. The repatriation component of the Civilian Unit will, as indicated in paragraph 35 above, consist of UNHCR personnel. Their number will rise gradually to a peak of some 74 international personnel during the implementation of the repatriation programme.

45. Finally, the administrative component of the Civilian Unit will furnish the full range of administrative, support and technical services to the different components of MINURSO, wherever these may be located. Certain staff will be located with the military logistics units and will work with them to constitute an integrated logistics, supply and support system for the entire mission. International civilian staff of the various sections, units and outposted personnel will total approximately 275.

Security Unit

46. Some elements of the Security Unit will be deployed in the mission area by D-Day in order to facilitate the work of the Identification Commission. About 100 police officers will be required for this purpose. A further 200 will be phased into the Territory before the repatriation programme begins at D-Day + 11 weeks. It is hoped that this number will be adequate to carry out the duties entrusted to the Security Unit during the referendum campaign and the referendum itself. My Special Representative will, however, keep this question under constant review. Governments contributing police officers to MINURSO will be requested to keep in reserve additional personnel for possible deployment in the Territory, should this be necessary.

Military Unit

47. The tasks of the Military Unit are described in paragraph 81 of document S/21360. The logistics units will, in co-operation with the administrative component of MINURSO, contribute to the integrated logistics, supply and support system for the mission as a whole.

48. To fulfil these tasks, the Unit will require a strength of about 1,695 (all ranks), as follows: 550 military observers, an infantry battalion of 700 (all ranks), an air support group of 110 (all ranks) to operate and maintain 4 fixed-wing aircraft and 8 transport helicopters, a signals unit of 45 (all ranks), a medical unit of 50 (all ranks), a composite military police company of 40 (all ranks) and a logistics battalion of 200 (all ranks).

49. The logistics units and advance parties of military observers will be deployed in the Territory in the weeks preceding D-Day. The military observer group will be deployed in full strength by D-Day in order to be in a position to monitor the cease-fire and the confinement of each side's troops to designated locations. The deployment of the infantry battalion will take place immediately before implementation of the repatriation programme. The Military Unit will remain in the mission area until the referendum and thereafter will be withdrawn as rapidly as its post-referendum monitoring tasks permit.

Financial requirements

50. On the basis of the implementation plan described in my report of 18 June 1990 (S/21360), as amplified in the present report, it is estimated that the overall cost of MINURSO, including the repatriation programme, will be approximately $200 million. I have to emphasize, however, that there continue to be unknown factors that may affect this figure. As is customary, it states the cost of the full resources required for MINURSO and takes no account of any possible voluntary contributions that may be received. I am currently undertaking consultations with certain Member States in this regard. Naturally, contributions in kind would be welcome. In the event voluntary contributions are provided to MINURSO, including the provision of adequate facilities by the host countries, the level of expenditures will be reduced and this will ultimately lead to savings and the return of credits to Member States. My recommendations on the financing of the operation are contained in the observations section of the present report.

IV. TIMETABLE AND PLAN OF ACTION

51. Paragraph 52 summarizes the timing described in the preceding sections of the present report. Two points need to be emphasized. First, the critical date is that on which the General Assembly approves MINURSO's budget; all subsequent timings are related to that. Secondly, as already noted (see para. 12 above), the periods allowed for each of the processes in this complex operation are estimates, and my Special Representative will accordingly have the authority to alter the timetable, after consulting me, if he determines that circumstances so require.

52. The timetable is as follows:

Date (in weeks)	Action
As soon as the Security Council has authorized the establishment of MINURSO.	The Secretary-General: (a) Appoints the Identification Commission, which proceeds immediately to establish its rules of procedure, to update the 1974 census and to arrange for appeals; (b) Begins consultations with the Governments of Member States that will be invited to contribute personnel to the civilian, security and military units of MINURSO; (c) After consulting the parties, obtains the Security Council's approval for the composition of the Military Unit and the appointment of the Force Commander; (d) Initiates consultations with the parties and the neighbouring States about arrangements concerning the status of MINURSO and its personnel.
D–16	The General Assembly approves MINURSO's budget.
	The Secretary-General addresses letters to the two parties proposing a date and time for the entry into force of the cease-fire (D-Day).
	The Secretary-General appoints the Referendum Commission and the independent jurist.
	The Identification Commission revises the 1974 census list and initiates discussions with the tribal chiefs regarding its operating procedures.
Not later than D–12	The parties accept the Secretary-General's proposal for the date and time of the cease-fire.
D–12	The revised 1974 census list and instructions on how to apply for the inclusion of names are published in the Territory and elsewhere.
	Administrative and logistics elements of MINURSO begin to arrive in the mission area.
D–9	A small mobile team of the Identification Commission is dispatched to the mission area.
D–8	Deadline for the receipt of applications for the inclusion of names in the revised 1974 census list.

Date (in weeks)	Action
D-4	The advance party of MINURSO, led by the Deputy Special Representative, arrives in the mission area.
D-4 to D-Day	All MINURSO units (except the infantry battalion, 200 CIVPOL officers and some UNHCR and referendum personnel) are deployed to the mission area.
D-1	Arrival of the Special Representative in the Territory.
Not later than D-Day	Following completion of the Identification Commission's review of applications received, the consolidated list of persons judged eligible to vote is published in the mission area.
D-Day	The transitional period begins. The cease-fire comes into effect and the combatants of the two sides are confined to designated locations. The Identification Commission begins the identification and registration of voters and hears appeals against non-inclusion of names in the published list.
As soon as possible after D-Day.	POWs are exchanged. Amnesties for political prisoners and detainees and for returnees are proclaimed. All political prisoners or detainees are released.
D+10	The remaining 200 CIVPOL officers are phased in. The infantry battalion and additional UNHCR personnel are deployed to the mission area.
Not later than D+11	The reduction of Moroccan forces is completed. All laws or measures that could obstruct a free and fair referendum are suspended.
D+11	Completion of the identification and registration of voters; publication of the final list of voters approved by the Secretary-General. The repatriation programme begins. The paramilitary units in the existing police forces are neutralized.
D+17	The repatriation programme is completed. The referendum campaign begins.
D+18	Additional polling staff are deployed to the Territory.
D+20	End of the referendum campaign. Referendum. Proclamation of the results. The withdrawal of MINURSO personnel begins.
D+24 or 26	MINURSO's monitoring responsibilities arising from the referendum results are completed.
Thereafter	Remaining MINURSO personnel withdraw from the mission area.

53. On the basis of this timetable, the referendum will be held about 36 weeks after the General Assembly approves MINURSO's budget.

V. OBSERVATIONS

54. The plan contained in part II of document S/21360, as amplified in the present report, is the result of a long and exhaustive search for the most equitable, effective and economical ways of implementing the settlement proposals accepted by the parties in August 1988. This work has taken into account the views expressed to me by the parties. Inevitably the plan that I now submit for the Security Council's approval could not meet all the concerns of the two parties and compromises have therefore had to be sought. I am however confident that my proposals constitute a balanced and equitable way of achieving the goal on which all are agreed, namely the holding of a free, fair and impartial referendum for the people of Western Sahara, organized and conducted by the United Nations in co-operation with OAU and without any military or administrative constraints.

55. Four essential conditions must be met for this goal to be achieved and for MINURSO to be able to carry out its responsibilities effectively and with complete impartiality. Firstly, MINURSO must at all times have the full support and backing of the Security Council; secondly, it must operate with the full cooperation of the two parties, particularly with regard to the comprehensive cessation of all hostile acts; thirdly, the cooperation and support of the neighbouring countries must be assured, in conformity with paragraph 42 of document S/21360; and fourthly, the necessary financial resources must be made available by Member States in a full and timely manner.

56. In accordance with the mandate entrusted to me by the Security Council, I will keep the Council fully informed of developments relating to the implementation of the settlement proposals and to the functioning of MINURSO. All matters that might affect the nature of the mission or its continued effectiveness will be referred to the Council for its decision.

57. In performing its functions, MINURSO will act with complete impartiality. It will proceed on the assumption that, in accordance with the undertakings that they have already given (S/21360, paras. 38 and 40), the two parties will co-operate with the Special Representative and will take all necessary steps to comply with the decisions of the Security Council.

58. MINURSO will require the freedom of movement and communication and the other facilities necessary for the performance of its tasks. To this end, MINURSO and its personnel must necessarily be accorded all the relevant privileges and immunities provided for in the Convention on the Privileges and Immunities of the United Nations, as well as those specially required for the proposed operation. As soon as the Security Council has authorized the establishment of MINURSO, I will take steps to make arrangements with the parties concerning the status of MINURSO and its personnel.

59. In conformity with paragraph 42. of document S/21360, MINURSO will also rely on the continued cooperation and understanding of the two neighbouring States, namely Algeria and Mauritania, which have already undertaken to do their utmost to ensure that the transitional arrangements and the results of the referendum are respected and to cooperate in various ways with MINURSO. Discussions about the status of MINURSO and its personnel and related matters will be initiated with them also, as soon as the Security Council has authorized the establishment of MINURSO.

60. I come now to the financial aspects of MINURSO. As foreseen in my previous report (S/21360, para. 85), I recommend that, if the Council decides to establish MINURSO, its full cost should be considered as expenses of the Organization to be borne by Member States in accordance with Article 17, paragraph 2, of the Charter. I intend to recommend to the General Assembly that the assessments to be levied on Member States be credited to a special account that would be established for this purpose.

61. I would like to take this opportunity to underline the necessity for Member States to pay their assessed contributions immediately after the request for these is received. Otherwise it will not be possible to deploy MINURSO personnel, with the equipment they need to carry out their duties, in accordance with the timetable described in the present report.

62. Every effort has been made to achieve economy in the costs of MINURSO, but there are certain characteristics of this operation that have inescapable financial implications, in particular:

(a) The complexities of the identification process limit the possibilities for shortening the duration of the mission. This process will account for no less than 27 of the 36 weeks that will elapse between the General Assembly's approval of MINURSO's budget and the holding of the referendum. Eligibility to vote will depend either on the presence of a person's name in the 1974 census list or on a person's ability to convince the Identification Commission that he or she is a Western Saharan who was omitted from the 1974 census. Matching individuals with names in a 17-year-old census list is bound to take time. In a society that is nomadic and to a large extent illiterate and where such criteria as place of birth or residence are of limited relevance, the adjudication of applications from persons claiming to have been omitted from the 1974 list will also be time-consuming. If the referendum is to be fair and impartial, in accordance with the settlement proposals, these processes cannot be rushed;

(b) The number of troops whose cessation of hostile activity and confinement to designated locations must be monitored by MINURSO is large and they are deployed over a very extensive area;

(c) The Territory is large: more than 250,000 square kilometers. The personnel of MINURSO, whether civilian, military or police, will have to cover the whole territory and many of them will live in places where no adequate accommodation or other facilities (water, power, fuel, etc.) are available. Outside a few population centers, therefore, MINURSO will have to establish a complete logistics infrastructure of its own;

(d) In accordance with the settlement proposals, MINURSO will be responsible for the actual organization and conduct of the referendum. This generates different and heavier personnel and material requirements than other recent cases where the United Nations role has been only to supervise and control or to verify or to observe an electoral act organized and conducted by others.

63. The view has been expressed that the repatriation part of MINURSO's operation should be regarded as a humanitarian activity and that it should therefore be funded through voluntary contributions. I have accordingly decided that the repatriation programme, which will be managed by the UNHCR and which has been estimated at some $34 million, will be funded through voluntary contributions. I intend to so recommend to the General Assembly. While it is true that the repatriation programme will be carried out by the UNHCR, in accordance with that office's standard procedures, the programme is an essential political element in the settlement proposals, without which a fair and impartial referendum could not take place, and is not a *stricto sensu* humanitarian addition thereto. I would therefore recommend that MINURSO should not be deployed in the mission area on D-Day unless it has been unequivocally established, by that date, that the necessary voluntary contributions are available in full and in time to permit implementation of the repatriation programme.

64. In order to ensure that lack of the necessary financial support does not further delay the long-awaited resolution of the situation in Western Sahara, I have considerably reduced earlier estimates of the human and material resources required for this operation. I am confident that I can count on the members of the Security Council and on the parties to do everything in their power to help to ensure that the operational plan described in my report of 18 June 1990 (S/21360) and amplified in the present report is carried out quickly and smoothly.

65. It is on this basis that I now recommend that the Security Council decide to authorize the establishment of MINURSO. I further recommend that the Council decide that the transitional period should begin on a date approximately 16 weeks after the General Assembly approves MINURSO's budget.

Mr. PORTER. Mr. Speaker, I rise in support of House Concurrent Resolution 214, regarding the U.N. peace plan for the Western Sahara.

Since the early 1970's, Morocco and the Polisario have fought over the Western Sahara. Now, the Sahrawi people have the opportunity to decide their own fate: whether to remain under Moroccan control or have an independent country.

I strongly support the U.N. peace plan, which calls for a free and fair referendum of self-determination for the Sahrawi people. It is a unique opportunity to demonstrate how democratic and peaceful means can resolve conflict in Africa.

Currently, over 150,000 Sahrawi refugees live near Tindouf in Algeria. Even there they have thrived and the U.N. High Commissioner for Refugees uses these camps as an example for other UNHCR camps around the world.

Last month, the Congressional Human Rights Caucus cosponsored an exhibit in the Cannon Rotunda celebrating the people of the Western Sahara, the Sahrawi and their will to survive.

Mr. Speaker, I urge the Polisario and the Moroccan Government to comply with the U.N. peace plan, and hope that our administration will continue to make every effort to ensure that this plan is successfully carried out.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 214, expressing the sense of the Congress with respect to the implementation of the U.N. peace plan for the Western Sahara.

This resolution expresses congressional support for the Secretary General of the United Nations and his leadership which has resulted in all the parties to the conflict in the Western Sahara supporting a U.N.-sponsored peace plan and referendum in the Western Sahara. This agreement was reached in August 1988, after more than 3 years of delicate negotiations. The Secretary General's peace plan is in the process of being implemented with a cease-fire in effect and the next step, a referendum, soon to be implemented.

I am pleased that all the parties to this long and difficult conflict have pledged their support for the U.N. effort. It is with hope that in yet another part of the world there will be peace and enhanced stability in a region of such strategic importance.

In closing, Mr. Speaker, I would like to commend my colleague, Mr. DYMALLY, the chairman of the Africa Subcommittee, and my colleague, Mr. YATRON, chairman of the Human Rights and International Organizations Subcommittee, for their leadership on this matter and for crafting a resolution which has bipartisan support and that of the executive branch.

I urge the adoption of the resolution.

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Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DYMALLY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 214, as amended.

The question was taken (two-thirds having voted in favor thereof); the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REGARDING THE NEED FOR A CONFERENCE ON SECURITY, STABILITY, DEVELOPMENT, AND COOPERATION IN AFRICA

Mr. DYMALLY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 201) expressing the sense of the Congress relating to the need for a conference on security, stability, development, and cooperation in Africa and commending the Helsinki Commission for its leadership on this initiative, as amended.

The Clerk read as follows:

H. CON. RES 201

Whereas the Conference on Security and Cooperation in Europe, known as the Helsinki process, established the linkage between respect for human rights, economic development, and genuine security and cooperative in Europe;

Whereas Africa cannot realize security or economic growth without democracy, respect for human rights, and an end to cross-border and civil wars;

Whereas from May 19 to May 22, 1991, African leaders and delegates held the Kampala Forum on Security, Stability, Development, and Cooperation to discuss the problems threatening Africa's survival and progress and to seek solutions to them;

Whereas it was determined that the responsibility for security, stability, development, and cooperation on the African continent rests not only with the people of Africa but also on international cooperation, support, and participation;

Whereas the African countries expressed their desire for a Conference on Security, Stability, Development, and Cooperation in Africa (CSSDCA) to be modeled on the Conference on Security and Cooperation in Europe (CSCE), the Helsinki process; and

Whereas this Conference would provide the United States with an opportunity to support indigenous African efforts to alleviate the tightening grip of poverty, violence, and debt which is choking the continent: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the dire political and economic problems facing the continent of Africa;

(2) encourages the various governments in Africa to begin redressing these problems through democratization and conciliation;

(3) welcomes Africa's attempt to replicate in Africa the European model of the Conference on Security and Cooperation in Europe;

(4) commends the Helsinki Commission for its leadership in moving the Helsinki model to other regions; and

(5) calls upon the President to—

(A) encourage the various governments in Africa to participate in the Conference on Security, Development, and Cooperation in Africa;

(B) support this process in Africa with the same determination given to the Helsinki process in Europe; and

(C) continue the current United States policy of funding forums which facilitate economic growth and advance democratic goals.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DYMALLY] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 201 as amended, sponsored by Mr. SMITH of New Jersey and me, basically expresses the need for a Helsinki process in Africa and commends the Helsinki Commission for the initiatives it has taken toward this end. African leaders have looked at the Helsinki model and have appealed to the Organization of African Unity to develop a similar organization in Africa to advance democracy, security, development, and cooperation.

To further examine the way to develop this entity, the Kampala Conference, which brought together leaders from all over Africa, was held. The document resulting from that Conference indicated that African countries are in dire need of structures within Africa for conflict resolution and for formulating strategies to teach their people on how best to create democratic institutions.

Senator DECONCINI and Congressman HOYER who chair the Helsinki Commission recently held a hearing to determine how best to assist these African countries in developing a Helsinki model. Members of the Helsinki Commission have also traveled to Africa to meet with African heads of State to examine the specific needs of African nations. Our colleague, Mr. SMITH of New Jersey, who is a member of the Helsinki Commission as well as this committee, and I introduced this resolution to support the concepts including in the Kampala document, as well as the adoption of the Helsinki process for the African Continent.

This resolution has bipartisan support as indicated by its sponsors and was adopted unanimously by the Subcommittee on Africa. Mr. PAYNE, Mr. BURTON, and Mr. FUSTER are also sponsors of this legislation.

I ask my colleagues for an "aye" vote on this worthwhile initiative for Africa.

Mr. Speaker, this next weekend, the African leadership will hold a conference in Oten, Nigeria, and they are very pleased to hear that the Congress is moving so aggressively in support of this Kampala Conference.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution as a creative effort to help deal with some of the persistent problems of the African Continent. I commend the sponsor, Mr. DYMALLY, chairman of the Africa Subcommittee, and Congressman BURTON, the ranking Republican member, for their efforts on its behalf.

House Concurrent Resolution 201 recognizes the dire political and economic problems facing Africa. It proposes a new initiative to address these problems: the establishment of a conference on security, stability, development, and cooperation in Africa.

I do not know if an organization based on the very successful Helsinki Commission in Europe can help solve the many serious problems in Africa. I do know, however, that Chairman DYMALLY and Congressman CHRIS SMITH have been forceful advocates of some innovative ideas in this area.

I believe this concept deserves a chance. Accordingly, I urge my colleagues to support the resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. DYMALLY. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL], chairman of the committee.

Mr. FASCELL. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, I rise in support of House Concurrent Resolution 201, as amended, expressing the sense of the Congress that the model of the Helsinki process, the Conference on Security and Cooperation in Europe, which established the linkage between respect for human rights, economic development, and genuine security and cooperation in Europe, be applied to Africa as well.

I commend the author of this resolution, the distinguished chairman of the Subcommittee on Africa, Mr. DYMALLY, for his leadership in recognizing the potential a conference on security, stability, development, and cooperation in Africa has for providing a forum by which the nations of Africa could address and begin to overcome some of the most serious problems facing the continent. I also commend the distinguished chairman of the Helsinki Commission, Mr. HOYER, for his foresight in promoting this process of consultation and cooperation in other parts of the world.

House Concurrent Resolution 201, as amended, recognizes and commends the efforts of many African leaders and statesmen to apply the lessons of Helsinki to the African experience. It calls upon the President of the United States to support these efforts.

I urge unanimous adoption of the resolution.

Mr. DYMALLY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 201, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REGARDING DEMOCRATIC CHANGES AND VIOLATIONS OF HUMAN RIGHTS IN ZAIRE

Mr. DYMALLY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 238) concerning democratic changes and violations of human rights in Zaire, as amended.

The Clerk read as follows:

H. CON. RES. 238

Whereas the people of the United States support the development of democratic institutions in Zaire that reflect the will of the people of Zaire and are concerned about ongoing human rights abuses in Zaire as confirmed by the Lawyers Committee for Human Rights;

Whereas Zairean security forces have repressed peaceful mass demonstrations protesting the government's economic policies and urging the implementation of democratic reforms;

Whereas recent press reports and other reliable sources indicate that these incidents caused the death of several people as well as the arrest of numerous people opposed to the regime;

Whereas these tragic events occurred following a period of continuous procrastination in convening a sovereign national conference composed of political, civic, religious, and other organizations;

Whereas President Mobutu has indicated, clearly, a lack of commitment to a transitional government to return the country to democracy by dismissing the new Prime Minister Tshisekedi Wa Mulumba;

Whereas the leaders of government in Zaire, beginning with President Mobutu, have systematically obstructed each attempt to facilitate this conference which could bring about a peaceful transition toward democracy; and

Whereas the catastrophic economic and social situation and the rampant corruption of authority, against which the population of Zaire is revolting, are being aggravated by the political uncertainty deliberately prolonged by President Mobutu: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) calls on President Mobutu to step down and permit the transitional government to return the country to democratic rule;

(2) firmly condemns all violations of human rights in Zaire;

(3) fully supports the aspirations of the Zairean people for democratic change, in particular the convocation of a sovereign national conference that would be fully representative of all the opposition forces, that would be conducted in a democratic manner, and that would have the full right to take its own decisions;

(4) urges that the sovereign national conference to form, as soon as possible after its convocation, a transitional government which would organize free and democratic elections;

(5) invites the international community of nations to express their concern with respect to the repression and corruption of the regime and to provide support to the Zairean democratic forces desire for peaceful change;

(6) calls upon the Administration to urge that an appropriate international peacekeeping force be brought into Zaire to ensure stability during the political transition process; and

(7) calls upon the Administration to express its willingness to offer appropriate assistance to help implement any future international peacekeeping arrangement.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DYMALLY] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 238 expresses the need for democracy in Zaire and calls attention to the human rights violations ongoing in this African country. This resolution passed both the Subcommittee on Africa and the Committee on Foreign Affairs unanimously.

Prior to yielding to the gentleman from New Jersey [Mr. PAYNE], the original sponsor of this legislation, for an explanation of his resolution on Zaire, I want to take this opportunity to commend him for his interest and commitment to assisting countries throughout Africa. I would also like to recognize him for his active participation on the Subcommittee on Africa and his leadership on Zaire.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I thank the gentleman from California [Mr. DYMALLY], for the opportunity to take the leadership in this very important issue dealing with Zaire. I would once again like to compliment the gentleman from California [Mr. DYMALLY] for the tremendous amount of interest and attention that he has brought to the Subcommittee on Africa.

Not only has he brought before our subcommittee many resolutions of very timely importance, but also his sacrifice that he has personally given to travel to many countries in Africa, many times quietly, many times without the knowledge of members of the committee, to meet with leaders to see whether conflict resolution could be found. I would like to compliment the gentleman from California on the outstanding work that he has done.

House Concurrent Resolution 238 was originally crafted back in September, in response to the more than 50 unarmed civilians killed by Zaire's security forces at opposition demonstrations, and President Mobutu's procrastination in convening a sovereign national conference which would have brought about a peaceful transition toward democracy.

Almost the same day I dropped off the resolution, units of the Zairian Army started a revolt in Kinshasa. The revolt was symptomatic of the growing economic disparity in the country. A disparity that on one hand paid the Zairian Army enlisted men as little as $10 a month—this compared to the renowned multibillion-dollar personal wealth of President Mobutu.

The Army revolt caused looting and violence, and more than 100 people were killed. Belgium and France responded by sending in troops to protect foreign nationals and property. American citizens and U.S. Peace Corps personnel were also evacuated.

President Mobutu's immediate response was hopeful. He promised relief by appointing the main opposition leader, Tshisekedi Wa Mulumba as Prime Minister.

But again President Mobutu misused his remaining power by skimming and maneuvering to dismiss Prime Minister Tshisekedi. When this did not work, he used force by posting guards to keep the Prime Minister from entering his own office.

Mobutu's army again revolted, only this time in the industrious copper mining Shaba Province. Over 31 people were reported killed.

The Belgian and French Governments gave final deadlines for the evacuation of all foreign nationals and eventually withdrew all their troops. Some international observers complimented the withdrawal of foreign troops as there was the fear that they would support Mobutu as they did in the late 1970's. Other observers felt that the presence of foreign troops held down the killing, and in fact offered some protection to opposition party members who now feared for their life.

Just lately, Mobutu appointed Mugul Diapiaka as Prime Minister to replace Tshisekedi. Diapiaka, unacceptable to the opposition parties, as well as the United States has further frustrated the process of democracy. Again, Mobutu had maneuvered to delay the convocation of the sovereign national conference and the process of democracy.

While we may be told today or tomorrow that the national conference will convene again with the hope of bringing a peaceful transition toward democracy, we will still have to wait and see if it actually happens. In the meantime, the Subcommittee on Africa came to the conclusion that Mobutu should be urged to step down. Also, that the Belgian and French troops should stay in place until an appropriate international peacekeeping force could be brought in. Unfortunately—the Belgian and French troops were withdrawn prematurely. This caused further human rights violations, including the armed attack on the residence of Archbishop Monsengwo, who was slated to be the moderator of the sovereign national conference. This was truly a case of political intimidation.

Houses and stores that were looted in September remain exactly the way the looters left them. Gasoline is in short supply and has doubled in price last week. Inflation hovers at 2 to 3,000 percent. The price of staple flour in Kinshasa has skyrocketed from $13 to $36 a bag. Now the limited blood supply is at risk because the testing kits for AIDS were also victims of the September looting. As one doctor said, "to give untested blood to a child is like condemning them to death." The killer disease AIDS is rampant in the Zairian Capital.

Zaire is in a state of anarchy. Time is of essence. This resolution sends a signal to the administration that Mobutu cannot be a part of a power-sharing strategy for the future. Mobutu must step down at once or we will have another Liberia.

In Liberia with President Doe, as in Zaire with President Mobutu, the United States Government invested millions of dollars to corrupt regimes. In Liberia we were not persuasive in getting Sergeant Doe to step down. Let us hope this resolution will encourage the administration to persuade President Mobutu to leave the country at once, before the blood of Zairian citizens starts to flow again.

□ 2220

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all of us are disturbed by the ongoing tragedy in Zaire. Unlike its neighbor Zambia, which has made huge progress in a transition to democracy, Zaire remains in the hands of a tyrant known for intolerance and corruption. President Mobutu has repeatedly refused to accept any orderly and peaceful transition toward democracy.

The gentleman from New Jersey, [Mr. PAYNE] and the other sponsors deserve credit for their extensive work on this resolution, as does the Africa Subcommittee under the leadership of Congressmen DYMALLY and BURTON. I urge my colleagues to give it their support.

Zaire could be one of the richest countries in Africa. Instead, it is mired in poverty and underdevelopment. This situation will not change until democratic institutions are established.

I am not sure how much of an impact that effect this resolution will have on the current situation in Zaire. Nevertheless, the House should make its views known on the necessity for a transition to democracy. It is hoped, for the sake of the people of Zaire, that the time has come for President Mobuto to loosen his stranglehold on power and open the door to representative democracy.

Mr. Speaker, I reserve the balance of my time.

Mr. DYMALLY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I want to first pay tribute to the gentleman from New Jersey [Mr. PAYNE] for the leadership he has provided in bringing this resolution to the floor today, and to the chairman of the committee, the gentleman from California [Mr. DYMALLY] for facilitating this consideration of the resolution. I also want to pay tribute to the gentleman from Indiana [Mr. BURTON], the distinguished ranking member of the Africa Subcommittee, who has been one of the strongest voices trying to address, in a serious way, the terrible tragedy that we see unfolding at the moment in Zaire.

I want to underscore, Mr. Speaker, one of the observations of the gentleman from New Jersey. My greatest fear is we are now witnessing another Liberian tragedy in the country of Zaire. It was not too many months ago that Mr. BURTON and I and a number of other of my colleagues, fearing that there was going to be a terrible tragedy unfolding in Liberia, went to sit down with representatives of the administration, and in particular with Mr. Scowcroft at the National Security Council, to plead with Mr. Scowcroft that the United States take a much more aggressive posture in seeking the ouster and removal of Mr. Doe from the scene in Liberia.

The United States has been involved over many years in propping up a corrupt dictatorship in Liberia. When that dictatorship began to get into trouble, the United States essentially decided to wash itself of the problem and refused to engage itself in the way in which it needed to. Had we acted much earlier to remove Mr. Doe from the scene, it is indeed not only possible, but likely that much of the carnage that subsequently occurred in Liberia could have been avoided.

I hope that we are not in the process of again witnessing another situation in which the United States has been responsible over many years for supporting and assisting one of the most corrupt dictatorships on the face of this globe, and now says, "Gee, it is a difficult problem. We are not going to do anything to really help facilitate a peaceful transition to a democratic political system."

The administration at the moment is giving some very mixed messages in its diplomatic approach to the Zairian crisis. On the one hand it is saying that the opposition forces in Zaire should be permitted to form a transitional government. And I give credit to the administration for at least saying that much. But with the next breath it talks about power sharing, and very clearly has in mind that President Mobutu be part of that sharing of power in this transitional movement. In short, this administration apparently continues to see Mobutu as part of the solution rather than the essence of the problem.

The fact of the matter is any political arrangement in which Mobutu is involved will lack credibility on the part of the Zairian population. Anything in which he is engaged will be distrusted by the opposition leadership. And any effort at trying to move this process expeditiously forward so there can, in fact, be in place a transitional mechanism that can put together the arrangements for an electoral system and for a democratic regime will be jeopardized as long as Mobutu is on the scene, in place, participating in all of these negotiations.

I hope the administration will become much more engaged diplomatically, and begin to address the situation vis-a-vis Mobutu much more forcefully. We are responsible for the tragedy. We have a responsibility to be more precise in the tragedy that is unfolding in this country.

□ 2230

The least we can do is to attempt to engage ourselves in a way that will minimize the bloodshed, the conflict, the trauma that the Zairian population is now experiencing.

So again, I just simply want to express my personal appreciation for the work of the gentleman from New Jersey [Mr. PAYNE], our chairman, the gentleman from California [Mr. DYMALLY], and the gentleman from Texas [Mr. BARTON] and a lot of people on a bipartisan basis in the Senate and the House who have worked as hard as they can to signal the administration that if they take a much more forceful position on this issue they will enjoy very broad bipartisan support within this institution.

Mr. DYMALLY. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLARZ], the chairman of the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs.

Mr. SOLARZ. Mr. Speaker, I thank my very good friend, the gentleman from California, for yielding me this time.

I want to begin by paying tribute to him for bringing this resolution before us. It surely could not have been easy for the distinguished gentleman from California to bring to the floor a resolution calling for the resignation of a man whom he had gotten to know well over the years and whom he had seen on many occasions during the course of his frequent visits to Zaire. Indeed, I know of few Members of the House who have traveled so widely throughout so much of Africa and who have gotten to know so many of the leaders of that continent, and I think the very fact that he was willing to bring this resolution before us underscores its significance, and I pay tribute to the gentleman for his courage and for his commitment in doing so.

Mr. Speaker, it is not often that the House is asked to vote in favor of a resolution calling upon the leader of a foreign and—to a certain extent it must be acknowledged—friendly country to resign, but if ever there was a justification for such a resolution, the situation which currently exists in Zaire constitutes one.

Mr. Mobutu, who has ruled Zaire for almost 3 decades now, has created in that country the kleptocracy to end all kleptocracies. By comparison, Mr. Marcos in the Philippines and Mr. Duvalier in Haiti were like little boys stealing candy bars from the local candy store. This man has systematically diverted the wealth of his nation into his own bank accounts. He has acquired a vast real estate empire in Brussels and probably many other cities around the world, and as a result of his depradations, the standard of living in Zaire today is lower than it was at the time the country received its independence from Belgium over 3 decades ago.

So I think this resolution is very timely.

In the last few years the winds of democracy have swept across Asia, Latin America, Eastern Europe, and now even the Soviet Union itself, and they are beginning at long last to be felt in Africa as well.

The people in Zaire have had it. They want a change, and the only way they will be successful in bringing about a peaceful transition to democracy is if Mr. Mobutu goes.

Unfortunately, our own administration seems to feel that Mr. Mobutu is still a part of the solution, rather than recognizing that he constitutes the problem. They believe that the best way to solve the problem is through the establishment of some kind of interim coalition government in which Mr. Mobutu, at least for a period of time, would have a role to play.

What they do not seem to fully appreciate is that Mr. Mobutu has one purpose and one purpose only in life, and that is to remain in power and to use his power to line his own pockets. So long as he remains part of any transitional regime, he will maneuver and he will manipulate, trying to play one off against the other in the hope that the storm of discontent will pass and he will be able to prevail and to persevere and to remain in power.

If the tragedy of which the distinguished gentleman from New Jersey [Mr. PAYNE] and my very good friend, the gentleman from Michigan [Mr. WOLPE] spoke, the same kind of tragedy which befell Liberia and which befell Somalia, is going to be avoided in Zaire, Mr. Mobutu must go. His departure from the scene will not by any means guarantee a peaceful transition to democracy in Zaire. It is by no means beyond the realm of possibility that even without him the country could descend into chaos and confrontation. But if he remains, we can be virtually certain that that is exactly what will happen. His departure, therefore, is a necessary, if not a sufficient condition, for a peaceful transition to democracy in Zaire.

During the years of the cold war, those of use who called for the removal of Mr. Mobutu were always told that he was the glue which held the country together. There were so many tribes, we were told, and without Mobutu they would fall to fighting within themselves, a vacuum would be created, the Soviets would come in, and because of the cold war and Soviet designs in Africa, we were told that unless Mobutu was propped up and remained in power, there would be chaos and civil war at best and a Soviet advance at worst.

We were told, in effect, "Apres Mobutu, le deluge." That argument might have made some sense during the cold war, although many of us believe that even then it did not.

It certainly makes no sense now. The way to avoid chaos, the way to avoid confrontation, the way to avoid civil war is to get Mobutu out, and that is why I pay tribute very sincerely to my friend, the gentleman from California, for bringing this resolution before us, to the gentleman from New Jersey who took the lead in authoring this resolution, and to my very good friend, the gentleman from Michigan [Mr. WOLPE], who for many years labored in the vineyards as chairman of the Subcommittee on Africa, focusing attention on this abomination.

I therefore call for the unanimous adoption of this resolution.

Mr. FASCELL. Mr. Speaker, House Concurrent Resolution 238 is a noncontroversial sense-of-the-Congress resolution expressing concern for the recent and widespread violence and turmoil in Zaire, which has led one of the largest nations on the African Continent to the brink of social and economic disintegration.

The resolution acknowledges the central role played by Zaire's President Mobutu in the current unrest and calls for his resignation and his replacement by an interim government, which is totally consistent with current administration policy toward Zaire. In addition, House Concurrent Resolution 238 condemns all violations of human rights in Zaire and calls upon the people of Zaire to reconvene its national conference on democratic reform.

Mr. Speaker, the winds of democracy are blowing throughout Africa. A few weeks ago, Kenneth Kaunda, the father of Zambian independence and President of Zambia for 29 years, was resoundingly defeated in a nationwide election. President Kaunda is to be commended for letting the citizens of Zambia exercise their political prerogative. Regrettably, other leaders, such as President Mobutu, still choose to subvert, by any means necessary, Africa's movement toward democracy and its growing demand for better governance and greater accountability from its leaders.

I call upon my colleagues to support House Concurrent Resolution 238 and, in so doing, to send a message that this body recognizes that honest, responsible, democratic government is essential to Africa's economic recovery and future development.

Mr. DYMALLY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 238, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 238, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONCERNING FREEDOM OF EMIGRATION AND TRAVEL FOR SYRIAN JEWS

Mr. OWENS of Utah. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 188) concerning freedom of emigration and travel for Syrian Jews, as amended.

The Clerk read as follows:

H. CON. RES. 188

Whereas the estimated 4,000 Jews in Syria are deprived of their internationally recognized human rights to freedom of emigration and movement;

Whereas Syrian Jews who wish to leave the country must post an onerous monetary deposit and leave family members behind as assurance for their return;

Whereas the restrictions on emigration and movement on Syrian Jews violate the international covenant on civil and political rights to which Syria is a signatory;

Whereas Syrian Jews are restricted in the extent of their contact with their families outside Syria;

Whereas the Syrian secret police (Mukhabarat) engage in 24 hour a day surveillance of the Jewish quarter in Damascus, keep a file on every Jewish person, monitor all contacts between Jews and foreigners, and read mail and wiretap phone conversations of Syrian Jews;

Whereas some members of the Syrian Jewish community have been arrested on mere suspicion of intention to leave Syria and are imprisoned without trial, often tortured, and held incommunicado;

Whereas families of those Syrian Jews who succeed in fleeing the country are subject to imprisonment and torture;

Whereas there are at present 6 Syrian Jews in prison for attempting to leave Syria, 2 of which have been incarcerated since 1987; and

Whereas Syrian President Hafez al-Assad has ignored the repeated efforts of the United States President, the State Department, and Members of Congress to secure the freedom of emigration for the Syrian Jewish community: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns Syria's continuing denial of Syrian Jews' internationally recognized rights to freedom of emigration and movement and calls upon the Syrian Government to—

(A) immediately grant Syrian Jews the right to emigrate freely without imposing any tax, levy, fine, or other fee (other than the standard fee for administrative expenses); and

(B) release all Syrian Jewish prisoners who are imprisoned for their attempts to exercise their internationally recognized rights to freedom of emigration and movement;

(2) urges the President to encourage the allies and trading partners of the United States to make similar pleas to the Syrian Government on behalf of Syrian Jews' right to emigrate freely; and

(3) urges the President to seek a United Nations investigation on the present condition of Syrian Jews and the status of respect for internationally recognized human rights in Syria.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank my friend, the gentleman from California [Mr. LEVINE], who along with my colleagues from New York, Mr. ACKERMAN and Mr. GILMAN, and the gentleman from Minnesota [Mr. WEBER], introduced this important human rights resolution.

I would also like to thank the distinguished chairman of the full committee, the gentleman from Florida [Mr. FASCELL], and the gentleman from Michigan [Mr. BROOMFIELD], the ranking minority member, the chairmen of the subcommittees on which I serve, the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Pennsylvania [Mr. YATRON], and my friend, the gentleman from Nebraska [Mr. BEREUTER], for their leadership in helping to bring this resolution to the floor.

In his opening statement at Madrid, Syrian Foreign Minister Faruq Al-Sharaa spoke of the unprecedented levels of tolerance Jews enjoy in the Arab world and in Syria in particular. Unfortunately, the facts paint a very different picture of the current plight of Syrian Jews.

An estimated 4,000 Jews are trapped in Syria, deprived of their internationally recognized human right to freedom of emigration and movement. The restrictions on Jewish emigration and movement violate the international covenant on civil and political rights, to which Syria is a signatory.

Syrian Jews who wish to leave the country are forced to post an onerous monetary deposit and leave family members behind as assurance for their return.

□ 2240

Not only are Jews unable to leave the country, their movement within Syria is severely restricted.

Jews in Syria are concentrated in ghettos where they are closely monitored by the Syrian secret police. Those caught attempting to flee the country are beaten, tortured, imprisoned without trial, and often held incommunicado. This community lives in constant fear.

House Concurrent Resolution 188, as amended, condemns Syria's continuing denial of Syrian Jews' internationally recognized right to freedom of emigration and movement, calls on the Syrian Government to immediately grant Syrian Jews the right to emigrate freely without imposing any excessive fees and to release all Jewish prisoners who were imprisoned for their attempts to exercise their rights to freedom of emigration and movement. It also urges the President to encourage our allies and trading partners to make similar pleas to the Syrian Government and to seek a U.N. investigation of the present condition of Syrian Jews and the status of adherence of internationally recognized human rights in Syria.

There are some who argue that the timing for the consideration of this resolution is not right. We must all remember, however, that the struggle for basic human rights supersedes other political interests. Now is the time to make it clear to the Syrian Government that holding thousands of Jews hostage is unacceptable. Simply sitting at the table in Madrid will not absolve Syria of its responsibility to respect the internationally recognized human rights of its citizens.

Recently I had the opportunity to discuss the plight of Syrian Jewry directly with President Assad and Foreign Minister Sharaa. At that time, President Assad told me that in the near future several Western hostages would be freed. Yesterday, Assad made good on his word. And while Syrian assistance in the freeing of Western hostages is appreciated, it also demonstrates what Syria can do when it wants to.

Mr. Speaker, Syria needs to do more.

I would be remiss if I failed to mention the Soued brothers. Many Members of this House joined me in a letter several years ago, and we did it several times since, asking the Syrian Government, including President Assad personally, for an opportunity to visit them, only to be rebuffed each time. We will not stop asking to see them and we must not stop demanding basic human rights, dignity, and respect for Syrian Jewry.

The resolution has strong bipartisan support. More than 100 Members have joined me in cosponsoring House Concurrent Resolution 188 to express their profound concern regarding Syria's treatment of its Jewish community.

Mr. Speaker, I urge all Members to support House Concurrent Resolution 188 and send a strong signal to the Syrian leadership that depriving Syrian Jews of their fundamental right to freedom of emigration and movement will have a deleterious effect on Syria's future relationship with the United States. This is a simple issue of right and wrong.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the resolution pending before us, House Concurrent Resolution 188, introduced by our colleague, for the gentleman from California [Mr. LEVINE] and the gentleman from Utah [Mr. OWENS] which highlights the many deprivations endured by Syria's small Jewish community, and condemns the denial of Syrian Jews' basic right to travel freely by the despotic government of Hafez el-Assad. As cochairman of the Congressional Caucus for Syrian Jewry, I am pleased to be an original sponsor of this legislation, which deserves the full supports of the House.

This past summer I had the opportunity to arrange a meeting with members of the Syrian Jewish community for colleagues of mine on the Select Committee on Narcotics Abuse and Control during a congressional delegation visit to Damascus. We learned, firsthand, of the serious circumstances under which the Syrian Jewish community lives.

Numbering a scant 4,000 individuals, most of whom live in Damascus, Syria's Jewish community is forbidden to freely have contact with foreigners. Their actions are closely monitored by the Mukhabarat, the Syrian secret police. All meetings have to be reported, mail is opened, and telephone conversations are routinely wiretapped. Even the Jewish schools are run by administrators who are part of the Mukhabarat.

The restrictions extend to travel abroad and communications with family members outside Syria. Jews who desire to leave the country must post a burdensome monetary bond to ensure their return. Families are not allowed to travel together. No other group in Syria is subjected to such discriminations.

Moreover, the families of those who do not return to Syria are subject to imprisonment and torture, and those who attempt to flee are imprisoned for lengthy periods without trial.

Currently, Mr. Speaker, six Jews are in Syrian prisons. They are: Eli and Selim Swed, brothers arrested in 1987, upon returning from a trip abroad; Zou Zou Rafoul Sabto and Rahmoune Ibrahim Darwish, arrested with their spouses in September 1990, for attempting to leave the country; and, most recently, Subhe and Sa'id Kastika, also brothers, arrested just 6 months ago at the Syrian-Turkish border.

Syria's actions against these men, and indeed, against the entire community, are clear violations of the Universal Declaration on Human Rights, to which it is signatory. Accordingly, House Concurrent Resolution 188 calls upon the Syrian Government to immediately grant its Jewish citizens the basic human right of freedom of travel, calls for the immediate release of the above mentioned six Jewish prisoners, and requests an official U.N. delegation to investigate the conditions endured by this threatened minority.

Mr. Speaker, I urge our colleagues to support this bill. The adoption of House Concurrent Resolution 188 sends a strong message to Syrian President Assad about congressional commitment. If our success on behalf of Soviet Jewry is any indication, then Congress and the American people will prevail in eventually obtaining human rights for Syrian Jews.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. OWENS of Utah. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL], chairman of the full Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of House Concurrent Resolution 188, as amended, concerning freedom of emigration and movement for Syrian Jews.

This resolution, which was considered by the Committee on Foreign Affairs this morning, expresses congressional condemnation of the continued denial to Syrian Jews of the right to freedom of emigration and movement. It calls upon the Syrian Government to immediately grant Syrian Jews the right to emigrate freely and to release those Syrian Jews who have been imprisoned for their attempts to exercise the right to freedom of emigration. The resolution further calls upon the President of the United States to seek a U.N. investigation on the present condition of Syrian Jewry and on the status of respect for internationally recognized human rights in Syria. It urges the President to seek allied support for these efforts.

Mr. Speaker, I commend the sponsor of this resolution, our distinguished colleague from California, Mr. LEVINE, for his leadership in bringing the plight of Syria's tiny and beleaguered Jewish minority to the attention of the committee and the House. I also commend the chairmen and ranking minority members of the Subcommittee on Europe and the Middle East, Mr. HAMILTON and Mr. GILMAN, and the Subcommittee on Human Rights and International Organizations, Mr. YATRON and Mr. BEREUTER, for their cooperation in considering this measure so that we were able to bring it to the floor in a timely manner.

Mr. Speaker, while we are all anxious that the peace process that has now begun in the Middle East go forward unimpeded and result in a genuine and lasting peace throughout that troubled region, we cannot allow the quest for peace to blind us to the harsh realities of Syrian human rights abuses. If our recent experience with Iraq has taught us anything, it should be that it is extremely unwise to ignore the repression to which a dictator subjects his own people. Saddam Hussein's deplorable abuses against the Iraqi and Kurdish people were, for too long, ignored or overlooked by the United States and other Western nations. We must not allow the equally reprehensible actions of the regime of Hafez Assad to be ignored by the international community. After all, a government's treatment of its own citizens can be a very good indicator of the government's intentions toward its neighbors. And, as the late Nobel Peace laureate Andrei Sakharov so eloquently championed, genuine security and enduring peace are integrally linked to respect for human rights.

Mr. Speaker, I urge passage of the resolution, as amended.

Mr. OWENS of Utah. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. ENGEL], a member of the Subcommittee on Europe and the Middle East of the Committee on Foreign Affairs.

Mr. ENGEL. I thank the gentleman for yielding this time to me.

Let me say, Mr. Speaker, that I, like millions of Americans, rejoiced when two of the hostages were released just yesterday, and I pray that the other three Americans and other Westerners who are still held in captivity are released very, very soon.

□ 2250

But the fact remains that today in Syria we have 4,000 hostages, 4,000 Syrian Jewish hostages, who have been held captive for years. Let me see what the situation is there.

These people are denied the rights that other residents of Syria have. They are constantly under surveillance, they cannot emigrate, they cannot travel freely, they are imprisoned, they cannot contact their family members that live in other countries, and a file is kept on every Jewish person in Syria.

Mr. Speaker, emigration is a basic human right, and at a time when nations all over the world are turning toward greater freedom, Syria is still a very, very repressive society, particularly when it is dealing with minorities, particularly the Syrian Jewish people.

They are being held hostage; let us make no mistake about it. They are being held hostage by the Syrian regime to be used as bargaining chips for future negotiations.

The time has really come for Syria to show its good intentions. Much has been said recently about Syria being our new-found ally and supposedly having a new attitude about peace in the Middle East and a new attitude about the Middle East in general. Syria's former patron, the U.S.S.R., is no longer in a position to help it, and let us not forget that Syria is relying on the United States, to work with the United States.

Mr. Speaker, our Government at its higher levels should absolutely demand that Syria allow its Jewish citizens to emigrate, that Syria grant them the basic rights that we demand of other people and that Syria can no longer have it both ways. It can no longer talk about injustice in other parts of the world or injustice in the Middle East when it itself imprisons its own citizens.

I strongly urge unanimous support of House Concurrent Resolution 188 and think that, by passing this resolution, we will be sending Assad and his regime a strong message.

Mr. OWENS of Utah. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Utah [Mr. OWENS] for sponsoring this resolution. As I found this summer when he visited my district, the gentleman has been a true leader for the Syrian Jewish community and for their cause.

Mr. Speaker, I want to express my deep concern for the treatment of the Jewish community in Syria. Right now Jews living in Syria have no freedom to emigrate or to travel freely. Additionally, Syria has maintained a policy of arrest, interrogation and imprisonment for any Jews suspected of illegally traveling or having planned to do so. The Syrian refusal to permit free emigration is a violation of the Universal Declaration of Human Rights to which Syria is a signatory.

Mr. Speaker, in July of this year myself and 65 of my House colleagues signed a letter to Syrian President Hafez al-Assad asking him to permit members of the Jewish community to leave Syria and be reunited with their families. To this day President Assad has not replied to our letter.

I urge my colleagues to support this resolution, and send a clear message to the leadership of Syria.

Mr. OWENS of Utah. Mr. Speaker, I yield 7 minutes to the distinguished gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I thank the gentleman from Utah [Mr. OWENS] very much for yielding, and I want to pay tribute to him for his leadership in helping to bring this resolution to the floor.

I am privileged, Mr. Speaker, to represent a community of about 25,000 Syrian Jews who live in my own constituency back in Brooklyn, and they care deeply, as I do, about the fate of their beleaguered brothers and sisters who remain in Syria.

I have had the opportunity to visit Damascus on a number of occasions over the course of the last 17 years, and during that time I have met with almost all of the leaders of the Jewish community in Syria and have taken up their interests with the leaders of Syria itself. I have absolutely no hesitation whatsoever, Mr. Speaker, in saying that, if the Jewish people of Syria were ever given the opportunity to leave, as is their right under the Universal Declaration of Human Rights, they would go more quickly than the Jewish people who fled from Egypt over 3,200 years ago at the time of the pharaoh. They are desperate to leave because they are not entitled to live a life of freedom in Syria itself, and yet, in spite of Syria's obligations under the Universal Declaration of Human Rights which guarantees freedom of emigration to all individuals, they are not permitted to leave their own country. Oh, yes, they can go by themselves, if they put up a hefty deposit and leave members of their immediate family behind in order to guarantee their return. But if they want to depart permanently, they cannot do it without being permanently sundered and severed from their own families.

Several months ago, Mr. Speaker, I visited one of the Syrian yeshivas in my district in Brooklyn, and I was approached by a young girl about 8 or 9 years old who pleaded with me to help secure the release of her father, who was still in Syria and who the Syrian authorities would not permit to depart the country. The consequence of this was that this young girl had not seen her own father in a couple of years.

Mr. Speaker, we have adopted resolutions like this before, and they have not softened the heart of the Syrian leadership. Hopefully this resolution will. It comes at a time when a Middle East peace process has gotten under way which represents probably the best opportunity for the establishment of a just and lasting peace in that troubled part of the world that we have had since the establishment of Israel 43 years ago. This would be, on Mr. Assad's part, a magnificent gesture, if he would respond to this resolution by giving the Syrian Jews the opportunity to go. It would engender enormous good will and great appreciation for his government, not only around the world in general, but in Israel in particular.

Over 3,000 years ago, Moses went to the pharaoh and said, "Let my people go," but the Egyptian tyrant did not soften his heart. It took the help of 10 God-given plagues to convince the pharaoh to let the ancient Israelites leave. We propose to inflict no plagues on Syria. We simply ask Mr. Assad to live up to his responsibilities under the Universal Declaration of Human Rights and let these people go.

Mr. Speaker, I hope Mr. Assad will take heed. It would be good for the Jewish people of Syria, and it would be good for Syria itself. It would constitute a significant contribution to the cause of peace in the Middle East. I want to express my deepest appreciation to the gentleman from California [Mr. LEVINE], the author of this resolution, to the gentleman from Indiana [Mr. HAMILTON], the chairman of the subcommittee, to the gentleman from Utah [Mr. OWENS], who managed the bill, and to my very good friend on the other side of the aisle, the gentleman from New York [Mr. GILMAN], who has also lent his support to it.

Mr. Speaker, I am not overly optimistic that this resolution will succeed in securing the release of these good and decent people, but we cannot rule out that possibility, and this is the very least we can do to bring freedom to this ancient, but besieged and beleaguered community.

Mr. PORTER. Mr. Speaker, I rise in strong support of House Concurrent Resolution 188 concerning the freedom of emigration and travel for Syrian Jews.

I have long been concerned with the treatment of the Jewish community in Syria. Treated as second-class citizens, the 4,000 members of this community live in ghettos under constant police surveillance. Jewish homes have been randomly searched at night by the secret police and sacred Jewish property has been needlessly desecrated.

I am extremely concerned that the fundamental freedoms to travel and to emigrate continue to be denied to the Syrian Jewish community. For a Jew to travel from Syria, large sums of money must be given and members of his immediate family must remain in Syria to ensure his return.

Jews suspected of having traveled or even of planning to do so have been arrested, beaten, and even tortured. In fact, six people are currently imprisoned solely for trying to leave Syria.

Travel restrictions and the denial of the right to emigrate are direct violations of the Universal Declaration of Human Rights to which Syria is a signatory.

Mr. Speaker, this systematic persecution of the Jewish minority in Syria must stop.

Mr. RANGEL. Mr. Speaker, I rise in support of House Concurrent Resolution 188, which condemns Syria's continuing denial of Syrian Jews' basic human right to travel freely. The resolution strongly urges the Government of Syria to immediately grant Syrian Jews the right to travel freely without imposing any tax, levy, fine, or other fee, and to release all Jewish prisoners who were charged or suspected of travelling illegally. In addition, it urges our President to encourage our allies and trading partners to make similar pleas to the Syrian Government on behalf of Syrian Jews' right to emigrate freely, and calls upon the United Nations to send an official delegation to Syria to investigate the present condition of Syrian Jews.

Although the Jewish community in Syria continues to exercise a certain amount of authority over the personal status of its members, as a whole it is under considerable restriction. Human rights remained tightly restricted in virtually all categories.

Syrian Jews are deprived of their internationally recognized right to travel freely. The government of Syria continues its policy of not issuing passports and exit visas to all members of a Jewish family at the same time. Although theoretically any Syrian can be required to post a bond which would be forfeited in the event of nonreturn, in practice only Jews are routinely required to do so. These travel restrictions make it extremely difficult for members of the Jewish community to emigrate.

Syrian Jews suspected of having visited Israel illegally are arrested and subjected to prosecution. Two Syrian Jews, the Swed brothers, were arrested in 1987 for travelling to Israel and still remain incarcerated.

The State Department noted that the Syrian Government continues responding positively to specific requests from the United States Government about the status of Syrian Jews. Nonetheless, according to the State Department's human rights report, major human rights abuses—including torture, arbitrary arrest and detention, and denial of freedoms of travel, speech, press, association, and the right of citizens to change their Government—continue to characterize the regime's record in 1990.

I urge my House colleagues to join with me in voting for passage of House Concurrent Resolution 188. The freedom of emigration for the Syrian Jews should be urgently secured.

Mr. WEBER. Mr. Speaker, I rise in support of House Concurrent Resolution 188, calling for freedom of emigration and travel for Syrian Jews.

Approximately 4,000 Jews remain in Syria, unable to leave Syria or even travel freely within the country. If these Jews do wish to leave Syria and have the financial means to do so, they must pay a huge monetary deposit and leave family members behind as assurance for their return.

The reason, Mr. Chairman, the Syrian Jews have such a desire to leave Syria should not surprise us. They are concentrated in ghettos where they are monitored 24 hours a day by the Syrian secret police (Mukhabarat). Jews are taken to police headquarters where they are beaten and tortured for simple suspicion of attempting to leave the country. Right now, there are six Syrian Jews in prison for attempting to leave Syria. Two of those have been incarcerated for almost 5 years.

My hope is that the passage of this resolution will send a strong message to Syrian President Hafez al-Assad, who has in the past ignored repeated efforts by the President, the State Department, and Members of Congress. Any movement on this issue by Assad would be a strong indication of his sincerity in future peace negotiations with Israel.

I urge all my colleagues to join me in supporting freedom of emigration for Syrian Jews.

Mr. LEVINE of California. Mr. Speaker, as the author of this resolution, I want to thank Mr. YATRON, Mr. HAMILTON, and Chairman FASCELL for their assistance in moving this bill through the legislative process. I also want to thank the 110 Members who have joined me in sponsoring this important human rights resolution.

There are some who argue that the timing for the consideration of House Concurrent Resolution 188 condemns is not right. However, now is exactly the time to make it clear to Syrian President Hafez al-Assad that simply sitting at the table in Madrid will not absolve Syria of its responsibility to respect the internationally recognized human rights of its citizens.

Unfortunately, Syria is not getting the message. In his opening statement at Madrid, Syrian Foreign Minister Faruq al-Sharaa spoke of the unprecedented levels of tolerance Jews enjoy in the Arab world and in Syria in particular. The facts speak otherwise.

An estimated 4,000 Jews remain in Syria and are deprived of their internationally recognized human right to freedom of emigration and movement. The restrictions on Jewish emigration and movement are a flagrant violation of the International Covenant on Civil and Political Rights, to which Syria is a signatory.

Syrian Jews who wish to leave the country are forced to post an onerous monetary deposit and leave family members behind as assurance for their return. Not only are Jews unable to leave the country, their movement within Syria is severely restricted.

Jews in Syria are concentrated in ghettos where they are monitored 24 hours a day by the Syrian secret police (Mukhabarat). Those caught fleeing the country are beaten, tortured, imprisoned without trial, and often held incommunicado. This community lives in constant fear of persecution for the simple reason that they want to be free.

House Concurrent Resolution 188 Syria's continuing denial of Syrian Jews' internationally recognized right to freedom of emigration and movement, calls on the Syrian Government to immediately grant Syrian Jews the right to emigrate freely without imposing any excessive fees and to release all Jewish prisoners who were imprisoned for their attempts to exercise their rights to freedom of emigration and movement. It also urges the President to encourage our allies and trading partners to make similar pleas to the Syrian Government and to seek a U.N. investigation on the present condition of Syrian Jews and the status of respect for internationally recognized human rights in Syria.

The resolution has strong bipartisan support. Over one hundred members have joined me in sponsoring House Concurrent Resolution 188 to express their profound concern regarding Syria's treatment of its Jewish community and of the egregious human rights abuses that continue to take place in Syria.

This is a simple issue of right and wrong. Dictatorial persecution of innocent civilians is a practice that must end. My legislation will send a clear message to President Assad that this is an issue about which the American people and government care deeply.

Mr. Speaker, I urge all members of the House to support House Concurrent Resolution 188 and send the proper signal to President Assad that depriving Syrian Jews of their fundamental right to freedom of emigration and movement will not only jeopardize the peace process, but will also have a negative effect on Syria's future relationship with the United States.

Mr. STUDDS. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 188, which expresses deep congressional concern over the refusal by Syrian authorities to allow members of its Jewish community the right to travel abroad.

While the recent release of Western hostages by Islamic factions and the convening of the historic Middle East summit meeting in Madrid give us some hope that there can be peace and reconciliation in that troubled part of the world, we must not forget those who continue to suffer under political repression. As we anxiously await the release of the remaining hostages and press to see the bilateral peace talks continue, we must not overlook the plight of the Jews of Syria.

The 4,000 Syrian Jews are subjected to constant police surveillance, some have been arrested simply on suspicion of intending to travel abroad, and the families of those who do flee are often punished with imprisonment and torture. Jews who want to travel from Syria must post a large monetary deposit and even leave behind family members as assurance of their return.

The case of brothers Eli and Selim Swed provides a tragic example of this oppression. They have been held by the Syrian government since November 1987, and have recently been sentenced to 6½ years of imprisonment for allegedly visiting Israel. No one among us seriously doubts that the harshness of their treatment stems from the fact that they are Jewish.

In fact, their case is not unique. Since 1949, Jews have been denied the right to emigrate from Syria, and unsuccessful attempts at escaping have often resulted in retribution—for escapees as well as their families.

Further, Syrian Jews are restricted in their contacts with family members outside Syria;

they cannot vote or work for the government; they must receive permission before buying or selling property; and, as in the Swed case, they are routinely denied due process of law.

I urge my colleagues not to forget Eli and Selim Swed—and our other Jewish friends in Syria—who face adversity daily, but whose faith cannot be broken. I call on the Government of Syria—in the interest of peace and on humanitarian grounds—to release the Swed brothers, and to change its cruel policy of denying Jews fundamental human rights, including the right to free emigration.

This resolution before us today calls on Syria to honor its obligations as a signatory to the International Covenant on Civil and Political Rights by ending its restrictions on the emigration rights of Jews. I urge its unanimous adoption.

Mr. BROOMFIELD. Mr. Speaker, at a time when restrictions on Jewish emigration from the Soviet Union have been eased, it is ironic—and reprehensible—that the Jewish community in Syria continues to be held captive.

I strongly support this resolution calling on Syria to permit free emigration and worship by the Jewish community. I recognize the sponsor, Mr. LEVINE, for his efforts and also wish to commend the Subcommittee on Europe and the Middle East—particularly the ranking Republican member, Mr. GILMAN, who has long demonstrated leadership on this issue—for bringing it to the attention of the House of Representatives.

If President Assad is serious about peace in the Middle East, let him demonstrate that commitment by easing emigration restrictions governing Syrian Jews, and by releasing Jewish political prisoners from Syrian jails.

These actions would help to establish greater mutual trust between Israel and Syria. They would create a more positive climate for progress in the ongoing Middle East peace talks.

In that regard, the timing of this resolution could not be more appropriate. I urge my colleagues to give it overwhelming support.

Mr. HALL of Ohio. Mr. Speaker, I am pleased to support House Concurrent Resolution 188 concerning freedom of emigration and travel for Syrian Jews. This resolution advocates civil and human rights in Syria and condemns Syrian travel policies for Jews.

Jews in Syria, who number approximately 4,000, cannot travel freely; cannot communicate freely with family members outside of Syria; and, for those who are granted travel visas, must pay a large bond and leave family members behind to assure their return. On this last point, Mr. Speaker, it is not uncommon for Syrian officials to imprison and even torture the family members of traveling Jews who have not returned to Syria.

Mr. Speaker, Syria violates the International Covenant on Civil and Political Rights, to which it is a signatory, by instituting restrictive emigration and travel policies. Further, Syrian prison conditions are extremely harsh and have a history of torture. To be placed under such conditions on the sometimes subjective accusation of illegal travel seriously violates fundamental and internationally recognized human rights.

House Concurrent Resolution 188 seeks to accomplish three goals. First, it condemns Syria's travel policy and calls for the release of Syrian Jews imprisoned on travel charges. Second, it calls on President Bush to encourage our allies and trading partners to take similar stands against the treatment of Syrian Jews in Syria. And third, it calls for a formal investigation by the United Nations focusing on the present conditions in Syria for Syrian Jews and Syria's respect for internationally recognized human rights.

The administration expressed concern over this resolution on the ground that the timing is bad because of the ongoing Middle East peace process and the recent release of long-held hostages. Mr. Speaker, I believe the timing is a catalyst for discussing emigration rights for Syrian Jews. Arab nations and Israel must seek constructive dialog if peace is to prevail in the Middle East. The United States would serve this process well by pressing President Assad on the critical role this issue plays in the larger question of Middle East peace.

Mr. Speaker, as a long-time advocate of international human rights, I have long been concerned with the problems confronting Soviet, Ethiopian, and Syrian Jews. Hence, I strongly support House Concurrent Resolution 188.

Mr. SCHUMER. Mr. Speaker, I rise in support of House Conference Resolution 188, condemning the treatment of Syrian Jews. I commend the Congress for considering this resolution, which impresses upon us the plight of the 4,000 Jews who live today in Syria. The small remnant of this ancient community has thousands of relatives in other parts of the world. There are an estimated 30,000 Syrian Jews living in New York City, and in my own district in Brooklyn, they have established a thriving, successful community.

I wish that the Jews still in Syria were as fortunate. In the already hostile atmosphere of Hafez al-Assad's dictatorship, Jews are singled out for discrimination. Jews are the only Syrian minority to have their religion noted on their passports. Jews may not travel without leaving behind large bonds and immediate family members. These restrictions have deterred many from emigrating, despite their desire to be reunited with relatives in the United States.

Those who remain trapped in Syria are carefully monitored by the state. The Syrian secret police keep files on all Jews, and the Jewish quarter of Damascus is under 24-hour surveillance. Mail is opened and phones are wiretapped. To discourage the accumulation of money which might make emigration possible, the secret police must approve all property purchases and sales by Jews.

Jews are also prevented from instructing their children in Judaism. Elementary schools are supervised by Muslims, and Hebrew instruction is forbidden. No secondary schools for Jewish education exist.

Those who reject this way of life and seek to flee take their lives into their own hands. In 1974, four single Jewish women tried to leave the country, but were betrayed to the Government by their smugglers. They were disfigured and murdered, and then left on their parents' doorsteps. Even as we speak here today, Jews who have sought to leave Syria languish in prison without trial or sentence. The Swed brothers, for instance, have been held without trial in underground cells since 1987, where they have been beaten and tortured.

Mr. Speaker, we in Congress must raise our voices against these travesties. I have watched in growing horror over the past months as the Bush administration has moved closer and closer to the Syrian Government. I had hoped that at least these diplomatic efforts would translate into changes in Syria's behavior on many counts, but no such change has occurred.

Instead, the Bush administration has continued to court Syria, turning a deaf ear while the Swed brothers suffer, while Syria ruthlessly crushes opposition and cements its hold on Lebanon, while Syria condones the conduct of terrorism and the trafficking of narcotics, and while Syria discourages its Arab neighbors from making peace with Israel.

I commend this resolution for encouraging our allies and trade partners to join the United States Congress in condemning the treatment of Syrian Jews. Our President must draw the line here and insist on freedom for Syrian Jews—freedom for Syrian Jews to live at home in peace, to travel, and emigrate abroad freely, and freedom for the Syrian Jews held in prison for illegal travel.

Mr. OWENS of Utah. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). The question is on the motion offered by the gentleman from Utah [Mr. OWENS] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 188), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution concerning freedom of emigration and movement for Syrian Jews."

A motion to reconsider was laid on the table.

□ 2300

GENERAL LEAVE

Mr. OWENS of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Concurrent Resolution 188.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). Is there objection to the request of the gentleman from Utah?

There was no objection.

COMMENDING PARTICIPANTS IN MIDDLE EAST PEACE PROCESS

Mr. OWENS of Utah. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res.

226) to commend the participants in the Middle East Peace Conference to be held in Madrid on October 30, 1991, as amended.

The Clerk read as follows:

H. CON. RES. 226

Whereas Israel, its Arab neighbors, and the Palestinian people stand to gain the most from peace, which can be achieved only through direct negotiations;

Whereas President Bush declared, in his March 6, 1991, address to the Nation before a joint session of Congress, that any solution to the Middle East conflict must provide for security and recognition for all states in the region, including Israel, and for the legitimate political rights of the Palestinian people, thus fulfilling "the twin tests of fairness and security";

Whereas on October 18, 1991, Secretary of State James A. Baker III and Soviet Foreign Minister Boris Pankin issued invitations to a Middle East peace conference to begin in Madrid, Spain, on October 30, 1991;

Whereas on the 30th of October 1991, in Madrid, Spain, a peace conference was convened for the purpose of launching direct bilateral negotiations leading to a comprehensive peace settlement that includes normalization of relations, bilateral peace treaties, full diplomatic relations, and cooperation on regional issues;

Whereas this conference involved the first-ever direct talks between Israel and all of its Arab neighbors;

Whereas cooperation on regional issues is an essential component of a peace settlement;

Whereas the United States is committed to safeguarding Israel's security, recognizing the legitimate political rights of Palestinian people, and achieving an end to the Arab-Israeli conflict through a two-track approach of direct negotiations between Israel and the Arab states and Israel and the Palestinian people, based on United Nations Security Council Resolutions 242, and 338; and

Whereas the resumption of full diplomatic relations between Israel and the Soviet Union has made it possible for the Soviet Union to play a constructive role in the peace process: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) commends the participants in the Middle East peace conference convened in Madrid for their willingness to take this first step toward peace, and encourages the participants to continue to overcome their distrust and enmity in the pursuit of mutual security and the peaceful resolution of all regional disputes;

(2) commends the President for his support of the peace process, commends the Secretary of State for his determination and diplomatic skill in bringing the parties to the Arab-Israeli conflict to the negotiating table, and encourages the President and the Secretary of State to continue their active roles in facilitating direct negotiations among the parties;

(3) commends Israel and the Soviet Union for resuming diplomatic relations, which were severed after the 1967 Six Day War; and

(4) affirms its unwavering support of the peace process and its strong hope that the discussions begun in Madrid will lead to a just, lasting, and comprehensive peace in the Middle East.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, like many people all over the world, I watched with hope and a deep sense of history as Arabs and Israelis recently met face to face, directly, for the first time ever, at the peace table, instead of on the battlefield.

That is why I have introduced, along with the majority leader, Mr. GEPHARDT, and my colleague from California, Mr. LEVINE, and from New York, Mr. GILMAN, House Concurrent Resolution 226, to commend the participants in the Middle East Peace Conference and to encourage them to continue to pursue peace.

Just as important, the resolution restates Congress' commitment to seeing this process through. Let there be no question about the determination of this body and the American people to achieve a just and lasting peace in the Middle East.

There are dangers and risks in the weeks ahead but also hope and opportunity. The United States Congress and the American people stand with all the people of the Middle East in looking forward to the end of the war and the beginning of a new era that will hopefully bring peace, security, and Israel's full partnership in the region.

At the same time, the United States Congress and the American people are irrevocably committed to safeguarding Israel's security. Secure and defensible borders for Israel have been—and will continue to be—a cornerstone of United States Middle East policy. We are also committed to the legitimate rights of the Palestinian people, which then Prime Minister Begin agreed to in the Camp David accords.

Ideally, negotiations will result in treaties whereby the Arab States unequivocally recognize Israel's right to exist. This means an end to the state of war, acknowledgment of Israel's sovereignty and political independence, and its right to secure and defensible boundaries.

The peace process that is now underway holds much promise. Israel-Palestinian talks appear to be progressing, and I expect we will hear very soon the details of the next session. There has been talk of it convening here in Washington. Talks between Israel and Syria are going slower. Syrian-Israeli enmity is deep and bitter. To paraphrase Secretary Baker, there will be interruptions and hurdles, hurdles and interruptions.

Israelis are understandably cautious. Their security—their survival—is at stake. The people of Israel must be confident that our country and the American people will not abandon them and will remain committed to their security.

Yet tens of thousands of Israelis marched in support of the peace conference. Most Israelis expressed guarded optimism about the peace conference. The reduction of violence in the occupied territories has helped build confidence. In addition, the Palestinian delegation conducted itself with moderation, dignity, and poise. That in and of itself sends a strong message to the Government and people of Israel. And the scenes of Palestinian youths placing olive branches on Israeli military vehicles—the very vehicles they had been stoning—is quite remarkable.

But the peace conference has a long way to go. Regional issues, such as water, the environment, arms control, trade, and tourism, must be resolved through dialog and cooperation. And, of course, the question of boundaries will be one of the principal subjects of negotiation. We will not see a real peace unless Israel is fully integrated into the region.

Settlements continue to be a thorny issue. While many have doubts about Israel's settlement policy, I strongly oppose linkage. The discussions between Israelis and Palestinians have been encouraging so far and for the President to press his own deep, personal loathing of settlements now would be counterproductive.

Mr. Speaker, I look forward to a real peace process, where the parties, with the help and encouragement of the United States, work out their differences and bring a new era of peace and stability to the Middle East.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my strong support for this resolution, and I commend the distinguished gentleman from Utah [Mr. OWENS] for his outstanding work on this measure, as well as the gentleman from California [Mr. DYMALLY] for working with Mr. OWENS on crafting a measure that addresses both of their concerns.

Mr. Speaker, this measure commends President Bush and Secretary of State Baker for achieving something of historic dimension. On October 30, 1991, a peace conference was convened in Madrid, Spain. At this conference, for the first time since Camp David, a mechanism was created for Israelis and Arabs to discuss the seemingly intractable problems of the region.

This resolution also commends the participants in the Middle East Peace Conference for their willingness to take their first step toward peace, and encourages the participants to continue to work toward overcoming their distrust and enmity.

Mr. Speaker, I am pleased to be a cosponsor of this resolution, and, accordingly, I urge its unanimous adoption by this body.

Mr. OWENS of Utah. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I rise in strong support of House Concurrent Resolution 226. I commend President Bush and Secretary of State Baker for their diligent efforts to arrange the Madrid Peace Conference and I urge that all participants in the conference exert the maximum energy to ensure that the process which began in Madrid will successfully reach its goal of a just, lasting, and comprehensive peace.

President Bush and Secretary Baker deserve to be commended for their skillful diplomacy and their perseverance in overcoming obstacle after obstacle to reach this point. Now, I urge both the Israelis and the Arab parties to seize this opportunity.

The people of the Middle East have waited decades for an end to war and misery, to be replaced with justice, reconciliation, and peace for all. The process launched in Madrid presents us with an historic chance to reach a solution which meets—in the words of President Bush—"the twin tests of fairness and security."

Arabs and Israelis have taken a bold step across the deep chasm dividing them. For the first time, a solution which guarantees both Israel's security and the legitimate political rights of the Palestinian people looks possible. Such a solution will not be found easily. Indeed, both sides will be asked to compromise.

President Bush, in his speech in Madrid, said it was time for "the Arab world to demonstrate that attitudes have changed, that the Arab world is willing to live in peace with Israel and make allowances for Israel's reasonable security needs." To the Israelis, the President stated, "territorial compromise is essential for peace." In other words, land for peace.

For the first time, Israel and all its Arab neighbors have participated in direct, bilateral talks. This is an important demonstration of the Arabs' willingness to recognize and accept Israel and Israel's willingness to reconcile differences.

This resolution commends all participants in the Madrid Conference. However, I would like to note, in particular, three participants for their less visible, behind-the-scenes roles. Spain, Saudi Arabia, and Russia deserve commendation for their work to facilitate conference proceedings.

Mr. Speaker, House Concurrent Resolution 226 will signal Congress' desire that all parties involved in the peace process work to achieve the goal of a just, lasting and comprehensive peace based upon U.N. Security Council Resolutions 242 and 338, recognizing the security of all states in the region and the legitimate political rights of the Palestinian people.

Mr. OWENS of Utah. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I thank the gentleman for yielding and commend him for his work on this resolution.

Mr. Speaker, I am pleased to rise in support of House Concurrent Resolution 226, commending the President, along with Secretary of State Baker, for their unstinting efforts to bring about a formal and official peace conference on Mideast affairs with representatives of all peoples involved at the table.

In a meeting with the President last Friday at the White House, Mr. Speaker, I had the opportunity to personally commend him. He gave the American Task Force on Lebanon, of which I am proud to be a member, an update of the Middle East Peace Conference and prospects for their future reconvening.

□ 2310

As we look back, Mr. Speaker, over the past few years, it is indeed awesome to reflect and realize that the Berlin Wall has crumbled, that the Soviet hard line coup against that country's leadership has been deflected, that historic occurrences have brought an end to the cold war that has gone on for decades, seen an end to the day-to-day threat of increased conflict between two superpowers and the unheard of beginning of the democratization of the Soviets and other European countries.

It was shocking, then, when peace was beginning to prevail elsewhere in the world, to have an outbreak of war in the Persian Gulf, when Iraq invaded and then occupied Kuwait.

I supported the President in his effort and subsequent success in bringing about a victory in the gulf war, driving Iraq from Kuwait and restoring its government. The President said at that time that as soon as Iraq was out of Kuwait, one way or another, he would turn his attention to the Arab/Palestinian and Israeli conflict, and the President has been true to his word. He has stuck by his commitments.

The President and the Secretary of State lost no time in beginning the difficult process of calling for and arranging the peace conference recently begun in Madrid. The representatives at that peace table, the Palestinians, Arabs, and Israelis, met on this historic occasion to discuss the need for ending all human conflict among them and to put an end for all time to the human suffering that this age-old conflict has generated.

It was an indeed historic opportunity for the first time since the creation of Israel 34 years ago to see these parties sit down at the same peace table.

While we indeed do wish to send a message of support to the President and Secretary of State for organizing the peace conference, we also wish to send a message of support and congratulations to the participants in the conference itself, including the Palestinians, the Israelis, the Soviets, and the rest of the Arab States.

The U.S. role, Mr. Speaker, will be an active role. We are indeed, as Secretary of State Baker has said, a catalyst for peace. The President pledged in his meeting with us last Friday morning at the White House that he would be personally involved in that process. That is what it is going to take, not only the Secretary of State's commitment but the President's personal commitment, if indeed the United States is to be, as all parties want us to be, an honest broker at this peace conference.

Mr. Speaker, in conclusion, I can only add my own hope is to see a lasting, just peace for the entire Middle East region, with recognition of the sovereignty and boundaries of all countries in the region and the human rights of all peoples in the area.

Mr. OWENS of Utah. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I would like to express my appreciation to the gentleman from Utah [Mr. OWENS] for yielding time to me and also his leadership on this issue.

I, of course, do endorse House Concurrent Resolution 226 and urge my colleagues to do likewise.

Naturally, I would commend the participants of the Middle East process. I especially commend the President of the United States, George Bush, and our Secretary of State, James Baker, for their leadership in the Madrid Conference.

To all those from Israel and its Arab neighbors who participated in this process, we extend to them our congratulations and yet at the same time our hope and prayers that peace and stability will reign in that area now and in the future.

Let us also hope and pray that the age-old enmities and distrust among the people of that area will come to an end.

Mr. BROOMFIELD. Mr. Speaker, I wish to voice my strong support for this resolution. I also wish to acknowledge the efforts of the sponsor, Congressman OWENS, Congressman DYMALLY—whose efforts are also reflected in this resolution—and the Subcommittee on Europe and the Middle East led by Congressmen HAMILTON and GILMAN.

For the first time in 43 years, all of the parties to the Arab-Israeli conflict have sat down and held face-to-face talks about peace. While many obstacles remain, the mere fact that such talks have occurred at all holds out the promise that decades of mutual suspicion and mistrust may finally yield to reason and reconciliation.

Each of the parties to the peace conference in Madrid are to be commended for their willingness to begin what will surely be a long and painful process. President Bush and Secretary of State Baker also deserve high praise for their skill and perseverance in bringing the parties to the negotiating table.

Anyone with even a vague understanding of Middle East history knows that it will take many months, and possibly years, before the process begun in Madrid finally bears fruit. All of the parties to this process should remain focused on the long-term objective.

Only with such an attitude can interested parties—and here, I include Congress—contribute to a real chance of producing new political and security realities in the Middle East. Only serious efforts on all sides will enable Israel and its Arab neighbors finally to live together in peace and prosperity.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 226 and urge my colleagues to join with me in supporting what hopefully will be its unanimous passage. As both the President and the Secretary of State have observed, one of the many lessons of Operation Desert Storm is that peace and arms control must be brought to the Middle East. To that end, the United States and the Soviet Union joined together in sponsoring and initiating a Middle East Peace Conference in Madrid, Spain, on October 30, 1991.

Simply stated, the purpose of that historic meeting was to launch direct bilateral negotiations leading to a comprehensive peace agreement that includes normalization of relations, bilateral peace treaties, full diplomatic relations, and cooperation on a number of other regional issues based upon U.N. Security Council Resolutions 242 and 338. In this regard, the Madrid Conference represented the first direct meeting between Israel and all of its Arab neighbors.

In my view, these initial talks were successful in that they provided the glimmer of what we, the United States, have been seeking in the Middle East since the founding of the Israeli state—peace. These talks were also successful in that all the participants came to Madrid. They were further successful in that they may serve as the basis for a spirit of comity among the nations of the Middle East. Finally, these talks were successful in that they may serve to encourage all the participants to overcome their mutual distrust and enmity in an effort to establish mutual security, peace, and prosperity.

Mr. Speaker, House Concurrent Resolution 226 deserves our serious attention and support as it contributes to the furtherance of these United States-Soviet sponsored negotiations. We are at a historic crossroads in the Middle East. We have a chance to achieve real and lasting peace in the Middle East. For those reasons, I urge unanimous adoption of the resolution we now have before us.

Mr. MORAN. Mr. Speaker, I rise in support of House Concurrent Resolution 226 which commends participants of the Middle East peace talks.

On October 30, 1991, the world witnessed a historic event, one that we had been hoping would occur for many years, and one that many thought could never happen. On October 30, the United States and the Soviet Union were able to put aside their own subsiding superpower rivalry to host a conference of Israeli, Syrian, Jordanian, and Palestinian representatives to discuss the future of the Middle East, their own future relations, and the prospects for peace in this important region.

For centuries there had been friction and tension in the Middle East. For too long Arab, Jew, and gentile have viewed the other with suspicion and acted upon that suspicion with violence and warfare. While nobody believes that years of distrust and violence can be swept away by a few months at a conference table, we all hope that this can be the beginning of a healing process between these nations.

On October 30, we took the first step in what, we hope, will be a long and constructive dialog of peace in the Middle East. I join my colleagues from the House Foreign Affairs Committee in commending the participants of the Middle East peace conference and in encouraging the continuation of this dialog.

Mr. OWENS of Utah. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). The question is on the motion offered by the gentleman from Utah [Mr. OWENS] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 226) as amended.

The question was taken.

Mr. OWENS of Utah. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed until tomorrow.

GENERAL LEAVE

Mr. OWENS of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

REGARDING ENVIRONMENTAL DAMAGE IN THE PERSIAN GULF REGION

Mr. OWENS of Utah. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 242) emphasizing the vast extent of environmental damage in the Persian Gulf region and urging expeditious efforts by the United Nations to set aside funds to redress environmental and public health losses.

The Clerk read as follows:

H. CON. RES. 242

Whereas the United States has deplored the unlawful acts of Saddam Hussein in encroaching the borders of Kuwait, in holding captive hostages, in plundering Kuwaiti property, in savaging the Kuwaiti people, in conducting extensive acts of "ecoterrorism" through mass destruction of natural resources, and in threatening world peace through blatant disregard of international treaties;

Whereas the United Nations Secretary-General has been directed by Security Council Resolution 687 (1991) to establish a special account to pay compensation for "any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait";

Whereas the United Nations Compensation Commission, established by the Security Council, is the mechanism for determining, among other issues, the level of contributions to the fund, the allocation of funds and payments of claims, the procedures for evaluating losses, and the resolution of disputed claims;

Whereas the United Nations Compensation Commission has dual levels of responsibility, both policy-making and functional, including establishing guidelines for categorization and formal presentation of claims by type and size;

Whereas Saddam Hussein's savage sabotage of Kuwait's natural resources constitute massive "ecoterrorism"—resulting in long-term environmental and public health damages—the vast extent of which remain unidentified;

Whereas oil intentionally discharged by Iraq into the Persian Gulf continues to cause unprecedented environmental damage to over 400 miles of Saudi coastline;

Whereas smoke plumes from over 600 oil fires have wreaked grave environmental pollution;

Whereas massive oil lakes caused by gushing oil from sabotaged wells continue to contaminate the Kuwaiti desert;

Whereas the extent of the damage to fragile marine ecosystems from six to eight million barrels of oil discharged into Gulf waters has yet to be fully assessed;

Whereas the impact of Saddam Hussein's ecoterrorism on public health through atmospheric pollution, soil acidification, groundwater pollution and damage to crops requires investigation: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) Finds that environmental damage, atmospheric pollution, and the resulting public health injuries from the oil well fires in Kuwait and the oil contaminated coastlines in the Gulf Region require urgent and immediate attention;

(2) Urges the President to request that the Secretary-General direct the United Nations Environmental Program and other appropriate United Nations organizations to monitor the long-term environmental and long-term public health impacts resulting from the unlawful destruction of natural resources in the Gulf Region;

(3) Urges the President to request that the United Nations Compensation Commission give high priority to environmental damages as a category of claims and provide a special and substantial allocation for this category in the United Nations Compensation Fund, and that this allocation—

(A) include funds for consolidated claims and reimbursement to various governmental and private organizations for expedited damage assessments to the environment and public health as a result of the Persian Gulf oil fires and slick; and

(B) provide for the reimbursement for costs of cleanup and restoration of the environment performed by various governmental and private organizations; and

(4) Encourages the governments of nations affected by Iraq's acts of "ecoterrorism" to

take further steps to mitigate the environmental and public health damages caused by such acts.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I briefly explain House Concurrent Resolution 242, I want to commend the gentleman from Michigan [Mr. HERTEL] for his initiative in introducing this resolution. I also want to commend subcommittee Chairmen YATRON and HAMILTON for acting expeditiously thus permitting the resolution to be considered today.

The resolution before us urges the President to request that the United Nations give high priority to environmental damages as a category of claims and to provide a special and substantial allocation of the U.N. Compensation Fund to be used for environmental damage in the Persian Gulf region. Obviously, such an allocation will not be possible until adequate revenue from Iraqi oil sales have been placed in the compensation fund, the claims have been processed, and funds allocated by the governing council.

Additionally, the resolution calls on the governments of the nations affected by Saddam's ecoterrorism to take further steps to mitigate the environmental and public health damage.

Mr. Speaker, the world was shocked at the terror that was inflicted on this environment by Saddam Hussein. We do not yet know the lasting effect this terrorism will have on the health of the people or on the environment of the region. Hopefully, the passage of this resolution will in some way help in assuring that the perpetrators of this terrorism will pay for at least some of the cleanup.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend Chairman FASCELL and our colleague from Michigan, Mr. HERTEL, for sponsoring this significant resolution. I am happy to be a cosponsor and I am particularly pleased that the Foreign Affairs Committee accommodated the interests of Mr. BROOMFIELD in this measure.

The damage to the environment of the gulf region resulting from Iraqi sabotage and ecoterrorism is reprehensible. The massive damage to the deserts, the beaches, and the waters truly requires urgent and immediate attention.

Oil still poisons many of Saudi Arabia's marshes and coral reefs—areas that are critical to marine life in the gulf. Thankfully, the oil fires in Kuwait have now been extinguished, but the fallout from the fires still coats the desert with tar and ash, and noxious lakes of oil still dot the landscape.

Of particular concern is the fact that the cleanup of the environmental problems caused by Iraq seems to be going very slowly. While the war reparations called for in the resolution may become available in the future, this does not obviate the need to respond now.

Mr. Speaker, a lead article in the Wall Street Journal of October 15, gives a good summary of the environmental catastrophe in the Persian Gulf and the slow pace of the cleanup to date. I ask that it be included in the RECORD at the end of my remarks.

What makes the environmental devastation in the gulf region particularly troubling is that it was the product of cold, deliberate calculation. The perpetrators of this destruction must not be allowed to dodge the responsibility for the damages they have done. Iraq purposely caused the damage and should pay for the cleanup. It is that simple.

Regardless of who is to blame, however, those who live in the area would be wise to take all reasonable steps to clean up the damage as soon as possible to avoid further negative effects. That is why the committee agreed to include in the resolution language Mr. BROOMFIELD proposed urging the nations affected by Iraq's ecoterrorism to continue to take steps to mitigate the environmental and public health damages caused by Iraq's unlawful acts during the War.

House Congressional Resolution 242 reinforces the already established principle that a portion of the United Nations Compensation Fund—to be financed through the sale of Iraqi oil—should ensure compensation for environmental damage. The actions called for in the resolution are in line with actions already being undertaken by the administration.

Accordingly, Mr. Speaker, I strongly urge the House to act favorably on this resolution.

LEGACY OF WAR—THE BATTLES ARE OVER, BUT GULF ENVIRONMENT STILL FIGHTS FOR ITS LIFE

(By Ken Wells)

ADAFFI BAY, Saudi Arabia—In the white-hot part of the desert day, a dozen workers struggle with rakes and shovels to rid a beach here of mounds of sea grass saturated with acrid crude oil.

Nearby, a bulldozer scrapes through a foot-thick frosting of oil that runs in a wide ribbon as far as the eye can see. In a few days, these efforts will have given a two-mile stretch of this shore, near the port town of Jubail, back to the bathers and the birds.

That's two miles down—and about 398 miles to go.

The world's biggest oil spill—six million barrels—has largely disappeared from headlines but not from Saudi Arabia's shores. Eight months after Saddam Hussein unleashed the first known major act of eco-terrorism, much of the kingdom's coastline, from the port city of Jubail north to Khafji, remains smothered by crude.

A LONG LIST

The mess is catastrophic: Whole estuaries lie dead under asphalt-like slabs of oil. And little has been done about it, beyond the efforts of a handful of United Nations' contractors armed with a small budget.

This mess isn't the only one left by the war, or the only one being largely ignored. Some Gulf regions languish in a "hellish daily living environment," says the World Wide Fund for Nature, a Geneva-based conservation group. Yet efforts to coax governments and environmental groups into a coalition to tackle the war's environmental legacy have thus far failed.

The breadth of damage is indeed staggering; some problems will take decades to overcome. Though Kuwait's coastline was spared heavy oiling, all but a few of its 180 miles remain inaccessible because of minefields and barbed-wire. Major progress has been made against the burning oil wells; some 85% have been snuffed. But even with that, tons of pollutants continue to pour into the air daily, producing oily, acid rain in regions up to 1,500 miles away.

In Iran, officials have told visiting Greenpeace scientists, coastal regions across the Gulf from Kuwait have suffered substantial crop damage from black rain. The scientists also report black snow on numerous Iranian mountain peaks, says Nicolo Barcelo, a Greenpeace spokesman.

A SPREADING BLANKET

Similar reports have also come from Pakistan, where black rains heavily damaged local wheat crops in the province of Baluchistan, according to the Pakistani press. The Worldwatch Institute, a Washington, D.C., environmental group, says it also has reliable reports of black rain or snow in Bulgaria, Turkey, the southern Soviet Union, Afghanistan and the Himalayan region of Indian Kashmir.

These areas are almost certain to be plagued by damaging acid rains as well, says Britain's Meteorological Office, a government weather arm that has done computer modeling of smoke-plume effects. Such rains, polluted with sulfur from the oil fires, have been linked to the slow destruction of forests, crops and lakes in many parts of the industrialized world.

Most scientists maintain that the smoke isn't ascending high enough to affect global climate. But some aren't so sure. Scientists at the U.S. National Oceanic and Atmospheric Administration acknowledge that at least some "spikes" of oil-fire soot have leaked into the upper stratosphere. Such spikes, because they can't be rinsed out by localized weather, could begin to affect global climate should their concentrations increase, the scientists say.

SMOG ALERT

Closer to home, both Saudi Arabia and Bahrain, directly downwind from the Kuwait plume, live under smog clouds. Khafji, less than 20 miles from the burning Burgan Field, is often smothered in an acrid pall. Some residents who can afford to have moved away; one Saudi official says the government has given serious thought to evacuating the town.

Kuwait fares little better. While the fires in the Ahmadi field near Kuwait City have been extinguished, many north and south of the nation's population hub continue to burn. This month, as seasonal wind patterns begin to shift, the smog that now bedevils

Saudi Arabia will begin to descend on Kuwait.

The gravest danger is on windless days, when stagnant conditions allow the smog—containing sulfur dioxide, carbon monoxide and nitrous oxide—to billow into population centers. The short-term health hazard of such smog is so severe that Kuwaiti officials want to create an early warning system to tell citizens to scramble indoors ahead of the smoke pall, says Ibrahim Hadi, director of Kuwait's Environmental Protection Council.

The oily fallout from the fires is also dumping vast amounts of pollutants into the Persian Gulf, the northern fishing grounds of which have already been decimated by spilled oil. These airborne pollutants are also posing a threat to Kuwait's and Saudi Arabia's water supplies, largely drawn from Gulf desalination plants. At the core of these pollutants are organic compounds that are difficult to filter out. When combined with chlorine used to disinfect water, they form compounds, known as chlorinated hydrocarbons, that are carcinogenic.

The land is also taking a beating. The Kuwaiti Environmental Action Team, a nongovernmental group, estimates that up to 75% of Kuwait's desert floor has been covered by oily fallout. Vast areas are being turned into the equivalent of parking lots as layer after thin layer of tarry precipitate hardens in the desert heat.

Still more of Kuwait's desert has been rendered uninhabitable by minefields and vastly larger tracts in Saudi Arabia and Iraq have been disrupted by the passage of soldiers and machinery that fought the war. Though some may think of deserts as empty expanses of sand, scientists say they are complex ecosystems dependent on an equilibrium achieved when scattered plant colonies anchor a thin layer of topsoil. Severely disturbed, "a lot of the desert will simply blow away," destroying wildlife habitat and sparse farmland and possibly overrunning roads and towns, says Charles Pilcher, a researcher who has studied the wildlife of the Kuwaiti desert.

Temperatures in the Kuwaiti and Saudi deserts were 10 degrees cooler than normal most of the summer, and up to 25 degrees cooler under the thickest part of the haze. Colonies of desert plants requiring strong sunlight are dying or going into premature reproductive cycles. The same is true of desert mammals and reptiles, says Dr. Pilcher.

Even swallows common to the summer fields of the West aren't immune. Scientists with Britain's International Council for Bird Preservation say recent studies of migratory bank swallows currently flapping across the Kuwaiti desert showed that 90% had been oiled. The birds, en route to winter grounds in Africa, apparently had tried to drink from one of the 200 or so oil lakes formed from the overflow from sabotaged wells, the group says. He says that 1.5 billion birds migrate across the northern Arabia flyway.

Yet except for the oil-well fires and some mine-clearing efforts, few of these problems have been addressed. Kuwait, for example, has only just started work around the edges of its oil lakes, even though much of the oil, were it removed promptly, could be recycled.

WATER TO DRINK

Saudi Arabia's response to the Gulf Oil spill has been just as lackluster. Saudi Aramco, the state-owned oil company, along with international volunteers, quickly mobilized wartime oil-spill-containment efforts to protect desalination and power plants and refineries. But Saudi Arabia has largely left its 400 miles of oil-soaked beaches for nature to deal with. It only recently put its first crew to work on a small stretch of beach near Jubail.

Projects such as the one at Adaffi Bay have been carried out by a handful of Western contractors working for the U.N.'s International Maritime Organization. Their $6 million budget is drawn from foreign contributions, says Dave Usher, an IMO official. The far smaller 1989 Exxon Valdez spill in Alaska attracted 11,000 workers and a $2.5 billion effort.

Saudi officials contend money is the problem: They estimate that the tab to rid the entire coastline of oil could run to $500 million, which they insist is a big sum for a nation still strapped by billions in war debts. They also contend that the spill, set off by an act of war, shouldn't solely be a Saudi Arabian responsibility.

The cleanup effort the country did muster during the war was narrowly directed at protecting its coastal installations. Its six desalination plants not only represent a billion-dollar-plus investment but were key to providing drinking water to the 500,000 Western troops here, says a spokesman for the country's Meteorological and Environmental Protection Administration. By ridding the Gulf of floating oil—about 1.5 million barrels were recovered, a record for any spill—Saudi Arabia also largely extinguished the threat that roaming oil posed to its coastline, the spokesman argues.

At best, Saudi scientists think that shore areas that have unusual environmental value will be tackled in the next stage of the cleanup. Other areas—huge stretches of the northern Saudi Arabian coastline subject to constant wind and wave action—will probably be left to nature. "Fortunately or unfortunately, large sections of the shore don't have very much use. Therefore nobody is complaining that they should be cleaned up," says Abdallah E. Dabbagh, director of King Fahd University's Research Institute, which is conducting spill studies.

The kingdom's failure thus far to act on its beaches has evoked dismay among the many U.S. scientists and spill experts here. They say the delay—in part, environmental apathy, in part a function of the bureaucracy—may both complicate recovery and exacerbate the harm done by previous spills, industrial pollution and land reclamation. While much of the heavily weathered surface oil on the kingdom's coast has lost its toxicity, storms and high tides are constantly loosing settled oil back into the Gulf, posing danger anew to birds and other sea life.

"The Saudis' plan was A, we protect the 'desal' plants, B, we get oil off the water, and C, we then worry about our beaches," says a U.S. government consultant here. "What we tried to tell them is that typically, you would begin to try to save your beaches at the same time you are doing these other things. The concept of delaying for months while you do studies is ludicrous."

The price of this neglect is high. Much of Saudi Arabia's once bird-rich intertidal zone is an oil wasteland. Salt marshes and tidal flats—the nursery grounds for shrimp and the very womb of the Persian Gulf food chain—sit poisoned by tar. An estimated 80% of Saudi Arabia's coastal mangrove swamps are dead or dying.

THE VALUE OF SPEED

Yet one environmental success story shows that speedy intervention on beaches can pay big dividends. When oil began smothering the shores of a chain of small, coral-ringed islands off the coast of Jubail, Saudi Arabia's National Commission for Wildlife Conservation and Development cut through red tape to allow U.N. and U.S. military crews onto the islands by March. The low-lying islands are not only surrounded by perhaps the clearest water in the Persian Gulf, but they are also the predator-free rookeries for huge colonies of terns and two species of sea turtles.

Focusing on Karan, the largest island, crews within days had scraped tons of thickening oil from the beaches and had rounded up and burned perhaps a half century of debris. By the time terns and turtles began showing up for their annual nesting season, they found a habitable environment "instead of an oily death trap," says Peter Symens, a Belgian ornithologist studying the spill.

About 65,000 chicks subsequently hatched on Karan, and as many as 40 turtles a night have been returning to the island; their fate, had the island been left covered in oil, would have been grim. Says Peter Vine, a British ecologist in the Gulf: "We're talking about turtles perhaps 50 to 70 years old—born before oil was produced in the Gulf."

Mr. HERTEL. Mr. Speaker, I am pleased that the Foreign Affairs Committee was so quick to endorse House Concurrent Resolution 242, a resolution requesting the United Nations to give priority to environmental damage assessments, cleanup, and restoration of the Persian Gulf region that has suffered so extensively from Saddam Hussein's ecoterrorism.

House Concurrent Resolution 242 is cosponsored by three of our esteemed colleagues, both the chairman and ranking minority member of the Foreign Affairs Committee, and the chairman of the Subcommittee on Human Rights and International Organizations. Each has worked diligently to solve the problems of humanitarian assistance and reparations for the victims of the Persian Gulf war.

The resolution we present to the House today urges that the Secretary General of the United Nations provide a special and substantial allocation of the United National Compensation Fund to be used for environmental damage in the Persian Gulf region. Upon sale of Iraqi oil, proceeds will flow into the fund to pay and reimburse the extensive personal suffering and property losses caused by Saddam Hussein. Hopefully, through this resolution the horrible environmental consequences of ecoterrorism will be given priority for reparations.

Preliminary estimates of the total amount of oil intentionally discharged in the Persian Gulf is over 30 times the amount spilled in Prince William Sound—some 6 to 8 million barrels versus 260,000 in Alaska. Additional hardship from the senseless sabotage of over 600 oil well fires has shocked the world.

The environmental damage in the gulf region has yet to be fully assessed. Completed environmental damage assessments serve as technical planning guidelines for cleanup and restoration—they are the most important first step to managing the environmental losses in the gulf region.

As a result of Saddam Hussein's destructiveness, the way of life for the people of the gulf region will be dramatically altered for generations to come. A full recording of damages to fisheries, grazing lands, crops, and other commercial interests has yet to be made. Public health injuries due to atmospheric, soil, and water pollution have yet to be treated.

For its part, the United States has already provided over $10 million in technical assistance through 10 Federal Government agencies with expertise in environmental rehabilitation. As of September 30, the National Oceanic and Atmospheric Administration alone spent well over $2 million, with plans to send a world-recognized scientific team and research vessel to help complete the damage assessments and launch the massive cleanup and restoration efforts necessary before the gulf war is behind us. To complete this huge task, the world scientific community must coordinate and lend both expertise and resources—quickly and efficiently—with some assurance of reimbursement.

First and foremost, we must meet the tragic humanitarian needs of the people in the Middle East who continue to suffer in the aftermath of the gulf war. We must also heal the terrible wounds borne by the environment—a most startling consequence of this particular war—whose aftermath will affect human, animal, and plant life for generations, given the shocking extent of war-related damages to air, land, and sea.

It is my hope that this resolution will demonstrate to the United Nations that the United States views the environmental consequences of ecoterrorism in the Persian Gulf with horror and resolve. Completed damage assessments, cleanup, and restoration of the gulf's ravaged environment must now be accomplished. It is now time to close the vast wounds of this horrible war and halt ecoterrorism once and for all time.

Mr. FASCELL. Mr. Speaker, as an original cosponsor of House Concurrent Resolution 242, I wish to commend the author of the resolution, the gentleman from Michigan [Mr. HERTEL] for his initiative in this area. I also wish to thank two of my subcommittee chairmen, the gentleman from Pennsylvania [Mr. YATRON] and the gentleman from Indiana [Mr. HAMILTON] for expediting their consideration of this resolution so that it might be considered today.

Mr. Speaker, the world watched the television coverage of the cowardly act of terrorism that Saddam Hussein perpetrated upon the people and the environment in the Persian Gulf region and was aghast. The Sun obscurred at high noon by the thick black smoke of the hundreds of oil well fires the oil slicks killing both fish and birds and covering beaches and important wetlands. We still do not know the total extent of the damage to both the health of the people and to the land and marine environment of the region. We do not yet know the cost of cleanup or in some cases even if a cleanup effort is feasible. As we could not let the military aggression of Saddam go unanswered we cannot allow his act of aggression against the environment to go without establishing the precedent that he will pay, at least a portion of the cost, of mitigating and restoring the damage to the environment of the region.

House Concurrent Resolution 242 urges that the United Nations set aside a special and substantial allocation from the Compensation Fund to be used for claims of environmental damage. This Compensation Fund is to receive 30 percent of the revenue derived from the sale of Iraqi oil. The resolution also urges the nations affected by this ecoterrorism to take further steps to mitigate the environmental and public health damage. I urge my colleagues to support this resolution.

□ 2320

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of Utah. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). The question is on the motion offered by the gentleman from Utah [Mr. OWENS] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 242).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

NATIONAL GEOLOGIC MAPPING ACT OF 1991

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2763) to enhance geologic mapping of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Geologic Mapping Act of 1991."

SECTION 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) during the past 2 decades, the production of geologic maps has been drastically curtailed;

(2) geologic maps are the primary data base for virtually all applied and basic earth-science investigations, including—

(A) exploration for and development of mineral, energy, and water resources;

(B) screening and characterizing sites for toxic and nuclear waste disposal;

(C) land-use evaluation and planning for environmental development, preservation and quality;

(D) earthquake hazards reduction;

(E) predicting volcanic hazards;

(F) design and construction of infrastructure requirements such as utility lifelines, transportation corridors, and surface-water impoundments;

(G) reducing losses from landslides and other ground failures;

(H) mitigating effects of coastal and stream erosion;

(I) siting of critical facilities; and

(J) basic earth-science research;

(3) Federal agencies, State and local governments, private industry, and the general public depend on the information provided by geologic maps to determine the extent of potential environmental damage before embarking on projects that could lead to preventable, costly environmental problems or litigation;

(4) the combined capabilities of State, Federal, and academic groups to provide geologic mapping are not sufficient to meet the present and future needs of the United States for national security, environmental protection, and energy self-sufficiency of the Nation;

(5) States are willing to contribute 50 percent of the funding necessary to complete the mapping of the geology within the State;

(6) the lack of proper geologic maps has led to the poor design of such structures as dams and waste-disposal facilities;

(7) geologic maps have proven indispensable in the search for needed fossil-fuel and mineral resources; and

(8) a comprehensive nationwide program of geologic mapping is required in order to systematically build the Nation's geologic-map data base at a pace that responds to increasing demand.

(b) PURPOSE.—The purpose of this Act is to expedite the production of a geologic-map data base for the Nation, to be located within the United States Geological Survey, which can be applied to land-use management, assessment, and utilization, conservation of natural resources, groundwater management, and environmental protection.

SEC. 3. DEFINITIONS.

As used in this Act;

(1) The term "advisory committee" means the advisory committee established under section 5.

(2) The term "Director" means the Director of the United States Geological Survey.

(3) The term "geological mapping program" means the National Cooperative Geological Mapping Program established by section 4(a).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "Survey" means the United States Geological Survey.

SEC. 4. GEOLOGIC MAPPING PROGRAM.

(a) ESTABLISHMENT.—There is established in the United States Geological Survey a National Cooperative Geologic Mapping Program. The geologic mapping program shall be developed in consultation with the advisory committee and shall be designed and administered to achieve the objectives set forth in subsection (c).

(b) RESPONSIBILITIES OF USGS.—(1) The Survey shall be the lead Federal agency responsible for planning, developing priorities, coordinating, and managing the geologic mapping program. In carrying out this paragraph, the Secretary, acting through the Director, shall—

(A) develop a geologic mapping program implementation plan in accordance with section 6, which plan shall be submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 210 days after the date of enactment of this Act;

(B) appoint, with the advice and consultation of the State geological surveys, the advisory committee within 90 days after the date of enactment of this Act in accordance with section 5; and

(C) promulgate regulations within 300 days after the date of enactment of this Act which describe—

(i) how the Survey will coordinate the development and implementation of the geologic mapping program;

(ii) how the Survey will establish goals, mapping priorities, and target dates for implementation of the geologic mapping program; and

(iii) how long-term staffing plans for the various components of the geologic mapping program will lead to successful implementation of the geologic mapping program.

(2) In addition to paragraph (1), the Secretary, acting through the Director, shall be responsible for developing, as soon as practicable—

(A) in cooperation with the State geological surveys, other Federal and State agencies, public and private sector organizations and academia, the geologic-map data base; and

(B) maps and mapping techniques which achieve the objectives specified in subsection (c).

(c) PROGRAM OBJECTIVES.—The objectives of the geologic mapping program shall include—

(1) determining the Nation's geologic framework through systematic development of geologic maps, to be contributed to the national geologic-map data base, at a scale of 1:100,000, with supplemental maps at scale appropriate to the geologic setting and the perceived applications;

(2) development of a complementary national geophysical-map data base, geochemical-map data base, and a geochronologic and paleontologic data base that provide value-added descriptive and interpretive information to the geologic-map data base;

(3) application of cost-effective mapping techniques that assemble, produce, translate and disseminate geologic-map information and that render such information of greater application and benefit to the public; and

(4) development of public awareness for the role and application of geologic-map information to the resolution of national issues of land use management.

(d) PROGRAM COMPONENTS.—The geologic mapping program shall include the following components:

(1) A Federal geologic mapping component, whose objective shall be determining the geologic framework of areas determined to be vital to the economic, social, or scientific welfare of the Nation. Mapping priorities shall be coordinated through the OMB Circular A–16 (Revised) Process and shall be based on—

(A) national requirements for geologic-map information in areas of multiple-issue need or areas of compelling single-issue need; and

(B) national requirements for geologic-map information in areas where mapping is required to solve critical earth-science problems.

(2) A geologic mapping support component, whose objective shall be providing interdisciplinary support for the Federal Geologic Mapping Component. Representative categories of interdisciplinary support shall include—

(A) establishment of a national geologic-map data base, established pursuant to section 7;

(B) studies that lead to the implementation of cost-effective digital methods for the acquisition, compilation, analysis, cartographic production, and dissemination of geologic-map information.

(C) paleontologic investigations that provide information critical to understanding the age and positional environment of fossil-bearing geologic-map units, which investigations shall be contributed to a national paleontologic data base;

(D) geochronologic and isotopic investigations that (i) provide radiometric age dates for geologic-map units and (ii) fingerprint the geothermometry, geobarometry, and alteration history of geologic-map units, which investigations shall be contributed to a national geochronologic data base;

(E) geophysical investigations that assist in delineating and mapping the physical characteristics and three-dimensional distribution of geologic materials and geologic structures, which investigations shall be contributed to a national geophysical-map data base; and

(F) geochemical investigations and analytical operations that characterize the major- and minor-element composition of geologic-map units, and that lead to the recognition of stable and anomalous geochemical signatures for geologic terrains, which investigations shall be contributed to a national geochemical-map data base.

(3) A State geologic mapping component, whose objective shall be determining the geologic framework of areas that the State geological surveys determine to be vital to the economic, social, or scientific welfare of individual States. Mapping priorities shall be determined by multirepresentational State panels and shall be integrated with national priorities established through the OMB Circular A–16 (Revised) process coordinated by the Survey. Federal funding for the State component shall be matched on a one-to-one basis with non-Federal funds.

(4) A geologic mapping education component, whose objective shall be—

(A) to develop the academic programs that teach earth-science students the fundamental principles of geologic mapping and field analysis; and

(B) to provide for board education in geologic mapping and field analysis through support of field teaching institutes.

Investigations conducted under the geologic mapping education component shall be integrated with the other mapping components of the geologic mapping program, and shall respond to priorities identified for those components.

SEC. 5. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Director and in consultation with the State geological surveys, shall appoint a 16-member advisory committee to advise the Director on planning and implementation of the geologic mapping program. The advisory committee shall consist of 4 representatives from the Survey (including the Chief Geologist, as Chairman), 4 representatives from the State geological surveys, 3 representatives from academia, 4 representatives from the private sector and a representative of the President's Office of Science and Technology.

(b) DUTIES.—The advisory committee shall—

(1) review and critique the draft implementation plan prepared by the Director pursuant to section 6;

(2) review the scientific progress of the geologic mapping program; and

(3) submit an annual report to the Secretary that evaluates the progress of the Federal and State mapping activities and evaluates the progress made toward fulfilling the purposes of this Act.

SEC. 6. GEOLOGIC MAPPING PROGRAM IMPLEMENTATION PLAN.

The Secretary, acting through the Director, shall, with the advice and review of the advisory committee, prepare an implementation plan for the geologic mapping program. The plan shall identify the overall management structure and operation of the geologic mapping program and shall provide for—

(1) the role of the Survey in its capacity as overall management lead, including the responsibility for developing the national geologic mapping program that meets Federal needs while simultaneously fostering State needs;

(2) the responsibilities accruing to the State geological surveys, with particular emphasis on mechanisms that incorporate their needs, missions, capabilities, and requirements into the nationwide geologic mapping program;

(3) mechanisms for identifying short- and long-term priorities consistent with OMB Circular A–16 (Revised) for each component of the geologic mapping program, including—

(A) for the Federal geologic mapping component, a priority-setting mechanism that responds both to (i) Federal mission requirements for geologic-map information, and (ii) critical scientific problems that require geologic-map control for their resolution;

(B) for the geologic mapping support component, a strong interdisciplinary research program plan in isotopic and paleontologic geochronology, geophysical mapping, and process studies to provide data to and interpret results from geologic mapping;

(C) for the State geologic mapping component, a priority-setting mechanism that responds to (i) specific intrastate needs for geologic-map information, and (ii) interstate needs shared by adjacent entities that have common requirements; and

(D) for the geologic mapping education component a priority-setting mechanism that responds to requirements for geologic-map information that are driven by Federal and State mission requirements;

(4) a description of the degree to which geologic mapping activities traditionally funded by the Survey, including the use of commercially available aerial photography, geodesy, professional land surveying, photogrammetric mapping, cartography, photographic processing, and related services, can be contracted to professional private mapping firms;

(5) a mechanism for adopting scientific and technical map standards for preparing and publishing general-purpose and special-purpose geologic maps to (A) assure uniformity of cartographic and scientific conventions, and (B) provide a basis for judgment as to the comparability and quality of map products; and

(6) a mechanism for monitoring the inventory of published and current mapping investigations nationwide in order to facilitate planning and information exchange and to avoid redundancy.

SEC. 7. NATIONAL GEOLOGIC-MAP DATA BASE.

(a) ESTABLISHMENT.—The Survey shall establish a national geologic-map data base. Such data base shall be a national archive that includes all maps developed pursuant to this Act, the data bases developed pursuant to the investigations under sections (4)(d)(2)(C), (D), (E), and (F), and other maps and data as the Survey deems appropriate.

(b) STANDARDIZATION.—Geologic maps contributed to the national archives should have standardized format, symbols, and technical attributes so that archival information can be assimilated, manipulated, accessed, exchanged, and compared efficiently and accurately.

SEC. 8. ANNUAL REPORT.

The Secretary shall, within 90 days after the end of each fiscal year, submit an annual report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate describing the status of the nationwide geologic mapping program, and describing and evaluating progress achieved during the preceding fiscal year in developing the national geologic-map data base. Each report shall include any recommendations for legislative or other action as the Secretary deems necessary and appropriate to fulfill the purposes of this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act the following:

(1) For Federal mapping activities under this Act, $11,500,000 for fiscal year *1993*, $14,000,000 for fiscal year *1994*, $16,000,000 for fiscal year *1995*, and $18,000,000 for fiscal year *1996*.

(2) For Federal support activities under this Act, $9,500,000 for fiscal year *1993*, $10,000,000 for fiscal year *1994*, $10,500,000, for fiscal year *1995*, and $11,000,000 for fiscal year *1996*.

(3) For State mapping activities under this Act, $15,000,000 for fiscal year *1993*, $18,000,000 for fiscal year *1994*, $21,000,000 for fiscal year *1995*, and $25,000,000 for fiscal year *1996*.

(4) For educational support activities under this Act, $500,000 for fiscal year *1993*, $750,000 for fiscal year *1994*, $1,000,000 for fiscal year *1995*, and $1,500,000 for fiscal year *1996*.

SEC. 10. UNITED STATES GEOLOGICAL SURVEY AND UNITED STATES BUREAU OF MINES.

(a) UNITED STATES GEOLOGICAL SURVEY.—The Geological Survey established by the Act of March 3, 1879 (43 U.S.C. 31(a)), is designated as and shall hereafter be known as the United States Geological Survey.

(b) UNITED STATES BUREAU OF MINES.—The Bureau of Mines established by the Act of May 16, 1910 (30 U.S.C. 1), is designated as and shall hereafter be known as the United States Bureau of Mines.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks in the RECORD on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the National Geologic Mapping Act of 1991 is necessary in order to expedite and enhance the level of geologic mapping taking place in the United States.

As it stands today, less than 20 percent of the United States has been geologically mapped at a scale that provides an up-close, detailed view of a particular area. Even though the Geological Survey, the agency that is charged with mapping the geology of our country, was created 112 years ago, we are still in the dark ages when it comes to the availability of large-scale geologic maps.

As a result, critical geologic information is often left out of local, State and National policy decisions that affect the environment, our energy options, and even our health and safety.

Geologic maps are invaluable tools. They provide essential information on the assessment of mineral, energy, and water resources; locating potential sites for the safe disposal of hazardous and nonhazardous waste; land-use planning; earthquake-hazard reduction; predicting volcanic hazards; reducing losses from landslides and other ground failures and mitigating effects of coastal and stream erosion.

Despite the importance of geologic maps to the Nation, however, the level of large-scale geologic mapping conducted by the survey does not meet the demands for geologic maps on the State and local levels. The National Geologic Mapping Act of 1991 would remedy this situation.

H.R. 2763 would establish a National Cooperative Geologic Mapping Program within the Department of the Interior's Geological Survey. This program would be comprised of a geologic mapping component, a Federal-State cooperative geologic mapping component, a support map component and an education component.

Each component would provide for enhanced geologic mapping based on the needs of society. In addition, each of these components would be funded at a level considered suitable in meeting the goal of the legislation.

One additional purpose of the legislation is to provide a framework from which the survey can launch the National Cooperative Geologic Mapping Program. The legislation would require that an advisory committee be formed that includes representatives from academia, State geological surveys and the private sector so that the program is based on well thought out ideas from those who not only have the experience in geologic mapping, but who are the users of these maps

All of the maps from the program will be included in a geologic-map data base that will be a national archive for local, State, national, and private use.

That concludes my explanation of the pending matter.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to join with the subcommittee chairman, in supporting H.R. 2763—the National Geologic Mapping Act of 1991. I am proud to be an original cosponsor of this bill, and I note that 42 Members are now signed on.

Briefly, this bill would address the concerns of the National Academy of Sciences as to the inadequacy of basic geologic mapping efforts in this country. In 1988 the Academy reported this need to Congress. Implementation of the expanded mapping program authorized in H.R. 2763 would allow the States to participate in this effort to a far greater degree than they are currently able.

Mr. Speaker, I believe it is in the National interest to expedite detailed mapping of the foundation of our country—its geological make-up. With information gained from such mapping, Federal, State, and local government officials will have the knowledge necessary to make better decisions regarding mineral resource potential, earthquake and other natural hazards prediction, the stability of bridge and dam sites, and other natural resource dependent questions.

Mr. Speaker, the U.S. Geological Survey is a fine organization in which I have great faith. It's scientific acumen is unchallenged. But, the U.S. Geological Survey can never get this job done alone, certainly not with the urgency recommended by the National Academy of Sciences. H.R. 2763 would direct the U.S. Geological Survey to increase its cooperative program with the various State geological surveys so that the job can be completed.

I'm sure that every Member in this body has an example of loss to his or her constituents that arose because we simply didn't know enough about natural hazards or resources that could be predicted if the proper information were available.

Mr. Speaker, I urge my colleagues to support the National Geologic Mapping Act so that we can reduce the chance of such loss in the future.

Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 2763, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CAVE CREEK CANYON PROTECTION ACT OF 1991

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2790) to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cave Creek Canyon Protection Act of 1991".

SEC. 2. WITHDRAWAL OF LANDS WITHIN CAVE CREEK CANYON DRAINAGE.

(a) WITHDRAWAL.—(1) Subject to valid existing rights, after the date of enactment of this Act lands within the Cave Creek Canyon Drainage are withdrawn from location under the general mining laws, the operation of the mineral and geothermal leasing laws and the mineral material disposal laws.

(2) As used in this subsection, the term 'valid existing rights' in reference to the general mining laws means that a mining claim located on lands within the Cave Creek Canyon Drainage was properly located and maintained under the general mining laws prior to the date of enactment of this Act, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

(b) LIMITATION ON PATENT ISSUANCE.—(1) After the date of enactment of this Act no patent shall be issued by the United States for any mining claim located under the general mining laws within the Cave Creek Canyon Drainage unless the Secretary of the Interior determines that, for the claim concerned—

(A) a patent application was filed with the Secretary on or before the date of enactment of this Act; and

(B) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims were fully complied with by that date.

If the Secretary makes the determinations referred to in subparagraphs (A) and (B) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) MILL SITES.—After the date of enactment of this Act no patent shall be issued by the United States for any mill site located under the general mining laws within the Cave Creek Canyon Drainage unless the Secretary of the Interior determines that, for the mill site concerned—

(A) a patent application was filed with the Secretary on or before the date of enactment of this Act; and

(B) all requirements applicable to such patent application were fully complied with by that date.

If the Secretary makes the determinations referred to in subparagraphs (A) and (B) for any mill site, the holder of the mill site shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(c) VALIDITY REVIEW.—The Secretary of the Interior shall undertake an expedited program to determine the validity of all unpatented mining claims located within the Cave Creek Canyon Drainage. The expedited program shall include an examination of all unpatented mining claims, including those for which a patent application or a plan of operations have not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void.

(d) DEFINITION.—For the purposes of this Act, the term "Cave Creek Canyon Drainage" means lands and interest in lands owned by the United States within the area depicted on the map of record entitled "Cave Creek Mineral Withdrawal", dated November 1, 1991. The map shall be on file and available for public inspection in the offices of the Forest Service, Department of Agriculture.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2790, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Cave Creek Canyon Protection Act of 1991 was introduced by the gentleman from Arizona, Representative JIM KOLBE, and would permanently withdraw this area from mining activities. I would like to commend my colleague on the other side of the aisle for introducing this legislation.

Cave Creek Canyon is located in southeastern Arizona in the Coronado National Forest. It holds a unique place in the hearts of many who have visited Cave Creek Canyon because it is home to hundreds of rare and endangered species of plants and animals.

Furthermore, Cave Creek is one of the few permanent streams that flow year-round in southeastern Arizona. Many varieties of plants and animals are dependent on the unusual ecosystem of Cave Creek Canyon and, as such, any threat to Cave Creek Canyon is a direct threat to the survival of these species.

The threat to the outstanding resources in Cave Creek Canyon is real. Last year, Newmont Mining Corp. conducted surface exploration in the area and submitted a mining plan to the Forest Service. This mining plan was subsequently approved and would have resulted in additional and more disturbing exploration activities.

Finding itself in the middle of a national and international environmental controversy, Newmont volunteered to hold off on exploration for a year. Newmont eventually withdrew its plans after hearing about a Forest Service plan to study Cave Creek Canyon and several other areas as possible inclusion in a national recreation area.

The good will of Newmont does not guarantee that Cave Creek Canyon will be permanently protected against mining. It is possible that after the 2-year study, the Forest Service will not recommend all 95,000 areas for national recreation area status. Or, even if the Forest Service does recommend a portion of this area for national recreation area status, there is no guarantee that Cave Creek Canyon would be included.

Finally, any national recreation area proposal is subject to approval by Congress. Again, there is no guarantee that Congress would approve this recommendation.

There is only one way to ensure that Cave Creek Canyon is permanently protected and that is for Congress to withdraw it, subject to valid existing rights, from the location under the general mining laws, and from the operation of the mineral and geothermal leasing laws and the mineral material disposal laws. The Cave Creek Canyon Protection Act of 1991 accomplishes this goal.

That concludes my explanation of the pending matter.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with the subcommittee chairman in urging the adoption of H.R. 2790. This bill would withdraw from the operation of the mining and mineral leasing acts approximately 13,000 acres of public land managed by the U.S. Forest Service in southeastern Arizona.

Mr. Speaker, I believe there is no stronger advocate for the retention of the mining law of 1872, as amended, in this body. Despite the assault on public opinion being made through the popular press today, my constituents and I believe the mining law is working well and does not need major revision.

Mr. Speaker, I say this recognizing that some may view this bill as an example of why generic reform is needed. On the contrary, I view this bill as an example of the proper way to foreclose incompatible public land mineral development.

Under current law, Federal land managers are charged with ensuring compliance with environmental requirements under the Clean Air, Clean Water, Threatened and Endangered Species Act, and other environmental statutes. If a proposed operation under the mining law does not satisfy these requirements, it will be denied. But, if such a proposal would not cause impacts exceeding the thresholds of law, the Federal Government cannot "just say no."

This is true at Cave Creek Canyon. No one has seriously suggested that the proposed drilling program that prompted this bill would violate Federal law. However, this area is a unique treasure of biological diversity. The American Museum of Natural History recognized this several decades ago and established a field station there.

Mr. Speaker, I agree with the many people from around the country and the world, who support special protection for Cave Creek Canyon. I note, also, that the Member who represents the subject area is seeking this withdrawal. We should give great weight to his judgment on this issue.

With that I urge my colleagues' support of H.R. 2790.

Mr. Speaker, I yield to the distinguished gentleman from Arizona [Mr. KOLBE], the original cosponsor of the bill.

Mr. KOLBE. Mr. Speaker, I rise in strong support of H.R. 2790, the Cave Creek Canyon Protection Act. This bill would protect from mineral activity designated Federal lands in southeastern Arizona. I grew up in this part of Arizona, and for years have enjoyed the spectacular beauty of the Chiricahua Mountains, particularly this area around Portal on the north slope of the range. Even so, Cave Creek and Portal have been, until now, one of the best kept secrets among the many natural wonders in this country. I invite my colleagues to visit Cave Creek. It is not easy to get to, but once you do, I suspect your reaction will be similar to mine and others before me: "This place really is magnificent."

What makes this area special? Simply put, Cave Creek Canyon is unparalleled in its diversity of species and plant life, its value to scientific researchers and recreational users, and its breathtaking beauty.

Although a complete description of the special values found in Cave Creek would take most of the day, I would like to take a few minutes to give my colleagues a sample.

Let me begin with its biodiversity. Cave Creek is home to endangered species such as the peregrine falcon, the desert tortoise, and the sanborn long-nosed bat. Javelina, jaguar, and jaguarundi are known to frequent the area. Birds of all stripes and color also call Cave Creek home.

There are 13 species of hummingbirds and 12 species of owls, alone. That is more variety of hummingbirds than found anyplace else in the United States. The 50 trogons that use the canyon for breeding comprise half the U.S. population of this colorful tropic species. Thick-billed parrots, not found any place else in the United States are flourishing in the friendly confines of the canyon. Over 330 species of birds have been recorded in the area. This area is considered by many to be the single best birding spot in the country.

But we do not have to look to the sky over Cave Creek to find unusual, astonishing animal species. There are the exotic chiricahua leopard frogs, the green rat snakes, the yaacqui black-headed snakes, and the blue-throated hummingbirds that occupy the canyon * * * and on and on. Studying the area's plant and animal life is like looking in a Who's Who of rare and exotic species.

There is more to the canyon than rare and exotic plants and animals. The scientific value of the region is immeasurable, resulting in almost 1,000 disparate scientific publications, many outlining new discoveries in ecology, toxicology, and evolutionary biology. For example, research on scorpion venom is being conducted at Cave Creek to determine its possible use in treating human neurological diseases. The presence of the Southwestern Research Station of the American Museum of Natural History has played a significant role in much of this research. It is not a stretch to say that this region has produced more scientific discovery and achievement than any other area in the world of comparable size.

The scenic values are also spectacular. Perhaps A.B. Gray summed up the beauty of the canyon in 1854 when he wrote in this journal:

> The view of this canon[sic] in the morning, with the sunlight reflected from its deep recesses, and upright wall rising majestically on all sides to a height of several thousand feet, tapering like spires amid the clouds, presented a scene of grandeur and beauty.

This land is truly magnificent. But a lot of other public lands fit this description as well. That does not mean beautiful scenery should automatically preclude other, productive uses of land. That is why I support multiple use of public lands. I believe that mining, grazing, recreation, among others, are valuable and legitimate uses for public lands. However, we should recognize there are some lands so unique and so special that mining activity, with its physical scarring and ecological disruption, would be inappropriate. Cave Creek is such an area.

The impetus for H.R. 2790 stems from Forest Service approval of a plan of operations for exploratory drilling in the Cave Creek area. The plan was approved November 23, 1990, and subsequently appealed on January 7, 1991, by the Portal Mining Action Coalition. On December 21, 1990, before the appeal, Newmont decided to defer mineral activity for 1 year in order to allow interested parties to seek a withdrawal from mining activities of the area.

At the request of local residents and others in southeastern Arizona, as well as hundreds of people from around the country, I introduced H.R. 2790 last June to accomplish a legislative withdrawal of the Cave Creek area. The bill is the product of extensive discussions with the various interested parties and would prevent only mining activity in the area.

Other uses would be unaffected.

Following the introduction of this bill, the Forest Service announced its own administrative withdrawal of Cave Creek for 2 years to allow consideration of its proposal to establish a national recreation area in the Coronado National Forest. Its proposal includes the area proposed for withdrawal in H.R. 2790. Subsequent to that announcement, Newmont withdrew its request for exploratory drilling operations in the area.

Despite Forest Service withdrawal and Newmont's decision, this legislation is still necessary. For one thing, the administrative withdrawal is only temporary. After 2 years—or any time during that period—the land could lose its protected status and be reopened to mineral exploration. Moreover, the Forest Service could choose not to pursue their national recreation bill or not include the area in question in this bill. Third, national recreation legislation could fail or not contain the necessary withdrawal provision upon passage. Finally, passage of the Forest Service proposal may take longer to achieve than the 2-year segregation period. Accordingly, the only way to assure permanent protection for Cave Creek Canyon is through H.R. 2790.

This bill has traversed the legislative labrynth of the House relatively quickly. More than anything, I think this is a reflection of the merits of this bill. But it would not have been possible without the leadership, and support of the distinguished chairman of the Mining and Natural Resources Subcommittee, Mr. RAHALL. Similarly, I would like to thank the distinguished ranking member of the subcommittee, BARBARA VUCANOVICH, and my colleague from Arizona, JAY RHODES, for their guidance and support.

But most of the credit for this legislation goes to those public citizens who came together at the grassroots level to raise their voices in support of protection for Cave Creek Canyon. I commend the many people from around the country and southern Arizona, including the Portal Mining Action Coalition and the Friends of Cave Creek, for their efforts. Your voices are heard—we know how special this land is to you. And you have made the rest of us aware of its special nature as well. A similar salute goes to the Newmont Mining Co. for its environmental sensitivity.

Mr. Speaker, if you believe in protecting unique and spectacular areas, this bill is for you. I ask for your support so that this national treasure can be preserved for future generations.

Mrs. VUCANOVICH. Mr. Speaker, I would like to urge my colleagues to support H.R. 2790, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOCHBRUECKNER). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 2790, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed. A motion to reconsider was laid on the table.

A TRIBUTE TO JOHN A. PALUMBO III

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to my friend John A. Palumbo III, who died yesterday in Lexington, KY, at age 16.

The untimely and tragic death of this popular Lexington teenager was a shock to his family and his many friends.

Officials at Lexington's Sayre School, where Johnny was a junior, had counselors on hand to help students and faculty deal with the death yesterday, Sayre headmaster Clayton Chambliss said.

"Sayre is very small and very family and community oriented, and he had been with us since kindergarten," Chambliss added.

At Sayre, Johnny had lettered in soccer and basketball and was a member of the Spanish Club. Active at Lexington's historic Calvary Baptist Church, he had been involved in a church youth group, and had been a youth leader on mission trips, and a member of a church basketball team. He also had been a member of the Lexington County Club swim team.

Johnny Palumbo and 18 other Sayre School Students visited Washington, DC, November 5.

I spoke by telephone with my friend Johnny Palumbo on November 11, to express my regrets that I missed him and his classmates during their recent visit.

John A. Palumbo III is survived by outstanding parents. His mother is Kentucky State Representative Ruth Ann Palumbo, a popular Lexington legislator who represents Kentucky's 76th House District. Johnny's father, John A. Palumbo II, is a successful and well-known Lexington businessman.

My late father, Dr. Carroll Hubbard, Sr., and I attended the elegant wedding of Ruth Ann Baker and John A. Palumbo II at Calvary Baptist Church on June 29, 1974.

Other survivors are Johnny's three younger brothers—Joseph Edward Palumbo, James Thomas Palumbo, and Stephen Baker Palumbo; his maternal grandparents, James K. and Dorothy C. Baker; and his paternal grandparents, John A. and Nancyetta S. Palumbo, all of Lexington.

The funeral will be at 11 a.m. tomorrow at Calvary Baptist Church.

My wife Carol and I extend to John and Ruth Ann Palumbo and other members of Johnny's family our sympathy.

REPRESENTATIVE BENNETT PRESENTED VICTORY AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I rise to pay tribute today to our colleague, Representative CHARLIE BENNETT of Florida, who was one of seven Americans honored this week as 1991 recipients of the Victory Award.

Now in its sixth year, the Victory Awards are presented to individuals who best exhibit exceptional strength and courage in the face of adversity. They are sponsored by the National Rehabilitation Hospital. The men and women who have been cited for this honor over the years have overcome adversity to succeed in the fields of arts and entertainment, sports, and politics. Their stories should be an inspiration to all of us.

This year's recipients include California Angels pitcher Jim Abbott, actor Billy Barty, Army Maj. Rhonda Cornum, comedian Norm Crosby, actress Sandy Duncan, singer Gloria Estefan, and CHARLIE BENNETT.

Credit should go to Victory Award Gala chairman, Walter Ganzi, Jr., and cochairs Edward Eckenhoff, James Mullins, Donald Phillips, and Linda Mallinger. I also want to mention the work of Doro LeBlond on the Victory Awards Program. She served this year as coordinator of special audiences.

I know everyone in this House joins with me in saluting all of these award winners and especially our friend and colleague, CHARLIE BENNETT.

DENIAL OF TAX BREAKS FOR DRUGMAKERS WHO INFLATE PRICES TOO MUCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the cost of prescription drugs regularly increases two to three times faster than the rest of the economy. The Bureau of Labor Statistics reports that drug prices rose 10.2 percent in the 12 months ending in August—nearly triple the 3.8 percent increase in the CPI during that period. To add insult to this injury, according to a 1991 Department of Health and Human Services Office of Inspector General report, the average American pays 62 percent more for prescription drugs than the average Canadian and 54 percent more than the average European.

I would like to note here, Mr. Speaker, the single exception of Merck & Co., whose CEO, Dr. P. Roy Vagelos, has pledged to hold price increases below the annual growth rate in consumer prices. They are the outstanding bright spot in the otherwise dismal picture of greed that marks this industry.

The drug companies like to claim that prices increase so much because of the heavy costs of research. Baloney. Their sales force costs and administrative costs regularly increase more than their R&D budgets. The Pharmaceutical Manufacturers Association's recent annual survey report noted that in 1989, its member firms increased the number of personnel involved in marketing-related activities 3,933 to 55,000—an increase of 7.7 percent. In the same time, PMA firms added 2,100 employees in Medical research and development for a total of 43,260—a 5 percent increase. So much for research as the driving force behind their outrageous inflation.

The industry is consistently the most profitable in our entire society. During the current recession, the drugmakers continue to make record profits. I've included an article from the Wall Street Journal of October 18, 1991, describing their latest quarterly profits.

Senator PRYOR, chairman of the Senate Aging Committee, recently released data on the industry that showed:

> At a time when Americans are scrimping and saving to afford their medications, the drug industry's annual average 15.5 percent profit margin more than triples the 4.6 percent profit margin of the average Fortune 500 company.

Never have so few made such gross amounts of money from so many sick people.

Despite their outrageous price increases and consistent high profit levels, this industry constantly seeks tax breaks. At the present time, they are lobbying for a continuation of the R&D tax credit which is scheduled to expire at the end of the year. Not only does the industry gouge the consumer directly, but they like to feed, no questions asked, at the backdoor of the Treasury.

Therefore, I am introducing legislation to deny R&D tax credits to any pharmaceutical company whose new products increase in price more than 2 percent above the consumer price index. The bill also denies R&D tax credits for the expenses associated with developing a me-too or copycat drug that does not add a new medicine to the market. We should not reward inflators with tax breaks.

For the sake of the taxpayer and the consumer, we should use tax policy to encourage price stability in the industry.

[From the Wall Street Journal]

BRISTOL-MYERS, PFIZER POST RECORD NET, SCHERING, LILLY TWO-DIGIT PROFIT RISES

(By Suein L. Hwang)

NEW YORK.—Four health care companies reported robust double-digit third quarter earnings gains despite the slightly negative effects from foreign currency adjustments.

Bristol-Myers Squibb Co. earnings rose 14%, Pfizer Inc., 13%, Schering-Plough Corp., 11%, and Eli Lilly & Co. rose 16%.

BRISTOL-MYERS SQUIBB CO.

The New York drug and consumer products company reported record earnings; profit growth outstripped sales gains by a significant margin. Sales rose a more modest 5% to $2.76 billion. The company noted that excluding the sales of divested businesses and the effect of foreign exchange, sales growth was 8% for the quarter and 9% for the nine months. Exchange rate fluctuations had a slightly negative effect on sales of about 2% for the quarter and no effect for the nine months.

For the first nine months, Bristol-Myers sales rose 9% to $8.22 billion from $7.56 billion. On the New York Stock Exchange, Bristol-Myers shares closed at $82.125 a share, down $1.375 a share.

PFIZER INC.

Fueled primarily by sales growth in the health care products segment, which was led by a number of new drugs, the New York company reported record earnings.

Net sales for the quarter rose 8% to $1.77 billion from $1.64 billion. Previous year's results were restated to reflect a 1991 two-for-one stock split.

Sales growth was dominated by the health care segment, which rose 16% compared to a 2% increase in consumer products and a 1% gain in the animal health division. Within the health care segment, pharmaceuticals sales increased 17% and hospital products sales rose 13%. Sales of specialty chemicals and minerals continue to be slow, declining 5%, excluding the company's divested citric acid business.

"Third quarter results reflected the success of our new pharmaceutical products and increased profitability in our consumer products business," said William C. Steere, Jr., president and chief executive officer. He noted that Pfizer's new pharmaceutical products accounted for 49% of total drug sales, up from 33% the year before. In particular, sales of cardiovascular drug Procardia XL and antifungal Diflucan jumped 84% and 55% respectively.

The company said three "significant" new drugs have been favorably reviewed by the Food and Drug Administration advisory committees: Zithromax, an antibiotic; Norvasc, a high blood pressure and angina treatment; and Zoloft, a depression treatment expected to compete with Eli Lilly & Co.'s big seller Prozac. It also noted that Advocin, an antibacterial for cattle, swine and poultry, is doing "very well" in early launch markets.

SCHERING-PLOUGH CORP.

Schering-Plough Corp. attributed the 11% gain in third-quarter earnings to strong performances in its health care products segment.

Sales rose 12% to $887.8 million from $793.8 million. Excluding the impact of foreign currency exchange, third quarter sales would have risen 14%.

"Schering-Plough's continuing solid performance is the result of an outstanding mix of pharmaceutical and consumer products, both in-line and newer offerings," said Robert P. Luciano, chairman and chief executive officer. Third-quarter sales gains were led by the world-wide pharmaceutical business, which posted a 10% increase. Third-quarter sales for HealthCare Products was up to 18% compared with 1990.

The company cited U.S. drug sales growth to the Proventil and Vancenase lines of asthma drugs; Eulexin, a prostate cancer therapy; and K-Dur, a potassium supplement. Higher international sales was led by Claritin, an antihistamine and Losec, an ulcer treatment.

Mr. Luciano said he expects continued growth in the fourth quarter and reiterated his projection that full year earnings per share should increase between 18% and 20%.

ELI LILLY & CO.

The Indianapolis pharmaceutical giant said sales rose 5% to $1.34 billion, reflecting sales growth in the company's three major divisions.

World-wide sales of such pharmaceutical products as Axid, Lilly's anti-ulcer drug; cardiovascular product Dobutrex; and its Humatrope growth hormone, continued to be strong contributors. Lilly also cited improved sales of Prozac, the anti-depressant drug that has been recently the subject of controversy.

Additionally, the company said that its medical devices and diagnostics division continued to show sales growth, led by the division's Cardiac Pacemakers Inc., Devices for Vascular Coronary AtheroCath, and Hybritech Inc. Lilly also said sales in its animal health products division was "balanced across the product line."

Lilly said manufacturing costs and operating expenses increased at a slower rate than sales growth, resulting in a 12% gain in operating income. The company's third-quarter net income of $1.01 fell on the low end of analyst expectations for $1.10 to $1.09 a share, according to Zachs Investment Research Inc.

THE FUTURE OF OUR ANCIENT FORESTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 60 minutes.

Mr. JONTZ. Mr. Speaker, the hour is late, but I rise this evening to speak for at least a few minutes on a subject of concern to millions of Americans in this country, and that is the future of our ancient forests, particularly these ancient forests in the Pacific Northwest.

Mr. Speaker, I am honored to be the author of the Ancient Forest Protection Act and to be joined by 120 cosponsors, Members of this House, who share the concern that we have about seeing that these forests are left for the benefit and well-being of the future generations as well as our own.

I was to have been joined this evening by several of our colleagues to speak in this special order about the need to protect our ancient forests, but the hour being late, they were unable to attend.

Mr. Speaker, two of my colleagues who would have joined me this evening are the gentleman from Minnesota [Mr. VENTO], chairman of our Subcommittee on National Parks and Public Lands in the House Committee on Interior and Insular Affairs, one of the subcommittees with jurisdiction over this issue, and the gentleman from Minnesota [Mr. VENTO] is the author of another bill that would seek to protect our ancient forests. He has given this subject a great deal of attention and has some very thoughtful statements to make on the subject.

Also the gentleman from Minnesota [Mr. SIKORSKI] has taken a special interest in the personnel in the agencies of the Federal Government who are responsible for the management of these forests, some of the problems they have faced because of political pressures that have come from Washington.

Mr. Speaker, let me make several points about the great ancient forests of our country. First of all, these forests are extraordinarily valuable to the American people. These forests of course produce timber, which is part of the reason that we have a controversy over protecting the forests. But there are many other values in these forests as well.

Mr. Speaker, they protect watersheds, insuring quality water for the use of people in the cities and communities in the Pacific Northwest. They provide wildlife habitat for a wide range of species. They provide a number of scientific benefits to all of the people of our country.

We have only recently become aware of the extent to which these great forests protect us from global warming by serving as sinks for carbon. They also serve very valuable purposes as conservators of biological diversity, which is to say the diversity of life at the genetic, the species, and community levels.

We may think of scientific values like biological diversity as being extraneous, but in fact they have very important economic significance.

We could see in centuries to come changes in climate in North America. We may need the genetic resources which now exist in these ancient forests in order to be able to maintain in other locations a viable forestry.

So these forests serve a variety of environmental, recreational, social, and economic values that are extraordinarily important to all the people of our country.

Many people would say these forests also serve an important spiritual value. To go into one of these forests is to be reminded of the beauty of God's creation, to be reminded that these living trees have been in place there for hundreds of years, a living link, if you will, to the Middle Ages on our planet.

So there are many, many ways that all the people of this country benefit from the ancient forests in the Pacific Northwest. At the same time that these forests are extremely valuable, and I would say are becoming more valuable every day, the ancient forests of our country are also threatened. Nationwide of course most of the forests of our country have been cut. Only 5 percent of the native forests of the United States from coast to coast remain.

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Mr. Speaker, in the Pacific Northwest less than 15 percent of the forests are uncut. At one time there were some 30 million acres of ancient forests which stretched up the coast through California into Oregon and Washington State, and then further north into Canada. Most of those have been cut, less than 15 percent remain, and almost all of what is left today that is true ancient forest is owned by us as the U.S. citizens and taxpayers of this country. It is Federal land under the ownership and management of the U.S. Forest Service or, in some cases, under the Bureau of Land Management.

Many people in this country I think believe mistakenly that, when a forest is a national forest, that it is safe, that it is not subject to being cut, but that is not true. In fact, we are cutting these great ancient forests of the Pacific Northwest at a rate faster than the Brazilian rain forest is being cut. Most Americans are aware of the destruction of the rain forests in Central America and South America, but they may not be aware that the forests of our own country, the rain forests in the Pacific Northwest, are being cut at a faster rate.

So, we have reason to be concerned about the future of these forests. If the cutting of our forests continues at the same rate that it has during the 1980's, within a decade or two the ability of these forests to function as viable ecological systems will be gone, and we will see the benefits of these forests go forever as well.

One point that I would like to make in this regard is that we do have wilderness areas and national parks in our country in the Pacific Northwest region, but by themselves these areas do not provide adequate protection for our ancient forests. Less than 1 million acres of ancient forests are currently protected under national parks or wilderness areas. This is because these areas were usually set aside, not for their specific ecological function, but rather because the areas are scenic, or have recreational value, or are remote. Many wilderness areas are high elevation, rock and ice, and in fact were designated as wilderness because they do not have merchantable timber.

So, we do have areas in wilderness, we do have areas that are in national parks, and there are some ancient forests on these very valuable wilderness areas in national parks, but these areas were not set aside based on our current understanding of how forests function as ecological systems, and they do not by themselves provide us very much assurance that the ancient forests will continue for the benefit of future generations.

Mr. Speaker, scientists believe that much of the 3 million acres of ancient forests that remain outside of existing parks and wilderness must be protected if we are to sustain these forests for the benefit of future generations, and that is why we see legislation introduced in the Congress to provide for the long-term protection of these forests.

The Ancient Forest Protection Act, which I introduced, is different from existing laws that we have because it is an ecosystem-based law. We have a lot of very important environmental laws in this country. We have the Wilderness Act. We have the Endangered Species Act, we have the National Forests Management Act. These are very important and very necessary laws. But none of them really provides for the protection of forests as ecosystems.

Mr. Speaker, the Ancient Forests Protection Act for the first time would require that the Federal Government manage these very valuable forests in the Pacific Northwest, these unique and irreplaceable forests, so that they can be sustained over long periods of time as viable ecological systems.

The important fact which must be understood is that our scientific knowledge about forests has grown very rapidly in the last decade or two. There are many scientists who are working for our Government agencies like the Forest Service that have brought about a new understanding of how forests function in an ecological sense. We used to think that the dead trees in the forests were waste. We used to believe that we ought to be taking out the downed logs and cutting the snags because they were not valuable. Well, research done in our forests indicates that these downed logs and these snags are a critical part of the health of the forest, and they are a part of the biological legacy which makes it possible for the forests to sustain themselves over hundreds and thousands of years, and, unfortunately, our laws today do not reflect our current scientific understanding of forests.

So, it is not that the Endangered Species Act, or the National Forest Management Act, or the Wilderness Act are bad laws. They are very good laws, but they do not go far enough. That is why we need an ecosystem-based law to insure that above all else these forests can sustain themselves over time and be of benefit to those who come after us, as well as our current generation.

At the same time it is important that I emphasize that the existing management of our national forests, the existing management plans that each national forest has, do not adequately protect the old-growth forests and the various species of wildlife which depend on them.

During the last few months a study was done for our House Committee on Agriculture and the House Committee on Merchant Marine and Fisheries under the direction of some very well-known scientists, Dr. Jerry Franklin and Dr. Jack Ward Thomas being two who have a long and distinguished record of service to our Federal Government. The study which they did, in my opinion, shows very clearly that management of our national forests in Oregon, Washington, and northern California under the existing forest plans will not provide any reasonable level of assurance that these old-growth forests and the wildlife species which depend on them can be sustained. This study makes clear in my opinion the necessity of action by the Congress if our ancient forests and the various wildlife species which are dependent on them are to be protected.

We look at the forest plans for the different national forests of the Pacific Northwest and see many good things. These plans are better than the plans that were in place a few years ago. But none of these plans were written on an ecosystem basis. None of them took a regional look at what is necessary to sustain ancient forests, or fish or other wildlife species, and so in that way they are inadequate, and it is true that a great deal of work was put into those forest plans. But nonetheless, if our objective is to provide for the sustenance of ancient forests as ecological systems and the different wildlife species that depend on them in the long term, we cannot continue on the present course. The existing forest plans allow too much timber cutting and are, in that way, taking us down a path where we will produce lots of commodities for a short term, but we will be sacrificing in the long term the well-being of these forests.

Another very important point which I would like to make this evening is that the protection of ancient forests and a viable wood products economy can coexist. We do not have to make a choice in this country whether we are going to protect the last of our ancient forests or whether we will have wood products for the people of our Nation to enjoy. If we use a reasoned, well-balanced approach, we can provide for the protection of our forests and at the same time insure that there are wood products available for our use and there are jobs in the Pacific Northwest in the wood products industry. The fact is that it is inevitable that there will be a transition of the wood products industry in the Pacific Northwest to smaller trees, trees that one would call second growth, because they are trees which have come up and grown after the original ancient forests were cut or, in some cases, burned. Logically we know that the supply of the ancient forest trees, the big trees that are several hundred years old, is limited. Sooner or later those trees will be gone.#

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Sooner or later the industry must switch to second growth trees which are smaller trees. In fact, the industry is switching.

There is very little that must be manufactured from a 400-year-old tree. You can use a smaller second growth tree to make two-by-fours, to make veneer plywood. The future of the wood products industry in the Pacific Northwest or in our country at large is not dependent on trees which are 400- or 500-years-old. If it were, we would have a very bleak future, because those trees, even if we cut the last one, are not going to last forever.

My argument is this: If we must make the transition from a wood products industry based on large 400-year-old trees to one based on younger, smaller trees, would it not be smart to make the transition now, instead of later? If we make the transition now, we can set aside the last of the great ancient forests for their other benefits, their environmental benefits, recreation, spirtual benefits, the benefits I spoke to earlier this evening. We can see that those forests are providing us benefits on a sustainable basis for generation after generation after generation, and we can have a viable wood products industry at the same time.

One of the challenges that we face in making this transition is redesigning the way timber sales are made on the national forests in the Pacific Northwest. The Forest Service without passage of any legislation at all for that matter or at the direction of the Congress could greatly reduce the impact of existing timber sales on the ancient forests in Oregon, Washington, and northern California.

The way the Forest Service now lays out timber sales and has been laying out timber sales for several years hastens the degradation of the forests as an ecosystem. What has been the practice in the past is the various clearcuts are placed in roadless areas and unnecessary fragmentation of the forest has occurred.

We have cause the necessity of building roads into the forest to reach these areas where the clearcuts are made in the roadless areas, and this has all had much more adverse impact on the environment and on wildlife than what is necessary.

What we need to do is redesign the entire timber sales program for these areas to the less ecologically sensitive areas. We can be cutting some of the smaller isolated groves. We can be thinning out forests that need that sort of attention for their long-term productivity. We can do more to cut in second growth.

We can produce timber from our national forests in the Pacific Northwest in a much more environmentally sensitive way than we are doing right now. If we do use our knowledge and are sensitive to environmental concerns, we can ease the tansition for the specific communities and the specific mills in the Northwest that are now dependent on Federal timber.

When we take a look at the big picture, the supply of wood products nationwide, it is very clear that we do not need to and should not suffer any shortage from protecting our ancient forests, and that is because at the present time even during the last decade when we were cutting and have been cutting our ancient forests at such a rapid pace, we are only supplying a very small fraction of the total timber needs of this country from those magnificent forests.

Total timber production in the United States, an average figure that I might quote, would be in the vicinity of 45 or 50 billion board feet a year. Of that total lumber, less than 20 percent of it comes from all the national forests together, and only about 3 billion board feet of it, a little bit more in some years, a little bit less this last year, has been coming from the national forests in Oregon and Washington State.

The vast majority of the timberlands in our country, some 60 percent of our Nation's forests, are privately owned, either by corporations or by industries. These forests can clearly make up the production that would be lost were we to reduce the amount of timber sold from our national forests in the Pacific Northwest, because these private lands are extraordinarily productive lands.

If we as a nation were to invest more in their productivity, we would more than make up the difference. There is no need to fear any shortage of wood products as a result of protecting our ancient forests.

There are certainly local economic impacts that we must be concerned about in the current situation in the Pacific Northwest, whether ancient forest legislation passes or not. Certainly if legislation is to pass the Congress, in my opinion economic provisions must be a part of it to assist the communities and assist the individuals in those countries who are now being and would be adversely impacted.

Let me suggest one item among many that could be pursued if our objective is to address the economic problems facing communities in the Pacific Northwest.

Simply by enacting a temporary ban on the export of raw logs from the Pacific Northwest, we would more than compensate for the supply of timber and the number of jobs which would be affected by legislation to protect ancient forests. In ancient years as much as 4 billion board feet of timber has been exported from Oregon and Washington States alone as raw logs, unfinished. These are not providing jobs to American citizens. They are being shipped overseas and providing jobs in Japan, Korea, or these countries, but not the United States.

I wish that every citizen in our country could travel to the Pacific Northwest and see the docks and see the row after row of logs that are being sent to Japan as raw logs, and see the logs being loaded onto the ships. Quite literally, trees are being cut and sent down the highway, past mills in our country which are closed because they do not have an adequate supply of logs, and the logs are being taken to the docks, the log yards, occupying acre after acre after acre in the various port communities in the Pacific Northwest, and they are being loaded onto ships and being shipped off to Japan.

If we could take every Member of this House and every citizen of this country up in an airplane and, first of all fly them over our forests in the Pacific Northwest that are being clearcut to show them the ugly clearcut in the Olympic National Forest or many other national forests, and then fly them to the docks of the various communities on the coast where these raw logs are sitting there ready to be shipped to Japan, I daresay that every Member of this House would be a supporter and every citizen of this country would be a supporter of this type of legislation.

I might be careful to clarify that we do not directly export logs from our Federal forests, but the volume of logs which are exported from privately owned forest in the Pacific Northwest, some 4 billion board feet a year, recently, is more than the total volume of timber which we are producing from the national forests. In fact, exports from Washington State alone since 1979 of raw logs have amounted to more than 20 billion board feet, enough to build 7.5 million homes.

So there is no question that there are steps which we can take to address the economic needs in those communities.

There are many other things we can do now. We can help to retool the mills. We can work for diversity in the local economies. We can provide for retaining of workers. There are many steps which can be taken to address these economic problems which are very real for the different communities.

I want to add that these communities are going through a transition now, whether ancient forest legislation is passed or not. The trends in the wood products industry in recent years have been to modernize. As has been the case in many of our industries, when mills are retooled, they become more efficient and fewer workers are needed to produce the same volume of timber.

During the decade of the eighties, we saw the number of individuals employed in the industry decline on a per unit basis of wood produced and on a total number, because of increased efficiency, and also because of the export issue that I have been speaking to this evening.

So we have very real economic problems as a result today. Not nearly so much from environmental concerns, but rather from the trend that the industry is going through. We need to be straightforward, I think, and understand that there is regional competition in the United States in the wood products industry. Many of the major wood products companies in our Nation have been investing more of their resources in the South.

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And the share of our total timber production that comes from the South has been increasing at the expense of the Pacific Northwest. I am not saying that that is necessarily a good thing or a bad thing. It is simply the trend which has been going on for sometime. It probably will continue because economics of production in the South for different reasons are in some cases better. So the major timber companies have been investing in mills in the South. They have closed mills in the Northwest.

This is not a good thing for the people who live in the Pacific Northwest, but it is not the result of the spotted owl. It is not the result of ancient forest legislation. It is not a result of the environmental community. It is the result of trends in the wood products industry.

Mr. Speaker, I want to take just a minute to outline at least the major points of the legislation which I have introduced, the Ancient Forests Protection Act, that would address this problem. The most important thing about my legislation, H.R. 842, the Ancient Forests Protection Act, is that it is based on science. The keystone of this legislation would be the creation of a scientific committee under the auspices of the Council on Environmental Quality that the President appoints to examine what is happening in our ancient forests in Oregon, Washington, and northern California and prepare a plan, a reasonable, thoughtful plan for consideration by the Congress of the United States about what steps need to be taken to sustain these forests over the long term.

There are many scientists in this country, some of whom work for the Government, some of whom are in the academic community, some of whom work for industry, that could be recruited to serve on a committee like this. They can survey the existing scholarship and the existing studies that have been done, and I think in a reasonable period, perhaps a year, come up with a plan for consideration by the Congress.

Our legislation then gives authority to the Congress to create what we call forest reserves, ancient forest reserves, to set aside land over the long term for the protection of these ecological systems.

As I mentioned earlier this evening, I think virtually all scientists would say that the existing land that we have put in wilderness, in the National Parks is important, but by itself will not sustain the ancient forest ecological system. So we need to create ancient forest reserves that would complement existing wilderness areas or national parks and provide for a system of ancient forests which could be sustained over time.

One illustration I might use is the necessity of including some lower elevation areas in our ancient forest reserves. Many of the wilderness areas have very high elevation. There is not much ancient forest left on low elevation areas. Those low elevation areas are very important because from the standpoint of wildlife, they tend to be better places to live. They tend to be more productive from the standpoint of growing trees, and for that reason more of them have been cut.

So I would imagine that a group of scientists looking at our forests in the Pacific Northwest would identify many areas that are more low elevation forests than are not now parks, not now wilderness that would be in their recommendations to necessitate to protect if we are to sustain these ancient forests as ecological systems.

I might add that the charge or the mission that would be given to the scientists would not be just to look at setting aside land, although that is very important, but also how we manage other forests in the Pacific Northwest. We cannot just set aside land and hope that by itself that will sustain our forests.

In some areas, it is necessary to engage in recovery of forests. We have areas that are extraordinarily cut over. We have watersheds that have been destroyed, fisheries that have been rapidly diminished.

I believe that scientists will recommend in several instances the restoration of ecological systems, and they will also recommend perhaps that we be more careful in how we produce timber in other areas in the forests that they would not recommend be set aside as ancient forest reserves.

The legislation would give the Congress the authority, set up the means through these ancient forest reserves, to protect additional areas. The Congress might see fit to identify some of those areas now. The Congress could certainly, upon the recommendation of this scientific group, identify other areas.

The third important element of the legislation that is certainly the controversial element of it is that the bill would provide for interim protection for our ancient forests that now remain while this study was going on, while this scientific group was meeting to come up with a plan. And this interim protection would continue until such time as the Congress would act.

My argument is that it would be foolish to cut very valuable ancient forests while the scientists are studying which forests need to be protected for the long run.

The first rule of tinkering is do not throw away the pieces. The unfortunate situation we face is we could be throwing away the pieces that are necessary to protect out ancient forests over the long term if we allow clearcutting to continue in these forests at the rate that it has into the next 2 years.

Our legislation would say the existing ancient forests as defined in different scientific ways plus other forests which might be important to the sustenance of these forests long term, as an ecological system, would be protected in the interim while the study is ongoing.

I think that there is room during this transition period to work out a balanced approach that would continue to produce timber from these forests at lower levels than what has been the case historically, but at least in adequate quantities to allow for a reasonable transition. I think that if we are thoughtful in the way that we design an interim package of protection, that we can provide for a reasonable level of timber sales in this interim period, whether it is 1 year, 2 years, 3 years, whatever, and at the same time protect the most valuable of our remaining ancient forests, at least in interim status so that when the scientists finish their work and they come back to the Congress and say, "Here is what we recommend should be done," we can have the greatest number of options.

I might take a moment, Mr. Speaker, to explain that when we talk about protecting ancient forest ecosystems, it is not like we are taking a photograph of what exists right now that one would put on a piece of paper and say, this is the way it will be forever. These forests are dynamic systems. They inevitably will change over time.

Many things that we think of as cataclysmic events, such as fire and windstorm and disease and volcanic activity, are a very natural part of our forests in the way we have evolved.

When one thinks about it, the history of forests over hundreds of years and thousands of years, we know that forests are subject to disease on a periodic basis.

We know that insect infestations occur. We know that fire occurs.

Some fires are big. Some fires are small. Fires have been part of these forests long before we ever thought about Smokey the Bear and volcanic activity like we saw with Mount St. Helens just a few years ago. These forests are dynamic systems.

They are also dynamic in that trees grow and die, there is a whole process of succession of vegetation and wildlife.

Really, more than protecting or preserving a certain thing that is there right now, our legislation seeks to protect a process or a whole complex of processes. These are natural processes which we do not understand very well. We are beginning to understand them. They are natural processes which we cannot improve on. We thought that when we went out and clear-cut the forests, we were improving on the natural process of how fire comes and takes out some of the big trees, perhaps, or the underbrush in other cases, and provides an opening in the forest. Well, clear-cutting does not replicate by any means perfectly these natural processes.

We have found there are a lot of problems that we did not understand, and now we do know that forests function in a certain way. And the objective of our legislation is at least in those remaining ancient forests which are virtually irreplaceable; we must maintain these processes.

One important distinction to make that is critical to understanding why we need to protect ancient forests is the distinction between a tree farm and an ancient forest.

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I think tree farms are good things. We need tree farms to produce wood products. There are millions of acres of tree farms in our country on private land, and in some ways we manage certain portions of our national forest as tree farms. I am not opposed to that, but what I think is a mistake is to take the last of the ancient forests, which are not tree farms, and turn them into tree farms.

The ancient forests are complex webs of life, interdependent on each other, that have evolved over thousands of years, and that is not the description of a tree farm. Coming from the Midwest, I know what a corn field looks like, and corn fields are good things to produce corn. And we can grow trees on the same basis. We can plant trees. They grow. We cut them in 40 years or 60 years or whatever, and then we plant new trees, and we can do that. But we should not mistake a tree farm for an ancient forest, because when you cut a 400-year-old ancient forest and plant a tiny seedling where a giant tree was, you are not replacing an ancient forest with something which is comparable. You have destroyed the ecological balance, you have taken a system which is rare and disappearing in our country and made it disappear even faster.

We just cannot re-create these forests. It is almost like we are mining these forests instead of cultivating them in an agricultural sense. So it is a question of understanding the difference between where we should be planting trees to grow them for timber as tree farms and where we have ancient forests that are unique, valuable, irreplaceable, and should be protected.

I would say that the analogy is something like the choice that we would make if we were sitting in our living room tonight and perhaps had a fire going in the fireplace and we saw the fire was growing dimmer, and we knew we had to put some more wood on the fire. We could go out to the garage and pick up a couple of oak logs that had come from the back 40, bring them into the house, put them on the fire, and sustain the fire that way. Or we could turn around in our living room and walk over to be a beautiful piece of funiture, perhaps a table or a desk or a piano, a beautiful piece of furniture which had been in the family for several generations, and we could take an ax to that beautiful piece of funiture and chop it up into little tiny pieces and throw it on the fire to sustain the fire in that way.

There is no question what decision we would make. We would bring in the oak log from the garage and put that on the fire because we can produce oak logs for a long time. We would not take an ax to a beautiful piece of furniture to put that wood on the fire. Yet that is in essence what we are doing with our ancient forests. We are taking something which is very rare, very valuable, unique, and we are using it for a purpose which is more commonplace and which is not necessary. We should recognize the difference between tree farms and forests that are true ancient forests.

If we makes the decision and understand the difference, we can have a viable wood products industry, we can meet the needs of this country for wood products, and we can provide jobs in those communities, and at the same time we can protect those ancient forests which are extraordinarily valuable and ought to be set aside for the benefit of future generations.

Let me make just a few more points, if I could, about the direction that I hope that we go in this country with regard to our forests in the Pacific Northwest, certainly, but all of the forests in our country, because we have valuable forests throughout our Nation.

By focusing on the ancient forests tonight, I do not wish to detract from the importance of other forests and the need to engage in sound policies to conserve our forests no matter where they may exist.

I believe that Americans are becoming increasingly aware of the overcutting of our forests in the Pacific Northwest and in other places, too, and Americans increasingly believe that the overcutting of our forests is one of the major environmental issues facing this Nation. No question about it, there has been more awareness on the part of the public of these forest issues recently.

We have seen newspaper articles about how a forest supervisor in Montana is in essence forced to quit because he was not willing to give in to the political pressures to cut more timber in those forests. We have seen a Federal court judge in the Pacific Northwest conclude that the Forest Service engaged in systematic and deliberate violation of the environmental laws of our country. We have seen the coverage of the spotted owl as an endangered species as an indicator that the forest health is not in good shape. So we have seen lots of media coverage of what has happened to our forests, and I think the public is becoming more aware of the extent to which they are mismanaged.

There is no question that today we have magnificent forests in this country, magnificent ancient forests in the Pacific Northwest, but they are disappearing. Our generation is enjoying the benefits of these forests, but what about future generations? What about our children and our grandchildren? Are they going to be able to benefit from our forests as we have? I do not think that question has a clear answer today.

The decision about whether our children and their children and future generations will enjoy the benefits of our forests is a decision that we will make. We will make that here in this Congress with regard to the ancient forests of the Pacific Northwest, and I predict that we will make it within a year or two, because if we do not we will see the choices that we have diminished. Our children will not have any decision to make. We will have already made it for them.

I think the key in our policy with regard to forests overall, and certainly with regard to forests of the Pacific Northwest, is balance. We must develop a plan to protect our ancient forests, a balanced and reasonable plan based on science. That is exactly what we would propose to do in H.R. 842, the Ancient Forest Protection Act.

As I have mentioned earlier this evening, over 95 percent of our forests have already been cut in this country. Given that fact, I would argue that balance means protecting most if not virtually all of the existing ancient forests which remain. Now, I am not saying we are going to protect every tree in this country. We are going to cut timber in our national forests for the use of the people of this Nation, and my personal opinion is that we can and should do that, but where it can be done without environmental impacts which we would later regret.

Certainly the ancient forests have been overcut. The clear cutting which is continuing in them threatens their very existence. The issue is not protecting every tree in this country. The problem is that a very special part of our national heritage, our ancient forests, is disappearing. I would argue that the ancient forests of the Pacific Northwest are as much a part of our Nation's heritage as Yosemite, as Yellowstone, as Mount Vernon, or Monticello. These are a part of the history of our country. These forests are something that we want to leave to our children.

These are not ordinary trees, they are very special trees. They are America's rain forests. They are the most magnificent coniferous forests in the world. They are forests which inspire us when we walk into an ancient forest. There is a feeling of awe, understanding that these magnificent trees were there long before our country existed, and in some cases before white men settled this country.

If we could only set aside every tree that is older than the United States of America, older than the United States of America, we would protect virtually

all of the ancient forests of the Pacific Northwest. Think about that. These were trees that were growing in our forests, publicly owned forests, that were there before our country, a unique and disappearing resource. Ninety-five percent of the trees of the ancient forests, the native forests, virgin forests in this country, are gone. We have 5 percent left. We are going to make a decision as to what the future of those forests is.

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No question in my mind, clear cutting the last of these ancient forests is not a moderate balanced policy. In fact, as we have said earlier this evening, clear cutting is not necessary in these ancient forests. We are exporting all these logs to Japan from the private lands. We could be milling these logs here in our own country. It is not like we face a choice where we have to clear cut our ancient forests.

You know, when we raise the issue to various countries like Brazil and other countries of South and Central America about what is happening to their rain forests, they quite properly turn to us and say, "Well, what are you doing to your own forests, your own forests that you are cutting and then shipping off to Japan? You, the United States of America, are a very rich country, the richest country in the world, and if you cannot afford to protect your own rain forest, why do you think a developing country in Central America or South America can?"

Well, their argument, I think, is very logical. We do not have to clear cut the last of our remaining ancient forests. We do not have to be shipping 3 billion board feet of logs to Japan each year.

I would say that the reason that we are doing this, the reason that the various timber companies are exporting these trees and clear cutting our national forests, is one reason and one reason only, and that is profits. The real interest of the timber companies in the Pacific Northwest is to make money, which I do not fault them for. That is why we have businesses in this country. The timber companies do a lot of advertising, talking about conservation, they do a lot of advertising, talking about jobs, but we know what the history of this industry is. They will cut over a certain region. They will move on. It does not make any difference what happens to the people there.

I do not mean to be critical of individuals within the industry. I know many of them and they are good people, but the fact is that the history of the industry in our country is well known. If we want to do what is right for the environment and what is right for jobs, we will look at something more than the profits of the timber companies.

The timber companies have their own lands. They can grow trees there on a sustained basis if they choose to. The fact is that a lot of those private lands have been overcut, even though they are the most productive lands, but they belong to these companies and they can cut them for trees and cut them for lumber and manage them as they see fit because they are private lands, of course subject to the different forest practices and acts of the individual states.

But I think it is something else when you get to our national forests which we all own. We should not be managing the national forests of our country just for the profit of a few companies or for anyone, for that matter. These are forests which must be managed for the well-being of all the people of our country. That is the reason they were created in the first place.

I think that the people of our Nation understand that to have a long-term viable economy, we must at the same time have an economy which is sustainable ecologically over a long period of time. We cannot continue to extract resources and expect that that is a sustainable activity.

If we are going to have jobs here, not just today, but 10 years from today, 20 years from now, 100 years from now, we have to be cutting timber on a sustainable basis, and the fact is that is not happening. We have believed that it is happening, but it is not. Now we ought to understand what has been going on.

The Forest Service has come to the Congress and said, well, if you take certain things into account and made certain assumptions, then we can produce x million board feet of timber, but we have come to understand that the Forest Service has not told us the whole story.

A recent study done by the scientists that I mentioned makes it very clear that if we continue the way we have been cutting trees in the Pacific Northwest, clear cutting our ancient forests, they are going to be gone and so are the wildlife species that depend on them. It is not a sustainable approach and in the long run it will not provide for a sustainable economy, either.

I think we need to insist that there be wise planning and management for the long term, not just for the short term, that will produce jobs and protect the environment for the long term.

What we need in our laws is to say that the first objective of the management of our forests, our public forests, owned by the U.S. taxpayers, whether it is citizens from Indiana or from New Jersey or from Texas or from Oregon, owned by all of us, that these forests will be managed for the benefit of the entire country over the long term, and the first objective should be to sustain these ecological systems, and if after we have met the requirements of the systems for their ongoing maintenance, we can produce timber or minerals or some other commodity, so be it, that is OK, but it ought to be done within the context of sustaining these forests as ecological systems.

Mr. Speaker, this year, 1991, marks the 100th anniversary of the passage of legislation by this Congress that gave the President of the United States the authority to set aside what was then called forest reserves. It just happens it was a Member of Congress from Indiana who wrote some of this language after he had traveled out to the West on various congressional matters and came back to Washington and realized that something had to be done. Some step had to be taken to make sure that these magnificent forests in the Pacific Northwest and other parts of our country would be there for future generations. This was long before people knew what ecology was or what endangered species were, but the Congress recognized the wisdom of being good stewards, of looking ahead, of setting aside lands from the public domain, lands that were publicly owned as forest reserves.

So President Benjamin Harrison from Indiana, President McKinley, President Cleveland, President Roosevelt, set aside tens of millions of acres under this law which eventually became our national forests.

Many people ask me as a Member of Congress from Indiana, why would I be involved with legislation protecting the Nation's forests in the Pacific Northwest? I think going back 100 years to the passage of that legislation by the Congress which set up the first forest reserves, we should recognize that these forests are properly the concern of all the people in this country, and they ought to be managed not just for the benefit of a few, but for the benefit of everyone.

It is not that we should be insensitive to the needs of people in the communities where these forests exist. We need to be concerned about their schools. We need to be concerned about their jobs. We need to be concerned about the economic and social well-being of those individuals.

I think if we pass ancient forest legislation to provide for the sustainability of forests ecologically, we are doing the best thing for the economic well-being of those communities in the long run as well, and that ought to be the objective of our legislation.

We in the Congress have a decision to make. We can either continue the current policies which will result in the waste of these ancient forests for future generations, the loss of our heritage, an unbalanced approach, clear cutting the last of these forests, or we can decide that we are going to manage these forests based on current scientific understanding, based on what we know has to be done to maintain these forests over a long period of time

I believe, Mr. Speaker, that the Congress will make the right choice. We will make the choice that looks not at what is best for the short term, but rather what is best for the long term. I have every confidence that if not H.R. 842, the Ancient Forest Protection Act, that some other legislation produced by the Interior and Agriculture Committees will be brought to the floor of this House and will be passed, because we understand that above all else we are responsible to the people of this country as stewards of this land. The wealth of our country ultimately can be traced to only two places, to the people of our country and to our lands. If we do not wisely manage the land, the forests upon them, if we do not manage them in a way that considers not just that interests of us today, but those who will come after us, we are not fulfilling our obligation as Members of this body. We are not fulfilling our obligation as American citizens to see that we pass on this planet, this great Nation, in better shape than we found it.

Mr. RAVENEL. Mr. Speaker, as the 100th anniversary of the Forest Service is upon us, I must say that I have watched with dismay the events going on in the Pacific Northwest and here in Washington with regard to the northern spotted owl and the remaining ancient forests. As a member of the subcommittee with jurisdiction over the Endangered Species Act and as one who has long supported the conservation of endangered species in my own district, I am troubled by the bureaucratic contortions that have taken place as the Bureau of Land Management, the Forest Service, and at times even the Fish and Wildlife Service had sought to avoid protecting the spotted owl and the last remnants of the magnificent cathedrals of the Northwest, the ancient forests. And as a member of the party of Roosevelt, Teddy Roosevelt, I am troubled by those who have orchestrated these anticonservation policies.

Over the past few years, we have seen the Fish and Wildlife Service attempt to keep the spotted owl off the endangered species list. We have seen the Forest Service and the Bureau of Land Management attempt to avoid developing and implementing the necessary plans for protecting the spotted owl and other wildlife dependent on ancient forests. And more recently we have seen the BLM, with the aid of the Secretary of the Interior, refusing to even consider reasonable and prudent alternatives to logging within the habitat of the spotted owl. Instead the BLM, with the Secretary's help, is asking the so-called god-squad to exempt it from the requirements of the Endangered Species Act for timber sales. What the BLM has done is throw up its hands and say "We don't want to play by the rules, so we're going to change the rules."

Mr. Speaker, I have seen this happen before. A couple of years ago, the Commerce Department took a similar course with regard to endangered sea turtles and the turtle excluder device [TED] regulations. Instead of trying to make TED's work, the Secretary of Commerce wavered back and forth on whether he was going to enforce the TED regulations. And in the summer of 1989, the environmental community had to sue the Secretary of Commerce to get the TED requirements put back in place. I believe that the Department of Commerce has learned from that experience. The following year, during the summer of 1990, the Commerce Department and the Coast Guard got serious about enforcing TED regulations. And what happened? Shrimpers began to comply with the law. I can tell you with great pride that this year on the beaches of South Carolina, with virtual total compliance by the shrimping community, the number of turtle strandings was at a record low. Detractors of the Endangered Species Act often accuse it of being inflexible, yet the experience with TED regulations in South Carolina demonstrated the act's flexibility.

Mr. Speaker, in a report that we here in Congress asked for, the National Academy of Sciences concluded that the best way to save endangered sea turtles is to stop shrimping all together. I can tell you from personal experience, that in the low country of South Carolina, this is a very dangerous concept and can put its proponent in a very precarious situation. Well, we all know, and the NAS recognized, that this is neither a realistic nor a desirable option. The experience of the past 2 years has illustrated the basic fact that TED's save turtles without eliminating the livelihood of shrimp fishermen.

In its 20 years of existence, the Endangered Species Act has proven remarkably flexible in accommodating both the conservation needs of endangered species and the economic needs of the Nation. In those 20 years, with tens of thousands of activities reviewed for possible harm to endangered species, how many conflicts have been so irreconcilable that an exemption has been sought from the god squad? Exactly three. I can think of no more persuasive evidence than this single fact to demonstrate that the Endangered Species Act is a remarkable tool for striking the necessary balance between conservation and development.

In the coming year, as we begin hearings on reauthorization of the Endangered Species Act, I'm sure we'll be hearing lots of charges and countercharges about the act. It's going to be important for us to separate the wheat from the chaff, the myth from the facts. We're going to have to look at what the experience has been under the Endangered Species Act and draw lessons from that experience.

So what does this experience with TED's teach us in deciding how to deal with spotted owls in the Northwest? It teaches us that weakness and vacillation by Federal officials, Congress included, in their commitment to conserving endangered species will lead to more lawbreaking, more lawsuits, and more problems. And it teaches us that when we demonstrate a commitment to work toward solutions to these sometime thorny conflicts between conservation and use of natural resources, within the flexible frame-work of the Endangered Species Act, everyone benefits. Now I'm not going to stand here and say that it's not going to be painless, but as any South Carolinian will tell you, anything worth having is absolutely worth fighting for. This has been the experience in my State and I'm confident it will be so in Oregon, Washington, and every other place where these issues must be faced.

This will take leadership, Mr. Speaker. The agencies and officials responsible for resolving these questions must courageously work to solve these problems. If not, we will have left this beautiful Earth of ours a poorer place for grandchildren.

Mr. EDWARDS. Mr. Speaker, I rise today to express my strong support for efforts to protect the ancient forests of the Pacific Northwest.

Over the past 100 years, ancient forests have been systematically destroyed by steady logging to the point that only 10 percent of these original forests remain. We have reached a critical point in time; significant portions of forests must be set aside for protection now before they are irrecoverably damaged.

As one who has experienced firsthand the remarkable beauty of the Sierra Nevada range, I feel compelled to be involved in the fight to preserve this natural wonder. Many of my comments today will focus on the unique characteristics of the Sierra Nevada ancient forests.

Most of the recent attention on the ancient forest protection issue has centered on preserving habitat for the endangered northern spotted owl. But this is only one of many creatures whose survival is threatened by the decline of ancient forest habitat. In the Sierra Nevada forests, at least 112 species of birds and animals depend on old-growth forest habitat for survivals. Included in this group are several species whose populations are in dangerous decline, such as the very rare Pacific fisher, frogs, and salamanders, the Sierra Nevada red fox, wolverine, and the pine marten. The Sierras also support one of the most diverse populations of bird species in North America.

Although portions of the ancient forest are under Federal protection they alone do not provide enough habitat for species that must travel over a wide area for food and breeding purposes. For example, the Pacific fisher requires more than 8,000 acres per pair to maintain the species and studies have shown the California spotted owl uses 3,400 to 4,700 acres per pair for their home range.

Fish populations have also been affected by intense logging along the creekbeds of the Sierra Nevada and other parts of the Pacific Northwest. The old trees provide a shade canopy above the water. When the trees are removed, water temperatures in the creekbed are raised, putting many species of fish at risk. This is made more serious by the fact that many rare and endangered fish species depend on the remaining undisturbed watersheds and river canyons in the Sierra Nevada.

Clearcutting of ancient forests also has the effect of increasing siltation of streams and rivers. This results in the loss of valuable topsoil, pollutes the water, and harms fish habitat. In the Sierra Nevada, logging has contributed to landslides and soil loss as much as 500 to 2,000 percent over natural levels. This has degraded fish spawning and rearing sites.

The Sierra Nevada forests perform many important functions beside sustaining fish and wildlife populations. Old growth forests help regulate and sustain water quality and supply. They act as filters, holding soil in place and purifying the water supplying the rivers and streams of the Sierra. These streams in turn provide drinking water for many Californians and irrigation water for the Central Valley.

Forests also generate oxygen and help maintain moisture and control heat. The destruction of all types of forests will have a serious impact on global warming. Forests also hold water in the form of snow longer, controlling evaporation and preventing flooding.

The Sierra Nevada forests are famous for the vast array of recreational activities they provide. Over 37 million people visit the Sierra Nevada forests every year. They provide a spectacular forum for hiking, skiing, camping, rafting, horseback riding, kayaking, hunting, fishing, and photography. The popularity of Yosemite National Park alone is an indication of the enormous public support for maintaining significant portions of our forests in their natural state. Yosemite is under strain from overuse; its popularity clearly indicates the demand for protection of more forests throughout the Sierra Nevada.

The survival of the unique diversity of wildlife found in ancient forests depends on a plan that will protect forest ecosystems. This requires protection of large tracts of contiguous forest land. Once old-growth forests are destroyed, the biodiversity of this habitat is gone forever. Forests replanted through tree farms will not develop into the rich ecosystem that ancient forests sustain. Hundreds of years were required to develop the rich diversity characteristic of these forests.

I am also very concerned about restrictions enacted in the past that limited the rights of citizens to obtain judicial review of forest management plans. Between 1984 and 1990, nine separate riders were attached to annual spending bills that either limited or completely eliminated judicial review of Federal activities affecting the Nation's public lands. Since 1990, we have been more successful in defeating such attacks on citizens' access to the courts.

It is outrageous that this legitimate tool to ensure enforcement of environmental laws has been under attack. No Government agency is above the law, and the role of the judiciary to guarantee compliance is fundamental to our democratic government.

The need for judicial review of forest management decisions is especially strong. There is clear evidence that the executive branch has been deliberately ignoring environmental laws. If there are legitimate problems with our environmental protection laws, the solution should be to focus on revising the law, not restricting access to the courts.

To put an end to the 6-year-long trend of limiting judicial review through the Interior appropriations bill, I joined former Representative BOB KASTENMEIER last year in a battle to put an end to these restrictions. Seventy-seven other members joined Representative BOB KASTENMEIER and I in signing a letter of protest, indicating the overwhelming disapproval in the House of limiting citizens' access to the courts. I have no doubt this sentiment holds true in the House today, and I will continue to oppose any new efforts to restrict judicial review this year.

The need for protection of ancient forests has reached a critical point, and it is imperative that ancient forest legislation be passed this Congress. I support the efforts of my colleague, Congressman JIM JONTZ, and was proud to sign on as an original cosponsor of his bill, H.R. 842, the Ancient Forest Protection Act. This bill will provide the level of protection necessary to ensure the continued existence of old growth forests and their unique ecosystems. I hope it can be enacted in this Congress.

GENERAL LEAVE

Mr. JONTZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KOLBE) to revise and extend their remarks and include extraneous material:)

Mr. KASICH, for 60 minutes, on Novermber 21.

Mr. WEBER, for 60 minutes, on November 22, 23, 24, 25, and 26.

Mr. SMITH, of New Jersey, for 60 minutes, on November 22, 23, 24, 25, and 26.

Mr. HYDE, for 60 minutes, on November 22, 23, 24, 25, and 26.

Mr. HUNTER, for 60 minutes, on November 22, 23, 24, 25, and 26.

Mr. KYL, for 60 minutes, on November 22, 23, 24, 25, and 26.

Mr. WALKER, for 60 minutes, on November 22, 23, 24, 25, and 26.

Mr. MCEWEN, for 60 minutes, on November 21, 22, 23, 24, 25, and 26.

Mr. MILLER of Ohio, for 60 minutes, on November 21.

Mr. SCHAEFER, for 60 minutes, on November 20, 21, and 22.

(The following Members (at the request of Mr. HUBBARD) to revise and extend their remarks and include extraneous material:)

Mr. PEASE, for 5 minutes, today.

Mr. HUBBARD, for 5 minutes, today.

Mr. GEJDENSON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. PEASE, for 5 minutes each day, on November 20, 21, 22, 23, and 24.

Mr. COOPER, for 60 minutes each day, on November 20, 21, 22, and 23.

Mr. LANTOS, for 60 minutes, on November 21.

Mr. GEJDENSON, for 5 minutes, on November 20.

Mr. OWENS of New York, for 60 minutes each day, on November 23 and 24.

Mr. STAGGERS, for 60 minutes, on November 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KOLBE) and to include extraneous matter:)

Mr. BAKER.
Mr. OXLEY in two instances.
Mr. FIELDS.
Mr. ROGERS.
Ms. MOLINARI.
Mr. LEWIS of California.
Mr. MCMILLAN of North Carolina.
Mr. BEREUTER.
Mr. ZIMMER.
Mr. DAVIS.
Mr. GEKAS.
Mr. MILLER of Ohio in three instances.
Ms. ROS-LEHTINEN in three instances.
Mr. KOLBE in two instances.
Mr. HYDE.
Mr. KLUG.

(The following Members (at the request of Mr. HUBBARD) and to include extraneous matter:)

Mr. JONTZ.
Mr. HERTEL.
Mr. BONIOR.
Mr. GUARINI.
Mr. LEVIN of Michigan.
Mr. RAHALL.
Mr. JACOBS.
Mr. STARK.
Mr. PANETTA.
Mr. FUSTER.
Mr. LANTOS in two instances.
Mr. HARRIS.
Mr. HOYER.
Mr. SOLARZ.
Mr. MAZZOLI.
Mr. BRYANT.
Mr. ACKERMAN.
Mr. CLAY.
Mr. PALLONE.
Mr. LEVINE of California.
Mr. SERRANO in two instances.
Mr. RANGEL in two instances.
Mr. DIXON.
Mr. MATSUI.
Mr. ECKART.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1720. An act to amend Public Law 93–531 (25 U.S.C. 640d et seq.) to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program for fiscal years 1992, 1993, 1994, and 1995.

ADJOURNMENT

Mr. JONTZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 40 minutes a.m.), the House adjourned until today, Wednesday, November 20, 1991, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3409. A bill to prevent the proliferation of biological and chemical weapons with an amendment (Rept. 102–235, Pt. 1). Ordered to be printed.

Mr. ROSE: Committee on House Administration. House Resolution 258. Resolution creating a task force of members of the Foreign Affairs Committee to investigate certain allegations concerning the holding of Americans as hostages by Iran in 1980; with an amendment (Rept. 102–296, Pt. 2). Referred to the House Calendar.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3768. A bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes; with an amendment (Rept. 102–330). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 285. Resolution waiving all points of order against the conference report on the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for the intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and against the consideration of such conference report (Rept. 102–331). Referred to the House Calendar.

Mr. MOAKLEY. Committee on Rules. House Resolution 286. Resolution waiving all points of order against the conference report on the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, and against consideration of such conference report (Rept. 102–332). Referred to the House Calendar.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2763. A bill to enhance geologic mapping of the United States, and for other purposes; with amendments (Rept. 102–333). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2790. A bill to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and of other purposes; with an amendment (Rept. 102–334). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3031. A bill to provide a statutory charter, and to authorize appropriations, for the National Telecommunications and Information Administration, and for other purposes; with an amendment (Rept. 102–335). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3347. A bill to repeal the prohibition on the importation of gold coins from the Soviet Union (Rept. 102–336). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 661. A bill to provide special benefits for the Andean nations; with an amendment (Rept. 102–337). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.J. Res. 346. Resolution approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics (Rept. 102–338). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3313. A bill extending nondiscriminatory treatment (most-favored-nation treatment) to the products of Estonia, Latvia, and Lithuania, and for other purposes (Rept. 102–339). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSE: Committee on House Administration. H.R. 3750. A bill to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes; with amendments (Rept. 102–340, Pt. 1). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. SWIFT: Committee on House Administration. H.R. 3644. A bill to provide that, in making payments from the Presidential Election Campaign Fund, including the Presidential Matching Payment Account, amounts estimated to be transferred to the Fund during the fiscal year before the fiscal year of the presidential election shall be taken into account; with amendments; referred to the Committee on Ways and Means for a period ending not later than November 20, 1991, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(v) of rule X (Rept. 102–329, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GIBBONS:

H.R. 3804. A bill to exclude from an individual's estate in bankruptcy any interest in certain qualified pension plans under the Internal Revenue Code of 1986; jointly, to the Committee on the Judiciary and Ways and Means.

By Mr. BARNARD (for himself and Mr. VENTO):

H.R. 3805. A bill to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CHANDLER:

H.R. 3806. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient education services under part B of the Medicare Program for individuals with diabetes; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. FASCELL (for himself and Mr. BROOMFIELD):

H.R. 3807. A bill to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementations of the Treaty on Conventional Armed Forces in Europe; to the Committee on Foreign Affairs.

By Mrs. BYRON (for herself, Mr. MONTGOMERY, Mr. HOYER, Mr. BOEHLERT, Mr. WELDON, Mr. LENT, Mr. MCNULTY, Mr. HORTON, Mr. GEREN of Texas, Mr. MARTIN, Mr. MCGRATH, Mr. GILCHREST, Mr. RANGEL, Mr. LANCASTER, Mr. BATEMAN, Mr. WALSH, Mr. EVANS, Mr. GEKAS, Ms. KAPTUR, Mr. ZIMMER, Mr. SARPALIUS, Mr. PAYNE of Virginia, Mrs. MORELLA, Mr. LAFALCE, Mr. MCMILLEN of Maryland, Ms. NORTON, Mr. CARDIN, Mr. FRANKS of Connecticut, Mr. KOPETSKI, Mrs. BENTLEY, and Mr. FROST):

H.R. 3808. A bill to establish a National Fallen Firefighters Foundation; to the Committee on Science, Space, and Technology.

By Mrs. COLLINS of Illinois (for herself, Mr. ROWLAND, Mr. TOWNS, Mr. SWIFT, Mr. WYDEN, Mr. SIKORSKI, Ms. NORTON, and Mr. PALLONE):

H.R. 3809. A bill to protect children by directing the Consumer Product Safety Commission to provide for the labeling of certain toys and other articles under the Federal Hazardous Substance Act; to the Committee on Energy and Commerce.

By Mr. GUARINI (for himself and Mr. LEVIN of Michigan):

H.R. 3810. A bill to amend the Internal Revenue Code of 1986 to encourage investments in new manufacturing equipment by allowing an investment tax credit to taxpayers who increase the amount of such investments; to the Committee on Ways and Means.

By Mr. KANJORSKI:

H.R. 3811. A bill to waive interest and administrative charges in connection with the collection of overpayments of pay and allowances of members of the Armed Forces who served in Operation Desert Storm; to the Committee on Armed Services..

H.R. 3812. A bill to establish a senior citizen consumer price index to compute the cost-of-living increase for certain benefits under the Social Security Act; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. LANTOS (for himself, Mr. SHAYS, Ms. DELAURO, and Mr. MARTINEZ):

H.R. 3813. A bill to amend the Internal Revenue Code of 1986 and the Revenue Act of 1978 to revise the procedures applicable to the determination of employment status, and to amend laws relating to Federal procurement to ensure proper classification of employees and independent contractors of persons awarded Federal procurement contracts; jointly, to the Committees on Ways and Means, Government Operations, and Armed Services.

By Mr. LIPINSKI:

H.R. 3814. A bill to amend the Internal Revenue Code of 1986 to allow tax-free withdrawals from individual retirement accounts for educational expenses; to the Committee on Ways and Means.

H.R. 3815. A bill to amend the Internal Revenue Code of 1986 to allow tax-free withdrawals from individual retirement accounts for use in purchasing a first home; to the Committee on Ways and Means.

By Mr. LOWERY of California (for himself, Mr. PALLONE, Mr. COX of California, Mr. ALLEN, Mr. ANDERSON, Mr. ANDREWS of Texas, Mr. ARMEY, Mr. BACCHUS, Mr. BAKER, Mr. BARNARD, Mr. BARTON of Texas, Mr. BENNETT, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BOEHNER, Mr. BUNNING, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CAMP, Mr. CAMPBELL of Colorado, Mr. CHANDLER, Mr. CHAPMAN, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. CONDIT, Mr. COUGHLIN, Mr. CUNNINGHAM, Mr. DANNEMEYER, Mr. DARDEN, Mr. DELAY, Mr. DICKS, Mr. DONNELLY, Mr. DREIER of California, Mr. DUNCAN, Mr. DWYER of New Jersey, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. EWING, Mr. FAWELL, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Mr. GALLO, Mr. GEREN of Texas, Mr. GILMAN, Mr. GINGRICH, Mr. GOSS, Mr. GREEN of New York, Mr. GUNDERSON, Mr. HANCOCK, Mr. HASTERT, Mr. HAYES of Louisiana, Mr. HEFLEY, Mr. HENRY, Mr. HOLLOWAY, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HUNTER, Mr. HUTTO, Mr. HYDE, Mr. JACOBS, Mr. JENKINS, Mr. KASICH, Mr. KYL, Mr. LAGOMARSINO, Mr. LENT, Mr. LEWIS of California, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. MCCRERY, Mr. MCCURDY, Mr. MCDADE, Mr. MCEWEN, Mr. MCGRATH, Mr. MCMILLAN of North Carolina, Mrs. MEYERS of Kansas, Mr. MILLER of Ohio, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. MRAZEK, Mr. MYERS of Indiana, Mr. NEAL of North Carolina, Mr. OWENS of Utah, Mr. OXLEY, Mr. PACKARD, Mr. PAXON, Mr. PAYNE of Virginia, Mr. PENNY, Mr. PICKETT, Mr. PICKLE, Mr. PORTER, Mr. QUILLEN, Mr. RAMSTAD, Mr. RHODES, Mr. RIGGS, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHIFF, Mr. SCHULZE, Mr. SHAW, Mr. SHAYS, Mr. SKEEN, Mr. SLATTERY, Mr. SMITH of New Jersey, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SOLOMON, Mr. STENHOLM, Mr. STUMP, Mr. SUNDQUIST, Mr. TALLON, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. THOMAS of Georgia, Mr. THOMAS of California, Mr. TORRICELLI, Mr. UPTON, Mr. VALENTINE, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WALKER, Mr. WEBER, Mr. WILSON, Mr. YATRON, Mr. YOUNG of Alaska, Mr. YOUNG of Florida, Mr. ZELIFF, Mr. ROHRABACHER, Mr. PURSELL, Mr. BEILENSON, Mr. INHOFE, Mr. BROOMFIELD, Mr. THOMAS of Wyoming, Mr. HOBSON, Mr. LEACH, Mr. CAMPBELL of California, Ms. LONG, Mr. DOOLITTLE, Mr. REGULA, Mr. KOLBE, Mr. HALL OF TEXAS, Mr. MCMILLEN of Maryland, Mr. BLILEY, Mr. DAVIS, and Mr. MURPHY):

H.R. 3816. A bill to establish a second national blue ribbon commission to eliminate waste in government; to the Committee on Government Operations.

By Mr. MCCOLLUM:

H.R. 3817. A bill to amend section 518 of the National Housing Act; to the Committee on Banking, Finance and Urban Affairs.

H.R. 3818. A bill to designate the building located at 80 North Hughey Avenue in Orlando, FL, as the "George C. Young U.S. Courthouse and Federal Building"; to the Committee on Public Works and Transportation.

By Mr. MRAZEK:

H.R. 3819. A bill to amend the Head Start Act to entitle certain eligible children to receive Head Start services, and for other purposes; to the Committee on Education and Labor.

By Mr. NEAL of Massachusetts:

H.R. 3820. A bill to amend the Truth in Lending Act to establish requirements for the issuance of credit cards to dependent students between 18 and 21 years of age to prohibit the issuance of credit cards to dependents under 18 years of age; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PACKARD (for himself, Mr. RIGGS, Mr. CUNNINGHAM, Mr. LOWERY of California, Mr. DORNAN of California, Mr. DANNEMEYER, Mr. HUNTER, Mr. HERGER, Mr. GALLEGLY, Mr. ROHRABACHER, Mr. COX of California, and Mr. ANDERSON):

H.R. 3821. A bill to authorize the Secretary of the Army and the Administrator of the Environmental Protection Agency to conduct certain water projects for the purpose of improving water quality, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ROHRABACHER (for himself, Mr. DANNEMEYER, Mr. RIGGS, Mrs. BENTLEY, Mr. SPENCE, Mr. SMITH of New Jersey, Mr. DOOLITTLE, Mr. GALLEGLY, Mr. SOLOMON, Mr. COX of California, Mr. GOSS, Mr. EMERSON, and Mr. BURTON of Indiana):

H.R. 3822. A bill to amend the Internal Revenue Code of 1986 to increase the dollar limitation on the one-time exclusion of gain from sale of a principal residence by individuals who have attained age 55, to increase the amount of the unified estate and gift tax credits, and to reduce the tax on capital gains; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 3823. A bill to amend the Internal Revenue Code of 1986 to disallow the research credit for duplicative medications and excessively priced new therapeutic medications; to the Committee on Ways and Means.

By Mr. MCDERMOTT:

H.J. Res. 376. Joint resolution designating December 1, 1991, as "World AIDS Day"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. MFUME.

H.R. 75: Mr. AUCOIN.

H.R. 91: Mr. GORDON.

H.R. 107: Mr. SMITH of Florida.

H.R. 123: Mr. COBLE, Mr. CRANE, Mr. DERRICK, Mr. RAMSTAD, Mr. YOUNG of Alaska, Mr. COMBEST, Mr. SCHULZE, and Mr. BOEHNER.

H.R. 127: Mr. ROGERS.

H.R. 246: Mr. ARMEY.

H.R. 252: Mr. FLAKE.

H.R. 371: Mr. BURTON of Indiana.

H.R. 537: Mr. SMITH of Florida.

H.R. 608: Mr. TALLON and Mrs. BOXER.

H.R. 722: Mr. ESPY.

H.R. 747: Mr. DREIER of California and Mr. SENSENBRENNER.

H.R. 784: Ms. NORTON and Mr. PURSELL.

H.R. 793: Mr. OXLEY, Mr. GLICKMAN, Mr. GOSS, and Mr. CAMPBELL of California.

H.R. 815: Mr. MORAN and Mrs. MORELLA.

H.R. 841: Mr. HAYES of Louisiana.

H.R. 843: Mr. HAYES of Louisiana.

H.R. 962: Mr. TOWNS.

H.R. 1004: Mr. SANTORUM.

H.R. 1124: Mr. HAYES of Louisiana.

H.R. 1188: Mr. BONIOR and Mr. HOLLOWAY.

H.R. 1241: Mr. LEVINE of California and Mr. UPTON.

H.R. 1310: Mr. LAFALCE and Ms. NORTON.

H.R. 1311: Ms. NORTON, Mr. FROST, and Mr. PAXON.

H.R. 1312: Ms. NORTON, Mr. FROST, and Mr. PAXON.

H.R. 1385: Mr. PRICE, Mr. GONZALEZ, Mr. SARPALIUS, Mr. JONES of North Carolina, and Mr. ZELIFF.

H.R. 1422: Mr. MINETA.

H.R. 1523: Mr. VANDER JAGT.

H.R. 1546: Mr. PAXON.

H.R. 1547: Mr. PAXON.

H.R. 1730: Mr. ROEMER and Mr. ACKERMAN.

H.R. 1733: Mr. CRAMER.

H.R. 1761: Ms. OAKAR.

H.R. 1790: Mr. YATES and Mr. COX of California.

H.R. 1930: Mr. COMBEST, Mr. ARMEY, Mr. ANTHONY, and Mr. KOPETSKI.

H.R. 1992: Mrs. VUCANOVICH and Mr. FORD of Michigan.

H.R. 2070: Mr. PERKINS.

H.R. 2185: Mr. EWING.

H.R. 2248: Mr. BATEMAN.

H.R. 2258: Mr. OLVER, Mr. POSHARD, and Mr. RAVENEL.

H.R. 2374: Ms. OAKAR and Ms. WATERS.

H.R. 2453: Mr. LIGHTFOOT.

H.R. 2456: Mr. SMITH of Florida.

H.R. 2463: Mr. MARLENEE.

H.R. 2853: Mr. VANDER JAGT.

H.R. 2889: Ms. KAPTUR.

H.R. 2890: Mr. CHAPMAN, Mr. HAYES of Louisiana, and Mr. FISH.

H.R. 2943: Mr. ESPY and Mr. GEREN of Texas.

H.R. 2945: Mr. EVANS, Mr. FAZIO, Mr. HERTEL, Mr. BARNARD, and Mr. GINGRICH.

H.R. 3035: Mr. BILBRAY.

H.R. 3082: Mr. TOWNS, Mr. FROST, Ms. NORTON, Mr. HALL of Texas, Mr. ENGLISH, and Mr. GEJDENSON.

H.R. 3094: Mr. BURTON of Indiana.

H.R. 3235: Mr. MARTINEZ.

H.R. 3236: Mrs. SCHROEDER and Mr. BLAZ.

H.R. 3373: Mrs. BOXER, Mr. MONTGOMERY, Mr. FORD of Tennessee, Mr. SMITH of New Jersey, Mr. HOLLOWAY, Mr. FROST, and Mr. TRAFICANT.

H.R. 3380: Mr. HATCHER, Mr. NAGLE, Ms. KAPTUR, Mr. ALEXANDER, and Mr. HOLLOWAY.

H.R. 3413: Mr. MCCLOSKEY and Mrs. BOXER.

H.R. 3437: Mr. SHAYS.

H.R. 3454: Mr. LANCASTER, Mr. BRUCE, Mr. SLATTERY, Mr. GILLMOR, and Mr. HENRY.

H.R. 3461: Mr. BERMAN, Mr. MARKEY, Mr. OWENS of Utah, Ms. NORTON, Mr. FAZIO, Mr. FISH, and Mr. GUARINI.

H.R. 3462: Mr. TALLON, Mr. SAXTON, Mr. KOPETSKI, and Mr. GEJDENSON.

H.R. 3473: Mr. NEAL of Massachusetts and Mr. FROST.

H.R. 3487: Mr. ALLARD, Mr. ALLEN, and Mr. SISISKY.

H.R. 3518: Mrs. BOXER, Mr. VANDER JAGT, Ms. MOLINARI, and Mr. DOOLITTLE.

H.R. 3553: Mr. WEISS and Mr. FROST.

H.R. 3555: Mr. PAXON, Mr. MACHTLEY, and Mrs. BOXER.

H.R. 3601: Mr. TOWNS, Ms. KAPTUR, Mr. HAYES of Illinois, Mr. KOLTER, Ms. NORTON, Mr. TORRES, Mr. DELLUMS, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. WHEAT, and Mr. RAHALL.

H.R. 3636: Ms. NORTON, Mr. PETERSON of Florida, Mr. HAMILTON, Mr. MATSUI, Mr. CARPER, Mr. FISH, Mr. FLAKE, Mr. DIXON, Mrs. MINK, Ms. HORN, Mr. MOAKLEY, Mr. TRAFICANT, Mr. DYMALLY, Mr. MCHUGH, Mr. LAFALCE, Mr. NEAL of North Carolina, Mr. REED, Mr. JOHNSON of South Dakota, Mr. KOLTER, Mr. RANGEL, Ms. LONG, Mr. KILDEE, Mr. JONTZ, Mr. BEILENSON, Mr. FOGLIETTA, Mr. FALEOMAVAEGA, Mr. LAROCCO, Mr. ACKERMAN, Mr. YATES, Mr. NOWAK, Mr. HALL of Ohio, Mr. MAZZOLI, Mr. MCCLOSKEY, Mr. MURPHY, Mr. FORD of Tennessee, Mr. OWENS of New York, Mr. SMITH of Florida, Mrs. COLLINS of Illinois, Mr. WHEAT, Mr. CLAY, Mr. LANTOS, Mr. RUSSO, Mr. MARTINEZ, Ms. OAKAR, Mr. MORAN, and Mr. POSHARD.

H.R. 3640: Mr. FAWELL.

H.R. 3649: Mr. DWYER of New Jersey.

H.R. 3678: Mr. DANNEMEYER.

H.R. 3702: Mr. SABO, Mr. BILBRAY, Mr. JOHNSON of South Dakota, and Mr. MCCLOSKEY.

H.R. 3718: Ms. MOLINARI, Mr. ROE, Mr. LIPINSKI, Mrs. MEYERS of Kansas, Mrs. BOXER, and Mr. OBERSTAR.

H.R. 3725: Mrs. SCHROEDER, Mr. SHAYS, Mr. DURBIN, and Mr. RUSSO.

H.R. 3730: Mr. WISE.

H.R. 3732: Mrs. MINK, Mrs. COLLINS of Illinois, Mr. ACKERMAN, Mr. DOWNEY, Mr. FRANK of Massachusetts, Mr. LEWIS of Georgia, Ms. WATERS, Mr. MORAN, Ms. NORTON, Mr. NEAL of North Carolina, Mr. DELLUMS, Mr. STOKES, Mr. TRAXLER, Mr. SMITH of Iowa, Mr. OBEY, Mr. LEHMAN of Florida, Mr. HAYES of Illinois, Mr. MILLER of California, Mr. CLAY, Mr. DE LUGO, Mr. DURBIN, Mr. EVANS, Mr. MOODY, and Mrs. UNSOELD.

H.R. 3750: Mr. MORAN, Mr. DORGAN of North Dakota, and Mr. MFUME.

H.R. 3752: Mr. CHANDLER, Mr. CONYERS, Mr. MAZZOLI, Mr. DWYER of New Jersey, Mr. HENRY, Mr. PERKINS, Mr. NAGLE, Mr. MCEWEN, and Mr. GALLO.

H.R. 3798: Mr. LIVINGSTON and Mr. BOEHNER.

H.R. 3802: Mr. HOLLOWAY.

H.R. 3803: Mr. MARTINEZ.

H.J. Res. 22: Mr. GINGRICH.

H.J. Res. 81: Mr. TALLON.

H.J. Res. 113: Mr. VISCLOSKY.

H.J. Res. 200: Mr. RIGGS, Mr. ESPY, Ms. NORTON, Mr. EVANS, and Mr. JACOBS.

H.J. Res. 283: Ms. MOLINARI.

H.J. Res. 300: Mr. INHOFE, Mr. PAXON, Mr. PICKETT, Mr. REGULA, Mr. KOPETSKI, Mr. TANNER, Mr. SWETT, and Mr. ALEXANDER.

H.J. Res. 342: Mr. ANDERSON, Mr. AUCOIN, Mrs. BOXER, Mr. CARR, Mr. COX of California, Mr. DELAY, Mr. DELLUMS, Mr. EMERSON, Mr. FORD of Michigan, Mr. GALLEGLY, Mr. HEFNER, Mr. HYDE, Mr. JONES of North Carolina, Mr. KANJORSKI, Mrs. LOWEY of New York, Mr. MCDADE, Mr. MCDERMOTT, Mr. MOAKLEY, Ms. MOLINARI, Mr. MONTGOMERY, Mrs. MORELLA, Mr. PANETTA, Mr. PICKLE, Mr. ROHRABACHER, Mr. SARPALIUS, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. TAUZIN, Mr. WHEAT, Mr. WYDEN, Mr. COSTELLO, Mr. DIXON, Mr. FROST, Mr. HUTTO, Mr. QUILLEN, Mr. ROEMER, and Mr. WOLF.

H.J. Res. 343: Mr. ANDREWS of Maine, Mrs. BOXER, Mr. COBLE, Mr. FAWELL, Mr. FRANKS of Connecticut, Mr. GEKAS, Mr. GORDON, Mr. HAMMERSCHMIDT, Mr. MARLENEE, Mr. MCCLOSKEY, Mr. MCHUGH, Mr. PICKLE, Mr. RAMSTAD, Mr. ROBERTS, Mr. RUSSO, Mr. SPENCE, and Mrs. UNSOELD.

H.J. Res. 372: Mr. LIPINSKI, Mr. ROEMER, Mr. LEWIS of Florida, Mr. COBLE, MR. FOGLIETTA, Mr. MARKEY, Mr. WALSH, Mr. MINETA, Mr. BILBRAY, Mr. HAMILTON, Mr. DE LA GARZA, Mr. APPLEGATE, Mr. SABO, Mr. RUSSO, and Mr. FIELDS.

H. Con. Res. 177: Ms. KAPTUR, Mr. LEHMAN of Florida, Mr. MACHTLEY, Mr. MARTINEZ, Mr. WYLIE, Mr. LEVINE of California, Mr. ABERCROMBIE, Ms. NORTON, and Mr. BACCHUS.

H. Con. Res. 180: Mr. MACHTLEY.

H. Con. Res. 208: Mr. GINGRICH.

H. Con. Res. 212: Mr. CAMP, Mr. NEAL of Massachusetts, Mr. GILMAN, Mr. SANTORUM, Mr. RAMSTAD, Mr. BURTON of Indiana, Mr. WALSH, and Mr. COYNE.

H. Con. Res. 232: Mr. MORAN, Mr. BACCHUS, Mr. MRAZEK, Mr. FRANK of Massachusetts, Mr. SOLARZ, Mr. FAWELL, Mr. NOWAK, Mr. WALSH, Mr. SCHUMER, and Mr. MCNULTY.

H. Con. Res. 236: Mr. DORNAN of California, Mr. SMITH of Oregon, Mrs. BENTLEY, Mr. BARNARD, Mr. DICKS, Mr. SMITH of New Jersey, Mr. LOWERY of California, Mr. MCCANDLESS, Mrs. MINK, Mr. BROWN, Mr. HYDE, Mr. NEAL of Massachusetts, Mr. HORTON, Mr. OBERSTAR, Mr. HOUCHBRUECKNER, Mr. SKEEN, Mr. DERRICK, Mr. DICKINSON, Mr. DOOLITTLE, Mr. TOWNS, Mr. DOWNEY, Mr. VANDER JAGT, Mr. ESPY, Mr. PETERSON of Florida, Mr. MCMILLEN of Maryland, Mr. LAGOMARSINO, and Mr. COSTELLO.

H. Con. Res. 240: Mr. ESPY, Mr. FRANK of Massachusetts, Mr. MCHUGH, Mr. MOAKLEY, Mr. MRAZEK, Mr. OWENS of Utah, Mr. REED, and Mr. WOLF.

H. Res. 155: Mr. PETERSON of Florida and Mr. KOLTER.

H. Res. 213: Mr. ANNUNZIO and Mr. LIVINGSTON.

H. Res. 272: Mr. BERMAN, Mr. SCHEUER, Mr. HAYES of Illinois, Ms. SLAUGHTER of New York, Mr. KOLTER, Mr. RANGEL, Mr. EMERSON, Mr. LIPINSKI, Mr. SMITH of Florida, Mr. CLAY, Mr. ANDREWS of Maine, Mr. CLEMENT, Mr. ANDERSON, and Mrs. BOXER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1790: Mr. FAWELL.

EXTENSIONS OF REMARKS

BETTY HOPKINS-MOSES HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a wonderful lady, Mrs. Betty Hopkins-Moses. You would never guess by her remarkable tennis serve that Betty celebrated her 80th birthday last Friday.

Betty is an exceptional individual and a respected community leader. She is also a good friend and challenges my wife to a good game of tennis every week.

I would like to share the following article written by Libby Brennan of the Wilkes-Barre Sunday Independent, one of my district's outstanding newspapers.

Mr. Speaker, I am sure my colleagues join me in the hope that when we reach Betty's age we are half as active as she.

The article follows:

AT AGE 80, BETTY HOPKINS-MOSES STILL FILLS HER LIFE TO BRIM

(By Libby Brennan)

Mrs. Betty Hopkins-Moses may mark a milestone in her life on Wednesday when she becomes 80 years old but her appearance, attitude and alertness defy her calendar age. She looks 40 years old.

"I suppose my genes are responsible for providing me with good health," she said as she prepared for a series of birthday parties that her family and friends have arranged. "I do play tennis and I jog every morning when I go for the newspaper because the drive is a long one," she said. There are many other facets that provide her joie de vivre. She is an artist, she has a host of friends and she is a reader and through her three children, she maintains a young outlook.

Betty Hopkins-Moses late husband was Dr. Ben Hopkins-Moses, president of Wyoming Seminary.

Both families, the Hopkins and Moses, can trace their roots to pre-Revolutionary War Days. Some of their ancestors were among the first settlers in New York's Long Island which was part of what was then called New Amsterdam.

Mrs. Hopkins-Moses is the mother of three children: Captain Dale Hopkins-Moses, commander of the U.S. Naval Base on Guam; Gaard Hopkins-Moses, an artist in Aspen, Colorado; and Meredith H.M. Maxwell, a teacher and mother. She also has five grandchildren.

Betty grew up in New England and New York in a home with highly intelligent and dedicated parents and unusually high moral values, which she and Ben passed on to their three children, Dale Gaard, and Meredith. She graduated as valedictorian from Nottingham High School in Syracuse, N.Y. at the age of 16, (having been "skipped" twice), winning a N.Y. State Regents Scholarship and a state prize for a chemistry essay; and also led her class in the College of Fine Arts at Syracuse University, graduating magna cum laude and winning the graduate scholarship in Art Education. She was a member of Kappa Alpha Theta social fraternity and of four senior honorary fraternities. In college she served as Women's Cabinet, and on the art staffs of three college publications, participated on teams in nine different sports (swimming, tennis, track, skiing, skating, basketball, baseball, rifle, and hockey) and was manager of four. She was chosen Miss Syracuse (city) for the Lake Placid Winter Carnival of 1930 and won several art, poster and crafts awards while in college.

During the summers she served as counselor (and director) of eight different summer camps in New York and Pennsylvania. After a year of graduate work for a master's degree, she was an art teacher for 10 years in Skaneanteles, Fulton, Syracuse, and Endicott, N.Y., also working with cheerleaders, craft classes, and sports teams.

In 1939 Betty and Benjamin Henry Moses were married in Hendricks Chapel of Syracuse University by the Rev. William H. Powers, its Chaplain, under whom Ben was serving as counsler on the Chapel Staff, as well as on the Maxwell School faculty and as assistant dean of men.

Betty was one of the first feminists and convinced Ben likewise, so both took each other's name and became the Hopkins-Moses, naming their children thusly, in time. They were a very close couple, doing everything together as best friends until his death in 1983, through 44 years of a very happy marriage.

After their marriage, the couple spent two more years in Syracuse, then 10 years in Endicott where Ben, as representative from S.U. was the founder of Triple Cities College, which soon became Harpur College of the State of N.Y., or SUNY, Binghamton. Meanwhile in her spare time, she wrote college songs for the new institution, coached the cheerleaders, was a leader of the Girl Scout troop, taught a First Aid class, entertained the faculty, and with Ben chose the new college colors of Dartmouth, green and white.

In 1951 Ben was called to Yale University as Director of Central Records.

In 1959 Ben was made president of Wyoming Seminary in Kingston, and served happily for seven years, then seven more at Wilkes College until his retirement in 1974. Betty was very active at Wyoming Seminary, entertaining the faculty, leading Merry's Girl Scout troop, coaching the divers on the girls' swim team which Ben and she organized—and keeping up Dale's morale as a plebe at Annapolis by baking and sending him thousands of cookies and "Care" packages. They enjoyed the lovely president's house—but not the bickering on the Board of Trustees and the Methodist Church.

At Wilkes, which later, in 1990, became a university, they were very happy, Ben officially as registrar, but actually as an important adviser and member of the administration. They bought the Bear Creek house in 1960 for a summer home and lived there full time from 1966 on, commuting to Wilkes-Barre for college, church and other activities. Bets served as president of the very active Wilkes Faculty Women through the difficult Agnes flood years of 1971–73, and as president of the Grace Chapel Guild in Bear Creek from 1973–5, also working with the international (foreign) student, whom she loved, at the college and participating in many college affairs with very congenial faculty.

Bets' current interests and enthusiasms include: family—always most important; they mean everything! With Dale on Guam and Gaard in Aspen or the Yukon (or France last year), Merry is closest and so good to her mother! The five grandchildren are very special: Amy, 16; Jonathan, 14; Lauren, 11; Evan, 9; and Merritt, named for her greatgrandfather, 6.

Sports, especially tennis, swimming, bicycling, cross country.

History—her minor in graduate work, and family history, going back to her forebears who were first settlers in colonial America, 370 years ago. A lot of interesting and outstanding people.

TRIBUTE TO THE INDIANA DUNES NATIONAL LAKESHORE

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. JONTZ. Mr. Speaker, last Tuesday, November 5, marked the 25th anniversary of the signing by President Johnson of legislation creating the Indiana Dunes National Lakeshore. This past Sunday, I was honored to attend a dinner in Gary, IN, sponsored by the Save the Dunes Council to commemorate this important anniversary of the establishment of our beloved lakeshore. The evening was especially enjoyable because of the presence of a former Member of this House, the Hon. J. Edward Roush of Huntington, IN, who was the author of H.R. 51, the legislation which created the park. Also joining us in honor of the occasion were Ken Gray, the staff member who assisted Senator Paul Douglas of Illinois in his fight to protect the dunes, and Herburt Cable, Deputy Director of the National Park Service.

Mr. Speaker, Vicki Urbanik of the Chesterton Tribune wrote a brief summary of the events which led to the passage of legislation to establish the Dunes Lakeshore which outlines the determined efforts of citizen conservationists to "Save the Dunes." I ask that this article be reprinted in the RECORD as a reminder of the debt we owe to those forward looking citizens of northwestern Indiana whose labors resulted in the protection of the wonderful Indiana dunes for the benefit of our generation, and all to come.

[From the Charleston Tribune, Nov. 5, 1991]

DUNES FIGHT REMEMBERED ON LAKESHORE'S BIRTHDAY

(By Vicki Urbanik)

Twenty-five years ago today, President Lyndon Johnson signed into law a bill that would forever change Northwest Indiana.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The bill, H.R. 51, created the Indiana Dunes National Lakeshore and called for federal protection of 8,330 acres of duneland, including the 2,000-acre Dunes State Park.

Getting the bill passed was no easy matter. It came after years of struggles between conservationists and Indiana politicians and businessmen who wanted to see the dunes leveled and turned into industry.

The dunes saga has been described as one of the longest and most bitter environmental fights in the history of the United States.

Efforts to protect the dunes began at the turn of the century. In fact, even before the National Park Service was created in 1916, the man who would become its first director—Stephen Mather—called for a national park in the dunes.

While early proposals for a dunes park failed, a renewed effort was made in the late 1940s and early 50s.

At that time, plans for a deep-water port in the heart of the dunes were made public, and several industries had already purchased large tracts of pristine dune lands.

It is no exaggeration to say that at the time, the Indiana dunes were on the brink of extinction.

LEADING THE WAY

Dorothy Buell, an Ogden Dunes resident, didn't sit idly by. In 1952, she founded a new citizens group called the Save the Dunes Council.

"My mother was interested in the dunes up until the day she died," said Dorothy's son, Robert Buell, from his home in Palo Alto, Calif.

Buell was a staunch Republican, but she had no previous political experience. Before and after she got involved in the dunes fight, her interests centered around participating in book readings and directing a local theater group.

The dunes effort was her first venture into a public political cause. And she worked at it with a passion.

"I think frequently she'd be defeated and she wouldn't know it," Robert said.

He recalls that once his mother had lunch with state Senator Homer Capehart, an opponent of the dunes. She had just had her teeth worked on and had to wear a plate in her mouth that prevented her from eating and talking at the same time.

"She decided, 'I came here to talk,' " Robert said. "So she gave up on her salad." He remembers how his mother had to make excuses to Capehart for not eating her lunch.

Robert said his mother's greatest accomplishment was getting Senator Paul Douglas involved in the dunes fight virtually by herself.

Her efforts to contact Douglas were unsuccessful at first. Being an Illinois senator, Douglas ws reluctant to get in a battle with his proindustry colleages in Indiana.

But one day, Robert said, his mother came to visit him in California and without telling him, left for Santa Barbara. She showed up at the house of Donald and Louise Peattie, good friends of Douglas, hoping that they could encourage Douglas to help protect the dunes.

Eventually, Douglas agreed. His fight in Congress to protect the dunes spanned nine years and at least five different dunes bills.

Robert said he was amazed that his mother admired Douglas, since she was a staunch Republican and he, a liberal Democrat. "I always kidded her about that," he said. "She never thought that was funny."

DUNES DESTROYED

As significant as P.L. 51 was, the bill was wildly different from what the conservationists imagined a decade earlier.

Prior to 1963, proposals for a national park centered largely on an area known as "Central Dunes," an area between Ogden Dunes and Dune Acres.

But the dune supporters faced formidable opposition. The land was being bought up quickly for industrial development. In 1949, a federal report was released that recommended building a deepwater port in the middle of the dunes. And by 1957, Bethlehem Steel joined National Steel and the Northern Indiana Public Service Co. as industries that owned large tracts of duneland.

Virtually every politician in Indiana—from the local level to Congress—came out against the dunes and for the port and industrial growth. One of the staunchest dunes opponents, Congressman Charles Halleck, began his pledge to win federal funding for the port back in 1934.

A young archietect, Herb Read, was not swayed. In 1961, he organized a tour on the beach that included Douglas and other federal officials—as well as a host of young journalists unsympathetic to the dunes effort.

Read recalls that the entourage stopped to climb a dune. It was no ordinary dune, he said. At 200 feet above the lake level, it was three to four times higher and at least 10 times larger in bulk that Mount Baldy.

Not everyone could make the climb. "The young photographers fell by the wayside as we climbed the dune," Read said.

While the 1961 tour was the high point of the dunes fight for Read, the low point came shortly later.

The big dune they climbed was eventually leveled to make way for Bethlehem Steel. "It sat where the coke ovens are now," he said.

Read said he remembers when the central dunes were bulldozed down. "That was the worst time in my life," he said. "I could hear the bulldozers at night from my home."

Read said he and other dunes supporters drew up plans to allow the industries while saving some of the dunes. Those plans were rejected.

"It was a great tragedy, and it was all so unnecessary," he said.

DUNES LOBBYISTS

Charlotte Read wasn't all that active in the dunes fight in its early years. "In 1966, I had five kids, and one was just one-year old," Read laughed.

But she did go to Washington, D.C. to lobby for H.R. 51. For Read, now executive director of the Save the Dunes Council, it was to be her first of many lobbying efforts.

"That was an incredible experience," Read said.

Read said it was not as common as it is today for citizens to lobby their Congressmen for legislation. And it was even more rare for women to work the halls of Congress.

She remembers how she and the other dunes supporters called all 435 members of the U.S. House—and how badly her feet hurt after tracking down members for their support.

Read also said that in those days, the U.S. Senate was the chamber more likely to support national parks. "So once it passed the House—that was the big hurdle—there was no doubt that Lyndon Johnson would sign it," she said.

The bill was signed by the president on Saturday, Nov. 5, 1966. Three days later Douglas was defeated by Republican Charles Percy for his Senate seat.

"We were very unhappy," she said of Douglas' defeat. "It was a great loss for this country."

JUST THE BEGINNING

Ruth Osann, another active member of the early dunes fight, remembers that once the central dunes were gone, the Save the Dunes Council lost many supporters.

"When that large area had to be given up, a lot of people at that point felt there wasn't any hope of saving anything important," she said.

But the dunes fight did go on. Osann said she still finds it amazing that in the face of so many major defeats, the volunteers continued fighting for the remaining dunes.

Osann said the dunes continue to face environmental threats from outside its borders. And there are risks that the park will be overdeveloped to accommodate the growing number of visitors. And, she said, areas that were left out of the park years ago still are not in its boundaries.

She said that although the National Lakeshore was created 25 years ago today, the dunes have not yet been saved.

"Once the bill was enacted, it didn't take us long to realize that that was really just the beginning," she said.

ONE SMALL CAPITAL GAIN—ONE BIG TAX

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. OXLEY. Mr. Speaker, while it appeals to some to attack a lower capital gains rate as a tax break for the rich, the truth is that it would benefit anyone who would realize a profit from the sale of a home, stocks, or other capital investments. I commend the following article from the November 11, 1991 Wall Street Journal to the attention of my colleagues:

ONE SMALL CAPITAL GAIN—ONE BIG TAX

(By GEORGE W. WALKER III)

I had heard the arguments in favor of a reduction in the capital-gains tax. But why should people like me, who work in education; or people like my neighbor the plumber; or the electrician I know; or the guy who runs the local carpet store; or that nice young kid who works as a clerk at the home improvement center—why should any of us be in favor of a "trickle down" tax reform to benefit "the rich"?

I, for one, couldn't make up my mind. Then my wife and I bought a house, a weathered and abandoned old domicile in a nice neighborhood. We didn't want to live there; we just saw an opportunity to refurbish a run-down home and sell it for a modest profit. Theoretically, we took one of the greatest risks of all. We secured a home-equity loan on our family residence and used the money to purchase a "handyman's special."

I was convinced that it would be a great lesson for our four children. Even the 10-year-old worked right alongside us: washing, cleaning, scraping wallpaper, priming, sanding, painting, sawing wood, knocking out walls, climbing ladders, installing siding, tacking down carpets. And more.

We didn't do our own plumbing or electrical work. We hired that neighbor who's a plumber, and that fine man who had done some electrical work around our own home a couple of years ago. We were on a first-name basis with all the folks at the lumber store and the home improvement center. We were there two or three times a week for month after month, spending money to turn this neglected old structure into a gracious, inviting home.

We frequented the fabric store (my wife sewed all the curtains) and the building store (vinyl siding). We spent more money at the pizza shop (no time to cook), and they even began to recognize us at the drug store (bandages and liniment).

"But," I said confidently to my wife, "it will all be worth it after the house is sold, when we take the kids into one of those private rooms at the bank and I count out our profit for them to see in real cash, before we deposit it. 'This,' I will tell them, 'is what America's economic system is all about. If you're willing to take a reasonable risk and work hard, you may reap a financial reward that makes the whole adventure worthwhile!' "

A funny thing happened on the way to the bank. I stopped in to see our accountant. "Congratulations on your profit," he said. "But remember that today's capital gains tax is the same as your 28% personal income tax. And as a resident of New York state, you'll need to add on 7% in state taxes. So whatever your gross profit, be sure to set aside 35% for taxes."

We'd found a buyer willing to pay $60,000. We'd thought that would let us reach our goal of making about $6,000 on this venture. But deducting 35% of that would leave us with a net profit of $3,900. Our very conservative estimate is that the combined labor of all the family members who worked on this project totaled 1,200 hours. That means that after the capital-gains tax is paid, we netted about $3.25 per hour. We would have earned more standing at a cash register repeating the words "Paper or plastic?"

Will we try a venture like this again? I doubt it. And if the capital-gains tax bite discourages us from trying it again, that means we won't be hiring the plumber and the electrician, we won't be visiting the fabric and carpet stores; we won't be making home equity loan payments to our hungry local bank; we won't be writing checks that help pay the salary of that nice young man at the home improvement center.

I'm not rich. But what if I were? Then, instead of fixing up one old relic, maybe I'd be building an entire housing development. Maybe I'd be buying tens of thousands of yards of carpet. Maybe I'd be hiring scores of skilled laborers. Maybe I'd be pumping more money into more corners of my community and the economy than I can even imagine.

A tax break for the rich? So what? Scrooge McDuck, my children tell me, puts his money in a bin and swims in it. But there's evidence that most rich people don't do that. They spend their money. They invest it, risk it, try to get it to work for them so that it will grow. But that's hard to do without hiring people, buying materials and supplies, and spending in a multitude of other ways and places.

There's talk that a cut in the capital-gains tax just might make it through Congress before long. That'll be too late for us. We're tired and a little discouraged right now. But maybe something good will come out of it. Maybe a few people who aren't "rich" will read this article and then tell their legislators that we want that capital-gains tax cut.

It's not that we care about "the rich." We promise that we'll continue to envy them and resent them. Still, let that tax cut go through. We could use the jobs—and the prosperity.

(Mr. Walker is dean of students at Gene-see Community College, Batavia, N.Y.)

THE WAR IN YUGOSLAVIA CONTINUES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. LANTOS. Mr. Speaker, I am both shocked and saddened by the senseless violence and indiscriminate brutality now taking place in Yugoslavia. As war in that nation continues, its citizens are being terrorized, its cities destroyed, and its future clouded. Suffering is widespread.

In light of these recent tragic events, I would like to call to the attention of my colleagues an inspiring statement issued by the Croatian-American Society that rejects the rivalries and hatreds which have afflicted Yugoslavia. The organization calls for cooperation among all nationalities, religions, and ethnic groups to bring about an immediate end to the bloody conflict that ravages the region.

I commend the Croatian-American Society and I insert the full statement issued by the organization into today's Record. I urge my colleagues to give it the thoughtful attention it deserves.

Statement of the Croatian-American Society

The Croatian-American Society, created in April of this year, is deeply concerned with the war which is currently raging in Croatia, and which is afflicting enormous suffering and loss on the people of that country. Our society seeks the help of the people of the United States in putting an end to the hostilities—immediately. We implore Congress, the State Department, and the American human rights organizations to give their full support to stopping the cruel and senseless fighting now devastating Croatia. Long-term solutions can be, and should be, worked out peacefully and fairly, in the best interests of all people living in the republics which once comprised Yugoslavia. But much of the appalling damage now being caused by the war will prove irreparable. Your help is urgently needed.

The Croatian-American Society, with members both in Croatia and the United States, is also working to put an end to ethnic rivalries and feuds. Our Society categorically rejects the concept of a solution based on the outcome of a war between Serbs and Croats. The Croatian-American Society supports the human rights of all people living in the autonomous regions of Vojvodina and Kosova, and the republics of Macedonia, Montenegro, Bosnia-Herzegovina, Slovenia, Serbia, and Croatia. And we oppose all, repeat all, forms of discrimination against Moslems, Jews, and Christians. We are convinced that the solution to the current crisis in Yugoslavia lies in the intelligent application of the Universal Declaration of Human Rights.

In line with these objectives the Croatian-American Society is endeavoring to develop a dialogue between Serbian-Americans and Croatian-Americans with a view to healing the wounds of the past. We are also reaching out to concerned Jewish organizations in the country, for the same purpose. Meanwhile, we have been trying to ascertain the validity of countless specific reports of human rights violations in Croatia, passing on relevant information to Congress, the State Department, and human rights organizations. We have also been in touch with various American groups which can provide badly needed education and training on the behalf of human rights and democracy in Croatia. And recently our Society helped to organize a peace convoy to Dubrovnik, led by the Society's President, Dr. Slobodan Lang, who is still in that beseiged city.

We appeal to all human rights advocates in and out of government: please work with us for a peaceful, democratic solution in Croatia.

A TRIBUTE TO RON AND VIVIAN ASHLEY AND BRAD WEISER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Ron and Vivian Ashley and Brad Weiser for their Miami-based business called New Line Frozen Desserts, which specializes in gelato ice cream. In a Miami Herald article entitled, "Ice Cream Maker Guards its Recipes," Jana Soeldner Danger reports on the development and success of New Line Frozen Desserts. I commend the following article to my colleagues:

Ron Ashley says there's a lot of espionage in his industry. So much, in fact, that he didn't use to put his company's business address on envelopes because people have been known to break in and steal formulas.

The formulas in question are not life-saving pharmaceuticals or top-secret industrial products. They are recipes for gelato—an Italian form of premium ice cream.

"We have the actual recipes tucked away in a safe-deposit box," Ashley said. "Only a couple of employees actually work with them."

Ashley and his partner, Brad Weiser, are owners of Miami-based New Line Frozen Desserts Co. New Line sells wholesale to hotels and restaurants, and recently began selling gelato from "dipping carts" set up in locations in malls and hotel lobbies.

It's also expanding into Broward County. And, if the business keeps growing, it may look outside Florida for more opportunities.

SECRET FORMULA

A key to success is the tasty formula.

"When we first started seven years ago, people tried to find out our process," said Ashley's wife, Vivian, creator of the recipes. "Our employees are not supposed to divulge it."

Vivian Ashley learned to create frozen desserts from her mother, who prepared them at home. Her mom's specialty: fresh peach. The flavors Ashley develops are often much more unusual. She has, for example, created sorbets flavored with pomegranates, cucumbers, grapefruit and tequila.

New Line produces about 140 different products including ice cream pies and fancy hand-dipped concoctions.

Fred Hanson, food and beverage director at Pier House Resort in Key West, said he considered several different ice cream lines before deciding to purchase gelato from New Line.

"We think it's an excellent product," said Hanson. "We've traveled to Italy and eaten real gelato, and we feel this is the most authentic we've found from any American manufacturer. It was superior to the others we looked at."

Paul Rogers, managing editor of Dairy Foods magazine in Chicago, said there is strong competition in the ice cream products industry.

"Nobody wants to give away their ingredients or their recipes," he said.

Some companies, however, take a cavalier attitude toward formulas.

"I don't know if there's much clandestine stuff," said Rob Michalak, spokesman for Ben & Jerry's, a premium ice cream company in Waterbury, Vt. "There may be times when we're working on a new flavor when we try to keep it under wraps, but there are just so many ways to make ice cream."

John Harrison, official taste tester for Dreyer's and Edy's Grand premium ice creams, based in Oakland, Calif., agreed there aren't many secrets left.

"We do try to covet what we have, but today it's easy to break down the ingredients if a company wants to pay for it," he said. "If there is an area we like to keep close to the vest, it's new-flavor development. Companies will try to hold onto them as long as possible.

PLAIN VANILLA

Despite all the fanfare over new flavors, most people still prefer vanilla, Harrison said. Chocolate is the second preference of ice cream eaters, and butter pecan is third, Strawberry is number four, and Neapolitan is fifth.

"But America loves to see new ice cream flavors," Harrison said. "It's still a key issue in our industry. We used to introduce 10 new flavors a year. Now we introduce 20."

Harrison said Americans consume more than a billion gallons of ice cream annually. Consumers spend about $10 billion a year on the frozen treat.

Despite the current emphasis on healthier, lower-fat eating, the products that are highest in butterfat are selling well, the experts say.

"Premium ice cream is the fastest-growing market segment right now," said Rogers, the editor. "Premium ice cream is just one of those things people treat themselves to."

New Line's gelato has about 14 percent butterfat, Ron Ashley said, in line with the typical premium ice cream.

Still, treats with lower fat and calories, such as frozen yogurt, are becoming an important part of the frozen desert market.

Producing a low-fat, low-calorie product that is acceptable in taste and texture can be tricky, Vivian Ashley said. The fat content and sugar give ice cream its body and texture.

Ashley's first attempt at creating one was a disaster, she said. It became a brick that couldn't be scooped.

Now, however, the company has three products aimed at the health-conscious market; two no-fat frozen yogurts, one sweetened with fructose and one with white sugar, and a low-fat yogurt, made with Nutrasweet, an artificial sweetener.

ICE CREAM CARTS

New Line employs 14 persons and produces about 125,000 gallons of ice cream a year at its 7,000-square-foot Miami factory. The gelato sells for $13.50 a gallon. The company began its dipping-cart program to move its mostly wholesale business into the retail arena.

"The carts will get our name out on the streets in a retail venue," Ron Ashley said. "We hope to get to the point where wholesale customers will list our names on the menu and it'll be recognized."

The cart format is economical, Ron Ashley said. It requires less operating space—as little as 50 to 75 square feet—but can generate as much dollar volume as an ice cream store.

New Line hopes to move the carts into hotels, malls and other high-traffic areas. Customers may buy the carts through a lease-buyout program. The latter costs $150 a month for 36 months, plus an initial investment of about $1,000 in equipment and inventory.

The cart format can be a profitable one, Ashley said.

"Anyone who uses a cart should have a net of at least half of the gross sales," he said. "It works anywhere there's high foot traffic."

"CADILLAC OF GELATO"

Rabih Elannan serves New Line gelato to tables in his Italian Terrace Restaurant in Miami. He likes the product so well, he recently put a dipping cart into his Italian Terrace Restaurant in Sawgrass Mills in Broward County.

"Gelato is expected at an Italian restaurant," Elannan said. "And this is the Cadillac of Italian gelato. It's an excellent gourmet product, and the people love it."

The cart has been performing well, Elannan said.

"Its especially popular with visitors from Europe and South America, he said. "They know what gelato is, and they're excited to find it here."

I am pleased to recognize the accomplishments of Ron and Vivian Ashley and Brad Weiser and I wish them much success with New Line Frozen Desserts.

A SALUTE TO GEORGE F. QUIGLEY

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. LANCASTER. Mr. Speaker, I rise today to pay tribute to George F. Quigley, a man who has served his Nation well for 40 years. I would like to submit for the record the following statement I made on his behalf at a hearing of the Morale, Welfare and Recreation Panel of the House Armed Services Committee held on November 6, 1991:

I would like to note the presence this morning of Mr. George F. Quigley, Chief, Washington Office and Executive Secretary, Board of Directors, Army and Air Force Exchange Service. This is George's last congressional hearing. He will be retiring on November 30. George has completed 40 years of distinguished service, 20 years in the U.S. Army and 20 years with AAFES. He has a record of accomplishment in service to our military personnel that is unsurpassed. He has gone from a commissary officer in Ethiopia to exchange officer at Fort Rucker to Depot Commander in Vietnam. He has spent the last eight years working the tough issues in the Pentagon and on Capitol Hill. We on the MWR Panel know George Quigley's deep commitment to the success of AAFES and its service to our military personnel. Those of us who play golf know of his hard work in helping organize the Dan Daniel Memorial Golf Tournament. We have depended on his sage advice and his firm grasp of relevant issues. We are grateful for George's service to the nation. We will miss George, and we wish him and his wife Marge Godspeed and good luck.

TRIBUTE TO THE CARMELITE SISTERS OF OZANAM HALL NURSING HOME

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. ACKERMAN. Mr. Speaker, I rise to pay tribute to the Carmelite Sisters of Ozanam Hall Nursing Home of Bayside, NY, for two decades of devoted services in caring for the aged and infirm. These Sisters are recognized as leaders in the field of gerontology. They utilize their expertise in providing care for the individual by meeting the needs of the total person: medical, spiritual, and social, which is the philosophy of their foundress, Mother M. Angeline Teresa. In serving the residents of Ozanam Hall, the Sisters bring comfort, happiness, a sense of security, dignity and well-being to those under their care.

Ozanam Hall is a 432-bed, long-term care facility designed to provide total care for the elderly regardless of race, color, creed, national origin, sex, or sponsor. A not-for-profit corporation, the residence is noted for the superior quality of care which it renders. The medical staff, administered by Sister Philip Anne and supervised by Sister Magdalen, is comprised of a team of specialists from every field, affiliated with New York's finest hospitals.

I urge my colleagues to join me in honoring the Carmelite systems for their 20 years of providing excellent care for the residents of Ozanam Hall, fulfilling their spiritual and physical needs.

CAUTION ON CUTS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. BEREUTER. Mr. Speaker, recently in this and the other body, there has been much discussion of tax cuts as a remedy to our Nation's economic ills. To gain a perspective of how many of our constituents surely feel, this Member commends to his colleagues the following editorial from the Lincoln Nebraska Star.

CAUTION ON CUTS

A large yellow caution light should be placed in permanent full view of all national politicians who are now participating in the escalating talk of tax cuts.

The New York Times calls the tax cut message election honey and fool's gold. It is both.

It is also bad public policy for the long term.

Even the best of the plans—that is Rep. Dan Rostenkowski's proposal giving middle- and lower-income families about a $400 tax break and increasing income taxes for the wealthy—is no solution for what ails this country.

Reduction in the exorbitant interest rates on credit cards would likely do as much to spur current spending as a middle-income tax cut.

But increasing consumer spending is a short-term fix.

What the country needs to do is get the national debt under control and begin building for the future.

An increase in the gas tax would do far more for this long-term good than any quick-fix tax change, though it certainly has no re-election appeal.

Right now our country is building and planning for a future based on continued availability of low-cost energy. That's an erroneous and costly assumption.

Raising the gas tax not only will provide money that can be used to reduce the deficit and rebuild the nation's infrastructure, it will force more realistic decisions about energy consumption.

As long as we are hooked on the sugar of short-term solutions, we are not going to work our way out of our economic problems.

PROJECT WILD

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. RICHARDSON. Mr. Speaker, last week, President Bush at a Rose Garden ceremony, awarded Dr. Cheryl Charles, of Boulder, CO, and Santa Fe, NM, the President's Environment and Conservation Challenge Award for Excellence in Education.

Dr. Charles is executive director, Project WILD, an excellent organization that deserves recognition from the Congress. Project WILD's work with State wildlife agencies should be duplicated at the Federal level.

I insert the following material:

PROJECT WILD

WHY WILD

There is perhaps nothing more fundamental for human beings than questions of our relationships with other life forms. Each person has a philosophy of life. Each person considers questions of ethics and responsible behavior. These important questions are not limited to those involving humans. They also involve our relationships to the plants and animals with which we share the earth.

Scientists estimate that the earth's crust hardened about four and one-half billion years ago. Today it is home to more than four and one half billion people. Projections indicate that it will be home to more than six billion people by the year 2000. The planet today is also home to an estimated 1,500,000 different kinds of animals and plants. One earth—and it is home to people, plants, and animals of varying kinds and numbers—each connected to every other, either directly or indirectly. Each has similar fundamental survival needs. Each depends on a healthy living planet.

Life is growing crowded. Yes, there are wild places and open spaces—but day by day, more and more, the natural, wild, and free places of a healthy living earth are disappearing . . . and so is much of the wildlife which once lived here.

Wildlife is an indicator of environmental health. It is important to the quality of life. Where there is wildlife, there is likely to be clean air, clean water, diverse vegetation, and healthy soil. Where there is no wildlife, people also may be in jeopardy.

How can wildlife be conserved and protected? How can the quality of life be maintained for people and other life? How can there be a balance between culture and nature, between human development and natural environments?

These and other questions must be addressed. The time is overdue in developing a long-term approach to the problems of people, wildlife, and habitat. The earth is home to us all.

WHY PROJECT WILD?

We believe wildlife is important. We believe a healthy environment is important. We believe that we as human beings can be more thoughtful and aware of the consequences of our actions. We believe we can make a difference.

We believe in people's capacities to learn. We have found wildlife to be inherently interesting for people of all ages. Young people are fascinated by the study of wildlife—opening windows of learning into all school subject areas. Study of wildlife fosters life-long learning skills. Teachers find materials and strategies for teaching about wildlife serve as exceptionally effective tools for educational excellence.

Project WILD is based on the premise that young people and their teachers have a vital interest in learning about the earth as home for people and wildlife. We emphasize wildlife because of its intrinsic, ecological, and other values, as well as its importance as a basis for understanding the fragile grounds upon which all life rests. In the face of pressures of all kinds affecting the quality and sustainability of life on earth as we know it. Project WILD addresses the need for human beings to develop as responsible members of the ecosystem.

WHAT IS PROJECT WILD?

Project WILD is an award-winning environmental and conservation education program of instructional workshops and supplementary curriculum materials for teachers of kindergarten through high school age youth which prepares students to be responsible decision makers.

Project WILD is . . .

Exciting instructional strategies.

Carefully developed teaching materials.

Diverse organizations working together.

Productive and professional workshops for teachers and other educators.

Powerful techniques for teaching basic skills.

Used and useful in science, social studies, language arts, math, art, physical education, and music classrooms.

Exemplary "science and society" instructional activities.

Effective methods for teaching problem-solving and decision-making.

Concept-oriented.

Designed for diverse teaching and learning styles.

Extensively reviewed, tested, and evaluated.

Balanced and fair, neither pro nor con on value-sensitive issues.

Sponsored and supported by state agencies responsible for wildlife and education, in association with major national and international organizations and agencies concerned with wildlife, education, and the environment.

Praised by professional educators, wildlife biologists, parents, and students.

Project WILD is people. It is people who care about quality education, and people who care about a healthy environment. It is people working together to learn about wildlife and habitat. It is educators, wildlife professionals, and concerned private citizens—willing to transcend individual differences to support a process of educational excellence for young people.

Project WILD is a supplementary, interdisciplinary instructional program for teachers of kindergarten through high school age students.

Project WILD is captivating education. It is exciting and effective instructional strategies which serve the needs of students.

Project WILD is sound academic content, based on concepts and skills.

Project WILD is a way for teachers to incorporate concepts related to people, wildlife, and a healthy environment into all major school subjects and skill areas.

Project WILD is a set of lively, hands-on, diverse, and instructionally sound educational activities offered in the form of three guides for teachers—one for elementary, one for secondary, and one spanning kindergarten through high school that emphasizes water and aquatic ecosystems.

Project WILD is outstanding workshops for teachers where 99% of the participants report that the workshops are either excellent or good.

Project WILD is quality educational materials, earning the endorsement of organizations including the California Board of Education and the National council for the Social Studies (1983 edition of the introductory Activity Guides).

Project WILD is award-winning, including the 1984 Conservation Education Award from The Wildlife Society, as well as awards for its sponsors and leadership from the Conservation Education Association, North American Association for Environmental Education, National Wildlife Federation, and National Science Teachers Association, as well as many state-level organizations.

PROJECT WILD—REPORT OF PROGRAM ACTIVITIES FROM A NATIONAL PERSPECTIVE

INTRODUCTION

This year, 1991, marks the beginning of Project WILD's second decade. Following founding co-sponsorship by the Western Association of Fish and Wildlife Agencies and the Western Regional Environmental Education Council, development of the initial Project WILD instructional materials for teachers began officially in January of 1981. The first Project WILD workshops for teachers began systematically to be offered in the fall of 1983. From the earliest years with 12 western states participating, Project WILD has now grown to sponsorship in all 50 states, all Canadian provinces except Quebec, and additional international sponsorship by national organizations in Iceland, India, and Sweden. While the Project's progress has been remarkable in many ways, we consistently keep a clear sense of the needs that remain and the work to be done. Education for ecological literacy in which learners of all ages take informed and responsible action to benefit wildlife and the environment remains our challenge. We will continue to improve our efforts—unpdating our materials, developing additional materials and instructional strategies to meet emerging needs, emphasizing continuing support to those with whom we come in contact, and assessing our effectiveness on a regular basis. With that as background, here is a brief description of some of this year's highlights.

A FEW HIGHLIGHTS IN 1991

WILD Numbers Continue to Grow!

More than 70,500 educators participated in Project WILD workshops in the United States during 1991! We consider this a surprisingly large number. Putting the number in perspective, during the first year in which Project WILD workshops were offered we reached about 4,000 educators. We reached about 40,000 people in workshops each year during 1987 and 1988. We had thought that we might have plateaued at 40,000. Then we were pleased and surprised to reach 50,000 per year for the next two years. Especially given that there has not been any substantial increase in Project WILD personnel throughout the United States, we are exceptionally pleased and surprised to see the large increase to 70,500 in one year!

This brings us to a total of more than 313,000 participants in Project WILD workshops to date. It is important to note that we think it is essential to continually offer educational opportunities and support to those people who have already participated in Project WILD workshops, at the same time we work to reach additional people. This is not always possible, but it is a priority.

Project WILD in Canada

Project WILD in Canada has consistently grown in proportion to the size of its population compared to the size of the U.S. population. The U.S. population is essentially 10 times that of the Canadian population. Interestingly, Project WILD in Canada has now reached more than 30,000 educators in workshops. Ten times that amount is 300,000—about the number we have reached in workshops in the U.S.!

First International Project WILD Coordinators' Conference

Each year since 1984, a Project WILD Coordinators' Conference has been held. This important conference is the one time each year in which those people with state and national responsibilities for Project WILD are able to meet together. The conference provides Project WILD Coordinators the opportunity to learn from one another, to work on problems of mutual concern, to further develop their professional skills, to acquire information, and to participate actively in establishing the future direction of the program with respect to identifying and defining priorities and needs.

In 1991, for the first time, this annual Project WILD Coordinators' Conference was held in Canada, hosted by the Canadian Wildlife Federation and the province of Alberta, Fish and Wildlife Division. The conference was exceptionally rich and productive. One of the most difficult aspects to describe has to do with the international cooperation by which Project WILD in North America has been characterized for the past ten years. Whereas Project WILD state and provincial coordinators in each of the two countries, the United States and Canada, have been aware that they are working in similar ways on the same problems of educating an ecologically literate public—this was the first time most of these individuals had the opportunity to meet one another in person. To participate in small and large group discussions where expertise was shared that was mutually beneficial, irrespective of national setting; to see the commonality of approaches by demonstration personally rather than long-distance description; to work together literally on topics of mutual concern—these were among the benefits. All of this transcended cultural differences in powerful ways that are beyond words to describe. Participants left recognizing their personal and professional connections. The program and its effectiveness have been enhanced in both countries as a result. We look forward to future conferences in which our international cooperation and mutual learning can be extended and enhanced.

Publication of Report and Proceedings: The Snowmass Summit on Education, Wildlife and the Environment

The first Snowmass Summit on Education, Wildlife and the Environment was held in the summer of 1990. The summer of 1991 marked the publication of the Report and Proceedings from this landmark conference—notable in being the first ever conference in which senior state-level policymakers for education, wildlife and the environment were brought together in one place. The conference was designed for chief state school officers, members of state boards of education, and directors of wildlife agencies. A variety of recommendations and further actions to improve the visibility and quality of environment education in the United States were initiated. Progress was made during 1991 to follow-through. Activities are underway for additional progress throughout 1991 with a reconvening of the Snowmass Summit scheduled for August 4–7, 1992. Effective partnerships between public agencies are critical to the coming decades. In this case, cooperation between state wildlife agencies and state departments of education is strong and growing-nourished by the work of the Snowmass Summit.

LOOKING AHEAD

Project WILD continues to grow and improve. Priorities during the coming year include:

1. Supporting the Project WILD Coordinators and the thousands of volunteers who offer Project WILD workshops to educators throughout the United States and Canada.
2. Maintaining service to the more than 300,000 educators who have participated in more than 14,000 Project WILD workshops to date.
3. Updating the Project WILD Elementary, Secondary and Aquatic Education Activity Guides to ensure their accuracy and usefulness. This update will be complete in time for the 1992 printing of the Project WILD Activity Guides.
4. Developing and submitting proposals for funding to help meet the following needs:

More effectively reaching urban teachers and youth;

Assisting kindergarten through high school students and their teachers in taking responsible action to benefit wildlife and the environment; and

Developing materials and strategies for students to successfully undertake educational action projects in which schoolyards are improved as sites for wildlife habitats.

5. Exploring opportunities for cooperation with, and funding from, international organizations and agencies in order to more effectively serve the many requests we get to assist other nations with respect to education about wildlife and the environment.
6. Continually monitoring our progress.
7. Placing the highest priority in communications within the existing WILD network in order to maintain the quality of service and support we are currently providing.

There is no question that this will be another WILDly busy year. We appreciate the continued dedication and leadership of all those who are making Project WILD such a contributor to the process of creating an informed and responsible decision-making public. Our challenges remain formidable. Thanks for your creativity and commitment to assisting in the process of successfully meeting those challenges.

CUMULATIVE SUMMARY OF PROJECT WILD IMPLEMENTATION ACTIVITY 1983—91

State	Start year	Total number work shops	Total number participants	Total annual budget	Total budget to date
Alabama	1988	69	1,512	$92,000	$262,000
Alaska	1983	179	3,222	51,340	491,500
Arizona	1983	357	7,186	48,400	320,000
Arkansas	1985	554	13,465	91,800	400,000
California	1983	1,600	26,023	167,900	1,196,900
Colorado	1983	676	11,213	297,500	1,329,000
Connecticut[1]	1988	52	1,113	27,000	55,000
Delaware	1985	150	1,390	33,000	204,050
Florida	1983	533	13,172	64,550	361,850
Georgia	1984	224	4,162	72,000	232,000
Hawaii[1]	1984	12	168	600	4,200
Idaho	1984	213	5,450	85,700	322,460
Illinois	1984	513	16,935	16,200	126,000
Indiana	1986	471	9,478	63,643	333,300
Iowa	1986	149	3,011	43,500	238,585
Kansas	1990	14	322	0	0
Kentucky	1984	142	2,936	13,550	98,909
Louisiana	1989	121	2,219	73,000	160,000
Maine	1989	51	870	39,000	55,000
Maryland	1989	59	1,356	65,743	238,740
Massachusetts	1985	166	2,327	24,800	118,180
Michigan	1990	29	748	45,000	45,000
Minnesota	1984	347	6,966	59,000	193,000
Mississippi	1988	163	4,007	53,800	107,300
Missouri	1990	5	350	0	1,000
Montana	1983	221	4,489	38,237	124,350
Nebraska	1985	181	4,826	75,000	363,000
Nevada	1984	93	1,588	40,000	281,000
New Hampshire	1986	104	2,037	20,800	90,600
New Jersey	1984	130	2,156	48,500	398,500
New Mexico	1983	341	9,750	197,500	853,500

CUMULATIVE SUMMARY OF PROJECT WILD IMPLEMENTATION ACTIVITY 1983—91—Continued

State	Start year	Total number work shops	Total number participants	Total annual budget	Total budget to date
New York	1985	750	15,100	111,055	627,050
North Carolina	1984	549	11,370	490,580	820,580
North Dakota	1985	229	5,706	98,000	284,000
Ohio	1984	549	15,368	89,000	401,000
Oklahoma	1984	334	8,113	140,874	483,875
Oregon	1983	190	4,372	51,475	231,000
Pennsylvania	1984	232	5,749	159,200	470,000
Rhode Island	1989	15	374	46,000	104,600
South Carolina	1984	406	11,789	210,000	540,000
South Dakota	1989	46	1,333	46,000	66,000
Tennessee	1983	319	10,861	94,000	894,000
Texas	1985	762	16,168	75,370	382,200
Utah	1983	275	6,958	90,500	430,500
Vermont	1986	84	1,355	11,944	134,510
Virginia	1983	360	7,832	70,963	670,960
Washington	1984	376	6,939	54,000	1,531,000
West Virginia	1986	95	1,972	29,315	81,515
Wisconsin	1985	647	14,423	100,000	620,000
Wyoming	1983	155	3,452	27,000	139,950
Total	....	14,292	313,681	3,944,339	17,917,664

[1] Current figures not yet available.

Complied June, 1991. Draft.

SUMMARY OF GIBBONS BILL CLARIFYING THE TREATMENT OF PENSION PLAN ASSETS IN PERSONAL BANKRUPTCY

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. GIBBONS. Mr. Speaker, the bill, H.R. 3804, clarifies the treatment of qualified pension plan assets when an individual declares personal bankruptcy. Under the bill, benefits provided under pension plans that are qualified under the Internal Revenue Code generally are excluded from the bankruptcy estate. Thus, benefits provided under qualified pension plans generally are not subject to the claims of a bankrupt individual's creditors.

PRESENT LAW

The Bankruptcy Reform Act of 1978 provides that the commencement of a case creates an estate, and that such estate generally includes all legal or equitable interests of the debtor in property. However, under the Act, "[a] restriction on the transfer of a beneficial interest of the nonbankruptcy law is enforceable in [bankruptcy]." In other words, an interest in a trust that is nontransferable under applicable nonbankruptcy law is not part of the bankruptcy estate, and is not subject to the claims of a bankrupt individual's creditors.

The Internal Revenue Code provides that qualified pension and annuity plans generally must provide that benefits under the plan may not be assigned or alienated other than as permitted under the Code. Plans maintained by a church or State or local government, tax-deferred annuity contracts, and certain other plans are not subject to this requirement. However, these plans may, by their terms, provide that benefits under the plan may not be assigned or alienated. A plan trustee is bound by the terms of a plan to the extent the terms are consistent with applicable law.

The courts are split as to whether the restriction on assignment and alienation imposed under the Internal Revenue Code qualifies as a restriction on transfer that is enforceable in bankruptcy. As a result, the status of an individual's pension benefits in bankruptcy varies significantly depending on where the case is filed. In most jurisdictions, plan assets are not automatically excluded from an individual's bankruptcy estate. Whether or not the assets are subject to the claims of the individual's creditors depends on applicable State law and the terms of the relevant plan. This is confusing for individuals and plan trustees. Moreover, in jurisdictions that do not exempt pension assets from bankruptcy, plan trustees are presented with an impossible choice—to comply with a bankruptcy order and risk plan disqualification, or refuse the order and face possible contempt charges.

DESCRIPTION OF THE BILL

The bill clarifies present law to explicitly provide that benefits under most qualified retirement plans are not part of the bankruptcy estate of a plan participant. Specifically, the bill provides that an individual's bankruptcy estate does not include benefits provided under a pension plan, annuity plan, or tax-sheltered annuity contract that is qualified under the Internal Revenue Code if the plan or contract provides that benefits may not be assigned or alienated other than as permitted under the Code. The exclusion applies whether or not the restriction on alienation is a required plan provision. Thus, benefits provided under tax-deferred annuity contracts and under qualified plans maintained by churches and State or local governments are eligible for the exclusion even though they are exempt from the general rule under the code prohibiting assignment and alienation.

Consistent with general bankruptcy principles, assets that the bankruptcy court determines were transferred to a plan or contract to hinder or defraud creditors are not excluded from the bankruptcy estate under this rule. This rule applies only to assets attributable to contributions made during the 1-year period ending on the date the bankruptcy petition was filed. Contributions in excess of the applicable limits under section 415 or 402(g) of the Internal Revenue Code generally are presumed to be made to hinder or defraud creditors under this rule. Significant increases in the rate of contribution to a plan may also indicate intent to defraud creditors, particularly if the participant has control over the amount of contributions made to the plan. In either case, only the portion of the contributions determined to be fraudulent would be includible in the participant's bankruptcy estate.

The qualified plan exclusion also does not apply to any plan or contract that was, during the 1-year period ending on the date the bankruptcy petition was filed, amended to include an antialienation provision with the intent to hinder or defraud creditors. The exclusion also does not apply to plans or contracts adopted during such 1-year period if the plan or contract was adopted to hinder or defraud creditors.

The bill also amends the Internal Revenue Code to provide that the pension plan antialienation requirement does not apply in cases in which a bankruptcy court has determined that an antialienation provision was adopted, or assets were transferred to a plan, to hinder or defraud the creditors of a bankrupt participant.

EFFECTIVE DATE

The provisions of the bill are effective for cases filed after the date of the enactment. No inference is intended to be created by the bill for cases filed before the effective date.

A TRIBUTE TO STEPHANIE DARRING

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Stephanie Darring, a young owner of two franchises in my congressional district, a Jerry's sub sandwich shop in Bayside and a Cozzoli's pizza eatery in Liberty City. In a Miami Herald article entitled, "She Runs Her Two Franchises, Hires Many Workers Sent to Her by Social Agencies, Ministers to Them Like a Mother," Derek Reveron reports on Ms. Darring's entrepreneurial aspirations and her wonderful accomplishments. I commend the following article to my colleagues:

One of Stephanie Darring's longtime employees was pregnant with her third child. The mother was 19 and poor. She couldn't afford to keep the baby.

Darring had always wanted a child, so she adopted the infant.

Fifteen months later, she beams at baby photos and say, "My name is Stephanie Dolores Darring. Her name is Stephanie Renee

Darring. I'm going to raise her to know that she has two mothers."

Darring takes her employees' lives personally, as she scrambles to build healthy businesses in two distinct markets.

She owns two franchises—a Jerry's sub sandwich shop in Bayside and a Cozzoli's pizza eatery in Liberty City.

Darring, 31, is determined to show that a black woman can beat the business-failure odds by succeeding in both markets. In doing so, she wants to help her employees beat life-failure odds.

HIRES HER OWN PEOPLE

All of her 20 employees have black and brown skin. Many of them are dropouts, ex-offenders, teenage mothers or former drug addicts hired through community agencies.

"I'm not prejudice, or anything, but I hire my own people. I want to make a difference in their lives," she says.

To Darring, providing jobs to people who otherwise might not have them is half of the fulfillment of entrepreneurship. The other half, profits, has yet to come.

Darring opened Jerry's in 1987 and Cozzoli's in January 1991. She is about $200,000 in debt to banks and other lending agencies. She earns little money from her businesses beyond the $28,000-a-year salary she draws.

Profits are bound to come, Darring says. Jerry's vice presdient, Dave Tarzan, agrees. Although Darring has struggled, he believes in her. That's why Jerry's gave her the franchise, he says.

Darring was one of nine prospective franchise owners Tarzan and another Jerry's exeuctive interviewed in 1987. Most of them were minorities. Most had more financing and business experience than Darring, Tarzan says. But they chose her, anyway. Why?

"It was instinct," Tarzan says. "We got a feeling that she would devote the time and intensity to make it work. Others saw it as an investment vehicle and planned to hire managers. She saw it as a way to run her own business herself."

Sitting at a table near her Bayside business, Darring shakes her head in resignation. "I'm in the prestige business," she says. She explains: "So far, I've gotten little out of this except the prestige of telling people that I own my own business."

Darring lets out a long, loud, tense laugh. As it fades, she says, "When you're in business five years and haven't made any money, that's kind of embarrassing, don't you think?"

Customers come. She pops up to prepare two turkey subs. They are the first of dozens of sandwiches and pizzas she will fix during a long workday.

The day began at Cozzoli's, at 8:30 a.m., when she helped open the store. She arrived at Jerry's at 10:30 and worked through the noon rush until 4:30. Then it was back to Cozzoli's for the dinner rush. She was back in her small North Miami home by 7 p.m.

BORN IN MIAMI

Hard work has been a way of life for Darring. She was born in Miami and lived much of her childhood in Overtown and Liberty City. When she was 8 years old, her family moved to North Miami. After she was graduated from Miami Central High School, she attended trade school for a year, then Miami-Dade Junior College for a year.

She wanted to work. So she left school and got a job working in the mail room at Financial Federal Savings and Loan. By the time she was 26, she was working at the Federal Reserve Bank of Miami as a processor of retuned checks.

That's when the be-your-own-boss bug bit.

Like many others, Darring was a latent entrepreneur, a small business owner-in-waiting. It runs in her family. Her grandfather owns a barber shop and a farm in rural Georgia. Her father owns a shop that makes leather goods. Her mother owns a beauty salon.

So it's no small wonder that Darring has always wanted to be her own boss. She wasn't sure exactly how to do it, or when. But she would know the right opportunity when she saw it.

That happened four years ago, when she spotted a newspaper advertisement. Bayside's developers were seeking minorities to open businesses.

Why not, Darring thought. But what kind of business? She thought about a submarine sandwich shop near the Federal Reserve. She ate there often. It was always crowded. And the food was good. She talked to the owners to learn about the business.

A sub shop it was. But she didn't have much capital, so it would have to be a franchise.

Bayside officials gave her the green light. Next, she applied for a Jerry's franchise. She was turned down.

Darring didn't give up. She wrote a long letter to Jerry's executives. She told them that she was a black woman and a lifelong Miami resident. She said it was a shame that ambitious minorities couldn't be given the same chance as others.

PLEADS HER CASE

After mailing the letter, Darring called Jerry's executives. They said they would meet with her. At last, Darring had her shot. She gave the executives a tour of Miami, from Bayside to Little Havana to Liberty City. Most of all, she sold Stephanie Darring. "All I need is chance," she told them.

They agreed. With savings and bank loans, she bought a franchise for $165,000. She went to Maryland for a two-month training session.

Her sub shop opened in April 1987. She thought that if she worked hard and ran the business efficiently, profits would come rather quickly.

She was wrong.

Annual sales were projected at a half-million. The first year, sales were $253,000. The year the franchise came closest to matching projections was 1989, with sales of $425,000.

Earlier this year, as part of overall remodeling, Bayside asked her to move to another location. It's smaller and she pays less rent.

"Now, it's a whole new ball game. Before I went in with high expectations. This time, I'm taking one day at a time," she says.

Darring opened at the new location last week, with the franchise's bank account at an all-time low. No problem, she says. She will pay bills from sales receipts. Besides, she says, all her suppliers allow 30 days for payment.

Darring has high hopes for the pizza restaurant.

The idea to open it occurred to her while watching the movie *Do the Right Thing.* The Spike Lee film used a white-owned pizza parlor in a black neighborhood to focus on racial strife. Darring got the social message. But she also focused on the pizza shop's longevity. It must have made money, she thought. Then she realized that there was no pizza shop in the heart of Liberty City's commercial district.

THE SECOND DEAL

She saw dollar signs. She heard through a friend that Cozzoli's was looking for minority franchise owners. She contacted Cozzoli's president Merrill Lamb last September.

"I thought it was a great idea. Everybody loves pizza. This is the kind of thing blacks should be doing to start their own businesses," says Lamb.

She borrowed $120,000 to remodel a rented storefront and opened for business in January.

Darring's pizza shop is one of the few shops in the vicinity of Seventh Avenue and 62nd Street that doesn't have bars in the windows.

"I don't want that kind of atmosphere," she says.

I am pleased to recognize a meritorious entrepreneur, Ms. Stephanie Darring, and I wish her much success with her businesses.

THE INVESTMENT INCENTIVE AND RECOVERY ACT OF 1991

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. GUARINI. Mr. Speaker, I, along with my colleague SANDY LEVIN, am introducing the Investment Incentive and Recovery Act of 1991, which establishes an incremental investment tax credit for manufacturing equipment and machinery.

This legislation will provide a 7.5-percent credit for new investment in equipment and machinery. Such an incremental approach reduces the overall cost to the Government while maximizing the incentive to invest. The credit is targeted in such a way as to encourage investment in manufacturing equipment, which will have the greatest impact on encouraging economic growth. The credit will also go a long way toward eliminating the differential in the cost of capital that puts us at such a disadvantage in competing in the international marketplace.

Members may recall that President Kennedy, when faced with a similarly sluggish economy in 1961, proposed an investment tax credit as one way to get the economy moving again. President Kennedy said at that time:

> The history of our economy has been one of rising productivity, based on improvement in skills, advances in technology, and a growing supply of more efficient tools and equipment. This rise has been reflected in rising wages and standards of living for our workers, as well as a healthy rate of growth for the economy as a whole. It has also been the foundation of our leadership in world markets, even as we enjoyed the highest wages rates in the world.

The investment tax credit was originally adopted in the Revenue Act of 1962. It was then suspended in 1966, restored in 1967, and repealed by the Tax Reform Act of 1969. The ITC was then reenacted in the Revenue Act of 1971 to stimulate economic growth. The ITC was increased in the Tax Reduction Act of 1975, extended in 1976 and 1977 and made permanent by the Revenue Act of 1978. Permanency only lasted until the Tax Reform of 1986, at which time the investment tax credit was repealed.

I recall attending the signing ceremony for the 1986 Tax Reform Act at the White House. At that time I spoke to Senator Russell Long, who commented on the fate of the ITC. Senator Long said that we had repealed the investment tax credit several times and then brought it back when the economy needed some stimulus, and would do so again.

Mr. Speaker, now is the time to bring back a modified, incremental investment tax credit. Economic growth during the first 3 years of the Bush administration has been the slowest of the post-war era. The U.S. economy is now only 0.7 percent larger than when President Bush took office. By way of contrast, the economy grew 14 percent during the Kennedy administration and 17 percent during first 3 years of the Johnson administration. Economic growth under Carter was 11.7 percent; 5.8 percent under Reagan.

To some extent, our dismal economic growth results from a worldwide downturn. But we are still faring much less well than our international competitors, such as Germany, with an 8.2 percent growth rate and Japan with 11.7 percent, between the time George Bush took office and the first quarter of this year.

From 1973 to 1988, savings and investment as a percent of gross domestic product was lower for the United States than any of our major competitors, with the exception of Great Britain. From 1985 to 1989, Japan invested 29.2 percent of its GNP, compared to 17.2 percent in the United States. Even though Japan's GNP is only about half the size of the United States', it is investing more in absolute terms in nonresidential fixed investment—$675 billion in 1990, compared to the U.S. figure of $524 billion.

Prof. Lawrence Summers, now chief economist at the World Bank, and Bradford DeLong, both of Harvard University, have concluded that promoting investment in equipment is the most efficient way to stimulate economic growth. For every 1 percent of gross domestic product that is invested in equipment, Summers and DeLong found, the GDP growth rate is one-third of 1 percent, an excellent rate of return.

My legislation, which is similar to a bill introduced by Senator ROTH in the Senate, would provide an incremental investment tax credit modeled on the research and experimentation tax credit in section 41 of the Code. This approach maximizes the limited resources that we have available to encourage the new investment that we so desperately need.

Although we use the R&E credit as a model, this approach is not necessarily ideal. An incremental credit requires a base year in order to measure level of effort. Yet, we have found that newly formed companies which incur large research expenditures early on are often unable to utilize the R&E credit once they begin operations because of their unusually high start-up expenditures. Similarly, the R&E credit structure may not perfectly fit the business cycle since it is partially based on annual gross receipts. We are open to any suggestions that address these anomalies without undermining the incremental nature of the credit.

If we are to be successful in this effort, we must also address the problems created by the corporate alternative minimum tax [AMT]. Some experts have concluded that as many as 40 percent of large U.S. companies are in the corporate AMT. Capital intensive industry is particularly likely to fall under the AMT. We need to encourage investment in these important industries which form the backbone of our manufacturing base. Consequently, my legislation permits the investment tax credit to be taken against the taxpayer's alternative minimum tax liability.

These changes should have a very salutary effect on investment levels. According to Stanford Prof. John Shoven, taxes make up about one-third of U.S. capital costs. The Tax Reform Act of 1986 increased the effective tax rate on equipment as a result of repeal of the investment tax credit, lengthening the cost recovery periods and the new corporate alternative minimum tax. Indeed, Prof. Alan Auerbach of the University of Pennsylvania and Kevin Hassett of Columbia University have concluded that the Tax Reform Act has reduced equipment investment from what it would have been under prior law.

Now is the time to reverse this trend. To place in our tax law the incentives that will stimulate the type of investment that will make our economy grow and prosper. To quote President Kennedy again:

> Expansion and modernization of the nation's productive plant is essential to accelerate economic growth and to improve the international competitive position of American industry.

Mr. Speaker, we need to adopt policies that will spur economic growth. This legislation will begin the process of putting us on the growth path that has eluded us for the past several years.

MAYOR LEAVES LEGACY OF GOODWILL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. JACOBS. Mr. Speaker, I place in the RECORD the following article written by Diane Brandt and published in the Indianapolis News on November 5, 1991.

The article speaks eloquently for itself and for one of the finest public servants God ever placed on Earth.

MAYOR LEAVES LEGACY OF GOODWILL: BEECH GROVE WILL MISS ELTON GESHWILER

(By Diane Brandt)

After 50 years of service to the city of Beech Grove, Elton Geshwiler may have made fewer enemies than any other politician in memory.

"A perfect gentleman" is the phrase most often used to describe Geshwiler by those who have known or worked with him.

Geshwiler, who did not seek re-election today, is retiring at the end of the year after serving 33 years as mayor of Beech Grove. He also was on the Beech Grove School Board 13 years and on the Beech Grove City Council seven years.

During that time, Geshwiler has been active in virtually every aspect of civic and political life in Beech Grove, as well as serving in a leadership capacity in the Indiana Association of Cities and Towns.

He is credited with—among other things—having twice "saved" Beech Grove from financial disasters that could have resulted from federal tampering with the Amtrak railway maintenance operation, the town's economic mainstay.

To hear Geshwiler's associates and fellow townspeople tell it, the mayor has accomplished these feats while collecting friends all along the way.

Rep. Andy Jacobs, D-Ind., has a theory to explain Geshwiler's popularity:

"Elton is the personification of civility, and we all thirst for that, whether we know it or not."

Those who have worked with Geshwiler on the nuts-and-bolts level of managing public affairs have high praise for his business acumen.

"His is one of the sharpest minds I've been around," said Merchants National Bank Chief Executive Officer James Magee, who served with Geshwiler on the advisory board of St. Francis Hospital.

"One of the most productive, gentlemanly and able municipal officers with whom we have dealt," said Michael Quinn, executive director of the Indiana Association of Cities and Towns.

It is only after some prompting that Geshwiler will name the civic accomplishments of which he is proudest.

In 1948, as a city council member, Geshwiler introduced the ordinance that established a library district in Beech Grove. He was a moving force behind establishing the facility.

His tenure as mayor saw construction of the Beech Grove Industrial Park, which is about 85 percent occupied; the renovation of Main Street; the reconstruction of 17th Street (Sherman Drive) through Beech Grove and the improvement of Churchman Avenue from the southeast side to Albany Street.

In the early 1960s there was considerable disagreement in Beech Grove about building a new high school.

"I was very much in favor of the development and I take quite a bit of satisfaction in the fact that we did prevail, because I think it's been good for the community," Geshwiler said.

But it is Geshwiler's protection of Amtrak revenues that many people consider his most important service to the city.

In 1981, the federal government proposed to stop paying some $800,000 in annual property taxes on the Amtrak maintenance yard.

Geshwiler and Jacobs visited members of the U.S. House Commerce Committee's transportation subcommittee.

"Elton was enormously impressive: he bowled them over," Jacobs said.

The subcommittee decided that Amtrak would continue paying its tax.

In 1985, the Reagan administration proposed cutting Amtrak's federal subsidy, which would have eliminated the operation in Beech Grove.

Geshwiler stayed in close touch with influential senators and mounted a general campaign of telegrams and messages.

The effort, which continued throughout the 1980s, was credited with keeping Amtrak in Beech Grove.

During most of Geshwiler's tenure as mayor, he was a vice president of First Bank & Trust Co. By the early 1980s he was spending most of his time at City Hall and gradually shifted to semi-retirement status at the bank.

It was only in 1989 that plans were solidified to pay Geshwiler as a full-time mayor.

Geshwiler's reputedly mild disposition does not appear to have tempered his opposition to the creation of the Unigov form of government, which was instituted in the late 1960s.

"We in Beech Grove have an ideal situation for a manageable-sized community," Geshwiler said.

"Unigov has taken away prerogatives that our city should have, such as zoning and planning."

Born in Aurora, Ill., in 1912, Geshwiler moved to Beech Grove a few years later when his father took a job in the railroad yards there.

Alice Hensley baby-sat with Geshwiler and his younger sister, Mildred.

"Elton's mother would pack a lunch in a basket for his father, and Elton, Mildred and I would take lunch to him every day at the railroad," Hensley said.

Even in those early years, Hensley says, "Elton was always a pleasant child—a perfect gentleman."

Geshwiler entered DePauw University in 1929, aided by a full-tuition scholarship awarded on the basis of his academic performance at Beech Grove High School.

After college, Geshwiler found work in the bank, and gradually rose to the position of vice president.

Geshwiler and his wife, Cornelta ["Connie"], attend Beech Grove United Methodist Church.

Their three sons are Joseph, 54, an editorial writer at the Atlanta Constitution: William, 53, an engineer at the General Motors Saturn Plant in Tennessee, and Richard, 43, director of planning in Bloomington, Minnesota.

After retiring as mayor, Geshwiler will be a coordinator and liaison for the "America 2000" program, through which Beech Grove public school students who fulfill required educational objectives will receive free college tuition at Indiana University-Purdue University at Indianapolis.

INVESTMENT TAX CREDIT FOR NEW MANUFACTURING EQUIPMENT

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. LEVIN of Michigan. Mr. Speaker, today I am introducing legislation with FRANK GUARINI to provide an investment tax credit for new manufacturing equipment. It is our hope that this legislation will become part of a larger and much-needed debate about how to spark renewed economic growth in this country.

We find ourselves, Mr. Speaker, in the midst of an enduring recession. This recession has been particularly painful, since it comes on the heels of a decade where living standards stagnated for most Americans.

There were some, including President Bush, who hoped it was just an economic abberation, a cyclical business downturn that would be followed quickly by a healthy recovery.

But the truth is that this recession is the product of a long-term slide in the fundamentals of economic success. The ill-conceived economic policies of the 1980's—deficit spending, lack of public and private investment, a nonexistent strategy for trade—have finally come home to roost.

The answer to our present economic dilemma, then, must be a long-term strategy for restoring economic growth, focused on two goals. First, we must continue to be vigilant in bringing the Federal budget deficit under control. Second, we must target the scarce resources available to us on those economic activities that offer the biggest long-term economic payoff.

The legislation we are introducing today should help further the second goal by increasing investment in our neglected industrial base. It provides a tax credit for new investment in manufacturing plant and equipment. The level of the credit, 7.5 percent, is set to approximate the difference in cost of capital between the United States and our economic competitors in Europe and Japan. It should help reverse the trend of underinvestment in manufacturing equipment during the 1980's and close the gap in capital stock between the United States and our major trading partners.

The tax credit is targeted in two important ways:

First, only investment above an adjusted historical base would qualify for the credit. The approach we used is almost identical to the historical base used in the research and experimentation tax credit and is designed to provide an incentive for new investment, not a reward for investment that would take place anyway.

Second, only investment in property integral to the manufacture of tangible property would be eligible for the credit. Our intention is to limit the credit to investment that directly aids the manufacturing process. For example, investment in mixed-use property, in fixtures for retail sales or in agricultural production, would not qualify for the credit.

Mr. Speaker, a threshold question for any tax incentive, new or old, is whether it channels investment efficiently to those areas of the economy that are important to our economic future.

Our targeted ITC meets this test and would do much more for economic growth than a capital gains tax preference. According to a comprehensive study by Dr. John Shoven of Stanford University, an ITC is the most effective means of reducing capital costs per dollar of forgone revenue, much more so than a cut in the capital gains rate. The ITC credit only rewards investment in productive assets, while an across-the-board capital gains cut would apply equally to unproductive assets, and the benefit might be spent on consumption rather than investment.

In addition, since the manufacturing sector consistently shows higher productivity rates, encouraging investment in this area promises higher overall productivity and a consequent increase in our standard of living.

I'm well aware of the ITC's checkered history. The old ITC we repealed as part of the 1986 tax reform legislation was far too broad and invited all kinds of fraud and abuse. We've tried to draft this legislation so as to avoid the problems that plagued the original ITC, and I hope all those with an interest in this legislation will provide their comments on this matter.

Mr. Speaker, we cannot afford to repeat the mistakes of the past. It is high time we developed a strategic, integrated approach to economic policymaking in this country.

We should start with an economic growth package designed to treat the decade-long deterioration in our competitiveness, a package combining tax incentives and a tough, invigorated trade policy. A narrowly targeted ITC would bring much needed investment to our battered industrial base—from autos to semiconductors—and would ensure that our businesses and workers have the tools they need to compete in the global marketplace.

For that reason, it should be a cornerstone of any economic growth package, and I look forward to working with Mr. GUARINI to see that it is.

A TRIBUTE TO ARLENE KATZ AND DOLORES WILLIAMS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Arlene Katz and Dolores Williams, two teachers retiring after years of dedicated service. Both of these women enhanced the educational opportunities of countless students from Public School 131, a school in my district. Ms. Katz began working at Public School 131 in September of 1966, and Ms. Williams started teaching there in February 1968.

Active in both civic and educational endeavors, these two women have touched the lives of innumerable people throughout their communities. I was especially touched by the many reports I received which described their absolute dedication to their students. Arlene Katz patiently illuminated the complexities of mathematics, while Dolores Williams creatively explored the lessons of history and literature. For this, their students will be forever grateful.

More than 20 years of teaching and molding our city's youth certainly deserves the highest form of recognition. It is this kind of resolve and love for teaching that our Nation will always desperately need.

AMERICAN EDUCATION WEEK

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. LANCASTER. Mr. Speaker, I rise today in commemoration of the 70th annual observance of American Education Week [AEW] which officially takes place from November 17–23.

Launched in 1921 by three groups—the American Legion, the National Education Association, and the U.S. Office of Education—American Education Week is celebrated each year during the week after Veterans Day and the week before the week in which Thanksgiving is celebrated. The list of sponsoring groups of AEW has grown to include such distinguished organizations as the National PTA, the National School Boards Association, the American Association of School Administrators, the American Federation of Teachers, the Council of Chief State School Officers, the National Association of State Boards of Education, the National Association of Elementary School Principals, the National Association of Secondary School Principals, and the National School Public Relations Association.

This year's American Education Week theme is "Schools and Communities: Partners for a Strong America." With this theme, AEW hopes to highlight the fact that strong, healthy communities need strong, healthy schools. But to make our schools strong, Mr. Speaker, we need not only school employees, but parents, business leaders, senior citizens, health professionals, and yes, government officials committed to healthy schools and well-prepared students.

Mr. Speaker, all Americans have roles to play in making sure each of today's student's is prepared to meet the challenges of the next century. As we salute the vital role of public education this week, I urge us all to pause and reflect on that role.

ALICE SHALOM: A WOMAN OF VIRTUE AND VALOR

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. SOLARZ. Mr. Speaker, I rise today to inform my colleagues of the passing of an extraordinary woman, Alice Shalom, and to say a few words in her memory.

If anyone could be called the First Lady of the Syrian Jewish community in the United States, it would be Alice Shalom. She was born in Aleppo, Syria and immigrated to the United States in 1910. In 1917, she married Isaac Shalom, and this blessed union became one of the most productive partnerships not only in the history of the Syrian Jewish community, but in the entire American immigrant experience.

Mrs. Shalom helped to start and to sustain a community which served as the model for successful ethnic groups in our Nation. The Syrian Jewish community, which has flourished mightily in my own district in Brooklyn, has developed a remarkable network of schools, synagogues, and community organizations. Thousands of Syrian Jews have become some of the country's most successful business men and women, a fact due, in part, to the community's tradition of generously helping one another to get started.

In a community that has distinguished itself for philanthropy and charity, Alice Shalom led by example. She contributed countless hours to the United Jewish Appeal and other worthy causes, and she inspired many others to dedicate themselves to the public good.

I had the privilege of knowing Alice Shalom for many years. She was an impressive combination of sweetness and strength; of intelligence and integrity; of devotion and determination.

Alice Shalom has been buried at the Mount of Olives in Jerusalem, the most sacred resting ground in the Jewish State she worked so hard to build and to protect. Yet while she will remain in this beautiful place for eternity, her memory will also linger in another very special place, Brooklyn, which she was proud to call her home.

In conclusion, Mr. Speaker, I would like to include a eulogy of Alice Shalom that was delivered at her funeral and written by her granddaughter, Jeanie Attie, who is a professor of history at Washington University in St. Louis. Professor Attie's words are eloquent and inspiring, and I commend them to my colleagues.

IN MEMORY OF GRANDMA ALICE

When I think of my grandmother, I remember her sharp wit, her exceptional intelligence, her passion for justice and, most of all, her loving nature. She was there for each of her seventeen grandchildren, listening to our concerns, offering us advice, showering us with gifts. She was a remarkable woman. She demonstrated to all of us what a woman could be: strong, smart, witty, beside feminine and charming. Her penchant for independent thinking was evident as a youngster. Arriving in America in the early twentieth century, she recalled to me that her mother told her she could chose a new name; her Syrian name in English translation meant "cherries." Excitedly she claimed for herself a most American name: Alice! She remembered with excitement life in America. While still in elementary school she watched a suffrage parade, women marching down the streets of New York City demanding passage of the amendment to give women the vote. The event so impressed her that she wrote an essay about it and she told me with pride how much her teacher liked it. She kept the essay for the rest of life; I still hope to locate it.

As a young woman she glimpsed the possibilities open to American women who thought of fashioning some sort of careers. A bookkeeper!, she told me she hoped to become and set her sights on attending Cooper Union.

Though a career as such was not to be, she was determined to be the most modern wife and mother. Navigating a careful course between traditional and modern concerns, she strove to create a marriage based on equality and a family based on love. She would have her babies in hospitals, send her children to piano lessons, encourage them all to higher education, and never stop educating herself. She would show other women that women had a responsibility not only to their husbands and children, but to their culture, their community and their people as well.

A young wife and mother in the middle of the Great Depression, Grandma was quick to respond. She organized the Young Women's Welfare League, her "social work" as she referred to it, making sure that those who had would share with those who were going without. Going from house to house, she would inspect neighbors' cupboards to assess needs and mobilize the women of the community to pay electric bills, buy school supplies, and provide medicine.

As war and persecution threw Europe into convulsions, she threw herself into raising funds for organizations dedicated to aiding Jewish refugees. As well as is known, she devoted much of her life to the plight of Jews everywhere.

Perhaps what was most remarkable for me was that my grandmother was a feminist. She taught by her words and her life that women had the same capacities as a man, and deserved the same rights. Though the path she started us down would not be easy and would exact its tolls, she would never have turned back.

She was the very model of what a woman could be. Thank you Grandma, for that inheritance.

YOUTH ADVISORY BOARD GETS YOUNG PEOPLE INVOLVED

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. FIELDS. Mr. Speaker, I would like to take this opportunity to salute the outstanding young men and women who serve on my Youth Advisory Board during the current school year. The young men and women who serve on the board were selected by their schools' principals and/or counselors to represent their fellow students based on the leadership they already have demonstrated in academics, student government, athletics, or other extracurricular activities.

We hear much about a growing alienation Americans feel toward the institutions of their Government and toward their Government officials. Perhaps some of that alienation arises because too many Americans have never met their elected officials—and too few elected officials have made a genuine effort to go out and get to know the men and women they serve. In the absence of that kind of interaction between public officials and the public, the unfortunate alienation we see today will only become more and more widespread in the years ahead.

Such alienation is especially common among our young people—many of whom believe adults aren't interested in their opinions and concerns, won't seek them out for serious discussions and, for the most part, simply don't want to bother with them. The Youth Advisory Board sends a signal to young men and women in north and east Harris County that their opinions and concerns are important and that they should be included in any discussion of the issues facing our country. Most of all, it indicates to our young people that they matter.

The Youth Advisory Board, which I created when I first entered Congress 10 years ago, is composed of students from every high school and junior college in my congressional district. The board provides high school and junior college students with direct access to their Congressman and allows them to meet prominent men and women who have succeeded in a wide variety of fields. The board involves young people in, and teaches them about, their Government. The young men and women who serve on the board, in turn, talk with their fellow students about issues being debated in Congress—motivating all students to think about, and become knowledgeable of, the issues that surely will affect all Americans now and in the future. That knowledge can only motivate students to become involved in our political process, as more and more students come to understand that you have to get involved in order to succeed in life.

But in the 10 years that the Youth Advisory Board has been in existence, I've gained from the students at least as much as I've given to them.

The Youth Advisory Board offers high school and junior college students living in the Eighth Congressional District an opportunity to pass along their ideas and opinions directly to their representative in Congress. It affords the students the opportunity to hear inspirational speakers who have excelled in a variety of fields. In the past, Youth Advisory Board speakers have included astronaut Alan B. Shepard; radio personalities Chuck Wolf and Derrill Holly; television newscasters Melanie Lawson and Jan Carson; Gen. Frederick F. Woerner, Jr., commander in chief of the U.S. Southern Command—SOUTHcom—and, most recently former world heavyweight boxing champion George Foreman. But most of all, by demonstrating the value of their opinions and concerns, it encourages today's students to work to become tomorrow's leaders.

As a result of organizing the Youth Advisory Board, I have a deeper appreciation for the opinions of tomorrow's leaders—at least those who live in my congressional district. I have become a better Congressman—a better Representative—because of the input and suggestions and ideas I've obtained from the members, past and present, of the youth Advisory Board. I remember one meeting at which the students and I discussed ideas to discourage drug use in our country. I explained several of the Federal programs designed to address this pressing problem; they, in turn, outlined approaches taken in their schools, pointing out which approaches seemed to work and which did not. This is the kind of interaction that makes me a better Congressman, and makes the Youth Advisory Board such a wonderful and valuable program.

The 1991–92 members of the Youth Advisory Board are:

YOUTH ADVISORY BOARD

Aldine High School—Leigh Weisinger and Leo Munoz.

Aldine Contemporary Education Center—Londa Kindred and Sedric Johnson.

C.E. King High School—Dodie Baccigalopi and Eric Smith.

Channelview High School—Melissa Johnson and Benjamin Ogden.

Crosby High School—Amy Cotten and Eric Nevil.

Duchesne Academy—Julie Antalffy.

Eisenhower High School—Keli Dailey and J.J. Croix.

Furr High School—Charla Brown and Anthony Elder.

Galena Park High School—Josie Bernal and Codey Church.

Huffman Hargrave High School—Jennifer Chambers and Matt Douglas.

Humble High School—Charity Shotwell and Lawrence Lee.

Jersey Village High School—Sarah Benson and Daniel Kyehn.

Kashmere High School—Lynette O'Neal and Rahsaan King.

Kingwood High School—Paige Wood and James Carter.

Klein High School—Lisa Wirth and Nathan Blom.

Klein Forest High School—Michelle Skinner, Craig Staebel, Lisa Cantu, and Steven DiPasquale.

Klein Oak High School—Kerri Lei C. Hankins and Christopher Martinez.

MacArthur High School—My Luu and Michael Brown.

New Caney High School—Tracey Keller and Jon Janczak.

Nimitz High School—Dorothy Golden and Thomas O'Neill.

North Shore High School—Amanda Curtis and Cliff Wildman.

Lee High School—Christy Robertson and Cory Moravits.

Sterling High School—Lydia Torres and George Latour III.

Sam Houston High School—Deborah Norwood and Daniel Fernandez.

Smiley High School—Millicent Edwards and Shawn Crichlow.

Spring High School—Jennifer Earl and Christopher Bailey.

St. Thomas High School—Thomas Lucario.

Westfield High School—Cayce Byman and Joe Parle.

Lee College—Kathy Donatto.

North Harris College—Janis Riley and David Branham.

Kingwood College—Irma Jenkins and Vincent Bounds.

San Jacino College North—Angela Story and Doug King.

Mr. Speaker, each of these students has chosen to get involved, to make a difference. I know that you join with me in saluting their dedication, and the dedication of all the young men and women who have served on the Youth Advisory Board during the past decade. These young men and women already have achieved a level of success, and already have been recognized as leaders in their schools. But I remain confident that their greatest accomplishments, their greatest successes, their greatest opportunities to demonstrate the leadership skills they have developed lay ahead.

Thank you.

THE CHILDREN OF SUBSTANCE ABUSERS ACT [COSA]

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. BRYANT. Mr. Speaker, yesterday, I introduced the Children of Substance Abusers Act [COSA]. H.R. 3796 is designed to enhance community-based service delivery for substance-abusing women, the estimated 375,000 infants born every year who are compromised by drugs and alcohol as well as the 9 million older children affected by parental substance abuse.

The centerpiece of my legislation is the Children of Substance Abusers Program. The COSA Program would finance consortia of public and private nonprofit agencies—including primary health care service providers, drug rehabilitation clinics, developmental disabilities service providers and child welfare agencies—among others—to furnish pediatric care; periodic evaluation for developmental, psychological and medical problems; therapeutic intervention services; mental health care; substance abuse counseling and related support services.

What is unique about this initiative is that it harnesses existing community-based organizations in a coordinated effort to address the medical, mental health and social service needs of this extremely vulnerable population of women and children. Because children are the key to the COSA programs, children living with relatives and foster or adoptive parents would be eligible for these services.

Second, the legislation contains a new training program for health care providers, drug rehabilitation counselors and social workers addressing the unique impact that today's drug epidemic is having on the American family.

Third, COSA authorizes a separate Federal categorical program for home visiting to be administered by the Public Health Service. The language establishing the initiative has been broadly written to address infant mortality issues, as well as family problems associated with child abuse and neglect. Both the National Commission to Prevent Infant Mortality and the U.S. Advisory Board on Child Abuse and Neglect have recently called for broad-based home visiting programs to serve as a community-based link between low-income women and prenatal health care providers and social service agencies. This initiative is specifically designed to prevent emergency room deliveries of terribly low birthweight infants by women who have received little or no prenatal health care.

Children are the most tragic victims of our Nation's drug epidemic. Nationally, estimates have placed the number of children born exposed to drugs as high as 375,000 a year. Millions more are at risk for a host of physical, psychological, and emotional problems because they live with a parent who abuses alcohol or other drugs. These children are at risk for abuse and neglect because their parents or some other member of the household abuses drugs.

Parental substance abuse is cited in an increasing number of abuse and neglect cases and has contributed to a 50-percent increase in the number of children in foster care between 1986 and 1990.

The New York Times quoted a psychiatrist who said: "We're seeing more and more kids who are simply overwhelmed, not unlike people who have experienced shell shock or combat fatigue. They have trouble sleeping, they are distracted. They have panic attacks. They are resigned, distrustful, living for the moment, unable to control their own apprehension."

A major problem is the lack of comprehensive services to enable women to participate in treatment, ensure that children grow up healthy, and help keep the family together. The children in particular often are not monitored and do not have access to services they need for proper growth and development.

If we fail to respond to this crisis, the cost to our health, mental health, education, and child welfare systems could be staggering. Federal foster care payments have almost tripled since 1986, rising from $637 million in that year to $1.877 billion in 1991.

This legislation is similar to S. 597 introduced by Senator DODD, which was incorporated as title III of S. 1306, the Alcohol, Drug Abuse, & Mental Health Administration Reorganization Act of 1991. S. 1306 was passed by the Senate on August 2. COSA has been endorsed by:

The American Academy of Pediatrics,

The Child Welfare League of America,

The Children's Defense Fund,

The Children of Alcoholics Foundation, Inc.,

The National Association of Children's Hospitals and Related Institutions,

The Association of Junior Leagues International, Inc.,

The Association of Maternal and Child Health Programs,

The American Association of University Affiliated Programs for Persons with Developmental Disabilities,

The National Association of Public Hospitals, and

The National PTA.

CROATIAN TRAGEDY

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. KOLBE. Mr. Speaker, today, I refer my colleagues to the following article that appeared in this morning's USA Today entitled "The Croatians Tell Their War Stories." In the article, Dr. Franjo Tudgman, the President of Croatia, captures the terror and tragedy that has gripped the Croatian Republic since its declaration of independence on June 25. I join the administration and the European Community in condemning the violence inflicted on Croatia by the Yugoslavian Federal Army, and specifically the Serbian Republic. Like all of my colleagues, I am hopeful that the efforts by the United Nations to resolve the conflict peacefully are successful.

[From the USA Today, Nov. 19, 1991]

THE CROATIANS TELL THEIR WAR STORIES

Since Croatia and Slovenia declared their independence from Yugoslavia last June 25, the human rights of 4.5 million Croatians have been violated in one of history's most blatant attempts at seizing territory by violence and force.

Some 3,000 civilians have been killed; 450,000 refugees have fled their homes and villages; and more than 140 churches, monasteries, synagogues, hospitals, schools and historical sites have been damaged or destroyed. Human misery is reminiscent of the barbarism of the ancient past.

Yet, many Americans still do not understand the war against Croatia. The issues are really quite simple:

This is a battle between the forces of freedom and the dictatorship of communism. In April of 1990, Croatia held free elections in which over 90% of the electorate voted to throw off communism and replace it with a parliamentary democracy committed to individual rights and respect for minorities. Yet Serbia remains the last bastion of communism in Europe. Croatia welcomed the U.S. effort to export democracy; Serbia spurned it.

This is a contest over human rights. Croatia is unalterably committed to human rights. Strong legal guarantees were instituted after independence, including the Charter of Rights for Serbs and other nationalities.

Militant Serbs have fueled the fires of hatred toward 350,000 ethnic Hungarians and close to 200,000 Croatians in Yogvodina, denying them jobs, education and health care.

In Kosovo, 2 million ethnic Albanians comprising 92% of the population have been victims of Serbia's brutal crackdown. They are not allowed to vote or to assemble peacefully; they have been denied freedom of speech; their university has been closed and their parliament disbanded.

This is a fight to prevent Serbia from expanding its frontier through political intimidation and military aggression. Serbia's aim is to capture the breadbasket of Croatia, its oil fields, the Adriatic tourist destinations, a seaport, and other economic resources Serbia currently lacks.

We had no choice other than to defend our citizens and territory against the communist Serbian onslaught. We have done so without official international help and with minimal encouragement from other democracies.

Croatia has supported ever one of the 13 cease-fires. We have called repeatedly for peacekeeping forces and international intervention to stop the war. Serbia has broken every cease-fire before the ink was dry.

Now, the action has shifted to the United Nations. Through U.N. envoy Cyrus Vance's efforts, we are hopeful that we will soon see the arrival of U.N. forces along Crotia's legal borders, keeping the Serbians out of our country and in their place.

As the first freely elected president of Croatia, I feel compelled to do everything in my power to bring our struggle to the attention of U.S. leaders and the American people. We appeal to the USA and all freedom-loving nations of the world to come to our aid at this moment of desperate need.

B-2 STEALTH BOMBER PROGRAM

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. DAVIS. Mr. Speaker, the House yesterday pessed the conference report on H.R. 2100, the Defense authorization bill for fiscal years 1992 and 1993. That legislation authorized spending over $4 billion on the B–2 Stealth bomber program in fiscal year 1992, and authorized one new production aircraft; the $1 billion in funds for that new production aircraft were heavily fenced, however, and may not be obligated unless and until a subsequent act passes both Houses and has been signed into law by the President.

Some B–2 critics have asserted that this outcome "sounds the death knell" for B–2; that the program has been stopped "dead in its tracks"; and that this is the result of technical flaws associated with the aircraft.

In fact, the B–2 is very much alive and well, Mr. Speaker, The B–2 flight and ground test programs are proceeding apace and making dramatic technical strides, according to an article in the November 18, 1991 "Aviation Week & Space Technology entitled "B–2 Test Program Remains on Track to Meet Aero-structural Milestones."

Let me briefly highlight some of the recent, remarkable accomplishments of the B–2 ground and flight test program:

With three aircraft at Edwards Air Force Base, CA, the test team had compiled 327.8 hours on 77 flights by November 1.

B–2 crews have flown the aircraft in 95 percent of its operational flight envelope and structurally cleared 75 percent of that envelope.

The B–2 has been tested over the full operational speed range.

B–2 crews have completed about 30 percent of the planned flying qualities and flight control test points.

B–2 crews have completed tests in 80 percent of the air refueling envelope, involving both the KC–135 and KC–10 tankers.

B–2 crews have completed more than 50 percent of planned vibroacoustics testing with the weapons-bay doors open.

In four flights, the B–2 has demonstrated five key radar modes, including two air-to-ground modes.

In parallel with structural flight tests, ground-based fatigue and static loads testing will be completed by next year. One fatigue lifetime cycle was finished earlier this year, and a second cycle is well underway.

AV–3, the third test aircraft—the first with a near-complete avionics suite—is concentrating on radar and navigation systems evaluations.

AV–4 is scheduled to make its first fight early in 1992, will be devoted to avionics and weapons tests.

By the end of 1992, the B–2 combined test force will be operating six flight test aircraft.

At the same time, Mr. Speaker, the Air Force is in the process of ensuring the B–2 will possess a robust conventional armaments capability. This is not surprising, since the B–2 all along has had both a nuclear and conventional mission. The B–2 will be able to carry a variety of conventional weapons, including smart weapons made famous in the gulf war. In fact, the B–2 could carry up to 16 such weapons, or 8 times the number carried by the F–117 Stealth fighter during the war.

About one year of low observables testing has been completed—all on AV–1. The B–2 combined test force has operated the aircraft in the entire radar spectrum, from low to high frequencies, focusing on those frequencies that represent potential threats. AV–1 has undergone radar tests from all aspects in azimuth—a full 360 degrees—and is being characterized from different elevation angles.

The B–2 flight testing program to date has demonstrated, according to the Defense Science Board, the fundamental soundness of the stealth design. The July 26 test anomaly, which critics of the B–2 point to as proof that the bomber won't perform as advertised, in fact should be viewed as the type of problem that arises early in any new aircraft development program.

I would conclude, Mr. Speaker, by quoting the director of the B–2 combined test force: "From a test standpoint, we've seen nothing that would keep the airplane from doing what it was designed to do. We've identified a few problems—such as some software changes needed—and have demonstrated that they can be fixed without major changes to the aircraft."

As a senior member of the House Armed Services Committee and the ranking Republican member on the Research & Development Subcommittee, I have followed and will continue to closely monitor the status of the B–2 ground and flight test programs. I remain convinced that the Nation's security will be strengthened dramatically by the deployment of an adequate number of B–2's—certainly more than the 15 aircraft that have been approved to date.

TRIBUTE TO MRS. MARIE A. BAGBY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, I rise today to bring to the attention of my colleagues the retirement of a dedicated educator and a good friend of mine, Mrs. Marie A. Bagby.

Mrs. Bagby was born and raised in Newark, NJ, and it was there she decided to devote herself to education. Upon completing her primary education in Newark, Mrs. Bagby went to New York University, achieving a B.S. in business education and an M.A. in educational psychology. From there it was back to New Jersey to Seton Hall University, also my alma mater, for the postgraduate certification in student personnel services and supervision and administration.

Marie Bagby began her career as a substitute teacher in 1946 for the Newark Board of Education. After serving in that capacity for 2 years, she went to the Girls' Trade School in Newark as a teacher of the handicapped, became the head teacher there in 1964, and was the vocational counselor for the Girls' Trade School from 1966 to 1968.

In 1968, Marie Bagby went to Barringer High School in Newark, as a guidance counselor. Much can be said about the tradition of Barringer High School. It is the third oldest high school in the United States, founded in 1848. First known as Newark High, "Truth, Honor, and Light" was, and is, the motto for Barringer, where foreign languages, English, and the sciences were high priorities and graduates almost always went on to succeed. Even the fencing team was the best in the country.

After 3 successful years as guidance counselor, Marie became vice-principal of Barringer High, while at the same time she taught summer evening courses at University College, Rutgers University at Newark. Spending endless hours developing class structure at University College, and helping run Barringer High School came naturally to Mrs. Bagby, and she excelled in every aspect.

From 1975 to 1978, Marie moved over to West Side High School as principal, and in 1978, Marie Bagby became the first black principal of Barringer High School and remained there for 8 years. She was the principal at University High School for 4 years before joining the Newark Board of Education secondary programs. It is from the secondary programs department that she retires.

Mr. Speaker, not enough can be said about Marie Bagby. Aside from all these achievements, she taught for 17 years at Charles Evans Hughes and Washington Erving Evening High Schools in New York City. She is a certified teacher of the handicapped and teacher of Gregg stenography for New Jersey. She was also certified in supervision/administration and Student Personnel Services of New Jersey Permanent. She is a member of the Essex County ethics committee, Phi Delta Kappa national sorority, Blessed Sacrament Catholic Church, Blessed Sacrament Rosary Society, Womens' League of New Jersey, Inc., and a member of the Four Seasons.

Mr. Speaker, I know my colleagues will join me in congratulating Mrs. Bagby for her lifelong dedication to education and wish her the very best in her retirement.

TRIBUTE TO EAGLE SCOUT THADDEUS T. MASSEY

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. DIXON. Mr. Speaker, I rise today to congratulate and honor Thaddeus Theophilus Massey as he receives the highest and most distinguished honor of the Boy Scouts of America. On Sunday, December 8, the Boy Scouts of America, Troop 999, Centinela District will honor Thaddeus at his Court of Honor Eagle Ceremony.

Thaddeus, who lives and attends school in my congressional district, has been an outstanding leader in his church, at school and in the community at large. At St. Bernard High School, Thaddeus is a tailback and kicker for the varsity football team. He is also a member of the Thespian Club where he has been featured in many school productions. In addition to Thaddeus' extracurricular activities, he was included in the 25th Silver Anniversary Edition of Who's Who Among High School Students.

As a Boy Scout, Thaddeus has held many positions of responsibility. He has served as assistant senior patrol leader, senior patrol leader, and presently as assistant scoutmaster. For his Eagle Service project, Thaddeus worked with the Tree People, a nonprofit conservation organization, to build benches in the Coldwater Canyon park area. I applaud his efforts on behalf of preservation and his appreciation of the environment.

Mr. Speaker, I ask my colleagues to join me, Boy Scout Troop 999, and a host of Thaddeus' friends and family in congratulating him on his proud accomplishments.

RÉSUMÉ OF ACTIVITIES OF THE SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. RANGEL. Mr. Speaker, as the close of the first session of the 102d Congress nears, I want to share with my colleagues a résumé of activities of the Select Committee on Narcotics Abuse and Control during this session.

The select committee has held an extensive series of hearings focusing on various aspects of the drug problem as well as on the Federal strategy to combat it. The committee conducted two major international study missions examining both cocaine and heroin production and trafficking, and hosted numerous meetings in Washington on international narcotics control. The Narcotics Committee released six General Accounting Office reports on drug abuse issues and held several executive sessions with administration officials on the implementation of the national drug control strategy. A newsletter describing the select committee's activities is distributed monthly to each Member of the House.

I am inserting into the RECORD at this point our résumé of activities for the first session. If any Member is interested in further details about these activities, or other drug control oversight programs of the Select Committee on Narcotics Abuse and Control, please contact our staff at H2-234 Ford House Office Building, extension 226-6040.

RÉSUMÉ OF ACTIVITIES OF THE HOUSE SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL, 102D CONGRESS—FIRST SESSION

HEARINGS

1. National Drug Control Strategy—February 6, 1991.
2. Heroin Control Strategy—May 9, 1991.
3. Drug Abuse Treatment in Prisons—May 14, 1991.
4. Andean Strategy—June 11, 1991.
5. Federal Drug Interdiction Efforts—June 20, 1991.
6. Drug Abuse and Drug Trafficking Along the Northern Border, Buffalo, New York—July 15, 1991.
7. The Role of the Justice Department in the War on Drugs—July 25, 1991.
8. Drug Exposed Children in the Public Schools—Problems and Policy—July 30, 1991.
9. Drug Exposed Children: A Crisis in America's Schools—September 13, 1991.
10. Effectiveness of Drug Abuse Treatment—October 17, 1991.
11. Intervening with Substance Abusing Criminal Offenders—New York—October 25, 1991.

INTERNATIONAL ACTIVITIES

Study Missions:

1. Panama and Colombia; January 6-9, 1991.
2. Syria, Pakistan, Israel, and Pakistan; August 3-13, 1991.

Meetings:

January 3—CODEL Briefing by State and DEA.

April 24—Ambassador Roberto MacLean, Peru.

May 2—Ambassador Jaime Garcia Parra, Colombia.

May 9—Ambassador Jamie Moncayo, Ecuador.

May 16—Ambassador Jorge Crespo, Bolivia.

June 18—Ltalian Legislators.

June 26—Ambassador Najmuddin Shaikh, Pakistan.

July 17—Ambassador Najmuddin Shaikh, Pakistan.

July 24—Briefing by State and Justice on Bolivia.

July 24—Minister of Interior Carlos Saavedra; Minister of Foreign Relations Carlos Iturralde, Bolivia.

July 24—Ambassador Jaime Garcia Parra.

July 25—CODEL Briefing by State and DEA.

October 30—State and DEA Briefing on Syria.

October 31—Interior Minister Stoiber, Bavaria, Germany.

GENERAL ACCOUNTING OFFICE (GAO) REPORTS

1. The Crack Cocaine Epidemic: Health Consequences and Treatment, January 30, 1991.
2. Teenage Drug Use: Uncertain Linkages with Either Pregnancy or School Dropout, January 15, 1991.
3. Federal Prisons: Revised Design Standards Could Save Expansion Funds, March 14, 1991.
4. Narcotics Control Efforts in Panama, July 16, 1991.
5. Improving Management of Assistance to High Intensity Drug Trafficking Areas, July 25, 1991.
6. ADMS Block Grant: Drug Treatment Services Could Be Improved by New Accountability Program, October 17, 1991.

SPECIAL MEETINGS AND OTHER ACTIVITIES

1. Reconstitution of the Select Committee, February 6, 1991.
2. Meeting with Drug Policy Director Bob Martinez, March 21, 1991.
3. Interagency Meeting on Methadone Maintenance Programs, June 7, 1991.
4. Meeting with Ambassador Carla Hills, U.S. Trade Representative, June 19, 1991.
5. Field Trip to the Unfoldment Program at the Lorton Reformatory, July 29, 1991.
6. Meeting with Transportation Secretary Samuel Skinner, November 13, 1991.

TRIBUTE TO MAJ. CHARLES M. AND MADELINE SARGENT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to a remarkable couple, Maj. Charles M. and Madeline Sargent, of Sunbury, PA, who between them have accumulated a total of 65 years of service in the Salvation Army.

Charles and Madeline, who have been married for almost 47 years, first became involved with the Salvation Army through a Daily Vacation Bible School Graduation program. They both became Soldiers in the Salvation Army in December of 1956 in the Lewiston-Auburn Maine Corp. In 1958, they entered the School for Officers Training-Pioneer Session.

Both Charles and Madeline have given selflessly to the Salvation Army throughout the Northeast, in Rochester and Nashua, NH, in Bangor, ME, in Utica, NY, and most recently in Shamokin and Sunbury, PA. Charles and Madeline have been soldiers in a very important army, serving the less fortunate among us, tirelessly working to better our society and lend a hand wherever and whenever one was needed. It is this type of spirit, Mr. Speaker, that shines as an example for all of us, that inspires us to follow their example to help those who are in need.

I ask all of my colleagues to join me in honoring Charles and Madeline Sargent for their decades of sacrifice and service to the Salvation Army and to the countless number of people that have been touched by their kindness.

TRIBUTE TO MAJOR POLLY HAY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. PALLONE. Mr. Speaker, I would like to take this opportunity to pay special recognition to Major Polly Hay of Toms River, NJ, who has consistently demonstrated extraordinary patriotism, fighting to uphold the freedoms that we all hold so dear.

Major Hay proudly served in Operation Desert Storm, only to return home to find that a woman's freedom had been eroded by the Supreme Court's Rust versus Sullivan decision. No longer would any woman who visited a title X family planning clinic be able to discuss with her doctor all of the medical information necessary to make an informed decision about continuing or terminating a pregnancy. As a nurse, Major Hay daily witnesses the importance of the integrity of the doctor-patient relationship—a relationship that should not be invaded by the Government. She believes, as I do, in the right to freedom of speech.

It is for these reasons that Major Hay is speaking out in opposition to the gag rule, and in support of freedom of speech and medical ethics. In doing so, she is speaking not only for herself, but also for the women and men of this country who correctly fear the undermining of fundamental freedoms.

Because I take great pride in the dedication of Major Hay to her country, I would like to share with you her own story as it recently appeared in the Ocean County Observer. That article follows:

[From the Ocean County Observer, Nov. 14, 1991]

GULF WAR VETERAN FOUGHT FOR FREEDOM

(By Polly Hay)

I love my country. I love it so much, I left my husband and children to serve as a nurse in the Gulf War. It was hard on me and even harder on my family. I had two days to report for six months of duty. I wasn't allowed to tell anyone, including my husband, where I was going to be stationed. I lived in a tent and, like everyone else, endured middle-of-the-night bomb scares. I was trained for chemical warfare. Now my kids call me Major Mom.

I felt like I was making a real sacrifice for my country, but I was glad to do it. I came home prouder than ever of what America stands for, of our traditions, our values, our liberties and freedoms.

When I came home, I was stunned by a recent Supreme Court decision and by our president's response. In May, the court decided that if I were pregnant and went to a federally funded clinic, my doctor would be prevented from reviewing all my medical options with me even if I was faced with a life-threatening situation.

My conversations with my doctor would be censored. And President Bush says that's OK.

The regulation approved by the Supreme Court is called the "Gag Rule." It says doctors at federally funded clinics can't talk to patients about abortion, even if the woman's health is at risk. It says that if a patient asks, her doctor can only say that abortion is not regarded as an "appropriate" method of family planning. That's all. No explanations. No information. Just that one sentence.

I believe this Gag Rule violates free speech. And it violated the most fundamental medical ethics.

As a civilian, I manage the emergency room at Southern Orange County Hospital in Manahawkin. Our staff considers it their job to provide the best possible information to every patient. We try to help people make educated decisions about their health, about their lives. It's one of our most basic responsibilities and one of patients' most basic needs. It helps them control their treatment. We can administer care, explain alternatives, assess risks and answer questions, but patients must make the decisions.

The Gag Rule is a chilling concept. It's wrong. It keeps patients from making their own decisions.

For patients facing almost every disease or condition, medical professionals can spell out options and speak freely. But if a woman is pregnant, the government wants to act like Big Brother and censor the conversation.

Both the Senate and the House of Representatives have passed bills to get rid of the Gag Rule.

President Bush is still threatening a veto. I agree with George Bush on almost everything. But, on this, I think he is wrong, and I can't express how disappointed I am.

The Gag Rule is dangerous. At the emergency room I run, we've cared for women who came in after having botched abortions. We've delivered babies from girls who didn't even know they were pregnant.

The pressing need is for more information, not more regulation. We need education, not government intrusion. Instead of forcing women to learn about their health care options on the street, from a friend's friend or at the beauty parlor, we should encourage discussions with doctors at family planning clinics. But that will only happen if doctors are allowed to talk openly with their patients.

It's wonderful having kids. I have four. I don't know what I would do if I became pregnant unexpectedly. But I am certain that I don't want the government deciding what my doctor and I can discuss.

Thirty thousand women served in Desert Storm. Our government asked a lot from us. We were more than willing to serve.

Now we're asking for something from our government and from our president. We're asking for respect—for our ability to make decisions, for our intelligence and for our morality.

I was willing to fight for someone else's freedom. What about mine?

ST. LOUIS HONORS EDUCATOR JULIA DAVIS ON HER 100TH BIRTHDAY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. CLAY. Mr. Speaker, I would like to insert for the RECORD, a feature story appearing in the November 17 issue of the St. Louis Post Dispatch that chronicles the extraordinary career of Ms. Julia Davis, St. Louis' famed educator and historian.

PIONEER

(By Cynthia Todd)

In the first week of her career, a young elementary teacher stood before her class of eager learners and set out to inform them of their ancestors.

That might not be considered extraordinary, except that the pupils were black and the year was 1913.

That young teacher was Julia Davis.

Since that day so long ago, she has been informing people of the history of blacks and their contributions to American society in most of her waking hours.

At 1 p.m. Sunday, hundreds are expected to fill the Great Hall of the St. Louis Public Library to mark her 100th birthday—and probably get a history lesson. Davis' birthday is actually Wednesday.

Besides her classroom teaching, Davis is known for integrating black history throughout the curriculum of the St. Louis public schools. She also established at the St. Louis Public Library the Julia Davis Collection—more than 2,800 volumes that chronicle black experiences in America.

Asked to grant an interview, Davis shunned the request. "If you want to know about me, talk to other people," she said.

"She's a Baptist, but she was like a Catholic nun in the classroom," said Chuck Berry, the rock music star from St. Louis. Davis taught Berry in the seventh and eight grades. "She taught in the avenue of perfection," he said.

"We tried to come close."

Davis is known as a stickler for accuracy.

"She'll ask you to explain your answer to make sure you understand what you are talking about," said Barbara Murphy, manager of the humanities department at the public library.

Julius Hunter, the news broadcaster at KMOV–TV (Channel 4), became familiar with Davis's style while using her as a resource for a series of news vignettes on St. Louis history.

Said Hunter: "I would ask her, 'How do you know this story?' She would say, 'Well, I know this guy.' That is one of the beauties of calling her, She speaks from experience."

She also has a sense of humor.

Henry Givens, a former student of Davis and president of Harris-Stowe State College, witnessed it when Davis spoke to some of his students while he was principal of Douglass School in Webster Groves.

"I introduced Julia Davis as my old teacher," Givens recalled recently. "She said, 'Young man, young people, I am not as old as he is' and did a cartwheel across the gym floor." Davis was then 77.

Julia Davis started her search for information on black history while she was a small child sitting in front of scrapbooks of clippings from newspapers and books compiled by her father.

After graduation from Sumner High School and the Sumner National class for teacher certification, she started weaving that information into her school lessons.

Most of her teaching career was spent at Simmons School, where Davis taught for 35 years. Most of that time she taught eighth grade.

She was often a student herself, taking graduate courses at Boston, St. Louis, Northwestern, Syracuse and New York universities.

Many former pupils remember her as a dynamic, creative, no-nonsense disciplinarian who gave them a glimpse of black life they had never dreamed existed.

Had it not been for her, students might not have learned that:

A black, Alonzo Pedro, piloted the Nina—one of the ships under the command of Columbus.

A woman named Esther was the first woman of color to receive a Spanish land grant in St. Louis for property along what is now Laclede's Landing.

Benjamin Banneker, a black, helped the French engineer and architect draw up plans for the nation's capital.

Jessie H. Housley, a black, painted a mural in the Scottish Rite Temple on Lindell Boulevard.

Dred Scott, the black slave of civil rights fame is buried in Calvary Cemetery between West Florissant Avenue and Broadway.

"These were things that weren't even mentioned in our textbooks," said educator George Hyram, who was Davis' pupil in the early 1930s. "It was certainly a source of pride in self to find out that even if our history books didn't mention it, we had made contributions to our country."

ON THE MONEY

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. KOLBE. Mr. Speaker, the House Subcommittee on Consumer Affairs and Coinage recently held a hearing on the One Dollar Coin Act of 1991, H.R. 1245. The need for a circulating $1 coin is becoming obvious to more and more people, and I commend by colleague, ESTEBAN TORRES, for conducting those hearings.

A Columbus Dispatch editorial dated November 9, 1991, clearly shows that when Americans are given the facts, they will support $1 dollar coin. At this point, I wish to insert in the RECORD "On The Money: $1 Coin Could Help Cut Bloated Budget":

[From the Columbia Dispatch, Nov. 9, 1991]

ON THE MONEY—$1 COIN COULD HELP CUT BLOATED BUDGET

For at least four years now, reasonable voices have been urging the federal government to stop making $1 bills and begin minting $1 coins.

This step would net the government an annual savings of at least $318 million, according to the General Accounting Office, and possibly as much as $886 million, according to a study by a professor at the University of Chicago. The savings stem mostly from the longevity of coins vs. currency. The average buck lasts just 17 months, while a typical quarter endures 20 to 30 years.

The folks in Washington are notorious for their inability to exercise fiscal responsibility, but it is difficult to understand why any of them are resisting this simple route to making taxpayers' money go further.

Bills to retire the paper dollar keep popping up in Congress and going nowhere. A hearing in the House Subcommittee on Consumer Affairs and Coinage this week on proposed legislation to begin the $1 coin and end the $1 bill was the most recent activity.

A Senate committee earlier this year approved a plan to make a new $1 coin but to continue the $1 bill. This action would be destined to fail and should be rejected in favor of the House proposal.

If the Bureau of Engraving keeps turning out those $1 bills, a $1 coin won't succeed and the government won't save anything.

The poorly designed Susan B. Anthony $1 coin is a prime example. People didn't like it because it looked too much like a quarter, but they would have learned to use it, anyway, if the $1 bill had been phased out. Because the bills continued, the Anthonys today just sit in vaults and coin collections.

The sensible suggestion for new $1 coins call for them to be the same size as Anthonys but gold-hued and with smooth edges. This would make them easily distinguishable—even by blind people—from quarters. House Resolution 1245 urges a design to honor U.S. military veterans, bound to be a popular choice.

Some people complain that a $1 coin would weigh heavily in people's pockets. In fact, people who use vending machines, pay telephones and public transportation often have to carry lots of quarters and other change to feed these machines because many of them won't accept bills.

Anyone who is familiar with devices that do take currency can testify to their persnickety behavior.

In addition, the vending industry is understandably worried about accurate color photocopies and other tecnological advancements that threaten to make these machines more vulnerable to counterfeiting.

That's one reason businesses that handle coins routinely are among those backing the conversion to $1 coins. The Central Ohio Transit Authority is one of the public transportation systems that accept bills and then deal with the consequences of having to smooth, sort and count them by hand—a costly process. Switching to $1 coins would save the Los Angeles and Chicago transit systems, respectively, an estimated $5 millions and $2 million annually.

No one would have suggested printing 25-cent currency 30 years ago, so why does anyone today prefer to carry $1 bills, each with the approximate buying power of a quarter in 1960? The United States is the only major industrialized country without a coin of this value. Only old habits and lack of determination on the part of the federal government to force a change in habits have kept the buck going.

Advocates of the $1 coin also urge wider circulation of the $2 bill—currency that is available but not often used. Obviously it takes twice as many $1 bills to equal the same value in $2 bills in a wallet, so encouraging use of a higher-denomination note is cost-effective. It is possible, however, that $1 coins would suffice for convenience without $2 bills.

Popularity of specific coins or currency should play no role in the government's decision. People will use whatever media of exchange the government makes available.

The $1 coin should be a top priority among lawmakers looking for ways to cut away at any of the many layers of fat in the national budget. A secondary goal worthy of pursuit is the end of penny production. Those bothersome and virtually worthless coins account for three-fourths of the U.S. Mint's production—probably because so many pennies sit uncirculated in piggy banks or elsewhere. Many others are thrown away—purposely and inadvertently.

So the mint has to keep making the lowliest of coins just so merchants can make change. What a needless expenditure of tax dollars.

Those pitching for pennies to disappear have pushed legislation that calls for the rounding of hard-cash transactions to the nearest nickel. Credit-card and check payments would be unaffected.

Let common sense replace common cents.

CONGRATULATIONS TO THE COLLEGE OF NEW ROCHELLE ON THE NEW SOUTH BRONX CAMPUS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise today to congratulate the College of New Rochelle on the opening of the new South Bronx campus next Wednesday, November 20, 1991. This new campus is yet another example of the commitment the College of New Rochelle has displayed during the past 87 years in providing a quality education for its students.

The College of New Rochelle was founded in 1904 as the first Catholic college for women in the State of New York. Today, it is an independent college composed of four different schools, three of which include both male and female students.

The new south Bronx campus is one of the seven campuses of the school of new resources. This school is the branch that enables adults to obtain a higher education. The school of new resources was established nearly 20 years ago as a liberal arts program with an adult-oriented curriculum. It awards the bachelor of arts degree to candidates who have successfully completed the various requirements of the school. To date, 6,000 adults have graduated from the school of new resources, with a present enrollment of 3,000.

In order to obtain the bachelor of arts degree, students develop their own individual plan of studies. The school offers five interdisciplinary areas of interest—letters, social sciences, psychology, communications, and foreign languages—of which students choose one. In addition to the required number of courses and seminars in the chosen area of interest, students must complete certain courses set forth by the school. Students of the school of new resources are required to carry out their course work in close collaboration with members of the faculty and to obtain a certain grade point average. The school also enables students to obtain certification to teach in the State of New York if they so desire.

The school of new resources originally established a campus in the south Bronx in 1978. With the passage of time, the campus grew too small for the number of students it sought to accommodate—850 presently—and the school decided to move this campus to its present larger, more sophisticated facilities. This new campus contains an integrated media center, a computer center, a language laboratory and learning skills center, a photography laboratory, and a meditation room. The academic resources available in this campus are unparalleled in the south Bronx and will provide students with unique opportunities to carry out more detailed explorations of their particular area of interest.

For almost a century, the College of New Rochelle has made every effort to ensure that its students receive the best possible education with the most efficient and advanced facilities. I commend the College of New Rochelle for its invaluable contribution to the education of so many members of the community that is New York City. Were it not for the school of new resources, for example, many adults would never have had the opportunity to pursue a higher degree. Throughout its existence, the College of New Rochelle has provided many people with educational opportunities they would otherwise never have encountered. The opening of the new south Bronx campus not only perpetuates but strengthens the educational tradition of the college by increasing the variety of opportunities provided and making them accessible to even more people.

DAIRY DISASTER

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. ECKART. Mr. Speaker, I rise today to express my disappointment with the outcome of the House dairy bill. Last week the dairy bill was pulled from the House Calendar for the year. It is now anticipated that dairy legislation will not be enacted until next spring. While there were some legitimate concerns with the dairy bill, I believe that this legislation would have been one step in the right direction toward assisting our Nation's beleaguered dairy farmers.

Our Nation's dairy farmers—including those in Ohio—are experiencing severe financial difficulties due to extreme drought conditions and the lowest prices received for their milk since 1978. In a time of such hardship, dairy farmers turn to the U.S. Government for assistance. Last week, Mr. Speaker, we joined the President in turning our back on the producers of one of our Nation's most vital commodities. The President has continually blocked efforts to assist our dairy farmers. The President continues to milk our Nation's taxpayers to support and assist those abroad but refuses to help our farmers put milk on the tables of America. This is a disgrace.

I had the enlightening opportunity to visit several dairy farms in my district during the August recess. I was able to see firsthand the plight of these hard-working, proud Americans. The success or failure of many of the dairy farms in northeast Ohio was dependent upon passage of a dairy bill this session. Quite truthfully, many of these producers may not last another winter. This year alone, cash receipts for dairy farms in Ohio's 11th Congressional District will fall by 16 percent, while living costs continue to rise. The situation is certainly bleak.

Mr. Speaker, although there were problems with the dairy bill, I believe it would have provided much needed assistance to my constituents.

THE MEDICARE OUTPATIENT DIABETES EDUCATION COVERAGE ACT OF 1991

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. CHANDLER. Mr. Speaker, diabetes is a major public health problem in our country, affecting over 14 million Americans. It is a chronic disease with serious complications leading to blindness, kidney disease, amputations, heart disease, stroke, and death.

Diabetes is also a costly disease. Currently, health care and related expenses for diabetes treatment run over $20.4 billion annually.

But diabetes is also a controllable disease; one which need not completely debilitate its victims. One critical factor in preventing acute and long-term complication of diabetes is patient self-management. Appropriate outpatient education enables people with diabetes to understand their disease and how to perform optimal self-care.

To help achieve that goal, I am pleased to introduce today the Medicare Outpatient Diabetes Education Coverage Act of 1991.

Mr. Speaker, numerous studies have shown that education programs focused on patient self-care can reduce the costs associated with diabetes management. In testimony before the Ways and Means Committee, Dr. William Poper, Director of the Centers for Disease Control, stated that "each dollar spent on diabetes outpatient education saves $2 to $3 dollars in hospitalization costs."

But this bill will do far more than save our ailing health-care system precious financial resources. More importantly, it will help improve the quality of life for millions of diabetes patients, and help prevent agonizing long-term hospital stays. It is this savings, Mr. Speaker, that should command our attention and which warrants the immediate consideration and passage of this legislation.

Unfortunately, under current law, Medicare may only reimburse for outpatient education services affiliated with a hospital or rural health clinic that are ordered by a physician. Currently, education services offered in physicians' offices and similar primary care setting are not included and reimbursement is inconsistent and unpredictable from State to State.

My bill would address these shortcomings in current law by directing the Secretary of Health and Human Services to:

Extend Medicare coverage of outpatient programs beyond hospital-based programs and rural health clinics;

Develop and implement payment amounts for outpatient diabetes education programs to facilitate consistent payment nationwide by third-party insurance; and

Adopt quality standards for outpatient diabetes education programs. Only those programs that qualify would receive Medicare reimbursement.

Mr. Speaker, one of the keys to preventing long-term complications from diabetes is diligent self-management by patients, but Medicare currently has no clear policy to ensure that diabetics get the information they need. We need to reform our Medicare reimbursement policies so that preventive measures like outpatient education programs for diabetics are a higher priority. This bill would provide those needed reforms and as such, provides us with the unique opportunity to save increasingly scarce Medicare assets, as well as needless human suffering.

I urge my colleagues to support the Medicare Outpatient Diabetes Education Coverage Act of 1991.

THE RAINBOW LOBBY VERSUS MERVYN DYMALLY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. DYMALLY. Mr. Speaker, I bring to the attention of the House an order filed by the U.S. District Court for the District of Columbia in the case of the Rainbow Lobby, Inc., versus MERVYN DYMALLY, thereby dismissing the case against Representative DYMALLY.

Mr. Speaker, I note, with deep gratitude, that the matter was handled by the House Counsel, Mr. Steven Ross. The Rainbow Lobby is not associated with Rev. Jesse Jackson's Rainbow Coalition.

[U.S. District Court for the District of Columbia, Civ. No. 90–1084]

RAINBOW LOBBY, INC., ET AL., PLAINTIFFS VERSUS MERVYN DYMALLY, DEFENDANT

MEMORANDUM

Before the Court is defendant's motion to dismiss the complaint and plaintiff's opposition thereto. As detailed below, defendant's motion will be granted and the complaint will be dismissed.

Plaintiffs are a lobbying group, its director, and an investigative journal all concerned with informing the American public about the government of Zaire. On May 14, 1990, this Court denied plaintiffs' petition for a temporary restraining order and preliminary injunction seeking to prevent the defendant, a member of the House of Representatives, from disclosing on the floor of the House the contents of two documents plaintiffs claim belong to them and constitute confidential information. On May 17, 1990, defendant did read into the congressional record portions of the documents at issue.

Plaintiffs now seek monetary damages for the disclosure of these documents made by Congressman Dymally, not on the floor of the House, but elsewhere. Because these claims are no more well-grounded in the law than was plaintiffs' demand for injunctive relief, defendant's motion to dismiss will be granted based on the failure of the complaint to comply with Rule 8 of the Federal Rules of Civil Procedure, and for failure to state a claim upon which relief may be granted.

Rule 8 of the Federal Rules of Civil Procedure require the plaintiff to set forth "a short and plain statement of the claim showing that the pleader is entitled to relief." Plaintiff's complaint in the instant case contains 34 pages of rambling charges, very few of which even purport to be legal claims against the defendant. Plaintiffs' opposition to defendant's motion to dismiss contains a more focused discussion of plaintiffs' legal claims, but the complaint has not been amended and therefore suffers from the same defect which this Court identified at the time of the hearing on the temporary restraining order.

However, the Rule 8 defects are the last of plaintiffs' problems in this case. Plaintiffs' complaint states six separate claims each of which fails to state a claim upon which relief may be granted, even if the plaintiffs' factual proffer is true. Plaintiffs concede that Representative Dymally obtained the two documents at issue "through legal means." With this concession, the claims asserted by plaintiffs under the First Amendment and common law completely fall apart, and lose any possible connection with established legal precedent.

Count I alleges violations of the plantiffs' First and Fifth Amendment rights based on defendant's dissemination of the "confidential documents" about plaintiffs that he obtained legally. Plaintiffs claim that by disseminating these documents, defendant violated their First Amendment right to unauthorized disclosure of their confidential relationships; there relationships also, according to plaintiffs, constitute a property interest of which they have been deprived without due process of law in violation of their Fifth Amendment rights. In support of this count, plaintiffs cite a number of cases in which government actors have been prevented from actively intruding on the privacy or First Amendment rights of citizens. However, in all of the cases plaintiffs cite, the citizens were either required by the government to give information which would inhibit the exercise of their first amendment rights, *NAACP* v. *Alabama*, 357 U.S. 449 (1958), or the government had seized such information from citizens. *United States* v. *Hubbard*, 650 F.2d 293 (D.C. 1980)

In the instant case, there is no allegation that defendant was more than a passive recipient of the documents at issue. Contrary to plaintiffs' assertions, prohibiting the government from seizing or requiring disclosure of confidential information is not the same as placing liability on a government actor to whom the confidential information is disclosed. While the Constitution prohibits the government from using its powers to compel citizens to divulge associational or other information that would violate the First Amendment, it does not require that once information comes innocently into a Congress member's hands, that that information may not be used by the member. Therefore, Count I of the complaint fails to state a claim on which relief may be granted and will be dismissed.

Count II of the complaint alleges common law invasion of privacy. The cases plaintiff cites in support of this count again involve instances where confidential information was obtained illegally from an individual or organization, and therefore lend no support to plaintiffs' claim that by disclosing documents which he obtained legally, Representative Dymally violated any privacy rights of plaintiffs. *See, e.g., Nader* v. *General Motors Corp.*, 25 N.Y. 2d 560 (1970) (defendants disclosed information about plaintiff obtained through illegal wiretaps and eavesdropping).

Counts III and IV of the complaint allege that Congressman Dymally has engaged in the torts of disclosure of trade secrets and unfair competition. Plaintiffs allege that they and the defendant are competitors in the business of influencing Congress and the public on issues relating to Zaire. The difficulty with plaintiffs' claims is that this "business" of influencing public debate falls squarely within the marketplace of ideas which is protected by the First Amendment. Plaintiffs cite no support, nor can this Court conceive of any possible support, for the proposition that these torts are applicable to a member of Congress who speaks publicly to influence the debate on a particular topic. Therefore, these claims will also be dismissed.

Plaintiffs' fifth claim is for conversion. As plaintiff has failed to cite any support for the proposition that the passive receipt of documents by the defendant satisfies the elements of conversion, this count must be dismissed as well.

The final count of the complaint alleges breach of contract stating that plaintiffs are third party beneficiaries of the agreement Congressman Dymally made to the other members of Congress to abide by the rules of Congress. Plaintiffs allege that defendant has breached the ethical rules of Congress by the use of the "confidential" documents, and that plaintiffs, as citizens of the United States, are third party beneficiaries to this contract and should be allowed to enforce it if the House fails to. As an initial matter, plaintiffs have come nowhere near establishing that any of Congressman Dymally's actions would breach any of the House's ethical rules. Secondly, and more important to the instant motion, plaintiffs have failed to state any cogent argument supporting the proposition that all citizens of the United States are third party beneficiaries of the rules the Congress adopts to discipline its membership. This count is as frivolous as the five that precede it and will also be dismissed.

Therefore, in accordance with an Order issued contemporaneously herewith, the complaint will be dismissed.

HAROLD H. GREENE,
U.S. District Judge.

Date: April 10, 1991.

[U.S. District Court for the District of Columbia, Civ. No. 90–1084]

RAINBOW LOBBY, INC., ET. AL., PLAINTIFFS VERSUS MERVYN DYMALLY, DEFENDANT

ORDER

In accordance with a memorandum opinion issued contemporaneously herewith, it is this 10th day of April, 1991.

Ordered that defendant's motion to dismiss the complaint for failure to state a claim on which relief may be granted; be and it is hereby granted; and it is further

Ordered that the complaint be and it is hereby dismissed.

HAROLD H. GREENE,
U.S. District Judge.

SIXTIETH ANNIVERSARY OF THE SACRAMENTO CHAPTER OF THE JAPANESE-AMERICAN CITIZENS LEAGUE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. MATSUI. Mr. Speaker, I am honored to call the attention of the Congress the 60th Anniversary of the Sacramento Chapter of the Japanese-American Citizen's League. This observance marks the founding of one of the oldest and most active chapters in the Nation who has carried the banner of educational, human, and civil rights for all Americans of Japanese ancestry.

This important organization has an unequaled record of accomplishments, including the sponsorship of California legislation related to redress, and was the first chapter in the country to offer information forums and comprehensive assistance in processing redress applications. These are but two examples of their dedication to serving the needs of the Sacramento community and mobilizing community action for the purpose of local, State, and National Government advocacy on behalf of Japanese-Americans and all others.

This observance will also recognize and honor the charter members and dedicated leaders. Charter members being honored are: Sumiye Ryugo Ashizawa, James Imahara, Elizabeth Kozono Murata, Alice Kambara Higashiuchi, Tsujiye Fujii Shimokubo, and Nobu Miyoshi. Deceased are Walter Tsukamoto, Harry Hara, Hoshiro Oshima, Henry Taketa, and Dr. Jiro Muramoto. Past presidents being honored are: Walter Tsukamoto, Dr. Jiro Muramoto, Henry Taketa, Edward Kitazumi, Dr. George Takahashi, Dr. Goro Muramoto, Dr. Yoshizo Harada, Mitsuru Nishio, Kiyo Sato, William Matsumoto, Ginji Mizutani, George Tambara, Toko Fujii, Dean Itano, Percy Masaki, Mamoru Sakuma, Katsuro Murakami, Richard Matsumoto, Takashi Tsujita, Frank Hiyama, Ralph Nishimi, Tom Sato, Kinya Noguchi, Charles Kobayashi, Tom Fujimoto, Carnegie Ouye, Frank Iwama, Dennis Nishikawa, Roy Imura, Sumiko Suenaga, Floyd Shimomura, Donald Ito, David Takashima, Keith Yamanaka. Warren Kashiwagi, Debra Oto-Kent, Rod Nishi, Priscilla Ouchida, Lon Hatamiya, Michael Iwahiro, and Michael Sawamura.

Mr. Speaker, the Japanese-American Citizens League deserves our praise, our admiration, and our gratitude for their tireless efforts of all Japanese-Americans.

CHRISTINE'S SIXTH BIRTHDAY A CELEBRATION OF HOPE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Christine Reyes was nearly robbed of her sixth birthday when, this year in May, she was involved in an accident caused by a drunk driver. This tragic event took the life of her natural mother and critically injured her seven-year-old sister Raquel. Today, Christine is a respirator-dependent quadriplegic. She lacks entirely physical independence, but she is not, however, without hope. The Dade County Police Benevolent Association and the resources of its Love Fund, many paramedics, police officers and Jackson Memorial Hospital doctors have all shown through their efforts, that the life of Christine Reyes is very dear and precious.

Christine's parents, Metro-Dade robbery Detective Norberto Reyes and his wife, Metro-Dade Police D.A.R.E. Officer Christina Reyes, will honor all of those who have made a difference in Christine's survival and life. On Friday, November 22d, the Dade County Police Benevolent Association's Love Fund will sponsor Christine's birthday celerbration to celebrate Christine's victory and her future.

Mr. Speaker, it is nothing short of wonderful how friends, associates, and even strangers to the Reyes family have responded to this tragedy. It is this sort of spontaneous compassion that gives us hope for the future of our society. I commend the leadership of the Police Benevolent Association President, Michael Clifton for his efforts on behalf of the Reyes family and so many other law enforcement families. I would like to recognize the tireless work of Detective Kathy Webb, Officer Stephanie Cohen and Sergeant Gill Goodman to make Christine's birthday celebration possible. I wish the best to the Reyes family and in particular, Christine, for both courage and peace.

I am pleased to reprint an article by Ms. Donna Gehrke which appeared in the Miami Herald which detailed the plight of this brave family. That article follows:

Christine Reyes is 6 years old. She is a quadriplegic. A machine breathes for her.

At noon Wednesday, her father, Norberto Reyes, a robbery detective, walked to the podium at the Metro-Dade Center during a Mothers Against Drunk Driving rally and choked back tears.

Christine's mother is dead.

"Sometimes," said the father, "I can't bear to think what will happen to Christine."

On a rainy Memorial Day last May 27, Reyes took his two daughters, Christine and Raquel, then 5 and 7, to a farm to ride ponies. Then he dropped them off at the Hialeah home of their mother, Sandra Richardson, 28, his ex-wife.

At 6:08 p.m., the kids piled in the back seat of a compact '91 Pontiac, rented because hers was in a garage for repairs. Everyone strapped on the seat belts for a four-mile trip to visit their grandmother. The children had never seen her before. She had just arrived from Cuba.

Richardson drove east on Northwest 103rd Street. As she crossed a bridge near 27th Avenue, a purple-blue van tried to pass a slower car.

An off-duty state trooper, Alejandro Rodriquez, happened to be behind the van and noticed the driver. "Looked like he had the radio on, was dancing to the music while sitting behind the wheel."

Suddenly, the van jumped the concrete median and slammed head-on into Richardson's car. Maybe he was going 50 miles an hour. Maybe 55, said the trooper.

The impact demolished the Pontiac. The van slid on its side and caught fire briefly.

Richardson never had a chance. Fire-rescue medics needed 41 minutes to extract her from the wreckage. Twice Christine stopped breathing. Twice the medics revived her.

A helicopter lifted the dying mother and her children to Jackson Memorial Hospital.

Doctors resuscitated Christine a third time. They found Christine's spinal cord severed and her spine fractured. She couldn't breath. She couldn't move below the neck. Raquel also suffered a broken back. Doctors put her in a body cast.

Sandra Richardson died at 12:40 a.m. the next day. That was the day she had expected to give up her job as a Metro-Dade police trainee and enter the police academy.

An ambulance took the driver of the van, Daniel Grady Phillips, 26 an automobile mechanic, to Hialeah Hospital for cuts on his head and leg. He reeked of alcohol, said William Schlafke, a Hialeah investigator. A technician took blood at 7 p.m. the blood-alcohol level was .07 percent. A level of .10 is considered legally drunk.

"I had a couple of beers," Phillips said, according to Gustavo Ramirez, a hospital security officer. "I guess more than five," Ramirez quoted him.

Police checked Phillips' driving record: 32 tickets since 1982—speeding, careless driving, driving on the wrong side, running a stop sign. His license had been suspended.

Prosecutors Gary Winston and Howard Rosen charged him with manslaughter and two counts of bodily injury—while driving under the influence.

Trial is set for Dec. 16.

His public defender, Patrick Nally, said Phillips is highly remorseful. "He always ends up crying about it."

The lawyer blamed the accident on the van's bald tires. Phillips had borrowed it from a friend, Nally said.

Since the accident, Phillips paid his old traffic fines. Now he is driving legally.

Raquel Reyes is recovering slowly. She wears a soft plastic brace from her neck to her waist. "She wants so much to jump rope with her friends but she can't," her father said.

At Sunrise Rehabilitation Hospital in Broward, Christine is hooked up to a respirator. Almost constantly, she watches the monitor to make sure it is working.

Frequently she asks the therapists to suction secretions from her lungs. Again and again, she says, "I can't breathe."

Therapists cannot suction too often. Suction risks damaging her lungs.

"It breaks your heart," said supervisor Stefen Gitterman. "It's hard to say no. It's so hard."

At the podium Wednesday, Reyes, a 10-year Metro-Dade robbery detective, said, "Barring a miracle from our Lord, Christine will never walk again."

He spoke not at all about the hospital insertion of new tubes last week because of a urinary infection. As Christine sobbed, he kept stroking her face, the one place she can still feel.

He tried to perk her up. He told her what toys she might get for Christmas.

"It wouldn't be fun," the little girl replied, "I can't play with them with my own hands."

TRIBUTE TO STANLEY P. STEPHENSON

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. JONTZ. Mr. Speaker, the Marion, IN, community recently lost one of its most respected citizens, Stanley P. Stephenson.

Stan Stephenson will be remembered as a veteran, a talented educator, a civic leader, a successful businessman, and a loyal friend.

A patriotic American, Stan served his country proudly in World War II. He was a member of the 6th Army Air Corps in the South Pacific during the war, and then became an active member of the Veterans of Foreign War Post 6728 when he returned home.

A graduate of Marion High School, Indiana University, and Ball State Teachers College, Stan Stephenson taught for many years at Marion High School. It was during his teaching years that Stan developed an interest in environmental issues which he actively maintained throughout his life.

As a resident of Grant County for most of his 75 years, Stan was a dedicated public servant. An active Democrat, he was city controller in Marion from 1957 to 1960, county auditor from 1975 to 1979, and city clerk from 1979 to 1981.

Always eager to be involved in the community, Stan Stephenson was an active member of the Audobon Society, American Association of Retired People, Grant County Retired Teachers Association, Mizmur Shrine Club, Purdue Master Gardeners, Samaritan Lodge 105, and the York Rite Blue Lodge. Stan was also a member and deacon of the First Christian Church.

In addition, Stan Stephenson volunteered his time to work with senior citizens. In 1989, the Indiana Retired Teachers Association recognized his hours of volunteer service by awarding him their State Community Service Award.

His family should take comfort in knowing that Stan Stephenson will not be forgotten. Stan believed that we should give something back to our country. His efforts helped make our community a better place to live.

CELEBRATING 50 YEARS OF THE FIRST GOVERNMENT-CONSTRUCTED PERMANENT USO CENTER IN THE UNITED STATES

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. PANETTA. Mr. Speaker, I rise today in recognition of the 50th anniversary of the opening of America's first Government-constructed permanent United Service Organization center on December 9, 1941.

The Nation's first permanent USA–USO center was constructed in 30 days during a nationwide building contest. The center was built under the direction of Maj. A.H. Griffin, the construction quartermaster stationed at Fort Ord, CA.

When Mayor E.J. Leach and the city council of Salinas realized the possibility of their city being the first to finish in the cross-country building contest, they rushed to the side of the quartermaster, eager to help in any capacity. With the extensive support of the community, the State of California, and the Federal Government, Major Griffin was able to ease through the bureaucracy to facilitate the speedy completion of the USO building. Men and women from all professions contributed their time, skill, and hard work to the achievement of this goal. With the dedication and drive of these remarkable people, the USA–USO clubhouse was completed on December 1, 1941.

On December 9, 1941, the center was officially opened. Screen star Edward Arnold led a cast of celebrities in a transcontinental broadcast from the new USA–USO building in Salinas, an event considered to be the highlight of the center's festive dedication ceremony.

The celebration continued the following day with music, parades, and dedicating ceremonies lasting well into the night. The city of Salinas was deservedly proud of its accomplishment.

Fifty years later, the USO building is still in use as the Salinas Recreation Center. For the 50th anniversary of the clubhouse on December 7, 1991, the Monterey County Historical Society, the city of Salinas, and the Oldtown Salinas Association will sponsor a rededication of the USA–USO center in an effort to honor the men and women who worked so diligently for 30 days in 1941 and brought a sense of camaraderie to our servicemen and the citizens of Salinas.

The USA–USO building has been standing for the last five decades as a symbol of fellowship and commitment. Mr. Speaker, it is with great honor that I commend the people who have been the backbone of strength behind the USA–USO clubhouse's 50 years of remarkable service to the Salinas community and to our Nation.

THE CONFLICT IN YUGOSLAVIA

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Ms. MOLINARI. Mr. Speaker, in early July, shortly after the recent outbreak of violence began in northern Yugoslavia, I wrote to President Bush and asked him to give serious consideration to using an international peacekeeping force in order to prevent the use of military force against additional minorities and to provide protection for the civilian population. I received a polite reply from the White House, indicating that the President's national security and foreign policy advisers were aware of my recommendations. I know that other Members of Congress have also called for a military peacekeeping force to bring the deplorable situation in Croatia under control.

I certainly find it unacceptable for the international community to continue to argue that the fighting between the Croatian militia and the Serbian-dominated federal military forces must end before peacekeeping can truly begin. That simply does not make sense. These opponents have been unable to honor a cease-fire on more than a dozen occasions already.

The bottom line is that both of these warring factions want something from the international community. Croatia wants to obtain recognition as an independent nation. Serbia, with military forces now in control of one-third of Croatia's territory, wants a guarantee that Serbs living in Croatia will be protected if Croatia gains independent status.

The international community, through the mechanism of the United Nations, has the ability to enforce a truce while diplomatic forces get down to serious negotiations with Croatian and Serbian leaders. The alternative to doing so could be disastrous.

Today, refugees from the fighting in Croatia have fled to Hungary. Although the Yugoslav federal Army has withdrawn from Slovenia, can we expect anything but a wider war if Croatian forces and refugees seek to escape the fighting by moving north to Slovenia? Civilians are reported to be hiding in basements in danger zones in besieged cities.

In the Province of Kosovo, ethnic Albanians, who constitute the vast majority of the population, have long been living under an oppressive regime. Now they are living at an increased level of fear. They contend that they have been openly threatened with a massacre, and they believe that such an event could actually occur while the world is focusing on the large-scale military action taking place in Croatia. I do not need to remind anyone that such people lack even the limited military resources that the Slovenian and Croatian people have been able to use for their own defense.

News accounts and photographs from Croatia show that the civilian population has reason to fear. The casualty rate increases daily. Valuable treasures of our historic past, such as the city of Dubrovnik itself, could be lost forever. Mixed marriages of Serbs and Croatians are completely ruined while a 50-year-old ethnic grudge match rages out of control.

I ask the President to send Secretary Baker to Belgrade and to Zagreb to deliver the message that we are serious in our commitment to join the international community in bringing an end to the violence in Croatia. I urge the President and the Secretary of State to call upon Serbia, with its control over the federal military forces, to accept primary responsibility for cooperating with the international community.

Mr. Speaker, the conflict has already continued for too long. The course of action to which both parties have committed themselves has become far too clear. The community of nations cannot afford to wait any longer.

MEDAL OF FREEDOM RECOGNIZES FERRE AND PEOPLE OF PUERTO RICO

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. FUSTER. Mr. Speaker, I rise today to salute another Puerto Rican who has been awarded the highest civilian citation of the United States, the Medal of Freedom. I was glad to be among those who congratulated former Gov. Luis A. Ferre at a reception in his honor on the Senate side of the Capitol last night. Here was an 87-year-old former Governor being congratulated by persons of differing political philosophies in Puerto Rico because they know him to be a man of integrity, fairness, and dedication to public service.

I do not share his political point of view, Mr. Speaker, but I do recognize the considerable contributions that former Governor Ferre has made to Puerto Rico in both the public and private sectors.

Many of us in Puerto Rico also know Luis A. Ferre as the founder of the well-known Museum of Art in his hometown of Ponce. We also know him as the bright engineering graduate of his beloved Massachusetts Institute of Technology who is also a very accomplished pianist. He was Governor of Puerto Rico from 1969 to 1973 and president of the Puerto Rico Senate from 1977 to 1980.

Thus, it was altogether appropriate, Mr. Speaker, that President Bush recognized Luis A. Ferre in presenting him on Monday with the coveted Medal of Freedom. But when President Bush included Mr. Ferre among those who were awarded the Medal of Freedom, he honored not only another former Governor of Puerto Rico—the legendary Luis Munoz Marin was the first—but also honored the 3.6 million American citizens of Puerto Rico.

Indeed, Mr. Speaker, former Governor Ferre himself has been among the first to point out the real message of this distinction—that the Medal of Freedom is really a recognition granted also to the people of Puerto Rico. In much the same way, all of Puerto Rico was recently recognized by Spain, which granted its prestigous Principe Asturia Prize to the people of the Commonwealth through the presence in Spain for the award ceremony of Gov. Rafael Hernandez Colon.

President Kennedy was the first to recognize the tremendous accomplishments and the contributions made to the larger society by Puerto Ricans when he presented the distinguished Medal of Freedom to then-Gov. Munoz Marin. The father of modern Puerto Rico, Gov. Luis Munoz Marin was a world class leader whose daring innovations were directly responsible for the success story that Puerto Rico has become. Thus, it is altogether fitting that another "don Luis," this time Luis A. Ferre, be awarded the Medal of Freedom.

HISTORY HAS VINDICATED ELLIOTT ABRAMS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. HYDE. Mr. Speaker, an excellent and insightful article on Elliott Abrams appeared in the Los Angeles Times of Sunday, November 17.

The commentary by its author, George Weigel, president of the Ethics and Public Policy Center, deserves a wide readership and so I am pleased to provide it to my colleagues.

[From the Los Angeles Times, Nov. 17, 1991]

HISTORY HAS VINDICATED ELLIOTT ABRAMS

(by George Weigel)

Scadenfreude—reveling behind a mask of sadness in the misfortunes of one's adversaries—is an ugly self-indulgence. It is particularly offensive when, as in the case of former Assistant Secretary of State Elliott Abrams, it is the tactic by which those whose politics have been discredited by history try to destroy the reputations and records of those whose views have been decisively vindicated.

That is what Abrams' foes have done ever since he pleaded guilty to two misdemeanor charges of misleading Congress, for which he was sentenced to two years of probation Friday. Abrams deserves better. So does the historical record.

During his eight years in the State Department in the Reagan Administration, Abrams' responsibilities included international organization affairs, human rights and inter-American affairs. His tenure at the human-rights bureau made that office, which was created by Jimmy Carter, a significant force in U.S. foreign policy.

During the Carter years, the human-rights bureau was widely regarded inside the State Department as a bizarre aberration and, consequently, was cut out of serious policymaking. Abrams changed all of that. Under his leadership, the bureau articulated a sophisticated defense of civil rights and political freedoms; it gave effective support to a host of what we once called "dissidents"; it paid special, and welcome attention to the persecution of religious believers, and it helped wage the ideological war against totalitarianism by articulating an attractive vision of humane political values.

Those who are chortling over Elliott Abrams' plea bargain should think about the number of democrats, and persecuted Christians and Jews, who believe that they owe Abrams a great debt of gratitude.

But it was his work as head of Inter-American Affairs that caused Abrams to be attacked with special fury. In that post, he refused to concede an inch to the liberal neo-isolationists who looked at Nicaragua and El Salvador and saw Vietnam, demanding American withdrawal from these tropical outposts of the Cold War.

Abrams thought that was strategically and morally irresponsible. He believed that the people of Central America wanted something better than the tyrannies of caudillos or commissars; They wanted democracy. And on the record of their behavior at the polls over the past decade, it would seem that Abrams read the aspirations of the Central American poor far better than those who celebrated, or were prepared to tolerate, the Sandinista revolution and the FMLN (Farabundo Marti National Liberation Front) guerrillas of El Salvador.

A new wave of historical revisionism is upon us in the aftermath of the Cold War. It read the collapse of the Soviet Union after August's failed coup as evidence for the dubious proposition that Soviet power was a paper tiger all along and that the Reagan Doctrine of anti-communist resistance was a hysterical overreaction to an overrated threat. That is not what one hears in Central and Eastern Europe and the Soviet Union, though. In those countries, democrats of both the left and the right remain enormously grateful to the Reagan Administration for its ideological and military challenge to what they knew in their bones was, yes, an "evil empire."

His enemies charged that Elliott Abrams was "arrogant." What they mean is that he had an intelligent position that he forcefully articulated in ways they found difficult to counter. Indeed, there is a great irony in the fact that Abrams is being charged with "arrogance" at a time when Sen. Tom Harkin (D-Iowa)—whose politics are the antithesis of Abrams'—brags to the New Republic magazine about his message to left-liberal Democrats that "we haven't been wrong, we've been right." Harkin's arrogance, though, brings the charge of "arrogance" against Abrams into clearer focus: Abrams, Harvard Law School graduate and one-time Democrat, was a traitor to his class.

That Abrams is being demeaned and degraded by people who never really understood the tyranny of communism in the first place, and who now seek to rewrite history to buttress the broken foundations of their world view, is bad enough. That such abuse is being heaped on a man who, with his family, made tremendous personal and financial sacrifices for public service simply makes the whole episode even more distasteful. The one consolation is that Elliott Abrams' position in the history of freedom is secure.

And that, alas, is what his enemies cannot concede. For to do so would be to acknowledge not only Elliott Abrams' success but, far worse, their failure.

A TRIBUTE TO BETTY McDERMOTT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the fine work and outstanding public service of Betty McDermott of San Bernardino, CA. Betty will be recognized for her many years of dedication to education at a retirement dinner in her honor on December 12.

Betty McDermott has literally dedicated her working life to education. She began her career at California State University, San Bernardino, where she held a short-term position planning the inauguration of the first president and the opening of the college. In 1966, she began 18 years of service with the San Bernardino City Unified School District. She held a number of positions, including administrative assistant to the deputy superintendent, before moving on to work for the San Bernardino County Superintendent of Schools in 1984. She began there as a personnel analyst and was later promoted to assistant director, and then director of personnel services.

Over the years, Betty has served in a number of leadership positions including first classified chair of the management team with the San Bernardino City Unified School District, and first classified president of ACSA region 12 and the State ACSA board. She has also served as past president of SOAP, a member of the Rialto unified school district board of education, including two terms as president, a member of the advisory committee to State superintendent Bill Honig, a member of the State task force on comparable worth, and as a member and chair of the Western Association of Schools and Colleges. In addition, Betty was elected for two terms to the California school boards delegate assembly, and served as the chairperson of the policy task force for the California School Boards Association. She has also worked as a faculty member at the University of Redlands Personnel Institute.

Betty has received a great deal of recognition of her work including the ACSA Distinguished Service Award and the Wilson Grace Award. In addition, she has been named woman of the year and honored by the League of Women Voters as a mover and a shaker.

Mr. Speaker, I ask that you join me, our colleagues, friends, and family in recognizing the many contributions of a very fine lady, Betty McDermott. Betty's dedication and many years of selfless service to the community are certainly worthy of recognition by the House today.

TIME TO CHANGE OUR CHINA POLICY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. LANTOS. Mr. Speaker, last week Secretary of State James Baker went to China seeking long-expected but elusive concessions from the Butchers of Beijing. What he got was a diplomatic slap in the face that underscores just how bankrupt the administration's policy toward China really is.

Two and a half years ago this month, the world was shocked by images of violence and brutality in Tiananmen Square. In the time since the unmerciful display of force by the Chinese Government that cut down the lives of so many freedom-loving students, the administration has pursued a policy of business as usual, as if nothing ever happened. The administration's policy is dead wrong.

The administration argues that a policy of so-called "quiet, behind-the-scenes" diplomatic engagement and strong economic ties with the Chinese dictators is the best path the

United States can follow. This argument was used when the national security advisor was sent to Beijing just weeks after the massacre. It was used again in May when Congress was debating most favored nation trading status for China. And, as Mr. Baker's recent trip suggests, this course of action continues to shape United States policy toward China.

Mr. Speaker, I ask you: what has the administration to show for this policy of business as usual? The answer to this question, as suggested by the events in Beijing this week, is nothing.

It is as clear as ever that China will not yield to even the most modest demands made by the civilized world for democratic reforms and the observance of human rights. Just as clear is the need for the administration to adopt a policy that, rather than coddling the decrepit leaders of China, isolates and punishes them for the international outlaws they are.

Mr. Speaker, when a statue is erected in Tiananmen Square honoring those young heroes of democracy who gave their lives for its cause, I pray the United States will be on the moral side of history. But if that day were to come tomorrow, I fear history will not judge the policies of this nation kindly.

TRIBUTE TO PHASE IV SYSTEMS, INC.

HON. BUD CRAMER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. CRAMER. Mr. Speaker, I rise today to congratulate Phase IV Systems, Inc. of Huntsville, AL, on receiving the 1991 James S. Cogswell Award for sustained outstanding industrial security achievement.

This Department of Defense award is the most prestigious in the industrial security field. Of nearly 12,000 cleared contractors, only 43 were selected this year to receive a Cogswell Award. That's less than one-tenth of 1 percent.

This year marks the 24th anniversary of this award that was first presented to 16 contractors in 1967. The award is in honor of Col. James S. Cogswell, U.S. Air Force, who was the first chief of the unified Office of Industrial Security. This award symbolizes a joint Government-industry commitment to industrial security excellence through the practice of sound security policies and procedures. Under the stewardship of Colonel Cogswell, certain basic principles of the Defense Industrial Security Program were forged, including the partnership concept and the industrial security excellence perspective.

Achieving this distinction requires extraordinary excellence involving a total team effort by management, the facility security officer, and the facility work force. A contractor facility must have demonstrated a sustained degree of excellence in the Defense Industrial Security Program over a 2-year period to be considered for this award. A facility must first be nominated by its industrial security representative. The nomination must be approved by the field office chief and the regional managers. DIS Headquarters coordinates with the appropriate military and Government activities that the contractors do business with, as well as with Federal audit and investigative agencies and activities to select the award recipients.

Phase IV Systems, Inc., was founded in May 1985 and has a staff of over 75 technical and support personnel. From its facility in Huntsville, the company primarily provides goods and services to Government customers in three major areas of activity. One area is the performance of studies and analysis, principally in weapon systems concepts and sensors, particularly radar. The second area is hardware design and development, including RF, microwave, millimeter wave, digital systems, R&D missile flight hardware, and data acquisition systems. The third area is test support for systems and sensors, including planning, execution, predictive analysis, and data reduction and analysis.

Again, I extend my congratulations and best wishes to all of the employees at Phase IV Systems, Inc.

CITIZENSHIP MAY NOT BE HIP, BUT IT IS ESSENTIAL

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. OXLEY. Mr. Speaker, I commend the following column to my colleagues, written by columnist Georgie Anne Geyer. I hope it reminds us all of the importance of citizenship.

CITIZENSHIP MAY NOT BE HIP, BUT IT IS ESSENTIAL

(By Georgie Anne Geyer)

WASHINGTON.—The inevitable has happened—an American city has voted for the idea that American citizenship is worthless. The city is nearby, middle-class Takoma Park, Md., but its name might as well be changed to "Masochismville, U.S.A."

We have seen this coming for some time, as privilege after privilege of what used to be the precious covenant of citizenship has been watered down to absurdity and granted to anyone who strolled in. Indeed, just a year ago, I wrote about Question No. 86 of the U.S. government's new "citizenship" test for immigrants, which reads, with hints of grand and inspiring answers to come, "Name one benefit of being a citizen of the United States."

The "correct" answers on the test—in fact, the only three answers accepted by our omniscient government? They are: "to obtain federal government jobs, to travel with a U.S. passport, and to petition for close relatives to come to the U.S. to live."

All of that is inspirational enough, but now, in last week's elections, Takoma Park voted by 1,199 to 1,107 to give the right to vote in city elections and the right to hold city office to non-U.S. citizens residing there. Assuredly, Takoma Park, a pleasant place of single-family homes, is where the '60s radicals settled. It is "Berkeley East," a community that already has declared itself nuclear-free and a sanctuary city for Salvadorans and other illegal aliens.

But Takoma Park and several other communities are only the beginning. And in just one immediate spinoff, the vote was carefully watched by, among others, Democratic D.C. Council member Frank Smith Jr., who plans to introduce similar legislation in Washington.

I certainly know where I stand in thinking about this subject. Over my 25 years as a foreign correspondent, I have watched far too many once-beautiful and once-coherent countries fall apart, disintegrate under my feet into warring tribes of peoples: Lebanon, Chile, Cuba, Iran, Cambodia, Nicaragua and, today, Yugoslavia, India and the entire Soviet Union. These are tragic countries, once nations, where disintegration and collapse were forced upon them by alien forces.

The real tragedy here is that we are doing it to ourselves, masochistically, guiltily, as though we have no right to ask for the most minimal commitment of anyone to our own social contract. It is at heart a surrender of sovereignty, our giving control over our lives and our covenant to just about anyone who wanders by.

What is it that the Takoma Park activists want in diluting their power over their own lives? In interviews, residents said things like, "Non-residents pay rent, they work, they pay taxes and they are impacted by a lot of the decisions the city makes," and "There's no harm in giving those people the right to vote," and "This will help them become part of the community."

All of that is irrelevant to what is at stake here. The idea of citizenship in a nation took centuries of evolution and was passed down to us. Far from a random creature of history, "Citizenship" historically has marked a deliberate move toward more civilized behavior.

This is because, as the great 18th-century French philosopher Jean Jacques Rousseau concluded two centures ago, "only a free contract between citizen and government allows the individual to bind himself to all while retaining his free will." In my own simpler South Side of Chicago thinking, citizenship is the commitment of human to human and of those individuals to the state that binds them together.

When we look at those other countries that have disintegrated, almost all have qualities in common. They collapse when an agreed-upon balance of diverse populations is disturbed and one group becomes dominant. They collapse when the central value system of the state no longer binds people in some core beliefs and commitments, one to another, and they collapse when there is no longer any pride in protecting one's own sovereignty.

All of these are present, to one degree or another, in many areas of the United States today. The problem is that it sounds ultraconservative and "un-hip" even to talk about citizenship in a country whose own government no longer knows (Question 86, again!) a really good reason for being a citizen.

But this cause is not ultra-conservative and un-hip. It is civilized, practical and really quite beautiful. To see our alternative, we need only look around the globe.

TRIBUTE TO A.M.E.

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. BAKER. Mr. Speaker, I rise today to recognize the achievements of the A.M.E. Co. A.M.E. has been ranked as one of the top minority businesses in Louisiana, and I would like to take this opportunity to praise A.M.E., Inc. for its achievements as well as its contributions to the State of Louisiana and our Nation.

A.M.E. has developed a track record as a highly qualified, competent, and professional organization with a commitment to excellence. Even as numerous businesses failed as a result of poor economic conditions in Louisiana, A.M.E. grew and prospered. A.M.E. is a perfect example of successful participation in the Small Business Administration's 8(a) program, used to strengthen and make disadvantaged businesses viable.

I commend the initiative, philosophy and standard of service of A.M.E., Inc. I believe that it will be one of the companies to watch in the 1990's. I expect A.M.E. to continue to prosper in the future. It serves as an outstanding example for other small disadvantaged businesses to follow.

PASS PRIVATE RELIEF LEGISLATION FOR MARIA BARTSKI

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. BONIOR. Mr. Speaker, today, we are considering private relief legislation for Maria Erica Bartski, a young woman from my district who would like to obtain permanent residency in the United States. I believe her case has strong merit, and the House should join the other body and pass private relief legislation on her behalf.

Maria was born in Cordoba, Argentina on June 3, 1970. After only 6 months, her father left and her mother abandoned her. Neither parent had an interest in raising this child.

Maria's aging grandmother was forced to care for her. Unfortunately, her grandmother died when she was 10 years old. She was again abandoned.

Even after 10 years, both parents refused to care for their child. Her mother is an alcoholic and has no means of supporting herself. Her current relationship with her father is best described by Maria herself in a letter she sent to me recently. She says: "My father walked out on me, and since then he has not acknowledged the fact that I am still alive."

In Argentina, her only alternative was an orphanage. But Maria was fortunate. Her aunt, who lives in Mt. Clemens, MI, cared enough to bring her to America. Maria Josefa Reed, together with her husband David Reed, adopted Maria Erica Bartski as their own child. They have been living as a family in Mt. Clemens, MI, since October, 1980.

Shortly after entering the United States with a tourist visa, the Reeds began an agonizing trek through bureaucratic redtape in an attempt to adopt Maria as their own daughter. They needed a release from Maria's biological parents in Argentina. This process dragged on for many years because of the inefficient nature of Argentine courts.

Less than a month before her 16th birthday, they were finally able to obtain the necessary paperwork from Argentina and gain a legal adoption in the United States. In May 1986, they filed the paperwork in Michigan for a legal adoption and at the same time they filed a petition for citizenship with the INS.

Their petition was denied because someone from the courts forgot to include form DSS-3005, a form which confirms that preadoption requirements were met.

Since Maria has been in this country, she has earned her high school diploma from Chippewa Valley High School. Currently, she is attending Macomb County Community College and Wayne State University where she holds a 3.0 grade point average. She would like to become a professor of biology.

I urge my colleagues to pass this private relief bill to help Maria realize her dreams and aspirations.

SALUTE TO WVVA-TV AND WSAZ-TV

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. RAHALL. Mr. Speaker, I want to take a moment to commend two of the local television stations in my district who are fighting soldiers in the battle against muscular dystrophy.

WVVA-TV in Bluefield, WV, and WSAZ-TV in Huntington, WV both took part in the Labor Day tradition that has become synonymous with the fight against muscular dystrophy together, they helped raise $45.1 million nationwide. It is only through work like theirs that the Muscular Dystrophy Association [MDA] was able to expend $255,987 for program services in West Virginia.

As MDA said to me in a letter of salute to these two fine stations:

> WSAZ-TV and WVVA-TV's support comes at a landmark time in medical history. In the past decade, scientists funded by MDA have made great strides in uncovering the genetic defects responsible for several neuromuscular disorders and in developing possible gene therapy treatments for them.
>
> These findings are steps on the way to cures for such devastating conditions as Duchenne muscular dystrophy, the spinal muscular atrophies, and amyotrophic lateral sclerosis, or Lou Gehrig's disease. Moreover, MDA's progress in genetic research could have application in treatment of other conditions such as heart disease, Alzheimer's, Parkinson's, and Huntington's.
>
> Without the support of WSAZ-TV and WVVA-TV, MDA's program of worldwide research and its nationwide patient services effort would be severely hampered. Without the commitment of these stations and others in our nationwide "Love Network," we could not continue to increase public awareness of the impact of neuromuscular diseases as well as the important contributions being made to society by people with disabilities.

I want to join the MDA is saluting these two public service stalwarts of West Virginia. It is only through their work and example that we can hope for a better West Virginia and a more sensitive America, dedicated to the continued betterment of the physically challenged.

SUPPORT FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. ROGERS. Mr. Speaker, I rise today to congratulate my colleagues on their recent action providing a 3.7-percent cost-of-living increase in the benefits we provide to veterans with service-connected disabilities and their survivors.

It is my fervent hope, Mr. Speaker, that these veterans will not have a delay in receiving higher benefits, as they did a year ago.

I wrote a letter earlier this year to veterans in my district who receive these benefits, and some of the hundreds of responses I received back from these disabled veterans were truly heart-wrenching.

I heard from one veteran who said he had been shot seven times while serving in Korea. "I have an 80-percent permanent disability," he wrote. And his message, like many others, was "Please, please, please help us."

A Vietnam veteran wrote, "When I answered the call to go, I never thought it was to last forever."

And I recall the words of one constituent, Charles Morrison of Middlesboro, KY, who wrote: "I am an ex-POW and depend very much on the VA. Thanks for any help."

There was also the 70-year-old woman who wrote: "I am a veteran's widow. What I get from the veteran's pension and a little Social Security is what I have to live on."

Another observation came from a veteran in Waynesburg, KY. "I will be the first to admit that it costs dearly to support veterans' programs, and the votes are with larger groups," he wrote. "So why not cut the vet and support the larger group? I guess this makes good political sense. But did anyone ever stop and think that if not for the veteran, there would be no political parties—and no one—to vote them into office?"

Mr. Speaker, hundreds of individuals told me their very survival depends on VA compensation. They asked—and rightly so—that we provide regular COLA's, boost military retirement pay, increase funding for our veterans' hospitals.

We have an obligation, as these veterans reminded me, to do as much as possible for those who risked everything for us and who made great sacrifices so that we could maintain our way of life.

That obligation was summed up best by another veteran whose message should be our legislative goal.

"Please continue to fight for all of us veterans," he said. "I love this country—and would do it all again."

We owe a tremendous debt to these men and women, Mr. Speaker. I only hope that, in our continuing efforts to repay that debt, we can be worthy of the trust they place in us.

U.S. NAVY FUTURE IN JEOPARDY

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. SPENCE. Mr. Speaker, time prevented me from making additional remarks on the Navy's future during the debate on the conference report to H.R. 2100, the Defense Authorization Act for fiscal 1992–93. I am today submitting those remarks for the RECORD.

Mr. Speaker, the Navy's job of responding first to global threats is in jeopardy. It will not happen overnight, but surely it will come as pressures mount to slash the Navy back to Jimmy Carter spending levels.

The dismal facts are known: Fewer ships and submarines will be built, and aging aircraft will struggle to fight the air and land battles of the 21st century. Not an exciting future for the seamen and aviators who are the tip of our spear during peace and in war.

What is strange is how this could happen when the Soviet threat has not eased. Strip away the ballyhoo about Soviet naval withdrawals, and we find that their fleet is not floating away. It is being modernized with more carrier forces and naval aircraft, and more research dollars flow into better lasers and antisubmarine sensors. And they continue launching more submarines than we do.

For now, we have the edge over the Soviet Navy. But that edge dulls faster when cuts come too fast. No doubt, the Soviet collapse means adjusting our maritime strategy. Yet shrinking naval forces to even up the bean count between the services is not the answer.

The Navy's future rests on a clear-eyed view of the world, not wishful thinking while adversaries are driven by cold calculation.

TRIBUTE TO BESSEMER WORKS, RECIPIENT OF PRESIDENT'S "E" AWARD FOR EXCELLENCE IN EXPORTS

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. HARRIS. Mr. Speaker, I wish to commend Bessemer Works, a division of the Harbison-Walker Refractories in Bessemer, AL, on receiving the President's "E" Award for Excellence in exports on this their 66th year of production.

The construction of the Bessemer Works plant was completed in 1925 and the first plant manager was S.A. Catlett who served from 1925 through 1937. Power presses, along with new raw materials and products, mainly for the steel industry, are produced at this location. Today, in 1991, Bessemer Works has grown to employ between 90 and 100 employees.

Bessemer Works supplies refractory products to companies throughout the U.S.A. and the world. Bessemer's products are shipped to: Canada, Mexico, Bolivia, Chile, Trinidad, Egypt, Saudi Arabia, Brazil, and Peru. Now, in 1991, Bessemer Works includes export shipments to Norway and the Netherlands. Considering the excellent refractory industry in Europe, these shipments are an important breakthrough in the American market.

The greatest assets in Bessemer are its people, and through Bessemer Work's SMS/SPC system, which involves groups of employees working in teams using statistical methods to improve quality and productivity, the future is bright.

Another unique aspect of Bessemer Works is its exclusive use of Alabama's resources. Alabama Bauxite is mined and processed at the Eufaula Mining Plant. Then, the raw material is turned into refractory brick at Bessemer Works and shipped to local Alabama companies.

The President's "E" Award for Excellence in exporting was created by the President as the Nation's highest award to honor American exporters. The "E" Award recognizes Bessemer Works, a division of Harbison-Walker Refractories, for their competitive achievements in world markets, as well as the benefits of their assets to the U.S. economy. I commend Frank Heidle, plant manager, and the employees of Bessemer Works on their well-deserved recognition and their effective international marketing program.

STOCK MARKET FALLING RAPIDLY; CAUSE? DECISION OF CONGRESS NOT TO PUT CAP ON CREDIT CARD INTEREST

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. STARK. Mr. Speaker, I note that the stock market is down sharply this morning and as I deliver this speech it is down more than 70 points.

When the market fell 120 points last Friday, it was attributed to concern about Congress toying with a cap on credit card interest rates.

Today, the morning papers reported that Congress will not legislate in this area.

Therefore, should we now assume the market must be falling today because consumers will have to spend more money on usurious credit card rate interest and have less money to spend on goods and services?

CSSDCA: AFRICA'S HELSINKI

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. HOYER. Mr. Speaker, I rise in strong support of House Concurrent Resolution 201 and commend Chairman DYMALLY for his leadership in bringing an issue of great concern and importance before this body. The Conference on Security, Stability, Development, and Cooperation in Africa [CSSDCA] represents an effort by the citizens and some leaders of African nations to take hold of their destinies at a critical juncture. CSSDCA draws upon the experiences of Europe and its so-called Helsinki process, which has yielded significant achievements. CSSDA acknowledges that political issues cannot be separated from development issues and that a nation's security is inextricably linked to human rights issues.

Mr. Speaker, a major achievement of this new process is a comprehensive document which could provide a blueprint for peaceful democratic change, respect for human rights, economic progress, cooperation, and security throughout Africa. The Kampala document, produced at an unprecedented gathering of hundreds of African leaders, scholars, attorneys, NGO representatives, students, business persons, and others, offers much to the peoples of Africa. House Concurrent Resolution 201 acknowledges the importance of this effort and the need for Congress and the American people to support it.

Mr. Speaker, African nations are grappling with age-old problems that have left many disappointed and bitter. It is a continent where the rich get richer and fewer while the poor get even more poor and hungrier. While the struggle for survival and the fear generated by brutal acts of repression and civil war keep most from political activism, more and more dissenters are moving from the peripheries of political and social action and trying to force a public dialog with leaders and the silent majorities. The seeds of change have been planted. Old systems, weak from years of ineffective governance, dictatorships, lack of accountability, economic robbery, and abject poverty, are breaking down.

Mr. Speaker, a consensus is emerging in Africa that the devastating economic problems and gross inequities are, to a significant degree, linked to an absence of democracy, and that old-style African leaders must be held accountable for the pervading sense of failure. Africans should share in the resources of their countries and participate in its political life. Events in Eastern Europe and the Soviet Union demonstrated graphically the ultimate vulnerabilities of illegitimate regimes. Since Communist regimes began falling 2 years ago, single party dictatorships have given way to Democratic movements in more than a dozen African nations, and changes in South Africa, Zaire, and elsewhere even as we speak.

Passage of House Concurrent Resolution 201 would send a strong and positive message to the people of Africa and would demonstrate our support for nascent Democratic movements which are for the first time being heard. I am sorry to note that over the weekend, the Government of Kenya continued its repressive assault on advocates of democracy and arrested a number of individuals who helped develop the Kampala document. While leaders across Africa are heeding demands of citizens for greater political freedom others like Presidents Moi of Kenya and Mobuto of Zaire stubbornly refuse the acknowledge the will of their people. The CSSDCA process promotes, preserves and advances the interests of Africans, and it is in the best interests of this Nation and this Congress to see it come to fruition.

A TRIBUTE TO JUDGE TED MROZOWSKI

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1991

Mr. HERTEL. Mr. Speaker, I rise today to honor Judge Ted Mrozowski as he celebrates his 70th birthday and his retirement from the Michigan Tax Tribunal. This is a particular honor for me, as Judge Mrozowski has a distinguished reputation as an outstanding community leader and public servant.

Judge Mrozowski served in the U.S. Army Signal Corps in World War II and is a member of the Disabled American Veterans. After the war, Mrozowski attended Wayne State University, where he received a bachelor of arts degree, and, later, and Juris Doctor.

Judge Mrozowski has a distinguished career of service to the people of Michigan and the United States. While a student at Wayne State, Mrozowski served as deputy clerk to the city of Hamtramck, and he continued his service to the city by serving as city assessor from 1958 to 1961. After working for the city of Hamtramck, he became the administrative assistant to Congressman Lucien Nedzi, from 1961 to 1966.

In 1969, Mrozowski was elected to the Michigan State House of Representatives and served on the committees on education, taxation, and judiciary. After serving in the State house, he remained interested in State government and worked as legislative agent in Lansing for Wayne County, and later, as Wayne County auditor. In 1983, Mrozowski was appointed to the Michigan Tax Tribunal, where he served until his retirement this year.

Along with his outstanding public service career, Judge Mrozowski has been active in many community and service organizations. Among his affiliations are the Alliance of Poles of America, Fraternal Order of Police, Irish-American Club, the Crisis Club, Polish Century Club, and the Polish Legions of American Veterans. He is also a member of the Delta Theta Phi Law Fraternity and a member of the State Bar of Micihigan. Judge Mrozowski's activity in these organizations will certainly be remembered for years to come.

Mr. Speaker, it is my honor to join with his wife, children, grandchildren and friends on this occasion to recognize Judge Ted Mrozowski's birthday and retirement. I wish him many more years of health and happiness, and offer my sincere best wishes in all of his future endeavors.

HOUSE OF REPRESENTATIVES—*Wednesday, November 20, 1991*

The House met at 10 a.m.

Rev. James David Ford, D.D., offered the following prayer:

We admit, O God, that we often say the words of understanding and patience, and we instead behave with insensitivity and impatience. We acknowledge that we speak of solidarity and unity, but we sometimes act with discord and confusion. Protect us, gracious God, from seeing only what we want to see and doing only what we want to do. We celebrate Your gifts of unity and of shared goals and values and we pray that our ideas and programs and actions will express more clearly the harmony and wholeness that is Your gift to us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania [Mr. SANTORUM] please come forward and lead the House in the Pledge of Allegiance.

Mr. SANTORUM led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3394. An act to amend the Indian Self-Determination and Education Assistance Act.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1563) "An act to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes."

TIME TO PUT AMERICA FIRST

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, one consequence of the continued deterioration of the economy is that people often lose their health insurance when they lose their jobs. For most Americans, health insurance is tied to employment. Many Americans live with the fear that they will get sick and their health insurance will not be there. Comprehensive, universal health insurance must be at the top of the Nation's priorities.

The statistics are frightening:

We have millions of Americans that do not have health insurance; 73 percent of the uninsured are working parents and their children.

We have 81 million Americans under age 65 that have medical conditions that health insurance companies might use to raise premiums or deny coverage.

There is virtually no coverage of long-term, chronic illnesses except Medicaid—welfare. By 2030, the number of Americans over age 65 will double and those needing long-term care—nursing homes, home health, adult day care—will double.

Health care inflation rose at double-digit rates in the 1980's. Many employers are cutting insurance coverage, as a way to reduce their costs.

Out-of-pocket health care expenses for families rose 157 percent from 1980 to 1990.

Cost-shifting due to uncompensated care and inadequate care accounts for about 27 percent of employer health costs.

The U.S. infant mortality rate is higher than 17 other industrialized nations.

We had a finely honed strategic plan for the war in Iraq. We need a strategic plan for the war against illness and disease. I challenge President Bush to take a stand on providing health care for all. A problem of this magnitude will not be easily solved, but it is never to early to start.

THE BLAME GAME

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, throughout the history of this great republic, politicians have loved to play the blame game. In this respect, American politicians are no different than politicians in Great Britain, or France, or for that matter the Soviet Union.

The blame game is a rite of passage for the seasoned politician. It's exciting to have done something, or said something, or voted on something controversial, and then to turn around and cast the blame on your opponent. I daresay we've all done it.

But, Mr. Speaker, the blame game has reached a new low, and, I'm sorry to say the Democrats are to blame.

In 1989, 64 Democrats in this House voted to cut the capital gains tax rate. Now, Mr. Speaker, Democrats run around beating their chests saying that capital gains is a Republican giveaway to the rich.

Also back in 1989, the Democrat-controlled Senate blocked the bipartisan capital gains plan approved by the House. Leading economists said the tax cut would create jobs and boost GNP. Now, Mr. Speaker, the Democrats who still control Congress, blame the Republican President for our sluggish economy.

Mr. Speaker, let us end the blame game, and you know how to do it.

Democrats should come forward and—what else—accept the blame for the recession.

I'll be waiting.

THE ADMINISTRATION'S DOMESTIC CHALLENGE

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, it is bad enough that this administration spent most of its energy during this recession denying that we had one, dismissing it as no big deal and—once forced by grim reality to concede that things aren't great—playing the blame game.

It is bad enough that the Administration does not have a plan to jump start this economy, and when pressed for one, can only cough up the feeble reply that—oh, yes, they have one; they just aren't going to say what it is until after Congress goes home.

Working families need help, Mr. Speaker, and if the President has a plan to help them, he owes it to them to lay it on the table—not next week or next month, but today.

But what is most tragic of all, Mr. Speaker, is that it is becoming increasingly clear that not only is the administration unprepared to meet the domestic challenge with a plan of their own—they don't even recognize an opportunity to do so when it falls in their lap.

For some time now, a request from Soviet President Mikhail Gorbachev for $3.5 billion in agricultural sales

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

credits and $1 billion in humanitarian aid has been pending at the White House.

Economists tell me that if the request is granted, corn farmers could expect to see a nearly 10-to-20-cents per-bushel increase in the price of corn.

Yesterday the Washington Post reported the White House has tentatively decided to grant only a fraction of the Soviet request, just $1.25 billion in ag sales credits and only $250 million in humanitarian aid.

Mr. Speaker, I urge the White House to reconsider. Our farmers need to make this sale, the full sale. And the cause of world peace needs the stability our food can help provide in a country which possesses 30,000 nuclear weapons and which appears to be—due to a lack of food—reeling toward revolution.

IT'S TIME TO PUT PEOPLE OVER POLITICS

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, there comes a time when one has to ask a couple of rather painful questions. And they are: Do our colleagues on the Democrat side of the aisle really want to address the pressing issues of the day or do they want to continue to engage in a daily onslaught of partisan sniping and maneuvering? Do our liberal friends really want to bring America out of this painful recession or do they want to sit back, watch the economy deteriorate further and blame the President? For years conservatives have been forecasting these economic problems if we continue the regulations, mandates, and taxes the liberals are imposing on the backbone of the American economy which is the American businessmen and women.

I understand that there are fundamental differences between the two parties. I understand that we will not always agree. But, Mr. Speaker, I also know that we were sent here by our constituents to do a job. And we are fiddling while Rome burns.

Proposed economic growth packages designed to bring us out of the recession are ready. Let us get them to the floor.

Mr. Speaker, give us the opportunity to present our programs. Let us stay here until we do. And let us get this country moving again.

CONGRESS HAS A JOB TO DO

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, this is yesterday's New York Times. It is a study in contrasts. Side by side are two articles. One on the dire economic problems in my State of Connecticut, the other quoting a mystified President wondering why he can't convince the American people we have a healthy economy.

While the people of this country are crying out for leadership, the White House has no plan. President Bush doesn't even see the problem.

Denied leadership from their President, people look to Congress, but find it in a headlong rush to leave for the holidays.

Mr. Speaker, the people of Connecticut are suffering. They know there is a problem. Tens of thousands in my district are out of work.

We need an economic recovery program. A 2-year recession has been ignored too long. We need leadership from the White House and ugent action in Congress.

We need tax relief for middle-class families.

We need a transportation initiative immediately to repair our roads and bridges and provide jobs.

We need to strengthen our troubled banking system, to provide capital for growth.

We need health care reform to ease the burden on working families and seniors.

Mr. Speaker, let us remain here, working—working for those who can't. We have a job to do.

OCTOBER SURPRISE

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, for the last month I have repeatedly come before the House and questioned why the Democrat leadership insists on pursuing an investigation of the unsubstantiated and wholly discredited October surprise allegations. These allegations are not new. They first surfaced after President Carter's overwhelming defeat at the hands of Ronald Reagan.

But, Mr. Speaker, the allegations were proven to be spurious and without merit then, and every single time they have since resurfaced. Yet for apparently partisan reasons, they seem to have taken on a new life of their own, as evidenced by both Newsweek and the New Republic in their extensive cover-story articles on the subject.

□ 1010

If this were truly a bipartisan Congress, this abuse of power simply would not happen.

Mr. Speaker, why then, please tell us why Democrats have chosen to drag this investigation out yet again. Can it be that such a congressional investigation is merely a thinly veiled pre-election year attack on a popular Republican President by a frustrated Democrat majority? Have they so little faith in their own candidates' abilities that they feel more comfortable smearing the President with unfounded allegations than debating him on the issues?

Mr. Speaker, if you want a juicy investigation full of treasonous tidbits and deceit, you should look closer to home. Start with documented contracts between members of the Democrat leadership and the totalitarian, Communist Sandinista government in Nicaragua. But with foreign policy priorities currently being exhibited by congressional Democrats, it is no wonder the American people will not put a Democrat in the White House.

DEMOCRATS SHOULD REMAIN FAITHFUL TO TRADITIONAL BLACK CONSTITUENCY

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, I come this morning reflecting on the election in Louisiana this past weekend in which Mr. David Duke lost by an astounding margin to Ed Edwards. I think it is important for those of us of the Democratic Party to understand that only 55 percent, 55 percent of the white vote went to Mr. Duke, 45 percent of the vote for Mr. Edwards. It was the 96 percent of the black vote that in fact allowed this election to take place so that Mr. Edwards would become the Governor.

I hope that we would understand that seven Members of the other House are there simply because the black vote has been faithful to the Democratic Party. While we seek to go after those persons who have been unfaithful lovers of the party, we must remember that there has been a group of faithful lovers and those are the black voters. While we look at the hearings of Clarence Thomas we realize that many of the younger blacks in America are not coming to the Democratic Party but are indeed going to the Republican Party.

I say to the Democrats, hold onto the first love as we go after those who have already left. We might discover that if we leave them we will not be able to continue to win elections as we have in the past.

WHATEVER HAPPENED TO 100 DAYS?

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, can we recall an event which took place over 250 days ago? I am referring to March 6, 1991, when our President said:

> Our first priority is to get this economy rolling again. We must also enact the legislation that is key to building a better America, a national energy strategy, expand

choice in education, our comprehensive crime package, our civil rights bill, our new highway bill. I call on the Congress to move forward aggressively on our domestic front. If our forces could win the ground war in 100 hours, then surely the Congress can pass this legislation in 100 days.

Mr. Speaker, that was 259 days ago, and none of the domestic initiatives cited by the President were enacted within the 100-day challenge. Why is this? Because the party that controls the agenda in Congress continues to ignore every domestic Republican initiative and prevent debate on every Republican position, choosing instead to engage in partisan politicking.

I urge the Democrat leadership to move on the many vital domestic initiatives which warrant debate from both sides of the aisle, and I urge the Democrat leadership to point the finger of blame for domestic lethargy and inactivity at those who are truly responsible—themselves. It is time to put good legislation ahead of bad politics.

SELLING OUT AMERICA'S AVIATION INDUSTRY

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, today the Washington Post reports that McDonnell Douglas signed a deal to sell almost half its commercial airline business to Taiwan Aerospace Corp. When is this administration going to wake up and see that our house and our jobs are being robbed as we sleep?

The United States has led the world in aviation. The history of commercial aviation is a uniquely American story. Yet when the No. 3 airplane manufacturer needs capital it has to look to the Far East. Something is terribly wrong here. This is the manufacturer of the DC–3 through MD–11, and it is hard to believe it cannot survive without foreign capital. Why do they need foreign capital? Because the administration has failed to confront France for subsidies to Airbus Industries which knocked McDonnell Douglas out of second place.

When are we going to help American industry, either by fighting to reduce foreign-made products being subsidized by their government or by matching those subsidies dollar for dollar so American products can compete?

Boeing employs over 20,000 people in my district. I do not want to wake up 5 years from now and see that Boeing is selling half of its business to Toyota. Wake up, Mr. President.

CARTOONIST GARY TRUDEAU'S DISGRACEFUL TREATMENT OF VICE PRESIDENT QUAYLE

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revised extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I rise today to express my outrage at the vile and disgraceful treatment of Vice President QUAYLE by liberal cartoonist Gary Trudeau. Trudeau has launched a vicious and disgraceful attack on the Vice President through his poison pen cartoons.

Across America, newspapers are refusing to run Trudeau's untruthful and scurrilous attacks. These newspapers should be commended. Those papers choosing to run Trudeau's scum should be scolded soundly by their readers.

It is unfortunate that the Vice President does not have the same rights as the American public, or clearly legal remedies against Trudeau would be in order.

I urge my constituents to utilize the Trudeau cartoons in the only fitting way one could recommend. They should be donated to kennels and pet stores everywhere to line bird cages and to train puppies.

FREE TRADE AT ANY COST?

(Mr. JENKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JENKINS. Mr. Speaker, free trade at any cost? Free trade at any cost. That is the policy we have been following for the last 15 years, and it is not all down at the White House. Some of it is right here. We have not been willing nor do we have the courage to do anything except we accept free trade at any cost.

All right. Now, we have lost the automobile industry, we have lost the steel industry, we are losing the textile industry. We are now giving away in this country our defense system with the proposed sale of McDonnell Douglas, 40 percent of its stock to Taiwan. We say, "Well, we can sell them some natural resources. We are going to sell them logs, lumber. We are going to sell them some minerals." Maybe, just maybe, the legacy of this last 15 years will be so bad that our children will turn around and regain America. This is too bad, really, as I looked at the free-trade-at-any-cost policy not only of Reagan and Bush but of this institution.

All right, maybe we can explain to our children and grandchildren why their standard of living is not up to ours. I hope we can, because we have given it away and we ought to be sorry for doing that, standing here doing nothing, absolutely nothing. In the Uruguay round today we are once again saying to the rest of the world, "Whatever you want; we will trade you services." I hope we will find some services we can sell.

DEMOCRAT SELF-INTEREST PROHIBITS GROWTH

(Mr. SHAW asked and was given permission to address the House for 1 minute).

Mr. SHAW. Mr. Speaker, on the issue of economic growth; could it be that the Democrats are only interested in partisan politics? Could it be that the only employment the Democrats are interested in is their own and the only unemployment they care about is George Bush's? Do they want to ensure themselves a job giving out unemployment and welfare checks rather than ensuring the American worker the opportunity to earn a paycheck?

Judging from the Democrats' actions of opposing all economic growth legislation it would appear that the Democrats want a bad economy for political purposes. My colleagues, if Republicans ran Congress this institution would not frustrate the American people in achieving prosperity for this country in order to satisfy partisan ends.

The partisan politics of the Democrats is a pathetic paternalism which ensures pauperism, not prosperity. The American people know that and they are tired of having to overcome the obstacles the Democrats continue to put in their path.

The American people do not want a check or partisan politics from us here on Capitol Hill. They want us to ensure them the opportunity to earn a paycheck and they want us to take less of their money from them. It is that simple. The American people do not need or want a legion of legislators and bureaucrats to look after them. They simply need Congress to get out of their way. So I urge my Democrat friends: Step aside if you can do no more than stand in the way of the Nation's economic growth.

McDONNELL DOUGLAS SALE TO TAIWAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, McDonnell Douglas, a major military contractor, wants a new partner: Taiwan. Taiwan Aerospace would acquire hundreds of millions and billions of dollars' worth of American-financed technology for peanuts.

□ 1020

Mr. Speaker, it is bad enough that we are paying $5,000 for a toilet seat. We are going to start buying them from Taiwan.

But do you know what bothers me? Where are our policies? We have not just given away the farm as far as steel, cars, lumber, textiles, jobs, now it is our national defense.

Let me remind the Members that today General Eisenhower, one of our great military heroes and a great President, is rolling over in his grave. His worst fears are developing, not only in the military-industrial complex but the international industrial-military complex, the tail that will begin to wag the dog here in America.

Shame; it is time for Congress just to say no to this sale to Taiwan.

A REPUBLICAN CONGRESS WOULD SOLVE GOVERNMENT GRIDLOCK

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, many Americans wonder why our Government appears paralyzed today, unable to solve the Nation's problems. How can we end the paralysis? Let us end divided Government.

If we had a Republican Congress today, this Nation would not be in a recession. Congress would have already enacted President Bush's economic growth package, and Americans would be waiting for paychecks rather than unemployment benefits.

Instead, because the Democratic Congress insisted on raising taxes last year as the price for an empty promise of spending restraint, unemployment is up and productivity is down.

Mr. Speaker, when Republicans controlled the White House and the Senate in 1981, an economic program was put in place that created 20 million private sector jobs by 1988. Imagine what could be achieved if we had a Republican majority in both Houses of Congress in 1993.

LEGISLATION TO ESTABLISH SOCIAL SECURITY NOTCH FAIRNESS INVESTIGATORY COMMISSION

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, I am introducing legislation to end the controversy surrounding the Social Security notch issue. My bill, a companion measure to S. 964, would establish a bipartisan commission to investigate the notch issue. The Social Security Notch Fairness Investigatory Commission would completely and objectively determine what, if any, statutory change, is warranted to address the notch dilemma.

I have heard from hundreds of my northwest Florida constituents on the notch issue. My constituents want a change in the Social Security benefit formula, and I agree that we must take action to address these concerns. Although the notch issue has been studied on a number of occasions, the reports have been criticized as being flawed.

Mr. Speaker, despite the honest attempts of Congress to preserve the Social Security trust fund, many older Americans feel that they have been cheated. Therefore, we can no longer be content to leave the notch issue unresolved. The Notch Fairness Investigatory Commission will provide the information to finally answer the controversial questions associated with this serious issue, and I invite all members to join me in this effort.

STICK WITH SPIRIT AND LETTER OF BUDGET AGREEMENT

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, 1 year ago I voted to support the budget agreement, which was, under the circumstances, the necessary vote. These were the circumstances: A budget approach which I favored, which set a reprioritization and limitation on spending and included no tax increases was blocked from reaching the House floor.

Further, our Nation faced an international crisis and was headed toward a war. Therefore, I thought it was important to resolve the budget situation as quickly as possible so that the Government would not be distracted, and that meant reaching a compromise.

In addition, although I opposed the tax increases in the budget agreement, the agreement did contain spending control provisions on the Congress which the Nation needs and which I strongly supported.

These spending controls included: A 5-year overall spending cap; protective firewalls between the three categories of spending—foreign aid, domestic, and defense—with specific and declining caps on each of the three; pay-as-you-go controls on entitlement programs, requiring that any expansion be paid for by a corresponding entitlement cut or revenue increase; and most important, Presidential consent and support of any new deficit spending.

But now the majority Democrats in Congress are pressing to reopen the agreement—not the whole agreement—but only those portions that control their spending. I support keeping both the letter and the spirit of the budget agreement at this time. However, if Congress intends to rewrite the budget agreement, it should address the entire agreement, not just the spending portion. If we do reopen the agreement, the first step should be to return all tax-increase moneys to the American people.

That is why I have cosponsored H.R. 2251, which would reverse all the tax increases contained in the budget agreement, and I urge all my colleagues to join me in support of this bill.

THE PRESIDENT'S DOMESTIC POLICY: VETO

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, there are partisans on my side of the aisle who accuse the President of having no domestic policy. They are wrong. The President has a policy. It covers the unemployed. It covers parents forced to choose between job security and sick children. Those working 40 hours per week at minimum wage who cannot afford basic necessities, pregnant women seeking the best possible medical advice, the President has a comprehensive, succinct, easily explained domestic policy. In fact, it can be explained in one word: veto.

Worried about your job? Veto.

Unemployed? Veto.

Need financial aid? Veto.

Civil rights? Veto.

Sick children? Veto.

I have heard my colleagues on the other side of the aisle wax poetic, that if only the Republicans had a majority in Congress and ruled the Congress, if we had a Republican Congress we would not have a one-word domestic agenda. You are right. It would not be veto for the working families of America.

It would be two words: "Tough luck."

A MAJOR PIECE OF THE PUZZLE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.).

Mr. GOSS. Mr. Speaker, one might think the wonderful climate and quality of life in southwest Florida would be enough to prevent illness, but even paradise has its problems. People get sick in southwest Florida, too, and they are having to turn to an even sicker health care system. In the puzzle of health care reform we are working on, cost containment is a major piece we must not overlook. It is time for some new ideas. For instance, in my home district, one hospital is experimenting with focused care, a move aimed at consolidating hospital services on one floor. X-ray machines, a minilab, and on-site pharmacology services will all be colocated with the patients.

Steps will be reduced, communication improved, and redundancy eliminated. End result: significant financial savings.

Mr. Speaker, individuals and institutions are not waiting for this Congress to get its act together on health care.

They are taking matters into their own hands and proving that incremental reform can work. We need to get on with our own health care reform in Congress—now.

AMERICAN WOMEN ARE FED UP WITH PRESIDENT BUSH

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, it is absolutely no surprise that the President does not have time to deal with the economy. My goodness, he is much too busy deciding the big issues of women's health, when they can and cannot have information, and yes, yesterday once again he won. Nurses and doctors will be gagged in any family planning clinic that receives Federal funding.

Today he is going to win again. They are going to be saying in the Defense appropriations bill that women have the right to go out and put their lives on the line for this country, but they cannot have the rights that they were fighting for and putting their lives on the line for. That to me is outrageous.

Mr. Speaker, American women are fed up with men making rules for them and not making jobs for them.

Mr. President, please, please let us get back on the domestic agenda. Women are tired of all this meddling in our personal lives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McCLOSKEY). The Chair would advise the gentlewoman from Colorado that Members should address the Chair and not anyone else.

INTRODUCTION OF GRANDPARENTS' RIGHTS RESOLUTION

(Mr. SANTORUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANTORUM. Mr. Speaker, there is a growing problem in this country. Grandparents across the country are being denied access to their grandchildren, and yet get no relief from a parochial legal assistance in obtaining visitation. In recent years every State has enacted a statute enabling grandparents to petition for visitation rights with their grandchildren.

Yet many grandparents are still frustrated by their costly and cumbersome legal efforts to obtain visitation when the grandchild is taken out of the home State. The legal entanglements occur because State laws regarding visitation rights vary widely, and States are reluctant to honor other States' visitation laws.

I am introducing a grandparents' rights resolution to encourage the State courts to adhere to the full faith and credit doctrine with regard to interstate visitation rights disputes. The full faith and credit doctrine requires that States honor the laws of the State where the dispute originates.

The resolution will also call on the States to pattern their visitation laws according to the recommendations of an American Bar Association report on grandparents' rights, to provide the basis for a uniform law.

I invite my colleagues to join me in sponsoring this legislation.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, did I understand the Chair a couple of minutes ago to admonish the gentlewoman from Colorado that she was not to address other people other than the Chair?

□ 1030

The SPEAKER pro tempore (Mr. McCLOSKEY). The Chair reminded that Member not to do so.

Mr. WALKER. And is the Chair aware that the gentlewoman from Colorado has been a regular abuser of that and has been consistently admonished by the Chair that she should not proceed in that manner?

The SPEAKER pro tempore. The Chair would say that is a very subjective characterization, not a proper parliamentary inquiry, and the Chair does not care to respond.

Mr. WALKER. Mr. Speaker, I understand why the Chair would not care to respond. But, as a further parliamentary inquiry, is the Chair going to begin taking action against Members who violate the rule? The Chair on almost a daily basis now is admonishing Members that way, but the Chair does not admonish them until after they have concluded their remarks. Is the Chair going to interrupt Members who cannot follow procedures of the House?

The SPEAKER pro tempore. The Chair admonished that Member as soon as the words were uttered. The Chair will consult with the Speaker and assure that the rules of the House will continue to be enforced.

Mr. WALKER. As a further parliamentary inquiry, Mr. Speaker, is the Chair also aware that by smiling and kind of giving a thumbs up to somebody immediately after admonishing them, that they probably defeat the very purpose of the admonishment?

The SPEAKER pro tempore. The Chair has already stated that the Chair will continue to enforce the rules of the House and that the gentleman from Pennsylvania has made his point.

WORLD AIDS DAY

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, today, some 5,000 men, women, and children around the world will be infected with HIV, the virus that causes AIDS.

By the year 2000, there will be 40 million individuals infected with HIV worldwide.

Ten to fifteen million of those infected will be children.

The international AIDS epidemic is devastating families, communities, health care systems, and economies in countries around the world.

The key to controlling the spread of HIV infection today is education and public awareness.

In 1988, the World Summit of Ministers of Health on AIDS Prevention declared December 1 World AIDS Day.

Since 1988, December 1 has been a day of ceremonies and activities in cities around the world to increase public awareness and understanding about the devastating social and economic impact of AIDS.

I have introduced a joint resolution declaring December 1, 1991, as World AIDS Day.

The theme of World AIDS Day, 1991, is "Sharing the Challenge," which recognizes that combating the international AIDS epidemic can only be successful by pooling the efforts, resources, and imaginations of all individuals.

This is an important message that should be spread throughout the United States.

By supporting World AIDS Day, 1991, Members of Congress can lend their voice to the call for increased awareness about AIDS around the world.

I urge my colleagues to cosponsor this resolution.

PRIVATE-SECTOR PROGRAM HELPS VETERANS START THEIR OWN BUSINESSES

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, I rise to call my colleagues attention to a remarkable new program that helps veterans start their own small businesses.

The veterans transitional franchise initiative began in the private sector and now enjoys the support of the Small Business Administration.

Under this initiative, more than 100 franchisors have voluntarily agreed to discount their franchise fee and finance up to 50 percent of it to help make startup franchises more affordable for veterans.

For its part, the SBA has agreed to provide managerial and monetary support through the agency's existing programs.

Mr. Speaker, this private-sector initiative can help millions of veterans realize the greatest of all American dreams—owning their own small business. I can think of few worthier goals.

I congratulate the International Franchise Association and the SBA for finding a new path to promoting the entrepreneurial spirit and for helping our country's veterans.

Mr. Speaker, I remind my colleagues, we too can help promote small business. But you must remember when the opportunity presents itself—it is easy to say you are all for small business but it is how you vote that counts.

THE PRESIDENT AND CONGRESS SHOULD LEAD THE AMERICAN PEOPLE

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the stock market is going to hell in a handbasket and the economy is being dragged down with indecision by the President and the Congress. We continue to lose industries. We are losing jobs. People are without health insurance. Families are going hungry and homeless.

The quality of life has been lost by some of our Americans who helped make this country.

Mr. Speaker, the American people deserve more from their President and their Congress. So far, it is all posturizing.

Do they not understand that the adjusted gross income for 1991 is now only up to the income of 1972?

Well, my friends, the stock market may be declining, but if you want a good stock, buy tar and feathers; it is going to be a big seller next year. You might even want to get a little bit of rail.

To our leaders in the White House and in the Congress: If you want to be true leaders of the American people, then lead.

UPDATE ON VOLUNTARY DRUG TESTING

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, yesterday, November 19, was a historic day in the House of Representatives because over 3 percent of the House voluntarily participated in a drug-testing demonstration.

Those tested, whom I call the clean 15, are Mr. STENHOLM of Texas, Mr. TONY HALL of Ohio, Mr. ALLARD of Colorado, Mr. HENRY of Michigan, Mr. SHAYS of Connecticut, Mr. GOSS of Florida, myself, Mr. ROHRABACHER of California, Mr. ZELIFF of New Hampshire, Mr. SOLOMON of New York, Mr. MCCRERY of Louisiana, Mr. NUSSLE of Iowa, Mr. HANSEN of Utah, Mr. BURTON of Indiana, and Mr. MCNULTY of New York.

I want to commend these Members for practicing what the entire Congress preaches, zero tolerance for illegal drugs, and for setting a positive example for the country.

Coming on the heels of my 226 to 191 vote for mandatory drug testing for Members of Congress, I think this is another step in establishing some much-needed credibility for the House of Representatives.

LET THE HOUSE VOTE ON CREDIT CARD INTEREST RATE CAP

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. ANNUNZIO. Mr. Speaker, a recent magazine poll showed that Congress has the lowest rating of any organization in the United States. In the past few days, this body has done little to show that those ratings were undeserved.

Mr. Speaker, the American public wants a cap on credit card interest rates. The banking lobby does not. The banking lobby wants to charge usurious interest rates on credit cards. Instead of giving the American people at least a chance at a vote on a credit card interest rate cap, this body seems to have given in to pressure from the banking lobby, and that is a shame. Just read USA Today.

Yesterday I attempted to offer the credit card interest rate cap on a bill to bail out the banking industry to the tune of $30 billion. Amazing, my amendment was ruled out of order on a minor germaneness point.

The American people do not want to hear about germaneness, they want to hear about lower credit card interest rates.

Mr. Speaker, I urge that the House be given the opportunity to vote on a credit card interest rate cap.

We do not need germaneness; we need guts.

WANT TO ELIMINATE VETOES; GIVE US A REPUBLICAN CONGRESS

(Mr. DELAY asked and was given permission to address the House and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, several Democrats have come down to the well today upset that President Bush will not sign on to their liberal welfare agenda. They complain he uses the pen to veto when he does not agree with their liberal agenda. The gentleman from Oregon came down and was upset that the President is vetoing all these liberal bills. He is upset that the President does not support their agenda, which has destroyed our economy, is destroying jobs, forcing aircraft manufacturers to seek capital from foreign countries. They are supporting a social policy that promotes the killing of unborn children, that creates a social welfare trap.

The gentlelady from Colorado comes down here and makes sexist remarks about men, that she is sick of men that will not provide jobs for women.

Mr. Speaker, the President will not support a liberal welfare policy. In fact, Mr. Speaker, if the people would give us a Republican Congress, the President would not have to veto things. He could get this country going again.

□ 1040

MR. PRESIDENT, LEAD US HOME

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, Vice President QUAYLE was in Nashville, TN, last night at a thousand-dollar-per-person fundraiser for the Republican Party. He said that the Bush administration had nothing to do with creating this recession. Finally, Mr. QUAYLE at least admits that we have a recession.

How can the administration contend that they are not at least part of the problem when neither President Reagan nor President Bush has ever proposed a balanced budget? And, when, in fact, Congress has appropriated less money than these administrations requested.

This administration is doing nothing to bring us out of this recession.

The President must propose an economic recovery program.

A simple cut in the capital gains tax rate, which I could support as part of a larger package, by itself is not enough. Mr. President don't wait until your State of the Union message next year to propose a recovery plan.

Let's stay in Washington through the holidays. Let's help working Americans.

The people have waited long enough. Mr. President, lead us home.

Lead America. Let's get this country moving again.

Congress is ready to act. Is the administration?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCCLOSKEY). The Chair will strongly remind the gentleman from Tennessee [Mr. CLEMENT] and all Members of the House that they are not to directly address the President.

WE MUST CONTROL SPENDING FOR THE SAKE OF OUR CHILDREN

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I would just say to the gentleman from Tennessee [Mr. CLEMENT], my colleague who just spoke, that the President of the United States, President Reagan and President Bush, both proposed that we pass a constitutional amendment to balance the budget, and that will balance the budget. I ask my colleagues on that side of the aisle, "Will you support an amendment to the Constitution to balance the budget?" Well, they proposed it, both of them.

Mr. Speaker, the demagoguery in this place this morning has been unbelievable. Many of my colleagues have come down here and said that the trade policies of this country are such that we are digging our children into a terrible hole that they will never get out of and that we should have a level playing field. Well, I agree with that. We should do something to make sure that there is fair trade. We should not let the Japanese rape the United States, as they have in the past. We should make sure that there is equality, and, if they treat us unfairly, we should treat them the same way. But the problem facing our children is not the trade issue. It is the spending policies of this House.

This year, and I have said this a million times, we are going to have a $400 billion deficit. The national debt has gone from $1 trillion 10 years ago to $4 trillion. The problems our children are going to face is digging themselves out of that hole with nothing but their hands. They are not going to be able to do it.

Mr. Speaker, we need to get control of spending in this place so that our children will have a sound economy and some kind of a future.

THE OLDER AMERICANS' FREEDOM TO WORK ACT OF 1991

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, the time has come to stop punitive taxation of America's senior citizens. I am referring to the unfair earnings test which penalizes older men and women who want to work.

This inequitable tax keeps earned income out of the pockets of older Americans, and strains our national economy by minimizing our work force. Ultimately, this tax policy has the effect of discouraging older Americans from working at all.

Mr. Speaker, no American should be penalized for striving to be financially independent. We must recognize that the earnings test is no longer needed for the purposes which it was created.

Our Nation's seniors have a wealth of knowledge and experience to offer to our economic system. We should encourage them to participate in the work force, rather than tax them into retirement. Why waste experience?

I encourage my colleagues to join me in cosponsoring H.R. 967, The Older Americans' Freedom to Work Act of 1991—sound legislation that will send a message to older Americans that we value, appreciate, and need their experience in our labor force. Further, I hope the conferees on the Older Americans' Freedom to Work Act will accept the McCain amendment which will also repeal the earnings limit.

THE DEMOCRAT SOCIALIST COALITION DOES NOT BANK, COUNT, OR THINK STRAIGHT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, it has been fascinating listening to the Democrat Socialist coalition that controls this House in the 1 minutes this morning because they have proven that they are the gang that could not bank straight. Yesterday they proved that they are the gang that could not count straight, and today what they are proving on the House floor is that they are the gang that cannot think straight.

I heard a number of them come to the floor today criticizing an aerospace company in our country that has sought investment capital from overseas. Now why would an aerospace company do that when it is largely because the Democratic Socialist coalition that controls this House has refused to allow any capital formation in this country? They have raised taxes in a way that kills off savings and investment, they have refused to take steps our foreign trading partners take in order to encourage investment, and then they wonder why there is no investment money available in America.

Second, it has been the Democratic Socialist coalition in the House that has killed off defense spending. Defense spending was one of the things that helped McDonnell Douglas keeps its commercial business alive, by killing off defense spending and thereby killing off contracts in McDonnell Douglas. Guess what? They killed off a sector of the economy, They did it. They have insisted on it for years, and now they come to the floor and suggest the President is at fault.

They cannot think straight, my colleagues.

CONFERENCE REPORT ON H.R. 2521, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1992

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 286 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 286

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 286 waives all points of order against the Defense appropriations conference report and against its consideration. The rule also provides that the conference report will be considered as read. Conference reports are considered in the House under the hour rule. In this instance, all provisions are contained within the conference report. There are no separate amendments in disagreement so there will be only one up-or-down vote on the entire conference report at the end of the hour's debate.

A year ago, Mr. Speaker, who would have predicted Israelis, Palestinians, and other Arabs sitting together to talk of peace?

A year ago, Mr. Speaker, who could have imagined the failed Soviet coup and the peaceful breakup of the Union of Soviet Socialist Republics?

How recently, Mr. Speaker, did the end of the cold war appear to be out of our reach?

Mr. Speaker, there is much to bring us hope in the dramatic events of the past 2 years. The world is indeed changing. But, unfortunately, there are still too many reminders—from El Salvador to Yugoslavia—that peace is fragile, that cease-fires are only temporary and hard to maintain, that old hatreds are not forgotten and may erupt suddenly with brutal, bloody, and tragic consequences.

The DOD appropriations conference report recognizes the changing nature of the threat to our national security. The conference report puts emphasis on the morale, mobility, and readiness of our forces; it finds the right mix of basic and high technology equipment; it maintains our defense research and industrial capabilities while reducing the amount we spend on defense.

Mr. Speaker, the Defense Subcommittee under the wise, strong, and able leadership of the chairman, Mr. MURTHA, has done the right thing. We owe Chairman MURTHA and the ranking minority member, Mr. MCDADE, our highest praise and our deepest gratitude.

Mr. Speaker, House Resolution 286 is the customary rule for consideration of a conference report. It is a fair rule and I urge its adoption.

□ 1050

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I thank my friend, the gentleman from Massachusetts [Mr. MOAKLEY], chairman of the Committee on Rules, for his kind remarks, and I want to congratulate him on the fine job he does heading the committee. He has ably explained the provisions of this rule.

Mr. Speaker, I also want to applaud the chairman and ranking Republican member of the Subcommittee on Defense of the Committee on Appropriations, the gentleman from Pennsylvania [Mr. MURTHA], and the gentleman from Pennsylvania [Mr. MCDADE], for their hard work in putting this legislation together. They have done an outstanding job, and we all appreciate their efforts.

Mr. Speaker, the defense appropriation bill covers funding for pay and benefits for military personnel; operation and maintenance; procurement of equipment, supplies, and weapons; research and development of new weapons and equipment; and other activities such as drug interdiction.

H.R. 2521 follows the lead of the authorization bill, which passed the House Monday, with regard to the standard missile, the B-2 bomber, the strategic defense initiative, the F-14 fighter, and levels of active duty and Guard and Reserve personnel.

Mr. Speaker, it does not, however, fund resumed production of the F-117 Stealth fighter-bomber, and I think that is a terrible mistake. We know that our defense posture over the years has brought Russia to her knees and communism out of Eastern Europe. We must not give in and help to disintegrate our defense posture just to provide money for other programs.

I would like to note that language which would permit abortions to be performed at U.S. military health facilities overseas, in cases other than when the life of the mother is endangered, has been removed. The President has stated that he would veto any legislation presented to him which contained this provision.

Mr. Speaker, I support this rule, and I urge its adoption so that we may proceed to the consideration of the conference report.

Mr. Speaker, I yield 4 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, back in June, when the Defense appropriation bill came before this body, I raised a point of order on a $6.8 million grant for the Monterey Institute of International Studies in California, in the district represented by the gentleman from California [Mr. PANETTA], the chairman of the Budget Committee. The Chair ruled in favor of my point of order, and the $6.8 million was stricken, but it was in another part of the bill, in report language.

When this went to the conference committee, the conferees put in report language the $6.8 million for the Monterey Institute for International Studies.

The Monterey Institute for International Studies works in the area of language. We have the Defense Language Institute that the Pentagon takes care of. We do not need the Monterey Institute for International Studies. It is redundant. The fact of the matter is, it is a pork barrel project for that congressional district, pure and simple. It was ruled out of order by the Chair, and yet they put it back in in report language in the conference committee report, and the Committee on Rules is waiving all points of order. As a result, this is going to pass even though the House of Representatives has expressed its will very clearly that we do not want to spend the money for that purpose.

What do we have to do around here? It is ruled out of order, it goes to the Senate, it comes back, it has not passed in either House, and it is in this bill. It has not passed any of the committee, and this $6.8 million is in this bill, and it is pork.

When are we going to come to grips with the situation, with the realization that spending is out of control. I know that $6.8 million is not a lot of money when we are talking about billions and billions and the $400 billion debt that we are adding to it this year. The deficit is going to be $400 billion this year, we know that. But now we have this $5.8 million back in this bill. It has never passed any committee, and it never passed either House. It was ruled out of order, and the Rules Committee waives all points of order, so here it is back before us and it is going to pass.

Mr. Speaker, I hope that my colleagues will look at this. This is one of the reasons that the people in this country are concerned. This is a pig eating the capitol. That is the perception of the people in this country, and we cannot do a doggone thing about it. Even when we defeat a program like this, it comes back.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, do I understand the gentleman correctly to say that the Rules Committee is the one in fact that is permitting this, because if, in fact, we did not waive points of order, the gentleman would be able to strike this program again?

Mr. BURTON of Indiana. Well, they have it in report language now, so I am not sure we can do it, because they have stuck it in here and hidden it in report language. But the Rules Committee and the conference committee certainly have circumvented the will of the House in doing this.

Mr. WALKER. So what we have is a rule that basically protects this singular pork barrel item, and it is going to permit it to go forward, despite the fact that it has never passed either the United States House of Representatives or the Senate; is that correct?

Mr. BURTON of Indiana. Nor a committee of either house. Not only has it not passed, but it was ruled out of order by the Chair.

Mr. WALKER. So in the House this was specifically turned down?

Mr. BURTON of Indiana. It was.

Mr. WALKER. And in the Senate it never passed, it was never before any committee, and still we are going to spend $6.8 million on pure pork because we are going to allow the Rules Committee to drive the process forward here?

Mr. BURTON of Indiana. That is absolutely correct, and I would just like to say in addition to this, that I suspect the chairman of the Budget Committee had some influence on this decision. After all, it is in his congressional district. I just say that if we cannot do anything about something that has been ruled out of order, how are we ever going to get control of spending in this House?

We have had two amendments passed this year. One was ruled out of order, and that is this $6.8 million, and we had another one with the gentleman from West Virginia in the other body who is bringing pork home to his district. I suspect that is going to come back and haunt us as well.

I have tried to cut over $1 billion in spending this year. We have been successful on $113 million of that. This is $6.8 million, and it is going back in, and I submit the rest of it is going to go back in when the gentleman from West Virginia in the other body starts using his ability to sneak it back into one of the appropriation bills that is going to come back here.

All I say to my colleagues is that the people of this country are very upset with us. They are very upset that spending is out of control, that the deficit is out of control, and the economy is out of control. It is going to rest with us to solve the problem, and they are going to hold us accountable.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Did I understand the gentleman correctly to say that this is going to a foreign language institute?

Mr. BURTON of Indiana. A foreign language institute.

Mr. WALKER. And this is in the district of the chairman of the Budget Committee?

Mr. BURTON of Indiana. The gentleman from California [Mr. PANETTA].

Mr. WALKER. And the chairman of the Budget Committee is from the same party that has been telling us on the floor that they are for a "America first" campaign, and so what we are now going to do is create a duplicate foreign language study?

Mr. BURTON of Indiana. That is absolutely correct.

Mr. WALKER. Mr. Speaker, that is amazing.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote taken by electronic device, and there were—yeas 359, nays 59, not voting 16, as follows:

[Roll No. 408]

YEAS—359

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schulze
Schumer
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—59

Allard
Ballenger
Bilirakis
Bunning
Burton
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dorgan (ND)
Dornan (CA)
Duncan
Edwards (OK)
Fields
Gallegly
Gekas
Goss
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Holloway
Hunter
Ireland
James
Kyl
Lagomarsino
Leach
Lewis (FL)
Lightfoot
Lowery (CA)
Marlenee
Moorhead
Nichols
Nussle
Packard
Petri
Rhodes
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Schaefer
Schiff
Sensenbrenner
Shays
Stearns
Stump
Taylor (NC)
Thomas (CA)
Upton
Vucanovich
Walker
Zeliff
Zimmer

NOT VOTING—16

Andrews (NJ)
Archer
Bonior
Dickinson
Gunderson
Hall (OH)
Hatcher
McCrery
Morella
Mrazek
Pastor
Savage
Shaw
Towns
Traxler
Unsoeld

□ 1123

Mrs. VUCANOVICH and Mr. KYL changed their vote from "yea" to "nay."

Mrs. MEYERS of Kansas changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MURTHA. Mr. Speaker, pursuant to House Resolution 286 just agreed to, I call up the conference report on the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. McCLOSKEY). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 18, 1991, at page H-10416).

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. McDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

GENERAL LEAVE

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the conference report on the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

I just want to compliment the gentleman from Pennsylvania [Mr. McDADE]. We worked 7 or 8 months on this Defense appropriation bill for fiscal year 1992. It is a bipartisan bill and the levels are below the 602(b) allocations.

There is no forward funding in this bill and it is a bill that we think sets specific priorities.

We have had 7 straight years of negative growth in the Defense Department and we have tried to pattern a bill to the changing threat, to the changing times.

One of the reasons that we have been so successful is because of the brilliant work of the gentleman from Pennsylvania [Mr. McDADE] and the other members of the subcommittee. We have got one of the hardest working subcommittees in the entire Congress. The members take it very seriously and we divide up the work.

What we have here is a compilation of the work done by 14 members on the Defense Appropriations Committee. Each member concentrates on a section of the bill. Sometimes a section is substantially large, such as $10 or $11 billion, and they work all year long trying to get that section fashioned so that we have appropriate oversight and so we have the least amount of problems with that particular section. The members of the subcommittee have done a fabulous job on this bill, and I want to compliment each one of them in that regard.

We see in the future of this country that there are two main threats. We see a threat in the Middle East and the nuclear threat in North Korea. Those are the two areas we have to be concerned about.

We are going to have a smaller Armed Forces with more reliance on the Guard and Reserve and we are going to have to have adequate transportation in order to get those people overseas. That is the way we patterned this bill and that is the way we expect to set the policy of the Government through the appropriations process during the next few years.

So I appreciate the support of the Members and will submit a longer statement.

Mr. Speaker, I bring before the House the Defense appropriations conference report for fiscal year 1992.

I want to thank the gentleman from Pennsylvania [Mr. McDADE] for his key role in developing this important legislation.

I also want to thank Senator INOUYE and Senator STEVENS, the chairman and ranking minority member of the Senate Defense Appropriations Subcommittee, for their hard work and cooperation during the conference.

I will be brief in my remarks. Details of the conference action are in the report.

FUNDING

The conference report recommends a total of $270 billion in budget authority for the Department of Defense.

This total does not include funds for military construction or for the nuclear weapons program of the Department of Energy. Those activities are included in separate legislation.

This total complies with the funding level set for defense in the economic summit.

It is below the budget request.

It is below the 602 allocation allocated for this bill.

HISTORIC CHANGES AROUND THE GLOBE

Mr. Speaker, events of the past few years: The collapse of the Berlin Wall; The collapse of the Warsaw Pact; the collapse of the Soviets' expansionist policies; the emergence of democracy in Eastern Europe, and the Soviet Union; have dramatically shown the wisdom of America maintaining a strong defense posture since the end of World War II.

Maintaining a strong defense over the decades has been a heavy financial burden on the American people. However, I would like to put the Defense budget in perspective.

Within a few years, the budget for defense will be the smallest percentage of the Federal budget and of the GNP that it has been since before World War II.

The fiscal year 1992 Defense appropriations bill will mark the seventh consecutive year of decline in budget authority provided for defense when measured in constant dollars. This statistic does not include the expenditures for Operation Desert Shield/Desert Storm.

The current 6-year defense plan calls for a further reduction of approximately 25 percent in the force level of U.S. troops.

This bill includes $64.2 billion for the procurement accounts, a decline of 50 percent since fiscal year 1985 when measured in constant dollars.

I fully agree that because of the many favorable geopolitical trends that have occurred in the world in recent years, a significant decline in America's defense spending is appropriate.

However, I want to emphasize that this decline has been underway for a number of years and a continued orderly reduction is embodied in this bill and in the current outyear projections for defense spending.

DEFENSE PRIORITIES FOR THE 1990'S

Despite the dramatic and favorable historical trends of the last few years we must keep in mind that the men and women of our Armed Forces have been tasked to carry out many important and dangerous missions to achieve the foreign policy objectives of America in recent years.

The attack on the terrorist regime in Libya; the rescue mission in Grenada; the removal of General Noriega from Panama; and the defeat of Saddam Hussein—a dictator who would have controlled half of the world's oil reserves had he invaded northern Saudi Arabia.

Mr. Speaker, to ensure the continued high level of capability of our troops, we have reshuffled somewhat the funding priorities requested in the budget submitted to the committee although we have not changed the bottom line.

The committee believes that the funds added for certain programs in this legislation will significantly enhance the military effectiveness of our downsized force structure for the 1990's.

We have emphasized the following areas: Morale, readiness, mobility, deployability, and sustainability.

I would like to say just a word or two about some of these initiatives.

Readiness: In the operation and readiness account we added substantial funds above the budget request for depot maintenance and real property maintenance. There are substantial backlogs in both these areas. These initiatives will enhance the quality and readiness of the downsized force structure.

Deployability: We withdraw large numbers of troops from overseas, having the capability to deploy those forces should it become necessary becomes vitally important. The committee has added $600 million for sealift and supported the authorized level for strategic airlift.

Mobility: You need highly mobile troops once they are deployed. We have added funds for the V-22 Osprey tilt rotor aircraft and for additional landing craft which are deployed from ships.

Sustainability: You need a force which can be sustained with consumables once it is deployed; we have funded the budget request for replenishment spares and repair parts; we have added $100 million for ammunition; and of course, the additional sealift will also help sustainability.

NATIONAL GUARD AND RESERVE FORCES

The administration proposed drastic reductions in the end strength level of the National Guard and Reserves components.

The conferees disagreed with this proposal and restored over half of the projected reduction.

The conference agreement funded the authorized end strength, set floors on end strength and force structure levels, and provided the Secretary of Defense with a 2-percent adjustment flexibility by component on both end strength and force structure.

STRATEGIC PROGRAMS

The conferees basically adjusted the budget to comply with the budgetary implications of the President's recent initiative to reduce the strategic nuclear stockpile.

These actions included reductions in the following programs:

	Millions
Peacekeeper rail garrison	−$251
Mobile small ICBM	−115
Short range attack missile (SRAM II)	−166
Short range attack missile (SRAM T)	−34

We provided the authorized amount, $4,150,000,000 for SDI.

We also provided the authorized amount for the B-2.

OTHER PROGRAMS

This bill: Provides $200 million for the national aerospace plane [Nasp]. This important program will guarantee continued American leadership in aerospace technology. Provides $1.9 billion for a wide variety of equipment for the National Guard and Reserves. Provides almost $230 million above the budget for modifications to the F-14A Program. Provides an increase of almost $25 million for AIDS research at Walter Reed medical research facility. Provides the budget request for numerous ongoing programs.

As mentioned earlier, $600 million was added for additional sealift.

We added $266 million above the budget for upgrading the M-1 tank.

HEALTH CARE

The conferees agreed to consolidate the services' individual medical budgets, except for research, into a centralized health care budget in order to provide a quality, consistent benefit to all eligible individuals, and to prevent duplication and waste of scarce resources. Over $8 billion was approved for this consolidated health care budget, an increase of $46 billion.

This funding level is an increase of $45,933,000 above the President's budget request for health care.

CONCLUSION

In summary, Mr. Speaker, the conference report on the Defense appropriations bill for 1992 which we are reporting to the House of Representatives: Complies with budget figure set for defense in the economic summit; complies with the 602 allocation set by the full Appropriations Committee; complies with the funding level for major programs set by the recently passed authorization legislation; enhances the morale of our Armed Forces; enhances the readiness of our troops; enhances the deployability and mobility of our troops; and enhances their sustainability once they are deployed.

I urge passage of the conferees' recommendations.

Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I became a member of the Appropriations Subcommittee for Navy in 1943 and have served on the Subcommittee on Defense since then. Today I rise in support of the conference report. I am very proud indeed of the work of my colleagues on the Defense Appropriations Subcommittee. Our chairman, the gentleman from Pennsylvania [Mr. MURTHA] and the ranking minority member, the gentleman from Pennsylvania [Mr. McDADE] and my subcommittee colleagues have done a very good job on a difficult bill.

As we continue to meet our responsibilities in providing for the defense of our Nation, we always need to distinguish between real defense and military spending.

I am particularly pleased that we did not agree to Guard and Reserve reductions that were proposed by the Department of Defense. We must continue to have a strong Guard and Reserve where members contribute to the economy during the week and train on the weekends. The conference agreement sets a floor on end strength and force structure of the National Guard and Reserve Forces that is only slightly below existing levels.

The National Guard and the Reserves have a tremendous peace-time mission and because they are local, they play a big part in support of the regular services. In fiscal year 1990, the Guard was called out for State emergency missions 292 times in 38 States; in fiscal year 1991, 337 times in 42 States. Every time the Guard was activated, local people saw their military dollars being spent on something important to their area—and that generates a very positive feeling toward the whole Army. The Nation will continue to need this support.

At no time in history has this Nation proposed to reduce its voluntary military force to the extent that is being proposed. The transition for our military personnel into the civilian sector and for employees of our defense contractors due to reductions in workload should not produce undue hardship on either the personnel being displaced or on those areas of our country where facilities are located. This will be a difficult task. The positive benefit to the Nation as a whole and to all local communities that the Guard and Reserve provide will be helpful in avoiding undue impacts. Inappropriately reducing the Guard and Reserves is risky and I believe reduces the support the people have for military spending.

In this connection, we should give attention to restoring the condition of our roads, our bridges, highways, harbors, waterway locks and dams, schools, hospitals, and other public facilities. The need for these facilities has been well documented. Programs developed to provide for this asset investment not only provide employment opportunities which help the economy, but the facilities themselves provide benefits and growth for the Nation as they are put to their intended use. Such a program needs to be developed which will tie in with the reduction in military spending, and which would create productive employment for those crowded out of military production and those who are forced to retire from the military or contractors after devoting their time to the defense of our country.

With the present decline in the economy and present plans for further reduction in Government-supported projects, I truly believe in a few months it will be evident that we must have a jobs bill, as we did in 1983. I, along with the gentleman from Pennsylvania, [Mr. MURTHA], have introduced such a bill, H.R. 3544. it is pending before the Committee on Appropriations. I invite Members to review this bill and join us as cosponsors of this bill as it appears likely this will be needed soon.

Mr. Speaker, this is a good bill. I congratulate the managers of this conference report and urge its adoption.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am privileged to rise in very strong support of this conference report which is a work product that reflects the views of the members of the subcommittee on both sides of the aisle, all of whom did yeoman work in bringing this bill here today. All the conferees, from both sides of the Capitol worked together to fashion what is a very difficult bill into one that will be signed by the President.

I have never seen a staff work more diligently, indeed spending many nights, watching the Sun rise a few times, to get this bill fashioned so we get it here.

Most importantly, Mr. Chairman, I want to pay tribute to my friend, the gentleman from Pennsylvania [Mr. MURTHA].

I want to point out to the House, Mr. Speaker, that our distinguished colleague, the gentleman from Pennsylvania, chaired this conference committee and he did so with consummate skill, consummate attention to the very desires and expressions of opinion of the Members on both sides of the aisle, both sides of the Capitol, always keeping in mind his foremost objective, which was to make sure that the men and women who make up this magnificent organization that we call our defense establishment have the tools they needed to do the job, have the quality of life before them so they could look forward to a strong, happy, and prosperous career, men and women who would be well rewarded for the motivation they show in defending this great Nation around the world.

The gentleman did a superb job, and because of that, we believe this bill will pass with overwhelming support.

Mr. Speaker, I have every indication that the President is going to sign this bill.

□ 1130

It is below the 602 allocations; it meets all the various recommendations and requirements that the administration laid upon us, and I hope it will be passed overwhelmingly.

Mr. Speaker, I rise in strong support of this conference report and urge its adoption.

Mr. Speaker, I would be remiss if I failed at this point to express my appreciation to the members of the conference committee, on both sides of the Capitol and on both sides of the aisle, for their effort, diligence, and cooperation in helping to bring back the Defense appropriations bill in a form that I think all Members can support and indeed be proud of.

Going to conference we were faced with 200 amendments from the Senate, and literally thousands of funding and language disagreements which needed to be worked out.

Despite some serious differences, the conferees undertook this task with both determination and good will, and I'm pleased to report that all items were resolved, with no items remaining in disagreement and a work product which we feel certain will be signed into law by the President.

We couldn't have done this without a yeoman effort on the part of the conferees and the staffs of the committees and I want to commend all of them for a job well done.

In particular, I want to single out our friends "from the Pacific," the senior Senators from Hawaii and Alaska who always have worked to provide the Nation with a sound defense.

And I especially want to thank our chairman, my colleague from Pennsylvania, who chaired the conference committee with great skill, ensuring that all Members' views were heard, and putting his strong imprint on a bill which above all else is committed to the individual soldier, sailor, airman, marine, and their families, and provides what they need in order to do their job when called.

Mr. Speaker, I will be brief in outlining the conference report. It falls within the spending levels for defense established by last year's budget agreement, a level which I would remind my colleagues is some 12 percent lower in real terms than the fiscal year 1990 levels for defense.

In terms of major program decisions, this bill basically tracks the Defense authorization conference agreement which this House passed overwhelmingly just 2 days ago.

This includes the funding levels for the strategic defense initiative and the B-2 bomber, as well as the future of conventional systems such as the M-1 Abrams tank, the F-16 fighter, and the V-22.

The conferees also moved to endorse President Bush's historic decisions of just 2 months ago regarding a variety of nuclear programs. The conference agreement terminates both strategic and theater nuclear programs such as the rail-garrison MX, the new generation short-range attack missiles [SRAM-2 and SRAM-T], and the nuclear variant of the sea-launched Tomahawk cruise missile.

In terms of military personnel, the conferees endorsed the President's proposal to reduce active duty strengths by roughly 100,000. Likewise, the bill supports Secretary Cheney's initiative to establish a new voluntary separation program, in line with the Defense authorization.

We also looked to bolster the so-called readiness accounts in a number of ways, including an add of nearly $1 billion over the request to attack backlogs in the services' repair and maintenance programs.

Mr. Speaker, to sum up, this is a good bill; not perfect, but one that in the aggregate responds well to the difficult choices posed as we move full bore into the process of building down the military forces which have served the Nation so well.

It's a sound, bipartisan bill, and I'd ask the House to give it a strong show of support.

Mr. Speaker, I reserve the balance of my time.

Mr. MURTHA. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding to me.

I take this time to engage in a colloquy with the chairman of the Subcommittee on Defense Appropriations on the sense of the conferees on the fiscal year 1992 Defense appropriations bill with respect to community military base reuse committees. How, for example, do the conferees view the status of the Community Task Force on Fort Ord?

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the chairman.

Mr. MURTHA. I thank the gentleman for yielding.

Mr. Speaker, it is the conferees' sense that the Office of Economic Adjustment of the Department of Defense should recognize the Community Task Force on Fort Ord as the legitimate and sole community reuse committee representing the communities affected by the closure of Fort Ord. The conferees have noted that the task force represents every level of government over Monterey County, encompassing the entire region affected by the base's closure, including 12 mayors of Monterey County, two Monterey County Supervisors representing the county board, the county's three State assemblymen, the county's State senator, two retired military officers from the county and the area's U.S. Representative, the gentleman from California.

Mr. PANETTA. Mr. Chairman, I greatly appreciate the gentleman's clarification, and I commend the gentleman and his fellow conferees on their dedication to a fair and reasonable treatment of our communities affected by military base closures.

Mr. Speaker, I also want to commend the chairman for his cooperation with respect to the other amendments with respect to base closures.

Mr. MURTHA. Mr. Speaker, I am going to yield to the gentleman from Oregon, but while he is walking to the podium, I want to say what an outstanding member of this committee the gentleman is. He has taken on a number of projects which have been so important to the Nation.

Mr. Speaker, the gentleman from Oregon is an infantryman himself; he understands it from the ground up and nobody has taken more of an interest in the personal problems and systems which enhance the basic infantryman at the ground level. All of us, this Nation, give great accolades to the gentleman from Oregon for his hard work on the subcommittee.

Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. I thank the gentleman for yielding to me, and I thank him for his kind and generous remarks, which make it even more difficult for me to stand in the well today and indicate that I regretfully have to vote against the conference report, and explain to my colleagues why I did not sign the conference report.

Mr. Speaker, it is never easy to stand up and be in disagreement with a gentleman for whom I have great respect and admiration, that is my chairman, the gentleman from Pennsylvania, [Mr. MURTHA]. But in this conference report I am compelled to buck the trend and also the culture of our committee, and indicate that I for one will vote against this conference report.

Mr. Speaker, I have five reasons for doing so. The first one that is deeply troubling to me is the outrage of a veto threat by the President of the United States brought against our committee when we were considering this bill, which included, in the Senate version of it, an override of a regulation that denies servicewomen the use of their own salaries to purchase abortion services if they choose, exercising their conscience to do so.

You know, that is a right that women in this country whom those servicewomen defend have, and yet the Department of Defense denies those servicewomen proudly serving abroad that same right.

There is something fundamentally wrong and unfair and pinched and narrow and cruel about that kind of a regulation.

There is something outrageous of a President who would threaten to veto this bill and bring the entire defense bill for this country down over that issue.

Mr. Speaker, this is a subjugation of the defense budget of this Government to the agenda of the Right-to-Life Committee. That is the only way I can explain it. I think that is outrageous.

I am angrier still that the conferees agreed to help him on that.

Now just let me mention four other issues that deal with weapons systems that I think do not reflect the world as it exists but reflects the world as it was during the cold war: The MX missile, the F-22, the Seawolf attack submarine and the Trident missiles.

Mr. Speaker, in this bill we have $195 million, $71 million above the termination costs, for the MX missile. These are new MIRV ICBM missiles. Although the Bush administration says he wants to terminate them, we are spending $195 million on it.

I fought against it; yet it is in the conference report.

The F-22: $1.6 billion for a new superfighter plane to counter the Soviet successor to the Mig-29, except there is not going to be any Soviet successor to the Mig-29. And even the Mig-29 production line is being shut down.

The SPEAKER pro tempore (Mr. GEJDENSON). The time of the gentleman from Oregon [Mr. AUCOIN] has expired.

Mr. AUCOIN. Mr. Speaker, I would ask the chairman for 1 additional minute, although I am sure he is not pleased with my remarks.

Mr. MURTHA. I yield an additional minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. I appreciate the chairman yielding me this time.

Mr. Speaker, the third issue is the Seawolf attack submarine. This conference report calls for the expenditure of $1.9 billion for a new superattack sub to counter the future—get that, future—Soviet post-Akula superattack submarine. Except there is no evidence that this Soviet submarine is ever going to be designed, much less built, and here we are spending $1.9 billion for an answer to that probably nonexistent threat.

On the Trident II missiles, we are spending $977 million for highly MIRV'ed and accurate first-strike counterforce weapons, with both Bush and Gorbachev saying they want to move away from these systems.

Ladies and gentlemen, every one of those dollars in those weapons systems which I have just named is a form of theft from American workers who are dislocated because of economic changes in this country and require retraining in order to lead productive, wholesome, meaningful and prosperous lives.

I think this is a conference report that is out of step for all of those five reasons.

Mr. MURTHA. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. HEFNER].

Mr. Speaker, let me say before I yield to him that the gentleman from North Carolina [Mr. HEFNER] is another one of our valuable members of the subcommittee. He works hard and he makes sure North Carolina is taken care of in the process. He is, of course, chairman of the Subcommittee on Military Construction of the Committee on Appropriations in his own right and does an outstanding job on that subcommittee. He makes sure there is no waste in any of the systems in which he is involved.

Mr. Speaker, I am a great admirer of the gentleman from North Carolina.

Mr. HEFNER. I thank the chairman for his comments, and I rise in strong support of this legislation and congratulate the gentleman from Pennsylvania [Mr. MCDADE], the gentleman from Pennsylvania, Chairman MURTHA, and all the staff for putting together what I consider a real, real bill for the future of America.

Mr. MCDADE. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio, a very able member of our subcommittee, the gentleman from Ohio [Mr. MILLER].

Mr. MURTHA. Mr. Speaker, while the gentleman is taking the well, let me also say how valuable the gentleman from Ohio [Mr. MILLER] is and has been to the subcommittee and to the full committee. He has taken on one thing in which he has been particularly interested. He feels that in cutting down the troops, we certainly ought to be able to cut down the recruiting money. We have taken his lead in that respect, and we have cut down the money available to the Services for recruiting. Mr. Speaker, the gentleman from Ohio has saved millions of dollars for the taxpayers because of his insight and his recommendations.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman for those kind remarks.

Mr. Speaker, I rise in support of the conference report H.R. 2521, the fiscal year 1992 Department of Defense appropriations bill. First of all I want to commend the gentleman from Pennsylvania Chairman MURTHA and the gentleman from Pennsylvania JOE MCDADE, our ranking member, for the excellent leadership they have provided all through this year and during the conference with the Senate.

This bill is another step along the downward path of defense spending which, between 1985 and 1996, will have been cut by one-third there is no question that this is the direction we must take as we adjust to the changes taking place around the world. Yet we must exercise caution that we do not create a path that is too steep and leaves us with defense forces that are not properly equipped or trained to meet future crises.

It is incorrect to say the administration and Congress have not recognized the changing world order. As this bill demonstrates, the Defense budget is changing. The Defense appropriations conference report reflects lower personnel levels in Active and Reserve Forces but recognizes the important role and cost effectiveness of the reserve component by rejecting drastic cuts to these forces. In line with lower force levels, modest cuts are made to the advertising budgets for enlisting new recruits.

Following the President's initiatives to reduce nuclear weapons, substantial reductions are made to offensive strategic systems. Strategic defenses, however, will receive additional funding over last year, and the appropriations bill supports the effort to focus SDI on providing a defense against limited or accidental nuclear attacks and on defending against theater ballistic missiles.

In another area, funding for the production of new tanks will end in fiscal year 1992, but in order to maintain this essential component of the industrial base, the bill supports a program to upgrade older M1 tanks to the M1-A2 version. The cold war may, in fact, be over. But it is still an uncertain world we live in. The United States remains a nation with global interests and must remain willing and able to respond to the potential threats that still exist. Overall, I believe this bill takes a reasoned approach to managing the reduction in defense spending and will adequately fund our national security needs through the current fiscal year. I urge my colleagues to support the conference report.

□ 1140

Mr. MURTHA. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN] for purposes of a colloquy.

Mr. MORAN. Mr. Speaker, the House Armed Services Committee recently authorized $3 million for a competitive grant to a historical black college or university [HBCU] to test a new fire suppression liquid called pyrocap B-136 which is manufactured in Springfield, VA. This product is a new firefighting technology which also has rapid heat absorbing properties relevant to battlefield skin burns from all sources. I would like to include in the RECORD at this time a recent article from USA Today regarding this unique material.

The $3 million for skin burn research was not included in title IV of the conference report for several reasons; one of which was that the DOD authorization had not passed the House at that time. But it is so important for this $3 million to be obligated given the many accounts dedicated in the legislation for medical research and technology innovation. Can the chairman and the ranking minority member of the subcommittee help us given that it is an authorized provision?

[FROM USA TODAY OCT. 25, 1991]

NERO-LIKE OFFICIALS SHOULD STOP FIDDLING

(By Barbara Reynolds)

If a firefighter had told Nero, "Not to worry, I have a magic fire extinguisher to save Rome," the emperor probably would have ignored him and continued fiddling.

Today, it's Theodore Adams Jr., president of Unified Industries, an engineering service firm in Springfield, Va., who wonders if bureaucrats are too busy fiddling around to take him seriously. Adams says his firm produces a fire suppressant that could have stopped the California fires.

I was in Oakland when the fires started. My eyes and lungs are still raw from the burning embers and thick black smoke. Couldn't something have prevented it?

Adams says that California, although 61% wildlands, doesn't have to become a periodic ranging inferno. Letters show his fire stopper has been tested successfully for use on wildlands by the U.S. Department of Agriculture and the Forest Service. The U.S. Army's research center says it "appears to be a versatile and useful product."

Adams, a retired Army colonel, says his product is approved for use in Washington, D.C., Compton, Calif., and Fairfax, Va. It is under review in Detroit.

Washington's battalion fire chief, Theodore Holmes, a veteran firefighter says, "It is a very unusual product that puts out fires quickly and absorbs heat more rapidly than water. It takes the toxicity out of smoke. You can spray it ahead of the fire and the fire won't cross it. I personally think it would have worked on the California fires."

If lives could have been saved, why wasn't it used?

Adams stresses there have been other times bureaucratic inaction worked against saving human life. "In the 1984 Wilberg mine fire in Orangeville, Utah, where 26 miners were killed, we were allowed to use the fire retardant only as a last resort. It stopped the fire immediately. But it took from 1984 to 1990 for federal agencies to approve its use."

Adams, an African-American, says there is still a bottleneck that blocks both mining operations and firefighting agencies from realizing his product is available. No urgent bulletins have alerted firefighters of the technology.

"There is nothing blocking Adams' product," says Robert Jones, a Forest Service official. "Yes, his product has been tested, is available and could have been used in the California fires. But I think he's stretching the truth to say any one chemical could have contained such a large fire."

Maybe Adams' fire stopper would not have worked; maybe it would. We need to know who's fiddling with the truth.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, this specific item was inadvertently left out of the bill, and we try to work it in, if it is a good program, and, when we get so many items, and we have over 400 pages of items, my colleagues can imagine how complicated it is. We think it is a good program. We will certainly do what we can to take care of it in the supplemental.

Mr. MORAN. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. MURTHA] very much, and I will submit remarks in support of many provisions in the conference report.

Mr. Speaker, I rise to today to join my colleagues in support of the conference report of the Department of Defense appropriations bill and to commend my colleagues on the conference committee for the fine work they did in drafting this bill. I am disappointed in the fact that women in the military service who serve overseas will still be denied their right to medical treatment in American medical facilities in the event they need reproductive care.

Notwithstanding that omission, there are several provisions for which I would like to express my strong support.

Specifically, I rise to thank the conference committee members for opposing Senate amendment No. 141. This amendment would have stricken $40 million for drug interdiction and substitute $32 million in appropriations to carry out the consolidation and relocation of the Central Intelligence Agency. The report accompanying the Senate bill stated that this consolidation was to be carried out, as soon as possible and that this relocation was to be in two sites, one in Gainesville, VA and one in Jefferson County, WV.

The problem that I, and an overwhelming number of my colleagues, had with this provision was not with the fact that the CIA was being relocated and consolidated—this proposal had been in the works for years—the problem was with the process by which this consolidation was being decided. The CIA, pursuant to standard Government relocation procedures, commissioned an independent consultant to review potential sites. When the deal was struck, the CIA subverted this process and decided on a site that was not among those recommended. In making its final decision, the CIA did not consult the Office of Management and Budget to determine if the proposal was cost efficient. It did not consult the White House to coordinate the announcement, and it did not work with the General Services Administration to open competitive bidding on the sites. The CIA did not consult with the House or Senate Intelligence Committees, even though they were requesting an authorization of over $32 million to begin this relocation and a total authorization of over $1.2 billion. In effect the CIA tried to hide its relocation and consolidation proposal behind a cloak of darkness. The conference committee lifted this cloak of darkness and acted to ensure that our constituents receive the openness and honesty they demand from their Government.

Mr. Speaker, as this time I would like to include a letter I received from the Greater Washington Board of Trade pertaining to this issue.

Again, I thank the conference committee for the leadership and integrity it has show in drafting this legislation today.

THE GREATER WASHINGTON
BOARD OF TRADE,
Washington, DC, November 14, 1991.

Hon. DAVE MCCURDY,
Chairman, Permanent Select Committee on Intelligence, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Mr. Chairman, The Greater Washington Board of Trade is a regional chamber of commerce representing Northern Virginia, Suburban Maryland and the District of Columbia with over 1,000 major, regional businesses as our members. I am writing to express our concern over the relocation of federal jobs outside of the Washington region but specifically, proposed plans to relocate 2,000 CIA employees to West Virginia.

There seems to be no real justification for this proposed relocation of some of the CIA's operations to West Virginia. Numerous reports citing reasons against the relocation have been presented before the House Select Committee on intelligence. Inadequate highways and long commutes for those employees who may choose not to relocate are just a few. In fact, some key employees may have to resign because they cannot afford to uproot their families and move to West Virginia. I applaud the conferees' recent decision to require the CIA to follow standard government rules and report in detail to your committee prior to a final decision on a new CIA compound. Certainly, this process would allow complete analysis of the costs and efficiency of any relocation options.

As you may know there are other proposed federal relocations that are being undertaken without any advance notice or Congressional hearings. The FBI will move its 2,600 employee fingerprint processing laboratory from the District of Columbia to Clarksburg, West Virginia. The Treasury Department will transfer the Bureau of Public Debt and 700 jobs from the Washington areas to Parkerburg, West Virginia. If this continues, the effect of federal job losses on the Washington region's economy will be staggering. Your committee insuring that the CIA relocation is fully justified should be a model way of handling these relocations.

Please support any efforts to prevent CIA consolidation until further review is taken by both the House and Senate Intelligence Committees to open the procurement process. Again we appreciate all you have done for the CIA and the Washington region.

Sincerely,

WILLIAM C. HARRIS.

Mr. MCDADE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. MCDADE] for yielding this time to me.

Mr. Speaker, the overall bill looks very good, and I think it has been done very well by the committee members. I still have a problem though, and that problem is that $6.8 million that I talked about when we discussed the rule a few moments ago. That did not pass either House, did not pass any committee, was ruled out of order on a point of order, was put back in in the conference language, and that is a manifestation of a much bigger problem than just $6.8 million.

Mr. Speaker, we have no way to control spending in this place. All year long I have been fighting pork, and I have talked about a deficit of $400 billion this year and the national debt of $4 trillion. The interest on the national debt is over $300 billion a year. We are doing things like sneaking pork barrel projects in, we are doing forward-funding to circumvent the budget agreement, rolling funds into the next fiscal year so that they do not reflect in this year, thus exceeding the budget agreement by circumventing it.

Spending is out of control, and so I want to talk just a minute about my fear. My fear is, if we do not come to grips with this spending problem, not in this bill, because it is not a bad bill, but if we do not come to grips with spending and get control of it, I think we are going to have a major economic disaster in this country, a depression. I think it is going to rival what we faced back in the 1920's and 1930's if we do not get control of this spending.

I mean, what are we going to do in the future, if this deficit continues to accelerate, and the interest on the debt continues to grow, $300 billion that is coming out just to pay interest? What are we going to do when that gets to $400 billion and $500 billion? I do not know how we are going to deal with it. The bottom is going to drop out, and we are going to leave the children, the future generations of this country, a terrible legacy. I think everybody here understands that. We all agree with that. It is almost a Gordian knot. We do not know how to address it, but we got to address it as a body.

I have been piecemeal trying to do something about it this year with almost no impact. I will admit that. But we, as a body, have to come to grips with it, not for our individual States. I have heard people give accolades to the Members saying, "He's doing a good job for his State," or, "He's doing a good job for his State." What about the country? What about the Nation?

So, I just implore my colleagues to think about this when they go home tonight because this is a very real problem. It is a very real issue. If we do not get control of spending very quickly, we are going to have an economic tragedy this country has never faced before.

Mr. MURTHA. Mr. Speaker, let me just make a comment. I appreciate what the gentleman from Indiana [Mr. BURTON] is saying because it is a serious problem, and we take it seriously, and, as he knows, in our bill we are actually the only ones that made any cuts over the last 6 or 7 years. All the other programs have gone up, and we do take it seriously, and I appreciate his suggestions and comments.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. YOUNG], a valued member of our committee.

Mr. YOUNG of Florida. Mr. Speaker, in the final analysis the legislation that we consider today makes the final decision as to what type of national defense program the United States will have. It determines the type of technology that will be in our weapons systems, it determines the type of training that our military personnel will have, and, in order to bring that kind of a bill to this floor, I have to tell my colleagues that it takes those of us who serve on the committee many hours, and days, and weeks, and months of work because we deal with thousands and thousands of specific items. I think it is safe to say that probably no one on the committee agrees with everything that we do with all of those thousand items, but we have put together a good bill.

Mr. Speaker, it has not been too many months since every American stood with pride, with their chests popping out, feeling so proud of what we did in Desert Storm and how we and our allies moved against an aggressor decisively and successfully in a very short period of time with an unbelievably low loss of life, and we did that because we had the best available technology. We did that because we had the best training for our forces. We did that because morale was the best.

Operation Desert Storm was an unprecedented response by our Nation and our allies to Saddam Hussein, who robbed the people of Kuwait of their freedom and independence, and the world of its greatest hope for a generation of peace. At a time when peace was breaking out in Eastern Europe, the Berlin Wall came down, the Iron Curtain was melting, and free elections were being held throughout the previously Communist world, Saddam Hussein dashed our hopes for peace. Since then, the freedom movement has taken hold in the Soviet Union and the Baltic States have regained their independence after more than 50 years of oppression.

We were able to respond to Saddam Hussein's aggression because this committee and this Congress made the investment in research to develop the latest and best technology. We made the investment to ensure that our air, ground, and sea forces were prepared to go into battle with the best possible equipment. And we provided the funds to train our troops so that they could perform with the flawless precision and professionalism that made us so proud of our All-Volunteer Force of Active Duty, Reserve, and National Guard troops.

As we have seen in the past 2 years with the dramatic and almost unbelievable changes in international leadership and the world map, we must continue to provide for the readiness of our Nation's Armed Forces. We must ensure that they remain the best equipped, best trained, and best prepared force to come to the defense of freedom anywhere in the world.

This bill, however, makes it clear that we have to prepare for our national security needs in a cost-effective manner that provides the best possible defense at the lowest possible cost to the American taxpayers. We have done that in this bill. We have continued our work of the past few years to trim every once of fat from programs. We have eliminated funding for those programs that have proven obsolete or duplicative. We have provided for a national defense that does more with less.

This bill is in the final analysis of what makes the determination as to what kind of a national defense that we will have, and this is a good bill, and this bill is not just about weapons, and hardware, and things of that nature.

In providing for our national defense, we must also provide for the needs of those who dedicated their lives to protecting our freedom. A provision in this bill, which reflects legislation I introduced earlier this year, closes a loophole in current law under which disabled military retirees lose critical health care benefits provided under the Civilian Health and Medical Program of the Uniformed Services [CHAMPUS]. This bill provides $20 million for CHAMPUS coverage promised to these disabled military retirees.

Almost 2 years ago, I learned of the sad plight of Andy Cox, a constituent of mine from St. Petersburg, FL, who became permanently disabled soon after retiring from a 22-year career in the Army and Navy. In working with the family of Andy Cox, I found an inequity in current law under which military retirees with a nonservice-connected disability lose their eligibility for health care coverage provided by CHAMPUS after 29 months when, by law, they automatically receive Medicare coverage. My legislation, which is reflected by a provision included in the original House-passed version of this bill and modified in the conference report, will enable disabled military retirees to retain CHAMPUS as a secondary payor for those health care costs not covered by Medicare parts A or B. It provides retroactive eligibility for all retirees who became disabled and lost their eligibility for CHAMPUS prior to enactment of this legislation.

This provision is urgently needed to provide for the critical health care needs of our Nation's military retirees who have become disabled. They came to the defense of our country in its time of need and now we come to their assistance in their greatest time of need.

This is one of many items in this bill that provide for the health and well-being not only of our troops and military retirees, but also for research programs that benefit all Americans.

One of the items in this bill that every one of my colleagues can be very proud of is the national bone marrow transplantation program that we have funded through this bill. Some 5 years ago, we initiated in this bill a program that is giving an opportunity for life to people who have terminal diseases, such as leukemia, other types of cancers, and some 60 fatal blood diseases that can be cured by a bone marrow transplant. A major portion of that program is funded in this bill as well.

We made the first appropriation to initiate the national marrow donor registry designations through the U.S. Navy. The Navy as the administrative agency is in charge of the program. I tell my colleagues, Mr. Speaker, that because of their support they can go back home proud that they have had a major role in a life-saving program that is a miracle. Today I can report to my colleagues that we have nearly 500,000 Americans who have had their blood typed and are recorded in our national registry. We have saved the lives of nearly a thousand people in just a few short years that this program has been in place.

Mr. Speaker, all of my colleagues are heroes and should be very proud of their role in supporting the National Marrow Donor Program.

Mr. MCDADE. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. Mr. Speaker, I want to commend the gentleman from Florida [Mr. YOUNG] for his statement and pay him personal tribute. The bone marrow program bears the stamp of BILL YOUNG. He is the Member of the House who pushed for it, fought for it, who did all the necessary and tough work to guide it through to a legislative life, and we are proud of him and the work which he has done, and I want to commend him for it.

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Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for those comments, and I would like to just close with this thought:

This is a good bill. It is a life-saving bill. It protects the United States, the security of our Nation, and the security of our people, and we are getting more for less dollars each year as we bring this bill to the floor.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me add to the compliments made to the gentleman from Florida [Mr. YOUNG] about the work he has done on not only the bone marrow program but also so many other programs he has been personally involved in. The Nation is better because of the gentleman's work.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington [Mr. DICKS], the ranking Democrat on the subcommittee. The gentleman from Washington has been involved for years in defense. There is no Member who has had more of an impact on the strategic programs. He and the gentleman from Pennsylvania [Mr. MCDADE] have worked diligently on making sure we had a good balance on strategic programs. They have done an outstanding job, and all of us appreciate their dedication and hard work.

There is no question that with less money available and with less of a threat, it is going to be more difficult to keep defense at a proper mix, but because of the work of the gentleman from Washington [Mr. DICKS], this is a better bill, a well-balanced bill, and the strategic programs in particular are well taken care of.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to my friend, the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague's yielding.

I want to associate myself with the remarks of both my chairman and the ranking member. I very much appreciate, as a new member on the subcommittee, working with all the gentlemen who have spoken on this issue up until now.

Mr. Speaker, I rise today in the support of the conference report on H.R. 2521—the fiscal 1992 Defense appropriations bill. I want to thank the chairman, Mr. MURTHA and the ranking member, Mr. MCDADE for their patience and willingness to work with me in my first year on the Defense Appropriations Subcommittee.

So much of our attention when these bills reach the floor is on the relative cost of the big-ticket weapons systems. Our debates often fail to properly emphasize that the defense appropriations bill is really about people. These are the people that worked overtime on the production lines to give our troops whatever they needed in Operations Just Cause and Desert Storm. These are the reservists and active-duty service men and women who served us with great skill and now face the threat of involuntary separation and force structure reduction. It is clearly not the case that reducing our defense budget through a quality builddown limits itself to killing big-ticket weapons systems and closing foreign military installations.

This conference report reflects our best hopes with regard to improving military health care through a mix and variety of choices including the CHAMPUS reform initiative. It reflects our preference to limit involuntary separations even as we begin the reductions in our active duty and Reserve force structure that must be a component in any planned builddown.

I am disappointed that the administration's request for the procurement of four additional B–2 bombers was not possible this year. I regret that the committee could not find the money to renew production of a third squadron of F–117 stealth fighters. I am nonetheless greatly encouraged that the B–2 production line will be kept warm and that the conferees have agreed to spend $1.56 billion to continue research and testing on stealth technologies associated with the B–2 program.

I hope that it is possible that we may reach some different conclusions on programs such as the B–2 when we meet on next year's bill. In the meantime, I am personally grateful for the support of the members of this subcommittee and for the constantly helpful advice of the subcommittee's truly bipartisan and professional staff. I urge the Members to adopt the conference report and endorse the Defense Appropriations Subcommittee's efforts to meet the phenomenal challenges of our changing world.

Mr. DICKS. Mr. Speaker, I rise in strong support of this conference report and commend the chairman, Mr. MURTHA, the ranking member, Mr. MCDADE, as well as all my colleagues on the Defense Appropriations Subcommittee for bringing to this House a bill that meets our critical national security requirements in an environment of fiscal constraint and revolutionary world developments. I also want to thank the staff of the subcommittee for their professional support and the long hours they labored to make this bill possible.

The Defense Appropriations Subcommittee faced a very difficult task this year. We are in the process of executing a major restructuring of our entire Armed Forces. Under current budget plans, DOD outlays will fall to 3.6 percent of GNP by fiscal year 1996, the lowest level since World War II. Its portion of Federal outlays will decline to 18 percent, compared to 27 percent in the mid-1980's and 43 percent in the 1960's. The number of active duty people will decrease by 521,000, roughly the number involved in Operation Desert Storm. DOD has eliminated 70,000 civilian jobs in the last 18 months. The bottom line for those who are calling for defense cuts, we hear you and the process is well underway.

The transition to a smaller Armed Forces will not be a painless task. Some Members are already facing the transition resulting from base closures, and more will face this issue in the coming years. Hardware production lines are coming to an end and research and development projects that do not meet the highest priority are being dropped. We all have to face up to the fact that we can't have our cake and eat it too. This bill makes many of those tough decisions.

A clear case of tough decisions involves reductions in the Reserve components. While we can debate the precise magnitude and rate of reductions, we can't cut over half a million troops from the Active Force and leave the Reserve components untouched if we expect to maintain a balanced force. I am pleased that this bill strikes a good balance by moderating the rate of reduction in the Reserve components proposed by the Department, while giving them some additional flexibility to keep the proper mix of forces.

One major initiative included in the authorization bill and funded in this legislation is a new Voluntary Separation Program to encourage those who might otherwise be involuntarily separated to leave the service, with an appropriate package for transition to the private sector. The bill also includes direction which I offered, for the Department to formulate a similar package for defense civilian employees who might otherwise face involuntary separation.

We have also strived to make sure that we don't meet reduced funding levels by returning to the hollow force we faced in the 1970's. To this end, the bill provides an additional $400 million above the budget request for depot maintenance activities, and an additional $500 million to cover repair and maintenance costs deferred in the request. The bill also includes $78 million for critical plant modernization at our Navy shipyards. Recognizing the cost-effective role that advanced simulation technologies can play in providing realistic training, the bill includes $40 million for the Joint Simulation Office, including $5 million for the exciting area of virtual realities.

In the health care arena, the conference report encourages the expansion of the CHAMPUS reform initiative, which has shown great promise for delivering quality care at lower cost to several areas including Washington State.

One area that is of considerable interest to this Member is environmental cleanup of defense bases. Reluctantly we had to recede from additions made in the House bill to conform with the authorization bill. But of at least equal importance, we included funds to develop advanced cleanup techniques through $50 million for the Strategic Environmental Research Program. Direction has also been included to aggressively pursue a number of steps to expedite the environmental restoration process, including the use of innovative contracting techniques, such as turnkey.

In light of the lessons learned in Operation Desert Storm, the committee has continued its efforts to address our serious sealift shortfall, including $600 million for this initiative.

Finally, the bill includes $1.5 million for initial operations of the Commission on Defense and National Security established in last year's appropriations bill. This Commission will be tasked with providing independent guidance on our comprehensive national security requirements, and the tools to meet them in an uncertain and dynamic world.

Mr. Speaker, I would say to my colleagues that I hear voices of some in this body calling for even more draconian cuts starting in fiscal year 1993. We must remember that at some point, if we cut back on our defense force structure beyond a certain point, we are going to wind up with a military that cannot respond to the important national issues that come before us—things like Iraq and things like the instability in the Soviet Union.

So I hope that before we all rush out and commit ourselves to vastly lower defense budgets, that we think through the implications of what that residual force will be like. I can remember, when my colleague, the gentleman from Pennsylvania [Mr. MURTHA] and I came on this committee in the late 1970's, we had a hollow Army and we had a hollow Navy. We had terrible problems with retention, and during the 1980's we turned that around. I can say to the Members today that we saw that out in Desert Storm and Desert Shield.

We have a quality military force. We have defenses that are ready. We have high school graduates. We have people in our military today who are competent. In fact, I think that today we have the finest military we have ever had.

So I hope we will be careful, cautious, and prudent before we commit to making reductions. I have heard statements from some people about next year cutting $56 billion in budget authority out of the defense budget. I will say right now that such a defense cut would be recklessly irresponsible. It would be dangerous, and I would hope that this House would resist those kinds of draconian measures.

We need to be careful about this. We need to remember that we are going to have to have some residual military capability.

So I want to thank my chairman, who has been very able in his management of this bill. He has given all the Members significant responsibilities, and I think he has utilized the members and the staff of the subcommittee, in a way that I think is very significant to this country.

Mr. Speaker, this is a good bill, and it deserves the support of the House.

Mr. MURTHA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ] for a colloquy.

Mr. ORTIZ. Mr. Speaker, my concern is with the language in the conference report on H.R. 2521, directing the Navy to evaluate the feasibility of returning the USS *Lexington* to Quincy, MA, for conversion to a museum. Does this in any way preclude the Navy from evaluating other potential sites on an equal basis?

Mr. MURTHA. No. Mr. Speaker, if the gentleman will yield, that is absolutely right. Our language, even though it sounds specific, is not meant to direct the Navy Department in any way at all. We expect them to be objective in their conclusions. We do not like to see them make hasty decisions in the direction they are going.

Mr. CALLAHAN. Mr. Speaker, would the gentleman from Texas yield to permit me to extend the colloquy with our subcommittee chairman?

Mr. ORTIZ. I yield to my friend, the gentleman from Alabama.

Mr. CALLAHAN. Mr. Speaker, is it the gentleman's understanding that the currently ongoing Navy evaluation of potential sites for the USS *Lexington*, which includes Quincy, MA, Corpus Christi, TX, and Mobile, AL, meets the requirement for the feasibility study outlined in the conference report?

Mr. MURTHA. Yes, it is my understanding that the Navy has already begun a feasibility study, and that certainly would meet that criterion.

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman for his response.

Mr. ORTIZ. Mr. Speaker, I thank the distinguished chairman of the Subcommittee on Defense.

Mr. McDADE. Mr. Speaker, I do not have any requests for additional time, and I am going to yield my time back, but before I do, let me yield myself such time as I may consume. I just want to take a moment to bring to the attention of the House the fact that our distinguished colleague and friend, JOHN MYERS, will on this Friday, back in the great State of Indiana, be celebrating his 25th anniversary as a Member of the House of Representatives, and I want to pay him a special tribute for all the great work he has done.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I am delighted to yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, 25 years goes fast when you are having fun.

Mr. McDADE. Mr. Speaker, let me say to the gentleman that if it is any fun around here any more, it is largely due to the fact that we have people of your quality to deal with. We are grateful for all of your work over all the years on all these bills. You have been a great credit to your State and to your country, and we are proud of you.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for his kind words. I guess I should ask to revise and extend my remarks, because I have never lied on the floor before.

The SPEAKER pro tempore (Mr. MURPHY). Without objection, the gentleman may revise and extend his remarks.

There was no objection.

Mr. McDADE. Mr. Speaker, I yield back the balance of my time.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me add my compliments concerning the gentleman from Indiana [Mr. MYERS]. Anybody who can stand 25 years here has done a heck of a job. We always appreciate the gentleman and his wife, and we acknowledge the wonderful job they have done.

Mr. VENTO. Mr. Speaker, I rise in opposition to the conference report to the bill H.R. 2521, the Defense appropriations bill for fiscal year 1992. While doing so, however, I want to commend the members of the appropriations conference who have labored long and hard to present this measure for consideration by the House. I voted against the authorization conference report earlier this week and now must oppose this measure for most of the same reason.

While these conference reports decisively move away from the record spending on defense of the past decade, nevertheless, in my view, it does not go far enough. The political demise of the former Soviet Union and the significantly diminished military threat posed by the Soviet Union are not accounted for in the conference report. The appropriation of $290.8 billion for defense spending, including continued spending on very expensive and extravagant technologies which are not ideally suited to the challenges we may face in the years to come, simply cannot be justified. There are just too many urgent domestic needs in housing, education, health care, the environment, and many other areas which continue to go begging for money while Congress continues to authorize lavish amounts of spending for defense. In addition, $3.8 billion of costs associated with Operation Desert Storm which are off budget yield an actual total appropriation of $294.6 billion.

While the House previously voted against any procurement funds for the B–2 Stealth bomber and to terminate production, the conference report appropriates $3.4 billion—$1.8 billion to keep the production line open and $1.6 billion for continued research and development activities. Even though the conference report makes the spending of additional funds or actual production of additional B–2 aircraft contingent upon additonal votes in the House and Senate, $3.4 billion is too much for a program which should be terminated. The presence of these dollars in the appropriations bill means that the issue simply awaits the next international crisis, whether real or imagined, for Congress to be stampeded into approving additional procurements of B–2 aircraft and a renewed B–2 program.

The conference report also appropriates $4.15 billion for a revamped strategic defense initiative [SDI]/tactical missiles defense program. This is $1 billion above the level approved in last year's appropriations bill and $635 million above the House bill.

Inexplicably, while President Bush has proposed terminating the MX rail garrison basing mode program, the conference report ironically appropriates $195 million for the MX test missile program. The funds are appropriated without prejudice for either production line termination or continued missile production at the discretion of the President. If the Bush administration is serious about its September arms control package, Congress should not send contradictory signals which call for terminating these de-stabilizing programs while continuing to fund them.

Unlike the Defense authorization conference report approved earlier this week by the House, the appropriations conference report contains no funding to resume production of the F–117A Stealth fighter aircraft. This sends mixed signals at best and the measure, if the past experience is a guide will remain on the administration agenda to be brought to life in the near future.

The conference report appropriates $225 million to upgrade existing tanks and $240 million for the procurement of new M–1 tanks. This total is more than twice the level of funding requested by the Bush administration for the M–1 program.

The appropriation of $1 billion for the procurement of 28 Trident II missiles in fiscal year 1992 cannot be justified. The provision on the Trident missiles which the House previously approved in the authorization bill also establishes a bridge for future funding in fiscal year 1993 by authorizing procurement of 31 missiles next year.

I am also discouraged to see that the F/A–18 Hornet aircraft has now doubled in price from its original claim to be a low cost alternative to the F–14 and the A–6. The F/A–18 which was to cost $20 million per copy or less just 6 years ago costs $40 million today. The appropriations conference report provides $1.8 billion to buy 39 new aircraft; only 9 less than the administration's request. The $472 million for R&D in the authorization conference agreement is also $20 million more than the administration's request. The R&D account for this weapon system has become a cash cow for the contractor to produce a system that should not have required such major modifications in the first place when it was sold to the Navy.

While there is much that I dislike in the conference report, there are a few bright spots which should be noted.

I am pleased that the measure includes a 4.2-percent pay raise for military personnel; the highest pay raise in a decade. I'm also pleased that the Department of Defense is actively seeking to accomplish its reduction in forces through voluntary separations from service rather than through involuntary separations where possible. The conference agreement also rejects the Bush administration's request to cut 105,000 personnel from the National Guard and Reserves and opting instead to fund 67,496 more positions than the President recommended. The administration cannot seriously insist that it supports a so-called total force concept that views the Guard and Reserves as an integral component with the active duty military if it is going to call on the Guard and Reserves to bear a disproportionate share of personnel reductions.

Mr. Speaker, I also want to commend the conferees on the defense authorization bill for their clarification of congressional intent with respect to the jurisdiction of the Commission on Base Closure and Realignment over the civil works functions of the Corps of Engineers. The authorization conference report specifies that the jurisdiction of the Commission does not extend to "any facility used primarily for civil works, rivers and harbors projects, flood control, or other projects not under the primary jurisdiction or control of the Department of Defense." Furthermore, the provision is made effective retroactive to November 5, 1990, thereby nullifying the Commission's July 1 action in endorsing the Army's reorganization proposal for the Corps of Engineers.

I have been joined by many of my colleagues in the House in opposing this reorganization proposal, which would have closed 4 division offices and 14 district offices, including the St. Paul district office. While there may be some reasons why the Corps of Engineers should be restructured and reorganized, my objections stem from the heavy-handed manner in which the Army attempted to implement this particular plan.

Last spring, without consulting the authorizing Public Works and Transportation Committee, the Army developed its reorganization proposal. This plan, which was specifically excluded by Defense Secretary Cheney in his recommendations to the Base Closure Commission, was adopted by the Base Closure Commission on its own initiative despite the warnings from prominent Members of the House and Senate from both sides of the aisle that the Commission did not have jurisdiction to address this matter. Despite extensive congressional testimony, the Commission voted unanimously on June 30 to implement the Army's plan but to delay implementing the plan for 1 year to give Congress time to review the matter and pass its own reorganization legislation.

Clearly, the Commission overstepped its bounds by making a decision about an issue which is not a matter of defense, but which is properly a matter of jurisdiction for the Public Works and Transportation Committee which had never held even one hearing on the proposed reorganization plan. I hope that if the Army intends to pursue the reorganization of the corps that they will now work with Congress rather than trying to go through the back door under the cover of the Base Closure Commission.

I regret that neither the authorization nor the appropriations conference reports provide for more stringent reductions in defense spending which are realistic and necessary in light of the deficit and in light of many other serious national priorities. For that reason, I must oppose the adoption of the conference report.

Mr. GALLO. Mr. Speaker, I rise in support of the conference report and to congratulate the distinguished chairman of the subcommittee, JOHN MURTHA, and the distinguished ranking minority member, JOSEPH MCDADE, for their fine work on the Department of Defense's appropriations bill for 1992.

I want to thank them and their staff for their efforts to continue to place the highest priorities in areas of morale, readiness, mobility, deployability, and sustainability of our Armed Forces. I am particularly pleased that the area of deployability, the issue of sealift has been discussed in detail and both near-term and long-term alternatives have been preserved.

It is my understanding that in the area of sealift, currently available foreign built ships will be eligible for conversion in U.S. shipyards to meet some of the Navy's near-term sealift requirement. At the same time, the majority of funding for the sealift program will be preserved for new construction in U.S. shipyards. I believe that this is a workable compromise.

Under the original plan, the Navy would have been prohibited from purchasing any foreign built ships for conversion, thus delaying any form of sealift capability for a minimum of 5 years.

Maersk Inc., and one of its affiliates Maersk Line, Ltd., are both headquartered in my district in Madison, NJ. These firms are best known for their quality transportation capabilities. Maersk Line, Ltd., in fact, has been a successful partner with the U.S. Marine Corps in the Maritime Prepositioning Ship Program since the inception of that program. The Congress has been supportive over the years of the Maritime Prepositioning Program and that support paid handsome dividends during the recent Persian Gulf conflict.

In fact, it was a Maersk ship that was one of the first to arrive in Saudi Arabia to provide sustaining logistical support to early deploying U.S. Marine and Army forces. It is also important to point out that Maersk Inc., and our staunch NATO ally, Denmark, provided support to the coalition efforts in the gulf by making available to the Defense Department three roll-on/rolloff capable ships at not cost or costs below market rates.

Understandably, Maersk Line, Ltd., would like to become involved in the sealift program. Under the conference committee agreement, Maersk quality ships now can be utilized in this program if those ships satisfy the Department of Defense's requirements in a timely, cost effective manner. I encourage Maersk Line, Ltd., as I hope my colleagues will, to compete in the sealift program and if successful, the major conversion efforts that will be required will provide significant work for our domestic shipyards in the near term and will also provide jobs for U.S. Merchant Marine personnel.

Again, I thank my colleagues for their interest and help on the sealift issue.

Mr. SAXTON. Mr. Speaker, we have finally accomplished a most formidable task, and we are now ready to vote on the Defense appropriations bill. It has never been easy to fully and equitably consider all the systems, manpower, real estate, readiness, and force structure issues embodied in the DOD appropriations bill, but this year posed unique challenges. None of us could have predicted the tumultuous changes in the Warsaw Pact 2 years ago, let alone the war in the gulf, or the dissolution of the Soviet empire. These changes make the world a more uncertain, if somewhat more hopeful place.

Given these great uncertainties, decisions on the size and shape of our Armed Forces become both more difficult and more important. We no longer can afford the military machine we have labored so hard to build for the last 10 years. Equally, we can ill afford to emaciate our ability to defend ourselves or to come to the aid of our allies in the defense of freedom.

I believe we have gone a long way to addressing these concerns in this bill. It offers a workable balance between manpower and weapon systems that will allow us to prepare for the 21st century. It allows us to capitalize on the technological edge, so decisive in Desert Storm, while maintaining a quality total force of highly trained men and women in our Armed Forces, both Active and Reserve.

This technological edge is exemplified by the five *Arleigh Burke* class AEGIS guided missile destroyers provided for in this bill. The new C–17 transport will enable us to meet the challenge of the next contingency operation, wherever it may be.

This bill also acknowledges the need to maintain strong and ready National Guard and Reserve Forces as we build down the active components. We must be absolutely certain that these citizen-soldiers are trained and equipped to the highest standards. They will become, as they have been in the past, our true strength in reserve.

When we again go through this process next year we must not forget these priorities. We must continue to support our industrial base and our technological edge against the uncertainties we all know await us in the future, and we must remain prepared to respond militarily in the defense of freedom.

Mr. PANETTA. Mr. Speaker, I rise in support of the conference report to accompany H.R. 2521, the Department of Defense appropriations bill for fiscal year 1992.

This conference report provides $269.747 billion in total discretionary budget authority and $275.197 billion in total discretionary outlays, which is $497 million below the 602(b) subdivision for budget authority and $29 million below the 602(b) subdivision for outlays, respectively, for this subcommittee.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, November 19, 1991.

DEAR COLLEAGUE: Attached is a fact sheet on the conference report to accompany H.R. 2521, the Department of Defense Appropriations Bill for Fiscal Year 1992. This conference report is scheduled for floor consideration Wednesday, November 20, 1991.

This conference report is below its budget authority and outlays 602(b) subdivisions.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

FACT SHEET

CONFERENCE REPORT TO ACCOMPANY H.R. 2521, DEPARTMENT OF DEFENSE APPROPRIATIONS BILL FISCAL YEAR 1992 (H. REPT. 102–328)

The House Appropriations Committee filed the conference report to accompany H.R. 2521, the Department of Defense Appropriations Bill for Fiscal Year 1992 on Monday, November 18, 1991. Floor consideration of this conference report is scheduled for Wednesday, November 20, 1991, subject to a rule being granted.

COMPARISON TO THE 602(B) SUBDIVISION

The conference report provides $269,747 million of discretionary budget authority, $497 million less than the Appropriations subdivision for this subcommittee. The bill is $29 million under the subdivision total for estimated discretionary outlays. A comparison of the conference report with the funding subdivisions follows:

COMPARISON TO DEFENSE SPENDING ALLOCATION

[In millions of dollars]

	Department of Defense appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	0	BA	0	BA	0
Discretionary	269,747	275,193	270,244	275,222	−497	−29
Mandatory	164	164	164	164		
Total	269,911	275,357	270,408	275,386	−497	−29

Note.—BA—New budget authority; 0—Estimated outlays.

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays in House Rept. 102–180. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102–69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

The following are the major program highlights for the conference report for the Department of Defense Appropriations Bill for Fiscal Year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Military personnel	78,266	74,528
Procurement	64,265	11,582
Operations and maintenance	83,359	66,220
Research and development	39,402	21,810

Mr. PANETTA. Mr. Speaker, I would like to take this opportunity to commend Chairman MURTHA of the Defense Appropriations Subcommittee and the House conferees on the fiscal year 1992 Defense appropriations bill for their dedication to a responsible defense budget in an era of declining defense programs and for crafting an appropriations bill that reflects a judicious balance of reductions with funding for essential programs.

I would like to highlight several items in the bill in which I have a particular interest. First, the conferees agreed to an important provision clarifying the intent of the Congress with respect to Defense Department aid to communities affected by base closures. The provision specifies that DOD's Office of Economic Adjustment [OEA] may not deny reuse planning grants to community reuse task forces or committees on the basis of a lack of unanimity if 90 percent of the members of the task forces support their applications for assistance. Previously, OEA has abided by a policy that requires unanimity among the members of such task forces in support of such applications, a standard that was far too stringent. The conferees' adoption of the amendment will aid several base closure communities around the Nation grappling with severe economic losses and the need to plan for their bases' civilian reuses.

The Monterey Institute of International Studies [MIIS], located in Monterey, CA, has been designing and conducting programs for over 30 years that combine the study of foreign languages with other areas, including international education and multinational business. The conference report includes funds provided for the new Center for International Trade Enhancement at MIIS. These funds were originally included in the fiscal year 1992 Defense appropriations bill as it was reported to the full House. They will help to supplement private funds to ensure the completion of efforts currently underway.

The center will support the following activities: Providing public officials with cross-cultural training; speeding the training of professional translators for the State Department; establishing programs that target specific, difficult business environments such as China and Japan; and increasing MIIS's cooperation with other Federal agencies such as the Foreign Service Institute and the Defense Language Institute. This funding will allow MIIS to continue to work closely with the Defense Language Institute [DLI] under their grant agreement with the Department of the Army to provide these services.

MIIS has worked closely with the Defense Department [DOD] to increase the Department's language capabilities. The institute has provided an M.A. program in foreign language instruction for DLI's faculty. This program is the faculty development program for DLI. The DLI uses native speakers of some 40 languages to teach intensive programs to some 6,000 members of DOD each year. MIIS's Training for Service Abroad Program has also undertaken specialized language programs for the Department of Defense in languages such as Arabic and Japanese. MIIS offers the only graduate programs in conference interpretation and in translating and interpreting between English/Chinese and English/Japanese in the continental United States. The institute also continues to train professional translators and interpreters for security and DOD personnel.

The Monterey Institute has expanded its contribution to the Institute for World Cultures and Religions at the Defense Language Institute to provide instruction on world politics and world affairs to supplement the intensive language programs. The institute's successful and productive working relationship with DLI has helped MIIS earn its reputation for excellence in international affairs coursework including translations and interpretation, language studies, international policy studies, international communication and national security. The conference agreement's funds will allow MIIS to enhance and expand its current programs and continue its work in linguistics and cross cultural understanding necessary to improving our national security and addressing the international needs of this country.

Reflecting the Defense authorization conference agreement's provisions, the Defense appropriations conferees also included $4.5 million for the procurement of peripheral hardware and operations and maintenance funds for the large-scale computer being installed at the Fleet Numerical Oceanography Center [FNOC] in Monterey, CA, which is colocated with the Naval Postgraduate School and a naval research laboratory. The supercomputer will speed the availability of crucial weather data to U.S. Armed Forces around the world. It is critical to the ability of the Navy and the other services to carry out their operations. The Persian Gulf war provided direct evidence of the need for excellent up-to-the-minute weather information. These funds will ensure that FNOC's supercomputer has the complete package of hardware necessary to perform its mission through this decade.

Once more, Mr. Chairman, I comment the conferees for their assistance to base closure communities, the Defense Language Institute, the Monterey Institute of International Studies and the Fleet Numerical Oceanography Center, and I look forward to continuing to work with my colleagues as we reorder our defense priorities in the 1990's.

Mr. MILLER of California. Mr. Speaker, I rise to express my reservations about section 8126 of this legislation. This provision directs the Secretary of the Interior to enter into a land exchange involving some 210,000 acres owned by Calista, an Alaska Native corporation. Matters affecting Alaska Native corporations and the management of public lands in Alaska are properly within the jurisdiction of the Committee on Interior and Insular Affairs, which I chair. Without doubt, section 8126 contains authorizing language within the Interior Committee's jurisdiction.

I have great respect for Chairman MURTHA, who led the House conferees on this legislation. I also appreciate how difficult it is to negotiate with the Senate, whose members all too often demonstrate little regard for public process and the rules of this body.

But I must say that section 8126 sets a new standard for inappropriate legislation on an appropriations bill. Section 8126 was added by the Senate without benefit of a single congressional hearing. At the time the bill passed the other body, neither members of the Senate nor Interior Department officials were even aware of which Native corporation lands were to be acquired by the legislation. Once the law firm representing Calista did distribute a description of the lands, we learned that the vast majority of these lands were actually only subsurface rights with little if any development threat. Moreover, the subsurface lands do not reflect Interior's top acquisition priorities either within the Calista region or in Alaska.

The law firm's document which is incorporated by reference in section 8126 indicates that about 210,000 acres of Calista subsurface and other land interests would be exchanged to the Interior Department. In return, Calista will receive surplus Federal property an other assets, including RTC property. Taking into account the $300 per acre cap set in section 8126, up to $63 million in Federal assets may be transferred to Calista Corporation.

On a positive note, I am pleased that the conference committee language specifies that Federal property conveyed to Calista will be subject to certain provisions of the Alaska Native Claims Settlement Act, including the revenue sharing requirements of section 7(i). Since the vast bulk of the assets to be exchanged by Calista are subsurface interests, the effect of section 8126 is to make section 7(i) applicable to the Federal assets to be acquired by Calista. Thus, Calista will be required to share 70 percent of the profits from its acquisitions with the other Alaska regional corporations, as set forth in section 7(i) of ANSCA.

Nonetheless, Mr. Speaker, this is a very bad way to do the public's business. Complex issues affecting Alaska Natives and Alaska lands should not be dealt with in this bill. I am sure that the appropriations committee would not appreciate it if I tucked away provisions dealing with defense systems in legislation passed by the Interior Committee.

It is my sincere hope that this is the last time we will see Alaska Native land issues resolved in this fashion on this vehicle.

Mr. MURTHA. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

□ 1200

IMPORTANT ISSUES FACING AMERICA

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, as the House prepares for adjournment for this year I think it is worth looking at some of the issues that not only need to be dealt with, but have to be dealt with. Of course, there are several on the agenda.

One is health care and the need for universal access to affordable health care. My hope would be that over the next 2 months the House and Senate, the Congress, would be working with the administration to make sure that there is a plan to put forward before the American people.

Clearly, from both a physical standpoint of the individual and a fiscal standpoint of this Nation, there is no greater need than that.

The second matter is an economic growth package that truly has in it growth elements that help this economy to grow. Not only to grow because we have too many people out of work, but also because growth is necessary to reduce the deficit. It is an extremely important part. Part of that is in the middle-income tax relief and tax cut.

Third is an infrastructure policy. The House is moving with the Senate in their conference toward a major highway bill. That is an important component. But it will not be sufficient in and of itself. We need that legislation that will promote the development of airports. We need that legislation that will promote the development of water and sewer systems and other public infrastructure that is so important.

We talk about concrete. It is also necessary to talk about communications. That means telecommunications and the necessity for telecommunications infrastructure that is so crucial.

These are all elements that I think are essential to any growth policy, essential to any agenda that the House would have. I would hope Members as they prepare for adjournment would look forward to these important items to be resolved, not only when the House returns sometime in January or February, but while the House is in recess.

Mr. Speaker, I appreciate the opportunity to take this time to speak to Members on this subject.

COMPREHENSIVE ECONOMIC REVITALIZATION PROGRAM NEEDED

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, as we are meeting here in the House

Chamber at this hour, I think it is important that all Members understand that the Committee on Banking, Finance and Urban Affairs is meeting over in one of the House office buildings considering recapitalization of the Resolution Trust Corporation.

Mr. Speaker, I hope all Members understand that putting more money into the Resolution Trust Corporation, taxpayer dollars, without getting at the root of the problem, which is the devaluation of real estate and the impact of that devaluation on the loans that are secured by savings and loans, is simply throwing money down a rathole.

When that Resolution Trust recapitalization goes before the Committee on Rules, I and a number of Members will be asking the Committee on Rules to make in order what we call the Real Estate Recovery Act of 1991. The purpose of that legislation is to provide a comprehensive economic revitalization program which in the process will provide incentives for home buying, will provide a restoration of value to homes in this country, and, through that process, will be able to revalue the loans that are being held by our financial institutions.

The reality is if the RTC or the FDIC are going to simply take acquired property and dump them on the market at 70 cents on the value of the dollar, they are going to destroy the value of every other loan that is out there, and all of a sudden the $150 billion already spent will be insufficient.

CONFERENCE REPORT ON H.R. 2038, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 285 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 285

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for the intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore (Mr. MURPHY). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. McEWEN], pending which I yield myself such time as I may consume. During consideration of House Resolution 285, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 285 is the rule providing for consideration of the conference report on H.R. 2038, the intelligence authorization bill for fiscal year 1992. The rule waives all points of order against the conference report and against its consideration.

The rule also provides that the conference report will be considered as having been read when called up for consideration.

Mr. Speaker, in order to move this conference report expeditiously, and because we are approaching the target date set for adjournment, the chairman of the Intelligence Committee requested that the 3-day layover requirement for conference reports be waived for this bill. This waiver is necessary for the House to take up the conference report today.

The chairman also requested that the rule waive points of order against provisions in the bill which are not germane because of the narrow scope of the original House bill. These provisions were requested by the administration and added to the bill in the Senate.

Points of order are waived against another provision in the conference report, which was added by the Senate also, that creates a national security education trust fund.

In addition, the rule waives points of order dealing with scope against title VI, concerning plans to consolidate certain CIA activities. According to the Intelligence Committee, the only reference to the subject is in the classified annex accompanying the Senate report, and it is not a part of either the House or Senate versions of the bill.

Mr. Speaker, I urge my colleagues to approve this rule so that we may act today on this important conference report.

Mr. McEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from California for explaining this rule which I rise to support.

As a former member of the Intelligence Committee, I know well the important work that has been done on this conference report, and wish to thank Chairman McCURDY and the ranking member, Mr. SHUSTER, for their tireless efforts.

The rule by which we would consider this conference report is the customary one, and needs little further by way of explanation.

The underlying conference report does merit some discussion because this will authorize funding for one of the most crucial segments of our national security apparatus.

Mr. Speaker, as Members know, the actual level of funding for these purposes is classified. But suffice it to say that Chairman McCURDY has pointed out that this portion of our national security budget has taken its share of cuts. And it is probable that those cuts will affect both personnel levels and operational capabilities. Indeed, as the House Intelligence Committee's report stated some 6 months ago:

> The monitoring of new arms control agreements will present a considerable challenge to U.S. intelligence * * * The intelligence community cannot affort major new systems or expenditures because of U.S. oversights or misjudgments during treaty negotiations.

So, at a time when our Nation is negotiating arms control agreements that could affect the safety and security of every American, it is worth noting that the conference report recommends cutting a number of important intelligence programs from the President's request for necessary programs that are integral to our national security.

It is ironic and disappointing then, to find that, at the insistence of the other body, the conference report will provide $150 million for general education. Mr. Speaker, to most Americans, that would seem nongermane to this bill. Indeed, most Americans, I submit, would say that our national security is at least as important as education.

Further, I must point out that the $150 million in education provided for in the conference report does not require the recipients of that aid to return any service to the U.S. itelligence community. That is to say, there is no requirement for national security service in return for a Government-provided education as there is under programs various other education programs provided for under the auspices of national security. Rather, this provision is simply for general education, and the only strings attached are that the recipients must work for the Federal Government or in the field of education. In fact, this amount of $150 million is equal to more than one-third of the entire funding provided for the President's high-priority America 2000 educational excellence program.

And at this time of such rapid and unprecedented change in world events, at a time when we are negotiating far-reaching and crucial arms control agreements, at a time when we are facing cuts in our national intelligence apparatus, I submit that it is disappointing to see this particular provision which has only a tenuous relationship to intelligence gathering.

And Mr. Speaker, let me reiterate that this is not a shortcoming of either the chairman or the ranking member of the House Intelligence Committee. It is a shortcoming in the conference report. For other Members, like me, who are concerned with such provisions, I would only add that the chairman and the ranking member did assure the Rules Committee that they were successful in accomplishing other priorities of the House in exchange for this onerous provision.

Nonetheless, Mr. Speaker, this conference report should come forward.

And the rule before us allows the House to consider it under the normal procedures, and so I endorse the rule.

□ 1210

Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MCCURDY. Mr. Speaker, pursuant to House Resolution 285, I call up the conference report on the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MURPHY). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 18, 1991 at page 32568.)

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. MCCURDY] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the conference report to accompany H.R. 2038, the fiscal year 1992 Intelligence Authorization Act. The conference report incorporates by reference a classified schedule of authorizations which contains the authorized funding levels. A detailed description of the schedule of authorizations is set forth in a classified annex to the statement of managers which accompanies the conference report. These classified documents may be reviewed by Members in the offices of the Intelligence Committee, and I urge Members to take the time to examine both the classified schedule of authorizations and the classified annex.

As is partially reflected in the unclassified portion of the conference report, this legislation differs significantly from the bill approved by the House on June 11. The House bill contained authorization levels which were substantially the same as those requested by the President. The Senate version made significant reductions. As is usually the case, the conference report reflects a compromise. In this instance, the process of compromise resulted in a cut of several hundred million dollars from the activities known collectively as the National Foreign Intelligence Program. Growth in these activities, which provide intelligence for the use of national policymakers, is limited by the conference report to less than 1 percent above the amounts appropriated in fiscal year 1991. That rate of growth is less than half the rate of growth in the defense budget, with which the intelligence budget is frequently compared.

These reductions reflect the conferees' recognition that recent events in the world, particularly the implosion of the Soviet Union which occurred since the House bill was passed in June, in combination with the fiscal constraints we will face for the foreseeable future, dictate that our intelligence programs and the spending which supports them need to be scrutinized. Both Intelligence Committees believe that we must have national intelligence agencies with the flexibility to respond effectively to the different sorts of challenges that will confront us in the 1990's and beyond. That flexibility will have to be achieved and maintained with fewer resources. The trick will be to maximize the return on the investments we are able to make in intelligence personnel, equipment, and facilities. One of the surest ways to do that is by making certain that the intelligence community is structured in such a way as to eliminate duplication of effort and promote efficient and responsible management. While we take the first steps toward this goal in this conference report, this subject is one to which both committees will devote a lot of time next year.

The conference report contains several important legislative provisions which were not a part of the House bill. One concerns a proposed consolidation of Central Intelligence Agency [CIA] activities now undertaken at several sites in the Washington, DC, metropolitan area. When the House Intelligence Committee examined this plan in July, we were appalled to discover that a decision with potential financial ramifications running in the billions of dollars had been made without the use of any criteria by which it could be understood and convincingly justified. Armed with a clear expression of disapproval by the House over the means by which the CIA had formulated the consolidation plan, we were able to insist in conference that no plan would go forward until we were assured that it had been carefully measured, both within the Agency and without, against criteria which made sense. I am pleased to report that we were successful.

The conference report does authorize funds to be used for CIA consolidation. Not a nickel of those funds, however, may be obligated until a number of conditions involving certifications and reports from the Director of Central Intelligence, the head of the General Services Administration [GSA], the CIA's inspector general, and the Director of the Office of Management and Budget are provided to the committee. These conditions will ensure, among other things, that: the consolidation plan is consistent with written land acquisition procedures, like those used by GSA, which are to be put in place at the CIA; the consolidation will save the Federal Government money; that spending on the CIA consolidation in fiscal year 1992 is consistent with the Administration's fiscal priorities; and that the likelihood that the CIA of the future may be a good deal smaller in terms of personnel than it is today has been considered by the Agency.

The Intelligence Committee does not object to consolidation of functions and activities of the intelligence agencies when to do so makes sense in terms of cost and program efficiency. We do, however, object to consolidation plans which cannot be clearly seen to satisfy either of those standards. The committee intends to monitor this particular consolidation with great care in the years to come to assure ourselves those standards are being met. In that regard the committee intends to closely scrutinize any request for additional funds which may be made in this fiscal year or in future fiscal years.

The conference report also contains the National Security Education Act, an educational initiative which may appear somewhat out of place in an intelligence authorization bill. The act establishes a trust fund out of which are to come yearly disbursements to finance a program of scholarships, fellowships, and grants to educational institutions to encourage greater academic interest in foreign languages and international and area studies. An appropriation of $150 million in funds which would otherwise be used for intelligence programs is authorized to the trust fund in fiscal year 1992. An appropriation of $35 million from the trust fund is authorized in the current fiscal year with equal shares funding the scholarship, fellowship, and grant assistance established by the program. Future years' obligations from the trust fund are, if authorized by law, limited to the amounts specified in appropriations acts. The program is to be administered by the Secretary of Defense.

I recognize that there are misgivings about this program, especially about the fact that there is no discernible link between the benefits provided and the intelligence agencies whose budgets are being asked to bear the program's cost. There can be no doubt that those agencies, as prospective employers with specialized needs, benefit if the pool of potential employees has a better grasp of foreign languages, governments, and cultures. Some might argue, however, that this program's lack of focus makes the accrual of any benefit by the intelligence community more the result of happenstance than design. Nevertheless, the program has its strong supporters. The new Director of Central Intelligence has endorsed the concept. A majority of the conferees believed that on balance, the benefit to our society as a whole by expanding the educational opportunities available in foreign languages and area studies outweighed any reservations. We made changes in conference to the structure of the program, by tightening the service requirement and instituting a financial payback provision if certain conditions are not met, and we reduced the funding levels recommended by the Senate. With these improvements we decided the program's effectiveness could best be measured by its results, with the knowledge that the requirement for annual authorization and appropriations action will ensure that Congress is well positioned to make judgments about those results.

In addition, the conference report contains an expression of the sense of Congress that, beginning in 1993, the aggregate intelligence budget figure should be made public. This sense of Congress language replaces a provision in the Senate amendment which would have mandated public disclosure of the aggregate figure effective with the fiscal year 1994 budget submission.

The conferees were informed that the President's opposition to public disclosure of the intelligence budget total was unyielding. Faced with a likely veto of the bill if the Senate language were included, we settled on the sense-of-Congress language both to express our belief that a change in the current policy on keeping the figure classified is inevitable, and to signal our desire to work with the President on an appropriate way to effect this change.

As I mentioned at the outset of my remarks, both intelligence committees intend to pursue the subject of intelligence reorganization in earnest in 1992. However, as a result of some of the lessons learned from the war against Iraq and because it made good sense from a budgetary and programmatic standpoint to do so, the conferees agreed to endorse several reorganization initiatives recommended by either the House or Senate Intelligence Committees this year. These initiatives, while important in their own right, serve to clearly reflect the intent of the committees to be involved on all levels of the reorganization issue next year. I want to encourage the Director of Central Intelligence and other senior officials in the intelligence community to join us in that undertaking.

Before closing, I want to comment briefly on two provisions in the House bill that are not fully reflected in the conference report. During the consideration of H.R. 2038 on the House floor, the gentleman from Washington [Mr. MILLER] and the gentleman from Delaware [Mr. CARPER] successfully offered an amendment to require the public disclosure of information concerning United States personnel listed as prisoners of war or missing in action during World War II, the Korean conflict or the conflict in Vietnam. Similar language was successfully offered as an amendment to the Senate version of the Department of Defense authorization bill for fiscal years 1992 and 1993. The conferees on the defense bill, however, agreed to make public only the records of Vietnam era POW/MIA's. As I understand it, uncertainty over the actual number of World War II and Korean conflict personnel properly classified as prisoners of war or missing in action, and the amount of information already publicly available about those individuals, produced an unwillingness on the part of the Defense authorization conferees to expand the coverage of the provision to include World War II and Korea.

Since the Vietnam-era POW/MIA's were covered by a provision in other legislation, it was not necessary to repeat that provision in the conference report on H.R. 2038. The intelligence authorization conferees did feel, however, a responsibility to try to resolve some of the uncertainties surrounding the availability of information on those unaccounted for during World War II or the Korean conflict. Accordingly, this conference report directs that, within 90 days of enactment, the Secretary of Defense shall submit a report detailing: The numbers of United States personnel still unaccounted for from World War II and the Korean conflict; the extent to which records about those personnel are already publicly available; the reasons why other records which may exist are not publicly available; and the feasibility and cost of making those records available to the public.

As Members will recall, when H.R. 2038 was initially on the House floor, the committee's ranking Republican, Mr. SHUSTER, offered an amendment to require members of the Intelligence Committee to take an oath of secrecy. That amendment was adopted. Before conferees were named, the committee voted to amend its rules to do what Mr. SHUSTER's amendment would have done—require committee members and staff to take a secrecy oath. I want to make it clear that the purpose of the Shuster amendment has already been accomplished. All Intelligence Committee members have executed an oath of secrecy, as now required by committee rules. Inasmuch as these steps had already been taken, the House conferees voted not to include the Shuster amendment in the conference report.

Mr. Speaker, the conference report represents the best judgments of the conferees on a number of difficult issues. It begins the process of defining the role of the intelligence community in the post-cold war world. It deserves the support of the House and I urge that it be adopted.

□ 1220

Mr. Speaker, I also want to commend the members of the committee, both Democrat and Republican, the ranking member, the gentleman from Pennsylvania [Mr. SHUSTER], and publicly thank the staff of the Intelligence Committee for their hard work and diligent efforts over the past year. I believe that we have made substantial progress, and Mr. Speaker, I am pleased and proud to chair this committee and to present this conference report for consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, the House managers worked long and hard to arrive at this agreement. The result is a conference report with a number of positive features, which, on balance, I support, although it also has some disappointing aspects.

On the issue of the consolidation and relocation of CIA facilities, the conference report is consistent with the instructions the House gave its managers. As the author of the motion to instruct adopted by the House, I took great interest in obtaining a satisfactory resolution of this issue.

In conference, we wished to reaffirm and protect the prerogatives of the house. As Members will recall, the CIA, in consultation with the other body, had developed a particular plan involving sites in Virginia and West Virginia. The House had already passed the fiscal year 1992 Intelligence authorization bill by the time the House Intelligence Committee suddenly learned that the CIA had settled upon a plan and intended to go forward with it in fiscal year 1992. An Intelligence Committee hearing surfaced serious questions about his consolidation plan, the implementation of which was supported by the other body. The conference agreement on this issue reaffirms the bicameral nature of the legislative branch under our Constitution and brings the House back into the process of authorizing funds for and conducting oversight of any proposed consolidation plan.

Our 11th hour hearing left many of us unpersuaded that the CIA had made a case for its proposed plan to relocate a number of Agency offices to sites in West Virginia and Virginia. The conference report includes certification and other requirements which will assure that any consolidation plan includes a well-documented justification. As a part of those provisions, the General Services Administration [GSA], the Office of Management and Budget

[OMB], and the CIA inspector general will have important reviewing roles in the development of any consolidation plan.

To my dismay, we receded to the Senate on a very expensive, $150 million, language and area studies program. It calls for a trust fund for scholarships, fellowships, and grants to universities. The program is not based on any concrete study on the scope of the intelligence community's unmet needs for more persons with language and area studies knowledge. Furthermore, no information was furnished that would indicate a significant number of beneficiaries would ultimately put this knowledge to work in any U.S. intelligence agency. The other body held no hearings on this sweeping proposal, and the House had no opportunity to conduct hearings. In conference, I unsuccessfully proposed that we postpone implementation of this major new initiative for 1 year, while a study was undertaken to evaluate how best to address the language skills problem at various alternative funding levels.

We did manage to trim the proposal from $180 to $150 million. The savings were applied to related, but more focused, government language initiatives with some concrete benefit to the intelligence community. We were only able to tighten up marginally the Senate proposal in conference, raising the likelihood that some U.S. Government agencies, not necessarily those with intelligence responsibilities, would receive some advantage from the program. But, U.S. intelligence will reap little tangible dividend, if any.

The intelligence community could have received far more benefit by spending a small fraction of this amount to address directly the community's real needs in the realm of foreign language skills and area expertise. Plainly and simply, this National Security Education Act is a diversion of defense dollars from the intelligence budget to a domestic education program, and it has no place in the intelligence bill. I trust that in future years the House Intelligence Committee will closely scrutinize the implementation of this program and any further authorizations which may be proposed for it.

Further, the conference report expresses the sense of Congress that certain overall intelligence budget totals should be made public each year beginning in 1993. The conference provision is clearly preferable to the Senate position, which would have mandated disclosure of this information in 1993. Had we adopted the Senate proposal, the President would surely have vetoed the conference report. However, I fear that even the conference report's sense of Congress language is a precursor to future efforts to pass a mandatory public disclosure requirement. As superficially appealing as that may seem to some, it is a bad idea which will serve no useful purpose, and has some serious potential drawbacks.

While providing no significant benefit, publishing these total figures on each fiscal year's intelligence budget could be helpful to intelligence agencies of nations unfriendly to American interests. It will let their intelligence analysts know the total amount of resources the United States is putting into intelligence activities. From their own experience with intelligence activities and information they have gleaned by other methods, they may be able to extrapolate from our intelligence budget total to get a clearer picture of the scope of our total intelligence efforts.

As several members of the Senate Intelligence Committee noted in their additional views, no other governments publish their intelligence budget figures. Those thoughtful views go on to note:

> Other governments will not understand why funding for U.S. intelligence activities is being revealed, and some will probably be concerned that disclosure of the budget will lead to further revelations of budget figures, including amounts spent to conduct liaison acitivities with particular services. It may be difficult to reassure these governments that the confidentiality of their relationship with the United States will be preserved.

Indeed, there would be pressure to make more and more budget details public. Because, it would soon become evident that merely knowing these total figures does not realistically contribute to any meaningful involvement of the general public in determining the appropriate level of resources for U.S. intelligence activities.

Merely knowing the total costs of U.S. intelligence activities is not the same as understanding those costs. Merely knowing the total cost will not increase public involvement in any constructive way in resource allocation questions.

To have any meaningful understanding of the costs, one must have some understanding of the value of intelligence, the other side of the cost/benefit equation. Such mandatory disclosure provisions are completely one-sided. They address only the "cost" side of the balance. But this is the dilemma with these seductive disclosure proposals. Specific knowledge about the valuable contributions of intelligence to our national well-being cannot be made public without jeopardizing those activities. Yet, that is precisely the information the public, or anyone else, must have to weigh the appropriateness of specific dollar totals. Publication of the budget total will only serve to encourage the American public to become cynics about the intelligence budget, as Oscar Wilde observed the term: "A man who knows the price of everything, and the value of nothing."

We already have an elaborate arrangement which provides adequate protection of the public interest. Members of the Intelligence, Armed Services, and Appropriations Committees in each House provide effective oversight of the details of the various programs in the intelligence budget. Much information on the main categories of each annual intelligence budget, and many other budgetary details on funding and personnel levels, are available for the inspection of all Members of Congress in the classified schedule of authorizations and classified annex accompanying each annual intelligence authorization bill.

With this information Members may perform their constitutional duty of legislating in the public interest in these matters, in their capacities as elected representatives of the American people who are their constituents. Publishing aggregate intelligence budget figures will add nothing to this process.

Already many important aspects of the structure, functions, and authority of our intelligence institutions involving substantive public policy issues are addressed to a large degree in publicly debated legislation. Recent examples include: First, the recommendations of the prestigious Eli Jacobs Panel on counterintelligence reforms; second, legislation on the authority of DOD intelligence agencies to utilize commercial cover in the collection of foreign intelligence; and third, legislation enacted earlier this year making comprehensive changes in existing laws governing congressional oversight of intelligence activities.

When publishing these figures will add nothing to the knowledge of legislators, and will not promote any more meaningful public involvement in these matters, why aid hostile foreign intelligence analysts by giving them this baseline information? Why offer a concrete target for those who are totally opposed to all U.S. intelligence activities to attack with mindless percentage reductions sensitive programs whose importance cannot be publicly disclosed to refute such attacks?

I am also disappointed that the conference dropped the provision of the House bill which required that oaths of secrecy be signed by members and staff of the House Intelligence Committee and published in the CONGESSIONAL RECORD. However, I am gratified that House passage of the provision was the catalyst which finally moved the Intelligence Committee and amend its rules to require such a signed oath of secrecy by committee members and staff. Nevertheless, the very limited statutory provision on this issue in the House bill would have been a more prominent and effective demonstration to the American people of the seriousness of our commitment to the protection of sensitive intelligence information. Such a positive, public affirmation would have been particularly appropriate at this juncture in view of the alarming degree of public skepticism toward Congress, heightened by the scandals surrounding the Judge Thomas confirmation leaks, the House bank, and unpaid House restaurant bills.

Congress, for reasons not yet clearly explained, seems determined to reorganize the Intelligence Community. This year we made a not-too-auspicious start, based on the hurried and often contradictory ideas of three separate committees. This is no way to do business, and I hope the process will be better next year, since our report promises that this year was just the beginning.

We micromanaged DOD to an extent that became not only counterproductive, but even silly, as some of us pointed out on the floor during consideration of the DOD authorization conference report. Yet, our ultimate goals remain as fuzzy as ever. We still have no big picture. Not knowing our final target, our efforts so far have been relegated to firing a barrage of potshots. Those scattered volleys were aimed primarily at Duane Andrews, Assistant Secretary of Defense for Command, Control, Communications and Intelligence, and by extension, at his boss and mentor, Dick Cheney.

Some of us were very displeased with the outcome, and refused to sign the House DOD authorization conference report as a means of protest.

□ 1230

In conclusion, Mr. Speaker, the conference report now before us does contain some troublesome provisions; however, on the whole, I believe that its positive aspects outweigh these drawbacks. I urge my Members to read the classified index. There are many good programs in this legislation, and I intend to support adoption of the conference report and I urge my colleagues to do so.

Mr. EDWARDS of California. Mr. Speaker, will my colleague, the gentleman from Pennsylvania, yield to me for just a moment?

Mr. SHUSTER. Yes, I yield just briefly to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, I had not known about the provision in the bill that provides CIA money for universities. I appreciate the reservations that my House committee had on this, but anybody who knows anything about the history of the CIA and the problems we had in the sixties and seventies where the CIA had gotten influence in universities, in the National Students Union, and indeed in other areas where they had a certain amount of infiltration, realizes the great damage that was done to the CIA and to the university by those activities.

Mr. SHUSTER. Mr. Speaker, if I may reclaim my time, I have several Members who have asked for time.

Mr. EDWARDS of California. Mr. Speaker, if the gentleman will yield for just one further brief moment, my question to the gentleman is, did the gentleman make a diligent effort not to recede and eliminate that very dangerous provision?

Mr. SHUSTER. I can assure my friend that I did and the vote was a party-line vote, with the Republicans opposing and Democrats voting in favor of it.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman. I am disappointed.

□ 1240

Mr. McCURDY. Mr. Speaker, I yield myself such time as I may consume to engage the gentleman from California in a very quick exchange here on that point.

Mr. Speaker, the gentleman raises an interesting point, but I think it is important to understand that within the conference report before us—although both sides had expressed a reservation about the use of funds—is a clear provision within the National Security Education Act that there is no direction, that there is no linkage, between the assistance and the intelligence community as the provider. In other words, even though the Defense Intelligence College and the Secretary of Defense administer the trust fund, there is not a direct intrusion or invasion of university communities by the intelligence community, if that would be the concern. These are not CIA funds; they are, in effect, DOD funds, because that is where the funding is provided.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the chairman's remarks on that issue. However, just this debate on the House floor today, I am sure, will not alleviate suspicion throughout the country, especially with young people who have not gotten over their fear of intelligence agencies. I am very well acquainted with it because the subcommittee I chair has jurisdiction over the FBI, and I have cosponsored legislation authorizing the FBI to support undergraduate training, but it is all in the open and it does not involve these huge amounts of money. Furthermore, we would not allow the FBI to have any operational role at universities through training programs, or students, or grants to universities.

Mr. McCURDY. That is an interesting comment and one that should be addressed to the chairman of the Committee on Intelligence in the Senate as well.

Mr. Speaker, I yield 7 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], chairperson of the Subcommittee on Legislation of the Permanent Select Committee on Intelligence.

Mrs. KENNELLY. I thank the chairman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report on H.R. 2038, the Intelligence Authorization Act for fiscal year 1992.

Let me address some of the significant legislative differences between this conference report and the bill as it passed the House last June:

First, the conference report contains a provision expressing the sense of the Congress that, beginning in 1993, the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities, should be disclosed to the public in an appropriate manner.

Frankly, I would have preferred the Senate language requiring the public disclosure of these figures following the enactment of the fiscal year 1993 intelligence authorization bill. However, despite the support of the new Director of Central Intelligence for the Senate, language during his confirmation hearings, the administration adamantly opposed the Senate provision—as well as a reasonable compromise we suggested, making disclosure contingent upon enactment of a separate joint resolution. We thus decided not to risk a veto at this late date.

I believe the American people can be safely told the aggregate amount spent on intelligence activities without jeopardizing our national security. In fact, the American people should be aware of where intelligence spending fits in among domestic and foreign priorities. As chair of the Subcommittee on Legislation, I intend to examine this issue further next year.

Second, the conference report does not include section 404 of the House bill which prohibited intelligence agencies from providing classified information to a member or staff of the House Intelligence Committee unless the member or staff had executed an oath of secrecy published in the CONGRESSIONAL RECORD. This provision would have added nothing to the protections on classified information or the penalties on disclosure already in place. What the provision would have done was put in place a procedure whereby the executive branch would determine which members of the House Intelligence Committee had access to classified information. But giving the executive branch that power would be wrong. Our committee was setup to oversee sensitive activities of the intelligence community. We should not be monitored for compliance by the very agencies we are charged by the House to oversee. Finally, though, the provision is unnecessary because the committee changed its rules in October to require, by our own rules, an oath of secrecy for members and staff.

Third, the conference report authorizes a new education initiative designed to address critical deficiencies in our knowledge of foreign languages and cultures as well as provide a better qualified pool of employees for the Federal Government. This legislation, the National Security Education Act [NSEA], is funded by the transfer of $150 million from the intelligence budget this year to a trust fund, from which $35 million is authorized for fiscal year 1992. One-third of the funds are to be awarded to undergraduates for study abroad, one-third to graduate students for fellowships in the disciplines of foreign language, area studies, and international studies, and one-third to institutions to establish or improve programs in these disciplines.

The NSEA has been criticized for not providing a direct benefit to the U.S. intelligence community. While some of us would have preferred that the legislation was more directly tailored to assisting the intelligence community in recruiting well-qualified linguists and area specialists, the program does impose detailed reporting requirements on the Secretary of Defense so that we in the Congress can fully monitor the NSEA and fine tune it in the future.

Nevertheless, even though we may want to tighten the requirements for Government service by recipients, we all agree that no individual recipient of assistance may be used to carry out any activity on the part of any intelligence agency of the U.S. Government during the period in which assistance is received. The individuals receiving NSEA funds are to be engaged in purely academic pursuits. The legislation makes this clear.

Despite the NSEA's weaknesses, it does recognize that America's economic well-being and national security will depend in great measure upon our ability to communicate and compete by knowing the languages and cultures of other countries. The program deserves to be enacted.

With respect to consolidation of CIA facilities to two sites outside the Washington metropolitan area, suffice it to say the House of Representatives, under the able leadership of our chairman, has forced the decisionmaking process on this issue into the open. The conference report imposes significant new requirements on the Agency before any funds can be obligated to implement its consolidation plan.

On the POW/MIA issue, the conferees agreed not to duplicate the provision of the National Defense Authorization Act for fiscal years 1992 and 1993, in which the Secretary of Defense is directed to place records from the Vietnam era, pertaining to prisoners of war and missing in action, in a library-like facility for public review and photocopying. Although efforts were made to treat the records pertaining to the unaccounted from World War II and the Korean conflict in the same way, conferees were concerned that there is insufficient information on the numbers of personnel who remain unaccounted for, the location of their records, and the feasibility of expanding public access to these records. We thus require the Secretary of Defense to provide us a detailed report on these questions within 90 days of enactment.

Finally, the conference report includes several changes in the law affording retirement, survivor, and disability benefits to CIA employees and their families. One very important change is the elimination of the requirement that the former husband or wife of a CIA employee must have spent 5 years outside the United States to qualify for former spouse benefits. All too often the decision on whether the spouse will serve abroad is outside his or her control. Our change will ensure that former spouse benefits will be available on a less arbitrary basis in the future.

We rejected in conference, however, the repeal of the former spouse's entitlement to Thrift Savings Plan [TSP] benefits under the Federal Employee's Retirement System. I, for one, do not believe the imposition of a pro rata division of TSP benefits is either unworkable or unreasonable. My subcommittee will be conducting a comprehensive review of the CIA Retirement Act of 1964 for certain employees next year and I look forward to working with the Agency on developing improvements in the law.

Finally, Mr. Speaker, in June, when this bill passed the House, I discussed the committee's efforts to ensure U.S. intelligence agencies were working together to provide reliable and timely intelligence products with an absolute minimum of duplication and wasted effort. I can assure my colleagues that this conference report represents even greater progress toward our goal of streamlining the intelligence community than did our bill, and that we will continue our efforts next year.

I urge a "yes" vote on the conference report.

☐ 1250

Mr. SHUSTER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I appreciate the gentleman from Pennsylvania [Mr. SHUSTER], the ranking member, yielding this time to me.

Mr. Speaker, I rise in support of this conference report. There are many good things in the conference report. There are some I have reservations about. Those things which I have reservations about, the ranking member most eloquently went into in some detail, and I will not go into that detail again.

I also want to thank the chairman and all the members of the committee for the effort put into the conference report. This is a committee which requires a great deal of personal time on behalf of the Member, and the members of the committee are very diligent in carrying out that responsibility.

Two quick reservations that I would like to just mention before I go on to some of the more positive aspects of the bill are the $150 million education fund. It was in an open type discussion that that debate took place, and I would commend that to the attention of any of the Members, if they are so inclined to look at that debate and see some of the concerns that were raised, and, as earlier has been said of the ranking member, the gentleman from Pennsylvania [Mr. SHUSTER], he was diligent in his efforts to oppose that and did a great job on our side in trying to make certain that our views were expressed.

Mr. Speaker, I am also extremely concerned about the public disclosure suggestions. I am concerned that, if we move to public disclosure, that we are going to have to go back for many, many years to show basically a trend of what has happened in the intelligence community, of what has happened in the overall spending, and, if we ever deviate from that trend, I think it is going to send a signal that could very much be unwarranted. But I think in determination of what is important in this country in terms of intelligence, those are things that are best kept secret, and those are things which I think that only opening even the disclosure up to the total amount up to the public sometimes, many times not to the public of the United States, but to other countries, raises questions which make it very difficult to answer, and I believe again those are things that are part of the family secrets and should be kept as that.

Mr. Speaker, there are many good things in this bill, and the difficulty of discussing the intelligence conference report is because 99 percent of it is classified, but to the Members on particularly my side I think that I can assure them that there are in this conference report many, many good programs, that after a great deal of fight and effort by the chairman, and the ranking member, and others, that we have been able to continue. I think I can assure them that they will be programs that they will be very supportive of and ones that they can be comfortable that our Nation's secrets are in good hands.

I again strongly endorse this conference report. I commend it to my colleagues to support, as I have and always will. Members who have an interest, I would highly suggest that they go to the Permanent Select Committee on Intelligence making every opportunity to set up the method by which they can read the classified annex.

Mr. SHUSTER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I thank the distinguished gentleman from Pennsylvania [Mr. SHUSTER], the ranking member, for yielding this time to me.

Mr. Speaker, other Members have covered many aspects of this conference report. I want to dwell on one particular aspect that I think may escape my colleagues' attention, and that is what this conference report does in terms of access to information for those concerned about prisoners of war in Vietnam, Korea, or World War II, and I would like to follow up on the remarks of the distinguished chairman, the gentleman from Oklahoma [Mr. MCCURDY] in that regard.

My colleagues will recall that last June 11 in this House the gentleman from Delaware [Mr. CARPER] and I offered an amendment to this bill, the truth bill, that scores of Members in this body cosponsored providing for better access to information out of our own U.S. Government files for those, particularly families, seeking information about POW's from the Vietnam war, the Korean war, and World War II. That amendment, by the way, passed unanimously on a voice vote, and, as the distinguished chairman noted, a similar amendment was offered in the Senate by Senator MCCAIN which also passed under similar circumstances. As the distinguished chairman from Oklahoma noted in the defense conference report, those provisions in the truth bill, as applied to Vietnam POW's, was adopted. So, we got one-third of what we wanted. But in that defense conference report there was nothing pertaining to POW's from the Korean war or World War II.

Mr. Speaker, in this bill before us, quite appropriately in light of the defense report, there was no need to deal with Vietnam. But the provisions that were contained in the truth bill that this House passed for Korea and World War II were dropped in favor of a study provision, a 90-day study for the Pentagon to do on sources of information related to those POW's. We have made some progress. This study is a good thing. The fact that we have the truth bill for Vietnam veterans is a good thing.

But we are not there yet, and let me explain why it is so important that, despite what the Pentagon says about needing to study and gather more information on the Korean war and World War II veterans, that we need the truth bill for all the POW's.

If somebody today goes to the Pentagon who has a relative who was a POW in Korea or World War II and asks for information, I can tell my colleagues from first-hand experience with one of my constituents that they get the runaround. They are told, "We're sorry. We have no mechanism for dealing with that. We just deal with Vietnam POW questions." Yet we know that we have 7,000 POW's unaccounted for after the Korean war and over 70,000 after World War II that probably ended up in the Soviet Union, and were their sacrifices any smaller, any less great, than those that went and sacrificed in Vietnam?

So, Mr. Speaker, that is why the gentleman from Delaware [Mr. CARPER] and I, while commending the progress that has been made, hope that we will not give up this struggle and that members of the Permanent Select Committee on Intelligence will seek, when the study comes back, to see that the truth bill, which now applies and will apply to Vietnam POW's, will apply to Korean war and World War II POW's so that we can get the information out to those concerned.

Mr. MCCURDY. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, let me just follow up on the comments I can from the gentleman from Washington [Mr. MILLER]. First I want to thank him for the leadership that he has shown to try to do what we can in this body to make certain that families of our men who never came home from the Vietnam war, families of our men who never came from the Korean war or World War II, will have the right to know as much as we know about the fate of their husbands, their sons, their uncles, their loved ones.

I think we have here before us maybe half a loaf. We have with the adoption of the armed services bill and the disclosure of information regarding Vietnam war POW's, we have a portion of that loaf, and today, with the adoption of this conference report and the study that mandates within the next 90 days pertaining to the Korean war and World War II era POW's and MIA's, we may have another portion of a loaf.

After 90 days, when this time clock has run, we want something to happen. We want something to happen. I think perhaps it is appropriate that we do have this 90-day study, but we do not want this to be the end. My hopes are it will be the next step to full and open disclosure to all the Korean war and World War II POW families who still want to know what happened to their loved ones.

Let me just conclude by saying on behalf of 2,300 American families whose sons, and fathers and relatives never came home from the Vietnam war, to express on behalf of all of us and them our thanks to this committee for the step that has been taken in the armed services bill and in the context of this bill to make sure that they finally know the truth.

□ 1300

Mr. SHUSTER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I want to begin by thanking the chairman of the committee, the gentleman from Oklahoma [Mr. MCCURDY], and also the ranking member, the gentleman from Pennsylvania [Mr. SHUSTER], for their outstanding efforts to thwart the effort that was made by some to move, without any public discussion or disclosure, CIA offices to West Virginia. I also want to thank all the members of the committee, because this was a very tough battle, and at times, with the Senate side being involved the way it was, we were not sure how it would come out.

I also want to thank all the staff members on both sides of the aisle for the work they did. And last, to the Members of this House, I want to thank all the Members who supported the motion to instruct the conferees offered by the gentleman from Pennsylvania [Mr. SHUSTER], which I think really helped make the difference.

As Chairman MCCURDY said, this was the most expensive federal building relocation in the history of the country, and all of it was being done without any public disclosure. To the credit of the gentleman from Oklahoma [Mr. MCCURDY] and the gentleman from Pennsylvania [Mr. SHUSTER], they held a public hearing whereby everyone could come and ask any questions, and, of course, at that hearing the CIA leadership was not able to answer many of the questions. I think, with what the chairman of the committee, the gentleman from Oklahoma [Mr. MCCURDY] and the gentleman from Pennsylvania [Mr. SHUSTER] and the committee did, it is a victory, quite frankly, for America and for the process, to make sure the process is open and public and one that people can see. I also would say it is a victory for the people of Oklahoma and the people of Pennsylvania and the people of Virginia.

I also want to publicly thank the gentleman from Oklahoma [Mr. MCCURDY] and the gentleman from Pennsylvania [Mr. SHUSTER] on behalf of the many CIA employees who have called my office, and also on behalf of their families. If anyone won a victory, it is the families who did not want to be used as a political pawn and be manipulated the way they were.

HALTING THE CIA RELOCATION

By approving the conference report on the fiscal year 1992 Intelligence Authorization Act, Congress has halted plans to relocate 3,000 CIA employees from northern Virginia to West Virginia. The measure includes provisions that will require the CIA to proceed with plans for a consolidation of Washington area offices in a public manner. Specifically, the conference report authorizes $10 million for land acquisition for the CIA consolidation project, but stipulates that no funds be spent until the CIA provides a detailed written report to the House and Senate intelligence and appropriations committees certifying that the following conditions have been met.

The Director of Central Intelligence has established and followed written procedures for land acquisition that track the procedures of the General Services Administration, which normally handles real property acquisition for Federal agencies, and are consistent with established procurement integrity guidelines.

The Administrator of General Services has certified in writing that the consolidation plan will result in cost savings to the U.S. Government.

The Administrator of General Services has certified in writing that the consolidation plan will result in cost savings to the U.S. Government.

The Director of the Office of Management and Budget has certified that the Bush administration has approved the consolidation plan.

The CIA Inspector general, who is now reviewing the current relocation plan at the request of House Intelligence Committee, Chairman DAVE MCCURDY and me, has certified that any corrective actions that are recommended after the investigation have been implemented.

The Director of Central Intelligence has provided a written report which includes assurances that the employees have been consulted and their interests considered in developing a final consolidation plan. The report must also indicate that global changes and budget constraints have been fully considered in developing the plan.

WHAT WAS THE CIA RELOCATION PLAN

On June 20, a plan was announced which would have established two new CIA compounds, one of which would have housed 3,000 employees in Jefferson County, WV. The consolidation plan, formulated in secret discussions between CIA officials and a senior Senator, would have been the most expensive Federal office building construction and relocation project in U.S. history, at a cost of $1.2 billion. I strongly opposed the relocation to West Virginia because it would have hurt thousands of families, and would have disrupted the operations of the CIA.

The June 20 announcement surprised many in the intelligence community and in Congress, who had been told that the consolidation of Washington area CIA offices was still in the discussion stages. Because I had worked closely with CIA leaders and employees over the years, and had even led the effort in 1983 to bring local residents into the headquarters compound to discuss the construction of a new building, it was regrettable to learn of the relocation plan in this manners.

On July 30 at a rare public hearing of the House Permanent Select Committee on Intelligence, which has oversight responsibility for the CIA, concerns were raised about the plan and the lack of consultation with the House. Every Member in attendance criticized the plan, with remarks that included: "If this were not so pathetic, it would probably be funny"; "I think what has happened makes a mockery of our traditional process"; and, "outrageous, disgraceful, scandalous conduct of the CIA." Committee members also raised the possiblity that the CIA had violated the requirement of the National Security Act that the agency keep the committee "fully and currently informed."

Despite the concerns raised by the House Intelligence Committee, the Senate moved forward with authorizing and providing funds for the CIA relocation. A provision authorizing the CIA to implement the relocation plan was placed in the classified section to the Senate version of the fiscal year 1991 intelligence authorization measure. It was inappropriate to include this public building project in that section of the bill, which generally comprises secret weapons or covert actions. Moreover, a Senate amendment to the fiscal year 1992 defense appropriations measure deleted over $30 million that the House had earmarked for a national drug intelligence center, and directed these funds for the purchase of land to begin to implement the CIA relocation plan. The Senate amendment would have required the CIA to begin spending this money within 60 days.

INTERESTS OF CIA EMPLOYEES NOT CONSIDERED

As the ranking member of the Select Committee on Children, Youth, and Families, I was particularly concerned that the interests of CIA employees and their families were not given greater consideration in the development of the relocation plan. Because the Federal Government's greatest asset is its people, I have worked over the years to promote employee programs such as flexitime, leave sharing, job sharing, and child day care. CIA employees currently benefit from many of these programs. The relocation plan would have reversed all the gains made through these types of programs. Despite the expert consultant's specific warning that the West Virginia site would cause a hardship on existing employees, the CIA chose a site that would force thousands of employees to choose between a commute of up to 4 hours a day and a move to West Virginia.

The relocation plan would have uprooted employees at the CIA facilities involved who have become part of their communities in northern Virginia, Maryland, and the District of Columbia. They have joined places of worship, are involved in community service, have spouses employed in the area, and children active at local schools. Many of the families who would be affected by the CIA reolcation have contacted my office. They feel that they were being manipulated for political reasons, and that their interests were disregarded. One caller, the wife of a CIA linguist, was especially concerned about her older child, who is in a special education program. "We couldn't move. We couldn't find the kind of schools there that my son needs," she explained. Others raised concerns about spouses who would have a difficult time finding comparable employment if forced to move out of the Washington area.

A husband and wife who both work at the CIA wrote:

> Thousands, repeat thousands of employees (and family members) will be faced with a serious career and quality of life dilemma: face a horrendous, unconscionable commute; or leave a fulfilling career track * * *.

SITE SELECTION PROCESS QUESTIONED

Serious questions have been raised about the process used to develop the CIA relocation plan. The plan was made without input from the White House, the Office of Management and Budget, the National Security Council, or the General Services Administration. The CIA hired an outside real estate consultant to determine preferred sites for consolidation, yet ignored those experts' recommendations.

The CIA selected a West Virginia site for a new facility that had not made the experts' list of the top possible 200 sites, nor the top 65, nor the top 10. In fact, the experts' report specifically rejected the West Virginia site because "requiring a commute of over an hour for almost all existing CIA employees would generate a hardship on those existing employees and may result in the loss of key personnel necessary for the operation of a new facility."

The CIA directed that a new report be prepared including the West Virginia site, and eventually selected that site, citing cost savings as the rationale. But in doing so the CIA rejected the explicit recommendation in the experts' second report that "cost differentials between the sites are relatively minor; therefore, the operational issues and other managerial concerns should take precedence in the final selection." In short, the CIA relocation plan will not win an award for procurement integrity.

For Congress to ratify these activities would have sent the wrong message about the way Federal agencies should operate. It would also have set a bad precedent for the CIA. In the midst of the cold war, the CIA sought and obtained specific authorization for a new CIA headquarters in the Military Construction Act of 1955, and President Eisenhower then made a formal request for funds in his 1956 budget. Today, dramatic changes around the world reduce the need for a veil of secrecy over CIA activities. Yet a few top CIA officials handled the consolidation project as though it were a secret mission.

CONCERNS ABOUT HOW CONGRESS WORKS

On October 24, during House floor debate on a motion to instruct the House conferees on the fiscal year 1992 intelligence authorization bill to put the brakes on the CIA relocation plan, I raised concerns about the message that would be sent to the public if the CIA relocation plan were approved. The relocation plan was an example of the type of activity that has led the American public to lose faith in Congress. When one Senator can direct the CIA to move 3,000 employees to his home State, against the recommendations of experts who found no significant cost savings and specifically pointed out the hardship it would cause employees, the system is not working. At a time when the public views Conress with scrutiny and questions whether our Government works, approval of the handling of the CIA relocation plan would have discredited Congress.

The CIA coordinates and oversees the entire intelligence community, interacting on a daily basis with many other Federal agencies in Washington. Yet the CIA relocation plan would have turned the Central Intelligence Agency into the decentralized intelligence agency. If it is in the national interest to consolidate CIA offices, the consolidation should be handled in a manner that minimizes disruption to CIA employees, preserves the operational integrity of the agency, and ensures that the Federal Government gets the best deal for the American taxpayer.

My hope throughout the consideration of the consolidation was that the CIA would withdraw the relocation plan and handle the site selection and consolidation process like any other major Federal building project. The CIA should develop a proposal in an open manner, should make a public request for offers of available land, and should conduct a competitive procurement to obtain the best price for the Government.

I am pleased that Congress has directed the CIA to go back and review plans for consolidation with attention to the interests of employees and the mission of the agency. Making the consolidation planning and site selection more open should strengthen the CIA and restore public confidence in the process.

Again, I say to the committee, "My hat is off to you." There are some who said that going over there probably was not going to happen. I say to the gentleman, "Mr. Chairman, you did it," and I say to the gentleman from Pennsylvania, "Mr. SHUSTER, you did it." I say, "God bless you on behalf of the CIA employees and their families."

The SPEAKER pro tempore (Mr. MURPHY). The time of the gentleman from Virginia [Mr. WOLF] has expired.

Mr. SHUSTER. Mr. Speaker, I yield myself 1 minute to inform the gentleman that in addition to the provisions the gentleman has accurately outlined, the chairman of the committee, the gentleman from Oklahoma [Mr. MCCURDY] and I have sent a letter to the CIA, to GSA, and to the Office of Management and Budget, telling them that we want to be certain that any such evaluation includes an evaluation of existing Government sites in the area.

We are talking about downscaling our defense establishment, so the obvious question is this: Do we have any land at Fort Belvoir, or do we have any land at Quantico, or do we have any land at Fort Meade? We believe strongly that should be a part of the evaluation. Before we start talking about spending taxpayers' dollars to go out and buy other land, we should first look at the land that the Government already owns.

Mr. WOLF. Mr. Speaker, if the gentleman will yield, let me thank the gentleman for that. I am reassured, too, knowing that before the Central Intelligence Agency can move ahead, they have to come back and report to the gentleman's committee, which is contrary to the way they handled it the last time.

Mr. MCCURDY. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I appreciate the gentleman yielding me the time.

Since West Virginia was mentioned by the previous speaker, I thought I would rise and say that we, too, welcome this process, and we congratulate the committee, because West Virginia and Jefferson County in particular understand the certification, and in an open process indeed it can prove the merits of what has been proposed all along.

I might add that all the members of the West Virginia delegation in the House and the Senate are supportive of this language, because we believe it gives a chance for West Virginia to put forward its best foot. Indeed, the gentleman who preceded me has spoken today and in the past about some of his concerns. We believe the fact that land in West Virginia, at the Jefferson County site, is $10,000 an acre, for instance, versus $100,000 to $170,000 an acre in this area is key.

We believe in fact that all the land is available for anything the CIA intends versus the restrictions on land here.

I might add, of course, that two-thirds of this project will be in Virginia, not West Virginia. That fact is sometimes overlooked.

Third, we think that with the driving time and the rush hour time and commuting time, this certification process will indeed show that many of the CIA employees, perhaps the bulk of them, who would be working at the Jefferson County site would be closer to Jefferson County and would be reverse commuting versus what is presently the situation where they must now commute to 21 facilities across the span of northern Virginia and three in Washington. Indeed, many of them will have a longer commuting time that way.

Finally, there is the cost savings, and we are glad there are provisions for looking at the cost savings, because we believe the costs that will be saved over not having to lease 21 separate facilities are adequate for the CIA, and with being able to lease one or two facilities such as the CIA had proposed, the GSA will be able to document those cost savings, and indeed by the year 2010 this project will more than pay for itself.

Once again I stress that two-thirds of the cost actually occurs in Prince William County, VA, not Jefferson County, WV, and more employees would be in Prince William County than in Jefferson County.

So for all these reasons, I congratulate the chairman and the ranking minority member for putting together a certification process that will answer once and for all and resolve these questions.

Mr. SHUSTER. Mr. Speaker, I reserve the balance of my time.

Mr. MCCURDY. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Speaker, I rise in strong support of this conference agreement and urge its adoption. While the entire bill is important for enhancing our Nation's intelligence activities, I want to focus on a specific proposal in the legislation that I believe is critical for our future intelligence operations.

Included in this bill is the creation of a National Security Education Program. This legislation will create graduate fellowships in critical foreign language, regional, and international studies.

□ 1310

It would provide grants to universities to organize, maintain, and improve critical international and area studies and foreign language programs. And, by providing scholarships for undergraduate students to study abroad in critical countries that are currently neglected, it will expose our talented young people to the economic, cultural, and military challenges that face America in the 21st century.

Mr. Speaker, I had an opportunity back last January to visit the DLI [Defense Language Institute], out in Monterey, CA. I was told I was one of the few Members who ever toured through that operation to see what they did there.

I was shocked and amazed to find out that at the time the war broke out, less than 20 people in our entire Defense Establishment, of millions of people, could speak a language of the Iraqi people. So we were totally unprepared and inadequately trained to meet that great challenge.

Quite frankly, we were very fortunate that we got by with such a big gap in our defense intelligence process.

Mr. Speaker, I want to congratulate the committee for this initiative. I support it in its entirety and look forward to an overwhelming vote by this House in approval of this conference report.

Mr. MCCURDY. Mr. Speaker, I urge adoption of this conference report. I believe it is a very good effort. Again I want to commend publicly the gentleman from Pennsylvania [Mr. SHUSTER] for his efforts.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCCURDY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the conference report on the bill, H.R. 2038.

The SPEAKER pro tempore (Mr. MURPHY). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

MAKING IN ORDER ON TODAY CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mrs. KENNELLY. Mr. Speaker, I ask unanimous consent that it be in order

today for the Speaker to entertain two motions to suspend the rules as follows:

Suspend the rules and adopt a House resolution to concur in the Senate amendment to H.R. 1724 with an amendment; and

Suspend the rules and pass House Joint Resolution 346.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mrs. KENNELLY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

HOUR OF MEETING ON FRIDAY, NOVEMBER 22, 1991

Mrs. KENNELLY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Thursday, November 21, 1991, it adjourn to meet at 11 a.m. on Friday, November 22, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

COMMENDING PARTICIPANTS IN MIDDLE EAST PEACE PROCESS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 226, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. OWENS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 226, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 8, as follows:

[Roll No. 409]

YEAS—426

Abercrombie
Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—8

Alexander
Franks (CT)
Hatcher
Henry
Lehman (FL)
Lent
Mrazek
Towns

□ 1333

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution commending the participants in the Middle East peace conference convened in Madrid, and urging them to continue their pursuit of a just and lasting peace in the Middle East."

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OBEY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on both motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate is concluded on both motions to suspend the rules.

APPROVING EXTENSION OF NONDISCRIMINATORY TREATMENT WITH RESPECT TO PRODUCTS OF UNION OF SOVIET SOCIALIST REPUBLICS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 346) approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

The Clerk read as follows:

H.J. RES. 346

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves the extension of nondiscriminatory treatment to the products of the Union of Soviet Socialist Republics transmitted by the President to the Congress on October 9, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 346, the joint resolution presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 346 would approve the extension of nondiscriminatory, most-favored-nation [MFN] treatment to the products of the Soviet Union. On October 9, 1991, the President submitted a bilateral trade agreement, which would establish new ground rules for United States trade with the Soviet Union. That agreement contains detailed provisions on market access for goods and services, intellectual property rights, business facilitation, and other important trade matters.

Mr. Speaker, I recognize that the political situation in the Soviet Union is far from clear. However, I believe that it is important at this time for the United States to move forward expeditiously in normalizing trade relations with the Soviet Union. Doing so is a relatively cost-free way to help the Soviet people in the very difficult and uncertain transition to a market economy. I pledge to my colleagues, however, that the Committee on Ways and Means will be diligent in ensuring that the administration keeps the Congress informed on political and economic developments in the Soviet Union. Enactment of House Joint Resolution 346 would give a much-needed boost to traders and investors in both countries who are anxious to join me in strong support of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my support for House Joint Resolution 346 granting nondiscriminatory, most-favored-nation trading status to the Soviet Union. The Soviet people are at a critical juncture in their evolution toward a modern, market-driven economy and we must act responsibly to ensure that their economic strength is sufficient to support democratic institutions. But I must say my support is cloaked with a degree of caution.

Pricing mechanisms in the Soviet Union remain highly centralized and controlled. This means that Soviet goods entering the United States and other Western countries could be tainted with subsidies and other government incentives. We must ensure that our trade laws are effectively enforced to guard against any unfair trade practices.

Second, the Soviet Union continues to provide both military and economic support to Cuba and other repressive regimes throughout the world. Although Presidents Gorbachev and Yeltsin both have promised immediate troop withdrawals from Cuba, none have yet taken place. This remains a threatening and intolerable situation for which, I believe, Congress has very little patience.

Extending MFN indicates that a country has joined the community of nations as a responsible partner. The Soviet Union cannot have it both ways. They must end their support for Fidel Castro and other tyrants.

With respect to freedom of emigration, the Soviet Union has demonstrated that sufficient political will can be mustered for essential reforms. A phenomenal reversal in the Government's emigration policies has led to an increase in the number of emigres from the Soviet Union between 1985 and 1990 of over 22,000 percent. Soviet borders have now been almost completely unbarred to travel and emigration. Nevertheless, MFN status must still be reviewed each year to check continued performance in this area.

Also, we have negotiated an excellent commercial treaty with the Soviet Government providing for enhanced investment opportunities, protection of intellectual property rights, and repatriation of profits. United States businesses are already in a tough race with Japanese firms, as well as other Asian and European competitors, for potential new markets. Normalized trade helps put American industry on an equal footing.

Although I have some reservations, I support President Bush in extending MFN to the Soviet Union at this time. While remaining vigilant, we can help establish an economic environment there that will foster individual enterprise and productive competition. The people of the Soviet Union deserve every chance to throw off the yoke of communism and emerge from years of hardship and oppression.

Mr. Speaker, I urge my colleagues to support House Joint Resolution 346.

□ 1340

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS], the chairman of the Subcommittee on Trade of the Committee on Ways and Means, who supported this bill in the full committee.

Mr. GIBBONS. Mr. Speaker, let me explain exactly what is happening here. The granting of nondiscriminatory tariff treatment is strictly controlled by law and we are following the law. As a precondition for extending most-favored-nation or nondiscriminatory tariff trade to the U.S.S.R., it is necessary to execute a trade agreement. That trade agreement has been executed, but it is not in force. To put it in force, we must approve it here in the Congress and the Supreme Soviet must approve it, because there are bilateral commitments by the Soviet Union and by the United States to do the necessary things you must be able to do in business, to be able to open an office, to be able to employ people, to be able to advertise, to be able to display your products and to price your products and to sell your products and repatriate the products that are made from those kinds of transactions. All that has been very painstakingly worked out. We have an excellent agreement with the U.S.S.R. in that regard.

There are countless business people in the United States who are waiting for this to go into effect before they can begin commercial operations in the U.S.S.R., so a lot of revenue depends upon this, a lot of expansion of American business depends upon this. This is in our own best self-interest.

It has taken almost 60 years to get to this stage of our development, 60 painful years. There is no sense going through all of it here, but what we do here is just one step in trying to normalize that relationship.

Now, there will be those who will raise the specter of Cuba and there are those who will raise the specter of instability in the U.S.S.R. I have talked to the leaders in the U.S.S.R. They tell me that they are going to withdraw their troops from Cuba and that they are going to quit the subsidizing they have been doing in Cuba. They tell me they cannot afford it, and one leader went so far as to say, "It is immoral for us to do that," but they are going to stop it. There are negotiators in Cuba now to take the troops home, but the troops do not want to go home. There is nothing but tents in the ice cold snow around Moscow for them to go to and they would much rather sit in Cuba, but they are not a military threat to the United States. There are only about 1,100 or 1,200 of them and they could not fight their way out of a wet paper bag, so they are no real threat to us.

The subsidies to Cuba will stop because the Yeltsin government which controls most of the oil and most of the exports from the U.S.S.R. tell us that they are going to world prices on all their exports and world prices on all of the internal trade. They are going to world prices, so that means no subsidies on their oil and no subsidies on their other products for which they have been propping up the Cuban economy, and perhaps other economies around the world.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Speaker, I thank my subcommittee chairman for yielding to me.

The gentleman led us on a trip to the Soviet Union this year. We were actually there when it was broken up. We were there when it was put back together. The things the gentleman says we heard firsthand and I want my colleagues to know that I think everything the gentleman has said will happen; but one comment the gentleman made about having people over there to do trade, my home town is only 25,000, and when I was there we were able to introduce the gentleman to two of my constituent business people who have been going over there for a year and a half. This will help them open up trade. It will not tap into our Treasury and it will be a great thing.

Mr. GIBBONS. Well, Mr. Speaker, what the gentleman says is true. He was a very important participant in that discussion. America needs this opportunity. The rest of the world is in the U.S.S.R. ready to do business. We are not. All the reasons that we have not extended most-favored-nation treatment or nondiscriminatory tariff treatment to them have expired. They are gone. They are behind us. We need to move ahead.

Mr. Speaker, I urge adoption of this resolution.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Speaker, I thank the gentleman for yielding this time to me and I thank the chairman of the full committee and the chairman of the Trade Subcommittee of the Committee on Ways and Means for their statements.

Mr. Speaker, I do support House Joint Resolution 346, but I have got to tell you that I have some doubts and I have some questions in my mind. I believe that we have further work to do.

I, too, was in the Soviet Union with the chairman of the Trade Subcommittee and at each and every meeting I asked the question, "How are you going to handle your external debt?"

I have got to tell you in all candor, in no instance did I receive a satisfactory answer.

Now, is that the end of the world? No, not necessarily, but I have got to tell you that this explosion that is going on is going to continue. We are talking about the Soviet Union, but there is no one in this Chamber who can accurately describe to me what the Soviet Union is today. Each of the satellite or associated countries want their independence, but as we pass MFN let us try to think who controls the borders in each of these countries. Who controls the customs in each of these countries?

What we are talking about here is a matter of tariffs and customs.

Who is going to control foreign debt? Who is going to guarantee credits in the international market?

There are many, many questions which must be answered, but that does not mean we should not necessarily pass this. We want to try to encourage this transition from a totalitarian centralized economy to a market economy.

The chairman used the phrase "the very difficult and uncertain movement to a market economy."

I agree with the gentleman and I think there are additional trade laws which we must pass to make sure that in this transition period that we do not have products coming in to America which are half subsidized and half free that would impact in an extremely negative way the employment of our people in this country.

So Mr. Speaker, I think there is more work to be done. I hope with the cooperation of the chairman of the Trade Subcommittee and of the full committee we can work on some rules and regulations in the trade areas which will assist us in encouraging this movement to a free economy, because let us remember, if we are going to just prop up this former centralized economy and make sure it survives the way it is, it will serve none of us well in the long run.

So what we have got to do is have in place some rules and regulations which will encourage and enhance the movement from a centralized to a market economy.

□ 1350

I am sure with the cooperation of the chairman of the full committee and the chairman of the subcommittee we can do that and early next year we can have before you a package which will aid the Soviet Union and the other socialist nations around the world in their transition to a market economy.

Mr. Speaker, I support House Joint Resolution 346.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. I thank the gentleman for yielding this time to me.

Mr. Speaker, first I want to thank the chairman for yielding to me and say that I am very pleased that I can come here today in support of most-favored-nation status for the Soviet Union.

I think we can look at this day and reflect with pride upon the success of our policy as it relates to Soviet emigration. In 1990 over 180,000 Soviet Jews were allowed to emigrate to the State of Israel. When you compare that to 1974, the year the Jackson-Vanik law was adopted by this Congress, less than 5,000 Jews were allowed to leave the Soviet Union.

The Jackson-Vanik law has worked. We have seen many times that the United States stood alone, we stood for principle and we can justifiably be proud of our results.

The people of this Nation through their participation in marches, the letters that they wrote, the adoption of the refusenik families, the participation in international forums all helped to bring us to this day. It is appropriate to waive the Jackson-Vanik provisions.

Let me remind my colleagues that this is a yearly waiver. We do not know about the political environment within the Soviet Union, what the future holds for that nation. We do not know what the activities within the republics will mean as far as Soviet emigration laws are concerned.

All this needs to be reviewed by this Congress and by the President on an annual basis.

Mr. Speaker, I urge my colleagues to adopt this resolution.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding this time to me.

Mr. Speaker, since our trip to the Soviet Union this summer, the Subcommittee on Trade of the Committee on Ways and Means, I have had an opportunity to talk extensively with businessmen in my district and in my State. Indeed what we do here today is very important to America's future as well as to that of the Soviet Union.

There are formidable opportunities for the United States in our future with the Soviet Union. There are some sectors of the economy that the Soviet Union will play a big role in the future. Any nation that has had the formidable military developments, that has been capable of those military developments of which the Soviet Union has been capable, and the space program is simply no slouch, scientifically. And when they apply those talents and abilities to peaceful products, they will be an important member of the international trading community.

It is of the utmost importance to us as a nation that we begin to develop some joint-venture capabilities so that we will be the Soviet Union's economic as well as political partner in the future.

There are very specific areas in which if we fail to do this the Japanese will clearly be in there and we will be up against a competitor who will give some of our basic manufacturers real heartburn.

So this is not something that we do not have a very concrete economic interest in. And it is my pleasure indeed to stand in support of this resolution, one that is going to mean a lot to us in the future.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding this time to me and for his generosity.

My colleagues, the time may come when we should approve most-favored-nation status for the Soviet Union. Their time is not today, for many, many reasons.

Twelve years ago the same Members stood on this floor and said now is the time to establish most-favored-nation status for China. We heard the same arguments: China is going to pull its troops back; China is going to shift to a market economy; China is not going to have any more slave labor; China is going to do this and going to do that. Now we are being told here today the same thing about the Soviet Union.

Members went to the Soviet Union and were enamored by the people they met there. Soviet leaders promised to pull their troops out of Cuba; they promised to stop subsidizing Cuba and Vietnam and North Korea. Soviet leaders promised to shift to a market economy.

Promises, promises, promises that never come to fulfillment. If we approve this bill today, we are once again dealing with a socialist government just like we did with China.

I just received a letter from a woman whose husband is unemployed. She went to a store, a major discount store in my district, and tried to buy some back-to-school clothing for her kids, winter clothing. She said to me, "I couldn't find one thing made in America."

You know, until the Soviet Union, the former Soviet Union, shifts to a market economy, and until the Soviet Union stops subsidizing its industries, we will be faced with unfair competition. Free trade is fine, but it has to be fair trade.

Now let me tell you something else that is happening right now: CHARLIE BENNETT is sitting over there and I am reminded that he and I and others managed to strip out of the Defense authorization bill 1 billion dollars' worth of American defense dollars going to provide aid to the Soviet Union which would have helped to prop up 4 million men under arms in that country.

We managed to strip that provision out, kill it, and then get a good Defense authorization bill.

Do you know what is happening right this minute over in the other body? Senator BOREN and Senator NUNN, along with our good friend, the gentleman from Wisconsin [Mr. ASPIN], are negotiating to bring that idea back on the floor as a free-standing bill taking $1 billion out of our Defense budget and making it available to the former Soviet Union.

You know, this Congress has itself upside down. I do not think this is the time to extend MFN to the Soviet Union. I think that this bill should be withdrawn until we have concrete evidence that genuine reform is underway over there.

Let us do it like Harry Truman did it: he was from Missouri, and we should tell them to show us that they have done it; then we will be glad to give the Soviet Union most-favored-nation status.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. I thank the chairman for yielding this time to me.

Mr. Speaker, I rise in support of this bill. Mr. Speaker, I was fortunate to be one of the members of a congressional delegation headed by my distinguished colleague, the gentleman from Florida [Mr. GIBBONS], which visited the Soviet Union in late August/early September of this year.

As was very much evident to us at that time and certainly evident to anybody who reads the newspapers, the Soviet Union, or what is left of it in the Republics, faces absolutely enormous challenges in converting the economy of that country. And we are limited in what we can do to help. It is certainly in our national interest to help the Soviet Union make that adjustment successfully as soon as possible.

We can help by giving the Soviet Union most-favored-nation trading status. I think it is time for us to do that. I do not think it is too much of a gamble, as the gentleman preceding me said. It is a bit of a gamble, there is yet a conversion that has to be made, but I think it is time for us to do it now and we will see what happens.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. I thank the gentleman for yielding this time to me.

Mr. Speaker, I speak out against the resolution. In the past I have supported free trade; I think it is the future of this country not only in 10 years from now or 50 years from now but 100 years from now.

I support small business and the creation of jobs.

But, Mr. Speaker, I spent nearly all of my adult life fighting the Soviet Union and the weapons produced there. I was shot down with an SA-2 missile, built and exported in Vietnam, over North Vietnam. I faced weapons in Israel.

Our men in Desert Storm faced weapons that were produced and built in the Soviet Union. Our POW's were tortured by Soviet negotiators.

Every single place in which this country has an enemy it is supplied by the Soviet Union. They are still dropping nuclear-class subs, still producing Mig-29's and Mig-31's, still producing the AA-7 missiles and the AA-9 missiles for potential threats to this country, including China, including Cuba, Afghanistan, and the rest of the world.

We cannot be sucked into believing that the Soviet Union is not a threat.

Let me give you just a little parallel: Let us just say that the Republican side was able to get rid of the Democratic Party. Not a bad thought. But I know and you know that if we got rid of the Democratic Party all you little guys would be out there coagulating and collating, still doing your ill will.

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The Soviet Union is doing the same thing, and I say, you make a cobra better, and he is going to bite you. You make the American people pay for this resolution, they're going to bite you.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Speaker, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding time to me on this issue. I recognize that I do not have the background of information on this which really qualifies me to speak, but I am moved to do so because at this very moment I am considering a memorandum from a business group in my district which is seeking to enlarge business opportunities with the Soviet Union, and they have some very well-thought-out and ambitious plans to do that, involving bringing the Soviet business managers to the United States and helping them learn the rudiments of the free-market system.

Mr. Speaker, it is my view that this is a very constructive step for them to take, to look for opportunities to invest and to develop business enterprises in the Soviet Union and with the Soviets. I want to encourage them to do this. I am able to take this step of encouraging them in part because of the action represented by this resolution, and I want to compliment the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], and all of the members of the committee who have brought this to the floor, and I want to add my unqualified support for it.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, House Joint Resolution 346 resolves that the Congress approve the extension of most-favored-nation status to, "the products of the Union of Soviet Socialist Republics." The problem is there is no more Soviet Union. The former Soviet Union is and should be history.

The former Soviet Union at this moment in the Kremlin seeks to sustain its life. The former Soviet Union continues to provide military assistance, $15 billion annually, to places like Cuba, Afghanistan, Angola; military sales to Libya, Syria, Iran, and Iraq. Sales of missile technology is enormously threatening to the national security of the United States.

Mr. Speaker, 2 weeks ago the FBI reported that the former Soviet Union is engaged in acquisition of Western technology through theft, through front companies and through espionage at an increasing rate. Mr. Speaker, this is not the time to prop up the former Soviet Union and to give it another lease on life. This is the time to help free enterprise democracy in the Republics, the new nations that are being born from that empire.

The United States Ambassador to the Soviet Union in my view has policy all wrong. Very recently, in the last 48 hours, he said that this Congress' failure to provide over a billion dollars from our defense budget to the Kremlin was a "god-damned outrage". It seems to me he has got it exactly backwards, and that kind of policy thinking is out of step with the American people.

Let us defeat House Joint Resolution 346. Let us not subsidize communism. Let us end it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, I rise in support of the motion, and I want to say that there was a former member of the Committee on Ways and Means who summed up my view of trade. He would say—and it was Charlie Vanik, a Member from Ohio—he said, "Trade is the currency of peace. You're just much less likely to blow somebody up who owes you a lot of money and with whom you're doing a lot of business," and most-favored-nation trading status puts us in a position of doing more business with the Soviet Union. and that is good for them, and it is good for us.

Now I have heard a number of my colleagues come up and explain how the Soviet Union has not changed. For goodness sake. What would they have to do? Invite the Czar back for those people to recognize that the Soviet Union is a much different place today than it has ever been? When is the cold war going to be over for the inveterate cold warriors?

Mr. Speaker, it is done, it is over. The time has come for us to move on with our relationship with this country, to recognize there is money to be made, friends to be had, and a bright future for their children and ours.

Please support this resolution. It richly deserves to be approved.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I thank the gentleman from Texas [Mr. ARCHER], my colleague, for yielding this time to me.

For over 17 years MFN for the Soviet Union has been conditioned under the Jackson-Vanik amendment, and while immigration is now open there, it is under different conditions in some cases, and there are real problems with anti-Semitism in the Soviet Union today.

There is no question that the cold war is over, but the Soviet Union still has much to do to change, and the primary issue, as my colleague from California pointed out, is who is the Soviet Union today? With whom should there be MFN?

Our trade relations should be with the Republics. We know that the three Baltic countries are committed to the kind of economic and political reforms that justify MFN. But we do not know that same commitment exists with respect to Georgia, Kazakhstan, or Azerbaijan, and we certainly do not know that the Central Government is committed to those same kind of reforms. Are they going to to cut their defense budgets to the same extent the United States is doing, for example?

Mr. Speaker, MFN requires a comfort factor that simply does not exist today for the Central Government of the Soviet Union.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Texas [Mr. ARCHER] for yielding this time to me.

Mr. Speaker, over the last several weeks we have had the well poisoned day after day on things relating to foreign policy as Members of the Democratic Party have come to the floor suggesting that the President of the United States travels too much and this Nation ought not be involved in foreign affairs, and one of the things we have heard over and over again is that workers' money, American workers' money, ought not to be sent overseas in any way or ought not be supporting any other countries. Here is a case where doing what we are doing today is where millions of dollars of taxpayer money will be lost as we do this. I do not know exactly what the figure is. I am told that Mr. Darman in doing the calculating here said that both the Soviet Union and the Baltics would cost $19 million in fiscal year 1992. I do not know what part of that is Soviet Union and what part of that is the Baltics, but obviously there are millions of dollars involved in MFN status for the Soviet Union.

So, what we are doing here is we are committing American taxpayer dollars to a relationship with the Soviet Union, and we are, in fact, starting a process which will result also in American workers having unfair competition with a command economy. We now have evidence that the Ukrainian industry, among others, is going to be hurt by this command economy. That is unfair.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding this time to me.

Mr. Speaker, I rise to support the granting of most-favored-nation status [MFN] to the Soviet Union. The Jackson-Vanik provision of the 1974 Trade Act forbade the granting of such status to a Communist country unless it permitted free emigration. Throughout the 1970's and into the mid-1980's, the Soviet leadership ignored or violated the Helsinki commitments it had pledged to accept. Thousands of people were refused permission to leave the U.S.S.R., as the word "refusenik" entered the lexicon of human rights and international relations. Many people in this Chamber can recount trips to Moscow, Leningrad, Kiev, and other cities, where they heard directly from the victims of official Soviet prejudice and bureaucratic arbitrariness who were denied the basic human right of freedom of movement.

But the situation in the U.S.S.R. has changed radically: Almost all of the barriers to emigration have been lifted. Since 1985, nearly 1 million people have left the Soviet Union. This figure includes over 400,000 Jews, and the rate of Jewish emigration continues at record levels. In May 1991, the U.S.S.R. Supreme Soviet, in milestone legislation, passed a law on exit and entry that secured the right of Soviet citizens to leave the country.

Granted, problems persist, despite these changes in law and practice. The May 1991 law has serious weaknesses, and hundreds of individuals are still denied the right to leave, many for reasons of alleged state secrecy and poor relatives provisions of Soviet regulations—even 2½ years after the close of the Vienna CSCE followup meeting, which mandated the resolution of all outstanding cases within 6 months. And even after the fall of communism in most of what used to be called the Soviet Union, unresolved human contacts cases continue to mar the greatly improved Soviet record and to cloud the agenda of United States-Soviet relations.

We remain deeply concerned about these shortcomings. The Helsinki Commission, in its frequent contact with Soviet officials, has presented lists of refuseniks and urged in the strongest terms the resolution of their cases. But despite these reservations, the fundamental shifts in emigration policy dictate at this time our extension of MFN to the Soviet Union.

We must give reality its due: Things have changed in the U.S.S.R., and so must our attitudes and policies. And even if MFN does not offer much help to a decaying Soviet economy, we can hardly, as winter approaches, fail to take this elementary step. We may bitterly reproach ourselves if we do.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I very much appreciate the gentleman from Texas [Mr. ARCHER] yielding this time to me.

Let me say that there is a giant issue involved here, and that is that the Soviet Union at the present time has thousands of nuclear warheads that are all over the Soviet Union, some in the hands of the Ukrainians, some in the hands of the Russians, some in the Byelorussians'. It is all over, and for us to think that we can just simply ignore the economic plight of the Soviet Union is to bury our head in the sand and to think that these problems they have, particularly with the idea of disarming warheads, that that is something that is just going to go away, is a big mistake.

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Let me say that in one way or another the world with the Soviet Union is going to have to come to grips with the real proliferation of nuclear warheads, and these warheads are going to find their way into the hands of people who not only can threaten the United States but threaten the rest of the world. Some people are talking now about individuals in the Soviet Union who are going to get into the black market trade, individuals who are going to be able to get their hands on warheads and start giving them to people like the Iranians and giving them to who knows in the world. I think this is a terrible problem.

The gentleman from Wisconsin [Mr. ASPIN] had his billion-dollar aid programs, but I did not think that made sense. I think there are other ways to help them in a humanitarian way.

The MFN is something I support for the Soviet Union, for the simple reason that it allows the market to work. It says we want to let the free enterprise system work by giving the incentives to help pull these people along. I tend to think it is the way to go.

The gentleman from New York [Mr. SOLOMON] raised a good issue, because I am against MFN for China. Why for the Soviets and not for China? Because the Soviets were with us at Madrid. What are the Chinese doing? They are arming people all over the world. The trend patterns are the right way.

We are not talking about a big bailout here. We are talking about using the economic system that has made us successful to help save the Soviet Union so that their nuclear warheads can be taken down in an orderly way, not to threaten the very existence of the world.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I understand what is going on here. I understand the reluctance and difficulty for some of us to admit that changes are going on in the world. However, when we are talking about MFN, we are talking about a nation being able to help itself.

We have some incredible things going on. We were all looking at the possibility of nuclear deterrence, and we were talking about nuclear weapons. We look now at Yugoslavia and we see what real conventional war can bring about and how difficult and terrible it can be. We look at the Soviet Union and we look at the republics, and we see the possibility of trouble there. We see the possibility that they could have food riots there this coming year. We see the possibility that they have huge armies of people who cannot be supported, and we see the need there.

I think this is the least we can do. Many of us have reservations about hard, cold cash that goes down a rathole. But the fact is that the President wants MFN, the fact is that he has insisted that our committee take it up, the fact is that this is brought up under suspension, and the fact is that we should give MFN treatment to any nation, whoever it be in this global world, to increase trade so they can try to get themselves back on their feet.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

As the ranking Republican, serving for 11 years on the Helsinki Commission, the counterpart to the gentleman from Maryland [Mr. HOYER], I just have to say that he is correct when he talks about "178 degrees change in the Soviet Union," or maybe it is 175. The fact is that when we trade with those folks over there, we are going to be trading with Russians, we are going to be trading with Ukranians, and we are going to be trading with the people in the Republics who need our trade if they are not gong to be forced into needing a lot of aid.

If we want to keep these democratic movements alive, if we want to see them flourish, if we want to see them prosper, and if we do not want to be strapped with the alternative of bailing them out to help the democratic movements survive, then we should be trading with them and making sure that they will at least get the trade treatment that China gets. These are Democrats at the forefront of democratic change that we are trading with, and they need our help via trade, not aid.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MCGRATH].

Mr. MCGRATH. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of extending most-favored-nation status to the Soviet Union.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, there is much to be said about the caution with which we move here in the House of Representatives, but I would like to point out that it is this administration that has made this request for most-favored-nation status for the Soviet Union.

I would like to close this debate by quoting the President of the United States:

> I urge that the Congress act as soon as possible to approve the agreement on trade relations between the United States of America and the Union of Soviet Socialist Republics and the proclamation extending nondiscriminatory treatment to the products of the Union of Soviet Socialist Republics * * * by the enactment of a joint resolution referred to in section 151 of the Trade Act.

I believe that says it all. The President has been very active in addressing our international problems and I think it is time that we started the ships of commerce moving between our nations.

So, Mr. Speaker, I urge my colleagues to support this joint resolution. I think its time has come, and I think it is time for us to see to it that our marketplace is open to the Soviet Union and that their marketplaces are open to us.

Mr. MCGRATH. Mr. Speaker, I rise in support of House Resolution 346 granting nondiscriminatory, most-favored-nation status to the Soviet Union. After decades of repression, the Soviet people are assuming the difficult task of economic and political transformation toward market-based business structures.

This structure is as overwhelming as it is admirable. The legal and physical infrastructure needed for private ownership of property that evolved in this country over more than two centuries was never allowed to develop in a centrally planned economy. Soviet entrepreneurs and industrialists need technical knowledge, as well as funds, to create an environment that will encourage market principles. The benefits we offer to our trading partners through MFN designation certainly would be an important compliment to their own efforts.

As my colleagues are aware, the Trade Act of 1974 authorizes the President to extend MFN status to a nonmarket economy if that country meets specific emigration requirements. For over 5 years, we have witnessed tremendous increases in the number of Soviet emigres. This is certainly in line with the underlying intentions of the Jackson-Vanik emigration amendment and is truly indicative of the pervasiveness of the reform movement.

To show this country's support for such action, the administration negotiated a bilateral trade agreement which was signed by Presidents Bush and Gorbachev in June of last year. This document contained side letters which defined intellectual property rights, currency convertibility, and other items to facilitate business relationships.

During September of this year, my colleagues and I heard testimony by private sector representatives, administration officials, and Members of Congress regarding United States-Soviet trade matters. Included in these discussions was the question of granting MFN status to the Soviet Union. A significant majority supported the very same prospect we are asked to consider today.

This resolution is a means by which the United States can extend an opportunity that would help the Soviets to stabilize their economy, and thus begin to provide for the needs of their people. Most-favored-nation status is not a handout, but is a policy that creates the most favorable situation for a government to begin to help themselves.

Mr. Speaker, I urge my colleagues to approve House Joint Resolution 346.

Mr. DREIER of California. Mr. Speaker, this resolution is both a surprise and a mistake. It was not on the schedule for today, and I am disappointed that legislation of this magnitude was not given enough time for a thorough and reasoned debate on the House floor.

In my opinion, we should not move forward with trade privileges for a nation which doesn't exist. Gorbachev's power erodes further as each day passes. The Russian Republic has essentially taken over all economic policy, and is nearing a similar stage in the defense and foreign policy areas. Clearly, Gorbachev and the Central Government are rapidly becoming irrelevant, and this resolution fails to take this critical development into consideration.

This resolution makes no distinction between the U.S.S.R. and individual Republics. It ignores the changes that have taken place since the coup. MFN should not be extended until we ensure that there are changes in the economic structure which make a free market economy a reality, and until the individual Republics have taken steps to protect U.S. private investment, much of which will be guaranteed by U.S. taxpayers dollars through the Overseas Private Investment Corp. Also, this legislation will cost up to $19 million to implement, according to the Office of Management and Budget, a drop in the bucket in the minds of most Members of this House, but a significant amount in the eyes of the American people.

Furthermore, I believe that granting MFN for the U.S.S.R. rewards those officials who have resisted radical change in the Soviet Union. It lends international credibility to Mikhail Gorbachev and his colleagues who oppose the reforms initiated by Boris Yeltsin and other reformers such as Moscow Mayor Gavril Popov and St. Petersburg Mayor Anatoly Sobchok.

What would the Soviet people think of this endorsement of Gorbachev? What would they think of the United States endorsing the continued rule by an unelected central government? I believe that they would oppose this action, and I urge my colleagues to do the same.

Don't get me wrong. If this legislation specified what steps would have to be taken by individual Republics before MFN were granted, I would support it. But I cannot support blanket MFN for a nation which we have spent billions opposing, which continues to aid our enemies in Cuba, North Vietnam, and elsewhere, and which simply does not have the support of the people of the former Soviet Union. This legislation is misguided and should be rejected.

Mr. SCHUMER. Mr. Speaker, this is a difficult vote to cast. I admire the aspirations of the Soviet people who struggle to reform their government and provide for their country in a time of great need. I know that most-favored-nation status and the U.S.-U.S.S.R. trade agreement would better enable the U.S.S.R. to get through the hard times that lie ahead for that country.

Yet I cannot support the President's request to approve this trade status at this time. The President made a personal commitment to not seek approval of this trade agreement until the Soviet Union had implemented a free emigration law. Last spring, the Soviet Union passed an emigration law, but it was not satisfactory. It left open the door for too many of the practices used by the old regime to deny emigration to Soviet Jews: the poor relatives exception, the claim of property obligations, the state secrets exception, and the exclusion of draft-age emigrants.

I issued a report analyzing this law, and wrote to the State Department urging our Government to continue to press the Soviet Union on this matter. Although I received assurances that it would, little progress has been made, and emigrants have experienced many difficulties in seeking to leave under the new law. This occurs in an increasingly hostile atmosphere for Soviet Jews. Anti-Semitic incidents are again on the upswing, particularly in the southern regions of the U.S.S.R.

I therefore cannot in good conscience cast a vote for this trade agreement. I hope that the White House will hearing my voice and those of others joining me in this vote that more must be done on behalf of Soviet Jews. Their struggle is still very much alive in our minds here in Congress.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OBEY). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the joint resolution, House Joint Resolution 346.

The question was taken.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

TERMINATION OF JACKSON-VANIK PROVISIONS OF TRADE ACT OF 1974 AND PERMANENT EXTENSION OF MOST-FAVORED-NATION TREATMENT TO HUNGARY AND CZECHOSLOVAKIA

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 287) relating to the consideration of the Senate amendment to H.R. 1724.

The Clerk read as follows:

H. RES. 287

Resolved, That upon the adoption of this resolution the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with an amendment as follows: After the matter proposed to be inserted by the Senate amendment, insert the combined texts of H.R. 3347, H.R. 3313, H.R. 661, and H.R. 3409 as reported to the House, as follows:

SEC. 4. REPEAL OF THE PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS.

Section 510 of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5100) is repealed.

TITLE I—EXTENSION OF NONDISCRIMINATORY TREATMENT TO ESTONIA, LATVIA, AND LITHUANIA

SEC. 101. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) The Government of the United States extended full diplomatic recognition to Estonia, Latvia, and Lithuania in 1922.

(2) The Government of the United States entered into agreements extending most-favored-nation treatment with the Government of Estonia on August 1, 1925, the Government of Latvia on April 30, 1926, and the Government of Lithuania on July 10, 1926.

(3) The Union of Soviet Socialist Republics incorporated Estonia, Latvia, and Lithuania involuntarily into the Union as a result of a secret protocol to a German-Soviet agreement in 1939 which assigned those three states to the Soviet sphere of influence; and the Government of the United States has at no time recognized the forcible incorporation of those states into the Union of Soviet Socialist Republics.

(4) The Trade Agreements Extension Act of 1951 required the President to suspend, withdraw, or prevent the application of trade benefits, including most-favored-nation treatment, to countries under the domination or control of the world Communist movement.

(5) In 1951, responsible representatives of Estonia, Latvia, and Lithuania stated that they did not object to the imposition of "such controls as the Government of the United States may consider to be appropriate" to the products of those countries, for such time as those countries remained under Soviet domination or control.

(6) In 1990, the democratically elected governments of Estonia, Latvia, and Lithuania declared the restoration of their independence from the Union of Soviet Socialist Republics.

(7) The Government of the United States established diplomatic relations with Estonia, Latvia, and Lithuania on September 2, 1991, and on September 6, 1991, the State Council of the transitional government of the Union of Soviet Socialist Republics recognized the independence of Estonia, Latvia, and Lithuania, thereby ending the involuntary incorporation of those countries into, and the domination of those countries by, the Soviet Union.

(8) Immediate action should be taken to remove the impediments, imposed in response to the circumstances referred to in paragraph (5), in United States trade laws to the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of those countries.

(9) As a consequence of establishment of United States diplomatic relations with Estonia, Latvia, and Lithuania, these independent countries are eligible to receive the benefits of the Generalized System of Preferences provided for in title V of the Trade Act of 1974.

SEC. 102. EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

(a) IN GENERAL.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) or any other provision of law, nondiscriminatory treatment (most-favored-nation treatment) applies to the products of Estonia, Latvia, and Lithuania.

(b) CONFORMING TARIFF SCHEDULE AMENDMENTS.—General Note 3(b) of the Harmonized Tariff Schedule of the United States is amended by striking out "Estonia", "Latvia", and "Lithuania".

(c) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (b) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 103. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE BALTICS.

Title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply to Estonia, Latvia, and Lithuania effective as of the 15th day after the date of the enactment of this Act.

SEC. 104. SENSE OF THE CONGRESS REGARDING PROMPT PROVISION OF GSP TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that the President should take prompt action under title V of the Trade Act of 1974 to provide preferential tariff treatment to the products of Estonia, Latvia, and Lithuania pursuant to the Generalized System of Preferences.

TITLE II—TRADE PREFERENCE FOR THE ANDEAN REGION

SEC. 201. SHORT TITLE.

This title may be cited as the "Andean Trade Preference Act".

SEC. 202. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this title.

SEC. 203. BENEFICIARY COUNTRY.

(a) DEFINITIONS.—For purposes of this title—

(1) The term "beneficiary country" means any country listed in subsection (b)(1) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this title.

(2) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) The term "HTS" means Harmonized Tariff Schedule of the United States.

(b) COUNTRIES ELIGIBLE FOR DESIGNATION; CONGRESSIONAL NOTIFICATION.—(1) In designating countries as beneficiary countries under this title, the President shall consider only the following countries or successor political entities: Bolivia, Ecuador, Colombia, and Peru.

(2) Before the President designates any country as a beneficiary country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(c) LIMITATIONS ON DESIGNATION.—The President shall not designate any country a beneficiary country under this title—

(1) if such country is a Communist country;

(2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficiary owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association, which is 50 percent or more beneficiary owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, and if such preferential treatment has, or is likely to have, a significant adverse effect on United States commerce, unless the President—

(A) has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and

(B) reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent or such country fails to work towards the provision of adequate and effective protection of intellectual property rights;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this title if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(d) FACTORS AFFECTING DESIGNATION.—In determining whether to designate any country a beneficiary country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to protect its own economic development;

(8) Whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights;

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(11) whether such country has met the narcotics cooperation certification criteria set forth in section 481(h)(2)(A) of the Foreign Assistance Act of 1961 for eligibility for United States assistance; and

(12) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this Act.

(e) WITHDRAWAL OR SUSPENSION OF DESIGNATION.—(1) The President may—

(A) withdraw or suspend the designation of any country as a beneficiary country, or

(B) withdraw, suspend, or limit the application of duty-free treatment under this title to any article of any country, if, after such designation, the President determines that as a result of changed circumstances such a country should be barred from designation as a beneficiary country.

(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days before taking such action.

(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

(i) accept written comments from the public regarding such proposed action,

(ii) hold a public hearing on such proposed action, and

(iii) publish in the Federal Register—

(I) notice of the time and place of such hearing prior to the hearing, and

(II) the time and place at which such written comments will be accepted.

(f) Triennial Report.—On or before the 3rd, 6th, and 9th anniversaries of the date of the enactment of this title, the President shall submit to the Congress a complete report regarding the operation of this title, including the results of a general review of beneficiary countries based on the considerations described in subsections (c) and (d). In reporting on the considerations described in subsection (d)(11), the President shall report any evidence that the crop eradication and crop substitution efforts of the beneficiary are directly related to the effects of this title.

SEC. 204. ELIGIBLE ARTICLES.

(a) In General.—(1) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of—

(i) the cost or value of the materials produced in a beneficiary country or 2 or more beneficiary countries under this Act, or a beneficiary country under the Caribbean Basin Economic Recovery Act or 2 or more such countries, plus

(ii) the direct costs of processing operations performed in a beneficiary country or countries (under this Act or the Caribbean Basin Economic Recovery Act),

is not less than 35 percent of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth or Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out subsection (a) including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expense of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, interest, and salesmen's salaries, commissions or expenses.

(4) If the President, pursuant to section 223 of the Caribbean Basin Economic Recovery Expansion Act of 1990, considers that the implementation of revised rules of origin for products of beneficiary countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) would be appropriate, the President may include similarly revised rules of origin for products of beneficiary countries designated under this title in any suggested legislation transmitted to the Congress that contains such rules of origin for products of beneficiary countries under the Caribbean Basin Economic Recovery Act.

(b) Exceptions to Duty-Free Treatment.—The duty-free treatment provided under this title shall not apply to—

(1) textile and apparel articles which are subject to textile agreements;

(2) footware not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(6) articles to which reduced rates of duty apply under subsection (c);

(7) sugar, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12 of the HTS; or

(8) rum and tafia classified in subheading 2208.40.00 of the HTS.

(c) Duty Reductions for Certain Goods.—(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

(B) be implemented in 5 equal annual stages with the first ⅕ of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.

(d) Suspension of Duty-Free Treatment.—(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed under chapter 1 of title II of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the United States International Trade Commission to the President under section 202(f) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation providing solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be taken under section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974, determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this title.

(5)(A) Any action taken under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 202 of this title shall remain in effect until modified or terminated.

(B) If any article is subject to any such action at the time duty-free treatment is proclaimed under section 202 of this title, the President may reduce or terminate the application of such action to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 204 of the Trade Act of 1974.

(e) EMERGENCY RELIEF WITH RESPECT TO PERISHABLE PRODUCTS.—(1) If a petition is filed with the United States International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within 14 days after the filing of a petition under paragraph (1) of this subsection—

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the taking of action under section 203 of the Trade Act of 1974,

(B) on the day a determination by the President not to take action under section 203(b)(2) of such Act becomes final.

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day of the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means—

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;

(C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheadings 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; or

(D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

(f) SECTION 22 FEES.—No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624).

SEC. 205. RELATED AMENDMENTS.

(a) INCREASE IN DUTY-FREE TOURIST ALLOWANCE.—Note 4 to subchapter IV of chapter 98 of the HTS is amended by inserting before the period the following: "of a country designated as a beneficiary country under the Andean Trade Preference Act".

(b) TREATMENT OF INSULAR POSSESSIONS PRODUCTS.—General Note 3(a)(iv) of the HTS (relating to products of the insular possessions) is amended by adding at the end thereof the following:

"(E) Subject to the provisions in section 204 of the Andean Trade Preference Act, goods which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under such Act.".

SEC. 206. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—The United States International Trade Commission (hereinafter in this section referred to as the "Commission") shall prepare, and submit to the Congress, a report regarding the economic impact of this title on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this title in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, during—

(1) the 24-month period beginning with the date of enactment of this title; and

(2) each calendar year occurring thereafter until duty-free treatment under this title is terminated under section 208(b).

For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States industries.

(b) REPORT REQUIREMENTS.—(1) Each report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regarding—

(A) the actual effect, during the period covered by the report, of this title on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries;

(B) the probable future effect that this title will have on the United States economy generally, as well as on such domestic industries, before the provisions of this title terminate; and

(C) the estimated effect that this title has had on the drug-related crop eradication and crop substitution efforts of the beneficiary countries.

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable—

(A) analyze the production, trade and consumption of United States products affected by this title, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this title.

(c) SUBMISSION DATES; PUBLIC COMMENT.—(1) Each report required under subsection (a) shall be submitted to the Congress before the close of the 9-month period beginning on the day after the last day of the period covered by the report.

(2) The Commission shall provide an opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

SEC. 207. IMPACT STUDY BY SECRETARY OF LABOR.

The Secretary of Labor, in consultation with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact that the implementation of the provisions of this title has with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

SEC. 208. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment.

(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this title shall remain in effect 10 years after the date of the enactment of this title.

TITLE III—CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Chemical and Biological Weapons Control and Warfare Elimination Act of 1991".

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to mandate United States sanctions, and to encourage international sanctions, against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals, and to impose sanctions against companies that aid in the proliferation of chemical and biological weapons;

(2) to support multilaterally coordinated efforts to control the proliferation of chemical and biological weapons;

(3) to urge continued close cooperation with the Australia Group cooperation with other supplier nations to devise ever more effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production; and

(4) to require Presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, deliver, transfer, or use chemical or biological weapons.

SEC. 303. MULTILATERAL EFFORTS.

(a) MULTILATERAL CONTROLS ON PROLIFERATION.—It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons. In furtherance of this policy, the United States shall—

(1) promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(2) set as a top priority the early conclusion of a comprehensive global agreement banning the use, development, production, and stockpiling of chemical weapons;

(3) seek and support effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(4) pursue and give full support to multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing "appropriate and effective" sanctions against any country which uses chemical weapons in violation of international law.

(b) Multilateral Controls on Chemical Agents, Precursors, and Equipment.—It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to support the Australia Group's objective to support the norms and restraints against the spread and the use of chemical warfare, to advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Australia Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by proposing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(B) liaison officers to the Australia Group's coordinating entity from within the diplomatic missions,

(C) a close working relationship between the Australia Group and industry,

(D) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(E) information-exchange channels of suspected proliferants,

(F) a "denial" list of firms and individuals who violate the Australia Group's export control provisions, and

(G) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 304. UNITED STATES EXPORT CONTROLS.

(a) In General.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technology,

that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) Export Administration Act.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended—

(1) by redesignating subsections (m) through (r) as subsections (n) through (s), respectively; and

(2) by inserting after subsection (l) the following:

"(m) Chemical and Biological Weapons.—

"(1) Establishment of List.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the list maintained under this section, a list of goods and technology that would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability.

"(2) Requirement for Validated Licenses.—The Secretary shall require a validated license for any export of goods or technology on the list established under paragraph (1) to any country of concern.

"(3) Countries of Concern.—For purposes of paragraph (2), the term 'country of concern' means any country other than—

"(A) a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of goods or technology on the list established under paragraph (1); and

"(B) such other countries as the Secretary of State, in consultation with the Secretary and the Secretary of Defense, shall designate consistent with the purposes of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.".

SEC. 305. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) Amendment to Export Administration Act.—The Export Administration Act of 1979 is amended by inserting after section 11B the following:

"CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS

"Sec. 11c. (a) Imposition of Sanctions.—

"(1) Determination by the President.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States under this Act, or

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) Countries, Projects, or Entities Receiving Assistance.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of this Act to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) Persons Against Which Sanctions Are to Be Imposed.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) Consultations With and Actions by Foreign Government of Jurisdiction.—

"(1) Consultations.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) Actions by Government of Jurisdiction.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) Report to Congress.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) Sanctions.—

"(1) Description of Sanctions.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) Procurement Sanction.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) Import Sanctions.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) Exceptions.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

(b) AMENDMENT TO ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended by inserting after chapter 7 the following:

"CHAPTER 8—CHEMICAL OR BIOLOGICAL WEAPONS PROLIFERATION

"SEC. 81. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

"(a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States.

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

"(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979, to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)) to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHOM SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

SEC. 306. DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) WHEN DETERMINATION REQUIRED; NATURE OF DETERMINATION.—Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after the date of the enactment of this title, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 307 applies if the President determines that the government has so used chemical or biological weapons.

(2) MATTERS TO BE CONSIDERED.—In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(3) DETERMINATION TO BE REPORTED TO CONGRESS.—Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 307.

(b) CONGRESSIONAL REQUESTS; REPORT.—

(1) REQUEST.—The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on foreign Affairs of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) REPORT TO CONGRESS.—Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of whether the specified government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This report shall contain an analysis of each of the items enumerated in subsection (a)(2).

SEC. 307. SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) INITIAL SANCTIONS.—If, at any time, the President makes a determination pursuant to section 306(a)(1) with respect to the government of a foreign country, the President shall forthwith impose the following sanctions:

(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

(2) ARMS SALES.—The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

(3) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(5) EXPORTS OF NATIONAL SECURITY-SENSITIVE GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. 2405) shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 5(c)(1) of that Act (22 U.S.C. 2404(c)(1)).

(b) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—Unless, within 3 months after making a determination pursuant to section 306(a)(1) with respect to a foreign government, the President determines and certifies in writing to the Congress that—

(A) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(B) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(C) that government is willing to allow onsite inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals,

then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least 3 of subparagraphs (A) through (F) of paragraph (2).

(2) SANCTIONS.—The sanctions referred to in paragraph (1) are the following:

(A) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

(B) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(C) FURTHER EXPORT RESTRICTIONS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of all other goods and technology (excluding food and other agricultural commodities and products).

(D) IMPORT RESTRICTIONS.—Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(E) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(F) PRESIDENTAL ACTION REGARDING AVIATION.—(i)(I) The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 306(a)(1) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(II) Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii)(I) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 306(a)(1), in accordance with the provisions of that agreement.

(II) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(iv) For purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(c) Removal of Sanctions.—The President shall remove the sanctions imposed with respect to a country pursuant to this section if the President determines and so certifies to the Congress, after the end of the 12-month period beginning on the date on which sanctions were initially imposed on that country pursuant to subsection (a), that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow onsite inspections by United Nations observers or other internationally recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(d) Waiver.—

(1) Criteria for waiver.—The President may waive the application of any sanction imposed with respect to a country pursuant to this section—

(A) if—

(i) in the case of any sanction other than a sanction specified in subsection (b)(2)(D) (relating to import restrictions) or (b)(2)(E) (relating to the downgrading or suspension of diplomatic relations), the President determines and certifies to the Congress that such waiver is essential to the national security interests of the United States, and if the President notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, or

(ii) in the case of any sanction specified in subsection (b)(2)(D) (relating to import restrictions), the President determines and certifies to the Congress that such waiver is essential to the national security interest of the United States, and if the President notifies the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect; or

(B) if the President determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of that country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

(2) Report.—In the event that the President decides to exercise the waiver authority provided in paragraph (1) with respect to a country, the President's notification to the Congress under such paragraph shall include a report fully articulating the rationale and circumstances which led the President to exercise that waiver authority, including a description of the steps which the government of that country has taken to satisfy the conditions set forth in paragraphs (1) through (4) of subsection (c).

(E) Contract Sanctity.—

(1) Sanctions not applied to existing contracts.—(A) A sanction described in paragraph (4) or (5) of subsection (a) or in any of subparagraphs (A) through (D) of subsection (b)(2) shall not apply to any activity pursuant to any contract or international agreement entered into before the date of the presidential determination under section 306(a)(1) unless the President determines, on a case-by-case basis, that to apply such sanction to that activity would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(B) The same restrictions of subsection (p) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as that subsection is so redesignated by section 304(b) of this title, which are applicable to exports prohibited under section 6 of that Act shall apply to exports prohibited under subsection (a)(5) or (b)(2)(C) of this section. For purposes of this subparagraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a foreign government in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(p) of that Act.

(2) Sanctions applied to existing contracts.—The sanctions described in paragraphs (1), (2), and (3) of subsection (a) shall apply to contracts, agreements, and licenses without regard to the date the contract or agreement was entered into or the license was issued (as the case may be), except that such sanctions shall not apply to any contract or agreement entered into or license issued before the date of the presidential determination under section 306(a)(1) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

SEC. 308. PRESIDENTIAL REPORTING REQUIREMENTS.

(a) Reports to Congress.—Not later than 90 days after the date of the enactment of this title, and every 12 months thereafter, the President shall transmit to the Congress a report which shall include—

(1) a description of the actions taken to carry out this title, including the amendments made by this title;

(2) a description of the current efforts of foreign countries and subnational groups to acquire equipment, materials, or technology to develop, produce, or use chemical or biological weapons, together with an assessment of the current and likely future capabilities of such countries and groups to develop, produce, stockpile, deliver, transfer, or use such weapons;

(3) a description of—

(A) the use of chemical weapons by foreign countries in violation of international law,

(B) the use of chemical weapons by subnational groups,

(C) substantial preparations by foreign countries and subnational groups to do so, and

(D) the development, production, stockpiling, or use of biological weapons by foreign countries and subnational groups; and

(4) a description of the extent to which foreign persons or governments have knowingly and materially assisted third countries or subnational groups to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons.

(b) Protection of Classified Information.—To the extent practicable, reports submitted under subsection (a) or any other provision of this title should be based on unclassified information. Portions of such reports may be classified.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. Rostenkowski] will be recognized for 20 minutes, and the gentleman from Texas [Mr. Archer] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Rostenkowski].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House of Representatives passed H.R. 1724 on October 8. The original bill provides for termination of the Jackson-Vanik provisions of the Trade Act of 1974 and permanent extension of most-favored-nation treatment to Hungary and Czechoslovakia. On November 15, the Senate passed the bill with a nongermane amendment modifying the Emergency Unemployment Compensation Act of 1991, which Congress passed and the President signed last week as Public Law 102-164. The Senate amendment would replace the three-tier benefit system enacted in the Emergency Unemployment Compensation Program of 6, 13, and 20 weeks with a two-tier system of 13 and 20 weeks. This amendment would allow 24 additional State programs to provide 13 weeks of extended benefits instead of 6 weeks. In addition, the amendment would make 19 additional State programs eligible for the reachback provisions under the new program. To pay for these two changes, the Senate amendment would cut 3 weeks from the duration of the program, from July 4 to June 13, 1992. However, no State would lose benefits because of the Senate amendment.

The administration estimates the additional costs of the Senate amendment to be $380 million, which is offset by $123 million in excess savings from H.R. 3575, as enacted, and $285 million in savings from shortening the program to June 13, 1992. Based on these estimates, the administration has assured me that the Senate amendment fully complies with last year's budget summit agreement, and would not trigger a minisequester later this year. I am submitting for the Record copies of letters I received from OMB Director Darman dated November 18 and 19 attesting to these budget effects.

The proposed House amendment to the Senate amendment is a composite of four trade bills that were introduced as separate legislation and favorably reported by the Committee on Ways and Means yesterday. The amendment incorporates H.R. 3347 on the importation of Soviet gold coins; H.R. 3313, extending most-favored-nation treatment to the Baltic States; H.R. 661, as amended, the Andean Trade Preference Act; and H.R. 3409, the Chemical and Biological Weapons Control Act of 1991. Each of these bills was approved in the committee by voice vote, and each is supported by the administration.

More specifically, the House amendment repeals section 510 of the Comprehensive Anti-Apartheid Act of 1986, which imposed a ban on the importation of gold coins from the Soviet Union. The repeal was requested by the administration to fulfill a commitment made to the Soviet Government by the U.S. Trade Representative in a side letter to the United States-Soviet bilateral commercial agreement granting most-favored-nation treatment.

The House amendment also responds directly to the newly recognized independence of the Baltic States of Estonia, Latvia, and Lithuania. It would extend most-favored-nation [MFN] status unconditionally to the products of those countries and repeal the application of the Jackson-Vanik amendment.

Mr. Speaker, extension of MFN status will have the effect of fully normalizing United States trade relations with the Baltic States. The House amendment also expresses the sense of the Congress that the President should take prompt action to provide duty-free, GSP benefits to Estonia, Latvia, and Lithuania.

The House amendment also includes the Andean Trade Preference Act, which is an initiative of the administration announced last year by the President to expand economic opportunities for the Andean countries as alternatives to the production, processing, and shipment of illegal drugs. The bill as amended is patterned closely after the trade benefits granted under the existing Caribbean Basin Initiative Program. It is designed to provide meaningful trade assistance on imports of eligible articles from the Andean nations while safeguarding the interests of United States domestic industries and workers.

Finally, Mr. Speaker, the House amendment would establish a framework for controlling the proliferation of chemical and biological weapons. It would mandate U.S. export controls and sanctions—including import sanctions—against foreign persons and countries involved in the production and use of such weapons. The successful efforts of Iraq and other countries in the Middle East and elsewhere to obtain these weapons of mass destruction provide clear evidence of the need to strengthen United States law in this area.

Mr. Speaker, I postponed committee consideration of the trade provisions contained in the House amendment until I received assurances from OMB Director Darman that the revenue losses estimated by the Congressional Budget Office for these administration initiatives would be fully offset in order to avoid any kind of minisequester. I am satisfied by Director Darman's two letters indicating that the recently enacted Emergency Unemployment Compensation Act contains a sufficient pay-as-you-go surplus to offset the revenue losses associated with these important trade initiatives.

Mr. Speaker, the House amendment to the Senate amendment contains a number of important trade provisions, and I urge my colleagues to join me in supporting its passage.

Mr. Speaker, I include for the Record the letters from Mr. Darman referred to earlier:

Office of Management and Budget,
Washington, DC November 18, 1991.
Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: We have what I understand to be a shared interest in enactment of pending Baltic, Soviet, and Andean trade agreements. We also share an interest in assuring that the enactment of these agreements would not trigger a sequester.

With our common interest in view, and given what now appears to be a realistic prospect that Congress will recess before Thanksgiving, I wish to bring the following to your attention. Based on legislation enacted to date, OMB would officially estimate in the end-of-session Sequestration Report that the pay-as-you-go balance is positive for each of the fiscal years 1992 through 1995. This positive current balance is now sufficient to offset what OMB estimates to be the pay-as-you-go costs of the pending trade agreements. Therefore, if these trade agreements were enacted promptly, while the pay-as-you-go balance is positive, their enactment would not trigger a sequester under the Budget Enforcement Act.

It is, of course, possible that other legislation might be enacted which would turn the pay-as-you-go balance negative. But I know of no such legislation that we are now supporting that is likely to be enacted before the session ends. If unforeseen legislation were enacted that turned the balance negative, a sequester would be triggered unless the imbalance were corrected. But in that hypothetical circumstance, I can assure you that we would not (and we could not fairly) attribute the cause of the sequester to the enactment of the trade agreements—provided their enactment occurred while the pay-as-you-go balance were sufficient to offset them.

For these reasons, I would again urge the enactment of the pending trade agreements—now, while the pay-as-you-go balance is a sufficient offset—and will continue to work with you to that end.

With best regards,
Richard Darman,
Director.

Office of Management and Budget,
Washington, DC November 19, 1991.
Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: This note is simply to confirm two matters of scoring with the prospect of enactment of H.R. 1724 now in view.

We have not yet completed the final out-year scoring of P.L. 102–164, the Emergency Unemployment Compensation Act of 1991. Nonetheless, it is clear that enactment of H.R. 1724 would not change two conclusions I recently shared with you:

(1) By letter of November 13, 1991—the conclusion that enactment of the unemployment insurance compromise (now including H.R. 1724 as passed by the Senate) would not trigger a sequester; and

(2) By letter of November 18, 1991—the conclusion that OMB's current estimate of the pay-as-you-go surplus (after enactment of the compromise) is sufficient to offset certain pending trade agreements that are in the United States interest.

With best regards,
Richard Darman,
Director.

□ 1420

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Let me be blunt. This is a terrible way to write trade legislation. It's a ridiculous way to write unemployment legislation.

The trade issues before us today are important, and I support them as separate legislation. Three of the bills seek to normalize trade relations with emerging nonmarket economies.

They extend most-favored-nation status to Hungary and Czechoslovakia, as well as the Baltic nations of Estonia, Latvia, and Lithuania. That's an appropriate reflection of the improved international situation in which we find ourselves.

Another trade provision extends special tariff benefits to the Andean nations of Brazil, Colombia, Ecuador, and Peru. The notion is to help those governments combat illegal drug trafficking by stimulating other exports.

I particularly commend my colleague Phil Crane, the distinguished ranking Republican on the Trade Subcommittee, for his persistence in moving the Andean initiative forward.

These trade issues are important. They deserve our support. I want to vote for them, but I can't—not the way they've been packaged with new unemployment expansions.

It's outrageous to use this vehicle to carry still another increase in unemployment benefits before the ink is dry on last week's new law.

This expansion violates one of the most fundamental assumptions of the unemployment insurance system since Congress first addressed extended benefits in 1958.

In every State an eligible worker who loses a job receives up to 26 weeks of basic unemployment benefits. A condition of those benefits is that the worker must continue to look for work. The benefits are to pay personal or family expenses while the worker tries to find a job. The program clearly is not designed to provide a half year of leisure time. All of us agree with that.

If the worker hasn't found a job after 6 months, he or she is eligible for extended benefits under some circumstances.

That is where the Federal Government comes in. What is the main criterion that we use to judge that Federal extended benefit eligibility? The answer is the overall level of insured unemployment in that worker's State. That is the key factor in whether the worker can find another job and is the basis for extended unemployment benefits.

For over 30 years extended benefits have been contingent on high unemployment in the worker's State. Now, for the first time, the authors of this measure, crafted in the Senate, tacked on to a bill we sent over to them, bumped back to us, and now put together with the trade issues in one package, those authors are proposing, with the support of those of us who vote for this bill in the House, to give extended benefits to workers in every State, even if the unemployment rate in the involved State is 1 or 2 percent.

That violates the entire concept of Federal extended unemployment benefits. Sixteen States have insured unemployment rates under 2 percent. Under this bill all are eligible for 13 weeks of additional benefits.

Another 21 States have insured unemployment rates between 2 and 3 percent. All of these are eligible, too.

In its haste to fulfill political expediency, Congress, and unfortunately the White House, are throwing out the basic premise of extended Federal benefits. This bill seeks a precedent that will come back to haunt us. In the future, whenever conventional political wisdom decides the time is right, Congress will rush to give extended benefits to every worker in the country.

□ 1430

What we have before us today is an expression of political panic. Maybe it does not matter to many in this Chamber that it smashes the foundations of a successful and important benefit program. It does to me.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, this is the fourth unemployment compensation bill that we will send to the President in the last 4 months, and it hopefully marks an end to the odyssey of the unemployment compensation debate.

The reason we are doing this, and I suspect that those who have not followed the unemployment compensation bills with a scorecard may not be aware of this, but when we sent the Senate a bill and they became dissatisfied with it last week, it was precisely because we were using the ineffective insured unemployment rate to measure whether or not States should get extended benefits.

There is a handout. Some of our colleagues can see it. On the back it tells the tale of why the IUR, the insured unemployment rate, does not work.

I see my friend from Kentucky on the floor, and let me use the State of Kentucky as an example of why we need to make a permanent change in the way we extend unemployment benefits.

If we take a look at Kentucky's rate of unemployment at 7 percent or take a look at the State of Arkansas at 7.5 or 7.7 percent, both of those States got under the old formula, which the administration wanted, the IUR, they got 6 weeks of extended benefits. Yet their unemployment rates were high, as high or higher than the State of Alaska, which got 20 weeks of extended benefits.

That makes no sense to the people of those States, and it certainly did not make any sense to our colleagues in the other body. So when we sent them this jury-rigged bill that was imposed in large measure on us by the administration, using an insured unemployment rate, an exhaustion rate, a 6-month IUR, they rebelled. And this is the result of their rebellion.

What is the lesson? The lesson is simply this: We need to fix this unemployment extension permanently by going back to a national trigger, which recognizes the need for a countercyclical response throughout the country, even though States have low rates of unemployment. And we need to scrap the IUR as a method of computing extended benefits because the IUR is too inextricably linked to a State's ability or interest in providing the initial 26 weeks of benefits.

If a State, again like Kentucky or Texas or Arkansas, decides that it has elaborate rules for extending benefits for 26 weeks, then even if the State has a high rate of total unemployment, its citizens will not benefit from this uniquely national bill.

It is screwed up, my colleagues, and this is evidence of how it is screwed up, that we had to do it 4 times to get it right. We need to pass a permanent change in law so that we do not have to every month change the rate of unemployment benefits that get extended to people.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

The gentleman has not responded to my comments. He has talked about a new formula for determining what unemployment is, but he has not responded to the fact that in States where there is extremely low unemployment, where jobs are easy to find, that a person who is laid off of work through no fault of their own and is on 26 weeks of unemployment benefits can get an additional 13, even though jobs are readily available on every corner.

I do not believe that the workers who pay the taxes into this fund or the employers who pay the taxes into this fund, depending upon whom we wish to charge it, should have their dollars spent under those circumstances.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. CRANE], the ranking Republican on the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, H.R. 1724 includes several trade measures which I wholeheartily endorse. However, because I am profoundly opposed to the unemployment provisions in this package, it is with regret that I cannot support it.

One trade measure which I am particularly supportive of is the Andean Trade Preference Act. I introduced this measure on behalf of the administration because I believe it goes a long way in helping to solve the economic and narcotics problems plaguing Latin America by placing the emphasis on trade rather than aid. By eliminating the duties on a number of products from the Andean region, this measure will encourage the development of alternative crops, thus providing a way out for those farmers who have grown dependent upon the cocaine economy.

Providing expanded trade opportunities to the Andean region would also serve to demonstrate our commitment to our partners in the war on drugs. Despite terrible violence, massive poverty, and spreading disease, Colombia, Bolivia, Peru, and Ecuador, have devoted precious financial and human resources to their efforts to rid their region of the drug scourge. The Andean Trade Preference Act will serve as a formal recognition of these many sacrifices.

The United States will also benefit a great deal from this legislation. As the Andean farmers begin to take advantage of the legitimate market opportunities available to them, the amount of illegal drugs crossing our borders will no doubt lessen. In addition, by helping to strengthen the Andean economies we also help ourselves by increasing the ability of the four countries to purchase quality U.S. exports. The Caribbean Basin Initiative, which this bill is patterned after, is a fine example of how the United States can profit. In

1983, when the CBI was passed, we ran a trade deficit of $3 billion with the Caribbean region, by 1990 the U.S. was running a surplus of $2 billion.

In addition, it should be noted that because Andean exports account for less than 1 percent of U.S. imports and since duty-free treatment will only affect approximately $300 million of Andean exports, this measure is expected to have little, if any, adverse impact on U.S. producers. Furthermore, goods that are generally considered to be import-sensitive have been excluded from the bill.

Let me conclude by quoting the President at the time he transmitted the Andean Trade Preference Act to Congress:

> The Andean nations are engaged in a serious struggle to combat illegal narcotics trafficking. It is incumbent upon the United States to aid them in their efforts to develop legitimate trading opportunities for their people. Their struggle is our struggle as well.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, the heart and soul of the legislation before us is to extend the unemployment benefit program. We have had four different attempts for this, and I think now there is an agreement on both sides of the House that we pass it and it can become law.

Now is not the time to try to settle every issue related to the extended benefit program or to make permanent changes in it. Some would want a national trigger. Some would want an extended UI continuation program. And both approaches have merits.

This time, at this hour, we ought to say these unemployment benefits and perhaps most of the trade benefits can be held together or agreed on in conference.

There is a general sentiment for agreement. There are millions of people, Americans, who need this legislation. I am hoping that this is the final version of it, and it can be approved. I recommend a vote for passage of this measure.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I want to thank the distinguished chairman of the Committee on Ways and Means for bringing this bill up. I want to talk about how it relates to my State of Ohio because Ohio is experiencing unemployment.

This would increase Ohio benefits from the bill passed the other day from 6 weeks to 13 weeks. It is true that Ohio, as a State, has lower unemployment. But there are areas of Ohio that have higher unemployment than the national average, like Cleveland, like Youngstown, like rural areas.

So I am so glad that we are going to have that benefit of 13 weeks.

□ 1440

In addition, I think it is just outstanding that this bill would provide the extension for all States for those whose benefits have run out since last February. I am sure Members have gotten calls from people who said, "You know, my benefits ran out 2 weeks ago and I'm not going to be eligible." So we make this retroactive, and currently this reachback benefit is not available to our State of Ohio.

So for these and other reasons I thank the chairman and members of the committee for the good work they are doing and have done for the unemployed workers, 32 percent of whom have exhausted their benefits in 1991.

Mr. ARCHER. Mr. Speaker, I yield 3½ minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Speaker, I thank the gentleman for yielding time to me.

I would like to make just a few remarks concerning a few of the measures incorporated into H.R. 1724.

First, with respect to the Andean Trade Preference Act, I am pleased that in full Ways and Means Committee action yesterday, a provision which would have had serious consequences for the application of our critical antidumping and countervailing duty laws, was defeated.

I am now hopeful that the Andean countries of Bolivia, Colombia, Ecuador, and Peru will use the benefits included in the Andean Trade Preference Act to earn the foreign exchange they desperately need, and to prepare themselves to eventually join the rest of the Western Hemisphere in the creation of an enormous, cohesive, and productive free-trade area.

I would also like to comment on provisions of H.R. 1724 extending most favored nation—or MFN—trading status to Hungary, Czechoslovakia, and the Baltic Republics of Estonia, Latvia, and Lithuania.

As many in this Chamber are aware, I have had a longstanding interest in how U.S. antidumping and countervailing duty laws are applied in cases involving nonmarket economy or NME countries.

On October 8 of this year, the House considered a separate measure granting permanent MFN to Hungary and Czechoslovakia. At that time, I expressed concern that our antidumping and countervailing duty laws were not being adapted quickly enough to assure U.S. producers access to predictable and effective remedies against the unfair trading practices of such and similar countries, now commonly referred to as "economies in transition."

The reasoning behind my concerns is simple and straightforward: As these countries make the slow transition from nonmarket economy to market-based economic systems, America must have in place trade laws which allow U.S. producers to combat such countries' dumping and subsidy practices.

In this regard, I am pleased with the Commerce Department's decision of November 6 to initiate an investigation into allegations by United States industry that the Chinese Government is subsidizing certain exports. For many years, Commerce has not even entertained petitions by U.S. industry requesting investigations into possible subsidy practices in nonmarket economy countries or economies in transition.

I am encouraged by Commerce's acknowledgment that subsidies can in fact, exist in economies which are partially state-controlled and partially market-driven.

On the antidumping side of the equation, I am not convinced that the so-called mix-and-match approach to determining factors of production in economies in transition—which Commerce has relied upon in recent months—is an unbiased and prudent approach.

Accordingly, I note with interest and some satisfaction that, as part of its ongoing subsidy investigation against China, the Department will reevaluate the presumed merits of its mix-and-match policy.

The previously mentioned topics are neither sexy nor glamorous. But, as we normalize trade relations with one former Communist country after another, these issues must not be ignored.

I appreciate this opportunity to comment on an issue of tremendous importance to me and many others. I am hopeful that within the Ways and Means Committee, we can engage in the thoughtful consideration and analysis of these matters—and related legislation I am developing—early in 1992.

Mr. Speaker, in conclusion I would like to say that we do have more work to do in the trade area, but for the reasons enumerated by my friend, the gentleman from Texas [Mr. ARCHER], I am afraid I have to oppose this bill, but not because of the trade provisions.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this bill. This is what we might call a twofer. We are doing several good things in one bill. I am particularly pleased to be seeing that we are granting MFN to the Baltics, Hungary, and Czechoslovakia in this bill. I think that is a good move on our part.

On our unemployment front, the bill that we passed last week provided only 6 weeks of benefits for many States, including my State of Ohio. Additionally the bill had an egregious flaw and provided no reachback provisions for those workers who had already exhausted their benefits. That was due to the insistence of the Bush administration on using the archaic IUR, insured unemployment rate, rather than the total rate. The administration insisted on that. The Senate, thank heavens, saved us from that bad provision. The result is that with this bill we are able to provide 13 weeks for every State and reachback for every State. That is good news indeed.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, I thank the gentleman for yielding. I rise in support of H.R. 1724.

Mr. Speaker, I rise in strong support of this bill. Like sausage, it wasn't pretty in the making, but it turned out to be a pretty tasty and well done morsel of legislation.

This bill does several very important things. It restores our Nation's credibility in the international war against illicit drugs; 18 months ago, our President promised at the Andean drug summit to do what he could to relieve economic pressure on the countries that cooperate with us to eliminate the illegal drug trade.

The provisions of the bill today which comprise the Andean trade initiative show our commitment to fulfilling that promise. If Colombia and the other Andea countries can find lucrative markets for their products, the financial incentive to ignore the drug lords will be reduced.

If they can sell us their flowers, there is less incentive for them to push us their drugs.

A second major accomplishment of this bill—a very long overdue accomplishment—is the extension of MFN status to Estonia, Latvia, and Lithuania.

We recognized the independence of these countries back in 1922. And now, nearly 70 years later, with the passage of this bill, we will finally be treating and trading with them as free nations. This bill can and should be an important step in the movement of these nations to free market-oriented economies.

And of course, one of the major accomplishments of this bill and the one with the most immediate impact here at home, are the provisions which correct the glaring inequity that marred the passage of H.R. 3575, the unemployment bill we passed last week in this body. That bill provided 13 and 20 weeks of extended benefits for most States but only 6 weeks for Kentucky and 4 other States—even though the unemployment levels in several of our States are higher than in many others.

That bill—inequity and all—breezed through this body but fortunately, because of the quick work of Kentucky's senior Senator, WENDELL FORD, the alternative extension system provided in this bill was hammered out at the last minute.

This bill corrects the shortcomings of H.R. 3575. It guarantee that Kentucky can share in the relief provided the other unfortunate victims of our Nation's stuttering economy.

I encourage my colleagues to support this bill. It is a well crafted package. It was put together in haste, but it will accomplish many long-term goals on which we all can agree.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of this resolution. I am very much concerned if this fails it is going to go back to the law that was passed, signed by the President just the other day. I commend the other body for extending this and bringing it back from a three-tiered system to a two-tiered system. But I would like to serve notice to this body that either way, whether it passes or fails, I will be introducing legislation to eliminate the tier system.

It is very unusual that I disagree with my friend from Texas, Mr. ARCHER, but in this case I do because I can assure the Members, in the State of Oklahoma there are not jobs readily available on every street corner. We are in the sixth year of a recession in Oklahoma. We have workers that are just trying to eat at this time. They hold up signs, "I will work for food."

The unemployed worker in Oklahoma, under the law that was just passed, who has 6 children will get extended benefits of only 6 weeks. That same worker with the same number of children with the same income in the State of Massachusetts gets 20 weeks. That is unfair, it is a bad law, and we need to change it.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I rise in opposition to the bill.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I thank my colleague from Texas for yielding me this time, and I rise in strong support of this bill. It goes a long way toward righting an inequity in the unemployment bill that was brought before this House and was passed by an overwhelming majority last week.

Under that bill, the workers and taxpayers of my State were disadvantaged. We are paying about $2 in increased taxes for only every dollar of unemployment benefits, and frankly, it was not a very good deal. We could have raised unemployment benefits at the State level and kept it at home and taken care of a lot more unemployed people within our border than coming out to Washington and asking for Federal Government help.

This bill, by the retroactive provision, and by extending unemployment, will be of great benefit to an awful lot of people who, through no fault of their own, need help now. Please vote for the measure.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Speaker, I rise today in support of this legislation which will grant most favored nation status for Lithuania, Latvia, and Estonia. This legislation is of vital importance to the free people of the Baltic States.

Incorporated into the Soviet Union against their will in 1941, these three small nations never gave up their dreams for freedom and democracy. Lithuania, Latvia, and Estonia were free and independent nations operating under a capitalist style system until their independence was seized from them.

The United States extended diplomatic recognition to the three Baltic States in 1922 and entered into commercial treaties with each country in 1925 and 1926. The only reason MFN trade status for the Baltics was revoked was because they were illegally annexed by the Soviet Union.

During the 50 years of their illegal annexation, the People of the Baltic nations courageously resisted the imposed Soviet regime and its oppressive tactics, always maintaining their commitment to self-determination and the ideals of freedom and democracy.

The Baltic people had to wait for U.S. diplomatic recognition. Then they had to wait for true independence from the Soviet Union, and now they await this final measure which will assure their rightful place in the community of free nations. This bill restores what has always been rightfully theirs—favorable trade benefits which will help them maintain their freedom and independence. This is a small but very important gesture which will help nurture their budding democracies.

I urge my colleagues to act quickly on this bill and give the Baltic people more than just our moral support. Vote for MFN for the Baltic nations and provide them with real economic security.

□ 1450

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I want to congratulate the gentleman from Illinois [Mr. RUSSO] for the leadership he has displayed in urging that most-favored-nation status be granted expeditiously to the Baltic States of Lithuania, Latvia, and Estonia. I have been impressed for quite some time with the fervor with which the gentleman has represented the interests of the Baltic nations and its citizens. I know the gentleman has been very active in all the committee markup sessions on this issue and he is largely responsible for bringing this bill to the floor today. I just want to say to him that I appreciate and commend him for this hard work.

Mr. RUSSO. Mr. Speaker, I thank the gentleman.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MCGRATH].

Mr. MCGRATH. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this bill and all its parts, including the unemployment insurance section.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the gentleman's motion to suspend the rules.

Last week when the unemployment compensation bill came up, I spoke and voted against that bill as being unfair to Wisconsin's unemployed. That bill had no reach-back provisions, so that the hard-core unemployed whose benefits expired by last Sunday would not have been eligible for any additional unemployment compensation.

This bill corrects that inequity, and furthermore, extends the period of eligibility from 6 to 13 weeks. It is done on a fiscally neutral basis, so there is no additional cost to the Treasury or to the taxpayers of this country. It is a good bill and I hope it passes.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this bill grants Most Favored Nation treatment to Hungary and to Czechoslovakia. It has got so many things in it, it is a little hard to remember it all.

It also grants most-favored-nation treatment to the three Baltic states, Latvia, Lithuania and Estonia.

This is an important, very important piece of legislation. It is important because it does bring our unemployment compensation laws into the touch of reality that we need today with the current economic situation in the United States.

In addition, it grants a brandnew status to the countries of Columbia, Ecuador, Peru, and Bolivia in a program that is very similar to the Caribbean Basin Initiative that has worked so successfully here in the Congress and in the Caribbean. So it is important that we vote for it.

Mr. Speaker, time is short and history is pressing upon us. The little countries of Latvia, Lithuania, and Estonia are very important to us. They are important to us for not only emotional, but for principled reasons. These countries were cruelly swallowed up in the power play between Hitler and Stalin. They have been occupied now for over 50 years by hostile forces.

We happened to be in the Baltics on the day that they became independent. I was talking to the Foreign Minister of Estonia. I was congratulating him upon his independence.

He said:

> Well, Mr. Gibbons, let me correct that. Estonia has always been independent. We just have been occupied for a long, long time.

So we owe it to these people to correct those errors that were committed so many years ago, to bring them into the full family of nations so that they can trade with the United States on a nondiscriminatory basis.

We also if we are going to do anything constructive about the drug trade between the Andean countries and the United States and help wipe it out by helping them develop some alternative industries down there, we need to grant them the kind of tariff treatment that this bill does.

I commend my colleague, the gentleman from Illinois [Mr. CRANE] for having introduced this bill for the administration. This is the administration's legislation and it should be enacted.

So Mr. Speaker, we would welcome back into the family of nations the countries of Czechoslovakia and Hungary, and to the family of nations Estonia, Latvia, and Lithuania, and to a better trade status those Andean countries that need it.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire [Mr. ZELIFF].

Mr. ZELIFF. Mr. Speaker, I urge the House to support this fair play unemployment insurance extended benefits legislation. The other body spent a day and a half last Friday pointing out the inconsistencies in the unemployment legislation recently signed into law.

This is not a partisan issue. Many legislators on both sides of the aisle pointed out dramatically how unfair the formula we passed was on a great number of states. Five States, Arkansas, Alabama, Louisiana, Kentucky, and New Hampshire, with some of the highest unemployment rates in America, would only receive 6 additional weeks of unemployment insurance benefits. Nineteen States would not receive the so-called reachback provisions.

What this means is that the unemployed workers in those 19 States who have already exhausted their unemployment benefits since March 1 would not receive 1 red cent in extended benefits, unless we pass this bill.

There is no rhyme or reason to the current formula. I urge you to pass this compromise bill in the interest of fair play. Our long-term unemployed workers desperately need our help.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I heard the chairman of the committee say earlier in the debate that no one would lose benefits under this particular revision of the program. That is not the way I think it goes for some of the States who were put in place in the law that the President has now signed.

Our State of Pennsylvania had 13 weeks of benefits under the former plan. They have 13 weeks of benefits under this plan. We had reachback under our plan. We still have reachback under this plan; however, our structure went until July 4, 1992, under the plan which is now law. Under this plan, our people would only be eligible up until June 13, 1992. So some people in Pennsylvania are not going to have a period of eligibility which they now have under law, so for them this is a cutback in benefits.

The problem here is that you take a State with fairly high unemployment rates, like Pennsylvania, you reduce the benefits for people there in order to give benefits to some States that have relatively low unemployment, so you are taking money away from high unemployment States in order to give it to low unemployment States and reducing the benefit structure.

I do not see how people who come from States that are going to be disadvantaged by this bill can vote yes here. It seems to me the vote is "no" from those States that have a benefit structure that is going to be decreased under this particular bill. Pennsylvania is certainly one of those States. Pennsylvania will have less benefits under this bill than it has under present law.

Mr. Speaker, I would suggest that people look very carefully at the formula and decide whether or not your State is better off or worse off before you vote yes on this bill.

□ 1500

Mr. ARCHER. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Mr. Speaker, I rise in support of this legislation and, in particular, for the correction of New Hampshire's unemployed benefits from 6 weeks to 13 weeks.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY] to conclude debate.

Mr. DOWNEY. I thank the chairman for yielding.

Mr. Speaker, I just wanted to deal with the question my friend from Texas raised before, which was why do we pay extended benefits to those States that have low rates of unemployment? I think it is appropriate coming from the gentleman from Texas because he was not in favor of paying extended benefits to those States with high rates of unemployment. So he has been entirely consistent and consistently opposed to the extension of benefits for everyone, whether they come from States with high unemployment or States with low rates of unemployment. A lot of this has to do with the extension of benefits based on what one considers to be a full rate of employment.

There are only three States in this Union that would meet that criterion, below 3 percent unemployment. You can argue that maybe those three particular States, despite the fact that jobs continue to go begging there, which is really not the case because people are begging for jobs even in those States, that maybe we should not extend benefits to them. But I would point out to the gentleman once again, because I pointed out in my first comment on this, that the whole purpose of extended benefits and the reason we used to have a national trigger for the entire country was for its countercyclical effect. It was in our interest to provide a certain floor level of benefits to all people who were out of work regardless of the particular economic conditions within States.

So, hopefully, we will go back to a period of time where we have a national trigger. This is what this does temporarily. That is what the Senate did, it provided a floor, a high floor of 13 weeks and a reach-back for everyone.

As for the gentleman from Pennsylvania who makes the point that his State is disadvantaged by several weeks, I would hope that if the recession continues in June, the gentleman will be the first to cosponsor my additional 4-or-5-week extension bill when it comes to the floor.

Mr. LIPINSKI. Mr. Speaker, I rise in support of MFN for the Baltic States and against MFN for the Soviet Union. The newly free Baltic States have finally rid themselves of Soviet domination and are moving down the very difficult road toward economic independence. They cannot do this without our help. MFN status will allow them to compete in the open market with the same opportunities that our best allies have. Not only is this fair, but it is smart foreign policy. This will help ensure democracy and stability in those three nations for years to come.

However, after 46 years and billions of dollars spent fighting Soviet communism, we cannot and should not rush toward granting MFN to the Soviet Union. As the Western nations fall over themselves trying to be the first and friendliest in our new relationship with the Soviets, I am concerned that we are losing sight of the very foreign policy goals we set as the world's leading democracy after World War II. Unlike the Baltics, the Soviet Union has not made the same great strides toward democracy.

Yes, the changes of the last 6 years have been historic and the Soviets have finally showed signs of genuine reform. The Baltic States would be the first to testify to that. But we must also be cautious. The failed coup last August was a victory for reformers, but it also showed the instability of the Soviet Union that continues today.

The tension among the remaining republics is now at an all-time high. Armenia and Azerbaijan are reigniting an age-old dispute that has erupted repeatedly during the last several years. Georgia is headed by a throwback hardliner who is following Serbia's example and using nationalism to protect his rule. And Ukraine is troubled by separatists in the Crimean region in the south of that Republic.

I am hopeful that President Yeltsin and President Gorbachev will finally bring true democracy and a market economy to the Soviet Union. But until we know where the republics and central government are going, we must hold off on giving them easy access to our markets. Let's first see Cuba completely isolated, more drastic cuts in their military capabilities, and the emergence of a stabile democracy.

So. Mr. Speaker, I believe the time is not right to grant MFN to the Soviets. It is an economic break they don't yet deserve. I urge my colleagues to vote "no" on this House Joint Resolution 346 and "yes" on House Resolution 287.

Mr. DURBIN. Mr. Speaker, I rise in support of Chairman ROSTENKOWSKI's language in H.R. 1724 which would grant the Baltic States most-favored-nation status.

Given our budgetary constraints and domestic problems, I believe it is unrealistic to grant large amounts of foreign aid to the Soviet Union or the Baltic States at this time. At the same time, I believe we must make every effort to assist these emerging democracies through other channels as they face the difficult task of building a prosperous open market economy.

To this end, Mr. HOYER and I introduced legislation earlier this year granting the Baltic States most-favored-nation status. This bill enjoyed wide bipartisan support.

I commend the distinguished chairman of the Ways and Means Committee for including similar language in H.R. 1724. By granting nondiscriminatory treatment to the products of Estonia, Latvia, and Lithuania, we are reaffirming our long-term commitment to their goal of economic self-sufficiency as well as encouraging the development of private business partnerships between the United States and the Baltic States.

I support this language because I believe it will benefit both the people of Lithuania, Estonia, and Latvia and those here at home.

Mr. MORAN. Mr. Speaker, today I rise to join my colleagues in supporting H.R. 1724—extending most-favored-nation status for Czechoslovakia and Hungary.

This bill is important for America because it opens the doors of trade between the United States and the emerging democracies of Czechoslovakia and Hungary. The importance of trade between these nations, however, is diminished in comparison to the other provision of this legislation that eliminates the first tier of the Unemployment Insurance Extension Act—granting all States 13 weeks of unemployment insurance—and allows every State of the Union to reach back and compensate those individuals whose benefits have exhausted prior to last Sunday.

This week, my office has been inundated with calls from constituents who have been left out in the cold from the bill just signed by the President. They do not understand why unemployment benefits have been extended for those whose benefits will be exhausted in the future, but not be extended for those who have already exhausted their benefits. They still can't find jobs. They still are having trouble meeting their mortgages and they still are having trouble feeding their families. These people need our help as much, if not more, than those who are protected by the first bill. These are the people we are seeking to help today.

I urge all my colleagues to join me in supporting this legislation and in ensuring that all unemployed Americans are given the same treatment and that all unemployed Americans will be given some relief before Thanksgiving.

Mr. LEVIN of Michigan. Mr. Speaker, I rise today in support of H.R. 1724, which grants most-favored-nation trade status to the Baltic nations. I hope this bill is quickly enacted into law.

By granting MFN status to the people of Latvia, Lithuania, and Estonia, we strengthen through economic relations the strong ties that already bind Americans with the people of the Baltic States.

This legislation could not be more timely. After years of struggle, the people of the Baltics have reclaimed the sovereignty that was denied them for half a century. Now they must begin the difficult task of integrating their economy with world markets and developing a free-market infrastructure. The American people, who have supported the Baltics in their political struggles, must now help them in their struggle to develop a market economy.

We do so by passing this legislation.

A few months ago I traveled with several of our colleagues to the Baltic nations. We arrived at the moment when Estonia, Latvia, and Lithuania finally recovered their true independence. As I watched people experience the sweet taste of freedom, I thought about how truly remarkable a thing it was they were celebrating. It wasn't long ago, Mr. Speaker, that we stood on the floor of the House and spoke out against attempts to crush the spirit of freedom in the Baltics.

That spirit eventually triumphed, a monument to the power of a people's will. Today we take a great step toward nourishing that spirit by welcoming the Baltics to the world economy.

Mr. MCGRATH. Mr. Speaker, I support H.R. 1724 because it includes many important trade propositions which I endorse, even though it is incorporated in a rather unusual manner to unemployment insurance legislation.

The Andean Trade Preference Act addresses the enormous problem faced by our country of the spread of illicit drugs from South America. By eliminating the duties on many products from this region, these countries may develop alternative crops and industries to halt the cultivation of coca plants.

This legislation has little adverse effect on U.S. products because goods that are generally considered to be import sensitive have been excluded from the bill. Alternatively, these countries will benefit from a strengthened economy and develop the ability to purchase U.S. goods and services.

H.R. 1724 also extends most-favored-nation status to Hungary and Czechoslovakia, as well as the Baltic nations of Estonia, Latvia, and Lithuania. This is a proper response to remarkable changes in that region of the world. Another provision in this legislation lifts the ban on imports of gold coins from the Soviet Union. We agreed to this measure in our bilateral trade negotiations.

Mr. Speaker, these trade measures are worthy of our consideration and I urge my colleagues to support H.R. 1724.

Mr. RANGEL. Mr. Speaker, I rise in support of the conference report on unemployment compensation. In addition to the important unemployment provisions, this report contains an important counternarcotics initiative, the Andean Trade Preferences Act [ATPA].

The Select Committee on Narcotics Abuse and Control, which I chair, has for many years examined international narcotics control issues. In all of the drug producing and transit countries around the world, we have discovered that the narcotics issue is inextricably linked to a number of other important issues, most frequently including local economic and social problems. Our Select Committee on Narcotics study missions to Latin America, in particular, have always included developmental issues, trade, and immigration, in addition to the stated purpose of studying the narcotics problem. In our discussions, we have never been able to truly isolate the narcotics issue from the economic and social context in the host country.

The committee recently conducted a series of individual meetings with the Ambassadors from the four Andean nations which will be covered under the ATPA. All four Ambassadors stressed the importance of economic and trade issues to their domestic battles against drug production and traffic.

This series of off-the-record meetings led up to a public hearing on the Andean strategy with administration witnesses. The administration witnesses all emphasized the need for a comprehensive approach to combatting drugs in the Andean region. The most requested additional assistance from Capitol Hill was the passage of the Andean Trade Preferences Act.

The relationship between the drug problem on one side and the economy on the other manifests itself in different ways in each of these countries. I will very briefly outline some of our findings.

In Peru and Bolivia, the very survival of hundreds of thousands of peasants is dependent upon one cash crop, coca. The legitimate economies in those countries cannot sustain the population at present. Not only is development assistance crucial, but there must be a market for the alternative goods in order for the development process to be successful.

The situation in Peru is further complicated by the presence of two extremely violent insurgences, the Shining Path guerrillas and the Tupac Amaru. These guerrilla groups have been able to gain support among the peasants because of the poor economy and resulting abysmal living conditions.

Colombia has waged an exemplary war against drug traffickers. The top leaders of the Medellin cartel are either dead or behind bars. Record amounts of cocaine have been seized. This has not occurred without considerable costs to Colombian society, to the Government and to the economy. Narcoterrorism has cost thousands of lives, and millions of dollars in property damages. One of the major industries, tourism, declined sharply as the fear of the random narcoterrorist attacks became widespread. Foreign investment has also declined. And, of course, the dramatically stepped up drug law enforcement efforts put a very great burden on the Colombian taxpayer.

Successes in Colombia have put more pressure on neighboring nations. Ecuador has been fairly successful in its counternarcotics efforts, but at great cost. Without a stronger economic base to tap, the government will not be able to sustain, let alone increase, counternarcotics efforts.

Mr. Speaker, we are asking all of these countries to dramatically increase their counternarcotics efforts, because we, in the United States of America, are having difficulty controlling our appetite for the illegal drug cocaine. The costs of their stepped up efforts and of the eventual decrease in the whole cocaine industry will have enormous negative impacts on the economies of these countries, and may create serious political instability as well.

We should provide them with the opportunity to export legal goods instead of the illegal and deadly drug, cocaine, to the United States.

The ATPA is not a free trade agreement. It really only provides access to some of the local goods from the Andean region. Controversial commodities, such as textiles, petroleum, tuna, rum, footware, and watches, are exempted from this legislation. It does not change the treatment of sugar and related products which are covered under the Food and Agricultural Resources Act. I have not seen any economic analyses that would indicate that this legislation would be a threat to any U.S. industry or to U.S. labor.

I strongly support this legislation. It is an important component to the entire antinarcotics strategy in the Andean region. We all know that there is no single bullet, no one approach we can take against drug trafficking and abuse. Each and every front of this war must have the full support of the administration and the Congress. Economic issues, of which trade is a vital part, are as important a battleground in this war as developing a strong and incorruptible judiciary.

I would like to thank my colleague from Illinois [Mr. CRANE] for introducing this legislation and working diligently on its passage. In addition, I would like to commend the Trade Subcommittee chairman, Mr. GIBBONS, and the Ways and Means Committee chairman, Mr. ROSTENKOWSKI, for the efforts to get this legislation enacted before adjournment. I urge my colleagues to support this legislation.

Mr. MOODY. Mr. Speaker, many months ago, the Committee on Ways and Means and the Congress passed legislation that would have extended desperately needed unemployment benefits to virtually all of the hundreds of thousands of workers and their families who had run out of regular benefits due to the current recession.

The President refused to release a single penny of those benefits, citing his concerns over the budget deficit.

So we tried to compromise with the President and passed a new, less generous bill. The President vetoed that bill because he said it, too, was a budget buster.

Why wasn't aid to the Kurds in Iraq considered a budget buster? Why wasn't aid to Bangledesh flood victims considered a budget buster?

It seems that only help for working families here at home is rejected as too expensive.

All the while, thousands more families who have run out of benefits were being forced to take their children out of school, forced out of their homes, or even onto welfare.

Finally, after months of additional negotiations in which the President's main goal seemed to be to offer as few benefits as possible, we passed a bill. Unfortunately, that bill left out 30,000 Wisconsin workers who had run out of benefits while the President stalled and dissembled.

Only after the President came face to face with the outrage of the American people and the Congress, has the President agreed to extend these crucial benefits to those most in need—the workers who have suffered the longest from the recession.

I support this bill enthusiastically, and can only observe that it has come much later than it needed to have. Now, we must turn our attention to stimulating the economy and creating new jobs and broad-based economic growth.

Mr. SWETT. Mr. Speaker, I rise today in support of H.R. 1724, which will extend unemployment benefits which was recently enacted. While the previous law provided much-needed help to those unemployed workers whose benefits have expired, it did not extend benefits equally. The previous law would have provided only 6 weeks of benefits extension for New Hampshire, while unemployed workers in other States in similar circumstances would have received 13 or 20 weeks.

Mr. Speaker, this legislation is vital to people in New Hampshire and throughout our country who would not receive 13 weeks of benefits without its passage. In New Hampshire alone, there are over 55,000 unemployed people, and thousands of people whose unemployment benefits have already expired. They are looking to Washington for help.

The extension of unemployment benefits is not a luxury to those workers who depend upon these benefits for their very existence. It is necessary to provide relief to the thousands of people in New Hampshire and the millions nationwide who are victims of the prolonged recession. These additional benefits will allow them to save their homes and keep their children fed.

Mr. Speaker, I ask my colleagues to lend a helping hand to all hard-working jobless Americans and join me in supporting this legislation.

Mr. BROOMFIELD. Mr. Speaker, I strongly support H.R. 3409, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, which is included in the resolution we are currently considering.

H.R. 3409 imposes sanctions, and encourages international sanctions, against countries which use chemical or biological weapons in violation of international law. In addition, this legislation also imposes sanctions against companies that aid in the proliferation of chemical or biological weapons.

As a part of the fiscal year 1992–93 State Department authorization bill (Pub. L. 102–138), the President has already signed into law legislation which is nearly identical to H.R. 3409. The sole difference between the version now a part of public law and the version included in this bill concerns the issue of import sanctions.

As Chairman ROSTENKOWSKI indicated yesterday during the markup of H.R. 3409, import sanctions were stripped from the version of the CBW bill in the State Department Authorization Act on order to meet jurisdictional concerns of the Ways and Means Committee.

In order to address those valid concerns, an agreement was worked out between the other body and the House and relevant committees which allowed for a bill to be considered by each body which contains import sanctions. That provision, H.R. 3409, is before us now as a part of House Resolution 287.

I urge all Members to support this legislation so that we can send it to the other body, get it passed, and to the President for his signature. The addition of import sanctions will improve what is already an excellent piece of legislation which should help the President's ability to curtail the proliferation of CBW and punish countries and companies that use CBW.

Mr. FASCELL. Mr. Speaker, the resolution that is before the House for consideration today, House Resolution 287, contains a chemical weapons sanctions provision which complements and finalizes legislative action already taken by the House and already signed into law by the President as part of the Foreign Relations Authorization Act for fiscal years 1992 and 1993. This legislative provision in the Foreign Relations Authorization Act—State Department authorization—institutes sanctions against countries which use chemical and biological weapons in violation of international law and against foreign individuals and firms which assist countries to obtain a chemical or biological weapons capability. The legislative provision in House Resolution 287 on chemical weapons sanctions mirrors the previously passed provision in the State Department authorization bill but adds a very important sanction, import sanctions, against companies and individuals proliferating chemical and biological weapons.

During the House and Senate conference on their respective State Department authorization bills, H.R. 1415 and S. 1433, agreement was reached on chemical weapons sanctions provisions but a disagreement between the House Ways and Means Committee and the Senate conferees caused import sanctions to be withheld from the conference provision pending further consideration by the House Ways and Means Committee. The chemical weapons sanctions provision became part of the conference agreement on the State Department authorization and was passed by both Houses of Congress as the Foreign Relations Authorization Act for fiscal years 1992 and 1993 conference report of October 3, 1991, and was signed into law by the President on October 28, 1991. Part of the unofficial conference agreement was that a clean chemical weapons sanctions bill, containing import sanctions, would then be introduced and duly considered in both House and Senate. This chemical weapons sanctions provision which passed and was signed into law was substantially the same as the chemical weapons sanctions provision which was part of the Omnibus Export Amendments Act of 1990, H.R. 4653, title IV, which the President pocket vetoed on November 16, 1990.

On September 25, 1991, I, Mr. BERMAN, and Mr. BROOMFIELD introduced H.R. 3409, a clean bill entitled the "Chemical and Biological Weapons Control and Warfare Elimination Act of 1991." That bill was jointly referred to the Committees on Foreign Affairs, Ways and Means, Banking, Finance and Urban Affairs, and Public Works and Transportation. On September 26, 1991, the Committee on Foreign Affairs met to mark up H.R. 3409 and ordered it favorably reported, as amended. This action by the Committee on Foreign Affairs continues consideration of similar legislation which began in the 101st Congress and can be referred to in the committee report (101–334) on the Chemical and Biological Warfare Elimination Act, and the conference report (101–944) on H.R. 4653, the Omnibus Export Amendments Act of 1990.

During consideration and action on chemical weapons sanctions legislation in the 101st and 102d Congress the primary objective has been threefold:

First, to stop the proliferation of chemical and biological weapons;

Second, to penalize countries and companies using or transferring chemical and biological weapons; and

Third, to establish a meaningful mandatory sanctions regime against country and company violators.

H.R. 3409 was simply the latest legislative expression of that effort and the provision in House Resolution 287 complements that effort by adding import sanctions. Both provisions reiterate the strong conviction in Congress that, whenever chemical and/or biological weapons are used or the capability to produce them is passed on, sanctions should be imposed by the United States and the world community.

The chemical weapons sanctions legislation of H.R. 3409 and the similar provision contained in House Resolution 287 both recognize the practical necessity of granting the President adequate flexibility and discretion in imposing sanctions. For example, the legislation specified that the President can waive the imposition of sanctions on a country violator if he determines that it is essential to the national security interests of the United States not to implement the sanctions in that particular case. However, in order for that waiver to take effect, there must be concurrence of the chairman of the Senate Foreign Relations Committee, the chairman of the House Foreign Affairs Committee, and the ranking minority members of both committees.

This waiver is keyed to the House Foreign Affairs Committee's normal reprogramming procedures for foreign aid—section 634A of the Foreign Assistance Act—and allows the committee to review, judge, and, if necessary, put a hold on the President's waiver decision.

This legislation also grants authority to the President to waive the country sanctions if he determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of the sanctioned country and notifies the Congress at least 20 days before the waiver takes effect.

This legislation underscores the importance of U.S. leadership in unilateral and multilateral efforts to stop the proliferation of chemical and biological weapons and the need for stronger and more effective actions to sanction violations of international law.

The legislation specifies that the President is to impose sanctions on foreign persons who have knowingly and materially contributed to efforts by certain countries, projects, or entities to use, develop, produce, stockpile, or acquire chemical or biological weapons. It urges the President to undertake consultation with the country or jurisdiction in order to secure corrective action. It permits the President to delay imposition of sanctions against a foreign person for up to 90 days to pursue consultations and corrective action. It requires the President to report within 90 days after his determination on the status of the consultations. It applies sanctions, Government procurement and import sanctions, for at least 12 months, after which the sanctions can be terminated if the President determines and certifies that the violations have ceased. It also provides for a Presidential waiver after 12 months, based on the President's determination that the waiver is important to the national security of the United States.

A two-tier sanctions regime is established by the legislation to be applied against countries which use chemical or biological weapons in violation of international laws, make substantial preparation to do so, or develop, produce, or stockpile biological weapons in violation of international law.

Under this two-tier sanctions regime the President would be required to impose immediately after his determination all U.S. Government-associated sanctions: Foreign assistance, arms sales, arms sales financing, government credits or financial assistance, and exports of national security-sensitive goods and technology. Three additional sanctions out of six possible sanctions—multilateral development bank assistance, bank loans, further export restrictions, import restrictions, diplomatic relations, landing rights—are to be imposed unless, within 3 months after the President's determination that a violation has occurred, the President certifies that the government in question has ceased its use of chemical weapons, is no longer violating international law, has provided assurances regarding future violations, and is willing to allow inspections. The President can remove the country sanctions after 12 months if he determines and can certify these same changes in conduct by the government in question.

I urge support of this chemical weapons sanctions provision in House Resolution 287 which, if adopted and signed by the President, would make complete the legislative effort begun 3 years ago to sanction Iraq or any other country or individual for any efforts to proliferate, develop, or use chemical or biological weapons. The goal of the Foreign Affairs Committee's legislation on chemical weapons sanctions was then in the case of Iraq, and is now in the case of all other countries and individuals, to express the strong feeling that whenever chemical or biological weapons are used or the capability to produce them is passed on, Congress disapproves and presumes that sanctions will be firmly imposed.

Mr. SANTORUM. Mr. Speaker, I rise reluctantly in opposition to this bill. I am a cosponsor of the legislation being considered, but disagree with a provision of the unemployment compensation rider attached to the bill. It is difficult for me to stand and urge my colleagues to oppose the bill. While I am supportive of free trade, especially in this time of an improved international situation, I must vote against the legislation due to the impact of the unemployment compensation provisions on the unemployed in my State of Pennsylvania.

I wholeheartedly agree with the Members who have mentioned during the debate that this is not a responsible way to pass trade or unemployment compensation legislation. Unfortunately, the Senate has forced us to handle the unemployment compensation bill in this fashion. By insisting on wholesale changes to the House-passed bill and attaching unemployment compensation bill provisions to trade legislation, Members of this Chamber are now in the uncomfortable situation of considering legislation in a manner that is beyond the scope of normal House procedure.

Mr. Speaker, I welcomed consideration of H.R. 3575, the Federal Supplemental Compensation Act. I was encouraged that an unemployment compensation bill was put before the House that paid for itself and was in strict compliance with the last year's budget agreement. I voted for passage of H.R. 3575 last Thursday with the assurance that those Pennsylvanians eligible for extended benefits would receive benefits expeditiously. The action taken by the Senate, however, assists low unemployment States at the expense of high unemployment States like Pennsylvania. By elevating low unemployment States from 6 to 13 weeks of extended benefits and by shortening the time period that the bill is effective, Pennsylvanians will receive 1 month less of extended benefits than they were entitled to under H.R. 3575.

Mr. Speaker, I cannot understand why any Member from a State with high unemployment can support this provision. I am a cosponsor of the trade legislation that we are considering. Unfortunately, with the Senate attaching this irresponsible provision reducing unemployment benefits for Pennsylvanians, I must vote against passage of the bill. I urge my colleagues to take a closer look at the bill before voting.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OBEY). All time has expired.

The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and agree to the resolution, House Resolution 287.

The question was taken.

Mr. ROSTENKOWSKI. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on both motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order: House Joint Resolution 346, de novo; and House Resolution 287, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

APPROVING EXTENSION OF NONDISCRIMINATORY TREATMENT WITH RESPECT TO PRODUCTS OF THE UNION OF SOVIET SOCIALIST REPUBLICS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, House Resolution 346.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the joint resolution, House Joint Resolution 346.

The question was taken.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 350, nays 78, not voting 6, as follows:

[Roll No. 410]

YEAS—350

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lightfoot
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solarz
Spence
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Zeliff
Zimmer

NAYS—78

Allen
Andrews (NJ)
Applegate
Bennett
Bentley
Bunning
Burton
Callahan
Chapman

Coble
Condit
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
English
Erdreich
Gallegly
Geren
Gillmor
Goss
Hall (TX)
Hancock
Herger
Holloway
Hopkins
Hubbard
Hunter
Inhofe
James
Kyl
Lewis (FL)
Lipinski
Lloyd
McCandless
McCollum
McEwen
McNulty
Moorhead
Myers
Neal (NC)
Packard
Pallone
Parker
Patterson
Paxon
Porter
Quillen
Ramstad
Rhodes
Rohrabacher
Ros-Lehtinen
Russo
Schaefer
Schumer
Snowe
Solomon
Staggers
Stearns
Stump
Taylor (MS)
Traficant
Valentine
Vucanovich
Walker
Weber
Wolf
Young (FL)

NOT VOTING—6

Ford (TN)
Hatcher
Lewis (GA)
Mrazek
Towns
Waters

□ 1525

Messrs. VALENTINE, DREIER of California, DELAY, ROHRABACHER, HERGER, PARKER, GEREN of Texas, ALLEN, and HUBBARD changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OBEY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

TERMINATION OF JACKSON-VANIK PROVISIONS OF TRADE ACT OF 1974, AND PERMANENT EXTENSION OF MOST-FAVORED-NATION TREATMENT TO HUNGARY AND CZECHOSLOVAKIA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 287.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and agree to the resolution, House Resolution 287.

The question was taken.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 21, not voting 6, as follows:

[Roll No. 411]

YEAS—407

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—21

Archer
Armey
Burton
Combest
Coughlin
Crane
Dannemeyer
DeLay
Doolittle
Fields
Hancock
Hunter
Johnson (TX)
Quillen
Santorum
Schulze
Stearns
Stump
Taylor (MS)
Walker
Weldon

NOT VOTING—6

Ford (TN)
Hatcher
Lewis (GA)
McHugh
Mrazek
Towns

□ 1534

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 355, RECLAMATION STATES EMERGENCY DROUGHT RELIEF ACT OF 1991

Mr. MILLER of California. Mr. Speaker, pursuant to clause 1 of rule XX, and by direction of the Committee on Interior and Insular Affairs, I move to take from the Speaker's table the bill (H.R. 355) to provide emergency drought relief to the reclamation States, and for other purposes, a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. OBEY). The question is on the motion offered by the gentleman from California [Mr. MILLER].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Speaker will appoint conferees upon his return to the chair.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 353

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent that the name of the gentleman from North Carolina [Mr. MCMILLAN] be withdrawn as a cosponsor of House Joint Resolution 353.

The SPEAKER pro tempore. (Mr. MFUME). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT OF 1991

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 278 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 278

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of bill (H.R. 2130) to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space and Technology, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an amendment in the nature of a substitute consisting of the text of H.R. 3704, as modified by the amendments printed in section 2 of this resolution, as an original bill for the purpose of amendment under the five-minute rule, and said substitute shall be considered as having been read. No amendment to said substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified, shall be considered as having been read, and shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report of the Committee on Rules. Where the report of the Committee on Rules specifies consideration of amendments en bloc, then said amendments shall be so considered, and such amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order at any time for the chairman of the Committee on Merchant Marine and Fisheries, or his designee, to offer amendments en bloc consisting of amendments, and modifications in the text of any amendment which are germane thereto, printed in the report of the Committee on Rules. Such amendments en bloc, except for any modifications, shall be considered as having been read and shall be debatable for not to exceed thirty minutes, with fifteen minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, and with fifteen minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space and Technology. All points of order against the amendments en bloc are hereby waived. The original proponents of the amendments en bloc shall have permission to insert statements in the Congressional Record immediately before disposition of the amendments en bloc. Such amendments en bloc shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. On page 54, line 20, delete "(a)". On page 54, line 21, delete "a qualified" and insert in lieu thereof "an". On page 55, strike lines 1 through 7.

□ 1540

The SPEAKER pro tempore (Mr. MFUME). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 278 is a modified open rule providing for the consideration of H.R. 2130, authorizing appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992. The rule provides for 1 hour of general debate—30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology.

The rule makes in order an amendment in the nature of a substitute consisting of the text of H.R. 3704 to be considered as an original bill for the purpose of amendment.

The resolution further makes in order only those amendments printed in the report accompanying the rule. All amendments are to be considered in the order and manner specified and for the time specified.

It should be noted that the rule does make in order all the amendments prefiled with the committee. Finally, the rule also provides for one motion to recommit with or without instructions.

Mr. Speaker, House Resolution 278 is a good and fair rule which allows for full and orderly consideration of the issues related to the National Oceanic and Atmospheric Administration programs. I urge the adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the chairmen and ranking republican members of both the Merchant Marine and Fisheries Committee and the Science, Space, and Technology Committee for putting this compromise together.

Mr. Speaker, the bill made in order by this rule is important legislation. It provides for a 2-year authorization for programs such as the National Weather Service, which is responsible for weather forecasts along with hurricane, tornado, and flash flood warnings and alerts.

This compromise measure provides the authorization for acquisition of the next-generation weather radar system. This is a public warning and forecast system designed to replace the current short-term warning and forecast system.

Mr. Speaker, for those of us who have weather service field offices and are concerned about their possible closure, I would like to point out that this measure continues current law which requires the Department of Commerce to submit an annual plan to Congress for modernization of the Weather Service. The bill requires that the Commerce Department certify that closure will not degrade weather services before closing a field office. It also makes radar systems subject to these certification requirements by prohibiting the removal of any radar system before a replacement system is operating.

Mr. Speaker, normally I am not supportive of a rule which restricts the ability of Members to offer amendments. I do, however, understand the time constraints we are under here at the end of the session. The rule before us today allows for consideration of all the amendments which were submitted by Members to the Rules Committee. Therefore, I will support the rule and urge its adoption so that the House can get down to business and move this legislation.

Mr. Speaker, I have a Weather Service field office in my district, and it is scheduled to be closed. It should not be closed because of the hazardous situation there, and I am going to fight to keep it open and I need my colleagues' help.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2130 authorizes funds for a range of programs and services, from the National Marine Fisheries Service and the National Ocean Service to the National Weather Service and satellite programs.

Our colleagues from both sides of the aisle and the committees of jurisdiction have worked diligently to arrive at the compromise before this body today, and I know we all appreciate their efforts.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MFUME). Pursuant to House Resolution 278 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2130.

The Chair designates the gentleman from Illinois [Mr. DURBIN] as Chairman of the Committee of the Whole and requests the gentleman from Missouri [Mr. VOLKMER] to assume the chair temporarily.

□ 1545

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2130) to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992, with Mr. VOLKMER, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. VOLKMER). Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. HERTEL] will be recognized for 15 minutes; the gentleman from Virginia [Mr. BATEMAN] will be recognized for 15 minutes; the gentleman from California [Mr. BROWN] will be recognized for 15 minutes; and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring before the House reauthorization legislation for the National Oceanic and Atmospheric Administration, H.R. 2130. The bill before us includes recommendations of the Merchant Marine and Fisheries Committee and the Science, Space, and Technology Committee. These recommendations are combined and offered as original text for purposes of amendment. That original text is incorporated into H.R. 3704.

As chairman of the Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf of the Merchant Marine and Fisheries Committee and on behalf of our esteemed Chairman WALTER B. JONES, it is my pleasure to present this 2-year reauthorization of research, management, and technical assistance programs coordinated by the National Oceanic and Atmospheric Administration.

Through a variety of programs which I will summarize, NOAA manages our Nation's ocean, coastal, and Great Lakes resources in a responsible, balanced approach that ensures the enjoyment and the preservation of our rich and fragile natural resources.

The Merchant Marine and Fisheries Committee developed a consensus of priorities for NOAA in H.R. 2130 for fiscal years 1992 and 1993. These include specific programs under the National Ocean Service; the National Marine Fisheries Service; Ocean and Atmospheric Research; the National Weather Service; and National Satellite, Data and Information Service; and Program Support.

There are a number of key areas given priority in the authorization act. Various observation and assessment projects for determining the impact of human development on our coastal, Great Lakes, and ocean resources—including wetlands, salinity, and water level management. Fisheries programs under the bill include information collection, analysis, and conservation and management operations—including a number of studies that will enhance fisheries productivity, safeguard against diseases, prevent catch errors, and manage protected species.

Ocean and atmospheric research programs focus on global climate change, climate services systems, and cooperation and exchange of scientific information among universities and institutes on various undersea and Great Lakes research programs.

National weather service, environmental satellite, and data information service modernization and operations improvements are recommended in H.R. 2130. Facilities acquisition, construction and maintenance of NOAA facilities, and modernization of the NOAA oceanographic fleet are funded in this legislation.

Additional recommendations for streamlining administrative activities, auditing damage assessments, encouraging continued widespread use of nautical charts by freezing prices, promoting remote sensing ocean satellite technologies, eliminating aquatic nuisances, and developing cooperative fisheries research, are included in the bill.

Each of the provisions described generally is specified with a separate authorization level for fiscal years 1992 and 1993, as included in the respective reports of the Merchant Marine and Fisheries Committee and the Science, Space, and Technology Committee (Report 101–133, parts 1 and 2). The total for programs authorized in H.R. 2130 is $1.67 billion in fiscal year 1992 and $1.7 billion in fiscal year 1993, allowing for inflationary adjustment.

Reported from the Merchant Marine and Fisheries Committee on June 26, 1991, and the Science, Space, and Technology Committee on August 2, 1991, H.R. 2130 represents a thorough examination of the programs and presentation of improvements to NOAA. I am pleased to recommend this bill to our colleagues for approval.

□ 1550

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. VOLKMER). The gentleman from Michigan [Mr. HERTEL] has consumed 4 minutes.

Mr. BATEMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support H.R. 2130, the bill reported by the Merchant Marine and Fisheries Committee.

Mr. Chairman, this bill, and the amendment in the nature of a substitute made in order by the rule, is the result of a bipartisan effort. The bill authorizes funding for fiscal years 1992 and 1993, for programs in the National Ocean Service, National Marine Fisheries Service, Office of Oceanic and Atmospheric Research, National Weather Service, and the National Environmental Satellite, Data, and Information Service. The bill also authorizes funding for much needed program support and facilities, including authority to modernize NOAA's fleet. The bill also contains provisions for "Buy America" for NOAA vessels, and for making the NOAA financial assistance process more efficient.

H.R. 2130, as amended, also establishes an office within NOAA to expand and strengthen NOAA's role in restoring and protecting the Chesapeake Bay. The office would coordinate the on-going and planned programs and activities in the bay in the areas of coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessment; data management; remote sensing; coastal management; and habitat conservation. The office also would identify technical and management alternatives for restoring and protecting living resources and the habitats they depend upon, and provide technical assistance where needed.

Mr. Chairman, the total authorization contained in this legislation for fiscal year 1992 is $1.675 billion—only slightly above what the President requested. The bill provides for the modest 4-percent increase in fiscal year 1993.

Mr. Chairman, knowledge about the Nation's environment—the air we breathe, the coastal areas that provide critical habitat for plants and animals—including the two-legged variety—the oceans that serve as regulators of climate and weather, media for commerce and trade, and provide habitat for a variety of marine life—such knowledge is absolutely necessary if we are to keep our environment clean, safe, and productive for future generations. This legislation provides the funding necessary to continue the United States' pursuit of such knowledge.

I encourage all of my colleagues in the House to vote in favor of H. 2130. It is a sound investment in our future.

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2130, the National Oceanic and Atmospheric Administration Authorization Act of 1991.

I would like to thank many distinguished Members for their work and collaboration on this bill: Congressman WALTER JONES, chairman of the Committee on Merchant Marine and Fisheries; Congressman ROBERT DAVIS, ranking Republican of the Committee on Merchant Marine and Fisheries; Congressman HERBERT BATEMAN, ranking Republican of the Oceanography and Great Lakes Subcommittee; and particularly Congressman DENNIS HERTEL, chairman of the Oceanography and Great Lakes Subcommittee; and floor manager of this bill.

On the Science, Space, and Technology Committee, I want to thank: Congressman JAMES SCHEUER, chairman of the Subcommittee on Environment; and Congressman DON RITTER, ranking Republican member of the Subcommittee on Environment.

I also want to recognize Congressman ROBERT WALKER, ranking Republican member of the committee, for his diligent attention to this legislation.

I thank them all for their hard work in bringing this legislation before the House of Representatives today.

Mr. Chairman, it is critical that we authorize sufficient funds to enable the National Weather Service to modernize its vintage equipment. The equipment currently in use by the National Weather Service is outdated, outmoded, and in many cases, unreliable and sometimes inoperable.

The bill before us today provides funding authorization for the continued operation of all weather service offices and the simultaneous modernization of weather forecasting technology. We believe this is an essential investment.

In addition, the legislation contains funding for all scheduled weather satellite procurements, including operational support to enable the United States to use the European meteosat weather satellite should that be necessary; construction and launch of the landsat 6 satellite; as well as authorization to begin procurement of long-lead parts for landsat 7; and expanded oceanic and atmospheric research in support of the Global Climate Change Program.

Mr. Chairman, we are powerless to prevent the devastation and destruction of severe weather. In addition, we are extremely limited in our understanding of global climate change.

The programs we authorize through NOAA will help us protect our citizens in the wake of severe weather, and educate us to better predict and to mitigate the impact of global climate change.

I urge my colleagues to support this important authorization legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. WALKER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, as the Science Committee Republican manager of this bill, I rise in support of House passage with the inclusion of a consensus en bloc amendment to be offered by Oceanography Subcommittee Chairman HERTEL and myself.

With the adoption of this amendment, the NOAA bill will provide both the program blueprint for Federal management of our marine resources and weather services over the next 2 years, while firmly recognizing the fiscal realities that make budget discipline imperative.

At this point, I would like to thank Chairman MOAKLEY and Republican Chairman SOLOMON for being so receptive to the request made by Environment Subcommittee Republican Chairman DON RITTER and myself and for providing the time and impetus to the authorizing committees to produce this consensus package. I'd especially like to recognize the efforts of Chairman HERTEL and his staff and the Oceanography Subcommittee Republican chairman, HERB BATEMAN, and his staff, for their efforts to work this out. I think this is a product of which we can all be proud.

The NOAA bill we are considering today, like the legislation reported out of the Science Committee back in May, is at the level of the President's budget request for NOAA's dry programs—those under the jurisdiction of the committee on which I serve. This calls for just over $1 billion in fiscal year 1992 to provide weather forecasting, operate environmental satellites and conduct atmospheric research including work on the question of global and; 1992 funding of these programs in the recently enacted Commerce appropriations bill is within about $20 million of this level and follows the authorization fairly closely. The 1993 levels are then responsibly authorized at just 4 percent above the 1992 amounts.

There are two key elements in terms of budget control in this legislation that deserve mention. First, as part of the consensus amendment to be offered by the Science and Merchant Marine Committees, total funding for both fiscal years 1992 and 1993 is set at levels below the amounts that the individual authorizations add up to in the bill. This still allows the appropriators to fully fund programs, it just can't max out on every one. This will limit runaway spending and is a somewhat unprecedented, but very healthy change in the authorization process.

The other budget control mechanism in H.R. 3704 is the use of complete project authorizations for the modernization of the weather service. While these provisions support the modernization initiative with resources through completion toward the turn of the century in the interest of public safety, they do so within multiyear funding caps from 1993 on out, based on the administration's own estimates. If the new doppler radars, automated surface observing system, or two new series of weather satellites can't be built on budget, on time, and to spec, then the money authorized in this Act is not available. At that point, the Secretary of Commerce would have to come to Congress and justify any changes. This is an approach I know full committee Chairman BROWN and I are very interested in using in other measures to get a handle on these big, capital-intensive, technology programs.

Mr. Chairman, in light of these very commendable aspects to the NOAA bill before us today, this legislation advances the NOAA mission in a responsible manner and I support it. The en bloc consensus amendment, taken together with the self-executing portion of the rule requested by Mr. SOLARZ, makes important changes that Mr. RITTER and I felt were needed before this legislation reached the floor. I must be honest, however, and point out that we have not addressed all the objections outlined in the statement of administration position and we may well still face a veto threat on this bill. But Chairman HERTEL and I agree that outstanding objections can still be addressed during the eventual conference with the Senate.

□ 1600

Mr. HERTEL. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES], chairman of the Committee on Merchant Marine and Fisheries.

Mr. JONES of North Carolina. Mr. Chairman, I support H.R. 2130, the National Oceanic and Atmospheric Administration Authorization Act of 1991. This bill authorizes programs of the National Oceanic and Atmospheric Administration [NOAA] for fiscal years 1992 and 1993.

The chairman of our Oceanography, Great Lakes, and the Outer Continental Shelf Subcommittee, Mr. HERTEL, introduced H.R. 2130 on April 30, 1991, to provide comprehensive authorization for NOAA activities. The bill was referred jointly to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology. On June 26, 1991, H.R. 2130 was referred sequentially to the Committees on Ways and Means and Interior and Insular Affairs for a limited period of time. The Committee on Ways and Means reported the bill with amendments, which are included in the substitute amendment made in order as original text under the rule.

The bill before you today represents a compromise negotiated in good faith between the two primary committees of jurisdiction. As you will hear from my colleagues on the other side of the aisle, H.R. 2130 enjoys strong bipartisan support from the Merchant Marine and Fisheries Committee.

The bill authorizes $1.68 billion for fiscal year 1992 and $1.74 billion for fiscal year 1993. This includes $631.4 million in fiscal year 1992 and $657.3 million in fiscal year 1993 for ocean, coastal, and fisheries programs: such as Coastal Zone Management, the National Sea Grant College Program, and the National Marine Sanctuaries Program. In addition, the bill provides authorizations for marine fisheries programs that are not authorized under other laws.

The programs authorized in this bill are important for the Nation. But I would like to focus briefly on their importance to my State.

North Carolina derives many economic, environmental, and health benefits from NOAA programs. Funds in this bill will support important fisheries research at the National Marine Fisheries Service Laboratory in Beaufort, NC. The bill also authorizes the Cooperative Institute of Fisheries Oceanography [CIFO] involving NOAA, Duke University, and the Consolidated University of North Carolina. CIFO will provide enhanced cooperation and research on fisheries and oceanography problems of interest to North Carolina and the entire southeast. In addition, the Coastal Ocean Science Program supports numerous researchers in North Carolina working on projects ranging from satellite monitoring of ocean conditions to seagrass and marsh restoration.

H.R. 2130 also reflects my continuing support for the NOAA fleet of research, mapping, and charting vessels by authorizing $50 million in fiscal year 1992 and $52 million in fiscal year 1993, to start the revitalization of this fleet. NOAA has just completed a year-long study which concluded what many of us have long known—the entire fleet is in a state of disrepair and obsolescence. Unless NOAA acts immediately to replace and modernize these vessels, there will not be a NOAA fleet in the 21st century and, without these ships, NOAA cannot hope to carry out its vital oceanographic and research functions, such as mapping and charting U.S. coastal and ocean waters, monitoring ocean indices of global climate change, and assessing the state of our fisheries stocks. The NOAA fleet is vital to NOAA's basic missions.

While NOAA has now determined that the fleet is in trouble, it has not developed a plan to fix it. H.R. 2130 requires NOAA to submit a detailed fleet replacement and modernization plan for congressional review. Until the plan is submitted, NOAA cannot enter into a contract for a new vessel.

The NOAA study acknowledges that one way for the agency to fulfill its fleet requirements is to maximize cooperation with other research fleet operators. One operator that shares many of NOAA's research missions is the University-National Oceanographic Laboratory System [UNOLS]. At present, the UNOLS fleet has excess capacity, which NOAA could utilize—either through charter or joint cruises—to compensate for its shortage of ship time. I encourage NOAA to coordinate with UNOLS and other Federal oceanographic fleets, including the Navy, to meet the research requirements of all parties. H.R. 2130 provides the necessary authority to enter into cooperative agreements with UNOLS and the Navy.

Finally, a great clamor has been raised in some quarters over the administration's objections to this legislation. I would like to respond to some of those objections.

The administration objects to prohibiting NOAA from deactivating any more research vessels until it is ready to replace them. Mr. Speaker, if this is a crime, we are guilty as charged. NOAA freely admits that the number of days its ships spend at sea is well under those needed by its researchers. The Committee on Merchant Marine and Fisheries will not permit further reductions in fleet capacity until replacement ships are available.

The administration also objects to a requirement that new NOAA vessels be built in American shipyards. Mr. Chairman, we are guilty on this count as well. There is no reason for American taxpayers' dollars to be spent in foreign shipyards. In this period of recession and unemployment, I do not understand why the President would want to send money and jobs to foreign shipbuilders.

The administration says that the bill requires NOAA ships to be interoperable with Navy vessels. To this charge, we must plead not guilty. This provision requires only that NOAA consult with the Navy on measures that would make its vessels interoperable. We are not talking about mounting eight-inch guns on the deck of fish trawlers, Mr. Chairman. What we are talking about is compatible radio and other equipment that would make the coordinated response and clean up of an oilspill, such as the spill that occurred in the Persian Gulf, easier and more efficient. In addition, NOAA vessels can be transferred to the Navy in times of war or national emergency, making this requirement important for our security needs.

The administration complains that the bill infringes on the right of the Secretary of Commerce to ensure that public funds are spent in a financially sound manner. On the contrary, the only infringement is on the right of the Department of Commerce to obstruct the timely obligation of funds for nondiscretionary assistance programs, such as funding for regional fisheries management councils. We bypass the Financial Assistance Review Board [FARB] in the substitute amendment. The FARB has been used by the Department of Commerce to obstruct the will of the Congress that these funds be available in a timely fashion for the purposes for which they were appropriated. A compromise amendment that will be offered to the substitute will allow the FARB 90 days to review proposals approved by NOAA. This amount of time should be more than ample for review of nondiscretionary financial assistance.

Lastly, the bill contains a provision permitting NOAA to recoup certain base costs associated with response, cleanup, and damage assessment following oil or hazardous substance spills. This provision would not affect the amount of money going into the Oil Spill Liability Trust Fund nor would it change the purposes for the expenditure from that fund as provided in 26 U.S.C. 9509(C). The provision simply provides that these reimbursements are not to be considered an augmentation of appropriations.

I would like to thank Mr. HERTEL for introducing this legislation and bringing it to the floor. I also would like to thank Chairman GEORGE BROWN and Environment Subcommittee Chairman JIM SCHEUER, and their ranking minority members, BOB WALKER and DON RITTER, of the Committee on Science, Space, and Technology for their cooperation in developing a compromise bill and for their determination in bringing a comprehensive NOAA authorization bill to the floor. It makes sense, as a matter of public policy, to put aside considerations of jurisdiction, to the extent possible, and authorize all of NOAA's programs in one bill. I urge the support of the House for passage of this important authorizing legislation.

Mr. BATEMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS] for purposes of engaging in a colloquy with the gentleman from Michigan [Mr. HERTEL], the distinguished subcommittee chairman.

Mr. FIELDS. Mr. Chairman, I wonder if the chairman of the Oceanography, Great Lakes, and the Outer Continental Shelf Subcommittee would respond to a brief question on H.R. 2130.

Mr. HERTEL. Mr. Chairman, if the gentleman will yield, I would be glad to.

Mr. FIELDS. Mr. Chairman, of the amount that is authorized for the National Ocean Service, isn't it true that $750,000 has been earmarked to be used to obtain updated current and water level data for Galveston Bay and the Houston ship channel to improve navigation safety, oilspill response, search and rescue and environmental management?

Mr. HERTEL. Mr. Chairman, if the gentleman will yield, the gentleman is correct.

Mr. FIELDS. Mr. Chairman, I am pleased that funds have been authorized for this important effort. The Houston ship channel, which is 50 miles long, is a narrow and fairly dangerous waterway. The National Ocean Service is currently making its predictions of astronomically-induced tides based on data collected in 1963. Since this channel has changed dramatically over the past 28 years, existing tables do not begin to adequately satisfy the informational requirements of those who transit this waterway.

By updating its database—which will include the collection of new current, water level and meteorological information—the National Ocean Service will be able to improve navigation safety, expedite hazardous material and oilspill response, and ensure timely search and rescue efforts by the U.S. Coast Guard.

This project has been enthusiastically endorsed by the Houston/Galveston Navigation Safety Advisory Committee, which is an organization compromised of members representing shippers, stevedores, the U.S. Coast Guard, and maritime labor.

This authorization is most appropriate and it will provide the National Oceanic and Atmospheric Administration with substantially improved data. I am hopeful that this legislation will soon be enacted into law.

Mr. BROWN of California. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SCHEUER], the distinguished chairman of the Subcommittee on Environment of the Committee on Science, Space, and Technology.

Mr. SCHEUER. Mr. Chairman, I am pleased to join my colleagues on the Committee on Merchant Marine and Fisheries in support of H.R. 2130, the National Oceanic and Atmospheric Administration Act of 1991. H.R. 2130 reflects the combined efforts of several committees, particularly the Committee on Science, Space, and Technology and the Committee on Merchant Marine and Fisheries.

I would like to commend the gentleman from Michigan [Mr. HERTEL] chairman of the Oceanography and Great Lakes Subcommittee, and the gentleman from Virginia [Mr. BATEMAN], the ranking minority member of that subcommittee, for their hard work on this important legislation.

Mr. Chairman, H.R. 2130 authorizes the programs of the National Oceanic and Atmospheric Administration for fiscal years 1992 and 1993, including the National Weather Service; the National Environmental Data, Satellite, and Information Service; the National Ocean Service, NOAA Fisheries programs; Oceanic and Atmospheric Research, and program support activities.

H.R. 2130 provides the authorizations necessary to enable the National Weather Service to modernize its technology through the procurement of the Nexrad Doppler weather radar system. The Nexrad radar, in recent tests, was able to identify tornado development near Wichita, KS, even though the radar was located over 160 miles away near Norman, OK.

H.R. 2130 also authorizes the funds for the geostationary weather satellite system, while assuring that the Geosnext satellites meet specifications and are fully tested before launch.

Mr. Chairman, the Geos weather satellite contractor, the Loral Corp., is doing a good job in turning this program around. When Loral bought Ford Aerospace, they inherited a satellite development program that had been neglected by NASA, had not undergone the normal technology feasibility tests, and was already over budget and behind schedule.

Loral has put together a first class team to remedy these deficiencies and has devoted significant funds of their own to solve the problems with the sensors. They have dramatically increased the professional talent and technical expertise of the engineers working on this program.

I am confident that Loral will be able to make this satellite program a success with a more realistic launch schedule and with complete testing of the satellite components before launch.

Mr. Chairman, H.R. 2130 also provides the authorization for NOAA's Global Climate Change Research Program. This program is critical to our understanding of the complex interactions of the ocean and the atmosphere under the stress of global warming.

The Committee on Science, Space, and Technology has worked very closely with the Committee on Merchant Marine and Fisheries to bring a comprehensive NOAA authorization bill to the full House of Representatives. The need to proceed with a comprehensive authorization bill is particularly important in view of NOAA's plans to modernize and improve its weather and satellite services and to study important phenomena such as global climate change.

Mr. Chairman, it concerns me that the administration decided to issue a veto threat on this important legislation just hours before it was considered by the Rules Committee. It is interesting to note some of the provisions which concerns the administration.

The veto threat was issued because the bill requires the Secretary of Commerce to provide assurance to Congress that the weather satellites meet technical specifications before they are launched.

The veto threat was issued because the bill requires the Secretary of Commerce to provide assurance to Congress that the new weather service technologies work before they are put into service.

If problems develop in these programs, all the Secretary of Commerce has to do is to inform the Congress. That is how it should work. Congress should be kept informed on the status of these important programs.

Mr. Chairman, these are not reasons to veto a bill, but they do seem to illustrate the lack of sound management at the Department of Commerce.

Perhaps it is time that we free NOAA from the shackles of Commerce and make it an independent agency.

Mr. Chairman, this is a good bill and it deserves our support. I urge my colleagues to vote in favor of H.R. 2130.

Mr. WALKER. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I want to rise in support of H.R. 2130, along with my colleagues, as it will be amended by the joint committee substitute and the Walker-Hertel en bloc compromise amendment.

☐ 1610

I want to thank the chairman and the ranking Republican member of the full Committee on Science, Space, and Technology, the gentleman from California [Mr. BROWN], and the gentleman from Pennsylvania [Mr. WALKER], for their hard work on this, and I especially want to commend the chairman of the Subcommittee on Environment, the gentleman from New York [Mr. SCHEUER], for his dedication over the years to ensuring that NOAA has the resources to carry out its important mission of environmental monitoring and protection.

I also want to thank the members of the Committee on Merchant Marine and Fisheries for their efforts in bringing this bill before us today.

Mr. Chairman, this bill authorizes funding for the fiscal years 1992 and 1993 for NOAA. NOAA's commitment to studying and protecting our atmosphere and ocean and coastal resources is a critical part of the Federal effort to safeguard our environment for the benefit of our children and our grandchildren.

I would like to highlight some of NOAA's important contributions to improving our understanding of our environment.

Among other activities, NOAA's Office of Oceanic and Atmospheric Research is analyzing fundamental scientific issues of global climate change.

My colleagues, there is still enormous scientific uncertainty about the rate and the magnitude of global climate change. We are all very familiar with the apocalyptic predictions of disaster from global warming, but, frankly, at this time we do not even know whether global warming as a result of greenhouse gases generated by human, so-called anthropogenic greenhouse gases is occurring.

Substantially more research is needed to establish the solid scientific foundation for action.

So I am pleased to support NOAA's linchpin role in the U.S. global change research program.

Research performed by NOAA's scientists will help address the greatest question marks in the global climate change equation, the roles of the oceans and the clouds.

Satellite-based remote sensing is another important activity of NOAA's. The data attained from NOAA's satellites plays a key role in a range of everyday activities we sometimes take for granted, like weather forecasting, mapping, agriculture, and was a major factor in our winning strategy in the Persian Gulf conflict.

This bill provides support for NOAA's satellites and for procurement of long-lead-time parts for the construction of Lands-at7. The bill also provides unique mechanisms to ensure that costs on major NOAA satellite programs can be held within reason.

Another vital NOAA Program is the National Weather Service. Unfortunately, the National Weather Service is forced to rely on vintage technology dating from the 1950's. H.R. 2130 provides funding to continue the modernization program of the Weather Service, including the acquisition of sophisticated equipment such as Nexrad, the next generation of weather radar.

Mr. Chairman, I am especially pleased that the bill combines a commitment to responsible protection of our environment with a sense of fiscal responsibility. The caps placed in this bill under the compromise agreement to be offered yet today would limit overspending and provide reasonable guidance to the appropriators.

Mr. Chairman, I reiterate my support for this bill and look forward to working with the House and Senate leadership to bring a bill to the President for his approval.

Mr. Chairman, I rise to join my colleagues in support of H.R. 2130, the NOAA Authorization Act of 1991, as it will be amended by the joint committee substitute and the Walker-Hertel en bloc compromise amendment. I wish to thank the chairman and ranking Republican member of the Science, Space, and Technology Committee, Mr. BROWN and Mr. WALKER, for their hard work on this bill, and I especially wish to commend the chairman of the Subcommittee on Environment, Mr. SCHEUER, for his dedication over the years to ensuring that NOAA has the resources to carry out its important mission of environmental monitoring and protection.

I also wish to thank the members of the Merchant Marine and Fisheries Committee for their efforts in bringing this bill before us today.

This bill authorizes funding for fiscal years 1992 and 1993 for the National Oceanic and Atmospheric Administration. NOAA's commitment to studying and protecting our atmosphere and ocean and coastal resources is a critical part of the Federal effort to safeguard our environment for the benefit of our children and grandchildren.

I would like to highlight some of NOAA's many important contributions to improving our understanding of our environment.

Among other activities, NOAA's Office of Oceanic and Atmospheric Research is analyzing fundamental scientific issues of global climate change. There is still enormous scientific uncertainty about the rate and magnitude of global climate change. We are all familiar with the apocalyptic predictions of disaster from global warming, but we do not even know, at present, whether global warming as a result of greenhouse gases generated by humans is occurring. Substantially more research is needed to establish the solid scientific foundation for action, and I am pleased to support NOAA's linchpin role in the U.S. global change research program. Research performed by NOAA scientists will help address the greatest question marks in the global climate change equation: The role of the oceans and clouds.

Satellite-based remote sensing is another of NOAA's important activities. The data obtained from NOAA satellites plays a key role in a range of everyday activities, like weather forecasting, mapping, and agriculture, and was a major factor in our winning strategy in the Persian Gulf conflict. This bill provides support for NOAA's satellites, and for procurement of long-lead time parts for the construction of Landstat-7. This bill also provides unique mechanisms to ensure that costs on major NOAA satellite programs can be kept within reason.

Another vital NOAA Program is the National Weather Service. Unfortunately, the National Weather Service is forced to rely on vintage technology dating from the 1950's. H.R. 2130 provides funding to continue the modernization program of the Weather Service, including the acquisition of sophisticated equipment such as the Nexrad [next generation weather radar].

I am especially pleased that this bill combines a commitment to responsible protection of our environment, with a sense of fiscal responsibility. The caps placed in this bill, under the compromise amendment to be offered today, would limit overspending, and provide reasonable guidance to the appropriators.

Mr. Chairman, I wish to reiterate my support for this bill. I look forward to working with the House and Senate leadership to bring a NOAA bill to the President for his approval.

Mr. HERTEL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding this time to me.

I take the floor to engage the gentleman from Michigan [Mr. HERTEL] in a colloquy.

Mr. Chairman, I want to congratulate the gentleman from Michigan [Mr. HERTEL] and the ranking member and all those who are involved in bringing this reauthorization bill to the floor.

I think the two great frontiers of the future are the oceans and our atmosphere and NOAA is the one agency that can help direct our policy on both of those frontiers.

I congratulate all the Members for bringing this bill to the floor and would want to engage in a colloquy with the gentleman from Michigan regarding the Marine Protection, Research and Sanctuaries Act with regard to a designation.

Mr. Chairman, Public Law 100-627, the 1988 reauthorization of the Marine Protection, Research and Sanctuaries Act [MPRSA] required the designation of a number of new national marine sanctuaries including the Monterey Bay National Marine Sanctuary in my congressional district. The Congress required the designation of the Monterey site by December 31, 1989. Nearly 2 years past this date, the National Oceanic and Atmospheric Administration [NOAA] has yet to publish the final environmental impact statement/management plan for the Monterey site.

It is my understanding from NOAA that its work on the final EIS/management plan for Monterey Bay will be completed in less than 6 weeks. I hope NOAA will stay on this schedule and that the designation document for Monterey Bay will be sent to Congress before Congress reconvenes in January. Based upon my past experience with the National Marine Sanctuary Program, however, I am concerned that the designation process for Monterey Bay may become further bogged down in administrative delays.

I considered offering an amendment to H.R. 2130 to mandate submission of the designation document for Monterey Bay by February 3, 1992. Were this deadline not met, my amendment would statutorily designate the Monterey Bay National Marine Sanctuary, specifying boundaries and prohibiting oil and gas development there.

While I decided not to offer my amendment at this time, if NOAA fails to meet the February deadline, I will be seeking the gentleman's assistance to designate the Monterey Bay National Marine Sanctuary through legislation.

Mr. HERTEL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. Mr. Chairman, I yield to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. I thank the gentleman for yielding.

Mr. Chairman, I am troubled with the extensive delays in the designation process for the four sites mandated under the 1988 reauthorization of the National Marine Sanctuary Act, particularly the Monterey Bay site. I would like the gentleman to know that I will pursue legislation to designate the Monterey Bay National Marine Sanctuary, and will seek his assistance in assuring adequate funding for all MPRSA and coastal zone management activities, should it become necessary.

Mr. PANETTA. I thank the gentleman for his comments.

Mr. Chairman, I recognize part of the problem is due to the funding with regard to NOAA and the ability to have staff there.

I want to assure the gentleman that this is something that, hopefully, we will consider in the budget process.

Mr. HERTEL. NOAA is doing a great job, we are proud of the work they are doing, but sometimes it takes a little extra assistance to speed things up.

Mr. PANETTA. I thank the gentleman.

Mr. BATEMAN. Mr. Chairman, I yield myself such time as I may consume and would like to engage the gentleman from Michigan [Mr. HERTEL] in a colloquy.

Mr. Chairman, may I inquire of the gentleman from Michigan, may I request some clarification of subsection 803(e) of the bill before us? This subsection asks the Secretary of Commerce to consult with the Oceanographer of the Navy regarding ways that NOAA research vessels can operate compatibly with Navy vessels. As the report on H.R. 2130 points out, this provision recognizes that NOAA and the Navy have many overlapping areas of responsibility which can benefit from coordinated planning, management and compatible equipment. To be perfectly clear, though, as the author of this consultation provision, is it your intention that NOAA be mandated to duplicate Navy vessel construction standards for NOAA research vessels?

Mr. HERTEL. The answer is "no." The gentleman is correct. What we want them to do is to be compatible for use with Navy vessels. We also want in this bill that it will be American built and the repairs will be done in American shipyards.

Mr. BATEMAN. I thank the gentleman for his comments.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROWN. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I rise in support of the National Oceanic and Atmospheric Administration Authorization Act [NOAA] of 1991. H.R. 2130 authorizes NOAA's ocean, coastal, fisheries, weather, satellite and atmospheric programs.

I am a strong proponent of sections 403 and 404 of the bill, the Perkins language, to block Weather Service Office [WSO] closures which jeopardize weather services and public safety. This language is long overdue and should be swiftly enacted.

For some time, I have been quite disturbed by the efforts of the National Weather Service to close 142 weather services offices nationwide. I feel that accurate, localized weather services are a necessary public service. Each year, floods, hurricanes, and tornadoes pose a major threat to life and property, making it essential that adequate weather coverage is available. In addition to providing severe weather warnings, local weather stations provide essential services to aviation and agriculture.

For many years, I have been quite active in seeing that the Chattanooga Weather Service Office in the Third Congressional District remains open because of the safety hazards which would affect Chattanooga and the surrounding areas without it.

The Weather Service Office in Chattanooga is located at Lovell Field Airport and provides weather forecasts, severe weather and flood warnings for 15 counties, surface weather observations, local weather information services, pilot weather briefings and winter storm warnings.

These services are essential because the Chattanooga area is subject to seasonal floodings and other severe weather. Unexpected temperature inversions often cause rapid and potentially dangerous changes in weather conditions. The WSO provides accurate and timely warnings necessary to protect the community. It is of vital importance to area residents as well as the Chattanooga airport that the WSO remain in operation.

While the administration views this as a cost-saving device, I do not believe that the savings incurred by closing weather service offices will offset the potential safety hazards that will result. My record on fiscal restraint and deficit reduction is second to none, but I feel that this must be done by looking for cost savings practices in all Government spending, rather than at the cost of public safety.

The Perkins language recognizes this. It requires the Secretary of Commerce to provide public institution and community preparedness services for at least 2 years in each area currently served by a weather office which is slated to be closed or consolidated; prohibits the removal of any National Weather Service radar until it can be certified that no degradation of weather services to the affected area will result; and tightens the certification requirements for nondegradation of weather services so as to enhance congressional oversight capabilities.

This approach reflects the importance of weather service offices nationwide and public safety concerns. I urge its adoption.

□ 1620

Mr. HERTEL. Mr. Chairman, I yield 2½ minutes to the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Chairman, I rise in strong support of H.R. 2130, the National Oceanic and Atmospheric Administration Authorization Act of 1991. I am pleased that this bill contains my language to ensure that the Weather Service's modernization benefits all Americans.

The modernization program is necessary and overdue. I do not oppose it per se; indeed, I have been impressed by the new technologies. Merging some offices may even make some sense, but I fear that OMB may push the Weather Service into too much of a good thing.

Providing accurate and timely weather forecasts is vital both in my eastern Kentucky district and around the country. However, too much streamlining would threaten the quality of service and forecasting for areas now covered by the weather offices marked for closure.

In eastern Kentucky the Weather Service office in Jackson has vastly improved the forecasting of bad weather like floods which are matters of life and death in my region's hills and hollows. In addition, mountain school systems depend upon the Jackson office to get good information at the last minute, so they can limit the school days lost to bad weather without risking the children.

The Weather Service plans to place eastern Kentucky in between a few different next generation weather radars. Although we hope and we believe the new radars are much better than the present ones, my constituents and I fear that their forecasting for fringe areas may be worse than the older radars. In addition, we strongly believe that moving liaison services to the middle of West Virginia would make it harder for the Weather Service and local officials in eastern Kentucky to exchange information quickly and correctly.

Public institution liaison and community preparedness should remain local, not regional, functions. The new fringe areas have every right to demand proof that the new, improved radars will not, in fact, give them worse forecasts. In working to improve weather service across the United States, the Congress must ensure that forecasting improves for all parts of the country and that these forecasts can be spread as well as before. Simply put, sections 403 and 404 of H.R. 2130 meet this responsibility; I urge my colleagues to adopt this bill.

Mr. WALKER. Mr. Chairman, before I yield to the gentleman from Kentucky [Mr. ROGERS] I want to engage in a colloquy with the chairman of the Committee on Science, Space, and Technology, the gentleman from California [Mr. BROWN].

Mr. Chairman, we authorize funds under this bill for the completion of the four main elements of the new weather system as part of our complete project authorization initiative. These complete project authorizations include funds for 1993 and beyond. However, the bill also separately authorizes total funding levels for 1993 for the Weather Service and Environmental Satellite Service which include these same four main elements of modernization covered above. Therefore, I just want to ensure that the amounts authorized under the service accounts shall not be in addition to, but are subject to and count against, the total cap on authorizations for the complete project authorizations. Does the chairman agree?

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, the gentleman from Pennsylvania [Mr. WALKER] with his usual astuteness is indicating that he is reading legislation very carefully, and I want to indicate that I concur with him, but he has correctly expressed the bill's intent. There will be no double counting as far as I am concerned.

Mr. WALKER. Mr. Chairman, I thank the gentleman from California [Mr. BROWN].

Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I just want to acknowledge the work of my colleague from Kentucky, and support his effort here.

I support the modernization of the Weather Service.

My Appropriations subcommittee is funding the Nexrad radars and the other major systems that will be installed later in the decade. And we dealt this year with some serious local concerns about the future modernization and closure of certain stations.

We as much as anybody want proof that these new consolidated stations improve weather forecasts and warnings, especially in regions with difficult terrains, or in the outlying coverage areas of the Nexrad radars.

And we want to ensure public safety throughout every step of the certification process.

The Weather Service has a complex and expensive mission on its hands; $3 billion or more will be spent to consolidate stations and install state-of-the-art instruments throughout this decade.

This bill as I read it will add to those costs somewhat, as will this amendment.

But our constituents don't presume that the new weather stations will protect them as well or better than those serving them now. I hope and expect they will. But none of us will know until new stations are tested and certified.

Communities must be safeguarded throughout this long process—I think this amendment provides for that, and I commend the gentleman.

Mr. WALKER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in support of the National Oceanic and Atmospheric Administration authorization legislation before the House. The legislation is the result of the hard work by Chairman BROWN and Ranking Member WALKER along with the efforts of members of the Merchant Marine and Fisheries Committee.

The provisions in title VII, involving the Tropical Cyclone Research Program are especially important. They are drawn from House Concurrent Resolution 102, and the predecessor from the 100th Congress, House Concurrent Resolution 366, supporting hurricane reconnaissance aircraft, and H.R. 2479, the Tropical Cyclone Research Act of 1989.

The landmark Tropical Cyclone Research Program includes a 5-year joint Federal research effort with the Departments of Defense and Commerce as coleaders. The goal is to begin the first coordinated Federal Research Program that will study technologies to improve the accuracy of predicting the precise location where hurricanes will hit land.

Expert witnesses testifying at the April 7, 1989, hearing in West Palm Beach, FL, on hurricane forecasting and reconnaissance testified that the accuracy of hurricane prediction had not improved since the 1960's. Several reasons were given for this lack of progress including the lack of outside scientific peer review to assess the strengths and weaknesses of research programs and insufficient funding for many of the research programs.

In response to these concerns, the legislation directs that the Secretary of Commerce establish a standing committee of tropical cyclone research experts who will provide NOAA with independent scientific advice and recommendations to improve its hurricane reconnaissance and hurricane research programs. Furthermore, the Secretary is directed to develop a 5-year Tropical Storm Research Program, drawing on the expertise of the Advisory Committee and other agencies.

The Air Force manages the WC-130 Hurricane Surveillance Aircraft Program. Therefore, the long-range plan of the Air Force WC-130 Program will be an integral part of the 5-year Tropical Storm Research Program. This means that the Air Force cannot withdraw the WC-130 surveillance aircraft from this joint effort without congressional approval.

I want to thank the Science Subcommittee chairman, Mr. SCHEUER, for his leadership in having the field hearing on hurricane surveillance in Florida and for including hurricane research provision in this legislation. Moreover, this would not have been possible without the support and assistance of the subcommittee ranking member, Mr. RITTER.

I also want to recognize the efforts of the subcommittee staff of the Science Committee who have worked long and hard on this legislation: Curt Stanford on the majority staff and Joel Eisen on the minority staff.

Finally, I want to commend the Science Committee chairman, Mr. BROWN, and the ranking member, Mr. WALKER, for their support and assistance in including the cyclone research provisions in this legislation before the House.

I also want to thank the Merchant Marine and Fisheries chairman, Mr. JONES of North Carolina, and ranking member, Mr. DAVIS of Michigan, for their hard work in forging this bill we have before us.

Mr. BROWN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. HERTEL].

□ 1630

Mr. HERTEL. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in strong support of the compromise bill and want to commend the chairmen of the committees for their efforts in bringing it to the floor today.

The National Shellfish Indicator Study Program is an important program for our domestic shellfish industry. As a representative of the Nation's leading oyster producing region, I have great interest in the amendment by the gentleman from Louisiana.

A major goal of the study contained in the bill is to develop a new, more accurate standard for assessing the water quality of shellfish growing areas. Scientists, State and Federal shellfish regulators, and the shellfish industry agree the current standard is outdated and may not accurately reflect health risks.

But this agreement has not translated into a successful study. The struggle for control of this program between the National Marine Fisheries Service and the Louisiana Universities Marine Consortium has disinfranchised segments of industry and compromised its success.

The Food and Drug Administration—the Federal agency responsible for implementing any new shellfish standard—has acknowledged these programs. They recently wrote that, "progress of the project has been slow and certain of the scientific goals could be better defined." The letter concludes that there is a "need to completely reassess the conduct of this project."

In the conference report to the 1992 Commerce, State, Justice, and Judiciary appropriations bill, Congress provided clear direction for the National Shellfish Indicator Study. We established the Louisiana Universities Marine Consortium as the lead academic organization and fiscal agent to carry out the scientific management of the program. But we also reaffirmed the role of the Interstate Shellfish Sanitation Conference to establish priorities, to direct, and to oversee the study.

The ISSC is the organization of Federal and State shellfish regulatory agencies and the shellfish industry. Its role is critical to the future success of this program, critical to ensuring the best possible studies; and critical to the ultimate acceptance of the results by FDA.

The poor record of this program, as stated by FDA, demands that Congress provide guidance on how to manage and administer it. Consistent with the conference report language, this amendment provides that guidance. For that reason, I am prepared to support this amendment.

Mr. HERTEL. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I rise in support of H.R. 2130.

I want to commend the gentleman from Michigan [Mr. HERTEL], the chairman of the Subcommittee on Oceanography, Great Lakes, and the Outer Continental Shelf, and the ranking minority member of that subcommittee, the gentleman from Virginia [Mr. BATEMAN], for bringing this bill to the floor.

I want to speak briefly on the National Marine Fisheries Service. The fishermen of northwest Florida are not pleased with many of the NMFS policies. Of course, we hear from them often, and I cannot say I blame them.

The basic problem, I believe, with many of our fisheries policies stems from a lack of accurate, up-to-date data. Of course, money is always the key to research, but this NOAA authorization bill recognizes the need for funding data collection. This is very critical to the fishermen in my area and indeed to all the Nation's fishermen.

This legislation also authorizes special research on shellfish and a study on U.S. tropical shrimp.

Mr. Chairman, I believe these are much needed initiatives, and I urge support for H.R. 2130.

Mr. HERTEL. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Chairman, on April 10, 1979, 3 tornadoes came together as one and cut a path 10 miles long and 1 mile in radius, cutting 17 blocks out of the city of Wichita Falls, destroying property, and killing and injuring hundreds of people. It destroyed 2,000 homes, over a hundred businesses, and left 5,000 people homeless.

Mr. Chairman, my district sits in the heart of what is known as tornado alley. People constantly live in fear during the tornado season of tornadoes coming into their homes.

It is vitally important in any legislation that we look at that, we must have the most up-to-date and the most current warning systems available for anybody. I strongly support this legislation, and I especially support the amendment of the gentleman from Kentucky [Mr. PERKINS], which I think is vitally important.

We sent a letter to Secretary Mosbacher, with over 60 Members of this body signing that letter, encouraging an outside study of the warning systems that are available if this system is put into effect.

Mr. Chairman, I strongly encourage the Secretary to look at an outside study to make sure that these warning systems are adequate and available. When a tornado comes through, there is very little warning for people to seek help. I support this legislation.

The CHAIRMAN. The Chair will state that the gentleman from Michigan [Mr. HERTEL] has 3½ minutes remaining and the gentleman from Pennsylvania [Mr. WALKER] has 1½ minutes remaining. It was my understanding that the gentleman from California [Mr. BROWN] yielded the balance of his time to the gentleman from Michigan [Mr. HERTEL].

Mr. BROWN. That is correct, Mr. Chairman, but the gentleman from Michigan [Mr. HERTEL] has agreed to yield that time back to me.

Mr. HERTEL. Mr. Chairman, the gentleman is correct.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, the National Oceanic and Atmospheric Administration [NOAA] has announced its intention of relocating the San Francisco Weather Forecast Office to Monterey, CA, as part of its modernization plan. At my request, the conference report accompanying H.R. 2608, the fiscal year 1992 Departments of Commerce, Justice, State, and the Judiciary appropriation bill, contains an appropriation of $2 million for the relocation of the San Francisco National Weather Service Forecast Office. I requested that this amount be included in the bill to allow for the construction of an NOAA facility in Monterey which could house both the Weather Service facility and the existing NOAA Center for Ocean Analysis and Prediction [COAP] which is currently located in rented space owned by the Naval Postgraduate School in Monterey.

Public Law 100-685 prohibits the closure, consolidation, full automation, or relocation of any Weather Service office until the Secretary of Commerce can certify to the Committee on Science, Space, and Technology that there will be no degradation of weather services to the affected area. H.R. 2130 places further requirements on this certification process. This is an important provision as the Congress needs to ensure that the modernization process does not unintentionally result in a loss of services to parts of the country.

It is my understanding, however, that neither Public Law 100-685 nor H.R. 2130 is intended to restrict the ability of the Department to prepare for implementing the modernization plan, including its undertaking the design and or construction of new weather offices. Am I correct in stating that it is not the intention of this legislation to delay the design or construction of new weather service forecast offices, and in particular the proposed facility in Monterey, CA?

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the chairman of the committee.

Mr. BROWN. The gentleman is correct. While current law prohibits the Department from closing or relocating a weather office prior to fulfilling the certification requirements, it does not restrict the Department from proceeding with actions necessary to implement the modernization plan. The additional restrictions in H.R. 2130 prohibit the removal of radar systems unless certification is provided. The committee expects that the Department will continue to undertake all actions necessary to facilitate the modernization of the National Weather Service including the design and construction of new weather offices such as the proposed facility in Monterey, CA.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding time to clarify this matter and for his diligent work on this important initiative.

Mr. WALKER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HERTEL. Mr. Chairman, I yield back the balance of my time.

Mr. MCMILLEN of Maryland. Mr. Chairman, I am pleased and proud to rise in support of H.R. 2130, a bill to provide a multiyear authorization for the National Oceanic and Atmospheric Administration [NOAA].

As chair of the Chesapeake Bay Caucus here in the House, I am most interested in an amendment being offered by the chairman of the full committee, Mr. JONES, to help reduce the amount of nonpoint pollution being generated from recreational boaters. I have a special sensitivity to this dilemma, as it is a particularly prevalent problem in the Chesapeake. Mr. JONES' amendment, modeled after H.R. 1297, requires coastal States to determine if they have adequate marine pump-out stations where boaters can empty their septic tanks at on-shore locations. In the event that these States are not properly equipped, the bill provides funds for the construction of these pump-out stations. The amendment stipulates that these pumpout stations would be primarily paid for by funds drawn from a small fraction of the sport fish restoration trust fund. Since this fund is running well in the black, this seems to be a rather prudent and sound use of these funds. For all of these reasons, I urge the passage of this intelligent amendment, as well as passage of the the bill as a whole, H.R. 2130.

Mr. HUGHES. Mr. Chairman, I rise today in support of the National Oceanic and Atmospheric Administration Authorization bill. The bill authorizes a total appropriation of $1.68 billion for fiscal year 1992 and $1.74 billion for fiscal year 1993. Important programs funded through NOAA include the National Ocean Service, National Marine Fisheries Service, the Oceanic and Atmospheric Research Programs, the National Environmental and Satellite, Data and Information Service, and the National Weather Service.

The modernization of the Weather Service and the development of the next generation radar system [Nexrad] holds much promise for improved weather service. However, I would encourage an independent study of the range capabilities of the new system and a comparison between the new technology and the old with respect to the quantity and quality of weather information, forecasts, warnings, and their dissemination for every affected area prior to implementing the new system.

Accordingly, I am very pleased that the authorization language includes a provision requiring the Commerce Department to certify, prior to closing any Weather Service field offices, that closure will not degrade Weather Services, and that the Commerce Department must submit an annual plan for modernization of the Weather Service.

NOAA programs are of immense importance to New Jersey's coastal economy and the health of New Jersey's marine ecosystem. Some of the areas in which NOAA has been involved in New Jersey include oyster disease research, pollution control studies, and coastal zone management.

I am very pleased that the bill authorizes a total of $10 million for a national shellfish indicator study to conduct research on shellfish pathogens in the Nation's shellfish producing regions. The oyster industry used to be worth $90 million annually, but has fallen to 75–90 percent of that value due to decimation of populations by parasitic diseases. NOAA programs are essential in revitalizing the oyster industry and reversing the concomitant economic decline.

The National Undersea Research Program and the Coastal Zone Management Program are crucial in addressing the effects of pollution in the marine environment. The national Undersea Research Program studies the effects of ocean dumping, while coastal zone management addresses coastal nonpoint pollution control. Pollution in the marine environment seriously degrades water quality and adversely impacts recreational and commercial use of our coastal and ocean waters. Therefore, I strongly support the authorization of these programs.

The budget reflects NOAA's strong commitment to marine science and to the preservation and protection of the coastal, ocean, and great lakes environments and their associated living marine resources and I urge my colleagues' support for its authorization.

Mr. RIGGS. Mr. Chairman, I rise today in strong support of the National Oceanic and Atmospheric Administration Authorization Act of 1991. One of the vitally important functions of NOAA is the National Weather Service. The National Weather Service provides vital weather information along the rugged and stormy coast of the Pacific Northwest. This region of the country is often shrouded by fog, swept by rain, wind, and high seas. Moreover the fishing season for the Pacific coast dungeness crab occurs during the winter months when the weather is most unpredictable. The information provided by the National Weather Service results in real savings: Not only the savings of energy and time for the mariners on the northern coast of California, but the saving of their very lives.

The legislation before us today contains particular language to continue the modernization and restructuring of the Weather Service in northern California. This bill will allow the Weather Service to modernize and upgrade their facility with a location that will put the Service right in the Eureka Harbor, next to the maritime community that they serve. The location will be in a direct microwave line of sight with the Weather Service's existing radar location in the hills nearby. Most importantly in this time of budget uncertainty, the approach in this bill will provide the Weather Service with an inexpensive site at the same time as the needs of the Humboldt Bay Harbor Recreation and Conservation District are being met.

I would like to thank the committee for their work, and particularly for the inclusion of this particular provision that is very important to the constituents of my district.

Mr. STUDDS. Mr. Chairman, I would like to make a point of clarification with respect to the NOAA fisheries programs in this bill. Programs at NOAA's National Marine Fisheries Service are authorized under a number of different statutes. This bill reauthorizes only those programs at the Fisheries Service that are authorized under the NOAA Marine Fisheries Program Act. Therefore, any authorization limits established by this bill apply solely to those programs. Fisheries programs authorized under any other laws are not contained in this bill and likewise are not subject to the authorization limits established by this bill.

Mr. DAVIS. Mr. Speaker, I voice my strong support for the measure before the House today.

The NOAA Authorization Act of 1991 restores a coastal emphasis to NOAA programs, including funding for the Coastal Zone Management Act, the National Sea Grant College Program, and NOAA fleet modernization. It also emphasizes congressional interest in seeing that existing statutes are fully authorized before new initiatives are pursued. These positions have already been endorsed through the appropriations process for this year, although not quite as enthusiastically as members of the Merchant Marine and Fisheries Committee would have had it.

Chairman HERTEL should be thanked for his leadership and support in seeing that our fourth coast is given attention by NOAA by authorizing an $11 million zebra mussel research and control program, providing funds for Great Lakes shoreline maps, legislating the Cooperative Institute for Limnology and Ecosystems Research, and providing adequate funding for the Great Lake Environmental Research Laboratory. I would like to see NOAA's presence along our fourth coast even stronger, and look forward to the designation of the Thunder Bay National Marine Sanctuary in Alpena, MI, and the creation of a Great Lakes Undersea Research Program.

It is through the efforts of Chairman HERTEL and full committee chairman, WALTER JONES, that we are here today, with many of the objections raised over provisions in the bill settled. NOAA is one of the primary interests of the Merchant Marine and Fisheries Committee. Let's send it to the Senate with resounding support.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of this bill and urge its adoption by the House. This legislation has been carefully worked out by members of our committee and the Committee on Science, Space, and Technology. I believe it is a good compromise and should be supported.

I wish to direct the House's attention to two particular sections of the bill that is before us today. Section 202 deals with research agreements. It authorizes the Secretary of Commerce to enter into agreements with, and provide financial assistance to, various entities for the purpose of conducting marine research. This provision reinstates authority that has in the past been used by the Secretary to conduct cooperative research with regional fishery management councils, among others. It also makes clear the Secretary's authority to enter into cooperative agreements with marine fisheries commissions.

I want to emphasize that the term "cooperative" is extremely important in carrying out research. The committee expects the National Marine Fisheries Service to work with the regional fishery management councils and marine fisheries commissions in designing and implementing research programs of the sort provided for under this section. We do not expect the Director of the National Marine Fisheries Service to be following his own agenda or to dictate what sort of research will be conducted. This language is designed to provide a mechanism whereby the executive branch and other entities can work together in carrying out research. Thus, for example, if a regional fishery management council identifies particular research that must be done in order to effectively manage a fishery, we do not expect the National Marine Fisheries Service to ignore that request.

I also wish to call the House's attention to section 802(b), regarding the acquisition of office space for the National Marine Fisheries Service. This section requires the Secretary of Commerce to acquire space from the Administrator of General Services on Near Island in Kodiak, Alaska. The Committee on Merchant Marine and Fisheries, in considering this section, noted that the University of Alaska has established a major fisheries research facility on Near Island and that it is in the best interest of the Federal Government that NOAA collocate with this facility.

I want to emphasize the importance of acquiring space for the National Marine Fisheries Service in Kodiak as soon as possible. Currently, the Service houses its personnel in two buildings—one of which has severe asbestos and electrical problems and is due to be condemned, and the other is a World War II vintage quonset hut located at the end of a steep hill. Both of these facilities are unsafe for the Federal workers who use them and do not provide sufficient space to carry out the scientific research that is needed to manage the fisheries in our 200-mile zone off Alaska. By collocating with the University of Alaska facility, the National Marine Fisheries Service will be able to take advantage of the research facilities which already exist. This will provide a considerable benefit to taxpayers. In addition, the city of Kodiak and the Kodiak Island Borough have both indicated a desire to work with NOAA and the General Services Administration to provide facilities on a low-cost basis. I believe that this sort of cooperation between local entities and the Federal Government should be applauded, especially when we are protecting the welfare of Federal workers and providing savings to taxpayers.

Again, Mr. Chairman, I believe that this bill as written by our two committees is an excellent one and should be approved. I urge all Members to support H.R. 2130.

Mr. RAHALL. Mr. Chairman, I rise today in support of H.R. 2130, the NOAA reauthorization for fiscal year 1992 and fiscal year 1993. Two provisions in this bill will ensure that areas like my district will continue to receive the most accurate and reliable weather information possible. I also strongly support the Perkins amendment to this bill which will prohibit the National Weather Service from turning off any of the local radars without first providing assurance that there will not be a degradation in service. This is an important amendment because it makes sure that people who depend on local radars will continue to receive the weather service which they have come to expect.

As you may know, the National Weather Service has plans to modernize its services in order to take advantage of advances in technology. This plan includes closing 142 of its offices nationwide. The new proposed technology certainly has many outstanding characteristics. Next generation radar system, Nexrad, is a state-of-the-art Doppler radar system which is intended to replace the outdated radar systems currently in use in many communities. However, this technology is not without liabilities. Liabilities which must be taken into acccont before areas such as my district are forced to suffer a degradation in weather service.

The National Weather Service is required by law to certify that there be no degradation in service to the area before a weather station may be closed. The two provisions, sections 403 and 404 of this bill, which I urge support for, help to clarify how that certification will be accomplished.

The first provision requires that the Secretary of Commerce provide personnel for 2 years to each area currently receiving public institution liaison and community preparedness services from a Weather Service Office, a Weather Service Meteorological Observatory, or an Agricultural Weather Service Center. The number of personnel provided to each such area would have to be sufficient to prevent any degradation in the level of public institution liaison and community preparedness services to the affected area.

The second provision tightens the requirements for certification of nondegradation of weather services. It also enhances congressional oversight of the process and ensures strict compliance by the administration.

Mr. Chairman, I cannot exaggerate the importance of these two provisions to my district. Under the current NWS plan, two weather stations in my district, at Beckley and Huntington, will be closed. This could have a disastrous effect on the weather service provided to certain areas of southern West Virginia. A liaison officer to monitor the performance of the equipment and to keep a well trained eye on weather emergencies is the least that the people of this area can ask.

I would like to point out that in my correspondence with the Weather Service over this issue, the service does not expect its new system to be flawless. As a matter of fact, they tell me that in implementing a multilayered approach, they will rely heavily on cooperative weather observers.

This reliance on volunteer observers is an admission that the new system will not work without some sort of human involvement. While the Weather Service admits that quality service will not be available without human participation, why are they not committed to the need for professionally trained observers?

The Weather Service has even proposed that they will depend on reports from the State police as a means of providing accurate weather information. This is outrageous. I know that in West Virginia, when dangerous weather conditions prevail, the primary responsibility of the State police is saving lives. They do not have time to call up the National Weather Service.

I have to question the Weather Service's commitment to quality forecasting. They seem more concerned with saving money at the expense of accurate and dependable dissemination of precise weather conditions, forecasts, and warnings.

Furthermore, the mountainous topography which typifies southern West Virginia makes weather forecasting very difficult. Conditions can and do vary greatly from one side of a mountain range to another and weather emergencies, such as flash flooding are all too common in our deep river valleys.

Under the current plan the weather station which will serve my district is in Charleston. This station is almost 100 miles from the edges of my district. However, independent studies show that the Nexrad system's capabilities are fair to poor at 100–150 miles. My worry is that these areas will be subjected to subpar service because the new equipment will not be accurate at such a range.

I am also concerned that the information used to certify Nexrad has been gleaned from a handful of sites, none of which bear much similarity to my district. As I have said, the mountainous topography of this area provides unique circumstances and conditions. I want to be able to assure the people of my district that any new system will be able to report and disseminate accurately, consistently, and with high dependability precise weather conditions, warnings and forecasts for all points of my district.

Mr. Chairman, I urge your support for these provisions which aim to ensure that all areas of this country will continue to receive the same level of service, if not improved service, which they receive now. I believe this aim is important. I believe the lives that may be saved are important too. Let's not sacrifice service for technology. Let's save these weather stations for a rainy day.

Mr. KANJORSKI. Mr. Chairman, I rise in strong support of H.R. 2130, the National Oceanic and Atmospheric Administration Authorization Act of 1991, and the amendments which Representative CHRIS PERKINS is offering to section 403 and section 404 of the bill.

Mr. PERKINS included section 403 and section 404 in the bill to help ensure that the National Weather Service's modernization program does not result in a degradation of weather service to any community which would lose a weather station under the plan.

The Weather Service's goal to modernize their forecasting capabilities is certainly admirable. While I do not oppose the concept of modernization, I do have some concerns about the Weather Service's implementation plan which involves the closing of 142 weather stations across the country, including the station in Avoca, PA, which is in my congressional district, and replacing them with regional facilities utilizing the next generation weather radar (Nexrad).

Nexrad employs impressive technology; however, I believe it would be ill-advise to replace weather stations with this system until it can be conclusively demonstrated that it is completely reliable. In this regard, I feel the consolidation planned by the Weather Service may be too ambitious and premature.

Section 404 will strengthen the process under which the Secretary of Commerce is required by existing law to certify nondegradation of service to areas losing facilities. This section provides that certification be based upon site-specific operational demonstrations of Nexrad.

Currently, the Weather Service is conducting tests of Nexrad in Oklahoma, Colorado, Kansas, Florida, and Virginia. I am concerned that these test sites may not provide a sufficient basis to conclusively judge how this system will perform in every area across the country, especially in those locations with a history of rapidly changing weather patterns. Site-specific testing is the only way to determine that the new system will provide more accurate information than existing weather stations.

Section 403 would require the Secretary of Commerce to provide personnel for 2 years to each area currently receiving public institution liaison and community preparedness services. It is not presently clear that the Weather Service's consolidation plan will provide personnel who are knowledgeable of local conditions in areas which will be covered by Nexrad.

Since Nexrad will be a fully automated system, it is critical that the Weather Service maintains personnel who understand the local weather patterns in the areas that the new system would cover to verify that accurate data are being disseminated.

In addition, maintaining personnel familiar with the areas of coverage will ensure that the Weather Service gives local emergency officials, police and fire departments, and school officials appropriate notice in the event of weather emergencies.

Mr. Chairman, the weather station in Avoca provides informational and forecasting services which are vital to public safety in northeastern Pennsylvania. Before this station or any of the other 141 stations are closed, the Weather Service must guarantee that Nexrad is completely reliable and that the public will experience no loss of services under the new system.

I am hopeful that the approval of Mr. PERKIN'S amendments and the passage of H.R. 2130 will affirm that the Weather Service's modernization plan will truly provide communities across the country with the improved weather service which it seeks to accomplish.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 3704, as modified by the amendments printed in section 2 of House Resolution 278, is considered as an original bill for the purpose of amendment and is considered as read.

The text of H.R. 3704, as modified, is as follows:

H.R. 3704

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1991".

TITLE I—NATIONAL OCEAN SERVICE

SEC. 101. MAPPING, CHARTING, AND GEODESY.

There are authorized to be appropriated to the Secretary of Commerce (hereinafter in this Act referred to as the "Secretary") for carrying out mapping, charting, and geodesy activities of the National Oceanic and Atmospheric Administration (including geodetic data collection and analysis) under the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law, $59,902,000 for fiscal year 1992 and $62,298,000 for fiscal year 1993.

SEC. 102. OBSERVATION AND ASSESSMENT.

(a) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for carrying out observation and assessment activities of the National Oceanic and Atmospheric Administration under the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law, $71,094,000 for fiscal year 1992 and $73,938,000 for fiscal year 1993.

(b) Long Island Sound Circulation Model.—No monies appropriated under the authority of this Act shall be used to conduct analyses of samples collected under the National Status and Trends Program until the Policy Committee of the Long Island Sound Study certifies that the National Oceanic and Atmospheric Administration has completed the water circulation model for Long Island Sound.

(c) Circulation Model Funding.—Of the sums authorized under subsection (a) for fiscal year 1992, $600,000 shall be available for completion of the water circulation model for Long Island sound and $400,000 shall be available for National Status and Trends Program stations in Long Island Sound.

SEC. 103. OCEAN AND COASTAL MANAGEMENT.

There are authorized to be appropriated to the Secretary for carrying out ocean and coastal management activities of the National Oceanic and Atmospheric Administration under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), and any other law, $75,722,000 for fiscal year 1992 and $78,751,000 for fiscal year 1993.

TITLE II—NATIONAL MARINE FISHERIES SERVICE

SEC. 201. FISHERIES PROGRAM ACT AMENDMENTS.

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210) is amended—

(1) in section 2(a) in the first sentence by striking "$26,500,000" and all that follows through the end of that sentence and inserting "$53,600,000 for fiscal year 1992 and $55,744,000 for fiscal year 1993";

(2) in section 3(a) in the first sentence by striking "$35,000,000" and all that follows through the end of that sentence and inserting "$31,000,000 for fiscal year 1992 and $32,240,000 for fiscal year 1993"; and

(3) in section 4(a) in the first sentence by striking "$10,000,000" and all that follows through the end of that sentence and inserting "$20,000,000 for fiscal year 1992 and $20,800,000 for fiscal year 1993".

SEC. 202. RESEARCH AGREEMENTS.

The Secretary is authorized to enter into agreements with, and provide financial assistance to, States, marine fisheries commissions, regional fishery management councils, and academic institutions for the purpose of conducting research on marine mammals, endangered species, and fisheries conservation and management, including—

(1) biological research on the status of stocks of fish, the impact of pollution on fish, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish;

(2) economic and social research on the impacts of fishery management measures;

(3) conservation engineering research; and

(4) information management research.

SEC. 203. STUDY ON EFFECTS OF DOLPHIN FEEDING.

(a) Study.—The Secretary shall conduct a study in the eastern Gulf of Mexico on the effects of feeding of noncaptive dolphins by human beings. The study conducted pursuant to this section shall be designed to detect any behavior or diet modification resulting from this feeding and to identify the effects, if any, of these modifications on the health and well-being of the dolphins.

(b) External Review.—In design and conduct of the study required under subsection (a), the Secretary shall consult with the National Academy of Sciences and the Marine Mammal Commission.

(c) Report.—Within 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted pursuant to subsection (a).

SEC. 204. NATIONAL SHELLFISH INDICATOR STUDY.

(a) Establishment.—There is established within the National Oceanic and Atmospheric Administration the National Shellfish Indicator Study Project to conduct research relating to pathogenic indicators of contamination of shellfish growing areas.

(b) Cooperative Agreement.—The project established under subsection (a) shall be conducted in accordance with the cooperative agreement between the National Oceanic and Atmospheric Administration and the Louisiana Universities Marine Consortium as in effect on October 1, 1990.

(c) Release of 1991 Funds.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall release funds appropriated in Public Law 101-515 for fiscal year 1991 for use for shellfish water standards research, as detailed in House Report 101-909.

(d) Authorization of Appropriations.—

(1) In general.—Of the sums authorized under section 201 of this Act, there are authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992 and $5,200,000 for fiscal year 1993 for carrying out the project established under subsection (a) of this section.

(2) Limitation.—Of amounts appropriated pursuant to this section, not more than five percent of that amount may be used by the National Oceanic and Atmospheric Administration to administer the project authorized under this section.

SEC. 205. UNITED STATES GULF OF MEXICO AND SOUTH ATLANTIC SHRIMP FISHERY STUDY.

(a) Study.—(1) The Secretary shall conduct a comprehensive economic study to provide baseline information to guide policy decisions on the future of the United States Gulf of Mexico and South Atlantic shrimp fishery. Funds shall only be expended under the terms of paragraph (2) of this section.

(2) The study shall—

(A) gather information as to the extent to which governmental and economic factors have affected or may affect the United States Gulf of Mexico and South Atlantic shrimp fishery;

(B) attempt to expand available historical data through survey contacts and cooperation with the industry; and

(C) incorporate the results of the studies on the United States Gulf of Mexico and South Atlantic shrimp fishery that are underway or completed on the date this section is effective.

(b) Report.—The Secretary shall submit a report to Congress detailing the results of this study no later than October 1, 1993.

(c) Authorization.—There is authorized to be appropriated to carry out the provisions of this section $1,000,000 for fiscal year 1992 and $1,040,000 for fiscal year 1993. Of this amount, not more than $500,000 for fiscal year 1992 and $520,000 for fiscal year 1993 shall be used to fund research in the States bordering the Gulf of Mexico.

TITLE III—OCEANIC AND ATMOSPHERIC RESEARCH

SEC. 301. CLIMATE AND AIR QUALITY RESEARCH.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out climate and air quality research duties of the National Oceanic and Atmospheric Administration, including for interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program, $95,563,000 for fiscal year 1992 and $99,386,000 for fiscal year 1993.

(b) REGIONAL CLIMATE CENTERS.—Of the sums authorized under subsection (a), $3,700,000 for fiscal year 1992 and $3,848,000 for fiscal year 1993 are authorized to be appropriated for the activities of the Regional Climate Centers.

SEC. 302. ATMOSPHERIC PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out atmospheric research duties of the National Oceanic and Atmospheric Administration $37,007,000 for fiscal year 1992 and $38,487,000 for fiscal year 1993, including for research for developing improved prediction capabilities for atmospheric processes, and solar-terrestrial services and research.

(b) STORM PROGRAM.—Of the sums authorized under subsection (a), $3,000,000 for fiscal year 1992 and $3,120,000 for fiscal year 1993 is authorized to be appropriated for the Stormscale Operational and Research Meteorology (STORM) program.

SEC. 303. CLIMATE SERVICES SYSTEM MODERNIZATION.

(a) IMPLEMENTATION PLAN.—The Secretary shall direct the Office of the Chief Scientist of the National Oceanic and Atmospheric Administration to prepare and submit to the Congress, not later than one year after the date of the enactment of this Act, a plan for the implementation of a nationwide climate services system and applied climatology program. Such plan shall include detailed requirements and schedules for the improvement of—

(1) the timeliness of climate services,

(2) the spatial coverage of weather observational networks,

(3) the quality control of climate data,

(4) access to climate data,

(5) the use of climate data,

(6) the coordination of Regional Climate Centers with Federal climate centers, and

(7) private sector participation in providing climate services.

(b) FUNDING.—Of the sums authorized under section 301(a), $200,000 are authorized to be appropriated for fiscal year 1992 for the purposes of implementing subsection (a) of this section.

SEC. 304. OCEAN AND GREAT LAKES RESEARCH.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary for carrying out ocean and Great Lakes research activities of the National Oceanic and Atmospheric Administration under the Act entitled "An Act to define the function and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), and any other law involving those activities, $87,697,000 for fiscal year 1992 and $91,205,000 for fiscal year 1993.

(b) COOPERATIVE INSTITUTE FOR LIMNOLOGY AND ECOSYSTEMS RESEARCH.—In addition to amounts authorized under subsection (a), there are authorized to be appropriated to the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration $250,000 for fiscal year 1992 and $260,000 for fiscal year 1993, for use by the Cooperative Institute for Limnology and Ecosystems Research (established in partnership with the State of Michigan and the Great Lakes Environmental Research Laboratory) for—

(1) research conducted by the Institute;

(2) development of the Institute; and

(3) for preparation of a five-year plan for research and development.

(c) LARGE LAKES RESEARCH.—

(1) IN GENERAL.—In addition to amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Secretary for use by the Office of Oceanic and Atmospheric Research $2,000,000 for fiscal year 1992 and $2,080,000 for fiscal year 1993 for use for preparing a plan for large lakes research.

(2) USE.—Amounts appropriated under this subsection may be used for—

(A) preparation of a five-year plan designating large lake study sites, research activities, and anticipated research products; and

(B) collection of physical, chemical, and biological data required for preparing that plan.

(3) COORDINATION.—Activities conducted with amounts appropriated under this subsection shall be coordinated through the Great Lakes Environmental Research Laboratory, working in association with the Cooperative Institute for Limnology and Ecosystems Research and the National Undersea Research Program.

TITLE IV—NATIONAL WEATHER SERVICE

SEC. 401. OPERATIONS AND RESEARCH.

(a) There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out the operations and research duties of the National Weather Service, $313,174,000 for fiscal year 1992 and $325,701,000 for fiscal year 1993. Such duties include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts, but do not include duties described in section 402.

(b)(1) The Secretary shall direct the Office of the Chief Scientist of the National Oceanic and Atmospheric Administration to establish an advisory committee of tropical cyclone research experts to make recommendations for Atlantic tropical cyclone research activities and Atlantic tropical cyclone reconnaissance procedures.

(2) The Secretary, working jointly with other agencies as appropriate and utilizing the expertise of the advisory committee established under paragraph (1), shall establish a 5-year program for collecting operational and reconnaissance data, conducting research, and analyzing data on Atlantic tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of Atlantic tropical cyclones.

(3) Within 120 days after the date of enactment of this Act, the Secretary shall develop and submit to the Congress a management plan for the program established under paragraph (2) which shall include organizational structure, goals, major tasks, and funding profiles for the five year duration of the program.

(c) Of the sums authorized under subsection (a) of this section, $250,000 for fiscal year 1992 and $260,000 for fiscal year 1993 is authorized to be appropriated for the purposes of implementing subsection (b) of this section.

SEC. 402. SYSTEMS ACQUISITION.

(a) There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out the public warning and forecast systems duties of the National Weather Service, $209,725,000 for fiscal year 1992 and $218,114,000 for fiscal year 1993. Such duties include the development, acquisition, and implementation of major public warning and forecast systems.

(b)(1) There are authorized to be appropriated to the Secretary for all fiscal years beginning after September 30, 1992, an aggregate of $196,956,000, to remain available until expended, to complete the acquisition and deployment of the Next Generation Weather Radar system, and to cover all associated activities (including program management and operations and maintenance through September 30, 1996).

(2) Except as provided in paragraph (3), none of the funds appropriated under paragraph (1) may be obligated until the Secretary certifies to the Congress that—

(A) the radars meet the technical performance specifications included in the system contract as in effect on October 1, 1990;

(B) the system contract is viable, and the Secretary does not foresee any circumstances which would make its fulfillment impossible;

(C) the system software is functional;

(D) the system can be fully deployed, sited, and operational without requiring further appropriations beyond amounts authorized under paragraph (1); and

(E) the Secretary does not foresee any further delays in the system deployment and operation schedule.

(3) If the Secretary does not make a complete certification described in paragraph (2), funds appropriated under paragraph (1) may become available for obligation 30 days after the Secretary submits to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which describes—

(A) the circumstances which prevent the certification under paragraph (2) from being complete;

(B) remedial actions undertaken or to be undertaken with respect to such circumstances;

(C) the effects of such circumstances on the deployment and operation schedule and radar coverage; and

(D) a justification for proceeding with the program, if appropriate.

(c)(1) There are authorized to be appropriated to the Secretary for all fiscal years beginning after September 30, 1992, an aggregate of $51,668,000, to remain available until expended, to complete the acquisition and deployment of the Automated Surface Observing Systems, and to cover all associated activities (including program management and operations and maintenance through September 30, 1996).

(2) Except as provided in paragraph (3), none of the funds appropriated under paragraph (1) may be obligated until the Secretary certifies to the Congress that—

(A) the systems meet the technical performance specifications included in the system contract as in effect on April 1, 1991;

(B) the systems can be fully deployed, sited, and operational without requiring further appropriations beyond amounts authorized under paragraph (1); and

(C) the Secretary does not foresee any further delays in the systems deployment and operation schedule.

(3) If the Secretary does not make a complete certification described in paragraph (2), funds appropriated under paragraph (1) may become available for obligation 30 days after the Secretary submits to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which describes—

(A) the circumstances which prevent the certification under paragraph (2) from being complete;

(B) remedial actions undertaken or to be undertaken with respect to such circumstances;

(C) the effects of the circumstances on the systems deployment and operation schedule and systems coverage; and

(D) a justification for proceeding with the program, if appropriate.

SEC. 403. PUBLIC INSTITUTION LIAISON AND COMMUNITY PREPAREDNESS.

In order to maintain liaison with public institutions, and to assist in community preparedness, the Secretary shall provide at least one National Weather Service liaison officer for each area receiving such public institution liaison and community preparedness services, as of the date of enactment of this Act, from a Weather Service Office (WSO), a Weather Service Meteorological Observatory (WSMO), or an Agricultural Weather Service Center (AWSC). Such liaison officer shall be provided for at least two years after the WSO, WSMO, or AWSC is closed, consolidated, automated, or relocated. The Secretary shall provide such areas with sufficient personnel to ensure that the modernization and associated restructuring of the National Weather Service do not result in a degradation in the level of public institution liaison and community preparedness services offered to such areas.

SEC. 404. WEATHER RADAR REMOVAL OR DEACTIVATION.

(a) As part of its review of the National Weather Service's procedure for making certifications described in section 408(b) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, the National Academy of Sciences shall identify those affected areas for which there is a significant doubt that the Secretary will be able to make such certification. Within 180 days following a certification for an area identified by the National Academy of Sciences, the Comptroller General of the United States shall submit a report reviewing such certification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee of Science, Space, and Technology of the House of Representatives.

(b) Section 408(a) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 is amended by inserting "or remove any National Weather Service radar (except for the purposes of upgrading such radar on-site)" after "Service Forecast Office".

(c) Section 408(b) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 is amended—

(1) by inserting "or remove any National Weather Service radar (except for the purposes of upgrading such radar on-site) after any such office";

(2) by amending paragraph (3) to read as follows:

"(3) evidence, based on a site-specific operational demonstration of modernized National Weather Service operations, including the Next Generation Weather Radar, for each office to be closed, consolidated, automated, or relocated, or each National Weather Service radar to be removed (except for the purposes of upgrading such radar on-site), which supports the conclusion that no degradation in services will result from such action."; and

(3) by inserting after paragraph (3) the following: "A certification under this subsection shall be initially prepared by the meteorologist-in-charge at the office to be closed, consolidated, automated, or relocated, or the National Weather Service radar to be removed (except for the purposes of upgrading such radar on-site), and the Secretary shall identify and explain any substantive differences between the certification as prepared by the meteorologist-in-charge and as submitted to the committees under this subsection.".

TITLE V—NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND INFORMATION SERVICE

SEC. 501. SATELLITE OBSERVING SYSTEMS.

(a) There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems duties $367,359,000 for fiscal year 1992 and $382,053,000 for fiscal year 1993. Such duties include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote sensing satellites, as well as the operation of such satellites.

(b) Of the sums authorized under subsection (a) of this section, $17,200,000 for fiscal year 1992 are authorized to be appropriated for the operation of the Landsat satellite system.

(c) Of the sums authorized under subsection (a) of this section, $5,000,000 for fiscal year 1992 and $5,200,000 for fiscal year 1993 are authorized to be appropriated for the procurement of long-lead parts necessary for the construction of Landsat 7.

(d)(1) There are authorized to be appropriated to the Secretary for all fiscal years beginning after September 30, 1992, an aggregate of $735,133,000, to remain available until expended, to complete the procurement of—

(A) Geostationary Operational Environmental Satellites I, J, K, L, and M; and

(B) the launching and supporting ground systems of such satellites.

(2) Except as provided in paragraph (3), none of the funds appropriated under paragraph (1) may be obligated until the Secretary certifies to the Congress that—

(A) the satellite instruments meet the technical performance specifications included in the satellite contract as in effect on October 1, 1990;

(B) the procurement activities described in paragraph (1) can be completed without requiring further appropriations beyond amounts authorized under paragraph (1); and

(C) the Secretary does not foresee any gaps in two-satellite service operations resulting from nonperformance of any contract for the procurement activities described in paragraph (1).

(3) If the Secretary does not make a complete certification described in paragraph (2), funds appropriated under paragraph (1) may become available for obligation 30 days after the Secretary submits to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which describes—

(A) the circumstances which prevent the certification under paragraph (2) from being complete;

(B) remedial actions undertaken or to be undertaken with respect to such circumstances;

(C) the effects of such circumstances on the launch schedule and satellite coverage; and

(D) a justification for proceeding with the program, if appropriate.

(e)(1) There are authorized to be appropriated to the Secretary for all fiscal years beginning after September 30, 1992, an aggregate of $272,758,000, to remain available until expended, to complete the procurement of—

(A) Polar Orbiting Environmental Satellites I, J, K, L, and M; and

(B) the launching and supporting ground systems of such satellites.

(2) Except as provided in paragraph (3), none of the funds appropriated under paragraph (1) may be obligated until the Secretary certifies to the Congress that—

(A) the satellite instruments meet the technical performance specifications included in the satellite contract as in effect on October 1, 1990;

(B) the procurement activities described in paragraph (1) can be completed without requiring further appropriations beyond amounts authorized under paragraph (1); and

(C) the Secretary does not foresee any gaps in two-satellite service operations resulting from nonperformance of any contract for the procurement activities described in paragraph (1).

(3) If the Secretary does not make a complete certification described in paragraph (2), funds appropriated under paragraph (1) may become available for obligation 30 days after the Secretary submits to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which describes—

(A) the circumstances which prevent the certification under paragraph (2) from being complete;

(B) remedial actions undertaken or to be undertaken with respect to such circumstances;

(C) the effects of such circumstances on the launch schedule and satellite coverage; and

(D) a justification for proceeding with the program, if appropriate.

SEC. 502. ENVIRONMENTAL DATA MANAGEMENT.

There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to fund those duties relating to data and information services, $33,812,000 for fiscal year 1992 and $35,164,000 for fiscal year 1993. Such duties include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

SEC. 503. TRANSFER OF ARCHIVING RESPONSIBILITY FOR LAND REMOTE-SENSING DATA.

(a) FINDINGS.—The Congress finds that—

(1) section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) directs the Secretary of Commerce to provide for the archiving of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) the Secretary of Commerce currently provides for the archiving of Landsat data at the Department of the Interior's EROS Data

Center, which is consistent with the requirement of such section 602(g) to use existing Federal Government facilities to the maximum extent practicable in carrying out this archiving responsibility;

(3) the Landsat data collected since 1972 are an important global data set for monitoring and assessing land resources and global change;

(4) the Secretary of the Interior maintains archives of aerial photography, digital cartographic data, and other Earth science data at the EROS Data Center that also are important data sets for monitoring and assessing land resources and global change;

(5) it is appropriate to transfer authority for section 602 of the Land Remote-Sensing Commercialization Act of 1984 to the Secretary of the Interior; and

(6) the Secretary of the Interior should explore ways to facilitate the use of archiving data for research purposes consistent with other provisions of such Act.

(b) AMENDMENTS.—The Land Remote-Sensing Commercialization Act of 1984 is amended—

(1) in section 402(b)(4), by inserting "of the Interior" after "Secretary";

(2) in section 602 (b), (c), (d), (f), and (g), by inserting "of the Interior" after "Secretary" each place it appears; and

(3) by adding at the end of section 602 the following new subsection:

"(h) In carrying out the functions of this section, the Secretary of the Interior shall consult with the Secretary to ensure that archiving activities are consistent with the terms and conditions of any contract or agreement entered into under title II, III, or V of this Act and with any license issued under title IV of this Act.".

TITLE VI—BUY AMERICA PROVISIONS

SEC. 601. BUY AMERICA PROVISIONS.

(a) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this Act may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to subsection (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with such section 305.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the National Oceanic and Atmospheric Administration, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(c) BUY AMERICAN REQUIREMENT.—(1) The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than six percent.

(2) This subsection shall not apply to the extent to which—

(A) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This subsection shall apply only to contracts made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this subsection—

(A) entered into with foreign firms pursuant to a determination made under paragraph (2) of this subsection; and

(B) awarded to domestic firms pursuant to paragraph (1) of this subsection, in fiscal years 1991 and 1992.

(5) For the purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

TITLE VII—TROPICAL CYCLONE RESEARCH PROGRAM

SEC. 701. SHORT TITLE.

This title may be cited as the "Tropical Cyclone Research Act of 1991".

SEC. 702. FINDINGS.

The Congress finds that—

(1) many areas of the United States, including those bordering the Atlantic Ocean and Gulf of Mexico, rely on data provided by the Department of Defense through the Air Force WC-130 weather reconnaissance aircraft to predict the intensity, speed, and direction of movement of tropical cyclones, including hurricanes and tropical storms;

(2) these same areas also rely on data collected by the Department of Commerce through the National Oceanic and Atmospheric Administration's satellite, radar, aircraft, and buoy technologies to predict tropical cyclone behavior and to conduct research on improving forecasts and warnings;

(3) satellites, including the Geostationary Operational Environmental Satellites, are an important source of tropical cyclone information, but they cannot provide the same quality of information as is supplied by weather reconnaissance aircraft;

(4) there is currently only one Geostationary Operational Environmental Satellite positioned over the United States and the loss of its ability to collect data would severely restrict tropical cyclone information gathering; and

(5) a vigorous research program in tropical cyclone behavior and forecasting is important if the accuracy of prediction of tropical cyclones is to be significantly improved.

SEC. 703. ESTABLISHMENT OF PROGRAM.

The Secretary of Defense and the Secretary of Commerce shall establish a five-year joint program which expands the plan established in section 401(b) for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of tropical cyclones.

SEC. 704. RESPONSIBILITIES.

(a) The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to accomplish the program established under section 401(b)(2) and to transfer the data to the Secretary of Commerce, unless a joint agreement is reached, with the approval of both the transfer of such responsibility to an appropriate Federal agency or department.

(b) The Secretary of Commerce shall have the responsibility of funding and carrying out data gathering and research by remote sensing, ground sensing, and other technologies necessary to accomplish the program established under section 703.

SEC. 705. MANAGEMENT PLANS.

(a) The Secretary of Defense and the Secretary of Commerce shall jointly develop, and, within 120 days after the date of enactment of this Act, submit to the Congress, a management plan for the program established under section 703 and section 401(b), which shall include organizational structure, goals, major tasks, and funding profiles for the five-year duration of the program.

(b) The Secretary of Defense and the Secretary of Commerce shall jointly develop, and, within four years after the date of enactment of this Act, submit to the Congress, a management plan providing for continued tropical cyclone surveillance and reconnaissance which will adequately protect the citizens of the coastal areas of the United States.

(c) The management plan and program shall provide for a minimum of the same level and quality of protection as the current tropical cyclone surveillance and reconnaissance program. The management plan and program shall in no way allow any reduction in the level, quality, timeliness, sustainability and area served, including the Hawaiian Islands, of both the existing principal and backup severe storm reconnaissance and tracking systems.

TITLE VIII—PROGRAM SUPPORT

SEC. 801. ADMINISTRATION AND SERVICES.

There are authorized to be appropriated to the Secretary for carrying out executive direction and administrative activities of the National Oceanic and Atmospheric Administration (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving those activities, not more than $72,837,000 for fiscal year 1992 and $75,750,000 for fiscal year 1993.

SEC. 802. FACILITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $10,502,000 for fiscal year 1992 and $10,922,000 for fiscal year 1993.

(b) ACQUISITION OF SPACE.—The Secretary shall acquire space from the Administrator of General Services on Near Island in Kodiak, Alaska, that meets the long-term space needs of the National Oceanic and Atmospheric Administration, if the maximum annual cost of leasing the building in which the space is located is not more than $1,000,000.

SEC. 803. MARINE SERVICES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out marine services activities of the National Oceanic and Atmospheric Administration (including ship operations, maintenance, and support) under the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving those activities, $68,872,000 for fiscal year 1992 and $71,627,000 for fiscal year 1993.

(b) VESSEL ALBATROSS IV.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to sums authorized in subsection (a), there are authorized to be appropriated to the Secretary $1,500,000 for fiscal year 1992 and $1,560,000 for fiscal year 1993 for the reactivation and operation of the research vessel ALBATROSS IV.

(2) REACTIVATION.—If on the date of the enactment of this Act the research vessel ALBATROSS IV is not in active service, the Secretary, subject to the availability of appropriations under this subsection, shall reactivate that vessel.

(c) PROHIBITION OF VESSEL DEACTIVATION.—Unless necessary for safety reasons, the Secretary shall not deactivate any research vessel of the National Oceanic and Atmospheric Administration, including the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

(d) RESTRICTION ON CONSTRUCTION OR REPAIR OF VESSELS IN FOREIGN SHIPYARDS.—

(1) CONSTRUCTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no vessel to be constructed for the National Oceanic and Atmospheric Administration, and no major component of the hull or superstructure of such a vessel, may be constructed in a foreign shipyard.

(B) EXCEPTIONS.—Notwithstanding any other provision of this Act, the President may authorize the construction of a vessel for the National Oceanic and Atmospheric Administration (including procurement of articles, materials, or supplies) in a foreign shipyard if the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to the Congress of that determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of the determination is received by the Congress.

(2) VESSELS HOMEPORTED IN UNITED STATES.—

(A) IN GENERAL.—A vessel of the National Oceanic and Atmospheric Administration the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States.

(B) LIMITATION.—Subparagraph (A) and section 601 do not apply in the case of voyage repairs.

(e) INTEROPERABILITY.—The Secretary shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken to ensure that vessels of the National Oceanic and Atmospheric Administration are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

SEC. 804. NOAA FLEET MODERNIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized by section 803, there are authorized to be appropriated to the Secretary for modernization of the National Oceanic and Atmospheric Administration fleet $50,000,000 for fiscal year 1992 and $52,000,000 for fiscal year 1993.

(b) USE OF AMOUNTS APPROPRIATED.—Amounts appropriated pursuant to this section shall be used for—

(1) service life extensions and critical maintenance;

(2) the replacement of fisheries research vessels and the design of new oceanographic vessels; and

(3) instrument upgrades and purchase of equipment for research vessels.

(c) PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a detailed fleet replacement and modernization plan, including a schedule of anticipated modernizations, acquisitions of vessels, acquisitions of scientific instruments, hiring of additional personnel, and annual funding requirements for carrying out the plan.

(d) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), and notwithstanding section 1341 of title 31, United States Code, and section 3732 of the Revised Statutes of the United States (41 U.S.C. 11), the Secretary may acquire vessels of the National Oceanic and Atmospheric Administration fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(2) SUBMISSION OF PLAN.—The Secretary may not enter into any contract pursuant to this subsection before the date of the submission to the Congress of a plan pursuant to subsection (c).

(3) REQUIRED FINDINGS.—The Secretary may not enter into a contract pursuant to this subsection unless the Secretary finds with respect to that contract that—

(A) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from the Congress funding for the contract at the level required to avoid contract termination, and

(B) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the National Oceanic and Atmospheric Administration fleet.

(4) REQUIRED CONTRACT PROVISIONS.—The Secretary may not enter into a contract pursuant to this subsection unless the contract includes—

(A) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(B) a provision which specifies the term of effectiveness of the contract; and

(C) appropriate provisions under which in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall only be liable for the lesser of—

(i) an amount specified in the contract for such a termination; or

(ii) amounts which—

(I) were appropriated before the date of the termination, for the performance of the contract or for procurement of the type of acquisition covered by the contract; and

(II) are unobligated on the date of the termination.

SEC. 805. AIRCRAFT SERVICES.

There are authorized to be appropriated to the Secretary for carrying out aircraft services activities of the National Oceanic and Atmospheric Administration (including aircraft operations, maintenance, and support) under the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and under any other law involving those activities, $9,365,000 for fiscal year 1992 and $10,336,000 for fiscal year 1993.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. NOTICE OF REPROGRAMMING, REORGANIZATION, OR NEW INITIATIVE.

(a) NOTICE OF REPROGRAMMING.—The Secretary shall provide notice to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate not less than 30 days before reprogramming funds available for a program, project, or activity of the National Oceanic and Atmospheric Administration in an amount greater than the lesser of—

(1) $500,000;

(2) ten percent of the total funding of any program, project, or activity to which the funds are reprogrammed; or

(3) five percent of the total funding of any program, project, or activity from which the funds are reprogrammed.

(b) NOTICE OF REORGANIZATION.—The Secretary shall provide notice to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate not later than 30 days before any major reorganization of any program, project, or activity of the National Oceanic and Atmospheric Administration.

(c) NOTICE OF NEW PROGRAM.—

(1) NOTICE.—Not later than the date of submission to the Congress of the President's budget request for each fiscal year, the Secretary shall provide notice to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, of any new program, project, or activity of the National Oceanic and Atmospheric Administration for which the Secretary is requesting funding for that fiscal year and for which funds have not previously been appropriated, unless that program, project, or activity is specifically authorized by law.

(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include for each program, project, or activity that is the subject of the notice—

(A) a detailed description;

(B) a statement of the purpose; and

(C) an accounting of proposed expenditures.

(3) RELATIONSHIP TO OTHER REQUIREMENT.—Notice under this subsection shall be in addition to, and shall be provided separately from, any information provided in the President's budget request.

SEC. 902. AUDIT OF DAMAGE ASSESSMENT AND RESTORATION ACTIVITIES.

(a) AUDIT REQUIREMENT.—As soon as practicable after the end of each fiscal year, the Comptroller General shall submit to the Congress, for that fiscal year, an audit of—

(1) natural resource damage assessment and restoration activities of the National Oceanic and Atmospheric Administration conducted pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), title I of the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), and title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.); and

(2) the Damage Assessment and Restoration Revolving Fund established under Public Law 101-515.

(b) AUDIT CONTENTS.—Each audit under this section shall include for the period covered by the audit—

(1) a statement of all funds appropriated or transferred to the National Oceanic and Atmospheric Administration for damage assessment and restoration referred to in subsection (a)(1), including—

(A) amounts appropriated directly to the Operations, Research, and Facilities Account, and

(B) amounts transferred to that account from the fund referred to in subsection (a)(2);

(2) a statement of amounts reprogrammed for that damage assessment and restoration from other programs, projects, or activities of the National Oceanic and Atmospheric Administration;

(3) an accounting of expenditures for damage assessment and restoration; including an accounting of repayments made, if any, to other programs, projects, or activities from which amounts have been reprogrammed to carry out damage assessment or restoration;

(4) a statement of all deposits into and transfers from the fund referred to in subsection (a)(2); and

(5) any additional information requested in a timely fashion by the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate.

(c) COORDINATION WITH OTHER AUDITS.—The Comptroller General shall coordinate the audits conducted under this section with any audits conducted under the Chief Financial Officers Act of 1990 (Public Law 101-576).

SEC. 903. REPORT ON TWO-YEAR BUDGET CYCLE.

Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing—

(1) the Secretary's views on the advantages and disadvantages of operating the National Oceanic and Atmospheric Administration on a two-year budget cycle; and

(2) a description of any impediments (statutory or otherwise) to converting the operations of the National Oceanic and Atmospheric Administration to a two-year budget cycle beginning in fiscal year 1994.

SEC. 904. PRICE FREEZE ON CHARTS AND OTHER PRODUCTS OF NOAA.

Notwithstanding section 1307 of title 44, United States Code, the price of nautical charts or other nautical products produced or published by the National Oceanic and Atmospheric Administration and sold after the date of the enactment of this Act shall not exceed the price of that type of chart or product on the date of enactment of this Act adjusted for inflation.

SEC. 905. REPORT ON SATELLITE OCEANOGRAPHY.

(a) IN GENERAL.—The Committee on Earth and Environmental Sciences of the Federal Coordinating Council for Science, Engineering, and Technology (hereinafter in this section referred to as the "Committee"), in consultation with Federal, academic, and commercial users of remotely sensed data, shall consider and develop detailed findings and recommendations regarding—

(1) the most urgent current needs of oceanographic researchers within the Federal Government, the academic community, and the private sector, for remote sensing capabilities and remotely sensed data, including findings regarding the present inadequacies in these capabilities and data; and

(2) the major goals of satellite oceanography for the next ten years.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Committee shall submit to the Congress a report which describes the findings and recommendations of the Committee. The report shall include recommendations for, or a description of actions being taken toward—

(1) correcting inadequacies in remote sensing capabilities;

(2) improving availability of remotely sensed data; and

(3) achieving the major goals of satellite oceanography developed pursuant to subsection (a)(2).

SEC. 906. REPORT ON SATELLITE CAPABILITIES FOR FISHERIES ENFORCEMENT.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other Federal agencies, shall prepare and submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report describing how current and planned satellite capabilities of the Federal Government can aid in the enforcement of Federal fisheries laws and international fisheries conservation programs.

(b) REPORT CONTENTS.—The report under subsection (a) shall include consideration of—

(1) active, transponder-based systems and passive, vessel signature-based technologies capable of localizing or identifying individual vessels without the use of vessel-carried transmitters;

(2) the resolution, coverage periods, and all-weather effectiveness of each technology and the real-time data delivery capacity of the various systems;

(3) a description of the technological requirements (including data processing and transfer procedures) and institutional requirements necessary to transfer satellite data to end users for management and enforcement purposes; and

(4) the status of foreign civil satellites and the feasibility of their application to international vessel location and monitoring.

SEC. 907. COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY.

(a) ESTABLISHMENT.—There is established within the National Oceanic and Atmospheric Administration a Cooperative Institute of Fisheries Oceanography (hereinafter in this section referred to as the "Institute"), in partnership with Duke University and the Consolidated University of North Carolina.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Secretary $525,000 for fiscal year 1992 and $546,000 for fiscal year 1993, to remain available until expended, for use for activities of the Institute.

(c) USE OF AMOUNTS APPROPRIATED.—Amounts appropriated pursuant to subsection (b) may be used for—

(1) administration of the Institute;

(2) research conducted by the Institute; and

(3) preparation of a five-year plan for research and for development of the Institute.

(d) REPORT.—Within one year after the date of the enactment of this Act, the Institute shall submit to the Congress and the Under Secretary of Commerce for Oceans and Atmosphere the plan developed pursuant to subsection (c)(3).

SEC. 908. ACQUISITION OF SPACE.

The Secretary shall acquire space from the Administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the Secretary's consent, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

SEC. 909. NOAA FINANCIAL ASSISTANCE.

(a) PREPARATION OF FINANCIAL ASSISTANCE POLICY MANUAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall complete preparation of and make publicly available a manual which describes the requirements with which recipients of financial assistance administered by the National Oceanic and Atmospheric Administration must comply.

(b) FINANCIAL ASSISTANCE REVIEW BOARD.—After the date of the enactment of this Act, financial assistance administered by the National Oceanic and Atmospheric Administration shall not be subject to review by the board known as the Financial Assistance Review Board.

(c) NONDISCRETIONARY ASSISTANCE PROGRAMS.—Not later than 14 days after the date on which the Secretary receives an application for financial assistance provided under a nondiscretionary assistance program administered by the National Oceanic and Atmospheric Administration, the Secretary shall indicate in writing to the applicant whether or not the application is complete and, if not complete, shall specify the additional material that the applicant must provide to complete the application. Not later than 90 days after the date on which the Secretary receives all information necessary for a complete application, the Secretary shall—

(1) process and approve or disapprove the application; or

(2) submit to the applicant, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate—

(A) an explanation of the reasons the application cannot be approved or disapproved within that 90-day period; and

(B) a projected schedule for completing review of the application.

(d) EXEMPTION.—Notwithstanding any other provision of law, financial assistance provided under a program for which the recipient of such financial assistance is specified by statute to be, or has customarily been, a State or an interstate fishery commission (including such financial assistance provided under the Cooperative Fisheries Statistics Program administered by the National Marine Fisheries Service, the Interjurisdictional Fisheries Act (16 U.S.C. 4102 et seq.), or the Anadromous Fish Conservation Act (16 U.S.C. 757a et seq.)) may be provided by the Secretary to that recipient on a sole-source basis.

(e) Definitions.—In this section—

(1) the term "interstate fishery commission" means

(A) the commission established by the Atlantic States Marine Fisheries Compact, as consented to and approved by Public Law 77–539 (56 Stat. 267);

(B) the commission established by the Pacific Marine Fisheries Compact, as consented to and approved by Public Law 80–232 (61 Stat. 419); and

(C) the commission established by the Gulf States Marine Fisheries Compact, as consented to and approved by Public Law 81–66 (63 Stat. 70); and

(2) the term "nondiscretionary assistance program" means any program for providing financial assistance—

(A) under which the amount of funding for, and the intended recipient of, for the financial assistance is specified by statute, including programs of financial assistance—

(i) for Regional Fishery Management Councils under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

(ii) for Columbia River fish hatcheries under the Act of May 11, 1938, commonly referred to as the "Mitchell Act" (16 U.S.C. 755 et seq.);

(B) the recipients of which have customarily been a State or a State Marine Fishery Commission, including financial assistance under the Cooperative Fisheries Statistics Program administered by the National Marine Fisheries Service;

(C) under the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4102 et seq.); or

(D) under the Anadromous Fish Conservation Act (16 U.S.C. 757a et seq.).

SEC. 910. AQUATIC NUISANCE PREVENTION AND CONTROL PROGRAM.

(a) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $11,000,000 for fiscal year 1992 and $11,440,000 for fiscal year 1993 for use in implementing the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101–646).

(b) Report.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on progress toward establishing a nonindigenous aquatic nuisance prevention and control program within the National Oceanic and Atmospheric Administration and projected funding for such a program for the following five fiscal years.

SEC. 911. RESTRICTION ON USE OF FUNDS.

Amounts appropriated pursuant to this Act shall not be used for activities authorized separately under the Deep Seabed Hard Minerals Resources Act (30 U.S.C. 1401 et seq.).

SEC. 912. REPEAL OF NATIONAL OCEAN POLLUTION PLANNING ACT OF 1978.

The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701–1709) is repealed.

SEC. 913. MARINE EDUCATION GRANT.

Grant Authorized.—The Secretary may provide a grant of $304,000 to an institution to develop and promote innovative post-secondary education and research in the field of seafood business management and vessel operations.

SEC. 914. CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.

(a) Establishment.—(1) The Secretary shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Estuarine Resources Office (hereinafter in this section referred to as the "Office").

(2) The Office shall be headed by a Director who shall be appointed by the Secretary, in consultation with the Chesapeake Bay Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

(b) Functions.—The Office, in consultation with the Chesapeake Bay Executive Council, shall—

(1) provide technical assistance to the Secretary, to other Federal departments and agencies, and to State and local government agencies in—

(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

(C) monitoring the implementation and effectiveness of management plans;

(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration and the Chesapeake Bay Regional Sea Grant Programs (including programs and activities in coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessments; data management; remote sensing; coastal management; and habitat conservation);

(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

(7) submit a biennial report to the Congress and the Secretary with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

(c) Budget Line Item.—The Secretary shall submit, for inclusion in the President's annual budget to the Congress, as a separate budget line item, a funding request from the Administrator for the Office.

(d) Authorization of Appropriations.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Act (Public Law 98–210), as amended by section 201, is further amended by adding at the end the following new subsection:

"(d) Of the sums authorized under subsection (a), there are authorized to be appropriated $2,500,000 for fiscal year 1992 and $2,600,000 for fiscal year 1993 to enable the National Oceanic and Atmospheric Administration to establish the Chesapeake Bay Estuarine Resources Office under section 914 of the National Oceanic and Atmospheric Administration Authorization Act of 1991. No more than 20 percent of the amount appropriated under the authorization in this subsection shall be used for administrative purposes.".

(e) Chesapeake Executive Council.—For purposes of this section, "Chesapeake Executive Council" means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

SEC. 915. NOAA OIL AND HAZARDOUS SUBSTANCE SPILL COST REIMBURSEMENT.

(a) Treatment of Amounts Received as Reimbursement of Expenses.—Notwithstanding any other provision of law, amounts received by the United States as reimbursement of expenses related to oil or hazardous substance spill response activities, or natural resource damage assessment, restoration, rehabilitation, replacement, or acquisition activities, conducted (or to be conducted) by the National Oceanic and Atmospheric Administration—

(1) shall be deposited into the Fund;

(2) shall be available, without fiscal year limitation and without apportionment, for use in accordance with the law under which the activities are conducted; and

(3) shall not be considered to be an augmentation of appropriations.

(b) Application.—Subsection (a) shall apply to amounts described in subsection (a) that are received—

(1) after the date of the enactment of this Act; or

(2) with respect to the oil spill associated with the grounding of the EXXON VALDEZ.

(c) Definitions.—For purposes of this section—

(1) the term "Fund" means the Damage Assessment and Restoration Revolving Fund of the National Oceanic and Atmospheric Administration referred to in title I of Public Law 101–515 under the heading "National Oceanic and Atmospheric Administration" (104 Stat. 2105); and

(2) the term "expenses" includes incremental and base salaries, ships, aircraft, and associated indirect costs, except the term does not include base salaries and benefits of National Oceanic and Atmospheric Administration Support Coordinators.

SEC. 916. PROPERTY IN EUREKA, CALIFORNIA.

Notwithstanding any other law, any property and improvements to that property located on Woodley Island in the city of Eureka, California, that are—

(1) acquired by the Secretary from Humbolt Bay Harbor Recreation and Conservation District, California, for use as a weather forecasting office, and

(2) determined by the Secretary to be excess property,

shall revert to that district.

The CHAIRMAN. No amendment to the substitute is in order except those amendments printed in House Report 102–313. Said amendments shall be considered in the order and manner specified in said report and shall be considered as read. Debate time specified for each amendment shall be equally divided and controlled by the proponent

of the amendment and a member opposed thereto. Said amendments shall not be subject to amendment.

Where House Report 102-313 specifies consideration of amendments en bloc, said amendments shall be so considered and shall not be subject to a demand for a division of the question.

It is in order at any time for the chairman of the Committee on Merchant Marine and Fisheries, or his designee, to offer amendments en bloc consisting of amendments, and modifications in the text of any amendments which are germane thereto, printed in House Report 102-313. The amendments en bloc, except for any modifications, shall be considered as read and shall be debatable for 30 minutes, with 15 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, and 15 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology.

The original proponents of the amendments en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc. Said amendments en bloc shall not be subject to amendment or to a demand for a division of the question.

The Chair will announce the number of the amendment made in order by the rule in order to give notice to the Committee of the Whole as to the order of recognition.

It is now in order to consider amendment No. 1 printed in House Report 102-313.

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AMENDMENT OFFERED BY MR. RHODES, AS MODIFIED

Mr. RHODES. Mr. Chairman, I offer an amendment, as modified. The modifications are germane under the rule, and I ask unanimous consent that the amendment as modified be considered under the rule.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read, as follows:

Amendment as modified offered by Mr. RHODES:

Page 2, line 4, insert "(a)" before "There are authorized".

Page 2, after line 13, insert the following new subsection:

(b)(1) The National Oceanic and Atmospheric Administration shall undertake to study the history of NOAA's contracting of commercial activities for mapping, charting and geodesy activities to the extent they have been procured from private enterprise through ordinary business channels.

(2) The National Oceanic and Atmospheric Administration shall, within 180 days after the date of the enactment of this Act, submit to the Congress a report on the results of the study undertaken under paragraph (1).

(3) In conducting the study authorized under paragraph (1) of this section, the Secretary shall document the liability factors and their constraints on the feasibility of contracting services related to nautical or aeronautical charting.

(4) The report submitted under paragraph (2) shall include a plan that, to the maximum extent practicable, reduces Government competition with the private sector and increases the use of contracts awarded to private firms by the Secretary or by recipients of grants, loans, and other financial assistance for commercial activities authorized under this Act. In developing such plan, the National Oceanic and Atmospheric Administration shall consult with the Administrator of the Office of Federal Procurement Policy, the Administrator of the Small Business Administration, and trade, professional and academic organizations.

(5) For purposes of this paragraph—

(A) the term "mapping, charting, and geodesy" means activities associated with measuring, locating, and preparing maps, charts, surveys, aerial photographs, satellite images, or other graphical or digital presentations depicting natural or man-made physical features, phenomena, and legal boundaries of the Earth; and

(B) the term "private firm" means a firm with professionals appropriately licensed, certified, or otherwise qualified as surveyors, geodesists, hydrographers, photogrammetrists, and cartographers, selected in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

Mr. RHODES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Arizona [Mr. RHODES] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognizes the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, since 1955, it has been the stated public policy of the United States not to compete with the private sector. Of course, I and many other Members strongly believe in that principle, that the Government should not compete with those who are engaged in business in the private sector.

Obviously this excludes services which are inherently governmental in nature and cannot be contracted. But the Federal Government should be a strong advocate for accelerating the use of Government technology by the private sector. The Government has long held that surveying and mapping are commercial rather than inherently governmental services. In fact, the National Academy of Sciences has found that private sector expertise can be of assistance, particularly to NOAA, and the Office of Management and Budget has stated that there appears to be an increasing likelihood that NOAA may be in direct competition with the private sector.

Therefore, I am offering this amendment, which basically does three things. It directs NOAA to conduct a study and a report to Congress as to NOAA's history of contracting with the private sector for commercial activities relating to mapping, charting, and geodesy activities, to the extent they have been procured from private enterprise through ordinary business channels.

The reason for this study is that there appears to be considerable disagreement as to the extent to which NOAA has in fact contracted in the past and the extent to which NOAA could do so in the future.

In conducting this study, the Secretary is also directed to document any liability concerns which may exist as a result of contracting out for mapping services to the private sector.

The report on the study also directs NOAA to prepare a plan by which NOAA can lay out its goals for the future in terms of contracting with the private sector.

I want to emphasize this amendment in no way directs NOAA to privatize its mapping activities. It simply restates the commitment of Congress to private sector involvement in mapping activities, asks NOAA to report to us as to the extent of its activities in that regard in the past, and asks NOAA to prepare a plan for the future for private sector mapping activities.

Again, I need to emphasize very strongly that there is no mandate for future private sector activities here by NOAA. We simply want to know what they have done in the past and what they realistically expect they could do in the future. We also want to know what their perception of liability problems might be in connection with private sector mapping under contract.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Chairman, as a member of the Small Business Committee, I have been very interested in this issue. I believe we should avoid having Federal agencies involved in activities that are better left to the free enterprise system.

To my colleagues who question whether the private sector can do this work, I would call to their attention, this solicitation. It is a request for proposals under the Small Business Innovation Research Program. SBIR is a Federal program that targets R&D funding to small business. In its fiscal 1992 program, NOAA is seeking small businesses to perform research in photogrammetry using aerial photographs to make maps. In this contract, NOAA is seeking small business reasearch for coastal mapping areas, shoreline maps, and measuring obstruction heights near airports.

So there is no question that NOAA recognizes that small businesses in the private sector have the capability to do some work. But as the gentleman from Arizona has noted, NOAA currently contracts only 4 percent of its $50 million surveying and mapping budget.

I would urge my colleagues to support this amendment. This will help small businesses in my district, one of which I visited Friday, and dozens of districts across the country have more opportunities to work for the Federal Government.

Mr. RHODES. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member rising in opposition to the amendment?

Mr. BROWN. Mr. Chairman, let me say I rise somewhat reluctantly to oppose this amendment. I say this for several reasons.

First of all, I agree with practically everything that the gentleman has said in his opening remarks in support of the amendment with regard to the desirability of contracting out to private enterprise to the maximum extent possible any work which needs to be done by the Government and which can be done by the private sector.

I will admit that a great deal of the work being done in mapping, surveying, geodesy, is well within the competence of the private sector, and I would agree with him that to the fullest extent possible it should be contracted out to the private sector.

Mr. Chairman, my reluctance to support the amendment of the gentleman from Arizona [Mr. RHODES], however, stems from the fact not that I object to a report by the agency, by NOAA. In fact, I will commit myself to ensuring through our normal oversight operations and hearings that they will make a report to us with regard to the extent that they are doing what the gentleman and I both want them to do.

I am concerned about the possible ambiguities that might be entered into that might occur as a result of the rather detailed provisions that the gentleman has, that in addition to the report they prepare a plan as to how their work can be accomplished by contracting with the private sector.

Mr. Chairman, I say this again because there is a revolution in mapping services taking place at the present time, a technological revolution. It has not to do so much with the mapping and surveying, but with the fact that more and more mapping is becoming a policy tool, a tool in which huge amounts of information can be put in successive layers on digitized satellite-based maps, and we do not yet fully understand the extent to which this is going to influence the future of this mapping, surveying, and geodesy field.

Mr. Chairman, I have had, as the gentleman from Arizona [Mr. RHODES] has had, and I am sure other Members have had, members of private industry come in to me and say, "We want to have a piece of the action."

Mr. Chairman, I have told them, as I am sure my good friend, the gentleman from Arizona [Mr. RHODES], has, that as far as I am concerned, they will get the maximum amount of action that it seems feasible and desirable to do while protecting the public interest. But I am not sure at this point what the nature of this rapidly evolving technological revolution is going to allow, and I do not think it is wise to require that the agency prepare a plan at this particular point.

Mr. Chairman, we have had similar objections raised by the administration, similar to mine, about other proposals that they prepare a plan on.

For example, by legislation we have required that the administration set up advanced technological institutes, and that those institutes prepare a plan, sometimes described as a roadmap, about what we would do about these rapidly evolving critical technologies. The administration has said that goes too far.

I think there is a parallel here between what the gentleman is requesting. I would ask the gentleman to consider the possible deleterious impact of what his language would do, and to work with us on the committee in seeing if we cannot satisfy his request, which is based upon a real fear on the part of the industry, and I do want to satisfy it myself, and see if we can work this problem out.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, I just wanted to add that NOAA really has made attempts before for private contracting out. When they did it for nautical charting, they had no bidders at all. When they did it for hydrographic field surveyors, there were no qualified bidders. When they did it for geodesy, there were no qualified bidders.

In some instances bidders were advised that they would be required to provide a liability bond related to losses which might be made by a successful bidder.

But they did not have any restrictions. There were no restrictions placed on the size or type of the companies allowed to bid. So I think you could work with them. It is not that they are unwilling. They have in fact tried it.

Mr. RHODES. Mr. Chairman, I yield such time as he may consume, to the gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Chairman, I rise in support of the Rhodes amendment to help curtail unfair Government competition with our Nation's 20 million small businesses.

Each year, Federal agencies spend billions of dollars duplicating the skills and investments of small enterprises. In many cases, this practice wastes taxpayers' dollars and impedes the development of innovative technologies in the private sector.

One glaring example of this is in surveying and mapping, where the Federal Government spends about $1 billion in-house each year—despite the fact that there are over 6,200 private surveying and mapping firms that can accurately and efficiently carry out these missions.

Mr. Chairman, if the problem of unfair competition is so pervasive in this industry, we have to wonder how many other small business markets are strangled by the Federal Government?

To help Congress get a handle on the problem, the amendment simply asks NOAA to tell us whether the private sector could feasibly do more of the Government's mapping and surveying work.

Mr. Chairman, this is the very least we can do for our Nation's small businesses. I strongly urge my colleagues to support the Rhodes amendment.

Mr. RHODES. Mr. Chairman, I thank Chairman BROWN and Chairman HERTEL for their comments and observations.

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They were very encouraging to me. And based upon those observations and based upon the gentleman's willingness to work with me and the rest of the committee and the concerned Members between now and the time, perhaps, that the bill goes to conference to see if we can devise some language that could be included in the conference report.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, the gentleman is a very valuable member of both the House and the Committee on Science, Space, and Technology. I am more than happy to give him every assurance that we will work not only between now and the relatively short time in which we hope we can get this bill enacted, but I will work to get the language that would be appropriate to reassure him of our concern here. Then I will work with him in the committee to proceed in the fashion we have indicated.

Mr. JONES of North Carolina. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Arizona [Mr. RHODES]. This amendment is duplicative of the exhaustive cost-comparison analysis undergone by NOAA's office of charting and geodetic services under Office of Management and Budget circular A–76.

Under this analysis, completed in 1988, a cost-comparison is done between Government activities and equivalent services in the private sector. Some governmental activities are determined to be inherently governmental under the process and are not eligible for private sector contacting. For other activities, competitive bids are solicited. If a private sector bidder has a cost-effective bid, the bidder may be awarded a contract.

Although eligible for contracting, no bids were received to collect nautical charting data and no contracts were awarded to conduct geodetic surveys or data analysis. This was the outcome of a 3-year analysis initiated, and ultimately approved by, OMB. NOAA currently contracts for about 15 percent of its charting activities, mostly in the production and printing of aeronautical and nautical charts. The field force of geodetic surveyors has been whittled down to about 50 people and there are approximately 25 geodetic advisers who provide technical assistance to States on maintenance of the geodetic network.

Further contracting has not been deemed necessary by OMB. Additional private sector contracting without increasing the budget of this program would jeopardize the minimum pool of expertise necessary for proper maintenance of the Nation's geodetic network. Quality control on this vital data for public commerce and safety is currently entrusted to some 75 individuals nationwide. Maintenance of this minimum work force is vital to ensure the integrity of the geodetic network.

Why should we be concerned with the integrity of the geodetic network? Because geodesy is the science that describes the shape of the globe. Geodesy is the science that gives us latitude and longitude for nautical and aeronautical navigation. Geodesy also provides accurate data on elevation, which is used to calibrate airplane altimeters, among other things.

This amendment is a waste of Federal dollars and a waste of manpower in a Bureau that is already down to a bare bones work force. It bypasses the A-76 process and, more importantly, could lead to a significant decrease in public's safety. I urge my colleagues to reject this amendment.

Mr. RHODES. Mr. Chairman, based upon that exchange between the gentleman and myself, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. The amendment, as modified, is withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 102-313.

AMENDMENT OFFERED BY MR. HERTEL

Mr. HERTEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HERTEL:

Page 4, line 14, strike "$31,000,000" and insert in lieu thereof "$31,903,000".

Page 4, line 15, strike "$32,240,000" and insert in lieu thereof "$33,087,000".

Page 9, line 13, strike "$37,007,000" and insert in lieu thereof "$44,087,000".

Page 9, line 14, strike "$38,487,000" and insert in lieu thereof "$45,850,000".

Page 11, line 9, strike "$87,697,000" and insert in lieu thereof "$88,395,000".

Page 11, line 10, strike "$91,205,000" and insert in lieu thereof "$91,930,000".

Page 48, lines 21 through 24, strike "There is established" and all that follows through "as the 'Institute')" and insert in lieu thereof "In recognition of the memorandum of understanding of March 2, 1989, regarding the Cooperative Institute of Fisheries Oceanography (hereinafter in this section referred to as the 'Institute'), the Institute is established within the National Oceanic and Atmospheric Administration".

Page 50, lines 13 through 17, amend subsection (b) to read as follows:

(b) FINANCIAL ASSISTANCE REVIEW BOARD.—Any financial assistance administered by the National Oceanic and Atmospheric Administration which is submitted to the Financial Assistance Review Board for review shall, if such review is not completed within 90 days after such submittal, be considered to have been cleared by such Board.

Page 60, after line 25, insert the following new section:

SEC. 917. TOTAL AUTHORIZATION LEVELS.

Notwithstanding any other provision of this Act, the following amounts are authorized to be appropriated to the Secretary of Commerce for carrying out this Act:

(1) For fiscal year 1992, a total of not more than $1,632,824,000.

(2) For fiscal year 1993, a total of not more than $1,698,136,000, which may be adjusted to reflect inflation occurring over the course of fiscal year 1992.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. HERTEL] will be recognized for 5 minutes. The Chair notices that the gentleman from Pennsylvania [Mr. WALKER] is also noted as a cosponsor of this amendment; is that correct?

Mr. WALKER. Mr. Chairman, that is correct.

The CHAIRMAN. The gentleman from Michigan [Mr. HERTEL] has 5 minutes then to allocate as he sees fit, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, I yield myself such time as I may consume.

The amendment I am offering represents a consensus designed to alleviate any concerns that might remain on either side of the aisle among Members on both the Science, Space, and Technology Committee and the Merchant Marine and Fisheries Committee. In the interest of limited time for debate on the House floor, Members have in good faith negotiated and agreed to offer this en bloc consensus amendment, in lieu of further delay on the NOAA authorization and extended debate and votes on several amendments.

Allow me to briefly summarize the amendment I am offering and then I will seek the accord of the gentleman from Pennsylvania [Mr. WALKER], who is the ranking member on the Science, Space, and Technology Committee.

H.R. 2130 makes recommendations for NOAA wet programs—those related to ocean, coastal, and Great Lakes resources—as well as for dry programs—those related to weather, atmospheric research and satellite monitoring within the jurisdiction of the Science, Space, and Technology Committee.

The funding levels included in the bill for each program and activity represent the recommendations of the authorizing committees based on firm priorities and commitments based on extensive hearings and deliberations. The amendment does not change those recommended priorities for fiscal years 1992 and 1993 in any way.

The amendment does provide a total authorization level for the programs authorized in H.R. 2130, based on the fiscal year 1992 appropriations level already enacted or the President's fiscal 1992 budget request for the programs—whichever is greater. The first part of our amendment makes conforming changes in the text of the bill to accommodate this agreement.

Given that Congress has already approved the appropriations for fiscal year 1992, the significance of the total authorization of $1,632,824,000 as a total for the bill in fiscal year 1992, is that it serves as the base for a recommended authorization total for fiscal year 1993.

For fiscal year 1993, the recommended total for those NOAA programs authorized in H.R. 2130 is $1,698,136,000. This total represents a four-percent increase above the 1992 base, with a proviso that this amount may be adjusted for inflation. Programs of the National Marine Fisheries Service authorized under other legislation are not included in this total, nor are other NOAA programs that are not specifically authorized in this bill.

The total authorization level does not eliminate flexibility in fiscal year 1993 by restricting the line items on specific programs and activities from achieving their full recommended level, nor does it prohibit funding for new programs or initiatives.

The amendment addresses concern about outright elimination of the Financial Assistance Review Board recommended by the Merchant Marine and Fisheries Committee, because of the undue delay and backlogs in grant reviews. The consensus agreement restores the Review Board, but requires that their review be limited to 90 days, before NOAA's recommendations become final.

The amendment clarifies that "in recognition of the memorandum of understanding of March 2, 1989," the Cooperative Institute of Fisheries Oceanography is formally established and will be able to continue the notable research and fisheries development activities it already has underway.

In all, many of these matters are fine points of principle and concern that through the cooperation and diligence of members on both committees of jurisdiction we have been able to resolve and save the time of the House in an accurate, forceful manner.

I am pleased to offer this amendment and urge that it be adopted by the House.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, this amendment is the result of a good faith effort on the part of Chairman HERTEL to resolve our differences and address many of my colleagues' main concerns with this legislation.

Under this negotiated compromise, Chairman HERTEL and I are proposing and endorsing a very novel concept—a total funding limit for the programs and activities covered by this bill.

Even though all the individual authorizations in H.R. 3704 add up to almost $1.7 billion, this language only allows the appropriators to spend $1.63 billion. Such a budget deficit control mechanism in an authorization is unprecedented, I think.

The cap is in the ballpark—within about $50 million—of the $1.58 billion in 1992 funding for the parts of NOAA in H.R. 3704.

The 1993 cap is then 4 percent over that in real terms, which will hold next year's spending to a single figure increase. That is a very healthy fiscal development.

The Hertel-Walker amendment also clarifies that the authorization of a NOAA Fisheries Oceanography Institute in H.R. 3704 is merely the codification of existing Department policy.

Finally, this amendment ensures that public funds are obligated in a financially sound manner by reversing the bill language and still requiring that NOAA grants go through central Commerce Department oversight. NOAA financial assistance would now have to be approved or disapproved by the Financial Assistance Review Board in 90 days.

With the passage of this amendment, the administration's opposition to this legislation is addressed on three main points: Excessive appropriations authorizations; pork barrel earmarking; and infringement on the Secretary's right and obligation to prevent waste, fraud, and abuse.

In closing I'd just like to recognize and thank the Republican chairman of the Environment Subcommittee, DON RITTER, for all of his help on this amendment. His support was key in making it possible.

Mr. HERTEL. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. WALKER] and the gentleman from Virginia [Mr. BATEMAN] for their assistance so that we could arrive at this compromise. I think it basically clarifies what was done in both committees earlier.

I thank their staffs. Finally, while we have been complaining about the Reagan administration for 8 years hurting NOAA programs by cutting them, I think we have to say that the Bush administration has done a better job of increasing the funding, and it is reflected in this bill and it is reflected in this amendment also.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. If no Member rises in opposition to the amendment, the question is on the amendment offered by the gentleman from Michigan [Mr. HERTEL].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3, printed in House Report 102-313.

AMENDMENT OFFERED BY MR TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAUZIN: Page 6, line 8, through page 7, line 11, amend section 204 to read as follows:

SEC. 204. NATIONAL MOLLUSCAN SHELLFISH INDICATOR STUDY.

(a) ESTABLISHMENT OF A PROJECT.—The Secretary, in cooperation with the Secretary of Health and Human Services, shall establish and administer a 5-year molluscan shellfish indicator research project to develop a system of classification of shellfish growing waters based on the latest technological advancements in microbiology and epidemiological methods. In establishing such project, the Secretary shall develop a project plan which shall at a minimum provide for—

(1) an environmental assessment of the commercial molluscan shellfish growing areas in the United States, including evaluation of the relationships between indicators of fecal contamination and human enteric pathogens;

(2) the evaluation of such relationships with respect to potential health hazards associated with human consumption of molluscan shellfish;

(3) a comparison of the current microbiological methods used for evaluating indicator bacteria and human enteric pathogens in shellfish growing waters with new technological methods designed for this purpose;

(4) the design of epidemiological studies to relate microbiological data, sanitary survey data, and human molluscan shellfish consumption data to actual hazards to health associated with such consumption; and

(5) recommendations for revising Federal molluscan shellfish standards and improving the capabilities of Federal and State agencies to effectively manage and ensure the safety of molluscan shellfish.

(b) COORDINATION WITH EXISTING PROJECT.—The Secretary shall—

(1) coordinate the program established under subsection (a) with the Shellfish Water Standards Project currently being conducted by the Secretary; and

(2) re-establish the agreement with the Louisiana Universities Marine Consortium under the terms of the previous agreement with the National Oceanic and Atmospheric Administration designated by award number NA90AA-H-FD234 and the terms directed in Conference Report 102-233 for Public Law 102-140.

(c) CONTRACT AUTHORITY.—Subject to the availability of appropriations, the Secretary is authorized to enter into contracts and agreements with States, universities, and private entities to carry out the program established under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the sums authorized under section 201 of this Act, there are authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992 and $5,200,000 for fiscal year 1993 for carrying out the project established under subsection (a) of this section.

(2) LIMITATION.—Of amounts appropriated pursuant to this section, not more than 5 percent of the amount may be used by the National Oceanic and Atmospheric Administration to administer the project authorized under this section.

(e) DEFINITION.—For the purposes of this section, the term "molluscan shellfish" means any species of oyster, clam, or mussel which is harvested for human consumption.

The CHAIRMAN. Under the rule, the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today I rise to offer an amendment to section 204 of H.R. 2130, the National Oceanic and Atmospheric Administration Authorization Act. My amendment will expand on the language I offered at the Merchant Marine and Fisheries Committee markup earlier this year.

This amendment is to establish the national molluscan shellfish indicator study, giving the current project much needed direction from Congress. This amendment will improve the outdated standards for ensuring the safety of molluscan shellfish to the consumer.

For several years, the oyster industry in Louisiana and many other States has been requesting support and action from the National Marine Fisheries Service and the Food and Drug Administration to update and improve the standards used for indicating fecal coliform contamination in shellfish and their growing waters.

Last year, the House of Representatives passed a seafood inspection bill with similar language recognizing the need to establish this project. For the past 4 years Congress has appropriated a total of $4 million for this study through the National Marine Fisheries Service under the shellfish water standards project. This project is a five phase proposal which was prepared by some of the top scientists and universities in the Nation. It has been coordinated and managed by the Louisiana universities marine consortium and lead by a well qualified professor, Dr. Marilyn Kilgen from my alma mater, Nicholls State University.

Unfortunately, this worthy project has seen numerous needless delays that this authorizing language would eliminate. This amendment will authorize and establish this vital project.

I ask for the support of this amendment by the House so we can provide safer seafood to the consumer.

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Chairman, I rise in support of the gentleman's amendment and commend him for bringing it to the House.

Mr. HERTEL. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Michigan.

Mr. HERTEL. Mr. Chairman, I am not in opposition to the amendment. We also commend the gentleman for his amendment and support the amendment.

Mr. TAUZIN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. If there is no Member standing in opposition to the amendment, the question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

□ 1700

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 102-313.

Mr. WALKER. Mr. Chairman, I ask unanimous consent that the Member offering amendment No. 4 be permitted to offer this amendment at a later time. He has been called to the floor but has not yet arrived. I do not think we want to prevent him from offering the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 102-313.

AMENDMENTS EN BLOC OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. PERKINS: Page 18, lines 8 through 10, strike "such public institution liaison and community preparedness services, as of the date of enactment of this Act," and insert in lieu thereof ", as of the date of enactment of this Act, such public institution liaison and community preparedness services".

Page 19, amend line 21 to read as follows: upgrading such radar on-site)" after "any such office";

Page 20, line 11, strike "at" and insert in lieu thereof "of".

The CHAIRMAN. Under the rule, the gentleman from Kentucky [Mr. PERKINS] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, amendment 5 reverses two phrases in section 403 to make the intent of the language clearer. The intent is that the Secretary only has to provide liaison officers to those areas currently receiving public institution liaison and community preparedness services from the office to be closed. I hope that this amendment makes it clear to the administration that the bill would not extend such services to areas which do not already receive them.

Amendment 5 also corrects a punctuation error in section 404(c)(1). It also replaces a less correct word with a more correct one in section 404(c)(3).

Mr. Chairman, I am glad to yield for any questions.

If no Member seeks time in opposition, Mr. Chairman, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of Mr. PERKINS' amendment which would guarantee a continuity of local services during the National Weather Service's [NWS] planned modernization.

As you know, Weather Service Offices [WSO] and Agricultural Weather Service Centers [AWSC] provide critical weather forecasts for farmers across the country. These local offices have the expertise to forecast micro climates that can have devastating effects on citrus and avocado growers. With accurate forecasts, much of the potential damage to citrus and avocado groves can be prevented during short-term freezes.

In my district, numerous growers depend on the Santa Maria WSO for vital fruit frost warnings. This amendment ensures that growers in the 19th District will not experience an interruption of this important service during the NWS' modernization period.

I urge my colleagues to support this amendment.

The CHAIRMAN. Is there any Member who wishes to speak in opposition to the amendment en bloc?

If not, the question is on the amendments en bloc offered by the gentleman from Kentucky [Mr. PERKINS].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order for the Committee to return to amendment No. 4 printed in House Report 102-313.

AMENDMENT OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RIGGS: Page 12, after line 21, insert the following:

SEC. 305. WEATHER BUOYS.

In addition to amounts otherwise authorized by this Act, there are authorized to be appropriated to the Secretary such sums as may be necessary for the operation and maintenance of the following weather buoys off the coast of California:

(1) Buoy number 46011, Santa Maria Basin.
(2) Buoy number 46012, Santa Cruz.
(3) Buoy number 46013, Bodega Bay.
(4) Buoy number 46014, Pont Arena.
(5) Buoy number 46022, Eel River.
(6) Buoy number 46025, Catalina Island.
(7) Buoy number 46027, St. Georges Reef.
(8) Buoy number 46028, Cape San Martin.
(9) Buoy number 46030, Blounts Reefs.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. RIGGS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment to H.R. 2130, the National Oceanic and Atmospheric Administration [NOAA] Authorization Act of 1991.

My amendment would provide authorization for NOAA to begin funding nine marine weather buoys along the California coastline that were previously funded by the Minerals Management Service Agency in the Department of the Interior.

These buoys provide critical ocean navigation, and weather condition information to the U.S. Navy, National Weather Service, U.S. Coast Guard, commercial and recreational vessels, and thousands of fishermen who are my constituents in the First Congressional District of California.

These buoys are the only devices capable of providing, current, round-the-clock information on surface wind direction, swell, water temperature, and wave height.

They also provide critical data to the U.S. Coast Guard and the Navy during search and rescue operations over the California and north coast.

The scientific community uses the data from the buoys in the research of wind and coastal circulation patterns.

The buoys were originally deployed by the Mineral Management Service under a 10-year program to assess weather data in connection with outer continental shelf leasing possibilities, the program has now been discontinued, in part because of consistent congressional opposition to any further leasing or drilling activities off the California coast, and the buoys are threatened with removal for budgetary reasons.

My amendment will authorize NOAA to continue to maintain and operate these nine weather buoys vital to mariner safety on the California coastline.

Mr. Chairman, I would like to thank the bipartisan leadership of the full committee and the subcommittee for accepting my amendment, and also my colleague from California Congressman PANETTA for all of his work, and all the Members from California, Oregon, and Washington who have supported these buoys in the past, and also thank the leadership of the Merchant Marine and Fisheries for their support of this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member who rises in opposition to the amendment?

The Chair recognizes the gentleman from Michigan [Mr. HERTEL] for 5 minutes.

Mr. HERTEL. Mr. Chairman, I really want to commend the gentleman for his initiative in this area. I think it is a very good idea. The committee accepts the amendment.

Mr. RIGGS. Mr. Chairman, I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of my colleague's amendment to transfer authority for the upkeep of nine coastal weather buoys from the Minerals Management Service [MMS] to the National Oceanic and Atmospheric Administration [NOAA]. Earlier this year, the MMS cut off all funding for these buoys, because they were no longer necessary for its OCS leasing activities.

Although the MMS no longer needs them, the safety of thousands of commercial fishermen, pleasure boaters, and others directly depends on the real-time data collected by these buoys. Without the buoys, hundreds of small craft will be caught in extremely dangerous waters every year. The California coast is dangerous, and I can assure you that lives will be placed in jeopardy unless these buoys remain in place.

When funding expired earlier this year, several of my California colleagues and I—with the help of Chairman SMITH—succeeded in obtaining funds for NOAA to operate and maintain the buoys for fiscal year 1992. This amendment would permanently transfer authority for the buoys to NOAA.

Mr. Chairman, many of my constituents depend on these buoys every day. I urge my colleagues to keep California waters safe and vote for the amendment.

Mr. RIGGS. Mr. Chairman, I yield back the balance of my time.

Mr. HERTEL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. RIGGS].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 102–313.

AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PERKINS. Page 19, lines 13 through 15, strike "remove any National Weather Service radar (except for the purposes of upgrading such radar on-site" and insert in lieu thereof "deactivate any National Weather Service radar (except temporarily for the purpose of upgrading or maintaining such radar on-site or temporarily as necessary to run tests of the NEXRAD system".

Page 19, lines 19 through 21, strike "remove any National Weather Service radar (except for the purposes of upgrading such radar on-site" and insert in lieu thereof "deactivate any National Weather Service radar (except temporarily for the purpose of upgrading or maintaining such radar on-site or temporarily as necessary to run tests of the NEXRAD system".

Page 20, lines 4 and 5, strike "removed (except for the purposes of upgrading such radar on-site" and insert in lieu thereof "deactivated (except temporarily for the purpose of upgrading or maintaining such radar on-site or temporarily as necessary to run tests of the NEXRAD system".

The CHAIRMAN. Under the rule, the gentleman from Kentucky [Mr. PERKINS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment would prevent the Secretary from removing Weather Service radars without certification, but it does not block the Secretary from turning them off forever while leaving them in place. This amendment would keep the Secretary from doing so until the Secretary can prove that turning off the radars would not threaten the public safety. This ban is also narrow enough that it would not hamper normal Weather Service operations, including the modernization program.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member rise in opposition to the amendment?

Mr. WALKER. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, this is not only not a good idea, this is a very bad idea. It is going to cost the taxpayer in additional costs on weather modernization about $320 million, and we are going to get absolutely nothing out of the spending.

We are literally talking about putting American lives at risk by delaying for several years the scheduled installation of the new Doppler radar technology capable of increasing severe weather warning for catastrophes such as tornadoes from 2 minutes to 20 minutes. In other words, instead of the 2-minute warning that we now get, we could get a 20-minute warning, and some of these new radars are going to be put at risk by this amendment.

There are going to be 14 areas of the country that will never receive improved weather coverage as a result of this amendment.

There are very transparent, parochial reasons for what the gentleman is doing, but he is placing his desire to guarantee the existence of a specific weather operation in his district into perpetuity over what is in the best interests of all of our constituents; namely, their safety.

What we have happening here is that this amendment would prevent the Secretary from even turning off old, obsolete radars as the new Nexrad radars become operational. As a consequence, both systems would have to be run at the same time covering the same area. This duplication of effort will be costly, adding up to $50 million of unbudgeted expense every year and, therefore, would delay modernization by making that much less available for installation.

Additionally, at the 145 sites where the Nexrad and the existing radar are in close proximity to each other, say within 100 yards, the Nexrad cannot be commissioned and used operationally unless the existing radar is deactivated because of radio frequency interference problems. Since one of the prerequisites for the required certification is that all the new technologies, including the new radar, be commissioned on a case-by-case basis, the restriction against deactivating the old radars makes certification impossible. Therefore, these 14 areas would never have the new and improved Doppler radars. They would include New York, Texas, Florida, Pennsylvania, Mississippi, Louisiana, Tennessee, Alabama, Vermont, Kansas, Montana, and Oregon. They are never going to get the new weather technology.

This is all totally unjustified and will cause President Bush to veto this whole package after we have worked out a lot of things about it. It is unfortunate, because we removed, as I say, some of the administration objections.

This will add a new objection that will just cancel out the whole thing.

I think that with Nexrad we are moving in a direction of having improved weather technology. It would be a shame to have that improvement destroyed by what the gentleman from Kentucky is proposing.

Mr. PERKINS. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Chairman, I rise today in support of the language in sections 403 and 404 of legislation to reauthorize the National Oceanic and Atmospheric Administration [NOAA] and in support of the Perkins amendment to section 404 of the bill.

The National Weather Service [NWS] maintains that deploying the new Doppler-based next-generation-weather-radar system, more commonly know as Nexrad, will bring about increased effectiveness and accuracy. Nexrad is one of the cornerstones of the NWS modernization plan and is superior to any weather radar systems currently used by the NWS.

However, as is the case with all forms of electromagnetic energy, the intensity of Nexrad's radar decays over distance. The NWS contends that Nexrad has a range of 125 miles. But this figure is disputed, and in some areas of the country which are not currently slated to receive the new Nexrad system, but which instead lie within the fringe areas between planned Nexrad sites, serious questions remain concerning the actual accurate range of the new radar system.

Under the NWS modernization plan, the NWS office now located in Evansville, IN, is one of 142 NWS facilities which will close with coverage to be provided by distant Nexrad stations. Southwestern Indiana and the Evansville area are commonly know as tornado alley. Indiana itself, which is now slated to lose all but one of the four NWS offices currently located there, ranks first among all States in the frequency of tornado related deaths per unit area.

The three worst tornado outbreaks of the past century have occurred in Indiana, and as recently as June 4, 1990, southwestern Indiana suffered an outbreak which included more than 50 tornadoes in one night, killing eight people and causing millions of dollars in damage. Yet under the current NWS modernization plan, Evansville area public will be asked to rely on weather advisories from other Nexrad facilities deployed 92 and 100 miles away respectively.

The NWS continues to maintain that Nexrad will perform up to expectations, and indeed it may. But that is precisely why the language in sections 403 and 404 of the NOAA reauthorization bill should be supported, and why the language in the Perkins amendment also should be added to that portion of the bill.

The public in Evansville, IN, and all other areas of the country currently slated to lose their existing NWS offices should not be put at any additional or unnecessary risk. No existing NWS office should be permitted to close until it can be conclusively proven that the NWS modernization plan will not lead to any reduction in the current levels of services. No degradation of public safety should be allowed to occur.

I therefore urge all my colleagues in the House to support sections 403 and 404 and the Perkins amendment to section 404 to prohibit the turning off of existing systems prior to certifying that doing so would not lead to a degradation of services.

□ 1710

Mr. WALKER. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HOPKINS].

Mr. HOPKINS. Mr. Chairman, I rise in support of the gentleman from Kentucky's amendment.

Since the announcement 3 years ago that the National Weather Service's plans to modernize its efforts and consolidate facilities across the Nation including closure of the Lexington, KY office, I have worked to insure that the accurate and timely weather forecasting we have been provided in central Kentucky would not be diminished in any way.

I have received full assurances from the Administrator of the National Weather Service and the Secretary of Commerce that its work will be enhanced rather than downgraded by the new approach. And after reviewing information provided by them, I have high expectations that the new technology modernization program will provide my constituents with services and information far surpassing that now being generated by the antiquated, 1950's technology.

Still, I believe this amendment is prudent and necessary. It insures that the integrity of the current services is protected and will remain operational until such time as the Weather Service is able to certify the effectiveness of the new technology in Kentucky and throughout the Nation.

In Kentucky, we intend to take whatever measure is necessary to insure that our constituents are safe rather than sorry and that no gaps exist in the new network that would leave any part of our State or any other State more vulnerable to bad weather.

I urge my colleagues to join me in supporting the Perkins amendment.

Mr. WALKER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

I just would like to say that the Perkins amendment does not in any way affect whether or not a weather office is going to close. That is a separate determination and it is made hand in hand with the modernization plan. The technology will be upgraded and then offices will be closed, but only after certification has been made that the new radar is functioning according to the particular public law. That certification will have to state that no degradation of services will result in the affected area.

Now, I am really familiar with this, because in my own district there is a potential that our weather station would close with this next generation of radar. But we have to do what is best for the whole country and for our own areas if Nexrad, the next-generation weather radar performs at a far better rate, and that is what it is all about here.

The GAO would also have to review the certifications for the marginal sites and the old radar could not be removed until the process was complete.

Now, that is quite a bit. What this language says is that you cannot deactivate the radar. You are going to have to keep two systems operating with electromagnetic interference between the two. This could result in danger and have a very adverse impact on public safety.

The Director of the National Weather Service of the Department of Commerce believes that this is so and it could be dangerous, so at this stage I think we are doing the right thing in going forward with the next-generation. We have safeguards, we have certification. You cannot remove it from the premises. You are going to move it aside, but at least you will not have to keep, according to the Perkins amendment, both systems operating at the same time.

Mr. PERKINS. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kentucky.

The Perkins amendment would prohibit the Secretary of Commerce from permanently deactivating any weather radars without certifying that doing so would not degrade weather services, which, in turn, may result in safety threats.

In my vast home State of Nevada, the Ely and Winnemucca Weather Service Offices [WSO] have been identified for closure by the National Weather Service.

Because of the large area these WSO's serve in Nevada, I am concerned that their closure, without service certification, will jeopardize weather services and, thus, the safety of not only my constituents, but anyone who is affected by other such closures.

As H.R. 2130 currently reads, the Secretary need only seek certification if the weather radar were to be removed. Effectively, this still allows the agency to deactivate the radar without any certification that services will not be reduced.

The Perkins amendment will still allow the Secretary to proceed with the National Weather Service's modernization program, while maintaining normal operations and forecasting, and, thus, safety.

I urge my colleagues support for the Perkins amendment.

Mr. PERKINS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I rise in support of H.R. 2130, the NOAA authorization bill. In particular, I would like to address provisions in the bill related to the modernization of the National Weather Service. Our colleague, CARL PERKINS, has led the fight to encourage the Commerce Department to ensure that forecasting improves for all areas of the country and that public safety is not jeopardized during this modernization. I commend Mr. PERKINS for his efforts and support his endeavors.

More specifically, I support section 403, public institution liaison and community preparedness section. This section requires that the Secretary of Commerce provide at least one National Weather Service liaison officer to each area currently receiving public institution and community preparedness liaison. This personnel is to be provided for at least 2 years to ensure that there is no degradation in the level of public institution liaison and community preparedness services to the affected area. It is imperative that a local liaison person is retained during this time of transition. Weather can be varied within a State thus making it necessary for a local person to be in place at the current Weather Service Office rather than a regional person. The community relies on the human element to accurately relay the advent of a weather crisis such as floods, tornados or hurricanes.

The modernization of the Weather Service directly affects the Ninth District of Ohio. The Toledo Weather Station Office is due to be closed as a result of the modernization plan. While I believe that the upgrading of our weather forecasting and radar systems is necessary, I also believe all efforts must be made to ensure that no areas of the country of the country suffer a degradation of services. Toledo is due to receive the automated surface observing system [ASOS] as part of the reorganization. It is not clear at this point whether this system will be accompanied by a real live person. It concerns me that there may be no one available locally to interpret weather data collected at the Cleveland Weather Forecast Office which will have jurisdiction over the Toledo area. Local warning radar and local forecasts would all originate out of Cleveland for northwest Ohio coverage.

It is essential that there be a timely transmittal of weather information, in particular, due to the increase in traffic at the Toledo Express Airport. The increase in traffic is due to the addition of the Burlington Air Express cargo hub which adds 30 flights 5 days per week—at night. Accurate weather forecasting is an important ingredient for any type of transportation service. Bad weather is one of the few consequences that can shut down a transportation system within minutes.

The airport director at Toledo Express Airport has also voiced his concern that a human presence at a Weather Service Office is vital. As Toledo's Airport director, Jim McCue, must rely on personnel at the Weather Service Office so that he can make decisions as to whether he should close the airport. Furthermore, if snow is predicted by Weather Service personnel, the airport crew can be on alert and money can be saved in personnel costs by keeping the crew at the airport rather than sending the airport crew home.

Mr. Chairman, let me reiterate my support for sections 403 and 404 as well as the Perkins amendments which provide necessary oversight to ensure that all areas of the country are provided with accurate weather service.

Mr. PERKINS. Mr. Chairman, I yield 1 minutes to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, today I rise to oppose efforts by the National Weather Service to remove almost 150 vital weather stations throughout the United States. As we consider authorization legislation for the National Oceanic and Atmospheric Administration, we have the opportunity to save our stations.

In my district the Houghton Lake Weather Station in Houghton Lake MI, has provided the public with up to the minute accurate weather information since 1964. It has provided the public with the safety and assurance of weather preparation for both beautiful sunny days and violent storms.

Mid-Michigan needs the current radar services of a 24-hour National Weather Service Office. We need the 24-hour assurance of accurate and timely weather information not only for our safety, but also for our economy. Our schools need the weather station, our farmers and our businesses need the weather station and the thousands of tourists who visit our beautiful northern Michigan beaches and ski resorts need the weather station radar services.

Mr. Chairman, we cannot afford to take the chance. Our safety depends on keeping the weather station radar operators. I urge our colleagues to support the Perkins amendment.

Mr. PERKINS. Mr. Chairman, I yield our remaining minute to the distinguished gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Chairman, let us lay this straight out in front of us. All we are attempting to do by the Perkins amendment is to insure before a new system starts that it works and that meanwhile we do not leave the rest of the country bare.

This amendment also provides sufficient exemptions to the deactivization program that it would not hamper the normal weather service operations, including the modernization program.

This amendment would not require the Weather Service to keep less effective radars in operation for years and years on end after the Weather Service has tested the Nexrad system in any area.

Section 404 as modified by this amendment would make deviation of radar an event requiring certification independent of any certification required for the closure, consolidation, automation or relocation of a Weather Service office. Before permanently turning off such radars, the Secretary of Commerce would only have to certify that deactivating the existing radars would not lead to degradation of weather service for the area.

For those of us who live in portions of this country where the weather can turn violent very suddenly, the maintenance of an existing system before turning to a new system is absolutely essential.

Mr. WALKER. Mr. Chairman, I yield myself the remaining 30 seconds.

Mr. Chairman, this does not affect weather stations in any way. This is a technology amendment. What this amendment says is that you cannot even turn off old radars once the new radars come on line and are totally certified and are safer. This is a Luddite amendment. This says no new technology. It says all your offices will remain open anyway. This does not affect weather stations in any way whatsoever. The whole certification process with regard to weather stations would have to go forward.

So this is a technology amendment. It ought to be turned down, because it will destroy the ability to get a safer, better weather system.

Mr. LEHMAN of California. Mr. Chairman, I want to commend my colleague, Congressman PERKINS, for his efforts to preserve the degree of services which the National Weather Service offices have provided in the past.

Under the plan by the National Weather Service to modernize the system, 142 Weather Service offices [WSO's], Weather Service meteorological observatories [WSMO's], and agricultural weather service centers [AWSC's] across the country would be eliminated. These include the Stockton Weather Service Station and the Agricultural Forecast Center in Clovis, both in my California district. The plan calls for these stations to be replaced or upgraded by 115 weather forecast offices equipped with the new Nexrad radar.

While I certainly agree that the new radar system will be a long-needed innovation in technology, it can not replace the degree of timely and accurate reporting that local weather service stations can offer. Advanced warnings of tornados, floods, and electrical storms have been valuable in saving lives and protecting property. In my district, the Agricultural Center has been irreplaceable in providing frost and freeze warnings and evaluating specific zone forecasts that a more regional system may not achieve.

To prevent overconsolidation and ensure that forecasting improves for all parts of the country, including the hills and valleys, and that these forecasts can be disseminated as well as before, Congressman PERKINS has included language in this measure which I urge my colleagues to support.

Section 403 requires the Secretary of Commerce to provide at least one NWS liaison officer to each area currently receiving public institution and community preparedness liaison from a WSO, WSMO, or AWSC. This will ensure that there will be no degradation in the conveyance of vital forecast information to the local community.

Section 404 improves the process of certifying that no degradation of services will result from the modernization plan. For instance, it requires that certifications for the next generation weather service [Nexrad] modernization plan be based on demonstrations of the system at specific sites. Because the deployment of Nexrad will double the average area of responsibility for Weather Service areas, fringe areas should be assured of the same accurate forecasts that have been provided in the past.

The amendments being offered today by Congressman PERKINS further strengthen the bill. The first is of a technical nature, merely clarifying that the provisions in the bill protecting public liaison officers at Weather Service sites only apply to those which are currently being served. The second ensures that the intent of current law not to allow a degradation of services cannot be circumvented by simply turning off old Weather Service radar systems without removing them.

In the past, the administration budget has continually targeted all agricultural forecast centers and fire weather programs for elimination. Every year, Congress has resisted these attempts. While current law dictates that the Weather Service cannot close any station unless it can certify that the action would not diminish current services, Congress must impose sufficient oversight to insure this statute is upheld. The modernization program cannot become part of a hidden agenda to cut back on services in order to save a few dollars, only to put public safety and regional economies at risk.

The National Weather Service's planned technology modernization program does not insure that all communities that will lose their weather stations are well protected. I will continue to monitor the certification process close-

ly. In addition, the inclusion of the provisions proposed by Congressman PERKINS provide needed protections to communities in the fringe areas of the radar system. They also ensure that liaison services property remain the function of local weather offices—not regional stations. I urge my colleagues to support these needed improvements to the NOAA authorization bill.

The CHAIRMAN. Under the rule, all time for debate on amendment No. 6 has expired.

The question is on the amendment offered by the gentleman from Kentucky [Mr. PERKINS].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 102-313.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAUZIN: Page 40, after line 10, insert the following new paragraph:

(5) VESSELS FOR BATHYMETRIC MAPPING.—

(A) IN GENERAL.—The Secretary may acquire, under a multiyear lease contract subject to the requirements of this section, not more than 2 vessels for bathymetric mapping in the Exclusive Economic Zone of the United States.

(B) AUTHORIZATION OF APPROPRIATIONS.—Of the sums authorized under this section, there are authorized to be appropriated to the Secretary—

(i) $1,000,000 for salaries and expenses of National Oceanic and Atmospheric Administration personnel assigned on board vessels acquired under this paragraph, of which not more than $500,000 may be used for personnel on each vessel; and

(ii) such other amounts as are necessary to carry out this paragraph.

The CHAIRMAN. Under the rule, the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, today I rise to offer an amendment to section 804 of H.R. 2130, the National Oceanic and Atmospheric Administration Authorization Act. My amendment will simply give NOAA the specific authority to enter into a multiyear lease contract with private industry to conduct bathymetric mapping in the United States exclusive economic zone.

Congress recently received the long overdue report from NOAA on its fleet modernization program. For years we have seen NOAA's fleet missions severely hampered by outdated vessels needing constant maintenance. Fortunately, this bill will authorize $50 million in fiscal year 1992 and $52 million in fiscal year 1993 for NOAA's fleet modernization program. In the bill, Congress also gives the Secretary of Commerce, general contract authority for the fleet replacement and modernization program which includes multiyear lease.

My amendment will provide NOAA the excellent opportunity to develop a government and industry partnership for their bathymetric mapping program. Currently, only 5 percent of the exclusive economic zone has been completed since NOAA started mapping it in 1983. Bathymetric mapping produces charts that are beneficial to various Government agencies as well as private industries.

These are some of the benefits: First, it will substantiate the United States' claim to the EEZ; second, it will assist in locating new areas of resources like oil, gas, salt, sulfur, and manganese; third, it will help the National Marine Fisheries Service and the fishing industry by identifying fishery habitats; fourth, it will support our national defense in subsurface navigation and acoustic prediction; and fifth, it can support environmental concerns like waste disposal, pollution modeling and assessment, wetlands and habitat loss, and shore migration.

As I have said this amendment will simply give NOAA the specific authority to enter into a lease contract with the private industry for bathymetric mapping. I ask for your support of this amendment.

□ 1720

Mr. HERTEL. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. Mr. Chairman, I yield to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the chairman of the Coast Guard Subcommittee. This is an excellent idea. This information is very, very valuable.

I congratulate him for his initiative, and the committee accepts the amendment.

Mr. TAUZIN. I thank the chairman, and particularly I appreciate his help and good work in regard to drafting the amendment, making sure it meets with the approval of the administration.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member rising in opposition to the amendment?

Mr. TAUZIN. Mr. Chairman, if not, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 102-313.

AMENDMENT OFFERED BY MR. JEFFERSON

Mr. JEFFERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. JEFFERSON:

Page 60, after line 25, insert the following:

SEC. 917. RECRUITMENT OF MINORITIES AND WOMEN FOR NOAA SCIENCE EDUCATION ACTIVITIES.

(a) FINDINGS.—The Congress finds the following:

(1) In this decade, more than two-thirds of the new entrants to the United States labor force will be minorities and women—groups which for the most part have been historically underrepresented in the sciences.

(2) The National Science Foundation estimates that by the year 2000, the United States will face a shortfall of more than 400,000 science and engineering personnel.

(3) Given the demographics of the United States workforce, the problem of underrepresented minorities and women in the sciences and engineering could seriously compromise the industrial and technological capability of the United States, as well as its ability to compete in international marketplaces.

(4) The National Oceanic and Atmospheric Administration has made important efforts to promote education programs in the sciences for students, teachers, and other citizens.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the National Oceanic and Atmospheric Administration should continue to expand its educational programs in the sciences, and in this effort, that the National Oceanic and Atmospheric Administration should develop and promote programs that reach out to and recruit minorities and women for education in the sciences.

The CHAIRMAN. Under the rule, the gentleman from Louisiana [Mr. JEFFERSON] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the underrepresentation of women and minorities in the sciences and engineering is not just a matter of equity; it is foremost a matter of competitiveness. We continue to hear that America is losing its edge in the sciences and high technology; that we are falling behind our competitors; that we are deficient in research and development.

Mr. Chairman, I submit that our competitive position worldwide depends not only on the macroeconomic policies of this Nation, but also on the capability of its work force.

And this work force is changing dramatically. Presently, more than 6 out of 10 new entrants to the U.S. labor force are women and members of a minority group. By the turn of the century, this number will be closer to 8 out of 10.

Yet these two groups have been and continue to be underrepresented in the sciences and engineering. Blacks are approximately 12 percent of the U.S. population but constitute only 2.6 percent of all employed scientists and engineers. Hispanics comprise 9 percent of the U.S. population but represent less than 2 percent of all employed scientists and engineers. Women constitute 45 percent of the U.S. work force, yet they comprise approximately 16 percent of all scientists and engineers.

And there is more ominous news. The National Science Foundation estimates that by the year 2000, the United States will face a shortfall of more than 400,000 science and engineering personnel. Furthermore, with the increasing automation and computerization of every aspect of the workplace, we will need scientifically and technologically literate people at all levels of our work force.

Given these forecasts—that a growing proportion of our work force is underrepresented in the very fields facing a shortfall—we have an acute problem. A problem that could seriously compromise this Nation's industrial and technological capability and its ability to compete in international marketplaces.

Mr. Chairman, Congress must act now to reverse this perilous trend. We can take measures on a Government-wide basis to address the shortage of qualified scientists and engineers in our work force through the direct recruitment of women and minorities.

Numerous Federal agencies have already implemented educational and research programs that specifically target minorities and women. The National Oceanic and Atmospheric Administration, however, has been somewhat reluctant in its role as educator. While NOAA has, to its credit, recently established an Educational Affairs Division and initiated some valuable educational programs with a limited budget, its full potential in this area has yet to be realized. With NOAA's tremendous wealth of expertise and breadth of research activities in the exploration and monitoring of the oceans, Great Lakes, and atmosphere, NOAA could be a tremendous educational asset and model for our country's students.

The amendment I propose today recognizes the important progress NOAA has made in education and encourages NOAA to continue to expand its educational programs in the sciences. But most importantly, my amendment would express the sense of the Congress that NOAA develop and promote educational programs that reach out to and recruit minorities and women for education in the sciences.

These programs could be modeled after successful programs already in place at other Federal agencies, taking the form of apprenticeships, fellowships, and enrichment and mentoring programs for minorities and women.

Mr. Chairman, we must cultivate this growing segment of our work force, a segment with enormous potential to help this country grow and once again attain scientific and technological preeminence.

I urge my colleagues to vote in favor of this important measure.

Mr. HERTEL. Mr. Chairman, will the gentleman yield?

Mr. JEFFERSON. I yield to the gentleman from Michigan.

Mr. HERTEL. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for all that he has done in this area but for this amendment in particular, which is one of the most important amendments we have in this bill. What the gentleman is seeking to do is really needed very much. While NOAA has made attempts to recruit more minorities, it is clear from the numbers the gentleman has cited that they have to do a lot better.

I would like to suggest, in addition to the amendment, that we work with Dr. Ballard, the man who discovered the *Titanic*, because he is very interested in bringing more young people into the sciences, and ask him how we can also reach more minority people.

Mr. Chairman, the committee accepts the amendment, and we are very proud the gentleman offered it.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. JEFFERSON. I yield to the gentleman from California [Mr. BROWN], the chairman of the full committee.

Mr. BROWN. I thank the gentleman for yielding.

Mr. Chairman, may I compliment the gentleman also on his amendment. As he points out, many other agencies of the Federal Government are carrying on aggressive programs with respect to recruitment and they are also trying to increase the supplies through the pipeline by educational means of various sorts. I have not checked as closely as the gentleman has on what NOAA is doing, but beyond the shadow of a doubt they could be doing more, and this will encourage them to do so. I thank the gentleman.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. JEFFERSON. I yield to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman's amendment is absolutely aimed at one of the critical problems facing American education. I am a Member of Congress from New York City. We have a tremendous demand on the part of appropriations for jobs that require some kind of technical, scientific, mathematical capability in science, math, and engineering. Insurance companies, banks, communications industry all require trained manpower.

Now, at the same time that they are desperately looking for work, we have a large minority community that cannot begin to qualify for those jobs and are unemployed. Those kids are talented, those kids have the ability. We have got to get them into science, math, and engineering, and I congratulate the gentleman for his fine amendment.

Mr. JEFFERSON. I appreciate the remarks of the gentleman from New York.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. JEFFERSON] has expired.

Is there a Member rising in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Louisiana [Mr. JEFFERSON].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 102-313.

AMENDMENT OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. JONES of North Carolina: At the end of the bill add the following new title:

TITLE X—MARINE SANITATION DEVICE PUMPOUT STATIONS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Clean Vessel Act of 1991".

SEC. 1002. FINDINGS; PURPOSE.

(A) FINDINGS.—The Congress finds the following:

(1) The discharge of untreated sewage by vessels is prohibited under Federal law in all areas within the navigable waters of the United States.

(2) The discharge of treated sewage by vessels is prohibited under either Federal or State law in many of the United States bodies of water where recreational boaters operate.

(3) There is currently an inadequate number of pumpout stations for marine sanitation devices where recreational vessels normally operate.

(4) Sewage discharged by recreational vessels because of an inadequate number of pumpout stations is a substantial contributor to the degradation of water quality in the United States.

(b) PURPOSE.—The purpose of this title is to provide funds to coastal States for the construction, renovation, operation, and maintenance of pumpout stations for marine sanitation devices and facilities to receive wastes from portable toilets.

SEC. 1003. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS.

(a) SURVEY.—

(1) IN GENERAL.—Each coastal State shall conduct a survey to determine, using guidance issued under section 1004(b)(4), whether pumpout stations for marine sanitation devices and facilities to receive waste from portable toilets are adequate and reasonably available to meet recreational needs within the State.

(2) FUNDING.—Amounts made available to a coastal State pursuant to the amendments made by section 1004 may be used to conduct a survey under this subsection.

(b) PLAN.—Based on the survey conducted under subsection (a), each coastal State shall—

(1) develop and submit to the Administrator of the Environmental Protection Agency a plan for the construction or renovation of marine sanitation device pumpout stations and facilities to receive wastes from portable toilets, that are adequate and reasonably available to meet recreational vessel needs in the State; and

(2) submit to the Administrator with that plan a list of all such stations and facilities in the State which are operational on the date of submittal.

(c) PLAN APPROVAL.—

(1) IN GENERAL.—Not later than 60 days after a plan is submitted by a State under subsection (b), the Administrator of the Environmental Protection Agency shall approve of disapprove the plan, based on—

(A) the adequacy of the survey conducted by the State under subsection (a); and

(B) the ability of the plan to meet the construction and renovation needs identified in the survey.

(2) NOTIFICATION OF STATE; MODIFICATION.—The Administrator shall promptly notify the affected Governor of the approval or disapproval of a plan. If a plan is disapproved, the Administrator shall recommend necessary modifications and return the plan to the affected Governor.

(3) RESUBMITTAL.—Not later than 60 days after receiving a plan returned by the Administrator, the Governor shall make the appropriate changes and resubmit the plan.

(d) INDICATION OF STATIONS AND FACILITIES ON NOAA CHARTS.—

(1) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere shall indicate, on charts published by the National Oceanic and Atmospheric Administration for the use of operators of recreational vessels, the locations of pumpout stations for marine sanitation devices and facilities to receive waste from portable toilets.

(2) NOTIFICATION OF NOAA.—

(A) LISTS OF STATIONS AND FACILITIES.—The Administrator of the Environmental Protection Agency shall transmit to the Under Secretary of Commerce for Oceans and Atmosphere each list of operational stations and facilities submitted by a State under section 1003(b)(2), by not later than 30 days after the date of receipt of that list.

(B) COMPLETION OF PROJECT.—The Director of the United States Fish and Wildlife Service shall notify the Under Secretary of the location of each station or facility at which a construction or renovation project is completed by a State with amounts made available under section 8(d)(1)(B) of the Act of August 9, 1950 (popularly known as the "Dingell-Johnson Sport Fish Restoration Act"; 16 U.S.C. 777g), as amended by this Act, by not later than 30 days after the date of the completion of the project.

SEC. 1004. MARINE SANITATION DEVICE PUMPOUT STATION FUNDING.

"(a) FUNDING.—Section 8 of the Act of August 9, 1950 (16 U.S.C. 777g), popularly known as the "Dingell-Johnson Sport Fish Restoration Act", is amended by adding at the end the following new subsection:

"PUMPOUT STATIONS.—

"(1) USE OF FUNDS AUTHORIZED.—For each of the fiscal years 1992 through 1996, each coastal State shall use 5 percent of the amounts apportioned to it under section 4 to pay not more than 75 percent of the costs of—

"(A) conducting the survey and preparing the plan required by section 1003 of the Clean Vessel Act of 1991; and

"(B) constructing, renovating, operating, or maintaining pumpout stations for marine sanitation devices and facilities to receive wastes from portable toilets, in accordance with a plan approved under section 1003 of the Clean Vessel Act of 1991.

"(2) WAIVER.—The Secretary of the Interior shall, if requested by the Governor of a coastal State, waive or reduce the percentage of the State's apportionment under section 4 that is required to be used in a fiscal year in accordance with paragraph (1) by any amount which is not needed to implement the plan of the State approved under section 1003 of the Clean Vessel Act of 1991.

"(3) EDUCATIONAL PROGRAM.—Notwithstanding paragraph (1), a coastal State may use not more than 20 percent of the amounts required to be used in accordance with that paragraph to conduct a program to educate recreational boaters about the problem of sewage discharges from boats and inform them of the location of pumpout stations for marine sanitation devices.

"(4) REALLOCATION.—

"(A) IN GENERAL.—The Secretary of the Interior shall reallocate any amount that is required to be used in accordance with paragraph (1), or is authorized to be used in accordance with paragraph (3), and which is not expended or obligated by a coastal State within 2 years after it is available for expenditure, among the other coastal States for use in accordance with paragraphs (1) and (3).

"(B) MANNER OF REALLOCATION.—The Secretary of the Interior shall carry out reallocations under this paragraph in the manner described in section 4 for apportioning remaining appropriations.

"(5) DEFINITIONS.—For the purposes of the subsection—

"(A) the term 'coastal State'—

"(i) means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

"(ii) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

"(iii) does not include a State for which—

"(I) the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one; and

"(I) the Governor certifies to the Secretary of the Interior that the water quality of the State is not significantly affected by sewage discharged from recreational vessels;

"(B) the term 'marine sanitation device' includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage; and

"(C) the term 'recreational vessel' means a vessel—

"(i) manufactured for operation, or operated, primarily for pleasure; or

"(ii) leased, rented, or chartered to another for the latter's pleasure.".

(b) NOTIFICATION.—Not later than 6 months after the date of the enactment of this Act, the Director of the United States Fish and Wildlife Service, in consultation with the Administrator of the Environmental Protection Agency, shall notify in writing the fish and game, water pollution control, and coastal zone management authorities of each coastal State of the availability of the amounts under subsection (d) of section 8 of the Act of August 9, 1950 (16 U.S.C. 777g), as amended by this Act, to finance the construction, renovation, operation, and maintenance of pumpout stations for marine sanitation devices and facilities to receive wastes from portable toilets. The notification shall include—

(1) a description of the availability of amounts in the Sport Fish Restoration Account for those purposes;

(2) a projection of the apportionments to the State under that program for each of the succeeding 5 fiscal years;

(3) guidance regarding the types of pumpout facilities that may be appropriate for construction, renovation, operation, or maintenance with those funds and appropriate location of the facilities within a marina or boatyard;

(4) guidance defining what constitutes adequate and reasonably available pumpout facilities in boating areas;

(5) guidance on appropriate methods for disposal of vessel sewage from pumpout facilities;

(6) guidance on appropriate connector fittings to facilitate the sanitary and expeditious discharge of sewage from vessels;

(7) guidance on the coastal waters most likely to be affected by the discharge of sewage from vessels; and

(8) other information that the Administrator of the Environmental Protection Agency considers necessary to promote the establishment of pumpout facilities to reduce sewage discharges from vessels and to protect coastal waters.

SEC. 1005. DEFINITIONS.

For the purposes of this title—

(1) the term "coastal State" has the meaning that term has in section 8(d)(5)(A) of the Act of August 9, 1950, as amended by this Act; and

(2) the term "recreational vessel" means a vessel—

(A) manufactured for operation, or operated, primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure.

The CHAIRMAN. Under the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 5 minutes, and a Member in opposition will also be recognized for 5 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment I am offering today is the text of H.R. 1297, the Clean Vessel Act of 1991, which passed the House under suspension of the rules on October 15. In the Senate, H.R. 1297 was referred to the Commerce Committee. In an effort to spur Senate action on H.R. 1297, I am offering this amendment to H.R. 2130.

This deals with the problem of sewage illegally discharged from recreational boats. Boaters need shoreside facilities where they can properly dispose of wastes

As my colleagues will recall, the Clean Vessel Act proposes to earmark a portion of the money coastal States receive from the sport fish restoration account, so that they can build, renovate, and maintain pumpout stations for boat toilets along their coasts.

This bill is in response to problems in North Carolina with sewage illegally discharged from recreational boats because of a lack of pumpout stations where boaters can properly dispose of their wastes. Problems have also been identified in Chesapeake Bay, Puget Sound, Buzzards Bay, Tampa Bay, Narragansett Bay, and Delaware Bay. There are undoubtedly problems in other parts of the country, but since there has never been a comprehensive national survey, we just don't know. The Clean Vessel Act will help States find out where problems exist, and makes money available to address those problems.

The Clean Vessel Act accomplishes this by directing coastal States to conduct a survey to determine their pumpout station construction and renovation needs. Using this survey, the State must develop a plan to meet those needs. Once the plan is approved by the EPA, the State is required to use 5 percent of its sport fish restoration account moneys to implement the plan.

The 5-percent set-aside may be waived or reduced if the plan identifies no pumpout construction needs or needs which will require less money. This process will ensure that money is spent only where there are identified problems. The bill also directs NOAA to indicate the location of pumpout stations on navigational charts. Finally, the Clean Vessel Act allows States to spend a portion of the set-aside to educate the boating public about the costs and consequences of boat sewage discharges. These last two provisions are intended to ensure that the pumpout stations constructed with funds included in the bill will be used.

As I mentioned earlier, this amendment passed the House as H.R. 1297 by voice vote under suspension of the rules. It is not controversial and will provide important benefits to everyone who fishes, swims, and eats shellfish harvested in coastal waters.

I urge all Members to support it.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from North Carolina [Mr. JONES].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 10 printed in House Report 102-313.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STUDDS: Page 60, after line 25, insert the following new section:

SEC. 917. MASSACHUSETTS AND CAPE COD BAY MONITORING.

There are authorized to be appropriated to the Secretary $1,000,000 for fiscal year 1992 and $1,040,000 for fiscal year 1993 for a program of biological monitoring of pollution in Massachusetts Bay and Cape Code Bay. No more than five percent of the amounts appropriated pursuant to this section shall be used by the National Oceanic and Atmospheric Administration for administrative expenses. In developing and implementing the program, the Secretary shall use to the maximum extent practicable the capabilities of nongovernmental research institutions within the region. In no case shall less than 50 percent of the amounts appropriated pursuant to this section be used through such nongovernmental research institutions. The monitoring program shall be closely integrated with other monitoring efforts in Massachusetts and Cape Cod Bays, and shall be developed and implemented in consultation with the Massachusetts Office of Coastal Zone Management.

The CHAIRMAN. Under the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

MODIFICATION TO AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, let me say first of all I ask unanimous consent to modify the amendment.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment, as modified, offered by Mr. STUDDS: Page 60, after line 25, insert the following new section:

Sec. 917. MASSACHUSETTS, CAPE COD, AND CHESAPEAKE BAY MONITORING.

There is authorized to be appropriated to the Secretary $2,000,000 for fiscal year 1992 and $2,080,000 for fiscal year 1991 for a program of biological monitoring of pollution in Massachusetts, Cape Cod, and Chesapeake Bays. No more than five percent of the amounts appropriated pursuant to this section shall be used by the National Oceanic and Atmospheric Administration for administrative expenses. Of the amounts appropriated, 50 percent shall be designated for use in Massachusetts and Cape Cod Bays and 50 percent shall be designated for use in the Chesapeake Bay.

In developing and implementing the program for Massachusetts and Cape Cod Bays, the Secretary shall use to the maximum extent practicable the capabilities of non-governmental research institutions within the region, and in no case shall less than 50 percent of the funds appropriated be used in this manner. The monitoring program shall be closely integrated with other monitoring efforts in Massachusetts and Cape Cod Bays, and shall be developed and implemented in consultation with the Massachusetts Office of Coastal Zone Management.

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 1730

The CHAIRMAN. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. WALKER. Reserving the right to object, Mr. Chairman, and I shall not object, I just want to ask the gentleman from Massachusetts [Mr. STUDDS] one question about his amendment. It does add some funding, but that would be subject to the caps that are in the bill; is that correct?

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, the gentleman from Pennsylvania is absolutely correct.

Mr. HOYER. Mr. Chairman, will the gentleman yield under his reservation of objection?

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, the gentleman from Massachusetts [Mr. STUDDS] has told me, "not now."

Mr. WALKER. In that case, Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts [Mr. STUDDS] to modify the amendment?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts [Mr. STUDDS] is recognized for 5 minutes to explain his amendment, as modified.

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of my amendment is to authorize NOAA to support a badly needed biological monitoring program for Massachusetts and Cape Cod Bays.

These bays—essential to some of the most important fisheries in New England, home to endangered marine mammals, key to Massachusetts tourism—are currently threatened by major pollution problems. Tens of thousands of barrels of toxic and radioactive waste are lying on the bottom of Massachusetts Bay, some intact, some broken open.

In 1995, Boston will begin the dredging of its inner harbor, which will require the disposal of more than 3 million cubic yards of sediment—some of it contaminated. Boston is also in the process of building one of the largest sewage treatment plants in the world, which will discharge more than 1 billion gallons of effluent daily into Massachusetts Bay.

The amendment also authorizes NOAA to undertake an expanded monitoring program of precious biological resources in the Nation's largest estuary, the Chesapeake Bay.

Mr. Chairman, we cannot afford to make any mistakes with these fragile ecosystems. A comprehensive monitoring program for our Nation's bays is desperately needed, and very little funding has been available to NOAA to conduct biological monitoring of pollution. My amendment would authorize up to $2 million for fiscal year 1992 and $2.08 million for fiscal year 1993, with no more than 5 percent to be used by NOAA for administrative expenses.

In the case of the Massachusetts monitoring, the amendment also directs NOAA to use the many capable marine research institutions in the region to the fullest extent possible and to direct at least 50 percent of the appropriated funds to this cooperative effort.

I believe this is a noncontroversial amendment that seeks to harness the considerable expertise of NOAA in a much-needed fashion, and I urge my colleagues to support it.

Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I want to thank my good friend and author of this amendment, the gentleman from Massachusetts, Representative STUDDS, who chairs the Subcommittee on Fisheries and Wildlife Conservation and the Environment. The chairman's amendment was a good one, but he has made it even better by extending its scope to include under its protection the Nation's largest estuary, the Chesapeake Bay.

This amendment is a critical step in focusing management efforts by developing biological monitoring programs for the Massachusetts Bay, the Cape Cod Bay, and the Chesapeake Bay. As the chairman has kindly included the Chesapeake Bay in this amendment, let me focus my comments on the importance of this study for the Chesapeake.

As we all know, major efforts by Federal, State, local, and private sectors have been made to restore the health of the Chesapeake Bay and its tributaries, such as the Patuxent, Potomac, and Anacostia Rivers. These efforts have had mixed results, with some areas of the watershed enjoying improved water quality and increased aquatic life while other areas have continued to suffer major declines.

It makes sense to know what the status of our efforts is so that future efforts can be focused in the most efficient and cost-effective manner as is possible. Toward this end, there is a need for enhanced biological monitoring to measure the kinds and amounts of fish, oysters, crabs, and other living resources that make up the food chain of the Chesapeake Bay.

This amendment would allow NOAA to study both the success stories and the problem areas to determine what efforts promise the best results. This will allow us to be able to much better target future aid and hopefully result in significant cost savings in the restoration effort.

I also want to thank the chairman of the Oceanography Subcommittee, the gentleman from Michigan, Representative DENNIS HERTEL, who has also worked closely with me and Representative STUDDS on this amendment. I also want to commend the committee for including and improving upon other programs for the Chesapeake Bay as well. I appreciate the assistance that the committee's staff has given to me on this amendment, especially Will Steele and Debbie Dawson.

I look forward to working with both chairmen in the year ahead to continue to improve the health of the Chesapeake Bay.

Mr. STUDDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. STUDDS], the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, and also the gentleman from Maryland [Mr. HOYER], because this is really needed in the Chesapeake Bay. NOAA has been working in this area, and we need this assistance, and we need this leadership.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentleman from Michigan [Mr. HERTEL]. I know the gentleman and I have discussed his possibly having hearings down in the southern Maryland area on this issue, and I very much appreciate that.

Mr. HERTEL. Mr. Chairman, we have one in southern Maryland. We already have one in southern Virginia, also on the Chesapeake Bay.

Mr. STUDDS. Mr. Chairman, I thank the gentlemen for their leadership.

Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. STUDDS] for yielding, and I want to commend him for broadening his amendment. As one who has been supporting the program to protect and enhance the water quality of the Chesapeake Bay over the past decade, I am especially pleased that he has added the Chesapeake Bay to his amendment, and I commend the gentleman from the former Massachusetts Bay Colony for his kind recognition and assistance to the earlier Virginia Colony.

Mr. STUDDS. And I commend the gentleman for his lost colony.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there a Member who would rise in opposition to the amendment?

If not, the question is on the amendment, as modified, offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment, as modified, was agreed to.

The CHAIRMAN. No further amendments are in order.

The question is on the amendment in the nature of a substitute, as modified, as amended.

The amendment is the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MCNULTY] having assumed the chair, Mr. DURBIN, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 2130) to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992, pursuant to House Resolution 278, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HERTEL. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days to revise and extend their remarks on H.R. 2130, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2130, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT OF 1991

Mr. HERTEL. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of the bill, H.R. 2130, including corrections in spelling, punctuation, section numbering, and cross-referencing.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HIGH-PERFORMANCE COMPUTING AND NATIONAL RESEARCH AND EDUCATION NETWORK ACT OF 1991

Mr. BROWN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 272) to provide for a coordinated Federal program to ensure continued U.S. leadership in high-performance computing, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, I shall not object, but I take this opportunity to allow the gentleman from California [Mr. BROWN] to explain the bill and make some additional commentary on the bill.

Mr. BROWN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. BROWN. Mr. Speaker, I would like to explain the amendment in the nature of a substitute that we have worked out to S. 272, the High-Performance Computing Act of 1991, as passed by the other body.

I want especially to thank the chairman of the Subcommittee on Science, Mr. BOUCHER, and the chairman of the Subcommittee on Technology and Competitiveness, Mr. VALENTINE, as well as the ranking Republican subcommittee members, Mr. PACKARD and Mr. LEWIS, respectively, for their hard work and cooperation in the development of this compromise amendment. I also want to acknowledge the cooperation and assistance of the ranking Republican member of the full committee, Mr. WALKER, in moving the legislation forward.

H.R. 656 passed the House on July 11, and the companion measure, S. 272, was passed in amended form by the other body on September 11. Discussions between the Committee on Science, Space, and Technology and the Senate Committees on Commerce, Science, and Transportation and on Energy and Natural Resources have led to the amendment now before the House. We believe this amendment will be satisfactory and acceptable to the other body.

The main provisions of H.R. 656, as passed by the House, dealing with the structure and contents of the national high-performance computing program, including Federal agency responsibilities and authorization levels, are substantially unchanged by the amendment. I am including for the RECORD a description of differences between the amendment and H.R. 656, as passed by the House.

One significant difference between the amendment and the bill, as passed by the House, is the section dealing with the buy-American provisions. While those provisions would have permitted procurements from foreign companies and were therefore not intended to violate U.S. international obligations under the General Agreement on Tariffs and Trade, the administration threatened to veto the bill. The Senate refused to include similar provisions. After long negotiations with the administration and the Senate, we reluctantly changed these provisions in the House bill in order to ensure that the remainder of the bill would pass in the other body and be signed by the President.

The negotiations with the administration have led me to believe that what is needed is not necessarily new laws or authority to deal with unfair competition, but a willingness to enforce the laws that are already on the books. Congress needs to do a better job of overseeing the administration's lax enforcement of our present trade laws.

The substitute section is intended to help in this oversight process by providing a foundation for future review by this and other committees on the implementation of the high-performance computing program, as well as trade issues relating to high technology in general. The annual reporting requirements on contracts and procurements made with foreign-owned companies and foreign education institutions will assist Congress in its oversight of the high-performance computing program. The review by the technology administration in the Department of Commerce of the United States-Japan supercomputer agreement will provide an opportunity for a different perspective—albeit from the administration—on the effects of such an agreement on Japanese and United States supercomputer manufacturers. Finally, the substitute reasserts that procurements under the program would be governed according to the terms of existing law, which directs a preference for domestic manufacturers in many situations, and which forbids procurements from nations found by the President to maintain a persistent practice of discrimination against U.S. goods or suppliers.

I want to acknowledge the assistance of the majority leader, the chairman of the Committee on Government Operations, Mr. CONYERS, and Mr. SABO in developing language in the substitute. With these tools, I can assure you that this committee will maintain close oversight over the implementation of the high-performance computing program to ensure that the program is carried out for the benefit of U.S. industry and researchers, as the administration has indicated it would be. Further, I intend to hold hearings in the next session of Congress on trade issues relating to high technology, and to review the report on the United States-Japan supercomputer agreement submitted by the Department of Commerce under this legislation.

To further assist us in the review of the supercomputer agreement, I also intend to request a study by the Government Accounting Office to review bidding procedures for procuring supercomputers, interagency processes and internal Government mechanisms for presenting and reviewing intended procurements of supercomputers, and the application of existing U.S. laws governing such procurements. Since jurisdiction over Federal procurement laws in general rests in the Government Operations Committee, I will work with the chairman of that committee, Mr. CONYERS, in framing the GAO study request, as well as with the majority leader and other Members who have been leaders on this issue.

Mr. Speaker, S. 272, as amended, is among the most important pieces of legislation that the Congress will consider this year. This bill is at the heart of the creation of an information infrastructure that will be essential for the Nation's future economic strength and competitiveness in the world.

This bill is a truly bipartisan measure. We worked closely with our Republican colleagues and also with the administration to ensure consistency between the bill and the activities associated with the high-performance computing and communications initiative, included in the President's 1992 budget request.

Mr. Speaker, I urge my colleagues to support passage of the amendment in the nature of a substitute to S. 272. This measure provides an opportunity to maintain U.S. leadership in areas which are important to the long-term well being of the Nation, and will be a major step toward providing an equitable distribution of information resources across the Nation. High-performance computing will both enhance economic competitiveness and provide a resource to stimulate the creative imaginations of the Nation's scientists and engineers.

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Mr. WALKER. Mr. Speaker, further reserving the right to object, I am happy to yield to the gentleman from North Carolina, the chairman of the subcommittee, who has been working so hard on the amendment.

Mr. VALENTINE. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise for the purpose of expressing my appreciation to the chairman of the committee, the gentleman from California [Mr. BROWN], and the ranking member of the subcommittee, the gentleman from Florida [Mr. LEWIS], and to state that in my opinion this is one of the most important pieces of legislation that the

Congress has dealt with in the past several weeks.

Mr. Speaker, I rise in strong support of S. 272, the High Performance Computing Act of 1991. I want to acknowledge the foresight and leadership of Mr. GEORGE BROWN of California, chairman of the Committee on Science, Space, and Technology, for introducing the House version of this bill and moving the legislation forward. I also want to acknowledge the effort provided by Mr. TOM LEWIS, the ranking Republican member of the Subcommittee on Technology and Competitiveness, to ensure that this legislation had bipartisan support as it moved through the subcommittee and full committee.

The advancement of America's technological interests is crucial to our well-being. High-performance computing is a vital technology greatly affecting scientific, educational, and economic competitive interests. Advances in the current state of high-performance computing will offer scientists the needed tools to research critical problems such as global climate change, conservation of energy, and severe weather forecasting.

While the United States is still regarded as the world's leader in high-performance computing technologies, we are being challenged by foreign competitors. The need for continued rapid advancement of these technologies and the advances by Japan and other nations will increase this challenge.

Our Nation must continue to lead the way in the use and development of high-performance computing systems. We must continue to lead the way in developing and integrating advanced networks for use by researchers and educators.

We must broaden the application of high-performance computing to aid American companies in becoming more competitive both at home and abroad. The use of high-performance computing in the design, development, and manufacturing of products will permit companies to produce better quality and more reliable goods in a shorter period of time.

We must ensure America's continued leadership in this critical area. S. 272 will assist in achieving this goal by expanding the number of researchers, educators, students, and industrial users with training in, and access to, high-performance computing.

I urge my colleagues in the House to support this legislation. It is crucial to the well-being of our Nation.

Mr. WALKER. Mr. Speaker, further reserving the right to object, Chairman BROWN has invested a great deal of effort on this legislation, and I commend him for his dedication to bringing a good bill to the floor for final passage.

This consensus substitute for S. 272 perfects the Brown-Walker compromise on H.R. 656, which was passed by the House last June. The bill implements the provisions of the National High-Performance Computing Program, which was proposed by the President as part of his fiscal year 1992 budget request. It is a long-term plan for the development of an integrated high performance computing network. This bill is the product of many hours of discussion and consultation with Members on both sides of the aisle, with Members of the Senate, and with representatives of the administration, including the Office of Science and Technology Policy and the Office of the U.S. Trade Representative.

I am especially pleased that S. 272 not only emphasizes, but requires, extensive private sector involvement in the development, deployment, and operation of the National Research and Education Network. This close collaboration between Government and the computer, telecommunications, and information industries will ensure that the network meets the needs of private sectors users, serve to spur significant private investment in high-speed data networking, and minimize Federal investment in network hardware and switches, except for research and development purposes.

The bill is also fiscally responsible. The amounts authorized to be appropriated to the departments and agencies participating in the high-performance computing program for the next 5 years do not represent additional funding, but are to come out of total agency authorizations. These figures are consistent with the President's request. In this way, we will ensure that funding for the program becomes an integral part of the agencies' operations.

I urge adoption of this legislation.

Mr. BROWN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I am happy to yield to gentleman from California.

Mr. BROWN. Mr. Speaker, this is a highly significant piece of legislation, as the gentleman from Pennsylvania [Mr. WALKER] has indicated. It reflects an agreement on a Presidential initiative, and it has the support of the administration. Most of the problems between the House and the Senate have been fully worked out.

There is one area which is not completely satisfactory to a number of Members of the House, and it has to do with the issue of the "Buy America" provision which is contained in the legislation. In order to have some assurance that this bill in its final form would be acceptable to the administration, the "Buy America" language originally passed by the House has been compromised, and I want to indicate that I regret it was necessary to do that. I had hoped that some of the Members who were concerned about this would be here to speak. After final action, I will ask unanimous consent that they be allowed to revise and extend their remarks to particularly include this issue.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of the House and Senate agreements on S. 272, a bill to accelerate the research and development of high-performance computing in industry, business, research and education.

High-performance computing is becoming an indispendsable tool for improving our country's research, education, economic competitiveness, and defense capabilities.

Specifically, S. 272, which passed the House on July 11 as H.R. 656, provides for a focused and coordinated Federal research program in high-performance computing throughout several Federal agencies. The bill requires the Director of the Office of Science and Technology Policy to coordinate among the various Federal agencies a national network of high-speed computers, known as the National Research and Education Network. Funds are also made available to the Federal agencies, including the Department of Education, to carry out high-speed computer research and application.

I would like to note that the Education and Labor Committee has a particular interest in the application of high-performance computing to educational institutions and to libraries. The Department of Education can help train users of high-performance computing and in developing the application of this technology to education at every level, from research institutions to the classroom itself. Moreover, libraries as centers for receiving, processing and transmitting information, are natural partners for the National Research and Education Network. National libraries like the Library of Congress have long been at the leading edge of automation and of the electronic transmission of their holdings across the country, and their participation will greatly enhance the network's capabilities.

I am pleased that the High Performance Computing Act of 1991 has moved expeditiously through the Congress, and I urge my colleagues to approve the agreements recently reached between the House and Senate on this legislation.

Mr. LEWIS of Florida. Mr. Speaker, I rise in support of the high-performance computing legislation, H.R. 656, before the House. High-performance computing is a technology that is important for the national economic prosperity and competitiveness.

The High Performance Computing Act, H.R. 656, addresses this need by establishing a 5-year multiagency program for research and development of advanced computer hardware and software and advanced computer networks.

On April 25, 1991, the Office of Science and Techology Policy released a report on 22 critical technologies. One of the those identified was high-performance computing.

The OSTP report states;

> The United States no longer has a clear lead in non-defense supercomputing applications, and competition in the development of supercomputing systems is growing rapidly.

This legislation is an important step in the direction of ensuring that we develop the computer technology to allow the United States to be competitive with other nations.

Nevertheless, it is just a first step which addresses Federal computing initiatives. There is much more that should be done to ensure our long-term competitiveness.

For example, Cray Research has essentially the only private-sector research program in supercomputers.

In 1990, Cray Research controlled 90 percent of the world's supercomputer business in 1980 and Japan had none. However, by 1990

Cray's share fell to approximately 50 percent and Japan's share of the supercomputer market rose to 28 percent.

The bill before us will benefit the private sector by providing technological advances developed by the Federal agencies, that will be available to U.S. industries.

I want to thank subcommittee Chairman VALENTINE, committee Chairman BROWN, and ranking member Mr. WALKER for their hard work and leadership in moving this important legislation.

I urge my colleagues' support of the High Performance Computing Act of 1991, H.R. 656, which is before us today.

Mr. GOODLING. Mr. Speaker, the Education and Labor Committee sought sequential referral of H.R. 656, the High Performance Computing Act of 1991, when it was first reported by the Science and Technology Committee. I am pleased to note many of the changes we made to improve the bill's responsiveness to education have been retained in the substitute we are considering today. I commend my colleagues on the Science and Technology Committee and in the other body for their efforts and urge the House to pass this bill.

At the same time, I must convey my sincere concerns that the Congress and the executive branch working with the private sector and the education community treat the education applications of the National Research and Education Network [NREN] as a priority. While the promoters of this legislation tout justly its benefits for education, much work is to be done to insure these grand visions are nothing more than lipservice.

As the network is created, it is absolutely essential that the needs and special applications of classroom education be taken into account. Its designers must be sensitive to the unique needs of education in rural settings or of young pupils. While the research applications of the network are apparent, the transfer of these applications for practical use in elementary, secondary, vocational, or even postsecondary undergraduate study are not automatic.

My hope is that the Education and Labor Committee together with the Science and Technology Committee will aggressively monitor the development of the network to insure it does meet the worthy goals its sponsors have set for it.

Again, I urge my colleagues to support this legislation.

Mr. PACKARD. Mr. Speaker, passage of the High-Performance Computing Act of 1991 is key to the U.S. ability to meet the challenges of the global marketplace. It is the application of new computing technologies and the usage of computational science and engineering, which will make our economy competitive in the long run. Access to the most advanced computational tools for our aerospace, automobile, pharmaceutical, and manufacturing industries is key to keeping the U.S. competitive.

High-performance computing has proven to be a powerful tool in manufacturing process, product development, and scientific research. The coopertive, interagency initiative before us today will spur progress and innovation in high-performance computing. Enhancing the Nation's educational infrastructure through the National Research and Education Network is another high priority of this legislation. This network will link scientists, engineers, and educational institutions across the Nation through computers.

An essential element of this legislation will be utilization of the five supercomputer centers supported by the National Science Foundation. The San Diego Supercomputer Center, which currently serves over 3,000 researchers throughout the Nation, is the only National Science Foundation Supercomputing Center located west of the Mississippi. The implementation of a 3-gigabit data communications network, as identified in the high performance computing [HPC] legislation, will make the resources of this national computational science and engineering laboratory accessible to an increasing number of educators, researchers, and students throughout the Nation.

I urge my colleagues to pass this legislation.

Mr. BOUCHER. Mr. Speaker, I rise in support of the amendment in the nature of a substitute to S. 272, the High-Performance Computing Act of 1991.

I want to thank the chairman of the full committee, Mr. BROWN, for his leadership in introducing this legislation in the House and in moving it forward. I particularly want to acknowledge the able assistance of the ranking Republican member of the Subcommittee on Science, Mr. PACKARD, regarding the subcommittee's role in assisting with the development of the compromise amendment.

Federal support for research and development activities is often characterized as an investment in the future. The truth of this assertion can be shown convincingly for the case of high-performance computing. Because of advances in high-performance computing, automobile manufacturers can now crash test their products without bending any metal. Aerospace companies can design aircraft and missiles without use of wind tunnels. Astronomers can observe the dynamics of colliding galaxies from the comfort of their offices.

In short, high-performance computing is emerging as a powerful tool in science and engineering research, in product and process development, and in all aspects of manufacturing. But the true power and breadth of applicability of these technologies is only now being realized. More powerful computers and innovative software will allow the creation of elaborate models of natural processes capable of fast-forwarding climate, zooming-in on the interaction of molecules, or slowing down the physics of subatomic particles. New insights and better understanding of the natural world will emerge from the capability to look at phenomena at the right size and the right speed.

The High-Performance Computing Act will consolidate and focus national R&D activities so as to capitalize on recent advances in computers, software and networking technologies and to accelerate developments in areas with potentially high scientific or technological payoffs. An important focus of the R&D program is to tackle classes of particularly difficult problems, which are often called grand challenges. Such problems include modeling of climate to assess the consequences of human activities; analysis of the fundamental structure of materials to develop, for example, better high-temperature superconductors; and determination of the function of biologically important molecules to unlock the secrets of cell biology, and thereby, open new avenues for the cure of disease.

The legislation will also establish a high-capacity national data network to allow for the full potential of high-performance computing to be realized. The National Research and Education Network will bring every scientist and engineer as close as his personal computer to collaborations with colleagues across the country, to access to central facilities, such as supercomputers, and to access to specialized data bases, such as global climate data. Establishing the national network will involve developing a new generation of software and high-speed switches, as well as uniform protocols and standards, to facilitate the transmission of data at high rates through existing fiber optic cables and satellite links. The national network will result in an equitable distribution of scientific and information resources throughout the Nation.

Mr. Speaker, S. 272, as amended, provides for a balanced program to accelerate development of all aspects of high-performance computing. We have the opportunity with this legislation to ensure scientific and technological progress in fields of enormous importance to the future well being of society.

I am pleased to commend this bill to the House for its approval.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempo. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Performance Computing and National Research and Education Network Act of 1991".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national and economic security, industrial production, engineering, and scientific advancement.

(2) The United States currently leads the world in the development and use of high-performance computing for national security, industrial productivity, science, and engineering, but that lead is being challenged by foreign competitors.

(3) Further research and development, expanded educational programs, improved computer research networks, and more effective technology transfer from government to industry are necessary for the United States to fully reap the benefits of high-performance computing.

(4) Several Federal agencies have ongoing high-performance computing programs, but improved interagency coordination, cooperation, and planning would enhance the effectiveness of these programs.

(5) A high-speed national research and education computer network would provide researchers and educators with access to computer and information resources and act as a

test bed for further research and development of high-speed computer networks.

(6) A 1991 report entitled "Grand Challenges: High-Performance Computing and Communications" by the Office of Science and Technology Policy, outlining a research and development strategy for high-performance computing, provides a framework for a multi-agency high-performance computing program. Such a program would provide American researchers and educators with the computer and information resources they need, and demonstrate how advanced computers, high-speed networks, and electronic data bases can improve the national information infrastructure for use by all Americans.

SEC. 3. PURPOSE.

The purpose of this Act is to help ensure the continued leadership of the United States in high-performance computing and its applications by requiring that the United States Government—

(1) increase Federal support for research, development, and application of high-performance computing in order to—

(A) expand the number of researchers, educators, and students with training in high-performance computing and access to high-performance computing resources;

(B) establish a high-speed national research and education computer network;

(C) promote the further development of an information infrastructure of data bases, services, access mechanisms, and research facilities which are available for use through such a national network;

(D) stimulate research on software technology;

(E) promote the more rapid development and wider distribution of computer software tools and applications software;

(F) accelerate the development of computer systems and subsystems;

(G) provide for the application of high-performance computing to fundamental problems in science and engineering, with broad economic and scientific impact;

(H) invest in basic research and education; and

(I) promote greater collaboration among government, Federal laboratories, industry, and universities;

(2) authorize a high-speed national research and education computer network; and

(3) improve the interagency planning and coordination of Federal research and development on high-performance computing and maximize the effectiveness of the Federal Government's high-performance computing efforts.

TITLE I—HIGH-PERFORMANCE COMPUTING AND THE NATIONAL RESEARCH AND EDUCATION NETWORK

SEC. 101. HIGH-PERFORMANCE COMPUTING.

(a)(1) The President shall establish and, through the Director of the Office of Science and Technology Policy (hereinafter referred to as the "Director"), coordinate a National High-Performance Computing Program (hereinafter referred to as the "Program").

(2) The Program shall—

(A) establish the goals and priorities for Federal high-performance computing research, development, networking, and other activities; and

(B) provide for interagency coordination of Federal high-performance computing research, development, networking, and other activities undertaken pursuant to the Program.

(3) The Program shall provide for—

(A) oversight of the operation and evolution of the National Research and Education Network (as described under section 102 and referred to in this Act as the "Network") and the establishment of policies for the management of and access to the Network;

(B) efforts to increase software availability, productivity, capability, portability, and reliability;

(C) improved dissemination of Federal agency data and electronic information;

(D) acceleration of the development of high-performance computer systems, subsystems, and associated software;

(E) the technical support and research and development of high-performance computer software and hardware needed to address Grand Challenges;

(F) educating and training additional undergraduate and graduate students in software engineering, computer science, library and information science, and computational science; and

(G) the security requirements and policies necessary to protect Federal research computer networks and information resources accessible through Federal research computer networks.

(4) The President, through the Director, shall submit to the Congress an annual report along with the President's annual budget request, describing the implementation of the Program. The annual report shall—

(A) describe the goals and priorities of the Program, and analyze the progress made toward achieving those goals and priorities; and

(B) describe for each agency and department participating in the Program the levels of Federal funding for the fiscal year during which such report is submitted and the levels proposed for the fiscal year with respect to which the budget submission applies, for Program activities, including education, research, hardware and software development, and support for the establishment of the Network.

(5) The Director shall be provided, in a timely fashion, with an opportunity to review and comment on the budget estimate of each agency and department participating in the Program and shall identify in each annual budget submitted to the Congress under section 1105 of title 31, United States Code, those items in each agency's or department's annual budget which are elements of the Program.

(b) The President shall establish an advisory committee on high-performance computing consisting of prominent representatives from industry and academia who are specially qualified to provide the Director with advice and information on high-performance computing. The advisory committee shall provide the Director with an independent assessment of—

(1) progress made in implementing the Program;

(2) the need to revise the Program;

(3) the balance between the components of the Program; and

(4) whether the research and development undertaken pursuant to the Program is helping to maintain United States leadership in computing technology.

(c) Each Federal agency and department participating in the Program shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to the Office of Management and Budget identifying each element of its high-performance computing activities, which—

(1) contributes directly to the Program or benefits from the Program; and

(2) states the portion of its request for appropriations that is allocated to each such element.

(d) As used in this section, the term "Grand Challenge" means a fundamental problem in science and engineering, with broad economic and scientific impact, whose solution will require the application of high-performance computing resources.

SEC. 102. NATIONAL RESEARCH AND EDUCATION NETWORK.

(a) As part of the Program established by section 101, the National Science Foundation, the Department of Defense, the Department of Energy, the Department of Commerce, the National Aeronautics and Space Administration, and other agencies participating in the Program shall support the establishment of a national multi-gigabit-per-second research and education computer network by 1996, to be known as the National Research and Education Network, to link research and educational institutions, government, and industry, in every State. Federal agencies shall work with State and local agencies, libraries, educational institutions and organizations, private network service providers, and others in order to ensure that researchers, educators, and students have access to the Network. To the extent that the private sector, state and local governments, and other Federal agencies do not connect colleges, universities, and libraries to the Network, the National Science Foundation shall have primary responsibility for connecting colleges, universities, and libraries to the Network.

(b) The Network is to provide users with appropriate access to supercomputers, electronic information resources, other research facilities, and libraries, and at the same time act as a test bed for further research and development of high-speed computer networks and demonstrate how advanced computers, high-speed computer networks, and data bases can improve the national information infrastructure.

(c) The Network shall—

(1) be developed in close cooperation with the computer, telecommunications, and information industries;

(2) be designed, developed, and operated in collaboration with potential users in government, industry, and the education community;

(3) link existing Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy within each component network;

(4) be designed, developed, and operated in a manner which fosters and maintains competition and private sector investment in high-speed data networking within the telecommunications industry;

(5) be designed, developed, and operated in a manner which promotes research and development leading to development of commercial data communications and telecommunications standards; and

(6) be developed by purchasing standard commercial transmission and network services from vendors whenever feasible, and by contracting for customized services when not feasible.

(d) To encourage use of the Network by commercial information service providers, where technically feasible, the Network shall be managed to cooperate with the needs of commercial sector users to develop accounting mechanisms which allow, where appropriate, users or groups of users to be charged for their usage of copyrighted materials available over the Network. The Network shall be designed and operated so as to ensure the continued application of laws that provide network and information resources security measures, including those that protect copyright and other intellectual property rights, and those that control access to data bases and protect national security.

(e) The Department of Defense, through the Defense Advanced Research Projects Agency, shall support research and development of advanced fiber optics technology, switches, and protocols needed to develop the Network.

(f) In addition to other agency activities associated with the establishment of the Network—

(1) the National Institute of Standards and Technology shall develop and propose a common set of standards and guidelines to provide interoperability, common user interfaces to systems, and security for the Network; and

(2) all Federal agencies and departments funding research are authorized to allow recipients of Federal research grants to use grant monies to pay for computer networking expenses.

(g) Within one year after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall report to the Congress on—

(1) effective mechanisms for providing operating funds for the maintenance and use of the Network, including user fees, industry support, and continued Federal investment;

(2) the future operation and evolution of the Network;

(3) how commercial information service providers could be charged for access to the Network, and how Network users could be charged for such commercial information services;

(4) the technological feasibility of allowing commercial information service providers to use the Network and other federally-funded research networks;

(5) how to protect the copyrights of material distributed over the Network; and

(6) appropriate policies to ensure the security of resources available on the Network and to protect the privacy of users of networks.

(h) The Director shall assist the President in coordinating the activities of appropriate agencies and departments to promote the development of information services that could be provided over the Network. These services may include the provision of directories of the users and services on computer networks, data bases of unclassified Federal scientific data, training of users of data bases and computer networks, access to commercial information services for users of the Network, and technology to support computer-based collaboration that allows researchers and educators around the Nation to share information and instrumentation. The information services accessible over the Network shall be provided in accordance with applicable law. Appropriate protection shall be provided for copyright and other intellectual property rights of information providers and Network users, including appropriate mechanisms for fair remuneration of copyright holders for availability of and access to their works over the Network.

TITLE II—AGENCY ACTIVITIES

SEC. 201. NATIONAL SCIENCE FOUNDATION ACTIVITIES.

(a) The National Science Foundation shall provide computing and networking infrastructure support for all science and engineering disciplines, and shall support basic research and human resource development in computer science, computational science and engineering, library and information sciences, and computer engineering. The National Science Foundation shall provide funding to help researchers access supercomputers. Prior to deployment of the Network, the National Science Foundation shall maintain, expand, and upgrade its existing computer networks.

(b)(1) There are authorized to be appropriated to the National Science Foundation for the purposes of this Act, $46,000,000 for fiscal year 1992, $88,000,000 for fiscal year 1993, $145,000,000 for fiscal year 1994, $172,000,000 for fiscal year 1995, and $199,000,000 for fiscal year 1996.

(2) Of the amounts authorized to be appropriated under paragraph (1), there are authorized for activities in support of the Network, in accordance with the purposes of section 102, $15,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, $55,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995, and $50,000,000 for fiscal year 1996.

(3) The amounts authorized to be appropriated under this subsection are in addition to any amounts that may be authorized to be appropriated under other laws.

SEC. 202. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ACTIVITIES.

(a) The National Aeronautics and Space Administration shall continue to conduct basic and applied research in high-performance computing, particularly in the field of computational science, with emphasis on aeronautics and the processing of remote sensing and space science data.

(b)(1) There are authorized to be appropriated to the National Aeronautics and Space Administration for the purposes of this Act $22,000,000 for fiscal year 1992, $45,000,000 for fiscal year 1993, $67,000,000 for fiscal year 1994, $89,000,000 for fiscal year 1995, and $115,000,000 for fiscal year 1996.

(2) The amounts authorized to be appropriated under this subsection are in addition to any amounts that are authorized to be appropriated under other laws.

SEC. 203. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACTIVITIES.

(a) The National Institute of Standards and Technology shall develop and propose standards and guidelines, and develop measurement techniques and test methods, for the interoperability of high-performance computers in networks and for common user interfaces to systems. In addition, the National Institute of Standards and Technology shall be responsible for developing benchmark tests and standards for high-performance computers and software. Pursuant to the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1724), the National Institute of Standards and Technology shall continue to be responsible for developing and proposing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(b)(1) There are authorized to be appropriated to the National Institute of Standards and Technology for the purposes of this Act $3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $6,000,000 for fiscal year 1994, $8,000,000 for fiscal year 1995, and $10,000,000 for fiscal year 1996.

(2) The amounts authorized to be appropriated under this subsection are in addition to any amounts that are authorized to be appropriated under other laws.

SEC. 204. DEPARTMENT OF ENERGY ACTIVITIES.

(a) The Secretary of Energy shall—

(1) perform research and development on, and systems evaluations of, high-performance computing and communications systems;

(2) conduct computational research with emphasis on energy applications;

(3) support basic research, education, and human resources in computational science; and

(4) provide for networking infrastructure support for energy-related mission activities.

(b) The Secretary of Energy shall establish two High-Performance Computing Research and Development Collaborative Consortia by soliciting and selecting proposals, and is authorized to establish as many more as may be needed. Each Collaborative Consortium shall—

(1) conduct research directed at scientific and technical problems whose solutions require the application of high-performance computing and communications resources;

(2) promote the testing and uses of new types of high-performance computing and related software and equipment;

(3) serve as a vehicle for computing vendors to test new ideas and technology in a sophisticated computing environment; and

(4) be led by a Department of Energy national laboratory, and include participants from Federal agencies and departments, researchers, private industry, educational institutions, and others as the Secretary of Energy may deem appropriate.

(c) The results of such research and development shall be transferred to the private sector and others in accordance with applicable law.

(d) Within one year after the date of enactment of this Act and every year thereafter, the Secretary of Energy shall transmit to the Senate and House of Representatives a report on activities taken to carry out this Act.

(e) For fiscal years 1992, 1993, 1994, 1995, and 1996 there are authorized to be appropriated such funds as may be necessary to carry out the activities authorized by this section.

SEC. 205. STUDY ON IMPACT OF FEDERAL PROCUREMENT REGULATIONS.

(a) The Secretary of Commerce shall conduct a study to—

(1) evaluate the impact of Federal procurement regulations which require that contractors providing software to the Federal Government share the rights to proprietary software development tools that the contractors used to develop the software; and

(2) determine whether such regulations discourage development of improved software development tools and techniques.

(b) The Secretary shall, within one year after the date of enactment of this Act, report to the Congress regarding the results of the study conducted under subsection (a).

SEC. 206. MISCELLANEOUS PROVISIONS.

(a) Except to the extent that the appropriate Federal agency or department head determines applicable, the provisions of this Act shall not apply to—

(1) programs or activities regarding computer systems that process classified information; or

(2) computer systems the function, operation, or use of which are those delineated in paragraphs (1) through (5) of section 2315(a) of title 10, United States Code.

(b) Federal agencies and departments, and their grantees and contractors, may acquire prototype and early production models of new high-performance computer and communications systems and subsystems, including software and related products and services, to stimulate hardware and software development.

MOTION OFFERED BY MR. BROWN

Mr. BROWN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BROWN moves to strike all after the enacting clause of the Senate bill, S. 272, and to insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Performance Computing Act of 1991".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national and economic security, industrial production, engineering, and scientific advancement.

(2) The United States currently leads the world in the development and use of high-performance computing for national security, industrial productivity, science, and engineering, but that lead is being challenged by foreign competitors.

(3) Further research and development, expanded educational programs, improved computer research networks, and more effective technology transfer from government to industry are necessary for the United States to reap fully the benefits of high-performance computing.

(4) A high-capacity and high-speed national research and education computer network would provide researchers and educators with access to computer and information resources and act as a test bed for further research and development of high-capacity and high-speed computer networks.

(5) Several Federal agencies have ongoing high-performance computing programs, but improved long-term interagency coordination, cooperation, and planning would enhance the effectiveness of these programs.

(6) A 1991 report entitled "Grand Challenges: High-Performance Computing and Communications" by the Office of Science and Technology Policy, outlining a research and development strategy for high-performance computing, provides a framework for a multiagency high-performance computing program. Such a program would provide American researchers and educators with the computer and information resources they need, and demonstrate how advanced computers, high-capacity and high-speed networks, and electronic data bases can improve the national information infrastructure for use by all Americans.

SEC. 3. PURPOSE.

The purpose of this Act is to help ensure the continued leadership of the United States in high-performance computing and its applications by—

(1) expanding Federal support for research, development, and application of high-performance computing in order to—

(A) establish a high-capacity and high-speed National Research and Education Network;

(B) expand the number of researchers, educators, and students with training in high-performance computing and access to high-performance computing resources;

(C) promote the further development of an information infrastructure of data bases, services, access mechanisms, and research facilities available for use through the Network;

(D) stimulate research on software technology;

(E) promote the more rapid development and wider distribution of computer software tools and applications software;

(F) accelerate the development of computing systems and subsystems;

(G) provide for the application of high-performance computing to Grand Challenges;

(H) invest in basic research and education, and promote the inclusion of high-performance computing into educational institutions at all levels; and

(I) promote greater collaboration among government, Federal laboratories, industry, high-performance computing centers, and universities; and

(2) improving the interagency planning and coordination of Federal research and development on high-performance computing and maximizing the effectiveness of the Federal Government's high-performance computing efforts.

SEC. 4. DEFINITIONS.

As used in this act, the term—

(1) "Director" means the Director of the Office of Science and Technology Policy;

(2) "Grand Challenge" means a fundamental problem in science or engineering, with broad economic and scientific impact, whose solution will require the application of high-performance computing resources;

(3) "high-performance computing" means advanced computing, communications, and information technologies, including scientific workstations, supercomputer systems (including vector supercomputers and large scale parallel systems), high-capacity and high-speed networks, special purpose and experimental systems, and applications and systems software;

"Network" means a computer network referred to as the National Research and Education Network established under section 102; and

(5) "Program" means the National High-Performance Computing Program described in section 101.

TITLE I—HIGH-PERFORMANCE COMPUTING AND THE NATIONAL RESEARCH AND EDUCATION NETWORK

SEC. 101. NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.

(a) NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.—(1) The President shall implement a National High-Performance Computing Program, which shall—

(A) establish the goals and priorities for Federal high-performance computing research, development, networking, and other activities; and

(B) provide for interagency coordination of Federal high-performance computing research, development, networking, and other activities undertaken pursuant to the Program.

(2) The Program shall—

(A) provide for the establishment of policies for management and access to the Network;

(B) provide for oversight of the operation and evolution of the Network;

(C) promote connectivity among computer networks of Federal agencies and departments;

(D) provide for efforts to increase software availability, productivity, capability, portability, and reliability;

(E) provide for improved dissemination of Federal agency data and electronic information;

(F) provide for acceleration of the development of high-performance computing systems, subsystems, and associated software;

(G) provide for the technical support and research and development of high-performance computing software and hardware needed to address Grand Challenges;

(H) provide for educating and training additional undergraduate and graduate students in software engineering, computer science, library and information science, and computational science; and

(I) provide—

(i) for the security requirements, policies, and standards necessary to protect Federal research computer networks and information resources accessible through Federal research computer networks, including research required to establish security standards for high-performance computing systems and networks; and

(ii) that agencies and departments identified in the annual report submitted under paragraph (3)(A) shall define and implement a security plan consistent with the Program and with applicable law.

(3) The Director shall—

(A) submit to the Congress an annual report, along with the President's annual budget request, describing the implementation of the Program;

(B) provide for interagency coordination of the Program; and

(C) consult with academic, State, industry, and other appropriate groups conducting research on and using high-performance computing.

(4) The annual report submitted under paragraph (3)(A) shall—

(A) include a detailed description of the goals and priorities established by the President for the Program;

(B) set forth the relevant programs and activities, for the fiscal year with respect to which the budget submission applies, of each Federal agency and department, including—

(i) the Department of Agriculture;

(ii) The Department of Commerce;

(iii) the Department of Defense;

(iv) the Department of Education;

(v) the Department of Energy;

(vi) the Department of Health and Human Services;

(vii) the Department of the Interior;

(viii) the Environmental Protection Agency;

(ix) the National Aeronautics and Space Administration;

(x) the National Science Foundation;

(xi) such other agencies and departments as the President or the Director considers appropriate;

(C) describe the levels of Federal funding for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies, for specific activities, including education, research, hardware and software development, and support for the establishment of the Network;

(D) describe the levels of Federal funding for each agency and department participating in the Program for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies; and

(E) include an analysis of the progress made toward achieving the goals and priorities established for the Program.

(b) HIGH-PERFORMANCE COMPUTING ADVISORY COMMITTEE.—The President shall establish an advisory committee on high-performance computing consisting of non-Federal members, including representatives of the research, education, and library communities, network providers, and industry, who are specially qualified to provide the Director with advice and information on high-performance computing. The recommendations of the advisory committee shall be considered in reviewing and revising the Program. The advisory committee shall provide the Director with an independent assessment of—

(1) progress made in implementing the Program;

(2) the need to revise the Program;

(3) the balance between the components of the Program;

(4) whether the research and development undertaken pursuant to the Program is helping to maintain United States leadership in computing technology; and

(5) other issues identified by the Director.

(c) Office of Management and Budget.—(1) Each Federal agency and department participating in the Program shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to the Office of Management and Budget which—

(A) identifies each element of its high-performance computing activities which contributes directly to the Program or benefits from the Program; and

(B) states the portion of its request for appropriations that is allocated to each such element.

(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency and departmental responsibilities set forth in the annual report submitted under subsection (a)(3)(A), and shall include, in the President's annual budget estimate, a statement of the portion of each appropriate agency's or department's annual budget estimate relating to its activities undertaken pursuant to the Program.

SEC. 102. NATIONAL RESEARCH AND EDUCATION NETWORK.

(a) Establishment.—As part of the Program, the National Science Foundation, the Department of Defense, the Department of Energy, the Department of Commerce, the National Aeronautics and Space Administration, and other agencies participating in the Program shall support the establishment of the National Research and Education Network, portions of which shall, to the extent technically feasible, be capable of transmitting data at one gigabit per second or greater by 1996. The Network shall provide for the linkage of research institutions and educational institutions, government, and industry in every State.

(b) Access.—Federal agencies and departments shall work with private network service providers, State and local agencies, libraries, educational institutions and organizations, and others, as appropriate, in order to ensure that the researchers, educators, and students have access, as appropriate, to the Network. The Network is to provide users with appropriate access to high-performance computing systems, electronic information resources, other research facilities, and libraries. The Network shall provide access, to the extent practicable, to electronic information resources maintained by libraries, research facilities, publishers, and affiliated organizations.

(c) Network Characteristics.—The Network shall—

(1) be developed and deployed with the computer, telecommunications, and information industries;

(2) be designed, developed, and operated in collaboration with potential users in government, industry, and research institutions and educational institutions;

(3) be designed, developed, and operated in a manner which fosters and maintains competition and private sector investment in high-speed data networking within the telecommunications industry;

(4) be designed, developed, and operated in a manner which promotes research and development leading to development of commercial data communications and telecommunications standards, whose development will encourage the establishment of privately operated high-speed commercial networks;

(5) be designed and operated so as to ensure the continued application of laws that provide network and information resources security measures, including those that protect copyright and other intellectual property rights, and those that control access to data bases and protect national security;

(6) have accounting mechanisms which allow users or groups of users to be charged for their usage of copyrighted materials available over the Network and, where appropriate and technically feasible, for their usage of the Network;

(7) ensure that interoperability of Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy for each component network;

(8) be developed by purchasing standard commercial transmission and network services from vendors whenever feasible, and by contracting for customized services when not feasible, in order to minimize Federal investment in network hardware;

(9) support research and development of networking software and hardware; and

(10) serve as a test bed for further research and development of high-capacity and high-speed computing networks and demonstrate how advanced computers, high-capacity and high-speed computing networks, and data bases can improve the national information infrastructure.

(d) Defense Advanced Research Projects Agency Responsibility.—As part of the Program, the Department of Defense, through the Defense Advanced Research Projects Agency, shall support research and development of advanced fiber optics technology, switches, and protocols needed to develop the Network.

(e) Information Services.—The Director shall assist the President in coordinating the activities of appropriate agencies and departments to promote the development of information services that could be provided over the Network. These services may include the provision of directories of the users and services on computer networks, data bases of unclassified Federal scientific data, training of users of data bases and computer networks, access to commercial information services for users of the Network, and technology to support computer-based collaboration that allows researchers and educators around the Nation to share information and instrumentation.

(f) Use of Grant Funds.—All Federal agencies and departments are authorized to allow recipients of Federal research grants to use grant moneys to pay for computer networking expenses.

(g) Report to Congress.—Within one year after the date of enactment of this Act, the Director shall report to the Congress on—

(1) effective mechanisms for providing operating funds for the maintenance and use of the Network, including user fees, industry support, and continued Federal investment;

(2) the future operation and evolution of the Network;

(3) how commercial information service providers could be charged for access to the Network, and how Network users could be charged for such commercial information services;

(4) the technological feasibility of allowing commercial information service providers to use the Network and other federally funded research networks;

(5) how to protect the copyrights of material distributed over the Network; and

(6) appropriate policies to ensure that security of resources available on the Network and to protect the privacy of users of networks.

TITLE II—AGENCY ACTIVITIES

SEC. 201. NATIONAL SCIENCE FOUNDATION ACTIVITIES.

(a) General Responsibilities.—As part of the Program described in title I—

(1) the National Science Foundation shall provide computing and networking infrastructure support for all science and engineering disciplines, and support basic research and human resource development in all aspects of high-performance computing and advanced high-speed computer networking;

(2) to the extent that colleges, universities, and libraries cannot connect to the Network with the assistance of the private sector, the National Science Foundation shall have primary responsibility for assisting colleges, universities, and libraries to connect to the Network;

(3) the National Science Foundation shall serve as the primary source of information on access to and use of the Network; and

(4) the National Science Foundation shall upgrade the National Science Foundation funded network, assist regional networks to upgrade their capabilities, and provide other Federal departments and agencies the opportunity to connect to the National Science Foundation funded network.

(b) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Science Foundation for the purposes of the Program $213,000,000 for fiscal year 1992; $262,000,000 for fiscal year 1993; $305,000,000 for fiscal year 1994; $354,000,000 for fiscal year 1995; and $413,000,000 for fiscal year 1996.

SEC. 202. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ACTIVITIES.

(a) General Responsibilities.—As part of the Program described in title I, the National Aeronautics and Space Administration shall conduct basic and applied research in high-performance computing, particularly in the field of computational science, with emphasis on aerospace sciences, earth and space sciences, and remote exploration and experimentation.

(b) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Aeronautics and Space Administration for the purposes of the Program $72,000,000 for fiscal year 1992; $107,000,000 for fiscal year 1993; $134,000,000 for fiscal year 1994; $151,000,000 for fiscal year 1995; and $145,000,000 for fiscal year 1996.

SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.

(a) General Responsibilities.—As part of the Program described in title I, the Secretary of Energy shall—

(1) perform research and development on, and systems evaluations of, high-performance computing and communications systems;

(2) conduct computational research with emphasis on energy applications;

(3) support basic research, education, and human resources in computational science; and

(4) provide for networking infrastructure support for energy-related mission activities.

(b) Collaborative Consortia.—In accordance with the Program, the Secretary of Energy shall establish High-Performance Computing Research and Development Collaborative Consortia by soliciting and selecting proposals. Each Collaborative Consortium shall—

(1) conduct research directed at scientific and technical problems whose solutions require the application of high-performance computing and communications resources;

(2) promote the testing and uses of new types of high-performance computing and related software and equipment;

(3) serve as a vehicle for participating vendors of high-performance computing systems to test new ideas and technology in a sophisticated computing environment; and

(4) be led by a Department of Energy national laboratory, and include participants from Federal agencies and departments, researchers, private industry, educational institutions, and others as the Secretary of Energy may deem appropriate.

(c) Technology Transfer.—The results of research and development carried out under this section shall be transferred to the private sector and others in accordance with applicable law.

(d) Annual Reports to Congress.—Within one year after the date of enactment of this Act and every year thereafter, the Secretary of Energy shall transmit to the Congress a report on activities taken to carry out this Act.

(e) Authorization of Appropriations.—(1) There are authorized to be appropriated to the Secretary of Energy for the purposes of the Program $93,000,000 for fiscal year 1992; $110,000,000 for fiscal year 1993; $138,000,000 for fiscal year 1994; $157,000,000 for fiscal year 1995; and $169,000,000 for fiscal year 1996.

(2) There are authorized to be appropriated to the Secretary of Energy for fiscal years 1992, 1993, 1994, 1995, and 1996, such funds as may be necessary to carry out the activities that are not part of the Program but are authorized by this section.

SEC. 204. DEPARTMENT OF COMMERCE ACTIVITIES.

(a) General Responsibilities.—As part of the Program described in title I—

(1) the National Institute of Standards and Technology shall—

(A) conduct basic and applied measurement research needed to support various high-performance computing systems and networks;

(B) develop and propose standards and guidelines, and develop measurement techniques and test methods, for the interoperability of high-performance computing systems in networks and for common user interfaces to systems; and

(C) be responsible for developing benchmark tests and standards for high-performance computing systems and software; and

(2) the National Oceanic and Atmospheric Administration shall conduct basic and applied research in weather prediction and ocean sciences, particularly in development of new forecast models, in computational fluid dynamics, and in the incorporation of evolving computer architectures and networks into the systems that carry out agency missions.

(b) High-Performance Computing and Network Security.—Pursuant to the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1724), the National Institute of Standards and Technology shall be responsible for developing and proposing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(c) Study of Impact of Federal Procurement Regulations.—(1) The Secretary of Commerce shall conduct a study to—

(A) evaluate the impact of Federal procurement regulations that require that contractors providing software to the Federal Government share the rights to proprietary software development tools that the contractors use to develop the software; and

(B) determine whether such regulations discourage development of improved software development tools and techniques.

(2) The Secretary of Commerce shall, within one year after the date of enactment of this Act, report to the Congress regarding the results of the study conducted under paragraph (1).

(d) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated—

(1) to the National Institute of Standards and Technology for the purposes of the Program $3,000,000 for fiscal year 1992; $4,000,000 for fiscal year 1993; $5,000,000 for fiscal year 1994; $6,000,000 for fiscal year 1995; and $7,000,000 for fiscal year 1996; and

(2) to the National Oceanic and Atmospheric Administration for the purposes of the Program $2,500,000 for fiscal year 1992; $3,000,000 for fiscal year 1993; $3,500,000 for fiscal year 1994; $4,000,000 for fiscal year 1995; and $4,500,000 for fiscal year 1996.

SEC. 205. ENVIRONMENTAL PROTECTION AGENCY ACTIVITIES.

(a) General Responsibilities.—As part of the Program described in title I, the Environmental Protection Agency shall conduct basic and applied research directed toward the advancement and dissemination of computational techniques and software tools which form the core of ecosystem, atmospheric chemistry, and atmospheric dynamics models.

(b) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Environmental Protection Agency for the purposes of the Program $5,000,000 for fiscal year 1992; $5,500,000 for fiscal year 1993; $6,000,000 for fiscal year 1994; $6,500,000 for fiscal year 1995; and $7,000,000 for fiscal year 1996.

SEC. 206. ROLE OF THE DEPARTMENT OF EDUCATION.

(a) General Responsibilities.—As part of the Program described in title I, the Secretary of Education is authorized to conduct basic and applied research in computational research with an emphasis on the coordination of activities with libraries, school facilities, and education research groups with respect to the advancement and dissemination of computational science and the development, evaluation and application of software capabilities.

(b) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of Education for the purposes of this section $1,500,000 for fiscal year 1992; $1,700,000 for fiscal year 1993; $1,900,000 for fiscal year 1994; $2,100,000 for fiscal year 1995; and $2,300,000 for fiscal year 1996.

SEC. 207. MISCELLANEOUS PROVISIONS

(a) Nonapplicability.—Except to the extent the appropriate Federal agency or department head determines, the provisions of this Act shall not apply to—

(1) programs or activities regarding computer systems that process classified information; or

(2) computer systems the function, operation, or use of which are those delineated in paragraphs (1) through (5) of section 2315(a) of title 10, United States Code.

(b) Acquisition of Prototype and Early Production Models.—In accordance with Federal contracting law, Federal agencies and departments participating in the Program may acquire prototype or early production models of new high-performance computing systems and subsystems to stimulate hardware and software development. Items of computing equipment acquired under this subsection shall be considered research computers for purposes of applicable acquisition regulations.

SEC. 208. FOSTERING UNITED STATES COMPETITIVENESS IN HIGH-PERFORMANCE COMPUTING AND RELATED ACTIVITIES.

(a) Findings.—The Congress finds the following:

(1) High-performance computing and associated technologies are critical to the United States economy.

(2) While the United States has led the development of high-performance computing, United States industry is facing increasing global competition.

(3) Despite existing international agreements on fair competition and nondiscrimination in government procurements, there is increasing concern that such agreements are not being honored, that more aggressive enforcement of such agreements is needed, and that additional steps may be required to ensure fair global competition, particularly in high-technology fields such as high-performance computing and associated technologies.

(4) It is appropriate for Federal agencies and departments to use the funds authorized for the Program in a manner which most effectively fosters the maintenance and development of United States leadership in high-performance computers and associated technologies in and for the benefit of the United States.

(5) It is appropriate for Federal agencies and departments to use the funds authorized for the Program in a manner, consistent with the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.), which most effectively fosters reciprocal competitive procurement treatment by foreign governments for United States high-performance computing and associated technology products and suppliers.

(b) Annual Report.—

(1) Report.—The Director shall submit an annual report to Congress that identifies—

(A) any grant, contract, cooperative agreement, or cooperative research and development agreement (as defined under section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) made or entered into by any Federal agency or department for research and development under the Program with—

(i) any company other than a company that is either incorporated or located in the United States, and that has majority ownership by individuals who are citizens of the United States; or

(ii) any educational institution or nonprofit institution located outside the United States; and

(B) any procurement exceeding $1,000,000 by any Federal agency or department under the Program for—

(i) unmanufactured articles, materials, or supplies mined or produced outside the United States; or

(ii) manufactured articles, materials, or supplies other than those manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States, under the meaning of title III of the Act of March 3, 1933 (41 U.S.C. 10a-10d; popularly known as the Buy American Act) as amended by the Buy American Act of 1988.

(2) CONSOLIDATION OF REPORTS.—The report required by this subsection may be included with the report required by section 101(a)(3)(A).

(c) REVIEW OF SUPERCOMPUTER AGREEMENT.—

(1) REPORT.—The Under Secretary for Technology Administration of the Department of Commerce (in this subsection referred to as the "Under Secretary") shall conduct a comprehensive study of the revised "Procedures to Introduce Supercomputers" and the accompanying exchange of letters between the United States and Japan dated June 15, 1990 (commonly referred to as the "Supercomputer Agreement") to determine whether the goals and objectives of such Agreement have been met and to analyze the effects of such Agreement on United States and Japanese supercomputer manufacturers. Within 180 days after the date of enactment of this Act, the Under Secretary shall submit a report to Congress containing the results of such study.

(2) CONSULTATION.—In conducting the comprehensive study under this subsection, the Under Secretary shall consult with appropriate Federal agencies and departments and with United States manufacturers of supercomputers and other appropriate private sector entities.

(d) APPLICATION OF BUY AMERICAN ACT.—This Act does not affect the applicability of title III of the Act of March 3, 1933 (41 U.S.C. 10a–10d; popularly known as the Buy American Act), as amended by the Buy American Act of 1988, to procurements by Federal agencies and departments undertaken as a part of the Program.

Mr. BROWN (during the reading). Mr. Speaker, I ask unanimous consent that the motion and the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

There was no objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The SPEAKER pro tempore. Without objection, the title of the Senate bill is amended to read: "A bill to provide for a coordinated Federal program to ensure a continued United States leadership in high-performance computing."

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROWN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 272.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now recognize Members for special orders without prejudice to the possibility of the resumption of legislative business for unanimous consent requests.

Mr. WALKER. Mr. Speaker, reserving the right to object—

The SPEAKER pro tempore. The Chair will state to the gentleman from Pennsylvania that the Chair was making an announcement, and a unanimous-consent request is not in order at this time.

The Chair will recognize the gentleman for 1 minute.

LEGISLATIVE PROGRAM FOR THE BALANCE OF THE DAY

(By unanimous consent, Mr. WALKER was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I am somewhat concerned about what is taking place here because there is an attempt to move the foreign aid appropriation bill or the authorization bill through here by a unanimous-consent procedure, and it is my understanding that typically under the patterns that are in the House at this period of time we would conduct no more legislative business.

I am very much of a mind to insist that we ought to vote on the foreign aid bill, and I would not want to see that move without some prior notification to the Members. I would be opposed to any kind of action here and I would insist on a vote on the action that might have us later on have the foreign aid authorization considered. That is the concern that I have with what is taking place.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Yes, I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, it is my understanding from talking to the majority staff that the gentleman from Florida [Mr. FASCELL] will not be coming forward with any request today. I cannot speak to what the chairman of the Committee on Foreign Affairs may ask the House to do at a later date, but certainly no such request would come today.

Mr. WALKER. I thank the gentleman for that assurance. Is that the understanding of the Chair as well?

The SPEAKER pro tempore. It is.

Mr. WALKER. I thank the Chair.

In that case, I would have no problem with this. I understand the intention here is to get the crime bill to conference. I obviously have no objection to that at all. I do want to have assurances that we would not bring up foreign aid in this time period.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER. The Chair will now proceed with special orders, without prejudice to the possibility of the resumption of legislative business for unanimous consent requests.

AMERICAN BUSINESSMEN DO NOT TRUST THE DEMOCRATS IN CONGRESS TO GET THE ECONOMY MOVING

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DORNAN of California. Mr. Speaker, I hope all of my colleagues read the article that appeared in this morning's Wall Street Journal entitled, "Executives Blame Woes on Washington." In this informal sampling of corporate leaders around the country, the Journal found "almost universal anger with Congress, and widespread exasperation with the President."

I am just going to quickly summarize the comments and grades given by each participant.

Bernard Marcus of Home Depot, Inc., says, "I'd give Bush a C-minus and Congress a D-plus—they're both terrible."

Charles Demoney of MGM Grand Air gives the President a C, but gives Congress an F.

Henry Nozko of Acmat Corp. gives George Bush an "A-plus because I really think he is going to wake up. * * * I would grade Congress as absolutely incompetent."

John Cleary of Green Mountain Power Corp. says the President rates, "slightly above average—a seven on a scale of ten. Congress is considerably lower—maybe a three."

John Uhlmann of Uhlmann Co. is the only spoilsport, giving Bush an F-minus and Congress an F-plus simply because, "The Democrats have been forcefully putting their inept economic agenda into practice. At least Congress knows what it's consciously doing." How's that for faint praise?

Just a few more.

Glenn Schaeffer of Circus Circus Enterprises gives Bush a "gentlemen's C," and blames the economic mess on "a no-action Congress."

Samuel Butler of Cravath, Swaine & Moore gives Bush a D and adds, "Whatever I give Bush, I give Congress two grades below that."

Robert Mahoney of Diebold, Inc. gives Bush a C-minus, Congress an F.

And last, but not least, H. Laurance Fuller of Amoco Corp. gives Bush a B, and Congress a C-minus.

The results are clear, Mr. Speaker. American business does not trust the Democrats in Congress to get this economy moving again.

Mr. Speaker, I would like to submit the entire Journal article for the RECORD.

[From the Wall Street Journal, Nov. 20, 1991]

EXECUTIVES BLAME WOES ON WASHINGTON

(The economic recovery appears imperiled. The stock market is jittery. But in Washington, a sense of urgency is notably lacking. The Bush administration says it will wait until next year to push any new economic proposals. Congress focuses on a side issue, stampeding toward, then retreating from, interest-rate caps on credit cards.

(While political leaders are cautious and confused, business leaders are mainly exasperated. In an informal sampling of corporate leaders around the country, The Wall Street Journal found almost universal anger with Congress, and widespread exasperation with President Bush. Here's how some of them grade Congress and the President on the economy so far, and what steps, if any, they think the federal government should take to boost the recovery.)

BERNARD MARCUS, CHIEF EXECUTIVE, HOME DEPOT INC.

"You've heard the thing about Nero fiddling while Rome burned. Well, President Bush is fiddling while he's going to vacate the White House. The fact that he is surrounded by advisers who think the economy is in recovery is incredible."

Mr. Marcus says the recent market plunges are more accurate reflections of the state of the economy than the proclamations from the White House. "I'm Republican, and I'm very depressed by his inability to take control and be a leader in this situation. If I were president, I would hold Congress in session, and I'd say, 'I'm not letting anyone go until we find something that creates jobs. Not handouts. People want to go back to work.'"

Along with ideas like lowering the capital-gains tax and making IRAs more attractive, Mr. Marcus says the economy's problems could be addressed by lowering taxes for the middle class. "We're taxing them to death," he says. "People are worse off today than they were seven years ago.

"If something doesn't happen to create jobs in America over the next six months, Mr. Bush will join Mr. Carter as a one-term president. The Iraqi war is history. People care about feeding their families.

"I'd give Mr. Bush a C-minus and Congress a D-plus—they're both terrible."

CHARLES L. DEMONEY, CHIEF EXECUTIVE, MGM GRAND AIR

"My best grade for the president would be a C on the economy. I don't think there is a well-thought-out recovery plan" in the administration. "For the past three days, we've heard rhetoric of 'hold the line' from the administration via the vice president. They're saying, 'Everything's fine. We're just adjusting.' The populace is growing weary of this talk."

As for Congress, Mr. Demoney says, he would give it an F. "It's out of control. Legislators are looking after their own interests without seeing the big picture of turning the country around from exorbitant spending to a balanced budget. I don't think there's the leadership in Congress to direct the turnaround.

"We need to wake up the population to guide Congress to do the right thing about unemployment, replacement of lost jobs, getting real estate moving again. Credit needs to be put in the reach of more people and businesses in the country. Banks are overreacting by tightening credit. Small businesses need to at least be put in touch with borrowing again.

"We need somebody to lead an economic recovery, and I think President Bush is the one to do it. At times of crisis, he has led the world. Things like the extension of unemployment benefits are a Band-Aid. We need a game plan to take to Congress, and say, 'We need to do this.'"

The stock market "is about as confused as I am" about the economy, says Mr. Demoney. "The stock market reflects the overall malaise that's set in."

HENRY NOZKO, PRESIDENT AND CHAIRMAN, ACMAT CORP.

"I'm probably tainted because I'm a heavy supporter of Bush," says Mr. Nozko, whose company is a buildings interior contractor and construction insurance firm in New Britain, Conn. "He's not acting like the George Bush I know on the economy. Six months ago, he announced we were in a recovery. I just don't know how he could have had a, let's call it a misunderstanding, like that. I've been a CEO for 41 years. I feel this is the worst recession we've ever had, particularly in New England and particularly in construction.

"I'd give him an A-plus because I really think he's going to wake up. If he doesn't, I'd give him a D or an E.

"I would grade Congress as absolutely incompetent. Term limits—we sure as hell need those very fast in this country."

As for policy, "I suggest cuts in the Pentagon and defense, but then converting that into construction. The industry has 27% unemployment. Someone in Washington has to realize they have to pump money into that. Our infrastructure needs it. Our bridges are falling down and our roads are deteriorating.

"The stock market is trying to send a signal to President Bush. I don't think it wanted to go down 500 points. But I think it is trying to tell us the economy isn't getting better."

JOHN G. MEDLIN JR., CHIEF EXECUTIVE, WACHOVIA CORP.

"I'd give Mr. Bush a B. The president has tried to bring us toward a more solid footing on the economy, and make it more market-driven.

"His biggest fault has been compromising with the Democratic leadership on economic issues, and the budget and tax package last year. The tax increases have made the recession worse and slowed the recovery."

A "lifelong Democrat," Mr. Medlin places most of the blame for the economic woes on Congress. "They're totally inept at controlling government spending."

Mr. Medlin's advice? "I would urge the president to go for an across-the-board flat freeze on spending" and keep it frozen until the deficit shrinks. "It's going to take a radical solution. The private sector has had to cut its payroll and its expenses to be more efficient, but the federal government hasn't.

"The stock market reflects the fact that the major legislation of this Democratic leadership basically reflects an anti-business Congress and an anti-growth Congress. In the short run, if Congress will go home and stop doing bad things, the market would probably improve. But I don't think it will improve in a substantial way until the economy and corporate earnings improve."

JOHN V. CLEARY, CHIEF EXECUTIVE, GREEN MOUNTAIN POWER CORP.

President Bush's economic performance rates "slightly above average—a seven on a scale of 10," says Mr. Cleary, whose company is an electric utility in Burlington, Vt. "One of his biggest contributions is vetoing some of these spending bills.

"Congress is considerably lower—maybe a three. They seem to show constant interest in expanding the government. This credit-card fiasco is one example of that.

"I'd suggest President Bush hold the line on spending and probably reduce the government more if he could. Try to stimulate the economy, maybe by reintroducing investment tax credits.

"I think the stock market is very confused by the mixed signals from Congress. I view what happened Friday as meaning they just lack confidence, mainly with Congress."

JOHN JUSTIN, CHIEF EXECUTIVE, JUSTIN INDUSTRIES INC.

Mr. Justin says President Bush has done "fairly well" on the economy. "I'd give him a B. He's fairly well left it alone."

Congress, on the other hand, he would "grade pretty low. I'd say a D. They're just trying to get into every part of [the economy] and regulate everything. I don't think in a country this big you can do that.

"If we leave the economy alone we'd be better off. When they try to do things, like trying to limit interest rates on bank cards, then they find out if they do that there probably won't be bank cards.

"When business gets down a little, they say the government ought to do something about it," says Mr. Justin, whose company makes boots, bricks and building materials. "And when business gets too high, they say government ought to do something about it. Well, if they just leave it alone, I think it takes care of itself."

JOHN W. UHLMANN, PRESIDENT, UHLMANN CO.

I'd give Bush's performance on the economy an F-minus," says Mr. Uhlmann. "I think Bush has failed as a president. The presidency is about leadership, and Bush has failed his role.

"Bush has no principles that he believes in. He is a knee-jerk reactionary; he reacts to everything the Congress does. He has done nothing to defend the free-market system.

"I think Congress doesn't understand how the real world works. They don't even place themselves under the laws of the real world. The Democrats have been forcefully putting their inept economic agenda into practice. At least Congress knows what it's consciously doing, unlike Bush. What Congress is doing to the economy is conscious, and in line with their philosophy, and they have the added advantage that if it works they get the credit; if it doesn't, Bush takes the blame. That's why I give Congress an F-plus.

"I think it's almost too late for Bush. I really wonder if there's anything he can do. He has abandoned every principle of the Republican Party to appease the Democrats. To come up with a progrowth program, which would probably include a capital-gains tax, would go against everything he's done. He'll have to talk about reducing the role of government in the economy. He needs to listen to Jack Kemp and get him out front. I would tell Bush to fire [Budget Director Richard] Darman—if anyone worked for me who gave me such bad advice, I would fire him. Dick Darman has to go—and [Treasury Secretary Nicholas] Brady.

"The stock market is saying that there's concern about the political leadership, that they can't keep poisoning the economy.

"We're in the food business [in Kansas City, Mo.], so I think our prospects aren't negative. I do have concern about the continued mandating of policies against business."

GLENN SCHAEFFER, PRESIDENT AND CHIEF FINANCIAL OFFICER, CIRCUS CIRCUS ENTERPRISES INC.

"I'd say Bush's policy has been one of benign neglect, so I'd give him a gentleman's C. I should preface that a little by saying it's not clear to me what a president can do to turn an economy around quickly.

"It's been a no-action Congress. Congress is in a better position to change the economy, and there's been a real lack of leadership on key economic issues.

"I'd advise the president to press for a capital-gains tax cut for a specific period of time, which in the past has shown it will deliver a fair amount of revenue in a hurry. I might marry that idea with a short-term tax cut that would benefit the middle-class taxpayer. The problem we're in is that we are actually seeing a rising tax burden in the midst of a recessionary environment, which is a double whammy.

"What the market is saying about the economy in general is that it's given up on the idea that a consumer recovery is close at hand. It was wishful thinking.

"What politicians do is use moral suasion on the economy. You declare victory; then move on. It's an old political trick, but it didn't work this time.

"Just lowering interest rates isn't enough. You can't sell something to a customer who doesn't want it at any price. We need to find a way to put more money in people's pockets.

"A lot of companies planned for the archetypal 11-month recession, and held their breath as long as they could. Then later this summer, they started laying people off. That second round has had a severe effect. And retail and entertainment businesses, those that depend on discretionary spending, have felt the second round harder.

As president of Circus Circus, a casino operator in Las Vegas, Nev., he says, "In our industry, and with our company, the market always tends to overreact in one direction or another. At some point, the consumer will lose fear. He or she will have saved some money, and will not be afraid of losing his or her job, and start spending."

SAMUEL C. BUTLER, PRESIDING PARTNER, CRAVATH, SWAINE & MOORE

The economy is suffering from the incredible "debt binge" of the '80s, Mr. Butler says. He gives President Bush a D and adds, "Whatever I give Bush, I give Congress two grades below that.

"Between them there's no leadership on the economy. Nothing is a matter of principle. Everything is a matter of political expediency. I despair of the political leadership in this country." Mr. Butler says he supports a gasoline tax to be used in rebuilding the nation's infrastructure as well as for debt reduction.

As for his own business, he says, the New York law firm has become more cost-conscious and has reduced its service staff through attrition. "Our corporate department has been as slow as it has been in 30 years." But he adds that the litigation department is going strong.

ROBERT W. MAHONEY, CHIEF EXECUTIVE, DIEBOLD INC.

Mr. Mahoney gives President Bush a C-minus on the economy. But he slaps Congress with an F, because "they're so wrapped up in party politics that they haven't focused on what they need to do."

Mr. Mahoney suggests that Mr. Bush seek bipartisan support for a package to slash federal employment, including the military, by 35%. "I know all these bureaucracies serve a function. But don't you think we could do the same thing with 35% fewer people?"

Mr. Mahoney also wants Mr. Bush to cut corporate taxes, cut the capital-gains tax to 10% below an individual's regular tax rate, and provide economic incentives for entrepreneurs to open shop in inner cities, where unemployment is highest.

The stock market, Mr. Mahoney says, is accurately saying, "We don't see a clear light at the end of the tunnel of this recession in 1992, unless the government takes a pro-active role to drive this economy."

H. LAURANCE FULLER, CHIEF EXECUTIVE, AMOCO CORP.

Mr. Fuller gives President Bush a B. "I would fault the administration on the communications side" and its inability to get important economic legislation passed.

Mr. Fuller gives Congress a C-minus. "It's hard to be anything but negative." He cites a lack of leadership and long-term decision making or planning.

His advice to the president: "I wouldn't force a short-term fix." He adds: "I don't think playing around with taxes is an option we can afford at this time. I don't think we should have knee-jerk reactions" to the slump. "There's evidence we're coming out of the recession."

Still, he is disappointed that there seems to be little long-term economic planning. "I don't see a longer-term program that will encourage long-term investment and savings."

He says the stock market is valuing the economy and the oil industry accurately. "The oil industry is in a difficult time, particularly in the U.S. There's the uncertainty of natural gas and oil prices and large spending on environmentalism. In the long range, investments in the oil business will pay off very nicely."

PERSONAL EXPLANATION

Mr. LEWIS of Georgia. Mr. Speaker, today I missed rollcall votes 410 and 411. I was delivering a speech in 116 The O'Neil Annex. I later learned that the legislative call system does not work. Had I been present I would have voted "yea" on both bills. I ask unanimous consent that my explanation be entered in the RECORD following those recorded votes.

□ 1750

RETIREMENT OF HOUSE BARBER JACK ALLEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I rise today to salute a longtime employee of the House of Representatives who is retiring at the end of this month. His name is Jack Allen and he has served as a barber on Capitol Hill for 30 years.

He came to Washington from Curtisville, PA, where he was a standout athlete. He served in the Navy during the Korean war.

I have enjoyed Jack's friendship over the years. He is very active in church activities and prayer groups and he knows the Bible as well as anyone on Capitol Hill.

During his long career, Jack has cut the hair of George Bush, DAN QUAYLE and many, many other Members of Congress. For 5 years during the Nixon administration, he was also a parttime barber at the White House.

Jack will be spending part of his time in retirement in Florida. We will miss him but I know all who know Jack Allen join with me in wishing him the best.

PACIFIC YEW ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. STUDDS] is recognized for 5 minutes.

Mr. STUDDS. Mr. Speaker, I am today introducing legislation to help save the lives of cancer patients by ensuring that the Forest Service and the Bureau of Land Management take the necessary steps to end the prolifigate waste of the Pacific yew tree in the old growth forests of the Pacific Northwest. The bark of the Pacific yew has been found to contain vital anticancer properties, but the tree itself has historically been considered a worthless trash tree and virtually ignored by the agenices in favor of higher value species. This bill will direct the Forest Service and the Bureau of Land Management to develop and implement sound management guidelines for the Pacific yew to provide for the efficient harvest and utilization of yew resources, while also ensuring the continued survival of the species for future use.

Each year, over 12,000 women die of ovarian cancer, and another 45,000 die of breast cancer. The anticancer drug, taxol, derived from the bark of the Pacific yew, has shown very promising results in combating these and other cancers in clinical trials and is considered by the National Cancer Institute to be one of the most important cancer drugs discovered in the past decade.

The Pacific yew, however, is a finite and dwindling resource. It currently requires the bark from three 100-year-old trees to provide enough taxol to treat just one patient. The oldest and most valuable Pacific yew trees are now found primarily in old growth forests on public lands in the Northwest. Yet, our public land stewards—the Forest Service and the Bureau of Land Management—have been slow to recognize the importance of this species and implement appropriate management guidelines.

Until a few years ago, the Pacific yew was considered to be worthless and was routinely burned in slash piles after timber clearcutting. While both agencies have since issued management guidance for the yew, these guidelines are largely inadequate and ignored. According to the environmental defense fund, current Federal policy allows the wasting of up to 60 to 75 percent of the yew trees found in commercial timber harvests areas. Further, only three national forests in the northwest are trying to properly utilize Pacific yew resources. Additionally, the agency authorized system for harvesting Pacific yew allows many opportunities for illegal harvest; in the past few weeks several Federal indictments have been issued in Oregon and Washington against collectors for illegally stealing bark from national forests and selling it on the black market.

Immediate and aggressive management of the Pacific yew is badly needed. This bill I introduce today aims to prevent the continued wasting of this life-saving resource by establishing an Interagency Yew Committee to develop a rigorous harvesting and management scheme for the Pacific yew, and by designating agency task forces to oversee its implementation. If managed correctly, there will be ample Pacific yew available within existing timber sales to meet the current demand for taxol for the next 7 years—by which time researchers hope to be able to synthesize taxol in the laboratory. If, on the other hand, the current mismanagement of Federal Pacific yew resources is allowed to continue, we will have wasted an inexcusable amount of taxol that could have saved thousands of lives, and could destroy the very species which offers such hope to millions of cancer patients.

Mr. Speaker, I also want to thank Representative RON WYDEN, the other principal sponsor of this bill, for his constructive contributions on this issue. I look forward to working with my colleagues on this important lifesaving legislation. I welcome and encourage their suggestions for it and their support of it.

EARNED INCOME TAX CREDIT SIMPLIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing with other members of the Committee on Ways and Means, an important tax simplification bill—the Earned Income Tax Credit [EITC] simplification Act of 1991 H.R. 3828.

Over the course of this year I have introduced several tax simplification proposals. Each provides important simplification or rationalization of discrete portions of the Federal Tax Code. I am fully dedicated to finding measures that will reduce the uncertainty and complexity that taxpayers face as they attempt to comply with our Federal tax laws. I remain determined to do something meaningful for the average working family of America, especially low-income families. The legislation I am introducing today provides significant simplification for low-income working Americans. This bill will give these families some much needed tax simplification, that will translate into real dollars in their pockets.

In 1975, Congress created the EITC as a means of targeting some relief from the regressive social security taxes on low-income families, and also to improve work incentives among this group of neglected Americans. As originally enacted, the maximum benefit was $400. This benefit was expanded in the Tax Reform Act of 1986, to a maximum benefit of $800.

In 1990, Congress once again greatly expanded this benefit as part of a significant child care initiative. This increased benefit was intended to give all eligible families, first, an increased basic EITC benefit of $1,192 for the 1991 taxable year, increasing to $1,861 in 1994; second, for families with two or more children, a benefit of $1,235 in 1991, increasing to $2,023 in 1994; third, for families with a child under 1 year old, a supplemental benefit of $357 in 1991, increasing to about $405 in 1994; and fourth, a supplemental health insurance credit for 1991 of up to $428, increasing to about $505 in 1994. Together, these modifications expanded the EITC by $18.3 billion over 5 years, making this the largest increase in any low-income program in more than a decade.

Unfortunately, in spite of the good intentions we all shared in enacting these benefits, unintentional, and in some cases insurmountable, barriers were created between these benefits and the intended beneficiaries. It is estimated that approximately 14 million low-income families are eligible for these benefits. However, the complexity of computing these various credits may result in more than 10 million eligible families incorrectly understating the benefit to which they are entitled. The remaining 4 million families who qualify may never claim any part of the benefit. In these difficult economic times, I find these statistics very discouraging and indefensible. It is imperative that we simplify this important credit so those who qualify can receive the benefit to which they are entitled.

The EITC is a direct wage supplement that can significantly increase the income of low-income families. This is especially important today since the wages for these low-paid families have been reduced in real terms. In the midst of this critical need, these targeted benefits are largely lost in a mass of complicated and technical provisions which are the direct result of the well-intended 1990 changes. Because of the two new supplemental credits and other changes, the Internal Revenue Service [IRS] was required to develop a special schedule that an eligible family must complete along with their basic tax return to claim the EITC benefit. The computations required on this schedule would challenge the most sophisticated tax practitioner. These complexities will confound an increasing number of eligible families who will not be able to complete the necessary paperwork and will lose a very important and substantial benefit for which they are entitled.

Mr. Speaker, the bill I am introducing today will fundamentally simplify the EITC. Both the supplemental benefit for families with a child under 1-year-old and the supplemental health insurance credit added in 1990 will be repealed. The basic credit rate and the adjustment for larger families would be increased with the revenues saved by repealing these complex credit calculations so that the bill would be revenue neutral over 5 years. To receive the refundable credit, many eligible families will be able to file their tax return and in the simplest terms, merely write EITC next to the appropriate line on the return. The IRS will do the rest and calculate the family's tax credit. This will substantially increase the chances that the intended beneficiaries receive the benefits Congress has already intended for them.

I have consulted with the distinguished chairman of the Senate Finance Committee, Senator BENTSEN, about this important simplification initiative. He shares many of my concerns about the complexity of the credit. It is my understanding that he plans to introduce an EITC simplification bill of his own in the near future.

Mr. Speaker, I am proud to take this important simplification step today with other members of the Committee on Ways and Means to remove all unintentional barriers to the EITC and turn this promised benefit into a reality for the eligible 14 million families in this country.

AUTHORIZING SPECIAL ORDER TIME

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that my name and that of the majority leader be transposed; that my name replace the majority leader's name. Further, I ask unanimous consent to address the House for 60 minutes.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

EDUCATION IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 60 minutes.

Mr. GEJDENSON. Mr. Speaker, I come to the well today, and hopefully to be joined by other Members from our side, to start with a discussion of where we are as a country when it comes to education.

One of the things that I think we have all seen occur in recent years is discussions where wealthy individuals, one in New York State and one in Louisiana, provided an opportunity for the young people of an inner-city school to get a college education. Suddenly in that community, where the crime rate stayed as high as it had always been and most likely had gone up, where drugs and violence continued on the rise, when the number of children living in single parent homes continued to rise as a percentage of the population, we found that suddenly in these schools the young people were doing better, and indeed many of them had the grades and did go on to get a college education.

That is not simply an isolated incident of some kind of process that energized these children, but it was an opportunity for the first time in many of these young people's lives that they had the hope of getting a college education.

Think of a child in a middle-class or lower-class family taking a look at the cost of going to one of our better universities or colleges. In my home State of Connecticut, if you are lucky enough to get into the University of Connecticut, the school that I graduated from, the costs run as much as $8,000 a year. If you are unlucky enough to have your child get into Yale or Trinity or Wesleyan, the costs are in the $20,000 range, at Connecticut College, Yale, Trinity, or Wesleyan. If you happen to have two children that are less than 4 years apart, it means the family has to make a commitment of up to $40,000 or $50,000 a year to give those young people the education that not only helps them, but helps us as a society.

The countries that the United States subsidizes with our $140 billion commitment to NATO, France, Germany, England, Japan, our commitment to the defense of these other democracies, they do far more in the way of helping their young people.

It seems to me as a nation if we are going to be able to be competitive, if we are going to be able to engage in new world trade, the trade where nations compete against nations in the area of exports and high technology, that the United States must address the need to give all of its citizens who have the ability a higher education, and not exclude young people who happen to come from middle-class families that are strapped with high mortgages and high taxes, and therefore cannot send their children to college. Worse, in recent years, we direct our young people only to those occupations that have an immediate high salary, so whether it is education or science or research, where the start is often slow, that we dissuade young people from entering those schools of education because when you graduate $80,000 or $100,000 in debt, it is very difficult to think about serving your community or serving your country, when you have the bank and the bankers waiting for your next payment.

Congressman MILLER and I, Congressman PETRI on the other side, and Senators, have joined us in a bill that would provide a much simpler, more direct way of assisting young people who want to get a college education and would also preclude the significant cost of payback through the present student loan program.

We would have a direct loan program from the Government. You would borrow the money to get a college education. Once you stopped going to college, immediately on your taxes there would be an additional charge to start repaying that loan to the Government.

This would end the multibillion problem with defaults, and it would end the system where only the very poor who are incredibly bright, or the very wealthy, can go to colleges of their choice.

I can remember speaking to the president of the University of Connecticut—to several presidents of the University of Connecticut—but particularly this present president of the University of Connecticut, where I graduated, and his fright that this school would become a haven for only wealthy kids, because the wealthy or middle-class who could no longer afford to go to Yale, and Trinity, and Connecticut College, and Wesleyan, that they would crowd out poor kids trying to get an education at the University of Connecticut.

This country is injured every time a bright and talented youngster is not able to get a college education. This country loses in trade and in excellence every time one of our young people chooses not to pursue higher education because of the cost involved.

In 1635 the Boston Latin School was established. The basic premise was that a broader segment of society needed a high school education to deal with the far more complex society that the good people of Boston lived in at that time.

In 1635 it became apparent that we needed universal high school education. It is clear today that we need universal college education. We need to be able to have a system that no matter what the economic wherewithal of an individual, that we are able to help them get a college education.

The cost is there. The program would cost $1 billion over 5 years. But by the sixth year those young people graduating college through their taxes would begin replenishing the fund, and within a short period of time, the fund would be self-sustaining.

What we need to do is make sure that we have an economy that can support the education of our young people so that we can be as competitive a nation in the future as we were in the past.

Many of our colleagues on the other side of the aisle speak of the Reagan revolution, of how the tax cuts and Mr. Laffer's efforts of the early 1980s have led to phenomenal economic growth.

The truth is that we did better in the 1970s than we did in the 1980's. While the Republicans and our friends on the other side of the aisle point to 18 million jobs created in the 1980's, in the 1970's we created 20 million new jobs. By every estimate the jobs created in the 1970's were of higher quality or better jobs that we want our friends and families to go into.

When we look at real economic growth, in the 1980's real economic growth was at 2.6 percent. In the 1970's it was at 2.7 percent.

When we look at the business environment, for all the tax cuts and what those tax cuts were supposed to give us, we find that while there was a 42-percent increase in business investment in the 1980's, without those tax cuts, without the massive deficits, we had a 47-percent increase in investment in the 1970's.

Maybe most tragic of all, while we had a phenomenal GNP growth in the 1980's, from 1982 to 1992, estimated to be $2.9 trillion, the Federal deficit grew in those same years by $3 trillion, more than three times the entire national debt that had been incurred from George Washington to the last day of Jimmy Carter's Presidency.

We need to address the real economic issues that face Americans. I, for one, believe that we must start by first bringing either our troops and the cost of those troops home from Europe and spend those dollars here to start the American economy, or we have to get our friends and allies in Europe to pay for their own defense.

It is a full half a century since the end of World War II. It is now time for these free and democratic governments in Western Europe to pay for their own defense. Western Europe represents 333 million of the richest people on the face of this planet. Their governments are stable and wealthy. The United States and its taxpayers have subsidized their defense for almost 50 years.

It is now time for them to pay for that defense. I would hope as we look at next year's budget agreement, we would have the strength in this chamber to direct the President to negotiate with our Western European allies and our friends in Japan, so they may start picking up a greater portion of those defense costs.

□ 1800

And the dollars that we get in payment for America's role in demanding the freedom of the entire world, that those dollars come back and be invested here in America, providing housing and health care for Americans, providing educational opportunity for young people, no matter what their color, no matter what their economic background is, and no matter what place in this country they live in.

We should not have a country that denies people in the South an education that people in the North might get. Universal college education ought to be available to every young person that has the intellectual ability and the willingness to get the grades to get them into that school. It will not simply be a benefit to those individuals that get the college education; it will be an investment in the future of this Nation.

We have had a decade of easy answers and the great campaigns of "read my lips" and supply-side economics need to be pushed aside. We need to face the hard realities that we squandered a decade.

We squandered a decade when the Germans and the Japanese were investing in education and infrastructure, when they were investing in the future of their nation, and we squandered it.

Now we have to take stock of where we are and find a path for the future. The future has to be led by the bulk of Americans, middle-class Americans given an opportunity for the first time to get the benefits that were only given to the top 1 percent in the 1980's.

When we return here after the Thanksgiving break, we need to address real tax relief for middle-class Americans, middle-class Americans who saw no tax relief in the 1980's, who paid the cost by higher local and State taxes as a result of the Reagan revolution.

President Reagan's tax cuts in 1981 and 1986 not only left this Nation with the largest debt each year that it has ever had but President Reagan's inspired tax cuts placed a burden on State and local governments that they have not felt in decades. Every State in this Nation, whether run by the President's own chief of staff, Governor Sununu in the past, the Republican-controlled States from California and across this Nation, or Democratically controlled States are in financial trouble these days.

Job growth is down. The unemployed feel helpless, and those that are working today are frightened by a President who seems to have as his one response the veto pen. The veto pen comes out time and time again, trying to intimidate the Congress from taking the kinds of initiatives that will lead this country forward.

In my State, the citizens were shocked to find that the President was ready to spend a half billion converting the defense industries of the Soviet Union but, when this Congress and the majority leader, the gentleman from Missouri [Mr. GEPHARDT] and particularly the gentleman from Massachusetts, NICK MAVROULES and other colleagues, the gentlewoman from Ohio [Ms. OAKAR] and the gentleman from New York [Mr. WEISS] and I worked to get several hundred dollars for American workers, get American workers to be retrained, to get American corporations to change their defense industries to nondefense industries, when we had those opportunities, we found objections in the administration, even after the President signed the Defense bill which had the $200 million to do conversion to provide economic opportunity and hope for the defense workers that have been the backbone of our strength, the administration tied the money up in the bureaucracy.

I find it hard to believe that the President of the United States, Mr. Speaker, can recognize that the Soviet Union needs to convert its defense industries into industries that are competitive and provide consumer goods, yet he stands in the way of legislation and the resources we need to convert our own defense industries from Connecticut to California, from Texas through the Midwest to the needs of American consumers to make us a more competitive nation, a nation that will be able to compete at every level internationally.

We only need to look at history. The U.S. big economic bounce came out of World War II in the technologies and abilities that we developed in that war. American defense industries are the cutting edge of technology. The technologies of those defense workers can be converted to make us competitive in a number of fields that we can be predominant in in the world. But we need to address those basic issues of the economy to make sure that we rectify the mistakes made in budgeting in the 1980's and that we move forward in a way that helps stimulate the economy in a real way.

All through the 1980's, we found that America was a creditor nation. More countries owed us money than we owed. We were the single largest creditor nation in the world.

We are now the single largest debtor nation, and we were a creditor nation to the tune of somewhere around $100 billion a year. We are now a debtor nation to almost $900 billion a year, and no one knows this more than the gentleman from California [Mr. PANETTA], chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, if the gentleman will yield, I thank the gentleman for taking this special order to try to look at the state of the economy and try to bring it to the attention of the American people.

I think all Americans, all who are living day to day with the kind of economic situation that confronts this country, recognize that the state of the economy is in serious trouble, and that is something that is recognized, very frankly, I think, on both sides of the aisle in terms of the concerns about the state of the economy.

The problem, and I recognize that the President is trying to put the best face on this situation, but I also think that the time has come when we can be straight with the American people. When we can say very honestly to the American people that there are serious problems there and that they have to be confronted and that the kind of Pollyanna approach that we used to hear about in the 1980's no longer applies.

People are tired of that. They want to confront the realities because they confront them every day they go to the grocery store or they have to pay for the education bill for their children or they have to pay the mortgage payment. They confront the realities of this economy every day.

The realities are that we have some serious problems. We are looking at probably the weakest economy in the postwar era, the weakest economy in the postwar era.

Right now the recession is in a situation in which we are dealing not so much with what was defined as a short and shallow recession by those who basically were hoping for the best, and all of us were, today we are obviously dealing with a much deeper and a much longer recession than anyone had predicted.

The facts are there. The facts were there in the economic indicators that came out very recently. The facts regarding industrial production as being flat, manufacturing capacity utilization, flat; sales of new domestic autos peaked in July and have fallen by 6 million in October and 5.7 million in the first days of November.

Housing starts declined 2.2 percent. Retail sales, other than autos and building materials, have dropped in each month since July. The merchandise trade deficit indicates that in exports right now we are flat. The Federal Reserve itself reports that the economy is in a down situation, a slowdown. Per capita disposable income has been flat since June. Unemployment is something that all of us know has been high in terms of not only those who are unemployed but those who are underemployed as well.

The recession has lasted longer than anyone has expected. Some of the reasons for it are presented in the charts that I want to present to the Members and to the country.

The first relates to growth. Growth in this administration at a less than 1 percent, 0.5 percent annual rate, is slower than any other postwar era. If we look at every other President, from Truman to Eisenhower to Kennedy, Johnson, Nixon, Carter and Reagan, we have a growth situation that is 0.5 percent, the slowest in the postwar era.

Mr. GEJDENSON. Mr. Speaker, if I read those numbers correctly, what we are looking at here is that under Bush we have had one-half percent growth in these years. During the Reagan years we had a 2.9-percent growth. And in the Carter years we had a 3-percent growth, which was the largest growth since the Johnson years.

□ 1800

Mr. PANETTA. The gentleman is correct.

Mr. GEJDENSON. I am happy to yield more time to the gentleman from California.

Mr. PANETTA. The next chart relates to productivity, which is a measure of whether or not our economy is producing things, whether or not we are being productive, whether we are being competitive. Productivity is not only down, it is negative, 0.1 percent negative growth, again the lowest productivity in the postwar period.

The next chart indicates on employment that employment is growing at about a 0.5-percent annual rate, which is the worst job growth record in the history of the postwar era. Again, looking at all of the Presidents including Carter, Reagan, Bush is down.

Mr. GEJDENSON. Again, if the gentleman will yield, what the graph shows again, interestingly enough, is that the highest group in recent times was from 1976 to 1980, and presently that we are running a one-sixth of the growth that existed from 1976 to 1980.

Mr. PANETTA. The gentleman is correct.

The gentleman also is aware of the fact that the President indicated that he could produce about 30 million new jobs. Obviously all of us would hope we could produce 30 million new jobs in our economy. We need them. But as this chart indicates, although 30 million new jobs were promised in terms of the ultimate goal, we have only seen about 1,500,000 jobs produced, far short of the goal that we are trying to seek.

Mr. GEJDENSON. If I can just reclaim my time for just 1 second from the gentleman again, I think there is an additional interesting point here. That is in the 1970's what we were faced with was a combination of the baby boomers entering the marketplace in the late 1970's and early 1980's, and women entering the marketplace and the work force in far larger numbers. So in a sense the demographics are easier for a larger economy today, and our goal should then more easily be achieved.

Mr. PANETTA. Again, the gentleman is correct. And what this indicates obviously is the serious problem about employment right now in our economy, and it relates to legislation that we again adopted today to provide additional unemployment compensation for those unemployed. We have 15 million who are either unemployed or underemployed. We know that we have a number of about 8.6 million of those who are unemployed. But what we have not calculated are those who have dropped out of the job market altogether, and those who are obviously part-time employed, and that number is about 15 million. And also on the deficit, when one looks at the deficit as an indicator, it is perhaps the worst not only in the postwar era, but in history. The deficits have increased at the fastest rate in history compared again to every President in the postwar era. They grew obviously under the Reagan administration, but they escalated dramatically during the Bush administration.

Another point I would like to make because Congress is often accused of having been the villian with regard to the increases in the deficit is a number that indicates what Presidents have asked for in appropriations between 1982 and 1991 and what Congress has appropriated, because we often hear the charge that obviously Congress is the primary villian for creating the deficit. Presidents have asked for appropriatons of $5,889,000,000,000. What Congress has appropriated is $5,830,000,000,000, $9 billion less than what Presidents have requested.

Mr. GEJDENSON. I would like to yield to the gentleman from Illinois who I think has a point on this subject.

Mr. DURBIN. Mr. Speaker, I thank the gentleman for yielding. This is a very important point, and I think that 99 percent of the people who would hear the gentleman's remarks would be surprised to hear him say that Congress has appropriated less money than the President has requested since 1982 if we add it all together.

Mr. PANETTA. The gentleman is correct.

Mr. DURBIN. So all of the comments and claims of the Republican administrations, Presidents Reagan and Bush, of their devotion to a balanced budget, to cutting spending, to eliminating waste and so forth, when it was all said and done Congress appropriated less money than was requested by the Presidents during that period of time?

Mr. PENETTA. The gentleman is correct.

Mr. DURBIN. Can I ask the gentleman if he would address the question of entitlement spending. Is that included in that appropriation figure?

Mr. PANETTA. The main culprits in terms of the deficit are really several areas. One is obviously the recession right now, which because of lost revenues we are losing somewhere between $60 billion to $70 billion in revenues at the present time.

The additional cost is the cost of the RTC, which is the savings and loan bailout which now is approaching about $122 billion.

On entitlements, entitlements have grown, and they have grown dramatically, largely because of demographics, particularly in the health care area.

Mr. DURBIN. May I interrupt? I think we get so used to the terminology here, I would ask the gentleman what does he means when he says entitlements? What is included in entitlements?

Mr. PANETTA. The entitlement programs are programs, such as the following which constitute about 46 percent of the Federal budget, and the main entitlement programs are retirement and pension programs, Social Security retirement programs, civil service retirement, military retirement. They constitute about 25 percent of the entitlement areas. That is one group of entitlements.

Second are the health care programs which now constitute in excess of 10 percent of the entitlements, both Medicare and Medicaid. About 3 percent to 4 percent are made up of programs impacting on the poor, AFDC, food stamps, SSI programs. The remaining 1 percent to 2 percent are agricultural support price programs. So those are the principal entitlement programs that we deal with, and the main increases in the entitlements are now occurring in the health care programs, both with regard to Medicaid and Medicare, largely because of demographics, but also because of the rise in health care costs.

Mr. DURBIN. If the gentleman will yield further, I believe it was reported last week that the inflation in the cost of the medical care for Americans is rising this year at three times the ordinary rate of inflation. It strikes me that this goes right to the heart of the gentleman's comments. That is the increase in entitlement spending, which is not for poor people, but primarily is for others, senior citizens and the like, and that is going to continue to increase because we are wedded to a system where our costs to the Federal Government are wedded to the cost of increases in medical care.

Mr. PANETTA. I want to show the gentleman another chart with regard to projected deficits that we are looking at because I think it makes the point the gentleman just mentioned. We are right now looking hopefully, hopefully at a reduced annual deficit level, assuming that we get past a recession, assuming that the savings and loan crisis works its way out, and assuming that we are able to still maintain fiscal discipline under the budget agreement. If we do that, we can see that the deficit begins to go down from the $362 billion we are expecting in 1992 down to hopefully about $158 billion or $156 billion. But in the remainder of the decade it dramatically escalates back up to $300 billion in deficits. The main reason for that is Medicaid outlays will probably quadruple during that period of time, and Medicare outlays will probably triple. That is the main reason we suddenly see the deficits beginning to escalate.

This all spells terrible trouble for the country, because what we hoped would be some control on the deficit looks like it again escalates in the remainder of the decade.

Mr. GEJDENSON. If I could reclaim my time again for just 1 second, could I ask the gentleman, then, what he is telling us is if we exclude medicine and we end up with just programs that affect the poor, what we are talking about is about 3 percent of the budget?

Mr. PANETTA. The gentleman is correct, 3 percent to 4 percent.

The interest, obviously, on the deficit is what is truly robbing us of the resources we need to confront these issues. The payments for 1992 on the deficit are $210 billion. They will go up to $230 billion in 1993, and at that time interest payments on the debt will be larger than everything we spend on domestic discretionary spending.

Let me say that again. In 1993 what we pay on interest on the debt will be larger than what we spend on all domestic discretionary spending.

Mr. DURBIN. If the gentleman will yield again, I hate to stop the gentleman. He is a member of the Budget Committee as am I, and we are familiar with these terms, but I want to make certain that the people listening are familiar.

□ 1820

What does the gentleman mean when he says domestic discretionary spending, that all our Federal interest payments will be greater than all the money we spend on domestic discretionary spending, what is included in that category?

Mr. PANETTA. When we talk about domestic discretionary, we are talking about all spending other than obviously entitlement spending, which I just defined, other than defense spending, other than interest spending. We are talking about what we spend on education, on health research, on housing, on transportation, on air safety, on law enforcement, on drug enforcement, on all the remaining areas of Federal spending which are an area, very frankly, that went down somewhere around 10 or 11 percent during the 1980's, so it is that area, that area that we are now saying is a main target for focus, education, health care, AIDS research, all the areas that are important to the society, the spending on interest will exceed all that spending in 1993.

Mr. DURBIN. Mr. Speaker, if the gentleman will yield further, the gentleman is saying that the legacy of the Reagan-Bush Reagonics supply side era, all their philosophy in spending and budgeting will ultimately result in a national debt so large that the interest paid by taxpayers each year will be greater than the total amount spent on all the domestic programs the gentleman has just mentioned. In what year does that take place where the interest payments exceed all the amount which Congress or anyone can spend on these domestic programs?

Mr. PANETTA. In fiscal year 1993, which is not that far away.

Mr. DURBIN. Right around the corner.

Mr. GEJDENSON. Reclaiming my time for a moment, Mr. Speaker, I would ask the gentleman to stay with us in the Chamber and I would ask the gentleman from Kansas and the gentlewoman from Ohio if they would like to take a few moments at this point to raise what I think is a critical issue about our industrial base and our future in a critical technology.

Mr. Speaker, I yield to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding to me. I am pleased to participate in this special order this evening.

As I listened to the gentleman from California [Mr. PANETTA], the very esteemed chairman of our Budget Committee who I think is one of America's greatest natural resources, I could not help but think that the result of the enormous deficit that we have built up now because of misguided policies during the 1980's where we ended up by putting our country in a position where we seem to be bailing out everything.

The chairman just mentioned we have to bail out the savings and loan institutions. Now we are being asked to bail out the banks. Today, we had to pass another bill to bail out the American unemployed worker. I just wanted to put a very bright spotlight on another industry in our country that is in trouble on the front pages of every newspaper in America today. The headlines read, "McDonnell-Douglas Signs Taiwan Deal. Airliner Business To Be Sold to Foreign Company for $2 Billion." I wanted to spend just a couple of minutes talking about that this evening. I think it is a tragedy that one of the crown jewels in America, one of our three largest major airline manufacturing corporations has had to go offshore to find—how much money? And $2 billion from the Taiwan Aerospace Corp. that is owned by the Taiwanese Government. And why did they have to go offshore? Because they have to find cash to prop themselves up and sell off 40 percent of themselves because they cannot make it.

I think it is especially alarming to see this trend in the aerospace industry, which is so critical to our defense industrial base, and we ask ourselves, how could the administration let this happen?

Mr. Speaker, the McDonnell Douglas Corp. has offered to sell for $2 billion, 40 percent of its commercial airliner business to Taiwan Aerospace Corp., owned largely by the Taiwanese Government, imagine begging because it needs an infusion of cash to survive.

In order to remain competitive, companies are looking overseas for both capital and low-wage labor. This results in a continuing net loss of jobs in this country, often high paying jobs that are not being replaced. Our country cannot stand by and let this trend continue as one industry after another falls. It is most alarming to see this trend reach the aerospace industry, an industry where the United States has been the leader. Are we to say goodbye to the very last industry where we lead the world competitively?

McDonnell Douglas apparently feels that by selling a 40-percent share in its commercial aircraft subsidiary for $2 billion, it is the only way it can stay in the commercial aircraft business in the face of rising competition from Europe's heavily subsidized Airbus industry.

Airbus is a consortium put together by France, West Germany, the United Kingdom, and Spain and has been in business now about 21 years. Airbus provides single-point marketing and customer support for the planes that they deliver and sell. Each partner in the consortium is responsible for financing and R&D and design, and the final assembly of the planes sold by Airbus takes place in Toulouse, France. Unlike the U.S. experience, in Europe, governments, not private companies, bear more of the risks, and Airbus goes to their governments for loans and grants to fund development and production, and so far none of them have been turned down.

This government supported consortium is competing unfairly with the U.S. private sector aircraft manufacturing industry. Airbus has been subsidized by amounts equal to about $13 billion. Airbus is now the second largest aircraft manufacturer in the world, overtaking a position that McDonnell Douglas once held, with the help of this government-subsidized consortium. I would like to ask the Bush administration, is this free trade?

Airbus had orders for just 200 planes worldwide 6 years ago. Its backlog today totals 1,600 planes, worth $70 billion. In addition, Airbus' market share increased from 15 percent 15 years ago to 30 percent today, and they have essentially reversed positions with McDonnell Douglas—while McDonnell Douglas now struggles to remain in the commercial aircraft business. Airbus' market share is growing at the expense of the U.S. industry.

If the U.S. industry had access to Airbus-like subsidies, such as interest free loans, its earnings would be $770 million higher annually, which is equal to half of U.S. commercial aerospace earnings. With U.S. capital costs high, American companies have very inequitable access to financing. As it stands, the aerospace industry is one of the most leveraged industries in America.

The Government of the United States of America can do far better than stand on the sidelines while it watches its premiere industry be sold off to foreign competition aided by government subsidies. How can the Bush administration stand by while it ships thousands of jobs overseas. Isn't our economy bad enough? How many more industries do we have to sell off before this administration responds? How many more good American jobs have to be lost?

This is a competitiveness issue. The prospect of foreign ownership brings to mind other American industries that have lost their competitive edge due to the allowance of foreign control. The American television, movie, auto, computer, and electronics industries are being dominated by foreign interests and resulting in a loss of jobs here in America. Are we going to allow another vital American industry to bite the dust? We must maintain our technological lead in the aviation industry before it gets away from us.

Further, beyond the subsidy and competitiveness issues, we must also consider the risk involved in selling to a foreign country a key defense contractor that, incidently, has gained its expertise at the expense of the U.S. taxpayer through hefty defense contracts. If we do not put this Nation's economic security and competitive well-being as a high priority, we must at least consider the national security implementations.

Where is the U.S. Government when its own vital industries fight for survival? Must these companies look to friendlier governments across the sea? Is this really what is best for our country? Why must our Government stand so firmly against taking action to curb imports of Airbus into our own very open market? Must we just helplessly watch our market share slip away to Airbus. Airbus, using Government subsidies, buys more and more of the U.S. market and more and more of the world market at the expense of American companies.

CHRYSLER CORP. LOAN GUARANTEE

There once was a time when our Government would help important U.S. industries fight unfair competition. In mid-1979, Chrysler, the 10th largest corporation in the United States and the 3d largest domestic auto manufacturer, another vital industry sector, appealed to the Federal Government for assistance in the form of either tax credits or loan guarantees in order to stave off bankruptcy. The Carter administration rejected the appeal for a tax credit, but did support a plan to grant the ailing company Federal loan guarantees of $1.5 billion subject to a series of conditions.

We must be able to protect those jobs that are at stake, both directly and indirectly, as was done in the Chrysler bailout. It was understood that there would be a tremendously negative economic effect resulting from the failure of the Nation's 10th largest corporation and its 150,000 employees. If there were no bailout, 40,000 people would have lost their jobs. Does this administration want to stand by and watch Americans lose their jobs, all in the name of not tampering with free trade?

FCC REGULATIONS

The FCC presently permits foreign ownership of only 25 percent of an airline company. Additionally, H.R. 782, introduced by Representative CLINGER would increase this percentage to 49 percent. The hearings to date show a developing consensus that the increase should be allowed because U.S. airlines need capital to grow and U.S. banks are not making that capital available.

IMPORTANCE OF THE AEROSPACE INDUSTRY

The U.S. trade deficit has been stuck at around $100 billion or more. Over the last 3 months, our trade deficit has been increasing. But the aerospace industry contributes a positive balance of $27,282. If not for the large positive trade balance in aerospace, our total trade deficit would be much larger.

The U.S. aerospace industry produces leading edge technology and high-value added export items, aiding the U.S. balance of payments and offsetting trade deficits in other industries.

The industry has a broad economic impact through purchases from 34 different manufacturing, commodity and service industries.

The aerospace industry employed 1.27 million workers in 1990, nearly 7 percent of total employment in U.S. manufacturing and 12 percent of employment in durable goods manufacturing.

Aerospace plays a key role in national security. Aerospace defense equipment made up 51 percent of the 1990 defense procurement budget.

Private company spending as a percent of sales is exceeded only by that of few other high-technology industries. Company funding plays an important role in advancing technology. Currently, a significant share of the industry's technology efforts are being devoted to 11 key technologies that have been identified as critical to U.S. aerospace future competitiveness.

Mr. GEJDENSON. Mr. Speaker, if I may reclaim my time, the gentleman from Kansas wants to enter into this discussion, but we are talking about $2 billion for what again in 5 or 6 years could be half of a $70 billion year.

Ms. KAPTUR. That is right.

Mr. GEJDENSON. Mr. Speaker, I yield to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, first of all, I compliment the gentlewoman for raising this issue and leading on this issue.

This all relates to the weakness of the American economy, largely resulting from very serious economic and trade decisions made by the administration in the last 10 or 12 years.

It used to be that America was the unparalleled leader in the manufacturing of airplanes. Nobody even came close. We dominated the world in commercial aircraft of all types, civil aircraft, military aircraft, general aviation, you name it.

The company the gentlewoman is talking about, McDonnell Douglas was the old Douglas Aircraft Co. which built the DC-3, the premier piston airplane ever made in the world, and this airplane company, a great company, is now on its knees begging the Taiwanese Government and the Taiwan Aerospace Corp. for $2 billion in order to stay alive. It is unbelievable.

It has happened because of economic policies of the last 10 years. It has happened because of passive trade policies. We have watched the Europeans subsidize Airbus by billions of dollars in every way possible and we have just stood by in a passive way.

I happen to come from a town that has about 40,000 aircraft workers. I look at this thing and I am thinking, wait, McDonnell Douglas today, is it Boeing tomorrow? Is it Cessna the next day? Is it Beech the next day?

I think the gentlewoman raises the point that our Government must act as some advocate for our strong industries, must push their interest in the trade picture, must fight dollar for dollar those unfair subsidies if in fact we cannot get rid of them and must do the other things in education and growth and job areas that the gentleman from Connecticut and the gentleman from California talked about.

So I just want to echo the gentlewoman's remarks and tell her how important it is for us to work together.

This is not an abstract problem. We have seen in the last 2 days one of the strongest companies in the United States, the premier piston aircraft builder in the entire world, on its knees going to the Taiwanese to have enough money to stay in business. I think it is too bad and I think we need to protect American jobs in the future from this kind of thing.

Ms. KAPTUR. Mr. Speaker, if the gentleman will yield further, I thank the gentleman for his remarks. His knowledge of export markets in this industry I think is unparalled in this Congress.

I think it is important to state that this industry, as the gentleman has mentioned, is our premier exporting industry, over $27 billion on behalf of McDonnell Douglas, Boeing, Rockwell, are sent off shore every year to help bring back dollars to the United States. If we lost these industries, America loses its cutting edge technologies and the very industries that are helping us to bring dollars back to this country.

When you think about the thousands and thousands of jobs connected to this, we just cannot give up these companies. It is absolutely unforgivable.

I thank the gentleman for yielding this time this evening. We look forward to passing tough legislation here to make it easier for companies like McDonnell Douglas to survive.

Mr. GEJDENSON. Reclaiming my time, Mr. Speaker, I just say to the gentlewoman and to the gentleman from Kansas that for those people living in communities that are not in the midst of the aircraft industry, do not think this does not affect you, because the carpets, the materials, the trays, all the parts come from across this Nation. Once they start building half that plane, the engines that come from my State suddenly start coming from elsewhere as well.

Mr. DURBIN. Mr. Speaker, if the gentleman will yield further, I would like to commend my colleague, the gentlewoman from Ohio [Ms. KAPTUR]. She has really led the Congress, the Democratic caucus and the entire House of Representatives on a lot of important trade questions, automobile parts, for example.

I think most of us in the Congress think of the gentlewoman instantly when it comes to the exportation of American automobile parts, where we are discriminated against overseas.

I think one of the root causes of the problem the gentlewoman has described this evening, where what used to be the large healthy corporations in America are now on their knees begging for foreign capital, can be laid right at the doorstep of the trade policies of President Reagan and President Bush.

A few months ago we were debating fast-track on the floor, where we were going to enter some sort of fast-track procedure for a trade agreement with Mexico and with GATT, the European trading partners and other countries around the world.

Many of us had misgivings about the administration's call for this fast track because we have seen time and again where the Bush administration is not talking about the export and import of products, they are talking about the exportation of American jobs, where multinational corporations in the United States not only are inclined, but almost forced to locate overseas where they can find that cheap worker under this trade policy, and we are reaping that trade policy of the last 10 years in this recession today.

Mr. GEJDENSON. Reclaiming my time, Mr. Speaker, I yield to the gentleman from Illinois [Mr. RUSSO], someone who has led the fight on health care.

As we heard from the gentleman from California [Mr. PANETTA] chairman of the Budget Committee, it is the single largest cost of the government in a lot of ways, aside from interest.

I yield to the gentleman from Illinois.

□ 1830

Mr. RUSSO. Mr. Speaker, I have the perfect case for why we need to eliminate the link between employment and health insurance.

As many of you know, Midway Airlines recently declared bankruptcy. They have had to lay off 4,300 loyal employees.

Now Midway is being pushed by their creditors to terminate their health insurance plan. Why? To prevent Midway's 4,300 employees from taking advantage of the law that would allow them to continue their health plan as long as they paid for it themselves—paid for it themselves.

Thanks to a law that Congress passed a few years ago, a laid-off employee can continue their health insurance by purchasing it at group rates through their employer. But that is not what Midway's creditors want. They do not want Midway's employees to take advantage of this.

This means Midway's 4,300 employees, in addition to losing their jobs, would lose their health coverage. In addition to worrying about how to pay for the rent, they now have to figure out how to pay for medication for their diabetic child or an emergency visit to the hospital because they no longer have health insurance coverage.

This is what is wrong with employment-based health insurance. It does not matter if you are pregnant or if your children are sick or if you have been hospitalized, in the United States you can lose your health insurance overnight through no fault of your own.

The United States is the only major industrialized country in the world other than South Africa where this horrible tragedy can take place. That is why we need to abolish the link between employment and health insurance. As long as we depend on the employer to provide health insurance in America, Americans will never have true peace of mind. There will always be cases like this one.

That is why we need a single-payer national health insurance policy, the Russo bill, H.R. 1300.

Mr. Speaker, these employees have worked a lot of years to make Midway a successful airline. They spent a lot of hours in cold weather in Chicago, in Minneapolis, around the country. They put a lot of overtime hours in to make sure that this company was successful.

Through no fault of their own, they did not create the Persian Gulf war or the increase in prices of gasoline, they did not make the decision to invest $200 million in Philadelphia they did not make any of those decisions. The only decision they made was to get up in the morning and be a loyal, hard-working, dedicated employee, dedicated to making this airline the best it could be. Loyal, dedicated, hard-working. What did they get for it? What payment did they get for it? They lost their job. Was that their fault? It was not their fault.

This economy has taken its toll on people, it has taken its toll on a lot of Americans, and now it has taken its toll on the health coverage of Midway's employees.

They are not only going to lose their jobs, they are going to lose their health care coverage because the Midway creditors do not want the money to flow out of the company. They want to keep it so that they can split it up, and forget the people who are suffering as a result of this decision by greedy creditors.

Forget all of those hours of dedication to the airline to make it successful; it does not matter, folks. "You are just an irritation, and we are going to get rid of you because we want to get this airline as cheaply as we can."

That is wrong, that is not American. That is not what this country is all about. That is not the American ideal for which we all fought. That is not correct in our democracy.

Mr. Speaker, I am preparing legislation to prevent Midway Airlines from denying health care coverage to its employees. It is wrong, and it ought to stop, and we are going to do everything we can in this Congress to prevent this from happening in the future.

Mr. GEJDENSON. Mr. Speaker, before the gentleman from Illinois leaves. I would like to yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Speaker, I think, tragically, it takes a case such as the gentleman just told us about with respect to Midway Airlines that we now see this continued link, that only if you are employed, in many instances only then, do you get insurance.

The question really should be, as the gentleman pointed out, with the Russo bill, with the National Health Insurance Program, whether or not you need health care. If you are sick, you should be able to get treatment. If you are pregnant, you should have a healthy pregnancy. But for too long in this country the current policy is that somehow it is related to the question of whether or not you are employed. This economy, the charts that the gentleman from California [Mr. PANETTA] just went through show the state of this economy, that it is taking its toll on many, many, many companies. Companies such as Midway, McDonnell Douglas and others. But the fact is those companies are made up of people, and they are being cast aside on the scrap heap of the leftovers of the 1980's, and yet those are the people who have families, they have children who need health care, children who were sick before the economy went into a downturn, women who were pregnant before the recession started, women who were pregnant and will give birth prior to coming out of this recession.

Yet, somehow what are we saying? We are saying if you do not have a job, you cannot have access to health care. It simply is a connection we can no longer continue to afford because it is unfair to the people like the people at Midway and other companies, companies in my district that have laid people off and then they find out, as the gentleman pointed out, that they did not do anything wrong, their jobs disappeared. They did not quit, they were not fired, the job disappeared and now they are left abandoned and, worst of all, their family has no health security at all.

Mr. GEJDENSON. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, the sad thing is, as we have been pointing out through this entire debate on national health insurance, is that you are only a job or an illness away from personal bankruptcy. Not only is Midway Airlines facing bankruptcy, but, by terminating employee health insurance they are going to force a lot of individuals into personal bankruptcy as well.

Mr. GEJDENSON. Let me point out that if the Midway employee is pregnant, or at this point or any other, employee, say, of UNC at Montville, in my State, or a company in Mr. MILLER's State or other folks', but in the case of the gentleman from Illinois, if a Midway employee finds another job 2 days after they are laid off and they are pregnant or have a child with a preexisting illness, they are still finished, their house is still in jeopardy. You know, I have a constituent in my district who worked all of his life at a bank where he thought it was a safe job. He did not make a lot of money. He was not an officer of the bank. He worked hard at the bank. His bank went bankrupt, and all of a sudden his pension is gone, his health care is gone, and now for the gentleman and his wife they want $9,000 a year in premiums. He could not do that even if he was working.

Mr. RUSSO. What is unfortunate is that these employees who dedicated themselves to the success of this airline don't matter to the creditors. The creditors only care about how much money they can get.

Mr. GEJDENSON. Reclaiming my time for the moment, the responsibility is at 1600 Pennsylvania Avenue to come up with a solution for that. The President—here in Congress we have a strong voice for health care, led by the gentleman from Illinois [Mr. RUSSO]. We have to hear from the White House. What do they say to these employees at UNC in Montville, CT, what do they say to the employees at Midway, what do they say to the thousands of people who are out of work?

Mr. Speaker, I yield to the gentleman from California.

Mr. MILLER of California. The point is what we read in the headlines yesterday, headlines of the New York Times. That is, Bush has no plans for major efforts to revive the economy. Bush has no plans for national health care, no economic plans. He said, essentially we will do nothing: "I will see you at the State of the Union." So, if you are put in this precarious position, the fact is, as the gentleman pointed out, 1600 Pennsylvania Avenue has no plans for this economy.

Just as he was late to come to realize the changes in Eastern Europe, where he was astonished, he was befuddled, he was confused by these changes, we now see that the President of the United States and his advisers are the same about the American economy.

I think we have got to understand that that is a risk. When you look at the charts that Mr. PANETTA has put up there with respect to disposable income, consumers savings, real disposable income, real GNP, this term of George Bush has been a horror story for the American worker, for the citizens of this country. And his response is, essentially, to do nothing except to provide vetos.

□ 1840

If the Congress should initiate anything, we know it will be met with a veto; veto, after veto, after veto. Safety in the workplace, the right to have notification before someone's job is taken away so they can plan for health care, they can plan for their kids' schools or how they are going to hold on to their house. If we want to give people the right to go home and take care of a sick child, we will get a veto. If we want equity in the workplace, we get a veto.

Mr. Speaker, we have got to understand that there is in fact nothing coming from the White House. And people ask, "What is the Congress doing?" The Congress is trying. The Congress is trying, but we have been met with 24 different vetoes.

Mr. Speaker, I guess that is a record the President will be proud of, but it is a record that is torpedoing the opportunity for this country to regain its economic strength because it is essentially a Herbert Hoover policy. It is a policy that somehow believes that, if he just sits in the White House, things in fact will get better, and clearly there are people running in all the time telling him, "Things are getting better."

Come to California, Mr. President, because that is not what is happening.

Mr. GEJDENSON. Mr. Speaker, I yield to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I will be very brief. There are two instances that have been brought up here on the floor: The fact that McDonnell Douglas, once one of the leaders in the aerospace industry in America is now down on its knees begging the Taiwanese Government for $2 billion to stay in business. The fact that Midway Airlines, through no fault of their own are left without any health protection as they face a harsh winter and, Lord knows what, in terms of their own future points to two deficiencies. First, no national industry policy, where the Taiwanese Government can put together a policy where they start taking over industries. We crumble in their path, and we end up begging them for money. No national leadership when it comes to an industrial policy, and no national health policy when it comes to Midway employees.

Where do these national policies come from? Should it be the Congress? Some might argue that, but most would concede that in the history of the United States it has been the Presidential leadership necessary to bring the Congress together, Democrats and Republicans, behind the plan for either a national industrial policy or a national health policy.

Mr. Speaker, we do not have such a plan. What we have is a President who is consumed with his interest in foreign affairs and not focusing on the domestic agenda.

Mr. GEJDENSON. Mr. Speaker, I would be happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I do not want to be interrupted, so I will just make two quick points because I know those folks have a lot on their agenda tonight.

First of all, this body originates all spending bills and all taxing bills, and those folks have had control of it for all of my lifetime but 4 years, but 4 years, and so, when they start saying that the malaise and the economic problems are to be laid at the feet of the President and 1600 Pennsylvania Avenue, that is not the case.

The second thing is; my second point: You better check tonight on the news because housing starts are up 7.3 percent, a tremendous jump, and this economy isn't dead yet. You can kill it, if you want to, by continuing this huge deficit spending, but the fact of the matter is it isn't dead yet, and the President isn't dead yet.

Mr. GEJDENSON. Mr. Speaker, I yield now to the chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I thank the gentleman from Connecticut [Mr. GEJDENSON] for yielding, and I think the gentleman from Indiana [Mr. BURTON] would be interested in this. He probably does not believe it, but it is true, that the Presidential requests on appropriations from 1982 to 1991: Presidents have requested $5.839 trillion in appropriations. The Congress has provided $5.830 trillion, $9 billion less than what Presidents Reagan and Bush have requested in the appropriations bills.

Mr. GEJDENSON. Mr. Speaker, I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Both President Reagan and President Bush have requested that this body and the other body pass a constitutional amendment to balance the budget. That would solve the problem.

Mr. PANETTA. As the gentleman knows——

Mr. BURTON of Indiana. I say, Mr. Speaker, you folks won't vote for it. You won't vote for it. You don't want to hear that.

Mr. GEJDENSON. I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. What we essentially have is President Reagan saying, "If you don't pass a constitutional amendment, I can't stop spending. I can't stop requesting it." It is sort of the Son of Sam approach: Help me before I kill again.

The fact is the President requested this, each and every one of these. Each and every one of these bills was signed by the President.

I say to the gentleman, you have a President in the White House today, has 24, a string of unbroken vetoes. He's signing appropriations bills. He must be happy with them. He's not moaning and groaning. This is a President that is proud of this veto.

The gentleman from Minnesota [Mr. WEBER] said this morning that there is a coalition for these vetoes, and yet the President, just like President Reagan before him, signed these appropriations bills.

So, I am sorry that the Republicans cannot stop requesting spending until such time as they get a constitutional amendment. All the President would have to do; think of the politics if the President submitted to the Congress a balanced budget and the Congress rejected it. But the President will not even submit it. Not to go into law, even for the sake of discussion.

So, let us not hide behind the constitutional amendment.

Mr. GEJDENSON. Mr. Speaker, I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I just want a minute just to say that budget after budget the Presidents have sent up here have been DOA. They said, "Dead on arrival."

As my colleagues know, what happens is those folks say, "OK, Mr. President, we're going to give you two-thirds of what you want, and one-third is going to be the garbage that we want," and, Mr. Speaker, they force the President to either veto what he has to have or swallow the garbage.

Mr. GEJDENSON. Reclaiming my time——

Mr. BURTON of Indiana. Let me just finish.

Mr. GEJDENSON. I only have about 4 minutes left.

Mr. BURTON of Indiana. I just want to finish.

I say, you give the President the balanced budget amendment and the line-item veto, and we will solve the problem, but you——

Mr. GEJDENSON. We had a fight about that. It was called the Revolutionary War. We had a King George. The country decided they did not want a king, and what we have here is a king that seems not to be ready to pay attention to his people.

Mr. Speaker, I yield to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, there is nothing, nothing that stops this President or any other President from submitting a balanced budget in his resolution.

Now for 8 years we never got a balanced budget from Ronald Reagan, and for the last 3 years we have not gotten a balanced budget from George Bush. There is nothing that stops him from doing that, so do not go reaching out for some kind of constitutional amendment when the President has the power to submit a balanced budget.

Mr. GEJDENSON. It seems to me the last time the President did not even want to submit a budget. He wanted to make a statement about where he wanted to go.

Mr. Speaker, I yield to the gentlewoman from Missouri [Ms. HORN].

Ms. HORN. Mr. Speaker, I thank the gentleman from Connecticut [Mr. GEJDENSON], and I am going to change the subject a little bit here to get back to what we were talking about a minute ago, which is an example of the failed economic policies as is taking place with my own McDonnell Douglas world headquarters in my district in St. Louis County. It is a fine, fine company, and it has been in the aerospace business for many years. Airbus, which is really a government run, European, aerospace company, No. 2 now because they have gone out into the world markets and undercut and undersold both McDonnell Douglas and Boeing and have now brought McDonnell Douglas to the third place in terms of aerospace in world markets, and they have only done that with the assistance of their governments, with the subsidies, $4 billion of subsidies, and their governments are sitting at the negotiating table as they are undercutting our Boeing and McDonnell Douglas, totally out there on their own trying to sell in world markets, and even in our domestic markets.

Why do Taiwan and the other Pacific rim countries have all those dollars to come and buy into our aerospace industry? One reason would be the incredible trade deficits that we have had, the surpluses they have, billions of dollars, to come and buy our real estate, as well as into our companies, and what is one of the reasons why they have this incredible surplus? Because we are defending them. We are spending our treasure, as we have for 45 years, defending them——

Mr. GEJDENSON. Just reclaiming my time. I would like the gentlewoman from Missouri to finish, but we are running out of time.

Ms. HORN. Yes; well, thank you.

Mr. GEJDENSON. I yield to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, the 30 seconds remaining will not do it. We are all having so much fun here. I think, though, that if my colleagues would be perfectly honest over on that side of the aisle, what they are saying is it is not that the President does not have a health plan, it is not that he does not have an economic plan for this country. He just does not have their plan. He does not want to socialize medicine, he does not want Government running our lives, overregulating—

Mr. GEJDENSON. Reclaiming my time, because we are out of time, I just say one thing.

They asked the President's Secretary of Health what his plan was for dealing with the health crisis that has 60 million people a year without health care. He said, "We're going to do that in the next administration."

I yield for a close to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I thank the gentleman from Connecticut [Mr. GEJDENSON] for yielding.

The President himself has said, "Wait for my State of the Union Address. That's when I'll talk about what needs to be done in the economy."

Mr. Speaker, we think that needs to be dealt with now in a strategy of restoring confidence in the economy and in the Government, by restoring growth in our economy, by investing in education, investing in research and development and in an energy plan, restoring jobs in America, by passing the infrastructure bill, the highway bill, to produce 2 million jobs, by restoring fairness, by passing a health-care bill and a middle-income tax relief bill, and by restoring resources through continuing savings with regard to the deficit.

□ 2050

We have the opportunity to do that. It will take leadership. It will take tough choices. But if we do it, we can not only restore confidence in the economy and in the Government, we can restore confidence in ourselves.

Mr. GEJDENSON. Mr. Speaker, I thank the gentleman and I thank our colleagues on the other side of the aisle. I wish we would have had more time for exchange.

The people of this country need us to help them. The people of Ferrier Corp. in Uncasville, CT, need a government that is on their side to make sure those foreign countries accept our products, instead of having an administration that lets them close their markets to our products.

I thank the Chamber for its indulgence and I thank the gentlemen on both sides of the aisle for engaging in this debate.

EXCHANGE OF SPECIAL ORDER TIME

Mr. HASTERT. Mr. Speaker, I ask unanimous consent to exchange my special order time for this evening, 60 minutes, with that of the gentleman from Georgia [Mr. GINGRICH].

The SPEAKER pro tempore (Mr. RAY). Is there objection to the request of the gentleman from Georgia?

Ms. OAKAR. Mr. Speaker, reserving the right to object, I do not understand the implication. Some of us have time and we would like to know where the gentleman would be otherwise.

Mr. HASTERT. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Illinois but I am reserving the right to object because some of us have some things we would like to talk about.

Mr. HASTERT. Mr. Speaker, I thank the gentlewoman for yielding. The time slot previously was exchanged with Mr. GEPHARDT. That did happen, and we extended that courtesy to the gentlewoman's side of the aisle.

The SPEAKER pro tempore. The Chair will inform the gentlewoman from Ohio that the request is to transpose the time of the gentleman from Missouri [Mr. GEPHARDT] to the gentleman from Connecticut [Mr. GEJDENSON], and not the time of the gentleman from Georgia [Mr. GINGRICH] to the gentleman from Illinois [Mr. HASTERT].

Ms. OAKAR. Mr. Speaker, if I might ask the gentleman from Illinois [Mr. HASTERT], was that an agreement the Member had with both sides? If it was, I do not have a problem with it, except that regular order is nice sometimes when Members are waiting. I would appreciate it if the gentleman would try not to take the whole hour.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. LIPINSKI. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order today and be recognized for a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMERICA'S MIDDLE-INCOME FAMILIES DESERVE ASSISTANCE IN HOMEBUYING AND IN EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, today I am reintroducing legislation that I have introduced twice before to give the hard working families of America a hand. My legislation would help the middle class buy their first home and educate their children. I have tried for a number of years to help the middle class without a great deal of success. But I believe that today the social, political, and economic climate in this Nation has changed enough that my legislation has an excellent chance of becoming law.

With the heavy burden of taxes, the middle class is experiencing great financial difficulties. Families that earn between $15,000 and $95,000 a year are footing the bill for tax breaks enjoyed by the wealthiest 1 percent of the population. This is not fair, and I will not stand for it. The middle class cannot be expected to bear the burden of the wealthy while trying to support their families. We must do what we can to give the middle class a break.

Unfortunately, both home ownership and college educations are becoming less accessible for middle-class families.

During the last 10 years, our country has witnessed a decline in home ownership rates—the first such decline since the 1930's. High costs continue to limit access to home ownership for many first-time home buyers. The economic recession has done little to improve the ability of Americans to afford housing in today's depressed market, and the recovery will only perpetuate this problem. Consequently, middle-income Americans cannot afford to buy their own homes.

Education is also becoming more of a dream and less of a reality for the middle-class. With the rising costs of college, working families are struggling to pay for the higher education of their children. In the last decade, college tuition has risen four times as quickly as the disposable income of middle-class families and total college costs three times as fast. Although the Federal Government spends about $5.4 billion on Pell grants, this financial assistance predominantly reaches lower income families. The Higher Education Reauthorization Act of 1991 would not make it any easier for the middle class to pay for college. Although the income eligibility criteria for Pell grants will increase, middle-class Americans will only be ensured guaranteed student loans as a financial aid option. Clearly, the middle class is being squeezed out of the picture.

In order to help overcome these injustices, I am reintroducing my legislation to help the savings of the middle class stretch a little further so that the average American can own his own home and educate his children. My bills would amend the Internal Revenue Code to allow withdrawal from individual retirement accounts without penalty tax for use in purchasing a first home and for educational expenses. Specifically, one of my bills would allow a person to withdraw funds of up to $15,000 from an IRA without tax penalty if those funds are applied toward the purchase of a first principal residence. My other bill would allow parents to withdraw funds from IRA's of up to $2,000 per year per child to go toward the expenses of their child's college education from the time the child is born until he or she reaches the age of 19.

Today, middle-income Americans are paying more taxes but receiving less benefits. It is outrageous. I urge my colleagues to join me in cosponsoring this important legislation to help average American families get what they rightfully deserve.

ELIMINATE THE EARNINGS TEST IN SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HASTERT] is recognized for 60 minutes.

Mr. HASTERT. Mr. Speaker, I would like to yield to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, I thank the gentleman for yielding. I am looking forward to participating with him in a special order that I think affects not just older Americans but all Americans in a way of life, having to do with elimination of the earnings test in Social Security. However, before doing that, since we just went through a special order and did not have adequate time to respond to some of the liberals on the left, I would like to make just a couple of comments. I mentioned that many people who say that we do not have a health plan for the American people are saying that because we do not have their health plan for the American people. Those who advocate socialized medicine for the people of this country have failed to realize the cost of it, the ultimate cost to the consumer, and have not really talked to the lines and lines of people waiting for operations up in Minneapolis and other places where they have that type of system that we seem to be so anxious to emulate in this country. There they are unable to get the operations because Government makes those decisions. We are putting the lives of individuals into the hands of Government and into the area of the budget balancing amendment to the Constitution.

I think some day we need to address something in this House that very few people are aware of, and that is that all the talk about the corruption that is taking place, we need institutional reform. It is interesting that in this country 87 percent of the people today want a budget balancing amendment to the Constitution. Now, why do they want that? They want that because they know that Congress has demonstrated over and over again that it is incapable of balancing the budget. It cannot resist that insatiable appetite to spend money that they do not have and that my poor children are going to have to pay sometime in the future.

So what happened? It was not too long ago, just a few months ago, we were able to force a bill out on the floor for an open vote and we missed passing a budget balancing amendment to our Constitution, so it could go out there for the people, by seven votes. I think this is something that needs to be addressed, and all of those individuals who like to hang it on the President, that he is the guy who is responsible for deficit spending, go back and read the Constitution. It clearly says that rests on our shoulders here in the Congress.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield just for a second? I would just say a couple of things. One is that there are some things one has to adjust when we have a national single payer plan. The choices are the Government's and the people's, and so in Canada under conservative Government there has been a reduction of the availability. But every estimate that I have seen says that if we accepted a national single payer plan, not only would we provide universal care to all Americans, long-term care and others, we would save over $200 billion a year and over the course of 10 years save enough money to reduce our national deficit.

□ 1900

As for the argument of what our role is and what the role of the President is, what I can tell you is under Democratic Presidents we have had much smaller deficits as a percentage of GNP and in actual dollars.

Mr. INHOFE. Mr. Speaker, reclaiming my time, I would suggest to the gentleman that during the years he is speaking of we had a Democrat President and we also had a Democrat-controlled Congress in both Houses. That Congress was still making those decisions. It is the Congress, clearly, and not the Presidents who are responsible for deficit spending.

Mr. Speaker, before I yield more time, we have to go back to our special order at hand. I would yield to the gentleman from Illinois [Mr. HASTERT].

Mr. Speaker, I would like to point out to the gentleman from Connecticut [Mr. GEJDENSON] just one point that I think is salient in his presentation and the presentation of the chairman of the Budget Committee. The gentleman is talking about the growth during the Carter administration and the very fine growth on the chart. However, that growth was also driven by double-digit inflation.

Mr. GEJDENSON. Adjusted for inflation.

Mr. HASTERT. But it was a very huge amount of inflation. I am not sure we want to go back to those years.

Mr. Speaker, I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I know Members want to get on to the other special order, but I would just like to set the record straight. When they talk about the problems that we are having with the economy, they need to realize that this body and the other body are responsible for this $400 billion deficit we are going to have this year. In addition to this constant spending we are doing this year, we are also circumventing the budget agreement.

The budget deficit of $400 billion this fiscal year is not really the deficit, because they are forward-funding into next year additional billions and billions of dollars, in effect digging a deep hole which we are going to have to fill next year with funds, which means we are going to start off in the hole next year when we have a budget agreement. The deficit is very likely to be over $400 billion in the next fiscal year.

Mr. Speaker, we are heading toward financial oblivion if we do not get control of our appetite for spending. They come down here with these programs and crazy ideas. I call them crazy ideas because they are going to exacerbate the problem. That is supposed to be a solution.

We do not need more programs. We need constraints on spending. We need to prioritize spending. I say the problem does not rest on this side of the aisle because we are in a distinct minority. The problem rests on that side of the aisle.

So we must not let them mislead the American people by saying that the President is responsible for these economic problems or the deficit. They are responsible. They are charged, as has been said by the gentleman from Oklahoma [Mr. INHOFE], by the Constitution with the responsibility of balancing the budget, of providing for taxes, for revenues, and for expenditures. We must not let them off the hook by making these allegations.

The President can do the job, if we will just let him in this body.

SOCIAL SECURITY AND OLDER WORKING AMERICANS

Mr. HASTERT. Mr. Speaker, the time has come to address the dire need of our country's older Americans. An opportunity has come before this Congress. Last week there was a bill passed, the Older Americans Act, in the U.S. Senate, the other body. During that proceeding there was an amendment added on by the gentleman in the other body from Arizona, Mr. MCCAIN.

Mr. Speaker, that amendment was basically the House version of the Older Americans Freedom to Work Act. What that bill does is to eliminate the earnings-test limit on Social Security.

What is the earnings-test limit on Social Security? The earnings-test limit is saying that every time a senior citizen over the age of 65 chooses to take his Social Security, but must remain in the work force to meet the payments of the day, to make ends meet, to pay the mortgage on his house, to pay the property taxes that he may have, to buy a new car, to take a vacation, to take and put that oldest child through school, once he earns over $9,730 he is penalized on his Social Security $1 for every $3 he earns.

Mr. Speaker, that puts seniors in a marginal tax bracket of 56 percent, twice the amount that we tax millionaires in this country. It is a vestige from the Depression.

Mr. Speaker, that is just not fair. It is time that we change that program, and it is time that we allow senior citizens who choose to work after the age of 65 not to be relegated to the rocking chair, but in fact to be able to lead productive lives.

Mr. Speaker, there are a lot of corporations, companies, and small businesses throughout this country that have in fact signs in their windows that say "Help Wanted." Those signs cry out to seniors who want to be productive people, who want to work, who want to carry on the trade, the job or profession that they had all the way through their working career. But a tax policy in this country called the Social Security earnings limit actually prohibits those people from carrying on and working and earning more than $9,730.

Mr. Speaker, if you look in your payroll accounts today of most people across this country, $9,730 does not go very far. If you would add on what a person may earn in Social Security, maybe $5,000, $6,000, maybe $7,000, and look at the earnings, yearly earnings of $15,000 or $16,000, that does not go very far in today's age.

So what we are saying is by removing the earnings test in Social Security, we give older Americans the opportunity to be competitive, to be productive, and to give this economy a boost that it deserves and a break to senior citizens that certainly they deserve.

Mr. Speaker, I would like to yield to the gentleman from Oklahoma.

Mr. INHOFE. Mr. Speaker, I thank the gentleman for yielding. The gentleman from Illinois [Mr. HASTERT] has been championing this cause since we were elected at the same time in 1986. I can remember our class that got elected at the same time got together and decided what is a doable thing that would do the most for a lot of American people, and this is what we decided. It was the gentleman from Illinois [Mr. HASTERT] that has been carrying most of the load on this.

Mr. Speaker, I cannot believe that my district in Tulsa, OK, is that much different than the rest of the country. When you look around and see the problems we are having getting this done right now, I can tell you, and I do not know whether the gentleman from Illinois [Mr. HASTERT] would agree with this from his district, but I have had probably during a 2-year period more town hall meetings than any other Member of Congress. I have yet to have my first town hall meeting where somebody did not come up right out of the chute and talk about the elimination of the earnings test.

Mr. Speaker, you will hear people talk about the cost of this, but I found out something that was a real shocker to me when I was first elected and first had the town hall meetings, and that is that it is not going to be that costly to the Government to have these people out there working, because I suggest to you they are working anyway.

They are out there right now. I have had people come to me in town hall meetings and say, with tears in their eyes;

> For the first time in my life I have been forced to be dishonest. I am out there working because I cannot stop working. I want to be productive. I have been taught all of my life it is the American way of life to be productive. I am capable of doing more work. That is all I want a chance to do, so I am working.
>
> But I am lying to the Government. I am not reporting it, because I know if I report it

I am not going to have those Social Security dollars that I have paid in coming back to me, and it is just not fair.

Mr. Speaker, I suggest that we should look at the human element of this, that this is something that is an an issue of fairness. This is an issue of Americanism, to allow people to continue to work, to be productive.

Mr. Speaker, how many people have you known in your life, who have retired, and then within a year have died? Many, many people. One has to stay productive, and that is the American way.

I just commend the gentleman from Illinois [Mr. HASTERT] for taking this time and for all the hard work he has done. I believe now, with the recent action in the Senate, that we are going to be successful in this very worthwhile cause.

Mr. HASTERT. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. INHOFE] for coming to the floor and taking a few minutes of his time and sharing with us how important it is to his constituency in Oklahoma, and certainly people in the Tulsa area, that want to be productive and want to have a job.

Mr. Speaker, I would ask the gentleman from Oklahoma [Mr. INHOFE] what are the things that the gentleman hears? The gentleman may continue on. What are the things the gentleman hears in his town meetings? Are people really wanting the ability or the chance to go back to work and to be productive?

Mr. INHOFE. Mr. Speaker, yes. The thing that keeps coming up is that they want to be out meeting people. They love people. They have retired, maybe not of their own choosing, from a career that they have pursued over a long period of time. But people of that age generally like to be around a lot of people, young people, just a broad variety of people. So you see they go into a lot of restaurants and a lot of fastfood operations.

□ 1910

They take a lot of the jobs, quite frankly, that people who are in the midst of a career do not want because they like the association. They like the productivity. They like the activity, and they like to be doing things.

Mr. HASTERT. And that accounts for companies like Days Inn and Sears and the McDonald Corp.

Mr. INHOFE. They say they are the very best. I had an experience, I bought an airplane out in Sacramento, and I stopped in Farmington, NM, with some mechanical problems. And I was picked up by an individual, taken to a motel and served dinner. It was rather late at night.

Everyone that I came in contact with fell into the category that we are talking about here. I would suggest that probably none of them really reported it because they felt that this is something the Government is imposing upon them that just is not right and is not American. But I know it is going on.

I know that these people are happier because they are able to do it, and I also know that those are the jobs that they have a hard time getting people to perform.

Mr. HASTERT. It tells us, Days Inn Corp., which is a huge hotel or motel chain out in this country, their experience before when they hired people off the street to man their desks, their night desk and day desk, they had an absentee rate of 30 percent. That is a huge rate. Once they started hiring exclusively senior citizens, their absentee rate went down to an astounding 3 percent.

Mr. INHOFE. From 30 percent to 3 percent?

Mr. HASTERT. So the work ethic and the ability for these people to do a job and do it right certainly is a matter of record. That is why so many companies throughout this country, corporations big and small, from mom-and-pop organizations to outfits like McDonald's want these people there and being productive for them.

Mr. INHOFE. It is kind of hard to figure out who the loser is on one of these things because we have the workers who are happier to be able to do it. We have the corporations, we the productivity. I think a lot of these people making these calculations forget that these people are getting back on where they will be paid. If our effort is successful, we will have a lot more people on the tax rolls who are working today but are not reporting it.

Mr. HASTERT. Mr. Speaker, I really appreciate the gentleman from Oklahoma coming by and sharing his remarks with us.

Mr. GOSS. Mr. Speaker, if the gentleman would yield, I thank my colleague from Illinois who has led this charge so well. I am very happy to participate tonight as I have participated all along, as a latecomer to the effort, to get this earnings test repeal into accomplished feat.

In the district I represent in southwest Florida, we have an awful lot of senior citizens. They are productive people. They have been productive people all their life, and they want to continue to be productive, especially today, when we are looking at the challenges we have with the rising health care costs, the other problems we have of just getting along and making ends meet in our economy day to day.

In Florida we have a saying that we are not getting older, we are getting better. And that is true. Part of that getting better in Florida is that ability to continue to produce.

Of course, when there is an incentive not to go out there and work and be productive and look out for yourself, the kinds of values that made this country so great, the incentive is to disassemble and say, this is a penalty if I go out there and I get productive. How un-American is that? It is incredible. And how did this happen?

If we look at it and go into the history, it was back in 1935, an entirely different circumstance, when this type of program was put in and this was sort of an afterthought to it. Nobody really figured out what the effect would be someday, and now we have figured it out. Like any other leftovers, when the leftovers have been in the icebox too long, we throw them out. This one has been left lying around too long, and it is time to get rid of this earnings test. It is a leftover, and it is not doing us any good.

It is costing us in productivity and, more importantly, maybe for us in this body, these days it is costing us in credibility. There is a fair play issue here.

Everybody knows there is a fair play issue here. We are cut up here in this period between Halloween and Thanksgiving and everybody knows that this is a dangerous time for democracy. This is the time when things go bump in the night, as adjournment fever begins to set in. The stampede for the finish line to get home is on. All of a sudden all this legislation that we have not tackled comes to the fore and we are going to suddenly do in 5 days stuff we have not been able to do in 5 years.

This is a time when you have got to watch out. It is also a time for opportunity because there is what we call conferee creativity going on. And this is our opportunity, I believe, to make this matter come to the fore, as my colleague knows.

Mr. HASTERT. We have the Older Americans Act coming back to the floor of the House. It was amended by the other body, and on that is the provision for our Older Americans Freedom to Work Act. One of the things that we are looking at in procedure in this process is how to make sure that when the conferees are appointed to that conference on the Older Americans Act, how do we make sure that we can say to our conferees that it is important that they keep that Senate bill intact?

I think that is a real issue that will come before this House, if not this week, certainly next week.

Mr. GOSS. Mr. Speaker, if the gentleman will continue to yield, I would certainly agree. That is why I specifically focused on this point now because, in this great rush of legislative matter that we have going on into the night, being here for the weekend, whatever it is going to finally work out to be, we know the pressure is on.

I think back to a year ago and some things that happened, and not all good. And I think of some other things that have happened in conference where motions to instruct have been ignored, in effect. That is why I think we want to make sure that not only do we have the opportunity and take every advantage to provide the motions to instruct, but I think we want to demonstrate that the constituency is there behind those motions to instruct that very definitely says, it is time to do this. We have something here that is counterproductive.

It is a fair play question, and there are people out there who notice and who care. This is not something that I want to get lost in the bump of the night syndrome. This is something I want to be out there in the sunshine so people can see Congress can address an issue like this and make something good happen.

Mr. HASTERT. Mr. Speaker, what the gentleman is saying is those senior citizens who are concerned about this issue need to keep a close eye on Congress in the next couple days and watch as that vote to instruct conferees. The parliamentary procedures that may happen before or after are certainly the votes that determine whether we get this amendment, the Older Americans Freedom to Work Act, on the Older Americans Act or not.

Mr. GOSS. Mr. Speaker, that is the case. I feel very strongly that the reason the catastrophic repeal went through was because the process was followed closely and, when we could not get through the system on that, what inevitably happened is the constituency spoke up and the message was loud and clear. And I think the constituency has to help us make the system work on this, and I think the gentleman has articulated extremely well.

Mr. HASTERT. Mr. Speaker, I yield to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Speaker, I would like to ask a question of the gentleman from Florida. I think maybe he has as much expertise in this as anyone, since he has probably a lot of retired people. And it appears to me, and I ask this as a question, do we find that these senior citizens are working, are also availing themselves of benefits for health insurance?

Mr. GOSS. Mr. Speaker, if the gentleman will continue to yield, the answer, of course, is that they are strapped to try and make ends meet, but the answer is, yes, they are trying to avail themselves of health benefits that are there. Obviously, they are trying to maintain their health first. And that requires some good preventive medicine in many cases. And that is expensive.

But on top of that, when things go wrong and they do need medical attention, the health care question is definitely out there for them.

□ 1920

So many people think seniors who are working are also getting supplemental health care under their part-time jobs that they might not get and they would have to pay for otherwise.

Mr. GOSS. That is certainly the case in many instances. Of course, it is not the case in every instance. Otherwise, we would not have the health care problem facing us that we do, but it is certainly true enough that people are wanting to look out for their own well-being and attend to themselves, and not be a burden on their neighbors or on society as a whole. Here we have created an obstacle for them going about doing their business that way.

As I said, there is something basically un-American about stopping people from looking out for themselves.

Mr. HASTERT. If the gentleman from Illinois will yield back, I think one of the big issues that people say is, "Oh, this is going to cost too much." But I think when you really look at the issue and how you score this, whether it is the Congressional Budget Office that scores it, or the Treasury that scores it, and people do not even really understand what scores are, but by scores we mean when we start to look at revenue issues we tie our hands in this Congress, and we say, if we could throw our hands up and have them tied at the same time, we say, "Woe is me. We cannot do anything because the scoring prohibits us from doing that."

But when you really look at the real issue, when you start unleashing people to be productive forces in the economy, it brings money into the economy. We have done some studies on this issue and we have found out that there are 700,000 people aged 65 and older that would go out and be productive senior citizens that today sit home in a rocking chair and are almost bound to that rocking chair by the earnings test on Social Security which says no, you cannot go out and work because you are going to be penalized if you earn any more money than $9,730. So they do not ever get into the action. But we found that they would go out and work and would be productive senior citizens, and they would produce $15 billion in the economic sector. Certainly in places like California, Arizona, the southwestern part of the United States, southern California, $15 billion of producing, economic activity means houses paid for, cars bought, vacations taken, children's tuition paid and a lot of things that are good for the economy. In fact, out of that $15 billion of economic activity we also find that $3.2 billion, let me say that again, $3.2 billion, with a "b" comes back net to the Federal Government, because people are not paying income taxes and they are paying into their Social Security.

One factor that we do not even begin to look at is, and the gentleman from Illinois [Mr. EWING] mentioned this, people are actually depending on the private sector in many cases for their health care and their benefits, and not on the public, not on the taxpayers' pockets, and I think that is something that we cannot even begin to factor.

One other issue on that is that this bill unfairly pushes some people into a subrosa economy. Some people say, "I don't want to deal with this, but yet I need to earn. I need to make ends meet in my home and take care of my elderly wife, and so I am going to go out and I am going to take this guard job, and I will take a little cash here and I will take a little cash there." It is an economy that is under the table, and what we force some seniors to do is to be outlaws, and that is wrong. That is wrong for a social policy in this country or any country to force people in that type of a situation.

Mr. EWING. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. Certainly, I am happy to yield to the gentleman from Illinois.

Mr. EWING. I think there are studies, if I am not incorrect, that have shown that in fact there will not be a cost to the Federal Government, but that the opportunity for additional tax revenues can and will make up the lost revenue that we can see at this point or that some see at this point.

Mr. HASTERT. If the gentleman will yield back, when we look at a line and say that is a graph, and we do not have all the paraphanalia down here or the visual aids, but if we can envision a graph and there are 700,000 people sitting in rocking chairs taking Social Security, and all of a sudden those 700,000 people leave their rocking chairs, and they go into the work force and are producing, they are still taking their Social Security because they need it to make ends meet, but it is not costing the Federal Government anything. That gap in there is not a cost to the Federal Government. It would only be a hypothetical cost if you look to what would go beyond that point, and those people indeed went to work, and the law stayed in place. And they would not go to work if the law did stay in place. You have to remember that. But if they went to work and the law stayed in place, then they would not be getting those dollars in Social Security. So the hypothetical machinations of trying to put a budgetary, static budgetary cost on this just is not relative, it just does not make sense.

Mr. GOSS. Will the gentleman yield, Mr. Speaker?

Mr. HASTERT. I am happy to yield to the gentleman from Florida.

Mr. GOSS. On that point I think the gentleman has articulated so well, as he does as the leader of this, the statistics and the financial outlook for it as we see it today. But I think there are other demographic factors that even make that a more positive program as we get to the turn of the century. I understand that estimates are that we will have concurrently 1.5 million fewer young Americans coming into the work force by the year 2000, and at the same time that we have 5 million Americans concurrently reaching retirement age. That means we have a bit of a shortfall in productive employment in that area, and not only that, it means we have got trained, wise, experienced people who are going to continue to want to work in many cases, and there is going to be a need in the American productivity machine to have those people available. So if there is a need now, there is going to be an even greater need then when you take a look at the demographic statistics and the outlook for our country. And although it is a little bit of a scary thought, the year 2000 is not very far away. And at the pace we deal with things in this institution, you might say it is just around the corner, so now is not too soon to be planning ahead.

There was a concurrent statistic with that that we looked up, and I think, maybe, and I do not remember whether the gentleman provided me this or somebody else did, but I understand that 8 percent of the Social Security Administration employees are presently involved in administering this earnings test limitation. They obviously are not catching the people who are not complying with this law, as ill-begotten as it may be. But if we have 8 percent of those people doing this, how much money are we wasting there?

Mr. HASTERT. That is an interesting point, because the statistics that the Treasury and the CBO have, those people do not count what the huge bureaucratic cost is of trying to keep track of people who have to abide by the earnings test. We understand that it is not just a huge bureaucratic snaggle out there, but they are not doing a very good job at it. And there are indeed people who are frustrated trying to find out whether they should pay this penalty or not have to pay the penalty, and sometimes those decisions are delayed and people get caught in the switches, which really is not fair either.

I would like to take a few minutes here and yield certainly to one of our more productive gentlemen here in the U.S. Congress, the gentleman from Ohio, Mr. CLARENCE MILLER. I know Mr. MILLER has a lot of constituents back in his district who certainly can relate to this issue, and would like to hear what the gentleman from Ohio has to say.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman from Illinois for yielding.

Mr. Speaker, the Older Americans Act (H.R. 2967) passed the House by voice vote on September 12. The other body passed the Older Americans Act on November 12 with an amendment to repeal the limit on the amount of money older Americans can earn while continuing to collect Social Security benefits. This amendment would eliminate the earnings test for people who reach age 65. Instead of triggering in at 70, it would start at age 65.

The earnings test was instituted in the 1930's when unemployment was high and there was a desire to move people out of the work force.

Retaining experienced and competent older employees is already a priority in labor-intensive industries, and will become even more critical as we move through the decade. As a result, many businesses are looking more to retired workers to fill job openings. In particular, companies in the service, retail, and health care industries find retired workers especially valuable additions to their work forces.

To combat the work barrier which many older Americans face, this amendment to eliminate the earnings test for people who reach age 65, makes sense. It's time we recognize the burden the earnings test places on the older American.

I urge the House conferees to retain this amendment in the Older Americans Act as it moves through conference and returns to the House for final action.

□ 1930

Mr. HASTERT. Mr. Speaker, I certainly appreciate the comments of the gentleman from Ohio, and certainly his great work on this, working with us from the very beginning of this project. I appreciate the gentleman's efforts in this and taking the time to lend his support.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. I am happy to yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, the gentleman from Ohio has brought up a very valid point, which is probably hard for Americans to understand how the process works in this institution of the U.S. Congress. We have got the other body, the Senate has, in fact, approved by a voice vote the repeal of this, and we have 267 or 270 cosponsors, or however many, on the appropriate legislation. That would appear to be enough votes to get this matter accomplished.

It is very hard for people to understand why, if we have all that support, that we have not been able to repeal. I think the gentleman from Ohio has put his finger on it, when people are expecting this and he mentioned the magic words, to urge the conferees.

Perhaps the gentleman from Ohio or the gentleman from Illinois would like to explain how this system works, so that Americans can understand it better.

Mr. HASTERT. Well, Mr. Speaker, let me pose a question to the gentleman from Florida.

If the gentleman's constituents want you to vote on a certain issue and support a certain type of legislation that is moving down the pike, what do they do?

Mr. GOSS. Mr. Speaker, if the gentleman will yield, usually they let me know.

Mr. HASTERT. How?

Mr. GOSS. Well, if the gentleman will continue to yield, we have cards, letters and phone calls, and occasionally there are press releases and demonstrations. There are other methods, letters to the newspapers, people appearing on the local T.V. stations, and the word gets out. Sometimes they actually write to the conferees if they understand what a conferee is.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. Surely, I am happy to yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, first of all, I want to compliment the gentleman from Illinois for diligently pursuing this issue.

The rights of Americans who have throughout their entire lifetimes been forced to pay into a system and then all of a sudden they are told that having planned for retirement and wanting to make something of their retirement that they are penalized because of the fact that they are gainfully employed, seems to me to be a very great mistake.

I would like to follow up on the point the gentleman was making. I assume that my friend, the gentleman from Illinois, has written letters himself to the conferees urging them to ensure that this incorporation dealing with the so-called earnings test is addressed and that this amendment is kept in. Am I correct in assuming that?

Mr. HASTERT. Well, the gentleman has assumed correctly; however, we know that nothing gets passed in the U.S. Congress unless it has grassroots support.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield further, one of the things that I have found, with all due respect to those of us who serve in this illustritious body, I am inclined to believe that when a letter comes to me from a few constituents or several hundred constituents or several thousand constituents, while I greatly admire the work of my friend, the gentleman from Illinois, I am much more inclined to respond to those letters than I am to even a brilliantly worded letter that might come from my friend, the gentleman from Illinois, or my friend, the gentleman from Ohio, or even my friend, the gentleman from Florida.

So I think the gentleman is correct in saying that a ground swell of support in behalf of an amendment to repeal the earnings test is probably the best way to ensure that our colleagues who are serving on that conference in fact respond.

Mr. HASTERT. Well, I certainly appreciate the remarks of the gentleman from California. I associate myself with those remarks, and indeed no good piece of legislation ever passes this place without, as I said, the ground swell of grassroots support, people who are back home who understand the hardships of trying to put ends together to meet the monthly bills, especially if you are on a limited earnings and all of a sudden you are being told by the Social Security Administration that you cannot earn more than $9,000.

"Sorry, fellow, but you take your Social Security and $9,730, that is the check you will live on, or you will be penalized at a 56-percent marginal tax rate," which is really twice the amount of what millionaires pay today in taxes.

So the gentleman from Ohio [Mr. MILLER] makes a very, very good point.

I also appreciate the input of the gentleman from California.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, I just want to thank the gentleman from Illinois for taking this time and for his interest in order to help our older Americans, and I thank the gentleman very much.

Mr. HASTERT. Mr. Speaker, I want to yield to the gentleman from Florida, and to thank the gentleman from Ohio for his time and input.

The issue of fairness, we hear that all the time, fairness, being fair to people raises its head in this issue. How do you proceed with what is fair when you compare what people who have earned income, as compared to people who have unearned income? We might want to talk about that for a minute.

Mr. GOSS. Mr. Speaker, if the gentleman will yield, that is a very critical question, of course. Depending on what category you are fortunate enough to be in, whether it is an earned or unearned situation, but if you go back to the beginning of this and look at how we got where we are today and why we even have this, the wisdom then may have been justified, because there were other social needs and other economic problems in our Nation, but quite clearly those have changed, and the situation is very much different today. So there really is no longer any justification, if there ever was any justification, for this earnings test limitation, and now it seems to me we need to own up to that.

Quite clearly, there are some people who have a need as well as a will to work. What we have done here is, one more time, imposed that philosophy of over-regulation because Government knows best. Government does not know best. Very seldom does the Government do anything better than anybody else does. Usually the Government gets the problems that nobody else wants and makes them worse before they get through with them.

I think this is the situation we have got here. We have over-regulated in Government.

Business, if you talk to businessmen, we have over-regulated; banks, if you talk to bankers, and if you talk to individuals, we have over-regulated their lives. There is probably not a United States citizen who knows all the regulations that actually apply to him or her as he or she goes about his daily life. There are mountains and mountains of books and volumes of laws that many of us probably are happily ignorant about, many of which need to be repealed, and this happens to be one that falls in that area, because not only is the fair play question involved for all senior citizens, there is a further fair play, as my very esteemed and intelligent colleague, the gentleman from Illinois, has pointed out between those who are wage earners and those who are nonwage earners, and that is a further distinction that we need to address.

Mr. EWING. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. I am happy to yield to the gentleman from Illinois.

Mr. EWING. Mr. Speaker, I think the gentleman makes an excellent point there and one that is not brought out and we should reiterate again, that the earnings test hurts those who are least able to afford to be hurt. If I have outside income that is not earned income, I can maintain my lifestyle. I can enjoy the things in my golden years that I could not without that income, so with the earnings test we say to people who are not that fortunate, "You're going to do without," or "You're going to have to take supplemental public aid or supplemental aid from the government. You are going to have to live a lesser lifestyle," even though they might want to earn that. I think that is probably one of the most important points that have been made here.

Mr. GOSS. My colleague has identified that well.

If I might take another minute on this, there is an even more important distinction, perhaps it is subtle, but there is a real distinction there that adds weight to the observation the gentleman has made, and that is quite often the golden years turn to brass or dross or worse, because we find that people who thought they were well provided for when they retired, through one situation or another, it may be a reversal, it may be a health problem, it may just be inflation eroding their retirement or their fixed income, we find that we have a number of people who are actually shifting from the people who are well off, who now have a need. As they try to get back into the workplace to adjust to that need, they find that they are penalized for doing it and they never can quite get back to the style they wish and to the style they started out with, and in many cases the financial obligations they incurred when they started their retirement because of this onerous penalty.

Mr. HASTERT. Well, if I can reclaim my time and follow up on both those comments. Some say this bill is only for the rich. That is the most onerous argument that there is. It is really a red herring.

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Mr. Speaker, one of the points that I think is so important is that people, some of the people who oppose this bill, say that, "Well, this is a bill for the rich." Well, it is not a bill for the rich. The rich have provided, in large part, for their retirement with earnings, with rents, with pensions, with interest from different holdings. The ironic thing is that those types of incomes are not controlled or penalized under Social Security. In other words, you can earn all the pensions, all the interest rates, all the other yields that you can, and your Social security is not touched one bit.

It is the person who has to go out and work down at the corner flower shop or McDonald's or part-time work at Sears to make ends meet, the person who has to work by the sweat of his brow, who is penalized on this piece of legislation.

That is the ironic thing.

One of the things that people say is that it is going to cost a lot of money. But, you know, we had been willing to talk about changing the earnings limit. If we moved that earnings limit or that cap to $30,000 or $35,000 or $40,000, that catches most of the working people in this country that have to have that benefit.

Ironically, when people start to diatribe against this piece of legislation, saying it only pays the golf fees for the millionaire doctors and lawyers, that is not a fact. It does not apply to this piece of legislation. This piece of legislation is for the true working man and woman in this country who have to work, who want to work and who want to provide for themselves, instead of having some Government agency provide for them. It does not seem that difficult to get that fact across, but it certainly is difficult to get that fact across in this Congress.

Mr. Speaker, I yield to the gentleman from Florida.

Mr. GOSS. I think the gentleman's observations are beautifully articulated and exactly on target. It is very hard to explain that. I realize I have an image problem when I try to explain it on behalf of my constituents from Florida because it is true Florida is paradise, but in every paradise there are problems. We have workers in paradise, we have people who need to work in paradise. That is exactly the point.

These days we all hear about the savings not going as far as you thought they did, you planned wisely, but now the dollar is not worth as much as it should be or we wanted it to be; those are real factors in life. When you wake up in the morning those things are the ones you have to deal with.

The gentleman is exactly correct in saying we are not worried about anybody's golf fees here, we are not providing any relief there. What we are definitely trying to provide in addition to fair play and the right philosophy here, is correcting a problem that does not appear to be a problem any longer from this bill in 1935, if it ever was a problem, we are really on the question of trying to provide benefits to the American economy as a whole and individual benefits to people who wish to avail themselves of basically the American dream of being able to go out and work without an undue and extremely harsh penalty at a time when there is need in their lives.

Think what the option is if those people do not look out for themselves, do not provide for themselves. Who will provide for them? I am afraid we all know the answer. In a liberally controlled Congress there will be yet another program to figure out some other way to pay for some gigantic program which we cannot afford and which we do not even have the money to do the programs we have now.

Mr. HASTERT. Mr. Speaker, I yield further to the gentleman from Illinois.

Mr. EWING. One thing that comes to mind in this discussion from both the gentleman from Florida and the gentleman from Illinois is the row of rocking chairs with people just sitting there and rocking. And we all know an active person is happier. I do not consider rocking an activity that brings great happiness.

When any of us who are fortunate enough to have our parents still with us and we talk about our parents, and the one thing that always brings a light to our faces is when we say, "Well, mom or dad is very active, they are out all the time, working part-time, doing this or that, because they are happier." And the gentleman made the point that we do not want the golden years to turn to tin because of unhappiness.

Mr. HASTERT. I yield further to the gentleman from Florida.

Mr. GOSS. I thank the gentleman for pointing that out. It certainly is true that there are many who are satisfied, more satisfied and feel better and probably have better health. In fact, I have heard it stated that they enjoy better health because they are psychologically very pleased to be working, to be productive, looking out for themselves.

Many have suggested to me, "Well, are you trying to put people back to work?" The answer is: Certainly not. What we are trying to suggest is that people who want to work can work if they feel they have a need to work.

That is just so basically fair and so basically an American proposition that it is impossible to believe that anybody could be against it.

Mr. HASTERT. One of the interesting things is that if you walk down main street America today and look at the small restaurants, coffee shops, McDonald's, the Sears stores, the merchandise outlets, they are literally crying for people who want to do a good day's work for an honest day's pay, who have the American work ethic, who want to be a part of the American productive enterprise system. They are looking for people to do that.

I would defy somebody to walk down main street America and not see a "help wanted" card in a window someplace.

Those are the jobs that seniors are looking at, that they want to be able to have in addition to other types.

There was an article in the Chicago Tribune last June about a gentleman who was a tool-and-die maker, something that is a pretty precious commodity, just that type of knowledge today, who went back to school to teach. He did not have a degree, but he went back to teach people who were Russian immigrants, Hispanics, African-Americans who needed to learn these trades that we need to have in this country to stay competitive. And as he was teaching this, all of a sudden he got a notice from the IRS that he is being penalized. At that time it was $1 for every $2 that he earned because he was 62 years of age.

They were saying, "Sorry, we don't need that expertise, we don't want you to teach our future generations those things we need to have in this country to be competitive." That is one story in thousands that we have catalogued in letters that we get from our constituents. I am sure that the gentleman from Florida has them, and I am sure that the gentleman from Pontiac, IL, has from his constituents, too.

Mr. Speaker, I yield further to the gentleman from Illinois.

Mr. EWING. The question that the gentleman raised in my mind, when you talk about need today, what is the projection for the next century?

Mr. HASTERT. The answer is that in the next century we have the baby boomers who are going to start to retire, and we will have more people retired than actually are working. We need to have the ability for those people who are in "our generation," whatever that parameter might be, that are going to be forced to retire but need to work, need to work to make this economy go.

Mr. Speaker, I yield further to the gentleman from Illinois.

Mr. EWING. For just one more point. How many jobs are going to be out there crying for somebody to fill?

Mr. HASTERT. Right now we know it is 700,000. I am sure that is going to multiply tenfold.

Mr. EWING. I thank the gentleman.

Mr. Speaker, I appreciate the opportunity to participate in this special order. I want to thank my colleague DENNY HASTERT for his leadership and hard work on this issue. He is a true friend of America's senior citizens.

I urge the conferees on the reauthorization of the Older Americans Act in the strongest terms possible to adopt the amendment of the other body to repeal the Social Security earnings limit and penalty. At a time when many people in America feel like Congress thinks only of itself, we have an opportunity here to show that we can adopt commonsense policies which have a positive impact on Americans and on our economy.

To state it plainly, Mr. Speaker, the Social Security earnings limitation test is unfair and discriminates against older Americans. The Social Security earnings limitation test is out of date and bad for our economy. It is just plain bad policy and ought to be repealed.

The Social Security Program was intended to provide long-term security to working American women and men by providing a program for them to invest in, with the expectation that their investments would be returned in their retirement years.

Today's senior citizens were told throughout their working years that they would get an honest return on their investment, and they have every right to believe what they are told. This trust of the American people has been crucial to the success of the Social Security Program. However, the earnings limit is out of date and now flies in the face of that trust by putting conditions on Social Security returns. The original purpose for the earnings test has expired. What was once a distant goal for many Social Security recipients has now become a low ceiling which is cramping the ability of our seniors to provide for their own well being.

We are all concerned about older Americans who live on modest incomes and face increased costs of living. Congress should be enacting policies which will help our elderly to increase their disposable income and achieve a higher standard of living. This means that we should not prohibit them from continuing to work as much or as little as they care to into their golden years to supplement their income. We need to remove this barrier to a worry-free, sound financial future for senior citizens.

The earnings penalty is not only bad news for seniors who rely on the Social Security Program, it is bad news for the business sector and for our economy. Employers will tell you that it is the seniors who demonstrate the best work ethic and habits. Today's seniors lived in that time in this country when hard work, efficiency, and pride in one's work were characteristics which everyone strived to achieve. I know of many employers who find senior citizens to be laborers of the highest quality and would be more than willing to hire them. Unfortunately, the earnings test imposed on seniors from Washington, DC, keeps many willing workers out of the labor market.

Common sense says that Congress ought to be enacting policies which encourage economic productivity. But the earnings penalty keeps individuals who want to be productive participants in the economy from doing so. I believe that eliminating this policy will help to stimulate our ailing economy by allowing more seniors to continue to be productive into their retirement years. By the end of this century it will be an economic necessity for seniors to continue in our labor force or we will face major labor shortages.

Again, I join my colleagues here tonight in calling on the Older Americans Act reauthorization conferees to include the Senate's language eliminating the unfair and discriminatory Social Security earnings penalty. The conferees have an opportunity to do something right for America's senior citizens and for the American economy.

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So, in closing I say to my fine colleagues that I appreciate their time today in trying to discuss this issue and really discuss it in a sense with the American people because it is their issue, too. It is time that we move forward on this legislation, it is time that we are able to instruct the conferees this week or next week so that we can move the Older Americans Act with the provisions of the freedom—Older Americans Freedom to Work Act, and, Mr. Speaker, I submit the following statement for the RECORD.

Mr. Speaker, much of what we are considering these days in Congress is centered on the buzzword "competitiveness." America is facing worldwide challenges to its economic strength, and in order to meet those challenges, Congress must adapt to a changing world by bolstering our competitive edge.

One of the best things America can do to ensure that it fields the most productive work force possible is repeal the outdated Social Security earnings limit. The other body recently acted on this issue by amending the Older Americans Act reauthorization to repeal the earnings limit. I want to commend them for their courage and political wisdom, and discuss tonight why it is so critical that this body's conferees agree to keep that amendment as part of the conference report.

The Social Security earnings limit penalizes senior citizens who choose to work after they reach retirement age. Seniors between 65 and 69 who earn more than $9,720 annually lose $1 for every $3 they earn over that limit. When coupled with Federal taxes, seniors who earn a paltry $10,000 per year are faced with a 56-percent marginal income tax rate—nearly twice the rate of millionaires. That is just not fair.

The Social Security earnings test is age discrimination, pure and simple. And it afflicts the seniors who need extra income the most. Seniors can receive stock dividends and interest payments without losing Social Security benefits, but those who work at low paying jobs to make ends meet are punished for attempting to remain financially independent.

No other demographic group in the country is so blatantly discriminated against; no other group faces such obstacles when they attempt to become productive and financially self-reliant. But worse than that, the earnings penalty sends a message to the elderly that we no longer value their expertise and experience in our labor force.

We in Congress have the responsibility to enact policies that help us restore our competitiveness. Just as business leaders must modernize their factories, congressional leaders must update public policy.

Support for repeal of the earnings test is coming from all over the political spectrum in Congress, from the most liberal to the most conservative members joining in cosponsoring the Older Americans Freedom to Work Act. This majority reflects continuing support for the American principle of self-reliance as opposed to government reliance.

As our country takes steps to make itself more economically competitive for the 21st century, it is clear that we will have to use every available resource, especially in the U.S. work force. Remaining competitive in the next century requires adopting policies that foster economic vibrancy and doing away with outdated policies that inhibit it. Repealing the Social Security earnings test will both encourage a large portion of the population to remain productive and help bolster the economy. The realities of our economic situation demand that we do so.

Mrs. BENTLEY. Mr. Speaker, I want to thank my colleague from Illinois for organizing this important forum regarding a topic that he has spent a great deal of time advancing. I salute his efforts toward eliminating the retirement earnings test—efforts that have translated into 267 co-sponsors for the repeal legislation, H.R. 967.

Mr. Speaker, the retirement earnings test is an affront to those members of our society who are physically and mentally capable of putting their talents in motion. For the life of me, I can't figure out why this Congress hasn't seen fit to remove this financial straitjacket on a very productive segment of our society.

The retirement earnings test was originally enacted earlier in the century as a means of facilitating the creation of job opportunities for younger workers. But—this is not the 1930's, the composition of our labor force is different. Faced with the prospect of chronic labor shortages in the first decade of the next century, most people must agree that maintenance of the earnings test just doesn't make sense.

When you put this policy under a microscope, the negatives jump right out at you. Aside from artificially dampening the entrepreneurial spirit of many of our seniors, the retirement earnings test harms the economy by stifling any expansion in taxable income. In addition, the costs of monitoring excess senior income levels, by officials of the Internal Revenue Service and the Social Security Administration, are extraordinary. I would submit that several hundred million dollars, coupled with an inordinate amount of staff time, is too high a price to pay for agencies that are already overburdened administratively.

Debate over the issue of repealing the earnings test is often bogged down in a secondary discussion of how to offset the cost of repeal—currently estimated at just over $5 billion. According to the Institute for Research on the Economics of Taxation, upward of 10 percent of the offset could be recovered through normal taxation on the higher income and benefits that would result from a lifting of the earnings test. And we shouldn't lose sight of the fact that a repeal of the earnings test would actually boost our GNP by over $10 billion.

We are a nation comprised a 8 million retirees between the ages of 65 through 69. The Department of Labor estimates that, were this draconian measure to be eliminated, over half a million older workers would reenter the workforce.

Mr. Speaker, Members of this body are always heaping praise upon the senior citizen population—overbearing amounts of verbal lip service if you will. Well, I think it's about time that we demonstrate our concern for the welfare of these seniors by allowing them to make more than $9,270 a year. Why should those who diligently contribute time and talent to the workplace be penalized by a policy that is nothing more than an ill-fitting "glove."

I think it's high time that we discarded the "glove".

Mr. CLEMENT. Mr. Speaker, tonight I join my colleagues in hailing our recent success in the other body and in once again calling attention to the immediate need to right a wrong.

Mr. Speaker, we are finding that with technological improvements, improvements in the medical field and an overall awareness of the importance of proper eating habits and exercise, Americans are living longer than at any other time in our Nation's history.

Many of our seniors desire to continue to work well after they reach the age of 65 and are capable of doing so. However, depression-era legislation creates a mandatory retirement bias and discourages many older Americans who want to continue to work from doing so. Seniors are the fastest growing segment of our population and a valuable resource.

The Social Security earnings test reduces benefits to persons ages 62 through 64 by $1 for every $2 of wage and salary income earned above $7,080 and reduces benefits for persons age 65 through 69 by $1 for every $3 above the $9,720 cap. the reduction for those individuals ages 62 through 64 is equivalent to a 50-percent marginal tax rate and a 33-percent tax for those ages 65 through 69. These taxes are in addition to marginal Federal and State income tax rates, payroll tax rates, and large increases to marginal tax rates due to the phase-in of income taxation of benefits.

To continue to unduly penalize those between the ages of 65 and 70 who continue to work not only effects the individual's financial situation but his or her state of mind as well. I have found that those who remain in the work force beyond retirement age have a real sense of accomplishment and the benefit derived from their ability to contribute to society should not be sacrificed.

Mr. Speaker, last week I was contacted by several of my constituents pleading that I do everything possible to ensure that this opportunity to repeal the unfair earnings test is not bungled. In each case they expressed their sincere desire to continue to work but said that if they continued to be penalized they were uncertain how much longer they could afford to.

Mr. Speaker, as an original cosponsor of legislation sponsored by Representative DENNY HASTERT and Representative JAY RHODES, the older Americans Freedom to Work Act, I urge the House conferees to the Older Americans Act to adopt the Senate provision repealing this unfair tax. The 269 cosponsors of this legislation clearly illustrate the overwhelming support in the House to provide immediate relief to our Nations seniors.

Mr. ANNUNZIO. Mr. Speaker, the Senate last week took a step that could enhance fairness in the treatment of our senior citizens. I am referring to an amendment included in the reauthorization of the Older Americans Act that calls for repeal of the Social Security earnings penalty.

This proposal would scrap the rule that now requires seniors aged 65–69 to give up $1 of social security benefits for every three dollars they earn above a yearly cap of $9,720. The earnings penalty is unfair because it puts an economic bite on middle-income, working seniors who are struggling to remain independent. The penalty places an added burden on seniors who are trying to stay in their homes by working beyond traditional retirement ages.

Meanwhile, wealthy retirees can continue to collect profits on stock dividends and interest payments with no corresponding cut in their social security benefits. This violates a basic standard of fairness.

Mr. Speaker, I urge the conferees to adopt the Senate's amendment to scrap the earnings penalty. The thousands of American seniors who are struggling to survive on limited incomes should not have to give up benefits because they need extra money to sustain themselves during retirement.

Mr. LIPINSKI. Mr. Speaker, I will not stand by while the senior citizens of this country are discriminated against because of their age. No American should be penalized for working hard and contributing to our economy, and the Social Security earnings test does just that. It penalizes senior citizens who continue to work after they reach retirement age.

It is unthinkable that we still enforce a law that effectively forces seniors over the age of 65 to leave the workforce. We lose many experienced, loyal and hard working employees as a result—including Members of Congress. Further, by sacrificing dependable workers, we are hurting the economic competitiveness of our country.

Social Security is not a free gift from the Federal Government; each and every senior citizen has contributed part of their hard earned wages to ensure that when they do reach the age of 65, they will receive a fixed sum on which to live. Social Security is a planned and protected savings plan and should not be vulnerable to penalties based on age and earnings. It would be unheard of to penalize a regular savings plan, so why do we allow it in this case?

In a day and age of high prices and high health care costs, how can we expect seniors to survive on social security benefits alone? Having a job after the age of 65 is often a necessity not an option. Economic realities frequently require more money than Social Security provides. Those seniors who do work are only attempting to make a better life for themselves and remain financially independent. We should in no way discourage this.

Only the wealthy or those with tremendous savings, can afford to live comfortably without supplementing their social security benefits. Thus, in effect, the system discriminates against the low- and middle-income workers and favors the wealthy. By counting only wages—not dividends or interest—to determine the earnings limit, the wealthy senior passes the earnings test. However, the working class senior is penalized. This is blatant discrimination. We must repeal the Social Security earnings test.

I urge my colleagues to join with the Members of the other body in working to pass the Older Americans Freedom to Work Act and end this discrimination now.

Mr. GILMAN. Mr. Speaker, I rise this evening to support the elimination of the Social Security earnings test. This earnings test is not only unfair to seniors but it is also outdated.

Last week, the Senate passed an amendment to legislation reauthorizing the Older Americans Act that would repeal this depression-era fossil. The Older Americans Act with the earnings penalty repeal amendment will go to a conference committee. I believe it is imperative that we support this amendment.

Over the years I have introduced legislation to repeal the earnings test. I feel that it is archaic. Under current law, Social Security recipients under the age of 70 who are employed or self-employed receive their full benefits unless their earnings exceed the annual earnings limitation. Senior citizens over the age of 65 lose $1 for every $3 which they earn over the income cap. This is an improvement over the previous 1:2 reduction that translates into a draconian tax rate of 33 percent for our Nation's seniors. A tax rate that most seniors can not afford.

The Social Security earnings test originated with the creation of the Social Security system in 1935. One purpose was to remove older workers from the labor force in order to create jobs for the young. However, in today's labor situation, seniors are able to meet the increasing demand for service-oriented workers, and most importantly, they enjoy working. By allowing seniors to return to the work force they will provide many benefits to our Nation, such as increased tax revenues, as well as alleviating the depression and loneliness that often accompanies the later years in an individual's life.

Senior citizens make up approximately 34.9 million of the population, and this number is steadily increasing. Our Nation's seniors are skilled, knowledgeable, reliable, and eager to work.

Mr. Speaker, I urge all my colleagues to take note of Senator JOHN MCCAIN's amendment and urge the conferees to include this important amendment in the final version of the Older Americans Act. Our seniors deserve to be treated better and we now have the opportunity to take a step in the right direction.

Mrs. VUCANOVICH. Mr. Speaker, if a politician introduced legislation imposing a special 33-percent surtax on the incomes of several million senior citizens, few observers would give the bill much chance of passage. Unfortunately, this strange idea, in the form of a Social Security earnings test, already exists as the law of the land. Quite alarming, isn't it?

Simply stated, with this law, we are telling our senior citizens aged 65–69 who choose to work beyond retirement age that for every $3 they earn over $9,720 annually, they lose $1 in benefits. For seniors age 62–64 who earn above $7,080 per year, lose $1 in benefits for every $2 they earn over the limit.

While it has managed to exist for more than 50 years, the earnings test is bad economic policy, bad social policy, and bad labor policy. If we want to reform Social Security in a way that will both increase income for senior citizens and boost the economy, repealing the earnings test would be a good place to start.

The earnings test is bad economic policy, because it reduces growth by placing an extremely punitive tax on the income of senior citizens. It is bad social policy, because it drives a wedge between senior citizens and the rest of society. Many experts argue that an active lifestyle is important for the continued physical and mental health of senior citizens. Finally, it is bad labor policy, because it discourages productive, well-trained workers from staying in the job market.

No American should be discouraged from working. Unfortunately, one demographic group in our society is severely penalized for attemping to be financially independent. The continued application of the Social Security earnings test, a Depression-era relic that penalizes senior citizens who work after they retire, is the catalyst for this discrimination. By forcing seniors to forfeit one-third of their Social Security benefits after they earn more than a ridiculously low amount, the earnings test tells the elderly we no longer value their expertise and experience.

Seniors are one of our Nation's greatest resources. They provide leadership, knowledge, and assistance to younger Americans. I feel that we should utilize their strength, wisdom, and experience as long as they are willing to actively participate in the work force. It would be nice to think that all people can retire at age 65 and live comfortably on their retirement benefits, but that simply is not the case. Many of today's seniors can no longer survive on Social Security alone.

We must end now the restrictions placed on the amount a person receiving Social Security can earn without forcing that individual to forfeit some benefits. It is my hope that opponents of this legislation will reconsider their stand and think of those older Americans whose dreams are crumbling, because they cannot exist on what they receive from Social Security.

Mr. Speaker, we now have an opportunity to pass legislation that would eliminate the Social Security earnings test. I am joining some of my colleagues in the House in sending a letter to the conferees to H.R. 2967, the Older Americans Act, urging them to accept Senator JOHN MCCAIN'S amendment to that bill, which incorporates the language of H.R. 967, the Older Americans' Freedom To Work Act of 1991, of which I am a cosponsor.

I urge the conferees in the House to accept the Senate amendment and end this injustice to our senior citizens once and for all.

Mr. Speaker, I have shared on the House floor in the past tragic stories of my own constituents who are stripped of their dignity and are unable to support themselves because of this most unfair law. We must allow our senior citizens the dignity of continuing to work after retirement if they so desire so that they can continue to be self-sufficient. The time is now to repeal the Social Security earnings test.

Mr. FISH. Mr. Speaker, I rise to urge the House conferees on the Older Americans Act reauthorization to accept the Senate amendment which would repeal the Social Security earnings penalty.

This Depression-era law, designed to encourage early retirement at a time of high unemployment, has outlived its appropriateness. Our people are living longer and more productive lives than ever before. They want to remain active. Discouraging older workers is poor public policy.

Working Social Security recipients are subject to the same Federal, State and local taxes as everyone else. When the earnings penalty is added, these older Americans are the most heavily taxed wage earners in the United States. Surely, this is not good public policy; it is patently unfair.

The earnings penalty reduces the Social Security checks of more than a million people, and economists estimate that the penalty deters another million from working full time. This is unfair to senior citizens, who lose needed income, and to America which loses some of her most experienced, talented and dependable workers. Older Americans deserve independence, dignity and the opportunity to remain part of our Nation's work force. Repeal of the earnings penalty is long overdue.

GENERAL LEAVE

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. RAY). Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3768, REQUIRING LEAST-COST RESOLUTION OF INSURED DEPOSITORY INSTITUTIONS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-342) on the resolution (H. Res. 289) providing for consideration of the bill (H.R. 3768) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes; which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3644, TAKING INTO ACCOUNT CERTAIN PAYMENTS FROM PRESIDENTIAL ELECTION CAMPAIGN FUND

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-341) on the resolution (H. Res. 288) providing for consideration of the bill (H.R. 3644) to provide that, in making payments from the Presidential election campaign fund, including the Presidential matching payment account, amounts estimated to be transferred to the fund during the fiscal year before the fiscal year of the Presidential election shall be taken into account, which was referred to the House Calendar and ordered to be printed.

UNIVERSAL HEALTH-CARE COVERAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. OAKAR] is recognized for 60 minutes.

Ms. OAKAR. Mr. Speaker, about an hour ago in another debate I heard one of the Members on the other side say that the American people did not want socialized medicine guaranteeing comprehensive universal health care for every American when we have 37 million Americans, most of whom are from working families, with no health access whatsoever, and we have another 40 million who are underinsured and another 8 million who have no longer-term care. I think universal coverage for every American is not socialized medicine. I think it is civilized medicine to say that we want every American covered.

How is it that England, Germany, France, Japan, Australia, and other countries, none of which are socialized countries, can guarantee as a right access to comprehensive health care and America has 77 million people with little or no health insurance and 8 million people who have no access to health care in terms of long-terms care?

Mr. Speaker, that is why I introduced H.R. 8 which is a bill that guarantees a high standard of coverage for every American irrespective of their age, where they are from, the color of their skin, et cetera, and I said the other day that we could do it better, and the big news and the great news is that we can do it a lot cheaper. Is it not interesting that we can guarantee health care for every American in a much more comprehensive way than the average person who is lucky enough to have a policy?

Mr. Speaker, I say we can do it cheaper if you include acute care; that is, hospital care, in an outpatient care kind of coverage that is very common to health policies, if you include prevention, including child immunization, including early detection methods, such as cancer screening for men, mammography for women, free blood pressure checks, et cetera. If you include that type of prevention, you save money. If you include research to find cures to disease, as I mentioned earlier in another talk on the floor, you can—we spend $90 billion for Alzheimer's disease in this country, a painful disease, and we only spend a couple hundred million to find a cure, and scientists are telling us that within 5 years, if they have the resources, they could cure the disease. They could tell us what triggers cells in the wrong direction, and wouldn't that be wonderful, to find a cure for breast cancer, to find a cure for Alzheimer's disease and prostate cancer, which is common in men, and find a cure for diabetes?

Mr. Speaker, we do not invest enough in research, but tonight I want to focus in on another aspect of my bill, the long-term care aspect, and I mentioned that there are at least 8 million Americans who need long-term care, and, whenever I think of this provision of the bill, I think of an individual, I am proud to say a mentor of mine. I remember the late great Claude Pepper with whom I served for 13 years on the Select Committee on Aging very well. He passed away. To most American people he was a folk hero, and he passed away 2 years ago last May, and I remember it was right on the floor of this House that Senator Pepper said to us as a body that we would rue the day that we did not allow him to have the opportunity to have his bill on long-term care pass this House.

I do not know of any policy that includes what I consider to be long-term care, and, before I explain what I mean by long-term care and what Senator Pepper's bill was, most of which I have incorporated as part of a comprehensive bill to cover every American, I want to talk about who needs long-term care. Of the 8 million people who need long-term care; that is, home care and sometimes nursing care, and I will be more detailed in a minute, almost half are children and middle-aged people. This is not just an elderly issue. We have many families who have children with chronic diseases or with temporary problems, and they need someone to help them, assist them, to care for their loved one, their child, at home. They do not want to institutionalize a child unnecessarily. They do not want to have that child go into a hopsital if what they need are congregate services from a team of health professionals and homemaker services.

So, we have families who regrettably have no access to try to care for a loved one at home, and that includes many, many children who have temporary or long-term diseases. So, it is a child's issue. That is why Claude Pepper in the bill that he introduced, and that is why in the bill that is my comprehensive uniform health-care bill, includes long-term care, and it does not state the age of the person because some people are under the misconception that long-term care only affects elderly people. That is not true. There are an awful lot of families with children, a lot of families who—let us say a husband is 45 or 50 years old and gets a stroke, and the wife has to work. She is head of the household in terms of being the breadwinner, and yet she

does not want to worry about leaving her husband at home, and she might need a visiting nurse to come in, or she might need some homemaker services so that she can work to support the family and at the same time take care of her husband without institutionalizing that loved one who, at middle age, may have gotten some kind of heart problem or stroke.

So, long-term care is not just about older people, but it is also about older people, and I want to just give my colleagues a few statistics on this because here we have this wonderful phenomenon where the fastest-growing population in the country, which is the good news, are people over 85, and yet we have not addressed that wonderful phenomenon because we do not care for our elderly people in the manner in which we should. I really believe that.

□ 2000

Let us not kid ourselves. Older people are not for the most part wealthy. Unfortunately, many middle-class people when they are younger are middle class, and when they get older they reach the poverty level because they cannot cope with the cost of health care and taking care of their loved ones, et cetera. As a matter of fact, the poorest person in the country is a woman over 65. If you are 70 and female in this country, you are usually alone and poor.

Most older people in this country are not wealthy, and frankly, they are not poor. Most of them are near poor. They are in the middle. They are middle or moderate, low middle-income people. So we know that by the year 2020 we will have 22 percent of the Nation's population who are older. We have today, as I mentioned earlier, 70-year-old kids taking care of 90-year-old parents, and they cannot cope with the need to care for that loved one at home. They do not want to put that person in an institution or nursing home, if that person could get along by staying at home if the loved one had a little help.

But listen to this statistic, because we have 1.3 million elderly persons who are residents of nursing homes today as well. The average stay in a nursing home for people who need nursing home services in a year is 4 months. You might find an older person who needs a nursing home for 4 months if one has a broken hip, so because they need that team of health professionals that we find very often in a nursing home, that person may temporarily need a nursing home. But the fact is that most American families cannot even afford to put their loved ones in a nursing home.

It costs on an average $25,000 a year nationally for a decent quality nursing home. That is why so many elderly, so many families, unfortunately choose to strip all of what they worked for, and that includes their dignity, very often, to get rid of their savings and their homes and their cars and so on in order to qualify for Medicaid.

Mr. Speaker, I think that is really cruel to the elderly to say to them that "The only way you can get nursing home care in this country is if you are dirt poor." These are the people that have made our country the greatest country in the world.

After 13 weeks in a nursing home, 7 in 10 elderly persons living alone find their income spent down to the poverty level. In other words, while they are in the nursing home and while they pay for the nursing home, if they have any assets at all, after only 13 weeks they reach the poverty level. Within 1 year of entering a nursing home, listen to this statistic, more than 90 percent of our elderly are impoverished. They have to stay in a nursing home more than 1 year.

Then you wonder why so many older people are in nursing homes for a lifetime when they are older, because they do not have a home to come home to. They are too poor to be able to afford to live in the greater community.

For married couples, looking at income alone, only one-half of the couples are impoverished after one spouse has spent one-half of a year in a nursing home. The list goes on. If we give people home care costs, because there are so few policies that I know of, and I do not even know of any good policy, to be honest with you, that covers home care. But the fact is if you need 7-day-a-week care for home care costs, it exceeds $15,000, but it is still cheaper than putting your loved one in a nursing home, The fact is, however, it is still, unfortunately, very, very expensive.

You might say, "Well, why don't people get another policy?" Let me tell you what the elderly do in my area of Cleveland, OH. They get Medicare, and Medicare, we know, covers 45 percent of their needs. It does not cover, for the most part, long-term care. It certainly does not cover nursing care. So the elderly buy a Medigap policy, which most of them cannot afford very well, but they buy it anyway because they think it might help with their health costs and their needs, since $1 out of $4 of their costs happen to be for their health care. And they have about $2,000 annually in out-of-pocket expenses that are not covered by any policy.

So when they get a Medigap policy they are surprised to learn that Medigap does not cover long-term care. So what do they do? The answer is, there is nothing to do, because we have not addressed the need of long-term care for our families in America.

Let me tell you something, there are a lot of bills that have been introduced in Congress for universal coverage. Do not believe that it is universal and comprehensive if it does not cover long-term care, because long-term care ought to be an integral part of our health delivery in this country. It is in Canada, it is in England, it is in France, it is in Italy, it is in Japan, but it is not in the United States of America.

When we were having hearings of the Pepper Commission, of which I was a member of the 15-member commission to look into the crisis in health care in this country, when we were having hearings on that, I will never forget a woman in Cleveland, OH who said that she had a mother who had Alzheimer's disease and a mother-in-law living in Canada who had Alzheimer's disease. Here she was from a middle-class family in the Greater Cleveland Heights area. I believe it was, which is a very nice suburb in our wonderful area, and she was from a solid middle-class family. She and her husband and family were having difficulty coping with the needs of her loving mother, who had Alzheimer's.

She compared the treatment in this country and the access that she had for long-term care to help her mother with Alzheimer's, to give her the congregate services that she needed, with the treatment in Canada of her mother-in-law. Her mother-in-law and her mother-in-law's family in Canada were able to get home health care to assist the family. Her mother-in-law ultimately was institutionalized, and that was paid for, for nursing home care.

She said, "What a difference, to think that my mother-in-law got better treatment than we could afford to give my mother." It was a source of great sadness to her.

So what do I think ought to be covered under long-term care? Well, I want all citizens, regardless of age, covered under this provision of my plan. That include home- and community-based care. There would be comprehensive case-managed coverage offered, including the following services: Home nursing care, and I think one of the most undervalued health deliveries in this country are the nurses of America. What would we do without them? And yet, Mr. Speaker, we know that nurses not only are underpaid but we also know that they spend more time with patients than any other health deliverer, and yet we do not put the proper value on their services.

But they would provide for the most part home nursing care, along with nursing aides, another great profession that is, again, undervalued. Homemaker services. Many times elderly living alone, if they just had somebody to sit in and help them, to maybe assist them cooking a meal or help them with their shopping or to clean their house if they cannot do it themselves any longer, they could stay in their homes and they would feel so much better about themselves than being institutionalized in a nursing home.

□ 2010

So something as simple as providing occasional homemaker services, which is so much cheaper than a nursing home, might suffice.

Heavy chore services. We have a lot of people who need home services. Let us say we have a 70-year-old youngster taking care of that 90-year-old parent. That 70-year-old person might need help to give the 90-year-old parent a bath. So you might need an aide to help you lift the parent.

Some people taking care of their loved ones are fragile, and they do not have the ability nor the strength to perform those heavy chore services. So that would also be included.

Home health care services in general. Visits by a team of professionals that might be assisting loved ones.

Respite care. Respite care is very important for families. We have a new phenomenon called elder abuse. 1.5 million older people are abused.

I am convinced in part one of the reasons that families are usually responsible for elder abuse, sad to say, is because they are under tremendous stress taking care of a fragile older person.

For example, if you have a parent with Alzheimer's disease and you never get any sleep and you have to work the next day, and the parent, unfortunately, keeps you up all night, and then during the day you go to work and come home and you are up all night again, you are bound to be cranky, and sometimes you are bound, unfortunately, to do things you would not necessarily normally do.

We had a hearing in my city of Cleveland several weeks ago, the Select Committee on Aging. We found a father who cared for his son. He and his wife cared for his son who was in an automobile accident and was living at home and had spinal injuries and needed constant care.

What the parents were pleading for was a little respite. In other words, give them a little break once in a while so they can get a rest. Give them a chance occasionally to go on a mini-vacation to get out of the environment of care for a few days or a few hours.

So respite care is so important, because in our country the primary giver of health care still is the family, believe it or not, in caring for a loved one. It is still the family.

Dietary aid services and limited mental health services suitable for home delivery would be included in the home care. Durable medical equipment providing for loved ones.

Sometimes you need medical equipment that relates to assisting that loved one. You might need these minichairs that they put in tubs so that the loved one can actually get in better. That equipment should be provided for.

One of the areas of greatest need for home care is physical, occupational or speech therapy. Let us say you have someone who has had a stroke and you want to bring that person home. The person does not need to stay in the hospital, but you want to see that person get better. It may be that individual's speech has been impaired.

Well, we ought to be able to provide a speech therapist who comes to your home maybe once a week or a couple of times a week for a couple of hours to assist the individual providing the care for the speech therapy.

Let us say a person has a paralyzed arm and that individual needs physical or occupational therapy, and that paralyzed arm could resume its function if it had occupational or physical therapy.

There is no need for that person to stay in a hospital to get that kind of care. Most often that person can stay in one's home. So we know that that ought to be part of home health care.

Medically necessary social services. I believe that one of the things we have done wrong in my judgment is to look upon healthy delivery in terms of hospitals and doctors only.

I am all for doctors. I have a young nephew, my sister's son, Dr. Phil, who is a fabulous young man, a great doctor. He, like many other young people, is very dedicated to his profession. So I certainly have nothing against doctors. I admire them, for the most part.

I also admire hospitals, particularly those who are compassionate and do not close their doors to anyone. We certainly have enough great ones in my city of Cleveland.

But the fact is that we need very often social workers to help to assist the families in caring for their loved ones.

Psychiatric workers, for example, can assist a loved one who comes back home and is depressed because of major surgery they had. So the family is there to serve and care for that loved one, but one needs a little assistance in dealing sometimes with the depression that steals in when someone comes home after some traumatic experience in terms of some type of sickness.

We need dietitians to be included in our home delivery. For example, one out of four elderly suffers from anemia. If they only realized that sometimes a different diet for them would accommodate their problem, they would not have to take all this medication that so often they take.

Who is more responsible for understanding foods in our country than nutritionists? Yet we do not often think of a nutritionist or a social worker or a nurse as part of the team. We ought to.

We ought to supply drugs whenever necessary. If a person has hypertension and does not arrest that problem, high blood pressure, that person can indeed suffer from a stroke. Then it is not only terrible for the individual, but it costs a lot more. We are penny wise and pound foolish in the way we treat our people.

I believe home and community-based care and long-term care ought to include alcohol and drug treatment. I am saddened by the fact that so many public and private policies no longer cover treatment for alcohol and drugs.

Do not kid yourselves. Let's be honest about it. Older people can have alcohol problems as well. We ought not think that is cute. We ought to try to give them the kind of service they need.

So we ought to have home health care. Every person does not have to be in a hospital for the kind of quality care treatment that one person needs. As a matter of fact, with what we call the DRG's, with the limitation that some of the private and public polices are placing on people, many people are discharged from the hospital far sooner than might otherwise have been 10 years ago. So the family, who must care for that person who let's say comes home from the hospital, has had surgery, cannot walk around very well and so on, might need home health care to complement the kind of care that person has had at the hospital.

So we have a great need for home care, which I do not know of a policy that covers. We can certainly do better.

In addition to this, I believe that a comprehensive universal health care policy ought to include coverage for nursing home care for at least up to 6 months. Then after that we ought to have a government policy for people to be able to buy if they want it. If they do not want it, that is fine.

Why did I choose the figure 6 months? I mentioned earlier that the average stay on an annual basis in a nursing home is 4 months. It is not the whole year, people. People go in and out of nursing homes very often. If you are in an automobile accident, you might need that comprehensive loving care that many quality nursing homes give for several months, but you may not need it for the rest of your life. Yet we have an attitudinal problem in this country that says if you go into a nursing home, somehow it is going to be a lifelong visit. The fact is, that is not true, it is 4 months. So at least we ought to cover up to 6 months to make sure that people are covered.

□ 2020

And you ought not to have to lose everything you own. How demeaning it is for people who have worked hard all their lives and have some savings and a home and have a car and have a few assets to lose everything, essentially, when they are institutionalized in a nursing home. And what happens to the person after the 4 months is over?

The fact is they have, as I mentioned in my earlier figures, most of the elderly, for example, are at the poverty level after 4 months in a nursing home.

Is it not terrible that they do not have something to come home to? And then we wonder why in some cases people are in nursing homes who really do not have to be. So if we had this comprehensive program that included long-term care, meaning community-based and home care services with a team of health professionals, as well as nursing home care up to 6 months, believe me when I tell you, we would save a lot of money and we would improve the quality of life of our people.

Then finally I want to say, because I am going to zero in on this issue in other areas at another time, but I want to repeat something I mentioned several days ago. That is, people always say, "You know, MARY ROSE, I think your ideas are OK, but how are we going to pay for this? You want me to have a policy that has this high standard of coverage, acute care, long-term care that I just described, preventive health care, early detection and more research to find a cure for disease."

I want to repeat what I said the other day, and I will discuss this in more detail at another time, but the answer is, we already pay for it. Americans spend 12½ percent of our GNP on health care compared to Japan, 6.7 percent, and they have comprehensive health care for all of their citizens. And out of the $756 billion that we spend, only $209 billion of that money is for private insurance. The rest is for a variety of government programs, including Medicare, Medicaid, veterans programs, CHAMPUS, public health programs on State and local levels, out-of-pocket expenses.

If we just recaptured the public money, the taxpayers' money that they already spend, and recaptured perhaps part of the out-of-pocket expenses, we would have enough to cover every American comprehensively.

As a matter of fact, it would be about 4 to 5 percent cheaper in my plan than what Americans already spend, and they would get a better policy because they would have acute care. They would have long-term care, which nobody that I know of today has in their policy, and they would have prevention, another very neglected area for their policy.

I would just say to some of my cynical friends who unfortunately sometimes are on the other side of the aisle, who have called this socialized and so forth, I do not know what they are talking about. This is civilized, to care about our own people. We ought to be improving the quality of life of our people.

How are we going to be competitive in the global economy when our people need to export our products and the trade deficit, if we have to worry about whether our health needs are covered? You wonder why Germany is doing so well with its economy and jobs and so on. Let me tell you something, they cover their people with health care. And so does England and so does France and Italy.

I would not trade our country for any other country in the world, but I have to tell you something, we are behind the 8-ball when it comes to covering our own people.

Americans should demand more. As a matter of fact, in all of the polls, 69 to 70 to 75 percent of all Americans are saying that they are fed up with the health system in this country, not because they do not like their hospitals or their doctors and so on, but first, they do not have access and, second, they cannot afford it.

And third, they know their needs are not taken care of because when they have a sick child or an older parent, they cannot care for their loved ones at home because we have no home health care policy that I know of in this country. So I say to those who are watching tonight or listening, you demand more of Congress and demand more of the President of the United States.

We ought to be passing a comprehensive health policy, and we ought not to wait 10 or 15 years from now. We ought to do it tomorrow, and we could do it if we had the will to do it. And if the American people demand it, you will see some action.

So keep in mind that I have H.R. 8, which I think is a very fine bill, and I am always open to suggestions. But it has that high standard of coverage. And this bill for every American would be much cheaper than what we spend and much more compassionate and much more sensitive to the needs of our own people.

That is what I think the people are demanding, that we start paying attention to the American people of all ages, of all backgrounds, of all regions. That is why we need comprehensive universal health coverage.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. WALKER) to revise and extend his remarks and include extraneous material:)

Mr. IRELAND, for 60 minutes each day, on November 21 and 22.

(The following Members (at the request of Mr. TAYLOR of Mississippi) ato revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. STUDDS, for 5 minutes, today.

Mr. BONIOR, for 60 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today and November 21.

Mr. NAGLE, for 60 minutes, on November 25.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. GEJDENSON, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mrs. MORELLA.
Mr. GREEN of New York.
Mr. DOOLITTLE.
Mr. GEKAS.
Mr. GINGRICH.
Mr. BURTON of Indiana.
Mr. BALLENGER.
Mrs. BENTLEY in seven instances.
Ms. ROS-LEHTINEN in four instances.
Mr. GILMAN.
Mr. BROOMFIELD.
Ms. SNOWE.
Mr. CAMP.
Mr. DAVIS.
Mr. PORTER.

(The following Members (at the request of Mr. TAYLOR of Mississippi) and to include extraneous matter:)

Mr. ROE.
Mr. SKELTON.
Mr. HAMILTON.
Mr. YATRON.
Mr. RANGEL in two instances.
Mr. LANTOS.
Ms. OAKAR.
Mr. FUSTER.
Mr. MOODY.
Mr. COLEMAN of Texas.
Mr. ACKERMAN.
Mr. DIXON.
Mr. NEAL of Massachusetts.
Mr. HALL of Ohio.
Mrs. COLLINS of Illinois.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1475. An act to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such Act, and for other purposes.

ADJOURNMENT

Ms. OAKAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 27 minutes p.m.) under its previous order, the House adjourned until tomorrow, Thursday, November 21, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2379. A letter from the Secretary of the Army, transmitting notification that a major defense acquisition program has breached the unit cost by more than 25 percent, pursuant to 10 U.S.C. 2433; to the Committee on Armed Services.

2380. A letter from the Secretary of the Army, transmitting notification that a major defense acquisition program has breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2433; to the Committee on Armed Services.

2381. A letter from the Secretary of Energy, transmitting the annual report on the State Energy Conservation Program for calendar year 1990, pursuant to 42 U.S.C. 6325; to the Committee on Energy and Commerce.

2382. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of John Hubert Kelly, of Georgia, to be Ambassador to the Republic of Finland, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2383. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of House Joint Resolution 281, House Joint Resolution 282, and H.R. 1046, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

2384. A letter from the National Relations Board, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991, through September 30, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2385. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on Government Operations.

2386. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on interior and Insular Affairs.

2387. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2388. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2389. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2390. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2391. A letter from the Director, Office of Management and Budget, transmitting the ninth report on foreign contributions in response to the Persian Gulf crisis, pursuant to Public Law 101–25, section 402 (105 Stat. 101); jointly, to the Committees on Armed Services and Foreign Affairs.

2392. A letter from the Comptroller General, General Accounting Office, transmitting the second analysis of the estimated costs of the assistance agreements the FSLIC entered into during 1988 and 1989 (GAO/AFMD–92–9), pursuant to 12 U.S.C. 1441a note; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3544. To provide that, in making payments from the Presidential Election Campaign Fund, including the Presidential matching payment Account, amounts estimated to be transferred to the fund during the fiscal year before the fiscal year of the presidential election shall be taken into account; with an amendment (Rept. 102–329, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 288. Resolution providing for the consideration of H.R. 3644, a bill to provide that, in making payments from the Presidential Election Campaign Fund, including the Presidential Matching Payment Account, amounts estimated to be transferred to the fund during the fiscal year before the fiscal year of the presidential election shall be taken into account (Rept. 102–341). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 289. Resolution providing for the consideration of H.R. 3768, a bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes (Rept. 102–342). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally, referred as follows:

By Mr. GUNDERSON (for himself, Mr. Weber, Mr. Walker, Mrs. Johnson of Connecticut, Mr. Kyl, Mr. Riggs, Mr. Dannemeyer, Mr. Boehner, and Mr. Livingston):

H.R. 3824. A bill to stimulate economic recovery by providing tax incentives and other benefits to revive the real estate market; jointly, to the Committees on Banking, Finance and Urban Affairs, Ways and Means, and the Judiciary.

By Mr. HUTTO:

H.R. 3825. A bill to establish a Social Security Notch Fairness Investigatory Commission; to the Committee on Ways and Means.

By Mr. LEVIN of Michigan:

H.R. 3826. A bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the Medicare program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LIPINSKI:

H.R. 3827. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, education savings accounts to assist families in saving for their childrens' education; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (for himself, Mr. Gibbons, Mr. Pickle, Mr. Rangel, Mr. Stark, Mr. Jenkins, Mr. Downey, Mr. Pease, Mr. Matsui, Mr. Anthony, Mr. Dorgan of North Dakota, Mrs. Kennelly, Mr. Donnelly, Mr. Coyne, Mr. Moody, Mr. McDermott, Mr. McGrath, and Mrs. Johnson of Connecticut):

H.R. 3828. A bill to amend the Internal Revenue Code of 1986 to simplify the application of the earned income credit; to the Committee on Ways and Means.

By Mr. LIPINSKI:

H.R. 3829. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, housing savings accounts to be used by first-time homebuyers; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. Russo, Mr. Donnelly, Mr. Coyne, Mr. McDermott, and Mr. Cardin):

H.R. 3830. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to impose an excise tax with respect to the issuance of long-term care insurance policies which do not meet Federal standards; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MOODY (for himself and Mr. Moakley):

H.R. 3831. A bill to amend title XI of the Higher Education Act of 1965 in order to provide support for programs at urban universities designed to address campus and community crime issues; to the Committee on Education and Labor.

By Mr. RANGEL:

H.R. 3832. A bill to establish a program of grants regarding certain infants, toddlers, and children who are perinatally exposed to drugs and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. RINALDO:

H.R. 3833. A bill to amend title II of the Social Security Act to phase out over 4 years the retirement earnings test as it applies above retirement age; to the Committee on Ways and Means.

H.R. 3834. A bill to amend title II of the Social Security Act to increase the amount of excess earnings an individual may earn before suffering deductions from benefits; to the Committee on Ways and Means.

By Ms. SNOWE:

H.R. 3835. A bill to amend the Federal Election Campaign Act of 1971 to limit the influence of nonparty multicandidate political committees in elections for Federal office, to amend the Internal Revenue Code of 1986 to provide for an income tax credit for contributions to candidates for the House of Representatives, and for other purposes; jointly, to the Committees on House Administration and Ways and Means.

By Mr. STUDDS (for himself, Mr. Wyden, Mr. Jones of North Carolina, Mr. McDermott, Mr. DeFazio, and Mr. Jontz):

H.R. 3836. A bill to provide for the management of Federal lands containing the pacific yew to ensure a sufficient supply of taxol, a cancer-treating drug made from the pacific yew; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. WYLIE:

H.J. Res. 377. Joint resolution designating the week beginning November 24, 1991, as "Assistance Dog Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H. Res. 287. Resolution relating to the consideration of the Senate amendment to H.R. 1724; considered under suspension of the rules and agreed to.

By Mr. WELDON:

H. Res. 290. Resolution urging the President to proclaim Sunday, December 15, 1991, as a National Day of Thanksgiving for the Bill of Rights and for the contributions of Patrick Henry to the Bill of Rights; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows;

H.R. 53: Mr. McHugh and Mr. Glickman.

H.R. 108: Mr. Smith of Florida.

H.R. 110: Mr. Peterson of Minnesota.

H.R. 381: Mr. Towns and Mr. Taylor of North Carolina.

H.R. 421: Mr. Towns.

H.R. 446: Mr. Flake.

H.R. 576: Mr. Upton.

H.R. 585: Mr. Olver.

H.R. 643: Mr. Lewis of Florida.

H.R. 722: Mr. Frost and Mr. Reed.

H.R. 723: Mr. Frost and Mr. Kyl.

H.R. 786: Mr. Lancaster.

H.R. 918: Mr. Atkins.

H.R. 967: Ms. Oakar and Mr. Evans.

H.R. 989: Mr. Flake and Ms. Norton.

H.R. 1184: Mr. Torricelli and Mr. Oxley.

H.R. 1240: Mr. Annunzio, Mr. McGrath, Mr. McNulty, and Mr. Dymally.

H.R. 1251: Mr. Sikorski.

H.R. 1252: Mr. Sikorski.

H.R. 1253: Mr. Sikorski.

H.R. 1300: Mr. Traxler.

H.R. 1454: Mr. Olver.

H.R. 1483: Mr. Fawell.

H.R. 1516: Mr. Laughlin.

H.R. 1820: Mr. Perkins and Mr. Espy.

H.R. 2007: Mr. Towns.

H.R. 2106: Mr. Bevill, Mr. Engel, Mr. Traxler, Mr. Chapman, and Mr. Lowery of California.

H.R. 2185: Mr. Schaefer.

H.R. 2210: Mr. Owens of Utah.

H.R. 2338: Mr. Stenholm, Mr. Lancaster, Mr. Lipinski, Mr. Zimmer, Mr. Lewis of Florida, and Mr. Barnard.

H.R. 2451: Mr. Torricelli, Mr. Fish, Mr. Engel, and Mr. Weiss.

H.R. 2536: Mr. Baker.

H.R. 2541: Mr. Richardson.

H.R. 2598: Mr. Myers of Indiana, Mr. Dwyer of New Jersey, and Mr. Lent.

H.R. 2643: Mr. Moorhead, Mr. Nussle, Mr. Sensenbrenner, Mr. Shays, and Mr. Fish.

H.R. 2734: Mr. Mineta, Mr. Towns, Mr. Hubbard, Mr. Jontz, Mr. Gillmor, Mr. Hayes of Illinois, Mr. Evans, Mr. Zimmer, Mr. Gordon, Mr. LaRocco, Mr. Dwyer of New Jersey, Mr. Frost, Mr. Ray, Mr. Zeliff, Mr. Kanjorski, Mr. Kolter, Mr. Frank of Massachusetts, Mr. Rangel, Mr. Murtha, and Mr. Smith of Florida.

H.R. 2755: Mr. Sawyer.

H.R. 2853: Mr. Camp.

H.R. 2867: Mr. Sundquist.

H.R. 2881: Mr. Downey.

H.R. 2943: Mr. Hefley.

H.R. 3011: Mr. Fish, Mr. Martinez, Mr. Lewis of Florida, Mr. McCloskey, and Mr. Horton.

H.R. 3071: Mr. Brown, Mr. Poshard, and Mr. Frost.

H.R. 3153: Mr. Johnson of Texas and Mr. Lagomarsino.

H.R. 3164: Mr. Quillen, Mr. McCurdy, Mr. Kildee, and Mr. Stearns.

H.R. 3198: Mr. Thomas of Georgia, Mrs. Vucanovich, Mr. Hubbard, Mr. Herger, Mr. Tallon, Mr. Bruce, Mr. Livingston, Mr. Johnson of Texas, Mr. Flake, Ms. Molinari, Mr. Bliley, Mrs. Bentley, Mr. Ravenel, Mrs. Patterson, Mr. Gingrich, Mr. McMillan of North Carolina, Mr. Price, Mr. Cunningham, Mr. Murphy, Mr. Brewster, Mr. Traficant, Mr. Sisisky, Mr. Boehner, and Mr. Cramer.

H.R. 3221: Mr. Lewis of Georgia, Mr. Franks of Connecticut, Mr. McHugh, Mr. Coughlin, and Mrs. Johnson of Connecticut.

H.R. 3226: Mr. Bateman, Mr. Gillmor, and Mr. Herger.

H.R. 3231: Mr. Cox of Illinois and Mr. Frost.

H.R. 3236: Mrs. Lowey of New York.

H.R. 3282: Mr. Hefley, Mr. Hammerschmidt, Mr. Fascell, Mr. Olver, Mr. Wise, Ms. Horn, and Mr. Ridge.

H.R. 3285: Mr. Lipinski and Mrs. Lowey of New York.

H.R. 3376: Mr. Hefley.

H.R. 3425: Mr. Eckart.

H.R. 3429: Mr. Machtley, Mr. Evans, and Mr. Payne of New Jersey.

H.R. 3476: Mr. de Lugo.

H.R. 3503: Mr. Campbell of California and Mr. Frost.

H.R. 3553: Mr. AuCoin, Mr. Savage, Mr. Fazio, and Mr. Yates.

H.R. 3554: Mr. Wolpe and Mr. Jefferson.

H.R. 3568: Mr. Downey, Mr. Lent, Mr. McNulty, Mr. Jefferson, and Mrs. Lowey of New York.

H.R. 3570: Mrs. Lloyd, Mr. Rogers, and Mr. Walsh.

H.R. 3571: Mr. Andrews of Texas and Mr. Machtley.

H.R. 3655: Mr. Berman, Mr. Eckart, Mr. Dwyer of New Jersey, and Mr. Frost.

H.R. 3656: Mr. Engel, Mr. Berman, Mrs. Lloyd, Mr. Dwyer of New Jersey, and Mr. Frost.

H.R. 3677: Mr. Dwyer of New Jersey, Mr. Frost, and Mr. LaFalce.

H.R. 3702: Mr. Stark.

H.R. 3734: Mr. Machtley, Mr. Crane, Mr. Burton of Indiana, Mr. Franks of Connecticut, Mr. Schiff, Mr. Sensenbrenner, Mr. Fawell, Mr. Rhodes, and Mr. Hefley.

H.R. 3740: Mr. Jefferson and Mr. Rangel.

H.R. 3748: Mr. Dwyer of New Jersey, Mr. Beilenson, Mr. Martinez, Mr. Downey, Mr. Weiss, Mrs. Lowey of New York, Mr. Pease, Mr. Stokes, Mr. Kostmayer, Mr. Savage, Mrs. Boxer, Mr. Payne of New Jersey, Mr. Blackwell, Mr. Dymally, Ms. Waters, Mr. Smith of Florida, Mr. Rangel, and Mr. Conyers.

H.R. 3770: Mr. Broomfield, Mr. Clinger, Mr. Coughlin, Mr. Gallo, Mr. Gilchrest, Mr. Holloway, Mr. Ireland, Mrs. Johnson of Connecticut, Mr. Rhodes, Mr. Santorum, Mr. Wolf, Mr. Lewis of Florida, Mr. Upton, Mr. Lagomarsino, Mr. Ewing, Mr. Rogers, Mr. Chandler, Mr. Martin, and Mr. Pursell.

H.R. 3783: Mr. Borski, Mrs. Unsoeld, Mr. Paxon, Mr. Dwyer of New Jersey, and Mr. Martinez.

H.R. 3803: Ms. Norton.

H.R. 3816: Mrs. Roukema, Mr. Ritter, Mr. Lewis of Florida, Mr. Herger, Mrs. Patterson, Mr. Machtley, Mr. Santorum, Mr. Morrison, Ms. Ros-Lehtinen, Mr. Hammerschmidt, Mr. Miller of Washington, Mr. Boehlert, Mr. Sensenbrenner, Mr. Spence, Mr. Crane, Mr. Houghton, Mr. Roberts, Mr. Allard, Mr. Clinger, Mr. Dickinson, Mr. Mavroules, Mr. McCloskey, Mr. Archer, Mr. Dorgan of North Dakota, Mr. Hefner, Mr. Brown, Mr. Gekas, Mr. Martin, Mr. Gillmor, Mrs. Bentley, Mr. Barrett, Mr. Hansen, Mr. Dornan of California, Mr. Ballenger, Mr. Walsh, Mr. McCandless, Mr. Rogers, and Mr. Durbin.

H.J. Res. 35: Mr. Upton.

H.J. Res. 212: Mr. Weldon, Mr. Grandy, Mr. Hunter, Mr. McEwen, Mr. Weber, Mr. Bilirakis, Mrs. Patterson, Mr. Montgomery, Mr. Rose, Mr. Ewing, Mr. Boehlert, Mrs. Morella, Mr. Schaefer, Mr. Rahall, Mr. Dornan of California, Mr. Doolittle, Mr. Sanders, Mr. Waxman, and Mr. Gingrich.

H.J. Res. 235: Mr. Smith of Florida.

H.J. Res. 285: Mr. Camp.

H.J. Res. 364: Mr. Anderson, Mr. Ballenger, Mr. Bereuter, Mr. Darden, Mr. DeFazio, Mr. de la Garza, Mr. Dixon, Mr. Edwards of Oklahoma, Mr. Frank of Massachusetts, Mr. Johnson of Texas, Mr. Lewis of Georgia, Mr. Ritter, Mrs. Roukema, Mr. Russo, Mr. Scheuer, Mr. Serrano, Mr. Smith of Oregon Ms. Snowe, Mr. Torricelli, Mr. Vento, Mr. Volkmer, and Mr. Young of Alaska.

H.J. Res. 372: Mr. Spratt, Mr. Guarini, Mr. Stearns, Mr. Thomas of Georgia, Mr. Savage, Mr. Poshard, Mr. Jones of Georgia, Mr. Olver, Mr. Lancaster, Mrs. Vucanovich, and Mr. Payne of Virginia.

H. Con. Res. 12: Mr. Stump.

H. Con. Res. 89: Mr. Sikorski.

H. Con. Res. 103: Mr. Moorhead.

H. Con. Res. 168: Mr. Wolpe and Mr. Wylie.

H. Con. Res. 189: Mr. Smith of New Jersey, Mr. Ritter, Mr. Dornan of California, Mr. Machtley, Mr. Lowery of California, Mr. Horton, Mr. Towns, Mr. Kolter, Mr. Engel, Mrs. Lloyd, Mr. Owens of Utah, Mr. Smith of Florida, Mr. Bateman, Mr. Jefferson, Mr. Fawell, and Mr. Lagomarsino.

H. Con. Res. 210: Mr. Smith of Florida.

H. Con. Res. 222: Mr. Dwyer of New Jersey.

H. Con. Res. 224: Mr. Tauzin, Mr. Pursell, Mr. Livingston, Ms. Molinari, Mr. Lewis of Florida, Mr. Smith of New Jersey, Mr. Torricelli, Mr. Eckart, Mr. Schaefer, Mr. Chapman, Mr. Gilman, Mr. Ford of Michigan, Mr. Hall of Texas, Mr. Coleman of Texas, Mr. Edwards of Texas, and Mr. Andrews of Texas.

H. Con. Res. 236: Mr. Lewis of California, Mr. Blaz, Mr. Hansen, Mr. McDade, and Mr. de la Garza.

H. Res. 204: Mr. Hancock, Mr. Lewis of Florida, Mr. Crane, Mr. McGrath, Mr. Traficant, and Mr. Machtley.

H. Res. 276: Mrs. Meyers of Kansas, Mr. Spence, Mr. Saxton, Mr. Stump, Mr. Wolf, Mr. Martin, Mr. Coughlin, Mr. Kolbe, Mr. Goss, and Mr. Kyl.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res 353: Mr. McMillan of North Carolina.

SENATE—*Wednesday, November 20, 1991*

The Senate met at 8:45 a.m. and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Come now and let us reason together, saith the Lord: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.—Isaiah 1:18.

Eternal God, infinite in love, help us contemplate the reasonableness of Your gracious mercy as Isaiah understood it. Help us to listen to reason—Your reason. Forgive us for the empty gods we worship, Father, rather than the true God revealed in Scripture. Help us understand that Your perfect love transcends all our failure and sin; that there is nothing we can do to make You love us more than You do; there is nothing we can do to make You love us less than You do. For it is Your perfect nature to love.

Our Father, may we learn to accept Your gracious promise of forgiveness. Deliver us from our tendency to cover guilt, realizing that suppressed guilt is destructive within. You have promised, "If we say we have no sin, we deceive ourselves. * * * If we confess our sin, You are faithful and just to forgive us our sin and to cleanse us from all unrighteousness." Enable us to confess, that we may be forgiven and freed from bondage to unconfessed sin.

In His name who is perfect love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 20, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein.

The Senator from Vermont [Mr. LEAHY] is permitted to speak for up to 10 minutes. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent I be allowed to speak for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE 1974 ELECTION

Mr. LEAHY. Mr. President, I am delighted to see the Presiding Officer, the distinguished senior Senator from Kentucky, a man who served in this Senate with distinction for now nearly 17 years, having been elected in the first week of November 1974.

Mr. President, I recall watching that election with great interest. That was the year I read all the election returns from across the country, alphabetically, beginning with the State of Vermont.

AGRICULTURAL ASSISTANCE TO THE SOVIET UNION

Mr. LEAHY. Mr. President, in the past 3 years, we have witnessed enormous political change in Eastern Europe. The fires of freedom have fanned across the continent, demolishing the Berlin Wall, toppling despot after despot, liberating the Baltic States, and freeing millions from the grip of communism.

Since the failed August coup 3 months ago, events in the Soviet Union have accelerated at breakneck speed. The institutions that once propped up the Soviet state—the Communist Party, KGB, and others—have been dismantled. In the void left behind, the leaders of the former U.S.S.R. and its Republics struggle to define the government or governments that will take its place. And as the Republics lurch toward a still undefined new economic order, rumors of food shortages spawn panic buying and hoarding of scarce commodities.

For most Americans, the August coup attempt was our worst nightmare come true. We and the world breathed a collective sigh of relief when Boris Yeltsin and thousands of Russians defied the coup leaders and stared down their tanks. But it is nothing more than a fool's paradise to think that a coup of the extreme right or extreme left cannot occur again, particularly in an era of scarce resources and tremendous political instability.

The upheaval in the Soviet Union is a watershed in our 75-year relationship with that nation. It presents us with a tremendous opportunity to reevaluate and redefine our relationship with Eastern Europe and to help design a long-term strategy for transforming the Soviet Union into a modern partner in the community of nations. It will also have significant impact on us here at home by freeing up our $300 billion defense budget for important domestic needs and deficit reduction.

But the administration's thinking, as reported in today's Washington Post, fails to take advantage of this historic opportunity. It favors short-term expediencies instead of a long-term coherent foreign policy.

By drifting without a plan or purpose and by failing to coordinate with our Western allies, the administration is letting world events limit our options instead of using American leadership to create new ones. By giving piecemeal foreign aid to the Soviets under the guise of agricultural credit guarantees, the administration is playing a deceptive game with American taxpayers.

In the short run, we and our Western allies may need to send food to the Soviet Union this year so that shortages do not undermine the fragile political reforms now taking place. Short-term tensions will be eased if Soviet citizens do not have to worry about getting their next loaf of bread.

But short-term, emergency food aid is, by definition, a stopgap measure and not a long-term policy. As our world has radically changed, we must develop a long-term strategy, before we commit to a major foreign assistance program for the Soviet Union that involves our allies and reflect several considerations.

First, Americans are rightly divided over the question of aid to the Soviets. They need a clear explanation of how and why we should aid the Soviet Union—and where the money should come from.

In the past, we have given large amounts of assistance to other nations that now challenge us economically. And most Americans are painfully aware of the urgent problems at home,

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the dramatic recession, and scarce budget dollars. The American people will support assistance if they understand its purpose and how it serves our national interest. For that reason alone, we need a public and honest debate about the direction the administration plans to take.

But rather than being honest with the American people, the administration is trying to camouflage foreign aid. It wants to use the Commodity Credit Corporation Agricultural Export Credit Guarantee Program through which it entices domestic and foreign banks to loan money so that other countries can buy U.S. agricultural goods. If the foreign government fails to pay back the loans, the U.S. Treasury will.

In the Soviet Union's case, the administration wants to waive the credit worthiness provision of these credit guarantees, increasing the risk that these loans will not be paid back, and thus turning them into foreign aid gifts. If the administration wants foreign aid for the Soviet Union, then it should lay out the case for the American people, followed by a congressional debate and vote. We should not slip into a new foreign aid program through the administration's sleight of hand.

While Americans are generous, we cannot expect American taxpayers to send billions of dollars in development assistance to the Soviet Union when our bridges are crumbling, our schools are underfunded, and our unemployment benefits are running out.

The Soviets' severe economic problems have worsened since the coup, making it questionable whether they will be able to repay these loans in the short term. The administration understands this and proposes waiving the creditworthiness provision of the credit guarantee programs, increasing the risk that these loans will not be paid back, and turning them into foreign aid gifts.

American taxpayers are already spending billions to cover the losses of failed savings and loans; they should not have to spend billions to cover the losses on commercial loans that the Soviets can not repay.

I believe when the time and conditions are right, we will help the people of the former Soviet republics convert from a collapsed nation to one that has a viable free enterprise economy. But if we as a nation are going to commit to do this, we must do it openly and with the support of the American people.

Second, the administration is failing to effectively coordinate our relief efforts with the Europeans and Japanese, at an even greater cost to American taxpayers. Since the end of World War II, the United States has primarily shouldered the personnel and financial burden of protecting Western nations through NATO and other alliances. The Persian Gulf war heralded a new era, establishing the principle of the allies sharing the financial burden of achieving international objectives.

The United States is willing to provide the leadership in forging a new Western relationship with the Soviets; it cannot be expected to shoulder the great portion of the financial burden as well. Other nations, such as Japan and Germany, who now enjoy great wealth but have paid relatively little in the past for Western security, should be expected to pay substantially more now, with the United States paying substantially less. Instead of the administration moving unilaterally, the Western nations should move together and pay together.

Third, economic assistance to the Soviets must take into account their current problems with food distribution—moving food between the farms and cities and from the main government to stores in the Republics, even the small, Central Asian ones. Much of the Soviets' problems stem from an antiquated distribution system, inefficient state planning, and other economic failings—all long-term problems needing long-term solutions, not short-term fixes.

It makes no sense for United States taxpayers to pay for sending the Soviets tons of food over the short term, only to have it rot on the docks or fill the pockets of the elite.

Fourth, in principle, United States aid for the Soviet Union can be designed in a way that serves our economic interests. For example, some of the aid may be used to purchase U.S. goods, machinery, agricultural products, and technology which in turn could help foster some economic growth in the United States. Also, aid may help the Soviets demilitarize their economy and free resources for civilian uses. This could allow the United States also to convert some of its defense expenses to civilian needs.

At the right time, we should be ready to invest in the future of the Soviet Union because it will help us secure our own peace and security and is in our long-term, national interest. While we would prefer the administration develop a coherent Soviet aid policy, Congress will act if the administration will not take the lead. I intend to address broad issues of aid to the Soviets through my role as chairman of both the Senate Agriculture Committee and the Foreign Operations Subcommittee.

The question of aid to the Soviet Union is one of the reasons I decided to delay the foreign aid appropriations bill until next year. This gives the administration time to propose a strategy and program to aid that nation. In the meantime, there is no reason to creep in the back door with a disguised foreign aid package.

There will be few opportunities in our lifetime as great as the one created by the upheavals in Eastern Europe. This is a watershed—one that presents us with a tremendous opportunity to help transform the Soviet Union into a modern partner in the community of nations and to free up defense dollars for important domestic needs. Let us act properly now, not only for our benefit but for our children's benefit.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Indiana [Mr. LUGAR].

Mr. LUGAR. I thank the Chair.

NUCLEAR SAFETY AND STABILITY

Mr. LUGAR. Mr. President, I join with the distinguished Senator from Oklahoma in a bipartisan plea this morning for our country to recognize great dangers in the Soviet Union. These great dangers are posed to nuclear safety and stability by the profound changes occurring in the Soviet Union. The United States has been slow to recognize these dangers; the Congress has been even slower in debating the need and means to do something about it.

These dangers are threefold:

First, the process of devolution of political authority that is taking place in the Soviet Union creates the danger that the ultimate disposition of nuclear weapons in the new political system will not be conducive to their safety or to international stability.

Second, there is a danger of seizure, theft, sale or use of nuclear weapons or components during the period of transition, particularly if a widespread disintegration of the custodial system should occur.

Third, there is a danger that any weakening of control over weapons and components could spill outside the territory of the former Soviet Union, fueling nuclear proliferation worldwide.

All three of these dangers warrant immediate consideration of United States leadership to achieve preferred outcomes as the Soviet empire dissolves and its nuclear weapons complex devolves to successor states.

Nonstrategic nuclear weapons within the former Soviet Union are a source of major concern because of their great number and variety, and because they are more widely dispersed among the Republics than strategic weapons. Moreover, the system of procedural and technical safeguards that has prevented unauthorized seizure or use of these weapons for over 40 years offers no guarantees in the face of potential widespread social disorder on the horizon. Thus, removal of these weapons to central storage and ultimately destroying them is of critical importance.

Leaders of the Soviet Union and of individual Republics have stated a willingness to destroy thousands of strategic and tactical nuclear weapons that fall outside existing or prospective arms control regimes. President Gorbachev has announced that the Soviet Union wishes to destroy its nuclear artillery shells and mines, its nuclear warheads for tactical surface-to-surface missiles, as well as part of its stockpiles of nuclear antiaircraft missile warheads, tactical nuclear weapons on-board ships, and nuclear bombs carried by land-based naval aircraft.

At the Republic level, Ukrainian officials have called for the destruction in place of strategic nuclear weapons that otherwise could be retained, and the Russian President has urged the central authorities to eliminate strategic weapons permitted under START as opposed to transporting them to Russian soil.

In recent conversations here in Washington, Soviet officials have pointed to nearly 15,000 nuclear weapons that they would like to destroy with our help. In response to Gorbachev's proposal for joint activities involving "technologies and procedures for the dismantling of nuclear explosive devices," President Bush suggested that the two countries explore cooperative ventures designed to implement the storage, transportation, dismantling and destruction of nuclear weapons and to enhance existing arrangements for the physical security and safety of nuclear weapons.

The chairmen of the Armed Services Committees in both Houses made an effort to address the issue. The reactions in both Houses were such that provisions dealing with the problem were stripped from the conference report. But this quarrelsome response to a growing strategic danger does not absolve the Congress of its responsibilities.

Nuclear weapons do not simply fade away; they must be disabled; they must be dismantled; they must be destroyed. As the chairman of the Armed Services Committee pointed out on the Senate floor last week, the dismantling and destruction of nuclear weapons requires two things currently unavailable in sufficient quality and quantity to Soviet and Republic leaders—technology and resources. In addition to technical know-how, the Soviets desperately need centralized nuclear storage facilities, transportation networks, and dismantling plants.

We can either seize the opportunity for cooperative efforts in this field now or witness a quantum leap in the proliferation of weapons of mass destruction in the next few years. The time to establish an antiproliferation regime is now. An appropriate place to start again is with the former Soviet Union and its Republics, seemingly willing partners in destroying weapons before they can proliferate.

The United States is not in a position to call the shots either as to the dissolution of the Soviet Union and eventual forms of successor states, or as to the devolution or dispersal of Soviet nuclear forces among them. But the United States does have important leverage if its preferences and influences are identified early and our leadership brings swift and coherent action.

I will be talking with Senate colleagues and administration officials who share a determination to act in the next few days. We must find appropriate steps to take before the Congress adjourns. The obvious and enormous advantage of substantial Soviet denuclearization is that it would eliminate a substantial portion of the nuclear threat to United States security and survival. The destiny of the 27,000 nuclear weapons on the territory of what is increasingly called the former Soviet Union is an urgent and paramount concern. It is one without precedent and therefore without settled guidance. It calls for the initiative of specific actions now.

Also requiring our immediate attention is the granting of agricultural credits and specific humanitarian assistance to the former Republics and the Soviet Union.

The Soviet Union has been one of our best export markets for the past two decades. In the past 10 years, the United States has exported about $20 billion in commodities. Since our purchase of Soviet agricultural products is minimal, most of this trade registers on the positive side of the balance sheet.

All of these sales have been on commercial terms and the Soviets are current in their payments under the Export Credit Guarantee Program. The next payment is due in January 1992.

The debate on the Soviet Union has largely ignored one very important factor—that exports to the Soviet Union are important to our domestic farm economy and to farm-related jobs in America. The GAO said in its report on Soviet trade this summer that "the United States share of Soviet imports has a significant impact on U.S. farm programs, Government outlays and farm incomes." "* * * Large exports to the Soviet Union," the GAO noted, "have contributed to higher U.S. farm prices and reduced Government outlays and food stocks."

The current issue is what kind of presence we want to have in the Republics as new political entities emerge. If we are not there in some way, will we abandon future cash markets to competitors? If we withhold humanitarian assistance, will we also be withholding any attempt to have a positive influence on a chaotic and potentially dangerous situation?

The United States has a wide range of programs which the administration can now use—donated food aid, commodities sold on very concessional terms, export credits, and technical assistance. The administration may need authority and flexibility to react to this precarious situation.

I have asked the administration to declare what type of authorization, if any, it needs to carry out a program in the Republics this winter. Perhaps food aid, technical assistance and export credit authority can be met by borrowing from other programs and then replenishing these programs through supplemental legislation. Perhaps authorization is needed now. If so, we should debate and enact authorization promptly.

I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank my colleague, the distinguished Senator from Indiana, and the senior member of the Foreign Relations Committee of this body. It is my privilege very often to work with him on both sides of the aisle, across the center line here on matters of importance to our national security, both in his capacity, as I say, as the senior and respected member of the Committee on Foreign Relations of this body and in my capacity as chairman of the Senate Intelligence Committee.

I am proud to join with him today again in such a joint effort, specifically to call upon all of our colleagues in both parties and leadership of both Houses of the Congress, and in the White House, and in the administration to undertake jointly a bipartisan truce on the issue of what we should do about helping the Soviet Union at this time of crisis.

This is no time for partisan politics. This is no time even with an election less than a year away for each side to try to score political points against the other. This is a time in which our national security is gravely threatened. The American people need to be told the truth, and we need to come together in a bipartisan fashion to deal with this crisis before this Congress adjourns for the year prior to Thanksgiving.

We are now in a race against the clock to get something done to protect our national interest. We are often accused, Mr. President, in this body and in the Congress, and indeed all policymakers of our Government, of having a short attention span. All of us understood exactly what was at stake during those critical hours when there was an attempted coup in the Soviet Union, the attempt to overthrow Mr. Gorbachev, and the attempt to put the leaders of the KGB and the military back in charge of the Soviet Government. We all knew that if that side had prevailed and that coup attempt succeeded the arms race would have been reignited.

I had a meeting with Mr. Kryuchkov, one of the coup plotters, head of the KGB, in April. After that meeting I came away very alarmed. It was obviously clearly his intention if he had any say about it to resume the cold war, to resume the arms race. All of us know would have happened if those kinds of people had come to power in the Soviet Union. The arms race would have been resumed and our ability to deal with the serious domestic problems here at home—our own economic problems, the problems of the unemployed, the problems of rebuilding our educational strength and our economic strength of this country—would have again faced the competing demands to provide the deterrence necessary if an arms race had resumed and if the nuclear threat from the Soviet Union has been resumed at that point.

Mr. President, that danger has not gone away. It is simply present now in a new form, and we should look at it clearly. Let us remember that just because a person does not call himself a Communist it does not make him any less dangerous if he comes to power in a nation and has at his disposal over 10,000 strategic nuclear warheads pointed at the United States of America. Just because he does not call himself a Communist does not mean that he could not emerge as a real threat to the national security of this country.

Adolf Hitler did not call himself a Communist. But no one would argue that he was not a threat to the rest of the world at the time in which he was holding center stage in Germany.

The warning signs are all around us. In the past week I had an opportunity to speak with our former Ambassador to the Soviet Union, Ambassador Matlock. I had opportunity to visit with former Senator Bellmon, our colleague from Oklahoma, who served with all of us here and returned from the Soviet Union and reported on findings there.

I had opportunity to visit with Chairman Yakovlev, leading reformer, Chairman of the Democratic Reform Coalition in the Soviet Union, a man who predicted that the coup attempt would occur 3 days before it did occur, and who had been warning of it for some time before that.

We all read the statement of Ambassador Strauss about the severe problems in the Soviet Union. We are aware of the fact that in the last Russian Republics Presidential election Mr. Zhirnovski, an extremist, a person who appeals to racial divisions and extreme Russian nationalism, received over 60 percent of the vote in that election, indicating and signaling there is that kind of attitude that can be exploited in very difficult economic times to come.

We read the economic projections of Soviet and American economists like Mr. Samuelson and Mr. Popov, who indicate that this year alone the GNP will probably decline in the Soviet Union between 10 and 25 percent. By comparison, Mr. President, during the Great Depression, the largest drop we had in 1 year in the GNP in this country was about 8 percent. So we are talking about catastrophic change.

Seven hundred thousand soldiers are returning to the Soviet Union from Eastern Europe. There is no place to house them.

There has been a one-third drop in their grain production in this year. There is a real risk that people will be hungry within a few weeks in the Soviet Union.

Mr. President, this is not a matter that should be viewed as a normal discussion of foreign aid. We have had a lot of discussion in this Chamber and in our country recently about the need to pay attention to domestic priorities. I am one of those who agrees with those who made the argument that said we must take care of our problems here at home or not be able to help anyone else in the rest of the world. We are not talking here about the usual situation of giving foreign aid to some other country. We are talking about a national security issue. We are talking about the fact that very serious observers, our principal experts in this country, and the wisest observers within the Soviet Union itself, are warning us that there is a real possibility of serious social and political disruption within the next few months in the Soviet Union that could bring people to power who would be every bit as dangerous as Mr. Kryuchkov and fellow coup plotters in terms of resuming the cold war and arms race. That is what we are talking about, a national security issue, and we must view it with our eyes wide open.

The Senator from Indiana has talked about the risk of nuclear proliferation. The problem of all of these nuclear weapons and no technology and no economic means available to store them and to begin to destroy them.

He has talked about the fact that we need to have conversion of the current Soviet defense establishment into a peaceful, productive capacity that will no longer threaten the United States or be a drain on their economy as well.

Two chairmen of the Armed Services Committees of the House and Senate have tried to deal with this matter. They pointed out this risk. They did not try to take domestic social program funds to deal with it. They took defense funds in an attempt to deal with it because there is a national security matter. It is not a matter of competing with domestic needs.

Mr. President, that was a worthy effort. It did not succeed. It is time to go back to the drawing boards and look both at the immediate need in terms of preserving social and political stability during the winter so that people are not hungry. And knowing the lack of infrastructure for delivering of food in the Soviet Union we must also think about the possibility of our using our military to get aid directly into the cities they are needed, so it will not be wasted, so it will not be sent places where it is not needed, and so we can preserve stability, prevent a return to the cold war in the arms race by the wrong people coming to power within the Russian Republic, or what has been called the Soviet Union in the past, and begin this process to seize the opportunity that may never come again, as the Senator from Indiana has said. It may never come again where we have leaders who are in place ready to work with us to destroy the nuclear arsenal of the Soviet Union which has threatened us for so long, and which has cost us billions, indeed, trillions of dollars in the arms race in the past.

Mr. President, we simply must not be frozen in place of this point in time. History will judge us, and the American people will judge us, particularly, in the next generation if we do not do something now. For us to be frozen in place because we are worried about who will get the political credit or the political blame for doing what is necessary for the national security interests of this country is dead wrong.

If it is putting partisan politics and personal politics ahead of the national interest, there is a time and a place for politics. We have a two-party system. I believe in it. There is a time for two-party competition. There is also a time for something that is very old-fashioned, a word we do not use very often: statesmanship.

This, Mr. President, is a time for statesmanship. It is a time for each side, the political leaders of both of our parties to say, we are not going to try to score political points on this one. It is too serious. We are simply prepared to sit down together and work out a new plan and a new solution for dealing with this crisis and for protecting the national security interests of the United States of America. Let us tell the people the truth.

It is my hope that the Speaker, the majority leader, and the minority lead- of the House, that our two leaders, our majority leader and minority leader, will send signals right away, today, this morning, to the President and to the Secretary of State and to the Secretary of Defense, and others, saying we are ready to sit down together to leave politics parked at the curb outside of the conference room and to sit down together to work out an American plan to deal with this threat to our national security.

I call upon the President to do the same, to send a signal to the leaders of Congress of both parties that he is also ready to sit down on that basis. I hope that he will call together the bipartisan leadership group, which he has called upon several times, which includes the leaders of the Armed Services, Foreign Relations, and Intelligence Committees of both Houses, the bipartisan leadership of both Houses, to sit down with him and his close Presidential advisers to work out a plan to deal with this crisis.

We simply must not wait. Let us declare a bipartisan truce now on dealing with the problem in the Soviet Union. Let us take it off the table in terms of what we are going to fight about as we approach the next Presidential election, and let us do what needs to be done for the sake of our country.

Time is running. There are few precious days left in the session for us to undertake to put together a plan that will work, that will not waste the taxpayers' money, that will, indeed, use food produced by our people with jobs in this country by our processing plants and farms, and that will utilize national defense dollars because, after all, this is a national security matter.

Let us develop a commonsense plan that the American people will understand, and they will understand this is not about competition with domestic needs, because they will also understand what it will mean to them, what it will mean to them as taxpayers, what it will mean to the unemployed, what it will mean to the homeless, to those who need educational improvements in this country, what it will mean to the middle-income people who need tax relief if the arms race reignites with its billions of dollars of financial burdens.

Let us not miss what is an opportunity, and let us also not fail to take action to confront what, indeed, will become a severe crisis. It may not wait, Mr. President, for us to return here in January. This situation in the Soviet Union may not wait. When people are hungry and when social unrest strikes, and when there is disorder abroad in a capital city, as we saw in Moscow not too long ago, and when we hear the wisest observers of the Soviet Union say Moscow was the cradle of revolution recently, and it can be the cradle of revolution again, but the wrong kind this time; it is just as dangerous for us, even though they may not march under the Communist banner—just as dangerous. They are not going to wait to be told: I am sorry, you cannot act now, or overthrow the Government now and you cannot put in an anti-American leader, one who would reignite the arms race, because Congress is not in session to deal with this problem, and they will not be back until the third or fourth week of January.

It is time for the President and the leaders of both Houses—without regard to party—to prove once again that we can be Americans first and deal with a problem, deal with a threat to our national security.

With all of the criticism of the Congress recently, and of the political system, what a signal it would send to our people if we can demonstrate that we are still capable of setting aside politics and party bickering to be Americans first and deal with an American problem. Let us do it. Let us declare a bipartisan truce on this important issue. Let us do it this morning.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 1992 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota [Mr. CONRAD].

FOOD CRISIS IN THE SOVIET UNION

Mr. CONRAD. Mr. President, first I want to join my colleagues who have spoken earlier on the urgent necessity to provide additional credits to the Soviet Union for the purposes of purchasing grain from the United States.

A number of weeks ago I introduced a bill to provide an additional $2 billion in credits to the Soviet Union. Unfortunately, there has been no action in those intervening weeks. The result is the winter in the Soviet Union gets closer, the food lines are growing and, at the same time, in this country we face in the farm crisis the lowest prices for agriculture commodities in 50 years.

Mr. President, that is taking a very tough toll on States like mine. I urge the administration to move more quickly to start to deal with the problems of food crisis in the Soviet Union and a farm crisis right here at home.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 1993 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

HOUSING AND THE ECONOMY

Mr. DIXON. Mr. President, the American dream has always been home ownership. A family works hard, buys its own home, and lives happily ever after, at least in the storybooks.

However, the American dream is now becoming an American tragedy for more and more middle- and moderate-income Americans. The dream of homeownership is slipping out of their grasp.

Fifteen percent of all men and over 8 percent of all women in the 25-to-34-age group are living with their parents, an increase of 45 percent since 1970.

Home ownership rates are also declining. Only about half of all young adults now own a home, down from over 60 percent just 20 years ago.

One major reason for that decline is the rising cost of housing. Sadly, it is getting harder and harder for moderate- and middle-income Americans to afford a home. A recent story in the Washington Post, quoting an analysis by Harvard University's Joint Center for Housing Study, stated that in 1970, firsttime homebuyers paid roughly 16.2 percent of their after-tax income for housing expenses; now, they have to spend 29 percent—almost double. What makes it worse is that, now, it is often 29 percent of the incomes of two family members, not just one.

What is the current administration's answer to this growing erosion of the American dream, Mr. President? Based on the evidence, it seems that the administration's answer is to ignore the problem. And the results of that head-in-the-sand attitude are all too clear:

In 1990, housing starts averaged barely 1.2 million units per year, the worst year there are statistics for;

Since 1989, real residential construction has fallen at an annual rate of 8.59 percent, the worst record there are statistics for; and

Since 1989, real nonresidential construction has fallen at an annual rate of 7.53 percent, the worst record there are statistics for.

This administration seems to have little interest in trying to provide good jobs that allow American families to buy homes. It is content to allow those jobs to be exported, and to trumpet the creation of low-paid, fast-food jobs that no one can even live on—let alone buy a home on.

This administration seems to have little interest in trying to provide good, decent, affordable health care for all Americans, so that this source of anxiety is alleviated, and so Americans can devote their savings to making a downpayment on a little house, instead of having to keep the savings aside for a potential catastrophic illness.

This administration seems not to much care that declining real estate values are eroding the value of homes for those Americans who are homeowners. The administration does not seem to be at all worried that this largest source of wealth and retirement security for average Americans is being lost.

This administration has no policy for seeing that affordable housing in good neighborhoods close to places of employment is built. This administration has no policy for getting our economy moving again, and providing any means at all for ordinary Americans to improve their standard of living.

We need leadership, Mr. President. The American public is entitled to leadership from this administration. But Americans are not getting leadership. Instead, what we seem to be getting so far is reminiscent of President Hoover's response to the Great Depression: A policy based on doing nothing and hoping things get better by themselves.

We cannot afford that kind of do-nothing policy. We need action and we need it now. Americans have always looked forward with the certainty that their children would live better than they do. But that certainty is now gone.

Americans want to own their own homes. Americans should be able to own their own home. They need a government that has affordable, decent housing, good jobs, real educational opportunity, and health coverage that they can count on as their top priorities. I wish that this administration shared those priorities. Based on its record of accomplishments to date, however, I do not believe that it does.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

FAIRNESS FOR AMERICANS

Mr. BRYAN. Mr. President, I think all of us hope, none more than the American public, that the Congress is soon to complete this session of the 102d Congress. We have been told, and I think rightly so—although I regret to say that it is a necessity—that before we leave, we are going to have to recapitalize the bank insurance fund, something I know the Presiding Officer has been very much interested in and concerned about.

We are also going to have to come up with an additional $80 billion for the savings and loan bailout. That will total $160 billion, since the Presiding Officer and this Senator came to the U.S. Senate in January of 1989. What we are doing is we are picking up the pieces, the wreckage, if you will, of a decade of unparalleled greed in the history of this country.

Not since the days of the robber barons, in the latter part of the 19th century, have we seen such conspicuous excesses, and the cost of the American public, the taxpayers, our constituents, is enormous—$70 billion for the recapitalization of the bank insurance fund and an additional $80 billion for the necessary working capital and other expenses attendant to the savings and loan bailout. As I have said, that will total $160 billion.

The economist Felix Rohatyn, I think, put's it in pretty good perspective, Mr. President, He observed:

> We have just seen the end of the greatest decade of speculation and financial irresponsibility since the 1920's. Financial deregulation, easy credit, regulatory neglect have combined with a degradation of our value system to create a religion of money and glamour. Wealth and fame became the ultimate standard to be achieved at any price. The most conservative and traditional professions such as the law and banking became centers of egregious financial behavior that would have made Diamond Jim Brady seem like a puritan.

Mr. President, if one looks back across this decade that so recently has been concluded, we will see the names that represent the icons of that agreed, the excesses of which Felix Rohatyn addresses himself. They are the Ivan Boeskys, the Mike Milkens, the Fred Carrs, and the Charles Keatings.

Mr. President, not only have the American taxpayers been taken for an enormous loss as a consequence of their actions, but there are literally tens of thousands of individual victims, victims who have lost their money as a result of the violations these men have been involved in, in manipulating the securities markets of this country. Tens and tens of thousands of those individuals have brought actions against the Boeskys, against the Milkens, against the Fred Carrs, against the Charles Keatings.

In June of this year, the Supreme Court decided Lamp versus Gilbertson. It was a shattering blow for those victims, tens of thousands of them. In the Charlie Keating cases alone we know of 23,000 victims, and there are ten of thousands more in the Milken cases, in the Carr cases, and in the Boesky cases.

Let me illustrate, if I may, very briefly. These are typical of the cases in which notions have now been filed to dismiss plaintiffs, victims of these fraud, as a consequence of the Lamp versus Gilbertson decision, which the Court determined retroactively. So there are literally tens of thousands—23,000 victims—in cases like this if this Congress fails to act and to correct the manifest injustice of the Lamp versus Gilbertson case.

We have also been informed by general counsel of the FDIC and also by the Resolution Trust Corporation people that the cost of the bailout, the money that we are being asked to appropriate in this Congress for the bank failures and the savings and loan failures will be greatly increased if Lamp versus Gilbertson is not modified. Here is such a case in which the Resolution Trust Corporation becomes the successor to Columbia Savings and Loan and is bringing an action against Mr. Milken to recover as a consequence of some of the fraudulent activity alleged to have been committed by Mr. Milken. So not only the $70 billion for bank insurance recapitalization and $80 billion more for the savings and loan, but there may be even more money asked if we take no action.

Mr. President, the Banking Committee did the responsible thing. S. 543 has a provision which modifies the decision in the Lamp case and it says, in effect, that a new standard is set prospectively, a 2-year statute of limitations from the time of the discovery of fraud or a 5-year outside bar, whichever shall occur first. And with respect to all of these thousands of cases that are pending, victims of fraud, what the amendment that we are asking and is incorporated in the banking legislation that we are debating says is, look, if those cases were filed in a timely fashion in the State or jurisdiction in which they were filed at the time they were filed, those cases then may go forward and those victims will simply have the opportunity to appear in court to seek justice.

No one, to my knowledge, has come forward on the floor of the Senate to say, "Look, we are opposed to modifying the decision in the Lamp case," but there is a strategy, and the strategy is to say, no, we cannot do that; we cannot do that because we have to consider tort reform.

Mr. President, I am not suggesting that there may not be some very worthy changes that we ought to consider in the context of our legal system. I do not advocate or suggest it is perfect. But, clearly, this is a thinly veiled attempt to, in effect, defeat the modification of the Lamp versus Gilbertson decision and to deprive those tens of thousands of people their day in court. If any of our colleagues think we are not going to be hearing from those people because motions are pending in many cases, which will undoubtedly be granted, many of them will be on Capitol Hill tomorrow to offer testimony in a hearing in the other body, so we are certainly going to hear from them.

This notion that we cannot act upon Lamp versus Gilbertson until we consider tort reform is a strategy, in my judgment, the effect of which is very clear, and that is to frustrate Lamp versus Gilbertson. We have had no hearing on any of the proposed tort reform measures, and, indeed, the administration has indicated they will send a package up to us next year. We ought to take a look at that. I express no opinion as to whether those provisions have merit or not. I do not know what they are. But I think nobody ought to leave this session of the Congress, without fully comprehending the consequences of our decision. If we fail to act, we are guilty of nonfeasance, and that nonfeasance will be a consequence visited upon tens of thousands of these victims and the American taxpayer.

All the speeches that we all like to make about what a tragic thing it is to have to come up with $70 billion for the banks, another $80 billion for the savings and loans will ring hollow, Mr. President, if we do not do what we can and what we ought to do in the cause of justice and fairness to those victims of fraud who simply seek an opportunity to be heard in court and to protect the American taxpayer from further exposure by additional losses as a result of failure to bring these actions.

I hope, Mr. President, that we can move forward on the banking legislation which is before us. It is part of S. 543.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President.

HOUSING CONSTRUCTION

Mr. GRAHAM. Mr. President, we have received this morning the latest monthly report on housing construction. That report is for October. Housing construction increased by 7.3 percent. That is good news. It is also good news that applications for permits to build new homes, a sign of future activity, also rose by 5.4 percent. Those pieces of good news contribute to a revised annual estimate of housing construction in America for 1991 of 1.1 million units. That is the immediate good news.

Mr. President, that good news is in a larger context of a sharp decline in the construction of homes for American families. The year 1991 could well be the lowest year in terms of new home construction since the late 1940's, for a period of almost 40 years since we have seen the level of construction of housing for American families at the level that it is today.

Mr. President, the current state of housing in America did not happen by accident. It was the result of a conscious, consistent, sustained series of policy initiatives toward a common goal. That was a goal of the Reagan-Bush administration which was announced, enunciated, and acted upon. That goal was to reduce the amount of housing capital, to reduce the amount of total investment in housing for Americans.

It was the policy of the Reagan-Bush administration to release capital that we have been spending to house Americans for use in other areas of the economy. It is clear that Americans are the best-housed people in the world. To anyone who has seen the conditions of housing of even other industrialized nations which exceed or approximate America's level of individual prosperity, it is clear that we as a nation have placed a higher emphasis on housing for our people than have other societies.

Mr. President, I for one believe that has been appropriate and a part of the American tradition, appropriate because America has understood that one of the ways that you build democracy is by making all Americans stockholders in democracy. And the key stock that most American families hold in this democratic system is ownership of their own home. That has given a stability and a sense of personal involvement unique to the American society.

It was at that basic American tradition the Reagan-Bush administration launched in 1981 a series of initiatives which have now brought us to the point of the lowest level of construction activity since the end of World War II. Mr. President, the consequence of their policy has affected all areas of housing, but nowhere more than for housing for middle Americans, the American of moderate income. Housing for that sector of our American population has been declining over the past 15 years.

Low levels of apartment construction and continued inventory losses assure that the nonsubsidized, the nonpublic rental market will continue to tighten. We are not constructing enough housing for moderate-income Americans, Mr. President, to meet the needs of increasing numbers of family formations, and the eliminations from our inventory.

So we are going to see a further tightening of housing for moderate-income Americans. We are going to see more need for that young married couple to live with their parents. We are going to see it increasingly more difficult for that young couple to be able to afford the starter home that will commence their own period of home ownership.

Mr. President, at the conclusion of my remarks, I would like to submit statistical data which underscores the severity of decline in residential housing activity and its impact on the American people.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. Mr. President, if I could just use as one example of the documents that will be included in the RECORD, what is happening in my own State of Florida.

In 1987 in Florida we had 193,000 housing starts; 131,000 single family, 62,000 multifamily. This year it is forecast that from that 193,000 just 5 years ago, we will be down to 106,000 starts. And in the area of multifamily, which is the sector that most meets the needs of the young family, the moderate low-income American families, the number of housing starts of multifamily in Florida will drop from 62,000 in 1987 to 23,000 in 1991.

Mr. President, those statistics underscore the severity of the problem.

I stated that this was not an accident, that it was a conscious set of initiatives that have brought us to this point. What were some of those initiatives? One was a pattern of studied actions to bring the fundamental financing mechanism for low- and moderate-income housing, which was an American thrift industry, to its knees. The current decline of the savings and loan industry was a matter of combined indifferent and conscious policies that were intended to reduce the relative importance of S&L's among financial institutions in America.

It is interesting, Mr. President, to go back almost 10 years ago and see at the beginning of the Reagan-Bush administration what was being said about the state of the savings and loan industry.

In March 1982, Richard Pratt, then the Chairman of the Federal Home Loan Bank Board, the agency responsible for the regulation and insurance function of the savings and loan industry, testified before the House Banking Committee. He was commenting on the Reagan-Bush administration's proposals to deregulate and expand the powers of savings and loans. Mr. Pratt stated:

> Objections to our powers proposal generally are couched in terms of its supposedly adverse impact on housing, or rest on the assertion that restructuring is a long-run problem that can wait for a solution. Regarding housing, we do not believe providing commercial lending authority to S&Ls will signal any significant abandonment of home-finance. * * * To the contrary, we believe they would employ commercial lending essentially as a vehicle to maintain their ability to continue as housing lenders.

Mr. President, that was not the only statement made by the Reagan-Bush administration. On February 23, 1988, the then-Secretary of the Treasury, Mr. Donald Regan, testified before a congressional committee to the effect that he disagreed with a recently published Brookings Institution study which had predicted—this is in February 1982—that there would be more than 1,000 savings and loans which would merge or would go into bankruptcy, and that the losses of those would be in excess of $9 billion.

That was the prediction of the Brookings Institution for the year 1983. The Secretary of the Treasury, Donald Regan, disagreed with that study and countered that the administration's policies would benefit the savings and loans. He rejected suggestions that the administration prepare a standby plan to aid the savings and loans. This would be unnecessary, he said, because the administration had been working to ensure that the industry's problems were being addressed.

Mr. President, a second part of the policy that has led to the decline of the housing industry is the consistent mismanagement of the Department most responsible for Federal housing policy, the Department of Housing and Urban Development.

We are all aware of the scandalous behavior which occurred in that Department over an 8-year period. Some of the most egregious examples of indifference, egregious examples of misuse of public faith, egregious examples of administrative incompetence, egregious examples of ineffective oversight or lack of concern for the inappropriate activities that took place in the Department of Housing and Urban Development during the Reagan-Bush administration.

The results of those were manifest. They included massive losses, particularly in FHA's financing of multifamily housing and insurance of multifamily mortgages. Freddie Mac suffered significant losses in multifamily areas. The result of this has been a virtual withdrawal of the Federal Government from the multifamily housing market and the significant declines in the current construction level of multifamily housing.

Also, many other HUD programs have been withdrawn as a result of the incompetence of the 1980's. Those included programs which were designed to maintain our stock of housing for low- and moderate-income housing.

The current Secretary, Mr. Jack Kemp, has admitted that the scandals were perhaps a "blessing in disguise," to use his term, and they allowed him to clear the decks of programs that the Republican administration never liked in the first place, but were unable to discharge by congressional actions; now they have been discharged, because they were discredited by administrative actions.

A third area, Mr. President, in which the Reagan-Bush administration participated, activities which have brought residential housing to its current sad state, was in the advocacy of tax law changes. The Joint Center for Housing Studies at Harvard has stated that "The decreases in marginal income tax rates and the increases in the capital gains tax rate under the 1986 Tax Act significantly lowered the after-tax return on rental housing." They continued by saying, "perhaps the most significant blow to real estate investment under tax reform was the provision that says 'passive' investors in rental housing could no longer offset ordinary income with losses from real estate investments. For many investors, this provision substantially eliminated the tax benefits of investing in rental housing."

The Tax Reform Act changes primarily affected the rental housing market, and significantly affected multifamily housing markets. Multifamily housing starts have decreased sharply since 1986 from over 500,000 starts in that year to just over 300,000 starts in 1990.

Again, the policy of the Reagan-Bush administration was to remove those tax areas that had created a stimulus to private investment in residential housing. The removal of those incentives have now contributed substantially to the current low state of residential housing construction since the end of World War II.

Finally, Mr. President, the actions taken in the last 2 years relative to the financial services industry have had a significant adverse effect on housing. One of the items that I believe has been inappropriately misunderstood has been the fact that not only do we need to have the financing for the purchase of homes, where there has been a significant reduction in mortgage rates, but it is also critical that there be financing available for the production of housing, for the construction of homes, so they will be able for a family to purchase.

In recent actions, they have had a serious adverse effect on the capacity of the housing industry to secure capital for the production of housing. Acquisition, development, and construction loans represent a core component of housing finance.

The Joint Center for Housing study on multifamily housing reports that under recent savings and loan and bank legislation, risk-based capital requirements and a single-borrower loan limitation have restricted production lending by thrifts. Salomon Brothers calculates that based upon the new capital requirements, fewer than 40 thrifts nationwide have the capital to make even a $20 million construction loan.

Mr. President, the capital standards that have been adopted in the savings and loan legislation and, to an extent, are proposed to be continued in the banking bill that we will return to later today, are largely a result of the negotiation between the Reagan-Bush administration and other industrialized nations' on setting common capital standards for financial institutions. These are commonly referred to as the Basel Convention.

One of the realities of that convention is that most of the other nations which participated did not have a substantial private housing sector. Most of their housing is through public agencies. Even in a country such as Great Britain, a much higher percentage of its housing is in the public sector than is true in the United States. Therefore, the Basel Convention, in my judgment, was not sensitive to the needs of an economy which relies primarily on private sector financing for its housing; and by carrying forward standards that may be appropriate to other nations to the United States, we have contributed to a substantial tightening of the availability of credit for the production of housing.

Mr. President, my conclusion is that the circumstance that we have arrived at today, the lowest level of housing construction in 40 years, is not a matter of accident or happenstance. It was as a result of a conscious policy goal of reducing the level of American investment in housing and carried out through a series of initiatives from a decline of the basic financing institution for housing, the savings and loan industry, to mismanagement of the Department of Housing and Urban Development, to tax law changes, and to changes in the standards regulation of our financial institutions, which were particularly inappropriate and adverse in their consequences as they related to residential housing.

Mr. President, I believe that it is critical that this Congress take a strong position to recognize that housing is going to be a key, not only to the long-term maintenance of important American values, but also will be a key to our immediate recovery from this current economic slump.

I urge that this Congress, before we complete our action, at least indicate the direction that we intend to take in terms of restoring a level of housing construction in America that will meet the needs of our people, will put hundreds of thousands of people back to work, and will be a significant stimulus toward economic recovery. Thank you, Mr. President.

EXHIBIT 1.—FLORIDA HOUSING STARTS

[In thousands of dollars]

	Total	Single family	Multi-family
1987	193.5	131.2	62.3
1988	180.5	127.0	53.5
1989	157.8	107.3	50.8
1990	129.1	89.6	40.0
Forecast 1991	106.6	83.5	23.1
Percent change:			
1987–88	−6.7	−3.2	−14.1
1988–89	−12.6	−15.5	−5.0
1989–90	−18.2	−16.5	−21.3
1990–91	−17.4	−6.8	−42.3

NATIONAL ECONOMIC DATA

	Industrial production (1987=100)			Capacity utility (percent)	Employment (000)			Unemployment rates (percent)		Composite indicators	
	Manufacturing total	Construction supplies	Home goods	Manufacturing total	Civilian workers	Nonagricultural workers	Construction	Civilian workers	Construction	Leading	Coincident to lagging
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1979	80.9	88.5	89.8	85.4	98,824	89,823	4,463	5.8	10.1	103.6	107.8
1980	78.8	80.8	85.1	80.2	99,303	90,406	4,346	7.1	14.1	99.2	101.6
1981	80.3	78.4	86.3	78.8	100,397	91,156	4,188	7.6	15.6	101.2	104.4
1982	76.6	72.2	78.1	72.8	99,526	89,566	3,905	9.7	20.0	100.0	100.0
1983	80.9	80.2	86.2	74.9	100,834	90,200	3,948	9.6	18.4	116.2	111.5
1984	89.3	86.2	94.6	80.4	105,005	94,496	4,383	7.5	14.3	121.7	111.6
1985	91.6	89.1	90.6	79.5	107,150	97,519	4,673	7.2	13.1	124.1	108.2
1986	94.3	93.8	93.9	79.0	109,597	99,525	4,816	7.0	13.1	132.1	106.8
1987	100.0	100.0	100.0	81.4	112,440	102,200	4,967	6.2	11.6	140.0	111.5
1988	105.8	104.4	104.1	83.9	114,968	105,536	5,110	5.5	10.6	142.7	113.8
1989	108.9	106.1	108.7	83.9	117,342	108,413	5,200	5.3	10.0	144.9	112.1
1990	109.9	105.2	109.3	82.3	117,914	110,323	5,205	5.5	11.1	143.9	111.9
Seasonally adjusted:											
1988:											
September	106.7	104.4	104.4	84.2	115,394	106,207	5,163	5.4	9.5	143.6	113.9
October	107.1	104.7	105.9	84.3	115,671	106,475	5,162	5.3	10.0	143.9	115.0
November	107.8	104.8	106.7	84.6	116,063	106,824	5,191	5.3	10.5	144.1	113.4
December	108.3	105.9	106.6	84.8	116,181	107,097	5,213	5.3	10.1	145.0	114.0
1989:											
January	108.9	106.8	107.5	85.1	116,708	107,442	5,267	5.4	10.3	145.9	113.9
February	108.3	104.6	107.7	84.4	116,800	107,711	5,270	5.2	10.3	145.6	113.2
March	108.7	105.5	108.0	84.5	117,002	107,888	5,252	5.1	9.6	144.8	112.4
April	109.4	106.3	110.0	84.8	117,089	108,101	5,279	5.2	9.7	145.7	113.6
May	109.2	105.9	109.3	84.5	117,065	108,310	5,283	5.2	9.4	144.4	112.0
June	109.3	106.2	109.8	84.4	117,400	108,607	5,283	5.4	10.1	144.2	111.6
July	108.7	106.5	109.2	83.6	117,413	108,767	5,314	5.3	10.6	144.1	111.2
August	109.1	105.5	107.9	83.8	117,565	108,887	5,321	5.2	10.2	144.9	111.9
September	109.1	105.2	109.8	83.6	117,417	109,096	5,325	5.3	10.3	144.9	111.8
October	108.4	106.3	109.8	82.9	117,619	108,980	5,239	5.3	9.1	144.4	110.9
November	108.9	107.0	108.4	83.0	117,920	109,425	5,258	5.3	9.6	144.6	111.4
December	108.8	107.4	108.6	82.8	117,957	109,383	5,216	5.3	9.6	145.3	111.8
1990:											
January	108.1	107.9	110.6	82.0	117,945	109,654	5,294	5.3	9.4	145.4	111.5
February	109.6	108.2	111.6	83.0	118,074	109,958	5,368	5.3	9.2	144.1	112.8
March	109.8	107.3	112.0	82.9	118,235	110,122	5,313	5.3	10.0	145.4	112.8
April	109.5	106.4	111.2	82.5	118,090	110,177	5,256	5.4	10.5	145.2	112.0
May	110.3	105.5	111.1	82.8	118,277	110,304	5,203	5.3	11.3	146.0	112.8
June	110.8	106.0	112.0	83.0	118,237	110,435	5,182	5.3	9.8	146.2	113.6
July	111.1	106.7	109.5	83.0	117,882	110,269	5,245	5.5	10.5	146.2	112.9
August	111.1	105.3	109.6	82.9	117,690	110,160	5,111	5.6	11.2	144.4	113.2
September	111.2	103.8	109.3	82.8	117,883	110,113	5,088	5.7	12.0	143.2	112.3
October	110.7	103.1	106.8	82.2	117,733	110,432	5,093	5.7	13.0	141.5	111.1
November	108.9	101.8	104.1	80.7	117,386	110,165	5,029	5.9	13.3	139.7	110.1
December	107.5	101.0	103.4	79.4	117,574	110,004	4,983	6.1	14.0	139.4	108.6
1991:											
January	107.0	97.7	103.2	78.9	116,922	109,418	4,797	6.2	14.5	138.7	106.3
February	106.1	96.4	100.7	78.0	116,918	109,160	4,792	6.5	15.5	140.2	106.1
March	105.2	94.0	101.4	77.2	116,754	108,902	4,720	6.8	14.1	141.3	105.8
April	105.9	94.9	103.4	77.5	117,398	108,736	4,688	6.6	15.0	141.8	107.5
May	106.6	95.8	104.1	77.8	115,591	108,887	4,715	6.9	14.7	142.9	109.6
June	107.5	97.4	107.3	78.3	116,884	108,885	4,710	7.0	15.6	143.7	112.0
July	108.3	97.1	108.3	78.7	116,712	108,859	4,695	6.8	16.7	145.6	112.5
August	108.3	97.7	108.3	78.5	116,416	108,936	4,691	6.8	15.1	145.4	113.3
September	108.8	98.2	109.4	78.7	117,165	108,960	4,685	6.7	15.7	NA	NA

Note.—(4) Percent of manufacturing capacity used. (5) All civilian workers (excludes the armed forces). (6), (7) Data based on establishment records compiled from an establishment survey designed to provide industry information on nonagricultural payroll employment. Data excludes proprietors, the self-employed, unpaid volunteer or family workers, farm and domestic workers. (5), (8), (9) Data based on household interviews obtained from a survey of the population 16 years of age and over. (10) The composite index of 11 economic time series is a summary measure designed to signal future changes in the direction of aggregate economic activity; 1982=100. (11) Ratio of coincident to lagging indicators, which is, in itself, a leading indicator; 1982=100. NA—Not available.

Sources: (1), (2), (3), (4) Federal Reserve Board, Statistical Release, G.17; (5), (6), (7), (8), (9) Bureau of Labor Statistics, The Employment Situation; (10), (11) Bureau of Economic Analysis.

NEW PRIVATELY OWNED HOUSING UNITS STARTED

[Thousands of units]

	U.S. total	1 unit	2–4 units	5 plus units	Multifamily	Northeast	Midwest	South	West
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1979	1,745	1,194	122	429	551	178	349	748	470
1980	1,292	852	109	330	440	125	218	643	306
1981	1,084	705	91	288	379	117	165	562	240
1982	1,062	663	80	320	400	117	149	591	205
1983	1,703	1,068	113	522	635	168	218	935	382
1984	1,749	1,084	121	544	665	204	243	866	436
1985	1,742	1,072	93	576	669	252	240	782	468
1986	1,806	1,179	84	542	625	293	295	733	483
1987	1,621	1,146	65	409	474	269	298	634	420
1988	1,488	1,081	59	348	407	235	274	575	404
1989	1,376	1,003	55	318	373	178	266	536	396
1990	1,193	895	38	260	298	131	253	479	329
Seasonally adjusted annual rate:									
1987:									
September	1,695	1,232	49	414	463	263	310	706	416
October	1,515	1,090	64	361	425	264	248	612	391
November	1,656	1,112	52	492	544	263	333	639	421
December	1,400	1,034	51	315	366	234	269	577	320
1988:									
January	1,271	924	49	298	347	263	205	437	366
February	1,473	1,070	59	344	403	278	253	580	362
March	1,532	1,177	62	293	355	294	247	580	411
April	1,573	1,072	55	446	501	255	327	602	389
May	1,421	1,020	55	346	401	205	275	570	371
June	1,478	1,106	58	314	372	249	268	576	385
July	1,467	1,061	53	353	406	255	283	562	367
August	1,493	1,109	60	324	384	230	251	580	432
September	1,492	1,044	63	385	448	216	263	591	422
October	1,522	1,139	59	324	383	192	270	585	475
November	1,569	1,141	68	360	428	211	274	624	460
December	1,563	1,131	62	370	432	214	343	597	409
1989:									
January	1,572	1,110	64	398	462	256	292	606	418
February	1,423	997	63	363	426	212	261	559	391
March	1,398	971	53	374	427	164	297	549	388
April	1,344	1,031	59	254	313	207	262	533	342
May	1,317	987	45	285	330	175	245	520	377
June	1,420	978	53	389	442	173	243	544	460
July	1,431	1,034	59	338	397	195	283	526	427
August	1,339	1,008	55	276	331	142	238	573	386
September	1,275	966	55	254	309	166	248	494	367
October	1,435	1,034	62	339	401	168	286	576	403
November	1,353	1,020	47	286	383	172	301	506	374
December	1,267	928	52	287	339	142	264	436	425
1990:									
January	1,543	1,078	53	412	465	158	364	522	499
February	1,459	1,127	41	291	332	221	285	572	381
March	1,298	988	35	275	310	138	276	520	364
April	1,217	901	51	265	316	124	283	467	343
May	1,206	897	38	273	311	128	255	486	339
June	1,187	890	41	256	297	114	241	532	300
July	1,155	876	31	248	279	115	226	492	322
August	1,131	835	30	266	296	122	240	434	335
September	1,106	858	35	213	248	104	239	445	318
October	1,026	839	22	165	187	144	230	392	260
November	1,130	769	54	307	361	147	232	483	268
December	971	751	17	203	220	110	233	395	233
1991:									
January	847	648	29	170	199	86	167	361	233
February	992	768	37	167	204	91	301	384	216
March	907	742	28	137	165	104	226	390	187
April	977	801	32	144	176	93	236	395	253
May	983	831	36	116	152	114	216	367	286
June	1,034	869	24	141	165	145	244	393	252
July	1,049	879	46	124	170	104	230	441	274
August	1,056	886	41	129	170	115	246	426	269
September	1,033	868	38	127	165	111	235	433	254

Source: U.S. Bureau of the Census, construction reports, series C–20, housing starts.

NEW PRIVATELY OWNED HOUSING UNITS AUTHORIZED IN PERMIT-ISSUING PLACES

[Thousands of units]

	U.S. total	1 unit	2–4 units	5 plus units	Multifamily	Northeast	Midwest	South	West
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1979	1,552	982	125	445	570	167	289	628	468
1980	1,191	710	115	366	481	118	192	562	319
1981	986	564	102	319	421	110	133	491	251
1982	1,000	546	88	366	454	107	126	543	224
1983	1,605	902	133	570	703	164	188	863	390
1984	1,682	922	143	616	757	201	212	812	457
1985	1,733	957	120	657	777	260	237	753	484
1986	1,769	1,078	108	584	692	283	290	686	510
1987	1,535	1,024	89	421	510	272	282	575	406
1988	1,456	994	76	386	462	230	266	544	416
1989	1,338	932	67	340	407	179	252	505	402
1990	1,111	794	54	263	317	126	234	426	325
Seasonally adjusted annual rate									
1987:									
September	1,514	989	85	440	525	248	284	577	405
October	1,447	960	78	409	487	244	279	554	370
November	1,457	973	83	401	484	270	267	542	378
December	1,345	950	81	314	395	254	232	479	380
1988:									
January	1,244	899	68	277	345	255	221	422	346
February	1,438	991	73	374	447	248	256	568	366
March	1,525	1,039	84	402	486	298	277	551	399
April	1,429	952	73	404	477	244	268	518	399
May	1,444	988	76	380	456	241	268	533	402
June	1,485	1,009	77	399	476	235	278	564	408

NEW PRIVATELY OWNED HOUSING UNITS AUTHORIZED IN PERMIT-ISSUING PLACES—Continued

[Thousands of units]

	U.S. total	1 unit	2–4 units	5 plus units	Multifamily	Northeast	Midwest	South	West
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
July	1,439	980	75	384	459	229	257	552	401
August	1,460	1,002	70	388	458	216	248	556	440
September	1,436	975	74	387	461	190	259	542	445
October	1,516	1,023	82	411	493	218	260	568	470
November	1,508	1,018	76	414	490	199	249	575	485
December	1,501	1,050	75	376	451	201	347	545	408
1989:									
January	1,466	1,040	71	355	426	234	280	556	396
February	1,383	943	82	358	440	198	268	518	399
March	1,214	860	67	287	354	178	243	441	352
April	1,376	948	67	361	428	202	253	525	396
May	1,381	910	72	399	471	175	250	536	420
June	1,322	882	64	376	440	176	241	507	398
July	1,283	913	67	303	370	165	234	483	401
August	1,334	935	70	329	399	179	261	514	380
September	1,314	948	62	304	366	171	248	504	391
October	1,365	953	61	351	412	167	277	500	421
November	1,344	986	64	294	358	169	269	489	417
December	1,422	983	63	376	439	169	233	526	496
1990:									
January	1,758	998	84	676	760	194	480	655	429
February	1,343	978	62	303	365	187	284	459	413
March	1,205	884	55	266	321	142	244	445	374
April	1,123	816	57	250	307	123	237	422	341
May	1,088	808	51	229	280	126	222	416	324
June	1,123	801	49	273	322	124	229	425	345
July	1,086	781	58	247	305	115	228	421	322
August	1,055	756	61	238	299	114	221	405	315
September	989	730	48	211	259	111	218	385	275
October	925	703	44	178	222	114	194	360	257
November	916	668	42	206	248	108	194	366	248
December	854	645	44	165	209	90	181	338	236
1991:									
January	802	611	40	151	191	96	188	306	212
February	876	695	44	137	181	99	205	353	219
March	892	689	45	158	203	96	204	340	252
April	913	742	45	126	171	102	210	361	240
May	966	760	41	165	206	105	221	379	261
June	999	780	54	165	219	115	227	391	266
July	1,005	794	42	169	211	116	235	400	254
August	953	769	45	138	184	117	223	372	241
September	979	780	51	148	199	110	221	401	247

Note.—Monthly and annual data through 1983 are based on 16,000 permit-issuing places; data from 1984 to the present are based on 17,000 permit-issuing places.

Source: U.S. Bureau of the Census, construction reports, series C–20, housing starts.

HEALTH-CARE COST CONTAINMENT

Mr. PRESSLER. Mr. President, yesterday the Senate Select Committee on Aging and the Committee on Governmental Affairs conducted a hearing to examine the health-care costs of France, Germany, and Japan. The hearing was most informative.

The General Accounting Office recently conducted a study on health-care expenditures. The report indicates that the United States spends 11.8 percent of its gross domestic product [GDP] on health care. Germany spends 8.2 percent, Japan 7 percent, and France 8.5 percent of their respective GDP.

Health-care and health-insurance costs are touching every socioeconomic segment of our society. The poor, the middle class, the young and old are struggling to secure affordable health care.

In my home State of South Dakota there are an estimated 56,000 uninsured individuals, most of whom are under the age of 24. There are 108,000 senior citizens dependent upon Medicare to pay their medical bills. These two groups equal nearly one-fourth of South Dakota's population. Many farm families are being forced to cancel health insurance due to skyrocketing premiums. Many middle-class families have had to increase medical deductibles to $3,000, $4,000, and $5,000. Some young parents don't obtain basic health care for their children because the cost is too prohibitive. No one is able to escape this problem.

We each have participated in hearings dealing with health-care costs. When returning to our home States we have listened to people discuss health care in the workplace, at the local coffee shop, and at public meetings. The concerns are not new.

While we have struggled with this issue in recent months the cost of health care has continued to escalate. While we have studied the reasons why health care is becoming increasingly expensive many individuals have been forced to reject needed health care.

I have concluded that there is no easy answer to solving our health-care crisis. We need to address the issues of cost containment, insurance reform, malpractice reform, and the availability of health care in areas. Any solution would involve sacrifice. This may be on the part of the individual, their employer or the Federal Government. The key is that we need to proceed in a cost-effective manner.

The General Accounting Office [GAO] report we are looking at today points out one thing. Other industrialized nations have found more cost-effective methods of delivery of health care.

All agree that the quality of care and the advanced medical technology of the United States is the best in the world. We need to congratulate our medical community for its great technology. However, we need to improve the delivery of health care.

We should try to apply the best attributes of other nations' health-care systems to our own, while being careful to avoid making the mistakes that have created serious problems in the medical systems of other countries.

THE NATIONAL CHILD PROTECTION ACT OF 1991

Mr. KASTEN. Mr. President, earlier this summer I introduced the strategy to eliminate crime in the urban and rural environment, or SECURE, crime bill. One of the provisions of that bill was to establish a National Child Abuse Registry through the National Crime Information Center [NCIC]. This provision, as passed by the Senate, would establish a national system that contains current, accurate information on people who have committed crimes of child abuse. Each State child abuser repository would be required to maintain close liaison with the national center for the purpose of exchanging information.

Last week the Senate Judiciary Committee, under the guidance of Senators THURMOND and BIDEN, held hearings on child abuse and the protection that our children need. I commend the Judiciary Committee's follow-up to Senator MCCONNELL'S exploratory work in this area.

I am happy to see that we are actually moving forward on this crucial issue. I would like to take this opportunity to commend a Milwaukee native, Ms. Oprah Winfrey, whose courage in coming forward and presenting her tragic story of abuse has helped to spearhead the efforts we are making to protect every child—everywhere. Her proposal would expand upon the concept found in my SECURE proposal and the Senate-passed provisions. It would establish criteria and procedures under which States would permit child care organizations, not just law enforcement, to obtain the benefits of nationwide criminal background checks.

The bill would also provide protection for those persons subjected to background checks in cases where the information found is inaccurate. I am, therefore, pleased to be an original cosponsor of the National Child Protection Act of 1991.

I understand Ms. Winfrey will be traveling back to Capitol Hill in a few weeks and I intend to help her garner the attention, and the support, which this important measure deserves.

No American child should be saddled with the unconscionable handicap of starting life as an abused child. Let us get to work on giving our kids a truly abuse-free environment throughout their formative years and beyond.

COMPREHENSIVE HEALTH CARE

Mr. PRESSLER. Mr. President, let me commend Senator CHAFEE for the fine leadership he has demonstrated in recent months while many of us studied our health-care problems, drafted, and introduced comprehensive health-care legislation. It has not been easy to draft a proposal to meet the needs of all Americans. However, this bill is a positive step toward achieving this goal.

This is not a panacea to cure all our health-care problems. However, it is a step in the right direction. It is a solid foundation for developing a solution to our health-care crisis.

In my home State of South Dakota there are an estimated 56,000 uninsured individuals, the majority of whom are below the age of 24. Nearly 108,000 other South Dakotans are dependent upon Medicare to pay their health-care bills. Combined, these two groups represent almost one-fourth of my State's population. Rural South Dakota communities are struggling to recruit and retain medical professionals. Hospitals are closing due to high costs and excessive Federal regulation. The bottom line is that many in South Dakota no longer can afford health care. Insurance rates and health-care costs affect more than just low-income people. The health-care crisis has touched dual income families, the middle class and senior citizens. We need to respond to these needs.

The key components of health-care reform must include cost containment, malpractice reform, health-insurance reform, and improving medical access in rural areas. This legislative package, although not perfect, is a good start in the right direction.

This bill does not impose additional Federal mandates on South Dakota businesses. Rather, it utilizes tax credits to encourage businesses to provide health-care insurance to their employees.

This bill would assist low-income people by expanding Medicare to include individuals who fall below 200 percent of the Federal poverty rate.

This legislative package emphasizes preventive health care. It does this by giving a tax credit to families that obtain qualified preventive care.

Most important this legislative package recognizes the unique problems that rural America faces in providing health care. This bill increases funding for the Essential Access Community Hospital Program, Medicare Rural Health Care Transition Programs, and other crucial programs.

We have the best medical technology in the world. We must build on that base to provide a better delivery system.

TIME FOR A NOVEMBER SURPRISE

Mr. DOLE. Mr. President, nearly 6 months ago, I suggested that the time had come for Iran-Contra Prosecutor Lawrence Walsh to close the doors on his lavish suite of taxpayer-funded offices and end his investigation.

Mr. Walsh, however, chose to press on. But after the events of last week, surely it must even have occurred to Mr. Walsh that it is time to pull the plug.

The court of appeals reversed John Poindexter's guilty verdict, as they, and the Supreme Court, did to Oliver North's conviction. As the Wall Street Journal points out in an editorial today, Mr. Walsh's batting average in major cases reviewed by the courts stands at zero.

Mr. President, closing the doors on this lavish waste of money would be the November surprise that the American taxpayers have been waiting for.

That does not mean you do not pursue some of these cases, I would add. We do have the Justice Department. I think there are objective men and women in the Justice Department who can pursue inappropriate activity, criminal or otherwise. The point is we do not need a special prosecutor. The cost of that office has been estimated at between $30 and $50 million to the American taxpayers.

Mr. President, I ask unanimous consent that today's Wall Street Journal editorial and an editorial from today's Washington Times be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 20, 1991]

MR. WALSH KEEPS ON TRUCKING

Back in the 1960s, anti-war activists used to ask the question: What if they declared a war and nobody showed up to fight? That query suggests another: What if they held an inquisition and nobody got convicted? Lawrence Walsh, independent counsel for the Iran-Contra investigation, ought to be made to answer it.

Last week a three-member panel of federal appeals court judges reversed the conviction of former Reagan National Security Adviser John M. Poindexter on the grounds that his legal rights had been violated. Adm. Poindexter was perhaps the biggest pigeon that Mr. Walsh's snares had trapped, and now even he has slipped the toils. Last year, former Lt. Col. Oliver North, who also had been caught by Mr. Walsh's traps, also slipped them when the court gutted his conviction, and Col. North later won a dismissal of all charges against him. Mr. Walsh now has to return home almost empty-handed. It's true he has the conviction of Elliott Abrams, also an Iran-Contra principal, but the same day that Adm. Poindexter was freed, Abrams received his sentence: two years' probation and a $50 fine. If Mr. Walsh had prosecuted Mr. Abrams for not paying his parking tickets, the results would have been more consequential.

The excuse Mr. Walsh and his dwindling band of supporters use is that Congress tied his hands when it granted immunity to Col. North and Adm. Poindexter. That means the prosecutors can't use as evidence in court the information the Iran-Contra congressional investigation dug out of these witnesses. Except the prosecutors did use it in the trial, which is why the appeals courts reversed their sentences. Except also that this happens to be the way in which the American judicial system works and has always worked.

It is commonplace among prosecutors to induce a conspirator to squeal on his accomplices by arranging for immunity or a lighter sentence for the squealer. That doesn't seem to impede competent prosecutors who really have to confront real crimes and real criminals. It does seem to inconvenience Mr. Walsh and his merry band, and it suggests that, in the Iran-Contra matter, maybe there's not much for said accomplices to squeal about, not many criminals to convict and, in sum, not much to prosecute. In other words, there's really not much for Mr. Walsh to do and not much reason for his office to continue in being.

Moreover, Mr. Walsh told Congress back in 1987 that granting immunity might constrain his ability to get convictions, and Congress, whether from legitimate interest in uncovering what happened in Iran-Contra or just out of its own morbid political curiosity, chose to grant immunity anyway. That too is part of the legitimate judicial process. There's no reason to think that, had Congress not done so, Mr. Walsh could have unearthed the information he needed as a prosecutor to obtain convictions, and certainly he doesn't seem to have unearthed any other information that can make the convictions stand.

The Iran-Contra controversy has long since come to bore even the most sedulous antiquarians and now excites curiosity only among paleontologists. There was a protracted congressional investigation and a congressional report. There were trials and convictions, and now there are reversals of those convictions. There have been entire books written about Iran-Contra, and we are almost at the stage where books will be written about the books. Soon the scandal will be the stuff of television documentaries, doctoral dissertations and other genres of psuedo-history.

The administration that began the secret funding of the Contras with money from Iranian arms sales has been out of office for three years, and in less than a year Americans will vote on the record of its successor. The Ayatollah Khomeini is cold in his grave, and the Sandinistas themselves are no longer in power. Still Mr. Walsh and his absurd office flourish, at exorbitant cost to taxpayers, to the distraction of citizens and to no useful purpose whatsoever. Will someone please shut him down?

[From the Wall Street Journal, Nov. 20, 1991]

SPECIAL PROSECUTORS

Most federal prosecutors win more than 90% of their cases, not counting the abusive RICO cases that juries abhor. Yet somehow no one is surprised that Lawrence Walsh rates 0% in the major cases reviewed so far by appeals judges.

Federal judges performed a hat trick on Mr. Walsh last week. They reversed John Poindexter's guilty verdict, gave Elliott Abrams a light tap as punishment and signaled that Mr. Walsh's latest case against a CIA official is also going down. Special Prosecutor Walsh needs to head back to Oklahoma before he gives kangaroo trials a bad name.

Federal appeals judges had no trouble liberating Mr. Poindexter, the pipe-smoking former National Security Council head who testified that the Iran-Contra buck stopped with him. As any prosecutor paid to exercise some discretion would have known, Mr. Walsh's case was flawed for the same reason his case against Oliver North was dismissed: Though both men received immunity for their forced congressional testimony, Mr. Walsh used this testimony against them in court, violating their constitutional rights.

Judge Douglas Ginsburg said that Mr. Walsh "had a full opportunity and every incentive" to prove there were no tainted witnesses, but couldn't. Along with everyone else in the country, his witnesses were glued to the televised hearings.

Judge Ginsburg also warned against prosecutors so desperate for scalps that they twist criminal laws to mean something they never said. The immunity issue aside, Judge Ginsburg said that the only conviction of Mr. Poindexter relating to the Contras was based on Mr. Walsh's unconstitutionally broad reading of law.

Mr. Poindexter was convicted of "corruptly" obstructing Congress by withholding information. Judge Ginsburg said no one knows what "corruptly" means here. "A penal statute must define the criminal offense with sufficient definiteness that ordinary people can understand what conduct it prohibits," he said. Even liberal Judge Abner Mikva, in his partial dissent, agreed that one of the counts "does sound very much like the political positioning that would stretch the statutory terms beyond constitutional limits."

The element of political vendetta that energized these prosecutions from the first may be one reason judges have decided that even Mr. Walsh's "victories" will have to be Pyrrhic. As Gordon Crovitz notes on the page opposite, Mr. Walsh put Elliott Abrams in the classic Catch-$2.2 million: Plead to something or spend millions defending yourself from my Budgetless Battalion. When Mr. Abrams agreed to a misdemeanor involving congressional testimony, Judge Aubrey Robinson could have sentenced him to years in jail and a huge fine. Instead, he sentenced Mr. Abrams to 100 hours of community service plus a token fine of $50.

A prediction: Mr. Walsh's next loss will be his case against former CIA official Clair George. Federal Judge Royce Lamberth granted Mr. George's request for voluminous classified documents that would be required for any trial. Recall that Mr. Walsh had to drop his case against another CIA official, Joseph Fernandez, because intelligence officers and judges agreed it was not worth divulging national-security secrets. Judge Lamberth, who dismissed some of Mr. Walsh's arguments as "simply disingenuous," hinted that here we go again.

"The court seeks to avoid reinventing the wheel," Judge Lamberth wrote, "and to identify as early as possible whether this case can go to trial or whether it will be dismissed as some prior Iran-Contra prosecutions have been."

What's the problem here? It's that these special prosecutors are totally unaccountable to anyone with prosecutorial discretion—and accountable only to partisans in Congress.

Some people have figured out a way to cast a ballot against abusive special prosecutors. They send funds to the targets to even the odds some against the tens of millions of taxpayer funds spent by Mr. Walsh. Lawyers seem to be particularly large donors. For John Poindexter, the address is: Poindexter Defense Fund, c/o Rear Adm. C.A. Hill Jr., 1322 Merrie Ridge Rd., McLean, VA 22101. For Elliott Abrams: Elliott Abrams Legal Defense Fund, c/o Franklin Abrams, Suite 5330, One Penn Plaza, New York, NY 10119.

Congress was happy with its monster creation so long as Mr. Walsh pinned something to get guilty-plea headlines about aides to Ronald Reagan. Now federal appeals judges are issuing the final legal judgments. Hyperpartisan liberals must live with the verdict that criminalizing policy differences doesn't work.

SALUTE TO SENATOR BYRD

Mr. DOLE. Mr. President, on behalf of all the Members on this side of the aisle, I rise this morning to extend our best wishes to the distinguished President pro tempore of the Senate, and chairman of the Appropriations Committee, Senator ROBERT C. BYRD of West Virginia.

This is the 33d birthday that our colleague has celebrated as a Member of the Senate. And in those 33 years, he has earned a reputation as a Senator who has made a difference for West Virginia and for America.

The Senator from West Virginia is, of course, the unofficial historian of this body. His knowledge of parliamentary procedure, and the traditions of the Senate are legendary.

And his two-volume history of the Senate stands as the most comprehensive work on this subject, and will be a valuable contribution to future U.S. Senators and scholars.

Mr. President, the senior Senator from West Virginia has not only written history, he has made it, as well.

With his election as President pro tempore in 1989, he gained the distinction of having held more Senate leadership positions than any other Senator in history.

To be exact, Senator BYRD has served as majority whip, majority leader, Democratic leader, and President pro tempore.

It is a record that I believe will stand forever, just as will his record of devotion to the Senate and to West Virginia.

OPPOSITION TO MURKOWSKI AMENDMENT TO STRIKE TITLE V FROM S. 543

Mr. SPECTER. Mr. President, I think it is important to state for the record my reasons for voting against the amendment offered yesterday by my colleague from Alaska, Senator MURKOWSKI, to strike title V from S. 543 because it is too broad. As you know Mr. President, title V of the banking bill contains provisions designed to protect consumers. These provisions include truth-in-savings provisions requiring lenders to disclose to consumers information concerning interest rates; fair lending enforcement provisions designed to combat mortgage lending discrimination; and the basic banking/Government check-cashing provisions, which have occupied the bulk of today's debate on this banking legislation.

I have reviewed this title and discussed the issues related thereto with colleagues and constituents. As a result, I have determined that I would vote against the check cashing provisions of the title V which I did yesterday on an amendment offered by Senator COCHRAN. However, given the importance of combating mortgage lending discrimination by, for instance, requiring lenders to provide rejected mortgage applicants with a copy of any appraisal performed at the applicant's expense and requiring regulators to report suspected credit discrimination to the Attorney General, and of requiring lender disclosure of basic information with regard to interest rates on deposit accounts, I cannot vote in favor of striking the entire title.

I regret that this provision will apply a regulatory burden to many banks which have impeccable records on the discriminatory issue, but the matter is so important in many geographical areas that it should be retained.

Mr. President, recently released mortgage lending studies indicate that the mortgage rejection rate for minorities is two to four times that of nonminorities. One study in particular found that upper-income minorities were rejected more often than low- and moderate-income nonminorities. I understand that the Banking Committee received similar loan discrimination studies and testimony. To the extent that any of these rejections are based on noncredit-related issues such as race, I believe the fair lending provisions of title V of S. 543 are very positive and welcomed steps toward redressing such issues.

Similarly Mr. President, lenders, to their credit, as an effort to remain competitive offer a wide variety of accounts and services. To many consumers struggling to determine which of the alternative savings or investment options to choose, however, it is difficult to make informed comparisons of where to borrow or invest their money. The truth-in-savings provisions of title V will allow consumers to receive better information from depository institutions in order to make informed borrowing and investment decisions.

Again, it is a matter of balance as to what regulatory items are worth the burden; and, on a close call, I believe this one is.

On the other hand, I believe the check-cashing provisions are unduly burdensome in light of the fact that most banks already provide such services. My vote on the Cochran amendment reflects my revised thinking on this subject after I have studied this issue at some detail in the past several months.

I believe this is an appropriate balance on this issues of title V.

ROBERT H. ATWELL: HIGHER EDUCATION'S TOP LOBBYIST

Mr. KENNEDY. Mr. President, the Washington Post recently carried a profile of Robert H. Atwell, the president of the American Council on Education [ACE].

As all of the Members of this body know, postsecondary education in the United States is incredibly diverse. There are thousands of institutions, each with a slightly different set of interests and needs. While there are many interest groups representing various segments of the postsecondary education universe, there is only one organization—the American Council on Education—that represents all of these institutions.

Robert Atwell has been president of ACE for the last 7 years. By all accounts, this has been a turbulent time for higher education. Throughout this period, Mr. Atwell has provided steady, thoughtful leadership on a wide variety of complex issues—from athletics to college prices to increasing minority participation in higher education. The members of the Labor Committee have learned that Bob Atwell's insight and judgment on higher education issues are superb.

One area where I have benefited from Bob's leadership is on the issues surrounding college athletics. Even before he assumed the presidency at ACE, he was a champion of reform and improvement in college athletics. Largely through his herculean efforts, the higher education community began—however tentatively—an effort to reform some of the abuses in intercollegiate athletics long before the public became aware of the extent of the problems. Last year, the Labor Committee worked closely with him as we wrote the Student Right To Know and Campus Security Act. With Bob's help, we wrote a law that, I believe, assures that students and their families have easy access to vitally important consumer information without creating an excessive paperwork burden on the institutions.

Thanks to Bob Atwell's leadership, higher education is well represented in Washington. Given the wide range of complex public policy issues facing higher education these days, America's colleges and universities are fortunate to have him in this position. I hope that, as a result of the Post article, the vitally important role that he plays will be more widely appreciated.

Mr. President, I ask unanimous consent to have a copy of this article printed in the RECORD so that all of my colleagues will be sure to see it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOVERS AND SHAKERS: HIGHER EDUCATION'S TOP LOBBYIST

(By Kenneth J. Cooper)

Amid uproar over a new government ban on minority scholarships, Robert H. Atwell calmly suggested that a federal agency "change its position on sober reflection." A week later, it did: A revised policy imposed a partial ban four years hence.

A dissatisfied Atwell went to work on Lamar Alexander, then newly nominated to be education secretary. In public and private, Atwell pressed Alexander to revoke the latest policy and order a thorough review once he took office. And that's exactly what Alexander did.

Atwell's effective lobbying in the past year for minority scholarship—a controversial issue yet to be finally resolved—has demonstrated the influence he wields as the designated spokesman for higher education in Washington. U.S. colleges and universities are represented here by various groups, but only one organization claims to represent them all—public or private, land grant or liberal arts, two-year or four-year. That is the American Council on Education, of which Atwell has been president since 1984.

In that role, Atwell has raised his voice on such education issues as student aid programs, intercollegiate athletics and minorities on campus. In times of controversy, he has spoken out and raised the profile of the council, a coalition of more than 200 higher education groups that, before his tenure, had functioned more as a quiet coordinating body.

A couple of years ago, for instance, Atwell endorsed separate federal aid programs for profitmaking trade-school students because they default on federally guaranteed loans more often than college students do. In a testy response, trade-school leaders noted that the institutions they represent pay taxes, while colleges do not. Atwell's proposal became moot when the new chairman of the House Education and Labor Committee, Rep. William D. Ford (D-Mich.), succinctly rejected it.

Atwell also waged a running battle of words with William J. Bennett when he was education secretary under President Reagan. Bennett questioned the educational value of a contemporary college education and argued that schools boosted tuition only because they knew federal aid would make up the difference. Atwell challenged the factual basis for this suggestion of greed. "Yeah, I took him on," he recalled.

Bennett has a different memory: "If I was saying the condition of higher education was very serious, he was saying it was a mild headache."

* * * * *

Last spring, Atwell stepped forward to oppose Alexander when the education secretary challenged the cultural diversity standards of the Middle States Association of Colleges and Schools, the accrediting body for the mid-Atlantic region, including Maryland and the District. "For me, diversity is a defensible ingredient of educational quality and thus defensible as an accreditation standard, Atwell said.

Alexander charged that the accrediting standards for diversity among students, professors and trustees threatened to create racial quotas while undermining academic freedoms and specialized colleges. As with the minority scholarship issue that surfaced last December, Alexander's final decision on diversity standards is pending.

Atwell acknowledges that his stance on the accreditation issue does not reflect unanimity among the nation's colleges.

"I know perfectly well . . . that there are many of our members who don't agree with the stand we've taken on Middle States accreditation," Atwell said in a recent interview. "But I think you have to, in these jobs, strike a delicate balance between leading and representing. If you only represent, you're gonna be a little mushy."

But there have been some muted noises from One Dupont Circle, where the council and many higher education groups have offices, suggesting that Atwell and the council have been paying too much attention to minority concerns. He acknowledges those criticisms too.

"I don't let that bother me," Atwell said. He noted that the impetus for the minority initiative actually came from Frank Rhodes, president of Cornell University, when he was chairman of the council's board. The current chairman, Robert L. Albright, is president of Johnson C. Smith University, a historically black college in Charlotte, N.C.

There have been times, however, when the council's politics have dictated that Atwell take a low profile on a controversial issue. For instance, he has had little to say in public about "political correctness," a broad slogan used by conservative commentators to describe such campus trends as racial-ethnic diversity, multicultural coursework, offensive speech codes and academic theories such as literary deconstructionism.

Atwell, 60, has negotiated such political battles with the political savvy and knowledge of government and academia that he gained as a former college administrator and federal bureaucrat.

He grew up the son of a Presbyterian minister in Beaver Falls, Pa., a steel town north of Pittsburgh. After undergraduate study at the College of Wooster in Ohio, he was drafted during the Korean War and served as an Army typist in Germany. Afterwards, he received a master's degree in public administration at the University of Minnesota and completed doctoral courses in political science there.

Atwell came to Washington in 1957 for his first jobs. He did two stints crunching numbers at the Old Bureau of the Budget (now the Office of Management and Budget), one as a development loan officer at the State Department and another at the National Institute of Mental Health working on community clinics.

In 1965, he left the government to become a vice chancellor at the University of Wisconsin and stayed five years, spending much of his time handling anti-war protests. His memories of the period differ from those of college administrators who typically felt embattled during those times. But Atwell, like the protesters, opposed U.S. involvement in the Vietnam war.

"I found it a very exhilarating period," he said. "There were some pretty crazy kids, but not very many. Overwhelmingly, it involved students who were quite idealistic . . . I had a lot of friends on the other side of the barricades, if you will—faculty friends and student friends. It all ended badly at Madison when a history building got blown up. That actually happened almost literally the day I left."

Atwell moved to California to become the second president of Pitzer College, one of six Claremont colleges east of Los Angeles. There he wrestled with the racial issues confronting historically white colleges as the first wave of minority students arrived, thanks to the civil rights movement. In this instance, Atwell has some second thoughts.

"We had a very high proportion at Claremont of black and Hispanic students . . . and most of them lived in black and Hispanic corridors in the dorms and ate at black tables in the dining hall," he recalled. "I've often thought that we really didn't do the right thing by a lot of those people, because they really lived a very isolated existence within this predominantly white campus."

In 1978, Atwell left Pitzer to become executive vice president of the American Council on Education. He was hired as president in 1984 after Jack W. Peltason left to become chancellor of the University of California at Irvine. Two years ago, the council signed Atwell to a second five-year contract.

During his seven years as president, Atwell said, the council has achieved his initial goal of becoming more of a presence on higher education issues.

"I felt we needed to be a bit more aggressive and have a higher profile and take some risks that went along with that," he said. "Being a little controversial from time to time was necessary."

LET'S SUPPORT PEACE IN THE WESTERN SAHARA

Mr. KASTEN. Mr. President, I rise today to discuss an important but little noticed U.N. peacekeeping effort which merits our strong support. I refer to the current effort underway to reach a settlement of the dispute over the Western Sahara.

Sovereignty over the Western Sahara has been in dispute since the mid-1970's, when Spain withdrew from what was then called the Spanish Sahara. Since that time, Morocco and the Polisario Front, the latter only thanks to the active support of Algeria and at times Libya, have fought over the territory. Recently, both sides to the dispute agreed to a U.N.-sponsored peace process, leading to a referendum in which the Sahraoui people will choose between continued affiliation with Morocco or independence.

My concern arises from the fact that this peacekeeping effort is at a particularly sensitive juncture, and we in this Senate need to find a way to help the peace process to move forward to a successful resolution. In doing so, we must be sure that our efforts are balanced and appropriate.

There are already resolutions pending before the Senate to urge a successful completion of this sensitive peace process. Last week, our colleague, the senior Senator from Massachusetts, Mr. KENNEDY, introduced a resolution on the Sahara conflict. Last night, the House of Representatives passed a similar resolution. I must regretfully note that I would be forced to oppose either of these resolutions as currently drafted, because the language, although certainly drafted with the best of intentions, is currently biased in favor one party to the conflict over the other.

Let me note from the outset that I believe that the bias in these resolutions can be easily amended to make them balanced and fair, and I wish to express my willingness to work with my colleagues to ensure that my concerns are met. However, I also wish to explain precisely how sensitive this issue is and why we must be most careful in addressing it.

Mr. President, let me begin by noting that I have always believed that this body should be careful in involving itself in the center of the delicate diplomatic efforts anywhere, including those now working to promote peace in this region in the Sahara. In approving sense-of-the-Senate resolutions, there is little that this body can do to promote peace around the world other than urge all sides to move forward toward peace. Indeed, I have always felt that there is much that we can unwittingly do that will be harmful to peace—especially if we support one side against the other—than we can do to help. This is the basis of my concerns about these resolutions.

That said, Mr. President, I believe that my concerns over the current resolution can be met through a few simple word changes. In the many years that Morocco and the Polisario have struggled over the Sahara, key words and phrases have taken on a meaning far beyond that which we understand when we read a resolution for the first time. I am sure that my colleagues will understand this when they consider the enormous force that single words or phrases can take on in an American political campaign. What is true in American politics is also true in the current peace process in North Africa.

Having said that, let me describe the precise status of the peace process. Since the mid-1970s and throughout most of the 1980's, the Polisario, with the financial and military backing of Algeria and Libya, fought a guerilla war against Morocco over the Western Sahara. Indeed, while Morocco controlled the vast majority of the territory, the Polisario, from bases in Algeria and with such sophisticated weaponry as Libyan-provided SAM missiles, fought an aggressive guerilla campaign to push Morocco out. Algeria's support for the Polisario was intended to weaken Morocco, and to secure access to the Atlantic Ocean through Western Sahara ports. Colonel Qadhafi of Libya's motives were the same he had throughout the world: to disrupt and, if possible, overturn any pro-Western government. In the meantime, Morocco, in addition to defending the territory, was engaged in a massive development effort aimed at bringing economic growth and prosperity to one of the most arid and economically distressed areas in the world.

Peace was slow in coming to the Western Sahara. After many years of discussions, however, in August 1988 the parties agreed to participate in a U.N.-sponsored referendum to determine the status of the Western Sahara. It is that referendum which we all hope to see successfully implemented within the next few months.

Since the plan was first announced, it has been the policy of the United States that full authority for carrying out the referendum shall be vested in the United Nations. To that end, U.N. Secretary General Javier Peres de Cuellar has worked tirelessly to bring the parties to agreement on the modalities of this process. After more than 3 years of delicate negotiations, a formal cease-fire became a reality on September 6, and an implementation plan was initiated.

Mr. President, the United States fully supports the United Nations in these efforts and acknowledges that it is the United Nations that shall play the central role in implementing this referendum. In its own documents explaining the referendum process, the United Nations states that it shall "organize and conduct the referendum, and issue the necessary regulations, rules and instructions for this purpose, in which the people of the Western Sahara will choose between independence or integration with Morocco." The document further notes that "the United Nations will monitor other aspects of the administration of the Territory, especially the maintenance of law and order, to ensure that the necessary conditions exist for the holding of a free and fair referendum." Given the success which the United Nations has had so far, I see no reason at this time why the United States should do anything other than fully support the United Nations in this role.

Mr. President, I would ask unanimous consent that the full United Nations statement of its responsibilities for the resolution of the conflict in the Sahara from which I have just quoted be inserted in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KASTEN. Mr. President, I am pleased to note that the Secretary General remains fully engaged in this peace process and confident of its eventual success. In recent statements by the Secretary General in an interview with the French weekly Le Figaro, Mr. Peres de Cuellar asserted that "Morocco has never requested a suspension or delay of the process undertaken by the U.N." The Secretary General added that His Majesty Hassan II of Morocco had expressed justified concerns that the work of the United Nations voter identification commission was behind schedule. And during an interview granted to the Paris-based weekly Jeune Afrique on September 10, the Secretary General asserted there had been no complaints concerning the implementation of the ceasefire. He declared that he had spoken to the King by telephone on August 26, and "the King told me what he has always said, that is, that he supported the referendum and that he expected it to be just and impartial." In addition, the United Nations has repeatedly indicated that the organization of the referendum is moving ahead with no more than the logistical challenges normal to such a complicated process. The United States should continue to support the efforts of the United Nations, and reaffirm its confidence in the United Nations capacity to see the process through. This sounds to me like a process that is moving smoothly, and I hope we will be careful in trying to help it along.

There is one other reason why we should treat this resolution with care, Mr. President: Morocco is one of the closest friends of the United States, and deserves our strong support. The Morocco-United States treaty relationship is the longest-standing such relationship our nation has. Morocco is one of our closest allies, and was one of the very first countries to state its opposition to Saddam Hussein's invasion of Kuwait. Indeed, King Hassan II's early and forceful statement of opposition to Iraqi aggression, and Morocco's quick dispatch of troops to defend Saudi Arabia from attack was vital to the early efforts to build worldwide support in opposition to Saddam Hussein's invasion of Kuwait. In addition, and up to and including the current negotiating process, Morocco has long supported a comprehensive peace in the Middle East, and through quiet diplomacy has helped United States efforts to promote peace.

Mr. President, at this sensitive time we in the U.S. Senate should not choose sides. Right now, in the middle of a United Nations referendum, we should support peace, and only peace. I will seek to work with my colleague from Massachusetts, and any other Senator, to find a way to make the necessary changes to this resolution to ensure that it is not biased toward either party, indeed that it is biased only in support of peace. That is how we can help move this process forward.

EXHIBIT 1—MINURSO WESTERN SAHARA THE UNITED NATIONS AND THE REFERENDUM IN WESTERN SAHARA

On 11 August 1988, the Secretary-General of the United Nations and the Special Envoy of the then Chairman of the Assembly of Heads of State and Government of the Organization of African Unity (OAU) presented, in separate meetings, to the parties to the conflict in Western Sahara, namely Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Rio de Oro (Frente POLISARIO), a document referred to as "the settlement proposals". The document contained proposals for a just and definitive solution of the question of Western Sahara in conformity with General Assembly resolution 1514 (XV), by means of a cease-fire and the holding of a referendum without military or administrative constraints to enable the people of Western Sahara, in the exercise of their right to self-determination, to choose between independence and integration with Morocco.

On 27 June 1990, the Security Council, in its resolution 658 (1990), approved a report of the Secretary-General on the situation concerning Western Sahara (S/21360), which contained the full text of the settlement proposals as accepted by the two parties on 30 August 1988 as well as an outline of the plan provided by the Secretary-General in order to implement those proposals.

THE IMPLEMENTATION PLAN

The implementation plan contained in document S/21360 provides for a transitional period during which the Special Represenative of the Secretary-General, acting under the authority of the Secretary-General and, as necessary, on instructions from and in consultation with him, will have sole and exclusive responsibility over all matters relating to the referendum, including its organization and conduct. The Special Representative will be assisted in his tasks by a deputy special representative and by an integrated group of United Nations civilian, military and civil police personnel which he will head and direct. This group will be known as the United Nations Mission for the Referendum in Western Sahara (MINURSO).

Pursuant to Security Council resolution 621 (1988) of 20 September 1988, the Secretary-General appointed Mr. Hector Gros Espiell as his Special Representative for Western Sahara, with effect from 19 October 1988. Upon his resignation, Mr. Gros Espiell was succeeded by Mr. Johannes J. Manz with effect from 19 January 1990.

According to the implementation plan contained in document S/21360, the transitional period will begin with the coming into effect of a cease-fire and end with the proclamation of the results of the referendum. The cease-fire will be monitored by United Nations military personnel, followed by an exchange of prisoners of war under the auspices of the International Committee of the Red Cross (ICRC). Morocco will undertake an appropriate, substantial and phased reduction of its troops in the Territory during the transitional period, to a level acceptable to the Secretary-General. The combatants on each side will be confined to certain locations specified by the Special Representative where they will be monitored by United Nations military personnel. Following on the proclamation of an amnesty, political prisoners will be released and all laws or regulations which, in the view of the Special Representative, could impede the holding of a free and fair referendum will be suspended to the extent the Special Representative deems this to be necessary. The United Nations will organize and conduct a referendum, and issue the necessary regulations, rules and instructions for this purpose, in which the people of Western Sahara will choose between independence or integration with Morocco. The United Nations will monitor other aspects of the administration of the Territory, especially the maintenance of law and order, to ensure that the necessary conditions exist for the holding of a free and fair referendum. All refugees and other Western Saharans resident outside the Territory who have been identified as having the right to vote in the referendum and who have expressed the wish to return to the Territory, will be enabled to do so, together with their immediate families, through a programme organized by the Office of the United Nations High Commissioner for Refugees (UNHCR).

To assist the Special Representative in fulfilling his responsibilities with regard to the identification and registration of those eligible to vote, the Secretary-General will appoint and issue terms of reference for an identification commission. The identification Commission will implement the agreed position of the parties that all Western Saharans counted in the 1974 census undertaken by the Spanish authorities and aged 18 years or over will have the right to vote, whether currently present in the Territory or outside as refugees or for other reasons. The Commission is required to update the census to provide a current basis for issuing lists of qualified voters. Any person identified as qualified to vote will be issued with a voter registration card.

To assist the Special Representative in all other aspects of the organization and conduct of the referendum, the Secretary-General will appoint and issue terms of reference for a referendum commission. As far as the establishment of the conditions and modalities for the conduct of the referendum campaign are concerned, the Referendum Commission will advise the Special Representative on the measures necessary to ensure a referendum that is free and fair, without military or administrative constraints.

ESTABLISHMENT OF MINURSO

On 29 April 1991, the Security Council in its resolution 690 (1991) decided to establish, under its authority, a United Nations Mission for the Referendum in Western Sahara (MINURSO), in accordance with a report of the Secretary-General (S/22464) which further detailed his implementation plan. The Council also decided that the transitional period would begin no later than 16 weeks after the General Assembly approved the MINURSO budget.

The Secretary-General stresses in his report (S/22464) that four conditions must be met for MINURSO to be able to carry out its responsibilities effectively and with complete impartiality. Firstly, MINURSO must at all times have the full support and backing of the Security Council; secondly, it must operate with the full cooperation of the two parties, particularly with regard to the comprehensive cessation of all hostile acts; thirdly, the cooperation and support of the neighbouring countries must be assured; and fourthly, the necessary financial resources must be made available by Member States in a full and timely manner.

TIMETABLE

In accordance with the timetable set out in document S/22464, it is envisaged that the transitional period will last for 20 weeks and that MINURSO will remain in the Territory for up to 26 weeks from the coming into effect of the case-fire (D-Day). However, as noted in document S/22464, the periods of time allowed for the various processes in the timetable are estimates and it is possible that some of the processes may be completed in a shorter period than that indicated. It is also possible, of course, that a longer period will be required. In either case, the Special Representative may, after consultation with the Secretary-General, determine whether circumstances require any alteration in the timetable, in accordance with the authority given to him.

DATE (IN WEEKS) AND ACTION

As soon as the Security Council has authorized the establishment of MINURSO

The Secretary-General:

a. Appoints the Identification Commission, which proceeds immediately to establish its rules of procedure, to update the 1974 census and to arrange for appeals;

b. Begins consultations with the Governments of Member States that will be invited to contribute personnel to the civilian, security and military units of MINURSO:

c. After consulting the parties, obtains the Security Council's approval for the composition of the Military Unit and the appointment of the Force Commander;

d. Initiates consultations with the parties and the neighbouring States about arrangements concerning the status of MINURSO and its personnel.

D–16

The General Assembly approves MINURSO's budget.[1]

The Secretary-General addresses letters to the two parties proposing a date and time for the entry into force of the cease-fire (D-Day).

The Secretary-General appoints the Referendum Commission and the independent jurist.

The Identification Commission revises the 1974 census list and initiates discussions with the tribal chiefs regarding its operating procedures.

Not later than D–12

The parties accept the Secretary-General's proposal for the date and time of the cease-fire.

D–12

The revised 1974 census list and instructions on how to apply for the inclusion of names are published in the Territory and elsewhere.

Administrative and logistics elements of MINURSO begin to arrive in the mission area.

D–9

A small mobile team of the Identification Commission is dispatched to the mission area.

D–8

Deadline for the receipt of applications for the inclusion of names in the revised 1974 census list.

D–4

The advance party of MINURSO led by the Deputy Special Representative, arrives in the mission area.

D–4 to D-Day

All MINURSO units (except the infantry battalion, 200 CIVPOL officers and some UNHCR and referendum personnel) are deployed to the mission area.

D–1

Arrival of the Special Representative in the Territory.

Not later than D-Day

Following completion of the Identification Commission's review of applications received, the consolidated list of persons judged eligible to vote is published in the mission area.

D-Day

The transitional period begins.

The cease-fire comes into effect and the combatants of the two sides are confined to designated locations.

The Identification Commission begins the identification and registration of voters and hears appeals against non-inclusion of names in the published list.

As soon as possible after D-Day

POW's are exchanged.

Amnesties for political prisoners and detainees are proclaimed.

All political prisoners or detainees are released.

D + 10

The remaining 200 CIVPOL officers are phased in.

The infantry battalion, UNHCR personnel are deployed to the mission area.

Not later than D + 11

The reduction of Moroccan forces is completed.

All laws or measures that could obstruct a free and fair referendum are suspended.

D + 11

Completion of the identification and registration of voters; publication of the final list of voters approved by the Secretary-General.

The repatriation programme begins.

The paramilitary units in the existing police forces are neutralized.

D + 17

The repatriation programme is completed.

The referendum campaign begins.

D + 18

Additional polling staff are deployed to the Territory.

D + 20

End of the referendum campaign.

Referendum.

Proclamation of the results.

The withdrawal of MINURSO personnel begins.

D + 24 or 26

MINURSO's monitoring responsibilities arising from the referendum results are completed.

Thereafter

Remaining MINURSO personnel withdraw from the mission area.

[1] The General Assembly approved MINURSO's budget on 17 May 1991 (A/RES/45/266).

On the basis of this timetable, the referendum will be held about 36 weeks after the General Assembly approves MINURSO's budget.

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CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is closed.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I have checked with the distinguished Senator from Arizona. He has no objection to my proceeding for 5 minutes of my leader's time.

The PRESIDING OFFICER. The Senator is recognized in his leader time.

MORE FOOD CREDITS

Mr. DOLE. Mr. President, we have all seen the report in the last couple of days about the possibility of additional food guarantees for the Soviet Republics.

The White House is consulting with various Members of the White House right now. An announcement may be coming from the White House today, maybe as early as noon, maybe shortly thereafter.

It does seem to me we ought to provide some additional credit guarantees to the Republics of the former Soviet Union for two very good reasons.

One, there are some people over there who are going to have a very tough winter, who are hungry, and who do need our help.

For all the partisan posturing and rhetoric we have heard in recent weeks, and the knee-jerk, talking heads interpretation of this or that election—the fact is that the American people do still want to help truly needy people—people who are sick, or hungry, or homeless—whether they happen to be here or live somewhere else. That is part of the American tradition, and it has not changed. We are decent and caring people, and no poll or election result is going to convince me otherwise.

So that is reason No. 1.

But there is a second reason, too—I think an even more compelling reason. We ought to provide some additional credit guarantees because it is in the American interest—our own interest.

We have benefited, enormously, by the dramatic changes in the Soviet Union. Our Nation is safer. The prospects for even further arms reductions are better. The threat from what used to be, in effect, forward Soviet bases in places such as Cuba are reduced. The prospects for successful resolution of very dangerous international crises are enhanced. And the long term prospects for mutually beneficial investment and trade relations are vastly improved.

So it is in our concrete, material interest, the interest of all Americans, to do what we can to keep the Soviets on the right track. It is an investment in America's national interest. And, in the short run, providing food credit guarantees is the best, least costly way we can make that investment.

And let us not forget: Food credit guarantees are not give-aways. The loans we are guaranteeing have to be repaid. And, considering how much the Soviets need us over the long term. I think the logic is the Soviets will repay these loans.

And I can say as an aside we have already extended $2.5 billion in credit guarantees. They have not paid any of the principal, but they have kept the interest payments to date, and that is some indication. Not only the central government, but the Republics—where the action now is—have commonly committed to that repayment.

In this additional $1½ billion credit package, which I assume will be announced today, we are dealing now with Republics, directly with Republics, which I think is an improvement over dealing with the central government. That is something the administration has agreed to do, and I think rightfully so.

Moreover, what will result from the loans is commercial purchase of our food exports—something that benefits not only our farmers, but a wide range of intermediary businesses, and our overall balance of trade.

So providing additional credits makes sense both because it is right, and because it is in our own concrete material interest.

But lets face it. No matter how right it is, no matter how much sense it makes for America—some politicians, some political and media consultants, are going to drool at the prospect of exploiting any such proposals or programs for partisan purposes. The opportunities for cheap-shot 30-second spots are obvious to any of us who are in this business.

I happen to think President Bush is going to go ahead and do the right thing regardless of any temporary political jeopardy he might face. If it comes to that, he can stand a blip in the polls, and he will stand it—if the national interest demands it.

But I think we ought to just be fair about this.

I understand the distinguished Senator from Oklahoma [Mr. BOREN] said pretty much the same thing earlier today on the floor. If there is some political heat on this issue—well, there is plenty of room in the kitchen for all of us.

Sometimes we on Capitol Hill complain about being pulled into crash landings when we were not involved in the takeoffs. Let us get on board this plane—which I happen to think is going to come in for a successful landing, in any case—before the takeoff.

We ought to have an expression of the leadership and others in the Congress on both sides of the aisle that this is in our own national interest, and that is precisely one of the two reasons I have given for doing it.

The distinguished Senator from Georgia found out what happens when it gets wrapped up in politics. He had a pretty good provision in the defense authorization bill. But because so many Democrats were shooting at President Bush, Republicans started then shooting at his proposal. And it was finally dropped.

So I think maybe it is time to call time out or a moratorium, and let us go on and do what is in the national interest.

So I hope that the Congress can be brought into the action on this issue at an early stage. That is already happening, to a degree with the contacts and consultations going on now. The White House and the State Department have been contacting a number of my colleagues on the other side of the aisle and in the other body.

But I hope that Congress will meet its responsibility in a more direct way—perhaps through direct leadership consultations with the President; perhaps through a resolution of congressional support for the Credit Guarantee Program.

This is an important issue for our national security, and our economic wellbeing. It is a politically sensitive issue. It is an issue on which Congress as an institution, and every one of us as Members, ought to be willing to stand up and be counted.

I must say, it is sort of a Catch-22 for the President of the United States. I have noted with some interest some of the farm State Members of Congress saying, "Well, it is not enough. We ought to do more; we ought to do more"; $1.5 billion in credit, plus $2.5 billion in credit guarantees we have already given are not enough. I am not certain the average American would share that view, but that is one side.

Then we have, on the other side, the large farm constituency: "We should not do anything. This is too much."

And, of course, right in the middle—when you take on that responsibility, that is where, I guess, you should be—is the President of the United States, President George Bush. It just seems to me that before he makes any announcement, he ought to make certain that some of us in the Congress in positions of leadership are willing to support what he does, for the reasons I have tried to outline in my brief statement.

It is easy to say, as some have said: Well, if you live anywhere but America, President Bush will take care of you. That is a pretty tough, cheap, political shot. But it has been said many, many times. And it involves many, many countries, wherever they may be: A lot of emerging democracies; a lot of Mideast countries.

I think overall, we want to ask ourselves, by investing $1 billion or $2 billion or $3 billion now in trying to help the Soviet Union, are we going to avoid riots? Food riots, famine, another coup, another dictatorship? I cannot help but wonder what happened to all those KGB people who got kicked out, and all the bureaucrats who got kicked out, and all those people in the Army who got kicked out. I cannot believe they are sitting around Moscow saying: Boy, is it not great we got kicked out? They are probably like other people in politics. Once you get out, you want to get back in. So they are looking for unrest and they are looking for turmoil.

Again, I underscore it is in our concrete national interest that we do this. I hope it will have strong bipartisan support. I think it does have strong bipartisan support, and I guess if we had a vote in this Senate, it would be pretty lopsided. Not that we are trying to give money away; not that we are trying to help somebody else; but that we are considering our national interest. And it seems to me that ought to be the bottom line.

And I hope sometime before the announcement is made, or even after the announcement is made, there will be an expression by Members of the U.S. Senate in the form of a resolution or something else to indicate we support this particular effort, for the reasons I have outlined, and probably many other better reasons that my colleagues might have.

Mr. President, I thank my colleagues from Arizona and Wyoming, and I yield the floor.

VETERANS POST-TRAUMATIC STRESS DISORDER TREATMENT ACT

Mr. DECONCINI. Mr. President, on behalf of the majority leader and under the authority granted to him, I ask unanimous consent that the Chair lay before the Senate S. 869.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 869) to amend title 38, United States Code, to improve the availability of treatment for veterans for post-traumatic stress disorder, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Care Amendments Act of 1991".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—MENTAL HEALTH

PART A—POST-TRAUMATIC STRESS DISORDER

SEC. 101. SHORT TITLE.

This part may be cited as the "Veterans Post-Traumatic Stress Disorder Treatment Act of 1991".

SEC. 102. FINDINGS.

The Congress finds the following:

(1) Post-traumatic stress disorder (PTSD) is a highly disruptive and debilitating psychological disorder that can result from exposure to combat or any other traumatic event outside the range of conventional human experience.

(2) Post-traumatic stress disorder can have a destructive impact on the life of a person suffering from the disorder by adversely affecting his or her behavior, ability to work with, relate to, and communicate with others, and ability to maintain gainful employment.

(3) In 1980, the American Psychiatric Association officially recognized PTSD as a diagnosis in its "Diagnostic and Statistical Manual of Mental Disorders (Third edition)" and identified combat experience as a potential cause for PTSD.

(4) A Congressionally-mandated study of Vietnam-era veterans, released in November 1988, regarding the frequency of symptoms of PTSD and other problems relating to readjustment from combat of such veterans, found that 479,000 male veterans of the Vietnam theater of operations (representing 15.2 percent of all such male veterans) suffered from the full effects of PTSD and that another 350,000 of such veterans (representing 11.2 percent of all such male veterans) experienced some symptoms of the PTSD.

(5) That study also found higher incidences of PTSD among Black and Hispanic male veterans of the Vietnam theater of operations than among all male veterans of that theater, but did not include data on the incidence of the disorder among veterans of other ethnic groups.

(6) A large body of evidence indicates that such psychological disorders related to combat stress as war neurosis, combat fatigue, and the disorder commonly known as "shell shock" are analogous to PTSD and that thousands of veterans of combat in World War II and the Korean war experienced and continue to experience symptoms of such disorders.

(7) That evidence also indicates that veterans of combat in military operations conducted after the Vietnam era, including operations in Lebanon, Granada, and Panama, also suffer from symptoms of PTSD.

(8) Although debilitating, PTSD can be treated successfully, and an individual experiencing the disorder can learn coping skills, including how to mitigate the effects of the anxiety, depression, anger, guilt, fear, alienation, and emotional outbursts that he or she experiences.

(9) Early intervention and treatment of acute PTSD can be an important part of a therapeutic course to prevent long-term chronic PTSD.

(10) The Department of Veterans Affairs has a responsibility to provide opportunities for treatment of PTSD and other stress-related psychological problems to the hundreds of thousands of combat veterans who suffer from PTSD and to conduct outreach activities that provide both actual notice of the availability of such treatment to those veterans and appropriate encouragement for such veterans to participate in the treatment.

(11) The Department has made some progress in expanding diagnosis and treatment programs relating to PTSD.

(12) Through readjustment counseling, specialized inpatient and outpatient programs, and general psychiatric services offered in its hospitals and outpatient clinics, the Department has provided needed treatment to thousands of veterans for PTSD.

(13) Despite such progress the Department can and should be doing much more to provide treatment to veterans for PTSD and other stress-related psychological problems and to provide outreach services to make veterans aware of, and encourage them to participate in, treatment opportunities available through the Department.

(14) It is in the public interest for the Secretary of Veterans Affairs to develop a plan that ensures immediate, on-demand treatment opportunities for the thousands of veterans who suffer from, and need treatment for, this disruptive, life-threatening disorder.

SEC. 103. CARE FOR COMBAT-THEATER VETERANS WITH SERVICE-RELATED POST-TRAUMATIC STRESS DISORDER.

(a) REQUIREMENT TO FURNISH CARE AND SERVICES.—(1) Section 602 is amended—

(A) by inserting "(a)" before "For"; and

(B) by adding at the end the following new subsections:

"(b)(1) A veteran referred to in paragraph (2)(A) who is diagnosed by a mental health professional designated by the Chief Medical Director (following an examination of the veteran by such professional) to be suffering from post-traumatic stress disorder related to service referred to in such paragraph shall be furnished care and services for such disorder pursuant to sections 610(a)(1)(A) and 612(a)(1)(A) of this title even though such disorder has not been determined to be service connected.

"(2)(A) A veteran eligible for the care and services referred to in paragraph (1) is a veteran who, as determined by the Chief Benefits Director, served on active duty in a theater of combat operations (as defined by the Secretary) during World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, or in any other area during a period in which hostilities occurred in such area.

"(B) In the case of a veteran who is diagnosed as suffering from post-traumatic stress disorder, the determination of whether the veteran served on active duty as described in subparagraph (A) shall be made by the most expeditious means practicable.

"(c) For the purposes of subsection (b) of this section, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

(2)(A) The heading of such section is amended to read as follows:

"§602. Special provisions relating to mental illness disabilities".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"602. Special provisions relating to mental illness disabilities.".

(b) TIMELINESS OF EVALUATION AND VERIFICATION OF STATUS.—Section 612A is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) Whenever a veteran is referred by a center to a Department general health-care facility for a determination regarding such veteran's eligibility for care and services under section 602(b) of this title, the veteran shall be evaluated for diagnostic purposes within seven days after the date on which the referral is made.".

SEC. 104. ELIGIBILITY FOR SERVICES AT VET CENTERS.

Subsection (a) of section 612A is amended by adding at the end the following new paragraph:

"(3) Upon the request of any veteran who served on active duty in a theater of combat operations (as defined by the Secretary) during World War II or the Korean conflict, the Secretary shall furnish counseling to such veteran in order to assist the veteran to overcome any psychological problems associated with such service. The counseling shall include a general mental and psychological assessment to ascertain whether the veteran has mental or psychological problems associated with such service.".

SEC. 105. IMPROVEMENT OF POST-TRAUMATIC STRESS DISORDER TREATMENT AND OUTREACH SERVICES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) PLAN FOR TREATMENT AND OUTREACH SERVICES IMPROVEMENT.—Not later than December 1, 1991, the Secretary of Veterans Affairs shall devise and initiate implementation of a plan—

(1) to increase the availability of treatment of veterans suffering from post-traumatic stress disorder by the Department of Veterans Affairs (including treatment provided in inpatient and outpatient programs providing specialized treatment for PTSD, treatment for PTSD in conjunction with substance abuse, and treatment in Vet Centers) to levels commensurate with the needs of veterans suffering from the disorder as a result of active duty; and

(2) to enhance outreach activities—

(A) to inform combat veterans (including veterans who are members of ethnic minority groups), the family members of such veterans, and appropriate State and local health organizations and social service organizations of the availability of such treatment; and

(B) to provide appropriate encouragement for such veterans to participate in such treatment.

(b) SPECIAL CONSIDERATIONS.—In devising the plan, the Secretary shall consider—

(1) the level and geographic accessibility of inpatient and outpatient care for veterans suffering from PTSD across the United States;

(2) the desirability of providing for inpatient PTSD care to be furnished to such veterans in facilities of the Department that are physically independent of general psychiatric wards of the medical facilities of the Department; and

(3) the treatment needs of such veterans who are women, of such veterans who are members of ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans), and of such veterans who suffer from substance abuse problems as well as PTSD.

(c) IMPLEMENTATION.—In carrying out the plan, the Secretary shall—

(1) prescribe a schedule for the implementation of the plan;

(2) prescribe appropriate criteria for the selection and training of staff necessary to increase the availability of the treatment and enhance the outreach activities referred to in subsection (a); and

(3) provide the facilities, personnel, funds, and other resources necessary to carry out the plan.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "Vet Center" shall have the meaning given the term "center" in section 612A(j)(1) of title 38, United States Code (as redesignated by section 103(b)(1) of this Act).

(2) The term "active duty" shall have the meaning given such term in section 101(21) of such title.

(3) The term "veteran" shall have the meaning given such term in section 101(2) of such title.

SEC. 106. REPORT BY THE SECRETARY OF VETERANS AFFAIRS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and subject to subsection (b), the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Rep-

resentatives a report on the plan required by section 105. The report shall contain the following information:

(1) A description of the plan.

(2) What facilities, personnel, funds, and other resources are necessary to increase the availability of treatment and enhance outreach activities in accordance with the plan in a manner that does not reduce the existing capacity of the Department of Veterans Affairs to provide treatment for other conditions.

(3) A description of the efforts undertaken by the Secretary to make such resources available for the treatment of veterans for post-traumatic stress disorder.

(4) An estimate of the availability of community-based residential treatment of veterans for post-traumatic stress disorder and the impact of such availability on the increased availability of such treatment by the Department.

(5) An assessment of the need for, and potential benefit of, making available scholarships, tuition reimbursement, or other educational assistance to health-care students and health-care professionals in order to improve the training and specialization of such individuals in the provision of such treatment.

(6) A description of the efforts of the Secretary to implement the recommendations of the Special Committee on Post-Traumatic Stress Disorder referred to in subsection (b) with respect to—

(A) establishing educational programming that is directed to each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from PTSD; and

(B) giving research relating to PTSD a high priority in the allocation of funds available to the Department in research activities relating to mental health.

(7) Such other proposals and recommendations as the Secretary considers appropriate to increase the availability of such treatment.

(b) REPORT ASSISTANCE.—In preparing the report referred to in subsection (a), the Secretary shall consult with the Special Committee on Post-Traumatic Stress Disorder established pursuant to section 110(b) of the Veterans' Health Care Act of 1984 (38 U.S.C. 612A note) and the Secretary's Advisory Committee on Readjustment of Vietnam Veterans.

SEC. 107. TECHNICAL AMENDMENTS.

Section 612A is amended—

(1) in subsection (a)(1), by striking out "Administrator" and "Veterans' Administration" each place it appears and inserting in lieu thereof "Secretary" and "Department", respectively;

(2) in subsection (h)—

(A) by striking out "Administrator" and "Veterans' Administration" each place it appears and inserting in lieu thereof "Secretary" and "Department", respectively; and

(B) in paragraph (5), by striking out "the Secretary considers" and inserting in lieu thereof "such Secretary considers"; and

(3) in subsection (j) (as redesignated by section 103(b)(1)), by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Department".

SEC. 108. SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER.

(a) EVALUATION OF STUDY OF POSTWAR PSYCHOLOGICAL PROBLEMS OF VIETNAM VETERANS.—(1) Not later than February 15, 1992, the Special Committee on Post-Traumatic Stress Disorder (hereinafter in this section referred to as the "Special Committee") established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (38 U.S.C. 612A note) shall submit concurrently to the Secretary of Veterans Affairs and the Committees on Veterans' Affairs of the Senate and House of Representatives (hereinafter in this section referred to as the "Committees") a report setting forth the Special Committee's evaluation of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (38 U.S.C. 612A note). Such report shall include the Special Committee's—

(A) overall evaluation of the conduct, validity, and meaning of the study;

(B) assessment of the capability of the Department of Veterans Affairs to meet the need for diagnosing and treating veterans for post-traumatic stress disorder and for other psychological problems in readjusting to civilian life, as estimated in the results of such study;

(C) evaluation of the Secretary's report on the study; and

(D) recommendations for any further or follow-up research on the matters addressed in the study.

(2) Not later than 30 days after receiving the Special Committee's report under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

(b) UPDATES OF REPORTS UNDER SECTION 110(c) OF PUBLIC LAW 98–528.—(1) Not later than February 1 of each of 1992 and 1993, the Special Committee shall concurrently submit to the Secretary and the Committees a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans' Health Care Act of 1984, together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 60 days after receiving each of the Special Committee's reports under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

SEC. 109. FUNDING FOR POST-TRAUMATIC STRESS DISORDER PROGRAMS.

In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary of Veterans Affairs submits to the Congress in conjunction with the President's budget submission for fiscal year 1993 and for fiscal year 1994 pursuant to section 1105 of title 31, United States Code, the Secretary shall identify the amounts in the appropriations requests for Department accounts that are estimated to be obligated for—

(1) the payment of compensation to veterans for disabilities resulting from post-traumatic stress disorder (hereinafter in this section referred to as "PTSD") that is service connected;

(2) the treatment of veterans by or at the expense of the Department for PTSD related to their active-duty service, including specific designation of funds for the treatment of PTSD—

(A) in PTSD programs designated pursuant to section 110(a)(1) of the Veterans' Health Care Act of 1984 (38 U.S.C. 612A note);

(B) in inpatient psychiatric programs and outpatient mental health programs other than such designated PTSD programs;

(C) in readjustment counseling programs pursuant to 612A of title 38, United States Code; and

(D) under contract through non-Department sources furnishing (i) readjustment counseling services pursuant to section 612A(e) of such title, (ii) mental health services pursuant to such section 612A(e), or (iii) mental health services pursuant to other authority, and described in the first annual report submitted pursuant to section 110(e)(1) of the Veterans' Health Care Act of 1984 as having been proposed by the Special Committee on Post-Traumatic Stress Disorder;

(3) education, training, and research at—

(A) the National Center on Post-Traumatic Stress Disorder established under section 110(c) of such Act;

(B) any centers of mental illness research, education, and clinical activities that may be established at Department medical centers; and

(C) other Department research facilities; and

(4) the operation of the National Center on Post-Traumatic Stress Disorder.

SEC. 110. SELECTION OF LOCATIONS FOR NEW POST-TRAUMATIC STRESS DISORDER TREATMENT UNITS.

(a) ACCESSIBILITY OF PTSD TREATMENT UNITS TO VETERANS IN RURAL AREAS.—(1) Subchapter I of chapter 81 is amended by adding at the end the following new section:

"§ 8117. Locations of PTSD treatment units

"The Secretary shall to the extent practicable ensure that there are Department post-traumatic stress disorder treatment units in locations that are readily accessible to veterans residing in rural areas of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 8116 the following new item:

"8117. Locations of PTSD treatment units.".

(b) IMPLEMENTATION.—In determining where to locate post-traumatic stress disorder units which may be established after the date of the enactment of this Act, the Secretary of Veterans Affairs shall give strong consideration to locations referred to in section 8117 of title 38, United States Code, as added by subsection (a)(1).

PART B—MENTAL ILLNESS RESEARCH AND EDUCATION

SEC. 121. MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL CENTERS.

(a) IN GENERAL.—Subchapter II of chapter 73 is amended—

(1) by redesignating sections 7316 and 7317 as sections 7317 and 7318, respectively; and

(2) by inserting after section 7315 the following new section 7316:

"§ 7316. Mental illness research, education, and clinical centers

"(a) The purposes of this section are to facilitate the improvement of health-care services for eligible veterans suffering from mental illness, especially service-related conditions, through research, the education and training of health personnel, and the development of improved models for the furnishing of clinical services.

"(b)(1) In order to carry out the purposes of this section, the Secretary, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than five health-care facilities of the Department as the locations for centers of mental illness research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this section.

"(2) The Secretary shall designate at least one facility under paragraph (1) not later than January 1, 1992.

"(3) In designating facilities as the locations for centers under paragraph (1), the Secretary, upon the recommendation of the Chief Medical Director, shall ensure appropriate geographic distribution of such facilities.

"(4) The Secretary may not designate any health-care facility as a location for a center under paragraph (1) unless the Secretary, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(A) with an accredited medical school which provides education and training in psychiatry and with which such facility is affiliated, an ar-

rangement under which residents receive education and training in psychiatry through regular rotation through such facility so as to provide such residents with training in the diagnosis and treatment of mental illness;

"(B) with an accredited graduate school of psychology which provides education and training in clinical or counseling psychology or both and with which the facility is affiliated, an arrangement under which students receive education and training in clinical or counseling psychology or both through regular rotation through such facility so as to provide such students with training in the diagnosis and treatment of mental illness;

"(C) an arrangement under which nursing, social work, or other allied health personnel receive training and education in mental health care through regular rotation through such facility;

"(D) the ability to attract the participation of scientists who are capable of ingenuity and creativity in research into the causes, treatment, and prevention of mental illness and into models for furnishing care and treatment to veterans suffering from mental illness;

"(E) a policymaking advisory committee composed of appropriate mental health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(F) the capability to conduct effectively evaluations of the activities of such center.

"(c) Activities of clinical and scientific investigation at each center shall be eligible to compete for the award of funding from amounts appropriated for the Department of Veterans Affairs medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for mental illness.

"(d) There are authorized to be appropriated for the basic support of the research and education and training activities of the centers established pursuant to subsection (b)(1), \$3,125,000 for fiscal year 1992 and \$6,250,000 for each of the three subsequent fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Department of Veterans Affairs medical care account and medical and prosthetics research account such amounts as the Chief Medical Director determines appropriate.

"(e) The Chief Medical Director shall ensure that research activities carried out through centers established under subsection (b)(1) include an appropriate emphasis on the psychosocial dimension of mental illness and on proposals of means of furnishing care and treatment to veterans suffering from mental illness.

"(f) The Chief Medical Director shall ensure that useful information produced by the research, education and training, and clinical activities of the centers established under subsection (b)(1) is disseminated throughout the Veterans Health Administration through the development of programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title and other means.

"(g) The official within the Central Office of the Veterans' Health Administration responsible for mental health and behavioral sciences matters shall be responsible for the supervision of the operation of the centers established pursuant to subsection (b)(1).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by striking out the items relating to sections 7316 and 7317 and inserting in lieu thereof the following:

"7316. Mental illness research, education, and clinical centers.
"7317. Malpractice and negligence suits: defense by United States.
"7318. Hazardous research projects: indemnification of contractors.".

(c) REPORTS.—Not later than February 1 of each of 1993, 1994, and 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience during the prior fiscal year under the centers established pursuant to section 7316 of title 38, United States Code (as added by subsection (a)). Each such report shall contain the following:

(1) A description of—

(A) the activities carried out at each center and the funding provided for such activities;

(B) the advances made at each center in research, education and training, and clinical activities relating to mental illness in veterans; and

(C) the efforts made by the Chief Medical Director of the Department of Veterans Affairs pursuant to subsection (e) of such section (as so added) to disseminate throughout the Veterans Health Administration useful information derived from such activities.

(2) The Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of the centers.

TITLE II—GENERAL HEALTH CARE

PART A—GENERAL HEALTH

SEC. 201. ELIGIBILITY FOR PROSTHETIC DEVICES AND CERTAIN OTHER MEDICAL ITEMS.

(a) IN GENERAL.—Section 601(6)(A)(i) is amended by striking out "(except under the conditions described in section 612(f)(1)(A)(i) of this title)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which the Secretary of Veterans Affairs submits to the Committees on Veterans' Affairs of the Senate and House of Representatives copies of the Secretary's written determination that implementation of that amendment will not result in (1) substantial delay, or contribute substantially to delays, in the furnishing of prosthetic items in connection with the treatment of disabilities that are service connected (within the meaning of that term provided in section 101(16) of title 38, United States Code), or (2) the denial of such items in connection with the treatment of such disabilities.

SEC. 202. INCREASE IN MAXIMUM LIMITATIONS ON HOME HEALTH SERVICES.

Section 617(a)(2) is amended—

(1) in subparagraph (A), by striking out "\$2,500" and inserting in lieu thereof "\$5,000"; and

(2) in subparagraph (B), by striking out "\$600" and inserting in lieu thereof "\$1,200".

SEC. 203. EXPANDED SERVICES FOR HOMELESS VETERANS.

(a) ASSESSMENT AND PLAN.—(1)(A) The Secretary of Veterans Affairs shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the director of the medical center concerned or the region of the director of the region concerned, as the case may be.

(B) Each assessment shall identify the needs of homeless veterans with respect to the following areas:

(i) Health care.
(ii) Education and training.
(iii) Employment.
(iv) Shelter.
(v) Counseling.
(vi) Outreach services.

(C) Each assessment shall also indicate the extent to which the needs referred to in clauses (i) through (vi) of subparagraph (B) are being met adequately by the programs of the Department of Veterans Affairs, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

(D) Each assessment shall be made in consultation with all facilities of the Department of Veterans Affairs serving veterans in the appropriate service area and with community-based organizations that have experience working with homeless persons in that area.

(E) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(2)(A) The director of each medical center shall develop a plan for each of fiscal years 1992, 1993, and 1994 for the provision of outreach services and other services to meet the needs that are identified in the assessment referred to in paragraph (1)(B) on the part of homeless veterans in the area served by the medical center concerned. The director of each medical center shall develop such plans in consultation with the director of the appropriate regional benefits office, the heads of other facilities of the Department of Veterans Affairs, and the Director for Veterans' Employment and Training within the State concerned.

(B) Each plan developed pursuant to subparagraph (A) shall—

(i) describe the actions to be taken by the Department of Veterans Affairs to meet, directly or otherwise, those needs of homeless veterans that are identified in the assessment referred to in paragraph (1) as not being adequately met by existing programs; and

(ii) provide that the director of the medical center concerned or other official of the Department of Veterans Affairs will take appropriate action to meet those needs, to the maximum extent practicable, through existing programs and available resources.

(C) The director of each medical center shall coordinate the development of the plan for the area served by the medical center concerned with other programs of the Department of Veterans Affairs, other departments and agencies of the Federal Government, State and local governments, and community-based organizations and other private entities that provide services to homeless persons.

(D) Each plan shall include a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned and shall describe the services offered by those programs.

(3) The director of each medical center shall be responsible for carrying out the plan developed with respect to the area served by that medical center. In carrying out such plan, the director shall take appropriate actions to seek to inform each homeless veteran, and each veteran who is at risk of becoming homeless (as determined by the director), of the services available to the veteran within the area served by the medical center.

(4) The director of each medical center shall disseminate to other departments and agencies of the Federal Government, all State and local governments, and all private entities that provide services to homeless persons or homeless veterans within the area served by the medical center information regarding the services provided to homeless veterans by the medical center or other facility of the Department of Veterans Affairs.

(b) PILOT PROGRAM FOR PROVIDING DOMICILIARY CARE FOR HOMELESS VETERANS.—(1) The Secretary shall conduct a pilot program to determine the effectiveness of providing, through existing community-based organiza-

tions, domiciliary care (including medical services) to homeless veterans eligible for such care from the Department of Veterans Affairs under other provisions of law. In carrying out the program, the Secretary may enter into contracts with community-based organizations that have demonstrated effectiveness in providing relevant services to homeless persons. The Secretary shall conduct the program at not more than 15 locations throughout the United States.

(2) In entering into contracts under this section, the Secretary shall give preference to community-based organizations that offer the most comprehensive care and services to homeless individuals, particularly services that meet needs identified in the assessments referred to in subsection (a)(1) as not being adequately met by existing programs.

(3) There is authorized to be appropriated to carry out this subsection $1,500,000 for each of fiscal years 1992, 1993, and 1994.

(4) If the Secretary determines that the pilot program conducted pursuant to paragraph (1) is meeting effectively the domiciliary care needs of homeless veterans and that additional funds are needed for that program, the Secretary may transfer funds appropriated to carry out section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628; 102 Stat. 3257), as amended by subsection (e), to the account available to carry out the pilot program provided for in this subsection, except that no amount may be transferred in any fiscal year that would reduce the amount available for expenditure under such section 801 below an amount equal to the amount expended under that section in the preceding fiscal year. Funds transferred under this paragraph shall be available for the same period for which originally appropriated.

(c) AUTHORITY TO ACCEPT DONATIONS FOR CERTAIN PROGRAMS.—The Secretary may accept donations of funds and services for the purposes of providing one-stop, non-residential services and mobile support teams and for expanding the medical services to homeless veterans eligible for such services from the Department of Veterans Affairs.

(d) DEFINITIONS.—As used in subsections (a), (b), and (c):

(1) The term "medical center" means a medical center of the Department of Veterans Affairs.

(2) The term "regional benefits office" means a regional benefits office of the Department of Veterans Affairs.

(3) The term "veteran" has the same meaning given such term by section 101(2) of title 38, United States Code.

(4) The term "homeless" has the same meaning given such term by section 103(a), as limited by section 103(c), of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 485).

(e) EXTENSION OF CERTAIN PROGRAMS FOR HOMELESS VETERANS.—(1) Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628; 102 Stat. 3257) is amended—

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Department of Veterans Affairs $30,000,000 for each of the fiscal years 1989 and 1990; $50,000,000 for fiscal year 1991; $57,500,000 for fiscal year 1992; and $65,000,000 for fiscal year 1993. Funds appropriated pursuant to this section shall be in addition to any funds appropriated pursuant to any other authorizations (whether definite or indefinite) for such fiscal years.";

(B) in subsection (b)—

(i) by inserting "(1)" after "DOMICILIARY CARE.—";

(ii) by striking out "50 percent" and inserting in lieu thereof "the amounts specified in paragraph (2)";

(iii) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(iv) by adding at the end the following new paragraph:

"(2) The amounts available for the purposes referred to in paragraph (1) are as follows:

"(A) For fiscal year 1989, $15,000,000.

"(B) For fiscal year 1990, $15,000,000.

"(C) For fiscal year 1991, $20,000,000.

"(D) For fiscal year 1992, $22,500,000.

"(E) For fiscal year 1993, $25,000,000."; and

(C) in subsection (c)—

(i) by inserting "(1)" after "HOMELESS VETERANS.—";

(ii) by striking out "50 percent" and inserting in lieu thereof "the amounts specified in paragraph (2)"; and

(iii) by adding at the end the following new paragraph:

"(2) The amounts available for the purposes referred to in paragraph (1) are as follows:

"(A) For fiscal year 1989, $15,000,000.

"(B) For fiscal year 1990, $15,000,000.

"(C) For fiscal year 1991, $30,000,000.

"(D) For fiscal year 1992, $35,000,000.

"(E) For fiscal year 1993, $40,000,000.".

(2) EXTENSION OF PROGRAM FOR MENTALLY ILL HOMELESS VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 612 note) is amended by striking out "1992" and inserting in lieu thereof "1994".

(f) REPORT.—Not later than February 1, 1993, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing an evaluation of the programs referred to in subsections (a), (b), and (c).

SEC. 204. EXTENSION OF PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS.

Section 113(b) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 612 note) is amended—

(1) by striking out "and 1990" and inserting in lieu thereof a comma and "1990, 1991, 1992, and 1993"; and

(2) by adding at the end the following new sentence: "Funds appropriated to carry out the pilot program authorized by this section shall remain available until expended.".

SEC. 205. ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS.

(a) ESTABLISHING OF ADVISORY COMMITTEE.—Chapter 3 is amended—

(1) by redesignating sections 223 and 224 as sections 224 and 225, respectively; and

(2) by inserting after section 222 the following new section 223:

"§223. Advisory Committee on Prosthetics and Special-Disabilities Programs

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the 'Committee').

"(2) The members of the Committee shall be appointed by the Secretary and shall include—

"(A) appropriate representatives of veterans who use prosthetic devices;

"(B) individuals who are recognized experts in the fields of prosthetics engineering;

"(C) individuals engaged in prosthetics research;

"(D) individuals engaged in rehabilitative medicine;

"(E) individuals engaged in the clinical treatment of individuals who are users of prosthetic devices;

"(F) individuals engaged in clinical treatment in the Department's special-disabilities programs; and

"(G) such other individuals with pertinent expertise or experience as the Secretary may determine appropriate.

"(3) The Committee may also include, as ex officio members, individuals appointed from the Department.

"(4) The Secretary shall determine the total number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that the term of office of any such member may not exceed three years.

"(b)(1) It shall be the function of the Committee to advise the Secretary and the Chief Medical Director on all matters related to—

"(A) prosthetics and special-disabilities programs administered by the Secretary;

"(B) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

"(C) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

"(D) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

"(2) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in paragraph (1) of this subsection.

"(c) Not later than January 15 of 1992, 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans Affairs' of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 30 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

"(d) As used in this section, the term 'special-disabilities programs' includes all programs administered by the Secretary for spinal-cord-injured veterans, blind veterans, veterans who have lost or lost the use of extremities, hearing-impaired veterans, and other veterans with serious incapacities in terms of daily life functions.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 3 is amended by striking out the items relating to sections 223 and 224 and inserting in lieu thereof the following:

"223. Advisory Committee on Prosthetics and Special-Disabilities Programs.
"224. Rulemaking: procedures and judicial review.
"225. Administrative settlement of tort claims.".

SEC. 206. SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITIES AFFECTING PROCREATION.

(a) DEFINITION OF "MEDICAL SERVICES".—Clause (A) of section 601(6), as amended by section 201 of this Act, is further amended to read as follows:

"(A)(i) surgical services, (ii) services to achieve pregnancy in a veteran or a veteran's spouse when such services are necessary to overcome a service-connected disability impairing a veteran's procreative ability (but only if such services are furnished by contract, except for services which the Chief Medical Director determines that Department of Veterans Affairs facilities are fully capable of furnishing in a cost-effective manner), (iii) dental services and appliances as described in sections 610 and 612 of this title, (iv) optometric and podiatric services, (v) (in the case of a person otherwise receiving care or services under this chapter) preventive health-care services as defined in section 662 of this title, (vi) wheelchairs, artificial limbs, trusses and similar appliances, special clothing made

necessary by the wearing of prosthetic appliances, and such other supplies or services as the Secretary determines to be reasonable and necessary, and (vii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and".

(b) Advisory Committee.—The Chief Medical Director of the Department of Veterans Affairs shall appoint an advisory committee to advise the Chief Medical Director on the exercise of authority to furnish services described in subclause (ii) of section 601(6)(A) of title 38, United States Code, as added by subsection (a). Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee appointed under this subsection.

SEC. 207. PREVENTIVE MEDICINE.

(a) Extension of Pilot Program.—Section 663(a)(1) is amended to read as follows:

"(a)(1) In order to carry out the purpose of this subchapter, the Secretary shall, through fiscal year 1996—

"(A) furnish annually at least two preventive health-care services that the Secretary determines to be feasible and appropriate to any veteran being furnished care or services under section 610(a)(1) or 612(a) (1) or (2) of this title; and

"(B) implement annually at each Department of Veterans Affairs health-care facility a major preventive health-care and health-promotion initiative for such veterans.".

(b) Limit on Expenditures.—Section 663(c) is amended—

(1) by striking out "or" after "1983,"; and

(2) by striking out the period at the end and inserting in lieu thereof ", more than $16,000,000 in fiscal year 1992, more than $17,000,000 in fiscal year 1993, more than $18,000,000 in fiscal year 1994, more than $19,000,000 in fiscal year 1995, or more than $20,000,000 in fiscal year 1996.".

(c) Director of Preventive Health-Care and Health-Promotion Programs.—Section 663 is amended by adding at the end the following new subsection:

"(d)(1) The Chief Medical Director shall designate an official in the Veterans Health Administration to act as the Director of Preventive Health-Care and Health-Promotion Programs.

"(2) The Director of Preventive Health-Care and Health-Promotion Programs shall prepare guidance regarding, and be responsible for coordinating, evaluating, and advising the Chief Medical Director on, all activities carried out under this subchapter.".

(d) Reports.—Section 664 is amended to read as follows:

"(a) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

"(1) not later than February 1, 1994, an interim report on the experience under the program provided for by this subchapter; and

"(2) not later than February 1, 1996, a final report on the experience under the program.

"(b) Each report submitted pursuant to subsection (a) of this section shall include, with respect to the experience under the program through September 30 of the year preceding the deadline for submission of such report specified in subsection (a)—

"(1) a description of the types of services that have been furnished pursuant to section 663(a)(1)(A) of this title and the number of veterans who received such services;

"(2) a description of the preventive health-care and health-promotion initiatives that were implemented pursuant to section 663(a)(1)(B) of this title and the number of veterans who have been served through such initiatives;

"(3) a description of the types of preventive health-care services that have been furnished pursuant to sections 610 and 612 of this title and the number of veterans who received such services;

"(4) a description of activities conducted pursuant to section 663(a)(2) of this title;

"(5) an assessment of the results of the program; and

"(6) any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate.".

(e) Conforming and Clarifying Amendments.—(1) Section 661(1) is amended by striking out ", including veterans with service-connected disabilities" and all that follows through "disability under this chapter,".

(2) Clauses (1) and (2) of section 662 are amended to read as follows:

"(1) periodic medical examinations (including screenings for high blood pressure, glaucoma, colorectal cancer, and cholesterol) and dental examinations;

"(2) patient health education (including education about nutrition, stress management, physical fitness, and smoking cessation);".

SEC. 208. ASSISTIVE DOGS FOR CERTAIN DISABLED VETERANS.

(a) Authority to Provide Assistive Dogs.—Section 614 is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide—

"(A) a service dog to a quadriplegic veteran who has a service-connected disability; and

"(B) a signal dog to a veteran who has a service-connected hearing impairment and is in need of the assistance of such a dog.

"(2) The Secretary may pay travel and incidental expenses to veterans referred to in paragraph (1), under the terms and conditions set forth in section 111 of this title, for travel to and from such veteran's homes that are incurred in becoming adjusted to the service dogs and signal dogs referred to in such paragraph.

"(3) For the purposes of this subsection:

"(A) The term 'service dog' means a dog trained to assist quadriplegic individuals in the performance of daily living tasks.

"(B) The term 'signal dog' means a dog trained to provide hearing assistance to deaf persons.".

(b) Technical Corrections.—Section 614(b) is amended by striking out "(under the terms and conditions set forth in section 111 of this title) to and from their homes and" and inserting in lieu thereof ", under the terms and conditions set forth in section 111 of this title, for travel to and from such veteran's homes that are".

SEC. 209. PROSTHETIC SERVICES REPORT.

Not later than January 15, 1992, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's evaluation of the reasons for the backlog that occurred in the procurement of prosthetic appliances in fiscal year 1989, and for the failure to furnish prosthetic appliances in accordance with the priority established in section 612(i) of title 38, United States Code; and

(2) a description of the actions that the Secretary has taken and plans to take to prevent a recurrence of—

(A) the failure to furnish prosthetic appliances in accordance with such priority, including a schedule for any such planned actions; and

(B) the accumulation of a significant backlog in the procurement of prosthetic appliances.

SEC. 210. REPEAL OF AUTHORITY TO FURNISH TOBACCO TO VETERANS RECEIVING HOSPITAL OR DOMICILIARY CARE.

(a) In General.—Section 615 is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 17 is amended by striking out the item relating to section 615.

SEC. 211. DEVELOPMENT OF RECOMMENDED LEGISLATION FOR THE ELIMINATION OF INCONSISTENCIES IN CERTAIN VETERANS BENEFITS LAWS.

(a) Requirement to Establish Task Force.—The Secretary of Veterans Affairs shall establish a task force to recommend policies and legislation for the elimination of inconsistencies among provisions of law relating to veterans' eligibility for certain health-care benefits.

(b) Composition of Task Force.—The task force shall be composed of the following:

(1) Employees of the Department of Veterans Affairs involved in the administration of programs affected by the inconsistencies in law referred to in subsection (a).

(2) Representatives of organizations concerned with the administration of such programs, as determined by the Secretary.

(c) Responsibilities of Task Force.—The task force shall—

(1) identify inconsistencies among sections 601(6), 612, 614, 617, and 619 of title 38, United States Code, and the implementation of such sections;

(2) after consultation with appropriate representatives of veterans, develop policy recommendations and legislative proposals for the elimination of any such inconsistencies; and

(3) not later than the date specified by the Secretary, submit to the Secretary a report containing (A) descriptions of the inconsistencies identified by the task force, (B) the policies and legislative proposals recommended by the task force for the elimination of such inconsistencies, and (C) the reasons for each such recommendation.

(d) Action by the Secretary.—The Secretary shall—

(1) review the report submitted by the task force; and

(2) either (A) approve the recommendations for legislation contained in the report, or (B) with respect to any such recommendations that the Secretary does not approve, recommend, or decline to recommend, alternative legislative proposals that the Secretary considers appropriate for the elimination of the inconsistencies identified by the task force.

(e) Submission of Recommendations to Congress.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(1) the report submitted to the Secretary by the task force; and

(2) a report containing—

(A) any legislation recommended by the Secretary for the elimination of the inconsistencies identified by the task force;

(B) an analysis of any legislation recommended by the Secretary; and

(C) the reasons for any differences between any legislation recommended by the Secretary and the legislation recommended by the task force.

SEC. 212. ELIGIBILITY OF FORMER PRISONERS OF WAR FOR OUTPATIENT MEDICAL SERVICES.

Section 612(a)(1) is amended—

(1) at the end of clause (B), by striking out "and";

(2) at the end of clause (C), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(D) to any former prisoner of war for any disability.".

SEC. 213. PILOT PROGRAM FOR FURNISHING ASSISTIVE MONKEYS TO CERTAIN VETERANS.

(a) Requirement for Pilot Program.—During fiscal years 1992, 1993, 1994, and 1995, the

Secretary of Veterans Affairs shall conduct a pilot program under which the Secretary shall—

(1) furnish assistive monkeys to quadriplegic veterans who have service-connected disabilities rated 50 percent or more; and

(2) facilitate the furnishing of assistive monkeys to other quadriplegic veterans.

(b) SELECTION OF VETERAN-PARTICIPANTS.—(1) In determining whether to furnish an assistive monkey to a veteran, or to facilitate the furnishing of an assistive monkey to a veteran, under the pilot program, the Secretary shall (A) consider the extent to which the veteran needs and can benefit from the assistance of the monkey, and (B) provide a preference for veterans who have service-connected quadriplegia.

(2) The Secretary shall approve a veteran for participation in the pilot program only upon the Secretary's determination that the veteran is well-suited for—

(A) carrying out the responsibilities involved in the care of the monkey; and

(B) effectively using the monkey for assistance in performing the veteran's daily living tasks.

(c) ADMINISTRATIVE MATTERS.—(1) The Secretary is authorized to enter into contracts for the furnishing of assistive monkeys under subsection (a). Under such contracts the Secretary may make advance payments for the furnishing of the monkeys before receipt of the monkeys and may either reimburse the provider of such monkeys for the costs of training the monkeys or, subject to such terms and conditions as the Secretary determines are necessary to protect the interests of the Government, make advance payments for such costs before the costs are incurred.

(2) Ownership of an assistive monkey furnished to a veteran under the pilot program shall be determined in accordance with a contract between the provider of the monkey and the veteran.

(3) The Secretary shall provide for the protection of the welfare of assistive monkeys furnished veterans under the pilot program.

(d) EVALUATION AND REPORT.—(1) The Secretary shall evaluate the conduct of the pilot program, the nature and extent of the benefit to veterans furnished assistive monkeys under the program (including any benefits related to employment), the costs and cost-effectiveness of furnishing such monkeys to quadriplegic veterans, and the effects of such program on the recruitment and retention of paid primary caregivers for veterans receiving monkeys and on the morale of unpaid primary caregivers for such veterans.

(2) Not later than February 1, 1995, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under the pilot program. The report shall contain—

(A) the results of the evaluation carried out under paragraph (1), including descriptions of the procedures and criteria used to select veterans to receive assistive monkeys, the nature and extent of the benefit that the veterans received from the assistance of such monkeys, and the amounts and types of costs incurred by the Department of Veterans Affairs in the conduct of the program;

(B) the Secretary's views on the relationship between the furnishing of an assistive monkey to a veteran and the payment to a veteran of (i) an aid and attendance allowance under section 314(r) of title 38, United States Code, or (ii) an annual rate of pension under section 521 of such title based on the veteran's need of regular aid and attendance; and

(C) any recommendations that the Secretary considers appropriate regarding whether the pilot program should be continued or whether the authority to furnish assistive monkeys to quadriplegic veterans should be made permanent.

(e) EVALUATION OF PRIVATE ASSISTIVE MONKEY PLACEMENT PROGRAMS.—Before furnishing assistive monkeys to veterans under the pilot program, the Chief Medical Director of the Department of Veterans Affairs shall provide for the conduct of an independent evaluation of the way that assistive monkeys would be treated during training and placement under the pilot program. The Chief Medical Director shall ensure that the person or organization performing the evaluation consults with representatives of appropriate animal welfare organizations prior to conducting the evaluation.

(f) DEFINITIONS.—For the purposes of this section—

(1) the terms "veterans" and "service-connected" have the meanings given those terms in paragraphs (2) and (16), respectively, of section 101 of title 38, United States Code; and

(2) the term "assistive monkey" means a monkey that is specially trained to assist in the performance of daily living tasks for quadriplegic individuals.

PART B—HEALTH-CARE PERSONNEL

SEC. 221. PAY ENHANCEMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Section 7454(b) is amended by striking out "or occupational therapists," and inserting in lieu thereof "occupational therapists, or any other health-care personnel furnishing direct care to patients or providing services incident to the furnishing of direct care to patients,".

SEC. 222. SPECIAL RATES CAP.

Section 7455(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by inserting at the end the following new paragraph:

"(2) Whenever the amount of an increase under subsection (a)(1) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.".

SEC. 223. RATES OF PAY FOR CERTAIN PSYCHOLOGISTS.

Notwithstanding any other provision of law, the Secretary of Veterans Affairs, not later than 90 days after the date of the enactment of this Act, shall utilize the authority provided in section 7455 of title 38, United States Code, to increase the rates of pay for clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accredited authority recognized by the Secretary unless the Chief Medical Director of the Department of Veterans Affairs determines that such psychologists are not needed to furnish appropriate quality of psychological services for veterans. The amount by which such rate of pay shall be increased shall be the amount determined by the Secretary, upon the recommendation of the Chief Medical Director, to be necessary to make the pay for such psychologists competitive with the pay of psychologists with the same qualifications and credentials serving in non-Department of Veterans Affairs capacities comparable to the Department capacities in which the Department psychologists are serving.

SEC. 224. CHILD-CARE SERVICES.

(a) ASSESSMENTS OF EMPLOYEE NEEDS FOR CHILD-CARE SERVICES.—(1) In order to provide for adequate planning for the availability of child-care services for children of Department of Veterans Affairs employees, the Secretary of Veterans Affairs shall require the director of each Department of Veterans Affairs medical center and regional office to—

(A) assess the needs of such employees for child-care services; and

(B) submit an annual report to the Secretary containing—

(i) the director's findings relating to the needs of such employees for such services and the extent to which such services are available to meet such needs, and

(ii) a proposal (including a schedule) for meeting fully any unmet needs or, if the director determines that it is impracticable to meet such needs fully, a detailed explanation of the reasons for such determination and a proposal (including a schedule) for meeting as many of such needs as is practicable..

(2) In making the assessment referred to in paragraph (1), the director shall consult with appropriate representatives of the employees at the center or office.

(3) The annual report referred to in this subsection shall be submitted not later than March 1 of each year.

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 7809 is amended by striking out "of this section" in the final sentence.

TITLE III—MINORITY AFFAIRS

SEC. 301. ASSIGNMENT OF MINORITY ISSUES TO AN ASSISTANT SECRETARY OF VETERANS AFFAIRS.

(a) POSITION AND FUNCTIONS OF ASSISTANT SECRETARY.—Section 4 of the Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2638) is amended by adding at the end of subsection (b) the following new paragraph:

"(11) The review and assessment of the effects of policies, regulations, and programs and other activities of the Department on minority veterans and the coordination and monitoring of policies facilitating access of such veterans to services and benefits provided under laws administered by the Secretary.".

(b) "MINORITY VETERANS" DEFINED.—Section 4 of such Act is further amended by adding at the end the following new subsection:

"(g) DEFINITIONS.—As used in this section:

"(1) The term 'minority veterans' means veterans who are—

"(A) black individuals;

"(B) Native Americans;

"(C) Hispanic-Americans;

"(D) Asian-Americans;

"(E) Pacific-Islander-Americans; and

"(F) women.

"(2) The term 'veteran' has the meaning given that term in section 101(2) of title 38, United States Code.

"(3) The term 'Native American' means an Indian, a Native Hawaiian, or an Alaska Native.

"(4) The term 'Indian' has the meaning given that term in section 4(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(a)).

"(5) The term 'Native Hawaiian' has the meaning given that term in section 815(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

"(6) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(7) The term 'Asian-American' means any citizen or permanent resident of the United States, other than a Native American, whose ancestral origin is in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent of Asia.

"(8) The term 'Pacific-Islander-American' means any citizen or permanent resident of the United States, other than a Native American, whose ancestral origin is in any of the original peoples of the Pacific Islands.".

SEC. 302. REESTABLISHMENT OF THE ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) ESTABLISHMENT.—Effective October 1, 1991, the Advisory Committee on Native-Amer-

ican Veterans established by section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388) is reestablished.

(b) INCORPORATION OF PROVISIONS OF PRIOR LAW.—Subsections (b) through (e) and (g) of section 19032 of the Veterans' Health-Care Amendments of 1986 shall apply to the Advisory Committee on Native-American Veterans reestablished by subsection (a).

(c) REPORTS.—(1) Not later than March 31, 1992, and March 31, 1993, the Committee shall submit to the Secretary of Veterans Affairs a report containing the findings and any recommendations of the Committee regarding the matters described in section 19032(b) of the Veterans' Health-Care Amendments of 1986 that were examined and evaluated by the Committee during the fiscal year preceding the fiscal year in which the report is submitted.

(2) Not later than 60 days after receiving each such report, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

(d) TERMINATION.—The Committee shall expire 90 days after the date on which the second report is transmitted by the Committee pursuant to subsection (c).

Mr. DECONCINI. Mr. President, the distinguished chairman of the Veterans' Affairs Committee, Senator CRANSTON, has asked me today, as the ranking Democratic member, to manage this particular legislation, and I am pleased to do so. I urge my colleagues to pay a little bit of attention and to unanimously approve S. 869, the Veterans Health Care Amendments Act of 1991, as it would be amended by an amendment I will propose, which has the support of the full committee, a little bit later.

Mr. President, this bill contains three titles and addresses many important aspects of veterans' health care. The committee report describes each provision in great detail, and Senator CRANSTON has prepared a detailed statement about selected provisions of the bill which I will insert in the RECORD at the conclusion of my remarks, and I submit that everyone and staff would do well to heed that and read that report if they have time.

The committee has put together a very good bill that deals fairly and reasonably with some of the most pressing health-care problems facing veterans and makes some needed improvements in VA's health-care personnel system. I will take a few minutes to comment on certain provisions of the bill about which amendments to strike were offered in committee and which I believe will be the subject of debate today. Aside from disagreement on these very few provisions, I am aware of no opposition to the bill. Many of the provisions in the bill, including the few I will discuss relating to posttraumatic stress disorder and the vet centers have previously been considered and passed by the Senate.

Let me discuss posttraumatic stress disorder. We on the Veterans' Affairs Committee are well aware of the massive problem of this PTSD among combat veterans. PTSD is a psychiatric disorder that afflicts some people after they have been exposed to an extraordinarily traumatic event, such as combat. It can result in severe impairment and affect nearly every aspect of one's life. It is characterized by nightmares, flashbacks, intense distress, persistent avoidance of things associated with the event, and estrangement from others, including close friends and family.

In 1983, Congress mandated a study of the incidence of PTSD and psychological readjustment problems among Vietnam veterans. That study cost $10 million and took 4 years to complete. Its ultimate findings were that nearly one-half million Vietnam veterans suffered from full-blown cases of PTSD and that another 350,000 Vietnam veterans suffered from PTSD symptoms.

The study also reported a very low utilization of the VA medical health services by those suffering from current PTSD. Only 20 percent had ever used the VA mental health services and only 10 percent had used them within the previous 12 months.

Mr. President, the Veterans' Administration has acknowledged the validity of these alarming findings but has not responded with the urgency that I and a majority of the committee believe they should have. Waiting lines at PTSD treatment units, sometimes for as long as 1 year, persist, enhancements in the VA's PTSD programs have resulted only after Congress has earmarked appropriations for those particular specific purposes. This is very disturbing. The VA system exists precisely for such service-related injuries, and yet it is Congress that has been mandating it and not the VA coming forward on their own, as I believe is their obligation and duty.

Mr. President, if the study had found that such a great number of Vietnam war veterans suffered from untreated serious physical wounds related to combat, I am certain that the uproar would have been loud and sustained, the response would have been quick, and the money would have been found to provide outreach and the care that is needed, even without coming to the Congress. But this is a mental health problem and it appears that a psychiatric disorder, even one of epidemic proportions, may be dismissed more easily than could physically disabling problems. Many of us on the committee view the tepid response by VA to this enormous problem nearly as alarming as the problem itself.

Section 103 of the bill would require the VA to furnish PTSD care to veterans on a priority basis if they are diagnosed. Mr. President, section 103 of the bill would require the VA to furnish PTSD care to veterans on a priority basis if the PTSD is related to combat service. The diagnosis would have to be made by a designated VA mental health professional. The veteran's service in a combat theater would also have to be verified by the VA. If both of these occur the VA would have to provide PTSD care for that veteran. The only difference is that formal adjudication would not be required to move forward on the care.

Mr. President, the Senate has passed provisions very similar to section 103 in both the 100th and 101st Congress, and each time there were those who suggested that the approach was misguided and would set a terrible precedent for legislating on the basis of a particular disorder. That position is both factually wrong, as to the precedent, and itself much misguided from a policy standpoint. Current law includes over 70 conditions that are presumed to be service connected if developed during a specific period of time, and thus provide automatic eligibility for priority health care.

As to the policy at issue, for me, it is clear that a combat-theater veteran diagnosed as suffering from PTSD related to that service is precisely the type of person and the type of problem that the VA health-care system should serve and should give a priority to.

I strongly disagree with any contention that the policy at issue is congressional micromanagement or misplaced priorities. At issue is the responsiveness of the veterans health-care system and, really, of the U.S. Government to a problem that is so clearly—in this case, of what combat-theater veterans face—related to their military service. There is nothing that we could be more involved than addressing such an issue today. I challenge any of my colleagues to identify an area of the VA health-care system where there exists such a tremendous unmet need for the treatment of a condition related to the service.

Unfortunately, the most obvious arguments for this provision have been made by the chronic long waits for the PTSD treatment, the years lost by veterans treating themselves with alcohol or drugs for the pain they feel, and the consistent findings of clinicians and researchers as to the enormity of this problem among combat veterans.

PTSD is not unique to Vietnam combat veterans, though they were the subject of the most comprehensive study ever done. The committee report cites numerous other studies related to World War II and the Korean war veterans which all are related to PTSD.

Mr. President, this is clearly a much needed, overdue provision, and I hope the Senate will indeed pass that without great delay.

VET CENTER COUNSELING ENTITLEMENT

Mr. President, section 104 of the committee bill would expand entitlement for counseling at vet centers to include World War II and Korea veterans who served in a theater of combat operations. Since 1987, the committee has reported, and the Senate has passed twice, legislation to allow vet centers to provide for counseling for all combat-theater veterans. In March, Congress enacted legislation in the Persian Gulf supplemental authorization bill to expand entitlement for vet-center counseling to post-Vietnam-era combat-theater veterans.

Mr. President, earlier this year, the administration partially reversed its opposition to expanding the entitlement for readjustment counseling for post-Vietnam-era combat-theater veterans. In fact, the administration requested legislation that was nearly identical to the language that the committee reported and the Senate passed 3 years ago. However, its proposal and the recently enacted legislation does not address World War II and Korea veterans. Many World War II and Korea veterans already seek help at vet centers. Annual VA surveys indicate that vet centers see approximately 700 to 1,000 World War II and Korea veterans for the first time each month.

These 8,000 to 12,000 World War II and Korean war veterans who seek services at vet centers each year are a clear indication of the need for this provision. VA is not authorized to treat these veterans under current law, and does not conduct any outreach at all to attract them.

In committee, opponents of this provision suggested that World War II and Korean war veterans have been back too long to require readjustment counseling which, I note, is a term not used in this provision. Aside from semantics, the opponents of this provision simply do not believe that older veterans need services provided at vet centers. The number of unauthorized visits by older veterans, and the several clinical studies and research papers cited in the committee report regarding PTSD in older veterans indicates precisely the opposite.

Mr. President, it is true that the vet centers were established to address the specific needs of Vietnam veterans and, in that mission, they have done and continue to do excellent work. However, over the past 11 years, they also have developed highly professional, motivated staff who have tremendous experience helping veterans cope with psychological difficulties related to wartime service. Vet centers have clearly demonstrated their value and we have certainly learned enough about the psychological effects of wartime military service to agree that older combat-theater veterans should be able to go to them for help. This is an excellent provision and I am very pleased that the Senate is considering this legislation today.

COMMITTEE MODIFICATION TO THE COMMITTEE SUBSTITUTE

(Purpose: To revise certain pay authorities to physician and nonphysician personnel of the Department of Veterans Affairs, to make technical corrections, and for other purposes)

Mr. DECONCINI. Mr. President, I would like to discuss the committee modification and, on behalf of Senator CRANSTON and the committee, I send to the desk a committee modification of the committee substitute and ask that it be reported.

The PRESIDING OFFICER. The committee retains the right to modify the amendment. The bill is modified accordingly.

The committee modification is as follows:

On page 16, line 22, strike out "602" and insert in lieu thereof "1702".

On page 17, line 7, strike out "sections 610(a)(1)(A) and 612(a)(1)(A)" and insert in lieu thereof "sections 1710(a)(1)(A) and 1712(a)(1)(A)".

On page 18, line 6, strike out "**602**" and insert in lieu thereof "**1702**".

On page 18, in the matter between lines 10 and 11, strike out "602" and insert in lieu thereof "1702".

On page 18, line 12, strike out "612A" and insert in lieu thereof "1712A".

On page 18, line 20, strike out "602(b)" and insert in lieu thereof "1702(b)".

On page 18, line 24, strike out "612A" and insert in lieu thereof "1712A".

On page 21, line 16, strike out "612A(j)(1)" and insert in lieu thereof "1712A(j)(1)".

On page 23, line 25, strike out "612A" and insert in lieu thereof "1712A".

On page 24, line 4, strike out "612A" and insert in lieu thereof "1712A".

On page 25, line 4, strike out "612A" and insert in lieu thereof "1712A".

On page 25, line 11, strike out "612A" and insert in lieu thereof "1712A".

On page 27, line 16, strike out "612A" and insert in lieu thereof "1712A".

On page 27, line 21, strike out "612A" and insert in lieu thereof "1712A".

On page 27, line 25, strike out "612A(e)" and insert in lieu thereof "1712A(e)".

On page 28, line 2, strike out "612A(e)," and insert in lieu thereof "1712A(e),".

On page 35, between lines 3 and 4, insert the following:

PART C—PROGRAM OF MARRIAGE AND FAMILY COUNSELING FOR CERTAIN VETERANS

SEC. 131. PROGRAM FOR FURNISHING MARRIAGE AND FAMILY COUNSELING.

(a) REQUIREMENT.—Subject to the availability of funds appropriated pursuant to the authorization in section 133 of this Act, the Secretary of Veterans Affairs shall conduct a program to furnish to the persons referred to in subsection (b) the marriage and family counseling services referred to in subsection (c). The Secretary shall commence the program not later than 30 days after the date of the enactment of this Act. The authority to conduct the program shall expire at the end of September 30, 1994.

(b) PERSONS ELIGIBLE FOR COUNSELING.—The persons eligible to receive marriage and family counseling services under the program are—

(1) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses, children, and parents of such veterans; and

(2) veterans who are or were members of the reserve components who were called or ordered to active duty during the Persian Gulf War and the spouses, children, and parents of such members.

(c) COUNSELING SERVICES.—Under the program, the Secretary may provide marriage and family counseling that the Secretary determines, based on an assessment by a mental-health professional employed by the Department and designated by the Secretary (or, in an area where no such professional is available, a mental-health professional designated by the Secretary and performing services under a contract or fee arrangement with the Secretary) is necessary for the amelioration of psychological, marital, or familial difficulties that result from the active duty service referred to in subsection (b) (1) or (2).

(d) MANNER OF FURNISHING SERVICES.—(1) The Secretary shall furnish the marriage and family counseling services under the program as follows:

(A) By personnel of the Department of Veterans Affairs who are qualified to provide such counseling services.

(B) By appropriately certified marriage and family counselors employed by the Department.

(C) By qualified mental health professionals pursuant to contracts with the Department.

(2) The Secretary shall establish the qualifications required of personnel under subparagraphs (A) and (C) of paragraph (1) and shall prescribe the training, experience, and certification required of appropriately certified marriage and family counselors under subparagraph (B) of such paragraph.

(3) The Secretary may employ counselors to provide marriage and family counseling under paragraph (1)(B) and shall pay such counselors at the rates prevailing for such counseling among non-Department health-care professionals with similar training, experience, and certification in the locality in which such counselors provide such counseling, as determined by the Secretary.

(e) CONTRACT COUNSELING SERVICES.—(1) Subject to paragraphs (2) and (4), a mental health professional referred to in subsection (d)(1)(C) may furnish marriage and family counseling services to a person under the program as follows:

(A) For a period of not more than 15 days beginning on the date of the commencement of the furnishing of such services to the person.

(B) For a 90-day period beginning on such date if—

(i) the mental health professional submits to the Secretary a treatment plan with respect to the person not later than 15 days after such date; and

(ii) the plan and assessment made under subsection (a) are approved by an appropriate mental health professional of the Department designated for that purpose by the Chief Medical Director.

(C) For an additional 90-day period beginning on the date of the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period) if—

(i) not more than 30 days before the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period), the mental health professional submits to the Secretary a revised treatment plan containing a justification of the need of the person for additional counseling services; and

(ii) the plan is approved in accordance with the provisions of subparagraph (B)(ii).

(2)(A) A mental health professional referred to in paragraph (1) who assesses the need of any person for services for the purposes of subsection (c) may not furnish counseling services to that person.

(B) The Secretary may waive the prohibition referred to in subparagraph (A) for locations (as determined by the Secretary) in which the Secretary is unable to obtain the assessment referred to in that subparagraph from a mental health professional other than the mental health professional with whom the Secretary enters into contracts under subsection (d)(1)(C) for the furnishing of counseling services.

(3) The Secretary shall reimburse mental health professionals for the reasonable cost (as determined by the Secretary) of furnishing counseling services under paragraph (1). In the event of the disapproval of a treatment plan of a person submitted by a mental health professional under paragraph (1)(B)(i), the Secretary shall reimburse the mental health professional for the reasonable cost (as so determined) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

(4) The Secretary may authorize the furnishing of counseling in an individual case for a period shorter than the 90-day period specified in subparagraph (B) or (C) of paragraph (1) and, upon further consideration, extend the shorter period to the full 90 days.

(5)(A) For the purposes of this subsection, the term "treatment plan", with respect to a person entitled to counseling services under the program, must include—

(i) an assessment by the mental health professional submitting the plan of the counseling needs of the person described in the plan on the date of the submittal of the plan; and

(ii) a description of the counseling services to be furnished to the person by the mental health professional during the 90-day period covered by the plan, including the number of counseling sessions proposed as part of such services.

(B) The Secretary shall prescribe an appropriate form for the treatment plan.

(f) Cost Recovery.—For the purposes of section 1729 of title 38, United States Code, marriage and family counseling services furnished under the program shall be deemed to be care and services furnished by the Department under chapter 17 of such title, and the United States shall be entitled to recover or collect the reasonable cost of such services in accordance with that section.

SEC. 132. DEFINITIONS.

For the purposes of this part, the terms "veteran", "child", "parent", "active duty", "reserve component", "spouse", and "Persian Gulf War" have the meanings given such terms in section 101(2), (4), (5), (21), (27), (31), and (33) of title 38, United States Code, respectively.

SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,000,000 for fiscal year 1991 and $10,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out this part. Funds authorized to be appropriated under this section shall be considered to be emergency requirements for the purposes of section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(i)), but may be obligated for the program conducted pursuant to section 131 of this Act only if the President designates an appropriation under this section as an emergency requirement pursuant to such section 251(b)(2)(D)(i).

SEC. 134. REPORTS.

(a) Interim Report.—Not later than January 1, 1993, the Secretary shall submit to Congress a report on the program conducted pursuant to section 131 of this Act. The report shall contain information regarding the persons furnished counseling services under the program, including—

(1) the number of such persons, stated as a total number and separately for each eligibility status referred to in section 131(b) of this Act;

(2) the age and gender of such persons;

(3) the manner in which such persons were furnished such services under the program; and

(4) the number of counseling sessions furnished to such persons.

(b) Final Report.—Not later than January 1, 1994, the Secretary shall submit to Congress a report on the program. The report shall contain updates of the information referred to in subsection (a) and a description and evaluation of the program and shall include such recommendations with respect to the program as the Secretary considers appropriate.

On page 35, line 9, strike out "601(6)(A)(i)" and insert in lieu thereof "1701(6)(A)(i)".

On page 35, line 11, strike out "612(f)(1)(A)(i)" and insert in lieu thereof "1712(f)(1)(A)(i)".

On page 36, line 3, strike out "617(a)(2)" and insert in lieu thereof "1717(a)(2)".

On page 43, line 21, strike out "612" and insert in lieu thereof "1712".

On page 44, line 7, strike out "612" and insert in lieu thereof "1712".

On page 44, beginning on line 17, strike out "Chapter 3" and all that follows through page 44, line 22, and insert in lieu thereof the following: "Chapter 5 is amended by adding at the end of subchapter III the following new section:".

On page 45, line 1, strike out "**223**" and insert in lieu thereof "**543**".

On page 47, beginning on 12, strike out "The table of sections" and all that follows through the matter above page 47, line 16, and insert in lieu thereof the following: "The table of sections at the beginning of chapter 5 is amended by adding after the item relating to section 542 the following:

"'543. Advisory Committee on Prosthetics and Special-Disabilities Programs.'".

On page 47, line 19, strike out "601(6)" and insert in lieu thereof "1701(6)".

On page 48, line 6, strike out "610 and 612" and insert in lieu thereof "1710 and 1712".

On page 48, line 21, strike out "601(6)(A)" and insert in lieu thereof "1701(6)(A)".

On page 49, line 3, strike out "663(a)(1)" and insert in lieu thereof "1763(a)(1)".

On page 49, beginning on line 9, strike out "610(a)(1) or 612(a)" and insert in lieu thereof "1710(a)(1) or 1712(a)".

On page 49, line 15, strike out "663(c)" and insert in lieu thereof "1763(c)".

On page 49, line 25, strike out "663" and insert in lieu thereof "1763".

On page 50, line 10, strike out "664" and insert in lieu thereof "1764".

On page 51, line 2, strike out "663(a)(1)(A)" and insert in lieu thereof "1763(a)(1)(A)".

On page 51, line 7, strike out "663(a)(1)(B)" and insert in lieu thereof "1763(a)(1)(B)".

On page 51, line 12, strike out "610 and 612" and insert in lieu thereof "1710 and 1712".

On page 51, line 15, strike out "663(a)(2)" and insert in lieu thereof "1763(a)(2)".

On page 51, line 22, strike out "661(1)" and insert in lieu thereof "1761(1)".

On page 52, line 1, strike out "662" and insert in lieu thereof "1762".

On page 52, line 13, strike out "614" and insert in lieu thereof "1714".

On page 53, line 9, strike out "614(b)" and insert in lieu thereof "1714(b)".

On page 53, line 24, strike out "612(i)" and insert in lieu thereof "1712(i)".

On page 54, line 12, strike out "615" and insert in lieu thereof "1715".

On page 54, line 15, strike out "615" and insert in lieu thereof "1715".

On page 55, line 11, strike out "601(6), 612, 614, 617, and 619" and insert in lieu thereof "1701(6), 1712, 1714, 1717, and 1719".

On page 57, line 5, strike out "612(a)(1)" and insert in lieu thereof "1712(a)(1)".

On page 60, line 7, strike out "314(r)" and insert in lieu thereof "1114(r)".

On page 60, line 9, strike out "521" and insert in lieu thereof "1521".

On page 61, between lines 10 and 11, insert the following new sections:

SEC. 214. EXTENSION OF CERTAIN TEMPORARY PROGRAMS.

(a) Program for Trial Work Periods and Vocational Rehabilitation.—Section 1163(a)(2)(B) is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(b) Program of Vocational Training for New Pension Recipients.—Section 1524(a)(4) is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(c) Protection of Health-care Eligibility.—Section 1525(b)(2) is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

SEC. 215. PROHIBITION AGAINST USE OF PRICES OF DRUGS PAID BY THE DEPARTMENT OF VETERANS AFFAIRS IN THE CALCULATION OF MEDICAID REBATES.

Section 519(a) of Public Law 102–139 is amended to read as follows:

"(a) the following shall not be used to calculate Medicaid rebates paid by drug and biological manufacturers:

"(1) Prices of drugs and biologicals paid by the Department of Veterans Affairs and prices of drugs and biologicals on contracts administered by the Department of Veterans Affairs.

"(2) Prices (after any rebate or discount) of drugs and biologicals paid pursuant to contracts entered into with States which include, as a basis for rebates or discounts, the prices referred to in clause (1);".

On page 64, between lines 8 and 9, insert the following new sections:

SEC. 225. SPECIAL PAY FOR CERTAIN PHYSICIANS AND DENTISTS BASED ON BOARD CERTIFICATION.

(a) Full-Time Physicians and Dentists.—Section 7437(e)(1)(C) is amended by striking out "only for the special pay" and all that follows through the period and inserting in lieu thereof "for no special pay factors other than primary, full-time, length of service, and specialty or board certification.".

(b) Part-Time Physicians and Dentists.—Section 7437(e)(2)(C) is amended by striking out "only for the special pay" and all that follows through the period and inserting in lieu thereof "for no special pay factors other than primary, full-time, length of service, and specialty or board certification.".

(c) Effective Date.—The amendments made by this section shall take effect as if enacted with the amendment made by section 102 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102–40; 105 Stat. 187).

(d) Availability of Funds.—Expenses incurred for periods before October 1, 1991, by reason of the enactment of the amendments made by subsections (a) and (b) may be charged to fiscal year 1992 appropriations for the same purpose.

SEC. 226. TRANSITION RULE FOR PAYMENT OF SPECIAL PAY UNDER CERTAIN SPECIAL PAY AGREEMENTS.

(a) TRANSITION RULE.—Section 104(d) of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102-40; 105 Stat. 199) is amended by adding at the end the following: "In the case of a physician or dentist who was employed by the Department of Veterans Affairs on July 14, 1991, and who was ready and willing to enter into an agreement under such subchapter on such date, the agreement entered into by the physician or dentist shall take effect on that date without regard to the date of the approval of the agreement under the regulations prescribed to carry out such subchapter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted with section 104 of such Act.

(c) AVAILABILITY OF FUNDS.—Expenses incurred for periods before October 1, 1991, by reason of the enactment of the amendment made by subsection (a) may be charged to fiscal year 1992 appropriations for the same purpose.

SEC. 227. AUTHORITY TO APPOINT NON-PHYSICIAN DIRECTORS TO THE OFFICE OF THE CHIEF MEDICAL DIRECTOR.

Section 7306(a) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Chief Medical Director for the operation of their respective services.".

SEC. 228. EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE.

Section 7404(b)(2) is amended in the first sentence by inserting ", or comparable position" before the period.

On page 67, below line 14, add the following new matter:

TITLE IV—MISCELLANEOUS

SEC. 401. CLARIFICATION OF PROHIBITION ON PAYMENT OF ATTORNEYS' FEES.

(a) IN GENERAL.—Section 5904(c) is amended—

(1) by inserting "(A)" after "(c)(1)";

(2) by redesignating paragraph (2) as subparagraph (B);

(3) in subparagraph (B) (as so redesignated), by striking out "paragraph (1)" and inserting in lieu thereof "subparagraph (A)"; and

(4) by adding at the end the following new paragraph:

"(2) The provisions of this subsection shall apply only to cases involving a claim for benefits submitted by any person applying for benefits under the laws administered by the Department, and such provisions shall not apply in cases in which the Government is proceeding against a person to collect an indebtedness or in which other attorneys' fee statutes apply.".

(b) APPLICATION OF PROHIBITION.—Section 3404(c) of title 38, United States Code, as in effect on November 17, 1988, shall apply only to cases involving a claim for benefits submitted by any person applying for benefits under the laws administered by the Department and shall not apply in cases in which the Government is proceeding against a person to collect an indebtedness or in which other attorneys' fee statutes apply.

Mr. DECONCINI. Mr. President, for the information of my colleagues, I will describe briefly the provisions of the committee modification. The provisions would:

First, correct problems encountered in the implementation of the VA Health-Care Personnel Act of 1991 by (a) requiring that physicians employed by VA on the day before the effective date of the act and who received special pay in only the categories of primary, full-time status, length of service, and board certification continue to receive at least as great an amount of special pay as they received prior to the effective date; and (b) requiring that physicians and dentists whose special-pay agreement was not approved until after the effective date of the new law be paid special pay retroactive to the effective date.

Second, authorize VA to appoint and pay under VA's title 38 authority nonphysician directors of clinical support services within the Veterans Health Administration, such as social work and prosthetics.

Third, amend section 5904 of title 38 to clarify that the prohibition against the payment of attorney's fees for representation in a proceeding before VA relating to VA benefits does not apply in the case of a veteran or other person who is confronted with an administrative debt-collection proceeding brought by VA or in other situations in which no claim for benefits is involved—such as constitutional challenges to VA regulations and Freedom of Information Act cases.

Fourth, amend section 1163 of title 38 to extend from January 31, 1992, through December 31, 1992, the temporary program for trial work periods and voluntary vocational rehabilitation evaluations for veterans receiving compensation at the rate paid totally disabled veterans based on a determination of individual employability.

Fifth, the temporary program of vocational training for certain pension recipients and the 3-year protection of veteran pensioners' VA health-care eligibility would also be extended through December 31, 1992.

Sixth, the committee modification includes a provision to perfect a provision just enacted in the fiscal year 1992 VA Appropriations Act. That provision removed the price VA pays for drugs from the best price calculation under a section of the Omnibus Budget Reconciliation Act of 1990 until June 30, 1992.

Under the OBRA provision, drug manufacturers are required to provide rebates to State Medicaid programs based upon the best prices available in the marketplace for drugs. The 1992 VA appropriations provision temporarily removed the price paid by VA from that best price calculation.

However, according to VA, drug companies are still unwilling to give VA lower drug prices. The reason they give is that they are concerned that they would be required, by some State laws or contracts with State programs, to offer the same price they give VA to certain non-Medicaid State programs. That price, in turn, would then become a best price for purposes of rebate calculations under OBRA.

It is not entirely clear that this concern is justified as a matter of law. However, the committee modification would perfect the VA appropriations provision so as to remove from the best price calculation the prices paid pursuant to contracts entered into with States which base the prices on the prices VA pays.

Seventh, and last, make technical corrections to the text of the bill as reported.

Mr. President, in closing, I thank the committee's ranking Republican member, Senator SPECTER, who has spent literally hours in hearings and time with staff preparing this particular bill that is before us. He has labored very diligently on this legislation, and the other members of the committee, too, who have donated a great deal of time and effort to see this measure is before us today.

I also express my gratitude for their work on this legislation to the committees minority staff, Carrie Gavora, Yvonne Santa Anna, Bill Tuerk, and Tom Roberts, and for all their help to this side, majority staff members, Janet Coffman, Susan Thaul, Kimberly Morin, Thomas Tighe, Bill Brew, and Ed Scott, as well as Tim Gearan of my staff.

These people have put in countless hours. I hate to think of how much time they put in to prepare this bill. It is not an easy bill. It does not just come off the shelf that you can put together. It takes a lot of time and a lot of the history to put it together and put it together right.

I look forward to working with the chairman of the House Veterans' Affairs Committee, G.V. "SONNY" MONTGOMERY, and that committee's ranking Republican member, BOB STUMPS, as well as the other members of the House committee, to ensure swift action on this important legislation.

Mr. President, I have outlined what I consider to be the most significant of the many important provisions in the committee bill. I believe this legislation addresses in a fair and reasonable manner the most pressing needs of our Nation's veterans, and I urge my colleagues to support it.

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am delighted to urge approval of the pending measure, S. 869, the proposed Veterans Health Care Amendments Act of 1991, as reported by the committee on July 25, 1991, as it would be amended by an amendment that Senator SPECTER and I are proposing on behalf of the committee.

Mr. President, the measure as it comes before us today—which I will refer to as the committee bill—is derived from S. 127, which Senator MITCHELL introduced on my behalf on January 14, 1991, and which contained provisions substantively identical to health-care provisions in S. 2100 as reported by our committee in the 101st Congress (S. Rept. No. 101-379) and in S. 869, legislation I introduced with Senators DECONCINI, ROCKEFELLER, and AKAKA on April 18 to address the tremendous problem of post-traumatic stress disorder [PTSD] among wartime veterans. The committee bill addresses a wide range of subjects related to veterans health and mental-health care, including: improvements in veterans access to VA treatment services for PTSD related to combat theater service; eligibility for pre-Vietnam-era combat theater veterans to receive services at vet centers; improvements in VA's planning an overall approach to meet the needs of veterans with PTSD; establishment of mental illness research, education, and clinical centers; enhancement of VA's authority to provide prosthetic appliances and certain other medical items in certain situations; increases in the maximum payments for certain home health services; expanded services for homeless veterans; extend VA's pilot program of mobile health care clinics; establishment of an Advisory Committee on Prosthetics and Special-Disabilities Programs; access to procreative services; increased emphasis on preventive medicine; providing assistive animals for certain disabled veterans; entitlement of former prisoners of war for outpatient medical services; enhanced child-care services for VA employees; and improvements in VA efforts to provide benefits and services to minority veterans.

Mr. President, because the various provisions in the committee bill are described in detail in the committee report (S. Rept. No. 102-118) I will at this time just set forth a summary of the provisions and discuss certain provisions that I want to highlight and the committee amendment I am proposing. I refer my colleagues and all others with an interest in this bill to the committee report.

SUMMARY OF PROVISIONS

Mr. President, the committee bill has three titles: Mental Health, General Health Care, and Minority Affairs as follows:

TITLE I-MENTAL HEALTH

PART A—POST-TRAUMATIC STRESS DISORDER

Part A of title I contains freestanding provisions and amendments to title 38 that would:

First, make a series of Congressional findings related to the incidence of PTSD among veterans and the need for VA to improve its efforts to address the unmet need among veterans for PTSD treatment.

Second, require that (a) a veteran whom a mental health professional designated by VA's Chief Medical Director (CMD) has diagnosed as suffering from PTSD related to combat-area service and whose service in a theater of combat operations is verified be provided care for the disorder as though it had been adjudicated to be service connected; and (b) whenever a veteran is referred by a Vet Center to a general VA health-care facility for a determination regarding eligibility for care and services under this new entitlement for health-care services for PTSD, the veteran be evaluated for diagnostic purposes within 7 days after the date on which the referral is made.

Third, provide to veterans who served in a theater of combat operations during World War II or the Korean conflict with entitlement for counseling to assist with overcoming any psychological problems associated with such service.

Fourth, require that, not later than December 1, 1991, the Secretary of Veterans Affairs devise and initiate implementation of a plan to (a) increase, to levels commensurate with the needs of veterans suffering from PTSD related to active duty, PTSD treatment provided in specialized inpatient and outpatient treatment programs, including PTSD/substance abuse programs, and in Vet Centers; and (b) enhance outreach to inform combat veterans and their families and State and local health and social service organizations of the availability of such treatment and appropriately encourage veterans to participate in treatment.

Fifth, require that, not later than 90 days after the date of enactment, the Secretary submit to the Congressional Committees on Veterans' Affairs a report on the PTSD plan, including (a) a description of the plan; (b) what facilities, personnel, funds, and other resources are necessary to increase the availability of treatment and enhance outreach activities in accordance with the plan in a manner that does not reduce the existing capacity of the Department to provide treatment for other conditions; (c) a description of VA's efforts to make such resources available; (d) an estimate of the availability of community-based residential treatment for PTSD and the impact of such availability on the increased availability of such treatment by VA; (e) an assessment of the need for, and potential benefit of, providing scholarships or other educational assistance to improve the training of individuals providing PTSD treatment providers; (f) recommendations to improve the availability of PTSD treatment; (g) a description of the efforts by the Secretary to implement the recommendations of the CMD's Special Committee on PTSD with respect to (1) establishing educational programming directed to each of the various levels of education, training, and experience of mental health professionals involved in the treatment of veterans suffering from PTSD, and (2) giving research relating to PTSD a high priority in the allocation of funds available to VA for research related to mental health; and (h) any other proposals and recommendations that the Secretary considers appropriate to increase the availability of PTSD treatment.

Sixth, extend for 3 years the reporting requirements of the VA CMD's Special Committee on PTSD and require the Committee's reports to be submitted concurrently to VA and the Congressional Committees on Veterans' Affairs.

Seventh, require VA to specify in its FY 1993 and FY 1994 budget documents the type and amount of resources that are proposed to be spent in the coming fiscal year on PTSD-related activities.

Eighth, require the Secretary, to the extent practicable, to ensure that there are VA PTSD treatment units in locations that are readily accessible to veterans residing in rural areas.

PART B—MENTAL ILLNESS RESEARCH AND EDUCATION

Part B of title I contains an amendment to title 38 that would:

First, require the Secretary to designate not more than five VA health-care facilities as the locations for centers of mental illness research, education, and clinical activities (MIRECCs), with at least one to be designated by January 1, 1992.

Second, authorize the appropriation of $3.125 million for fiscal year 1992 and $6.25 million for each of fiscal years 1993, 1994, and 1995 for MIRECCs.

TITLE II—GENERAL HEALTH CARE

PART A—GENERAL HEALTH

Part A of title II contains freestanding provisions and amendments to title 38 that would:

First, authorize VA to provide prosthetic appliances to certain veterans with non-service-connected disabilities if the provision of such appliances would obviate the need for hospitalization.

Second, increase (a) from $2,500 to $5,000 the maximum amount of a one-time home-improvement and structural-alteration grant as part of home health services furnished in connection with the treatment of a service-connected disability, and (b) from $600 to $1,200 the maximum for such grants in connection with the treatment of a non-service-connected disability.

Third, require each VA medical center (VAMC) or regional benefits office (VARO), in consultation with all VA facilities serving veterans in the appropriate service area with existing community-based organizations that have experience in working with homeless persons, to make an assessment with respect to the needs of homeless veterans living within the facility's catchment area and to identify the needs of homeless veterans in the areas of health care, education, training, employment, shelter, counseling, and outreach services and the extent to which these needs are being met by VA programs, other government programs, and private programs.

Fourth, require each VAMC, in conjunction with the appropriate VARO and Director of Veterans Employment and Training within the State concerned, to develop, within 90 days after enactment, an annual plan for each of FYs 1992, 1993, and 1994 for outreach and the provision of comprehensive services to homeless veterans in that VAMC/VARO catchment area and, in developing such a plan, to attempt to meet, within existing authorities and available resources, those needs identified in the assessment as unmet and to coordinate with non-VA programs that provide services to homeless persons or homeless veterans.

Fifth, require that the plan include a list of all local private and government programs that offer assistance to homeless persons or homeless veterans and identify the services offered by those programs.

Sixth, require the director of each VAMC to be responsible for the carrying out of the VAMC's plan and to take appropriate steps to seek to inform each homeless veteran, and each veteran who is at risk of becoming homeless, of the services available to the veteran within the area served by the VAMC.

Seventh, require the director of each VAMC to disseminate to other Federal and State governments agencies, local governments, and all private entities that provide services to homeless veterans information regarding services provided to homeless veterans by the medical center or other facilities of the Department.

Eighth, extend through fiscal year 1993 the VA's Homeless Chronically Mentally Ill (HCMI) program's authorization of appropriations and increase it from the FY 1991 $15.75-million level to $35 million for FY 1992, $40 million for FY 1993.

Ninth, extend through fiscal year 1993 the VA Domiciliary Care for Homeless Veterans (DCHV) program's authorization of appropriations and increase it from $15.75 million in FY 1991 to $22.5 million for FY 1992, and $25 million for FY 1993.

Tenth, extend the HCMI program's authority (which currently expires at the end of FY 1992) through FY 1994.

Eleventh, authorize annual appropriations of $1.5 million for FYs 1992, 1993, and 1994 for a pilot program at up to 15 sites at which VA would be authorized to contract with existing community based organizations that have demonstrated effectiveness in providing services to homeless persons or homeless veterans for the provision of domiciliary care (including medical services) for veterans eligible for such care.

Twelfth, provide that, in entering into contracts for domiciliary care, preference be given to community-based organizations offering the most comprehensive services, particularly those services identified in the assessment as not being adequately provided by existing programs.

Thirteenth, authorize the Secretary, if it is determined that the pilot domiciliary-care programs are demonstrating effectiveness in meeting the needs of homeless veterans, to expend on these pilot programs funds appropriated for the HCMI program or the DCHV program which are above the amount expended for those programs in the preceding fiscal year.

Fourteenth, authorize VA to accept donations for the purposes of establishing one-stop, non-residential service centers and mobile support teams to assist homeless veterans and of expanding the health services available to homeless veterans eligible for VA benefits and services.

Fifteenth, require by February 1, 1994, an evaluation of the effectiveness of VA's implementation during FYs 1992 and 1993 of the (a) assessment of the needs of homeless veterans and plan to provide other services to meet those needs, (b) pilot program for providing domiciliary care to homeless veterans, and (c) establishment of one-stop, non-residential services and mobile support teams for the provision of services to eligible homeless veterans.

Sixteenth, extend through FY 1993 the authorization for VA's mobile health clinic pilot program and provide that all funds appropriated for the program would remain available until expended.

Seventeenth, require the Secretary to establish an advisory committee on VA's prosthetics and special-disabilities programs comprised of representatives of prosthetic user groups and recognized experts in the fields of engineering, prosthetics research, rehabilitative medicine, and clinical treatment, and to require annual advisory committee reports beginning on January 15, 1992, and continuing for the next 3 years.

Eighteenth, require VA (a) to furnish services to a service-disabled veteran or the spouse of such a veteran to achieve pregnancy in cases in which the veteran's service-connected disability impairs procreative ability; and (b) to establish an interdisciplinary task force to advise the CMD on the implementation of this authority.

Nineteenth, extend until September 30, 1996, the requirement for the Secretary to conduct a pilot program of preventive health-care services and expand the categories of veterans to whom VA is required to furnish preventive services.

Twentieth, require that veterans entitled to preventive services be offered a minimum of two preventive health-care services each year and require that each VA health-care facility annually implement a major preventive health-care and health-promotion initiative.

Twenty-first, expressly provide that the permissible scope of preventive health-care services under the pilot program include stress management, smoking cessation, physical fitness, and screening for high blood pressure, glaucoma, colorectal cancer, and cholesterol.

Twenty-second, require the Secretary to submit reports on the experience under the preventive health-care services pilot program.

Twenty-third, provide express limitations on pilot preventive health-care program expenditures and require the CMD to designate a Director of Preventive Health and Health Promotion Programs.

Twenty-fourth, authorize VA to (a) provide service dogs to quadriplegic veterans who have service-connected disabilities and signal dogs to veterans who have service-connected hearing impairments, and (b) pay a veteran's expenses for necessary travel in connection with the veteran becoming adjusted to the dog.

Twenty-fifth, require the Secretary to submit to the Congressional Committees on Veterans' Affairs by January 15, 1992, a report containing (a) an evaluation of the reasons for the accumulation of the backlog in VA's provision of prosthetic appliances that grew to $10.6 million in FY 1989 and for the failure to observe, in connection with the provisions of prosthetic appliances, the statutory priorities established for the treatment of many of the veterans involved, and (b) a description of the actions that the Secretary has taken, and is planning to take, to prevent such a recurrence of the accumulation of such a significant backlog and of failure to observe such priorities.

Twenty-sixth, repeal VA's authority to provide free tobacco products to veterans receiving hospital or domiciliary care in a VA facility.

Twenty-seventh, establish a task force to recommend policies and legislation for the elimination of inconsistencies among provisions relating to eligibility for various medical assistive devices and certain other health-care benefits.

Twenty-eighth, entitle ex-prisoners of war to VA outpatient care for many non-service-connected disabilities.

Twenty-ninth, require that VA conduct a 4-year pilot program under which VA would be required to furnish assistive monkeys to quadriplegic veterans who have service-connected disabilities rated at 50 percent or more and to facilitate the furnishing of these assistive monkeys to other quadriplegic veterans.

Thirtieth, require that, before any assistive monkeys are furnished to veterans under the pilot program, the CMD provide for an independent evaluation of the way the monkeys would be treated and ensure that the person or organization performing the evaluation consults with representatives of appropriate animal welfare organizations prior to the conduct of the evaluation.

PART B—HEALTH-CARE PERSONNEL

Part B of title II contains freestanding provisions and amendments to title 38 that would:

First, authorize VA to pay additional pay to certain health-care personnel—those employed under title 5 or the title 5/title 38 "hybrid" appointment authorities who furnish direct patient care or services incident to direct patient care—for work on Saturday on the same basis as such pay is paid to registered nurses.

Second, increase the cap on special salary rates that may be paid to health-care personnel so as to permit the rates to exceed by two times the difference between the minimum and maximum of the applicable grade and require the Secretary to notify the Congressional Committees on Veterans' Affairs when a special salary rate becomes 94 (or more) percent of the maximum amount permitted.

Third, require VA to increase rates of pay for VA psychologists who have board certification by using the "hybrid" title 5/title 38 authorities unless the CMD certifies, within 90 days after the date of enactment, that an increase of board-certified psychologists is not necessary for VA to furnish the appropriate quality of psychological services to veterans.

Fourth, require the director of each VA medical center and regional office to assess the needs of the facility's employees for child-care services and to submit an annual report to the Secretary containing the director's findings and a proposal for meeting any unmet needs.

TITLE III—MINORITY AFFAIRS

Title III contains a freestanding provision and an amendment to Public Law 100-527 that would:

First, require the Secretary to assign to an Assistant Secretary responsibility for assessing the effects of VA policies and activities regarding minority veterans, including women veterans, and for coordinating and monitoring policies facilitating the access of such minority veterans to VA benefits and services.

Second, reestablish the Advisory Committee on Native-American Veterans for an additional 2 years.

POST-TRAUMATIC STRESS DISORDER (PTSD)

The provisions of part A of title I of the Committee bill are designed to improve VA's efforts in addressing the tremendous unmet needs for treatment of veterans suffering from PTSD.

BACKGROUND

I have long had special concerns about the adequacy of VA's response to veterans with PTSD and other mental-health-care needs.

In 1983, based on concerns that had arisen from the early experience of the Vet Centers about the extent of PTSD among Vietnam veterans, I authored legislation, enacted in Public Law 98-160, to require VA to provide for the conduct of a study to establish "the prevalence and incidence in the population of Vietnam veterans of post-traumatic stress disorder and other psychological problems in readjusting to civilian life." VA contracted with the Research Triangle Institute to conduct the study.

On July 14, 1988, I chaired an oversight hearing, during which we learned that preliminary results of the mandated PTSD study showed that the incidence of PTSD among Vietnam veterans was much higher than had previously been thought. The testimony presented at that hearing—followed four months later by the formal release of the comprehensive $10-million study, known as the National Vietnam Veterans Readjustment Study (NVVRS) raised serious questions about VA's capacity to furnish the care needed by veterans suffering from this disorder.

The NVVRS is often described as the finest epidemiological mental-health study ever conducted, and its findings have been universally accepted and, I note, never questioned by VA.

The study's findings were alarming. The NVVRS found that 479,000 male veterans of the Vietnam theater of operations, representing slightly over 15 percent of all male servicemembers who served in the theater, were suffering from full-blown cases of PTSD. Another 350,000 male theater veterans, representing 11.1 percent of those who served in the theater, were found to be suffering from clinically significant PTSD symptoms which warranted professional attention.

In addition, the study also found that 960,000 male Vietnam theater veterans (over 30 percent of all such male veterans) and over 1,900 female theater veterans (over 26 percent of all such female veterans) had suffered from the full-blown disorder at some point in their lives.

I found the NVVRS results tremendously disturbing. The best scientific inquiry found that over 800,000 men and women veterans were then suffering from symptoms of a highly disturbing, life-altering, psychological disorder that for the vast majority was clearly directly related to their service in Vietnam. However, the researchers also found that a great majority had not received the help they needed and that their utilization of VA mental-health services was very low. The study reported that, of male veterans with current PTSD, only 20 per cent had ever utilized any VA mental-health services and that in the 12 months preceding the study, only 10.3 percent had utilized any VA mental-health services. Overall, approximately 80 percent of the male veterans with current PTSD had not received mental-health services from any source during the previous 12 months.

I am not aware of any other uncontroverted study that has documented such a great unmet need among veterans for medical treatment for a very serious condition that is directly related to their active-duty service. Combat veterans' needs for treatment and services for PTSD related to their service are precisely the type of needs that the VA medical care system was established to meet. Unfortunately, despite this documented need, VA has not placed a sufficiently high priority on addressing it, and the system has simply not done very well by these veterans.

VA currently employs three basic models through which specialized PTSD treatment is furnished. First, specialized inpatient PTSD units (SIPUs) provide intensive care for PTSD in a hospital setting, generally through a three-month course of treatment. Second, PTSD Clinical Teams (PCTs)—consisting of four FTE, two of which are funded through VA central office and two provided by the host medical center—provide outpatient PTSD treatment to veterans who are referred to the hospital from Vet Centers or other sources and follow-up care to veterans discharged from an SIPU. The PCTs also serve as a resource to staffs in the general psychiatry wards and in substance abuse programs in their facilities. Third, PTSD/substance abuse units (PSUs) provide either inpatient or outpatient care to veterans with a dual diagnosis of PTSD and substance abuse, which unfortunately is common among veterans with PTSD. In addition, VA has advised the committee that two new treatment program models have been developed. The first is an evaluation and brief treatment PTSD unit which will consist of a short-term inpatient stay of perhaps two weeks, during which the veterans will be evaluated as to whether additional inpatient care is necessary and will receive intensive PTSD treatment. The second is a PTSD residential rehabilitation program which will provide domiciliary-based care for veterans who have completed an inpatient PTSD treatment program and will focus on rehabilitation and preparation for independent living as opposed to intensive treatment.

The seventh annual report of the CMD's Special Committee on PTSD reported that, as of February 1, 1991, 18 VA medical centers operated SIPUs, 44 operated PCTs, and 4 operated PSUs. VA has advised that, with the $5 million provided in the regular appropriations Act for FY 1991 for specialized PTSD treatment, 8 new PCTs, 3 new SIPUs, and up to 4 new PSUs will be established and that some of the funds will be used to augment resources for existing SIPUs.

In its most recent report, the Special Committee on PTSD reiterated the need for additional inpatient and outpatient PTSD care in the VA system. SIPUs, which are designed to treat veterans with severe cases of PTSD through an intensive three-month program, have been plagued by chronic waiting lists for the past three years. The Special Committee reported that this problem remains; that, as of January 1, 1991, over 1,300 veterans were waiting for either pre-admission screening at the SIPUs or for admission to treatment; and that the length of wait ranged from zero to five months for screening and, in addition, from one week to 13 months for admission to treatment. It is totally unacceptable for veterans who need treatment for PTSD to have to wait as long as 5 months just to be screened for admission into a program and then be told to wait for as long as 13 months before they can receive the treatment they need. The Special Committee stated that, "for those veterans in need of specialized inpatient treatment, this inaccessibility to care can have a detrimental effect upon the veteran."

In addition, the Special Committee once again recommended, as it has in each of its annual reports since 1985, that each of VA's 158 medical centers with a psychiatry or psychology service have a PCT. Moreover, the Special Committee noted that the specialized PTSD treatment programs that do exist "tend to be located in the eastern part of our country [which] does not coincide with the location of the veteran population" with PTSD treatment needs.

It is clear that, despite the modest growth in PTSD treatment activities, much more must be done before VA will have met its responsibilities to care for veterans with PTSD.

The NVVRS's findings of the hundreds of thousands of veterans with PTSD, the inadequate number of PTSD treatment programs, and the chronic waiting lists indicate as clearly as possible that the Department has not fully met its responsibilities to our veterans. Veterans with PTSD suffer from a disorder that is not as easily seen as is a physical injury, yet the pain they feel is no less real and their need for treatment is no less important.

PTSD PROVISIONS

The provisions of part A of title I would have a tremendous positive impact on VA's current inability to provide adequate care for veterans with PTSD.

PRIORITY CARE FOR COMBAT-SERVICE RELATED PTSD

Section 103 of the bill, which addresses the problem of veterans with PTSD being unable to obtain needed care on a timely basis, is substantively similar to legislation I introduced in section 201 of S. 13 in the last Congress, which passed the Senate on October 3, 1989, and was reported by the Committee on July 19, 1990, in S. 2100. Section 103 would require VA to provide treatment for PTSD for a Vietnam-era veteran or a veteran of another period of war or of hostilities (as determined by the Secretary) on a priority-care basis once a diagnosis of the disorder has been made by a mental-health professional designated by the Chief Medical Director, and the veteran's service in a combat area is verified without the need for a pre-treatment adjudication on the issue of service-connection. This section would also require VA to accomplish an evaluation of a veteran within 7 days after the referral of the veteran to a VAMC from a Vet Center.

The practical effect of this provision would be that, if an appropriate VA diagnostician concludes that a veteran of service in a combat area is suffering from PTSD and that the PTSD is related to that service, care would be forthcoming on a priority basis without the veteran having to wait for a formal VA adjudication of service connection, as long as the Veterans Benefits Administration or another designated office or official verified that the veteran served in a combat area. This verification would have to take place as quickly as possible.

By enabling veterans suffering from combat-area-service-related PTSD to receive VA health care on a priority basis without the need for their PTSD to be formally adjudicated as service connected, this provision would avoid requiring these veterans to wait several months for the outcome of the VA claims adjudication process before being able to receive treatment. It would also have the effect of removing the encouragement for a veteran to seek monetary compensation for the disorder to receive necessary treatment for it.

I recognize that some veterans in financial distress will still need to undergo the adjudication process in order to obtain compensation. However, my purpose in recommending this provision is to make it possible to avoid, for combat-area veterans in need of PTSD care, the delay in receiving care, and the stress, that the adjudication process can entail.

I recognize that this provision would entail some reallocation of VA resources. However, I strongly believe that any such change in focus so as better to serve the needs of veterans with combat-related PTSD is fully in accordance with the historic priorities of the VA to address those needs of veterans which are associated with their military service.

The provision in section 103 which requires VA to conduct evaluations of veterans referred by Vet Centers to VA medical centers within 7 days of the date of the referral addresses the situations, which are documented in the record of the Committee's June 14, 1989, hearing, of veterans being referred to medical centers from Vet Centers and not being able to gain access to either evaluations or needed treatment and of Vet Centers failing to make the referral because they were certain, based on experience, that the veteran would not receive an evaluation or treatment at the medical center. By requiring that such diagnostic evaluations be conducted within 7 days after the referral is made, this provision should ensure that veterans begin the treatment process without having to wait in yet another line just to receive a diagnosis of their condition.

COUNSELING FOR WORLD WAR II AND KOREAN CONFLICT VETERANS

Section 104 of the Committee bill would expand entitlement for readjustment counseling at Vet Centers so as to include World War II and Korea veterans who served in a theater of combat operations. Since the 100th Congress, I have sought legislation to provide for readjustment counseling for all combat-theater veterans. The Senate has passed such legislation twice—in section 605 of S. 2011 in the 100th Congress and section 202 of S. 13 in the 101st Congress—and Congress recently enacted legislation in the Persian Gulf supplemental authorization bill, Public Law 102-25, to expand entitlement for readjustment counseling to individuals who served on active duty after the end of the Vietnam era in areas in which hostilities occurred.

I note that the Administration supported the expansion of entitlement for readjustment counseling for post-Vietnam-era-combat-theater veterans. In fact, the Administration requested legislation that was nearly identical to the language that I proposed, and the Senate passed, three years ago. However, the recently enacted legislation does not address World War II and Korea veterans, many of whom seek help at Vet Centers. VA's Readjustment Counseling Service, which administers the Vet Center program, advises that annual surveys indicate that Vet Centers see approximately 700 to 1,000 new World War II and Korea veterans each month.

Numerous research papers have been published over the last decade which provide evidence that an expansion of Vet Center eligibility would be very beneficial for some older veterans. I refer my colleagues to the pages 29-30 of the committee report accompanying this legislation (S. Rept. No. 102-118), for a description of a number of these published research papers. Despite the doubts expressed by some that veterans of World War II and Korea have any need for Vet Center services, I believe the relevant research and the fact that some 8,500 to 12,000 veterans of those wars seek services each year at Vet Centers are clear evidence that such needs exist.

PLAN FOR ADEQUATE PTSD SERVICES

Section 105 of the bill would require that VA, not later than December 1, 1991, devise and initiate implementation of a plan to accomplish two goals—first, increasing the availability of various forms of VA treatment of PTSD to levels commensurate with the needs of veterans suffering from PTSD as the result of active-duty service, and, second, enhancing VA's outreach activities so as to inform combat veterans, the family members of such veterans, and State and local health and social service organizations of the availability fo PTSD treatment from VA and providing appropriate encouragement for the veterans to participate in treatment. The legislation would specifically require outreach efforts directed at combat veterans who are members of ethnic minority groups.

The provisions of section 105 would require VA to address the issue of meeting in a comprehensive manner the needs of veterans with PTSD. It would, however, provide the Department the discretion to develop the plan internally, taking advantage of the vast expertise that exists within the National Center on PTSD, the Chief Medical Director's Special Committee on PTSD, and the staffs of VA's Readjustment Counseling Service and Mental Health and Behavioral Science Service.

The bill would not mandate the establishment of fixed numbers of specific types of medical programs to address this enormous problem. We have had some success in advocating for specific appropriations to expand specialized programs for PTSD treatment, and I will continue to advocate such add-ons. However, I believe the proper course of action to take at this point in seeking to improve PTSD services and treatment through legislation is to make clear the high priority Congress attaches to meeting PTSD needs and require VA to carry out a mandate to make the necessary improvements.

This is similar to the approach that I followed in the late 1970's which led to the establishment of Vet Centers to carry out the legislative mandate to provide readjustment counseling, and I am confident that such an approach with regard to providing PTSD care on a priority basis would result in similar broad expansions of specialized PTSD treatment programs such as SIPUs, PCTs, PSUs, EBTPUs, and any new treatment models that may be developed, that prove effective in meeting the mandate that this legislation would create.

REPORT

To ensure that Congress is a fully informed participant in the process of change that VA would be required to undertake to meet the needs of veterans with PTSD, section 106 of the bill would require VA, not later than 90 days after the date of enactment of this legislation, to submit to the Committees on Veterans' Affairs of the Senate and House a report describing the plan VA would be required to develop. The report would be required to include a description of what facilities, personnel, funds, and other resources are necessary to increase the availability of treatment and enhance outreach in accordance with the plan, and a description of what efforts have been undertaken by the Secretary to make those resources available for the treatment of PTSD.

Taking into account the available data regarding veterans' PTSD-care needs, I believe that, by providing VA with a three-month period after the enactment of this legislation to develop a plan and prepare a report on it, the bill would grant ample time to VA to determine the number and type of new specialized PTSD treatment programs and appropriate expansions of existing programs that would be required to meet the treatment needs of veterans with PTSD. Taken as a whole, this legislation would make unmistakably clear Congress' assessment that much, much more needs to be done, and that Congress places a top priority on caring for veterans with service-related psychological problems.

The provisions of part A of title I of the Committee bill are intended to place the proper priority on treating veterans with PTSD related to their service and to create meaningful expansions and improvements in VA's system of providing mental-health care to veterans who need it as a result of their service. I have been increasingly disappointed that for years the Department has been unwilling to make meaningful changes and address a painfully obvious problem among those whom it is required to serve. In my role of Chairman of the Veterans' Affairs Committee it has long been my view that this is the area in which VA has most clearly failed to meet its primary mission to serve those who are wounded—whether psychologically or physically, or both—in the service of our nation. I applauded the Administration's actions when it sent Vet Center staff to California in the hours after the Loma Prieta earthquake to provide needed counseling to the victims, and I was equally supportive of the Administration's offer to make the staff of the National Center on PTSD available—on call, in fact—to American civilians who had been taken hostage in the Gulf subsequent to the Iraqi invasion of Kuwait. Such actions demonstrate the value of VA's excellent staff and leading research in stress-related psychiatric care.

However, it is clear that the veterans who are in need of care as a result of their service must take the highest priority when the VA weighs and ranks its many competing priorities. The hundreds of thousands of Vietnam combat veterans whose PTSD is documented, and the untold thousands of combat veterans from World War II and Korea that evidence suggests are still suffering from PTSD have waited far too long for the help they need. Moreover, the Persian Gulf War has presented VA with a new generation of wartime veterans and, despite the rapid conclusion of the war and the minimal U.S. casualties, mental-health experts have cautioned that significant numbers of those who served were exposed to stresses that may lead to psychological problems requiring treatment. It is thus imperative to move ahead to address the problem we already know of and prepare to respond to those that may arise with this new group of wartime veterans.

MENTAL ILLNESS RESEARCH AND EDUCATION

Part B of title I of the Committee bill contains provisions that would require the Secretary to designate not more than five VA health-care facilities as the locations for centers of excellence in the area of mental illness. These centers, to be known as MIRRECs, would focus on research, education, and clinical activities related to mental illness. At least one of the MIRRECs would have to be designated by January 1, 1992.

BACKGROUND

The October 20, 1985, Report of the Special Purpose Committee to Evaluate the Mental Health and Behavioral Sciences Research Program of the VA, which was chaired by Dr. Seymour Kety (and hereinafter referred to as the "Kety Committee") concluded that research on mental illness and training for psychiatrists and other mental health specialists at VA facilities were totally inadequate. The report noted that about 40 percent of all VA beds are occupied by veterans who suffer from mental disorders, whereas less than 10 percent of VA's research resources are directed toward mental illness.

In order to improve and expand the capability of VA health-care failities to respond to the needs of veterans with mental-illness disabilities, the Kety Committee recommended that VA centers of excellence be established to develop first-rate psychiatric research programs within VA. Such centers would provide state-of-the-art treatment, increase innovative basic and clinical research opportunities and enhance and encourage continuing education and training in the treatment of mental illness.

Based on the recommendations of the Kety Committee, the Committee began efforts over four years ago to encourage more research into mental illnesses and to establish centers of excellence. First, legislation enacted on May 20, 1988, Public Law 100-322, included a provision—derived from section 316 of S. 9 as reported by the Committee on November 6, 1987—to add an express reference to mental illness research in the statutory description of VA's medical research mission, now set forth in section 7303(a)(2) of title 38. This reference in the law is intended to express the importance of research to mental health care and thereby to help counteract the historical trend of underfunding mental illness research.

Second, the Committee report accompanying that legislation (S. Rept. No. 100-215, page 138), urged VA to establish three centers of excellence, or MIRECCs, as proposed by the Kety Committee. VA has yet to take any action to do so.

Testimony received at this Committee's April 23, 1991, hearing was very supportive of this provision. For example, the witnesses representing the national associations of VA chiefs of both psychiatry and psychology stressed that the establishment of MIRECCs would improve VA's ability to attract top-notch psychiatrists and psychologists and thus enhance the Department's ability to provide high-quality mental health services to veterans.

Dr. Spencer Falcon, former President of the National Association of VA Chiefs of Psychiatry, and currently Regional Chief of Staff for VA's central region and Chairman of the VA's Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder, testified:

"Funding for psychiatric research in the VA has remained vastly disproportionate to the utilization of psychiatric services. While psychiatric problems account for about 40% of in-patient days in VA medical centers, funding for behavioral research has never matched that percentage of the total Medical research budget. * * * The establishment of MIRECCs is a modest investment to make when one considers the potential benefits that could result from the mental health research that would be conducted, and the potential for attracting highly trained scientists and clinicians to VA employment."

I also note that the January 1991 final report of the VA Advisory Committee for Health Research Policy. A blue ribbon committee established by the Secretary of Veterans Affairs, recommended that VA establish MIRECCs as a means of increasing opportunities in psychiatric research and encouraging the formulation of new research initiatives in mental health care as well as maintaining the intellectual environment so important to quality health care. The report stated that these "centers could provide a way to deal with the emerging priorities in the VA and the Nation at large."

The proposed MIRECCs would be modeled after the successful Geriatric Research, Education, and Clinical Center (GRECCs), which were provided for in section 302 of Public Law 96-330, enacted in 1980, and of which there were 12 at VAMCs in FY 1990. The MIRECCs would be designed to (1) congregate at one facility clinicians and investigators with a clear and focused clinical research mission, such as PTSD, schizophrenia, or drug and alcohol abuse; (2) provide training and educational opportunities for students and residents in psychiatry, psychology, nursing, social work, and other professions which treat individuals with mental illness; and (3) develop new models of effective care and treatment for veterans with mental illnesses, especially those which are service connected.

I believe that the establishment of MIRECCs would also encourage research into outcomes of various types of treatment for mental illnesses, an aspect of mental-illness research which, to date, has not been fully pursued either by VA or other researchers in the field.

The Committee bill would promote research at the MIRECCs by requiring that, in the awarding of research funds for mental-illness projects, MIRECC applications be given a priority. Centers would include an emphasis on the psychosocial dimension of mental illness and on developing models for furnishing care and treatment of mental illness.

Further, the Committee bill would promote the dissemination of information regarding all aspects of MIRECC activities throughout VHA by requiring the CMD to develop continuing education programs provided at Regional Medical Education Centers.

Finally, beginning February 1, 1993, the Secretary would be required to submit to the Veterans' Affairs Committees three annual reports on the research, educational, and clinical care activities at each MIRECC and on efforts to disseminate the information throughout the VA health-care system. The administration of the program would be assigned to the VA Central Office official responsible for mental health and behavioral sciences—currently the Director of Mental Health and Behavioral Sciences.

VA has for far too long placed inadequate emphasis on researching and treating the mental-health problems of veterans and on educational activities designed to improve the capabilities of VA mental-health professionals. The establishment of MIRECCs pursuant to section 121 of the Committee bill would be a long-needed improvement in this regard, and I am hopeful that this is the year our legislation will be enacted.

TITLE II—GENERAL HEALTH CARE

I noted earlier the many important provisions contained in title II of the Committee bill and will at this time highlight provisions which relate to two matters that I consider of the utmost importance: prosthetics services and services for homeless veterans.

PROSTHETICS

Section 201 of the Committee bill would address a problem that exists with regard to VA's authority to provide prosthetic appliances.

Under current law, VA is generally prohibited from furnishing to certain veterans—those who are receiving outpatient care for non-service-connected disabilities in order to obviate the need for hospitalization—prosthetic devices and various other medical items which could prevent the need for future legislation hospitalization. This situation arose because, when legislation changing the eligibility standards for outpatient care was enacted in 1973, the eligibility standards regarding prosthetic devices was not. Thus, for example, under current law, such a veteran receiving outpatient obviate care cannot be furnished a corrective shoe for a non-service-connected foot ulcer even though the lack of the shoe may lead to later hospitalization and possible amputation of the foot. Likewise, this restriction of non-service-connected care prevents VA from providing an amputee who has a stump abrasion with a liner for, or simple repairs to, his or her artificial limb to prevent further breakdown and subsequent hospitalization. Similarly, a paralyzed, wheelchair-bound veteran prone to bed sores cannot be provided an appropriate cushion to relieve pressure areas. The restriction does not apply when a veteran is receiving inpatient care.

Section 201 of the Committee bill would, upon a determination by the Secretary that the particular items are "necessary", permit VA to provide them in preparation for, or to obviate the need for, hospitalization. This provision would not authorize VA to provide prosthetic devices and other medical supplies to all veterans, and some of the most commonly requested prosthetic items, such as eyeglasses and hearing aides, would not be furnished under this new authority because they are generally not the types of devices that are needed in order to obviate the need for, or prepare for, inpatient care. Although this provision does have an estimated cost of $7 million, I believe that any cost increases this provision would bring to VA's Prosthetics Service would be offset substantially by improvements in outpatient care resulting in reduced hospital admissions for conditions that, in the absence of provision of a prosthetic device or medical item, would otherwise deteriorate to the point at which a costly surgical procedure is required.

Section 205 of the Committee bill would require the Secretary to establish an advisory committee on VA's prosthetics and special-disabilities programs comprised of representatives of prosthetics user groups and recognized experts in the various medical and engineering fields related to prosthetics. The advisory committee would be required to submit three annual reports beginning on January 15, 1992.

During the last session of the 101st Congress, the Veterans' Affairs Committee engaged in extensive oversight of VA's prosthetics and special-disabilities programs. Those efforts were described in the Committee's report on S. 2100 (S. Rept. No. 101-379, beginning on page 463). They culminated in a 4-hour hearing on the issues on June 7, 1990. The result of our efforts, in short, was the identification of numerous serious problems in the way in which VA's prosthetics programs are funded, administered, and monitored. VA has acknowledged many of the problems and has taken steps to address many of them, including the establishment of an internal advisory committee, which Deputy Secretary Principi announced at the 1990 hearing. However, it was a full 13 months later that the administratively established advisory committee first met.

Because of the great importance that I attach to the VA's prosthetics and special-disabilities programs and the lengthy delay in VA's own advisory committee being established and finally meeting, I believe strongly that a Congressionally chartered advisory committee with a clear mission and reporting requirement is necessary to ensure that these programs maintain their high visibility and the Secretary and Congress remain fully informed in a timely manner. I regret that this provision is necessary after the extensive efforts our Committee made in identifying the problem areas and the clear need for continued high-level oversight of these programs; yet the experience to date with respect to the administratively established committee convinces me that legislation is required.

EXPANDED SERVICES FOR HOMELESS VETERANS

Section 203 of the Committee bill is designed to provide VA with a comprehensive blueprint on how to address the problem of homelessness among our veteran population. Section 203 contains provisions that would require VA medical centers or regional benefits offices, in coordination with all other VA facilities in the appropriate service areas and local groups involved in serving homeless persons, to conduct assessments of the needs of homeless veterans living within the areas served by those centers or offices; develop plans to address the needs of these veterans which are identified as not being met by the existing network of VA and other programs; establish a 3-year, $4.5-million pilot program at up to 15 sites at which VA would be authorized to contract for domiciliary care for homeless veterans; extend VA's Homeless Chronically Mentally Ill Veterans (HCMI) program through FY 1994; and increase the authorizations of appropriations for the HCMI and Domiciliary Care for Homeless Veterans (DCHV) programs.

Although it has proven very difficult for anyone to determine with accuracy the exact size of the homeless population in the United States, several credible groups and researchers involved with the issue of homelessness have published estimates. For example, the National Coalition for the Homeless estimates that as many as 3 million individuals are currently homeless and that the numbers continue to grow. The National Alliance to End Homelessness estimates that as many as 736,000 persons may be homeless on a given night and that between 1.3 million and 2 million persons may experience homelessness at some point during the year. Countless others may be teetering near the brink of homelessness—one missed paycheck or personal crisis away. These numbers reflect an extremely urgent problem.

The best recent estimates indicate that between 450,000 and 700,000 Americans are literally homeless—sleeping on the streets or in homeless shelters—on an average night and that 80 percent of them are males. Studies have shown that approximately one-third of the homeless are veterans. It thus seems reasonable to estimate that there are, at any given time, between 150,000 and 250,000 literally homeless veterans in America. If the estimates of the National Coalition on the Homeless are used as a base, the number of homeless veterans may be as high as 1,140,000. At the Committee's April 23, 1991, hearing, Dr. Spencer Falcon, testifying on behalf of the American Psychiatric Association, estimated that on any given night there are up to 200,000 homeless veterans in America. According to Dr. Falcon, approximately 80 percent of those veterans are severely and chronically mentally ill and nearly half of the chronically mentally ill have serious medical problems.

As noted in the committee report accompanying this legislation (S. Rept. No. 102–118, pages 49–50), researchers have found that, of those who are homeless, as many as 33 percent are chronically mentally ill.

Through the HCMI program, in combination with the DCHV program, VA has provided shelter and medical and psychiatric treatment for over 35,000 homeless veterans in need of such help.

The HCMI program is a community-based program that combines aggressive outreach with health-care services, intensive case management, and time-limited care in non-VA residential treatment centers. The results from the program have been encouraging. In the program's first three years, staff in 45 VA Medical Centers in 26 States and the District of Columbia were able to carry out assessments of approximately 30,000 mentally ill, homeless veterans and place 8,000 of them in residential treatment facilities. Given the difficult nature of contacting these veterans—in soup kitchens, shelters, and on the streets—and of building trust between the veteran and the outreach worker, which is necessary to make an assessment and provide for physical and mental examinations, this level of activity indicates considerable success on the part of the program's outreach workers.

Program evaluations show that the HCMI program is reaching those it was intended to reach: long-term homeless, extremely poor, chronically mentally ill veterans. The 1990 Annual Report of the Interagency Council on the Homeless indicates that over 21 percent of those assessed by HCMI staff had been homeless for two or more years and had a median monthly income of $207. The third annual report detailing the progress of the HCMI program was submitted to the Committee in February 1990. That report indicated that 33.5 percent of the homeless veterans assessed reported having been hospitalized in the past for a general psychiatric problem.

Not surprisingly, given that the need for ongoing care is the rule rather than the exception in the treatment of chronically mentally ill persons, the clinicians determined that, at the time of discharge from the program, about half of the veterans had shown improvement but were in need of additional treatment. The 1989 report on the program indicated that only one out of eight veterans had improved to the point of needing no further treatment.

The DCHV program is composed of five clinical phases: (1) community outreach and referral; (2) admission screening and assessment; (3) medical and psychiatric evaluation; (4) medical and psychiatric treatment and social-vocational rehabilitation; and, (5) post-discharge community support. VA's second progress report on the DCHV program, submitted to the Committee on February 22, 1990, indicated that the services most frequently provided were medical and psychiatric evaluation and treatment (to over 90 percent of the patients), vocational rehabilitation (58.5 percent), and basic services such as clothing (31.3 percent). Outcome data recorded at discharge indicated that veterans with medical problems showed the most frequent improvement during the course of DCHV treatment (76.1 percent) and that over half of the veterans who had a mental-health problem or a substance-abuse problem showed improvement. Testament to the large demand that exists among homeless veterans for domiciliary care is the occupancy level at the DCHV sites which the Committee has been told remains consistently above 100 percent.

Recent visits by Committee staff to domiciliary facilities at the Coatsville, Pennsylvania VAMC and the West Los Angeles, California VAMC, have reinforced the Committee's view that the DCHV program can be an effective and compassionate way of assisting homeless veterans. It is the Committee's view that VA's HCMI and DCHV programs have helped meet many of the short-term needs of homeless veterans—a place off the street to sleep; the opportunity to receive needed medical and mental health assessments; and the furnishing of appropriate care and rehabilitative services. These services are not luxuries; they constitute humane responses to basic human needs.

The reports on these programs indicate that additional resources and approaches are needed to enhance and improve the programs' capacities and effectiveness. The third progress report on the HCMI program, for example, recommended that there be established integrated, comprehensive service programs for homeless veterans coordinated among the HCMI program, the DCHV program, and other VA programs assisting homeless veterans. I believe that the expanded authorizations and services for homeless veterans provided for the Committee bill would allow VA to develop and establish such programs and increase the number of sites at which the programs operate, as well as assign additional personnel to the existing HCMI and DCHV programs.

The Committee bill would increase the level of appropriations authorized for the HCMI and DCHV programs over the next three years and extend the authority for the HCMI program through FY 1994. For the HCMI program, the current $15.75 million level of funding authorized for FY 1991 would be increased to $30 million for FY 1992, $35 million for FY 1993, and $40 million for FY 1994. The DCHV's authorized level of appropriations would be increased from the current level of $15.75 million for FY 1991 to $20 million for FY 1992, $22.5 million for FY 1993, and $25 million for FY 1994. I believe that these increases are warranted given the general successes of these programs and the need for additional services for homeless veterans indicated by the large numbers of homeless veterans, the over-filled domiciliaries, and the VA evaluations of the HCMI and DCHV programs indicating that expansion and enhancements are needed.

The Committee bill would also require VA medical centers or regional benefits offices, in consultation with existing organizations providing services to homeless persons in the area, to conduct assessments with respect to the needs of homeless veterans for health care, education and training, employment, shelter, counseling, and outreach services. The assessments would be required to indicate the extent to which the network of existing VA and non-VA programs meet the identified needs of homeless veterans. The purpose of this assessment would be to allow VA to identify the gaps in the existing network of systems providing services to homeless veterans and to develop appropriate plans to address those areas.

VA's own evaluation of its homeless veterans programs, which was submitted to the Committee on October 3, 1991, noted that VA's approach in assisting homeless veterans involves "link[ing] all VA components; i.e., Veterans Health Services and Research Administration (VHSRA) and Veterans Benefits Administration (VBA), with local organizations, veterans' service organizations, and other Federal programs which provide assistance to homeless veterans" and that the "extensive communication and networking * * * is vital to the success of these programs." Thus, the Committee bill's requirement that such linkage be pursued is fully consistent and complementary to VA's current activities and policies.

Mr. President, the assessments that would be required by the Committee bill would help to avoid rigid, centrally-operated programs and lead to local programs that address the problems faced by homeless veterans at the local level. In addition, the Committee bill would establish a pilot program to determine the effectiveness of providing, through contracts with existing community-based organizations, domiciliary care (including medical services) to homeless veterans eligible for such care from VA. Appropriations of $1.5 million per year would be authorized for each of FYs 1992, 1993, and 1994 for pilot projects at up to 15 sites per year.

This new authority would allow VA to enter into contracts with non-VA facilities to provide services to homeless veterans who are in need of medical, psychological, or rehabilitative services. Community-based halfway houses, therapeutic residences, or shelters that provide medical, vocational, or rehabilitative services similar to those provided for VA domiciliary facilities would be the types of facilities that would qualify for contracts under this new authority.

Finally, the Committee bill would authorize the Secretary to accept donations of funds and services for the purposes of establishing one-stop, non-residential services and mobile support teams for the assistance of, and for expanding the medical services to, homeless veterans already eligible for such services from VA. As noted earlier, such one-stop, non-residential services were recommended by VA in its February 1990 evaluation of the HCMI program. The VA's homeless program evaluation submitted to the Committee on October 3, 1991, also noted that VA-run drop-in centers for homeless veterans, such as the two which are currently operating in New York City, address basic needs that many homeless veterans have:

"Some veterans who live on the street or in shelters may not be motivated or ready for treatment when they first come in contact with a VA clinician. Many are in need of a place to shower, wash their clothes, have a meal, or maybe just sit quietly in a safe place where they will not be disturbed during the day. Drop-in Centers meet these needs, and encourage veterans to participate in medical screening, individual group and counseling sessions, and education programs. Services from an on-site Veterans Benefits Counselor may also be provided."

I believe the authority provided by the committee bill would allow VA to gain access to resources above those allocated to or by the Department, and allow VA to encourage more extensive community participation in and support for its programs for homeless veterans.

MINORITY AFFAIRS

Title III of the Committee bill includes two provisions designed to improve VA's awareness of and responsiveness to the needs of veterans of ethnic minority groups and women. Section 301 would amend the Department of Veterans Affairs Act, to require the Secretary of Veterans Affairs to assign to an Assistant Secretary responsibility for assessing the effects of VA policies and activities on minority veterans, including women veterans, and for coordinating and monitoring policies facilitating the access of minority veterans to VA benefits and services. Section 301 would add an eleventh, "minority oversight" function to the list of statutory duties to be assigned among VA's six statutory Assistant Secretaries.

I believe that this provision would help to effect significant improvements in service and benefits for minority veterans and the education of VA employees about the special concerns of minority veterans. I have long been concerned about VA's efforts to reach out to minority veterans and, although outreach efforts have been made, I believe they have often been too narrowly focused and that VA has failed, though unintentionally, to address the main unique needs and problems of minority veterans in an integrated, systematic manner. I believe that institutionalizing concern for minority veterans at the Assistant Secretary level is a necessary first step to ensuring that minority veterans have access to the full range of benefits to which they are entitled by law.

Section 302 of the Committee bill would re-establish the Advisory Committee on Native-American Veterans, which was originally established by section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99-272). That Advisory Committee issued its final report in 1988 and its charter subsequently lapsed. In 1990, acting in response to a recommendation by the Advisory Committee, VA established the interagency Native American Veterans Coordinating Council to oversee implementation of the Advisory Committee's recommendations and to provide interagency coordination and joint planning in the furnishing of services to Native American veterans.

A re-established Native-American Veterans Advisory Committee and the Coordinating Council would function in ways that complement each other's activities. A Congressionally-chartered, consumer-oriented advisory committee would bring important differences in perspective and purpose to issues that an Executive Branch, provider-oriented council can not. Thus, I believe that the re-establishment of the Advisory Committee on Native-American Veterans would go a long way toward ensuring that issues of importance to Native American veterans are identified and addressed by VA and other Federal agencies.

COMMITTEE MODIFICATION

The modification of the bill as reported that I am proposing on behalf of the Committee would:

First, correct problems encountered in the implementation of the VA Health-Care Personnel Act of 1991, Public Law 102-40, by (a) requiring that physicians employed by VA on the day before the effective date of the Act and who received special pay in only the categories of primary, full-time status, length of service, and board certification continue to receive at least as great an amount of special pay as they received prior to the effective date, and (b) requiring that physicians and dentists whose special-pay agreement was not approved until after the effective date of the new law be paid special pay retroactive to the effective date.

Second, authorize VA to appoint and pay under VA's title 38 authority nonphysician directors of clinical support services within the Veterans Health Administration, such as social work and prosthetics.

Third, amend section 5904 of title 38 to clarify that the prohibition against the payment of attorneys' fees for representation in a proceeding before VA relating to VA benefits does not apply in the case of a veteran or other person who is confronted with an administrative debt-collection proceeding brought by the VA or in other situations in which no claim for benefits is involved—such as constitutional challenges to VA regulations and Freedom of Information Act cases.

Fourth, amend section 1163 of title 38 to extend from January 31, 1992, through December 31, 1992, the temporary program for trial work periods and voluntary vocational rehabilitation evaluations for veterans receiving compensation at the rate paid totally disabled veterans based on a determination of individual employability.

Fifth, amend sections 1524 and 1525 of title 38 to extend from January 31, 1992, through December 31, 1992, the temporary program of vocational training for certain pension recipients and the three-year protection of veteran-pensioners' VA health-care eligibility if they lose pension entitlement as a result of work income.

Sixth, incorporate the text of S. 1553 as passed by the Senate on November 15, 1991.

Seventh, perfect a provision enacted in the FY 1992 VA, HUD, and Independent Agencies Appropriations Act, Public Law 102-139, that removed the price VA pays for drugs from the "best price" calculation under section 4401 of Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990.

Eighth, make technical corrections to the text of the bill as reported.

PROHIBITION AGAINST USE OF PRICES OF DRUGS PAID BY THE DEPARTMENT OF VETERANS AFFAIRS IN THE CALCULATION OF MEDICAID REBATES

Mr. President, I want to describe in more detail the Committee modification provision relating to VA drug prices. This provision would add a proposed new section 215 to S. 869 which would modify section 519(a) of the FY 1992 VA, HUD, and Independent Agencies Appropriations Act, Public Law 102-139, in order to make it possible for section 519 to achieve its purpose. Thus, section 519(a) would be amended so as to exempt from Medicaid best-price rebate calculations prices paid for drugs and biologicals pursuant to contracts with States which include, as a basis for rebates or discounts, prices paid by VA and pursuant to contracts administered by VA through June 30, 1992, or until legislation regarding VA prices is enacted.

Section 4401 of Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990, which I will refer to as OBRA 1990, requires manufacturers of drugs and biologicals to give quarterly rebates to State Medicaid programs for all drugs and biologicals dispensed to Medicaid beneficiaries on an outpatient basis. These rebates are in amounts equal to the greater of (a) the difference between the average manufacturers price (AMP) for that product and the best price charged to any other purchaser, or (b) 12.5 percent of the AMP for the product. Prior to the enactment of OBRA 1990, VA prices were among the best prices for many drugs and biologicals.

Since the enactment of OBRA 1990, prices paid by VA of many drugs and biologicals and pursuant to VA-administered contracts have increased dramatically. During FY 1991, VA experienced an unprecedented $117 million increase in drug costs, at least $60 million of which VA officials estimate may be attributed to the Medicaid best-price rebate. Concerned about the impact that this dramatic increase in drug costs would have on VA's medical care budget, the Senate Appropriations Committee reported a provision which, after amendment in conference, was enacted as section 519(a) of Public Law 102-139. That provision exempted VA prices from Medicaid best-price rebate calculations through June 30, 1992, or until legislation regarding VA prices is enacted. It also directed VA to negotiate new contracts for lower prices with manufacturers.

Soon after Public Law 102-139 was signed into law, VA officials informed the Committee on Veterans' Affairs that some manufacturers of drugs and biologicals had advised VA that they were not willing to renegotiate contracts with VA, because certain non-Medicaid State programs, such as the Elderly Pharmaceutical Insurance Coverage (EPIC) program administered by the State of New York, which are not exempt from Medicaid rebate calculations, use VA prices to calculate rebates and discounts. The manufacturers argued that, for drugs and biologicals used by EPIC beneficiaries, VA prices, by reason of being EPIC prices, would remain the de facto best prices for Medicaid rebate calculations. Although it is not clear that the manufacturers' concerns are justified as a matter of law, the provision in the Committee modification would perfect the provision in Public Law 102-139 so as to ensure that VA receives the intended benefit of that provision—a temporary reduction in VA drug costs. In keeping with this intent, the provision in the Committee modification, as an amendment to section 519(a) of Public Law 102–139, would expire at the same time as section 519(a).

CONCLUSION

In closing I thank our Committee's ranking Republican member, Senator Specter, for his continued support of and help with this legislation, and the Committee's ranking Democratic member, Senator DeConcini, for managing this bill in my absence. I also am grateful to the other members of the Committee for their support of or cooperation on this measure.

I also express my gratitude for their work on this legislation to the Committee's minority staff, Carrie Gavora, Yvonne Santa Anna, Bill Tuerk, and Tom Roberts, and, for all their help to me on this measure, majority staff members, Janet Coffman, Susan Thaul, Kimberly Morin, Thomas Tighe, Bill Brew, and Ed Scott. I also extend thanks for his assistance and cooperation on this legislation to Tim Gearan on Senator DeConcini's staff.

I look forward to working with the Chairman of the House Veterans' Affairs Committee, G.V. "Sonny" Montgomery, and that Committee's ranking Republican member, Bob Stump, as well as with the other members of the House Committee, to ensure swift action on this important legislation.

I have outlined what I consider to be the most significant of the many important provisions in the Committee bill. I believe the Committee bill addresses in a fair and reasonable manner the most pressing needs of our Nation's veterans, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I inquire as to what is the time allocation remaining on the bill?

The PRESIDING OFFICER. The Senator from Pennsylvania controls 15 minutes on the bill and substitute.

Mr. SPECTER. I thank the Chair.

Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to join Chairman CRANSTON in support the committee amendment to S. 869. This amendment, worked out in the bipartisan spirit that is the standard for this committee, would make both substantive and technical changes to title 38, United States Code.

In general, this amendment would: First, extend some temporary programs due to expire; second, clarify committee intent and correct an oversight in Public Law 102–40 relating to Department of Veterans Affairs [VA] physician and dentist special pay; third, give VA the authority to appoint and pay nonphysician directors under title 38; and fourth, amend title 38 to clarify the prohibition against payment of attorneys' fees. The amendment would also assist VA in lowering its cost of drugs, and would add the text of S. 1553, the marriage and family counseling bill, to S. 869. I believe these are all fair and necessary changes, many of which were requested by VA.

VOCATIONAL REHABILITATION FOR PENSIONERS

Mr. President, the committee amendment would extend, until December 31, 1992, expiring authorities of programs for trial work periods and vocational rehabilitation, vocational training for new pension recipients, and temporary protection of VA health care eligibility for pension recipients who undergo vocational training. This is a valuable program, Mr. President, and it is one which the committee intends to look at closely over the next year.

SERVICE DIRECTORS' PAY

The amendment would also authorize VA to appoint and pay nonphysician directors of clinical support services within the Veterans Health Administration under title 38 rather than title V. We believe this will grant some administrative advantage to VA by eliminating multiple pay schedules.

CLARIFICATION REGARDING PAYMENT OF ATTORNEYS' FEES

The committee amendment would also add a provision, identical to section 702 of S. 2100 as reported, to amend title 38 to clarify that the prohibition of attorneys' fees for representation in a proceeding before VA relating to VA benefits does not apply in the case of a veteran or other person who is confronted with an administrative debt collection proceeding brought by VA.

PHYSICIAN PAY AMENDMENTS

There are two provisions in the amendment which relate to Public Law 102–40, the Department of Veterans Affairs Health Care Personnel Act of 1991. One provision would correct an oversight in the original draft of that law that excluded board certified physicians and dentists from the provision guaranteeing that physicians and dentists receiving special pay only in the categories of primary, full-time status, length of service or board certification continue to receive at least as great an amount of special pay under the new statute as they did prior to the effective date.

The other provision would amends Public Law 102–40 to clarify when special pay agreements under the new special pay authority are effective. In many cases, VA physicians or dentists on the rolls on July 14, 1991, the date when the new special pay authority became effective, were ready to enter special pay agreements under the new authority on that date, but could not do so because local VA facilities were waiting for implementation instructions, or had to forward the agreements to VA Central Office for approval. This amendment authorizes VA to make such agreements retroactive to the effective date of July 14, 1991. In determining which physicians or dentists were prepared to enter into special pay agreements, it is expected that each VA medical facility would obtain a sworn statement from the physician or dentist involved in cases where there may be a question of who is responsible for the delay. Otherwise, the physician or dentist's certification would suffice.

ADULT DAY HEALTH CARE

Mr. President, it merits mentioning that earlier drafts of the committee amendment had contained provisions which would have extended for 3 years VA's specific statutory authority to provide adult day health care services to eligible beneficiaries. Adult day health care, which VA has provided since 1978, is, in many cases, a cost effective substitute for inpatient care and, in all cases, a valuable treatment option available to VA in treating aging veterans. The specific authority for VA to provide these services has now expired, but the committee has been assured by Secretary Derwinski that VA will continue to provide adult day health care services under VA's general authority to provide outpatient health care services. Therefore the committee proposes no extension in VA's now expired statutory authority. Mr. President, I ask unanimous consent that a letter from Secretary Derwinski which assures the continuation of VA's adult day health care programs be inserted into the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

MARRIAGE AND FAMILY COUNSELING

Mr. SPECTER. In addition to these changes, the text of S. 1553, the Persian Gulf marriage and family counseling bill is part of the committee amendment. As you know, Mr. President, this bill has already passed the Senate by unanimous consent. This bill would provide marriage and family counseling to Persian Gulf veterans, activated reservists and Guard personnel, and their families. I think this bill is a remarkable and unique response to the problems faced by Persian Gulf veterans and their families and I was proud to join Chairman CRANSTON as an original cosponsor of this legislation.

VA DRUG PRICES

Finally, Mr. President, this amendment would also help alleviate yet another problem VA is facing in trying to lower prices from drug manufacturers following the Medicaid rebate provisions of Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 [OBRA].

As you recall, OBRA required drug companies to pay rebates to State Medicaid programs based on the difference between the prices paid by the States for drugs under that program and the drug companies' so-called best price. The idea was that the States should get the drug companies' best price.

Fortunately or unfortunately, it turns out that the best price charged by drug companies is often the VA price. The drug companies realized that the rebates they would have to pay would be lower if they raised the VA price. Accordingly, the prices that VA has had to pay for drugs to treat veterans have increased, in some cases dramatically.

In an attempt to alleviate this problem, language was inserted into the VA/HUD appropriations bill, Public Law 102-139 (section 519(a)), which exempts VA pricing from the best price computation. Unfortunately, there are non-Medicaid contracts which require rebates and which use the VA price as a reference price. One of those contracts is used in a New York program called EPIC, which deals with drug sales to the elderly.

As we understand it, the drug companies have told VA that, because that is not a Medicaid contract, it can use VA prices as a benchmark. But the law still requires a rebate based on best price. If the VA price is the best price, then a contract like the EPIC contract in effect brings VA prices right back in. So the drug companies cannot lower VA prices.

For example, suppose the price a State pays for a drug under Medicaid is $15. Suppose the VA price is $10 and is the lowest price. And suppose the next lower price is $11. The rebate paid under OBRA, as modified by Public Law 102-139, would be $4—$15 minus $11—since the VA price cannot be counted.

But if one takes into account the EPIC contract, then the effective price for the same drug is $10, because that contract references the VA price. Since it is not a Medicaid contract, there's no prohibition against using the VA price as the low price. And because the Medicaid rebates are based on best price no matter where that price comes from—except VA—the VA price is, in effect, back in the calculations.

While I am not at all convinced that this conclusion is in keeping with the spirit of the law, the fact is that this apparent anomaly is causing confusion and some delay in bringing down VA drug prices.

We think that, by adding language to the Medicaid rebate provisions of OBRA which would exempt prices after any rebate or discount for drugs and biologicals paid pursuant to contracts with States which include, as a basis for rebates or discounts, the prices charge VA, rebates for State Medicaid programs will no longer consider contracts like the EPIC contract referred to above, so that there will be one less reason for the drug companies not to renegotiate pharmaceutical contracts with VA. In that way, Mr. President, we can take another step to ensure that VA in fact gets the best price.

CONCLUSION

Mr. President, these are important modifications to S. 869. I urge my colleagues to support this important amendment.

Mr. President, I commend my distinguished colleague from Arizona for his outstanding work on this pending legislation and compliment the chairman of the committee, Senator CRANSTON, for his work.

The work in the past year, Mr. President, for me has been very gratifying, coming on to the ranking Republican's position and taking the spot formerly held by my distinguished colleague, Senator SIMPSON, who had the good fortune to be chairman of the committee in the days when the Republicans had the majority control, and then following the work of my distinguished colleague, Senator MURKOWSKI.

We have moved ahead with very considerable progress for veterans during this session. Twelve bills have been signed by the President in the first portion of our 102d Congress contrasted with only four bills during the 101st Congress. I believe this reflects an increasing awareness of our duty and obligation to the veterans which has been called forcibly to mind by the gulf war, and also a greater awareness of the need for focused attention on veterans' concerns.

When I travel broadly through my State, Mr. President, I make it a point to meet with veterans, especially because our obligation to veterans is different from virtually any other expenditure which we make in the Federal Government. It is a contract and an obligation, and it is a sense that I have from my earliest childhood knowing my first veteran, my father, who was a veteran of World War I. I shall not comment extensively because I think I may be referring to some of my own views later in the debate today when we have a controversial issue.

But I was in Erie on Sunday night, met with a large group of veterans there on an issue as to what is going to happen to surgical services in Erie. Two or three weeks ago I was in Lebanon on a similar issue. I also have been in Wilkes-Barre, Altoona, Pittsburgh, and Philadelphia. There is an enormous need for focusing on the requirements of our veterans. I think this is a good bill.

Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to support final passage of S. 869, the Veterans' Health Care Amendments of 1991. This bill makes important and necessary changes to ensure high quality health care for our Nation's veterans.

The Senate and House Veterans' Affairs Committees recently held a joint hearing to receive testimony from Oliver Meadows, chairman of the Commission on the Future Structure of Veterans Health Care, the so-called Mission Commission. The commission was established by Secretary Derwinski on April 5, 1990, and was tasked with reviewing missions and programs of VA's health care facilities to determine whether changes in services, programs, or missions at individual facilities were needed. What resulted was a number of recommendations on how VA can better provide high quality, comprehensive health care to veterans granted access to the system. I understand that VA will be looking into these recommendations and offer formal opinions on them soon.

I mention the important work of this commission and the significance of its recommendations because I believe it is important that we look into the future of veterans' health care and understand the different kinds of demands that will be placed on the system. The commission's recommendations were made on the premise that VA is a separate and unique health care system, and that its target population has special needs. It is the uniqueness of veterans' needs that I believe the provisions in S. 869 characterize. Improving treatment for post-traumatic stress disorder [PTSD], and access to prosthetics and programs for the homeless chronically mentally ill, and enhancing the quality and performance of VA health care personnel are examples of areas of veterans health care that S. 869 addresses.

Sections 102 through 110 of title I of S. 869 are provisions relating to improving veterans' access to both inpatient and outpatient treatment for PTSD. Specifically, title I would allow veterans whom a mental health professional has diagnosed as suffering from PTSD related to combat area service to receive care for his or her PTSD—even if the PTSD has not been formally adjudicated as service-connected—and that a diagnosis of the veteran's condition be made within 7 days of a veteran's referral to a VA health care facility. Veterans who served in a theater of combat operations in World War II or the Korean conflict would be entitled to readjustment counseling services at vet centers. The Secretary would be required to devise and implement a plan by no later than December 1, 1991, that would increase PTSD treatment and enhance outreach to veterans and their families, and to submit a report within 90 days of enactment on the resources necessary to implement the plan and any recommendations on further improving the plan. VA's Special Committee on PTSD reporting requirements would be extended for 3 additional years. Finally, the Secretary would be required to ensure, to the extent practicable, that VA PTSD treatment is available to veterans residing in rural areas.

Section 121 of title I would require the Secretary to designate not more than five VA health care facilities as centers for mental illness research, education, and clinical activities [MIRECC's], and would authorize the appropriation of $3.125 million for fiscal year 1992 and $6.25 million for fiscal years 1993 to 1995. This provision, Mr. President, is modeled after the highly successful Geriatric, Research, Education, and Clinical Centers—GRECC's—which have made VA a leader in geriatric research. I expect that MIRECC's will have a similar effect on mental health research and education.

There are three sections of the bill relating to the provision of prosthetics and oversight of the VA Prosthetics and Sensory Aid Services Program. Section 201 would authorize VA to provide prosthetic appliances to certain non-service-connected disabled veterans if the appliances obviate the need for hospitalization. Section 205 of the bill would require the Secretary to establish an advisory committee on VA's prosthetics and special disabilities programs made up of veterans who use prosthetic devices, prosthetic engineers, researchers, and other individuals that have the expertise in the area of prosthetics and special disabilities. Section 209 would require the Secretary to report by January 15, 1992, on the reasons for the accumulation of a backlog in VA prostheses and a description of actions the Secretary has taken or plans to take to avoid backlogs and underfunding in the future. I would note that the VA has already made great strides in reducing their prosthetics backlog and has initiated a prosthetics improvement plan that establishes guidelines for the future of VA Prosthetics Service.

The committee bill would expand and enhance services VA provides to homeless veterans. Section 203 would require the VA to identify current needs of homeless veterans, assess how their needs are being met, develop an annual plan for outreach services and coordinate this plan with other Federal, State, and local programs. The bill would authorize additional funding for VA's Homeless Chronically Mentally Ill Program and the Domiciliary Program for Homeless Veterans and would require the VA to conduct a 3-year pilot program to provide community-based domiciliary care to homeless veterans. VA would be authorized to accept donations to establish nonresidential service centers and mobile support teams and expand health services to homeless veterans. By February 1, 1993, an independent evaluation is required to look at the effectiveness of VA's implementation of its homeless program.

At the Mission Commission hearing in October, Mr. Meadows testified that he could not think of any other organization that could do more in the areas of preventive health care than the VA. He stated, "unfortunately, things like preventive care are the first things to go * * * when the money gets short." S. 869 has provisions that directly and indirectly address this issue. Section 207 would reestablish through 1996 VA's preventive health care pilot program and would revise eligibility for care under this program to include all veterans who are currently entitled to VA medical care.

Section 204 would extend for 2 years the authorization for VA mobile health care clinic pilot program.

Section 210 of S. 869 would repeal the Secretary's authority to provide free tobacco products to veterans receiving hospital or domiciliary care in a VA facility. It is my understanding that the VA has not provided free tobacco products to veterans in over 20 years; nevertheless, the authority still exists in title 38, United States Code. Enacting this section sends, I believe, the proper message.

Improving access to preventive care not only requires that those services be made available, but also forces us to look at the issue of eligibility for care. Sections 211 and 212 of the committee bill would entitle ex-prisoners of war to VA outpatient care for any disability and mandate that a task force be established to make recommendations to VA on how to eliminate some of the inconsistencies in the laws governing veterans' eligibility for certain medical devices and health care services.

The committee bill addresses some of the needs of permanently disabled veterans with provisions that would allow them greater access to their homes and a more independent lifestyle. Section 202 of S. 869 would increase from $2,500 to $5,000 the maximum amount of a home improvement and structural alteration grant and from $600 to $1,200 the maximum for such grants in connection with treatment for a nonservice-connected disability. Section 206 would require VA to furnish procreative services to service-connected disabled veterans and their spouses when the veteran's disability impairs procreative ability. Section 208 would authorize VA to provide service dogs to quadriplegic veterans and signal dogs to veterans with service-connected hearing impairments. Section 213 of S. 869 would require VA to conduct a 4-year pilot program under which VA would provide assistive monkeys to quadriplegic veterans with service-connected disabilities rated 50 percent or more. I would like to recognize our former chairman and ranking Republican member, Senator MURKOWSKI, for his diligence and hard work on this issue.

Mr. President, the VA health care system is only as good as the health care professionals providing that care. In an effort to continue to recruit and retain well qualified staff, S. 869 contains provisions to improve pay and services provided to certain VA health care personnel. Section 221 would authorize VA to pay additional pay for work on Saturday to certain health care personnel. Section 222 would increase the cap on special salary rates to permit the rates to exceed by two times the difference between the minimum and the maximum of the applicable grade. VA would also be required to increase rates of pay to certain board-certified VA psychologists based on an assessment by the Chief Medical Director that the increased rates are necessary in order for VA to furnish the appropriate quality of psychological services. Section 224 of S. 869 would require the director of each VA medical center and regional office to assess the needs of the facility's employees for child care services and to submit an annual report to the Secretary containing the director's findings.

Title III of S. 869 has two provisions addressing minority veteran issues. Section 301 would require the Secretary to assign an Assistant Secretary for Minority Affairs who would be responsible for issues regarding minority veterans, including women veterans. The bill would also amend Public Law 100-527 to reestablish the Advisory Committee on Native-American Veterans for an additional 2 years.

Mr. President, a great amount of time and effort went into this bill. I would like to thank Janet Coffman, Kim Morin, Susan Thaul, Thomas Tighe, Bill Brew, and Ed Scott of the majority staff of the committee; Lisa Moore of Senator MURKOWSKI'S staff; and Carrie Cavora, Yvonne Santa Anna, Bill Tuerk, Charlie Battaglia, and Tom Roberts of my staff.

Ensuring high quality, comprehensive health care to our Nation's veterans is one of my highest priorities, Mr. President, I have crossed the country visiting VA hospitals, and I have spent considerable time with veterans in each of our Pennsylvania hospitals. I know how veterans feel about these hospitals, and I share that feeling: A desire for nothing but the best for these who have worn the uniform. This bill makes important strides toward that goal.

I urge my colleagues to support this important measure.

THANKS TO THE STAFF

Though it is not necessary to elaborate on this, I do think it is important to be specific even if repetitious on thanks to a very hard-working staff. Ed Scott, majority director, Janet Coffman, Kim Morin, Susan Thaul, Thomas Tighe, Bill Brew, and my own director, Tom Roberts, Charlie Battaglia, Bill Tuerk, Yvonne Santa Anna, Carrie Gavora, Scott Waitlevertch, Kathryn Post, and Hannah Thompson. Those people who work on the staff doing so much work do not get sufficient recognition. But the text has been outlined, Mr. President.

I think this is a good bill. I urge my colleagues to join in its adoption.

I inquire how much time remains?

The PRESIDING OFFICER. The Senator has 10 minutes 49 seconds.

Mr. SPECTER. Having used 4 minutes 13 seconds, I yield the floor.

EXHIBIT 1

THE SECRETARY OF VETERANS AFFAIRS,
Washington, April 5, 1991.

Hon. ARLEN SPECTER,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER As required by Public Law 98-160, I am transmitting a copy of the research study on the medical efficacy and cost effectiveness of Adult Day Health Care. An enclosed White Paper contains VA comments on the study and VA plans for continued operation of the program.

Thank you for your continued support of long-term programs for aging veterans.

Sincerely yours,
EDWARD J. DERWINSKI.

ADULT DAY HEALTH CARE PROGRAM

BACKGROUND

VA began providing adult day health care (ADHC) services in 1978, with the establishment of programs at VAMC North Chicago and Palo Alto. This was followed by a program at Loma Linda in 1979, and at American Lake and Butler in 1980. The Loma Linda program was a program jointly operated by VA and a community consortium.

In 1983, Public Law 98-160 specifically authorized VA to provide a program of ADHC through VA facilities (VA-ADHC), and through contract with community facilities (CADHC). It authorized VA to provide in-kind assistance to non-VA facilities providing ADHC care to veterans in exchange for a reduction in charges to VA or by payment to VA. The legislation further mandated "a study of the medical efficacy and cost effectiveness of furnishing such (ADHC) care as an alternative for nursing home care and of the comparative advantages and disadvantages of providing such care through facilities that are not under the direct jurisdiction of the Administrator, and through facilities that are under the direct jurisdiction of the Administrator."

ESTABLISHMENT OF NEW ADHC PROGRAMS

Based on a competitive process, four new VA-ADHCs were centrally funded in 1985, and three existing centers received supplemental funding. An additional VA-ADHC was established with regional funding. In 1987, funding for a CADHC program was provided to 16 VAMCs. Subsequent to these initiatives, nine additional VA-ADHCs, and eight CADHC programs have been established in the system.

In 1986, a randomized study of ADHC as an alternative to nursing home care was initiated by the Health Services Research and Development Service.

Including program growth since 1985, VA's ADHC program currently consists of 15 VA-ADHC programs, and 24 CADHC programs (with a total of 100 contracts in place). (One of the CADHC programs (at VAMC West Side) is a joint VA/community project.) In FY 1990, the average daily census of VA-ADHCs programs was 350, and of CADHCs, 115.

VA STUDY OF ADHC

The first phase of the study was a randomized controlled trial of VA-ADHC which was begun at four VA Medical Centers in July 1987. A total of 826 patients were enrolled in this first phase of the study comparing patient outcomes and costs for patients randomly assigned to VA-ADHC or to customary care, that is, care that the veteran would have received in the absence of ADHC services. (The degree to which ADHC substituted for nursing home care was assessed by a comparison of the rates of nursing home care use by patients assigned to ADHC and to customary care.) The second phase of the study, begun in September 1988 at four additional VAMCs, was a prospective cohort study of 163 patients enrolled in CADHC. Patient outcomes and costs of this group were compared with outcomes and costs of patients receiving VA-ADHC and customary care in the first phase of the study. A report on the complete findings of the study was completed in December 1990, and accompanies this paper.

PRINCIPAL STUDY FINDINGS

The findings of the research are discussed in detail in the attached report and will be of considerable interest to the health care community at large as well as VA. Of principal importance to VA are the findings that (a) overall, ADHC, both VA and contract, was more costly than customary care; however, there were subgroups for which this was not true for VA-ADHC care, as discussed later; (2) patients and families were more satisfied with adult day health care than nursing home care; (3) health status outcomes of VA-ADHC and CADHC were not significantly different than those of patients in customary care; however there were again subgroups for whom VA-ADHC appeared to improve health status.

One research site (Site A) proved to be a cost-effective alternative to customary care. This was primarily because patients assigned to VA-ADHC used less nursing home care than patients assigned to customary care at this site. It was not possible, however, to identify unique characteristics of this site which produced the nursing home cost savings.

The research study developed a cost model for ADHC which can assist managers in predicting and controlling the cost of ADHC and thus its cost effectiveness.

DISCUSSION

The study scientifically demonstrates that ADHC did not serve as a substitute for nursing home care for the total group of patients enrolled. These findings were not unexpected and VA has long believed that ADHC is more appropriately seen as but one important part of a continuum of extended care services which may, in some instances, substitute for nursing home care. Subject to the limitations of post-hoc subgroup analyses, the study is instructive in identifying certain subgroups for whom ADHC may be cost effective or cost neutral: service-connected veterans, veterans with multiple behavior problems, and patients with high levels of physical impairment. The study further identifies several subgroups for whom health status may be improved, one of which is programmatically targetable, viz, patients not in the hospital at the time of intake (service-connected veterans).

Using the study's cost model, VA can make specific programmatic changes to reduce costs of VA-ADHCs by (1) increasing patient enrollment, (2) reducing the proportion of more highly paid professional staff, (3) reducing unnecessary length of stay in ADHC, and (4) reducing the use of other medical care.

While the study does not provide an endorsement of ADHC as a substitute for nursing home care, VA believes, nonetheless, that ADHC does have a place in the extended continuum of care. It can provide respite to family care providers, short-term continuity of care to veterans who are "between" other extended care program services, and more cost-effective care for certain veterans. It can do so at reduced costs by utilizing the study cost model to make programmatic changes in VA and contract ADHC.

The study suggests no preference for VA operated or contract programs in terms of health status or cost effectiveness. However, if VA targets the subgroup user populations suggested in the report, total number of users at any given site would be reduced. This would tend to limit the number of VA sites with sufficiently large target populations to justify a VA-operated program. Contract programs, on the other hand, require no minimum enrollment and would therefore seem to be a more practical way of providing ADHC for many VAMCs.

FUTURE DIRECTION

ADHC has a defined clinical role in the continuum of VA extended care services. Program officials will take steps to make the program more cost effective by targeting certain groups of veterans suggested by the study, reviewing staff mix for potential cost reductions, increasing patient enrollment, and reducing unnecessary length of stay. VA-operated programs will be authorized only where there is a sufficient volume of targeted patients to warrant efficient operation of a program; otherwise, contract programs will be utilized. VA will operate ADHC under existing authorities.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank the Chair. I will speak a few moments with the time on the bill as allocated by Senator SPECTER.

COMMENDATION OF MEMBERS AND THEIR STAFF

Let me thank Senator DECONCINI and Senator SPECTER for a good review of a major piece of legislation. It is an important piece of legislation, and I will have several comments on certain areas of it. The purpose of that is not to be in any way disruptive, but simply to present to the Senate, and to the public, some of the things we do in the Veterans' Affairs Committee that seem very appropriate and are. But, often they are done without any prospect of how we pay for it, which is a mistake in my mind.

Also, let me just say too that I have chaired this committee and I considered that a great honor. I was forced to relinquish that when I was again honored to be part of the leadership of my party.

AL CRANSTON was chairman of this committee when I arrived as a Member of the U.S. Senate. I think for all of us who work in the Senate, and the word is "work," there is a special relationship between the ranking member and the chairman. It is a very sensitive, fragile, relationship which is best based on trust. ALAN CRANSTON and I enjoyed that type of trust together for 13 years. I came to know him and know him well. Then of course, we worked together as the respective whips of the two parties and leaderships.

I want to commend ALAN CRANSTON, who is not here in this debate today. I know of no one, absolutely no one who has been more committed to the welfare and well-being of America's veterans. I could not point as such to a single person in this Chamber in my observation of 13 years.

When I relinquished the chairmanship and the ranking member then became FRANK MURKOWSKI, there was no one who worked more profoundly than FRANK MURKOWSKI. Now our party is very proud to have ARLEN SPECTER representing the Republican ranks as the ranking member. He is a very fine and supportive ranking member.

DENNIS DECONCINI is a senior member of the committee, works doggedly in this area, and has a remarkable and large constituency of veterans in his home State, which is a very critical constituency to any of us.

So I want to pay particular tribute as we get to this legislation as to how it really came to pass. Although we do the work and Senator DECONCINI, Senator SPECTER, Senator MURKOWSKI, and all of us along the line have done the work. But a most loyal and dogged worker for veterans has been ALAN CRANSTON.

He suffered some recent physical disabilities, and it is a difficult time for him in his personal life, but we should give credit where credit it due. Even though I may reject some of the committee views from time to time, I think it is important to pay a tribute to him for his unselfish work for America's veterans. It was he that put together a very remarkable staff, John Steinberg, who was here for many years, and is now a member of the courts of veterans appeals and serves there with distinction; and Ed Scott, a very steady and very able man that I have observed for many years; and the counsel for our side of the aisle, Tom Roberts, again a very steady and thoughtful man; and my own personal staff member, Dave Balland, who is new to the task but filled with energy and enthusiasm and does an excellent job for me in this area.

So, Mr. President, we will pass this bill today with or without amendments. One amendment I think has a fair opportunity of adoption and the other two less so. But they need to be addressed. We shall do so and then go to conference with the very capable SONNY MONTGOMERY, the chairman, the long-time chairman of the House Veterans' Affairs Committee who is one superb and fair-minded man that I have thoroughly come to enjoy. There is no one more fair or kind or compassionate.

I sometimes need SONNY MONTGOMERY around. He used to save me from going off the various cliffs. But nevertheless I would usually hitch up and go right off the cliff anyway.

So SONNY MONTGOMERY deserves all of our adulation; and BOB STUMP, the ranking member in the House, and fine staff members, like Mack Fleming, and so many others.

They will piece together a very good bill from what we send them from here, and what they develop on their own side of the the building.

So, with that, Mr. President, I yield the remainder of the time to the floor manager with regard to the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania controls 5 minutes.

Mr. SPECTER. Mr. President, I reserve that time in the event it is necessary, but I believe that there will be amendments to be offered to this bill. So I reserve the remainder of that time.

Mr. DECONCINI. I have no time. I am glad the Senator from Wyoming is here and I certainly join in thanking him for his complimentary remarks; and I certainly join him in expressing the time-honored labor that Senator CRANSTON has put in on these matters long before I came to the Senate. He deserves great credit today.

I am prepared too take any amendments or further discussions the Senator from Wyoming may like.

Mr. SIMPSON. Mr. President, then as I understand the parliamentary situation, the time on the bill has been reserved, the remainder by the floor manager, and we will go forward with amendments at this time.

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 1358

(Purpose: To strike the provision relating to care for combat-theater veterans with service-related stress disorder)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 1358.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, strike out line 18 and all that follows through page 18, line 22.

On page 18, line 23, strike out "104" and insert in lieu thereof "103".

On page 19, line 10, strike out "105" and insert in lieu thereof "104".

On page 22, line 1, strike out "106" and insert in lieu thereof "105".

On page 24, line 3, strike out "107" and insert in lieu thereof "106".

On page 24, line 21, strike out "108" and insert in lieu thereof "107".

On page 26, line 21, strike out "109" and insert in lieu thereof "108".

On page 28, line 19, strike out "110" and insert in lieu thereof "109".

Mr. SIMPSON. Mr. President, this amendment would strike section 103 of the bill which provides for priority care of certain combat theater veterans for post-traumatic stress disorder [PTSD].

That is not as dramatic a pronouncement as you might believe.

Section 103 of the bill would establish a priority for medical care of combat veterans who have post-traumatic stress disorder [PTSD].

There are no other priorities for VA medical care that are assigned on the basis of a condition without any criteria regarding service connection.

I think it is very important to hear carefully what was described by the floor manager with regard to the legislation because he spoke of the fact of diagnosis. That is true. It does provide diagnosis. It also does provide verification. That is true. But what it lacks is adjudication, which is the entire basis of the health care prioritizing within the Veterans' Administration.

This is a bypass of adjudication based on frustration. I think we want to be very careful when we legislate like that. It is true, diagnosis and verification are here but that is not what we do in the VA health care system. We adjudicate and prioritize.

Enactment of that section would mean that Congress is now dictating to VA hospitals—please hear me—that medical care must be provided to such veterans on a priority basis over other veterans who are seeking care, perhaps even for a life-threatening operation for a condition.

That provision, I think, could prove to be very disruptive and very dangerous. I caution that this manner in which priorities are to now be established and recognized within the system of veterans' benefits and services is highly unorthodox. This provision would establish for the very first time—other than one other time when we talked about psychosis, which was a temporary provision—it had a time limit to it, a priority based upon a particular condition rather than upon service. If a veteran has a condition that is service-connected, then he or she is entitled to priority treatment for medical care for that condition. There is a very clear procedure for determining that service connection.

If there is a valid rationale for extending priority for medical treatment to veterans with service-connected conditions that have not ever been adjudicated as service connected, then perhaps that rationale extends across the board. But that rationale has certainly not been demonstrated to me. What are we honestly trying to do here, other than respond in a popular way to frustration?

While it does indeed make sense, I think, to prioritize health care on the basis of whether veterans have service-connected conditions, as opposed to non-service-connected conditions, or on the inability to afford health care, it certainly makes little sense to me to establish a priority on the basis of which disease or which condition the veteran suffers from unless that is done on an individual basis, because a particular veteran on a particular day exhibits some signs of a life-threatening condition.

Let me just share with you an example of why this is a very bad provision for veterans. First, let me say, as I do often, that I am a veteran. I served 2 years in Germany at the tail end of the Army of occupation. I was never in combat. There are probably 27 million of us who are veterans, perhaps 3 to 4 million who have never been in combat or in the combat theater. It is a very important distinction that the American public does not often discern. I have always said that there is a rich tapestry placed upon my head, and I have always said our first obligation is to the combat veteran, to those who were injured in training and preparation and in the combat theater. That is where the first priority should go, not sometimes to service-connected disabled. You would be surprised how you can fit in the definition of service-connected disabled, on leave, or involved in other things. I have said all that before, and I shall not say it again.

I am very proud to have served in the U.S. Infantry, in the 2d Armored Division, "Hell on Wheels," and 10th Armored Infantry, Military Armored Personnel Carrier Platoon. I considered it a rare privilege to serve in the U.S. Army. Some do not. I did.

I was able to obtain the GI bill and GI life insurance, which will come due on the 60th year. I am looking forward to the check. I have decided to cash in and not wait for the insurance, and that is going to be a nice advantage from serving in the U.S. armed services.

Some now consider it more than a privilege. They wonder sometimes, "What is in it for me?" I think that is too bad. But that feeling exists.

Let me share with you why this is a bad provision for veterans. It establishes a priority for medical care based on this condition of PTSD rather than on whether or not the condition is service-connected.

This provision was first introduced in 1988 in the House of Representatives, and the administration—and hear this—has adamantly opposed this provision, because it bypasses the regular VA adjudication process. That is exactly what is going to happen to it this time. It is going to leave here and face the same fate. But it will appear on your record.

This provision, for the first time, will give this priority on the basis of a condition, even to a veteran who may be there before another veteran with disability, possibly life threatening. Let me give you an example: If this provision were enacted, and if you had two veterans, both seeking medical treatment at the same hospital with, say, one doctor available to them at that time. This is what would transpire: One veteran with a possible life-threatening ailment, such as chest pains or heart attack, would not be able to see the doctor before the other veteran seeking treatment for PTSD, which might have extended his or her life for years or months. That is because the veteran with unadjudicated—please hear that word "unadjudicated"—PTSD would be treated as a priority patient. That is just how I read this provision and how I understand it. Others do, too. The veterans' groups understand it, but they know the next step, which will be simply to expand the budget to embrace it. They understand that.

I asked Deputy Secretary Tony Principi this question last summer, and he replied that that was a correct reading of my interpretation of that provision. He and Edward Derwinski served with great energy and with tremendous compassion and are very accessible to those of us in the Congress.

This provision would set a very bad precedent. We will hear that there has been a precedent before, but you will also realize that that precedent was temporary and only singular.

Congress cannot and should not micromanage and dictate to the VA that certain medical care must be provided, and must also be provided to such veterans on a priority basis over other veterans. And that is exactly what this provision does.

It is bad. It will pass. There will be no reason that will penetrate the final result on that provision.

And while I concur with the provision that would limit application of those under this legislation to those who served in-country, or in the theater of operations, I do indeed feel that the establishment of this entire provision is especially unwise.

The administration, through the VA, has also indicated its objections to the provision requiring this expedited treatment and evaluation of those who have this terrible distressing mental problem—post-traumatic stress disorder.

Please hear that in my remarks I am not trying to denigrate or in any way belittle that condition. It is a terrible condition. But remember that the description of the illness or the injury of PTSD will match any description of any other citizen sometimes in every walk of life, just in the conditions of life. Hypertension, distress, depression, ulcers, those things come from life, and they also come from combat, and they also come from the service experience.

I understand that. I am saying the reason the great tide is here to push this is because it is very difficult for the VA to really be able to match their verbage. Sometimes when you start talking to a 35-year-old veteran who has just been divorced or his son has just been arrested for smoking pot or the daughter married at the age of 16, these are things that cause trauma in human beings who have not ever had any relationship to the military. It is very difficult for the Veterans' Administration, with their limited budget, to sort those things out. The VA will not have that opportunity anymore, and the resources will be diminished.

Any provision which singles out veterans on the basis of a particular disability rather than on the circumstances in which the disability was incurred—that is, combat, training, active duty—should be subject to the very closest scrutiny.

As I say, I have been very active in this area for 13 years and we have taken on some very unpopular causes, trying to simply explain where we go and what we do in this remarkable body when we mention the name "veteran."

In serving on the Veterans' Affairs Committee, and chairing the committee, in the U.S. Senate, I have faced often the tough necessity of attempting to deal responsibly with the legitimate needs of this Nation's veterans while exercizing the responsibility to deal with the economic realities which face this entire Nation, including its 27 million veterans.

At the risk of being a bit repetitious to those who know well my views on this subject, let me sum it up as clearly as I know how.

The Veterans' Administration budget for fiscal year 1992 is $32.5 billion for 27 million veterans. That is $1 billion higher than last year's budget, and that is the sixth largest budget of 24 agencies in our Government. We do our share for these fine veterans. We should, and we always have.

We are a very generous country and we have never, nor will we ever, turn our backs on veterans. I can present any veteran who would wish to communicate with me a list of the things that have been done for veterans during the tenure of the chairmanship or ranking membership of Senator ALAN CRANSTON of California and with my assistance as chairman when I was chairman.

And it is extraordinary and also another myth which needs to be demythized. We have done more in the way of legislation for the Vietnam veterans than any veteran in our history for various reasons. Guilt, the anxiety of sending them to a war that they could not win, politics, pressure, we did it. And it is an extraordinary record of support for the Vietnam veteran. We have never, ever violated that responsibility.

Senator SPECTER said we have passed 12—I actually thought there were 13—major pieces of veterans legislation. And that is a remarkable record for this session. But we cannot irresponsibly continue to pass legislation which expands the services of the VA when we have no way to pay for it. When we pass it in committee someone, some persistent and perverse rascal, may say: "How are we going to pay for that?" And the answer is: "Who cares. Just get it out of here. It is good stuff."

Well, I think the veterans will finally see that good stuff we do is going to cut into the support structure of the most deserving of veterans and then we will begin to see some reaction. Or else we will see the hoped-for reaction, which is to get more money. You guys must have made a mistake. And we do that regularly and very diligently.

So I see no need to expand the services in the VA when we have no way to finance them.

The Department of Veterans Affairs does have a mission. It is a statement on the side of the building taken from Abraham Lincoln's second inaugural address. It is: "To care for him who shall have borne the battle, and for his widow and his orphan." And when we go to mandate further laws such as this one, knowing that there simply is no way to finance it, we end up hurting the veteran, because we drain the money away from people who are our first priority to serve.

The real irony of section 103 is that there is no evidence whatsoever that it will do much good for anyone. But it will please those of us who vote for it. It is not going to shorten any lines at VA PTSD units. It will not shorten even a single line. It is not going to fund itself. It simply makes a promise to veterans that we cannot be sure will be met.

There are some who will always characterize such positions as antiveteran. But they are those who do not look at what others have done for veterans, who do not listen carefully to what has been said.

I have always said that we must recognize those priorities. The first and highest duty and priority is to the veteran of combat, or of a combat theater, or one who was injured in training or the actual performance of military duties. That is our mission. We go far, far from that and take funds then from those who are in that category.

So I would conclude my remarks on the amendment. I never said that we should turn our backs on any other veteran, not with a $32.5 billion budget. I only said that in the context of our crushing Federal deficit and a debt limit of $4.145 trillion. So we need to recognize the established priorities.

This Nation faces a potentially devastating budget battle. It is the thing that causes the most difficulty here. The budget agreement asks a painful thing for us to recognize because it is the first time we have ever been shackled in our largess. And so when we have these priorities, it is our duty to recognize and adhere to them. And this Nation faces a potentially devastating battle of the budget and veterans have to be part of the solution.

Mr. President, I would say that in my duties as whip I have often been called upon to tabulate the possible results of legislation. I know the tally on this one without even getting near a rollcall. I know the results. And I made my annual plea with some reason here, not for some reason, but with some reason, hoping that it does not fall entirely on deaf ears. And I will, therefore, not move to strike this section of the bill. And no matter how ill advised, I surely feel that it is a very bad precedent that we set in force here this day.

With that, unless there is further comment from the manager of the bill on the amendment, I at the appropriate time will withdraw the amendment.

Mr. DECONCINI. Mr. President, I want to first say to the Senator from Wyoming I appreciate his withdrawing the amendment, number one; and, No. 2, his sincere approach toward these matters that he has consistently brought to the attention of the committee. And though I disagree with him on a couple of statements he made here—and one, I do want the RECORD to show that I believe the Senator from Wyoming is not correct in stating—and I believe he stated—that a veteran with a life-threatening condition would be pushed aside for a PTSD treatment. Maybe I misinterpreted what the Senator said.

I believe under title 38, section 1712 specifically states where there are "compelling medical reasons" all medical care priorities—and this would include PTSD—can be set aside to care for a veteran in a life-threatening situation.

I just did not want the RECORD to be inaccurate. Or perhaps I misunderstood the Senator from Wyoming.

Second, the Senator raised some concern about the cost. And I will just put in a statement explaining this Senator believes, and the committee believes, that this is within the budget agreement. It only makes this a priority, which means the Veterans' Administration must find the money. And I appreciate the Senator's position on it, and I think it is good to call it to our attention that we are not ravaging or doing anything here outside the budget.

Mr. President, section 103 of the committee bill would allow veterans who have been diagnosed as suffering from post-traumatic stress disorder [PTSD] related to their combat theater service to receive treatment on a priority basis. The landmark National Vietnam Veterans Readjustment Study, released in 1988, clearly demonstrated that the great majority of the nearly half million Vietnam veterans who were found to be suffering from PTSD had not received care from VA. This provision addresses the tremendous unmet need among veterans for PTSD treatment.

Mr. President, let me be clear about what this provision provides.

First, the veterans who would benefit are combat theater veterans whom VA mental-health professionals have diagnosed as suffering from PTSD related to their combat theater service and whose combat-area service has been verified.

All it would provide for is a priority for care for this service-related disability for these veterans.

Opposition to this provision makes sense only if one believes either that the VA mental-health professional cannot make that diagnosis or that these veterans should not receive care in a timely manner. Neither belief is reasonable. Mental health professionals can make these judgments, and these veterans deserve to receive care promptly.

Mr. President, these are combat theater veterans who have been diagnosed as suffering from PTSD related to their combat area service.

To insist that these veterans must apply for disability compensation and receive a formal adjudication of service connection before they can receive priority health care clearly elevates form over substance. VA should not have to complete a claims adjudication process before furnishing care to these veterans.

In the situations to which this provision would apply, the veteran has come forward seeking mental-health care. At that point, he or she is both experiencing psychological pain or distress and obviously is motivated to participate in treatment. That is precisely when treatment should be started—when the veteran clearly wants to receive help. That is why I oppose the amendment offered by my friend from Wyoming, Mr. President.

What should the Government's response be to this combat area veteran who has a serious mental disorder related to his service? Shouldn't it be to provide that care as quickly and effectively as possible? Of course it should be. And that's the result the committee bill would achieve.

The opponents of this provision say, "No, do not treat the combat veteran for PTSD when he or she first comes forward. Even though a designated VA mental health professional has determined that treatment is needed for PTSD caused by traumatic experience in a combat area, don't treat him right away."

First, they say, make him file a claim for monetary benefits—a claim that may take 6 months or more to adjudicate. Then, if the claim for monetary benefits is granted, we'll treat the veteran at that later time. Of course by that time, 6 months or so later, the veterans's condition may have deteriorated and become more intractable. The veteran may also be disillusioned with the agency that refused him care or, for any number of reasons, be no longer motivated for treatment. The opportunity to be most helpful could be lost.

Also, despite our best efforts to fashion a health-care system for veterans that prioritizes scarce resources according to certain principles such as service connected status, income, or status as a former POW, the system has not worked for many of the 480,000 Vietnam Veterans the National Vietnam Veterans Readjustment Study identified in 1988 as suffering from full-blown PTSD. From that undisputed, landmark study and feedback from VA clinicians, we know that hundreds of thousands of veterans are out there who need care. For example, an October 19, 1991, article in the Rocky Mountain News, quoted the Chief of Psychiatry at the Denver VA Medical Center as saying that there were at least 50 veterans at the facility who required inpatient treatment. Yet the closest VA inpatient facilities are in California, Washington, and Kansas.

Mr. President, there is no other disability as to which there is undisputed evidence of such a tremendous unmet need among veterans for health-care services related to their service. I believe strongly that we must do all we can to address the problem.

This provision will help combat area veterans get the care they need for service-related conditions if needed. The amendment to strike it should be defeated.

Mr. President, I share Senator SIMPSON'S concern about the costs of any legislation considered by the Veterans' Affairs Committee. In this case, however, action on the bill we are considering today will comply with the budget agreement reached last year and with the new budget rules that were enacted as a result of that agreement.

All costs incurred by this bill come from discretionary spending. Certain provisions may require VA to shift some funds from one purpose to another. That would reflect a long overdue redirection of resources to ensure that VA treats service-related care as its top priority. That's something our committee has been urging for years. For example, VA would have to provide some service-related PTSD care out of otherwise available medical-care funds. However, I am pleased to note that Congress provided $10 million in the fiscal year 1992 VA, HUD, and Independent Agencies Appropriations Act to expand PTSD programs.

The enactment of this bill should spur the administration to request more realistic levels for service-related care in the future.

With respect to other discretionary spending authorized in this legislation, the spending is, of course, subject to appropriations. Those discretionary programs will be funded to the extent appropriations bills provide funding within the Government-wide, domestic discretionary spending caps.

Last, Mr. President, I think the Senator from Hawaii would like to speak on the subject matter for a moment, and I will yield to him, unless the Senator from Wyoming wants to comment.

Mr. SPECTER. Mr. President, I have very brief comments.

Mr. DECONCINI. May I yield to the Senator from Wyoming first, because I mentioned some statement he made, if he wants to correct me.

Mr. SIMPSON. Mr. President, I do appreciate that opportunity, because the record is clear. When I drew the example for the body, I said very clearly when two veterans were seeking medical treatment at the same hospital, with one doctor available to see them, this is what would transpire. And that is exactly what will transpire when there is not sufficient personnel to deal with the issue of prioritization.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. GORE). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, just a word or two, because the distinguished Senator from Wyoming, after having outlined his case, has announced he does not intend to pursue the amendment and will withdraw it. I do think a word is called for.

I share the Senator's concern about micromanagement. But I believe that this amendment on priority care for those with posttraumatic stress disorders is warranted because that is a very serious matter which has been neglected, especially from the Vietnam war.

There has been a lot of controversy about what posttraumatic stress disorder is, what makes it service connected. And in establishing this priority, the Congress will be saying to the Veterans' Administration: Give a little priority attention to this item.

We are going to be talking about an amendment which is going to be pushed forward later today for a vote, and I think at that time it would be appropriate to have a discussion in some depth with my distinguished colleague from Wyoming about the philosophies toward veterans.

I will wait for that event before talking at any length, and will hope to do that fairly briefly later today.

I now yield to our distinguished colleague from Hawaii.

The PRESIDING OFFICER. The time is controlled by the Senator from Arizona.

Mr. DECONCINI. Mr. President, I yield to the distinguished Senator from Hawaii whatever time he so asks on the amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I thank the chairman for yielding this time.

I want to take the time to express my interest in this subject, because of the great need for PTSD service in my State of Hawaii, particularly in the rural neighborhood islands.

In fact, Hawaii may have the highest rates of PTSD incidents and prevalence of any place in the United States. The national media—and I refer to ABC's "20-20"—reports that the big island of Hawaii is a place where veterans with PTSD have come from around the country. They have flocked there to the big island, and have done so perhaps because its climate and geography closely resembles that of Vietnam's.

I have visited these folks in Kona on the big island. When I arrived there, they came out from the hills—they live up in the hills—and expressed their desire for more service. And many of them are PTSD-required services.

Mr. President, let me be clear about this provision and what this provision provides.

First, the veterans who would benefit are combat-theater veterans whom VA mental-health professionals have diagnosed as suffering from PTSD related to their combat-theater service, and whose combat-area service has been verified. All it would provide for is a priority for care for this service-related disability for these veterans.

Any opposition to this provision makes sense only if one believes either that the VA mental-health professionals cannot make that diagnosis or that these veterans should not receive care in a timely manner. Neither belief is reasonable. Mental-health professionals can make these judgments, and these veterans deserve to receive care promptly.

Mr. President, there are combat-theater veterans who have been diagnosed as suffering from PTSD related to their combat-area service. To insist that these veterans must apply for disability compensation and receive a formal adjudication of service connection before they can receive priority health care clearly elevates form over substance. The VA should not have to complete a claims adjudication process before furnishing care to these veterans.

In the situation to which this provision would apply, the veteran has come forward seeking mental-health care, and at that point, he or she is both experiencing psychological pain or distress, and obviously is motivated to participate in treatment. That, Mr. President, is precisely when treatment should be provided; when the veteran clearly wants to receive help.

My friend from Wyoming has worked hard in this committee, and for many years has done so, and has expressed his opinion. I am happy to note that he is withdrawing his amendment.

I just offer these comments to point out my deep interests in PTSD, and the reasons we need to help the veterans who clearly want to receive this help.

I yield the floor.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Senator SANFORD and Senator WELLSTONE be added as cosponsors of S. 869 and S. 775.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I am prepared to yield back the remainder of our time on this amendment, and do so, unless the Senator from Pennsylvania has any other comments.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania has 5 minutes remaining on the bill.

Mr. SPECTER. I believe I have no time allotted on the amendment. That is under the control of Senator SIMPSON. I will retain my time on the bill. I do not believe it will be necessary to use it, but as a precautionary measure, I retain that.

Mr. DECONCINI. I yield back the remainder of the time on this amendment, Mr. President.

Mr. SIMPSON. Mr. President, let me just express what a pleasure it is to serve with the Senator from Hawaii, Senator AKAKA, who has come on the committee in his first years in the Senate and is making a great contribution. I watch him work, and you get to know your colleagues.

He is a very extraordinarily dedicated, and also very helpful in the area of rural health care, which is a very critical need in my State, as well as his. I enjoy working with him on those issues.

With that, Mr. President, I withdraw the amendment, and therefore yield back the remainder of the time on the amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment is withdrawn.

The amendment (No. 1358) was withdrawn.

AMENDMENT NO. 1359

(Purpose: To strike out the provision relating to eligibility of veterans for services at Vet centers)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 1359.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows;

On page 18, strike out line 23 and all that follows through page 19, line 9.

On page 19, line 10, strike out "105" and insert in lieu thereof "104".

On page 22, line 1, strike out "106" and insert in lieu thereof "105".

On page 24, line 3, strike out "107" and insert in lieu thereof "106".

On page 24, line 21, strike out "108" and insert in lieu thereof "107".

On page 26, line 21, strike out "109" and insert in lieu thereof "108".

On page 28, line 19, strike out "110" and insert in lieu thereof "109".

Mr. SIMPSON. Mr. President, this amendment would strike section 104 of the bill, which provides for expanding readjustment counseling eligibility to include veterans of World War II or the Korean conflict.

This provision—hear this, please. We are talking about readjustment counseling for those two wars. This provision would bring about a major and sweeping change in the readjustment counseling program. I think it would be extremely ill-advised, for the basic reason that there already exists an entitlement for readjustment counseling for Vietnam-era veterans. It is already on the books.

This provision is yet another step that we see so often on the road to perpetuating what was originally conceived and originally created as a temporary program to assist Vietnam-era veterans in adjusting to civilian life. That is what we did this for, Vietnam veterans, people who were suspicious of the VA, and we responded to that. I was chairman. I listened for a year to the hearings and the testimony. And they made a believer out of me that these vet centers were very important.

But now this provision in this section for the very first time would extend this eligibility for readjustment counseling services to people who served in World War II and Korea. What are we really doing now? This is bizarre. It truly boggles the mind to think that the loyal veterans of World War II, which ended 45 years ago, still are having trouble readjusting to civilian life after their military service. These fine veterans have already made that transition, and in a very brave manner, many years ago. And for those who did not make the transition—that is what the VA is for.

The VA fully treats those who have that distress from the Second World War and from Korea. The vet centers were established for Vietnam veterans who were said to be alienated from the VA system. It has never been alleged until this last few months—please hear this—that the World War II veterans and Korean conflict veterans were alienated from the VA's health care system.

That is where we are. That is how we get to these places. I am wholly unpersuaded as to why scarce funding for medical care for the vet centers for the Vietnam veterans should be expended in this manner when the VA's sole purpose is to take care of veterans who have had those conditions.

You can see how hazardous the work is on the Veterans' Affairs Committee because you know where this amendment is going, too. Certainly, life hands people setbacks and disappointments. And many people, veterans of World War II and Korea among them, occasionally have trouble dealing with the complexities of life. But hear this carefully. There are psychiatric services of a full range available, always available—always have been available—through the VA for such veterans of World War I, or World War II, or Korea—of any conflict we have ever had, and especially Vietnam because we set up the centers for them.

It seems to me to be stretching things to the breaking point of absurdity to attribute problems of difficulties now for a war that ended 45 years ago, and one that ended in the early fifties, about readjusting to civilian life. I think we must honestly conjecture how many decades it takes to readjust to civilian life. Armistice was declared in the Korean conflict in 1953, 38 years ago. Many of my friends served there. World War II ended 46 years ago. Many of my friends served there. I was a boy during that conflict. I was too young to join the Guard during the Korean conflict. Many of my friends did join in a local unit in Cody, WY. Some were killed, and many served with great distinction. It was a sad, anguishing event.

So I do not want you to repel in anguish or horror that suddenly I am saying something which is evil, unkind, or not compassionate. I do not mean to suggest in any way that some veterans of those earlier wars did not have serious readjustment problems or that some may not still, still today, be suffering mental anguish as a result of their wartime experiences. That is the hell of war. In World War I it was called shellshock. In Vietnam it was called PTSD. In World War II it was called combat fatigue, or battle fatigue. That same term came into the Korean war, which was just, remember, several years after the conclusion of the Second World War.

But the strain and pressures of modern life are also certain to take their toll on any person, and psychiatric services are always available through the VA medical centers for those veterans who find they have problems as a result of their military service or other pressures of civilian life.

Surely, a part of the original justification for the storefront counseling centers—which I supported fully after hearings and learning the issue from the Vietnam veterans—was that the Vietnam era veterans were more likely to feel alienated from the system.

To suggest now, as this provision does, that veterans of these earlier wars are also so alienated from the VA's medical care system that they also hesitate to seek help after 30, 40, or 50 years—not 50, but 45—that they hesitate to seek help from its medical centers strains all credulity.

What is this, really, but a response to pressures? Not always do those pressures come—from outside the system, but inside.

The administration also shares this concern for readjustment eligibility for counseling for these veterans of service prior to Vietnam.

Finally, I will close by saying that the VA—and no one must miss this—provides a superb mental health and counseling facility to veterans through services other than the vet centers. They always have, they always will. These services are available to veterans of all of our wars: World War I, World War II, Korea, Vietnam, Desert Storm. These individuals, these fine veterans who served, these combat veterans especially, have available to them the full range of benefits from the VA health care system, including the comprehensive psychiatric and counseling services of the VA medical centers. And there you are.

As members of the Veterans' Affairs Committee, we have all worked to ensure these excellent services are available. But, again, martyrdom is not a becoming trait. I know the score on this one, too. I simply again ask for some reason here, also some reason for some fiscal accountability and responsibility as we duplicate services.

But it will work. And it will keep alive a program that may not have had the budget stimulus because it has worked well. So now we are going to fold in wars of 38 and 45 years ago, which will only, again, result in taking benefits away from those who most need them.

So I ask that perhaps those words have been heard. We must be sensible. This is cosmetic. We take marvelous care of these veterans of earlier wars. They saved our country. And we responded to them in a very meaningful and gracious way.

Knowing the realities of such issues on the Senate floor coming from skilled assessment of my tour as chairman and ranking member, I will not move to strike that section of the bill. It will be a reckless burden upon my colleagues and an additional rollcall vote with a known result of extraordinary proportions, but I hope someone, and I think the House will hear it carefully, will realize that we should not be doing our business in this way.

We should do it in a sensible, upfront way and somehow not pretend that the veterans of wars long past are somehow deprived of services within the VA when they are given, thank God, every known possible service—psychiatric service, health care, and the attention of a system of huge dimensions to which we finance some $32.5 billion.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Under the previous order, there are 30 minutes controlled by the Senator from Wyoming, of which 19 minutes remain, and 30 minutes controlled by the manager of the bill, the Senator from Arizona.

Mr. DECONCINI. I yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I shall not speak long because our distinguished colleague has stated his intention to withdraw the amendment. But I begin by thanking him for his usual careful analysis. He provides a great service to our committee, to the Senate, to the Congress and to the country in many, many ways and has again today by raising an issue on priorities.

I believe that counseling is important for World War II and Korean veterans because we have found many who have come forward who need such counseling, and I believe that help for them can be integrated into the counseling centers which are now being directed solely for the Vietnam veterans.

What we are doing here, Mr. President, is establishing a congressional say from what we have heard from the veterans in this country, from what our constituents are telling us. We do not really wish to micromanage, but I do believe it is appropriate when we hear so many cases of veterans from World War II and the Korean conflict. The Korean era is one in which I served, but not in a conflict situation. I had Stateside duty as a second lieutenant and then first lieutenant in the office of special investigations in the Air Force.

We are responding to a need for that era. Ultimately the administration will be with others. I think it is very useful, always, to have a Senator SIMPSON challenge our priorities.

We are going to have a more spirited discussion this afternon on another subject. So at least speaking for myself, I shall await that event before saying anything at any length at all. I thank the Chair and thank my colleague from Arizona.

Mr. DECONCINI. Mr. President, I echo what the Senator from Pennsylvania just said and will not go into responding to the Senator from Wyoming. I appreciate the approach of the Senator from Wyoming. He has, indeed, been one of the leaders, if not the leader, with Senator CRANSTON on these vet centers and they were, indeed, set up for Vietnam veterans.

Time has changed, the need has been expanded. Referrals are made from the veterans hospital and Veterans' Administration out of these centers. Over 7,000 Korean and Second World War veterans each year come to these centers, and the need is very clear. I have the greatest respect for my friend from Wyoming and his observations and analysis of the bill.

Mr. President, it is very important to defeat this amendment to delete the provision to make vet center services available to World War II and Korea combat veterans. In April of this year, the Congress enacted legislation to expand eligibility to individuals who served in areas of hostilities after the Vietnam era. The administration supported that expansion.

However, the recently enacted legislation does not cover combat veterans from World War II and Korea.

Numerous research papers and other reports that we have noted in committee reports provide clear evidence that some older veterans would benefit from assistance from vet centers. The common theme of these papers and reports is that the psychological effects of combat can last for a very long time in a chronic state or resurface many years after a person's exposure to extraordinary stress.

In addition, we know that significant numbers of World War II and Korea veterans are already seeking this assistance. VA's readjustment counseling service reports that approximately 600 new Korean and World War II veterans are seen at vet centers each month.

In fact, many of these older veterans are being referred to vet centers by VA medical center staff.

This is the clearest kind of proof possible that the readjustment counseling program is exactly the kind of care that these veterans need.

Mr. President, medical research and the reports I have cited, and the fact that more than 7,000 veterans of World War II and the Korean conflict come to vet centers each year seeking help, clearly establish that this legislation is needed. The vet centers have done a tremendous job in providing needed counseling to thousands of Vietnam-era veterans, and I believe strongly that the expertise of vet center staff should be tapped for the benefit of older combat theater veterans who could be helped by it.

Let me yield to the distinguished Senator from Hawaii who wants to comment on this. Excuse me, I ask the Senator to bear with me.

Mr. SIMPSON. Mr. President, I appreciate the Senator from Arizona deferring to me, and I will go immediately to the Senator from Hawaii.

As I told the staff and those involved in managing this bill, I must now absent myself. I shall return for an amendment which I shall not withdraw, so I leave the manager with the ability to please relinquish my time at the conclusion of the remarks of the Senator from Hawaii. I shall return after my obligation.

Mr. DECONCINI. I thank the Senator, and I take it the Senator has withdrawn the amendment?

Mr. SIMPSON. Indeed, I think the RECORD discloses, it should, that the amendment is, therefore, withdrawn.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The amendment (No. 1359) was withdrawn.

Mr. DECONCINI. I yield to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. I thank the chairman for yielding time to me. I thank the Senator from Wyoming, my friend and colleague, for withdrawing his amendment. While he has intended to withdraw his amendment, I would like to take a moment to comment on this issue.

As my colleagues are aware, vet centers are currently prohibited from outreaching and counseling veterans who served in pre-Vietnam conflicts, in spite of the fact that many of these veterans suffer from the same readjustment difficulties experienced by veterans who served in Southeast Asia, Grenada, Panama, or the Persian Gulf. We should take our heads out of the sand, recognize this fact, and extend vet center eligibility to all veterans who require the program's services.

Over the years, vet centers have reported widespread demand for care from pre-Vietnam-era veterans. On average, according to testimony provided to the Veterans' Affairs Committee, our vet centers—in technical violation of the law—unofficially see as many as 750 to 1,000 World War II and Korean war veterans each month. We can assume that many more such veterans would be helped if vet centers were able to counsel and outreach these veterans freely and openly.

Mr. President, the fact that vet center personnel are illegally assisting troubled veterans demonstrates their deep professional commitment to help fellow human beings in need rather than their willingness to break the law. We need to legitimize services that in some cases are already being provided secretly to veterans, under the table, even as if they were criminals or modern day lepers. We need to let vet centers carry out their mission, unfettered by artificial eligibility distinctions that have little clinical meaning.

Let me use a simple example. If a veteran walks into a VA health facility complaining of hearing loss, we try to help him. Physicians examine him, perhaps they prescribe a hearing aid. But in doing so, they don't ask him what particular era or war he served in as a condition of examination. There is no difference between this veteran and one who walks into a local vet center because he is having trouble coping with his war experiences. Perhaps he can't hold a job, maybe he can't sleep, perhaps he cowers in terror every time he hears a car backfire or a helicopter flies overhead, or perhaps he experiences unexplainable flashes of violent rage. Common sense would say that a vet center counselor should be able to see him as a client, to help him work out his problems, or to direct him to other services offered through VA.

But this particular veteran happens to be a World War II veteran; according to law, he is not eligible to use vet centers. He is ineligible despite the fact that he served in a period of war, he experienced combat, and he suffers from readjustment problems. He cannot get assistance simply because he had the profound ill-luck to have fought for his country at the wrong time. Mr. President, there is no difference between this man and his brother in arms who served in Vietnam. Neither is there a difference between his readjustment difficulties and those of the veteran who came in complaining of hearing loss. In fact, there is no difference between the two at all except the difference between mental and physical health.

This is one aspect of this debate, Mr. President. It is the presumption that those who have emotional or psychological difficulties in coping with their war experiences are somehow less deserving than those who suffer physical injuries. It is the age-old stigma against mental health that is rearing its head today.

It is also about whether a veteran should only be permitted to seek help in cold examining rooms by white-coated doctors and faceless bureaucrats, or whether he should have the opportunity to seek aid in an informal setting, where he can preserve what remains of his dignity and relate to individuals who share his experiences.

Mr. President, aside from the question of assisting a neglected veterans population, an additional reason for extending eligibility to pre-Vietnam-era veterans is that by expanding the portfolio of our vet centers, we are also helping ensure their continued viability. Over the years, we have seen the importance of these community-based facilities in treating and outreaching veterans who otherwise would not have availed themselves of VA services and benefits available in more traditional VA settings.

In fact, vet centers have served as important first-contact points, as conduits, for veterans to access other VA facilities, such as outpatient clinics, medical centers, or benefits offices. Over the course of time, because of their effectiveness, we have seen the image of vet center personnel gradually transformed from that of lone rangers to that of consummate professionals who are integral members of the VA team.

Mr. President, no one interacts with veterans on their own terms and in their own environment as well as the outstanding individuals who comprise our 196 vet centers. Their informal, people-oriented, nontraditional approach to problems has vastly expanded VA's ability to communicate with the veterans community at large.

Mr. President, I know of no more important or effective program than the Readjustment Counseling Service. Let us act wisely by giving vet centers the authority to assist all veterans with legitimate readjustment problems, regardless of the era in which they served.

Thank you, Mr. President.

I yield back my time.

Mr. DECONCINI. Mr. President, I thank the Senator from Hawaii for his, as usual, detailed explanation in opposition to an amendment that has been withdrawn but also in support of the vet centers. I thank him very much.

AMENDMENT NO. 1360

Purpose: To authorize the display of the POW/MIA flag on flagstaffs at the national cemeteries of the United States.

Mr. DECONCINI. Mr. President, on behalf of the Senator from Michigan [Mr. RIEGLE] I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator for Arizona [Mr. DECONCINI], for Mr. RIEGLE, proposes an amendment numbered 1360.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as folllows:

On page 67, below line 14, add the following:

TITLE IV—MISCELLANEOUS

SEC. 401. AUTHORIZATION TO FLY POW/MIA FLAG AT NATIONAL CEMETERIES OF THE UNITED STATES.

(a) AUTHORIZATION.—The director of each national cemetery is authorized to display a POW/MIA flag on a flagstaff at that cemetery. In determining whether to display a POW/MIA flag at the cemetery, the director is authorized and urged to consult with appropriate representatives of local civic and veteran's organizations having an interest in the activities of the cemetery.

(b) PROHIBITION.—No officer or other employee of the Federal Government may obligate appropriated funds for the purposes of purchasing a POW/MIA flag for display at a national cemetery.

(c) DEFINITIONS.—In this section:

(1) The term "national cemetery" means any cemetery in the National Cemetery System referred to in section 1000 of title 38, United States Code.

(2) The term "POW/MIA flag" means the flag designated as the National League of Families POW/MIA flag pursuant to section 2 of the Joint Resolution designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag (Public Law 101–355; 104 Stat. 416).

(3) The term "flagstaff" means any flagstaff at a national cemetery, including the main flagstaff of the cemetery.

Mr. DECONCINI. Mr. President, this amendment is acceptable to both sides. It has been cleared by Senator SPECTER. It simply provides local VA cemetery directors with the authority to fly the POW/MIA flag on a daily basis.

Mr. RIEGLE. Mr. President, on April 25, I introduced a bill, along with the Senator from New Hampshire [Mr. SMITH] which would authorize Directors of Department of Veterans' Affairs National Cemeteries to fly the POW/MIA flag on a daily basis. Today, I am offering this legislation as an amendment to S. 869 the Veterans Health Care Amendments Act of 1991 to afford well-deserved recognition to the thousands of American service personnel who remain missing and unaccounted for.

Sixteen years ago, our Government withdrew its last official presence from Vietnam. But in America's haste to depart, the fate of more than 2,000 service personnel was left unresolved. Furthermore, the physical remains of tens of thousands of troops who served in World War I, World War II, and the Korean war still have not been recovered. Until the fate of every missing American is resolved, America must remain committed to keeping the POW/MIA issue as a top national priority.

The amendment I introduce today is designed to change an unfortunate policy of the National Cemetery System of the Department of Veterans' Affairs. Currently, the VA permits flying of the POW/MIA flag at national cemeteries only on 3 days per year—Memorial Day, Veterans' Day, and National POW/MIA Recognition Day. This directive, though, does not acknowledge the fact that the POW/MIA question is a year-round concern for the Nation. Moreover, it falls short of the sympathy and respect America should afford to the families of missing Americans who must deal with their heartache and loss each day.

For almost 2 years, the Fort Custer National Cemetery in Augusta, MI, flew the POW/MIA flag on a daily basis. Although they had received not one complaint during that period, the VA ordered Fort Custer to lower the flag and to raise it only on the prescribed holidays. Mr. President, citizens of Michigan feel strongly about the continuing national tragedy of America's missing. If they, or other Americans, would like to fly the POW/MIA flag each day as a testimony of their concern, they should be allowed to do so. For this reason, I am introducing this amendment to authorize the directors of more than 100 cemeteries in the VA national cemetery system to fly the POW/MIA flag on a daily basis.

While this amendment places discretion on whether to fly the flag in the hands of the cemetery director, it urges the director to consult with community leaders to decide if the flag will be flown in the individual community. Although the decision to fly the flag at each cemetery would be taken out of the hands of the VA and given to each cemetery director, in practice I hope the decision to honor POW/MIA's will rest with the community.

This legislation does not contain any funding for the purchase of POW/MIA flags. It is designed to encourage community involvement through the donation of a flag to cemeteries choosing to fly one. As an example of how this process may work, $500 has already been donated for the purchase of a flag pole and a POW/MIA flag for the Fort Custer National Cemetery.

I strongly believe that daily flying of the POW/MIA flag at America's national cemeteries would be a meaningful step to commemorate American service personnel whose fate is yet unresolved. While some progress has been made to speed the search for missing Americans, we must remain dedicated to identifying and returning all possible POW/MIA's and devoted to recalling their profound contribution to the freedom we enjoy in our democratic society.

This dilemma will not end today, nor will it conclude tomorrow. But, hopefully, through our persistence and perseverance, America will one day soon have a full accounting of all missing Americans. By offering this amendment, I hope to express my commitment to achieving a full accounting of those missing and unaccounted for and to offer our Nation a fitting tribute to these esteemed and courageous people.

Mr. DECONCINI. Mr. President, I know of no opposition to this. I urge adoption of the amendment.

I yield back any time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1360) was agreed to.

Mr. BOREN. Mr. President, I want to express my sincere appreciation to the committee for including in this legislation my bill, S. 327, which will guarantee outpatient care for all former prisoners of war as defined by present law. I also thank the 40 cosponsors for their support of this measure.

It was not until 1970 that the first statutes were enacted to specifically address health problems of former POW's. Since that time, impressive progress has been made in recognizing and taking the necessary action to correct these problems.

The VA has also performed yeoman's work in meeting the needs of the former POW's. The regulations and directives to administer these recent laws have for the most part ensured prompt and proper handling of the unique problems of the POW. A good example is the easing of regulations to establish service-connected disabilities because, of course, good medical records on prisoners of war were not kept by the enemy.

Section 101 of Public Law 100-322 which covers eligibility for health care services, placed former POW's in category A which guarantees inpatient care for all former POW's but provides restricted outpatient care for those former POW's. The language reads that those former POW's less than 50 percent disabled may receive outpatient care. That, Mr. President, is the reason for my bill—the word "may." My bill very simply changes the word "may" to "shall."

Mr. President, we owe a special debt to our former POW's which, in my view, certainly includes the delivery of their health care. The impact on the health of former POW's is unknown from mental cruelty, torture, and malnutrition. In my view, every POW gave his all for his country and should know that this great country will always take care of his health needs.

As a matter of fact, we must insure that any young man or woman entering the military of this country knows that our Government commits to the health care of anyone who is taken prisoner of war.

While it appears that no POW's have been denied care, continued constraints on Federal funding are inevitable. I introduced this bill to clarify our responsibility to former POW's and to prevent a former POW from being turned away.

Of the nearly 77,000 former POW's, many fewer than half use the DVA hospital and clinic services so the CBO estimates the cost of my bill to be at the most no more than $1 million a year. Let me repeat that figure: $1 million in an annual health care budget $13,000 spent for veterans health care will guarantee outpatient care to those who served in POW camps during wars our Nation has fought.

Mr. President, I thank my fellow colleagues for helping to let the world know that we take care of our own by including my bill to provide VA outpatient care of the former POW's.

Mr. LEAHY. Mr. President, the Senate is taking an important step today to improve health care for our veterans. I strongly support the Veterans Health Care Amendments Act of 1991.

The post-traumatic stress disorder provisions in this bill are long overdue. The excellent work by Dr. Matt Friedman at the VA National PTSD Center in White River Junction, VT, has demonstrated that the diagnosis and treatment of PTSD should be a high priority in the VA health care system. I also strongly commend the persistent efforts of Senator DASCHLE who has led the fight to improve the availability of PTSD treatment.

Sadly, the administration has ignored the evidence that PTSD is a significant problem. Even though VA hospitals have become more aware of PTSD and demand on the system has increased, the administration has failed to request new funds for expanded treatment or research activities.

The Senate Appropriations Committee has found it necessary to correct this injustice. As a member of the VA-HUD Subcommittee, I have strongly supported amendments adding millions to the administration's inadequate request for PTSD from fiscal year 1989 to fiscal year 1992. The passage of this authorization act will mandate increased accessibility for veterans who need PTSD care.

Mr. President, I also want to express my support for a provision in S. 869 to expand eligibility at vet centers for World War II and Korean war veterans. These veterans suffer from the same afflictions as veterans from the Vietnam conflict and deserve treatment in vet centers. No treatment in our VA system should discriminate against veterans from a particular conflict.

ATTORNEY REPRESENTATION

Mr. ROCKEFELLER. Mr. President, as a member of the Committee on Veterans' Affairs, I have been working for several years to remedy a serious problem for veterans who are confronted by an aggressive debt collection proceeding by the Department of Veterans Affairs.

This issue is one of basic fairness. During a debt collection proceeding, a veteran's credit rating, military security clearance, and his or her future income may be at risk. This is serious matter, and veterans deserve to have the option of retaining an attorney for every step of the process.

Included in the committee amendment to the Veterans' Health Care Amendments Act is an important provision to correct this problem and clarify a veteran's right to obtain legal counsel. This provision makes clear that in situations where a veteran faces a VA initiated debt collection proceeding related to VA benefits, and in other situations in which no claim for benefits is involved—such as constitutional challenges to VA regulations and Freedom of Information Act cases, and VA actions to withhold payments because of asserted overpayments or other alleged debts to the VA—an attorney may be hired by the veteran at any point in the proceeding.

BACKGROUND

Under current law, VA treats, and under the predecessor provisions since 1986 has treated, a person facing a debt collection the same as a person initiating a benefits claim proceeding with respect to the attorneys' hiring limitations in sections 3404 and 3405 of title 38. These limitations provide that in a proceeding before VA with respect to benefits, a fee may not be paid to an attorney for services rendered before the first final decision of the Board of Veterans' Appeals, the adjudicatory body in VA's claims adjudication system. Criminal sanctions are provided for attorneys who solicit or receive fees in violation of the prohibition. These provisions have been construed by VA to prohibit a person in an administrative proceeding before the agency from retaining a defense attorney until after the first final decision of the BVA.

The VA's position on the applicability of the attorney fee restrictions to debt collection and other proceedings has taken many turns in the recent past. In 1976, for example, the VA expressly exempted debt collection proceedings from the reach of these fee statutes. Then, through a general counsel opinion issued in 1986, the agency appeared to reverse itself, stating that the attorney fee restrictions did indeed apply in the context of debt collection cases.

In June 1988, a lawsuit was filed against VA charging that application of the statutes in debt cases was contrary to the language and legislative intent of those statutes. The VA's position was upheld by the U.S. District Court for the Eastern District of Virginia in the case of *Bahnmiller et al.* v. *Derwinski*, 724 F. Supp. 1208. While the case was on appeal, the VA general counsel issued yet another opinion, which appeared to limit application of the fee restrictions to debt waiver cases and non-home loan debt proceedings. Subsequently, the agency's application of the statute was upheld by the U.S. Court of Appeals for the Fourth Circuit. The court interpreted the VA's last general counsel opinion in a broad fashion, holding that much of the case was moot because of the VA's concession of a large part of the relief sought by the parties.

Mr. President, the ever changing position of the VA on this issue in recent decades has resulted in a state of confusion as to when and how a veteran may be represented by defense counsel when facing the debt collection apparatus of the VA.

A provision in the committee amendment would clarify once and for all that veterans facing debt collection activity by the Government are entitled to hire counsel as they see fit to advise and represent them at any stage of these proceedings. My goal is to make clear that a distinction must be drawn between situations in which a veteran, as the initiating party, seeks VA benefits, and situations in which VA initiates an administrative action against the veteran to collect an alleged debt to the U.S. Government.

VA and Congress have historically attempted to keep the VA claims process as nonadversarial as possible. When a veteran makes a claim for benefits, VA personnel are obligated to provide assistance in the preparation and prosecution of the veteran's claim. The historical justifications for the attorney fee limitations have been both to retain the nonadversarial nature of the claims process and to protect veterans from being preyed upon by attorneys.

However, in cases in which the VA is the plaintiff and seeks to recover an alleged debt from a veteran or other person, the very nature of the proceeding is different from those in which a person affirmatively seeks a benefit from VA. This is because in instituting a debt collection proceeding, VA and the alleged debtor are placed from the outset in adversarial roles, and the interest in maintaining the nonadversarial nature of the system is not at issue.

Evidence of the fundamentally different nature of debt collection proceedings can be found in the fact that the Department in such proceedings commits itself by regulation to take aggressive action in collecting the alleged debt (38 CFR section 1.910). The standard practice in such cases is for VA to issue strongly worded demand letters to the debtor, citing the possible adverse consequences—including reporting the debt to credit reporting agencies which may affect the veteran's ability to obtain credit, offsetting existing disability benefits upon which the veteran may be relying, and, if necessary, referring the debt to the Internal Revenue Service for collection if the debt is not settled. In such cases, with the financial security and well being of the alleged debtor and his or her family at stake, I believe it is both necessary and entirely appropriate to afford persons the unencumbered opportunity to retain legal representation in order to ensure that their interests are adequately protected.

Mr. President, I have worked closely with Congressman STAGGERS on this issue, and applaud his leadership in the House. In March, Congressman STAGGERS chaired a hearing in his subcommittee on this issue. At that hearing, Congressman STAGGERS specifically asked the VA about this issue. VA officials testified regarding this issue that the VA did not have any objections to the legislation I cosponsored with Senator CRANSTON last year to allow the payment of attorney fees for service rendered in proceedings at the administrative level regarding loan guarantee indebtedness, including the waiver of recovery of such indebtedness.

Mr. President, as I mentioned earlier, VA now appears to draw a distinction between debt cases arising out of the home loan program, and those arising in other contexts. Indeed, the VA general counsel's most recent opinion on the issue, as interpreted by the U.S. Court of Appeals for the Fourth Circuit, suggests that veterans may have counsel in certain home loan debt cases, but not in others. This appears to be a distinction without a difference. Regardless of the circumstances giving rise to the alleged debt, the result to the veteran is the same. The veteran faces aggressive debt collection activity under a complex system of rules and appellate procedures, legally barred from hiring competent legal representation. Regardless of the size of the debt, or the circumstances giving rise to it, the stiff administrative sanctions wielded against the veteran caught up in the process are not contingent upon such distinctions. A veteran's credit rating may be ruined just as effectively over an alleged $500 education debt as it would be in the case of an alleged $20,000 home loan debt.

Mr. President, last year the distinguished chairman of the Veterans' Affairs Committee, Mr. CRANSTON and myself introduced similar legislation to remedy this problem. Today, although the agency's position on the extent of these restrictions has shifted somewhat, the fundamental difficulties facing veterans in need of representation in debt collection cases remain.

This legislation is necessary to fulfill the great promise that Congress, in enacting the Veterans' Judicial Review Act, made to veterans and other persons who deal with VA that they will be afforded basic fairness in their dealings with the Department. This provision would in no way alter the full force of the limitations and sanctions that exist under current law with regard to the hiring and paying of legal counsel in cases where a person affirmatively seeks a benefit from the Department. The complexity of debt proceedings and the potentially very serious impact to debt collection cases require that a veteran or other person alleged to owe a debt to the VA have full opportunity to retain competent legal representation.

By enacting this important measure, we can protect a veteran's basic right to secure legal counsel. This is important for veterans in West Virginia and across the country. It is an issue of basic fairness.

Mr. SHELBY. Mr. President, I rise today on behalf of America's veterans community and ask that my colleagues join me in supporting legislation to enhance the lives of these brave men and women. The Senate will consider two important pieces of legislation.

S. 775, the Veterans Compensation Improvement Act of 1991, will ensure a much needed cost-of-living adjustment for disabled veterans and their dependents. The Senate is obligated to pass this legislation swiftly in order to show America's veterans that the Congress will not allow veterans entitlements to be lost among partisan disputes. The closing days of the 101st Congress failed to produce a veterans COLA.

Mr. President, there are some 410,000 veterans in my home State of Alabama. I believe that I heard from a good many of them last year when we in the Senate failed to pass a COLA bill. These men and women and their families told me that the U.S. Senate did not care about America's veterans. That, of course, is untrue. However, it is clear that we in Congress often take our Nation's veterans for granted. The Senate has the opportunity today to change that.

Furthermore, Mr. President, the Senate will be considering a bill that is of enormous benefit to the many veterans that suffer from post-traumatic stress disorder. S. 869, the Veterans Post-Traumatic Stress Disorder Treatment Act of 1991, will enhance the availability of treatment of PTSD for combat veterans who suffer from this debilitating condition. From World War II to the Persian Gulf war, thousands of veterans suffer from PTSD, a condition that is misunderstood by many in our society. Congress must take the lead in initiating such programs. Without a firm commitment to programs like PTSD treatment, many that suffer from this debilitating condition will never have the opportunity to seek treatment.

Today, the Senate has the opportunity—and the responsibility—to strengthen its relationship with the veterans community. Senator CRANSTON and his colleagues on the Veterans Affairs Committee have worked hard to bring these bills before the Senate. I implore my colleagues to join me in support of this important legislation. It is essential to the men and women that have sacrificed so much for our country, that we in the Senate act this morning to pass S. 775 and S. 869.

VETERANS COMPENSATION IMPROVEMENT ACT

Mr. DECONCINI. Mr. President, again on behalf of the majority leader under authority that is granted to him, I ask the Chair to set aside S. 869 temporarily and turn to S. 775.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 775) to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Compensation Improvement Act of 1991".

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1991, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 314, 315(1), 362, 411, 413, and 414 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Amendments of 1991 (Public Law 102–3; 105 Stat. 7). The increase shall be made in such rates and limitations as in effect on November 30, 1991, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1991, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1991, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsections (a)(2)(A) and (b) as increased under this section.

SEC. 3. CLARIFICATION OF SCOREKEEPING RULE FOR COST-OF-LIVING INCREASES IN COMPENSATION RATES.

For the purpose of calculating the baseline under section 257(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907(b)) with respect to the increase in veterans' compensation for a fiscal year, the amount by which each rate of compensation is increased is assumed to be rounded to the nearest whole dollar.

SEC. 4. REDUCTION IN PENSION FOR VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) of title 38, United States Code, is amended to read as follows:

"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.

"(B) A person referred to in subparagraph (A) is a person—

"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and

"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".

(b) CONFORMING AMENDMENTS.—Section 5503(f) of such title is amended as follows:

(1) In paragraph (3)—

(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and

(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph".

(2) In paragraph (4)—

(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";

(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and

(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on November 1, 1991, and apply with respect to months after October, 1991, and shall expire on September 30, 1992.

SEC. 5. EXTENSION OF PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN RADIATION-EXPOSED RESERVISTS.

(a) IN GENERAL.—Section 312(c) of title 38, United States Code, is amended in paragraph (4)—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C);

(2) by inserting before subparagraph (B) (as redesignated by paragraph (1)) the following new subparagraph:

"(A) The term 'active duty' includes active duty for training and inactive duty training."; and

(3) in subparagraph (B) (as redesignated by paragraph (1)), by striking out "a veteran" and inserting in lieu thereof "an individual".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of May 1, 1988.

SEC. 6. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR CERTAIN RADIATION-EXPOSED VETERANS AND ELIMINATION OF LATENCY-PERIOD LIMITATIONS.

(a) IN GENERAL.—Section 312(c) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "to a degree" and all that follows through "subsection)";

(2) in paragraph (2), by adding at the end the following new clauses:

"(N) Cancer of the salivary gland.

"(O) Cancer of the urinary tract.";

(3) by striking out paragraph (3); and

(4) by redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1992.

SEC. 7. EXAMINATION OF OTHER ACTIVITIES INVOLVING EXPOSURE TO IONIZING RADIATION.

The Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98–542) is amended—

(1) in section 5(a)(1)—

(A) by striking out "or" at the end of subclause (A);

(B) by striking out "; and" at the end of subclause (B) and inserting in lieu thereof ", or"; and

(C) adding at the end the following new clause—

"(C) in connection with such veteran's participation in an activity listed pursuant to section 10, to ionizing radiation; and";

(2) in section 5(b)(2)(B)—

(A) by striking out "or" after the comma at the end of clause (i);

(B) by striking out the period at the end of clause (ii), and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new clause:

"(iii) a connection to exposure to ionizing radiation, in the case of a veteran who participated, or a category of veterans who participated, in an activity listed pursuant to section 10."; and

(3) in section 5(b)(3)(B)—

(A) by inserting "or from participation in an activity listed pursuant to section 10" after "device"; and

(B) by striking out "during active military, naval, or air service" and inserting in lieu thereof "while serving on active duty, active duty for training, or inactive duty training"; and

(4) by adding at the end the following:

"OTHER ACTIVITIES INVOLVING EXPOSURE TO IONIZING RADIATION

"SEC. 10. (a) IDENTIFICATION OF ACTIVITIES INVOLVING EXPOSURE.—(1) Not later than 210 days after the date of the enactment of the Veterans Compensation Improvement Act of 1991, the Secretary of Veterans Affairs (hereafter in this section referred to as the 'Secretary'), in consultation with the Secretary of Defense, shall identify not less than three activities (other than radiation-risk activities described in section 312(c) of title 38, United States Code) in which individuals serving on active duty, active duty for training, or inactive duty training have participated and which likely would have exposed such individuals to levels of ionizing radiation above background levels. In identifying the activities, the Secretary, to the extent feasible, shall consider the number and level of exposure of individuals and shall—

"(A) describe the times and places at which exposure to each listed activity may have occurred;

"(B) specify the maximum level of radiation to which participants or categories of participants in each listed activity may have been exposed;

"(C) provide information sufficient to make possible the identification of the individuals who, while so serving, participated in each of the activities; and

"(D) estimate the maximum number of individuals who participated in each of the activities.

"(2) Not later than October 1 of each of the fiscal years 1993, 1994, and 1995, the Secretary shall identify not less than three additional activities determined in the manner prescribed in paragraph (1).

"(b) EVALUATION BY THE ADVISORY COMMITTEE ON ENVIRONMENTAL HAZARDS.—Immediately after the Secretary identifies an activity pursuant to subsection (a), the Secretary shall direct the Advisory Committee (established under section 6) to evaluate, and make a finding as to, whether participation by any veteran or category of veterans in the activity resulted in an opportunity for potentially harmful exposure to ionizing radiation. Evaluations and findings made pursuant to this subsection shall be made on the basis of available scientific evidence.

"(c) REPORT OF EVALUATION.—The Advisory Committee promptly shall make the evaluation required by subsection (b) with respect to each activity identified pursuant to subsection (a) and, not later than 120 days after receiving a direction under subsection (b), submit to the Secretary a report regarding the results of the evaluation. The Advisory Committee shall include in the report its findings and such recommendations as it considers appropriate to assist the Secretary in carrying out subsection (d).

"(d) DETERMINATIONS.—The Secretary shall, within 60 days after receiving a report of an evaluation under subsection (c), list each activity identified pursuant to subsection (a) unless the Secretary determines (based on the report of the Advisory Committee under subsection (c) and all other relevant scientific evidence, information, and analysis available to the Secretary at the time of the determination) that the activity did not result in an opportunity for potentially harmful exposure to ionizing radiation.

"(e)(1) REPORTS TO CONGRESSIONAL COMMITTEES.—Within five days after the first activity is identified pursuant to subsection (a), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report of the activity and provide the information specified in subsection (a)(1) (A) through (D). Thereafter, whenever an activity is so identified, the Secretary shall immediately report that fact to such committees.

"(2) Within 120 days after receiving a report of an evaluation under subsection (c), the Secretary shall submit to such committees a copy of that report and a report of the actions that the Secretary has taken and is planning to take with respect to the matters pertaining to the evaluation.

"(f) DEFINITIONS.—For the purpose of this section, the terms 'active duty', 'active duty for training', and 'inactive duty training' shall have the meanings provided in paragraphs (21), (22), and (23), respectively, of section 101 of title 38, United States Code.".

SEC. 8. SAVINGS PROVISION FOR CERTAIN REMARRIED SPOUSES.

The amendments made by section 8004 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) shall not apply with respect to any individual who on October 31, 1990, was a surviving spouse or child of a veteran within the meaning of title 38, United States Code, unless after that date that individual (1) marries, or (2) in the case of a surviving spouse, begins to live with another person while holding himself or herself out openly to the public as that person's spouse.

Mr. DECONCINI. Mr. President, the distinguished chairman of the committee, Senator CRANSTON, has asked me also as ranking Democrat to manage this legislation. I am pleased to do it in his behalf.

I urge my colleagues to support the pending bill. This measure would make improvements in legislation enacted in 1988 for veterans who were exposed to radiation during the nuclear weapons test or the occupation of Hiroshima and Nagasaki. These improvements are very much needed.

Mr. President, on behalf of the Senator from California and myself, I especially thank the distinguished Senator from Pennsylvania, ARLEN SPECTER, for his involvement in this committee and his staff so that we can proceed to this very important legislation.

We have been able to develop a measure that will help to fulfill our commitments to our Nation's veterans by ensuring that veterans' programs are brought up to date and made current.

On behalf of Senator CRANSTON again, I send to the desk a committee modification of the bill as reported and ask that the committee substitute be so modified.

The PRESIDING OFFICER. Under the agreement, the committee retains the right to modify the amendment.

The substitute is therefore so modified.

The modification is as follows:

On page 3, line 17, strike out "Compensation" and insert in lieu thereof "Benefits".

On page 3, strike out line 19 and all that follows through page 5, line 8.

On page 5, line 9, strike out "3" and insert in lieu thereof "2".

On page 5, line 18, strike out "4" and insert in lieu thereof "3".

On page 7, line 12, strike out "on September 30, 1992." and insert in lieu thereof "in accordance with section 5503(f)(6) of title 38, United States Code.".

On page 7, strike out line 13 and all that follows through page 8, line 5, and insert in lieu thereof the following:

SEC. 4. ACCESS TO INFORMATION NECESSARY FOR THE ADMINISTRATION OF CERTAIN VETERANS' BENEFITS LAWS.

Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection:

"(p)(1) The provisions of this title do not apply to a disclosure of information requested pursuant to paragraph (2).

"(2) Subject to paragraph (3), the Secretary of Veterans Affairs may request a financial institution to disclose to the Department of Veterans Affairs the name and address of any customer who is receiving or has received payment of disability compensation, dependency and indemnity compensation, or pension under the provisions of title 38, United States Code, or section 10 of Public Law 85-857, (72 Stat. 1263) by direct deposit in the customer's account at that financial institution.

"(3)(A) The Secretary may make a request referred to in paragraph (2) only if the Secretary determines that the requested information—

"(i) is necessary in order for the Department of Veterans Affairs to administer the provisions of law referred to in such paragraph; and

"(ii) cannot be secured by a reasonable search of records and information of the Department.

"(B) The Secretary shall include a certification of the determination referred to in subparagraph (A) in each request presented to a financial institution.

"(4) Information disclosed pursuant to a request referred to in paragraph (2) may be used solely for the purpose of the administration of benefits programs under laws administered by the Secretary of Veterans Affairs if, except for the exemption in paragraph (1), the disclosure of that information would otherwise be prohibited by any provision of this title.

"(5) For the purpose of this subsection, the term 'direct deposit' means a process in which funds are disbursed (by electronic transfer or otherwise) from the Treasury of the United States to a financial institution and are deposited in one or more accounts in that financial institution pursuant to instructions provided by the Secretary of the Treasury.".

On page 8, line 6, strike out "6" and insert in lieu thereof "5".

On page 8, line 10, strike out "312(c)" and insert in lieu thereof "1112(c)".

On page 8, line 22, strike out "January 1, 1992" and insert in lieu thereof "May 1, 1992".

On page 9, strike out line 1 and all that follows through page 13, line 14, and insert in lieu thereof the following:

SEC. 6. IDENTIFICATION OF CERTAIN ACTIVITIES RELATING TO EXPOSURE TO IONIZING RADIATION.

The Veterans' Dioxin and Radiation Exposure Compensation Standards Act (38 U.S.C. 1154 note) is amended by adding at the end the following new section:

"IDENTIFICATION OF ACTIVITIES INVOLVING EXPOSURE BEFORE JANUARY 1, 1970"

"SEC. 10. (a) IDENTIFICATION OF ACTIVITIES INVOLVING EXPOSURE BEFORE JANUARY 1, 1970.—(1) In order to determine whether veterans (other than veterans who participated in the tests or occupation activities referred to in section 5(a)(1)(B)) suffer from disabilities as a result of the exposure of such veterans to ionizing radiation during the active military, naval, or air service of such veterans that occurred before January 1, 1970, the Advisory Committee established under section 6 shall—

"(A) review all available scientific studies and other relevant information relating to the exposure of such veterans to ionizing radiation during such service; and

"(B) on the basis of such review, submit to the Secretary of Veterans Affairs a report containing the recommendation of the Advisory Committee on the feasibility and appropriateness for the purpose of the determination under this paragraph of any additional investigation with respect to any activity of such veterans during such service.

"(2) Upon the request of the Advisory Committee, the Secretary of Veterans Affairs (after seeking such assistance from the Secretary of Defense as is necessary and appropriate) shall make available to the Advisory Committee records and other information relating to the service referred to in paragraph (1) that may assist the Advisory Committee in carrying out the review and recommendation referred to in that paragraph.

"(3) The Advisory Committee shall submit to the Secretary of Veterans Affairs the report referred to in paragraph (1)(B) not later than September 30, 1992.

"(b) INVESTIGATION PLAN AND REPORT OF SECRETARY OF VETERANS AFFAIRS.—(1) Upon receipt of the report referred to in subparagraph (B) of subsection (a)(1), the Secretary of Veterans Affairs shall—

"(A) identify which or the activities referred to in that subparagraph, if any, that the Secretary intends to investigate more fully for the purpose of making the determination referred to in that subsection; and

"(B) prepare a plan (including a deadline for the plan) to carry out that investigation and make that determination.

"(2) Not later than April 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

"(A) a list of the activities identified by the Secretary pursuant to paragraph (1)(A) and the basis of such identification; and

"(B) the plan referred to in paragraph (1)(B).".

On page 13, strike out line 15 and all that follows through page 13, line 25, and insert in lieu thereof the following:

SEC. 7. EXTENSION OF AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO MAINTAIN THE REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) of title 38, United States Code, is amended by striking out "September 30, 1991" and inserting in lieu thereof "December 31, 1996".

On page 13 below line 25, insert the following:

SEC. 8. REDESIGNATION OF CERTAIN POSITIONS WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) REDESIGNATION OF POSITION OF CHIEF MEDICAL DIRECTOR.—Section 305(a)(1) of title 38, United States Code, is amended by striking out "a Chief Medical Director," and inserting in lieu thereof "an Under Secretary for Health, who is the Chief Medical Director and".

(b) REDESIGNATION OF POSITION OF CHIEF BENEFITS DIRECTOR.—Section 306(a) of such title is amended by striking out "a Chief Benefits Director," and inserting in lieu thereof "an Under Secretary for Benefits, who is the Chief Benefits Director and".

(c) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking out the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.";

and inserting in lieu thereof the following:

"Under Secretary for Health, Department of Veterans Affairs.

"Under Secretary for Benefits, Department of Veterans Affairs.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on the date of the enactment of this Act.

Amend the matter on page 14 to read as follows:

Amend the title so as to read: "To improve the compensation of certain veterans for exposure to ionizing radiation, to improve the administration of veterans benefits programs, and for other purposes.".

Mr. DECONCINI. Mr. President, for the information of my colleagues I will note that the committee modification deletes two provisions already enacted in Public Law 102-86. The first provision expanded compensation for radiation-related diseases to include certain reservists. The second provision corrected an inequity in section 8004 of the Omnibus Reconciliation Act of 1990 for certain remarried surviving spouses and certain married children. The modification also strikes the provision granting a COLA in compensation benefits. The COLA was enacted in Public Law 102-152 and now of course is not necessary to be reenacted. The modification adds a provision based on administrative requested legislation that would amend the Right to Privacy Act of 1978. The provision would authorize VA to obtain from financial institutions mailing addresses of those whose VA benefits are deposited through direct deposits.

I am concerned about any legislation that makes exceptions to the privacy protection, Mr. President. I believe, however, that this provision is crafted very narrowly. It will protect beneficiaries from unwarranted intrusion and will help ensure timely and accurate payment of benefits to veterans.

Finally, Mr. President, section 6 of the bill as modified would establish a mechanism for VA to examine certain past military activities that involve exposure to radiation. The provisions represent a compromise resulting from negotiations with Senator MURKOWSKI and Senator SIMPSON. We received a great deal of help and input in these negotiations from Senator SPECTER and the administration, for that matter, for which we are grateful and we have this compromise before us.

These latest revisions preserve the basic goal of the bill before us. It will require the VA to investigate whether certain diseases are associated with a veteran's exposure to radiation during military service. I urge all my colleagues to support this important legislation.

The PRESIDING OFFICER. The Chair will advise that under the previous order there is 1 hour of debate allocated for this bill, 30 minutes for the manager of the bill, of which 25 minutes remain, and 30 minutes to the Senator from Pennsylvania, who is now recognized.

Mr. SPECTER. Mr. President, I thank the Chair for that advice. I am pleased to reciprocate some advice that we are going to take much less time so that we can move ahead. This is important compromise legislation. I again commend my colleague from Arizona, Senator DECONCINI, for his outstanding work and the outstanding work of Senator CRANSTON, who has chaired the committee in such a hardworking manner.

The provisions on the so-called latency period as to radiation were crafted after considerable discussion among many of us, with considerable input from Senator SIMPSON and Senator MURKOWSKI. This is a very important legislative piece, and I think it reflects the tremendous concern and tremendous focus which the Veterans' Committees in the Senate and the House, Congress as a whole, are giving to veterans' issues.

Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to support passage of S. 775, the Veterans Compensation Improvement Act of 1991, as amended by the committee. This legislation has evolved over the last 6 months to become a package of benefits for veterans who have been exposed to the harmful effects of radiation. In addition, the legislation contains a number of administrative changes for the Department of Veterans Affairs [VA] which will improve services to our Nation's veterans.

RADIATION PROVISIONS

Mr. President, this bill makes three important modifications to the work this committee has done to deal fairly with veterans who were exposed to ionizing radiation during service.

First, S. 775 would eliminate the so-called latency period between exposure to radiation and incurrence of disease in order for a disease to be considered a service-connected disability. Under current law, unless a radiogenic disease becomes manifest within 40 years of exposure to radiation, there is no presumption that the disease is connected to the exposure. When we enacted the atomic veterans provisions in 1988, this was good science. Later research has shown, however, that radiogenic diseases can in fact manifest themselves many years after exposure. This provision recognizes this new information and, as we always try to do on this committee, gives the benefit of the doubt to the veteran.

Second, the bill expands the list of diseases presumed to be service-connected to include cancer of the salivary gland and urinary tract. Again, this expansion reflects the current state of scientific knowledge in the area, and is based on long-term studies of Japanese survivors of the atomic explosions at Hiroshima and Nagasaki in World War II.

Third, the bill requires the Secretary to examine scientific evidence to determine if there were activities involving the exposure of servicepersons to radiation prior to 1970 which warrant further study, in order to determine whether such veterans suffer disabilities as a result of that exposure. Specifically, the Secretary of Veterans Affairs would be required to direct VA's Advisory Committee on Environmental Hazards to examine all material relating to the exposure of veterans to ionizing radiation before 1970. In turn, the Advisory Committee would make recommendations to the Secretary for further study and additional investigation of activities which may have exposed service members to ionizing radiation. The Secretary would then submit a report to Congress on plans for further study, along with a timetable for that study.

I know that questions have been raised about exposure to radiation other than in the context of nuclear explosions. I look forward to the work of the Secretary and the Advisory Committee to lead us in a measured way to the scientific investigations of such activities.

ADMINISTRATIVE PROVISIONS

This bill also makes a number of administrative changes that will enable VA to provide quality services to our veterans.

First, the bill clarifies the scorekeeping rule for future cost-of-living increases in compensation rates. This provision would restore the rule, changed under last year's budget agreement, which requires the Office of Management and Budget to assume normal rounding; that is, to the nearest whole dollar, in setting the baseline figure in the veterans' compensation COLA. Under present law, the "rounding down" used by OMB can have the effect of attributing excess direct-spending costs to VA, which could trigger as pay-as-you-go sequestration when our committee COLA legislation is based on normal rounding. This provision would restore prior scorekeeping practice and ensure that disabled veterans and their survivors receive a full cost-of-living allowance.

Second, the bill would allow VA to obtain from financial institutions address information for individuals to whom VA is paying benefits through electronic funds transfer or other direct-deposit means. This would allow VA to verify the address information of veterans and their survivors who are receiving pension and compensation payments to prevent abuses or fraudulent activities.

Third, the bill would also extend, through December 31, 1996, VA's legal authority to operate a regional office in the Republic of the Philippines. The statutory authority under which VA currently operates a regional office in Manila, through which VA administers compensation, pension, and education benefits to Filipinos who were in or attached to U.S. Armed Forces during World War II, expired on September 30, 1991.

Fourth, the bill would change the title of VA's Chief Benefits Director and Chief Medical Director to "Under Secretary for Benefits" and "Under Secretary for Health," respectively, in order to clarify the authority of these positions within VA and with counterparts within the executive branch.

Finally, the bill would make uniform rules for veterans' pensions for veterans and their survivors who are receiving care in Medicaid-covered nursing homes. Prior to the enactment of the Omnibus Budget Reconciliation Act of 1990 [OBRA], veteran pensioners in non-VA nursing homes who received Medicaid did not have their pension benefits reduced, but were required to apply their VA pension toward the cost of their nursing home care. Section 8003 of OBRA limited pension payments to $90 per month in the case of Medicaid-eligible veterans with no dependents in nursing homes participating in Medicaid. The benefit to the veterans under OBRA is that his or her $90 cannot be applied to the nursing home costs. S. 775 would apply that same rule to recipients of survivor's pension.

Mr. President, this bill is the result of a lot of hard work and thoughtful compromise by several committee members. I would like to thank Senator CRANSTON and his staff, especially Neil Koren, Michael Cogan and Ed Scott. I would also like to thank Senators SIMPSON and MURKOWSKI for their efforts in reaching a compromise on the radiation provisions, and Lisa Moore and Dave Balland of their staffs. Finally, I would like to thank the hard work of my Veterans' Committee staff, especially Hannah Thompson, Scott Waitlevertch, and Tom Roberts.

I urge my colleagues to support this important measure.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge my colleagues to support S. 775, the proposed Veterans Service-Connected Compensation Improvements Act of 1991, as reported by the Committee on Veterans' Affairs on August 2, 1991, and as it would be revised by a committee modification. This measure as reported, which I will refer to as the committee bill, would have provided a cost-of-living adjustment [COLA] for veterans receiving disability compensation and for veterans' survivors who receive dependency and indemnity compensation; expanded compensation benefits for veterans who develop diseases possibly related to exposure to ionizing radiation during military service; and made miscellaneous improvements in veterans programs.

As my colleagues are aware, the Congress has enacted a fiscal year 1992 veterans' compensation COLA in Public Law 102–152. My statement on that legislation at the time of Senate action on it appears on page S 15303 of the RECORD for October 28, 1991. The committee modification will delete the COLA provisions, and I will not make further mention of the COLA on this occasion.

Mr. President, the committee bill is derived from S. 775 as introduced; part

B of title I of S. 127, the proposed Veterans Benefits and Health Care Improvements Act of 1991; and original proposals adopted at the committee's June 26 meeting. Because the provisions of the committee bill are described in detail in the committee's report accompanying this measure, Senate Report No. 102–139, I will only summarize the bill, briefly discuss its provisions, and describe the committee modification.

SUMMARY OF PROVISIONS

Mr. President, the committee bill as it will be modified contains provisions that would:

First, clarify that, in the computation of the sequestration baseline under section 257(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, it is to be assumed that the veterans' COLA for each rate of compensation will be rounded to the nearest whole dollar.

Second, extend to certain veterans' survivors who are receiving VA pension the provision that limits monthly pension payments to $90 for Medicaid-eligible veterans receiving VA needs-based pension who have no dependents and who are in nursing homes participating in Medicaid. This provision would take effect on November 1, 1991, and expire on September 30, 1992, the same date on which the limit the veterans' pension will expire.

Third, effective May 1, 1992, repeal the requirement that, to be presumed service connected, diseases listed in section 312(c) of title 38 of veterans who participated in certain radiation-risk activities become at least 10-percent disabling within a specified time after the veterans' last exposure to radiation.

Fourth, also effective May 1, 1992, add to the list of diseases in section 312(c) cancer of the salivary gland and cancer of the urinary tract.

Fifth, require the Secretary, within 30 days after enactment, to direct the VA Advisory Committee on Environmental Hazards to examine all scientific and other information concerning veterans' exposure to ionizing radiation during military service prior to 1970 (other than during participation in nuclear weapons testing or the occupation forces in Hiroshima or Nagasaki, which already are covered as radiation-risk activities under section 312(c)) and advise the Secretary of any activities for which additional evaluation is likely to be scientifically appropriate and feasible.

Sixth, require the Secretary, upon request of the Advisory Committee and after seeking the assistance of the Secretary of Defense, to submit to the Advisory Committee information regarding veterans' exposure to radiation during military service prior to 1970.

Seventh, require the Advisory Committee to transmit its advice to the Secretary by September 30, 1992.

Eighth, require the Secretary, after receiving the Advisory Committee's advice, to determine which of these other activities will be subject to further evaluation under the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Public Law 98–542, and to prepare a plan for, and deadline for completing, the evaluation. Following this evaluation, the Secretary would determine whether veterans who participated in these other radiation activities should be entitled to compensation for radiogenic diseases.

Ninth, require the Secretary to report to the Senate and House Committees on Veterans' Affairs no later than April 1, 1993, the Secretary's plans for further evaluation of the activities.

Tenth, authorize VA to obtain from financial institutions the current mailing addresses of certain VA beneficiaries whose benefits are deposited into their accounts through direct deposit or electronic fund transfer.

Eleventh, extend from September 30, 1991, to December 31, 1996, the Secretary's authority to maintain the VA regional office in the Philippines.

Twelfth, give to the position of Chief Medical Director the additional title Undersecretary for Health and to the position of Chief Benefits Director the additional title Undersecretary for Benefits.

CLARIFICATION OF SCOREKEEPING RULE FOR COST-OF-LIVING INCREASES IN COMPENSATION RATES

Mr. President, section 2 of the committee bill as modified, which was section 3 of the reported bill, would clarify that, for purposes of the sequestration baseline under section 257(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by section 13101(e) of the Budget Enforcement Act of 1990, the veterans' compensation COLA for each rate of compensation is assumed to be rounded to the nearest whole dollar.

As my colleagues know, the Budget Enforcement Act gave the Office of Management and Budget responsibility for determining the sequestration baseline for the new pay-as-you-go budget rules. The new rules require sequestration of certain direct-spending funds by the amount equal to net spending—new direct spending minus any offsetting new receipts or spending reductions—in excess of the direct spending that otherwise would have occurred under current law and certain established practices.

The committee learned in VA's testimony for our June 12, 1991, hearing that OMB's fiscal year 1992 baseline assumes that all veterans' compensation rate increases will be rounded down to the next lower whole dollar. This would have the effect of attributing direct spending costs, which could trigger a sequestration, to COLA legislation that provides for normal rounding of compensation rates, such as, rounding, up or down, to the nearest whole dollar.

Ever since the enactment of the Congressional Budget Act of 1974, the Congressional Budget Office has had the responsibility for estimating the cost of legislation for purposes of the enforcement of Congressional Budget Act and Gramm-Rudman-Hollings rules governing the consideration of legislation in the Senate or the House of Representatives. CBO's baseline always has assumed that the amount of the veterans' compensation COLA for each rate of compensation would be rounded in the normal way. Under CBO's interpretation of the Budget Enforcement Act, CBO continues to assume normal rounding.

OMB's rule would reduce the committee's and the Congress' ability to set priorities for veterans' entitlements. In the past, the committee occasionally has recommended rounding down compensation rates that would, through normal rounding, be rounded up. Since the baseline assumed normal rounding, this produced savings that the committee either applied to its reconciliation instructions under a particular budget resolution or to expansions of other veterans' entitlement programs.

For example, as recently as last October, both CBO and OMB credited the committee with savings for proposing the rounding down of the fiscal year 1991 COLA.

More important, OMB's baseline would force the Congress to make significant cuts in other programs in order to provide a full, normally rounded compensation COLA to service-disabled veterans and their survivors. For just the 3.7-percent COLA we enacted recently, the difference between rounding down and rounding normally would be $21 million in budget authority for fiscal year 1992 and almost $25 million for each year thereafter. Each year's difference would be additive, so that, at this rate, the OMB rule could force cuts of over $230 million during the next 4 fiscal years.

Mr. President, the Congress should not sit by idly while OMB unilaterally imposes a rule that treats those who were disabled as a result of service to their country worse than recipients of Social Security and other Federal benefits periodically adjusted by law. Section 2 of the modified committee bill would ensure that we will not.

PENSION FOR VETERANS IN MEDICAID-ELIGIBLE NURSING HOMES

Mr. President, section 3 of the committee bill as modified, which was section 4 of the reported bill, would extend to survivors who receive VA's needs-based pension the provisions of section 8004 of the Omnibus Budget Reconciliation Act of 1990 [OBRA], which limit monthly pension payments to $90 a month for Medicaid-eligible veterans receiving VA pension who have no dependents and who are in nursing homes participating in Medicaid, except those who are in State veterans homes. The provision would take effect on November 1, 1991, and would expire on September 30, 1992, the same date on which section 8003 of OBRA will expire. The savings resulting from this provision would offset all new direct spending for fiscal year 1992 that would result from enactment of the committee bill and from other veterans legislation already enacted by the Congress.

VA pension is provided for needy surviving spouses of wartime veterans. The amount of pension paid depends on the income of the survivor. As of March 1991, 471,180 surviving spouses and 53,557 children of deceased veterans were receiving VA pension.

Prior to the enactment of OBRA, veterans in non-VA nursing homes who received Medicaid did not have their pension benefits reduced, but were required under the Medicaid law to apply their VA pension toward the cost of their nursing-home care.

Section 8003 of OBRA applied the $90-a-month limit on pension payments to Medicaid-eligible veterans who have no dependents and who are in nursing homes that participate in Medicaid.

The OBRA provision does not reduce the amount of VA pension that a veteran actually receives, since the pension payments affected by OBRA were passed through to the nursing home in which the veteran was receiving care. Following implementation of section 8003, Medicaid payments fully replace the VA pension payments for the veteran's nursing-home care.

From the veteran's standpoint, the OBRA provision protects $90 a month of the VA pension from various State Medicaid rules that required the veteran to use almost all of the pension for his or her care, except for a personal allowance, an amount that is less than $90 a month in every State. Thus, the OBRA provision effectively ensures that veterans whose VA pension is reduced under the provision actually receive more personal spending money than they were allowed to keep under prior law. This provision would extend this advantage to survivors who receive VA pension.

COMPENSATION FOR DISEASES POSSIBLY RELATED TO EXPOSURE TO IONIZING RADIATION

Mr. President, the committee bill contains two provisions relating to compensation for veterans who were exposed to radiation during military service and who have developed certain diseases possibly related to that exposure. I first proposed these provisions in S. 2556 during the 101st Congress and the committee later incorporated them, with some modification, in S. 2100 in that Congress. For a detailed discussion of these provisions, I refer my colleagues to my statements in the RECORD of May 1, 1990, beginning on page S5491, concerning introduction of S. 2556, and of October 10, 1990, beginning on page S14874, for my statement concerning S. 2100 as reported by the committee.

Section 5 of the committee bill as modified, which was section 6 of the reported bill, would make a necessary update to the list of diseases presumed to be service connected for certain radiation-exposed veterans and the time limit by which those diseases must appear. Thus, the committee bill would add cancer of the salivary gland and cancer of the urinary tract to the list and would repeal the requirement that a cancer must have become at least 10-percent disabling within 40 years after the veteran's participation in one of the specified radiation-exposure activities in order to be presumed service connected.

In 1988, the Congress enacted the Radiation-Exposure Veterans Compensation Act, Public Law 100–321, which established a presumption of service connection for 13 diseases related to exposure to radiation. The bill heavily relied on the findings from the 1980 report of the National academy of Sciences [NAS] Committee on the Biological Effects of Ionizing Radiation [BEIR]. That report, known as BEIR III, represented the best information available at that time on the increased cancer risks faced by individuals exposed to ionizing radiation.

In late December 1989, NAS released the BEIR committee's latest report, BEIR V. The report contained new and important analyses of the effects of radiation, based on recently conducted studies, new analyses of historical data, and an additional 10 years of data.

The BEIR V findings are very significant. The report estimates that lifetime excess cancer risk following low-level radiation exposure is three to four times greater than previously thought. This heightened concern about the health effects of low-level ionizing radiation supports the approach to compensation that the Congress adopted in Public Law 100–321.

Cancer of the salivary gland is rare in the United States. National Cancer Institute data indicate an annual incidence of 1.2 cases per 100,000 U.S. males. BEIR V found a dose-dependent increase in salivary-gland cancer in Japanese atomic bomb survivors that indicated relatively high susceptibility of salivary glands to radiation-induced carcinogenesis.

Urinary-tract cancers are more common. For example, the annual incidence rate for urinary bladder cancer is 6.1 per 100,000 U.S. males and the incidence of kidney cancer is 4.6 per 100,000 U.S. males. BEIR V data demonstrate notable associations between bladder and kidney cancer and radiation exposure. The data show an especially strong, dose-dependent connection between radiation and bladder cancer.

BEIR V also shows that the current latency-period limitation in section 312(c) no longer is supportable. The report presents results from a statistical model of Japanese atomic-bomb survivors indicating that, although the leukemia mortality rate peaked within 10 years after exposure, a statistically significant increased mortality rate has persisted, albeit at a diminished level. BEIR V found that the increased risk of death persists much longer than previously suspected—perhaps indefinitely.

VA's testimony during the June 12 hearing supported provisions in the committee bill adding presumptions of service connection for cancer of the salivary gland and cancer of the two major organs of the urinary tract, the bladder and the kidney. VA reserved judgment on the three other organs of the urinary tract, the renal pelvis, ureter, and urethra, pending review by the VA Advisory Committee at its next meeting. All of the veterans service organizations supported these provisions at the hearing.

The committee bill would update the 1988 law to ensure it provides presumptions of service connection for any disease shown to be associated with radiation, but not strongly associated with other risk factors. This is the same standard applied in drafting the Senate provisions that were enacted in Public Law 100–321.

My goal is to continue to ensure that the Government's response to the health problems of veterans who were exposed to ionizing radiation during their service takes into account the latest scientific knowledge about the effects of ionizing radiation, while giving these veterans the benefit of reasonable doubt. I believe that this provision accomplishes that objective.

Section 6 of the committee bill as modified, which is derived from section 7 of the reported bill, would extend the current statutory framework for evaluating the effects of exposure to ionizing radiation to activities currently not defined as a radiation-risk activities in title 38, United States Code. Under section 312(c) if title 38, radiation-risk activities include only onsite participation in an atmospheric nuclear weapons test, the occupation of Hiroshima or Nagasaki, and, in some cases, internment as a POW in Japan.

Reputable scientists, including some of those involved in the BEIR V report, recently have raised questions about many types of activities not covered by the 1988 law that might expose service members or members of the general population to an increased risk of certain diseases, primarily cancer.

For example, an article in the March 1, 1990, New York Times reported that independent measurements of radiation received by flight crews on commercial—and thus, presumably, military—aircraft exceed some Federal radiation standards. The data, presented to the aviation subcommittee of the Society of Automotive Engineers aeronautical section, confirmed a 1989 estimate by the Federal Aviation Administration that some pilots and flight attendants were exposed, during 1954 through 1966, to dangerous levels of ionizing radiation.

The committee also has received expressions of concern from veterans and survivors of veterans who might have been exposed to radiation during their service aboard U.S. Navy ships that took part in the disposal of radioactive waste or aboard nuclear-powered submarines and surface ships.

Navy documents confirm that some individuals were exposed to potentially hazardous levels of radiation during service. Adm. Bruce DeMars, Director of the Naval Nuclear Propulsion Program, submitted written testimony for the committee's June 12 hearing that included a report issued by the Naval Nuclear Propulsion Program of the Department of the Navy entitled, "Occupational Radiation Exposure From U.S. Naval Nuclear Plants and Their Support Facilities" (Rep. NT-91-2, Feb. 1991). The report identified two broad categories of occupations in which some service personnel and civilians were exposed to more than 5 REM/year of ionizing radiation—the Navy's current limit for exposure to radiation.

Despite VA's indications to the committee that VA's Advisory Committee would review other activities involving radiation, the Secretary has not directed the Advisory Committee to undertake such a review. VA was a party to the negotiations that led to the compromise that is included in the committee modification of the reported bill and, I believe, does not oppose the revised provision.

There is not yet sufficient evidence of an association between radiogenic cancers and exposure to radiation during these other activities to extend the coverage of section 312(c) of title 38 to include participants in the activities, but these activities should not be ignored.

Thus, the committee bill, as it will be revised by the committee modification, would create a procedure for considering the effects of participation in activities involving possible exposure to radiation during military service, other than the occupation of Nagasaki or Hiroshima or onsite participation at a nuclear weapons test.

Mr. President, even before the latest revisions in this provision, we made considerable changes to address the valid concerns of the committee's ranking minority member, Mr. SPECTER, VA, and others.

Mr. President, the latest revisions preserve the basic goal of the provision, which is to require VA to investigate and determine whether certain radiogenic diseases are connected to a veteran's military service. The measure still would modify the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Public Law 98-542. I intend that VA, in carrying out this provision, will incorporate the procedures required under that law. This would include the requirement that any decision by the Secretary under this provision must give the veteran the benefit of all reasonable doubt, as the Federal court held in Nehmer versus Department of Veterans Affairs. The regulations issued to comply with the Nehmer decision also would apply to the amendments to Public Law 98-542 made by this provision.

COMMITTEE MODIFICATION

Mr. President, in addition to striking the COLA provision, the committee modification of the reported bill deletes two provisions the Congress already has enacted in Public Law 102-86, which was signed by the President on August 14, 1991. The first provision expanded compensation for radiation-related diseases to include reservists who were serving on active duty for training or inactive-duty training during on-site participation in a nuclear weapons test. The second provision corrected an inequity in section 8004 of the Omnibus Budget Reconciliation Act of 1990, which eliminated reinstatement of VA-benefits eligibility for formerly remarried surviving spouses and certain married children whose disqualifying marriages ended before November 1, 1990. I congratulate my good friend Senator GRAHAM for his leadership on the remarriage provision.

The modification adjusts the effective date of section 6 of the committee bill from January 1, 1992, to May 1, 1992, to offset the cost of all legislation within the committee's jurisdiction that the Congress has enacted or we expect to enact through the end of fiscal year 1992.

The modification also includes a provision based on administration requested legislation transmitted in a July 13, 1991, letter from VA Secretary Edward J. Derwinski to Vice President DAN QUAYLE, that would amend the Right to Financial Privacy Act of 1978 [RFPA], Public Law 95-630. RFPA was intended to protect bank customers from undue Government intrusion into their bank records. RFPA contains several exceptions to its general protections. This provision would authorize VA to request and obtain from financial institutions current mailing addresses of certain VA beneficiaries whose VA benefits are deposited into their account through direct deposit.

Over 1.5 million veterans and their families receive VA benefits by direct deposit. This method of payment saves time and administrative costs and provides improved convenience and safety for beneficiaries. Delays and administrative costs can result when these beneficiaries fail, to keep VA advised of changes in their mailing address. In many cases, these delays and costs could be avoided if VA could get current addresses from the financial institutions.

Mr. President, I am concerned about any legislation that makes exceptions to privacy protections. I believe, however, that this provision is crafted narrowly enough to protect beneficiaries from unwarranted intrusions and will help ensure timely payment of their benefits.

The committee modification also would add a new section 7 to extend from September 30, 1991, to December 31, 1996, the Secretary's authority to maintain the VA regional office in the Philippines.

Mr. President, the final addition contained in the committee modification will become section 8 of the bill. This section would revise the statutory designations of the position of Chief Medical Director as "Undersecretary for Health, who is the Chief Medical Director" and the position of Chief Benefits Director as "Undersecretary for Benefits, who is the Chief Benefits Director." The change is intended to make clear that these positions have undersecretary rank within VA. In the past, I have opposed any change in the traditional titles for these positions, primarily because it is important to emphasize the nonpolitical nature of the two positions.

I have been urged repeatedly to reconsider my position, primarily because of confusion within the VA regarding the incumbents' status in comparison to the assistant secretaries and because the lack of clarity as to CMD's and CBD's rank sometimes impairs their ability to deal effectively with assistant secretaries and undersecretaries in other cabinet departments.

Thus, I have agreed to propose a provision, in the committee modification, that would designate these officials undersecretaries, but also retain the traditional titles of CMD and CBO.

CONCLUSION

Mr. President, it has been a pleasure to work with the distinguished ranking minority member of the committee, Senator SPECTER, and I am very grateful to him and the other members of the committee for their help and cooperation in developing this legislation. I express my appreciation to the staff who worked so hard on this legislation—on the minority side, Scott Waitlevertch, Charlie Battaglia, Bill Tuerk, and Tom Roberts; the committee's editorial director, Roy Smith; and on the majority staff, Neil Koren, Michael Cogan, Bill Brew, and Ed Scott.

Mr. President, I am delighted that we have been able to develop a measure that will improve benefits for veterans who have developed certain diseases possibly related to exposure to radiation and that will make other improvements in VA programs.

Mr. President, I urge all of my colleagues to support this important measure.

Mr. THURMOND. Mr. President, I rise today to voice my support for S. 775, the Veterans' Benefits and Improvement Act of 1991. This measure will facilitate the administration of compensation and pension programs of the Department of Veterans' Affairs, as well as expand benefits available to our deserving veterans. Specifically, S. 775 permits the disclosure to the VA of certain financial institutions' information on the location of veterans who receive disability compensation, dependency and indemnity compensation or pension benefits. It also clarifies that the provision in current law requiring a reduction in pension benefits of certain survivors of veterans who are receiving Medicaid-covered nursing home care expires in 1992. In addition, this measure will extend the authority of the Secretary of Veterans' Affairs to maintain the regional office in the Philippines.

Mr. President, S. 775 expands the list of diseases presumed to be service connected for certain radiation-exposed veterans and eliminates the latency-period limitations connected with these diseases. It also directs the Department of Veterans' Affairs Advisory Committee to review all available scientific studies and other relevant information relating to the exposure of certain veterans to ionizing radiation during their service. On the basis of this review, the committee shall submit to the Secretary of Veterans' Affairs a report containing the recommendations of the Advisory Committee.

Mr. President, I am pleased that we are considering this measure which will expand the benefits available to our veterans who have in any way been disabled as a result of their patriotic duty in our Armed Forces, and assist the Department of Veterans' Affairs in the administration of its duties. I urge my colleagues to support this important measure.

Mr. MURKOWSKI. Mr. President, as the former ranking Republican of the Veterans' Affairs Committee, I rise today to discuss some provisions contained in S. 775.

RADIATION

Mr. President, first I am especially pleased that Senator CRANSTON and I—with the assistance of Senators SPECTER and SIMPSON—worked out an agreement on section 7 of S. 775. This agreement—as reflected in the committee amendment—is a substitute for section 7 of the committee reported bill. I believe that it accomplishes our goal of providing VA with some direction in the area of examining potential health effects of exposure to ionizing radiation.

The provision is new section 7 focuses on those veterans who may have been exposed to ionizing radiation before January 1, 1970. This clearly illustrates that the committee does not question DOD's current methods and procedures for measuring the amount of exposure which active duty military personnel receive. However, we are concerned that for certain groups of veterans the amount of exposure is less certain, that is those who served in the military before 1970.

UNDER SECRETARIES

I am pleased that the committee amendment contains a provision which would change the titles of two very key VA officials. This amendment would designate as Under Secretaries the following positions: VA's Chief Medical Director and VA's Chief Benefits Director. This would not mean an increase in salary for those two positions.

During the last Congress, I introduced a bill which would have provided for this title change. Unfortunately, the Committee on Veterans' Affairs failed to act on it.

I am pleased that we are now able to accommodate Secretary Derwinski's desire to change the names of these important positions.

Mr. DECONCINI. Mr. President, I know of no further debate on the bill before the Senate, and I yield back the remainder of my time on this side, Mr. President.

Mr. SPECTER. Before yielding back the remainder of my 30 minutes, Mr. President, I inquire as to how much I am yielding back.

The PRESIDING OFFICER. The Senator from Pennsylvania is prepared to yield back 28 minutes.

Mr. DECONCINI. Does the Senator want credit for that for some other time?

Mr. SPECTER. The Senator asks me if I want credit at some other time. The answer to that is yes. I yield back 28 minutes having used only 2.

Mr. DECONCINI. I ask third reading of the bill.

The PRESIDING OFFICER. All time is yielded back with appropriate provisos.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as modified.

The committee amendment in the nature of a substitute, as modified, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Benefits Improvement Act of 1991".

SEC. 2. CLARIFICATION OF SCOREKEEPING RULE FOR COST-OF-LIVING INCREASES IN COMPENSATION RATES.

For the purpose of calculating the baseline under section 257(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907(b)) with respect to the increase in veterans' compensation for a fiscal year, the amount by which each rate of compensation is increased is assumed to be rounded to the nearest whole dollar.

SEC. 3. REDUCTION IN PENSION FOR VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) of title 38, United States Code, is amended to read as follows:

"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.

"(B) A person referred to in subparagraph (A) is a person—

"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and

"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".

(b) CONFORMING AMENDMENTS.—Section 5503(f) of such title is amended as follows:

(1) In paragraph (3)—

(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and

(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph".

(2) In paragraph (4)—

(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";

(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and

(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on November 1, 1991, and apply with respect to months after October 1991, and shall expire in accordance with section 5503(f)(6) of title 38, United States Code.

SEC. 4. ACCESS TO INFORMATION NECESSARY FOR THE ADMINISTRATION OF CERTAIN VETERANS' BENEFITS LAWS.

Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection:

"(p)(1) The provisions of this title do not apply to a disclosure of information requested pursuant to paragraph (2).

"(2) Subject to paragraph (3), the Secretary of Veterans Affairs may request a financial institution to disclose to the Department of Veterans Affairs the name and address of any customer who is receiving or has received payment of disability compensation, dependency and indemnity compensation, or pension under the provisions of title 38, United States Code, or section 10 of Public Law 85-857 (72 Stat. 1263) by direct deposit in the customer's account at that financial institution.

"(3)(A) The Secretary may make a request referred to in paragraph (2) only if the Secretary determines that the requested information—

"(i) is necessary in order for the Department of Veterans Affairs to administer the provisions of law referred to in such paragraph; and

"(ii) cannot be secured by a reasonable search of records and information of the Department.

"(B) The Secretary shall include a certification of the determination referred to in subparagraph (A) in each request presented to a financial institution.

"(4) Information disclosed pursuant to a request referred to in paragraph (2) may be used solely for the purpose of the administration of benefits programs under laws administered by the Secretary of Veterans Affairs if, except for the exemption in paragraph (1), the disclosure of that information would otherwise be prohibited by any provision of this title.

"(5) For the purposes of this subsection, the term 'direct deposit' means a process in which funds are disbursed (by electronic transfer or otherwise) from the Treasury of the United States to a financial institution and are deposited in one or more accounts in that financial institution pursuant to instructions provided by the Secretary of the Treasury.".

SEC. 5. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR CERTAIN RADIATION-EXPOSED VETERANS AND ELIMINATION OF LATENCY-PERIOD LIMITATIONS.

(a) IN GENERAL.—Section 1112(c) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "to a degree" and all that follows through "subsection)";

(2) in paragraph (2), by adding at the end the following new clauses:

"(N) Cancer of the salivary gland.

"(O) Cancer of the urinary tract.";

(3) by striking out paragraph (3); and

(4) by redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on May 1, 1992.

SEC. 6. IDENTIFICATION OF CERTAIN ACTIVITIES RELATING TO EXPOSURE TO IONIZING RADIATION.

The Veterans' Dioxin and Radiation Exposure Compensation Standards Act (38 U.S.C. 1154 note) is amended by adding at the end the following new section:

"IDENTIFICATION OF ACTIVITIES INVOLVING EXPOSURE BEFORE JANUARY 1, 1970"

"Sec. 10. (a) IDENTIFICATION OF ACTIVITIES INVOLVING EXPOSURE BEFORE JANUARY 1, 1970.—(1) In order to determine whether veterans (other than veterans who participated in the tests or occupation activities referred to in section 5(a)(1)(B)) suffer from disabilities as a result of the exposure of such veterans to ionizing radiation during the active military, naval, or air service of such veterans that occurred before January 1, 1970, the Advisory Committee established under section 6 shall—

"(A) review all available scientific studies and other relevant information relating to the exposure of such veterans to ionizing radiation during such service; and

"(B) on the basis of such review, submit to the Secretary of Veterans Affairs a report containing the recommendation of the Advisory Committee on the feasibility and appropriateness for the purpose of the determination under this paragraph of any additional investigation with respect to any activity of such veterans during such service.

"(2) Upon the request of the Advisory Committee, the Secretary of Veterans Affairs (after seeking such assistance from the Secretary of Defense as is necessary and appropriate) shall make available to the Advisory Committee records and other information relating to the service referred to in paragraph (1) that may assist the Advisory Committee in carrying out the review and recommendation referred to in that paragraph.

"(3) The Advisory Committee shall submit to the Secretary of Veterans Affairs the report referred to in paragraph (1)(B) not later than September 30, 1992.

"(b) INVESTIGATION PLAN AND REPORT OF SECRETARY OF VETERANS AFFAIRS.—(1) Upon receipt of the report referred to in subparagraph (B) of subsection (a)(1), the Secretary of Veterans Affairs shall—

"(A) identify which of the activities referred to in that subparagraph, if any, that the Secretary intends to investigate more fully for the purpose of making the determination referred to in that subsection; and

"(B) prepare a plan (including a deadline for the plan) to carry out that investigation and make that determination.

"(2) Not later than April 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

"(A) a list of the activities identified by the Secretary pursuant to paragraph (1)(A) and the basis of such identification; and

"(B) the plan referred to in paragraph (1)(B).".

SEC. 7. EXTENSION OF AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO MAINTAIN THE REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) of title 38, United States Code, is amended by striking out "September 30, 1991" and inserting in lieu thereof "December 31, 1996".

SEC. 8. REDESIGNATION OF CERTAIN POSITIONS WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) REDESIGNATION OF POSITION OF CHIEF MEDICAL DIRECTOR.—Section 305(a)(1) of title 38, United States Code, is amended by striking out "a Chief Medical Director," and inserting in lieu thereof "an Under Secretary for Health, who is the Chief Medical Director and".

(b) REDESIGNATION OF POSITION OF CHIEF BENEFITS DIRECTOR.—Section 306(a) of such title is amended by striking out "a Chief Benefits Director," and inserting in lieu thereof "an Under Secretary for Benefits, who is the Chief Benefits Director and".

(c) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking out the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.";

and inserting in lieu thereof the following:

"Under Secretary for Health, Department of Veterans Affairs.

"Under Secretary for Benefits, Department of Veterans Affairs.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on the date of the enactment of this Act.

The title was amended so as to read: "A bill to improve the compensation of certain veterans for exposure to ionizing radiation, to improve the administration of veterans benefits programs, and for other purposes.".

Mr. DECONCINI. I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' POSTTRAUMATIC STRESS DISORDER TREATMENT ACT

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Mr. President, regular order would put us back on S. 869, is that correct?

The PRESIDING OFFICER. Regular order is consideration of S. 869.

Mr. DECONCINI. I thank the Chair.

Mr. President, I ask unanimous consent that the motion to reconsider the vote on the amendment offered by myself on behalf of the Senator from Michigan [Mr. RIEGLE], amendment No. 1360, be reconsidered.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay that motion on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to S. 869?

Mr. DECONCINI. Mr. President, there will further amendments that the manager and ranking member know about offered by the Senator from Wyoming. That will be in a few minutes when he returns to the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, in the absence of any other business to come before the Senate on the pending veterans' legislation, I ask unanimous consent that I may speak as if in morning business for a period of up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I might say, we are ready to proceed with any other amendments on the veterans' legislation. I will cease at that time so that the regular business of the Senate may be carried forward if as and when that occurs.

BASE CLOSURE COMMISSION

Mr. SPECTER. Mr. President, I wish to address a subject of great importance, the proceedings under the Base Closure Act. I had intended to do this in morning business, but since an opportunity now presents itself without taking the time of the Senate on another occasion, I will utilize approximately 10 minutes as of this moment if there is a intervening business.

Mr. President, the subject of base closures is of enormous importance to the United States for many reasons.

One is that it has great consequences for national defense. We have to be prepared to defend the United States as one of the foremost responsibilities of the Federal Government under the Constitution. It is a matter of great importance that there be a fair and reasonable procedure for making that determination, and a fair procedure in terms of the impact that base closures will have on various regions, States, and cities in the United States.

This has been a complicated political matter because of the difficulty in closing any base. The Congress has, therefore, elected to have a commission make base closure recommendations subject to review of the President, and then to have a single vote of the Congress, yes or no.

When that issue came before the Senate, Mr. President, I was one of the few Senators who voted against the proposition because I believe that the Congress ought to make the decision itself. In my 11 years here, we have never tried to do that. Before I was willing to cede that to a commission, I wanted to see the Senate and the House try to come up with a solution. But the will of the Congress was to the contrary, and the Base Closure Commission procedures were enacted. We now know the results of the Base Closure Commission proceedings.

Mr. President, I have been chagrined and shocked with what the Department of the Navy has done, and what the Base Closure Commission has done with respect to their responsibilities under the Base Closure and Realignment Act of 1990. This morning I will focus on the Philadelphia Navy Yard, although I could comment on the Naval Air Development Center in Warminster, PA, or on the consolidation issues relating to the Army Corps of Engineers offices, or on base closure recommendations affecting other parts of the country, such as Loring Air Force Base in the State of Maine.

The situation of the Philadelphia Navy Yard was especially acute, however, because the Navy withheld critical information from Members of Congress, and pursued a procedure where the General Accounting Office was not given the information necessary for them to carry out their statutory duties.

The Navy embarked on a course of conduct which rendered hearings before the Base Closure Commission meaningless. The Department of the Navy pressed the key Navy officials with knowledge of shipyards, Admiral Hekman, not to testify before the Commission.

As a result of these Navy actions, I concluded that there has been basic unfairness on the part of the Navy and the Base Closure Commission.

When this plot—I use that word with calculation—was unfolding, I took steps to ask counsel in Philadelphia to assist in the preparation of a lawsuit to litigate the issue of procedural fairness.

Those activities were begun in mid-June so that by the time the Base Closure Commission had acted in a way which had been clearly anticipated on June 30, 1991, we were in a position to move forward with a very important and a very serious lawsuit in the U.S. District Court for the Eastern District of Pennsylvania.

This litigation was undertaken pro bono—those famous Latin words "for free"—by the very distinguished law firm of Dilworth, Paxson, Kalish, and Kauffman in Philadelphia—the lead counsel being the former Pennsylvania Supreme Court Justice Bruce Kauffman and a distinguished battery of Philadelphia lawyers—David Pittinsky, Camille Spinello, Patrick Davish, Mark Nation. I also participated as one of the lawyers and argued the case when it came before a judge recently in the Federal court in the Eastern District of Pennsylvania.

The actions by the plaintiffs—and there were many from this body: Senator WOFFORD, Senator BRADLEY, Senator LAUTENBERG; and many from the House of Representatives: Congressman ANDREWS, Congressman WELDON, Congressman FOGLIETTA, Congressman COUGHLIN, Congressman BORSKI, and Congressman KOSTMAYER—were successful in getting expedited discovery and moving for an early argument day.

In the course of the discovery, we found numerous deliberate acts by the Navy in withholding critical information from Members of Congress and withholding critical information from the General Accounting Office, Mr. President.

The requirement of the base closure statute was that all information had to be submitted to the General Accounting Office so that the GAO could make an evaluation to check on whether the Department of the Navy and the other military departments had complied with the procedural mandates of base closure law.

The GAO filed its report, as required by law, on May 15, saying essentially that there was insufficient information for the GAO to come to any conclusion. Then a hearing was scheduled before the base closure commission in Washington on May 22.

I appeared with many others to present arguments on behalf of the Philadelphia Navy Yard, and other installations in my State, the Commonwealth of Pennsylvania.

On that same day, the Base Closure Commission itself issued two memoranda saying in effect that the Navy failed to supply sufficient information for the Commission to make any intelligent evaluation of the reasons for closing the Philadelphia Navy Yard. I shall not burden the RECORD now with those memoranda or the GAO report, because they have been put into the RECORD on prior occasions.

But suffice it to say that the hearing on May 22 was a meaningless sham, because Members of the House and Senate did not have the relevant information to make an intelligent, or intelligible, or any kind of a reasonable, realistic submission to the Base Closure Commission.

We have proceeded with the discovery, and what I intend to do is to put into the RECORD the plaintiff's "Request For Findings of Fact and Conclusions of Law." It is a voluminous record, for those who may be watching on C-SPAN II. I think it is important to put this into the CONGRESSIONAL RECORD, notwithstanding the cost that is involved, because it paints a lurid picture of deception by the Department of the Navy in concealing relevant information from Members of the House and the Senate, not to mention the directing, suggesting, encouraging of a key witness, Admiral Heckman, not to testify before the Base Closure Commission.

Mr. President, we have had one setback in the litigation. The court ruled that the issues could not be appealed, and that my submission and the submission of the Dilworth law firm is not in accordance with the law. The intent of the Congress, I think, is clear-cut that where there are procedural issues, whether or not the mandates of the statute have been complied with, such as providing information to the GAO, providing a fair hearing the submission and consideration of information to members, and many other procedural requirements, such items are clearly within the scope of judicial review.

The items which are not subject to judicial review are matters such as force structure, which is a highly technical subject and not within the purview of the courts; or the issue of the evaluation of the bases themselves, again, which is not within the purview of the courts and is a substantive matter.

The Senate, by a sense-of-the-Senate resolution, affirmed the propositions which I have just articulated in the House-Senate conference on the Defense appropriation bill and has made it a sense-of-the-Congress resolution. Therefore, I believe, ultimately, we will be vindicated on the matter now pending before the U.S. Court of Appeals for the Third Circuit.

Above and beyond the impact on the litigation, however, I think it is very, very important that the Members of Congress and the public at large see what the U.S. Navy has done, and see what has been sanctioned by the Secretary of Defense, to whom all of this material has been directed, this Senator spoke personally, with the Secretary of Defense on the issue of the Navy's conduct. The issue of the Navy's conduct is important because these issues will certainly take the time of this body, the U.S. Senate, and the U.S. Congress, as we work through the provisions of the Base Closure Act as matters will arise in 1993 and 1995.

So, at this time, Mr. President, I ask unanimous consent that the record which, regretfully, is voluminous, running some 89 pages, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[In the U.S. District Court for the Eastern District of Pennsylvania]

SENATOR ARLEN SPECTER, ET AL., PLAINTIFFS, V. H. LAWRENCE GARRETT, III, SECRETARY OF THE NAVY, ET AL., DEFENDANTS

Civil Action No. 91–CV–4322, Hon. Ronald L. Buckwalter

PLAINTIFFS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

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AND

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I. FINDINGS OF FACT

A. Introduction

1. Founded in 1801, the Philadelphia Naval Shipyard (the "Philadelphia Shipyard") is a major industrial complex consisting of extensive and large carrier drydocks, piers, production shops, equipment and other assets valued at almost 3 billion dollars.

2. Operations at the Philadelphia Shipyard involve at least 47,000 jobs in the Philadelphia metropolitan area: 31,000 direct and indirect positions; 7,000 additional ship-associated personnel; and 9,000 direct and indirect positions associated with the Philadelphia Naval Station.

3. There are eight Naval Shipyards in the United States: Puget Sound, Norfolk, Philadelphia, Mare Island, Charleston, Pearl Harbor, Portsmouth and Long Beach.

4. Almost 15% of the total repair and modernization work performed by all eight Naval Shpyards is accomplished at the Philadelphia Shipyard.

5. From 1988 through the present, Philadelphia has led all eight Naval Shipyards in efficiency and cost-effectiveness, due largely to the excellence of its highly skilled work force.

B. The 1988 Base Closure Act

6. On May 3, 1988, then Secretary of Defense, Frank Carlucci, chartered the Defense Secretary's Commission on Base Realignment and Closure to evaluate and recommend a reduction in the military installations located in the United States. [Courter Dep. Ex. 14 at 1–1].

7. In October 1988, Congress passed and the President signed Public Law 100–526, the Defense Authorization Amendment and Base Closure and Realignment Act. [Couter Dep. Ex. 14 at 1–1].

8. The 1988 Commission on Base Realignment and Closure recommended that 86 bases be closed and 59 bases be realigned or partially closed [Courter Dep. Ex. 14 at 1–2].

9. These recommendations were strongly criticized by members of Congress and the public. [Courter Dep. Ex. 14 at 1–2 to 1–3].

10. Congressional critics contended that the 1988 base closure and realignment recommendation process had not been sufficiently open to public scrutiny. [Courter Dep. Ex. 2 and 14 at 1–3].

11. Congressional critics also charged that faulty data had been used to reach the 1988 final closure recommendations. [Courter Dep. Ex. 2 and 14 at 1–3].

12. Congressional critics believed that the General Accounting Office ("GAO") should have independently reviewed the data considered by the 1988 Commission on Base Realignment and Closure during the proceedings. [Courter Dep. Ex. 2 and 14 at 1–3].

C. The "SECDEF 17" List

13. In January 1990, an executive committee meeting was held by the Secretary of Defense, the Service Secretaries and the Chairman of the Joint Chiefs of Staff ("JCS") to review additional military installations for closure and/or realignment. [Tzavaras Dep. at 13–14].

14. On January 29, 1990, Secretary of Defense Cheney announced a proposal to close 36 additional bases in the United States (the "SECDEF 17 list"). [Courter Dep. Ex. 14 at 1–2; January 29, 1991 DoD New Release].

15. The SECDEF 17 list identified 17 Navy installations for closure, including the Philadelphia Shipyard. [Tzavaras Dep. at 12; January 29, 1991 DoD News Release].

16. The SECDEF 17 list had been approved by the Secretary of the Navy, H. Lawrence Garrett, III ("Garrett"). [Tzavaras Dep. at 14–15].

17. This was the first public announcement by the Secretary of Defense of a proposal to close the Philadelphia Shipyard. [Hekman Dep. at 9–10].

18. As Capt. Tzavaras—the action officer for base closure issues for the Chairman of the JCS—testified, when the SECDEF 17 list became public, "[i]t hit[] the presses, [went] into the Congress [and] everyone [got] all upset." [Tzavaras Dep. at 14–15].

D. The Secretary of the Navy's Appointment of a Three Star Admiral Advisory Committee

19. As a result of public and congressional criticism, a second executive committee meeting was held by the Secretary of Defense, the Service Secretaries and the Chairman of the JCS in the early summer of 1990 to discuss base closures. [Tzavaras Dep. at 15].

20. As a result of that meeting, Capt. Tzavaras testified that the Service staffs "again started churning and burning to produce a new recommendation" on base closures and realignments. [Tzavaras Dep. at 15].

21. In early 1990, the Secretary of the Navy directed the Vice Chief of Naval Operations to charter a Three Star Admiral Advisory Committee and subordinate Working Group to study and justify proposed base closures for the Navy (the "OPNAV" or "VCNO" study). [Tzavaras Dep. at 18–19; MacKinnon Dep. at 17].

22. The Advisory Committee was comprised of Three Star Admirals from various Navy commands, as well as the Comptroller of the Navy and some of his staff. [Hekman Dep. at 23–25; Tzavaras Dep. at 18–19]. The Three Star Group (also referred to as the "Advisory Committee") was headed by Vice Admiral Smith. [Hekman Dep. at 23–25].

E. The Three Star Admiral Advisory Committee's Creation of the July 1990 "Stealth List" Which Called for Closure of the Philadelphia Naval Shipyard

23. To redress the criticisms of the 1988 base closure process and Secretary Cheney's January 29, 1990 list of proposed closures, Congress began drafting new legislation to substantially amend the 1988 Defense Realignment and Base Closure Act by adding procedural safeguards. [Courter Dep. Ex. 14 at 1–3].

24. Between June and September, the prospect of some legislation on base closure being enacted was "evident." [Tzavaras Dep. at 15–16]. However, even as Congress was drafting the new law, the Navy's Three Star Admiral Advisory Group was continuing to develop its secret list of bases to close. [Tzavaras Dep. at 16].

25. On July 10, 1990, the Three Star Admiral Advisory Committee voted to retain Long Beach Naval Shipyard and to mothball the Philadelphia Shipyard.

"The Navy Inactive Fleet Maintenance Facility will remain at Philadelphia, as well as the propeller facility and the major tenant, NAVSSES. The drydocks are to be mothballed and retained for contingency purposes." [Loftus Dep. Ex. 1 at 5; Tzavaras Dep. at 19]. This action occurred only four months before the final passage of the 1990 Base Closure Act. [10 U.S.C. §2901 *et seq.*].

26. In the words of the Navy's own memorandum, the Advisory Committee's decisions to mothball the Philadelphia Shipyard and to retain the Long Beach Shipyard "were forwarded and concurred in by CNO [Chief of Naval Operations Kelso], SECNAV [Navy Secretary Garrett] and SECDEF [Defense Secretary Cheney]." However, "[f]or political reasons, these agreements have not been officially promulgated. A revised closure list is forthcoming; however, it may not be released until after the first of the calendar year." [Loftus Dep. Ex. 1 at 5].

27. Thus, the "stealth list" was born. [Loftus Dep. Ex. 1].

28. Although the "stealth list" was due for publication in August or September 1990, it was concealed. "That is why it was called the stealth list because it was never published." [Tzavaras Dep. at 15–16 and 23].

29. The "stealth list" of Navy base closures was also known as the "SECNAV 46" list. [Tzavaras Dep. at 15 and 23].

30. The "stealth list" or SECNAV 46 list had the specific approval of both Navy Secretary Garrett and CNO Kelso. [Tzavaras Dep. at 20–21].

31. The "stealth list" or SECNAV 46 list recommended the closure of the Philadelphia Shipyard. [Loftus Dep. Ex. 1 at 5; Tzavaras Dep. at 19].

32. Despite the fact that the Navy knew by the beginning of September 1990 that new

base closure legislation would undoubtedly be enacted, it persisted in its plan for the closure of the Philadelphia Shipyard. Thus, by October 18, 1990, the Navy Working Group reporting to the Advisory Committee stated that "[t]he plan for closure of Philadelphia Naval Shipyard and the resultant redistribution of workload has been developed." [MacKinnon Dep. Ex. 2 at 1].

F. The November 5, 1990, Enactment of the Base Closure Act

33. On November 5, 1990, the President signed into law the Defense Realignment and Base Closure Act (the "Base Closure Act"). [Courter Dep. Ex. 14 at v].

34. The Base Closure Act:

(a) Expressly stated that its "purpose" was "to provide a *fair process* that will result in a timely closure and realignment of military installations" [10 U.S.C. §2901(b) (emphasis supplied)].

(b) Required that *all* meetings of the Commission "be open to the public," except where classified information was being discussed [10 U.S.C. §2902(e)(2)(A)];

(c) Mandated the development and application of "final criteria" for making the closure and realignment determinations [10 U.S.C. §2903(b)(2)(A) and (c)];

(d) Mandated the creation of a *six year* force-structure plan for the Armed Forces for making the closure and realignment determinations [10 U.S.C. §2903(a) and (c)];

(e) Required the Secretary of Defense to consider all military installations "*equally without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department.*" [10 U.S.C. §2903(c)(3) (emphasis supplied)];

(f) Required the Secretary of Defense to transmit to the Commission "a summary of the selection process that resulted in the recommendation for [closure or realignment] of each installation, including a justification for each recommendation [10 U.S.C. §2903(c)(2)];

(g) Required the Secretary of Defense to transmit to the GAO and the Commission "all information used by the Department in making its recommendations to the Commission for closures and realignments," and required the GAO (i) to assist the Commission in its review and analysis of the recommendations made by the Secretary and (ii) to transmit to the Commission and to Congress "a report containing a detailed analysis of the Secretary's recommendations and selection process" 45 days *before* the Commission's report was to be transmitted to the President [10 U.S.C. §§2903(c)(4), 2903(d)(5)(A) and 2903(d)(5)(B)]; and

(h) Proscribed the Secretary of Defense from carrying out any closure or realignment recommendation before the earlier of (i) the enactment of a joint resolution by Congress disapproving the closure recommendations, or (ii) the expiration of a 45 day statutory period that commenced on the day that the President transmitted the recommended closure and realignment list to Congress [10 U.S.C. §2904 (b)].

35. In reaching its decision to close the Philadelphia Shipyard, the Navy and the Base Closure Commission violated the Base Closure Act in several material respects:

(a) The Navy did not consider all shipyards *equally* without regard to prior consideration of proposals to close, and prior recommendations to close, the Philadelphia Shipyard. [10 USC. §2903 (c)(3)];

(b) The Navy's determination to close the Philadelphia Shipyard was based on an *ultra vires* criterion *outside* the "final criteria" promulgated by the Defense Department pursuant to the Base Closure Act. [10 USC §2903 (b)(2)(A) and (c)];

(c) The Navy's determination to close the Philadelphia Shipyard was based on its allegedly perceived force structure needs *beyond* the six-year period mandated by the Base Closure Act. [10 USC §2903 (c)(3)];

(d) The GAO reported on May 15, 1991 that it was unable to perform its statutory functions with respect to the Navy's base closure process and decisions because the Navy (i) "stonewalled" the GAO's efforts to monitor the Navy's base closure process as it occurred, (ii) employed a "subjective" process devoid of supporting documentation and (iii) refused to institute an internal control plan with respect to its process and decisions in violation of a Defense Department directive. [10 USC §§2903 (d)(5)(A) and (B); Yellin Dep. Ex. 2];

(e) The Navy's process was not "fair" because (i) it was not equal but instead predetermined by prior proposals and recommendations, (ii) it was subjective, (iii) critical Navy documents were withheld from the Commission's public hearing and scrutiny process and (iv) Admiral Peter Hekman ("Hekman"), the Navy officer most knowledgeable in the operations of Naval shipyards, was discouraged by the Navy from providing critical Navy testimony during the Commission's public hearings. [10 USC §§2903 (c)(3) and (c)(4), §2903 (e)(2)(A)];

(f) All meetings of the Commission were not open to the public since the Commission directed its staff to hold private meetings with the Navy's Base Structure Committee in a private effort to cure the deficiencies publicly found by the GAO in the Navy's base closure process and decisions. [10 USC §2903 (e)(2)(A)];

(g) The Commission withheld critical Navy documents, obtained after the last public hearing on the Philadelphia Shipyard, from its own public hearing and scrutiny process. [10 USC §2903 (e)(2)(A)]; and

(h) The Navy concealed from the Commission all documents opposing closure of the Philadelphia Shipyard. Members of the plaintiff Congressional delegation inadvertently discovered several of these critical documents; however, the Commission held no hearings to publicly scrutinize these documents or to ascertain the existence of other concealed Navy documents. [10 USC §2903(c)(4)].

G. The Base Closure Act's Force Structure Plan

36. The Base Closure Act required the Secretary of Defense to submit to the Congress and the Commission a force structure plan *for the six fiscal years from 1992 through 1997.* [10 USC §2903(a)].

37. The Act required that the Defense Secretary's recommendations for closure or realignment be based on this force structure plan. [DoD April 1991 Report at 7].

38. In December 1990, the DoD issued its Force Structure Plan for the six fiscal years from 1992 through 1997. [DoD April 1991 Report at 15].

39. The Force Structure Plan was submitted to Congress on March 19, 1991, and to the Base Closure Commission on March 23, 1991. [Courter Dep. Ex. 14 at B-1].

40. The unclassified summary of the Force Structure Plan disclosed that the Navy would have 94 fewer battle force ships, *one less aircraft carrier* and two fewer carrier air wings by the end of FY 1995. [DoD April 1991 Report at 21; Courter Dep. Ex. 14 at B-5].

41. During the 1990s the current mix of 34 Poseidon and Trident submarines would also be reduced to a force of 18 Trident submarines. [DoD April 1991 Report at 20].

H. The Defense Department Final Criteria

42. As part of the objective process for determining whether to close a military installation, the Base Closure Act required the Secretary of Defense to establish selection criteria to be used in making a closure recommendation. [DoD April 1991 Report at 8].

43. In developing these criteria, the Secretary was required to publish proposed criteria in the *Federal Register* and solicit public comments. [DoD April 1991 Report at 8 and 23].

44. The Defense Department published eight proposed criteria and requested comments on November 30, 1990. [DoD April 1991 Report at 23].

45. The proposed criteria closely mirrored the criteria established for the 1988 Defense Secretary's Commission on Base Realignment and Closure. The only notable differences were that priority consideration was given to military value criteria and payback was no longer limited to six years. [DoD April 1991 Report at 23].

46. On February 15, 1991, the DoD published in the *Federal Register* eight proposed final criteria to govern the base closure and realignment process. [DoD April 1991 Report at 24].

47. The first four criteria concerned "military value" and were required to receive preference:

(1) Current and future mission requirements and the impact of operational readiness of the Department of Defense's total-force.

(2) The availability and condition of land, facilities and associated air space at both the existing and potential receiving locations.

(3) The ability to accommodate contingency, mobilization, and future total force requirements at both the existing and potential receiving locations.

(4) The cost and manpower implications.

The fifth criterion concerned "return on investment":

(5) The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of closure or realignment, for the savings to exceed the costs.

The final three criteria involved non-military "impacts":

(6) The economic impact on local communities.

(7) The ability of both the existing and potential receiving communities' infrastructures to support forces, missions, and personnel.

(8) The environmental impact.

[DoD April 1991 Report at 24; Courter Dep. Ex. 14 at C-1].

48. The proposed criteria were subject to Congressional review between February 15, 1991 and March 15, 1991. The criteria became final on March 15, 1991. [DoD April 1991 Report at 24].

I. The Defense Department December 10, 1990, and February 13, 1991, Directives

49. On December 10, 1990, the Department of Defense issued a directive mandating the exclusive procedures which the Military Departments were to follow in making defense base closure and realignment recommendations. [Nemfakos Dep. Ex. 1].

50. In accordance with the Base Closure Act, the December 10, 1991 Defense Department directive required that:

(a) All base closure studies have as their basis the six-year force structure plan mandated by the Act;

(b) All base closure recommendations be based upon the final criteria promulgated pursuant to the Act; and

(c) All bases be considered for closure "on an equal footing, without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department of Defense." [Nemfakos Dep. Ex. 1 at 2]. The Navy violated each of these requirements.

51. The December 10, 1990 directive also required the Navy to keep:

(a) Descriptions of how base closure selections were made and how they satisfied the final criteria;

(b) Data, information and analyses considered in making base closure selections; and

(c) Documentation for each base closure recommendation. [Nemfakos Dep. Ex. 1 at 2]. On May 15, 1991, the GAO concluded that the Navy did not maintain any of the requisite information, thereby preventing the GAO from performing its statutory function. [Meyer Dep. at 105; Yellin Dep. Ex. 2 at 46].

52. On February 13, 1991, the Department of Defense issued a directive requiring each of the Military Departments to "develop and implement an internal control plan for [their] base structure reviews to ensure the accuracy of data collection and analyses." [Nemfakos Dep. Ex. 2 at 2]. As will be demonstrated below, the GAO concluded that the Navy did not develop or implement an internal control plan for its base structure reviews. [Yellin Dep. Ex. 2 at 48].

J. The Role of Congress Under the Base Closure Act

53. Congress was precluded from exercising their statutory right to participate in the base closure process because (a) the GAO was unable to monitor the Navy's base closure process and decisions, (b) the Commission held private meetings with the Navy Base Structure Committee in a private effort to cure the deficiencies publicly found by the GAO in the Navy's base closure process and decisions and (c) critical Navy documents and testimony were withheld from the Commission's public hearing and scrutiny process. [10 U.S.C. §2903].

K. The Evaluative and Oversight Role of the General Accounting Office Under the Base Closure Act

54. The Defense Secretary's April 1991 Base Closure and Realignment Report to the Commission described the GAO's essential statutory role under the base Closure Act as follows:

"Public Law 101–510 provided for the General Accounting Office (GAO) to *monitor* the activities, *while they occur*, of the Military Departments, the Defense Agencies and the Department of Defense in selecting bases for closure or realignment under the Act.

"The GAO is required to provide the Commission and the Congress with a detailed analysis of the Secretary of Defense's recommendations and selection process. The GAO report, due by May 15, 1991, is also intended to describe *how the DoD selection process was conducted and whether it met the requirements of the Act*. In addition, the GAO is required to assist the Commission, if requested, with its review and analysis of the Secretary's recommendations." [DoD April 1991 Report at 9 (emphasis supplied)].

55. The Navy deliberately prevented the GAO from monitoring its base closure process as it occurred. The GAO concluded that the Navy's base closure process was subjective and not adequately documented and the GAO further concluded that the Navy's base closure decision did not satisfy the requirements of the Base Closure Act. [Yellin Dep. Ex. 2 at 46–48].

L. The Three Star Advisory Committee's Proceedings After Enactment of the Base Closure Act on November 5, 1990: Approval of the SECDEF 17 and "Stealth List" Recommendations for Closure of the Philadelphia Shipyard

56. Under the new Base Closure Act, which was enacted on November 5, 1990, the Navy was required to start the base-closing process anew with a "clean slate." [10 U.S.C. §2903(c)(3)].

57. The new legislation required that the Philadelphia Shipyard, which was slated for closure on both the SECDEF 17 list and the "stealth list," be given a new start on an equal basis with all other shipyards [10 U.S.C. §2903(c)(3)].

58. However, internal Navy documents and Navy deposition testimony make it abundantly clear that, despite the enactment of the new law, Navy Secretary Garrett, the Three Star Admiral Advisory Committee, the Advisory Committee's Working Group and the staff of the Chief of Naval Operations all continued to persist in closure of the Philadelphia Shipyard based upon the recommendations of the SECDEF 17 list and the "stealth list" or SECNAV 46 list [*See, e.g.* MacKinnon Dep. Ex. 3, 5, 8, 14 and 15; MacKinnon Dep. 84–88, 125, 154–155; Tzavara Deposition at 42–43, 46 and 57].

59. After the Base Closure Act had been passed by Congress and only five days before the President signed it, Mary Mac- Kinnon ("MacKinnon"), the person on the Advisory Committee Working Group responsible for shipyards, informed her Navy officer superiors that she would "write justification why we passed up lower ranked shipyards to select Phila. for closure." [MacKinnon Dep. Ex. 5 at 1; MacKinnon Dep. at 84–86]. MacKinnon also stated that she would "[d]evelop implementation plan and timeline to close Phila. Naval Shipyard after completion of CV 64 SLEP." [MacKinnon Dep. Ex. 5 at 3; MacKinnon Dep. at 86–88].

60. On November 16, 1990, only eleven days after the Base Closure Act was enacted, the Advisory Committee Working Group reported that "*[t]he 'stealth list' will become the [Navy's] 1991 base closure list* . . . [O]ur plan is to keep Philadelphia Naval Shipyard on the 1991 list and close/realign *as planned*." [MacKinnon Dep. Ex. 8 at 2 (emphasis supplied); MacKinnon Dep. at 125].

61. At that time, the question was not *if* Philadelphia would close, but "*when* it would close." [MacKinnon Dep. at 124 (emphasis supplied)].

62. On November 5, 1990, the date when the Base Closure Act was enacted, the Working Group had ranked the Philadelphia Shipyard sixth, with a score of 274 points, ahead of the Portsmouth Shipyard, with 263 points, and the Mare Island Shipyard, with 215 points. [MacKinnon Dep. Ex. at 2; MacKinnon Dep. at 58]. In order to justify closing Philadelphia instead of Portsmouth and Mare Island, the Working Group relied on the "projected workload in fiscal year 1998 through 2000 requir[ing] six nuclear naval shipyards." [MacKinnon Dep. at 59; MacKinnon Dep. Ex. 3 at 3; MacKinnon Dep. Ex. 15 at 6].

63. The years 1998–2000 were outside the six-year force structure period governing base closures under the Base Closure Act. [10 USC §2903 (a) and (c)].

64. By November 16, 1990, the Working Group had already concluded that the new proposed base closure criteria under the Base Closure Act would not change the ranking of the shipyards, that is, Philadelphia would continue to be ranked sixth and Portsmouth and Mare Island would continue to be ranked seventh and eighth. [Mac- Kinnon Dep. at 112–113; MacKinnon Dep. Ex. 8 at 2].

65. On that same date, the Working Group also reaffirmed its proposed "actions" with respect to bases targeted for closure:

"Develop implementation plan and timeline to close Philadelphia Naval Shipyard after completion of CV 64 SLEP." [MacKinnon Dep. at 101; MacKinnon Dep. Ex. 7 at 3].

66. Totally disregarding the "equal footing" requirement of the Base Closure Act, as of November 20, 1990, the Three Star Admiral Advisory Committee nevertheless made recommendations to the Chief of Naval Operations with respect to base closures and realignments. [Tzavaras Dep. 34–35]

67. Ultimately the "stealth list" in its final form, including the Philadelphia Shipyard as a mothballed closure, became a list of recommended base closures made by the Three Star Admiral Advisory Committee to the Secretary of the Navy. [MacKinnon Dep. at 121–122; Loftus Dep. at 22, 29, 31, 36–39; Tzavaras Dep. at 35–36; Hekman Dep. at 18–19, 28, 135–136].

68. The Minutes of the Working Groups December 4, 1990 meeting note that a Three Star Admiral Advisory Committee meeting was scheduled for December 20, 1990 to review the Working Group's preliminary list of base closures and that "OP–44 [Admiral Drennon] will be the primary briefer and will compare the new recommendations to those known as the SECNAV "46" developed during deliberations prior to the new base closure legislation." [MacKinnon Dep. Ex. 11 at 3; Tzavaras Dep. at 40–41].

69. The Working Group's proposed closure list was completed by December 10, 1990. That list included the Philadelphia Shipyard [MacKinnon Dep. at 144].

70. At a December 10, 1990 Working Group meeting, Capt. Tzavaras noted that the Defense Department had issued its policy directive that day regarding base closure procedures, but that it "doesn't change anything." [MacKinnon Dep. Ex. 12 at 1]. In other words, even though the Defense Department had mandated in its December 10, 1990 directive that all bases be considered for closure "on an equal footing, without regard to whether the installation has been previously considered or proposed for closure or realignment", the Three Star Admiral Advisory Committee and its Working Group would continue with their "stealth list" and its recommended base closures, including the Philadelphia Shipyard. [Nemfakos Dep. Ex. 1 at 2].

71. Thus, the minutes of the Working Group's December 10, 1990 meeting note that the December 20, 1990 presentation to the Three Star Admiral Advisory Committee of the Working Group's recommended base closures would annotate which base closures were on the "stealth list" or SECNAV 46 list. [MacKinnon Dep. Ex. 13 at 4; Tzavaras Dep. at 42–43].

72. Despite repeated attempts by the Navy to rank the Philadelphia Shipyard lower than the other seven shipyards, under the new proposed base closure criteria, application of the criteria consistently ranked other shipyards below Philadelphia. [MacKinnon Dep. Ex. 15; Yellin Dep. Ex. 1].

73. On December 18, 1990, MacKinnon utilized the new base closure criteria proposed under the Base Closure Act to rank the eight Naval shipyards. Under the new criteria, Philadelphia ranked sixth, with 274 points, and Portsmouth and Mare Island ranked seventh and eighth, with 263 points and 215 points, respectively. [MacKinnon Dep. at 165–166; MacKinnon Dep. Ex. 15 at 1–6].

74. It was only by awarding each nuclear capable shipyard 50 so-called "bonus points"

under a bogus criterion *not* included in the new base closure criteria that Portsmouth jumped over Philadelphia. But, even after receiving its 50 so-called "bonus points," Mare Island was still ranked eighth behind Philadelphia. [MacKinnon Dep. at 167–172; MacKinnon Dep. ex. 15 at 7].

75. Moreover, the award of 50 "bonus points" was expressly based upon the "projected workload for the naval shipyards in 1998–2000," a force structure period clearly *beyond* the six year 1992–1997 requisite force structure period under the Base Closure Act. [MacKinnon Dep. at 191–192; MacKinnon Dep. Ex. 15 at 6].

76. On December 19, 1990, MacKinnon summarized the status of base closures on the eve of the Three Star Admiral Advisory Committee meeting:

"*All* industrial activities were reviewed in the last several months, and the decision was made to maintain all activities *with the exception of Philadelphia Naval Shipyard.*" [MacKinnon Dep. Ex. 16 (first emphasis in original and second emphasis supplied)].

77. Given MacKinnon's summary, it is not surprising that on December 19, 1990 Vice Admiral Hekman, a member of the Advisory Committee and the highest Navy officer supervising the operations of the eight Naval shipyards, wrote to Admiral Loftus, the immediate deputy of Chief of Naval Operations Kelso, stating:

"While I realize that the [Navy] Secretary [Garrett] has been briefed *and has concurred with the proposal to mothball Philadelphia Naval Shipyard,* I strongly recommend that *this decision* be reconsidered." [Hekman Dep. Ex. 2; Hekman Dep. at 17–21, 28 (emphasis supplied)]. Navy Secretary Garrett had previously approved the mothballing of the Philadelphia Shipyard when he approved the SECDEF 17 list in January 1990 and the "stealth list" or SECNAV 46 list in the summer of 1990. [Tzavaras Dep. at 53–54].

78. Hekman's December 19, 1990 "disserting" memorandum to Admiral Loftus was rejected on December 20, 1990 at the Advisory Committee meeting. As Admiral Loftus subsequently stated in his reply memorandum to Vice Admiral Hekman dated January 11, 1991, Vice Admiral Hekman's request for reconsideration "was discussed at the 20 December 1990 meeting of the [Three Star Admiral] Base Closure and Realignment Advisory Committee" and " was not accepted." [Claman Dep. Ex. 5; Loftus Dep. at 37–39; Claman Dep. at 83–86; Hekman Dep. Ex. 4; Tzavaras Dep. at 57].

79. Indeed, at the December 20, 1990 Advisory Committee meeting, the Working Group presented its list of recommended closures to the Advisory Committee. The Philadelphia Shipyard was on the list. [Loftus Dep. at 38–39; Tzavaras Dep. at 40, 44, 57].

80. Despite the fact the slate was supposed to be wiped clean by the Base Closure Act, the Working Group list that was presented to the Advisory Committee on December 20, 1990 clearly indicated that the shipyard had been previously recommended for closure. [Tzavaras Dep. at 43–46, 57; MacKinnon Dep. Ex. 14 at 1–2; Loftus Dep. at 39].

81. Thus, the viewgraphs displayed at that Three Star Admiral Advisory Committee meeting showed not only the Working Group base closure recommendations but also the original "stealth list" and SECDEF 17 list base closure recommendations. [Tzavaras Dep. at 46; MacKinnon Dep. at 154–155; MacKinnon Dep. Ex. 14 at 2].

82. On December 20, 1990, the Three Star Admiral Advisory Committee voted to close the Philadelphia Naval Shipyard. [Tzavaras Dep. at 57; Loftus Dep. at 39].

83. The Working Group did not "wipe the slate clean" by presenting to the Advisory Committee recommendations for base closure and realignments that were made prior to the passage of the 1990 Base Closure Act. As one Working Group member testified, however, "those kinds of decisions were way above my pay grade." [MacKinnon Dep. at 156].

84. Moreover, since the Advisory Committee decision was itself *not* premised on the new base closure criteria promulgated pursuant to the Base Closure Act, not finalized until March, 1991, and *not* the result of the Navy's base closure process undertaken as a result of the enactment of the Base Closure Act, the decision was yet a *third* recommendation to close the Philadelphia Shipyard reached outside the base closure process. [MacKinnon Dep. Ex. 14 at 1–2 and 8 at 2].

85. Indeed, it was not until late December 1990 that the Navy's Base Structure Committee was appointed and it was not until January 28, 1991 that Navy Assistant Secretary Jacqueline Schafer ("Schafer"), the Chair of the Navy's Base Structure Committee, issued her procedures memorandum governing the Navy's base closure process. [Schafer Dep. at 6–7, 9, 11, Meyer Dep. Ex. 1–A at Bates No. 1175; Nemfakos Dep. Ex. 3 at 1]. The first meeting of the Base Structure Committee was not until February, 1991, [Meyer Dep. Ex. at 1–A at Bates No. 1175].

86. The next meeting of the Three Star Advisory Committee was held on January 14, 1991. [Tzavaras Dep. at 59].

87. At that meeting, Vice Admiral Hekman again presented his recommendation to keep the Philadelphia Shipyard open. [Tzavaras Dep. Ex. 1; Hekman Dep. Ex. 5].

88. On January 14, 1991, the Advisory Committee reaffirmed its December 20, 1990 decision to close the Philadelphia Shipyard: "With CNO approval, Philadelphia Naval Shipyard will be proposed to the FY91 Base Closure and Realignment Commission (BCRC) for closure." [Tzavaras Dep. Ex. 1; Tzavaras Dep. at 59–60].

89. On January 28, 1991, the full list of the Three Star Admiral Advisory Committee base closure recommendations, including the recommendation to close the Philadelphia Shipyard, was presented to Chief of Naval Operations Kelso. [Loftus Dep. at 39–41].

90. Admiral Loftus, a member of both the Advisory Committee and the Navy's Base Structure Committee, was present during the CNO's briefing of the Advisory Committee's base closure list. [Loftus Dep. at 40].

91. Loftus fully concurred in the recommendation to close the Philadelphia Shipyard. [Loftus Dep. at 44].

92. In fact, internal Navy documents dated January 25, 1991 demonstrate that Admiral Loftus, who was also a member of the BSC, had by that date recommended that the Philadelphia Shipyard be closed and its drydocks mothballed. [Hekman Dep. Ex. 3; Hekman Dep. at 68–70; Hekman Dep. Ex. 13].

93. The Three Star Admiral Advisory Group went out of existence after it forwarded its report to CNO Kelso and the Secretary of the Navy. [Hekman Dep. at 34]

M. NAVSEA'S December 1990 Dissent From Closure of the Philadelphia Shipyard: "Too Late in Process"

94. The Naval Sea Systems Command ("NAVSEA") is the Naval command in charge of all Naval shipyards in the United States. [Hekman Dep. at 24].

95. The Commander of NAVSEA from September 1, 1988 to on or about April 14, 1991 was Vice Admiral Hekman. vice Admiral Hekman retired on May 1, 1991. [Hekman Dep. at 10].

96. Vice Admiral Hekman was the individual most knowledgeable about Naval shipyards in the United States during the period from 1990 through April 1991, [Hekman Dep. at 49].

97. Vice Admiral Hekman was a member of the Three Star Admiral Advisory Committee and was invited to participate in the meetings that discussed facilities, such as shipyards, within his command. [Hekman Dep. at 24–25].

98. On December 17 or 18, 1990, Vice Admiral Hekman was advised by the CNO's office that Admiral Loftus had presented the Advisory Committee's recommendation to close the Philadelphia Shipyard to the Secretary of the Navy and that the Secretary had "concurred" in the Advisory Committee's recommendation. [Hekman Dep. at 18–19].

99. Vice Admiral Hekman immediately telephoned Admiral Lang, a deputy of Admiral Loftus, about the decision of the Advisory Committee. He was advised that the Advisory Committee had made the recommendation to close the Philadelphia Shipyard to the Navy Secretary and that "the Secretary had basically concurred in what we're recommending." [Hekman Dep. at 28[.

100. On December 19, 1990, Vice Admiral Hekman wrote to the Chief of Naval Operations urging the Navy's reconsideration of its decision to close the Philadelphia Shipyard:

"While I realize that the [Navy] *Secretary [Garrett] has been briefed and has concurred with the proposal to mothball Philadelphia Naval Shipyard,* I strongly recommend that *this decision* be reconsidered." [Hekman Dep. Ex. 2 (emphasis supplied); Loftus Dep. at 38].

101. Despite the fact that the Navy's Base Structure Committee *had not even held its first meeting* as of late December 1990, Vice Admiral Hekman acknowledged that the actions being taken late in 1990 by the Navy were "close to the end of the process." [Hekman Dep. at 54].

102. In response to Vice Admiral Hekman's December 19, 1990 memorandum, Admiral Loftus advised him on January 11, 1991 that "NAVSEA's recommendation that Philadelphia Naval Shipyard not be mothballed and closed, but rather be downsized to approximately the size of a ship repair facility" was discussed at the December 20, 1990 meeting of the Advisory Committee and "was not accepted." [Hekman Dep. Ex. 4; Hekman Dep. at 29–30]. Rather, "*the approved* alternative" was to mothball the Philadelphia Shipyard. [Hekman Dep. Ex. 4 (emphasis supplied)].

103. Vice Admiral Hekman recommended to the Advisory committee and the Navy's BSC that downsizing of the Philadelphia shipyard not start until fiscal year 1995. [Hekman Dep. at 48].

104. Admiral Claman also presented information to justify not closing the Philadelphia Shipyard to the Navy's BSC. [Hekman Dep. at 73]. Admiral Claman concurred with Vice Admiral Hekman that the Philadelphia Shipyard should not be closed or reduced in size until fiscal year 1995. [Claman Dep. at 77].

105. Despite the fact that Vice Admiral Hekman was Commander of NAVSEA, after his initial presentation, he was not invited to attend any meetings with the BSC. [Hekman Dep. at 37–40, 69, 73].

106. Until the "bitter end," Vice Admiral Hekman continued to speak out against closure of the Philadelphia Shipyard because he "felt that I owed the Navy and the country loyalty." [Hekman Dep. at 101; Tzavaras Dep. at 80].

107. By memorandum dated March 15, 1991, Hekman again urged Admiral Loftus to reconsider the Advisory Committee's decision to close the Philadelphia Shipyard. Hekman stated that he continued "to take the position that retention of a credible repair capability at Philadelphia for naval ships homeported in the Northeast area is the most cost effective solution." [Hekman Dep. Ex. 7].

108. In support of his position, Hekman again advised the CNO that "the workload distribution for naval shipyards in the 90's supports *full operations* at Philadelphia through mid FY 95." Hekman stressed that closure of Philadelphia in 1993 would "cause significant perturbations to carrier overhauling yard assignments." [Hekman Dep. Ex. 7 (emphasis supplied)].

109. Hekman never received a response to his March 15, 1991 memorandum. [Hekman Dep. at 48].

110. Vice Admiral Hekman advised a Base Closure Commission staff member that he "was asked to retire early, in part, . . . because he persisted in disagreeing with the decision to close the Philadelphia Naval Shipyard." [Yellin Dep. Ex. 6 at 1].

N. The Creation of the BSC and the Lack of Internal Controls

111. On December 14, 1990, the Secretary of the Navy established a six-member Base Structure Committee, also known as the BSC, allegedly to conduct a base structure review and to determine the Navy's base closure candidates. [Counter Dep. Ex. 14 at 2–2; Nemfakos Dep. Ex. 3 at 1].

112. The BSC was charged with reviewing all installations inside the United States *equally*, "without regard to whether the installation has been previously considered or proposed for closure or realignment." [Nemfakos Dep. Ex. 1 at 2].

113. The members of the Base Structure Committee were Assistant Secretary Schafer, Admiral Loftus (CNO Kelso's deputy), Lt. Gen. Winglass (Marine Corps), Rear Admiral David Oliver (OP–08), Major General Gardner (Marine Corps) and Charles Nemfakos (Comptroller's office). [Schafer Dep. at 7, 13–15].

114. Capt. Tzavaras testified that it was his understanding that "Admiral Loftus was the CNO's principal BSC member and he would be able to provide the interface between the CNO and the BSC and insure that the CNO's concerns were addressed." [Tzavaras Dep. at 71–72].

115. The BSC was clearly a facade. By the time that the BSC held its first meeting, the closure decisions had already been made by the "Three Star Admirals" and concurred in by the Secretary of the Navy. [Tzavaras Dep. at 57; Loftus Dep. at 39; Hekman Dep. at 26–28; Hekman Dep. Ex. 2].

116. As a result of numerous public concerns raised about the final criteria's broad nature and the need for objective measures and documentation for the application of the criteria [DoD April 1991 Report at 25], on December 10, 1990, the Defense Department issued a directive setting forth "Policy Guidance" and "Record Keeping" requirements to the Military Departments, the Comptroller and the Assistant Secretaries of Defense as follows:

"*Policy Guidance* Base closure, realignment, or consolidation studies that could result in a recommendation for base closure or realignment . . . *must meet the following requirements:*

"The studies, including their recommendations, *must* have as their basis the Force Structure Plan required by Section 2903 of the Act;

"The recommendations in the studies *must* be based on the final base closure and realignment selection criteria established under that Section [2903 of the Act]; and

"The studies *must* consider *all* military installations inside the United States . . . *on an equal footing*, without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department of Defense.

* * * * *

"*Record Keeping* DoD components shall keep:

"Descriptions of how base closure and realignment selections were made, and how they met the final selection criteria;

"Data, information and analyses considered in making base closure and realignment selection; and

"Documentation for each recommendation to the Secretary of Defense to close or realign a military installation under the Act." [Nemfakos Dep. Ex. 1 at 2 (emphasis supplied)].

117. On February 13, 1991, the Defense Department issued a directive setting forth "Internal Controls" requirements to the Military Departments mandating development and implementation of an "internal control plan" which "at a minimum" was to include:

"Uniform guidance defining data requirements and sources for each category of base,

"Systems for verifying accuracy of data,

"Documentation justifying any changes made to data submissions, and

"Procedures to check the accuracy of the analysis made from the data provided." [Nemfakos Dep. Ex. 2 at 2].

118. The GAO was unable to review the process the Navy used to recommend bases for closure or realignment, because the Navy did not adequately document its decisionmaking process or the results of its deliberations. [Yellin Dep. Ex. 2 at 46; Meyer Dep. at 94].

119. Moreover, the GAO concluded that "the Navy did not establish an internal control plan to ensure the validity and accuracy of information used in its assessment as required by" the Defense Department. [Yellin Dep. Ex. 2 at 46; Meyer Dep. at 101].

O. The Three Star Admiral Advisory Committee Recommendation To Close the Philadelphia Shipyard was Presented to Both the Navy BSC and Navy Secretary Garrett

120. Both Assistant Secretary Schafer, the Chair of the Navy BSC, and Admiral Loftus, a member of the Navy BSC and the Advisory Committee as well as the deputy of Chief of Naval Operations Kelso, testified that the Three Star Admiral Advisory Committee's base closure recommendations (the "stealth list") were presented to the Navy Base Structure Committee during its deliberations. [Shafer Dep. at 40–41; Loftus Dep. at 42].

121. The position of Chief of Naval Operations Kelso on base closure was also presented to the Navy BSC during its deliberations. As Capt. Tzavaras, the head of the BSC's Working Group succinctly stated, there would be no "doubt that it was in the minds of the Base Structure Committee what CNO wanted to do" with respect to base closures. [Tzavaras Dep. at 65, 75; Tzavaras Dep. Ex. 2].

122. A May 29, 1991 *private* meeting between the Navy BSC and the staff of the Base Closure Commission, the Navy represented to the Commission staff that Chief of Naval Operations Kelso had directed the Navy BSC to remove the Long Beach Naval Shipyard from its list of base closure recommendations. [Armfield Dep. at 70; Armfield Dep. Ex. 5 at 2].

123. Significantly, on March 27, 1991, when Assistant Secretary Schafer made her base closure recommendations to Navy Secretary Garrett, Garrett "requested" the 1990 "stealth list". Garrett wanted to "review" the "stealth list" *before* making his base closure recommendations to Defense Secretary Cheney. [Schafer Dep. Ex. 1 at 1].

124. Thus, it is indisputable that both the Navy BSC and Navy Secretary Garrett considered the 1990 "stealth list" recommendation for closing the Philadelphia Shipyard in violation of the statutory requirement that all bases be considered "equally without regard to whether the installation has been previously considered or proposed for closure or realignment." [10 U.S.C. §2903(c)(3)].

P. The Navy BSC's Process in Arriving at its Base Closure Recommendations Was Totally Subjective and "a Black Hole"

125. At a May 20, 1991 private meeting between the Navy BSC and the staff of the Base Closure Commission, Nemfakos—a member of the Navy BSC—stated to the Commission staff that the Navy's base closure process had been "subjective." [Armfield Dep. at 16; Armfield Dep. Ex. 1 at 2; Nemfakos Dep. Ex. 8 at 2]

126. A document prepared by the Navy to respond to the GAO's criticisms of the Navy's undocumented base closure process admitted that the process was "ultimately subjective." [Nemfakos Dep. at 70; Nemfakos Dep. Ex. 3 at 7].

127. As the Navy characterized its own process in response to GAO criticisms:

"The assignment of grades to the base closure criteria was the result of a consensus reached by the members of the BSC. The opinions of individual BSC members were not recorded and minutes were not kept at BSC meetings." [Nemfakos Dep. at 70–71; Nemfakos Dep. Ex 3 at 1–2 (emphasis supplied)].

128. Because of the absence of any documentation supporting the Navy BSC's process and decisions, the GAO referred to the BSC executive sessions as the "Black Hole" and the Base Closure Commission staff referred to them as the "twenty-two minute gap." [Meyer Dep. at 83–84; Schafer Dep. Ex 2 at 1].

129. The Navy BSC's treatment of the Philadelphia Shipyard epitomized the subjective and arbitrary nature of the Navy BSC's base closure process and decisions. [Nemfakos Dep. Ex. 8 at 2; Armfield Dep. at 14–19, 70]

130. Based upon both the old and new base closure criteria, the Philadelphia Shipyard ranked sixth and Portsmouth and Mare Island ranked seventh and eighth, respectively. [MacKinnon Dep. at 49–53, 112–119, 165–166; MacKinnon Dep. Ex. 15 at 1–6; MacKinnon Dep. Ex. 16].

131. It was only by awarding all nuclear capable shipyards 50 "bonus points" because of an alleged need for them during the 1998–2000 period that Portsmouth jumped ahead of Philadelphia. Moreover, even with the 50 "bonus points," Mare Island remained eighth. [MacKinnon Dep. at 167–172, MacKinnon Dep. Ex. 15 at 6–7; MacKinnon Dep. Ex. 16].

132. The Navy BSC disregarded the numerical rankings of the shipyard during its deliberations. [Nemfakos Dep. at 43, 95; Nemfakos Dep. Ex. 7 at 7 at 3; MacKinnon Dep. Ex. 194–195].

133. Instead, the Navy BSC opted for color coded rankings utilizing green as the high-

est, yellow as the middle and red as the lowest ranking. [MacKinnon Dep. at 195].

134. However, the Navy's "BSC Rating Worksheet" for Shipyards conclusively demonstrates that, under the BSC's own color coded rankings, the Philadelphia Shipyard was equal to Charleston, Portsmouth and Mare Island and better than Long Beach. [Yellin Dep. at 25–27; Loftus Dep. at 46–47; Yellin Dep. Ex. 1].

135. Thus, based upon the application of the four military criteria, Philadelphia, Charleston, Portsmouth and Mare Island each received two greens and two yellows; whereas Long Beach received only one green and three yellows. Moreover, based upon the application of the three non-military criteria, Philadelphia received one yellow and two reds, whereas Long Beach received three reds. [Yellin Dep. at 32; Yellin Dep. Ex. 1]

136. Furthermore, Philadelphia, Charleston, Portsmouth and Long Beach were each given overall ratings of yellow. Even though both Mare Island and Philadelphia had two yellows and two greens for the four military criteria, Mare Island was given an overall rating of green. [Yellin Dep. at 25–27; Yellin Dep. Ex. 1].

137. Despite these ratings, the Navy BSC voted to close only Philadelphia based solely upon it subjective, undocumented and unscrutinized private deliberations, including their statement that "not all yellow are equal" "not all greens are equal." [Meyer Dep. at 90; Yellin Dep. Ex. 2 at 48; Meyer Dep. Ex. 3 at 3 and 5].

138. In fact, even though the Navy has steadfastly maintained that it needs two large carrier drydocks dedicated to Navy use on both coasts, the Navy BSC voted to close Philadelphia, thereby reducing the East Coast dedicated drydocks from three to one since Philadelphia has two of the three dedicated large carrier drydocks on the East Coast. [Yellin Dep. at 184–211; Loftus Dep. at 60, 68; Hekman Dep. at 57, 59–61].

Q. The BSC's Creation of an Unlawful "Ninth Criteria" To Justify Closure of Philadelphia: The "Step 5" Procedure

139. Under the "BSC Rating Worksheet" for Shipyards, the color coded ratings for the four priority military criteria conclusively demonstrated that Philadelphia's color coded rating was equal to Portsmouth, Charleston and Mare Island and better than Long Beach. [Yellin Dep. at 25–27; Loftus Dep. at 46–47; Yellin Dep. Ex. 1].

140. However, based upon a so-called "Step 5" procedure, which was not part of any of the four military criteria, the Navy BSC excluded not only the three nuclear capable shipyards—Portsmouth, Charleston and Mare Island—but also one non-nuclear shipyard—Long Beach—from any further base closure consideration. [Armfield Dep. at 55; Yellin Dep. at 178–179; Yellin Dep. Ex. 1; Loftus Dep. at 47, 59–60, 78–79].

141. By using a "Step 5" procedure, which was *outside* the four military criteria, the Navy BSC rigged the unlawful predetermined outcome against Philadelphia. [10 USC §2903(b)(2)(A) and (c)].

142. The value to the Navy of having available a nuclear capable shipyard was clearly encompassed by the military criteria: mission suitability and availability of facilities. [MacKinnon Dep. at 277, 294; Courter Dep. at 230–231].

143. Nevertheless, the BSC arbitrarily and without authority created a separate, independent criterion that excluded all nuclear shipyards as well as Long Beach, a *non-nuclear* shipyard, from base closure consideration under its "Step 5" procedure. [Armfield Dep. at 55; Yellin Dep. Ex. 1; Loftus Dep. at 47, 59–60, 78–79].

144. The Navy BSC claimed that the projected nuclear workload precluded a nuclear shipyard from being closed. [Loftus Dep. at 53, 76].

145. However, internal Navy documents established that there was no capacity problem for nuclear shipyards until 1998, 1999 and 2000—a time period which could not be considered under the Base Closure Act's six year Force Structure Plan. [MacKinnon Dep. at 58; MacKinnon Dep. Ex. 3].

146. During the relevant six year period, all nuclear drydocks had excess capacity. [Nemfakos Dep. Ex. 10; Loftus Dep. at 59–60].

147. During the relevant six year period, the projected workload that the BSC considered at the nuclear shipyards included between 25% and 50% of work on non-nuclear ships. [Loftus Dep. at 56; Nemfakos Dep. at 81–82].

148. Even though between 25% and 50% of the work done in a nuclear shipyard is on non-nuclear ships, the Navy BSC maintained that it could not close any nuclear shipyards. [Nemfakos Dep. at 82].

149. The Navy BSC concluded that, in any event, it was not practical to close a nuclear shipyard since it would have to be re-opened in 1998. [Loftus Dep. at 54; Claman Dep. at 58–59; April 1991 Navy Detailed Analysis, Tab C at 4].

150. However, the BSC never considered or analyzed the cost of closing a nuclear shipyard, the cost of re-opening a nuclear shipyard or the cost of mothballing a nuclear shipyard. [Claman Dep. at 58–59].

151. In fact, NAVSEA has never even generated or reviewed any document within the Navy that attempted to quantify such costs. [Claman Dep. at 58–59].

152. Nevertheless, it is well known within the Navy that the closure of a nuclear shipyard will have a "*high unknown cost* for the Navy to correct existing environmental liabilities" before the nuclear facilities can be converted to any other post-closure use. [Claman Dep. at 58–59].

153. The cost of closing a nuclear shipyard is high because of the nuclear aspect, i.e. nuclear waste, nuclear reactors, etc. [Claman Dep. at 58–59].

154. The fact that the Navy does not want the closure of a nuclear shipyard subject to Congressional or public scrutiny is not a valid exemption under the Base Closure Act or the final criteria promulgated thereunder. [10 USC §2901 *et seq.*].

155. The Navy considered the availability of private shipyards with respect to non-nuclear work when it voted to close the Philadelphia Shipyard. [Loftus Dep. at 66–67]. However, it conducted no analysis with respect to the availability of private nuclear shipyards to perform any of the nuclear work projected in 1998, 1999 and 2000. [MacKinnon Dep. at 66–67; Claman Dep. at 39].

156. The Navy was well aware that private nuclear shipyards on the East coast—Newport News and Electric Boat—could perform the projected work on nuclear ships. [MacKinnon Dep. at 66; Claman Dep. at 39]. Its failure to consider these shipyards in performing its analysis violated the statutory mandate that all bases be considered equally. [10 USC §2903(c)(3)].

157. Prior to the enactment of the Base Closure Act (and the public scrutiny thereunder), the Navy was examining the possibility of closing Portsmouth. The Navy stated at the beginning of 1990 that refuelings in fiscal year 93 and the out years could be accomplished at another Naval shipyard. [MacKinnon MacKinnon Dep. Ex. 24; MacKinnon Dep. at 260].

158. Because of the "Step 5" procedure, the BSC did not consider whether Portsmouth could be closed and the nuclear work at Portsmouth moved to Charleston and Norfolk. Nor did the BSC consider whether the non-nuclear work at Portsmouth could be moved to Philadelphia. [MacKinnon Dep. at 228–230; Loftus Dep. at 58–59].

159. Retaining a non-nuclear shipyard to perform non-nuclear work is a cost-effective solution for the Government. [Hekman Dep. at 78–80; Clark Dep. at 8–9]. Closure of a nuclear shipyard that has significantly higher man-day rates and overhead should have been considered. [10 USC §2903(a)].

160. The Navy BSC's illegal "Step 5" procedure initially left only Long Beach and Philadelphia as base closure candidates, since they were the only two non-nuclear shipyards. [MacKinnon Dep. at 270–271; Yellin Dep. at 178–179; April 1991 Navy Detailed Analysis, Tab C at 8].

161. The Long Beach Shipyard was on the SECDEF 17 list for closure and the BSC originally intended to include Long Beach in its recommendations for closure. [Nemfakos Dep. Ex. 8 at Bates No. 591, Armfield Dep. Ex. 5 at 2].

162. Internal Navy notes of a February 14, 1991 BSC meeting disclosed that it was "very obvious" that BSC member Nemfakos "really" wanted to close Long Beach. [Loftus Dep. at 79–80; Nemfakos Dep. Ex. 6 at 1; MacKinnon Dep. at 270–271].

163. In fact, Nemfakos was emphatic about closing Long Beach in lieu of *any* nuclear shipyard. [MacKinnon Dep. at 271].

164. The Navy "BSC Rating Worksheet" for Shipyards conclusively demonstrates that Philadelphia had a higher rating than Long Beach, since (a) under the four military criteria, Philadelphia had two greens and two yellows and Long Beach had only one green and three yellows and (b) under the three non-military criteria, Philadelphia had one yellow and two reds and Long Beach had three reds. [Yellin Dep. Ex. 1; Yellin Dep. at 25–27; Loftus Dep. at 46–47].

165. The COBRA model as of March 25, 1991 demonstrated that it was cheaper to close Long Beach than Philadelphia. [MacKinnon Dep. at 297; MacKinnon Dep. Ex. 27].

166. Pursuant to the BSC's own procedures, therefore, Long Beach was a more appropriate closure candidate than Philadelphia. [Meyer Dep. Ex. 1–B at 2].

167. Prior to its final recommendations to the Secretary of the Navy, the Navy BSC was advised by Chief of Naval Operations Kelso that Long Beach should be removed from the BSC closure list:

"BSC wanted to close Long Beach Naval Shipyard as well until the Chief of Naval Operations said he needed that yard." [Nemfakos Dep. Ex. 8 at Bates No. 591; see also Armfield Dep. Ex. 5 at 2].

168. To improperly circumvent the fact that Long Beach had the worst rating of all eight Naval shipyards, the BSC simply excluded Long Beach from further consideration because it had one of only two large carrier capable drydocks on the West Coast. Loftus testified that the only basis for the exclusion of Long Beach from consideration for closure was the need for emergent drydock capacity of the West coast. [Loftus Dep. at 72]. He further testified:

"[T]he fact that Long Beach had a carrier size drydock that could be used for emergent work precluded us [from] closing Long Beach." [Loftus Dep. at 76].

169. Long Beach therefore became part of the BSC's illegal "Step 5" procedure and the "BSC Rating Sheet" for Shipyards was revised to reflect that the three red ratings previously assigned to Long Beach by the BSC were crossed out and Long Beach was marked eliminated from consideration by "Step 5." [Yellin Dep. Ex. 1; Armfield Dep. at 55].

170. This requirement of two carrier capable drydocks on each coast is set forth in a long standing CNO policy known as OPNAVINST 3050.22. [Claman Dep. Ex. 1 at 10; Claman Dep. at 88; Hekman Dep. at 57; Hekman Dep. Ex. 10 at 3; April 1991 Navy Detailed Analysis, Tab C at 1].

171. This Instruction requires two shipyards on each coast that are capable of repairing aircraft carriers. The purpose for this instruction is to "have a responsive, geographically dispersed, *strike-free* industrial capacity; have a qualified available workforce whose priorities are *controlled by the Navy;* ensure support of highly *complex* and *classified* work; maintain the *immediate* capability to repair battle damage on *all* ship classes; provide an *immediate* industrial mobilization base." [Nemfakos Dep. Ex. 9 (emphasis supplied); April 1991 Navy Detailed Analysis, Tab C at 1].

172. OPNAVINST 3050.22 was in effect during the Base Closure process. [Hekman Dep. at 57].

173. The closure of Philadelphia violates this longstanding Navy strategic and operational requirement that two Naval shipyards be maintained on each coast that are capable of dock repairing aircraft carriers. [Nemfakos Dep. Ex. 9 at 3; Claman Dep. Ex. 6 at 10; Claman Dep. at 88; Hekman Dep. at 57].

174. The Navy BSC took the position that, although Philadelphia had two large carrier capable drydocks (one *more* than Long Beach), after Philadelphia was closed there would still be two large carrier capable drydocks available on the East Coast—one at the Norfolk Naval Shipyard and one at the Newport News *private* Shipyard. [Loftus Dep. at 61–62].

175. However, unlike the dedicated Naval shipyards where the Navy schedules the work, and can make a drydock available for emergent work, the Navy admittedly has no such control over private shipyards. [Loftus Dep. at 67–68; Yellin Dep. at 207–208].

176. The Navy BSC claimed that, by mothballing the two Philadelphia drydocks, it would preserve the Navy's ability for emergent aircraft carrier repairs in the event that the private shipyard at Newport News was not available. [April 1991 Navy Detailed Analysis, Tab C at 12].

177. However, Vice Admiral Hekman testified that closing a shipyard is "*an irreversible decision.*" He used as examples Hunter's Point and Brooklyn to support his position that, if the Navy mothballs the Philadelphia Shipyard, it will not be able to preserve the drydocks for emergent use and would sacrifice a capital investment facility that the Navy would never be able to restore. [Hekman Dep. at 58–59].

178. Moreover, since Long Beach ranked lower than Philadelphia and was only being retained for "emergent" large aircraft carrier drydock work, *i.e.* the same theory applicable to Philadelphia, the mothballing of Philadelphia's drydocks was a flagrant violation of the Base Closure Act. [Loftus Dep. at 72, 76]. The BSC did not treat the Philadelphia Shipyard equally in applying OPNAVINST 3050.22 to the non-nuclear Naval shipyards. [10 U.S.C. §2903(c)(3)].

179. The Navy's predetermination to close the Philadelphia Shipyard is confirmed by its disparate treatment of the Philadelphia Shipyard during the base closure process.

180. Navy guidelines expressly prohibited non-emergency capital upgrades of any military installations on the 1990 Base Closure List during the 1991 base closure process. [Verified Amended Complaint, ¶¶102–105]. On February 4, 1991, Admiral Claman requested $2,578,000 additional funding for certain items for the Philadelphia Shipyard and $2,425,000 additional funding for the Long Beach Shipyard, including $1,050,000 to upgrade Long Beach to enable that shipyard to obtain nuclear certification. [Claman Dep. Ex. 7; Claman Dep. at 90–92; Verified Amended Complaint ¶¶102–105].

181. In violation of its own guidelines, Admiral Lang endorsed all of Long Beach's shipyards requested additional funding but did not endorse 80% of Philadelphia's request. [Claman Dep. at 90–92].

R. The Navy BSC's "Stonewalling": The GAO's inability To Perform its Statutory Duty of Monitoring the Navy's Process as It Occurred

182. The dual role of the GAO under the Base Closure Act was: (1) to review each Service's base closure process as it occurred and to report to the Congress and the Commission by May 15, 1991 on each process, and (2) to provide assistance to the Commission if requested. [Meyer Dep. at 11–12].

183. Although "required by the Base Closure Act to monitor the Navy's base evaluation process *as it occurred,*" the Navy prevented the GAO from performing this statutory role. [Meyer Dep. at 59].

184. The Army and the Air Force fully cooperated with the GAO and provided them with timely access to documents during January, February and March 1991. [Meyer Dep. at 19, 24 and 25]. By reviewing their base closure processes as they occurred, the GAO was able to validate the logic that went into the Air Force and Army's decisional process. [Meyer Dep. at 26–27].

185. Unlike the Army and the Air Force, during its base closure process, the Navy refused to provide the GAO with any meaningful documentation. [Meyer Dep. at 58].

186. On March 11, 1991, a Pentagon memorandum advised Colin McMillan, Assistant Secretary of Defense (Production and Logistics), that:

"[The] GAO is upset with Navy *not sharing* base closure data. Donna Heivilin has called Dana Berteau seeking his help. Apparently, [Airforce] and [Army] *are sharing.*"

* * * * *

"You need to convince Jackie [Schafer] to cooperate with GAO; believe the law requires it." [Nemfakos Dep. Ex. 4 (emphasis in original)].

187. On that same date, the GAO wrote a letter to BSC Chair Schafer:

". . . To effectively monitor the process, my staff needs timely access to specific types of data developed throughout the process. *We have been denied access to such data since first requested on February 11, 1991. . . .*

"The GAO is required by the [Base Closure Act] to monitor the process *as it occurs,* and report its findings to the Base Closure Commission and the Congress by May 15, 1991.

* * * * *

"The position the Navy Department has taken to this point makes it difficult if not impossible to meet our responsibilities in validating the process. The following data is the minimum we believe we need immediately to be able to perform our legislative mandate:

"(1) Functional categories and the Navy activities placed in each category;

"(2) The major factors and evaluation components to be used in evaluating activities and the definitions of each;

"(3) The capacity analysis, i.e., the data used to determine requirements and the data used to determine existing capacity within the functional categories; and

"(4) The data collected on each base, in each functional category where excess capacity was identified." [Nemfakos Dep. Ex. 5 (emphasis supplied)].

188. Capt. Tzavaras, the head of the BSC Working Group, "expressed frustration about his inability to provide [the GAO] with meaningful data in a timely manner, but reiterated that it [was] out of his hands." [Meyer Dep. Ex. 2 at 1].

189. MacKinnon, the member of the BSC Working Group with responsibility for shipyards, confirmed that, as of March 26, 1991, she had been advised that the GAO's requests for information would be deferred until the BSC made its final recommendations. [MacKinnon Dep. Ex. 23 at 2; MacKinnon Dep. at 257].

190. To partially appease the GAO's request for documents, on March 26, 1991, Capt. Tzavaras provided the GAO with two boxes of "unindexed, unorganized, miscellaneous documents" which consisted primarily of data which was not responsive to the GAO's request. [Meyer Dep. Ex. 2 at 2]. When asked who had made the decision to provide the GAO with the two boxes, Tzavaras "was either unaware or could not say." [Meyer Dep. Ex. 2 at 1]. The GAO later discovered that the boxes were essentially a "dump" of working Group files. [Meyer Dep. at 75; Meyer Dep. Ex. 2 at 3].

191. The GAO concluded that the "bottom line" was that the March 26 data did not "enable GAO to meet its responsibilities as spelled out in the 1990 Base Closure Act." [Meyer Dep. at 76–77; Meyer Dep. Ex. 2 at 3]. Rather, the backup information offered was "poorly organized" and related to a 1990 VCNO study without any explanation of its significance to the instant base closure process. As such, the data was of no use since it would be "like studying the Vietnam War to learn about the Persian Gulf." [Nemfakos Dep. Ex. 3 at 2].

S. The GAO's Inability To Transmit by May 15, 1991, a Report to the Base Closure Commission and Congress That Evaluated the Navy's Process and Recommendations

192. The Army and the Air Force documented their use of the force-structure plan and the military value criteria. The GAO was therefore able to conclude that their base closure recommendations were "adequately supported." [Yellin Dep. Ex. 2 at 3].

193. In stark contrast, the GAO concluded that the Navy's recommendations and processes were not susceptible to GAO evaluation. [Yellin Dep. Ex. 2 at 5, 46–48].

194. After denying the GAO access to its base closure review process for almost three months, the Navy still failed to offer *sufficient* documentation to demonstrate that its process followed the force structure and military selection criteria. [Meyer Dep. at 96, 105]. The GAO was therefore prevented from evaluating the Navy's specific recommendations for closure:

"We were unable to conduct an extensive review of the process the Navy used to recommend bases for closure or realignment, because the Navy did not adequately document its decision-making process or the results of its deliberations. In addition, the Navy did not establish an internal control plan to ensure the validity and accuracy of information used in its assessment as required by OSD.

Due to the limited documentation of its process, we also could not assess the reasonableness of the Navy's recommendations for closures." [Meyer Dep. at 105; Yellin Dep. Ex. 2 at 46 (emphasis supplied)].

195. The GAO had advised the BSC of its frustration with the Navy's *secretive* process and their lack of supporting documentation. As reported to BSC Chair Schafer by her principal deputy Ben Rose:

"Doug [Hanson] said the GAO staffers are referring to the BSC executive sessions as the 'Black Hole' and that the Commission staff is referring to them as the 'twenty-two minute gap.'" [Schafer Dep. Ex. 2 at 1; Meyer Dep. at 35 and 57].

196. The GAO requested a meeting with the BSC on May 7, 1991 to give the Navy one last chance to satisfy the GAO's documentation requirements before the GAO's report was issued. Robert Lawrence Meyer ("Meyer"), Assistant Director of Logistics for the GAO and the GAO person responsible for monitoring each Service's base closure process, testified that the GAO's objective was specifically stated to the Navy. [Meyer Dep. at 41].

197. At the May 7, 1991 meeting, the GAO provided the Navy BSC with an example of how the Air Force had documented its base closure process. The BSC responded that "They had nothing vaguely in any way resembling that, that they had not documented anything to that extent." [Meyer Dep. at 89–90].

198. At the May 7, 1991 meeting, the Navy BSC informed the GAO that it had not kept any minutes or records of the BSC meetings resulting in base closure decisions and had not documented the Navy's base closure process. [Meyer Dep. at 36].

199. The Defense Department had required each of the Armed Services to establish an internal control plan to ensure the validity and accuracy of information used in their base closure assessments. [Meyer Dep. at 103].

200. Meyer testified that the Air Force had put an auditor in place to assure that its data was correct and the GAO was independently able to validate the data. Similarly, the Army audit agency independently validated the Army's data and the Army established an ongoing plan to assure that the data provided to the decision makers was accurate. [Meyer Dep. at 104].

201. The Navy failed to establish an internal control plan as required by the Defense Department. The Navy audit agency was never involved in the Navy's base closure process. [Meyer Dep. at 39 and 103–105]. The GAO therefore had no way of concluding whether any of the Navy's recommendations for base closure were "right" or "wrong", "correct" or "incorrect", or "reasonable" or "unreasonable." [Meyer Dep. at 105].

202. At the May 7 meeting, the GAO advised the BSC that "if there was one," its internal control plan was "inadequate." [Meyer Dep. at 39].

203. In addition to the lack of adequate documentation and the absence of any internal control plan, the GAO determined that it could not evaluate the Navy's "methodology" for reviewing air stations, shipyards or labs. [Yellin Dep. Ex. 2 at 46–48].

204. At no time prior to May 15, 1991, did the GAO receive any documentation from the BSC to explain how it gave overall ratings to bases which had identical ratings on each of the first four military criteria. [Meyer Dep. at 96].

205. In response to GAO questions regarding the rationale for assigning different overall ratings to bases that were given identical ratings on each of the first four military criteria, the BSC inscrutably stated that "not all yellows are equal" and "not all greens are equal." Again, since the BSC's rationale for these decisions was not documented, the GAO could not determine the reasonableness or correctness of the BSC's final decisions. [Meyer Dep. at 95–96].

206. The GAO could not validate whether the Navy's overall ranking of the shipyards corresponded to the evaluations given in the underlying criteria. [Meyer Dep. at 67].

207. There was no way for the GAO to determine what data the BSC had used in making its base closure decisions. [Meyer Dep. at 102].

208. The GAO also identified three additional deficiencies in the Navy's process for determining base closures: (1) insufficient justification to support "the basis for the [BSC's] military value ratings for Navy installations"; (2) the implementation and use of an inconsistent color coding system to rate military bases; and (3) the Navy's failure to assign responsibility for developing and implementing an internal control plan to ensure the accuracy of information used by the Navy in its base structure reviews. [Yellin Dep. Ex. 2 at 48].

209. One of the inconsistencies within the BSC's rating process specifically identified by the GAO included the fact that the BSC had given identical ratings to two naval bases (Mare Island and Philadelphia) on each of the first four military selection criteria, but—without any discernible justification—had arbitrarily assigned an overall rating of green to one (Mare Island) and yellow to the other (Philadelphia). [Yellin Dep. Ex. 2 at 48].

210. Similarly, the BSC had assigned identical ratings to four Naval shipyards, but did not treat such bases equally. Again, the Philadelphia Shipyard was not excluded from the closure process although three other Naval shipyards which received the same rating as Philadelphia were excluded from further review. [Yellin Dep. Ex. 1].

211. Since the BSC "did not document these differences," the GAO "could not determine the rationale for its final decisions" and "could not comment on the [BSC's] closure and realignment recommendations based on the process." [Yellin Dep. Ex. 2 at 48].

212. The GAO also discovered inconsistencies in the Navy's service costs, savings estimates, payback calculations and recovery of closure costs. The GAO report concluded that the result of these inconsistencies was an overstatement of estimated annual savings and a shortening of the payback period for several closures. [Yellin Dep. Ex. 2 at 58].

213. Furthermore, despite Defense Department guidance to the contrary, the Navy used budget data which did not use 1991 dollars as its baseline. [Yellin Dep. Ex. 2 at 55–56].

214. To support its recommendations, the BSC stated that it relied on informal briefings and meetings, most of which were in closed executive sessions. When asked for minutes of these meetings, the BSC stated that:

"Time constraints and the volume of these meetings did not permit them to write detailed minutes of these meetings or to document every decision." [Meyer Dep. Ex. 3 at 3; Meyer Dep. at 91]. In fact, the Navy BSC did not write *any* minutes of its meetings or contemporaneously document *any* of its decisions. [Meyer Dep. at 92]. Instead, the Navy BSC preferred to operate in a shroud of secrecy far from the analytical eye of the GAO.

215. Nor was there any satisfactory reason as far as the GAO was concerned why the BSC could not have kept some record or minutes of its meetings. [Meyer Dep. at 92].

216. Given the BSC's secretive process, the GAO had no way of validating what the Navy claimed occurred at those meetings or the basis for the BSC's decision at those meetings. [Meyer Dep. at 94–95].

217. The GAO's independent Report, entitled *Observations on the Analyses Supporting Proposed Closures and Realignments*, was issued on May 16, 1991, in accordance with the statutory mandate of the Base Closure Act. [Yellin Dep. Ex. 2].

218. The GAO Report concluded that the Navy and its BSC:

(a) Had not treated all bases equally, as required by the Base Closure Act;

(b) Had not complied with the Defense Department's "record keeping" and "internal controls" requirements; and

(c) Had prevented the GAO from performing its statutory mandate of (i) reviewing and analyzing the Navy selection process and the recommendations for Naval base closures made by the Secretary of Defense and (ii) transmitting to Congress and the Commission a report containing a detailed analysis of the Navy selection process and the Secretary of Defense's recommendations for Naval base closures. [Yellin Dep. Ex. 2 at 46–48].

219. Not surprisingly, given their prior "stonewalling" of the GAO, the Chair of the BSC was completely indifferent to the GAO's conclusions. Schafer testified that she did not recall whether or not she read the GAO report, but if she did it was not in any detail:

"If I looked at it, it came through, if it showed up on my desk then I may have picked it up and flipped through it but I did not read this document in detail." [Schafer Dep. at 71 and 73].

220. It was only *after* the Commission expressed concern about the GAO's findings on May 20, 1991 that the BSC *privately* provided the Commission's staff with additional documentation. [Nemfakos Dep. Ex. 7 and Yellin Dep. Ex. 7]. However, the GAO was never given an opportunity to comment on or evaluate the BSC's additional documentation. Nor did the Base Closure Commission ever request the GAO to assess or evaluate the base closure recommendations made by the Navy in light of the additional information. [Meyer Dep. at 106 and 109].

221. Significantly, the Navy *never* provided the GAO with *any* of the following documentation or information:

(a) Detailed information on the bases that were not selected for closure, thereby preventing the GAO from validating the Navy's selection process of base closure candidates [Meyer Dep. at 61–62];

(b) Although Capt. Tzavaras advised the GAO that he was preparing documentation to be shown at meetings between the BSC and certain Navy senior officials, the GAO was never provided with such documentation [Meyer Dep. at 81–82];

(c) The fact that the Navy had a "stealth list" of base closures which had been prepared in 1990 and approved by the Secretary of the Navy in 1990 [Meyer Dep. at 78–79]; and

(d) The fact that the Secretary of the Navy had concurred with the proposal to mothball the Philadelphia Naval Shipyard in 1990 [Meyer Dep. at 79–80].

222. None of the information submitted by the Navy to the Base Closure Commission as

a result of the private meetings between the BSC and the Commission staff from May 20, 1991 to May 29, 1991 was ever made part of the Commission's public hearing process. [Courter Dep. at 29–31 and 39–41].

T. The Base Closure Commission Staff Also Concluded That the Navy BSC Could Not Justify or Rationally Explain Its Base Closure Process and Decisions

223. The Base Closure Commission staff conducted a compliance review of the Navy BSC closure process and decisions. [Yellin Dep. at 54–55; Yellin Dep. Ex. 3].

224. Based upon its compliance review, on May 13, 1991 the Commission staff prepared a report which, *inter alia*, contained the following "conclusions":

"(1) *The BSC did not explain the criteria* used to determine which functional categories to examine for potential subcategory excess capacity.

"(2) *Documentation is provided for only some of the data used by the BSC. There is also no record of BSC resolution of conflicting data or institution of a means of verifying data.*

"(3) Military value (criteria 1–4) evaluation is *totally subjective*. The only documentation of the BSC rating for any of the criteria is a single color grade (green, yellow, red). No information is provided about the evaluation of any factors which contribute in part to the color grade. Conflict with grading for similar criteria in the VCNO Working Group input to the BSC are not explained.

"(4) *Validation* of base exclusions based upon the BSC's overall military value grade of green *is very difficult due to the undocumented and subjective nature of the overall grade*. Exclusion of bases with yellow overall grades are not consistently documented.

(5) The identification of a target number of base closures based upon the capacity analysis of a functional category is part of the Navy's process description that is *not consistently applied*. In most categories *a limited explanation of the reason for a base's selection is provided. No explanation is provided for its choice over another base*. In the same category or subcategory even though other bases may have the same overall military value grade. For most categories no data is provided about remaining excess capacity or an explanation of the reasons for retaining a specific amount of the excess." [Yellin Dep. Ex. 3 at 3 (emphasis in original)].

225. As a result of its conclusions, the Commission staff, *inter alia*, "recommended":

"(1) *The Navy has not provided sufficient documentation of its process and its implementation to allow the Commission to determine if the Navy methodology is in general compliance with the law and the eight DoD criteria.*" [Yellin Dep. Ex. 3 at 4 (emphasis in original)].

226. Thus, like the GAO, the Commission staff found the Navy's base selection process and decisions fatally flawed. [Yellin Dep. Ex. 3].

U. The 1991 Defense Base Closure Commission

227. The Base Closure Act provides for an eight member Commission to conduct an independent, lawful and fair process by considering all military installations "equally without regard to whether the installation has been previously considered or provided for closure or realignment by the Department [10 U.S.C. §2903(c)(3); Courter Dep. Ex. at V].

228. The President nominated, and the Senate confirmed, former New Jersey Congressman James A. Courter as Chairman of the Commission and the following seven as members: William L. Ball, III, former Secretary of the Navy; Howard H. (Bo) Callaway, former Secretary of the Army; Duane H. Cassidy, former Commander-in-Chief of the United States Transportation Command of the Military Airlift Command; Arthur Levitt, Jr., Chairman of the board of Levitt Media Company; James C. Smith II, P.E., an employee of Brown & Root and formerly a member of the Secretary of Defense's 1988 Base Closure Commission; Robert D. Stuart, Jr., former Chairman of the Board of the Quaker Oats Company; and Alexander Trowbridge, former Secretary of Commerce. [Courter Dep. Ex. 14 E–1 and E–2].

229. The Commission established four "teams" to evaluate compliance with the Defense Department's final criteria; (1) an Army Team, (2) an Air Force Team and (3) a Navy Team to evaluate the first four military criteria; and (4) a Special Team to evaluate the remaining four non-military criteria. [Hirsch Dep. at 9].

230. At the recommendation of Commissioner Smith, the Commission hired four additional individuals to supervise each of these teams. [May 17, 1991 BCRC Hearing]. As head of the Navy Team, the Commission hired Alex Yellin ("Yellin"), a Vice President of a Brown & Root subsidiary that was responsible for procuring federal contracts. [Courter Dep. at 266; Yellin Dep. at 9–10].

231. Yellin joined the Commissioner's Staff of May 1, 1991, and he decided that he would personally conduct the review and analysis of the Navy's shipyard base closure decisions. [Yellin Dep. at 10, 18–19].

232. On May 17, 1991, Alexander Trowbridge resigned from the Commission because of a conflict of interest arising out of his ownership of a majority of stock in certain companies that had significant Pentagon contracts. At least one other Commissioner, James C. Smith, II, is employed by a firm that has substantial military construction contracts with the Pentagon. Nevertheless, Trowbridge was the only Commissioner to resign.

233. The Commission established four procedures for gathering evidence to review the Defense Department's base closure proposals: (a) 15 public hearings in Washington, D.C. to receive information from the Defense Department, legislators and other experts; (b) 14 regional and site hearings to obtain public comment related to bases in such regions; (c) site visits by the Commissioners to the major facilities proposed for closure; and (d) review by the Commission's staff of the Armed Services' base closure processes and data. [Courter Dep. Ex. 14 vi–vii, 1–3 and G–1—G–2].

234. Under the Base Closure Act, the Commission was required to submit its Report to the President by July 1, 1991, setting forth its findings, conclusions and recommendations for closures and realignments inside the United States [10 U.S.C. §2903(d)(2)(A)].

V. The Base Closure Act Mandated That the Commission Set Aside Any Base Closure Recommendation That Substantially Deviated From the Force Structure Plan or the Final Criteria

235. The Base Closure Act provides that the Defense Secretary's recommendations must be set aside "if the Commission determines that the Secretary deviated substantially from the force structure plan and the final criteria in making recommendations." [10 U.S.C. §290(D)(2)(B)].

236. The Commission established procedures for determining whether the recommendations of the Secretary of Defense "deviated substantially" from the Force Structure Plan and final criteria, as follows:

"(a) Data used for evaluating Force Structure or one or more of the criteria are so inaccurate as to result in a change in an installation's status from a decision based on correct data; *or*

"(b) The methodology is flawed or was applied inconsistently so that the Force Structure or one or more criteria were effectively not considered, resulting in a change in an installation's status when an appropriate methodology is correctly applied." [Yellin Dep. Ex. 4 at 1]. In sum, the Commission's procedures required that "[g]iven valid data, the methodology used by each Service to evaluate bases must comply with the law [*i.e.* the Base Closure Act] and regulations [*i.e.* the Force Structure Plan, the final criteria and the Defense Department directives]. In addition, the methodology must have been applied consistently to like bases at discrete decision points during the process." [Yellin Dep. Ex. 4 at 1].

237. As demonstrated above, the Commission's Navy compliance team concluded on May 13, 1991 that the Navy's base closure process and decisions were fatally flawed and not in compliance with either the law or the regulations [Yellin Dep. Ex. 3 at 3–4].

W. The Private Meetings Between the Base Closure Commission and the Navy BSC Were Beyond the Scrutiny of the Public Hearing Process

238. The Base Closure Act established an independent Base Closure Commission to ensure that "the [base closure] process is open." [Courter Dep. Ex. 14 at 1–3].

239. The Base Closure Act required the Commission to conduct its proceedings in public and to open its records and deliberations to public scrutiny. [Courter Dep. Ex. 14 at 4–1].

240. As a member of Congress, Courter had been critical of the 1988 base closure process and actively involved in the enactment of the new 1990 Base Closure Act. [Courter Dep. at 89–90; Courter Dep. Ex. 7 at 1]. Courter had publicly identified two problems with the work of the prior Commission: "It was a secretive process. Neither the GAO nor members themselves, not committees felt that they were included or could even follow the work. Courter declared that the new Base Closure Act rectified those new problems: "The GAO has a role, it reports before and after the commission makes their report. Members of Congress will have a total access to our work and to the process. The hearings are open to the press, the public and Washington." [Courter Dep. at 91].

241. The Commission expressly invited and received public testimony in Washington, D.C. from members of Congress. [Courter Dep. Ex. 14 at vi–vii].

242. By letter dated April 23, 1991, the Commission established five pages of procedures to govern Congressional testimony at the Commission's hearings. The Commission's procedures provided that:

"All members of Congress have the opportunity to testify before the Commission in Washington, D.C. Members of Congress will have the opportunity to make introductory comments at regional hearings. However, their formal oral testimony and comments for the record should be presented at the Washington, D.C. hearing." [Verified Amended Complaint, ¶156].

243. The Commission's official procedures also provided that the "recommended deadline for receipt of written material is May 20 to ensure that the Commission has adequate time to review all written documentation." [Verified Amended Complaint, ¶157].

244. On May 22, 1991, the Commission received Congressional testimony on the

Philadelphia Shipyard in Washington, D.C. A regional hearing was held in Philadelphia on May 24, 1991. [Courter Dep. Ex. 14 at G–1 and G–2].

245. Courter testified that "the whole purpose of the public hearings and the input we received from communities was to *scrub the data, was to verify it.* To make sure that our conclusions were based on data that was accurate and data that was corroborated." [Courter Dep. at 113 (emphasis supplied)].

246. The data the Commission obtained from the Navy by July 1, 1991 had the same defect as that criticized by Courter under the prior statute: it was largely acquired in secret and the public was not given any opportunity to scrutinize it. [Nemfakos Dep. Ex. 7, 8; Yellin Dep. Ex. 7].

247. In blatant violation of the public hearing process mandated by the Base Closure Act, the Commission's staff and the Navy BSC held *private* meetings between May 20 and 29, 1991 from which the public and Congress were deliberately excluded. [Nemfakos Dep. Ex. 8].

248. Despite the Act's mandate that the Commission be independent, the purpose of the May 20–29 private meetings was to obtain data to justify the Navy's recommendations after the GAO refused to approve the Navy's closure process. [Courter Dep. Ex. 30–33].

249. At the time that the Commission announced that it intended to hold such meetings to require the Navy to explain its process, Senator Specter's office requested that his staff be permitted to attend these meetings. This request was denied. [Courter Dep. at 87–88].

250. At the first private meeting on May 20, 1991, the BSC advised the Commission staff that the Navy did not operate in the same manner as the Army. They did not track their criteria against the Department of Defense criteria. The criteria simply "didn't cut it." [Armfield Dep. at 28]. BSC member Nemfakos stated that the shipyard process eliminated the green rankings first and then excluded the others "as we thought of them. Didn't make a record of when it happened. Long Beach was a Step 5 because we screwed up." [Armfield Dep. at 55]. The Navy advised the Commission that initially the BSC wanted to close Long Beach and Philadelphia but they took Long Beach off the list because CNO Kelso "said he needed Long Beach, so it received a Step number 5 exclusion." The BSC candidly admitted its closure decisions were "[n]ot a measure of shipyard efficiency." [Armfield Dep. at 70].

251. At the May 20 private meeting, BSC member Nemfakos also informed the Commission staff that the Navy's base closure decisions were "subjective. We started with the comments of operators and then questioned them. There was a lot of give and take. *We can't reconstruct that. We didn't use numbers for four criteria and plug them into a machine.* The answers *would make us close the wrong bases.* That's the process we used in 1988, and we weren't happy with it. *You can't reduce such subjective things to numbers.*" [Nemfakos Dep. Ex. 8 at 2 (emphasis supplied); Armfield Dep. at 14–18].

252. BSC member Loftus similarly stated that there was no way to assign numbers to the criteria. [Armfield Dep. at 15]. Rather, the BSC "deliberately avoided quantifiable things." [Armfield Dep. at 19].

253. Despite the record keeping and internal control requirements in two Defense Department directives, the Navy conceded that there was no documentation of its process because they didn't think they needed it. [Armfield Dep. at 70]. The BSC confirmed that it could not reconstruct its decision process. [Armfield Dep. at 16]. As such, the BSC stated that a somewhat artificial record might be created *after the fact.* The Commission insisted that, if the Navy did not do it, the Commission would do it for the Navy. The Navy finally agreed that "Whether we want to or not, we'll have to give them a one or two-liner that explains why what looks like a green actually is a yellow or red." [Armfield Dep. at 36].

254. On May 22, 1991, the Commission issued a Press Release stating that, during the May 20 private meeting, the Commission staff learned that "the Navy used a great deal of subjective judgment in drawing up its list of recommendations" for closure and realignment. Despite the fact that the Commission had "repeatedly sought clarification from senior Navy Representatives," including "publicly ask[ing] for minutes, notes and any documentation that would give [the Commission] an idea of how the [Navy] came up with its recommendations," Courter publicly announced that what the Commission had received was "inadequate." [Courter Dep. at 180–183; Courter Dep. Ex. 11 at 1].

255. *After* the close of the public hearings relating to the Philadelphia Shipyard, the Commission requested that the Navy BSC provide it with additional information to "try to resolve missing gaps in the information provided." [Nemfakos Dep. Ex. 8 at Bates No. 586].

256. The Navy's BSC did provide additional documents and information to the Commission. [*See, e.g.,* Nemfakos Dep. Ex. 7 and Yellin Dep. Ex. 7]. However, some of this data was not provided to the Commission until *after* it had already concluded its final deliberations and drafted its Report. [June 30, 1991 Navy telecopy to Commission]. Moreover, the GAO was never afforded an opportunity to review or analyze this additional information. [Meyer Dep. at 123–124].

257. Senator Specter and Congressman Weldon also obtained key Navy documents opposed to the closure of the Philadelphia Shipyard which had not been produced by the Navy. [Courter Dep. at 29–31].

258. Despite repeated demands by members of Congress for a public hearing on the additional information supplied by the Navy, the Commission refused to allow any public scrutiny. Furthermore, despite the fact that the Act required the Navy to provide the Commission with documentation relevant to its base closure deliberations and decisions, the Commission never held public hearings to ascertain why the Navy did not produce all of its documents and what other documents had been withheld. [Courter Dep. at 29–31 and 39–41].

259. The public and interested members of Congress were never afforded a meaningful opportunity for public scrutiny and rebuttal of the Navy's documentation or deliberations. [Courter Dep. at 29–31 and 39–41].

X. The Navy Misrepresented Material Information to, and Withheld Key Documents and Testimony From, the Commission

260. The Base Closure Act mandates that the Secretary of Defense make "available to the Commission and the Comptroller General of the United States *all information* used by the Department in making its recommendations to the Commission for closures and realignments." [10 U.S.C. §2903 (c)(4) (emphasis supplied)].

261. Schafer, the Navy BSC Chair, represented to the Commission that "copies of *all the data received and considered by the BSC* have been previously provided to the Commission." [Yellin Dep. Ex. 7 at Bates No. 790 (emphasis supplied)].

262. In violation of the procedural mandates of the Act, the Navy did *not* provide the Commission or the GAO with *all* of the data that it had received and considered in recommending closure of the Philadelphia Shipyard. [Courter Dep. at 29–31; Yellin Dep. at 106–11, 157–158, 172, 177; Meyer Dep. at 78–81].

263. The limited discovery permitted in this case establishes that the Navy willfully misrepresented and withheld key information, which the Commission testified it "needed to determine if the Navy's recommendations were valid," regarding the Navy's decision to close the Philadelphia Shipyard. [Courter Dep. at 183]. The following summarizes the most salient of those misrepresentations and concealments:

(a) *Predetermination To Close Philadelphia Shipyard.* The Navy never informed the Commission that, during its base closure process, it had not considered all bases "equally without regard to whether the installation [had] been previously considered or proposed for closure or realignment," but reaffirmed the decisions to close the Philadelphia Shipyard represented by the "stealth list" and the Three Star Admiral Advisory Committee determination. [10 USC §2903(c)(3); Yellin Dep. at 106–111].

(b) *Net Operating Profits.* The Navy misrepresented to the Commission that the Philadelphia Shipyard costs the Navy $75 to $100 million each year. [Armfield Dep. at 69]. To the contrary, during fiscal years 1989 and 1990, Philadelphia showed a net operating profit for the Navy while the other seven shipyards were losing millions of dollars collectively. In fiscal year 1989, the Navy's Net Operating Result (NOR) reported that the eight Naval Shipyards lost cumulatively $247 million while Philadelphia showed a profit of $111 thousand. Similarly, in fiscal year 1990, the Navy's NOR reported that the eight Naval Shipyards lost cumulatively $151 million while Philadelphia made a profit of $243 thousand. [Naval Shipyard Net Operating Results—1989 and 1990].

(c) *Workload.* The Defense Department represented to the Commission that changes in the force structure "will reduce ship-repair requirements." [DoD April 1991 Report at 64]. The Commission therefore concluded that overall public shipyard workload is falling significantly because of force reductions and budget limitations." [Courter Dep. Ex. 14 at 5-27 and 5-28]. A March 1991 memorandum from NAVSEA's Admiral Claman to the Chief of Naval Operations confirmed, however, that the Navy's utilization of shipyards for large amphibious ships and other large vessels would be between 84.2% and 106.9% for fiscal years 1992 through 1997. [Claman Dep. Ex. 1; April 1991 Navy Detailed Analysis, Tab. C at 2]. Since the Navy requires that shipyards reserve 30% of their space for emergency repairs, it is clear that shipyards, such as the *Philadelphia Shipyard,* servicing large amphibious ships and other large vessels *will have no "excess" capacity during the relevant six year period and should have been excluded from further review under the base closure process.* [Claman Dep. at 42–43].

(d) *Nuclear Navy.* The BSC represented to the Commission that "Navy carrier forces in *the next 10–20 years* . . . will be largely composed of nuclear carriers." [Nemfakos Dep. Ex. 7 at III–3]. There was no support for this assertion in either the Force Structure Plan or any other Navy document presented to the Commission. [Courter Dep. 14 at B–1].

(e) *Nuclear Workload.* Based on misrepresentations made by the Navy, the Commission erroneously concluded that "the projected workload in nuclear shipyards during the 1990s was found to limit the potential for closing any nuclear shipyard *until the late 1990s.*" [Courter Dep. Ex. 14 at 5–28; Loftus Dep. at 76–77]. To the contrary, during the relevant six year Force Structure period, the drydocks at nuclear shipyards are not being fully utilized by *nuclear* workload. [Nemfakos Dep. Ex. 10 at Bates No. 332; Loftus Dep. at 59–60]. Moreover, the only years that the Navy arguably may fully utilize its nuclear drydocks are 1988–2000—a time period which could not be considered under the Base Closure Act's six year Force Structure period. Significantly, the Navy's projected workload at nuclear shipyards includes between 25–50% of work on non-nuclear ships, that could be scheduled at the Philadelphia Shipyard. [Loftus Dep. at 56].

(f) *Philadelphia's Workload.* The Navy misrepresented to the Commission that the Philadelphia Shipyard's workload was simply disappearing. [April 1991 Navy Detailed Analysis, Tab C at 12]. To the contrary, the Navy manipulated the Shipyard's workload by arbitrarily removing ships previously assigned to Philadelphia or refusing to assign additional ships to that yard for work:

"[S]omeone made the decision, for whatever reason, to move workload, of course." [Mackinnon Dep. at 267–268].

(g) *Feasibility of Closing a Nuclear Shipyard.* The Navy affirmatively represented to the Commission that it was "not practical to close a nuclear shipyard." [Claman Dep. at 58; Nemfakos Dep. Ex. 7 at III–3]. Absolutely no data was presented to the Commission on the feasibility of utilizing private nuclear shipyards on the East Coast, such as Newport News or Electric Boat. [MacKinnon Dep. at 66–67; Claman Dep. at 39]. Nor was any data presented (or produced during discovery) that analyzed the cost of closing, reopening or mothballing a nuclear shipyard. [Claman Dep. at 58, 59].

(h) *Cost to Retain Philadelphia as a Ship Repair Facility.* Based on Navy misrepresentations that to keep Philadelphia open costs the Navy $75–100 million per year, the Commission concluded that retaining Philadelphia as a Ship Repair Facility would "increase the cost for work performed at Philadelphia over the cost for the same work performed at a public shipyard with a traditional staffing." [Courter Dep. Ex. 14 at 5–28]. The Navy's documents contained no data or analysis that supported this conclusion. To the contrary, MacKinnon testified that, if conventional work was placed into Philadelphia, there would be no cost to operate the facility as a Ship Repair Facility since even "fixed costs" would be offset by the revenues realized from the Shipyard's workload. [MacKinnon Dep. at 261–262, 267]. In fact, documents withheld by the Navy established that shipyard efficiency would decrease, not increase, as a result of work being transferred from Philadelphia. A March 25, 1991 NAVSEA analysis, *which was never provided to the Commission*, concluded that, for Norfolk to execute the additional carrier workload proposed to be transferred from Philadelphia, Norfolk would have to "significantly increase their employment levels," thereby resulting in a drop in shipyard efficiency and an increased cost to the fleet of approximately $72.8 million, excluding the higher rate differentials for work performed at Norfolk. [Hekman Dep. Ex. 10 at Bates No. 101]. Philadelphia was the most cost-efficient of the eight Shipyards in the county. [Clark Dep. at 8–11; Hekman Dep. Ex. at 7].

(i) *OPNAVINST 3050.22 (Emergent Shipyard Work.* The recommendation to close the Philadelphia Shipyard ignored OPNAVINST 3050.22, a longstanding directive that required 2 geographically dispersed (strike-free) *Naval* shipyards on each coast capable of repairing conventional aircraft carriers in order to maintain *immediate* repair capability. [Nemfakos Dep. Ex. 9 at Bates Nos. 91 and 98]. The Navy misrepresented, and the Commission therefore concluded, that the combination of drydocks available at a *private* shipyard (Newport News) and the mothballing of Philadelphia's drydocks would satisfy this requirement. [Courter Dep. Ex. 14 at 5–27, 5–28].

(A) *Mothball Status.* Vice Admiral Hekman testified that mothballing the Philadelphia Shipyard would not preserve its drydocks for emergent use and would sacrifice a valuable capital investment facility for the Navy. [Hekman Dept. at 58–59]. As such, he repeatedly stated that closing a shipyard is "an irreversible decision." [Hekman Dep. at 59, 89].

(B) *Consideration of Private Shipyards.* The Navy failed to produce key internal Navy documents that described the risks involved in relying on privately owned shipyards for the Navy's emergent carrier requirements. For example, a March 1991 Memorandum from NAVSEA's Admiral Claman to the Chief of Naval Operations—*a document that the Navy failed to produce to the Commission*—clearly recognized that [Claman Dep. Ex. 1 at Bates No. 602]:

"Closure of Philadelphia Naval Shipyard, without retention of the large carrier capable dry docks creates a shortfall in dry dock capability for emergent dockings of aircraft carriers . . . Without the dry docks available at Philadelphia, the only other dock capable of taking an emergent carrier docking is at Newport News Shipbuilding (NNSB) . . . This dock is privately owned and its docking schedule is not controlled by the Navy. The cost to have NNSB provide a dedicated dock under contract is considered prohibitive."

The Commission was also not advised that the Atlantic Fleet advised the BSC that they required "Philadelphia Naval Shipyard as a 'safety valve' when the private sector is unable to successfully complete" repairs. [Hekman Dep. Ex. 10 at Bates Number 98].

(j) *The False "Cost Savings" Associated with Closing Philadelphia.* The Navy misrepresented that it would realize recurring cost savings in the amount of $36 million by closing the Philadelphia Shipyard. [DOD April 1991 Report at 65]. Navy studies, however, clearly proved that there are no "major cost savings" realized by the closure of shipyards.

"Historically, major cost savings for program execution are not realized by the closure of shipyards. In the 1970s, closures of three naval shipyards demonstrated that little if any apparent cost savings can be accomplished on a program basis. This was documented in the 1980 study 'U.S. Shipyard Program Planning. A Basis for Current and Long Range Planning for Facilities and Manpower' which reviewed the impacts of the 1970 closures of naval shipyards." [MacKinnon Dep. Ex. 24 at 3]. Vice Admiral Hekman, then commander of NAVSEA, concurred that closing the Philadelphia Shipyard would save no more than approximately $5 million because shipyard work is a Navy Industrial Funded ("NIF") activity. [Hekman Dep. at 74]. As such, the work has to be performed and "paid for somewhere. So you don't save program dollars." [Mac-Kinnon Dep. at 262]. "There was a mistaken understanding that if we didn't sent ships [to Philadelphia] we would save the money that would normally be spent to overhaul ships. And I said that analysis was wrong. But that was the initial work group's analysis. In order to understand that, you have to understand how the Navy funds [its] shipyards." [Hekman Dep. at 74]. The Navy also concealed the fact that the COBRA model utilized to calculate the recurring cost savings to be realized by closure of the Philadelphia Shipyard did not reflect NIF activities and was therefore unreliable. [MacKinnon Dep. at 182]. On March 25, 1991, the Navy analyst responsible for the Philadelphia Shipyard COBRA analysis concluded that "the economic analysis conducted using COBRA will probably not withstand an outside audit." [MacKinnon Dep. at 301–302].

(k) *Costs of Closure.* The Navy originally represented to the Commission that the one-time cost of closing Philadelphia would be $102 million. [Clark Dep. at 117]. There was absolutely no basis in fact for this closure cost figure. In documents *never produced to the Commission*, NAVSEA had estimated on March 25, 1991 that the one time cost of closing Philadelphia Naval Shipyard was *$458 million*, excluding environmental costs. [Hekman Dep. at 64]. These numbers were consistent with prior NAVSEA calculations and "were known well before this." [Hekman Dep. at 72]. Other *withheld* Navy documents estimated that the cost of closing Philadelphia would be $592 million. [Hekman Dep. Ex. 12]. Not surprisingly, the conclusion attached to the evaluation sheets for *each* of these cost estimates stated: "Remove Philadelphia NSY from base closure list." [Hekman Dep. Ex. 12]. Significantly, it was not until after the President accepted the Commission's closure recommendations that the Navy finally directed the Philadelphia Shipyard to develop actual cost closure data. [Clark Dep. at 113–115, 117; Clark Dep. Ex. 4 at 9]. On July 12, 1991, the Philadelphia Shipyard submitted a "conservative" *$1 billion dollar* estimate for closure of the Shipyard. [Clark Dep. Ex. 4; Clark Dep. at 118–120].

(l) *Defense Department Criterion 5: Payback Period.* The Navy originally represented to the Commission that the one-time cost of closing Philadelphia was $129.8 million, with a break-even period of 5 years and a return on investment period of 3 years. The annual savings were projected at $36.0 million, including a $29 million salary savings calculation from the projected reduction of civilian employees. [April 1991 Navy Detailed Analysis Report, Tab C at 13]. On June 13, 1991, the Navy represented to the Commission that, for purposes of the analysis, the Navy was going to reassign the USS Forrestal to Philadelphia which would reduce the one-time cost figure to $102 million and the payback period to 2 or 3 years. [June 30, 1991 BCRC Hearing at 221].

However, only after the President approved the base closure list did the Navy calculate the actual savings that would result from closing the Philadelphia Shipyard. A Department of Navy FY 1993 Apportionment Review, DOD Base Realignment Closure Program II Report dated August 1, 1991 recognized that there are "no savings" by a reduction of civilian employees at a shipyard since "under NIF, people go with workload." [Navy 1993 Apportionment Review]. The Navy's budget analysis concluded that the annual recurring savings would be only $5 million, not $36 million. [Navy 1993 Apportionment Review]. Significantly, if the true costs of closure, as shown in the FY 1993 Apportionment Review, are applied to COBRA, the payback period to close *the Philadelphia Shipyard becomes nearly infinite under the Defense Department's February 13, 1991 guidelines for calculating costs and savings.* [DOD April 1991 Report at 150–153].

264. Courter testified that the 1991 base closure process was totally different than the process in 1988 because people who had dissenting and different views had an opportunity to testify before the Commission. [Courter Dep. at 127]. To the contrary, the Admiral who was admittedly the most knowledgeable individual in the Navy with respect to shipyards and whose testimony could have corrected the foregoing misrepresentations, was prevented from testifying before the Commission. [Yellin Dep. Ex. 6; Hekman at 49; Yellin Dep. at 93–94].

265. On June 18, 1991, Yellin—the Commission's head of the Navy Team—telephoned Vice Admiral Herman to discuss his position on the Naval shipyards. During their telephone conversation, Yellin was advised by Hekman that:

"Hekman had intended to testify at the Philadelphia Regional Hearing but had been *asked by a senior Navy official not to testify*. Friends, still with the Navy, told him that he was being accused within the Navy of providing documents to Philadelphia officials that were critical of the proposed closure . . . He believed that his opposition to the proposed closure had and would continue to hurt his civilian employment opportunities." [Yellin Dep. Ex. 6 (emphasis supplied].

266. Yellin stated that during their conversation, Vice Admiral Hekman advised him that he "was asked to retire early, in part he believes, because he persisted in disagreeing with the decision to close the Philadelphia Naval Shipyard." [Yellin Dep. Ex. 6].

267. The statements made by Vice Admiral Hekman to the Commission's staff were also made to William Angus, the Director of the Chamber of Commerce of Southern New Jersey. Vice Admiral Hekman informed Angus during several telephone conversations prior to May 17, 1991 that "he had been 'retired' early because of views which he held" and the "many [civilian employment] doors have been closed to him, apparently because of his posture on certain issues within the Navy and DOD." Vice Admiral Hekman was very concerned about the public nature of the Commission hearings because he had "yet to be advised of his permanent retirement status." [Courter Dep. Ex. 3 at Bates No. 125–126, 128, 131–132].

268. Yellin and Angus both confirmed the veracity of their letter and memorandum. [Angus Affidavit; Yellin Dep. at 183]

269. Vice Admiral Hekman testified that he was convinced that his testimony before the Base Closure Commission would alter nothing because the Commission's "conclusions were foreordained" and the Commissioners were "going to give Secretary Cheney what he asked for, regardless of what [he] or anyone else said." [Hekman Dep. at 86, 106]. When asked why he believed this to be true, Vice Admiral Hekman testified that they are "members of the same club . . . that's sort of the way I felt." [Hekman Dep. at 86].

270. Hekman testified that because of the need for Philadelphia's drydocks, he was convinced the Shipyard would not be closed:

"I felt, and have always felt, as I stated earlier, the Philadelphia Shipyard is not going to close. I have always felt that Congress in the end would stop the Navy from doing what I consider to be *an unwise thing*. And I still feel that way today." [Hekman Dep. at 102].

Y. The Base Closure Commission's July 1, 1991, Base Closure Report to the President

271. On July 1, 1991, the Commission submitted its recommendations for the closure or realignment of U.S. military installations to the President. [Courter Dep. Ex. 14 at 1].

272. The Commission findings with respect to the Philadelphia Shipyard were as follows:

"The Commission found that the overall public shipyard workload is falling significantly because of force reductions and budget limitations. The projected workload in nuclear shipyards during the 1990s was found to limit the potential for closing any nuclear shipyard until the late 1990s.

"The largest portion of Philadelphia's recent workload has been CV–SLEP, which the Navy desires to terminate. However, Congress has passed legislation that requires a CV–SLEP at Philadelphia. The Commission found that this CV–SLEP should be completed in mid-1996, about a year before the required closure date.

"Workload is available that could be diverted from public and private East Coast shipyards to Philadelphia to bring its activity up to levels that justify keeping it open. However, this would limit the Navy's ability to meet its target of putting 30 percent of its repair work in private yards . . .

* * * * *

"The Commission found that the combination of carrier-capable drydocks at Norfolk Navy Shipyard, [the private] Newport News Shipbuilding, and the mothballed drydocks at Philadelphia provide capacity for unplanned requirements." [Courter Dep. Ex. 14 at 5–28].

273. There is no written record of the Commission's analysis of the Navy's application of its data to the final criteria under the Act. [Courter Dep. at 188–189].

274. Nor is there any record of the Commission's analysis of the Navy's procedural compliance with the Act or the criteria. Due to the lack of any written record, Courter was asked to describe the Commission's evaluation:

"Q. Now that you know, you say what methodology the Navy used to apply the Department of Defense's eight criteria to all shipyards equally and fairly, would you describe that methodology, please?

"A. . . . The Base Structure Committee . . . made a determination based on all available data, the interviews conducted by the BCS, and the information of the VCNO study as to which—whether there was excess capacity in any particular category.

"They determined that there was excess capacity in the shipbuilding category. They examined all of those. They made further analyses; applied color codes to the various yards, shipyards. They showed some of them, having—perhaps one had all green. Most of them had a mix. They met and had free exchange, and differing points of view, which obviously you are trying to make an important point out of. . . . They eliminated, after—they eliminated some yards because of the fact that they were rated so well. They eliminated others because they were very important for repair of nuclear ships, surface ships—subs, I would imagine. And they looked very carefully at Philadelphia and concluded that, . . . Philadelphia was the most logical one to be taken off the list." [Courter Dep. at 219–221].

275. On Wednesday, July 10, 1991, the President transmitted to Congress his approval of the Base Closure Commission's list of recommendations for base closure and realignment.

Z. The Commission Staff's Own Analysis of the Process Confirms the Commission's Violation of the Base Closure Act

276. On July 10, 1991, Paul Hirsch, Director of Review and Analysis for the Commission, requested that each "Team," *except for the Navy Team*, submit an "After Action Report" to evaluate the Commission's process. The Navy Team was instructed not to finalize its Report until after this litigation was concluded. [Hirsch Dep. at 47, 57–58]. Despite repeated demands that the Commission produce drafts of the Navy After Action Report, the Commission has steadfastly refused.

277. On July 19, 1991, the Special Team responsible for review and analysis of the nonmilitary criteria "for each of the three military service selection processes" submitted a report that represented "the strong consensus of the Special Team members." [Hirsch Dep. Ex. 1 at 1]. This After Action Report aptly summarizes the Commission's defective process.

278. The Special Team concluded that "The Commission did not effectively utilize the time allowed under the defense Base Closure and Realignment Act." [Hirsch Dep. Ex. 1 at 3]. "The four days allotted for base briefings, final deliberations and preparation of the final report was too short." [Hirsch Dep. Ex. 1 at 3]. The Special Team also concluded that there was not enough time to fully answer all Commissioner questions: "The motion process was rushed. And the extreme efforts people were forced to take to prepare the final report before the statutory deadline was evident in the poor quality of the 'advance copy' of the report." [Hirsch Dep. Ex. 1 at 3].

279. The Special Team also criticized the Commissioner's communication with the staff and characterized communication with the Commissioners as "nearly non-existent":

"The absence of communications with the Commissioners kept the staff frustrated and uncertain of whether their efforts were on track or of any significance. R&A was being conducted with a clear definition of 'substantial deviation', yet staff was never able to communicate their findings in this regard to the Commissioners. *It is believed that the Commissioners went into the final voting without a clear understanding of the details of the DoD evaluations and the staff analysis results.*" [Hirsch Dep. Ex. 1 at 6–7 (emphasis supplied)]. "Many hearings and briefings to the Commission were poorly attended by the Commissioners. This resulted, at best, in many topics and discussions being repeated and, at worst, in some Commissioners making decisions with less information than others." [Hirsch Dep. Ex. 1 at 9].

280. The Special Team also concluded that:

"The concept of 'substantial deviation' did not play a predominant role in the review and analysis process. *It should have*. The Commissioners must thoroughly know the process used by the services to determine that they substantially deviated from force structure or criteria. During deliberations, it often appeared that the Commissioners 'bootstrapped' their substantial deviation justifications from conclusions reached for other reasons. Early briefings could have prevented this." [Hirsch Dep. Ex. 1 at 9 (emphasis supplied)]. Since the "substantial deviation" inquiry was the Commission's principal means for determining whether the Navy and the Defense Department had complied with the Base Closure Act, this conclusion is especially devastating to the Commission's conduct herein.

AA. The Senate's Decision Not To Disapprove the Base Closure List Was Not Intended To Pass Judgment on Whether the Navy, the Department of Defense and the Base Closure Commission Properly Complied With the Procedures Set Forth in the Base Closure Act

281. To strike down the Commission's base closure list with respect to the Philadelphia

Shipyard, Congress was required to enact a joint resolution disapproving the *entire* list of military installations recommended for closure and realignment. [10 U.S.C. §2904(b)].

282. Although a joint resolution was introduced into both the House and the Senate, Congress failed to enact the required joint resolution.

283. Thereafter, it became apparent that the Navy intended to rely on Congress' failure to enact the joint resolution as a finding *by Congress* that the Navy, the Defense Department and the Commission had complied with the procedural mandates of the Base Closure Act in making base closure recommendations. [Defendants' Reply in Support of Motion to Dismiss the Verified Amended Complaint at pp. 13].

284. To eliminate any possible question raised with respect to Congress' actions, on September 26, 1991 the Senate accepted an Amendment to the Defense Appropriations Bill that recognized the jurisdiction of the United States District Court for the Eastern District of Pennsylvania to rule on whether or not the Navy, the Base Closure Commission and the Defense Department complied with the Base Closure Act in ordering the Philadelphia Shipyard closed.

285. Specifically, the Amendment states that:

"It is the sense of the Senate that in acting on the Joint Resolution of Disapproval of the 1991 Base Closure Commission's recommendations, the Congress takes no position on whether there has been compliance by the Base Closure Commission, and the Department of Defense with the requirements of the Defense Base Closure and Realignment Act of 1990. Further, the vote on the Resolution of Disapproval shall not be interpreted to imply Congressional Approval of all actions taken by the Base Closure Commission and the Department of Defense in fulfillment of the responsibilities and duties conferred upon them by the Defense Base and Realignment Act of 1990, but only the approval of the recommendations issued by the Base Closure Commission." [102nd Congress, 1st Sess., 137 Cong. Rec. 135, 13811].

286. Prior to the Amendment being offered, Senator Specter clarified that the Amendment was intended to eliminate any question that "the relevant courts, federal courts, will have jurisdiction on any challenge on procedural deficiencies . . . I have discussed it broadly in the Senate, with the distinguished chairman and the ranking member." [102nd Congress, 1st Sess., 137 Cong. Rec. 135, 13781].

BB. The Philadelphia Naval Shipyard Will Suffer Irreparable Harm as a Result of the Department of Defense's and the Base Closure Commission's Failure To Follow the Procedural Mandates of the Base Closure Act

287. Pursuant to the Base Closure Act, the Philadelphia Shipyard must be completely deactivated by the end of fiscal year 1996. If the Navy is able to reassign the Shipyard's workload, the Navy is permitted to close the Shipyard at an earlier date. [10 USC §2904(a)].

288. The Base Closure Act proscribed, however, the Secretary of Defense from carrying out any closure or realignment recommendation *prior* to the expiration of the statutory time period for Congressional approval or disapproval of the joint resolution. [10 USC §2094(b)].

289. Flouting this statutory proscription, the Navy unlawfully predetermined that it would close the Philadelphia Shipyard and engaged in egregious and deliberate conduct designed to prevent Congressional or judicial interference with such closure *prior* to the expiration of the joint resolution time period. [10 USC §2904(b)].

290. The Navy's plan included, *inter alia*, a scheme to immediately "starve" the Shipyard to death by removing all of its incoming workload. [Claman Dep. Ex. 9 at 3-4].

291. In April 1991—*before* the Base Closure Commission had even commenced its deliberations on the Navy's base closure recommendations—the Navy removed the following ships and vessels from the Philadelphia Naval Shipyard's workload schedule:

Ship	FY	Est. Overhaul	Reassignment
USS SAIPAN (LHA2)	94	11 months	to Norfolk.
USS CANOPUS (AS34)	95	4 months	to Charleston.
USS SARATOGA (CV60)	95	12 months	to Norfolk.
USS AMERICA (CV66)	96	24 months	to Norfolk.
USS SIMON LAKE (AS33)	97	4 months	to Charleston.
USS FORRESTAL (AVT59)	98	11 months	to Norfolk.

[Claman Dep. Ex. 9 at 3-4].

292. Since Shipyard workers who are employed by the various planning groups typically work on ships and vessels which are not scheduled to arrive at the Shipyard for one to three years, the significance of reassigning the above workload is that Philadelphia will be compelled to immediately begin layoffs of its highly skilled trades people and workers unless compensating workload is assigned. [Clark Dep. at 63-68, 105-106].

293. The above reassignments were made without consideration of whether such shipyards had the necessary drydock space to perform such work, and manifest a clear intent by the Navy to insulate its decision to close the Shipyard from review by Congress and the Courts. [Yellin Dep. at 185-186].

294. The Navy's intent to make closure of the Philadelphia Shipyard irreversible, and its improper manipulation of data, is further established by the Navy's misconduct with respect to the Navy's award of ship overhaul contracts that are subject to public/private competition under the Competition in Contracting Act. [Clark Dep. at 43-44].

295. Congress has statutorily recommended that 30% of all overhauls and repairs of ships and vessels be subject to public/private competition to reduce costs to the taxpayer and require efficiencies in the Government. This guideline has historically been adhered to by the armed services. [Verified Amended Complaint, ¶195].

296. Pursuant to the Competition in Contracting Act, the Navy recently placed five ships up for bid in the public/private sector: USS Sprague, USS Patterson, USS Haley, USS Rodgers and the USS Daniels. [Verified Amended Complaint, ¶196].

297. Despite the fact that the Philadelphia Shipyard was the lowest bidder on all but one of the public/private bid packages, the Shipyard was *now* awarded *any* of these contracts. [Verified Amended Complaint, ¶197].

298. The Navy, through NAVSEA, engineered this unfair result by arbitrarily imposing unprecedented charges on the Shipyard and creating unjustified and specious deficiencies in the Shipyard's bid proposals. [Clark Dep. at 43-44]. For example, the Commander of the Philadelphia Shipyard, Capt. Clark, agreed that the Shipyard's best and final offer was in fact the lowest bid on the USS Sprague. [Clark Dep. at 43-44]. However, the bid was not awarded to Philadelphia because "irrational and wrong" "costs were added into our bid without our knowledge." [Clark Dep. at 44-46].

299. The Navy has also ceased sending information regarding future bids in the public/private competition sector to the Philadelphia Shipyard. [Verified Amended Complaint, ¶199].

300. In April 1991, the Navy also attempted to officially remove from the Philadelphia Shipyard's workload, the USS KENNEDY (CV67), a 24 month SLEP expressly authorized by Congress to be performed *in Philadelphia*. [Claman Dep. Ex. 9 at 3-5].

301. Despite the fact that, prior to the enactment of the Base Closure Act, the Navy consistently maintained the need to perform a "SLEP"—not an overhaul—on the USS Kennedy, on or about July 10, 1991 the Navy represented to the Senate Armed Services Committee, of which Senator Warner *of Virginia* is the ranking minority member, that it only intended to do a complex overhaul on the USS Kennedy in *Norfolk, Virginia*. The Navy therefore requested that the Senate Armed Services Committee deauthorize the 1991 and 1992 appropriations regarding the SLEP of the USS Kennedy in Philadelphia. [Verified Amended Complaint ¶¶190-193].

302. Clark testified that approximately 6,000 to 7,000 people would be employed if the USS Kennedy SLEP came to Philadelphia. [Clark Dep. at 68 and 106]. However, without compensating workloads, if the USS Kennedy was reassigned in 1993 to a shipyard other than the Philadelphia Shipyard for a SLEP or an overhaul, the Philadelphia Shipyard for all intents and purposes would be forced to close, irreversibly. [Clark Dep. at 66-67 and 106; Hekman Dep. at 59, 89].

303. Moreover, since a shipyard needs two to three years before a ship actually arrives to start work on the planning stage, the Navy's refusal to fund the advanced planning on the USS Kennedy has resulted in the Philadelphia Shipyard having a "number of design engineers for whom" the shipyard would have no work. [Clark Dep. at 64 and 68].

304. Specifically, Capt. Clark testified that he had approximately 250 to 300 professional and technical personnel at the shipyard. He estimated that the shipyard would lose at a minimum 100 of those people by the end of the calendar year 1991. He also testified that some of those people would not be easily replaced. [Clark Dep. at 105].

305. The foregoing clearly establishes the Navy's determination to prevent *any* new work from coming into the Philadelphia Shipyard.

306. As a result of the Navy's announced intention to reassign the USS Kennedy to Norfolk, 1,400 layoffs were scheduled during the first half of the next fiscal year with 400 of these layoffs to occur commencing on September 13, 1991. To implement these layoffs, Capt. Clark was required to request the appropriate Reduction in Force ("RIF") [Clark Dep. at 66-70; Verified Amended Complaint, ¶204].

307. Prior to 1991, Capt. Clark had never sought RIF authority at any time during his prior ten years as Commander of the Philadelphia Shipyard. [Clark Dep. at 63].

308. Due to low morale and a belief that the Shipyard could sustain a sufficient workload, Capt. Clark unilaterally announced to the Philadelphia Shipyard workforce that there would be no RIF's at the Shipyard during 1991. [Clark Dep. at 77 and 99-100].

309. Capt. Clark immediately was contacted by Admiral Claman who was extremely upset that Clark had issued the announcement to the workforce without prior approval of the Secretary of the Navy. [Clark Dep. at 77 and 81].

310. Admiral Claman subsequently contacted Captain Clark and advised him that the Navy had agreed that there would be no RIF in 1991. However, the RIF scheduled for the Spring of 1992 would go forward as

planned and that requested force reduction should number at least 800 employees. [Clark Dep. at 85; Claman Dep. at 20–24].

311. Thereafter, due to Congressional and public outcry, the Navy finally rescheduled the USS Kennedy to Philadelphia.

312. Despite the reassignment of the USS Kennedy, the current RIF plan for the spring of 1992 is still approximately 10 percent of the current workforce of the Philadelphia Shipyard. [Claman Dep. at 24]

313. The foregoing conduct of defendants has caused and will cause plaintiffs to suffer immediate and irreparable harm.

314. According to the Navy's December 1990 Final Environmental Impact Statement for Base Closure/Realignment of the Philadelphia Naval Shipyard ("FEIS"), the direct economic consequence of the proposed closure of the Philadelphia Shipyard includes a reduction in present Navy employment in the metropolitan Philadelphia region (which includes portions of the States of Pennsylvania, New Jersey and Delaware) by 88 percent, which represents eliminating directly almost 15,000 employment positions and indirectly causing the loss of an additional 7,384 jobs in the Philadelphia area. [FEIS at S–8, S–9].

315. The FEIS states that the proposed closure would add an estimated 16,856 workers to the unemployment rolls (a 17.4 percent increase) and increase in unemployment in the region. [FEIS at S–9].

316. The FEIS also states that "many employees of Philadelphia Naval Shipyard would experience difficulty re-entering the labor force without considerable retraining." [FEIS at S–9].

317. According to the FEIS, the closing of the Philadelphia Naval Shipyard will cause a substantial increase in unemployment and a migration of Shipyard employees from the Philadelphia region to other states in search of job opportunities along with a consequent decrease in regional and state income and overall tax revenues for these states. [FEIS at 4.PH–10—4.PH–18].

318. According to the FEIS, direct income and expenditures that would be withdrawn from the Philadelphia region as a result of the proposed closure would total $536.9 million. [FEIS at S–9].

319. An Economic Impact Report prepared by the Pennsylvania Economy League ("PEL") and submitted to the Naval Facilities Engineering Command on October 17, 1990 by the Commonwealth of Pennsylvania and the State of New Jersey concluded that closing the Philadelphia Shipyard would have a much greater impact on the economy of Philadelphia and the entire tri-state region than that set forth in the FEIS since the Shipyard is the largest employer in the Philadelphia area. [PEL at v-xii].

320. Economic activity connected with the Philadelphia Shipyard accounts for $2.1 billion in gross product in the Philadelphia metropolitan region. [PEL at ix].

321. The PEL's Economic Impact Report concluded that the unemployment rate would jump 16.2 percent from 7.8 percent to 9.1 percent in the Philadelphia region, that the region would suffer a loss of $915 million in wage and salary income and retail sales would decline $382.8 million. [PEL at vii, ix].

II. CONCLUSIONS OF LAW

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§1331, 1337, 1346 and 1361; 28 U.S.C. §§2201 and 2202; and 5 U.S.C. §§701 *et seq.*

2. Venue is properly laid in the Eastern District of Pennsylvania, pursuant to 28 U.S.C. §1391.

A. Standards for Granting a Preliminary Injunction

3. To obtain a preliminary injunction in this Circuit, plaintiffs must establish four essential elements: (1) that they have a reasonable probability of success on the merits of their underlying claim; (2) that they will be irreparably injured by denial of the requested injunction relief; (3) that the denial of the preliminary relief will result in greater harm for plaintiffs than that experienced by defendants; and (4) that the granting of preliminary relief will be in the public interest. *Sullivan v. City of Pittsburgh*, 811 F.2d 171, 181 (3d Cir. 1987), *cert. denied*, 484 U.S. 849 (1987); *SI Handling Systems, Inc. v. Heisley*, 753 F.2d 1244, 1254 (3d Cir. 1980).

4. The Court need only determine that plaintiffs have a fair or reasonable probability of success on the merits. *Moteles v. University of Pennsylvania*, 730 F.2d 913, 919 (3d Cir. 1984), *cert. denied*, 469 U.S. 855 (1984); *Oburn v. Shapp*, 521 F.2d 142, 148 (3d Cir. 1975).

B. Plaintiffs Have a Reasonable Probability of Success on the Merits

5. The Court must set aside agency action if the action was arbitrary and capricious, an abuse of discretion, or not otherwise in accordance with law, or if the action failed to meet statutory, procedural or constitutional requirements. 5 U.S.C. §706; *Maxey v. Kadrovach*, 890 F.2d 73, 76 (8th Cir. 1989); *Makair, Inc. v. Civil Aeronautics Board*, 744 F.2 1383, 1385 (9th Cir. 1984); *Great Salt Lake Minerals and Chemicals Corp. v. Marsh*, 596 F. Supp. 548, 552 (D. Utah 1984); *see also Marshall v. Lansing*, 839 F.2d 933, 943 (3d Cir. 1988).

6. An agency's violation of a statute or non-compliance with statutory procedures constitutes arbitrary and capricious agency action and requires the setting aside of agency action. 5 U.S.C. §706; *Gloucester County Concerned Citizens v. Goldschmidt*, 533 F. Supp. 1222, 1228 (D.N.J. 1982).

7. The Navy, Department of Defense and Base Closure Commission are agencies within the meaning of the Administrative Procedures Act, 5 U.S.C. §551.

8. The express purpose of the Base Closure Act is "to provide a fair process that will result in the timely closure and realignment of military installation . . ." [10 U.S.C. §2901(b)].

9. The Base Closure Act places specific mandatory, non-discretionary duties on the Department of Navy, Department of Defense and the Base Closure Commission.

10. Defendants' compliance with the procedural requirements of the Base Closure Act was mandatory and non-discretionary.

C. Defendant's Failure to Consider All Naval Installations Equally

11. The Base Closure Act imposed a mandatory duty on the defendants to "consider all military installations inside the United States equally without regard to whether the installations have been previously considered or proposed for closure or realignment by the Department [of Defense]." [10 U.S.C. §2903(c)(3)].

12. The Department of Navy had reached the conclusion to recommend closure of the Shipyard to the Base Closure Commission based on the SECDEF 17, "stealth list" and Three Star Admiral Advisory Committee recommendations before the Navy even began any analysis of installations pursuant to the Base Closure Act.

13. The Navy's use of and reliance on SECDEF 17 and the "stealth list" and the Three Star Admiral Advisory Committee list resulted in the failure of defendants to consider the Shipyard equally without regard to the fact that it had been recommended for closure before the enactment of the Base Closure Act, and therefore violated §2903(c)(3) of the Base Closure Act, and constituted arbitrary and capricious agency action.

14. The Navy Base Structure Committee's manipulation of, and disregard for, data concerning alleged "excess capacity" at the Shipyard, the cost of closure of the Shipyard, and the scheduling of workloads at Naval shipyards, constitute arbitrary and capricious agency action and are inconsistent with the letter and spirit of §2903(c)(3) of the Base Closure Act requiring that all installations be treated equally.

15. The Secretary of the Navy violated §2903(c)(3) of the Base Closure Act by concurring in the recommendations contained in the "stealth list" of the Three Star Admiral Advisory Committee that the Shipyard be closed on the basis of analyses and procedures which predated the passage of the Base Closure Act.

16. The Commission's failure to consider all Naval installations inside the United States equally, without regard to whether the installations had been previously considered or proposed for closure or realignment, violated §2903(c)(3) of the Base Closure Act and constituted arbitrary and capricious agency action.

D. The Navy's Impermissible Use of, and Reliance on, an Additional Criterion Outside the Final Criteria

17. Agency action is arbitrary and capricious and must be invalidated if the agency relied on factors which Congress did not intend for the agency to consider. *Motor Vehicles Manufacturers Association v. State Farm Mutual Insurance Company*, 463 U.S. 29, 43 (1983).

18. The eight final criteria promulgated by the Secretary of Defense were "final criteria" which, along with the force structure plan, were to be the exclusive basis on which recommendations for closure and realignment of military facilities were to be made. [10 U.S.C. §§2903(b)(2)(A) &3903(c)].

19. The Navy's use of a ninth criterion not published and adopted in accordance with §2903 of the Base Closure Act, the so-called "Step 5" criterion—the direct result of which was the recommendation that the shipyard should be closed—violated §§2903(b)(2)(A) and 2903(c) of the Base Closure Act, constituted arbitrary and capricious agency action, and was beyond the scope of the Navy's statutory authority. *See State Farm*, 413 U.S. at 43; *Farmworker Justice Fund. Inc. v. Brock*, 811 F.2d 613, 622 (D.C. Cir. 1987).

20. The Commission's conclusion that the recommended closure of the Shipyard did not deviate substantially from the Navy's force structure plan and final criteria was arbitrary and capricious and not in accordance with law.

E. Defendants' "Stonewalling" Prevented the GAO From Performing Its Statutory Duties

21. The Base Closure Act imposed a mandatory, non-discretionary duty on the Secretary of Defense and the Secretary of the Navy to "make available to the Commission and the Comptroller General of the United States all information used by the Department in making its recommendations to the Commission for closures and realignment." [10 U.S.C. §2903(c)(3)].

22. The purpose of this requirement was to allow the GAO to monitor the closure and realignment recommendation process as it occurred and report its findings to Congress.

23. The failure of the Secretary of Defense and the Secretary of the Navy to make infor-

mation concerning the Navy's deliberations and decisions available to the GAO violated §2903(c)(3) of the Base Closure Act and constituted arbitrary and capricious agency action.

24. The failure of the Secretary of Defense and the Secretary the Navy to provide the GAO with the data necessary for the GAO to perform its statutorily mandated duty to assist the Commission in its review and analysis of the recommendations for base closures made by the Navy and the Department of Defense violated §2903(d)(5)(A) of the Base Closure Act and constituted arbitrary and capricious agency action.

25. The requirement that the GAO "transmit to the Congress and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process" placed a mandatory and non-discriminatory duty on the Secretary of the Navy and the Secretary of Defense to provide the data necessary for the GAO to perform this statutory function. [10 U.S.C. §2903(d)(5)(B)].

26. The failure of the Navy's Base Structure Committee to keep minutes of their deliberations or to document their selection process, as well as their use of an admittedly subjective process, disabled the GAO from analyzing the Secretary of Defense's recommendations for closures and realignments of Naval installations and therefore violated §§2903(c)(3) and 2903(d)(5)(B) of the Base Closure Act and constituted arbitrary and capricious agency action.

27. The failure of the Base Closure Commission to ensure that the Secretary of Defense complied with the GAO requirements, and the Commission's failure to require the GAO to submit a revised report analyzing the Navy's recommendation and selection process, violated §§2903(c)(3) and 2903(d)(5)(B) of the Base Closure Act and constituted arbitrary and capricious agency action.

28. The private submission of data by the Navy and Defense Department to the Commission after the transmission of the GAO report to Congress and the Commission did not cure the violations of §§2903(c)(3) and 2903(d)(5)(B) of the Base Closure Act, because the GAO was the only statutorily mandated agency authorized to monitor the Navy's selection process as it occurred, and furthermore the GAO never prepared a report analyzing this belatedly-submitted data.

29. The shortcomings in the Navy's process for determining base closures identified by the GAO, including (1) insufficient justification to support the military ratings for Navy installations, (2) the implementation and use of an inconsistent color coding system to rate military bases and (3) the Navy's failure to assign responsibility for developing and implementing an internal control plan to ensure the accuracy of information used by the Navy in its base structure reviews, violated §§2903(c)(3) and 2903(d)(5)(B) of the Base Closure Act and constituted arbitrary and capricious agency action.

30. The Commission's going forward to deliberate on the Navy's recommendations for base closure and realignment despite the fact that the GAO had not performed its statutory duty of reviewing and analyzing the Navy's recommendations and selection process violated §§2903(c)(3) and 2903(d)(5)(B) and constituted arbitrary and capricious agency action.

31. The Commission's decision to adopt the list of closure and realignment recommendations made by the Navy's Base Structure Committee, even though the GAO had found that the Navy and its Base Structure Committee (i) had not treated all bases equally, as required by the Base Closure Act and (ii) had not complied with the Secretary of Defense's "record keeping" and "internal controls" requirements, violated §§2903(c)(3) and 2903(d)(5)(B) of the Base Closure Act and constituted arbitrary and capricious agency action.

F. The Failure of the Defense Department to Publish a Summary of the Selection Process

32. The failure of the Department of Defense to publish in the Federal Register and transmit to the Congressional defense committees and to the Commission a summary of the selection process that resulted in the recommendation for closure for each installation, together with a justification for each recommendation, violated §§2903(c) (1) and (2) of the Base Closure Act and constituted arbitrary and capricious agency action.

G. Failure of the Navy to Follow the Defense Department's Regulations

33. The Defense Department's "policy guidance" and "record keeping" requirement directive to the Military Departments promulgated on December 10, 1990 and the "internal controls" directive promulgated on February 13, 1991 were the equivalent of regulations for purposes of review under the Administrative Procedure Act. *See Lucas v. Hodges*, 730 F.2d 1493, 15047 n. 20 (D.C. Cir. 1984), *vacated on other grounds*, 738 F.2d 1392 (1984).

34. The failure of the Navy to follow the Defense Department regulations by failing to implement an "internal control plan" in order to ensure an accurate and fair decision-making process, failing to ensure the accuracy of its data collection and analysis, and failing to prepare minutes of its deliberations on closures and realignments, constituted arbitrary and capricious agency action and was not in accordance with law. *See, Bodie v. Dept. of Navy*, 827 F.2d 1578, 1580 (Fed. Cir. 1987); *Wojciechowicz v. Dept. of Army*, 763 F.2d 149, 153 (3d Cir. 1985).

35. The Navy's failure to consider all installations "on an equal footing" violated the Defense Department's December 10, 1991 regulations, constituted arbitrary and capricious agency action and was not in accordance with law.

36. OPNAVINST 3050.22 expressed a Navy policy requirement that there be two Naval shipyards on each coast with drydock capability for large conventional aircraft carriers.

37. The Navy's departure from, and violation of, OPNAVINST 3030.22, without announcing that departure or the reasons supporting it, constituted arbitrary and capricious agency action. *See Donovan v. Adams Steel Erection, Inc.*, 766 F.2d 804, 807 (3d Cir. 1985).

H. The Navy's Failure To Adopt or Follow a Proper Force Structure Plan

The Navy's failure to adopt a force structure plan in compliance with §2903(a) of the Base Closure Act violated §2903(a) and constituted arbitrary and capricious agency action.

39. The Navy's use of the three year period from 1998-2000 to justify excluding the six nuclear capable Naval Shipyards from base closure consideration under its "Step 5" procedure violated the six year 1992-1997 Force Structure Plan requirements and, therefore, §2903(a) of the Base Closure Act and constituted arbitrary and capricious agency action.

I. The Commission's Failure To Hold Meaningful Public Hearings and Meetings

40. The requirement of public hearings in the Base Closure Act entailed the right to meaningful hearings, necessitating that all data and information relevant to the proposed closure of the Shipyard be made available to interested parties in advance of the hearing. [10 U.S.C. 2903(c)(4)]; *see also National Wildlife Federation v. Marsh*, 568 F. Supp. 985, 994 (D.D.C. 1983); *Joseph v. Adams*, 467 F. Supp. 141, 160-61 (E.D. Mich. 1978).

41. By requesting and receiving additional documentation from the Navy relevant to the recommended closure of the Shipyard after the close of public hearings, which documentation was therefore not subject to public debate or GAO scrutiny, the Commission violated §2903(c)(4) of the Base Closure Act and its conduct constituted arbitrary and capricious agency action. *See National Wildlife Federation*, 568 F. Supp. at 994; *Joseph v. Adams*, 467 F. Supp. at 160-61.

42. By withholding documentation opposed to closure of the Shipyard and suppressing Vice Admiral Hekman's testimony in opposition to closure of the Shipyard, the Navy violated the requirement of, and right to, open public hearings relative to the closure of the Shipyard, 10 U.S.C. 2903(c)(4), and its conduct constituted arbitrary and capricious agency action.

43. The closed-door meetings between the Commission and the Navy held after the public hearings on the proposed closure of the Shipyard violated the Base Closure Act's requirement that "[e]ach meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public," constituted arbitrary and capricious agency action, and were beyond the scope of the Commission's statutory authority. [10 U.S.C. §2902(e)(2)(A)].

J. Defendants' Deprivation of Plaintiffs' Due Process Rights

44. Plaintiffs (a) Landry, (b) the International Federation of Professional and Technical Engineers, Local 3, (c) William F. Reil, (d) Metal Trades Council, Local 687 Machinists, (e) Ronald Warrington and (f) Planners Estimators Progressman & Schedulers Union, Local No. 2 (collectively the "Shipyard workers and unions"), possess a property right in maintaining their jobs until and unless it is determined through a procedurally correct process and fair application of the final criteria and Navy's Force Structure Plan that the Shipyard should be closed. *See Winsett v. McGinnes*, 617 F.2d 996, 1004-1008 (3d Cir. 1980), *cert. denied*, 449 U.S. 1093 (1980); *Three Rivers Cablevision v. City of Pittsburgh*, 502 F. Supp. 1118, 1130-1132 (W.D. Pa. 1980).

45. Defendants' actions constitute government action which has resulted in the deprivation of the property right possessed by plaintiff Shipyard workers and unions. *See, Three Rivers, supra.*

K. "Reasonable Probability of Success" Conclusion

46. Plaintiffs have a reasonable probability of success on the merits of Count I of the Verified Amended Complaint.

47. Plaintiffs have a reasonable probability of success on the merits of Count II of the Verified Amended Complaint.

48. Plaintiffs have a reasonable probability of success on the merits of Count III of the Verified Amended Complaint.

49. Defendants' violations of the Base Closure Act, arbitrary and capricious actions, and actions in excess of their statutory authority have actually prejudiced substantial rights and interests of plaintiffs.

50. Defendants' violations of the Base Closure Act, and the Navy's violations of the Defense Department's regulations, mandate

invalidation of the list of closures and realignments submitted to Congress and the President insofar as it relates to Naval installations. *See,* 5 U.S.C. §706; *Maxey v. Kadrovich,* 890 F.2d 73, 76 (8th Cir. 1989); *Acadian Gas Pipeline System v. F.E.R.C.,* 878 F.2d 865, 868 (5th Cir. 1989); *Esch v. Yeutter,* 876 F.2d 976 (D.C. Cir. 1989).

L. Irreparable Harm and the Public Interest

51. Plaintiff Shipyard workers and unions will suffer irreparable injury in the loss of their jobs by virtue of the unwarranted closure of the Shipyard resulting from defendants' violations of the Base Closure Act and the Defense Department's regulations, and defendants' arbitrary and capricious agency actions, and actions beyond their statutory authority.

52. The unwarranted closure of the Shipyard will cause substantial economic injury to the Philadelphia area, including the affected areas in the States of Pennsylvania, New Jersey and Delaware, which injury will be irreversible and irreparable.

53. The Navy's actions in redirecting workload to other shipyards, failing to award bids for work to the Shipyard on arbitrary grounds, and attempting to reassign the USS Kennedy overhaul to another shipyard, shows that the Shipyard is threatened with imminent closure if the injunctive relief sought by plaintiffs is not granted.

54. Plaintiffs have no adequate remedy at law.

55. The harm plaintiff Shipyard workers and unions will suffer in the absence of the entry of the preliminary injunctive relief outweighs the harm which defendants will suffer if such relief is granted.

56. The granting of the preliminary injunctive relief sought by plaintiffs is in the public interest.

57. Plaintiffs are entitled to the preliminary injunctive relief they seek based on the evidence establishing (a) defendants' violations of the Base Closure Act, the Defense Department's own regulations and the Due Process Clause of the Fifth Amendment, (b) defendants' arbitrary and capricious actions, and (c) defendants' actions exceeding their statutory authority.

Respectfully submitted,

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Attorneys for the City of Philadelphia.

Dated: October 11, 1991.

CERTIFICATE OF SERVICE

I, Camille J. Wolf hereby certify that on this 11th day of October, 1991, I caused a true and correct copy of Plaintiffs' Proposed Findings of Fact and Conclusions of Law and Appendices in Support Thereof to be hand delivered on the following counsel of record: David F. McComb, Assistant United States Attorney for the Eastern District of Pennsylvania, 3310 U.S. Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania, 19106; and hand delivered to Mark W. Batten, Trial Attorney, U.S. Department of Justice, Civil Division.

CAMILLE J. WOLF.

Mr. SPECTER. Mr. President, in mid-May of this year I decided to file a lawsuit against the U.S. Navy and the Base Closure Commission for violating numerous requirements of the Base Closure and Realignment Act of 1990. The lawsuit was joined by Senator WOFFORD, Senator BRADLEY, Senator LAUTENBERG, Congressman ANDREWS, Congressman WELDON, Congressman FOGLIETTA, the Commonwealth of Pennsylvania, and the States of New Jersey and Delaware among others. In the intervening months we won a motion for a hearing on a preliminary injunction and were granted expedited discovery. Through this process we have uncovered thousands of Navy documents that had been withheld from the Congress during the base closure review process. We also compiled thousands of pages of testimony from Navy and Base Closure Commission officials. This overwhelming amount of evidence paints a chilling picture of how the Navy and the Base Closure Commission deliberately ignored and manipulated the requirements of the Base Closure Act to achieve their own narrowly defined objectives.

Mr. President, since the outset of the base closure review process, I have acknowledged that the number of military facilities in the United States must be reduced. While this is no doubt a painful process, consolidation is necessary in order to balance our limited defense resources with our current strategic objectives. It simply makes no sense to maintain the number of bases and shore facilities to support a 600-ship Navy, when the Navy is being scaled back to 420 ships. Moreover, the diminished Soviet threat and the premium now being placed on rapid deployment forces allows us increased warning time to reconstitute our forces for a major wartime scenario if they are required.

In deciding which bases should be realigned or closed, I have always believed that the emphasis should be placed on ensuring a fair and objective evaluation of all facilities so that we can determine which facilities must be retained in order to meet our security needs by the most cost-effective means possible. Indeed, the base closure process was designed in large part to provide for such an objective evaluation. Unfortunately, the Navy's conduct has demonstrated to us clearly that there are certain institutions whose policy agenda cannot survive the scrutiny afforded by an objective evaluation of their operations. I maintain that it is because of their narrowly conceived bureaucratic agenda that the Navy decided to deliberately flout the intent of Congress and refuse to comply with the requirements of the 1990 Base Closure and Realignment Act.

Our delegation's objective from the beginning of the 1990 base closure process was to make sure that the Base Closure Commission and the Navy had the benefit of the most reliable information available on the operation of the Philadelphia Naval Shipyard. By taking this approach, after the review was complete and the Base Closure Commission had made its recommendations, I anticipated being able to report to my constituents that win or lose the process was fair. As the Commission moved toward completion of its work in late May and June of this year, however, it became clear to me that the process was neither fair nor objective. To the contrary, in violation of the Base Closure Law the Navy had preselected bases for closure and then carefully constructed a sham review process to, on the surface, maintain the appearance of compliance with the law. In order to redress this injustice, I determined that the only plausible course of action would be to file suit against the Navy.

This lawsuit has laid bare a pattern of deceit, obfuscation, and blatant disrespect for the law on the part of the U.S. Navy which I believe is unprecedented in the history of our defense forces. The Navy and the Base Closure Commission, in arriving at their decision to recommend closure of the Philadelphia Naval Shipyard, violated the Base Closure Act in several material respects. The Delegations' "Proposed Findings of Fact and Conclusions of Law" details a number of violations. Some of the most egregious violations are as follows:

First, the Navy did not consider all shipyards equally without regard to prior consideration of proposals to close, the Philadelphia Shipyard.

Second, the Navy's determination to close the Philadelphia Shipyard was based on an ultra vires criterion outside the final criteria promulgated by the Defense Department pursuant to the Base Closure Act.

Third, the Navy's determination to close the Philadelphia Shipyard was based on its allegedly perceived force structure needs beyond the 6-year period mandated by the Base Closure Act.

Fourth, the GAO reported on May 15, 1991 that it was unable to perform its statutory functions with respect to the

Navy's base closure process and decisions because the Navy (i) stonewalled the GAO's efforts to monitor the Navy's base closure process as it occurred, (ii) employed a subjective process devoid of supporting documentation and (iii) refused to institute an internal control plan with respect to its process and decisions in violation of a Defense Department Directive.

Fifth, the Navy's process was not fair because (i) it was not equal but instead predetermined by prior proposals and recommendations, (ii) it was subjective, (iii) critical Navy documents were withheld from the Commission's public hearing and scrutiny process and (iv) Admiral Peter Hekman, the Navy officer most knowledgeable in the operations of Naval shipyards, was discouraged by the Navy from providing critical Navy testimony during the Commission's public hearings.

Sixth, all meetings of the Commission were not open to the public since the Commission directed its staff to hold private meetings with the Navy's Base Structure Committee in a private effort to cure the deficiencies publicly found by the GAO in the Navy's base closure process and decisions.

Seventh, the Commission withheld critical Navy documents, obtained after the last public hearing on the Philadelphia Shipyard, from its own public hearing and scrutiny process.

Eighth, the Navy concealed from the Commission all documents opposing closure of the Philadelphia Shipyard. Members of the plaintiff congressional delegation inadvertently discovered several of these critical documents; however, the Commission held no hearings to publicly scrutinize these documents or to ascertain the existence of other concealed Navy documents.

Mr. President, I ask unanimous consent that the full text of our "Proposed Findings of Fact and Conclusions of Law" be submitted in its entirety into the RECORD. These findings reference a number of documents and depositions submitted as evidence in our lawsuit. While I do not expect my colleagues to review all of this material, I think anyone can see, even from a cursory review, that the evidence strongly supports the conclusion the Navy and the Base Closure Commission violated the Base Closure and Realignment Act of 1990. I will also insert into the RECORD at a later date key portions of the testimony referenced in the "Proposed Findings of Fact."

Mr. President, the allegations my colleagues and I have made are extremely serious and should not be taken lightly. Unless we are confident that the Navy's base closure recommendations reflect compliance with the base closure law and that they were conceived with the principal objective of meeting our evolving defense requirements, then we would be setting a dangerous precedent if we ignored evidence that the Navy has violated the base closure law. The simple fact is that in recommending the Philadelphia Naval Yard for closure the Navy was seeking to eliminate its most cost-effective facility for servicing conventional ships, which presently comprise over 95 percent of the surface fleet. Without Philadelphia, the Navy will be forced to service almost all of its conventional ships at nuclear yards where the cost of work would be priced using a considerably higher nuclear overhead rate. The long-term cost to the taxpayer will be billions of dollars. The Navy cannot provide any explanation for this massive projected cost overrun.

Mr. President, I believe that if we do not take corrective action at this juncture, we will soon be faced with a Navy infrastructure which is completely inappropriate for supporting our future naval forces.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PELL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, I ask unanimous consent to speak in morning business for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. I thank the Chair.

REPEAL OF THE 10 PERCENT EXCISE TAX ON BOATS

Mr. KASTEN. Mr. President, last week Congress finally approved the extension of unemployment benefits. These benefits are critical to those American workers who have suffered and lost their jobs due to this recession.

While the extension of unemployment benefits was a critical step to help those in need, American workers want Congress to address this recession with more than just unemployment checks. America's families want jobs.

One group of American workers are particularly desperate for Congress' help. These are America's boat builders and retailers.

While thousands of boat workers have already lost their jobs because of Congress' excise tax, the so-called luxury tax, thousands of jobs can be saved if Congress acts now to repeal the luxury tax.

This disastrous tax is anything but a luxury for the 19,000 middle-class boat workers who have lost their jobs this year because of it.

I voted against the tax 1 year ago when it was approved, and I have been pushing for its repeal for months.

But time is running out.

In addition to putting thousands of middle-class workers in the unemployment lines, the boat tax is forcing plant closures, it is aiding our foreign competitors by destroying one of America's finest manufacturing industries.

It is costing the Government far more in lost tax revenue and collection costs than it will raise.

This tax must go now. Every month Congress delays more workers lose their jobs.

During this past summer and fall there has been no shortage of evidence concerning the tremendous destruction that this tax has brought to the marine industry. Congress has heard testimony from unemployed boat workers, and from boat builders. Businesses have closed, the unemployment lines have grown longer, and still Congress has done nothing.

This inaction is no longer acceptable; Congress must act now.

If we fail to act before the recess begins, the earliest this tax will be repealed is next spring or maybe even early next summer. By then thousands more workers will have lost their jobs and an entire sector of America's marine industry will have been wiped out.

This tax is a nightmare for thousands of Americans, it was apparently not enough that 100,000 workers in the marine industry had already lost their jobs due to the economic slowdown in 1989 and 1990. Ignoring this, Congress imposed the 10-percent excise tax. This has been the last straw for many boat builders across this country and in Wisconsin and also many retailers.

Numbers just released by the National Marine Manufacturers Association show that 15,000 people were laid off last fall when dealer orders failed to materialize in anticipation of the luxury tax, and 4,307 people lost their jobs this past spring at just 66 boatbuilding facilities that were surveyed.

In fact, 37 percent of employees at both manufacturers and dealers have lost their jobs this year alone. The reason is clear, since the luxury tax was enacted there has been a 70-percent decline in sales of new boats over $100,000.

Because some politicians here in Washington were looking for ways to punish the rich, thousands of middle-class workers must now be told they have lost their jobs.

The irony is that this tax is not hurting the wealthy. They are simply buying other products. They are not buying those new boats. Workers are paying this tax, with their jobs.

Wisconsin is particularly hard hit by this tax. Two years ago over 18,000 people in our State were employed in the marine industry, and today that number is down to 15,000. Hundreds more will soon lose their jobs unless the boat tax is repealed.

In August, I visited a number of boat builders to see first hand the impact of this tax. Cruisers Inc. in Oconto, Carver in Pulaski, Skipperliner in La Crosse have all been severely impacted by the tax. And it is not just those who work for these businesses that are hurt. The tax base of Oconto, Pulaski, and La Crosse, and other cities, is adversely impacted and dozens of businesses in these communities are suffering the ripple effect of job losses in the boat building plants. I just received word last week that Burger Boat in Manitowoc has closed down, and other companies in Wisconsin are in serious trouble due to this tax.

One company has told me flat out that their situation is so desperate that they will be forced to close in the next several months unless this tax is repealed now.

Another ironic aspect of the boat tax is that the Federal Government is losing millions of dollars because of it. A report put out in July by the minority staff of the Joint Economic Committee shows a minimum net loss to the Federal Government of $15.2 million in 1991, a net loss to Government, $15.2 million, in other words, increase in the deficit.

While the Joint Tax Committee has projected only $3 million in revenue from this tax, this figure includes no offset for the job loss that has resulted from the tax. Using an extremely conservative job loss number, the Government will lose $8 million in income tax receipts and $8.1 million in lost payroll tax receipts. The sum of $2.1 million in Federal unemployment payments will be paid out at cost to the Federal Government, at losses to the Federal Government, and increases to the deficit.

On top of all the suffering and job loss we have a tax that does not even raise money for the Government.

In September I chaired a hearing of the Small Business Committee to examine the impact of this tax on small businesses. Witnesses from both the manufacturing and retailing sectors testified to the job loss and devastation that this tax is bringing to the marine industry.

Particularly compelling was the testimony of Chet Markley, president of Local S 88 of the International Union of Shipbuilding Workers of America. Mr. Markley is one of the thousands of workers who has lost his job because of this tax. He stated clearly that the members of his union are the victims of this tax, not the wealthy.

I call upon all my colleagues to join me in working for the immediate repeal of this tax. This is one critical way we can help thousands of workers across America keep their jobs in the midst of this recession.

Each week we fail to act more workers will join the unemployment lines and more families will suffer.

Mr. President, I yield back the remainder of my time and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed as though in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

YUGOSLAVIA

Mr. LEVIN. Mr. President, the reports from Yugoslavia are appalling as Croatian cities and towns are being devastated by the Yugoslavian Federal Army. The world has stood by in horror as Dubrovnik, Vukovar, and other cities have been attacked, with many people killed and priceless cultural treasures threatened.

Mr. President, over 3 weeks ago the Senate passed Senate Resolution 210, in which the Senate urged the President to provide active leadership in encouraging the United Nations to promote and maintain a cease-fire in Yugoslavia. Three weeks of precious time. The time is past for any further delay. Senate Resolution 210 urged the President to support by any appropriate actions the resolutions of the Security Council—and this is the key language—including consideration of sending a U.N. peacekeeping force to Yugoslavia. The events of recent weeks virtually demand immediate United Nations intervention. If ever there was a situation needing U.N. intervention, and if ever there was a situation the founders of the United Nations envisioned as the purpose of the international body, this is it, right now in Yugoslavia. The Security Council should act immediately to stop the bloodshed and destruction, and the United States should do what is necessary and appropriate to see that it does. The President should act immediately, working to see the U.N. peacekeeping forces are sent to Yugoslavia.

A little over a week ago, the European Community placed economic sanctions on Yugoslavia, and the President announced that the United States would join the European Community in this effort. This is appropriate, if it is targeted properly at the right parties who are creating the problem, but it is not enough. The earlier-passed United Nations weapons embargo should be tightened, and a targeted complete oil cutoff should be implemented as part of any sanctions, but this, too, is not enough. Cyrus Vance has been working ceaselessly as the emissary of the U.N. Secretary General. But that, too, has proven not to be enough. What is needed is strong leadership at the United Nations to send peacekeeping forces to protect the boundaries of the component republics. If the United States or the European Community or the United Nations waits until the parties agree, they will possibly be waiting forever. The United Nations should decide what is right under international law and seek to implement it.

The Serbian Government has been rejecting for weeks peace plans offered by the European Community that have been accepted repeatedly by the other republics. During this time, by using the Serbian-dominated Federal Army, the Serbian Government has conquered about one-third of the territory of Croatia.

The United Nations, with full support by the United States, should support the sanctions, send in peacekeeping forces, and organize and mediate peace negotiations. The European Community plan of sovereign states loosely confederated is a reasonable basis for those negotiations. What will have to be abandoned is the Serbian Government's design for a greater Serbia.

Last week the Serbian-dominated Federal Army indicated is willingness to have U.N. peacekeeping forces in Croatia. Croatia has expressed its resistance to having its sovereign territory occupied by the Federal Army and having the presence of U.N. forces freezing in place an illegal occupation. But this is the sort of bitter and deadly disagreement that cannot be resolved until after the United Nations—with the full commitment of the international community—is present on the ground, at a place where the United Nations determines is appropriate by applying international law.

The parties are not going to be able to agree, apparently, as to where the appropriate place is for the United Nations forces to be located. So the United Nations, carrying out its own charter and its own historic purpose, should make the determination where its forces should go, applying international law, and seek to send those U.N. forces to those points.

The history of the people in the Balkans—Croatian, Serbian, Slovenian, Albanian, Hungarian, Macedonian, and many others—is complicated and difficult, and there have been tragic chapters in the history of each. Sadly and regrettably, each can point to a place and time where great wrongs, horrible events, were committed against them.

A demand of history is to never forget; but the lesson of history is to learn from the past, to grow, to establish peace, and to ensure that such horrors do not recur. To meet this obligation requires skill, tenacity, and wisdom.

Peace is possible. The wrongs of the past cannot be erased, but acknowledgement and reconciliation is possible. Through fair and impartial negotiations, the legitimate and peaceful interests of all parties can be met.

The only way that will happen is if the United Nations Security Council acts quickly to stop the bloodshed, begin the processes of negotiations, and authorize peacekeeping forces to go to Yugoslavia, to those places where those forces belong under international law as determined by the United Nations.

The President of the United States should lead the way.

Mr. President, the Senate has adopted a resolution already, 3 weeks ago, a resolution which I submitted with Senator LUGAR and Senator GORE, Senate Resolution 210. We have agreed to it. It urges the President to exercise the leadership at the United Nations which this situation now clearly requires.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. CONRAD Mr. President, I ask unanimous consent that I be granted leave by the Senate to be absent for the remainder of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered. Leave is granted.

Mr. CONRAD. Mr. President, there is a funeral that I feel I must attend and that is the reason for the absence. I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS POST-TRAUMATIC STRESS DISORDER TREATMENT ACT

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, let me thank the managers of the bill for their extraordinary patience in meeting a situation of mine. I was speaking to a congressional wives group and it was a little longer than I had anticipated. I thank them for their courtesies.

May I inquire of the parliamentary situation? At 1:40, are we not to desist our activities?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. So we will go forward and at that point we will just simply move from this legislation into the business of the day under the previous order.

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. I thank the Chair.

AMENDMENT NO. 1361

(Purpose: To provide for the indexation of cost-of-living adjustments in rates of certain compensation)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This is my final amendment of the day.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 1361.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, below line 14, insert the following new matter:

TITLE IV—MISCELLANEOUS

SEC. 401. INDEXATION OF COST-OF-LIVING ADJUSTMENTS IN RATES OF COMPENSATION.

(a) IN GENERAL.—Section 5312 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Effective December 1 of each year, each rate of disability compensation under sections 1114 and 1115 of this title, dependency and indemnity compensation under sections 1311, 1313, and 1314 of this title, and the clothing allowance under section 1362 of this title shall be increased by the increase in the price index for the base quarter of such year from the price index for the base quarter of the immediately preceding year, adjusted to the nearest ⅒ of 1 percent. The price index for a base quarter shall be the arithmetical mean of such index for the three months comprising such quarter.

"(2) For the purpose of this section—

"(A) The term 'price index' means the Consumer Price Index—Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics; and

"(B) The term 'base quarter,' with respect to a calendar year, means the calendar quarter ending on September 30 of such year.".

(b) PUBLICATION REQUIREMENT.—Section 5312(d) (as redesignated by subsection (a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) Whenever disability compensation, dependency and indemnity compensation, and clothing allowance rates are increased under subsection (c), the Secretary shall publish the rates (as increased) in the Federal Register as soon after such increase as practicable.".

(c) ADMINISTRATIVE ADJUSTMENT.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Mr. SIMPSON. Mr. President, this amendment provides legislation that I think would remedy a very disruptive situation which is faced by many disabled veterans and their survivors in this country today. I am joined in this effort by Senators on both sides of the aisle, and I appreciate that.

Last fall, the Congress failed to pass a cost-of-living allowance adjustment [COLA] for the veterans of the United States when the bill became absolutely loaded down with unnecessary costly and burdensome provisions; it became an absolute Christmas tree deluxe.

Several of us tried to resolve that situation, and we were poised to pass a bill that would have provided only for a cost-of-living adjustment, but that effort was stymied, totally stymied and stonewalled, by an objection in the House of Representatives. Propitiously then this year, we managed to pass a clean COLA bill, H.R. 1046, and the President has already signed that into law. I am relieved that we were able to avoid the debacle of past years regarding a COLA bill.

But I, like the cosponsors of this legislation, believe that veterans deserve to have their COLA without having to depend on Congress to pass separate legislation authorizing it in every year.

That is why I am offering this amendment today which would provide for an automatic cost-of-living adjustment for veterans who receive disability compensation and for their surviving spouses and children who receive dependency and indemnity compensation, DIC. It would also automatically increase the clothing allowance for those veterans who have service-connected disabilities that require them to use prosthetic devices that cause their clothing to wear out extraordinarily quickly.

Adoption of this amendment would assure that these veterans who have given so much for their country—and that is why we supported these people so remarkably throughout the decades—to assure that they would never ever have to again depend upon the political posturing of the Congress for their cost-of-living adjustment.

The veterans' cost-of-living adjustment has always been a very popular piece of legislation. Who could possibly argue that it is undeserved? Not one of us here. That is not the issue. It is clearly deserved. And that, therefore, makes it an extraordinarily attractive vehicle for all kinds and forms of legislation that cannot stand on their own merits or to which very valid objections should be raised.

Unfortunately, it has come to be regarded as an unstoppable freight train through this Chamber, decked out in holiday raiment of the most extraordinary nature with all kinds of provisions of questionable utility or value. But that unstoppable freight train was stopped last year, and the year before that and the year before that, and the year before that, Mr. President. The Senate was never given the opportunity to vote on a bill that would have simply assured that disabled veterans and dependents received a cost-of-living adjustment. Rather, the veterans' COLA bill became entangled in a rear guard, tough, political fight on other issues and was not passed.

Consequently, the veterans had to wait until later in the year to realize their adjustments instead of receiving them at the first of the new year, just like Social Security recipients do and other recipients of Federal benefits that are tied to indexing.

I think, finally, veterans deserve peace of mind of knowing inflation is not going to eat up their benefits. COLA's are intended and designed to assure that those benefits keep pace with inflation. That is why we need an automatic COLA, as is the case with Social Security and a number of other Federal benefits.

By making the COLA automatic and removing it from the political arena altogether, veterans will then be guaranteed the COLA they deserve when it is due. They will not have to wait for months while we go back and clean up our activities.

Now, you will hear some rather extraordinary arguments from the negativists and the alarmists and also from some of the professional fundraising veterans' organizations. I use that term because some of them are very valid in the work they do and some are realy extraordinary in the fundraising activities that they do. You have only to ask for their records and books when you send in a contribution. They will furnish it. You be the judge as to how much you think those veterans receive and how much goes to the organization and the staff.

So I do make a differentiation between professional veterans' organizations and professional fundraising veterans' organizations.

As a matter of fact, you probably have already heard from some of them. In fact, they responded to my Dear Colleague letter regarding this issue much swifter than any of my colleagues. That is kind of an arrow in its flight as I discerned it and with more alacrity than any of my distinguished colleagues could have responded. It was almost instantaneous.

But the hype and the angst that are stirring their ranks is just not valid. What the professional fundraising veterans' organizations often fail to mention is the fact that 13 pieces of major legislation have been passed into law this year alone. It is an extraordinary record for our committee, of which the occupant of the chair is a member, a very fine participating member; 13 major pieces of legislation—count them—without being attached to any kind of a COLA bill. That is, 13 major pieces of legislation that have become law this year alone independent of a COLA bill, and that is the way to do the Nation's business.

Mr. President, in past years, it is these very same organizations that have written to you and to me and to all of us here on this floor and in the committee and asked us to "endorse the separation of the COLA from other contentious issues." The reason for that is so a timely, clean COLA could be passed.

That is exactly what this amendment would do, and it would make the COLA automatic also. I really do not understand what is so undesirable about that.

What the professional fundraising veterans' organizations really mean but will not say is that they do not want the COLA bill indexed to the Consumer Price Index and adjusted annually because that would take away from them one more vehicle on which to attach all sorts of leftovers. That is leftover legislation that they cannot pass up front or in a freestanding mode. That is what they want. That is exactly what they want and nothing more—another vehicle to just hang legislation on, and it is always the contentious legislation, usually having something to do with agent orange. What is more contentious than that? It usually has something to do with presumptive diseases. What is more contentious than that? There are 43 diseases in the statute books that state, "if you have a certain disease, even if it was 20 years back, it is presumed that you got the disease through military service." There is a tremendous cost on presumptive diseases!

We ought to really have a hearing on that one day. It would be stunning. I do not know if we will, but we ought to.

And so they wait for the great train to go through so they can hook this on the caboose or the mail hooks as it roars through the station.

Well, others, I think, in this situation have shared that. Certainly, the VA believes it is an amendment that should be considered. State groups, such as the Disabled American Veterans—I had a fascinating letter from the department of Rhode Island—they support this amendment 100 percent. That group said, "We have adopted a resolution * * * urging passage of a Senate bill * * * which calls for an automatic COLA for veterans compensation and dependents' indemnity compensation. We greatly appreciate the role you have played in sponsoring this important legislation. Your sensitivity to veterans issues is to be highly commended."

I appreciated that.

In another letter from the Americans for a Balanced Federal Budget Association, an association of more than 170,000, I am informed thusly: "We strongly support your Veterans' Compensation Indexing Act. We are committed to the principle that America must be generous in its compensation to those who became disabled, and to the survivors of those who lost their lives, when they answered their Nation's call.

"But we are concerned that annual COLA bills can too easily be used as legislative Christmas trees: A cost-of-living adjustment for disabled veterans and survivors of our war dead is so obviously appropriate and important that the bill providing it becomes sacrosanct, and ornaments hung on it can not be criticized except at great political risk." I can tell you about that.

Just the last two amendments are a great political risk. In paraphrasing the Americans for a Balanced Budget, let me make this as clear as I know how. If Congress decides that veterans' and survivors' benefits must be approved, then that is all well and good. But let those proposals be examined and judged based on their own merits, not tied to a political football that is shielded from any appropriate scrutiny because of the must-pass attitude regarding the entire bill.

It is always at the last. This baby only comes to us in extremity at the end. Do not let this stop. Veterans will not get their COLA. What does it have on it? Well, 10 other pieces of legislation. What are they? Well, they are all the 10 pieces of legislation we did not get out of committee when we had our meetings over the course of the year. That is what the 10 pieces of legislation are. What is it? I think it is time to deal with that.

So let those proposals be judged on their merits, not shielded from the pressures of the last hours. That is the way it always works.

I have had some interesting discussion with my colleagues on the floor, Democrat and Republican alike, and in those last hours. I will say you can pass that if you want. I know you are going to. In the House of Representatives they do not deal with things that way. They deal with it responsibly and up front. Do not hook it up, hang it on. And that is the way SONNY MONTGOMERY and BOB STUMP do their business over there with the Speaker assisting.

That is the way we should do our business here. That is a way to do our business.

In closing, let me just say this: No one, least of all me, or others who will speak on this issue, would wish to see the disabled veterans or their survivors have to do without their cost-of-living adjustment. That is not what we are talking about. They deserve one—I have always voted for it, for one—just as many Social Security recipients and others deserve one. The time has come for us to make their COLA automatic. Make it automatic, too, just as the Social Security COLA is automatic, so that these veterans never again have to worry that they might not get their benefits—adjusted to account for inflation—because of political gimmickry.

We all know that Congress is going to continue to be very responsive to the needs of veterans, and that it does not need a COLA bill to do that. Clear evidence of that was presented again this past month when we passed a clean, timely COLA for the veterans of America; just what we ought to have done. And it is called, again as I say, a separate track. We have pursued this year passing these major pieces of veterans legislation. We do the Nation's business. We do it well for veterans.

Mr. President, I wish to correct my remarks in the RECORD with regard to the issue of presumptive diseases. Apparently those have burgeoned a great deal since I started and was chairman. There are now 84 presumptive diseases on the statute books. Hear that, because it means that even if it is a disease found in 80 percent, 60 percent, 100 percent of the rest of the American population, it is presumed that you contracted that disease because of military service.

That alone is a tremendous cost to the people of America. Perhaps it would be borne somewhere else in the health care system. I think that might be. Perhaps we ought to be looking into the use of Department of Defense facilities and veterans' facilities. But there is a great, great division there dealing with that issue. Yet we have beds that are unused in some of those facilities.

Now we have a health care situation in America which is costing us $700 billion a year. And still various reports assert that we do not furnish enough for veterans.

We will get to the bottom of those facts in that report. I will certainly want to be part of that issue because it goes with the litany that we somehow do not get the job done for veterans. That is how we come to these junctures in legislation. It does not come from anyone who does not care. People do care.

I admire the majority and the staff, very creative staff, as they put these bills together, but never tell us really how we are supposed to pay for it.

So, Mr. President, I pledge my efforts to secure passage of this provision to provide a veterans cost-of-living adjustment, a bill that is assured of rapid passage because it contains only a veterans cost-of-living adjustment and nothing else.

I ask for support of this amendment and trust that we will make the effort to assure that the COLA for veterans each year is automatic, and not subject to the pressures of those always pushing for left-over goods and left-over legislation in the frantic last hours of the session.

I thank the Presiding Officer.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senator from Vermont [Mr. LEAHY] be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I am going to have some remarks on the amendment of the Senator from Wyoming. But before I do that, I yield to the distinguished Senator from Hawaii who has been here most of the morning waiting to discuss this particular amendment. I yield to the Senator whatever time he may need, although I understand we only have about 5 minutes before we have to break.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I thank the floor manager for yielding. I will ask for just about 3 minutes.

Mr. President, I oppose the amendment offered by my good friend, the Senator from Wyoming.

While it is true that this measure would guarantee that veterans and their survivors who receive disability compensation checks would receive automatic cost-of-living adjustments each year, it is also true that veterans as a whole would lose much more.

Mr. President, this amendment would strip us of a must-pass vehicle for enacting important new veterans legislation. Almost without exception, the major health and compensation initiatives Congress has adopted in the last 20 years have been enacted as part of a disability COLA bill. The reason is simple: Opponents of progressive legislation would have been buried under an avalanche of well-justified outrage if they had attempted to obstruct passage of such a bill.

Mr. President, we have seen such outrage demonstrated last year, when, for the first time, Congress failed to enact a disability COLA bill before the beginning of a calendar year. That unfortunate drama resulted in disabled veterans receiving their COLA adjustment 3 months late. Although the important agent orange provisions that had precipitated the COLA delay were ultimately enacted in modified form in separate legislation, no one can deny that their having been included as part of the original COLA bill was the deciding factor in their eventual adoption.

Mr. President, as the deficit continues to plague us, as the economy continues to decline under the administration's directionless policies, veterans programs stand in greater need of protection than ever before. We in the Senate must maintain whatever leverage we can in promoting the interests of our 27 million former servicepersons. In the face of a President who governs by rejection, who eagerly wields vetoes against civil rights, family planning, unemployment benefits, and family and medical leave bills, to name just a few, we cannot afford to give up the legitimate rights of the Senate majority to please those who oppose positive change in the veterans agenda.

Thank you, Mr. President. I hope that my colleagues will oppose this amendment. I also hope that our major veterans organizations, all of which oppose this amendment, will make it clear to their membership that this is not about whether veterans will receive their compensation COLA's—veterans have and will always receive an annual adjustment; rather, it is about whether the U.S. Senate will continue to be a progressive force in behalf of the Nation's veterans.

Thank you, Mr. President.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

Mr. SPECTER. Will the Senator withhold?

Mr. DECONCINI. Yes.

Mr. SPECTER. Mr. President, I want to say at this point that we are scheduled to proceed with a live quorum call for another matter. That is why there are no additional speeches being made at this time, for those who may be watching on C-SPAN II. This issue will be taken up again at the conclusion of the proceedings, and there will be additional comments.

QUORUM CALL

Mr. DECONCINI. I think it is important to those who are listening in their offices that there will now be a live quorum.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3]

Akaka
DeConcini
Fowler
Garn
Graham, Florida
Kennedy
Kohl
Lautenberg
Moynihan
Reid
Rudman
Simpson

The PRESIDING OFFICER. A quorum is not present.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader.

The yeas and nays were ordered, and the Clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. CONRAD], the Senator from Indiana [Mr. HARKIN], and the Senator from North Carolina [Mr. KERREY], are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota [Mr. CONRAD], would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 2, as follows:

{Rollcall Vote No. 258 Leg.}

YEAS—94

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—2

Symms
Wallop

NOT VOTING—4

Bradley
Conrad
Harkin
Kerrey

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

PRESENTATION OF THE FINAL REPORT OF THE SELECT COMMITTEE ON ETHICS INVESTIGATION OF SENATOR ALAN CRANSTON

The PRESIDENT pro tempore. The hour of 2 o'clock p.m. having arrived, under the order, the Senate will proceed to the presentation to the Senate of the final report of the Select Committee on Ethics on the investigation of Senator ALAN CRANSTON. The order provides that for this presentation there be 2 hours and 15 minutes equally divided and controlled between Senators HEFLIN and CRANSTON, or their designees, and that at the conclusion of the presentation the Senate will resume consideration of the pending business, which will be at that time S. 869. The order does not provide for the taking of any votes by the Senate.

It is the Chair's understanding that the Senator from Alabama [Mr. HEFLIN] who has continued to serve as chairman of the committee for the purpose of this investigation, will first address the Senate, to be followed by the Senator from New Hampshire [Mr. RUDMAN], the vice chairman of the committee. The chairman and the vice chairman of the committee intend to use no more than 1 hour, in total, for their initial presentation. The Senator from California [Mr. CRANSTON] or his designee, will then be recognized for the period under Senator CRANSTON's control. Finally, the chairman and/or the vice chairman of the committee may seek recognition for the purpose of making any response or rebuttal or reply for any amount of time that they have not utilized.

The majority leader is recognized.

PRIVILEGES OF THE FLOOR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the staff members and investigator of the Senate Select Committee on Ethics, members on the personal staff of the committee members, the Office of the Senate Legal Counsel, and staff and counsel for Senator CRANSTON, as listed on the document I now send to the desk, be granted the privileges of the floor during consideration of the resolution for committee action regarding the investigation of Senator ALAN CRANSTON.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. The request is granted.

The names listed on the document follow:

Wilson Abney, Ruth Anderson, David Apol, Victor Baird, Robert S. Bennett, Karen Bovard, Anne Chamberlain, Alan M. Dershowitz, Mike Davidson, Murray Flander, Morgan Frankel, Houston Fuller, Annette Gillis, Stan Harris, Barbara Larkin, Felicia Lopez, Suzanne Martinez, John Monahan, Darryl Nirenberg, Julie Min, Marie Mullis, Thomas Polgar, Elizabeth Ryan, Jeannine Renningner, Dalton Smith, Robert Stevenson.

The PRESIDENT pro tempore. The Chair should state that counsel or lawyers are not elected to the Senate and are not Senators and therefore they will not be granted the privilege to speak in the Chamber. Only Senators will be given the privilege to speak.

The Chair recognizes the Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. President, the resolution of the Ethics Committee regarding Senator CRANSTON, which I will read into the permanent RECORD of the Senate, is the product of a long and arduous task. Members of the committee have struggled to reach a fair decision in a difficult situation. I believe the committee has achieved this goal with the following resolution, which I will read.

Whereas, the Senate Select Committee on Ethics has conducted a Preliminary Inquiry and Investigation into allegations of misconduct by Senator Alan Cranston, and has provided to Senator Cranston all the rights provided under Senate Resolution 338 (88th Congress, as amended) and the Committee's procedural rules;

It is therefore, resolved,

(1) CONTACTS WITH FEDERAL OFFICIALS REGARDING LINCOLN S&L

(a) That the Committee finds that Senator Alan Cranston, personally or through Senate staff, made the following contracts with federal officials regarding Lincoln Savings and Loan (Lincoln), a subsidiary of American Continental Corporation (ACC), a company associated with Mr. Charles H. Keating, Jr.:

(i) Prior to April 1987, Senator Cranston, along with other Senators and Members of Congress officially expressed opposition to or raised questions about the Federal Home Loan Bank Board's (FHLBB) adoption of a "Direct Investment Rule;"

(ii) On March 27, 1987, following a discussion with a Lincoln lobbyist, Senator Cranston's banking aide inserted material into the *Congressional Record* relating to "direct investments" by Savings and Loans, an issue of importance to Lincoln and many other Savings and Loan institutions;

(iii) On April 2, 1987, Senator Cranston attended a meeting with FHLBB Chairman Edwin J. Gray and Senators Dennis DeConcini, John Glenn, and John McCain to discuss the ongoing examination of Lincoln;

(iv) On April 9, 1987, Senator Cranston appeared for approximately one minute at a meeting suggested by Chairman Gray with four representatives of the San Francisco Federal Home Loan Bank (FHLB) and Senators DeConcini, Glenn, McCain, Donald Riegle to discuss the ongoing examination of Lincoln;

(v) In July or August of 1987, Senator Cranston called M. Danny Wall, then Chairman of the FHLBB, concerning Lincoln;

(vi) On November 12, 1987, Senator Cranston called Chairman Wall and discussed Lincoln's dispute with the San Francisco FHLB regulators;

(vii) On January 20, 1988, Senator Cranston called Chairman Wall and asked him to meet with Charles Keating;

(viii) On February 16, 1988, Senator Cranston called Chairman Wall and his notes indicate discussion of Lincoln;

(ix) On April 21, 1988, Senator Cranston called Chairman Wall to obtain a status report on Lincoln;

(x) On May 6, 1988, after receiving a telephone call from James Grogan, an ACC attorney, Senator Cranston's banking aide talked to FHLBB officials about the FHLBB proposed supervisory agreement with Lincoln;

(xi) On May 16, 1988, Senator Cranston met with Chairman Wall, and Lincoln was discussed;

(xii) On February 8 and 9, Senator Cranston called Chairman Wall and Federal Deposit Insurance Corporation Chairman L. William Seidman concerning the proposed sale of Lincoln and, on February 8, Senator Cranston's banking aide called on FHLBB official about Lincoln; and

(xiii) In early April 1989, Senator Cranston called all three members of the FHLBB concerning the proposed sale of Lincoln.

(b) The Committee also finds that Senator Cranston had substantial constituent interest in intervening with federal officials on behalf of Lincoln, including the facts that Lincoln employed hundreds of California residents and that thousands of California residents were Lincoln depositors and bond holders. The Committee also finds that Senator Cranston had information which reasonably caused concern about the regulation of Lincoln, including a letter from Jack D. Atchison with the accounting firm of Arthur Young and a report from Alan J. Greenspan relating to Lincoln.

(c) The Committee further finds that, when considered in and of themselves and without regard to any contribution or other benefit, none of Senator Cranston's aforementioned activities concerning Lincoln were illegal or improper and violated no law or Senate rule.

(2) SOLICITATIONS AND CONTRIBUTIONS

(a) The Committee finds that, prior to 1987:

(i) Mr. Keating, his associates, and friends contributed a total of $49,000 to Senator Cranston's 1984 Presidential Campaign and his 1986 Senatorial Campaign;

(ii) At Senator Cranston's request, Mr. Keating also caused a contribution of $85,000 to be made by ACC to the California Democratic Party get-out-the-vote campaign in the Fall of 1986; and

(iii) At the request of Senator Cranston's chief fund raiser, Lincoln also made a $300,000 line of credit available to Senator Cranston's campaign in the fall of 1986 on an expedited basis, although this line of credit was never used.

(b) The Committee also finds that, beginning in 1987, Senator Cranston solicited contributions from Mr. Keating for several voter registration organizations with which Senator Cranston was associated:

(i) after a solicitation by Senator Cranston in early 1987, America Votes received $100,000 from Lincoln on March 3, 1987;

(ii) the Senator solicited $250,000 for voter registration groups on September 24, 1987, and Keating affiliated companies contributed $225,000 to the Forum Institute (a 501(c)(3) tax-exempt organization) and $25,000 to USA Votes on November 6, 1987;

(iii) the Senator discussed the Center for Participation in Democracy (a 501(c)(3) tax-exempt organization) with Mr. Keating on January 8, 1988, and ACC donated $400,000 to the Center for Participation in Democracy and $100,000 to the Forum Institute on February 10, 1988; and

(iv) in early 1989, the Senator or his chief fund raiser discussed an additional voter registration contribution with either Keating or ACC attorney, James Grogan, but no further contributions were made to voter registration organizations.

(c) The Committee further finds that, in January 1989, ACC contributed $10,000 to the Committee for a Democratic Consensus, a PAC affiliated with Senator Cranston.

(d) Based on the available evidence, the Committee concludes that contributions to Senator Cranston's Presidential and Senate campaigns from Mr. Keating and his associates under the Federal Election Campaign Act were within the established legal limits, and were properly reported.

(e) The Committee also concludes, based on the available evidence, that Senator Cranston's solicitation or acceptance of contributions to state party organizations, political action committees, and voter registration organizations were, in and of themselves, not illegal or improper; nor did any such contribution constitute a personal gift to Senator Cranston.

(3) LINKAGE BETWEEN OFFICIAL ACTIONS AND CONTRIBUTIONS

The Committee finds that, in and of themselves, none of the foregoing actions of Senator Cranston violated any law or Senate Rule. The Committee further finds by clear and convincing evidence that, based upon the totality of the circumstances, Senator Cranston engaged in an impermissible pattern of conduct in which fund raising and official activities were substantially linked in connection with Mr. Keating and Lincoln.

(a) From early 1987 through April 1989, Senator Cranston personally or through Senate staff contacted the FHLBB on behalf of Lincoln during a period when he was soliciting and accepting substantial contributions from Mr. Keating or his affiliates, to wit:

(i) As a result of a solicitation from Senator Cranston in early 1987, Mr. Keating contributed $100,000 to America Votes on March 3, 1987, near the time when Senator Cranston participated in the April 2 and April 9, 1987 meetings with FHLBB Chairman Edwin J. Gray and the San Francisco regulators.

(ii) Before October 6, 1987, Senator Cranston solicited and received a commitment from Mr. Keating for contributions in the amount of $250,000 for two voter registration groups, which were delivered to the Senator personally by Mr. Keating's employee James Grogan on November 6, 1987. When the contributions were delivered, Mr. Grogan and Senator Cranston called Mr. Keating, who asked if the Senator would contact new FHLBB Chairman M. Danny Wall about Lincoln. Senator Cranston agreed to do so, and made the call six days later.

(iii) In January 1988, Mr. Keating offered to make an additional contribution to voter registration groups affiliated with Senator Cranston and asked Senator Cranston to set up a meeting for him with Chairman Wall. Senator Cranston did so on January 20, 1988. On February 10, 1988 Senator Cranston received checks totaling $500,000 for voter registration groups.

(iv) In early 1989, at the time that Senator Cranston was contacting Bank Board officials about the sale of Lincoln, either he or his chief fund raiser discussed another contribution from Keating or his associates. However, no further contribution was ever made.

(b) Senator Cranston's Senate office practices further evidenced an impermissible pattern of conduct in which fund raising and official activities were substantially linked, in that, with his knowledge, permission, at his direction, or under his supervision, Senator Cranston's fund raiser (who was not a Senate employee):

(i) assisted in scheduling and attended meetings in the Senator's Senate office between the Senator and contributors about legislative or regulatory issues;

(ii) served as an intermediary for Mr. Keating or Mr. Grogan when they could not reach the Senator or his banking aide; and

(iii) evidenced, through written memoranda addressed to Senator Cranston, an incorrect understanding that contributors may be entitled to special attention and special access to official services. The incorrect understanding was never corrected by the Senator.

Be it further resolved that the Committee finds:

(1) That in connection with his conduct relating to Charles H. Keating, Jr., and Lincoln Savings and Loan Association, Senator Alan Cranston of California engaged in an impermissible pattern of conduct in which fund raising and official activities were substantially linked, in that:

(a) From early 1987 through April 1989, Senator Cranston personally or through Senate staff contacted the Federal Home Loan Bank Board on behalf of Lincoln during a period when Senator Cranston, on behalf of organizations in whose success he had a deep concern, was soliciting and accepting substantial contributions from Mr. Keating; and

(b) Senator Crantson's Senate office practice further evidenced an impermissible pattern of conduct in which fund raising and official activities were substantially linked.

It is further resolved:

(1) That Senator Cranston's impermissible pattern of conduct violated established norms of behavior in the Senate, and was improper conduct that reflects upon the Senate, as contemplated in section 2(a)(1) of S. Res. 338, 88th Congress, as amended.

(2) That Senator Cranston's conduct was improper and repugnant.

(3) In reviewing the evidence available to it, the Committee finds that Senator Cranston:

—violated no law or specific Senate rule;

—acted without corrupt intent; and

—did not receive nor intend to receive personal financial benefit from any of the funds raised through Mr. Keating;

(4) Further, the Committee finds that extenuating circumstances exist including the following:

(a) That Senator Cranston is in poor health (which finding is based on expert and competent medical opinion after an extensive medical investigation); and

(b) That Senator Cranston has announced his intention not to seek reelection to the Senate.

(5) Senator Cranston's improper conduct deserves the fullest, strongest, and most severe sanction which the Committee has the authority to impose.

Therefore, the Senate Select Committee on Ethics, on behalf of and in the name of the United States Senate, does hereby strongly and severely reprimand Senator Alan Cranston.

There has been filed with the Secretary of the Senate a copy of the resolution that I have just read, a copy of the committee's final report, and a separate volume containing Senator HELMS' additional views.

In connection with his dealings with Charles Keating and Lincoln Savings and Loan, a failed California S&L, Senator CRANSTON has been strongly and severely reprimanded by the Ethics Committee for improper conduct which reflects upon the Senate. The reprimand did not come because Senator CRANSTON violated any law, nor because he violated any specific Senate rule. The committee has found that he violated neither. Rather, the reprimand came as a result of "a pattern of conduct in which fundraising and official activities were substantially linked."

I want to focus for a moment on the committee's finding that there was substantial linkage between Senator CRANSTON'S fundraising and his official duties, as it related to Mr. Keating and Lincoln Savings and Loan. At least two aspects of the committee's reprimand deserve discussion.

First, a threshold matter. If, in all of his actions, Senator CRANSTON violated no law and violated no specific Senate rule, why is he, nevertheless, being reprimanded by the Ethics Committee? As amended, Senate Resolution 338 of the 88th Congress authorizes the Ethics Committee to receive complaints and investigate allegations of violations of law, violations of the Senate Code of Official Conduct, violations of rules and regulations of the Senate, and "improper conduct that reflects upon the Senate," and to make appropriate findings of fact and conclusions with respect thereto.

As written, codes of conduct have been adopted by the Senate, there has been a recognition that the new rules did not, in the words of Senator John Stennis, "replace that great body of unwritten but generally accepted standards that will, of course, continue in effect."

The path to judgment is easy when a specific law or rule has been violated. But, for those who believe in the rule of law, violations of unwritten ethical standards are far more difficult to resolve. Although a finding of "improper conduct that reflects upon the Senate" is subjective in nature, it must ultimately rest upon a violation of an existing and well understood norm of behavior. Before making such a finding, Senate practices and customs and their interrelationships must be carefully evaluated.

In reprimanding Senator CRANSTON, unwritten but commonly understood standards of Senate behavior were relied upon by the committee—in the same way that those standards have historically been relied upon by the full Senate in disciplinary cases occurring before as well as after the adoption of written codes of conduct in the Senate. Thus, Senate precedent is clear. A Senator may be disciplined for improper conduct which violates unwritten but well established norms of Senate behavior, even though the Senator's actions violate no specific law or Senate rule. This has always been and must continue to be the case, if we are to protect the public's trust in the integrity of the Senate.

This brings me to a second aspect of the committee's resolution which I want to discuss. When is the well established Senate norm applicable to the facts of this case, and how did the committee determine that Senator CRANSTON violated that norm.

In determining that a well understood but unwritten standard of Senate behavior applies to a specific case, the committee looks to and is guided by relevant statutes, rules, rulings, and resolutions, the common and individual experiences of Senators, and the history of Senate disciplinary cases.

In this case, having evaluated these sources in light of our own experience as Senators, members of the committee unanimously concluded that commonly understood and well established norms of behavior in the Senate do not permit linkage between official actions and fundraising. The committee also determined that Senator CRANSTON'S conduct substantially linked his official actions and his fundraising, in violation of this established Senate norm. How did the committee arrive at the conclusion that such linkage existed?

The fact that two events occur at or near the same point in time may be an important fact in deciding whether the events are impermissibly connected. In and of itself, however, this coincidence of timing does not mean that the events are linked. On the other hand, to find linkage, it is not necessary that one of the events directly or indirectly caused the other. And certainly, fundraising and official actions may be impermissibly linked although the Member did not intend them to be.

Also, such linkage is improper, even though the official actions involved may not, in and of themselves, be detrimental to the public interest. For example, in the case of Lincoln Savings and Loan, the committee found that the evidence clearly showed that the contacts by the five Senators' with Federal regulators regarding Lincoln did not cause the eventual failure of Lincoln or the thrift industry in general, and that the evidence did not establish that their contacts affected the regulators' treatment of Lincoln. Nevertheless, the linkage between Senator CRANSTON'S official actions and his fundraising was improper.

Senator Paul Douglas, whose writings on Government ethics may not have been familiar to Senators prior to the public hearings in this case, offered advice in this area. Although his writings are not binding upon Senators, they provide some guidance. Of the connection between contributions and official actions on behalf of contributors, He said:

> [T]he possibility of * * * a contribution should never be suggested by the legislator or his staff at the time the favor is done. Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts. Finally, not the slightest pressure should be put upon the recipients of the favors in regard to the campaign.

I am reminded of the well-known words of Supreme Court Justice Potter Stewart when he wrote about the meaning of obscenity. The Justice noted that although he was not able to define obscenity with specificity, he knew it when he saw it. In my view, Justice Stewart's statement is a frank recognition that not all standards offer the opportunity to arrive at easy judgments through the mechanical application of a fixed formula. Recognition that a standard may not be easy to apply, however, does not mean that it does not exist or that it is not sound, nor does it imply that the standard cannot be reasonably applied.

As in all cases of this nature, the committee's decision in Senator CRANSTON's case was based upon the totality of the circumstances, and it was from this totality that the committee determined that Senator CRANSTON engaged in an impermissible pattern of conduct in which fundraising and official activities were substantially linked. The pattern which the committee found so disturbing was unequivocally manifest through a series of activities and occurrences involving Senator CRANSTON over a period of at least 2 years. Some of the actions which created the linkage were taken by Senator CRANSTON personally, some by his staff, who often acted with his knowledge or permission and often under his direction or supervision.

Some of the occurrences which led the committee to conclude that substantial linkage existed between Senator CRANSTON's fundraising and his official activities were included in the committee's resolution, and I will not repeat them all. On their face, some acts or occurrences were obviously more troubling than others. One notable example is the incident in November 1987, where delivery of $250,000 in contributions from Charles Keating for voter registration groups took place at the same meeting in the Capitol where the Senator agreed to contact a regulator on Keating's behalf. The committee has not found that the events were causally connected, but the incident does indicate linkage.

But the committee's decision was not based upon any single action or event standing alone. Woven together over time, however, Senator CRANSTON's actions and the actions of others who acted with his knowledge or permission, or at his direction, created an unmistakable pattern in which the Senator's official actions were intertwined with his fundraising activities. None of the acts violated any law or specific Senate rule. However, in combination these actions violated accepted Senate standards which do not permit official actions to be linked with fundraising.

Also, most of the money raised by Senator CRANSTON in this case was contributed to 501(C)(3) organizations, which are listed as charitable organizations. Although this case has made painfully obvious the urgent need for comprehensive campaign finance reform, we must remember that the Senate prohibition against linking fundraising and official duties applies to charitable as well as campaign contributions.

While this committee has said that a Senator must be mindful of the appearance that may be created by his or her conduct and take special care to try to avoid harm to the public trust, the committee's strong and severe reprimand of Senator CRANSTON, like discipline administered by the Senate in prior cases, is based upon the Senator's improper conduct. Senator CRANSTON's improper conduct also appeared to be improper, but it was his improper conduct, and not the appearance of impropriety, that caused the committee's reprimand.

For most of us, Senator CRANSTON had been in the Senate for many years when we were first elected. Seventy-seven years old, he has announced that he will not seek reelection to the U.S. Senate.

As you probably know, Senator CRANSTON began a course of treatment for prostate cancer around the time that the committee's public hearings began in this matter. The hearing record reflects that at the time of the hearings, which ended in mid-January of this year, the doctor-patient privilege was waived by Senator CRANSTON, and the committee was well informed of the severity of Senator CRANSTON'S condition by an eminent radiation oncology specialist located at Stanford University.

The committee has now found in its resolution of reprimand that Senator CRANSTON is in poor health. This finding is based upon expert and competent medical opinion, after an extensive medical investigation. Recently, Senator CRANSTON again waived his doctor-patient relation privilege, and Vice Chairman RUDMAN and I conducted a 1-hour interview of the Senator's medical specialist.

Subsequent to the interview, the specialist provided additional information on the state of Senator CRANSTON'S health and the prognosis for his future. Members of the committee considered the state of Senator CRANSTON'S health and the fact that he will not seek reelection to the Senate in reaching a conclusion as to the appropriate sanction in this case. For some members of the committee, his age was also considered, as well as his remarkable record of service to this Nation over the last 23 years.

Having taken these extenuating circumstances into account, the committee determined that it was appropriate to issue a most severe sanction which could be imposed by the committee.

Senate Resolution 338, of the 88th Congress, and the Committee Rules of Procedure provide that impending matters such as the investigation of Senator CRANSTON may be concluded through a remedy proposed by the committee only if the respondent agrees to the proposed remedy.

In the case of Senator CRANSTON, the committee proposed and the Senator accepted the committee's proposal to conclude its investigation of his conduct by having the committee adopt a resolution which strongly and severely reprimands him, and by presenting its report to the Senate as required by the Senate rules.

The letter of proposal and the acceptance reads as follows. It is addressed to Senator CRANSTON.

DEAR SENATOR CRANSTON: The committee proposes to conclude its investigation of your conduct with respect to Charles H. Keating, Jr. and Lincoln Savings and Loan by adopting the attached resolution—

That being the resolution that I have read—

and presenting a report to the Senate as required by the committee rules of procedure.

Under the committee rules of procedure, your acceptance of this proposal is required before it can be effectuated. If you accept this proposal, please sign below.

Signed by HOWELL HEFLIN, chairman; WARREN B. RUDMAN, vice chairman; and then it has:

I accept the committee's proposed remedy.
Senator ALAN CRANSTON.

The committee concluded that under the circumstances of this case, it was appropriate to make this formal presentation of its resolution and report to the Senate.

Mr. President, I yield the floor to Senator RUDMAN.

The President pro tempore. Under the order, the senior Senator from New Hampshire [Mr. RUDMAN] is recognized.

Mr. RUDMAN. Mr. President, let me start on a personal note. I have served on this committee as chairman and as vice chairman, for some years. This is Senator HEFLIN'S last appearance for the committee. I thank him for his unfailing courtesy.

I thank Senator LOTT, Senator HELMS, Senator SANFORD, and in particular, Senator PRYOR. I want to say on this floor that had not Senator PRYOR volunteered to come back on the committee after suffering a serious illness and subjected himself to further strain and stress in order to serve this institution, it is my sense we would not be here today. For that service to the institution, I know that all of our colleagues join in my thanks to him.

Mr. President, it gives me no pleasure to rise today to report on the investigation of the Senate Select Committee on Ethics into the conduct of the senior Senator from California [Mr. CRANSTON]. This has, for a variety of reasons, been a long and difficult inquiry, and it is never an enjoyable task to report on the failings of one of our colleagues.

At the outset, Mr. President, I would like to discuss what this case is not about. It is not about the merits or wisdom of Senator CRANSTON'S intervention on behalf of Lincoln Savings and Loan Association. The merits of a policy pursued by a Senator is between the Senator, his constituents, and the American people. It is not a matter for the Ethics Committee.

The case before the committee was also not about the merits of the existing system for financing congressional campaigns. The committee, when judging the conduct of Senators, is no different than a judge and jury in a court of law. We must deal with the hand that is dealt us, the laws and standards in force at the time. We cannot pass judgment based on the laws and rules that some might like to see.

Finally, this case is not about the propriety of assisting a person who happens to have been a campaign contributor or political supporter. It is a routine, proper, and necessary function of a Senator to make inquiries of agencies on behalf of individuals, and to intervene when the Senator believes that justice or equity so requires. It would be ludicrous to create a rule on interventions which requires discrimination against political supporters and contributors. Parenthetically, I should note the obvious fact, one commonly overlooked, that there are many forms of political support which are more valuable than a $1,000 or $5,000 contribution—the maximum permitted for congressional campaigns under current Federal law.

In the final analysis, this case came down to one basic question. Was there impermissible linkage between a Senator's official actions and contributions in violation of Federal law, Senate rules, or standards of conduct governing all Members?

More than 2 years ago, the Ethics Committee received a complaint that five Senators, including Senator CRANSTON, took action on behalf of Lincoln Savings and Loan, either in exchange for or because of campaign and other contributions from Lincoln; American Continental Corp., Lincoln's parent company; officials of the two companies; Mr. Charles Keating, who owned ACC; and members of the Keating family.

The complainant further alleged that simply taking action on behalf of a contributor created an appearance of impropriety that required disciplinary action. The committee unequivocally rejects that portion of the complaint. As the committee's report notes on page 23, "constituent service, even on behalf of contributors, is a legitimate and appropriate senatorial function."

The Committee held 26 days of public hearings on these allegations between November 1990 and last January. The committee heard from 27 witnesses and received 17 depositions and 853 exhibits into evidence. One of the witnesses, Mr. James Grogan, Lincoln's lobbyist, received a grant of immunity pursuant to an agreement with the Department of Justice. The committee did not grant Mr. Keating or other Lincoln or ACC officials immunity because of concerns expressed by the Justice Department. The hearings were nationally televised, and the transcripts, depositions, and exhibits have already been published by the Senate.

On February 27, 1991, the committee concluded the cases with respect to four of the five Senators. While the Committee leveled certain criticisms with respect to the conduct of the four Senators, the committee concluded that the evidence before it did not establish any linkage between the four Senators' official actions and contributions received, and that there was no cause for institutional action against those Senators.

With respect to Senator CRANSTON, however, the Committee concluded that there might have been such a linkage, and launched an investigation. In layman's terms, an Ethics Committee investigation is analogous to the trial and jury deliberations in a court of law. Senator CRANSTON waived his right to further hearing on March 18. Committee deliberations on the case began following the submission of a final brief by Senator CRANSTON on April 22. Unfortunately, deliberations were delayed for 4½ months because of one Member's health problems and another Member's forced refusal due to a financial conflict of interest. Accordingly, the committee's consideration of the case began in earnest in mid-September.

The Federal bribery statute prohibits a Senator from taking action in exchange for a gift or contribution, irrespective of whether there is any personal benefit. The evidence before the committee does not establish that Senator CRANSTON acted in exchange for contributions. If it did, this committee would recommend expulsion as it did in another case 9 years ago.

Federal law also prohibits a Senator from taking action because of the receipt of a personal benefit. The committee concluded that Senator CRANSTON received no personal benefit. More generally, the committee found that Senator CRANSTON violated no specific law or existing Senator rule.

The question then facing us was as follows: Is there a further standard of conduct governing a Senator's action on behalf of individuals, and did Senator CRANSTON act improperly by violating that standard?

In the absence of a written Senate rule on the subject, the committee looked to a variety of sources. These included the experiences and practices of members of the committee; the testimony during our hearings of a number of current and former Senators; House Advisory Opinion No. 1, a ruling governing the House of Representatives which was issued by our counterpart committee in 1970; the writings of former Senator Paul Douglas of Illinois, and many other sources. About one-quarter of the Committee's report on this case is devoted to a discussion of the applicable standards, and I strongly—and I repeat, strongly—recommend that each Senator read that portion of the report very carefully.

The cardinal principle governing Senators relevant to today's action is that a Senator must make decisions on whether to intervene on behalf of an individual without regard to whether such individual has contributed, or promised to contribute, to the Senator's campaign or other causes in which he or she has an interest. In other words, official actions and contributions cannot be linked.

In this case, for reasons I will describe in more detail, the committee found, as our report states, that "Senator CRANSTON engaged in an impermissible pattern of conduct in which fundraising and official actions were substantially linked."

The committee did not reach this decision lightly. There was more to the linkage than simply coincidental timing between Senator CRANSTON's actions and contributions. Moreover—and I want to state this emphatically for my colleagues and others watching this proceeding—Senator CRANSTON is not being unfairly singled out for engaging in conduct routinely practiced by other Members of this body. His behavior significantly deviated from the norms governing this body and from principles Senators are expected to, and in my 11 years do in fact adhere to.

I now want to turn to some of the major events that caused the committee to reach its conclusion. I will not review the full body of evidence; the committee's report and the full evidentiary record is available.

First, on January 2, 1987, Ms. Joy Jacobson, Senator CRANSTON's chief fundraiser, wrote him a memo stating:

> Cases/Legislation: Now that we are back in the majority, there are a number of individuals who have been very helpful to you, who have cases or legislative matters pending with our office who will rightfully expect some kind of resolution.

With respect to Mr. Keating, the memo states:

> Is continuing to have problems with the Bank Board and Ed Gray. Jim Grogan and the company's chief legal counsel, Bob Kielty, are coming to see you on Friday at 1:00 p.m. to get your advice on how to handle the current problem.

The meeting did not actually occur until January 28, when Senator CRANSTON met with Mr. Keating and Mr. Grogan.

A second meeting occurred in late February or early March—we do not know exactly when, although there is a February 27 notation on Senator CRANSTON's calendar—at which Mr. Grogan asked the Senator to attend a meeting with Ed Gray. On February 24, Senator CRANSTON informed the director of America Votes, of which the Senator was cochairman, that he had secured a $100,000 commitment for the organization from Mr. Keating, and the contribution was made 7 days later. On April 2 and 9, Senator CRANSTON attended the now well-known meetings with Mr. Gray and the regulators. At the latter meeting, which was the substantive one, Senator CRANSTON attended only long enough to say that he "share[d] the concerns" of the other Senators.

There are several noteworthy points about these events. First, there is the view expressed in Ms. Jacobson's memo to Senator CRANSTON, that contributors rightfully expect assistance. While I know of cases where political supporters expect help, I have never heard a Senator, or a person working for a Senator, express the view that there is any legitimacy to such an expectation. It is true that Senator CRANSTON did not write this memo, but he also did not react to it. Yet, without exception, every Senator and staff person with whom I have discussed the memo, has stated that they would not think that way, have never written any such thing, have never received any such communication, and would be horrified if they did.

Senator CRANSTON's lack of reaction is compounded by the fact that he is the only Senator, among the five Senators whose conduct was reviewed, for whom there is no evidence that any effort was made, even at the staff level, to verify the allegations made by the Lincoln officials prior to attending the April meetings. Morever, Senator CRANSTON testified that his purpose for going to the meetings was not only to seek information, but to get the attention of the regulators. Why, I ask, is one trying to get the attention of the regulators if one has made no effort to inquire into the merits of the complaint of the constituent and the relative position of the regulators to that issue?

If this were an isolated incident, we might not be here today. But the pattern of linkage continued. The most disturbing example of linkage came later that year.

Second, in July or August of 1987, Senator CRANSTON called Mr. M. Danny Wall, the new Chairman of the Federal Home Loan Bank Board, to urge that a prompt decision be made on the Lincoln examination. Chairman Wall testified that the Senator did not state what the resolution ought to be. In early September, Chairman Wall agreed to postpone a scheduled field visit by the regulators to Lincoln, and consider the matter in Washington.

On September 6, Ms. Jacobson wrote a memo to Senator CRANSTON. It is in the RECORD. A press clipping about Chairman Wall's decision was attached, and the memo stated that his views "are obviously good news to Keating." She added, "You should ask Keating for $250,000." Here again, we have linkage.

On September 24, Mr. Keating met with Chairman Wall in the morning and Mr. CRANSTON later in the day. As a letter Senator CRANSTON wrote 2 weeks later shows, he and Mr. Keating discussed the morning meeting, and Senator CRANSTON requested and received a commitment for a $250,000 contribution to the voter registration organizations he supported.

On November 6, Mr. Grogan personally delivered $250,000 in checks to Senator CRANSTON.

During that meeting, Senator CRANSTON telephoned Mr. Keating and thanked him. Mr. Keating then proceeded to ask Senator CRANSTON to call Chairman Wall. The call was placed on November 12, 6 days later.

We have, in this episode, impermissible linkage in Ms. Jacobson's memo—for a second time—as well as in the September 24 meeting and the November 6 meeting and phone call.

Mr. Grogan, with regard to this and other dealings with Senator CRANSTON, testified as follows:

> [w]e would have those substantive discussions, and after those substantive discussions, normally, as we were leaving, either Mr. Keating would say, is there any way I can help you, Senator? I appreciate our relationship. Or at times, Senator Cranston would say, could you help in this area, could you help raise money here, could you do that. After those kinds of meetings, Mr. Keating would follow up either with Joy Jacobson or with Senator Cranston. So there were meetings where substance and fundraising were discussed in the same meetings.

It is important to note, however, in fairness to Senator CRANSTON that Mr. Grogan, who was testifying under a grant of immunity and therefore had every reason to be truthful, flatly, and persuasively denied the existence of any indications of a quid pro quo, a necessary element to establish bribery. He was asked,

> Was there any suggestion, either by word or by body language, or by raised eyebrow, that Senator Cranston's interest in Lincoln Savings' problems was tied to Mr. Keating's support of the non-profit voter registration efforts?

His response was "Never."

Third, on January 8, 1988, Senator CRANSTON and his son ate dinner with Mr. Keating in Los Angeles. At that dinner, fundraising for the voter registration groups and Mr. Keating's problems with the Federal Home Loan Bank Board were both discussed. Either at that dinner, or shortly thereafter, the Senator was asked by Mr. Keating to arrange a meeting between him and Chairman Wall.

Senator CRANSTON called Chairman Wall on January 20 and made the request. Senator CRANSTON then called Mr. Keating and informed him that the request had been granted. The meeting was held on January 28. A few days later, Mr. Keating met with other Bank Board officials, a meeting that was held at the direction of Chairman Wall.

Senator CRANSTON and his son visited ACC headquarters on February 9 and 10, at which time Mr. Keating personally handed the Senator $500,000 in contributions. On February 16, the Senator again called Chairman Wall. Although the Senator has stated he believes this call did not relate to Lincoln, his notes of the call indicate that a draft memorandum of understanding that Lincoln provided to the Bank Board 4 days earlier was discussed. The pattern is clear and, unfortunately, repetitive.

Fourth, Senator CRANSTON, a member of his staff, Mr. Keating, and Mr. Grogan ate dinner together in Los Angeles on December 14, 1988. At that dinner, according to Mr. Grogan's sworn testimony, Senator CRANSTON, entering the room "came up and patted Mr. Keating on the back, and said, 'Ah, the mutual aid society.'" This comment is a most disturbing reflection of Senator CRANSTON's state of mind.

Mr. President, I have described the evidence that I believe the committee found most disturbing. There were other actions by Senator CRANSTON and his staff, and other contributions and promises thereof, all individually less significant, which I will not go into today. They are in the RECORD. For those, I refer my colleagues to the report on their desks and the RECORD we printed at the end of last winter.

These four incidents, in and of themselves, demonstrate that Senator CRANSTON impermissibly linked, through time and other circumstances, contributions and official actions.

That is a pattern of improper conduct which must be sanctioned by this institution, and it is why we are here on the floor of the Senate today.

My colleagues will note that I have not addressed either the merits of Senator CRANSTON's actions, nor their effect on the Federal Home Loan Bank Board. The reason is that the wisdom and effectiveness of a Senator's intervention on behalf of an individual is irrelevant as to whether that intervention was improperly linked to contributions. That a Senator's actions were incorrect on the merits or effectiveness, cannot be the basis for disciplinary action. Conversely, it is not a defense against improper linkage for the Senator to have been right, or for his efforts to have been ineffective.

Mr. President, the committee unanimously agreed that Senator CRANSTON's conduct was improper and required an institutional response. Some members of the committee, including this Senator, believed that Senator CRANSTON's conduct merited action by the full Senate.

The question then arose as to what response the Senate should take. The committee's debate over the last 2 months was not over whether to take action but over what action to take. There are indeed mitigating factors, most notably the lack of any personal benefit and of any significant direct benefit to Senator CRANSTON's campaigns for the Senate or for the Presidency.

I personally believe that the $49,000 contributed to those campaigns were not the major motivation for his actions; it was the $850,000 contributed to the voter registration groups, groups in which Senator CRANSTON had a profound and appropriate interest. He received no personal benefit from these groups, and the political benefits were tangential at best.

Moreover, regretfully, Senator CRANSTON is seriously ill, and he has announced that he is not running for reelection. It is a well established rule of law that, when an individual acts improperly, personal circumstances that arise following the conduct in question are irrelevant as to guilt. Courts, however, routinely and properly consider such circumstances during sentencing. So these are in fact relevant to the committee's actions.

The committee discussed the appropriate sanction at great length over the past 2 months. The resolution we bring before the Senate today is not a perfect result. It is, however, for this institution an acceptable result, and it is certainly better than no resolution at all.

I thank the Chair.

I yield the floor.

The PRESIDENT pro tempore. Before the Chair recognizes the Senator from California, Senator HEFLIN and Senator RUDMAN have a total of 11 minutes remaining.

Under the order the Chair recognizes Senator CRANSTON.

Mr. CRANSTON. Mr. President, I rise with deep remorse in my heart to accept the reprimand of the committee. I deeply regret the pain all this has caused my family, my friends, my supporters, my constituents.

I am proud of my 23-year record in the Senate; most of all, of my accomplishments in the cause of peace and for our Nation's veterans and their families and their survivors. I am proud of what I have accomplished for the environment—the protection I have won for so many of California's wild rivers, for so much of its wilderness and seascapes. I am proud of what I have accomplished for equal rights and equal opportunity and equal justice and for affordable housing and rapid transit.

I am not proud of this moment.

My intentions were proper in all I did—as were the intentions of the four other Senators who were involved, Senators GLENN, DECONCINI, MCCAIN, and RIEGLE. The committee acknowledges that. But, in retrospect I grant that I should not have solicited and received—even though it was on behalf of others—charitable donations close in time to official actions. That conduct came, in time, to reflect upon me and hence upon the Senate, this body that I love and revere, and for that I apologize.

So, yes, I accept the committee reprimand.

Let me make plain, however, that while I accept the ultimate conclusion of the committee, there is documentary and other irrebuttable evidence that contradicts some of the committee's specific findings.

Mr. President, I ask unanimous consent that two documents relevant to that point be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. I ask that each and all who are interested, and particularly each of you, my colleagues, take a look at that documentation.

It deals with the four incidents that were referred to by Senator RUDMAN. I believe it casts a different light upon them. And there are other details that have been dealt with by Senator HEFLIN, Senator RUDMAN, and the resolution which I think are not exactly accurate, but I do not propose to go into that sort of detail in my remarks now.

Mr. President, up to the very last moment of the committee's long, long deliberations—and they were very long—I considered waging an all-out battle against its verdict.

If the committee had called for any action by the full Senate against me, I would have fought it tooth and nail, with the help of the man who sits beside me, Prof. Alan Dershowitz, one of our Nation's leading defenders of human rights. Let me tell you why I would have done so.

First, I ask each of you, I ask everyone, to note that the committee found and acknowledged the following:

That nothing I did violated any law or specific Senate rule;

That I acted without corrupt intent;

That no evidence was presented to the committee, no evidence, that I ever agreed to help Charles Keating in return for a contribution;

That none of the contributions constituted a personal gift to me; and

That I did not receive or intend to receive any personal benefit from any of the funds I raised.

The committee found and acknowledged:

That all my actions regarding Lincoln Savings and Loan were legal and proper;

That I violated no law or Senate rule;

That the money I raised was legal, proper, and properly reported.

The committee found and acknowledged:

That I had substantial reasons relating to the jobs and financial security of thousands of my constituents for intervening with Federal officials on behalf of Lincoln;

That I had information which raised legitimate questions about the regulation of Lincoln.

Senator RUDMAN, I had that information before I attended those meetings. Lincoln was vouched for by two of the big eight accounting firms, Arthur Young and Arthur Anderson, and by Alan Greenspan, now Chairman of the Federal Reserve Board, a man with tremendous impact upon the economy of our entire Nation. Alan Greenspan told me that Lincoln was well managed and viable for the foreseeable future.

The committee found and acknowledged in its earlier February 27 resolution that my contacts and the contacts of the other so-called Keating Five Senators with regulators regarding Lincoln did not cause the eventual failure of Lincoln and did not cause the eventual failure of the thrift industry in general.

The committee found and acknowledged in its February 27 resolution that my attendance and the attendance of other Keating Five Senators at two meetings with the regulators violated no law or Senate rule. It was those two meetings, my colleagues, that started this prolonged and painful saga. Yet, the committee found and acknowledged that I attended one of those meetings for approximately 1 minute. The record shows that all I said at that meeting was that I shared the concerns of the other Senators.

The record shows that all I did at the other meeting was to ask why an audit of Lincoln was taking so long. It was the longest audit ever. The end apparently was never in sight. And the only other thing I did at that meeting was agree with Senator GLENN that if Mr. Keating had broken any law he should be prosecuted, but if he had not broken any law, the regulators should get off his back.

Thus, it is clear, Mr. President, my colleagues, whoever else is observing this, it is clear that I have not been reprimanded for doing anything improper for Mr. Keating.

I have been reprimanded because there was, or appeared to be, a proximity in time between legitimate charitable donations that I accepted—for bona fide charities—and legitimate official actions that I took. There has been no charge, no charge, that there was any other connection between the donations and the actions, and it has been acknowledged today on the floor that I did not take any action, there is no evidence that I did, because of any contribution.

The record is replete with evidence that there was no other connection of any sort. The record shows, too, that my official actions were not only proper but were de minimus in nature. They were all routine status inquiries or requests that somebody see somebody or requests that various proposed sales of Lincoln be carefully considered.

It is not unusual for me and for many of you to work with great diligence for constituents. Let me give you an example of another time I did so. Back in the seventies, another large corporation, Lockheed, was facing bankruptcy. The livelihoods of many thousands of my constituents and their families were at risk, as was the case with Lincoln. I devoted far more time and effort and made many more phone calls about Lockheed than I ever did about Lincoln as I successfully fought to obtain a Government-guaranteed loan for Lockheed. Lockheed was not a supporter of my campaign or causes. Lockheed had supported and raised money for my opponent in the previous election.

I sought the charitable donations in question because of my zeal in a cause that relates to the very foundation of our democracy: Voter participation. The deplorable decline in the number of citizens who vote puts the essence and vitality of our democracy at risk. My long and deep dedication to this cause stems from what I witnessed and lived under in Hitler's Germany, Mussolini's Italy, and in Communist countries—where citizen participation was forbidden.

My motives and my actions were well-intentioned and honest, but I recognize now that I failed to anticipate that raising these funds could be looked upon as improper. And that is what we are now talking about—appearances.

I failed in that respect for a couple of reasons.

First, most of the donations went for nationwide nonpartisan registration drives conducted by organizations which were approved by the IRS for tax deductibility and in which I had held no position and whose use of the money was not under any control.

Second, these donations were made after my 1986 reelection for registration drives conducted all across the country in 1987 and 1988. Obviously, they could not benefit my 1986 campaign.

In retrospect, nonetheless, I now realize that what I did looked improper.

But I differ, and I differ very, very deeply, with the committee's statement in the resolution that my conduct "violated established norms of behavior in the Senate." If I had chosen to fight, I would have challenged that statement even more forcefully than I now will.

There are no such established norms of behavior in the Senate. There is no precedent and there is no rule establishing that it is unethical for a Senator to engage in legitimate constituent service on behalf of a constituent, because it was close in time to a lawful contribution to the Senator's campaign or to a charity that the Senator supports.

In its consideration in this case, the committee acknowledges that it has referred to sources for ethical guidance which may be largely unknown. It also acknowledged that there were no written guidelines of the Senate in several relevant areas.

Justice Black once referred to a tyrant king who wrote his laws in a hand so fine and placed them so high and so far from view that his subjects could not read them. That is the essence of tyranny. The essence of due process is to have laws written in advance so all can know them.

I have stated repeatedly that my actions were not fundamentally different from the actions of many other Senators. My statements fell on deaf ears, perhaps because I was undergoing treatment for cancer and unable to present my case strongly at a crucial stage of the committee's proceedings.

Whatever the reason, I was left with no alternative except to see if I could prove that I am far from being the only

Senator to do what I have done. I found abundant evidence that I could do so. The evidence is available in various studies, reports, and documents—all in the public domain. I was prepared on the advice of Professor Dershowitz to demonstrate to the Senate and to the Nation, through example after example of comparable conduct, that my behavior did not violate established norms.

But instead of using examples, I will now simply summarize what I found.

At least two-thirds of my colleagues in the Senate are involved with charities or foundations. Some are institutions set up by a Senator or by his or her friends, admirers, and contributors which bear the Senator's name or advance causes related to the Senator's legislative efforts.

In many cases, the Senator raises funds for the institutions or permits others to raise the funds in his or her name. The contributors include a great many individuals and corporations that have a direct interest in matters before the Senate and Government agencies. More than a few of these contributors have benefited from actions taken by the Senator involved, sometimes close in time to a contribution.

Many of the contributions are immense—$750,000, one contribution; $500,000; $250,000; $200,000—there are many $100,000 contributions. The totals run into many millions.

In many instances, there are overlapping campaign contributions, PAC contributions, and honoraria payments to Senators from the individuals, special interests, corporations and their officers and directors who contribute to the Senator's causes.

I tell you all this, my colleagues, for several reasons.

First, and most importantly to me, to demonstrate that I did not violate any established norm for Senate behavior.

Second, to warn every one of you who plays any part, direct or indirect, in fundraising for a charity or a foundation or whatever, that you are in jeopardy if you ever do anything at any time to help a contributor to that charity—no matter how worthy the cause, no matter how proper the need for help, no matter how proper the help you render. I stand before you as an illustration of that jeopardy.

Third, to suggest that reform is needed to protect you and to protect the Senate. I doubt that anything less will do than a ban on charitable fundraising by Senators or in their names. If you engage in such fundraising, sooner or later some of those you help will want your help. If they have a legitimate need, you will be hard put to refuse their request simply because they responded to your request. And then you are headed for trouble. On the other hand, how can you not help them?

Let me turn to the matter of political contributions.

The committee stated on February 27:

> It is a fact of life that candidates for the Senate must solicit and receive assistance in their campaigns, including the raising of campaign funds.

Of course, we all know that. Raising these funds can often lead, as we also know, to charges of wrongdoing. It is now more likely than ever to lead to charges of wrongdoing because the Ethics Committee has enunciated formally a new principle: That it is improper for a Senator to engage in a legitimate constituent service on behalf of a contributor close in time to a lawful contribution to a Senator's campaign or PAC.

It seems to me, and it seems to my attorney, Alan Dershowitz, that the committee has applied this new principle to me in an ex post facto fashion. But this point really has less to do with me than it does with most of you. My fundraising for my campaigns is over since I decided not to run again. And my political fundraising was not a major issue with the Ethics Committee. I received less in such political contributions than the other Keating Five Senators; in one case 80 percent less.

Congress, the House and our Senate, is the branch of Government closest to the people. We represent the people. We must serve the proper interests of the people who support us and elect us. If we do not, our constituents won't get the help they need and deserve, and we won't be reelected.

I ask you this—about this question—How can you rationally refuse to give legal and proper help at any time to someone who seems to have a reasonable grievance because he or she has contributed to your campaign?

Can you only help people who have not contributed?

Or can you only help people who have not contributed lately?

How lately?

And must you refrain from helping people who might contribute in the future?

How far in the future?

A majority of Senators feel it necessary to raise money all the time. Campaigns now go on for 6 years.

Constituents, whether contributors or noncontributors, seek help all the time.

Inevitably, contributions and actions sometimes overlap, time-wise.

How many of you, after really thinking about it, could rise and declare you have never, ever helped—or agreed to help—a contributor close in time to the solicitation or receipt of a contribution?

I do not believe any of you could say never. I am sure you do not really know at any time exactly who has contributed and who has not, and how much, and when. But all a political opponent, a reporter or anyone else has to do to find out is to look at your contribution report with the Federal Election Commission and match it with what appears in the CONGRESSIONAL RECORD and committee records about your official acts—speeches, motions, amendments, votes—and then, to make you look bad, charge improper conduct.

I assure you that the examples they could use are plentiful. The present system makes it virtually impossible—virtually impossible—for a Senator to avoid what some will assert is a conflict of interest. There is no Senate rule stating when you can and when you cannot help a contributor. I do not see how one can be formulated.

The Supreme Court, in a wise ruling in 1964 that I wish applied to Senate rules as well as to statutes, observed that: "A statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law."

I believe the only remedy is to get money out of politics. Therein lies salvation for you, for the Senate and, most of all, for the American people who are the ultimate losers until we end the role money plays, or seems to play, in our decisionmaking, and end the business of Senators and would-be Senators having to spend more and more of their time chasing the money needed to fund a successful campaign.

That means public financing. Nothing less will suffice.

Let us end the practice, a practice we engage in here unfortunately, of considering campaign reform on the basis of what will help or hurt Republicans, Democrats, incumbents, and challengers. That way, everybody loses.

Let us enact a campaign reform measure that will benefit the Senate, our country, and all the people. If we do not, what happened to me and the other Keating Five Senators can happen to any one of you.

I am particularly troubled by one other aspect of the resolution, and you should be, too. I differ with the suggestion that the way I handled so-called access differs from the established norm in the Senate.

How many of you could stand up and declare you never, ever decided to see or take a call from someone whose name you recognized, be it a friend, a prominent leader in your State or the Nation, a volunteer in your campaigns, or a contributor, while asking your staff to tend to someone you do not recognize? I doubt that any of you could honestly do so.

Furthermore, you know and I know that the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee and the White House stage events where lobbyists and other individuals who pay $10,000, $15,000, $20,000 or even $100,000 a

year can mingle with the President, the Vice President, Cabinet Members, and Senators. The more people contribute, the more exclusive and intimate the event they may attend.

That is access.

And events are not the only time and place these generous contributors get access.

So let me ask, since I have been singled out for a reprimand on access today, who among you can be sure you will not be singled out for a reprimand on access tomorrow?

Here, but for the grace of God, stand you.

There is only one way out: Get money out of politics.

Enact public financing and enact it now.

There is another reform I urge upon you. Before any of you who have not yet endured this experience land before the Ethics Committee, it should be restructured.

I recognize that the committee labored under particularly difficult circumstances in my case, but its role is difficult in all cases, and difficult most of all for the Senators who are brought before it.

Today, there is no real due process in the Senate for Senators. We are not afforded constitutional rights that are available to all other citizens.

So long as ethics charges are dealt with by Senators, our fellow Senators, we are about as far away as we could possibly be from a jury that comes from anonymity and returns to anonymity when its work is done.

Unlike a sequestered jury, the Senators on the Ethics Committee read the press. They are public figures whose decisions will be weighed by their constituents. They have been buffeted in my case by vicious and inaccurate leaks that violated the rules, by press pressures, by perceived public pressures, and by mood swings in the public and within the Senate, especially in the wake of the Thomas-Hill affair and the matter of bounced checks over on the House side.

And apparently the committee was deadlocked along partisan lines for months.

It has been suggested that the committee should be revamped so that its members would consist not of sitting Senators but, instead, of former Senators, former judges, and outstanding laymen. I endorse that concept until and unless something wiser is proposed.

One more suggestion or warning: Beware of special counsels who transmogrify into special prosecutors.

One final point. Now that the Keating Five are finally leaving center stage, perhaps we should turn to the neglected causes and culprits in the S&L crisis. This case has distracted attention from the central role of two successive administrations whose ideology and policies led not to the failure of one institution but to the decimation of the entire thrift industry. And contributions from S&L officials and PAC's to the campaigns that brought those administrations to power were notably generous, far beyond any sum received by any of the Keating Five.

There is a certain irony in the fact that I stand before you a few days before Thanksgiving. At least and at last I am thankful that this long ordeal is finally coming to an end.

For those of you who may feel that I should pay for my conduct, let me assure you I have paid.

In terms of dollars, legal fees for myself and others for whom I feel a sense of responsibility, approach $1 million.

I am deeply grateful to Alan Dershowitz for pitching in pro bono with his wisdom and skill in these last days. I am deeply grateful to Harry Reid for his invaluable advice and help when I did not have an attorney and when I did.

I am also more grateful than I can say to the people of California, who have so often honored me with their votes, and who have always let me fight for my beliefs even when they were not sure they agreed.

What I have paid as a result of this whole episode, of course, goes far beyond money. The thing that is hardest is what it has done to my reputation and to the trust Californians have placed in me, things I value above all else.

I pledge to the people of California my best efforts for them in the 13 months left of my time in the Senate. I hope, I hope very deeply, as time passes that I will be remembered for my commitment to California's problems—and my loyalty, in good times and bad, to great progressive principles. Surely, I have not done everything right. But I hope that when my public life is weighed in the balance, it will not be found wanting.

These 2 years have taken much from me. The greatest cost is the anguish and uncertainty felt by my family and others who have stood with us.

May none of you ever have to battle cancer and something like this at the same time in your lives.

Mr. President, I reserve the remainder of my time.

EXHIBIT 1

[U.S. Senate Select Committee on Ethics]

WRITTEN SUBMISSION IN RESPONSE TO THE COMMITTEE'S FEBRUARY 27, 1991, RESOLUTION

(Senator Alan Cranston, U.S. Senate, Washington, DC, April 22, 1991)

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I. Introduction and Summary of my Written Submission;

II. My Answers to the Committee's Four Questions Re: Possible Causal Connections between Charitable Donations and Official Actions;

III. My Answers to the Committee's Three Questions Re: A Part-time Employee of an Organization that Raised I.R.S. Approved 501(c)(3) Charitable Donations;

IV. There are No Differences in Kind between my Actions and the Actions of Senator DeConcini, Senator Glenn, Senator McCain and Senator Riegle;

V. There are No U.S. Senate Rules, Precedents, or Cases in which a Senator Has Been Disciplined for Assistance to a Constituent when the Senator Received No Personal Financial Profit;

VI. The Question of Appearances and a Senator's Constitutional Obligation to Represent the Public Interest or the Cause of Justice or Equity of his Constituent;

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Appendix

I. Charles Keating: His Political Philosophy and his Record of Philanthropic Donations;

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I—INTRODUCTION AND SUMMARY OF MY WRITTEN SUBMISSION

This submission constitutes my response to the Statement and Resolution issued by the Select Committee on Ethics on February 27, 1991.

I have prepared this submission personally because, as you know, I cannot afford to continue to employ legal counsel.[1] Treatment of my prostate cancer made it impossible for me to defend myself during the public sessions of the Committee last November, December and January, and to communicate with my attorney in the way that the other four Senators who were under investigation could. I am pleased to have this opportunity to clear up certain false impressions that the hearings created and to point out inaccuracies, omissions and inappropriate inferences in the February 27, 1991 Committee documents.[2]

It is my understanding that the substantive issue is whether there is "clear and convincing evidence" of a causal connection between my official actions and donations—most of them charitable—that I collected for others.

I will show that there is, that there is *no direct evidence* of any such causal link. I will cite clear and convincing evidence that there were other causes—very legitimate causes—for my official actions.

The Resolution *infers* a causal connection from the proximity in time between the charitable donations and the official actions. Proximity in time is *not* clear and convincing evidence that the charitable donations caused my official actions. The Resolution's *inference* of a causal connection cannot survive dispassionate, reasoned analysis. It cannot be a substitute for clear and convincing evidence. The inference is particularly inappropriate and unfair given that my conduct was *not different in kind*, as I will show, from that of other Senators who have been under inquiry. The Resolution did not draw such adverse inferences against them.

In retrospect, I can see that the proximity in time between the charitable donations and the official actions could lead to an appearance of impropriety where no impropriety existed. I wish I had forseen this development—I have always endeavored to avoid appearances or actions that could reflect adversely upon the Senate or myself.[3]

I acknowledge and I accept the consequences of an appearance of impropriety due to proximity of time.

However, since timing and appearances did not warrant institutional action in the cases of the other Senators, it should not in my case.

The Senate has never set standards *of any kind* governing the timing of contributions of any kind in relationship to legitimate constituent services. I fully recognize that if a Senator engages in conduct that is inimical to generally accepted and understood standards and values, the Senate has an obligation to find that Senator guilty of improper behavior, although his conduct does not violate a specific law or Senate Rule. There is no evidence that I engaged in any improper conduct.

Without clear and convincing evidence of actual impropriety, there is no justification for subjecting me to disciplinary action. There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate has *never* determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful donation to the Senator's campaign or to a charity the Senator supports. To do so now would be contrary to the principles of the Senate and a violation of traditional concepts of fair play by proceeding in an *ex post facto* fashion.

In every case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. Neither any member of my family nor I received any compensation or personally benefitted in any way from these charitable contributions. I had no financial interest in Lincoln Savings, its parent, or affiliates. I received no income from it.

I will discuss the Special Counsel's proposal to extend to Senators the appearance standard in the Code of Ethics for Government Service that applies to federal judges and civil servants. The Senate has never adopted that code as an ethical standard applicable to Senators. There is no reference to it in any of the over 400 published Interpretative Rulings issued by the Select Committee on Ethics. The Special Counsel overlooks fundamental differences between federal judges and civil servants. Federal judges and civil servants do not have to raise funds to stay in office. A judge is not expected to serve the interests of the parties before him. A Senator is expected to *represent* his constituents, and to be—and to appear to be—responsive to their legitimate needs. Senators should not be at risk of discipline for violation of an appearance standard that would prevent us from intervening on behalf of constituents, contributors and non-contributors alike, when intervention is appropriate.

I want to clarify a crucial point that apparently was not made sufficiently clear during the hearings. I refer to my charitable fund-raising activities intended to increase voter participation. More than 10 years ago, the facts about the deplorable decline in voter participation in the United States came to my attention. I was appalled. It struck me that the very essence of our democracy was at risk as fewer and fewer Americans—particularly our youth—participated in the democratic process.

I discovered that one of the reasons for the voter fall-off was our antiquated and frequently onerous registration laws, which tend to discourage voting—especially among some of our minority populations. I was determined to do something about it.

I wrote articles. I gave speeches. I introduced legislation calling for reform. But until reform could take place, the only effective action I could take was to support non-partisan voter registration efforts across the country. The I.R.S. granted tax exempt status to donations for this cause. The I.R.S. regulates the donations to charitable organizations. To qualify for tax exemption, organizations must meet and continue to satisfy established criteria.

Enhancing voter participation became my personal crusade. In 1986, I directed much of my time and energy to it in addition to my Senatorial duties and my Senate reelection campaign. I increased my efforts in the 1987–88 campaign cycle because in the 1986 election, turnout dropped so low that over 62% of the national electorate failed to vote. Both parties "lost" the election—Democrats received only 18.9% and Republicans only 17% of the eligible votes.

Volunteering my time and effort, I raised $7,610,000 for voter participation programs in 1987–88. *$6,415,230—84.3% of the total—was in the form of I.R.S. approved tax-deductible charitable donations for non-partisan voter participation 501(c)(3) organizations throughout the country.* Although I accepted the checks on behalf of these organizations, *I had no control over how the money was to be spent.* The remainder of the donations went to support efforts to raise charitable donations for I.R.S. approved non-partisan voter participation groups.

This project required an annual operating budget of $250,000 and necessitated the establishment of America Votes (later known as USAVotes), an organization with a staff of three to five people. Two hundred sixty four individuals, foundations, unions, associations and corporations donated to this cause. Mr. Keating was not the largest donor, nor the only donor with a pattern of multiple giving.[4]

I strongly urge the Committee to take the time to understand the differences between the *charitable donations* I raised from Mr. Keating to increase voter participation and the *political contributions* raised from Mr. Keating by the other four Senators. These charitable donations—unlike political contributions—were of no direct political benefit for me. They were made *after* my 1986 reelection. *Senate Rule 37 expressly permits Senators to engage in fund-raising for charities, and many members quite properly do so.* The Committee acknowledged in its Statement that my solicitation and acceptance of charitable donations by Mr. Keating was legal and did not constitute a personal gift.

The Committee also acknowledges that political contributions are "a fact of life". Large campaign war chests are often the largest factor in winning—and keeping—a Senate seat. *Mr. Keating raised and contributed more political contributions to the campaigns and P.A.C.'s of each of the other four Senators, who had direct control over these contributions, than he did to mine.*

Mr. Keating was an acknowledged big giver: a big contributor in the political arena and a big donor in the charitable arena. He gave and loaned more than $44 million to Mother Teresa, Convenant House, the St. Vincent de Paul Society and anti-pornography drives. He gave and raised huge sums for political campaigns and candidates such as the $200,000 he gave to Senator Glenn's P.A.C. and $100,000 he contributed to George Bush's Team 100.

The Committee Resolution pertaining to me is in two parts: first, four "occasions" and questions related thereto about my official actions and fund-raising on behalf of charitable and related organizations; and, second, three questions concerning certain actions of Ms. Joy Jacobson, who though most of the time in question, was employed part-time by USAVotes to assist in raising charitable donations. I will examine each of these questions in detail. I will show that the Resolution is inaccurate, unfair and misleading in many of its statements with respect to these questions.

I respectfully, but urgently, request all members of the Committee to review the Resolution carefully and thoroughly in light of this submission.

When viewed fairly and impartially, the evidence regarding these charitable and related donations shows that at most there may have been some proximity of timing to official actions, and consequently perhaps bad judgment and an appearance of impropriety—*but nothing more.*

I will cite the evidence in the record that shows similar instances of proximity of timing between official actions and the receipt of *political contributions—not charitable donations*—by Senators DeConcini, Glenn and Riegle. In their cases, the Committee drew no inferences about and made no findings of any casual connections.

The Committee found that the conduct of Senators DeConcini and Riegle gave the appearance of being improper and was "attended with insensitivity and poor judgment"—*but nothing more.* The Committee voiced no criticism of Senator Glenn for his conduct in this respect.

There simply is no evidence establishing a difference in kind between my actions and the actions of Senators DeConcini, Glenn and Riegle—except that the money they raised was for their own political use, while the money I raised was charitable and for the use of others. It was not for my use.

Since there are no differences in kind between my actions and the actions of the other Senators, treatment of my actions *should not differ in kind* from treatment of their actions.

I will show that all five Senators had varying degrees of involvement concerning Lincoln Savings. In some respects, some Senators were more involved than I.

Regarding the activities of the USAVotes employee cited in the Resolution, I will show that she was not under my direct supervision. I also will show that, contrary to assertions in the Resolution, her activities were separate and distinct from my Senate office; that in at least one instance her solicitation of funds from Keating was made without my prior knowledge; that the Special Counsel drew unfair and inaccurate inferences from memoranda she wrote; that she did not repeatedly schedule and attend meetings between contributors and myself in which legislative or regulatory issues were discussed; that she did not engage in substantive discussions and never influenced, or attempted to influence, any official decision or action of my staff's or of mine; and that she did not serve as an intermediary for Messrs. Keating or Grogan but simply passed messages along occasionally when they were unable to reach me or members of my Senate staff.

I grant that some of Ms. Jacobson's activities were susceptible to creating an appearance of impropriety. Some of her memos were written carelessly, without thought to appearances. I should have realized that when I read them. But, in the press of my heavy and hectic Senate workload, I failed to do so. Some of her actions likewise could lead to false impressions. I failed to realize that at the time. I will show, however, that her testimony demonstrates that she understood very well that there must be no connection between official actions and donations, *no quid pro quo*. Like my own activities, her activities do not provide any evidence of a causal connection between my official actions and solicitation of donations. *Certainly none of her activities can warrant that the Committee recommend institutional action against me.*

I deeply regret that I failed to foresee that soliciting charitable donations close in time to official action could lead to an appearance of impropriety.

I regret that I did not constrain more closely the actions of the part-time employee of USAVotes.

I concede these errors, but these were errors in judgment, not in intent.

II—MY ANSWERS TO THE COMMITTEE'S FOUR QUESTIONS RE: POSSIBLE CAUSAL CONNECTIONS BETWEEN CHARITABLE DONATIONS AND OFFICIAL ACTIONS

Section (a)(1) of the Resolution cites four occasions when fund-raising and official actions were allegedly in "close connection". There may have been some proximity in time upon these occasions. There is no evidence of a causal connection. There is evidence to the contrary.

The following examines each occasion, quoting the question in the Resolution and then analyzing what the record shows about: first, the evidence regarding charitable and related donations; second, evidence regarding any official actions my staff or I took; and, third, evidence showing that there were indeed no cause and effect relationships between Mr. Keating's donations and my actions.

A. Paragraph (a)(1)(i)

"Paragraph (a)(1)(i) states: As a result of a solicitation from Senator Cranston in early 1987, Mr. Keating, on March 3, 1987, contributed $100,000 to America Votes, a voter registration organization. This contribution was made during the period leading to Senator Cranston's participation in the April 2 and April 9 meetings with Federal Home Loan Bank Board Chairman Edwin J. Gray and the San Francisco regulators."

(i) 1. *Donation:* The Resolution accurately notes that a donation was made on March 3, 1987, to America Votes. (Sp. Coun. Ex. 159). America Votes (later known as USAVotes) raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

2. *Official Action:* The Resolution is inaccurate and very misleading in stating that this donation was made during the period leading to my participation in the April 2 and April 9 meetings.

The evidence is undisputed that the donation was discussed, solicited and committed on or before *February 24, 1987*. (Stein Affidavit, Sp. Coun. Ex., 458, para. 14); (AC, 4/30/90, p. 119). The donation check was dated *March 3, 1987*. (Sp. Coun. Ex. 159). The evidence shows that I knew nothing about the proposed meetings before the *second half of March*, and perhaps not until the *last week* in March. (JG, 12/15/90, p. 88); (AC, 4/30/90, p. 119). Furthermore, the preponderance of evidence shows that the meetings first were conceived *after* the donation was solicited and received. (Gray, 2/23/90, p. 15; 11/29/90, p. 64); (Grogan, 12/12/90, pp. 56–58, 208); (Riegle, 1/7/91, pp. 29–32, 46–9, 51–55, 101–2, 163); (DeConcini, 1/9/91, pp. 45–6, 49, 51–2, 60–63, 199–200, 203, 209); (McCain, 1/4/91, pp. 27–21, 26, 111, 163–4); (Glenn, 1/4/91, pp. 240–47, 193).

The evidence shows that the April 2 meeting date was not set until a few days prior to the event. (Gray, 2/23/90, p. 15). The evidence shows that the second meeting on April 9 grew out of the April 2 meeting. The evidence shows that I played a very minor but proper role in the April 2 meeting. I asked why the audit was taking so long and agreed with Senator Glenn that if Mr. Keating has broken any law he should be prosecuted, but if he hadn't the regulators should get off his back. (AC, 4/30/90, pp. 131, 133); (Gray, 11/27/90, p. 51). The evidence shows that my participation in the April 9 meeting was essentially limited to sticking my head in the door for a minute. (AC, 4/30/90, p. 150); (Sp. Coun. Ex. 193).

3. *No Causal Connection:* The Committee's findings conclude that each of the five Senators had information that reasonably caused concern about the fairness of the Bank Board's examination of Lincoln and that was sufficient to justify contacting Bank Board personnel. (Committee Statement, 2/27/91, p. 1, para. 4). The Committee found that, without regard to donations or other benefits, no Senator violated any law or Senate rule by attending the April 2 and 9 meetings. (Committee Statement, 2/27/91, p. 1, para. 1).

The evidence shows that in that point in time all five of us had good reason:

To view Mr. Keating as a highly successful and respected businessman.

All five of us also knew that:

Alan Greenspan, who is now the Chairman of the Federal Reserve, had stated in his opinion that Lincoln was solvent for the foreseeable future. (Sp. Coun. Ex. 159); (AC, 4/30/90, p. 101).

Arthur Young, one of the "Big Eight" accounting firms, had found Lincoln to be in good shape and was very critical of the regulators.[5] (Sp. Coun. Ex. 161); (AC, 4/30/90, pp. 99–100).

I had several additional reasons to be concerned about the fairness of the Bank Board's examination of Lincoln:

Lincoln was a California-chartered Savings and Loan. Many thousands of its employees and depositors were my constituents. Their jobs and financial security were at risk.

I was aware—as perhaps the other Senators were not—that the Arthur Anderson firm, another of the "Big Eight" accountants, had found Lincoln to be in good shape and had grave questions about the performance of the regulators. (AC, 4/30/90, p. 102).

I previously had engaged in a confrontation with Mr. Gray, the Chairman of the Bank Board, and had the clear impression that he was incompetent. (AC, 4/30/90, pp. 106–9).

Mr. Gray had worked in public relations for a savings and loan institution in San Diego, California, before he was appointed to chair the Bank Board. I knew he had a poor reputation in the San Diego business community. (AC, 4/30/90, p. 107).

I knew that a principal newspaper in California, the Los Angeles Times, had called for Mr. Gray's resignation from the Bank Board after the General Accounting Office found he had misused $27,000 of public funds. (*Id.*; Cranston Ex. 57); (AC, 4/30/90, p. 92).

Thus the *evidence is overwhelming* that (a) I had many sound and official reasons to participate in the April meetings, where I played a very minor and proper role, and (b) the donation was solicited and received weeks before I knew of the April meetings. The preponderance of the evidence shows that the donation was solicited and received before *anyone* even conceived of the meetings.

There is no evidence—nor could there be—that I attended the April meetings because of the donation.

B. Paragraph (a)(1)(ii)

"Paragraph (a)(1)(ii) states: In the fall of 1987, Senator Cranston solicited from Mr. Keating a $250,000 contribution, which was delivered to the Senator personally by Mr. Keating's employee James Grogan on November 6, 1987. When the contribution was delivered, Mr. Grogan and Senator Cranston called Mr. Keating, who asked if the Senator would contact new Federal Home Loan Bank Board Chairman M. Danny Wall about Lincoln. Senator Cranston agreed to do so, and made the call six days later."

(ii) 1. *Donation:* There was not one but two donations that were delivered on November 6, 1987. The Resolution omits any description of them, and fails to make clear that these were *not* political contributions to any campaign of mine or to my P.A.C. I received no direct political benefits from the donations.

$225,000 was in the form of a charitable donation to Forum Institute, an I.R.S. approved 501(c)(3) tax-deductible organization. Forum distributed funds to non-partisan, 501(c)(3), grass roots organizations that registered voters in approximately 20 states. (Sp. Coun. Ex. 145). I accepted the check on behalf of Forum and turned it over to Forum. I had no control over Forum or how the money was used. The independent officers and directors of Forum had that control. (Harmon Affidavit, Sp. Coun. Ex. 501, para. 13).

$25,000 was in the form of a contribution to USAVotes (formerly America Votes) to support its efforts to raise charitable donations for I.R.S. approved 501(c)(3) non-partisan registration groups. (Sp. Coun. Ex. 146).

The Resolution also fails to mention that the donations were agreed to before October 6, 1987 (Sp. Coun. Ex. 182), more than a month prior to my status inquiry call to Mr. Wall.

2. *Official Action:* My notes about the call to Mr. Wall establish that it was a status inquiry.[6] I asked if the end of the audit of Lincoln was in sight. Mr. Wall and I also discussed the personality problems between Lincoln and the San Francisco regulators. (Sp. Coun. Ex. 147). Mr. Wall's testimony confirmed this. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.). Mr. Wall also testified that I did not urge him to take any particular course of action. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.).

Furthermore, there is *no* evidence that I attempted to influence the regulatory actions of Mr. Wall *or any other* regulator at any time. Every regulator who was called as a witness or in an affidavit testified that none of his or her actions were influenced by any contact from my office or from me. (Wall Affidavit, Sp. Coun. Ex. 428, p. 6, para. 9); (Rosemary Stewart, 1/2/91, pp. 10–11, 196); (Wall, 12/4/90, pp. 104, 116, 181–2, 184, 191); (Martin, 12/3/90, p. 58; Martin Affidavit, Sp. Coun. Ex. 17, para. 11); (Gray, 11/27/90, p. 97); (Patriarca, 11/27/90, p. 147); (Black, 12/6/90, pp. 29–30); (Cranston Ex. 78, Dochow Aff. Attachments A–1 at 19–20 & A2 at 41).

3. *No Causal Connection:* It flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for anyone to donate or contribute *anything* to me in order to get me to do *anything*.[7]

The routine status call that I made to Mr. Wall on November 12 was not motivated by the personal concerns of Mr. Keating. The jobs and financial security of thousands of my California constituents were at stake. I made the call for the same reason that I attended the April 2, 1987 meeting—because I believed it was necessary and proper that I do so on behalf of my many constituents who had stakes in Lincoln.

The Resolution is incorrect in concluding that Mr. Keating asked me to contact Mr. Wall when I was on the phone with him in Mr. Grogan's presence. At best, there is conflicting testimony on this point. (AC, 4/30/90, pp. 188 & 190); (JG, 12/14/90, p. 162). I do not recall a request from Mr. Keating on November 6 that I call Mr. Wall. *Nor* do I recall that my November 12 call to Mr. Wall was the result of a request from Messrs. Keating or Grogan.

The Resolution implies that there was a causal connection between the receipt of the donations and my decision to call Mr. Wall on November 12. There is *no* evidence to support such a conclusion.

Furthermore, Mr. Grogan testified that there was never "any suggestion, either by word or by body language, or by a raised eyebrow" that my interest in Lincoln's problems was tied to Mr. Keating's support of non-profit voter registration efforts. (JG, 12/15/90, p. 132). Mr. Grogan also testified, "There was never an occasion where Mr. Keating asked Senator Cranston to do something and Senator Cranston said, 'only if you raise funds for me.' There was never an occasion where Mr. Keating said, 'If you do this for me, I will raise X amount of dollars for you.'" He testified that there was never "even the suggestion" that fund-raising and official actions were connected in any way. (JG, 12/12/90, pp. 185–8). I repeatedly have testified that there was no connection between Mr. Keating's donations and my decisions to contact the regulators regarding Lincoln. (AC, 4/30/90, p. 95).

C. Paragraph (a)(1)(iii)

"Paragraph (a)(1)(iii) states: In January 1988, Mr. Keating offered to make an additional contribution and also asked Senator Cranston to set up a meeting for him with Chairman Wall. Senator Cranston did so on January 20, 1988 and Chairman Wall and Mr. Keating met eight days later. On February 10, 1988 Senator Cranston personally collected checks totaling $500,000 for voter registration groups."

(iii) 1. *Donation:* The Resolution incorrectly insinuates that (a) in January, 1988, Mr. Keating offered to make an additional charitable donation in connection with his asking me to set up a meeting for him to meet with Mr. Wall; and (b) based on my setting up the meeting, Mr. Keating made charitable donations in February. The Resolution's insinuation is unfair and inaccurate and cannot be substantiated in any way.

There is *no* clear and convincing evidence that Mr. Keating offered to make an additional donation in January, 1988.

Mr. Keating did make two charitable donations to voter registration groups on February 10, 1988 in Phoenix. The Resolution omits the fact that these were two I.R.S. approved charitable, tax-deductible donations to 501(c)(3) organizations for non-partisan, voter participation efforts. One was to Forum Institute, an organization I've already described. The other was to The Center for Participation in Democracy, that engaged in and supported non-partisan registration drives in several states. *Neither* of these two organizations, nor the use of the money, was under my control.

Regarding this period, there is considerable testimony about a dinner I attended in January with Messrs. Keating, Grogan, and others. Mr. Grogan testified that he recalls no discussion of fund-raising at the dinner. (JG, 12/14/90, p. 166; 12/13/90, p. 24 & p. 265). My son, Kim Cranston, who was present, testified that he recalls no specific offer of support by Mr. Keating. (KC, 6/28/90, p. 15). I testified similarly that (a) I did not solicit any funds at the dinner, (b) that I did not recall the discussion of any specific funds, and (c) that Mr. Keating may have indicated in a *vague* way that he would continue to support registration efforts. (AC, 4/30/90, p. 191; 10/16/90, p. 87).

Mr. Grogan testified that he was not aware of any solicitation that preceded my February 10 visit to Phoenix. (JG, 12/13/90, pp. 261–2).

My visit to Phoenix had been in the works since at least September of the previous year. (JJ, 12/3/90, pp. 164–6). Messrs. Keating and Grogan had a long standing policy of inviting members of Congress, their staffs, and others to visit Phoenix to see the Lincoln/American Continental Corporation operation first hand. Many Congressmen and staff members have visited his company in Phoenix. Mr. Grogan testified that he had invited me to visit Phoenix several times. (JG, 12/14/90, pp. 169–70; 12/15/90, pp. 119–20). I had wanted to visit to see for myself the type of operation Mr. Keating was running. (AC, 4/30/90, p. 184). This was the first time that my schedule permitted this trip. (JJ, 7/19/90, p. 167); (JG, 12/13/90, p. 17). Ergo, this trip *was totally coincidental* to the Wall/Keating meeting. It *had no connection* with the Wall/Keating meeting.

It is also equally coincidental that this trip finally occurred at the beginning of a new year, and thus coincided with the timing implicit to Ms. Jacobson's practice of seeking contributions from individuals twice in a given year—early and late. (JJ, 12/2/90, p. 161). Ms. Jacobson, in her capacity as a part-time USAVotes employee, had written me a memo dated February 4, 1988, stating that the main goal concerning Mr. Keating was to receive a charitable donation as soon as possible so that he could be asked for an additional donation in the fall. (Sp. Coun. Ex. 269). She testified that the timing of solicitations of donations was largely driven by her own timetable and that charitable giving is based on an annual cycle. (JJ, 12/3/90, pp. 176, 219).

By happenstance, this trip to Phoenix was also consistent with my practice of going to visit potential donors—rather than inviting them to visit me—to get help for the registration efforts. (AC, 10/16/90, p. 87); 12/3/90, p. 143).

2. *Official Action:* There is *no evidence* that Mr. Keating committed to make a specific donation in connection with asking me to set up an appointment with Chairman Wall to see him.

The evidence shows only that Ms. Jacobson sent me a memo dated January 18, 1988 relaying a request to her from Mr. Grogan that I help schedule a meeting between Messrs. Keating and Wall. (Sp. Coun. Ex. 172).

I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be necessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I even knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

3. *No Causal Effect:* Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2/27/91, p. 1, para. 4).[8]

There is no evidence of a causal connection between my January 20, 1988 telephone call and the charitable donations. There is no specific evidence that there was even a solicitation of Mr. Keating or a discussion of any donation prior to the February 10, 1988 trip.[9] In fact, for six months there had been efforts to schedule a trip to Phoenix that finally occurred in February, 1988 and resulted in the receipt of charitable donations. *It is pure coincidence* that the trip finally was scheduled and the donations were received three weeks after my telephone call to Mr. Wall.

Coincidence in time and unsubstantiated inferences about proper inquiries such as my telephone call and receipt of charitable donations on a trip that had been in the making for many months cannot properly substitute for the lack of clear and convincing evidence of improper linkage, particularly where there is factual and convincing evidence that Mr. Keating *did not* ask me to set up a meeting in connection with a solicitation of a donation of any type.

D. Paragraph (a)(1)(iv)

"Paragraph (a)(1)(iv) states: In early 1989, at the time that Senator Cranston was contacting Bank Board officials about the sale of Lincoln, he, personally or through Joy Jacobson, his chief fund-raiser, solicited another contribution. (This contribution was never made. American Continental Corporation declared bankruptcy on April 13, 1989.)"

(iv) 1. *Donation:* The Resolution fails once again to point out that this was a solicitation of an I.R.S. approved 501(c)(3) charitable tax-deductible donation, the use of which I did not control. It was *not* a solicitation of political contributions for my benefit. The Resolution accurately states that this donation was never made.

The Resolution's description of Ms. Jacobson is misleading. In early 1987, she directed the fund-raising staff of the Democratic Senatorial Campaign Committee. At the time in question, early 1989 (and for more than a year before that) she was spending 50% of her time as a consultant to the Democratic Senatorial Campaign Committee; 25% as a consultant to a P.A.C. I fund (Committee for a Democratic Consensus); and 25% as a consultant under contract to USAVotes to raise charitable donations for registration efforts.

Mr. Rob Stein, the Executive Director of USAVotes, was in charge of its over-all operations. I was one of three cochairmen of USAVotes. I was not the direct supervisor of Ms. Jacobson in her capacity as a part-time employee of USAVotes, nor was I the direct supervisor of any other USAVotes employees.

There is conflicting testimony concerning who solicited Lincoln at this time. I have testified that I do not recall discussing a donation with Messrs. Keating, Grogan or anybody during this period. (AC, 10/16/90, p. 68; 5/17/90, p. 299). I do not believe such a discussion ever took place. Mr. Grogan, when asked whether anybody on my staff or I solicited a donation from him or Mr. Keating during this period, testified that Ms. Jacobson, not I, discussed a donation with him. (JG, 12/14/90, pp. 179–80). Ms. Jacobson's recollection was that I solicited Mr. Keating during the period. (JJ, 12/3/90, pp. 167–8).

I believe the following shows that Ms. Jacobson initiated the solicitation and that she did so without my knowledge.

A memorandum from Joy Jacobson to me and to Rob Stein, the Executive Director of USAVotes, dated March 1, 1989, written on her home computer, shows that I did not make the solicitation and illustrates the mechanics of how the staff of USAVotes and I worked to solicit charitable donations. (Sp. Coun. Ex. 171). It was Ms. Jacobson's job to come up with the names of people, foundations and organizations which she thought would be potential donors. She would write a memorandum with the potential donors' names, suggestions as to who should contact them, and the amounts to be requested. When I reviewed it, I would look down the list for the names suggested for me. I would systematically try to call most, but not necessarily all, of the names suggested to me. When my part of the list was complete, I would hand it back with my notes about the calls to my secretary. She would report these results back to Ms. Jacobson.

There are 18 names of potential donors on the March 1, 1989 memo. My handwritten notes or my secretary's notes appear under 12 of those names—only those that were proposed as my assignments.

It is clear that Ms. Jacobson assigned herself three names on the first page: AFSCME, Dick Darling, and Charlie Keating. After Mr. Keating's name these words are typed in the memo: "Joy is talking with Jim Grogan. 100,000 wherever it's needed."

This evidence corroborates Mr. Grogan's testimony that Ms. Jacobson, not I, made this solicitation. It indicates that her memory was incorrect when she testified that I solicited Mr. Keating. It shows that on the date of the memo, March 1, 1989, she had already discussed a $100,000 donation with Mr. Grogan.

Ms. Jacobson's solicitation of Mr. Grogan is consistent with her explanation in her testimony "that the first group you go back to [at the beginning of each year is] your past donors and try to renew them." (JJ, 12/3/90, p. 161). Her solicitation of Mr. Grogan on her own is further evidenced by Ms. Jacobson's statement that "the timing of the fund-raising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was." (JJ, 12/3/90, p. 176). She also stated that I never suggested to her to time any request for a donation to coincide with anything before the Bank board or with any other event or events. (JJ, 12/3/90, pp. 175–6).

2. *Official Action:* The record shows that, working on an entirely different track from Ms. Jacobson, I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constituents of mine.

For whatever reason, none of the sales materialized. However, the concerns that motivated my calls did occur. The consequences have been catastrophic: a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: To prevent financial damage to many of my constituents.

In response to the influence I point to the clear and convincing evidence that (a) I did not solicit a charitable donation, and that (b) I did not know that Ms. Jacobson had made a solicitation until I read her memo of *March 1, 1989*. Once I knew, the knowledge had no effect on my conduct.

Ms. Jacobson testified that she was not aware that Messrs. Keating or Grogan was talking to me about the sale, nor that I was being asked to do anything about it. (JJ, 7/19/90, p. 179).

There is absolutely no evidence of any causal connection between (a) Ms. Jacobson's solicitation, and (b) my telephone calls in 1989 to regulators regarding possible sales of Lincoln. Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a causal connection between a solicitation and an official action.

The *fair inference* from the record is that Ms. Jacobson was on one track following up according to her standard practice with one of the few established contributors whom she solicited personally and regularly at the beginning of each year. Meanwhile, I was on another track taking very limited official actions contacting regulators regarding the possible sale of Lincoln—actions for which there was clear and independent constituent related justification. Senator DeConcini made the same type of inquiries for similar reasons.

The foregoing analysis of each of the four "occasions" cited in the Resolution demonstrates that there is absolutely no evidence of a causal relationship between any of Mr. Keating's donations and any of my actions, and that there is overwhelming evidence to the contrary.

I remind the Committee again of Mr. Grogan's response when my attorney asked him the following question: "Was there any suggestion, either by word or by body language, or by raised eyebrow, that Senator Cranston's interest in Lincoln Savings' problems was tied to Mr. Keating's support of the non-profit voter registration efforts?" Mr. Grogan replied, "Never." (JG, 12/15/90. p. 132).

The Special Counsel has cited no evidence that Mr. Keating authorized donations only on condition that I would help him, or because I had helped him. He cited no evidence that I agreed to help only if Mr. Keating contributed.[10]

III—MY ANSWERS TO THE COMMITTEE'S THREE QUESTIONS RE: A PART-TIME EMPLOYEE OF AN ORGANIZATION THAT RAISED I.R.S. APPROVED 501(C)(3) CHARITABLE DONATIONS

The Resolution raises questions in Section (a)(2) about my Senate office practices, citing three examples of activities engaged in by Ms. Jacobson, a part-time employee of USAVotes, over whom I had no real supervisory role. I have already indicated that she was *not* a member of my Senate staff. She had no substantive expertise in Banking Committee issues and did not subsequently involve herself in my official Senate activities.

The words "Senate office practices" is inaccurate and misleading. Ms. Jacobson came to my office occasionally, but by no means frequently or regularly. She worked out of her home in Virginia. Unlike the practice in some Senate offices, I have never assigned major political fund-raising responsibilities to anyone serving part time or full time on my Senate staff. I have designated two Senate staff members under Rule 41, but they have done comparatively little political fund-raising. All fund-raising efforts with which I have been involved, whether political or charitable, have been the responsibility of individuals employed elsewhere—*not* in my Senate office.

Although some of Ms. Jacobson's activities are susceptible to an interpretation that they raise an *appearance* of impropriety, they do not constitute clear and convincing evidence of a causal connection between (a) my personal official actions and (b) solicitations of donations I made or of which I was aware.

A. Paragraph (a)(2)(i)

"Paragraph (a)(2)(i) states: Senator Cranston's fund-raiser repeatedly scheduled and attended meetings between Senator Cranston and contributors in which legislative or regulatory issues were discussed."

The Resolution unfairly uses the word "repeatedly". Mr. Grogan met Ms. Jacobson in 1984. (JG, 12/12/90, pp. 71–73); (JJ, 12/3/90, p. 91; 7/19/90, p. 37). He testified that he would call her to schedule appointments until he became acquainted with members of my Senate staff and began to turn to them to arrange appointments. (JG, 12/12/90, p. 93).

Ms. Jacobson testified that after March, 1987, the only meetings which she was involved in arranging were for fund-raising or social purposes, not substantive purposes. (JJ, 12/3/90, p. 96). She testified that she didn't know about April 2 and April 9 meetings until long after they occurred. (JJ, 12/3/90, p. 130). She testified that she arranged *no* substantive meetings during the entire two year period from April, 1987, to April, 1989, during which the other three "occasions" occurred that raise questions of causal connections. [Referred to in Paragraph (a) 1 of the Resolution].

The Resolution inaccurately states that Ms. Jacobson scheduled meetings for me. The evidence shows that she had to go through my Secretary or my Administrative

Assistant to place appointments on my schedule.[11] (JJ, 7/17/90, p. 76).

Ms. Jacobson's testimony differs from mine about why she attended such meetings. I have testified that Ms. Jacobson suggested to me that it would be helpful for her to be present so she would know what was going on. (AC, 4/30/90, p. 24). She testified that she was there to make sure that the charitable donor felt at home in my hectic and crowded office before I arrived or if I were called away on Senate business. (JJ, 12/3/90, pp. 86–90).

Ms. Jacobson has testified, and I confirm, that she never participated in substantive discussions in any meetings. (JJ, 12/3/90, p. 86). Moreover, Ms. Jacobson testified that she often paid no attention to the substantive discussions: "While a substantive discussion was going on, I often would get up and go make phone calls outside of the office. There's a round table that I often worked at in Senator Cranston's Whip office. While a substantive meeting was going on in another section of the same room, I would be off doing something else." (JJ, 12/3/90, p. 90).

To the best of my knowledge, Ms. Jacobson never attempted to influence an official action in any way. Neither anyone on my staff nor I made a decision of substance based on any actions by Ms. Jacobson.

B. Paragraph (a)(2)(ii)

"Paragraph (a)(2)(ii) states: Senator Cranston's fund-raiser often served as the intermediary for Mr. Keating or Mr. Grogan when they could not reach the Senator or Carolyn Jordan, the Senator's banking aide."

The Resolution's use of the word "intermediary" is misleading and unfair. The record shows, as I have just indicated, that Ms. Jacobson did not engage in any substantive negotiations or take any substantive actions. She testified that she simply passed messages along occasionally when Mr. Grogan was unable to reach me or members of my Senate staff. (JJ, 12/3/90, p. 156). Ms. Jacobson testified, "It was Jim Grogan's nature to just keep dialing until he got somebody. Again, it usually had to do with something that was going to happen and he needed to get a hold of somebody, whether it was Roy [Greenaway] or Alan [Cranston] or Carolyn [Jordan], and I would say, I'll pass it along." (JJ, 7/19/90, p. 168).[12] Ms. Jacobson also testified, ". . . At the beginning they always did call me. My understanding is that later on they often didn't call me, that they called Roy Greenaway [my Administrative Assistant] or they called Mary Lou [McNeely, my Secretary] directly or they just showed up at the office." (JJ, 7/19/90, p. 164).

C. Paragraph (a)(2)(iii)

"Paragraph (a)(2)(iii) states: Senator Cranston received several memoranda from Ms. Jacobson which evidenced her understanding that contributors were entitled to special attention and special access to official services. Senator Cranston never told her that her understanding was incorrect, nor did he inform her that such a connection between contributions and official actions was improper."

The Special Counsel focused on one memo dated January 7, 1987. (Sp. Coun. Ex. 154). It was written prior to *all* the specific donations referred to in the Committee's Resolution.

Ms. Jacobson did *not* state—as the Resolution indicates—that the individuals she mentioned in her January 7 memo were "entitled to special attention and special access to official services." She said the individuals expected "some kind of resolution" of pending matters. That is exactly what every constituent, whether a contributor or not, rightfully expects from their Senator. That is exactly what every constituent of mine gets, whether he is a contributor or not, to the best of my ability and my staff's ability. Note that Ms. Jacobson did not state that these individuals could rightfully expect a *favorable* resolution. She said they would expect "*some kind*" of resolution.

She explained the meaning and intent of this memo in her testimony. She testified that the individuals she mentioned, like all constituents, were entitled to a response from me as to what, it anything, I was going to do about their problems—not necessarily a positive response or resolution—but *some* response or resolution. (JJ, 7/19/90, pp. 99–101; 12/3/90, pp. 204–5). They may not like the response, but they like all constituents are at least entitled to be heard and to be given a decision. That is all Ms. Jacobson advocated and that is all I ever tried to provide.

Furthermore, Ms. Jacobson testified that several individuals mentioned in her January 7 memo, including Mr. Keating, did not get the results they wanted. (JJ, 12/3/90, pp. 205–6). I understand how someone with 20/20 hindsight might question the implication of Ms. Jacobson's words, but my deeds followed the *words*, not the *implications*.

Improper inferences drawn from a memo written by someone else, not by me, *must not be accepted as a substitute* for clear and convincing evidence of causal connections between my official actions and donations.

The only other memos I am aware of from Ms. Jacobson simply passed on information or contained updates on charitable donations.

Moreover, and in fundamental fairness to Ms. Jacobson, I believe that the Resolution *unfairly implies* that she lacked understanding of proper policy regarding donations and official actions. Ms. Jacobson testified that she knew there could not and must not be a quid pro quo between official actions and donations, and that my absolute firm office practice was to have nothing to do with any potential donor who sought to link a donation to official action. (JJ, 12/3/90, pp. 223–4, 239–40).

Specifically, in relation to Lincoln, Ms. Jacobson testified that neither Messrs. Keating, Grogan nor I ever indicated that *any* donations were made with any understanding that I would do *anything* in return (JJ, 12/3/90, pp. 175–6):

Q. Did Mr. Grogan ever tell you that the contributions were made with the understanding that Senator Cranston would do anything in return?

A. Absolutely not.

Q. Did anyone whom you knew to be associated with Lincoln Savings or American Continental ever tell you that any of the contributions were made with the understanding that Senator Cranston would do something in return?

A. No.

Q. Did Senator Cranston ever say to you that he thought that the contributions which you have discussed were made with an expectation that he would act in any way on behalf of Mr. Keating, or Lincoln or American Continental?

A. No.

Q. To your knowledge, did Senator Cranston do anything for or on behalf of Lincoln Savings because Mr. Keating assisted his reelection campaign?

A. No.

Q. Did he to your knowledge do anything for or on behalf of Lincoln Savings because Mr. Keating contributed money to USA Votes, Forum Institute or the Center For Participation in Democracy?

A. No.

Q. Did Mr. Keating or anyone associated with him ever tell you that a contribution would be made after Senator Cranston made an inquiry on his behalf?

A. No.

Q. Did Senator Cranston ever tell you or suggest to you that you should time any request for contributions to coincide with anything occurring before the Bank Board?

A. No. In fact, the timing of the fund-raising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.

Q. Did Senator Cranston ever tell you to time a solicitation to Mr. Keating to coincide with any other event or events to your recollection?

A. No.[13]

The Resolution inappropriately states that Ms. Jacobson understood that donors were entitled to special access. Mr. Grogan testified that he was able to obtain my attention—in other words get access to me—before any of the charitable donations for voter registration were made by Mr. Keating. (CG, 12/15/90, p. 132).

IV—THERE ARE NO DIFFERENCES IN KIND BETWEEN MY ACTIONS AND THE ACTIONS OF SENATOR DE CONCINI, SENATOR GLENN, SENATOR MCCAIN AND SENATOR RIEGLE

There are *no differences in kind* between my actions and the actions of the other four Senators with respect to Lincoln.

Therefore there is no justification for singling me out for disciplinary action.

The Committee Statement of February 27, 1991 contains many important findings that show both similarities and differences in the actions of the five Senators. The findings include:

1. That, when considered without regard to any donation or other benefit, actions of the other four Senators and my actions did not violate any law or Senate rule.

2. That no solicitation or acceptance of any donation by the other four Senators or myself constituted a personal gift to any one of us.

3. That the other four Senators and I had a reasonable basis for contracting FHLBB personnel.

4. That the attendance of the other four Senators and my attendance at the April 2 and April 9 meetings, when considered without regard to donations, was not improper.

5. That my post-April 9, 1987 conduct and that of Senators DeConcini and Glenn when considered without regard to donations, was not improper; and in and of itself it is not improper to contact regulators after learning of a criminal referral. (DeConcini & Glenn).[14]

6. The committee found that it may appear improper but actually it is not improper for a Senator to engage in aggressive conduct with regulators especially after learning of a criminal referral. (DeConcini).

7. The Committee found, however, that it was *poor judgment* but it did not find it unethical for a Senator to arrange a lunch between Keating and Speaker Wright eight months after the Senator knew of the criminal referral. (Glenn).

8. That the solicitation and acceptance by the other four Senators and me of all donations, including those to charitable voter registration organizations, were not illegal or improper.

9. That there are no specific written standards regarding contact with federal regulators in general or on behalf of contributors in particular.

10. That it may appear improper, but the Committee did not find it improper, for a Senator to assist a constituent with regulatory problems at a time *very close* to when that constituent is raising funds for the Senator. (Glenn and Riegle).

11. By implication, that conduct that is not improper but gives rise to an appearance of impropriety does not warrant further Senate action. (Riegle and DeConcini).

12. That contacts of the other four Senators and my contacts with regulators regarding Lincoln did not cause the eventual failure of Lincoln or the thrift industry in general.

Clearly all five Senators had varying degrees of involvement in respect to Lincoln. Mr. Keating and his friends and associates contributed more political contributions to the campaigns and P.A.C.s of each of the other four Senators, who had direct control over these funds, than to mine. The totals:

Glenn, $252,200.
McCain, $110,000.
DeConcini, $85,000.
Riegle, $78,250.
Cranston, $59,000.

Although I received *less* in political contributions than any of the other Senators, it appears that I received more because of the charitable donations I raised. This is misleading and can warp an objective observer's perspective. I did not *receive* the charitable donations. I *collected* them on behalf of and passed them on to 501(c)(3) charitable organizations.

The fact that when charitable donations are counted I raised more funds from Mr. Keating than any of the other Senators should be considered in several contexts:

The total amount of charitable contributions I raised from Mr. Keating is not unusual in view of his general record of giving and loaning many more than $44 million to various causes including Mother Teresa, Convenant House, the Vincent de Paul Society and anti-pornography drives.

The Special Counsel asked why Mr. Keating, whom he characterized as extremely conservative, would donate to a Democrat such as I and to causes I espoused. F.E.C. records show that Mr. Keating has contributed very large sums to both the Democratic and Republican parties and to many candidates of both parties. Mr. Grogan testified about Mr. Keating's philosophy, "I would not characterize him as a conservative Republican and he doesn't characterize himself that way. He is much more liberal on a variety of issues." (JG, 12/12/90, p. 88).[15]

Regarding charitable contributions, I also want to note that information obtained from Senate financial disclosure forms shows that many Senators are associated in some way—surely including fund-raising in some instances—with I.R.S. approved 501(c)(3) organizations. Among them are the former Majority Leader Robert C. Byrd, now President Pro Tem of the Senate (Robert C. Byrd Scholastic Recognition Fund) and Minority Leader Robert Dole (Dole Foundation for the Employment of People with Disabilities). (AC Exhibit 80).

Coincidences in time between political contributions and official actions were found in respect to three of the other Senators:

The Committee found that Senator Riegle was helping Lincoln with its regulatory problems at the same time that Mr. Keating was raising substantial political funds for him—i.e., $78,250 raised for Senator Riegle's 1988 campaign on March 24, 1987, nine days before the April 2 meeting and after Senator Riegle's apparent involvement in discussions leading to the April 2 meeting. The Committee stated that it did not condone Senator Riegle's conduct and criticized him for "insensitivity and poor judgment"—*but* the Committee did *not* conclude that this coincidence in time between Senator Riegle's fundraising and official actions required institutional action by the full Senate. (Senate Ethics Committee Statement, 2/27/90, Riegle).

The Committee found that Mr. Keating raised $54,000 for Senator DeConcini's November, 1988, reelection, shortly before the Senator made efforts similar to mine although perhaps or "aggressive" than mine (to use the Committee's word)—to make sure the Bank Board gave appropriate consideration to the efforts to sell Lincoln.

The Committee learned that in late 1984 and early 1985 Mr. Keating and his associates made significant political contributions and raised funds for Senator Glenn's presidential campaign debt and for his Senatorial campaign. This coincided in time with actions Senator Glenn took at the suggestion of Mr. Keating regarding the direct investment rule in December, 1984, and January, 1985. Senator Glenn testified he did not know about the contributions until the summer of 1985. (Glenn, 1/4/91, pp. 187–8, 226, 255).

The Committee did not conclude that there was any causal connection between these three coincidences of receipt by Senators Riegle, DeConcini and Glenn of these political contributions in proximity of time to their official actions. How, then, could the Committee without *any* substantiating evidence conclude that there was any causal connection between my receipt—on behalf of others—of charitable and related donations and my official actions? My case, like the cases of Senators Riegle, DeConcini and Glenn, *can only involve* questions of judgment and appearances.

I believe, too, that our actions did not differ in kind from legitimate actions of our 95 colleagues. Virtually every Senator raises funds for his campaigns and renders legitimate services to his constituents, including contributors, when they need it. I have noted previously that many Senators are active in one way or another with charitable organizations and some Senators raise very substantial money for them.

V—THERE ARE NO U.S. SENATE RULES, PRECEDENTS, OR CASES IN WHICH A SENATOR HAS BEEN DISCIPLINED FOR ASSISTANCE TO A CONSTITUENT WHEN THE SENATOR RECEIVED NO PERSONAL FINANCIAL PROFIT

If the Committee believes there should be limits on a Senator's ability to perform his official duties for a contributor based upon the timing or proximity of a donation to an official act, it may recommend that change to the full Senate and allow all 100 members of this body to debate such a proposed rule.

It would be contrary to the principles of the Senate and a violation of traditional concepts of a fair play to apply such a rule to me now *in what would clearly be an ex post facto fashion.*

There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate *never* has determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful contribution to the Senator's campaign or to a lawful donation to a charity that the Senator supports.

The Senate has to date rejected attempts to create Ethics Rules that would restrict the ability of its members to give their supporters the impression that they will be responsive to their needs. There is a *fundamental difference* between a Senator acting on behalf of a constituent and a Senator acting for his personal gain. It is one thing to say that a Senator should not do anything in his official capacity that appears to bring him personal gain. It is quite another to say he should not do anything in his official capacity that appears to benefit supporters or contributors. The former is a conflict of interest and a violation of public trust. The latter is not only *not* a violation of trust, but a fulfillment of it. Its appearance can seem improper only to those who distrust the system itself.

In *every* case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. The last four Senators who were disciplined by the Senate were involved in actions that resulted in *personal* gain. There has *never* been a case that has led to the disciplining of a Senator for assisting, or appearing to assist, a constituent-contributor when the Senator received no personal profit.[16]

The history of conflict of interest rules for the Senate and the House demonstrates that the evil at which all those efforts have been directed is the use of elective office for personal gain.

Senate Rule 37, the conflict of interest rule, distinguishes between personal and political benefit. It prohibits Senators and staffers from intervening with federal agencies for the purpose of furthering their financial interest or receiving compensation from a constituent. Its application is limited to agency intervention "resulting in measurable *personal* financial gain."

The Senate in 1977 rejected a proposed rule suggesting that the motive of a contributor could make a contribution improper. Senator Nelson, Chairman of a Special Committee, had proposed that Rule 35, pertaining to gifts, also should ban acceptance of anything "intended to affect the present or future performance of official duties." Senator Stevens attacked the proposal as "something no one can live up to if he is honest with himself and the American people . . . It is a standard of conduct with which one cannot comply in good faith and good conscience as a member of the U.S. Senate." Senator Nelson finally agreed, saying, "I do not think it makes sense at all, and someone who was working overtime and got tired must have written it." (pp. 144–5, Davidson Legal Counsel Report, March 1991).

The Committee acknowledges in its Statement of February 27, 1991 that the Senate presently has no specific written standards embodied in Senate rules representing contact with Federal or independent regulatory agency officials. The Committee suggests a process for establishing such standards and states that until that is accomplished "All Senators are encouraged to use House Advisory Opinion No. 1 as a source of guidance for their actions."

House Advisory Opinion No. 1 indicates that it is proper for a member to communicate with an executive or independent agency on any matter to request information or status reports; to urge prompt consideration; arrange for interviews or appointments; express judgments; call for reconsideration of an administrative response that the member believes is not supported by established law, Federal regulation or legislative intent; or perform any other service of a similar nature in this area that is compatible with the criteria expressed in the Advisory Opinion.

The Advisory Opinion makes *absolutely no reference* to campaign contributions or charitable donations, or to the timing of campaign contributions or charitable donations solicited or received by a member who performs any of these approved and specified actions. It notes that it is a felony to seek or receive "compensation for any services rendered."

All my actions with respect to Lincoln were well within the guidelines of House Advisory Opinion No. 1.

VI—THE QUESTION OF APPEARANCES AND A SENATOR'S CONSTITUTIONAL OBLIGATION TO REPRESENT THE PUBLIC INTEREST OR THE COURSE OF JUSTICE OR EQUITY OF HIS CONSTITUENT

Senator Sanford was quoted in the Washington Post on January 11, 1991, wondering how Members of Congress can "overcome the impression" that it *appears* improper if Members accept donations from constituents for whom they intercede.

This is a perplexing problem, since our basic obligation is to the people we represent, many of whom have supported us financially or in other ways. We must do what we think is right, not just what may appear to be right.

Senators should not be at risk of discipline for violation of an appearance standard that would prevent us from intervening on behalf of constituents when intervention is appropriate. If we act only when no one will criticize us, we will not serve the people who elected us.

The fact that a constituent is a contributor, even a recent contributor, does not make it unethical—and should not make it appear unethical—for a Senator to undertake to render him legitimate help when he needs it. The fact that a constituent is a contributor does not change his need for, nor his right to, a Senator's proper and timely help.

The Special Counsel proposes extending to Senators the appearance standard in the Code of Ethics for Government Service ("CEGS") that applies to federal judges and civil servants. The Senate *never* has adopted "CEGS" as an ethical standard applicable to Senators. CEGS never has been interpreted or applied by the Senate as a standard applicable to Senators. There is *no reference to it* in any of the over 400 published Interpretative Rulings issued by the Committee. The House has referred to it, but only in cases involving personal benefit. To apply CEGS to campaign contributions or charitable donations would be inconsistent with Senate Rules 35 and 37. The definition of a "gift" in Rule 35 specifically excludes campaign contributions. the term "compensation" under Rule 37 strictly has been limited to personal benefits.

The Special Counsel overlooks fundamental differences between federal judges and civil servants and Senators. Federal judges and civil servants do not have to raise funds to stay in office. For them, an appearance of a conflict of interest cannot relate to a campaign contribution. Presumably it will relate to personal financial gain. A judge is not expected to serve the interests of the parties before him, but to judge between them in a neutral and detached manner. He should be, and should appear to be, impartial.

A Senator, on the other hand, is a servant of the constituents of his state. the Constitution requires us to *represent* our constituents. A Senator is expected to be and to appear to be responsive to the legitimate needs of his constituents, including his supporters and non-supporters alike. A Senator who attempted to function as a judge would soon be voted out of office. We also differ from federal judges and civil servants because *we are elected by the people.* We do not have life tenure. Senators *must* serve—and *must appear to serve—the proper interests of the people who support them. If they don't, their constituents won't get the help they need and deserve, and the Senators won't be reelected.*

Indeed, in 1977 the Senate Ethics Committee warned that financial disclosure was preferable to specific restrictions on conduct because "it is one thing to describe cases that could pose a disturbing conflict of interest, but quite another to formulate a rule that meets the worst cases without becoming unreasonable. A rule designed to prevent a potential conflict of interest may result instead in depriving a Senator's constituents of full representation."

In 1977, the Committee stated that an excessively restrictive rule could "do harm to the legislative process" and "cut to the heart" of a Senator's function. (Davidson, 137). I submit that the adoption by the Senate of a similarly excessive standard of appearances could deprive constituents of full representation, could harm the legislative process, and could cut to the heart of a Senator's function.

VII—CONCLUSION TO MY WRITTEN SUBMISSION

The Resolution easily could give the erroneous impression to anyone not familiar with the facts that the donations referred to were all of a political nature to some campaign or P.A.C. of mine. It omits any reference to the established and undisputed fact that 85.3% of the money—totaling $725,000—that Mr. Keating donated from early 1987 through April, 1989 was in the form of I.R.S. approved 501(c)(3) tax-deductible charitable donations to organizations that were not under my control and whose use of the money was not under my control.

In addition, Mr. Keating donated $125,000 to America Votes, an organization that raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

The Resolution fails to point out that *none* of Mr. Keating's donations which are being questioned during this period was in the form of a political contribution to any campaign of mine. Only $10,000 was to a federal P.A.C. that I organized.

The Resolution ignores the important fact that *all* these donations were made *after* my 1986 reelection. An expert on voting, Curtis B. Gans, who is Director of the non-partisan, non-profit, Committee for the Study of the American Electorate, testified that registration efforts in California in 1987 and 1988 that were supported by some of the funds I raised would have had "negligible impact" on my reelection campaign four years later (had I chosen to run in 1992). "I could think of no less cost-effective way of advancing one's own interest," he testified. (Affidavit of Curtis B. Gans, Cranston Exhibit 77).

Section (a)(1) of the Resolution fails to make clear that *all* the contacts I had with regulators during this time—and at all other times—were, standing alone, not only proper, as the Committee's Statement of February 27, 1991 acknowledges, but were also de minimis. The established fact is that they were all routine status inquiries, or requests that somebody see somebody, or requests that various proposed sales of Lincoln be carefully considered. The Committee fails to make clear that in *none* of the contacts I made did I ever advocate any particular action. It fails to make clear that I *never* urged the regulators to take or refrain from any particular action.

Thus the alleged improprieties that the Resolution suggests occurred arise solely because of routine, non-substantive inquiries I made on behalf of constituents that may have been in some way proximate in time to the solicitation or receipt of charitable or related donations.

I previously have noted in statements to the Committee that my actions in respect to Mr. Keating *should not be viewed as if they occurred in a vacuum.* I pointed out that my days and my nights are characterized by constant, passionate work on the great issues of our time, like war and peace, the environment and the economy, justice, and equal rights. I cited my many responsibilities during the time these events occurred, including my leadership role in the Senate as Majority Whip; my Chairmanship of the Veterans' Affairs Committee; my membership on several other committees and the Chairmanship of busy and important subcommittees; my very active role in fund-raising for other Senators and causes as well as for my campaigns; and the fact that—along with my Senate colleague from California—I represent many more constituents (30 million) than do any other Senators. Indeed, California's Senators *represent more constituents* than any other legislator *has ever represented* in any country in the *entire history of legislative bodies.*

Constantly, I am called upon for help by my constituents. Unlike a corporation, I do not have the funds and the capacity to verify the financial status or the moral stature of each constituent who presents a problem to me. I cannot ask Dun and Bradstreet or the FBI to provide me with this information. More than 300,000 constituent requests have been handled by my staff and me in the 22 years I have been in the Senate. I deeply regret that one involving Lincoln Savings has created the problem that is before us.

A casual observer of the hearings might well have obtained the false impression that I did little else over several years except deal with regulators regarding Lincoln. This is not the case. *In the almost two year period* between the April 1987 meetings and February 8, 1989, *I had only five contacts* with Federal regulators regarding Lincoln. I had no contacts at all between May 16, 1988, when Mr. Wall requested an appointment with me to discuss legislation, and February, 1989, when the sale of Lincoln came up.

In the period from February 8 through April 14, 1989, I had only five contacts with FHLBB members Wall, Martin and White regarding *three different proposals* to sell Lincoln. All contacts that I initiated were proper status inquiries. I had a legitimate basis for making them. All these contacts related to the interests of many thousands of my constituents whose jobs and financial well-being depended upon the fate of Lincoln.

I by no means responded favorably to every request by Messrs. Keating or Grogan for me to take some official action. I already have cited my refusal to push hard for the approval of a specific sale of Lincoln. Mr. Grogan in his testimony cited several examples of requests for actions that I declined to take. (JG, 12/12/90, p. 113; 12/13/90, pp. 130, 206–7, 215, 306; 12/15/90, pp. 90, 93–4, 96–8).

Besides citing many facts that contradict the causal connection theory concerning charitable donations and my official actions, I have presented a list of inaccuracies and important facts that were omitted in the Committee documents of February 27. In all fairness, these matters should be corrected in the final documents that are issued by the Committee.

A fair question to ask is: To what extent was the Committee influenced by these omissions of important facts, inaccuracies, and unwarranted implications in material put before it while reaching its conclusions announced on February 27, 1991?

I protest allegations of linkage, explicit or implicit, based merely on unsubstantiated and prejudicial inferences instead of demonstrable evidence.

I am convinced that a full and further review of the record, in light of my Submission, can only lead to three conclusions:

First, there is no evidence of a causal connection between any solicitation or donation and any official action on my part.

Second, that my conduct was not materially different from that of the other four Senators involved.

Third, that whatever differences there were between the actions of the four Senators and mine they were not differences of *kind*. A fair and impartial consideration of this matter can only lead one to the conclusion that the Committee's treatment of my actions *should not differ in kind* from the treatment it accorded Senators DeConcini, Glenn, McCain and Riegle. I concede that I should have recognized that fund-raising—even for charitable donations—close in time to official actions could lead to an appearance of impropriety. It was a mistake not to have given more thought to appearances.

I concede that I should have constrained more closely the individual who was working for an organization that raised charitable contributions.

I readily concede these errors, but these were errors in judgment, not in intent.

I deeply regret them.

Without any clear and convincing evidence that any official action of mine was causally linked to any donation, however, there is no reason for the Committee to recommend institutional action in my case.

Institutional action would be a tragic event in my 22 year career in the Senate. Such action is not warranted by the events that have clouded the recent past.

I love this body and I have cherished each day I have spent in it serving the people of California.

APPENDIX I—CHARLES KEATING: HIS POLITICAL PHILOSOPHY AND HIS RECORD OF PHILANTHROPIC DONATIONS

The amounts in charitable donations I raised from Mr. Keating should not seem unusual when the Committee considers his general record of giving to and support philanthropic causes.

He gave between $1 million and $5 million to Mother Teresa. He donated $2 million and loaned $40 million to Convenant House in New York. He gave $1 million to the Vincent de Paul Society in Arizona. He gave untold millions to anti-pornography campaigns and other causes.

The amounts the other four Senators and I raised from Mr. Keating in political contributions also are not unusual when the Committee takes into account his general pattern of participation in the political process.

He regularly gave and raised thousands of dollars to political campaigns and candidates including $100,000 to George Bush's "Team 100" in 1988.

The Special Counsel asked several times why Mr. Keating, whom he has characterized as an extremely conservative Republican, would contribute to a Democrat such as I and to causes in which I believed.

The Special Counsel cited an invitation to a Democratic fund-raising dinner that I enclosed in a letter to Mr. Keating. (Sp. Coun. Ex. 29). The Special Counsel said he was bewildered at the notion that Mr. Keating would want to pay to go to a dinner sponsored by Pamela Harriman, the well known Democratic fund-raiser, and Governor Dukakis. The fact is that when my invitation had arrived, Mr. Keating already had purchased a ticket to the event on his own. (JJ, 7/19/90, pp. 173-4).

Mr. Grogan testified as follows about Mr. Keating's philosophy. "Mr. Keating has a reputation that's not accurate of being a very conservative Republican. While he holds certain conservative Republican views, I would not characterize him as a conservative Republican and he doesn't characterize himself that way. He is much more liberal on a variety of domestic issues." (JG, 12/12/90, p. 88).

It is a matter of record that Mr. Keating has contributed to many Democrats and to many Republicans including Walter Mondale's presidential campaign, the Reagan-Bush campaigns, the Democratic Senatorial Campaign Committee, the Republican National Committee, the Democratic Party of California and the Republican Party of California. F.E.C. reports covering the elections of 1984, 1986, and 1988 show that he contributed to many Democratic and many Republican candidates for the Senate and the House.

APPENDIX II—MY SUGGESTED CORRECTIONS TO SEVERAL ADDITIONAL FACTUAL ERRORS IN THE COMMITTEE'S FEBRUARY 27, 1991 STATEMENT AND RESOLUTION

The Committee Statement in the section headed "Recommendation for Bi-Partisan Campaign Reform" declares that over 80% of the funds raised by the five Senators "were not disclosed funds raised . . . under the Federal Election Campaign Act. Rather, such funds were undisclosed, unregulated funds raised for independent expenditures, political party 'soft money,' and a non-federal political action committee." That statement contains two factual assertions that I believe are in error and should be corrected in the Committee's final Report.

First, no funds were raised for "independent expenditures"—funds raised independently of a campaign to help a candidate without the candidate's consent. I did not raise any. I do not believe there is any evidence that any of the other Senators raised any.

Second, I presume the reference to "political party 'soft money'" refers to the donation to the California Democratic Party. That contribution was not "undisclosed" and "unregulated". It was both disclosed and regulated in full accordance with California law.

This section of the Statement also fails to mention the category of funds that comprised most of the funds I raised: charitable donations certified as tax-deductible by the I.R.S. because they were to 501(c)(3) non-partisan organizations. This omission also should be corrected.

I did not raise any funds for a non-federal political action committee. Thus, nothing in this section as written describes my solicitations of charitable donations and related charitable donations from Mr. Keating.

FOOTNOTES

[1] Legal fees I feel obliged to cope with total more than $878,000—over $628,000 for me, and over $250,000 for others involved because of my involvement. This total amount exceeds the aggregate sum of my Senate salary for the past 10 years.

[2] I regret that I have been unable to double check to insure that detail in every citation and footnote contains no error. I am confident, however, that the substance of every reference to which I have referred is accurate.

[3] That is why I have voluntarily made my tax returns public for many years. That is why I established a blind trust during my first term in the Senate. That is why I stopped accepting honoraria.

[4] (AC Exhibit 51E).

[5] William Seidman subsequently said, referring to the Arthur Young and Alan Greenspan letters, "Those two documents, I think, were pretty extraordinary for Senators to receive in terms of convincing them of the possibility that the bureaucracy was out of control. The Senators had a couple pieces of paper that could have raised questions in their mind. You have to say this on behalf of the Senators: they got a letter from a Big 8 accounting firm, the likes of which I think had never been done before in history in which the firm on the stationery said the regulators are harassing the company, treating them unfairly, et cetera." (AC, 4/30/90, p. 105).

[6] Such status inquiry calls are certainly routine for most if not all Senators. (Senate Ethics Committee, 2/27/91, p. 3, para. 1).

[7] Back in the 70's, another large corporation, Lockheed, was facing bankruptcy. Lockheed had invested millions of dollars in my state. The livelihoods of many thousands of my constituents and their families were at risk—as was the case with Lincoln Savings. I devoted far more time and effort and made many more phone calls about Lockheed's plight than I ever did about Lincoln's as I successfully endeavored to obtain a government guaranteed loan for Lockheed.

Lockheed was not a contributor to my campaigns or causes. In fact, Lockheed had contributed to my opponent in the previous election.

[8] Again, such phone calls are certainly routine for all or most Senators. The Supreme Court has noted, "The making of appointments with government agencies is a 'legitimate errand' performed by Members of Congress for constituents." (*Brewster* 408 U.S. at 512). The Supreme Court has also judicially observed that Senators may be more aggressive than any of the five of us were in dealing with the Bank Board: "Senators are constantly in touch with the Executive Branch of the Government and with administrative agencies— they may *cajole* and *exhort* with respect to the administration of a statute." (Gravel v. U.S., 408 U.S. 606, 626, 1972),

[9] It would not have been unusual for Mr. Keating to make an unsolicited donation. The record shows that in 1985, he made an unsolicited $200,000 political contribution to Senator Glenn's Political Action Committee.

[10] In December, 1990, the San Francisco Chronicle falsely accused me of trading favors for cash. When I threatened to sue the Chronicle for libel, the Chronicle published a complete Page One retraction.

[11] Ms. Jacobson's activities should be considered in the context of Senate Rule 41 that permits Senators to appoint up to three members of their staffs who may solicit and receive campaign and political contributions. Ninety-nine Senators had done so as of November 1990. All 99 Senators appointed key staffers, including 90 Administrative Assistants, who could raise and receive contributions while simultaneously possessing the enormous power to schedule appointments; to draft, amend, advance or delay legislation; and to deal with the Executive Branch and regulatory agencies.

Thus, the Senate has ruled that there is no impropriety and no appearance of impropriety if a Senate staff who raises funds also schedules and attends meetings where substantive matters are discussed with a constituent-contributor. It seems to me that if there is a question of appearances if a fund-raiser who is not on the Senate staff attends such meetings, there is at least an equal possibility of an appearance question when the roles are commingled.

[12] I must note a separate but relevant matter that was established during the hearings involving Bill White, who had formerly been Senator Glenn's Administrative Assistant. Mr White subsequently left Senator Glenn's staff and proceeded to serve as Chairman and Treasurer of the John Glenn Committee, Inc. Mr. White received a letter dated June 6, 1984 from Mr. Grogan. The letter began as follows: "Dear Bill: Many thanks for arranging to meet with Bob Kielty regarding the JHG fundraiser in Phoenix. Also many thanks for coordinating with Dan Dougherty, et cetera, regarding the proposed FHLB regulation limiting direct investments by insured institutions." (Sp. Coun. Ex. 33); (Glenn, 1/4/91, pp 225-6).

In this instance the Committee did not feel it necessary to be critical of Senator Glenn for the fact that his fund-raiser, who was not on his Senate staff, was coordinating in substantive areas.

[13] The testimony of my Banking Committee aide, Ms. Jordan, substantiates Ms. Jacobson's. The Special Counsel asked her if it was the general philosophy of my office that donors could rightfully expect some kind of resolution of the issues that they brought to her. She replied that it was the policy of our office to respond to all inquiries. There was no mechanism for keeping staffers informed of who were contributors, nor any effort to do so in any way. Ms. Jordan certainly made no inquires about whether somebody was a contributor before she decided how to act on a particular request. Ms. Jordan testified, "It was basically our posture that we resolved everything as far as one way or another, either for or against."

The Special Counsel asked Ms. Jordan how she set priorities, how she decided which complaints got handled first and in depth. She responded, "I've never had that problem. I can't remember having a problem like that where I had to stop doing something for one person to do something for another." (CJ, 6/27/90, pp. 57–8).

[14] I have testified twice as to why I did not walk away from Lincoln's problems—and away from the problems of thousands of my California constituents—when I heard that the regulators attending the April 9 meeting had revealed that earlier on that very same day they had decided to make a criminal referral re Lincoln (without indicating that it was aimed personally at Mr. Keating), (AC, 4/30/90, pp. 180–2; 10/16/90, pp. 26–7). See also testimony from Ms. Rosemary Stewart indicating that there was no evidence of misconduct by high level management of Lincoln. (Rosemary Stewart, 1/2/91, pp. 43–7).

[15] See Appendix III for details on these points.

[16] In one case in 1873 when the Senate investigated whether Senators Harlan and Patterson had been bribed by an offer of Credit Mobile stock at preferential rates, the Senate also considered whether Senator Harlan's conduct violated ethical standards because of a related campaign contribution. A special Senate Committee apparently found that the contribution was made to influence Senator Harlan, but the Committee recommended no disciplinary action because the contribution did "not appear to have influenced his action as a Senator." (pp. 59–60, Senate Legal Counsel Memorandum to Select Committee on Ethics, March 1991).

[U.S. SENATE SELECT COMMITTEE ON ETHICS]

My Written Response to the Ethics Committee's November 20, 1991, Resolution for Committee Action

(Senator Alan Cranston, U.S. Senate, Washington, DC, November 20, 1991)

INTRODUCTION TO MY WRITTEN RESPONSE TO THE ETHICS COMMITTEE'S NOVEMBER 20, 1991 RESOLUTION FOR COMMITTEE ACTION (ECR)

The following constitutes my response to the details of the Resolution for Committee Action issued by the Select Committee on Ethics on November 20, 1991. There are several inaccuracies and inconsistencies that occur in this *Resolution (ECR)* that the Ethics Committee has issued.[1]

In my Written Submission of April 22, 1991, (ACS), I already had pointed out most of these inaccuracies and inconsistencies and had supplied the Ethics Committee with the relevant documented facts. Many of these facts are ignored in the Resolution. The following primarily draws upon my Written Submission (ACS) to critique the erroneous material which appears in the Resolution.

ECR 1) a) (ii)

ECR 1) *Contacts with Federal Officials Regarding Lincoln S & L*

(a) That the Committee finds that Senator Alan Cranston, personally or through Senate staff, made the following contacts with federal officials regarding Lincoln Savings and Loan (Lincoln), a subsidiary of American Continental Corporation (ACC), a company associated with Mr. Charles H. Keating, Jr.:

(ii) On March 27, 1987, following a discussion with a Lincoln lobbyist, Senator Cranston's banking aide inserted material into the *Congressional Record* relating to "direct investments" by Savings and Loans, an issue of importance to Lincoln and many other Savings and Loan institutions;

This statement is a distortion of the facts regarding a *Congressional Record* statement about an amendment to the Competitive Banking Equality Act of 1987 proposed by Senator Proxmire in the manager's amendments at the last minute which would overrule all state laws on the subject of direct investment. Senator Cranston's banking aide, Carolyn Jordan testified that she discussed the matter with Senator Proxmire's staff person who said the amendment was redundant and that they were going to remove it from the bill. Jordan went to the Senate "record" room after the Senate recessed that night and saw Senator Proxmire's statement regarding the amendment, but was unsure whether the amendment had actually been removed. Jordan testified that, "we looked at this as a State's rights issue as opposed to a direct investment issue." Jordan testified she was concerned and brought this to the attention of Senator Cranston's A.A., Roy Greenaway. Jordan testified "I did not insert [the statement myself], but I wrote the statement. * * * I gave it to our A.A. [Roy Greenaway] and he had a special assistant to sign it, and they took it to the *Congressional Record* room and that is how it was inserted." (Jordan, 12/11/90, pp. 143–4). She further testified, "It [the statement's insertion] was not done by me personally. The A.A. [Roy Greenaway] and his special assistant signed off on it, because it had to have Alan Cranston's signature on it." (Jordan, 12/11/90, p. 146).

Roy Greenaway, Senator Cranston's A.A., stated that "I am authorized to approve for inclusion in the *Congressional Record* statements which have not been personally reviewed by Senator Cranston. Although I have no specific recollection of approving this particular statement, I have no reason that I did not. Ms. Jordan's description of my actions with respect to this particular *Congressional Record* statement is consistent with my practice and with the office policy described in paragraph 4. I am confident that I would have approved the statement for inclusion in the *Congressional Record*." (Roy Greenaway Aff., 1/14/91).

There is conflicting testimony concerning the reason for the statement's inclusion. Jordan repeatedly referred to the amendment as overturning the authority of the State of California and stated she did not talk to Grogan or anybody else at Lincoln at that time although she testified that she was aware of Lincoln's position on the issue. (Jordan, 12/11/90, pp. 145, 136).

Grogan, however, testified that one of his lobbyists discovered the amendment had been slipped into the bill at the last minute and talked to Jordan about getting that removed and putting in legislative history to neutralize Senator Proxmire's statements. (Grogan, 12/14/90, pp. 146–47). Grogan, however, when confronted with Jordan's testimony stating she had acted on her own said, "I have no information that in any way makes me think that that is not absolutely the truth." (Grogan, 12/14/90, p. 149). When closely questioned, Grogan testified that whatever happened between [the Lincoln lobbyist] and Carolyn Jordan, Grogan [he was not present] and that the lobbyist had simply told him that the mission was accomplished; that they were going to get language to neutralize the Proxmire language. (Grogan, 12/13/90, p. 241).

ECR 1) a) (iii)

ECR 1) a) (iii) omits a description of my participation in the April 2, 1987 meeting with FHLBB Chairman Edwin J. Gray and Senators DeConcini, Glenn and McCain to discuss the ongoing examination of Lincoln.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 12–15 states:

"The evidence shows that I played a very minor but proper role in the April 2 meeting. I asked why the audit was taking so long and agreed with Senator Glenn that if Mr. Keating had broken any law he should be prosecuted, but if he hadn't the regulators should get off his back. (AC, 4/30/90, pp. 131, 133); (Gray, 11/27/90, p. 51). The evidence shows that my participation in the April 9 meeting was essentially limited to sticking my head in the door for a minute. (AC, 4/30/90, p. 150); (Sp. Coun. Ex. 193).

"3. *No Causal Connection:* The Committee's findings conclude that each of the five Senators had information that reasonably caused concern about the fairness of the Bank Board's examination of Lincoln and that was sufficient to justify contacting Bank Board personnel. (Committee Statement, 2/27/91, p. 1, para. 4). The Committee found that, without regard to donations or other benefits, no Senator violated any law or Senate rule by attending the April 2 and 9 meetings. (Committee Statement, 2/27/91, p. 1, para. 1).

"The evidence shows that in that point in time all five of us had good reason:

To view Mr. Keating as a highly successful and respected businessman. "All five of us also knew that:

Alan Greenspan, who is now the Chairman of the Federal Reserve, had stated in his opinion that Lincoln was solvent for the foreseeable future. (Sp. Coun. Ex. 159); (AC, 4/30/90, p. 101).

Arthur Young, one of the "Big Eight" accounting firms, had found Lincoln to be in good shape and was very critical of the regulators.[2] (Sp. Coun. Ex. 161); (AC, 4/30/90, pp. 99–100).

"I had several additional reasons to be concerned about the fairness of the Bank Board's examination of Lincoln:

Lincoln was a California-chartered Savings and Loan. Many thousands of its employees and depositors were my constituents. Their jobs and financial security were at risk.

I was aware—as perhaps the other Senators were not—that the Arthur Anderson firm, another of the "Big Eight" accountants, had found Lincoln to be in good shape and had grave questions about the performance of the regulators. (AC, 4/30/90, p. 102).

I previously had engaged a confrontation with Mr. Gray, the Chairman of the Bank Board, and had the clear impression that he was incompetent. (AC, 4/30/90, pp. 106–9).

Mr. Gray had worked in public relations for a savings and loan institution in San Diego, California, before he was appointed to chair the Bank Board. I knew he had a poor reputation in the San Diego business community. (AC, 4/30/90, p. 107).

I knew that a principal newspaper in California, the Los Angeles Times, had called for Mr. Gray's resignation from the Bank Board after the General Accounting Office found he had misused $27,000 of public funds. (*Id.*; Cranston Ex. 57); (AC, 4/30/90, p. 92).

"Thus the *evidence is overwhelming* that (a) I had many sound and official reasons to par-

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Footnotes at end of article.

ticipate in the April meetings, where I played a very minor and proper role, and (b) the donation was solicited and received weeks before I knew of the April meetings. The preponderance of the evidence shows that the donation was solicited and received before anyone even conceived of the meetings.

"There is no evidence—nor could there be—that I attended the April meeting because of the donation."

ECR 1) a) (v)

(v) In July or August of 1987, Senator Cranston called M. Danny Wall, then Chairman of the FHLBB, concerning Lincoln.

Clarification of this point is necessary. Wall did testify that I called him in July in August of 1987 regarding Lincoln. Wall testified, *however*, that I simply made "the observation that he understood that there was an examination that had been underway for in excess of a year, he understood that to be unusual—which it was; and that he urged the Board to make a decision, not in any way indicating what the Board's decision should be, but that we ought to make a decision and get on with it." (Wall, 12/4/90, 19–20). I do not have any independent recollection of this contact (Taylor Submission, 1/30/91, p. 15).

ECR 1) a) (vi)

(vi) On Nov. 12, 1986, Senator Cranston called Chairman Wall and discussed Lincoln's dispute with the San Francisco FHLB regulators.

The word, "discussed", is a distortion of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 16–17*, states:

"2. *Official Action:* My notes about the call to Mr. Wall establish that it was a status inquiry.[3] I asked if the end of the audit of Lincoln was in sight. Mr. Wall and I also discussed the personality problems between Lincoln and the San Francisco regulators. (Sp. Coun. Ex. 147). Mr. Wall's testimony confirmed this. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.). Mr. Wall also testified that I did not urge him to take any particular course of action. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.).

"Furthermore, there is *no* evidence that I attempted to influence the regulatory actions of Mr. Wall *or any other* regulator at any time. Every regulator who was called as a witness or in an affidavit testified that none of his or her actions were influenced by any contact from my office or from me. (Wall Affidavit, Sp. Coun. Ex. 428, p. 6, para. 9); (Rosemary Stewart, 1/2/91, pp. 10–11, 196); (Wall, 12/4/90, pp. 104, 116, 181–2, 184, 191); (Martin, 12/3/90, p. 58; Martin Affidavit, Sp. Coun. Ex. 17, para. 11); (Gray, 11/27/90, p. 97); (Patriarca, 11/27/90, p. 147); (Black, 12/6/90, pp. 29–30); (Cranston Ex. 78, Dochow Aff. Attachments A–1 at 19–20 & A–2 at 41).

"3. *No causal Connection:* If flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for anyone to donate or contribute *anything* to me in order to get me to do *anything*."

ECR 1) a) (vii)

(vii) On Jan. 20, 1988, Senator Cranston called Chairman Wall and asked him to meet with Charles Keating.

This is a distortion of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 22 states:*

"I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be necessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I even knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

"3. *No Causal Effect:* Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2/27/91, p. 1, para. 4)[5]"

ECR 1) a) (vii)

(viii) On February 16, 1988, Senator Cranston called Chairman Wall and his notes indicate discussion of Lincoln.

There is evidence to the contrary regarding the subject of the call. My handwritten notes indicates a call to Wall on that date. (Cranston Ex. 173). However, in my deposition on April 30, 1990 (pp. 230–31), I replied to Special Counsel Bennett's questions regrading my notes of the 2/16/88 phone call: "I do not believe this call had anything to do with Lincoln or Keating in any way. I'm not positive of that but that is my impression from the notes."

Furthermore, there is no further reference to this call in Wall's affidavit or testimony before the Committee.

ECR 1) a) (ix)

(ix) On April 21, 1988, Senator Cranston called Chairman Wall to obtain a status report on Lincoln.

This is a *distortion* of the facts. Senator Cranston Exhibit 179 consists of my handwritten notes apparently of a phone call made on April 21, 1988 to Wall. Lincoln Savings appears to be one of several matters discussed (item 3). In my deposition on April 30, 1990 (p. 251–4), I translated the notes as follows: "April 21. I had a conversation with Wall on several matters. The notes indicate that it covered four points, only two of which related to Keating." I went on to describe the other items which involved two other institutions unrelated to Lincoln. Item three related to Lincoln and I testified that he presumed he asked Wall what was happening and Wall responded he was trying to resolve it and nothing more was said or I would have made a note. The last item related to a general FSLIC issue (recapitalization etc.) and the notes reflect that Wall had indicated that he had all views on the issue, including Keating's.

ECR 1) a) (x)

(x) On May 6, 1988, after receiving a telephone call from James Grogan, an ACC attorney, Senator Cranston's banking aide talked to FHLBB officials about the FHLBB's proposed supervisory agreement with Lincoln;

This statement is misleading and does not contain all the relevant facts. Cranston Ex. 150 is a memo from Ms. Jordan to me and Roy Greenaway, my A.A., dated May 6, 1988. It states that Ms. Jordan had received a call from Jim Grogan. Grogan told Ms. Jordan that the Board had met and decided to take enforcement action against Lincoln, including a supervisory agreement that triggered required reports to shareholders and the public, which would have an adverse effect on value of stock, etc.

Ms. Jordan's memo goes on to say that she called FHLBB and talked to Jim Boland, a special assistant to Wall and Carl Hoyle, Congressional Affairs, in a 3-way call. The memo indicates Ms. Jordan told them I was very concerned about using the supervisory approach. It describes the situation and discusses upcoming hearings in the Banking Committee on oversight of FSLIC and suggests that this issue could be raised at the time.

I stated that until I received Ms. Jordan's memo I was unaware that Grogan had called her or that Ms. Jordan had called Hoyle and told him that I was concerned about any action they proposed to take. My affidavit further states that I took no action as a result of the memorandum. (Cranston Ex. 82, 0.5). In my deposition, I said I did not recall authorizing Ms. Jordan to make these statements, but that it was consistent with my general views of the situation. (AC, 4/30/90, pp. 256–60).

ECR 1) a) (xi)

(xi) On May 16, 1988, Senator Cranston met with Chairman Wall, and Lincoln was discussed.

This point *distorts* the facts. The "discussion" was in reality a very limited status inquiry.

Initially, I did not recall discussing Lincoln at that meeting. However, after Wall testified that I had asked him when a decision would be made regarding Lincoln, I stated in my January 12, 1991 affidavit that "I recall very little about my meeting with Chairman Wall on May 16, but I believe he is correct in his testimony that when I saw him that month, we talked about a number of matters, and I inquired as to the status of the Lincoln matter. I did not complain about the Board's decision. I did not urge that the Board change or modify its decision. I did not discuss with Mr. Wall any on going negotiations between the Bank Board and Lincoln." (Cranston Ex. 82, p. 6.).

Wall supported this statement in both his affidavit and testimony. In his affidavit, he stated, "To the best of my recollection, Senator Cranston asked when a decision would be made by the Board regarding Lincoln. The Senator did not suggest a course of action that he thought the Board should take. He repeated that he understood the examination of Lincoln was still pending and he urged that it be concluded." (Wall Aff., p. 13; 12/4/90, p. 56).

ECR 1) a) (xii)

(xii) On February 8 and 9, 1989, Senator Cranston called Chairman Wall and Federal Deposit Insurance Corporation Chairman L. William Seidman concerning the proposed sale of Lincoln and, on February 8, Senator Cranston's banking aide called an FHLBB official about Lincoln;

This statement is a *distortion* of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 27–8* states:

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin affidavit para.

11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

"3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constituents of mine."

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents."

Furthermore, the report fails to clarify the nature of my banking aide's inquiry. Taylor's Post-Hearing Submission of January 30, 1991, (page 16, fn. 11) describes the call as follows: "Ms. Jordan called Mr. Dochow on February 8 to inquire about whether there was a pending application to buy Lincoln. (Cranston Ex. 78, Dochow Aff. 6). It was on this occasion that Ms. Jordan first learned that there was a dispute about whether Lincoln satisfied its net worth requirements (Jordan, 12/11/90, p. 107). Mr. Dochow testified that Ms. Jordan did not urge that the Bank Board take any particular action with respect to the sale and that he viewed Ms. Jordan's call as a proper status inquiry. (Cranston Exhibit 78 (Dochow Aff. 6))."

ECR 1) a) (xiii)

(xiii) In early April 1989, Senator Cranston called all three members of the FHLBB concerning the proposed sale of Lincoln.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 26–28 states:

"2. *Official Action:* I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

"(3) *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constituents of mine.

"For whatever reason, none of the sales materialized. However, the concerns that motivated my calls did occur. The consequences have been catastrophic: a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

"Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a causal connection between a solicitation and an official action."

ECR 1) c)

ECR 1) Contacts with Federal Officials Regarding Lincoln S & L

(c) The Committee further finds that, when considered in and of themselves and without regard to any contribution or other benefit, none of Senator Cranston's aforementioned activities concerning Lincoln were illegal or improper and violated no law or Senate rule.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 52 states:

"The Resolution fails to make clear that *all* the contacts I had with regulators during this time—and at all other times—were, standing alone, not only proper, as the Committee's Statement of February 27, 1991 acknowledges, but were also de minimis. The established fact is that they were all routine status inquiries, or requests that somebody see somebody, or requests that various proposed sales of Lincoln be carefully considered. The Committee fails to make clear that in *none* of the contacts I made did I ever advocate any particular action. It fails to make clear that I *never* urged the regulators to take or refrain from any particular action.

"Thus the alleged improprieties that the Resolution suggests occurred arise solely because of routine, non-substantive inquiries I made on behalf of constituents that may have been in some way proximate in time to the solicitation or receipt of charitable or related donations."

ECR 2) a) (i)

ECR 2) Solicitations and Contributions

(a) The Committee finds that, prior to 1987:

(i) Mr. Keating, his associates, and friends contributed a total of $49,000 to Senator Cranston's 1984 Presidential Campaign and his 1986 Senatorial Campaign;

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 40, states:

"Clearly all five Senators had varying degrees of involvement in respect to Lincoln. Mr. Keating and his friends and associates contributed more political contributions to the campaigns and P.A.C.s of each of the other four Senators, who had direct control over these funds, than to mine. The totals: Glenn, $252,200; McCain, $110,000; DeConcini, $85,000; Riegle, $78,250"; Cranston, $49,000.

ECR 2) a) (ii)

ECR 2) Solicitations and Contributions

(a) The Committee finds that, prior to 1987:

(ii) At Senator Cranston's request, Mr. Keating also caused a contribution of $85,000 to be made by ACC to the California Democratic Party get-out-the-vote campaign in the Fall of 1986.

The resolution omits to mention the bipartisan nature of Mr. Keating's donation. I state in my deposition, "Keating did contribute $85,000 to a partisan get-out-the-vote drive conducted in 1986 in California when I was running . . . I would like to point out he also gave $80,000 to the Republican party, for a get-out-the-vote drive which was harmful to me, so that was sort of a net wash." (AC, 4/30,90, p. 40).

ECR 2) a) (iii)

(iii) At the request of Senator Cranston's chief fund raiser, Lincoln also made a $300,000 line of credit available to Senator Cranston's campaign in the fall of 1986 on an expedited basis, although this line of credit was never used.

Senator Cranston's Letter to Senator Heflin, September 12, 1991. Re Response to Bennett/Helms leak, pp. 13–14 states:

"Loans or lines of credit are often taken out on an expedited basis in the closing, crisis moments of campaigns when fears develop that there will be a fatal, last-minute shortage of the cash needed for victory.

"There was no benefit to my campaign, since the line of credit was not used.

"There was *never* any intention that this line of credit was to be for my personal use or benefit, and there is *no* evidence indicating any such intention. At the time, I was totally engaged in the closing stage of a very close election, and obviously had no time or inclination to deal with my personal finances. The Finance Director for my campaign arranged the loan. She testified that the loan was solicited by her to enable the campaign to pay for last-minute media buys, if needed, and that use of funds was to be solely upon her discretion and authority. (Jacobson, deposition H, P. 87–95. Also B.H., P. 214, footnote 850). Mr. Grogan confirmed in his testimony that Ms. Jacobson solicited the loan, that he understood it to be personal to me, but that he did not know whether ultimately that was the case. (J.G., 12/14/90, p. 138–9 & Grogan, Dep. S1, p. 134–135; Also, B.H., p. 214, footnote 850). If there was ever any discussion of making the line of credit to me personally, I was not aware of it, and that would only have been discussed because those willing to consider making loans to be used for campaign purposes prefer to make them to individuals, not to incorporated campaigns where future repayments are likely to be far more difficult to obtain. In any event, the line of credit was set up to my campaign on an arms-length, purely business-like basis, and I was *required* to make my personal property available as surely."

ECR 2) b)

b) The Committee also finds that, beginning in 1987, Senator Cranston solicited contributions from Mr. Keating for several voter registration organizations with which Senator Cranston was affiliated:

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 51 states:

"The Resolution easily could give the erroneous impression to anyone not familiar with the facts that the donations referred to were all of a political nature to some campaign of P.A.C. of mine. It omits any reference to the established and undisputed fact that 85.3% of the money—totaling $725,000—that Mr. Keating donated from early 1987 through April, 1989 was in the form of I.R.S.

approved 501(c)(3) tax-deductible charitable donations to organizations that were not under my control and whose use of the money was not under my control. Furthermore, I held no position in any of these organizations, nor did I serve on any of their boards.

"In addition, Mr. Keating donated $125,000 to America Votes, an organization that raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, nonpartisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

"The Resolution fails to point out that *none* of Mr. Keatings donations which are being questioned during this period was in the form of a political contribution to any campaign of mine. Only $10,000 was to a federal P.A.C. that I organized."

ECR 2) b) (ii)

(ii) the Senator solicited $250,000 for voter registration groups on September 24, 1987, and Keating affiliated companies contributed $225,000 to the Forum Institute (a 501(c)(3) tax-exempt organization) and $25,000 to USA Votes on November 6, 1987;

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 16 & 17 states:

"1. *Donation:* The Resolution fails to make clear that these were *not* political contributions to any campaign of mine or to my P.A.C. I received no direct political benefits from the donations.

"$225,000 was in the form of a charitable donation to Forum Institute, an I.R.S. approved 501(c)(3) tax-deductible organization. Forum distributed funds to non-partisan, 501(c)(3), grass roots organizations that registered voters in approximately 20 states. (Sp. Coun. Ex. 145). I accepted the check on behalf of Forum and turned it over to Forum. I had no control over Forum or how the money was used. The independent officers and directors of Forum had that control. (Harmon Affidavit, Sp. Coun. Ex 501, para. 13).

"$25,000 was in the form of a contribution to USAVotes (formerly America Votes) to support its efforts to raise charitable donatins for I.R.S. approved 501(c)(3) nonpartisan registration groups. (Sp. Coun. Ex. 146).

"The Resolution also fails to mention that the donations were agreed to before October 6, 1987 (Sp. Coun. Ex. 182), more than a month prior to my status inquiry call to Mr. Wall."

ECR 2) b) (iii)

(iii) the Senator discussed the Center for Participation in Democracy (a 501(c)(3) tax-exempt organization) with Mr. Keating on January 8, 1988, and ACC donated $400,000 to the Center for Participation in Democracy and $100,000 to the Forum Institute on February 10, 1988;

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 19–23 states:

"1. *Donation:* The Resolution incorrectly insinuates that (a) in January, 1988, Mr. Keating offered to make an additional charitable donation in connection with his asking me to set up a meeting for him to meet with Mr. Wall; and (b) based on my setting up the meeting, Mr. Keating made charitable donations in February. The Resolution's insinuation is unfair and inaccurate and cannot be substantiated in any way.

"There is *no* clear and convincing evidence that Mr. Keating offered to make an additional donation in January, 1988.

"Mr. Keating did make two charitable donations to voter registration groups on February 10, 1988 in Phoenix. The Resolution omits the fact that these were *two* I.R.S. approved charitable, tax-deductible donations to 501(c)(3) organizations for non-partisan, voter participation efforts. One was to Forum Institute, an organization I've already described. The other was to The Center for Participation in Democracy, that engaged in and supported non-partisan registration drives in several states. *Neither* of these two organizations, nor the use of money, was under my control.

"Regarding this period, there is considerable testimony about a dinner I attended in January with Messrs. Keating, Grogan, and others. Mr. Grogan testified that he recalls no discussion of fund-raising at the dinner. (JG, 12/14/90, p. 166; 12/13/90, p. 24 & p. 265). My son, Kim Cranston, who was present, testified that he recalls no specific offer of support by Mr. Keating. (KC, 6/28/90, p. 15). I testified similarly that (a) I did not solicit any funds at the dinner, (b) that I did not recall the discussion of any specific funds, and (c) that Mr. Keating may have indicated in a *vague* way that he would continue to support registration efforts. (AC, 4/30/90, p. 191; 10/16/90, p. 87).

"Mr. Grogan testified that he was not aware of any solicitation that preceded my February 10 visit to Phoenix. (JG, 12/13/90, pp. 261–2).

"My visit to Phoenix had been in the works since at least September of the previous year. (JJ, 12/3/90, pp. 164–6). Messrs. Keating and Grogan had a long standing policy of inviting members of Congress, their staffs, and others to visit Phoenix to see the Lincoln/American Continental Corporation operation first hand. Many Congressman and staff members have visited his company in Phoenix. Mr. Grogan testified that he had invited me to visit Phoenix several times. (JG, 12/14/90, pp. 169–70; 12/15/90, pp. 119–20). I had wanted to visit to see for myself the type of operation Mr. Keating was running. (AC, 4/30/90, p. 184). This was the first time that my schedule permitted this trip. (JJ, 7/19/90, p. 167); (JG, 12/13/90, p. 17). Ergo, this trip *was totally coincidental* to the Wall/Keating meeting. It *had no connection* with the Wall/Keating meeting.

"It is also equally coincidental that the trip finally occurred at the beginning of a new year, and thus coincided with the timing implicit to Ms. Jacobson's practice of seeking contributions from individuals twice in a given year—early and late. (JJ, 12/2/90, p. 161). Ms. Jacobson, in her capacity as a part-time USAVotes employee, had written me a memo dated February 4, 1988, stating that the main goal concerning Mr. Keating was to receive a charitable donation as soon as possible so that he could be asked for an additional donation in the fall. (Sp. Coun. Ex. 269). She testified that the timing of solicitations of donations was largely driven by her own timetable and that charitable giving is based on an annual cycle. (JJ, 12/3/90, pp. 176, 219).

"By happenstance, this trip to Phoenix was also consistent with my practice of going to visit potential donors—rather than inviting them to visit me—to get help for the registration efforts. (AC, 10/16/90, p. 87); (JJ, 12/3/90, p. 143).

"2. *Official Action:* There is *no evidence* that Mr. Keating committed to make a specific donation in connection with asking me to set up an appointment with Chairman Wall to see him.

"The evidence shows only that Ms. Jacobson sent me a memo dated January 18, 1988 relaying a request to her from Mr. Grogan that I help schedule a meeting between Messrs. Keating and Wall. (Sp. Coun. Ex. 172).

"I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be necessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is no *evidence that I even knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

"3. *No Causal Effect:* Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were accounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2/27/91, p. 1, para. 4).[6]

"There is no evidence of a causal connection between my January 20, 1988 telephone call and the charitable donations. There is no specific evidence that there was even a solicitation of Mr. Keating or a discussion of any donation prior to the February 10, 1988 trip.[7] In fact, for six months there had been efforts to schedule a trip to Phoenix that finally occurred in February, 1988 and resulted in the receipt of charitable donations. *It is pure coincidence* that the trip finally was scheduled and the donations were received three weeks after my telephone call to Mr. Wall.

"Coincidence in time and unsubstantiated inferences about proper inquiries such as my telephone call and receipt of charitable donations on a trip that had been in the making for many months cannot properly substitute for the lack of clear and convincing evidence of improper linkage, particularly where there is factual and convincing evidence that Mr. Keating *did not* ask me to set up a meeting in connection with a solicitation of a donation of any type."

ECR 2) b) (iv)

(iv) In early 1989, the Senator or his chief fund raiser discussed an additional voter registration contribution with either Keating or ACC attorney James Grogan, but no further contributions were made to voter registration organizations.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 24–30 states:

"1. *Donation:* The Resolution fails once again to point out that this was a solicitation of an I.R.S. approved 501(c)(3) charitable tax-deductible donation, the use of which I did not control. It was *not* a solicitation of political contributions for my benefit. The Resolution accurately states that this donation was never made.

"The Resolution's description of [his chief fund raiser], Ms. Jacobson is misleading. In early 1987, she directed the fund-raising staff of the Democratic Senatorial Campaign

Committee. At the time in question, early 1989 (and for more than a year before that) she was spending 50% of her time as a consultant to the Democratic Senatorial Campaign Committee; 25% as a consultant to a P.A.C. I founded (Committee for a Democratic Consensus); and 25% as a consultant under contract to USAVotes to raise charitable donations for registration efforts.

"Mr. Rob Stein, the Executive Director of USAVotes, was in charge of its over-all operations. I was one of three co-chairmen of USAVotes. I was not the direct supervisor of Ms. Jacobson in her capacity as a part-time employee of USAVotes, nor was I the direct supervisor of any other USAVotes employees.

"There is conflicting testimony concerning who solicited Lincoln at this time. I have testified that I do not recall discussing a donation with Messrs. Keating, Grogan or anybody during this period. (AC, 10/16/90, p. 68; 5/17/90, p. 299). I do not believe such a discussion ever took place. Mr. Grogan, when asked whether anybody on my staff or I solicited a donation from him or Mr. Keating during this period, testified that Ms. Jacobson, not I, discussed a donation with him. (JG, 12/14/90, pp. 179–80). Ms. Jacobson's recollection was that I solicited Mr. Keating during the period. (JJ, 12/3/90, pp. 167–8).

"I believe the following shows that Ms. Jacobson initiated the solicitation and that she did so without my knowledge.

"A memorandum from Joy Jacobson to me and to Rob Stein, the Executive Director of USAVotes, dated March 1, 1989, written on her home computer, shows that I did not make the solicitation and illustrates the mechanics of how the staff of USAVotes and I worked to solicit charitable donations. (Sp. Coun. Ex. 171). It was Ms. Jacobson's job to come up with the names of people, foundations and organizations which she thought would be potential donors. She would write a memorandum with the potential donors' names, suggestions as to who should contact them, and the amounts to be requested. When I reviewed it, I would look down the list for the names suggested for me. I would systematically try to call most, but not necessarily all, of the names suggested to me. When my part of the list was complete, I would hand it back with my notes about the calls to my secretary. She would report these results back to Ms. Jacobson.

"There are 18 names of potential donors on the March 1, 1989 memo. My handwritten notes or my secretary's notes appear under 12 of those names—only those that were proposed as my assignments.

"It is clear that Ms. Jacobson assigned herself three names on the first page: AFSCME, Dick Darling, and Charlie Keating. After Mr. Keating's name these words are typed in the memo: 'Joy is talking with Jim Grogan. 100,000 wherever it's needed.'

"This evidence corroborates Mr. Grogan's testimony that Ms. Jacobson, not I made this solicitation. It indicates that her memory was incorrect when she testified that I solicited Mr. Keating. It shows that on the date of the memo, March 1, 1989, she had already discussed a $100,000 donation with Mr. Grogan.

"Ms. Jacobson's solicitation of Mr. Grogan is consistent with her explanation in her testimony 'that the first group you go back to [at the beginning of each year is] your past donors and try to renew them.' (JJ, 12/3/90, p. 161). Her solicitation of Mr. Grogan on her own is further evidenced by Ms. Jacobson's statement that 'the timing of the fund raising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.' (JJ, 12/3/90, p. 176). She also stated that I never suggested to her to time any request for a donation to coincide with anything before the Bank Board or with any other event or events. (JJ, 12/3/90, pp. 175–6).

"2. *Official Action:* The record shows that, working on an entirely different track from Ms. Jacobson, I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

"3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constitutents of mine.

"For whatever reason, none of the sales materialized. However, the concerns that motivated my calls did occur. The consequences have been catastrophic: a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who brought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

"In response to the inference I point to the clear and convincing evidence that (a) I did not solicit a charitable donation, and that (b) I did not know that Ms. Jacobson had made a solicitation until I read her memo of *March 1, 1989*. Once I knew, the knowledge had no effect on my conduct.

"Ms. Jacobson testified that she was not aware that Messrs. Keating or Grogan were talking to me about the sale, nor that I was being asked to do anything about it. (JJ, 7/19/90, p. 179).

"*There is absolutely no evidence* of any causal connection between (a) Ms. Jacobson's solicitation, and (b) my telephone calls in 1989 to regulators regarding possible sales of Lincoln. Here, again, unsubstantiated inferences based solely on more coincidence of time *cannot be a substitute* for evidence of a causal connection between a solicitation and an official action.

"The *fair inference* from the record is that Ms. Jacobson was on one track following up according to her standard practice with one of the few established contributors whom she solicited personally and regularly at the beginning of each year. Meanwhile, I was on another track taking very limited official actions contacting regulators regarding the possible sale of Lincoln—actions for which there was clear and independent constituent related justification. Senator DeConcini made the same type of inquiries for similar reasons.

"I remind the Committee again of Mr. Grogan's response when my attorney asked him the following question: 'Was there any suggestion, either by word or by body language, or by raised eyebrow, that Senator Cranston's interest in Lincoln Savings' problems was tied to Mr. Keatings support of the non-profit voter registration efforts?' Mr. Grogan replied. 'Never.' (JG, 12/15/90, p. 132).

"The Special Counsel has cited no evidence that Mr. Keating authorized donations only on condition that I would help him, or because I had helped him. He cited no evidence that I agreed to help only if Mr. Keating contributed.

ECR 3)

ECR 3) *Linkage between Official Actions and Contributions* The Committee finds that, in and of themselves, none of the foregoing actions of Senator Cranston violated any law or Senate Rule. The Committee further finds by clear and convincing evidence that, based upon the totality of the circumstances, Senator Cranston engaged in an impermissible pattern of conduct in which fund raising and official activities were substantially linked in connection with Mr. Keating and Lincoln.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 3 & 4 states:

"I will show that there is *no direct evidence* of any such causal link. I will cite clear and convincing evidence that there were other causes—very legitimate causes—for my official actions.

"The Resolution *infers* a causal connection from the proximity in time between the charitable donations and the official actions. Proximity in time is *not* clear and convincing evidence that the charitable donations caused my official action. The Resolution's *inference* of a causal connection cannot survive dispassionate, reasoned analysis. It cannot be a substitute for clear and convincing evidence. The inference is particularly inappropriate and unfair given that my conduct was *not different in kind*, as I will show, from that of other Senators who have been under inquiry. The Resolution did not draw such adverse inferences against them.

"In retrospect, I can see that the proximity in time between the charitable donations and the official actions could lead to an appearance of impropriety where no impropriety existed. I wish I had foreseen this development—I have always endeavored to avoid appearances or actions that could reflect adversely upon the Senate or myself.[9]

"I acknowledge and I accept the consequences of an appearance of impropriety due to proximity of time.

"However, since timing and appearances did not warrant institutional action in the cases of the other Senators, it should not in my case.

"The Senate has never set standards *of any kind* governing the timing of contributions of any kind in relationship to legitimate constituent services. I fully recognize that if a Senator engages in conduct that is inimical to generally accepted and understood standards and values, the Senate has an obligation to find that Senator guilty of improper behavior, although his conduct does not violate a specific law or Senate Rule. There is no evidence that I engaged in any improper conduct.

"Without clear and convincing evidence of actual impropriety, there is no justification for subjecting me to disciplinary action. There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate has *never* determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful donation to the Senator's campaign or to a charity the Senator supports. To do so now would be contrary to the principles of the Senate and a violation of traditional concepts of fair play by proceeding in an *ex post facto* fashion.

"In every case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. Neither any member of my family nor I received any compensation or personally benefited in any way from these charitable contributions. I had no financial interest in Lincoln Savings, its parent, or affiliates. I received no income from it."

ECR 3) a) (i)

ECR 3) *Linkage between Official Actions and Contributions* The Committee finds that, in and of themselves, none of the foregoing actions of Senator Cranston violated any law or Senate Rule. The Committee further finds by clear and convincing evidence that, based upon the totality of the circumstances, Senator Cranston engaged in an impermissible patter of conduct in which fund raising and official activities were substantially linked in time in connection with Mr. Keating and Lincoln.

a) From early 1987 through April 1989, Senator Cranston personally or through Senate staff contacted the FHLBB on behalf of Lincoln during a period when he was soliciting and accepting substantial contributions from Mr. Keating or his affiliates, to wit:

(i) As a result of a solicitation from Senator Cranston in early 1987, Mr. Keating contributed $100,000 to America Votes on March 3, 1987 near the time when Senator Cranston participated in the April 2 and April 9, 1987 meetings with FHLBB Chairman Edwin J. Gray and the San Francisco regulators.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 11–15 states:

"1. *Donation:* The Resolution accurately notes that a donation was made on March 3, 1987, to America Votes. (Sp. Coun. Ex. 159). America Votes (later known as USAVotes) raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

"2. *Official Action:* The resolution is inaccurate and very misleading in stating that this donation was made during the period leading to my participation in the April 2 and April 9 meetings.

"The evidence is undisputed that the donation was discussed, solicited and committed on or before *February 24, 1987*. (Stein Affidavit, Sp. Coun. Ex., 458, para. 14); (AC, 4/30/90, p. 119). The donation check was dated *March 3, 1987*. (Sp. Coun. Ex. 159). The evidence shows that I knew nothing about the proposed meetings before the *second half of March*, and perhaps not until the *last week* in March. (JG, 12/15/90, p. 88); (AC, 4/30/90, p. 119). Furthermore, the preponderance of evidence shows that the meetings first were conceived *after* the donation was solicited and received. (Gray, 2/23/90, p. 15; 11/29/90, p. 64); (Grogan, 12/12/90, pp. 56–58, 208); (Riegle, 1/7/91, pp. 29–32, 46–9, 51–55, 101–2, 163); (DeConcini, 1/9/91, pp. 45–6, 49, 51–2, 60–63, 199–200, 203, 209); (McCain, 1/4/91, pp. 27–21, 26, 111, 163–4); (Glenn, 1/4/91, pp. 240–47, 193).

"The evidence shows that the April 2 meeting date was not set until a few days prior to the event. (Gray, 2/23/90, p. 15). The evidence shows that the second meeting on April 9 grew out of the April 2 meeting. The evidence shows that I played a very minor but proper role in the April 2 meeting. I asked why the audit was taking so long and agreed with Senator Glenn that if Mr. Keating had broken any law he should be prosecuted, but if he hadn't the regulators should get off his back. (AC, 4/30/90, pp. 131, 133); (Gray, 11/27/90, p. 51). The evidence shows that my participation in the April 9 meeting was essentially limited to sticking my head in the door for a minute. (AC, 4/30/90, p. 150); (Sp. Coun. Ex. 193).

"3. *No Causal Connection:* The Committee's findings conclude that each of the five Senators had information that reasonably caused concern about the fairness of the Bank Board's examination of Lincoln and that was sufficient to justify contacting Bank Board personnel. (Committee Statement, 2/27/91, p. 1, para. 4). The Committee found that, without regard to donations or other benefits, no Senator violated any law or Senate rule by attending the April 2 and 9 meetings. (Committee Statement, 2/27/91, p. 1, para. 1).

"The evidence shows that in that point in time all five of us had good reason:

To view Mr. Keating as a highly successful and respected businessman. "All five of us also knew that:

Alan Greenspan, who is now the Chairman of the Federal Reserve, had stated in his opinion that Lincoln was solvent for the foreseeable future. (Sp. Coun. Ex. 159); (AC, 4/30/90, p. 101).

Arthur Young, one of the "Big Eight" accounting firms, had found Lincoln to be in good shape and was very critical of the regulators.[10] (Sp. Coun. Ex. 161); (AC, 4/30/90, pp. 99–100).

"I had several additional reasons to be concerned about the fairness of the Bank Board's examination of Lincoln:

Lincoln was a California-chartered Savings and Loan. Many thousands of its employees and depositors were my constituents. Their jobs and financial security were at risk.

I was aware—as perhaps the other Senators were not—that the Arthur Anderson firm, another of the "Big Eight" accountants, had found Lincoln to be in good shape and had grave questions about the performance of the regulators. (AC, 4/30/90, p. 102).

I previously had engaged in a confrontation with Mr. Gray, the Chairman of the Bank Board, and had the clear impression that he was incompetent. (AC, 4/30/90, pp. 106–9).

Mr. Gray had worked in public relations for a savings and loan institution in San Diego, California, before he was appointed to chair the Bank Board. I knew he had a poor reputation in San Diego business community. (AC, 4/30/90, p. 107).

I knew that a principal newspaper in California, the Los Angeles Times, had called for Mr. Gray's resignation from the Bank Board after the General Accounting Office found he had misused $27,000 of public funds. (*Id.*; Cranston Ex. 57); (AC, 4/30/90, p. 92).

"Thus the *evidence is overwhelming* That (a) I had many sound and official reasons to participate in the April meetings, where I played a very minor and proper role, and (b) the donation was solicited and received weeks before I knew of the April meetings. The preponderance of the evidence shows that the donation was solicited and received before *anyone* even conceived of the meetings.

"There is no evidence—nor could there be—that I attended the April meetings because of the donation."

ECR 3) a) (ii)

(ii) Before October 6, 1987, Senator Cranston solicited and received a commitment from Mr. Keating for contributions in the amount of $250,000 for two voter registration groups, which were delivered to the Senator personally by Mr. Keating's employee James Grogan on November 6, 1987. When the contributions were delivered, Mr. Grogan and Senator Cranston called Mr. Keating, who asked if the Senator would contact new FHLBB Chairman M. Danny Wall about Lincoln. Senator Cranston agreed to do so, and made the call six days later.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 16–19 states:

"1. *Donation:* The Resolution omits any description of the donations, and fails to make clear that these were *not* political contributions to any campaign of mine or to my P.A.C. I received no direct political benefits from the donations.

"$225,000 was in the form of a charitable donation to Forum Institute, an I.R.S. approved 501(c)(3) tax-deductible organization. Forum distributed funds to non-partisan, 501(c)(3), grass roots organizations that registered voters in approximately 20 states. (Sp. Coun. Ex. 145). I accepted the check on behalf of Forum and turned it over to Forum. I had no control over Forum or how the money was used. The independent officers and directors of Forum had that control. (Harmon Aff., Sp. Coun. Ex. 501, para. 13).

"$25,000 was in the form of a contribution to USAVotes (formerly America Votes) to support its efforts to raise charitable donations for I.R.S. approved 501(c)(3) non-partisan registration groups. (Sp. Coun. Ex. 146).

"The Resolution also fails to mention that the donations were agreed to before October 6, 1987 (Sp. Coun. Ex. 182), more than a month prior to my status inquiry call to Mr. Wall.

"2. *Offical Action:* My notes about the call to Mr. Wall establish that it was a status inquiry.[11] I asked if the end of the audit of Lincoln was in sight. Mr. Wall and I also discussed the personality problems between Lincoln and the San Francisco regulators. (Sp. Coun. Ex. 147). Mr. Wall's testimony confirmed this. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.). Mr. Wall also testified that I did not urge him to take any particular course of action. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.).

"Furthermore, there is *no* evidence that I attempted to influence the regulatory sections of Mr. Wall *or any other* regulator at any time. Every regulator who was called as a witness or in an affidavit testified that none of his or her actions were influenced by any contact from my office or from me. (Wall Affidavit, Sp. Coun. Ex. 428, p. 6, para. 9); (Rosemary Stewart, 1/2/91, pp. 110–11, 196); (Wall 12/4/90, pp. 104, 116,181–2, 184, 191); (Martin, 12/3/90, p. 58; Martin Affidavit, Sp. Coun. Ex. 17, para. 11); (Gray, 11/27/90, p. 97); (Patriarca, 11/27/90, p. 147); (Black, 12/6/90, pp.

29–30); (Cranston Ex. 78, Dochow Aff. Attachments A–1 at 19–20 & A–2 at 41).

"3. *No Causal Connection:* It flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for anyone to donate or contribute *anything* to me in order to get me to do *anything.*[12]

"The routine status call that I made to Mr. Wall on November 12 was not motivated by the personal concerns of Mr. Keating. The jobs and financial security of thousands of my California constituents were at stake. I made the call for the same reason that I attended the April 2, 1987 meeting—because I believed it was necessary and proper that I do so on behalf of my many constituents who had stakes in Lincoln.

"The Resolution is incorrect in concluding that Mr. Keating asked me to contact Mr. Wall when I was on the phone with him in Mr. Grogan's presence. At best, there is conflicting testimony on this point. (AC, 4/30/90, pp. 188 & 190); (JG, 12/14/90, p. 162). I do not recall a request from Mr. Keating on November 6 that I call Mr. Wall. *Nor* do I recall that my November 12 call to Mr. Wall was the result of a request from Messrs. Keating or Grogan.

"The Resolution implies that there was a causal connection between the receipt of the donations and my decision to call Mr. Wall on November 12. There is *no* evidence to support such a conclusion.

"Furthermore, Mr. Grogan testified that there was never "any suggestion, either by word or by body language, or by a raised eyebrow" that my interest in Lincoln's problems was tied to Mr. Keating's support of non-profit voter registration efforts. (JG, 12/15/90, p. 132). Mr. Grogan also testified, "There was never an occasion where Mr. Keating asked Senator Cranston to do something and Senator Cranston said, 'only if you raise funds for me.' There was never an occasion where Mr. Keating said, 'If you do this for me, I will raise X amount of dollars for you.'" He testified that there was never "even the suggestion" that fund-raising and official actions were connected in any way. (JG, 12/12/90, pp. 185–8). I repeatedly have testified that there was no connection between Mr. Keating's donations and my decisions to contract the regulators regarding Lincoln. (AC, 4/30/90, p. 95)."

ECR 3) a) (iii)

(iii) In January 1988, Mr. Keating offered to make an additional contribution to voter registration groups affilated with Senator Cranston and asked Senator Cranston to set up a meeting for him with Chairman Wall. Senator Cranston did so on January 20, 1988. On February 10, 1988 Senator Cranston received checks totaling $500,000 for voter registration groups.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 19–23 states:

"1. *Donation:* The Resolution incorrectly insinuates that (a) in January, 1988, Mr. Keating offered to make an additional charitable donation in connection with his asking me to set up a meeting for him to meet with Mr. Wall; and (b) based on my setting up the meeting, Mr. Keating made charitable donations in February. The Resolution's insinuation is unfair and inaccurate and cannot be substantiated in any way.

"There is *no* clear and convincing evidence that Mr. Keating offered to make an additional donation in January, 1988.

"Mr. Keating did make two charitable donations to voter registration groups on February 10, 1988 in Phoenix. The Resolution omits the fact that these were two I.R.S. approved charitable, tax-deductible donations to 501(c)(3) organizations for non-partisan, voter participation efforts. One was to Forum Institute, an organization I've already described. The other was to The Center for Participation in Democracy, that engaged in and supported non-partisan registration drives in several states. *Neither* of these two organizations, nor the use of the money, was under my control.

"Regarding this period, there is considerable testimony about a dinner I attended in January with Messrs. Keating, Grogan, and others. Mr. Grogan testified that he recalls no discussion of fund-raising at the dinner. (JG, 12/14/90, p. 166; 12/13/90, p. 24 & p. 265). My son, Kim Cranston, who was present, testified that he recalls no specific offer of support by Mr. Keating. (KC, 6/28/90, p. 15). I testified similarly that (a) I did not solicit any funds at the dinner, (b) that I did not recall the discussion of any specific funds, and (c) that Mr. Keating may have indicated in a *vague* way that he would continue to support registration efforts. (AC, 4/30/90, p. 191; 10/16/90, p. 87).

Mr. Grogan testified that he was not aware of any solicitation that preceded my February 10 visit to Phoenix. (JG, 12/13/90, pp. 261–2).

"My visit to phoenix had been in the works since at least September of the previous year. (JJ, 12/3/90, pp. 164–6). Messrs. Keating and Grogan had a long standing policy of inviting members of Congress, their staffs, and others to visit Phoenix to see the Lincoln/American Continental Corporation operation first hand. Many Congressmen and staff members have visited his company in Phoenix. Mr. Grogan testified that he had invited me to visit Phoenix several times. (JG, 12/14/90, pp. 169–70; 12/15/90, pp. 119–20). I had wanted to visit to see for myself the type of operation Mr. Keating was running. (AC, 4/30/90, p. 184). This was the first time that my schedule permitted this trip. (JJ, 7/19/90, p. 167); (JG, 12/13/90, p. 17). Ergo, this trip *was totally coincidental* to the Wall/Keating meeting. It *has no connection* with the Wall/Keating meeting.

"It is also equally coincidental that this trip finally occurred at the beginning of a new year, and thus coincided with the timing implicit to Ms. Jacobson's practice of seeking contributions from individuals twice in a given year—early and late. (JJ, 12/2/90, p. 161). Ms. Jacobson, in her capacity as a part-time USAVotes employee, had written me a memo dated February 4, 1988, stating that the main goal concerning Mr. Keating was to receive a charitable donation as soon as possible so that he could be asked for an additional donation in the fall. (Sp. Coun. Ex. 269). She testified that the timing of solicitations of donations was largely driven by her own timetable and that charitable giving is based on an annual cycle. (JJ, 12/3/90, pp. 176, 219).

"By happenstance, this trip to Phoenix was also consistent with my practice of going to visit potential donors—rather than inviting them to visit me—to get help for the registration efforts. (AC, 10/16/90, p. 87); (JJ, 12/3/90, p. 143).

"2. *Official Action:* There is *no evidence* that Mr. Keating committed to make a specific donation in connection with asking me to set up an appointment with Chairman Wall to see him.

"The evidence shows only that Ms. Jacobson sent me a memo dated January 18, 1988 relaying a request to her from Mr. Grogan that I help schedule a meeting between Messrs. Keating and Wall. (Sp. Coun. Ex. 172).

"I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be necessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I even knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

"3. *No Causal Effect:* Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2/27/91, p. 1, para. 4).[13]

"There is no evidence of a causal connection between my January 20, 1988 telephone call and the charitable donations. There is no specific evidence that there was even a solicitation of Mr. Keating or a discussion of any donation prior to the February 10, 1988 trip.[14] In fact, for six months there had been efforts to schedule a trip to Phoenix that finally occurred in February, 1988 and resulted in the receipt of charitable donations. *It is pure coincidence* that the trip finally was scheduled and the donations were received three weeks after my telephone call to Mr. Wall.

"Coincidence in time and unsubstantiated inferences about proper inquiries such as my telephone call and receipt of charitable donations on a trip that had been in the making for many months cannot properly substitute for the lack of clear and convincing evidence of improper linkage, particularly where there is factual and convincing evidence that Mr. Keating *did not* ask me to set up a meeting in connection with a solicitation of a donation of any type."

ECR 3) a) (iv)

(iv) In early 1989, at the time that Senator Cranston was contacting Bank Board officials about the sale of Lincoln, either he or his chief fund raiser discussed another contribution from Keating or his associates. However, no further contribution was ever made.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 24–29 states:

"(iv) 1. *Donation:* The Resolution fails once again to point out that this was a solicitation of an I.R.S. approved 501(c)(3) charitable tax-deductible donation, the use of which I did not control. It was *not* a solicitation of political contributions for my benefit. The resolution accurately states that this donation was never made.

"The Resolution's description of [my "chief fund raiser"] Ms. Jacobson is misleading. In early 1987, she directed the fund-raising staff of the Democratic Senatorial Campaign Committee. At the time in question, early 1989 (and for more than a year before that) she was spending 50% of her time as a consultant to the Democratic Senatorial Campaign Committee; 25% as a consultant to a P.A.C. I founded (Committee for a Democratic Consensus); and 25% as a consultant under contract to USAVotes to raise charitable donations for registration efforts.

"Mr. Rob Stein, the Executive Director of USAVotes, was in charge of its over-all operations. I was one of three co-chairman of USAVotes. I was not the direct supervisor of Ms. Jacobson in her capacity as a part-time employee of USAVotes, nor was I the direct supervisor of any other USAVotes employees.

"There is conflicting testimony concerning who solicited Lincoln at this time. I have testified that I do not recall discussing a donation with Messrs. Keating, Grogan or anybody during this period. (AC, 10/16/90, p. 68; 5/17/90, p. 299). I do not believe such a discussion ever took place. Mr. Grogan, when asked whether anybody on my staff or I solicited a donation from him of Mr. Keating during this period, testified that Ms. Jacobson, not I, discussed a donation with him. (JG, 12/14/90, pp. 179–80). Ms. Jacobson's recollection was that I solicited Mr. Keating during the period. (JJ, 12/3/90, pp. 167–8).

"I believe the following shows that Ms. Jacobson initiated the solicitation and that she did so without my knowledge.

"A memorandum from Joy Jacobson to me and to Rob Stein, the Executive Director of USAVotes, dated March 1, 1989, written on her home computer, shows that I did not make the solicitation and illustrates the mechanics of how the staff of USAVotes and I worked to solicit charitable donations. (Sp. Coun. Ex. 171). It was Ms. Jacobson's job to come up with the names of people, foundations and organizations which she thought would be potential donors. She would write a memorandum with the potential donors' names, suggestions as to who should contact them, and the amounts to be requested. When I reviewed it, I would look down the list for the names suggested for me. I would systematically try to call most, but not necessarily all, of the names suggested to me. When my part of the list was complete, I would hand it back with my notes about the calls to my secretary. She would report these results back to Ms. Jacobson.

"There are 18 names of potential donors on the March 1, 1989 memo. My handwritten notes or my secretary's notes appear under 12 of those names—only those that were proposed as my assignments.

"It is clear that Ms. Jacobson assigned herself three names on the first page: AFSCME, Dick Darling, and Charlie Keating. After Mr. Keating's name these words are typed in the memo: 'Joy is talking with Jim Grogan. 100,000 wherever it's needed.'

"This evidence corroborates Mr. Grogan's testimony that Ms. Jacobson, not I, made this solicitation. It indicates that her memory was incorrect when she testified that I solicited Mr. Keating. It shows that on the date of the memo, March 1, 1989, she had already discussed a $100,000 donation with Mr. Grogan.

"Ms. Jacobson's solicitation of Mr. Grogan is consistent with her explanation in her testimony 'that the first group you go back to [at the beginning of each year is] your past donors and try to renew them.' (JJ, 12/3/90, p. 161). Her solicitation of Mr. Grogan on her own is further evidenced by Ms. Jacobson's statement that 'the timing of the fundraising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.' (JJ, 12/3/90, p. 176). She also stated that I never suggested to her to time any request for a donation to coincide with anything before the Bank Board or with any other event or events. (JJ, 12/3/90, pp. 175–6).

"2. *Official Action:* The record shows that, working on an entirely different track from Ms. Jacobson, I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

"3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constituents of mine.

"For whatever reason, none of the sales materialized. However, the concerns that motivated my calls did occur. The consequences have been catastrophic: a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

"In response to the inference I point to the clear and convincing evidence that (a) I did not solicit a charitable donation, and that (b) I did not know that Ms. Jacobson had made a solicitation until I read her memo of *March 1, 1989*. Once I knew, the knowledge had no effect on my conduct.

"Ms. Jacobson testified that she was not aware that Messrs. Keating or Grogan was talking to me about the sale, nor that I was being asked to do anything about it. (JJ, 7/19/90, p. 179).

"*There is absolutely no evidence* of any causal connection between (a) Ms. Jacobson's solicitation, and (b) my telephone calls in 1989 to regulators regarding possible sales of Lincoln. Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a causal connection between a solicitation and an official action.

"The *fair inference* from the record is that Ms. Jacobson was on one track following up according to her standard practice with one of the few established contributors whom she solicited personally and regularly at the beginning of each year. Meanwhile, I was on another track taking very limited official actions contacting regulators regarding the possible sale of Lincoln—actions for which there was clear and independent constituent related justification. Senator DeConcini made the same type of inquiries for similar reasons.

"The foregoing analysis of each of the four 'occasions' cited in the Resolution demonstrates that there is absolutely no evidence of a causal relationship between any of Mr. Keating's donations and any of my actions, and that there is overwhelming evidence to the contrary.

"I remind the Committee again of Mr. Grogan's response when my attorney asked him the following question: 'Was there any suggestion, either by word or by body language, or by raised eyebrow, that Senator Cranston's interest in Lincoln Savings' problems was tied to Mr. Keating's support of the non-profit voter registration efforts?' Mr. Grogan replied, 'Never.' (JG, 12/15/90, p. 132).

"The Special Counsel has cited no evidence that Mr. Keating authorized donations only on condition that I would help him, or because I had helped him. He cited no evidence that I agreed to help only if Mr. Keating contributed.[15]"

ECR 3) b) (i)

(b) Senator Cranston's Senate office practices further evidenced an impermissible pattern of conduct in which fund raising and official activities were substantially linked, in that, with his knowledge, permission, at his direction, or under his supervision, Senator Cranston's fund raiser (who was not a Senate employee):

(i) Senate Cranston's fund-raiser assisted in scheduling and attended meetings in the Senator's Senate office between the Senator and contributors about legislative or regulatory issues.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 31–32 states:

"Mr. Grogan met Ms. Jacobson in 1984. (JG, 12/12/90, pp. 71–73); (JJ, 12/3/90, p. 91; 7/19/90, p. 37). He testified that he would call her to schedule appointments until he became acquainted with members of my Senate staff and began to turn to them to arrange appointments. (JG, 12/12/90, p. 93).

"Ms. Jacobson testified that after March, 1987, the only meetings which she was involved in arranging were for fund-raising or social purposes, not substantive purposes. (JJ, 12/3/90, p. 96). She testified that she didn't know about the April 2 and April 9 meetings until long after they occurred. (JJ, 12/3/90, p. 130). She testified that she arranged *no* substantive meetings during the entire two year period from April, 1987, to April, 1989, during which the other three 'occasions' occurred that raise questions of causal connections. [Referred to in Paragraph (a) 1 of the Resolution].

"The Resolution inaccurately states that Ms. Jacobson scheduled meetings for me. The evidence shows that she had to go through my Secretary or my Administrative Assistant to place appointments on my schedule.[16] (JJ, 7/17/90, p. 76).

"Ms. Jacobson's testimony differs from mine about why she attended such meetings. I have testified that Ms. Jacobson suggested to me that it would be helpful for her to be present so she would know what was going on. (AC, 4/30/90, p. 24). She testified that she was there to make sure that the charitable donor felt at home in my hectic and crowded office before I arrived or if I were called away on Senate business. (JJ, 12/3/90, pp. 86–90).

"Ms. Jacobson has testified, and I confirm, that she never participated in substantive discussions in any meetings. (JJ, 12/3/90, p. 86). Moreover, Ms. Jacobson testified that she often paid no attention to the substantive discussions: 'While a substantive discussion was going on, I often would get up and go make phone calls outside of the office. There's a round table that I often worked at in Senator Cranston's Whip office. While a substantive meeting was going on in another section of the same room, I would be off doing something else.' (JJ, 12/3/90, p. 90).

"To the best of my knowledge, Ms. Jacobson never attempted to influence an official action in any way. Neither anyone on my staff nor I made a decision of substance based on any actions by Ms. Jacobson.

ECR (3) (b) (ii)

(ii) Senator Cranston's fund-raiser served as an intermediary for Mr. Keating or Mr. Grogan when they could not reach the Senator or his banking aide.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 33 states:

"The Resolution's use of the word 'intermediary' is misleading and unfair. The record shows, as I have just indicated, that Ms. Jacobson did not engage in any substantive negotiations or take any substantive actions. She testified that she simply passed messages along occasionally when Mr. Grogan was unable to reach me or members of my Senate staff. (JJ, 12/3/90, p. 156). Ms. Jacobson testified, 'It was Jim Grogan's nature to just keep dialing until he got somebody. Again, it usually had to do with something that was going to happen and he needed to get a hold of somebody, whether it was Roy [Greenaway] or Alan [Cranston] or Carolyn [Jordan], and I would say, I'll pass it along.' (JJ, 7/19/90, p. 168).[17] Ms. Jacobson also testified, '. . . At the beginning they always did call me. My understanding is that later on they often didn't call me, that they called Roy Greenaway [my Administrative Assistant] or they called Mary Lou [McNeely, my Secretary] directly or they just showed up at the office.'" (JJ, 7/19/90, p. 164).

ECR (3) (b) (iii)

(iii) evidenced, through written memoranda addressed to Senator Cranston, an incorrect understanding that contributors may be entitled to special attention and special *access* to official services. The incorrect understanding was never corrected by the Senator.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 34–37 states:

"The Special Counsel focused on one memo dated January 7, 1987. (Sp. Coun. Ex. 154). It was written prior to *all* the specific donations referred to in the Committee's Resolution.

"Ms. Jacobson did *not* state—as the Resolution indicates—that the individuals she mentioned in her January 7 memo were 'entitled to special attention and special access to official services.' She said the individuals expected 'some kind of resolution' of pending matters. That is exactly what every constituent, whether a contributor or not, rightfully expects from their Senator. That is exactly what every constituent of mine gets, whether he is a contributor or not, to the best of my ability and my staff's ability. Note that Ms. Jacobson did not state that these individuals could rightfully expect a *favorable* resolution. She said they would expect '*some kind' of resolution*.

"She explained the meaning and intent of this memo in her testimony. She testified that the individuals she mentioned, like all constituents, were entitled to a response from me as to what, if anything, I was going to do about their problems—not necessarily a positive response or resolution—but *some* response or resolution (JJ, 7/19/90, p. 99–101; 12/3/90, pp. 204–5). They may not like the response, but they like all constituents are at least entitled to be heard and to be given a decision. That is all Ms. Jacobson advocated and that is all I ever tried to provide.

"Furthermore, Ms. Jacobson testified that several individuals mentioned in her January 7 memo, including Mr. Keating, did not get the results they wanted. (JJ, 12/3/90, pp. 205–6). I understand how someone with 20/20 hindsight might question the implication of Ms. Jacobson's words, but my deeds followed the *words*, not the *implications*.

"Improper inferences drawn from a memo written by someone else, not by me, *must not be accepted as a substitute* for clear and convincing evidence of causal connections between my official actions and donations.

"The only other memos I am aware of from Ms. Jacobson simply passed on information or contained updates on charitable donations.

"Moreover, and in fundamental fairness to Ms. Jacobson, I believe that the Resolution *unfairly implies* that she lacked understanding of proper policy regarding donations and official actions. Ms. Jacobson testified that she knew there could not and must not be a quid pro quo between official actions and donations, and that my absolute firm office practice was to have nothing to do with any potential donor who sought to link donation to official action. (JJ, 12/3/90, pp. 223–4, 239–40).

"Specifically, in relation to Lincoln, Ms. Jacobson testified that neither Messrs. Keating, Grogan nor I ever indicated that *any* donations were made with any understanding that I would do *anything* in return (JJ, 12/3/90, pp. 175–6):

Q. Did Mr. Grogan ever tell you that the contributions were made with the understanding that Senator Cranston would do anything in return?

A. Absolutely not.

Q. Did anyone whom you knew to be associated with Lincoln Savings or American Continental ever tell you that any of the contributions were made with the understanding that Senator Cranston would do something in return?

A. No.

Q. Did Senator Cranston eve say to you that he thought that the contributions which you have discussed were made with an expectation that he would act in any way on behalf of Mr. Keating, or Lincoln or American Continental?

A. No.

Q. To your knowledge, did Senator Cranston do anything for or on behalf of Lincoln Savings because Mr. Keating assisted his reelection campaign?

A. No.

Q. Did he to your knowledge do anything for or on behalf of Lincoln Savings because Mr. Keating contributed money to USA Votes, Forum Institute or the Center For Participation in Democracy?

A. No.

Q. Did Mr. Keating or anyone associated with him ever tell you that a contribution would be made after Senator Cranston made an inquiry on his behalf?

A. No.

Q. Did Senator Cranston ever tell you or suggest to you that you should time any request for contributions to coincide with anything occurring before the Bank Board?

A. No. In fact, the timing of the fund-raising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.

Q. Did Senator Cranston ever tell you to time a solicitation to Mr. Keating to coincide with any other event or events to your recollection?

A. No.[16]

"The Resolution inappropriately states that Ms. Jacobson understood that donors were entitled to special access. Mr. Grogan testified that he was able to obtain my attention—in other words get access to me—before any of the charitable donations for voter registration were made by Mr. Keating. (CG, 12/15/90, p. 134).

ECR p. 5: Be it further resolved that the Committee finds:

(1) That in connection with his conduct relating to Charles H. Keating, Jr., and Lincoln Savings and Loan Association, Senator Alan Cranston of California engaged in an impermissible pattern of conduct in which fund raising and official duties were substantial linked in that:

(a) From early 1987 through April 1989, Senator Cranston personally or through Senate staff contacted the Federal Home Loan Bank Board on behalf of Lincoln, during a period when Senator Cranston, on behalf of organizations in whose success he had a deep concern, was soliciting and accepting substantial contributions from Mr. Keating; and

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 51–55 states:

"The Resolution easily could give the erroneous impression to anyone not familiar with the facts that the donations referred to were all of a political nature to some campaign or P.A.C. of mine. It omits any reference to the established and undisputed fact that 85.3% of the money—totalling $725,000—that Mr. Keating donated from early 1987 through April, 1989 was in the form of I.R.S. approved 501(c)(3) tax-deductible charitable donations to organizations that were not under my control and whose use of the money was not under my control.

"In addition, Mr. Keating donated $125,000 to America Votes, an organization that raised tax-deductibe charitable donations for I.R.S. approved 501(c)(3) independent, nonpartisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

"The Resolution fails to point out that *none* of Mr. Keating's donations which are being questioned during this period was in the form of a political contribution to any campaign of mine. Only $10,000 was to a federal P.A.C. that I organized.

"The Resolution ignores the important fact that *all* these donations were made *after* my 1986 reelection. An expert on voting, Curtis B. Gans, who is Director of the non-partisan, non-profit, Committee for the Study of the American Electorate, testified that registration efforts in California in 1987 and 1988 that were supported by some of the funds I raised would have had "negligible impact" on my reelection campaign four years later (had I chosen to run in 1992). "I could think of no less cost-effective way of advancing one's own interest," he testified. (Affidavit of Curtis B. Gans, Cranston Exhibit 77).

"Section (a)(1) of the Resolution fails to make clear that *all* the contacts I had with regulators during this time—and at all other times—were, standing alone, not only proper, as the Committee's Statement of February 27, 1991 acknowledges, but were also de minimis. The established fact is that they were all routine status inquiries, or requests that somebody see somebody, or requests that various proposed sales of Lincoln be carefully considered. The Committe fails to make clear that in *none* of the contacts I made did I ever advocate any particular action. It fails to make clear that I *never* urged the regulators to take or refrain from any particular action.

"Thus the alleged improprieties that the Resolution suggests occurred arise solely because of routine, non-substantive inquiries I made on behalf of constitutents that may have been in some way proximate in time to the solicitation or receipt of charitable or related donations.

"I previously have noted in statements to the Committee that my actions in respect to Mr. Keating *should not be viewed as if they occurred in a vacuum*. I pointed out that my days and my nights are characterized by constant, passionate work on the great issues of our time, like war and peace, the environment and the economy, justice, and equal rights. I cited my many responsibilities during the time these events occurred, including my leadership role in the Senate as Majority Whip: my Chairmanship of the Veterans' Affairs Committee; my membership on several other committees and the Chairmanship of busy and important subcommittees; my very active role in fund-raising for the other Senators and causes as well as for my campaigns; and the fact that—along with my Senate colleague from California—I represent many more constituents (30 million) than do any other Senators. Indeed, California's Senators *represent more constituents* than any other legislator *has ever represented* in any country in the *entire history of legislative bodies*.

"Constantly, I am called upon for help by my constituents. Unlike a corporation, I do not have the funds and the capacity to verify the financial status or the moral stature of each constituent who presents a problem to me. I cannot ask Dun and Bradstreet or the FBI to provide me with this information. More than 300,000 constituent requests have been handled by my staff and me in the 22 years I have been in the Senate. I deeply regret that one involving Lincoln Savings has created the problem that is before us.

"A casual observer of the hearings might well have obtained the false impression that I did little else over several years except deal with regulators regarding Lincoln. This is not the case. *In the almost two years period* between the April 1987 meetings and February 8, 1989, I had only five contacts with Federal regulators regarding Lincoln. I had no contacts at all between May 16, 1988, when Mr. Wall requested an appointment with me to discuss legislation, and February, 1989, when the sale of Lincoln came up.

"In the period from February 8 through April 14, 1989, I had only five contacts with FHLBB members Wall, Martin and White regarding *three different proposals* to sell Lincoln. All contacts that I initiated were proper status inquiries. I had a legitimate basis for making them. All these contacts related to the interests of many thousands of my constituents whose jobs and financial well-being depended upon the fate of Lincoln.

"I by no means responded favorably to every request by Messrs. Keating or Grogan for me to take some official action. I already have cited my refusal to push hard for the approval of a specific sale of Lincoln. Mr. Grogan in his testimony cited several examples of requests for actions that I declined to take. (JG, 12/12/90, p. 113; 12/13/90, pp. 130, 206–7, 215, 306; 12/15/90, pp. 90, 93–4, 96–8).

"Besides citing many facts that contradict the causal connection theory concerning charitable donations and my official actions, I have presented a list of inaccuracies and important facts that were omitted in the Committee documents of February 27. In all fairness, these matters should be corrected in the final documents that are issued by the Committee.

"A fair question to ask is: To what extent was the Committee influenced by these omissions of important facts, inaccuracies, and unwarranted implications in material put before it while reaching its conclusions announced on February 27, 1991?

"I protest allegations of linkage, explicit or implicit, based merely on unsubstantiated and prejudicial inferences instead of demonstrable evidence.

"I am convinced that a full and further review of the record, in light of my Submission, can only lead to three conclusions:

"First, there is no evidence of a causal connection between any solicitation or donation and any official action on my part.

"Second, that my conduct was not materially different from that of the other four Senators involved.

"Third, that whatever differences there were between the actions of the four Senators and mine they were not differences of *kind*. A fair and impartial consideration of this matter can only lead one to the conclusion that the Committee's treatment of my actions *should not differ in kind* from the treatment it accorded Senators DeConcini, Glenn, McCain and Riegle. I concede that I should have recognized that fund-raising—even for charitable donations—close in time to official actions could lead to an appearance of impropriety. It was a mistake not to have given more thought to appearances."

ECR p. 5: Be it further resolved that the Committee finds:

ECR 1) (b)

b) Senator Cranston's Senate office practices further evidenced an impermissible pattern of conduct in which fundraising and official activities were substantially linked.

This statement is a distortion of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp 30, 55 states:*

"The Resolution raises questions . . . about my Senate office practices, citing three examples of activities engaged in by Ms. Jacobson, a part-time employee of USAVotes, over whom I had no real supervisory role. I have already indicated that she was *not* a member of my Senate staff. She had no substantive expertise in Banking Committee issues and did not substantively involve herself in my official Senate activities. The words "Senate office practices" is inaccurate and misleading. Ms. Jacobson came to my office occasionally, but by no means frequently or regularly. She worked out of her home in Virginia. Unlike the practice in some Senate offices, I have never assigned major political fund-raising responsibilities to anyone serving part time or full time on my Senate staff. I have designated two Senate staff members under Rule 41, but they have done comparatively little political fund-raising. All fund-raising efforts with which I have been involved, whether political or charitable, have been the responsibility of individuals employed elsewhere—*not* in my Senate office.

"Although some of Ms. Jacobson's activities are susceptible to an interpretation that they raise an appearance of impropriety, they do not constitute clear and convincing evidence of a casual connection between (a) my personal official actions and (b) solicitations of donations I made or of which I was aware.

"I concede that I should have constrained more closely the individual who was working for an organization that raised charitable contributions.

"I readily concede these errors, but these were errors in judgment, not in intent.

"I deeply regret them.

"Without any clear and convincing evidence that any official action of my was causally linked to any donation, however, there is no reason for the Committee to recommend institutional action in my case."

It is further resolved:

1) That Senator Cranston's impermissible pattern of conduct violated established norms of behavior in the Senate, and was improper conduct that reflects upon the Senate, as contemplated in Section 2(a)(1) of S. Res. 338, 88th Congress, as amended.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 4–5, 43–47 states:

"Since timing and appearances did not warrant institutional action in the cases of the other Senators, it should not in my case.

"The Senate has never set standards *of any kind* governing the timing of contributions of any kind in relationship to legitimate constituent services. I fully recognize that if a Senator engages in conduct that is inimical to generally accepted and understood standards and values, the Senate has an obligation to find that Senator guilty of improper behavior, although his conduct does not violate a specific law or Senate Rule. There is no evidence that I engaged in any improper conduct.

"Without clear and convincing evidence of actual impropriety, there is no justification for subjecting me to disciplinary action. There is *no precedent* for the Senate diciplining a Senator for actions such as mine. The Senate has *never* determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful donation to the Senator's campaign or to a charity the Senator supports. To do so now would be contrary to the principles of the Senate and a violation of traditional concepts of fair play by proceeding in an *ex post facto* fashion.

"In every case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. Neither any member of my family nor I received any compensation or personally benefitted in any way from these charitable contributions. I had no financial interest in Lincoln Savings, its parent, or affiliates. I received no income from it.

"I will discuss the Special Counsel's proposal to extend to Senators the appearance standard in the Code of Ethics for Government Service that applies to federal judges and civil servants. The Senate has never adopted that code as an ethical standard applicable to Senators. There is no reference to it in any of the over 400 published Interpretative Rulings issued by the Select Committee on Ethics. The Special Counsel overlooks fundamental differences between federal judges and civil servants. Federal judges and civil servants do not have to raise funds to stay in office. A judge is not expected to serve the interests of the parties before him. A Senator is expected to *represent* his consitituents, and to be—and to appear to be—responsive to their legitimate needs. Senators should not be at risk of discipline for violation of an appearance standard that would prevent us from intervening of behalf of constituents, contributors and non-contributors alike, when intervention is appropriate.

"The Committee did not conclude that these three coincidences of receipt by Senators RIEGLE, DECONCINI and GLENN of these political contributions in proximity of time to their official actions. How, then, could the Committee without *any* substantiating evidence conclude that there was any causal connection between my receipt—on behalf of others—of charitable and related donations and my official actions? My case, like the cases of Senators RIEGLE, DECONCINI and GLENN, *can only involve* questions of judgment and appearances.

"I believe, too, that our actions did not differ in kind from legitimate actions of our 95 colleagues. Virtually every Senator raises funds for his campaigns and renders legitimate services to his constituents, including contributors, when they need it. I have noted previously that many Senators are active in one way or another with charitable organizations and some Senators raise very substantial money for them.

"*There are no U.S. Senate rules, Precedents, or cases in which a Senator has been disciplined for assistance to a constituent when the Senator received no personal financial profit.*

"If the Committee believes there should be limits on a Senator's ability to perform his official duties for a contributor based upon the timing or proximity of a donation to an official act, it may recommend that change to the full Senate and allow all 100 members of this body to debate such a proposed rule.

"It would be contrary to the principles of the Senate and a violation of traditional concepts of fair play to apply such a rule to me now *in what would clearly be an ex post facto fashion.*

"There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate *never* has determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful contribution to the Senator's campaign or to a lawful donation to a charity that the Senator supports.

"The Senate has to date rejected attempts to create Ethics Rules that would restrict the ability of its members to give their supporters the impression that they will be responsive to their needs. There is a *fundamental difference* between a Senator acting on behalf of a constituent and a Senator acting for his personal gain. It is one thing to say that a Senator should not do anything in his official capacity that appears to bring him personal gain. It is quite another to say he should not do anything in his official capacity that appears to benefit supporters or contributors. The former is a conflict of interest and a violation of public trust. The latter is not only *not* a violation of trust, but a fulfillment of it. Its appearance can seem improper only to those who distrust the system itself.

"In *every* case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. The last four Senators who were disciplined by the Senate were involved in actions that resulted in *personal* gain. There has *never* been a case that has led to the disciplining of a Senator for assisting, or appearing to assist, a constituent-contributor when the Senator received no personal profit.[19]

"The history of conflict of interest rules for the Senate and the House demonstrates that the evil at which all those efforts have been directed is the use of elective office for personal gain.

"Senate Rule 37, the conflict of interest rule, distinguishes between personal and political benefit. It prohibits Senators and staffers from intervening with federal agencies for the purpose of furthering their financial interest or receiving compensation from a constituent. Its application is limited to agency intervention 'resulting in measurable *personal* financial gain.'

"The Senate in 1977 rejected a proposed rule suggesting that the motive of a contributor could make a contribution improper. Senator Nelson, Chairman of a Special Committee, had proposed that Rule 35, pertaining to gifts, also should ban acceptance of anything "intended to affect the present or future performance of official duties." Senator Stevens attacked the proposal as 'something no one can live up to if he is honest with himself and the American people . . . It is a standard of conduct with which one cannot comply in good faith and good conscience as a member of the U.S. Senate.' Senator Nelson finally agreed, saying, 'I do not think it makes sense at all, and someone who was working overtime and got tired must have written it.' (pp. 144–5, Davidson Legal Counsel Report, March 1991).

"The Committee acknowledges in its Statement of February 27, 1991 that the Senate presently has no specific written standards embodied in Senate rules respecting contact with Federal or independent regulatory agency officials. The Committee suggests a process for establishing such standards and states that until that is accomplished, 'All Senators are encouraged to use House Advisory Opinion No. 1 as a source of guidance for their actions.'

"House Advisory Opinion No. 1 indicates that it is proper for a member to communicate with an executive or independent agency on any matter to request information or status reports; to urge prompt consideration; arrange for interviews or appointments; express judgments; call for reconsideration of an administrative response that the member believes is not supported by established law, Federal regulation or legislative intent; or perform any other service of a similar nature in this area that is compatible with the criteria expressed in the Advisory Opinion.

"The Advisory Opinion makes *absolutely no reference* to campaign contributions or chartable donations, or to the timing of campaign contributions or charitable donations solicited or received by a member who performs any of these approved and specified actions. It notes that it is a felony to seek or receive "compensation for any services rendered.

"All my actions with respect to Lincoln were well within the guidelines of House Advisory Opinion No. 1."

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[1] Many of these same inconsistencies are also in the Report of Special Counsel, Robert Bennett, that Senator Helms released to the press on August 2, 1991 in violation of the Ethics Committee rules.

[2] William Seidman subsequently said, referring to the Arthur Young and Alan Greenspan letters, "Those two documents, I think, were pretty extraordinary for Senators to receive in terms of convincing them of the possibility that the bureaucracy was out of control. The Senators had a couple pieces of paper that could have raised questions in their mind. You have to say this on behalf of the Senators: they got a letter from a Big 8 accounting firm, the likes of which I think had never been done before in history in which the firm on the stationery said the regulators are harassing the company, treating them unfairly, et cetera." (AC, 4/30/90, p. 105).

[3] Such status inquiry calls are certainly routine for most if not all Senators. (Senate Ethics Committee, 2/27/91, p. 3, para. 1).

[4] Back in the 70's, another large corporation, Lockheed, was facing bankruptcy. Lockheed had invested millions of dollars in my state. The livelihoods of many thousands of my constituents and their families were at risk—as was the case with Lincoln Savings. I devoted far more time and effort and made many more phone calls about Lockheed's plight than I ever did about Lincoln's as I successfully endeavored to obtain a government guaranteed loan for Lockheed.

Lockheed was not a contributor to my campaigns or causes. In fact, Lockheed had contributed to my opponent in the previous election.

[5] Again, such phone calls are certainly routine for all or most Senators. The Supreme Court has noted, "The making of appointments with government agencies is a 'legitimate errand' performed by Members of Congress for constituents." (*Brewster* 409 U.S. at 512). The Supreme Court has also judicially observed that Senators may be more aggressive than any of the five of use were in dealing with the Bank Board: "Senators are constantly in touch with the Executive Branch of the Government and with administrative agencies—they may cajole and exhort with respect to the administration of a statute." (Gravel v. U.S., 408 U.S. 606, 626, 1972).

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[7] It would not have been unusual for Mr. Keating to make an unsolicited donation. The record shows that in 1985, he made an unsolicited $200,000 political contribution to Senator Glenn's Political Action Committee.

[8] In December, 1990, the San Francisco Chronicle falsely accused me of trading favors for cash. When I threatened to sue the Chronicle for libel, the Chronicle published a complete Page One restraction.

[9] That is why I have voluntarily made my tax returns public for many years. That is why I established a blind trust during my first term in the Senate. That is why I stopped accepting honoraria.

[10] William Seidman subsequently said, referring to the Arthur Young and Alan Greenspan letters, "Those two documents, I think, were pretty extraordinary for Senators to receive in terms of convincing them of the possibility that the bureaucracy was out of control. The Senators had a couple pieces of paper that could have raised questions in their mind. You have to say this on behalf of the Senators: they got a letter from a Big 8 accounting firm, the likes of which I think had never been done before in history in which the firm on the stationery said the regulators are harassing the company, treating them unfairly, et cetera." (AC, 4/30/90, p. 105).

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[14] It would not have been unusual for Mr. Keating to make an unsolicited donation. The record shows that in 1985, he made an unsolicited $200,000 political contribution to Senator Glenn's Political Action Committee.

[15] December, 1990, the San Francisco Chronicle falsely accused me of trading favors for cash. When I threatened to sue the Chronicle for libel, the Chronicle published a complete Page One retraction.

[16] Ms. Jacobson's activities should be considered in the context of Senate Rule 41 that permits Senators to appoint up to three members of their staffs who may solicit and receive campaign and political contributions. Ninety-nine Senators had done so as of November, 1990. All 99 Senators appointed key staffers, including 90 Administrative Assistants, who could raise and receive contributions while simultaneously possessing the enormous power to schedule appointments; to draft, amend, advance or delay legislation; and to deal with the Executive Branch and regulatory agencies.

Thus, the Senate has ruled that there is no impropriety and no appearance of impropriety if a Senate staffer who raises funds also schedules and attends meetings where substantive matters are discussed with a constituent-contributor. It seems to me that if there is a question of appearances if a fund-raiser who is not on the Senate staff attends such meetings, therre is at least an equal possibility of an appearance question when the roles are commingled.

[17] I must note a separate but relevant matter that was established during the hearings involving Bill White, who had formerly been Senator Glenn's Administrative Assistant. Mr. White subsequently left Senator Glenn's staff and proceeded to serve as Chairman and Treasurer of the John Glenn Committee, Inc. Mr. White received a letter dated June 6, 1984 from Mr. Grogan. The letter began as follows: "Dear Bill: Many thanks for arranging to meet with Bob Kielty regarding the JHG fundraiser in Phoenix. Also many thanks for coordinating with Dan Dougherty, etcetera, regarding the proposed FHLB regulation limiting direct investments by insured institutions." (Sp. Coun. Ex. 33); (Glenn, 1/4/91, pp. 225–6).

In this instance the Committee did not feel it necessary to be critical of Senator Glenn for the fact that his fund-raiser, who was not on his Senate staff, was coordinating in substantive areas.

[18] The testimony of my Banking Committee aide, Ms. Jordan, substantiates Ms. Jacobson's. The Special Counsel asked her if it was the general philosophy of my office that donors could rightfully expect some kind of resolution of the issues that they brought to her. She replied that it was the policy of our office to respond to all inquiries. There was no mechanism for keeping staffers informed of who were contributors, nor any effort to do so in any way. Ms. Jordan certainly made no inquiries about whether somebody was a contributor before she decided how to act on a particular request. Ms. Jordan testified, "It was basically our posture that we resolved everything as far as one way or another, either for or against."

The Special Counsel asked Ms. Jordan how she set priorities, how she decided which complaints got handled first and in depth. She responded, "I've never had that problem. I can't remember having a problem like that where I had to stop doing something for one person to do something for another." (CJ, 6/27/90, pp. 57–8).

[19] In one case in 1873 when the Senate investigated whether Senators Harlan and Patterson had been bribed by an offer of Credit Mobilier stock at preferential rates, the Senate also considered whether Senator Harlan's conduct violated ethical standards because of a related campaign contribution. A special Senate Committee apparently found that the contribution was made to influence Senator Harlan, but the Committee recommended no disciplinary action because the contribution did "not appear to have influenced his action as a Senator." (pp. 59–60, Senate Legal Counsel Memorandum to Select Committee on Ethics, March 1991). [S20NO1-P2]{S17202}rch 1991).

Mr. HEFLIN. Mr. President, we have, I believe, 11 minutes remaining. I understand Senator RUDMAN wishes some time. I yield to him at this time up to 6 minutes, perhaps more if he needs it.

The PRESIDENT pro tempore. The Senator from New Hampshire [Mr. RUDMAN] is recognized.

Mr. RUDMAN. Mr. President, I had not intended to use any of this time, but in behalf of this committee and of this institution, I am going to be very brief. My full response, point by point, will be in writing and on the desks of every U.S. Senator and the press next week.

Mr. President, I must say regretfully that, after accepting this committee's recommendation, what I have heard as a statement I can only describe as arrogant, unrepentent, and a smear on this institution. Everybody does not do it. The linkage that this committee rested its case upon is not based only on time. The report talks about linkage of money, time, and other circumstances, not present in any of the other four cases before us.

Second, it is true that many Members of this institution care deeply about charities for the public good. And they, in fact, do raise money for those charities, and many have come to the committee for advice on how they should proceed. Everybody does not do it.

Finally, Mr. President, I have served only 11 years, far less than the occupant of the chair and many others. But I think I know this: That Members of this body attempt, by word and deed, publicly and privately, to take great care with their personal conduct as it might be perceived by the American people. That is equally true for Democrats and Republicans, liberals and conservatives. I have found that to be the one unifying thread in this body.

For the Senator from California to rise and give a speech on this floor, after accepting this admonition, this serious reprimand, a reprimand because of circumstances he knows full well, rather than a vote, which I would have preferred, and to blame it on campaign finance, and everybody does it, and you should all be in fear of your lives from the Ethics Committee is poppycock. I repeat, regretfully, that statement is arrogant; it is unrepentant; it is unworthy of the record of the senior Senator from California.

Mr. HEFLIN. Mr. President, I reserve the remainder of the time that we have at this time.

Mr. CRANSTON addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from California.

Mr. CRANSTON. Mr. President, I stand by my remarks. I stated them in order to demonstrate—as I could well demonstrate—that I have not violated the norms of this body. I also said it in the hope that reforms can be brought about that will enhance this body, respect for this body in the country and provide better Government and more equal opportunity for all the people of our country.

I refer you to the documents that I have inserted in the RECORD at the end of my remarks that deal with many of the details in the presentation that was made by the committee in its written documents and in the statements made on the floor today.

After I have an opportunity to see the written response by Senator RUDMAN, I will have my own response to that response. I hope this does not go on endlessly. It should not. But I want the RECORD to be as clear as it can be for the benefit of the Members of this body, for my own benefit, most of all for the benefit of the Senate, and more importantly yet, for the people of this country.

The PRESIDENT pro tempore. Does the Senator from Alabama wish to utilize additional time?

Mr. HEFLIN. Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. Seven minutes 28 seconds.

Mr. HEFLIN. Does Senator RUDMAN desire any further time?

Mr. RUDMAN. I thank the chairman, but I have no other need for time.

Mr. HEFLIN. Mr. President, as stated in the beginning, this has been a long and arduous process, and there are many difficulties that arise in subjective evaluations of ethical standards. I think everybody in America is a strong believer in the rule of law and opposed to the rule of man. However, when it comes to subjective evaluations in ethics, it is basically following the rule of man.

Men differ when it comes to evaluation of those types of activities. An example of this subjective evaluation is how a Saudi Arabian sheik might relate to women as opposed to a person in America. They are basically ethical standards or mores that exist, and there are differences that you might have.

I think it is up to the Senate, for each of us, to consider the norms. The committee studied it. We felt as if there was an established norm and that the established norm was violated in this case.

It has been a long and arduous process, and I think it is time that we conclude this. But before I do, I would like to thank some individuals who have been involved: Special Counsel Robert S. Bennett, Amy Sabrin, Abigail Raphael, Bonnie Austin, Vaughn Dunnigan, and Benjamin Klubes.

Then on the Ethics Committee staff: Wilson Abney, Ruth Anderson, David Apol, Victor Baird, Karen Bovard, Anne Chamberlain, Houston Fuller, Annette Gillis, Felicia Lopez, Julie Min, Marie Mullis, and Jeannine Renninger.

Our personal staffs: Dalton Smith, of my staff; Thomas Polgar, of Senator

RUDMAN'S; Elizabeth Ryan, of Senator RUDMAN'S; John Monahan, of Senator PRYOR'S; Barbara Larkin, of Senator SANFORD'S; Darryl Nirenberg, of Senator HELMS'; and Stan Harris, of Senator LOTT'S.

I also want to thank the Senate legal counsel: Mike Davidson, Morgan Frankel, Claire Sylvia, and Sara Fox Jones.

I would like to also give a particular word of thanks to Senator HARRY REID, who served as counsel to Senator CRANSTON, and in regard to many matters he was very helpful, spent a lot of time and long hours and at various times, and we appreciate his effort.

I yield back our time.

The PRESIDENT pro tempore. The Chair will inquire of the Senator from Alabama as to whether or not this does conclude the investigation of Senator CRANSTON?

Mr. HEFLIN. Yes; it does.

Mr. MITCHELL addressed the Chair.

VETERANS POST-TRAUMATIC STRESS DISORDER TREATMENT ACT

The PRESIDENT pro tempore. Under the order, upon the conclusion of the presentation, the Senate will resume its consideration of the pending business, which is S. 869, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 869) to amend title 38, United States Code, to improve the availability of treatment of veterans for post-traumatic stress disorder and for other purposes.

The Senate continued with the consideration of the bill.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DECONCINI addressed the Chair.

The PRESIDENT pro tempore. The Senate will be in order.

Staff persons will take seats which are provided in the rear of the Chamber.

Mr. DECONCINI. Mr. President, for clarification, as we are now returning to S. 869, before us is an amendment of the Senator from Wyoming dealing with the cost of living as it relates to the veterans of the United States; am I correct, Mr. President?

The PRESIDENT pro tempore. The Senator is correct.

Mr. DECONCINI. Mr. President, I rise in opposition to the amendment of the Senator from Wyoming. First, let me say that the Senator from Wyoming indeed does not have to prove to anyone about his commitment to the veterans of this country. I have seen it over the 11 or 12 years he has been on that committee with me. He has been aggressive, he has stood up for the veterans time and time again, and I do not think anybody here will question his commitment to the American veterans in any way whatsoever.

My opposition here is not the opposition that some may say, that those of us who oppose this want this so we can use it as a train or in some other manner to load at the end of a session.

This amendment would eliminate congressional control over the annual cost-of-living adjustments in disability and pension compensation paid to service-connected disabled veterans and their survivors or dependents. It changes what we have done here for a long period of time, a long precedent that has worked well. There have been a few times it did not work well, but there are reasonable explanations for those exceptions. In its place, the Senator from Wyoming establishes a preset, automatic formula for the cost-of-living adjustment, the so-called COLA.

For many years, dating back to the late 1970's, the Veterans' Affairs Committee regularly has reported, and brought to the floor, legislation to provide an annual COLA. Annual congressional consideration of the COLA bills forces the Congress to take a fresh look at the adequacy of compensation rates.

Over the years, Congress has given veterans, especially seriously disabled veterans, more favorable consideration than they would have received under indexing. Indexing is not the perfect answer to all cost of living.

Rick Heilman, legislative director of the Disabled American Veterans, testified at the committee hearings on June 12 that:

> The more seriously disabled service-connected veterans have fared far better at the hands of the Congress than they would have if their adjustments had been linked to the consumer price index. * * *

That is our job, Mr. President. Our job is to ensure that service-connected disabled veterans and their families are properly treated. That is our responsibility.

The proponents of this amendment assert that veterans would benefit from indexing the so-called COLA. Yet, the vast majority of veterans organizations strongly oppose this amendment, and they have good reason to do it. The national commander of the Disabled American Veterans noted in a November 5 letter that was sent to each and every Senator in this body, that annual congressional hearings on the COLA "ensure an active ongoing oversight over the program itself."

He expressed DAV's views that indexing "most definitively * * * is not in the fundamental and long-term best interest of our Nation's wartime disabled."

The American Legion, in a November 6 letter that went to all Senators stated:

> * * * believes that adjusting compensation benefit levels is an action which deserves special and separate attention. When hearings on this matter are held each year, they sometimes provide the opportunity to examine other related benefit changes that may be necessary. In our opinion, this practice should continue.

The commander in chief of the Veterans of Foreign Wars said in a November 7 letter to all Senators:

> We believe the compensation program is so important, so crucial to our Nation's disabled veterans, that it must be the product of a careful and considered annual review by the United States Senate, as well as the entire Congress.

The AMVETS national president stated in his letter of November 7 to all Senators:

> Indexing would represent a grave injustice to our Nation's disabled veterans, their dependents and survivors.

The Paralyzed Veterans of America national president, in a November 7 letter to Senators, also urged rejection of the amendment to index the COLA because:

> The current method of legislative increases has proven to be a very effective method for ensuring that veterans are not harmed by the effects of inflation.

Mr. President, the administration's longstanding indexing proposal has gained some backing recently in the wake of the delay in enacting the 1991 COLA. This seems like exactly the opposite reaction that this event should have produced. Although the fiscal year 1991 COLA was delayed last year, it was enacted promptly at the beginning of this Congress.

Along with landmark legislation finally addressing the 12-year-old, highly contentious issue of agent orange compensation.

This year, despite another attempt to block consideration of the committee's COLA bill, the Congress enacted a full—and timely—COLA bill which will be reflected in the January 1 checks.

Mr. President, it is important that Congress retain its direct control over the veterans compensation COLA. That is why I oppose this amendment. There are times when COLA's have been delayed, and some delays are the product of misuse of this process. If it is misused, the COLA's are delayed. I do not think we should throw that responsibility to the wind. The facts simply do not support that conclusion. Thus, I oppose this amendment and urge my colleagues to vote against it.

Mr. MURKOWSKI addressed the Chair.

The PRESIDENT pro tempore. The Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. Mr. Presdient, I am certainly pleased to be an original cosponsor of the amendment offered by my friend from Wyoming, Senator SIMPSON. As a former chairman and ranking member of the Veterans' Affairs Committee, I urge that my colleagues support this amendment, which would permanently provide automatic cost-of-living increases for certain vital Veterans' Administration programs.

Mr. President, service-connected disability compensation is provided to veterans in the form of a monthly check to those who have incurred injuries or disabilities during their active military service. Currently over 2 million veterans receive such compensation. Also the Veterans' Administration pays dependency and indemnity compensation [DIC] to survivors of service members who died on active duty or as a result of a service-connected disability. Currently we have over 300,000 survivors receiving monthly checks under this program.

Each year, Mr. President, since 1976, the Congress has provided a cost-of-living adjustment, or the so-called COLA, in compensation and DIC benefits in order to prevent the erosion of the value of these benefits which of course is caused by inflation.

Mr. President, we all agree that veterans and their survivors should, and must, receive a COLA. There is absolutely no disagreement on that on either side.

The issue is how the COLA should be achieved. I believe—and this particular amendment by the Senator from Wyoming provides—that the COLA's should simply be automatic. I believe that our veterans should simply be guaranteed an automatic COLA.

I believe that in the manner in which we currently have to structure it with the ability to add things on, simply addressed exposure to obligation that we have and, simply put, the present system of providing the COLA, in my opinion, as a Senator from Alaska, does not work practically anymore.

The present system requires that each year the Congress pass, and the President sign into law, legislation to authorize the COLA. In order for our service-disabled veterans to see this increase as part of their January 1 check, these actions have to be taken in advance, approximately in October of each year. Unfortunately, this does not always occur. For example, last year the Congress failed to pass a veterans' COLA, and our veterans did not receive their increases until April 1991, 3 months later. I hardly think that was promptness on this body in responding to veterans, and this would have been avoided had we had an automatic COLA system.

Such annual authorizations are not required for Social Security COLA's, or for COLA's in veterans' pensions. In these programs, the COLA's are tied to increases in the Consumer Price Index. That is, they are simply automatic. The system works. I believe the same system would work here. And it should be true, certainly, in VA compensation and DIC programs.

The opponents of this amendment will argue, and they have, that an annual COLA bill is somehow needed to provide a vehicle to pass other and perhaps more controversial veterans' bills. What we are not addressing is the reality that it becomes a Christmas tree.

This year there are eight major veterans' bills that have been enacted into law. None of these were tied to the COLA. The committee took action, the body took action, and we moved.

Now the opponents also argue that an annual COLA is needed to ensure that the Congress will have adequate oversight of this important program.

We are really not giving ourselves, or our colleagues, much credit, if we accept this argument. Since I have been a Member of this body, for the last 11 years, the committee led by Senator CRANSTON, Senator SIMPSON, and myself, and the remaining members of the committee are also very dedicated to ensuring adequate programs to meet the needs of our service-connected disabled veterans.

I simply do not believe that the members of the Veterans' Affairs Committee need to have an annual COLA authorization to force us to do our jobs. I think we have proven capable of doing our jobs.

Mr. President, I urge may colleagues to do what is best for our Nation's service-disabled veterans. Passage of the Simpson amendment would, and will, send a strong message to our veterans; and that message is it would say that veterans deserve to have a COLA provided to them in a timely manner, guaranteed, and that the Congress will not play politics with their benefits.

Mr. President, I thank the Chair, and I yield the floor.

The PRESIDENT pro tempore. Who yields time?

Mr. DECONCINI. Mr. President, I yield whatever time the Senator from Pennsylvania desires. Similarly, Mr. President, may I inquire, we are now allocating time on the amendment and I believe I control time on the amendment. Is that not correct?

The PRESIDENT pro tempore. Time is controlled on the amendment. The Senator from Wyoming controls time for the proponents, and the Senator from Arizona controls time for the opponents.

Mr. SIMPSON. I thank the Chair.

Mr. DECONCINI. Mr. President, I yield to the Senator from Pennsylvania.

Mr. SIMPSON. Mr. President, may I inquire as to the remaining time under the order?

The PRESIDENT pro tempore. Thirty-eight minutes and ten seconds for the sponsor. Forty-eight minutes and fifty-eight seconds for the opponents.

Mr. DeCONCINI. I yield whatever time the Senator from Pennsylvania desires.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for the time yielded.

Mr. SPECTER. I thank the Chair and my colleague from Arizona.

Mr. President, the current issue is a curious one and may be subject to some misunderstanding as to why some are opposing an automatic COLA, cost-of-living adjustment, because it would appear on first blush that everyone who is looking after the veterans' interest would want to be sure that the cost-of-living adjustment was automatically paid, especially since the disabled veterans did not get their cost-of-living adjustment for some substantial time this year.

But it is a curious reversal that those who are looking out for the dominant veterans' interest oppose an automatic COLA. I say this in some explanation because some may be watching on C–SPAN II and wondering how the sides are allocated here.

But those of us who are opposing the automatic cost-of-living adjustment are doing so because we want there to be legislation each year which will focus on the veteran and give an opportunity for any other measures besides the cost-of-living adjustment to be considered. So that in opposing the automatic COLA or automatic cost-of-living adjustment, this Senator is not opposed to a COLA, but simply wants to accomplish it on a year-by-year basis where there may be a focus of attention on other veterans' needs.

It might seem at first blush that a Senator who was opposing an automatic cost-of-living adjustment was antibenefits for veterans, that is not the case here. I think we all agree that there ought to be a cost-of-living adjustment each year as we have cost-of-living adjustments for Social Security beneficiaries, railroad retirees, and governmental retirees. But it is a question of whether it would have to be separately enacted.

After considerable thought, I have decided to oppose the amendment which my distinguished colleague from Wyoming has offered because I think that the veterans' position is preferable on requiring a focus of attention.

It may be, Mr. President, that it is much to do about nothing, as has been pointed out on a number of occasions today that there are 12 bills signed by the President this year for veterans. So, where you have a record and a history of veterans' issues being considered as comprehensively as they have been this year, therein you do not necessarily need the COLA bill up each year, and by the same token the arguments against the COLA bill disintegrate because it will not make any difference anyway. All of these issues are considered.

But the dominant, conclusive issue in my mind is the feeling of the veterans of America that they are being overlooked. And I have very strong evidence from my own State, from my travels in Pennsylvania, where on this Sunday I was at a veterans' hospital in Erie, PA, because the inspector general had made a determination that they might cut surgical services there. And now there is a concern or a scare in Erie about a cut in surgical services, Erie being one of 25 VA hospitals where that possibility exists, although the inspector general of the VA never even went there.

Within the past month, I was at the veterans' hospital in Lebanon, PA, which is one of eight hospitals where the inspector general said surgical services should be cut. And I can tell you, Mr. President, there is panic in Lebanon because if surgical services are cut—that is in Lebanon, PA, at the VA installation—those veterans will have to travel to Pittsburgh, Philadelphia, or Wilkes-Barre.

And one veteran whom I was visiting with at the time when his wife and daughter were there, in the course of a few questions, very, I hope, gently asked, broke down because of his concern that he might have to travel a long distance, not for himself, but because he would not have his wife and daughter available to visit him if they had to travel long distances. And we all know, as a practical matter, the importance of family visits in the process of convalescing. In addition to the humanitarian factor, it is a question of whether there is really convalescence and a proper mental attitude if you do not have your wife and daughter visiting the vet.

The issue the veterans have, Mr. President, is one of great worry that they are being overlooked. The mileage has been cut to 11 cents a mile. Allocations for tombstones have been reduced. Medical services are inadequate because of a stretched-out budget, and there is very little room within the Nation's budget for any additional funding for veterans' programs.

I might make a plea, considering who is in the chair at this time, the President pro tempore of the U.S. Senate, who is the chairman of the Appropriations Committee. This is a good time to make an extra plea, if I may, to the distinguished Senator from West Virginia for extra funding for the veterans because there is not enough.

But we all know that there is not enough on many, many lines in our Federal budget as we sit in room 128 and labor over insufficient funds for the appropriations process. But the veteran has a special position in our country. The veteran has a contractual claim, an obligation, which runs from the Government of the United States to the veteran. And that is not the same with all of those who receive Federal funds. But the veteran has a special standing.

And for 1 minute or perhaps 2 minutes, Mr. President, I will personalize the issue.

The first veteran whom I knew was a very logical candidate, my father, Harry Specter, who came to this country from foreign shores in 1911. I am always sure Senator SIMPSON is within earshot when I talk about my father because he often says if you bring Harry into the argument, it is an unfair advantage.

But we all have our own associations. And I have had a varied association in a varied number of roles. But when I was a youngster, I saw on the wall in our living room a plaque which my father had received as a wounded veteran. And it was a picture of, I thought, the Statue of Liberty knighting a soldier who I thought was my father in a World War I doughboy uniform.

He came to this country in 1911 from foreign shores, and 6 years later, in 1917, he was on his way to France. He fought in the Argonne Forest, was wounded in action, and he received shrapnel in both legs which he carried until the day he died. And I saw the legs of my father from the knee down on the inside, dark, as if black from shrapnel, which could not be removed from a human leg.

In 1932–33, when I was a youngster, I remember my father's anger at the failure to pay the veterans a bonus. If they had an automatic COLA that would have come up. It could have been handled by the Congress. That was the year of the famous march on Washington, where General MacArthur and Major Eisenhower led the troops which fired on veterans a few blocks from where we are present here today. And I think that at that time, I made up my mind, perhaps subconsciously, to try to help my father get his bonus. I think I have been on my way to Washington ever since. But I sense the same kind of frustration in other veterans which I saw in my father.

In 1937 or thereabouts, he bought a new Chevrolet automobile. My sister was driving one day down the roads in Kansas. My father was on the passenger side. He had his arm on the window and a spindle bolt broke on the front wheel, a defective part in the manufacturing process. The car turned over and my father's arm went out and was crushed. Thankfully, there was a veterans hospital in Wichita, KS, which did not ask him if his wound was service connected. They just took him in and put metal wires—they were not sophisticated in those days—and sewed him up and he got very good care. He could write with his right hand but not too well. We did receive a pension. I believe the pension was $23 a month in the midst of the Depression, which was all that kept the wolf from the door at the Specter household.

I am not going to tell you any more. There is a lot more to tell, but I will save that for another day and another argument, I say to Senator SIMPSON.

But I see across my State the look of anguish and the look of concern on the veterans.

In February, soon after I became the ranking Republican member on this committee and we were worried about whether there would be adequate medical facilities to take care of the wounded from the Persian Gulf, I took advantage of the recess. I had to be in Florida and Texas for other reasons, but I visited VA hospitals in Miami and Houston and Dallas, and then went to visit my family in Kansas and visited a veterans hospital again in Wichita where my father had been in 1937. I could see as I visited in other parts of the country the concern which the veterans have.

So I do not think it is any big deal, Mr. President, to say the COLA bill is going to come up each year to require the Congress to take a look at the issue and to give other Senators a chance when focusing on a bill. As we all know, any Senator can add any amendment to any bill at any time, a very problemsome rule which goes with the great powers of the U.S. Senators, but it will not be asking too much to consider a COLA each year.

We do not have a whole lot of extra money to go around, but on my consideration, as I see the problems around, I side with the veterans' groups who I think really do represent the veterans. That is why I favor the language of the bill which takes up the COLA on an annual basis.

I thank my colleague from Arizona for yielding me time.

I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. I yield, Mr. President, to the Senator from Florida, such time as he may require.

The PRESIDENT pro tempore. The Senator from Florida [Mr. GRAHAM] is recognized for such time as he may consume.

Mr. GRAHAM. Thank you, Mr. President. I appreciate the generosity of the Senator from Wyoming.

Mr. President, I am relatively new to this process. I served on the Veterans' Committee since 1987. I do not have the depth of experience that many of the colleagues who have already spoken bring to this issue. But I do bring the experience of the last 2 years.

And what is that experience?

In 1990, Congress failed to pass a cost-of-living adjustment for disabled veterans. We adjourned at the end of the session without such legislation having been enacted. Tremendous anxiety and apprehension fell upon the thousands of American disabled veterans and their families who anticipate that January adjustment in their monthly payments.

In my office, Mr. President, I received 418 letters in January from disabled veterans in Florida asking, "Are we going to receive our adjustment?" In February, even though we had acted early in the commencement of this Congress, 456 additional letters came in asking the same question, calling for equal and fair treatment.

We did act early this year to retroactively provide for a cost-of-living adjustment for disabled veterans. You would think, Mr. President, that we had learned our lesson, having been through that experience once, that we would not want to come close to the precipice of doing it again. We had not.

In October of this year, the Secretary of the Veterans Department, Mr. Edward Derwinski, announced that if we did not act within a matter of days, if we did not act before October 24, that we were going to miss the opportunity to have the January 1992 checks adjusted; that is, that if we did not have legislation adopted by that date, that it would be too late to get the computers reprogrammed and the checks reset for delivery in January of 1992.

It took that announcement to spur us into action. And even then we missed the target by a couple of days. But apparently we were close enough that in fact the January checks will be so adjusted.

So in 1990 we missed. In 1991 we almost missed taking action to adjust the cost of living for disabled veterans.

Mr. President, I sent out some cards to veterans who had written me. During the early months of 1991, we received 969 letters or postcards on this subject. We wrote to many of these veterans in Florida and received back many responses.

I would like to read one of those responses, Mr. President, and will ask it be printed in the RECORD at the conclusion of my remarks.

It is from a veteran from Miami Beach, FL, Mr. Robert B. Greene.

Mr. President, I ask unanimous consent Mr. Greene's letter be printed in the RECORD immediately upon the conclusion of my remarks.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM:

DEAR SENATOR GRAHAM: I received your postcard outlining 1992 COLA for disabled veterans. I agree with you 100 percent.

I have been urging Members of Congress, House and Senate, that all Government-sponsored pension should get the same COLA each year—automatically, without voting on each one.

Those should include Social Security, veterans, military, Civil Service, black lung, railroad retirement, CIA, et cetera.

These should be equal and automatic.

Truly,

ROBERT B. GREENE.

Our system has caused the Mr. Robert Greenes of America to feel as if they have been abandoned.

I recognize everyone here is concerned about veterans. We all want to treat them as respectfully as possible. And I agree with the statement made by the Senator from Pennsylvania that the relationship between the American people and our veterans is in the nature of a contract. These individuals served our Nation with certain expectations. They knew that they were going to put their lives at risk and this very group of Americans in fact sacrificed a portion of their body for the service and the protection of the freedom of America. These particularly deserve to see that that contract is maintained.

So the question here is not whether one group or other is more concerned, more committed to the welfare of America's veterans. It is what is the most appropriate means of doing so.

In my opinion the most appropriate way to do so is as Mr. Greene suggested, and that is to provide annual, automatic, equal cost-of-living adjustments for veterans, disabled veterans, as we do for all others who receive annual adjustments of their payments from the Federal Government.

There have been a number of reasons given as to why the current system is superior, why it is worth accepting this "Perils of Pauline" anxiety that we have subjected veterans to in 1990, and almost in 1991.

I think the reality is that the compelling argument for continuing the status quo is to have a must pass bill relating to veterans that each year can be used as the basis of considering a wider range of veterans' issues. The issues which have been added to that bill in the past, such as agent orange, I think are issues of importance and worthy public purpose—sufficiently important, sufficiently worthy that they could pass on their own merit. They do not require being annexed to a cost-of-living increase bill in order to be given serious consideration.

I have been thinking about what is it that has caused the American people to express in so many different ways their lack of confidence in, their anger at, their dissatisfaction with this institution. This week I was visited by the gentleman who is heading the term-limitation proposal for Florida, a proposal that would limit the terms of State, executive, and legislative officials and congressional Members. I asked him, "In all of your visits around our State, talking to people, what is it that makes persons so upset they are signing petitions to limit terms?"

He thought about that issue, and his response was, "The people feel as if Government is not responding to the things that they are interested in. There is a disconnect between what is important in their lives and what they see Government as doing."

I think that is an important part of the diagnosis of why there is so much public dissatisfaction with Government. In extending that analysis, I wonder why some of the things this Congress has done in recent years have fallen into such public disrepute. I will just mention three items, two of which happen to have occurred before I arrived and a third since I have been in the Senate:

In the early 1980's, the efforts to salvage the Nation's savings-and-loan system, the so-called Garn-St Germain Act, which now has been seen as being a major contributor, a culprit in bringing down a once-proud system of savings-and-loan institutions;

In 1986, a tax bill which was passed as a means of eliminating inequities, of freeing capital, of improving our economy, which is now being targeted as one of the contributors to our current state of economic distress;

And in 1988, the passage of the catastrophic health-care bill which was intended to aid older Americans by giving them some greater protection against catastrophic illnesses.

What do those three enactments, and others we could identify, have in common? Why did they all come into such disrepute that in the case of the catastrophic health care, within a few months after it was implemented it was repealed? I believe they have some common characteristics. One of those is the effort to roll too many misdiagnosed, insufficiently analyzed propositions into one bulky bill, and then ask the Congress to vote yes or no on that one proposition.

A second is that in all of those instances, and specifically as relates to catastrophic care, there was an insufficient dialog with the American people before we acted, an insufficient effort to ask the American people what they thought the problem was, what they thought appropriate prescriptions would be.

The reason for this digression is I believe the fundamental rationale for maintaining an annual legislation for the sole purpose of providing a cost-of-living adjustment for disabled American veterans is so that we can fall exactly into that same legislative trap with legislation relative to America's veterans, so we can roll into one big indistinguishable mass of legislation, a bill whose engine is the need to pass an annual cost-of-living adjustment for disabled veterans and the baggage behind that engine is a whole series of unanalyzed, ununderstood, and nondiscussed with the American people—specifically the American veteran—what the significance of all those proposals really is.

I believe that is not good government, and I believe that good government is represented by this legislation which will take this issue out of that annual effort to use the engine of the cost-of-living adjustment for other purposes, to say to American veterans we are going to treat you just like we treat those who receive Social Security, those who receive military retirement, and a whole array of other Federal benefits to persons who have served or have otherwise gained the right to Federal payments.

I believe that it would be good government by taking this process of the annual cost-of-living adjustment out of the potential to be used as the means by which a veritable cornucopia of inadequately addressed proposals will pour forth.

So, Mr. President, for those reasons, I support the amendment as offered by the Senator from Wyoming. I hope that his amendment is seen for what it is intended to be; and that is, an effort to assist the American disabled veteran by giving him or her an assurance, by giving him or her a reprieve from the annual apprehension of the current system, and by causing us to look thoughtfully on an individual basis at other important issues that relate to the American veteran, and not assuming that the only way in which the American veterans' needs can be met is by rolling those needs behind the engine of an annual cost-of-living adjustment.

Thank you, Mr. President.

EXHIBIT 1

MIAMI BEACH, FL,
November 12, 1991.

Senator BOB GRAHAM,
Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: I received your post card outlining 1992 COLA for disabled veterans and agree with you 100 percent.

I have been urging Members of Congress House and Senate that all Gov't. sponsored pension should get the same COLA each year—automatically without voting on each one.

These should include Social Security, Veterans, Military, Civil Service, Black Lung, Rail Road Retirement, CIA, etc.

These should be equal and automatic.

Truly,
ROBERT B. GREENE.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I want to surely thank my friend from Florida. He represents a State of great diversity, tremendous problems encountered with people seeking to live there because of the lifestyle, dealing with issues of senior citizens, veterans, and immigration. There is no one who has a more extraordinary diversity of population to deal with. So when he speaks on this issue and on behalf of this amendment, I am very, very appreciative because I know of the large veterans' population that is in the State of Florida.

I hear my friend clearly. They want their check on a regular basis without waiting for political gimmickry, which has taken place here for the past three sessions. That is what this is about. I thank the Senator from Florida very much.

It is very interesting to hear the debate. I think we are coming to the conclusion.

Mr. President, we have heard some of the arguments now presented by Senator DECONCINI and Senator SPECTER, and they do arguably. I regret I was diverted for a few moments during that time. We were working on trying to press forward on the conferees on the crime bill and trying to get to that issue as soon as we can. I happen to be deeply concerned, with Senator THURMOND and Senator BIDEN, on that issue. That was the purpose of my absence.

I think I would just add that as we hear the arguments about what veterans want—as it comes from the other side—I think we want to preface that with "veterans organizations" want, because I think there is a difference. I think the average veteran wants his or her COLA at a known time, at a time they can plan for it. In this situation, it would be December 1 of 1992, and every year thereafter, in time for the Christmas season; a COLA on December 1 every year, automatically indexed to the consumer price index. What is wrong with that?

I do not know of anything wrong with that, but it will be a very difficult vote, because I do know the veterans—remember, there are three types of veterans organizations. There are "veterans organizations," "professional veterans organizations," and "professional fundraising veterans organizations."

The latter often speak in ways which are simply to imply that the Congress never does anything ever for veterans. Nothing, even though the budget is $32.5 billion; even though there are only 27 million of us and a declining amount; even though we have added to them from the heroic people of Operation Desert Storm. But that is not a large increase in the veterans population, for them to even come into veterans organizations. Certainly they will be eligible for the health care system, the vet centers, and all of the remarkable things that are provided to veterans in the United States. Please know that that is the way it works.

So I think what you see is what we also began to see in the Thomas hearings, as anguishing and disruptive as they were. We see groups, and that is the national groups, who are out of touch with their membership. And I really believe this is another example of that.

This is an anathema to the pros, to the executive directors, to the chaps that do the work, men and women, in the professional fundraising groups and the veterans groups and the professional veterans groups because this is a great roll of the dice involved here that used to work, and they hope it will work again. The roll of the dice is "you should separate the veterans' COLA from the rest of the COLA's because the veterans used to get more than the CPI."

There is a reason for you to consider that has not yet been presented in the debate—the indexing of social security COLA's. I think the last time that happened was the year I arrived here, or the year before. It was a common procedure, especially in those times when the cost-of-living allowance was Social Security sometimes went 7 percent, 9, and at one time in the seventies, if I recall, it was a 12.9 COLA. That is when we had to correct the Social Security System because the replacement rate, the disruption of that indexing, was placing the Social Security system at risk. In fact, I think I recall that perhaps the COLA on Social Security in the early seventies may have even risen to 13.7. Those are real issues.

So in those years, the professional veterans groups were doing well. I have no objection at all to tying the Consumer Price Index and the COLA just where we do with Social Security and other general Federal benefit structures, or entitlements, if you wish to use that term.

So the veterans' benefits or disability COLA's have never been higher than the Social Security recipients' when indexed to the CPI since 1978. I think we can all see that the COLA for veterans is never going to go any higher than the CPI, whether or not it is in this measure or whether or not they deal with the two independently; at least not in these times of deficit and budget difficulty.

In fact, in the Gramm-Rudman-Hollings proposal, we were able to give a benefit to veterans which we give to no other group in society because their budget cannot go down over 2 percent the first year and 1 percent the next year. We did that with regard to a sequester. It took care of them in a way we have never taken care of any other segment of society. And I helped vote on that. In fact, ALAN CRANSTON helped put it together.

I was here that night, and I believe there were staff here that night, and are still here, who remember that we did as a special advantage to the veterans. We set them in a better position than anyone else in America, in the event we went to the dramatic—dramatic—position of sequester.

So what we are seeing from the veterans organizations, or the professional veterans organizations, who are resisting this is that actually they are hoping they can get a larger COLA. That will not happen. I think all would admit that in these times of budget difficulty, that is not going to happen.

And so there are really two things that are troubling: that and the real issue, which is so evident, that for 3 years, we have delayed these COLA's for veterans. Then we go back and make it retroactive, and then they get their check in February or March, and other times, they do not know when they are going to get the check. And what is the reason for that?

The reason for it is, as we stand here on this floor, with the clock just about to hit midnight of the final hours of the session, suddenly we are dealing with eight issues that we have dealt with in committee but could not pass out of committee. At this holiday season, they would be known as "turkeys." And they take them and they plaster them on the bill in the middle of the night on the must-pass, fast freight veterans COLA. They are always contentious and they lock us down, and they are always, as I say, about something pretty potent—agent orange, some kind of new presumptive disease, always terribly contentious, that we were never able to pass out of committee.

And that, then, has caused the conferees or the potential conferees, as we bat them back and forth between the Chambers, to just say forget the COLA; we are not going to pass that piece of legislation just because it is tied to that COLA bill. Therefore, for 3 years in a row the veterans of America have been deprived of a specific date to receive their COLA, like the Social Security recipients receive their COLA on a specific date and every other recipient of a Federal entitlement, indexed to the CPI. These recipients have the knowledge of when they will receive their COLA's so they can do their personal planning. The Senator from Florida is absolutely correct.

To that is what this amendment does. That is what we are trying to do. I think it is important we do that. I think the argument that veterans want their COLA to be a bill that is voted on with congressional oversight, would be fine. If you want to give us a piece of legislation that says we will give the congressional oversight as long as we do not hang everything in the world on the bill, I am ready to cosponsor that measure. I would be glad to do that. The veterans want their dollars when they need them, and they deserve them, and it is called a COLA. I have never voted against a single one of them. They want it adjusted to the Consumer Price Index. They want it to be automatic.

Those who do not want it to be automatic are those who are always working for additional legislation of whatever kind, of whatever kind it may be, simply because that is their job. That is how they justify their existence, their money, staff salaries, compensation plans that they have for their staffs—a huge burgeoning bureaucracy in itself. I urge you to take a look at those organizations' pamphlets and brochures, and they will send them to you. I ask you to write to one of the veterans organizations that you might belong to, ask for their statement, their net worth, their audited report of what they take in, especially with fundraising, and what they pay out and where the money goes, how much is on hand, how much really goes to veterans, to outreach, to spouses, to children. You would be surprised, totally surprised. I have been, in the years I have been here.

I will say that they are accessible people. They will visit with you. I especially have visited with people in the DAV. Butch Yoekel, a very active and vigorous man, he and I have shared a great deal of interesting correspondence and commentary over the years. They are accessible people: the Legion, the American Vets, any group you wish to discuss it with. They will show you the books. And then you can ask the questions: What is it you do with the money that comes to you? Especially when sometimes the letters that are soliciting the money are often based on the impression that the Congress does nothing for veterans. So I think that is worthwhile to ask the Vets organizations' for their brochures. I think it is time to look at those issues, especially as we get to crush time regarding the issues of deficit and the issues of budgeting and debt limits.

I think you want to remember that the veterans themselves really do not want their COLA's in April or March or January or February. They want them on a standard date like everybody else in America. And they know that they can get that, the average veteran knows that. He has been able to read through some of the angst and hype in the way this has been expressed. He knows it would be a nice thing to get that good old COLA check on December 1 of each year and each year thereafter.

I will tell you, too, as you review those audited statements of the professional veterans fundraising groups, you will find that the salaries of some of the executives on the professional fundraising veterans organizations are higher than those of the U.S. Senate. Now, that is an interesting item, just something I thought I would share with you. It is a curious thing and it is real.

And so, as we wind down here, let us just summarize that this is to prevent what has happended for 3 years in a row, something that happened due to political wranglings over contentious issues that should never have been attached to a must-pass COLA.

Senator SPECTER and Senator AKAKA, two people I greatly respect, made the case for the amendment, because they are right. The veteran is a special constituent to all of us, and we cannot, nor have we ever, turned our back on veterans. But when we stall and haggle over politically contentious issues that have not gotten to first base in committee, that should not be on the COLA bill; we stall the bill, and we prevent the veteran from receiving a timely and deserved COLA.

Finally, I have the greatest regard and respect for Senator SPECTER. In my mind he is one of the most remarkable Senators in this place. He can deal with any issue. He is a superb lawyer. He has a superb ability to cut through the issues and present his case in an understandable and hearable way, and that is sometimes difficult for a man who has a mind that races and functions like Senator SPECTER's.

I serve on two committees with him, and that has been my pleasure. But I have an awesome feeling every time he brings up a Specter, it is Harry Specter, because he must be the great image of Americana. And I have heard the story of Harry Specter. He was a great businessman and an entrepreneur, and he took his little family to Russell, KS, Where two remarkable Americans grew up, ARLEN SPECTER and BOB DOLE. And so we shall just present the matter before our colleagues and see what occurs as to this and then proceed on with a very important bill.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair. Just a word or two in addition.

I want to thank my gracious colleague, Senator SIMPSON, for his very kind comments. Senator SIMPSON and I have been on the same side of most of the issues in recent days. We have had a unique kindred for the past several weeks, although we worked closely for the 11 years I have been here. Any I appreciate his kind comments about my father, the veteran whom I talked about earlier.

I just do want to point out that he was not a great entrepreneur. He came from foreign shores. He was in World War I. He sold blankets to the farmers in the winter, traveled through the West, Nebraska, Kansas, learned the English language, sold cantaloups in the summer, and he established a junkyard in Russell in 1941.

Senator SIMPSON asked me if it was true he moved around a lot. He lived in Russell, KS, for 5 years, which was as long as he lived in any place while he was there. He became a friend of Don Dole, who is the father of Senator BOB DOLE. And it is true that Senator DOLE and I come from the same little town in Kansas. Russell has 4,998 people. It used to have 5,000 until DOLE and I left town. But I just do not want anybody to get the idea my father was an entrepreneur because I intend to talk about him some more on other issues.

Again, I thank the Senator.

Mr. DECONCINI. Mr. President, I wish I had come from Russell, KS, and then moved to Arizona, of course.

Mr. President, Senator DASCHLE had planned to come over and make a statement on this bill. He was unavoidably detained in a hearing concerning Indian affairs. He expresses his regrets he cannot be here.

Mr. President, I ask unanimous consent copies of the veterans organizations letters in opposition to the amendment of the Senator from Wyoming be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISABLED AMERICAN VETERANS,
Washington, DC, November 5, 1991.
Hon. ALAN CRANSTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: You recently received a "Dear Colleague" letter urging your support for an amendment (to be offered to S. 869) which would require all future Department of Veterans Affairs [VA] service-connected disability and death benefit adjustments to be achieved through "indexing," that is to say, no longer legislated by the Congress but linked to an automatic formula responsive to annual movement in the Consumer Price Index [CPI].

As National Commander of the 1.3 million-member Disabled American Veterans—beneficiaries of these disability payments—I urge that you vote against this amendment.

The DAV has no quarrel with the apparent intent of the amendment * * * to ensure timely adjustment of these entitlements in line with the loss of purchasing power caused by inflation. But the fact of the matter is, with very few exceptions over the years (last year's cost-of-living adjustment delay being one of them), the Congress has indeed provided timely benefit increases which have kept pace with the cost of goods and services. The compensation increase bill recently approved by the Congress and now at the White House is the 18th consecutive legislative adjustment in as many years.

Equally important to the DAV is the fact that annual congressional hearings held in consideration of compensation increase legislation ensures an active, ongoing oversight over the program itself. This, in turn, has resulted in meaningful, overall maintenance and improvement of these benefits. In our view, indexing of compensation rates—no matter how well intentioned—would remove this most important program from active congressional scrutiny. This we believe would be most undesirable.

In summation, the DAV appreciates the intent of the above cited amendment, but we most definitely are of the opinion that it is not in the fundamental and long-term best interests of our nation's wartime disabled and their system of benefits and services. We urge that it be rejected by the Senate.

I do thank you very much for your kind attention to this letter.

Sincerely,
CLEVELAND JORDAN,
National Commander.

THE AMERICAN LEGION,
Washington, DC, November 6, 1991.

DEAR SENATOR: Within the past several days you have received a letter, signed by six of your colleagues, asking you to support an amendment authorizing automatic cost-of-living adjustments for recipients of VA disability compensation. The American Legion opposed this idea, and we urge you to reject the amendment when it is offered.

The concept of automatic COLA's for veterans with service-connected disabilities is not a new one. It has been considered many times by the Veterans Affairs Committees in both Chambers of Congress, but it has never been approved by those panels.

Our organization believes that adjusting compensation benefit levels is an action which deserves special and separate attention. When hearings on this matter are held each year they sometimes provide the opportunity to examine other related benefit changes that may be necessary. In our opinion, this practice should continue.

The process of approving a separate compensation COLA measure need not be a difficult process. In fact, it should be a relatively simple one which can be done without encumbering the Senate agenda. If the Senate can pass 18 commemorative measures in rapid succession as it did on November 1, it can certainly find a floor agenda window that is sufficient to pass a compensation COLA bill in a timely fashion. That is precisely what you and your colleagues did on October 28 when you approved an amended version of H.R. 1046.

There is one final point that deserves consideration. In the "Dear Colleague" letter you received, it was stated that those who oppose the automatic COLA idea would argue that a separate annual COLA bill is necessary to serve as a vehicle for other veterans legislation. You can see The American Legion—as one of those opponents—has not used that argument. It is rather ironic, however, that the automatic COLA supporters plan to use S. 869 (a veterans health care bill) as a vehicle for their amendment.

Your attention to our views on this very important issue is deeply appreciated.

Sincerely,
PHILIP RIGGIN,
Director,
National Legislative Commission.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, November 8, 1991.
Hon. ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: It is our understanding that when S. 869, the "Veterans Health Care Amendment Act of 1991", comes to the Senate floor, several Senators intend to offer an amendment that will provide for indexing the cost-of-living allowances [COLA] for America's service-connected disabled veterans to the Consumer Price Index. On behalf of the 2.2 million men and women of the Veterans of Foreign Wars of the United States, I urge you to reject this amendment to S. 869 when it is offered.

While we certainly agree with the proponents of the amendment that COLA's should be received in a timely manner, we do not agree with their assessment that the current system does not work. Our assessment of the problem lies in the ability of a couple of Senators to obstruct the current system in order to work their own will at the expense of our Nation's veterans.

We believe the compensation program is so important, so crucial to our nation's disabled veterans that it must be the product of a careful and considered annual review by the United States Senate as well as the entire Congress. Notwithstanding the events of last year and the most recent actions of one or two Senators to block the COLA from being considered on the Senate floor, we believe the Congress has been compassionate and fair in addressing the needs of our nation's service-connected disabled. We also believe as soon as the compensation program is indexed the Senate's essential oversight role of the compensation program will cease to exist. This is clearly the case with the VA pension program. Since it was indexed in 1978, one can count on one hand the number of hearings that have been held on the pension program. Further, a very small number of laws have been enacted to liberalize and improve the benefits veterans receive under the pension program since it was linked to the CPI.

In closing, I would urge you to reject the proposed amendment to S. 869 that would index the COLA to the CPI. While we certainly agree with the stated goal of the authors of the amendment, we are in disagreement with their means of achieving that goal.

Sincerely,
ROBERT E. WALLACE,
Commander-in-Chief.

AMVETS,
Lanham, MD, November 6, 1991.
Hon. ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: I would like to express AMVETS' sincere appreciation to you for fulfilling your commitment to America's disabled veterans by passing the 3.7 percent Department of Veterans Affairs [VA] cost-of-living adjustment [COLA] increase for fiscal year 1992. Your concerted efforts have regained a significant amount of veterans' faith and confidence.

Also, on behalf of AMVETS, I wish to express our concern for a proposed amendment to be offered on the Senate floor during discussion of S. 869, the "Veterans Health Care Amendments Act of 1991." The proposed amendment would mandate indexing VA COLA to the annual Consumer Price Index [CPI]. AMVETS believes that indexing would represent a grave injustice to our nation's disabled veterans, their dependents and survivors. We strongly solicit your support in blocking any legislative initiative which would tie VA compensation to the CPI.

Reacting to the untimely delay in the passage of the fiscal year 1991 COLA, a few legislators drew the conclusion that the best way to prevent recurrence of the COLA disaster would be to index VA compensation increases to the annual change in the CPI. While this would provide a simple solution, it fails to fully acknowledge the severity of the problem. Indexing would in no way allow for the consideration of the daily living requirements and medical needs of disabled veterans which far exceed those of the general population. Compensation is of such vital importance to our nation's disabled veterans that it merits, indeed demands, the annual review of the two full Veterans Affairs Committees, not merely a mandated automatic determination.

We firmly believe that year to year VA compensation beneficiaries deserve the informed oversight of the House and Senate Committees on Veterans Affairs. The dedication of these committees to represent the best interests of American's veterans is crucial to bicameral resolution of the complicated issues relating not only to COLA but the full range of initiatives which affect the benefits and entitlements of VA beneficiaries. Who more than our disabled veterans deserve the devoted attention of these committees wherein the power to formulate legislation on their behalf resides.

It is time for Congress and the administration to think logically and compassionately, and to act realistically and faithfully, in meeting the Nation's obligation to our disabled veterans. To these men and women and their families, indexing COLA to the CPI would be step in the wrong direction. Such a measure would breech the trust our veterans have in our Government to honor this vitally important, earned entitlement.

Our cooperation and assistance are at your disposal as together we work to protect the rights and benefits of the disabled veterans, and all veterans, of our great Nation.

Sincerely,

JAMES L. SINGLER,
National Commander.

PARALYZED VETERANS OF AMERICA,
Washington, DC, November 7, 1991.

Hon. ALAN CRANSTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: On behalf of the members of Paralyzed Veterans of America, I request your strong opposition to an amendment that is being offered to S. 869, the Veterans Health Care Amendments Act of 1991," by Senator Alan Simpson. Senator Simpson's amendment seeks to index the annual increase in compensation and Dependency and Indemnity Compensation [DIC] paid to veterans who have sustained service-connected disabilities and their survivors.

Paralyzed Veterans of America certainly understands the need for payments to veterans and their survivors to keep pace with the effects of inflation; however, the current method of legislated increases has proven to be a very effective method for ensuring that veterans are not harmed by the effect of inflation.

Additionally, by maintaining the present requirement for annual congressional review of the adequacy of the compensation and DIC rates, a mechanism is in place by which the overall efficacy of the programs can be assessed. This process has, over the years, ensured that not only were timely increases provided veterans and survivors but that there occurred an annual review of veterans' program and benefits by the Congress of the United States.

Again, I ask that you oppose the well intentioned amendment by Senator Simpson. It is unnecessary and will preclude opportunities for needed oversight and modification of the benefits and programs that serve the veterans of this Nation.

Sincerely,

VICTOR S. MCCOY, SR.,
National President.

Mr. DOLE. Mr. President, I rise today in support of Senator SIMPSON's amendment that would ensure that veterans are given the protection of an indexed cost-of-living-adjustment.

This legislation makes sense for our veterans and their dependents. It is just not right that veterans COLA's be held hostage by the legislative process. The fact is that the veterans COLA has been late for the past 3 years in a row. Last year, because of wide differences in policy, a veterans COLA was not passed in the Senate. Differences in policy are always here in the Senate—but it is not proper that the rightful benefits of our veterans be held up for those differences.

Because we did not have the opportunity to vote for the veterans COLA in 1990, it was not until January of this year that we could pass a benefit package for veterans and their dependents. That cost-of-living adjustment did not show up on veterans benefits until April. For our Nation's disabled veterans and their dependents—that is just too long to wait. In my view, veterans have sacrificed and given too much to our Nation to make them wait.

There are those that claim an indexed COLA will be a disservice to veterans but in my view that just isn't right. I cannot subscribe to the theory that the veterans COLA is the only legislative vehicle that can be used to protect veterans. I do not believe that anyone will abandon veterans. I do not believe that millions of disabled veterans will be ignored. And I will not accept the idea that the Congress won't continue to meet the health care needs of veterans without the ability to withhold and delay their benefits.

Mr. President, there are many different opinions on how to best serve the needs of America's veterans. With the changing veteran population and demographics, new programs will be needed and new services required to ensure that no particular group of veterans will be excluded. But this amendment for an indexed COLA is for all veterans. It affects each and every veteran and their dependents each and every year. That is why I have supported an indexed veterans COLA in the past—and that is why I stand in support of it today.

Mr. THURMOND. Mr. President, I rise to voice my support for this amendment which provides for automatic cost-of-living-allowances [COLA's] for America's service-disabled veterans. Under this amendment, future annual COLA's will be tied to the Consumer Price Index. I am pleased to be a cosponsor of this important amendment.

Mr. President, when the annual COLA was introduced this year, so many unrelated provisions were added to it that passage of it to ensure that our deserving veterans received timely adjustments was threatened. Secretary Derwinski had to express the urgent need to pass a clean COLA for veterans so that the VA would not have to make retroactive adjustments for the third straight year. Passage of a clean COLA was imperative to ensure that our veterans and their families received their adjustment in a timely manner. I am pleased that we were able to pass the 1992 COLA in a timely manner. However, we must act today to ensure that future COLA's are not held up.

Mr. President, the current system of annual authorization of these increases is no longer adequate. America's disabled veterans and the surviving dependents of veterans who have died in or because of military service deserve more certainty about their COLA. The COLA's for compensation should be guaranteed.

They should not be held hostage by added language unrelated to the annual adjustment which cannot be criticized except at great political risk. Compensation for veterans disabled in service is too important. We must provide this guarantee to our disabled veterans and their families. I urge my colleagues to vote for this important amendment.

Mr. SANFORD. Mr. President, I rise today to speak against the amendment to S. 869, offered by the Senator from Wyoming [Mr. SIMPSON]. This amendment would automatically index the cost-of-living adjustment [COLA] for our Nation's veterans who suffer service-connected disabilities and the survivors of certain disabled veterans to other key economic indicators of our economy.

Mr. President, no one in this body denies the sacrifices that the veterans of the U.S. Armed Forces have made for our Nation. No one denies that it is the duty of the Congress to ensure proper compensation for our veterans. And I think that on the surface, the intent of this legislation is noble—to guarantee these veterans a rate of COLA increase tied to the Nation's key economic indicators; namely, the Consumer Price Index, rather than depend on the Senate to address these needs on a yearly basis. Indeed, if the Senate was not capable of performing its duties of oversight of veterans compensation programs, I might support this type of guarantee. However, the Senate is more than capable of performing these duties, and has historically done a good job of doing so. And in fact, if we look under the surface of this amendment, we see it is actually detrimental to the cause of the veteran because it would deny the Senate an opportunity to hear from veterans and conclusively debate the issues of their concern.

Every year, this body has the opportunity to debate the issue of a COLA for veterans of our Nation's armed services who suffer service-connected disabilities, as well as survivors of certain disabled veterans. I look forward to that debate. I look upon that debate as an opportunity to honor our veterans, to bring them and their needs once again to the attention of our Nation. The COLA debate allows the Senate to give the issue of compensation for our country's veterans the attention it deserves. This legislation also serves as a forum from which all of the issues that are of concern to our veterans can be heard. This issue is not just about money. Veterans who once put their lives on the line for this country—for you and me and all of the values and principles we hold sacred as a nation—now face so many other issues besides simply the amount of a yearly cost-of-living increase. They deserve a platform from which we the Senate, and the Nation can hear all of their needs.

We all know that a COLA for service-connection disabled veterans of the U.S. Armed Forces is one of a few pieces of legislation that is brought before this body without fail, every year. Why, then, should we agree to strip our veterans of this guaranteed opportunity to voice their needs and opinions on a yearly basis? Are some Members of this body tired of hearing, once a year, from our Nation's veterans? Will we toss them this guarantee in hopes that the compensation issue will slowly disappear, or that we not have to hear from them on any other issues? I am not willing to buy off the silence of our veterans in this manner—and they are not willing to be sold.

Mr. President, I have heard from many national veteran's organizations such as the American Legion, AMVETS, the Disabled American Veterans, the Paralyzed Veterans of America, the Veterans of Foreign Wars, as well as many other groups and individuals from my home State of North Carolina, all of whom oppose this legislation. These groups and individuals realize that such a measure would deny them the opportunity they now enjoy to have their concerns brought before the Senate in a manner in which these issues may be debated and acted upon. These groups trust the Senate to carry out our duties of congressional review of compensation for veterans, and they do not desire to have this process automated, depersonalized, and removed from public view.

Again, Mr. President, I strongly oppose this legislation. I urge my colleagues to recognize that this measure is not necessary, it is not supported by those it is intended to help, and it should not be supported by the U.S. Senate.

Mr. JEFFORDS. Mr. President, I am pleased that today the Senate is considering S. 869, the Post-Traumatic Stress Disorder Improvement Act of 1991. This legislation recognizes the alarmingly high percentage of combat veterans that suffer from posttraumatic stress disorder [PTSD] and that very few veterans ever receive treatment for this debilitating illness.

S. 869 provides fast-track eligibility for PTSD treatment. When a veteran of a combat theater is diagnosed as suffering from combat-related PTSD, it allows the veterans to by-pass the adjudication process and receive priority care. This will streamline the system and therefore provide more veterans with treatment.

In addition, S. 869 will authorize the expansion of readjustment counseling services at vet centers to any veteran who served during a period of hostility. We have provided such treatment for Vietnam-era veterans, and very recently, with enactment of the Persian Gulf War Veterans Assistance Act, extended eligibility to post Vietnam-era veterans having served during a period of conflict. However, we have not provided for those who served prior to the Vietnam era.

Senator SIMPSON is offering an amendment to S. 869 to automatically index the cost-of-living-allowance [COLA] for service-disabled veterans and the surviving spouses of veterans who have died in, or as a result of, military service. I am supporting this amendment.

Congress has already tied the Social Security COLA to increases in the consumer price index. We have also removed veterans' pensions from the annual authorization process by tying increases in that program to increases in Social Security benefits. Currently, the only recipients of compensation whose cost-of-living increases are dependent upon congressional action are veterans that have been disabled as a result of their service in the U.S. military and the surviving spouses of veterans who died as a result of their service.

I realize that a majority of the veterans organizations oppose this amendment. With an automatic COLA, they say, it will be difficult to pass much-needed veterans legislation. I do not believe this is true. This year, 12 veterans bills have been enacted, including the long-awaited Agent Orange Act of 1991, without being tied to a COLA bill.

Furthermore, Vermont veterans have indicated to me that they would prefer to be able to depend upon their annual COLA increase showing up in their checks at the first of each year. While a COLA increase may not seem like an amount of money that will make a great deal of difference one way or another, unfortunately, for many disabled veterans living in financially tight circumstances, they depend upon receiving this increase in a timely manner.

Mr. DECONCINI. Mr. President, just to sum up, I think it is a little misleading to disguise or to infer that this is some kind of a big national plot by national lobbyists here from Washington, DC, that has fanned out throughout this country. That just is not the case.

The people who like to have the Congress look at this cost of living every year are the veterans of this country. Why is it? I will tell you why it is. Because we are sensitive to them. We pay attention to them most of the time. We listen to them. They want an opportunity to come and argue their case. They might disagree with a CPI some day. Veterans are different and ought to have the right to come before our committee and request that Congress consider whether the CPI is wrong.

That is what we are preserving here, the right to review any COLA. If we decide we want to make it lower or higher than the CPI, Congress can correct mistakes. I think for the Congress to give this authority to an administrative body is not in the best interests of the American veterans. It is also not some big plot of national lobbying groups that are out there trying to keep this under control.

Mr. President, I am prepared to vote on the amendment if the Senator from Wyoming is. Maybe he wants the yeas and nays.

Mr. SIMPSON. Mr. President, I believe those who are going to speak on the other side of the aisle have placed their statements in the RECORD. So I believe on the notice, if no one else is here to debate, I am ready to yield the remainder of the time. I would like the yeas and nays on the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I thank the floor managers for their courtesy.

Mr. DECONCINI. Mr. President, I yield the remainder of my time on this side of the issue if the manager will do likewise.

Mr. SIMPSON. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Wyoming has 6 minutes; the Senator from Arizona has 32 minutes 14 seconds.

Mr. SIMPSON. I yield the remainder of the time. I appreciate the courtesy of the floor managers with regard to the absence of a motion to table. I am very appreciative.

The PRESIDING OFFICER. All time having been yielded, the question occurs on the amendment. The question is on agreeing to the amendment of the Senator from Wyoming.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. CONRAD], the Senator from Ohio [Mr. GLENN], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota [Mr. CONRAD] would vote "no."

The PRESIDING OFFICER (Mr. BINGAMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 24, nays 71, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—24

Brown
Burns
Chafee
Craig
Danforth
Dole
Durenberger
Garn
Graham
Gramm
Hatch
Hatfield
Helms
Jeffords
Lugar
Murkowski
Nickles
Packwood
Rudman
Simpson
Smith
Symms
Thurmond
Wallop

NAYS—71

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Breaux
Bryan
Bumpers
Burdick
Byrd
Coats
Cochran
Cohen
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Domenici
Exon

Ford
Fowler
Gore
Gorton
Grassley
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Specter
Stevens
Warner
Wellstone
Wirth
Wofford

NOT VOTING—5

Bradley
Conrad
Glenn
Harkin
Kerrey

So the amendment (No. 1361) was rejected.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion in the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Senators will please take their conversations to the Cloakroom.

The Senator from Arizona is recognized.

AMENDMENT NO. 1362

(Purpose: To make a technical correction)

Mr. DeCONCINI. Mr. President, I send to the desk an amendment and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1362.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 48, line 10, strike out "662" and insert in lieu thereof "1762".

Mr. DeCONCINI. Mr. President, this amendment simply corrects a sectional reference in the bill. It has been cleared by both sides.

Mr. SPECTER. It is agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1362) was agreed to.

Mr. DECONCINI. Mr. President, before we have the vote, I yield to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise to add my voice in support of the pending legislation, S. 869, the Veterans Health Care Amendments Act of 1991, which will make major improvements in veterans health services and benefits. Many of the provisions contained in this bill have already been approved by the Senate in previous sessions. I am pleased to say that I am an original cosponsor of this important measure.

Among other provisions, S. 869 would entitle veterans suffering from combat-related posttraumatic stress disorder [PTSD] to inpatient care; allow veterans readjustment counseling centers [vet centers] to provide services to veterans of pre-Vietnam conflicts; expand services for homeless veterans; entitle former prisoners of war to VA outpatient care; authorize adjustments in pay and incentives for certain VA health-care personnel; and, improve access to services by minority veterans.

Mr. President, I am especially pleased by the section in this bill on the vet center program. As you know, vet centers are currently prohibited from outreaching and counseling veterans who served in pre-Vietnam conflicts, in spite of the fact that many of these veterans suffer from many of the same readjustment difficulties experienced by veterans who served in Southeast Asia, Grenada, Panama, or the Persian Gulf.

Over the years, vet centers throughout the country have reported a widespread demand for care from pre-Vietnam-era veterans. Testimony before the Veterans' Affairs Committee shows that as many as 750 to 1,000 pre-Vietnam veterans are being treated at vet centers each month, in spite of the prohibition. That the vet center staff are illegally helping deeply troubled veterans reflects less their willingness to break the law than their deep social and professional commitment to help their fellow human beings. We need to ensure that the letter of the law reflects the spirit of the original vet center legislation. We need to let vet centers carry out their mission unfettered by artificial eligibility distinctions that have little meaning in a clinical context.

Mr. President, an additional reason for approving this provision comes to mind. By expanding the portfolio of our vet centers, we are also helping ensure the program's continued viability. Over the years, we have seen the importance of these community-based facilities in treating and outreaching veterans who otherwise would not have availed themselves of VA services and benefits available in more traditional VA settings. We have seen vet center personnel transformed from people who were viewed with intense skepticism by traditional VA health-care staff to professionals who are now seen as integral members of the VA team. No one, Mr. President, interacts with veterans on their own terms and on their own ground like the outstanding individuals who comprise our vet center system. Their people-oriented, nontraditional approach to problems has given the VA an extra-institutional tool to communicate with the community at large. This is why vet centers are now being used in family counseling and outreaching homeless veterans, to name just two activities.

Other important parts of this bill that deserve special mention are those relating specifically to the treatment of PTSD. One section would set forth a series of findings about PTSD, recognizing the widespread and serious nature of the disorder and VA's responsibility to treat the syndrome. Another provision would mandate that combat-theater veterans with PTSD be provided inpatient care on the same priority of care for veterans with other service-connected disabilities, through an accelerated medical diagnosis and eligibility process. Other sections would require VA to develop a plan to increase PTSD treatment, research, and outreach and require the Secretary to report to Congress on what resources would be needed to carry out the plan. A final provision would require VA to identify specific funding levels for PTSD-related activities in the fiscal 1993 and 1994 budget submissions.

Mr. President, I have taken a special interest in PTSD issues because of the great need for PTSD services in my State, particularly in the rural neighbor islands. In fact, Hawaii may have the highest rates of PTSD incidence and prevalence of any place in the United States. National media reports have identified the big island of Hawaii as a place to which veterans with PTSD from around the country seem to flock, perhaps because its climate and geography closely resemble Vietnam's.

However, most likely because Hawaii still lacks a VA medical center, the full spectrum of PTSD care is not available to Hawaii's indigenous and newcomer veterans population, now more than 100,000 strong. For example, to obtain long-term care at specialized inpatient PTSD units [SIPU's], the most effective type of PTSD care available, Hawaii veterans are forced to travel thousands of miles to the mainland. Another problem my State's veterans face is that PTSD care provided by VA may not be appropriate for veterans from minority backgrounds, such as those from Asian and Pacific ancestry.

To address this situation, I recently proposed the establishment of a Pacific center for PTSD and war-related disorders in Hawaii, a research, education, and treatment center devoted to meeting the needs of Hawaii and Pacific area veterans. The center, which has been funded in this year's appropriations bill, will have a special focus on minority veterans needs, and will have all Hawaii's VA to integrate all PTSD activities undertaken in the State. It will also oversee the development of the Asian-Pacific component of the so-called Matsunaga Minority PTSD Study, a supplement to the seminal National Vietnam Veterans Readjustment Study, which is being undertaken to evaluate the prevalence and incidence of PTSD in ethnic and racial groups that were excluded in the 1988 study.

But programs such as these are only partial solutions to the PTSD problem. We need a broad-based strategy to address the issue. I believe the provisions contained in S. 869 represent a first step in the right direction.

Finally, Mr. President, I am pleased to note that the pending measure includes provisions originally authored by my predecessor, the late Spark Matsunaga, to improve VA services for minority veterans. Section 301 of the bill would require designation of an Assistant Secretary of Veterans Affairs to be responsible for monitoring and promoting minority veterans' access to VA services and benefits. I understand that a similar measure sponsored by Chairman MONTGOMERY is making its way through the House. Section 302 would reauthorize VA's Advisory Committee on Native American Veterans, a body that has in the past provided important, independent advice directly to the Secretary on issues of concern to American Indians, Native Alaskans, Native Hawaiians, and Pacific Islanders. Taken together, these provisions will help institutionalize concern for the special problems and needs of veterans from minority backgrounds.

Thank you, Mr. President. Before closing however, I would like to recognize Senator CRANSTON, the chairman of the Veterans' Affairs Committee, and his outstanding staff for developing this measure over the last several years. I also commend Senator SPECTER, the ranking minority member, and his staff for working with the majority to bring this important legislation to the Senate floor, so soon and so appropriately after Veterans Day.

I urge my colleagues to support this major veterans health bill.

Before I yield the floor, I wanted to take this opportunity to specifically recognize the leadership that the distinguished floor manager and the ranking minority member have displayed in bringing this legislation to the floor.

I also wanted to recognize the outstanding work of the respective committee staffs. Ed Scott, Bill Brew, Tom Tighe, Michael Cogan, Tom Roberts, Charlie Battaglia, and many more put in many hours and not a little honest sweat into this bill.

But, Mr. President, I reserve my highest praise for Senator CRANSTON, the chairman of the committee, who for so many years has been America's veterans' best friend, bar none.

Just a few minutes ago, I listened with great compassion to Senator CRANSTON's eloquent statement on another subject. It reminded us of the need to look at a whole character, the complete record of debits and credits, the entire picture sketched by a lifetime of achievement.

It is thus eminently fitting that, at this moment, the Senate is debating and preparing to pass a bill that is largely a product of his hand, of his mind, and his will. And this particular legislation is only the latest in a long line of too often unheralded contributions that the Senator from California has made to this Nation.

Mr. President, I commend Senator CRANSTON for two decades of selfless service in behalf of the Nation's veterans. We owe him a debt of gratitude that our country will be hard pressed to repay.

I yield to the floor, Mr. President.

Mr. THURMOND. Mr. President, I rise today to voice my support for S. 869, the Veterans' Post-Traumatic Stress Disorder Treatment Act of 1991. This measure will improve the health care treatment for our deserving veterans.

Mr. President, S. 869 would require that a veteran who is diagnosed as suffering from post-traumatic stress disorder [PTSD] related to combat-area service be provided care for the disorder as though it were service connected. In committee, I expressed my concern over this provision and voted for an amendment to strike this provision, which was not adopted. My concern with this provision is that it sets a precedent for providing treatment based on a particular disorder rather than on service connection.

This measure would require that the Secretary of Veterans Affairs devise and implement a plan to increase the treatment of PTSD, as well as a plan to increase the awareness of the availability of such treatment and appropriately encourage veterans to participate in these treatment programs.

Mr. President, S. 869 would extend for 3 years the reporting requirements of the VA's Special Committee on PTSD. It would require the VA to specify in its fiscal year 1993 and fiscal year 1994 budget documents the type and amount of resources that are proposed to be spent in the coming fiscal year on PTSD-related activities.

This bill also addresses issues other than PTSD. This measure would expand the services for our homeless veterans, by requiring each VA medical center or regional benefits office to make an assessment with respect to the needs of homeless veterans living within that facility's catchment area. After these needs have been identified, each medical center would develop an annual plan for each of fiscal years 1992, 1993, and 1994 for outreach and the provision of comprehensive services to homeless veterans in each medical center's catchment area.

Mr. President, this measure would authorize the VA to provide prosthetic appliances to certain veterans with nonservice-connected disabilities if the provision of such appliances would obviate the need for hospitalization. It would also require the Secretary to establish an advisory committee on the VA's prosthetics programs.

Mr. President, three expiring vocational rehabilitation and training provisions would be extended until December 31, 1992, by this measure. The first extension would be of a temporary program for trial work periods and vocational rehabilitation for certain service-disabled veterans with total disability ratings.

The second extension would be of a temporary program of vocational training for certain new pension recipients.

The third extension would be for the temporary protection of VA health-care eligibility for pension recipients who undergo vocational training. These programs help to ensure that our veterans are equipped to compete in the work force once they leave the Armed Forces.

This bill also includes a provision regarding the accessibility of health care to minority veterans. This measure would require the VA to assess the effects of VA policies and activities regarding minority veterans, including women veterans, and to coordinate and monitor policies facilitating the access of such minority veterans to VA benefits and services. This measure would also reestablish the Advisory Committee on Native American Veterans for an additional 2 years.

In addition to my earlier expressed concern, I am also concerned with a provision that would provide vet center eligibility for combat veterans of all wars or conflicts for psychological problems associated with such service. This provision does not affect Vietnam veterans. In committee, I voted for an amendment to strike this provision, which was not adopted. My concern with this provision is that these times of scarce Federal resources, we must carefully review spending to ensure that our veterans are served in the best manner. It is not because I disagree with meeting a real need of our veterans, but the need to provide readjustment counseling to World War II veterans has not been demonstrated.

Although I have expressed concerns about provisions in the bill, I believe, taken as a whole, S. 869 is a good measure. Accordingly, I will support this comprehensive bill, which improves and extends the availability of health care treatment to our deserving veterans. I urge my colleagues to support this important measure.

Mr. DASCHLE. Mr. President, I rise today in support of the committee bill

S. 869, the Veterans' Health Care Amendments Act of 1991.

Senator DECONCINI has outlined the provisions in this legislation for the Senate already, and I will not belabor that explanation. I would, however, like to take a moment to highlight two innovations contained in this bill that I view as extremely important to our nation's commitment to its veterans. Those are the provisions that give veterans suffering from posttraumatic stress disorder, commonly known as PTSD, the same standing as other veterans who have been physically disabled by the war and that allow veterans of past wars to utilize the counseling services provided at VA vet centers.

S. 869 constitutes a major step forward in opening up VA medical care facilities to the 500,000 Vietnam veterans who are suffering from PTSD and have not received the care they deserve from the VA system. The bill directly addresses the harsh reality that many veterans are suffering from this disease even today—16 years after the last American forces left Vietnam. It affirms, finally, that the psychological health of those veterans can no longer be ignored by their Government.

Section 102 of the committee bill requires the VA to treat veterans suffering from PTSD with the same sense of urgency as the veteran who was physically wounded or disabled in service. It asks the Department of Veterans Affairs to treat those veterans with this service-related illness without waiting for the laborious and time-consuming adjudication process to authorize that care.

S. 869 is not perfect. Clearly, it is only one step in the long journey to heal the psychological wounds of the Vietnam war. But, for now, it is the only viable means of ending the VA's reliance on an eligibility process that undermines rather than promotes constructive evaluation of the psychological needs of veterans and obstructs rather than facilitates their care in VA mental health facilities.

Mr. President, PTSD is a very serious problem for combat veterans. It has been ignored by the VA and minimized by the opponents of this legislation.

The need for action is painfully clear. In December 1988, the Research Triangle Institute released a comprehensive report on the pervasiveness of PTSD among combat veterans. The RTI study found that 500,000 veterans are suffering from what is termed "full-blown" PTSD, and that another 350,000 are suffering from less intense trauma-related symptoms as a result of their military service. That study found that only 61 percent of the Vietnam theater veterans with PTSD had made even one visit to a mental health professional. And only 10 percent of those veterans with PTSD had used VA mental health services at the start of 1989.

What is the explanation for these shocking statistics? It is that the process for gaining eligibility for care is so cumbersome that there is little incentive to seek that care. To gain eligibility, veterans must weave their way through the VBA adjudication process, which can take as much as 450 days. Then, if their application is rejected, they must petition the Board of Veterans Appeals, which takes on average another 155 days.

If a veteran survives that process and is granted service-connection for PTSD, the VA emphasizes compensation over treatment. In effect, the veteran is paid to be ill, rather than helped to get better—a strategy I don't believe anyone intended.

Mr. President, many veterans seeking care for stress-related disorders are in a crisis situation or in very poor health from their emotional disturbances. This disease often affects their ability to function properly in their jobs and puts tremendous strain on their marriages. For many, the symptoms only appeared years after their return from the war, triggered by events such as watching the Persian Gulf war on television or living through the California earthquake. Meanwhile, if these veterans have not completed the proper VA paperwork and persevered through the bureaucratic maze that must precede treatment, they are basically out of luck.

S. 869 acknowledges the injustice of the dilemma facing veterans suffering from PTSD. Section 103 of the committee bill expedites the application process by requiring the VA to conduct evaluations of veterans referred by vet centers to medical centers within 7 days of the date of the referral. It also asks the VA to treat these veterans as it would any other veteran wounded in war if their combat status has been verified and a VA mental health professional diagnoses this disease.

The only alternative to this provision is the status quo. Is that what the opponents of S. 869 truly want? Surely not.

I have heard it said here today and during committee meetings on this bill would create a bad precedent; that legislating eligibility based on particular illness is bad policy; that ignoring the adjudication process will compromise the VA system. These arguments are easily refuted and miss the point.

There are numerous cases where benefits have been legislated based on particular diseases. But that is not the issue at all.

The issue is simply whether or not veterans with PTSD deserve care from their Government. The VA health care system is not responding to veterans who suffer from this debilitating illness. It needs fixing. This legislation accomplishes that goal, and I urge my colleagues to support the PTSD provisions in S. 869.

A second innovation I would like to mention briefly is the vet center expansion included in S. 869. Frankly, I cannot understand the rationale behind the opposition to this provision.

The committee bill would allow veterans of past wars to utilize the counseling services provided at VA vet centers. It would remove the artificial limitation that denies access to any veteran who served in combat before Vietnam and allow those veterans to seek the counseling that has made vet centers so successful.

While it is true that vet centers originally had been created for Vietnam-era veterans who felt alienated from the VA system, the fact is that vet centers have become an important component of the VA mental health services delivery system by referring patients to a VA medical center for inpatient treatment or by counseling veterans who are not eligible for care at the VA. Veterans who are denied these services are cut off from an essential part of the VA's mental health system.

Once again, statistics demonstrate the need for this legislation. Committee hearings on S. 869 revealed that approximately 600 new Korean and World War II veterans seek care at vet centers each month.

Expansion of vet center services to World War II and Korean veterans will not harm Vietnam veterans or overburden the VA system. It will simply allow vet centers to provide needed services to deserving veterans without being distracted by complex eligibility requirements or being forced to turn away veterans in need of counseling.

I cannot understand why anyone would want to deny access to thousands of wartime veterans seeking help at the vet centers. I hope my colleagues will agree.

Finally, I would like to comment on the attempt this morning to add a COLA indexing amendment to S. 869. Plain and simple, this amendment is nothing less than a clever tactic that opponents of this legislation are using to slow down this legislation.

Veterans' groups do not want indexing, and the amendment was rejected in committee. If the amendment's authors are concerned about the COLA, why was it not offered to the COLA legislation that passed last month?

Every time this issue is raised, we are forced to point out that the annual COLA legislation gives us the opportunity to examine the compensation system and exercise important oversight that otherwise would not take place. Each year, the committee holds a COLA hearing at which it receives valuable input on the VA compensation system. Each year we have that opportunity to hold VA's feet to the fire on their treatment of compensation beneficiaries.

Without this vehicle, that opportunity could be overtaken by other events and legislation. For example, VA pension recipients receive an annual COLA every year. I cannot remember, however, the last time the Veterans' Affairs Committee held a pension hearing.

I ask my colleagues to consider what effect this amendment would have on future administration of the system before voting on it. I would urge them to talk with veterans groups and with individual veterans in their States who understand the importance of this legislation and, ultimately, vote against the Simpson indexing amendment.

I yield the floor.

Mr. MACK. Mr. President, I rise in strong support of S. 869, the Veterans Health Care Amendments Act of 1991, and as a cosponsor of S. 775, the Veterans Benefits Improvements Act of 1991. The veterans of Florida will benefit significantly by the provisions of these two important legislative initiatives.

S. 869 will provide a wide array of essential services to veterans suffering from post-traumatic stress disorder [PTSD]. This will include fast-track eligibility for the treatment of those who have yet to reach the top of the long backlog list of persons awaiting adjudication. PTSD is a highly debilitating psychological disorder resulting, in part, from combat exposure. The result of PTSD, in many cases, is a severe disruption in the behavior of the patient causing an inability to work, communicate with others, or to maintain a normal lifestyle.

It is important to note that Florida has a high Hispanic population, which is a high-risk group for PTSD. However, through a variety of psychological counseling techniques, we are now able to successfully treat most cases of PTSD. Clearly, we have a responsibility to treat our veterans who suffer from this horrible disorder. It would be cruel to force them to wait until the Department of Veterans' Affairs has completed its adjudication process before treatment is provided. S. 869 will remedy this situation and expand the services for treatment provided to PTSD patients.

I am extremely pleased this bill will also expand and extend the pilot program of VA preventive health care services through 1996, which includes cancer screening. I have addressed the Senate on numerous occasions regarding my legislation, the Cancer Screening Incentive Act. I am a cancer survivor who is alive today because of early detection and prompt treatment. The VA preventive care pilot program currently provides early detection procedures for breast, cervical, and colon cancer.

The American Cancer Society estimates that 79,500 lives could be saved each year through early cancer detection. It is my sincere hope that the Secretary and the Chief Medical Director will take the initiative to include other forms of cancer screening in the preventive health care pilot program.

S. 869 also incorporates the provisions of S. 327, legislation which I cosponsored earlier this year. The section would entitle all former POW's to outpatient care regardless of the veteran's service-connected disability rating. This is a long overdue service, and I commend the committee for including this provision in S. 869.

Earlier this month, I urged my colleagues to take quick action on this bill. I wanted to ensure that the Department of Veterans Affairs would have adequate time in which to input the data prior to printing January benefit checks. The Senate instead passed H.R. 1046, which provided a 3.7-percent COLA effective December 1, 1991.

Mr. President, the Senator from Wyoming has offered an amendment to provide for the indexing of future COLA's. I deeply regret that I cannot in good conscience support my friend, Senator SIMPSON, on his amendment. I wholeheartedly support the underlying intent of the amendment—veterans deserve an annual cost-of-living adjustment. Veterans should not be subjected to the annual fear and panic each November that Congress is not going to provide them with their modest COLA. I agree with the Senator from Wyoming on these points.

I believe Senator SIMPSON'S amendment is a result of the outpouring of concern, disbelief, and rage our veterans expressed as a result of events which transpired last year. The 1991 COLA for veterans and DIC beneficiaries was not provided on time due to the insistence on the part of other Senators to tie a COLA to agent orange exposure. As a result, the Senate passed a retroactive COLA. Most did not receive the benefit checks until April. If this were an annual occurrence, I would not only support the Senator from Wyoming's amendment, I would cosponsor it. But, Mr. President, this is not the case.

The Disabled American Veterans, the American Legion, the Paralyzed Veterans Association, AMVETS, and many other veteran organizations adamantly oppose the indexing of veterans COLA's. These organizations are concerned that many of the services contained in these two bills would never receive full Senate consideration as stand-alone bills. I believe we should listen to the members of these organizations and reject this amendment.

This bill contains a number of other significant services including the expansion of mobile health clinics, eligibility for prosthetic devices and other medical equipment, assistive dogs for certain disabled veterans, and pay enhancements for certain health care personnel.

I also rise as a cosponsor of S. 775, the Veterans Benefits Improvements Act of 1991. Of primary concern to me is the provision which adds two new forms of cancer—cancer of the salivary gland, and cancer of the urinary tract—to the list of those diseases presumed associated with radiation exposure. Further, it will require the Secretary to conduct a study of three activities per year, for a period of 4 years, in which veterans could have been exposed to potentially harmful ionizing radiation.

Mr. President, these two bills will greatly assist in meeting the health care needs of America's veterans. I sincerely believe our Nation entered into a contract with the brave men and women who have proudly served our Nation in times of conflict. I view the passage of these bills as living up to our part of the contract. I consider it a privilege to vote for the passage of these two important bills.

Mr. ADAMS. Mr. President, I rise today to speak in support of S. 869, the Veterans Health Care Amendments Act of 1991 and S. 775, the Veterans Compensation Improvement Act of 1991. When young men and women risk their lives in defense of their country and return home with special health care needs, they should have confidence that they will be well-served. We need a Veterans Administration health care and benefits system that can effectively meet those needs.

S. 775, the Veterans Compensation Improvement Act of 1991, increases disability and dependency and indemnity compensation [DIC] rates. This bill is an important step towards ensuring that these benefits keep pace with the cost of living for those servicemen and women who were wounded in combat, or their survivors. These committed individuals made the ultimate sacrifice for their country, and their service should never be forgotten. In addition to increased benefits for disabled veterans, S. 775 expands the coverage for those veterans who developed diseases as a result of radiation exposure during training or combat. This extension of coverage for radiation-exposed veterans is well-earned, long overdue, and deserves our support.

As a veteran myself, I know of the sacrifices made by our servicemen and women, especially our combat veterans. Over 800,000 Vietnam veterans are currently suffering from post-traumatic stress disorder [PTSD] or related symptoms. S. 869, the Veterans Health Care Amendments Act of 1991, makes dramatic progress in the treatment and care for those suffering from PTSD and other conditions. Whether our veterans need assistance with prosthetics, assistive animals, or counseling and treatment for PTSD, we must support a veterans medical system that will provide the counseling, training, or treatment that is so vital to their lives. These veterans deserve our commitment to their well-being. They deserve our respect for their efforts on our behalf. This important piece of legislation is a tangible demonstration of that commitment and respect.

Unfortunately, in addition to those suffering from PTSD, many veterans in our country are homeless. Many of these veterans, who defended our country, now don't even have a warm place to sleep at night. This situation is unconscionable and it is intolerable. I am proud to support this measure, which also recognizes the special needs of our homeless veterans population and seeks to remedy their plight.

I have always been committed to serving our country's veterans by providing the highest quality health care possible. This bill improves our veterans' health care facilities, and increases funding for mental illness research, education, and clinical activities, and home health care. These expanded programs will move us ever closer to that goal.

Mr. President, we owe a tremendous debt to our Nation's veterans, past, present, and future. I do not take this debt lightly. The Veterans Health Care Amendments Act of 1991 makes the much needed improvements that are so vital to maintain the quality of our veterans' health care system and I urge my colleagues to support this important measure. Our Nation's veterans must be certain of our unwaivering support. The veterans in my State of Washington deserve no less.

Mr. AKAKA. Mr. President, I rise to add my voice in support of the pending legislation, S. 869, the Veterans Health Care Amendments Act of 1991, which will make major improvements in veterans' health services and benefits. Many of the provisions contained in this bill have already been approved by the Senate in previous sessions. I am pleased to say that I am an original cosponsor of this important measure.

Among other provisions, S. 869 would: Entitle veterans suffering from combat-related post-traumatic stress disorder [PTSD] to inpatient care; allow veterans readjustment counseling centers—vet centers—to provide services to veterans of pre-Vietnam conflicts; expand services for homeless veterans; entitle former prisoners of war to VA outpatient care; authorize adjustments in pay and incentives for certain VA health care personnel; and, improve access to services by minority veterans.

Mr. President, I am especially pleased by the section in this bill on the vet center program. As you know, vet centers are currently prohibited from outreaching and counseling veterans who served in pre-Vietnam conflicts, in spite of the fact that many of these veterans suffer from many of the same readjustment difficulties experienced by veterans who served in Southeast Asia, Grenada, Panama, or the Persian Gulf.

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Mr. President, an additional reason for approving this provision comes to mind. By expanding the portfolio of our vet centers, we are also helping ensure the program's continued viability. Over the years, we have seen the importance of these community-based facilities in treating and outreaching veterans who otherwise would not have availed themselves of VA services and benefits available in more traditional VA settings. We have seen vet center personnel transformed from people who were viewed with intense skepticism by traditional VA health care staff to professionals who are now seen as integral members of the VA team. No one, Mr. President, interacts with veterans on their own terms and on their own ground like the outstanding individuals who comprise our vet center system. Their people-oriented, nontraditional approach to problems has given the VA and extrainstitutional tool to communicate with the community at large. This is why vet centers are now being sued in family counseling and outreaching homeless veterans, to name just two activities.

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Mr. President, I have taken a special interest in PTSD issues because of the great need for PTSD services in my State, particularly in the rural neighbor islands. In fact, Hawaii may have the highest rates of PTSD incidence and prevalence of any place in the United States. National media reports have identified the big island of Hawaii as a place to which veterans with PTSD from around the country seem to flock, perhaps because its climate and geography closely resemble Vietnam's.

However, most likely because Hawaii still lacks a VA medical center, the full spectrum of PTSD care is not available to Hawaii's indigenous and newcomer veterans population, now more than 100,000 strong. For example, to obtain long-term care at specialized inpatient PTSD units [SIPU's], the most effective type of PTSD care available, Hawaii veterans are forced to travel thousands of miles to the mainland. Another problem my State's veterans face is that PTSD care provided by VA may not be appropriate for veterans from minority backgrounds, such as those from Asian and Pacific ancestry.

To address this situation, I recently proposed the establishment of a Pacific Center for PTSD and War-Related Disorders in Hawaii, a research, education, and treatment center devoted to meeting the needs of Hawaii and Pacific area veterans. The Center, which has been funded in this year's appropriations bill, will have a special focus on minority veterans needs, and will work with Hawaii's VA to integrate all PTSD activities undertaken in the State. It will also oversee the development of the Asian-Pacific component of the so-called Matsunaga Minority PTSD Study, a supplement to the seminal National Vietnam Veterans Readjustment Study, which is being undertaken to evaluate the prevalence and incidence of PTSD in ethnic and racial groups that were excluded in the 1988 study.

But programs such as these are only partial solutions to the PTSD problem. We need a broad-based strategy to address the issue. I believe the provisions contained in S. 869 represent a first step in the right direction.

Finally, Mr. President, I am pleased to note that the pending measure includes provisions originally authored by my predecessor, the late Spark Matsunaga, to improve VA services for minority veterans. Section 301 of the bill would require designation of an Assistant Secretary of Veterans Affairs to be responsible for monitoring and promoting minority veterans' access to VA services and benefits. I understand that a similar measure sponsored by Chairman Montgomery is making its way through the House. Section 302 would reauthorize VA's Advisory Committee on Native American veterans, a body that has in the past provided important, independent advice directly to the Secretary on issues of concern to American Indians, Native Alaskans, Native Hawaiians, and Pacific Islanders. Taken together, these provisions will help institutionalize concern for the special problems and needs of veterans from minority backgrounds.

Thank you, Mr. President. Before closing, however, I would like to recognize Senator CRANSTON, the chairman of the Veterans' Affairs Committee, and his outstanding staff for developing this measure over the last several years. I also commend Senator SPECTER, the ranking minority member, and his staff for working with the majority to bring this important legislation to the Senate floor, so soon and so appropriately after Veterans Day.

Thank you, Mr. President. I urge my colleagues to support this major veterans health bill.

Mr. DECONCINI. Mr. President, we have no further amendments that I know of, and I am prepared to have a third reading of the bill.

The PRESIDING OFFICER. Without objection, the committee substitute amendment is agreed to.

The clerk will read the bill for the third time.

The bill was ordered to be engrossed for a third reading and was read a third time.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I think we are prepared for final passage.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the House companion bill, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2280) to amend title 38, United States Code, to extend and improve veterans health care programs.

The PRESIDING OFFICER. Under the previous order, the text of S. 869, as amended, is substituted for H.R. 2280, and the bill is deemed read third time.

The PRESIDING OFFICER. The bill deemed to have been read the third time, the question is, Shall the bill pass?

The bill (H.R. 2280) was passed; as follows:

Resolved, That the bill from the House of Representatives (H.R. 2280) entitled "An Act to amend title 38, United States Code, to extend and improve veterans' health care programs" do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Care Amendments Act of 1991".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—MENTAL HEALTH

PART A—POST-TRAUMATIC STRESS DISORDER

SEC. 101. SHORT TITLE.

This part may be cited as the "Veterans Post-Traumatic Stress Disorder Treatment Act of 1991".

SEC. 102. FINDINGS.

The Congress finds the following:

(1) Post-traumatic stress disorder (PTSD) is a highly disruptive and debilitating psychological disorder that can result from exposure to combat or any other traumatic event outside the range of conventional human experience.

(2) Post-traumatic stress disorder can have a destructive impact on the life of a person suffering from the disorder by adversely affecting his or her behavior, ability to work with, relate to, and communicate with others, and ability to maintain gainful employment.

(3) In 1980, the American Psychiatric Association officially recognized PTSD as a diagnosis in its "Diagnostic and Statistical Manual of Mental Disorders (Third edition)" and identified combat experience as a potential cause for PTSD.

(4) A Congressionally-mandated study of Vietnam-era veterans, released in November 1988, regarding the frequency of symptoms of PTSD and other problems relating to readjustment from combat of such veterans, found that 479,000 male veterans of the Vietnam theater of operations (representing 15.2 percent of all such male veterans) suffered from the full effects of PTSD and that another 350,000 of such veterans (representing 11.2 percent of all such male veterans) experienced some symptoms of the PTSD.

(5) That study also found higher incidences of PTSD among Black and Hispanic male veterans of the Vietnam theater of operations than among all male veterans of that theater, but did not include data on the incidence of the disorder among veterans of other ethnic groups.

(6) A large body of evidence indicates that such psychological disorders related to combat stress as war neurosis, combat fatigue, and the disorder commonly known as "shell shock" are analogous to PTSD and that thousands of veterans of combat in World War II and the Korean war experienced and continue to experience symptoms of such disorders.

(7) That evidence also indicates that veterans of combat in military operations conducted after the Vietnam era, including operations in Lebanon, Granada, and Panama, also suffer from symptoms of PTSD.

(8) Although debilitating, PTSD can be treated successfully, and an individual experiencing the disorder can learn coping skills, including how to mitigate the effects of the anxiety, depression, anger, guilt, fear, alienation, and emotional outbursts that he or she experiences.

(9) Early intervention and treatment of acute PTSD can be an important part of a therapeutic course to prevent long-term chronic PTSD.

(10) The Department of Veterans Affairs has a responsibility to provide opportunities for treatment of PTSD and other stress-related psychological problems to the hundreds of thousands of combat veterans who suffer from PTSD and to conduct outreach activities that provide both actual notice of the availability of such treatment to those veterans and appropriate encouragement for such veterans to participate in the treatment.

(11) The Department has made some progress in expanding diagnosis and treatment programs relating to PTSD.

(12) Through readjustment counseling, specialized inpatient and outpatient programs, and general psychiatric services offered in its hospitals and outpatient clinics, the Department has provided needed treatment to thousands of veterans for PTSD.

(13) Despite such progress the Department can and should be doing much more to provide treatment to veterans for PTSD and other stress-related psychological problems and to provide outreach services to make veterans aware of, and encourage them to participate in, treatment opportunities available through the Department.

(14) It is in the public interest for the Secretary of Veterans Affairs to develop a plan that ensures immediate, on-demand treatment opportunities for the thousands of veterans who suffer from, and need treatment for, this disruptive, life-threatening disorder.

SEC. 103. CARE FOR COMBAT-THEATER VETERANS WITH SERVICE-RELATED POST-TRAUMATIC STRESS DISORDER.

(a) REQUIREMENT TO FURNISH CARE AND SERVICES.—(1) Section 1702 is amended—

(A) by inserting "(a)" before "For"; and

(B) by adding at the end the following new subsections:

"(b)(1) A veteran referred to in paragraph (2)(A) who is diagnosed by a mental health professional designated by the Chief Medical Director (following an examination of the veteran by such professional) to be suffering from post-traumatic stress disorder related to service referred to in such paragraph shall be furnished care and services for such disorder pursuant to sections 1710(a)(1)(A) and 1712(a)(1)(A) of this title even though such disorder has not been determined to be service connected.

"(2)(A) A veteran eligible for the care and services referred to in paragraph (1) is a veteran who, as determined by the Chief Benefits Director, served on active duty in a theater of combat operations (as defined by the Secretary) during World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, or in any other area during a period in which hostilities occurred in such area.

"(B) In the case of a veteran who is diagnosed as suffering from post-traumatic stress disorder, the determination of whether the veteran served on active duty as described in subparagraph (A) shall be made by the most expeditious means practicable.

"(c) For the purposes of subsection (b) of this section, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

(2)(A) The heading of such section is amended to read as follows:

"§1702. Special provisions relating to mental illness disabilities".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"1702. Special provisions relating to mental illness disabilities.".

(b) TIMELINESS OF EVALUATION AND VERIFICATION OF STATUS.—Section 1712A is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) Whenever a veteran is referred by a center to a Department general health-care facility for a determination regarding such veteran's eligibility for care and services under section 1702(b) of this title, the veteran shall be evaluated for diagnostic purposes within seven days after the date on which the referral is made.".

SEC. 104. ELIGIBILITY FOR SERVICES AT VET CENTERS.

Subsection (a) of section 1712A is amended by adding at the end the following new paragraph:

"(3) Upon the request of any veteran who served on active duty in a theater of combat operations (as defined by the Secretary) during World War II or the Korean conflict, the Sec-

retary shall furnish counseling to such veteran in order to assist the veteran to overcome any psychological problems associated with such service. The counseling shall include a general mental and psychological assessment to ascertain whether the veteran has mental or psychological problems associated with such service.”.

SEC. 105. IMPROVEMENT OF POST-TRAUMATIC STRESS DISORDER TREATMENT AND OUTREACH SERVICES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) PLAN FOR TREATMENT AND OUTREACH SERVICES IMPROVEMENT.—Not later than December 1, 1991, the Secretary of Veterans Affairs shall devise and initiate implementation of a plan—

(1) to increase the availability of treatment of veterans suffering from post-traumatic stress disorder by the Department of Veterans Affairs (including treatment provided in inpatient and outpatient programs providing specialized treatment for PTSD, treatment for PTSD in conjunction with substance abuse, and treatment in Vet Centers) to levels commensurate with the needs of veterans suffering from the disorder as a result of active duty; and

(2) to enhance outreach activities—

(A) to inform combat veterans (including veterans who are members of ethnic minority groups), the family members of such veterans, and appropriate State and local health organizations and social service organizations of the availability of such treatment; and

(B) to provide appropriate encouragement for such veterans to participate in such treatment.

(b) SPECIAL CONSIDERATIONS.—In devising the plan, the Secretary shall consider—

(1) the level and geographic accessibility of inpatient and outpatient care for veterans suffering from PTSD across the United States;

(2) the desirability of providing for inpatient PTSD care to be furnished to such veterans in facilities of the Department that are physically independent of general psychiatric wards of the medical facilities of the Department; and

(3) the treatment needs of such veterans who are women, of such veterans who are members of ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans), and of such veterans who suffer from substance abuse problems as well as PTSD.

(c) IMPLEMENTATION.—In carrying out the plan, the Secretary shall—

(1) prescribe a schedule for the implementation of the plan;

(2) prescribe appropriate criteria for the selection and training of staff necessary to increase the availability of the treatment and enhance the outreach activities referred to in subsection (a); and

(3) provide the facilities, personnel, funds, and other resources necessary to carry out the plan.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term “Vet Center” shall have the meaning given the term “center” in section 1712A(j)(1) of title 38, United States Code (as redesignated by section 103(b)(1) of this Act).

(2) The term “active duty” shall have the meaning given such term in section 101(21) of such title.

(3) The term “veteran” shall have the meaning given such term in section 101(2) of such title.

SEC. 106. REPORT BY THE SECRETARY OF VETERANS AFFAIRS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and subject to subsection (b), the Secretary of Veterans Affairs shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the plan required by section 105. The report shall contain the following information:

(1) A description of the plan.

(2) What facilities, personnel, funds, and other resources are necessary to increase the availability of treatment and enhance outreach activities in accordance with the plan in a manner that does not reduce the existing capacity of the Department of Veterans Affairs to provide treatment for other conditions.

(3) A description of the efforts undertaken by the Secretary to make such resources available for the treatment of veterans for post-traumatic stress disorder.

(4) An estimate of the availability of community-based residential treatment of veterans for post-traumatic stress disorder and the impact of such availability on the increased availability of such treatment by the Department.

(5) An assessment of the need for, and potential benefit of, making available scholarships, tuition reimbursement, or other educational assistance to health-care students and health-care professionals in order to improve the training and specialization of such individuals in the provision of such treatment.

(6) A description of the efforts of the Secretary to implement the recommendations of the Special Committee on Post-Traumatic Stress Disorder referred to in subsection (b) with respect to—

(A) establishing educational programming that is directed to each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from PTSD; and

(B) giving research relating to PTSD a high priority in the allocation of funds available to the Department in research activities relating to mental health.

(7) Such other proposals and recommendations as the Secretary considers appropriate to increase the availability of such treatment.

(b) REPORT ASSISTANCE.—In preparing the report referred to in subsection (a), the Secretary shall consult with the Special Committee on Post-Traumatic Stress Disorder established pursuant to section 110(b) of the Veterans’ Health Care Act of 1984 (38 U.S.C. 1712A note) and the Secretary’s Advisory Committee on Readjustment of Vietnam Veterans.

SEC. 107. TECHNICAL AMENDMENTS.

Section 1712A is amended—

(1) in subsection (a)(1), by striking out “Administrator” and “Veterans’ Administration” each place it appears and inserting in lieu thereof “Secretary” and “Department”, respectively;

(2) in subsection (h)—

(A) by striking out “Administrator” and “Veterans’ Administration” each place it appears and inserting in lieu thereof “Secretary” and “Department”, respectively; and

(B) in paragraph (5), by striking out “the Secretary considers” and inserting in lieu thereof “such Secretary considers”; and

(3) in subsection (j) (as redesignated by section 103(b)(1)), by striking out “Veterans’ Administration” each place it appears and inserting in lieu thereof “Department”.

SEC. 108. SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER.

(a) EVALUATION OF STUDY OF POSTWAR PSYCHOLOGICAL PROBLEMS OF VIETNAM VETERANS.—(1) Not later than February 15, 1992, the Special Committee on Post-Traumatic Stress Disorder (hereinafter in this section referred to as the “Special Committee”) established pursuant to section 110(b)(1) of the Veterans’ Health Care Act of 1984 (38 U.S.C. 1712A note) shall submit concurrently to the Secretary of Veterans Affairs and the Committees on Veterans’ Affairs of the Senate and House of Representatives (hereinafter in this section referred to as the “Committees”) a report setting forth the Special Committee’s evaluation of the results of the study required by section 102 of the Veterans’ Health Care Amendments of 1983 (38 U.S.C. 1712A note). Such report shall include the Special Committee’s—

(A) overall evaluation of the conduct, validity, and meaning of the study;

(B) assessment of the capability of the Department of Veterans Affairs to meet the need for diagnosing and treating veterans for post-traumatic stress disorder and for other psychological problems in readjusting to civilian life, as estimated in the results of such study;

(C) evaluation of the Secretary’s report on the study; and

(D) recommendations for any further or follow-up research on the matters addressed in the study.

(2) Not later than 30 days after receiving the Special Committee’s report under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

(b) UPDATES OF REPORTS UNDER SECTION 110(c) OF PUBLIC LAW 98–528.—(1) Not later than February 1 of each of 1992 and 1993, the Special Committee shall concurrently submit to the Secretary and the Committees a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans’ Health Care Act of 1984, together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 60 days after receiving each of the Special Committee’s reports under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

SEC. 109. FUNDING FOR POST-TRAUMATIC STRESS DISORDER PROGRAMS.

In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary of Veterans Affairs submits to the Congress in conjunction with the President’s budget submission for fiscal year 1993 and for fiscal year 1994 pursuant to section 1105 of title 31, United States Code, the Secretary shall identify the amounts in the appropriations requests for Department accounts that are estimated to be obligated for—

(1) the payment of compensation to veterans for disabilities resulting from post-traumatic stress disorder (hereinafter in this section referred to as “PTSD”) that is service connected;

(2) the treatment of veterans by or at the expense of the Department for PTSD related to their active-duty service, including specific designation of funds for the treatment of PTSD—

(A) in PTSD programs designated pursuant to section 110(a)(1) of the Veterans’ Health Care Act of 1984 (38 U.S.C. 1712A note);

(B) in inpatient psychiatric programs and outpatient mental health programs other than such designated PTSD programs;

(C) in readjustment counseling programs pursuant to 1712A of title 38, United States Code; and

(D) under contract through non-Department sources furnishing (i) readjustment counseling services pursuant to section 1712A(e) of such title, (ii) mental health services pursuant to such section 1712A(e), or (iii) mental health services pursuant to other authority, and described in the first annual report submitted pursuant to section 110(e)(1) of the Veterans’ Health Care Act of 1984 as having been proposed by the Special Committee on Post-Traumatic Stress Disorder;

(3) education, training, and research at—

(A) the National Center on Post-Traumatic Stress Disorder established under section 110(c) of such Act;

(B) any centers of mental illness research, education, and clinical activities that may be established at Department medical centers; and

(C) other Department research facilities; and

(4) the operation of the National Center on Post-Traumatic Stress Disorder.

SEC. 110. SELECTION OF LOCATIONS FOR NEW POST-TRAUMATIC STRESS DISORDER TREATMENT UNITS.

(a) ACCESSIBILITY OF PTSD TREATMENT UNITS TO VETERANS IN RURAL AREAS.—(1) Subchapter I of chapter 81 is amended by adding at the end the following new section:

"§ 8117. Locations of PTSD treatment units

"The Secretary shall to the extent practicable ensure that there are Department post-traumatic stress disorder treatment units in locations that are readily accessible to veterans residing in rural areas of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 8116 the following new item:

"8117. Locations of PTSD treatment units.".

(b) IMPLEMENTATION.—In determining where to locate post-traumatic stress disorder units which may be established after the date of the enactment of this Act, the Secretary of Veterans Affairs shall give strong consideration to locations referred to in section 8117 of title 38, United States Code, as added by subsection (a)(1).

PART B—MENTAL ILLNESS RESEARCH AND EDUCATION

SEC. 121. MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL CENTERS.

(a) IN GENERAL.—Subchapter II of chapter 73 is amended—

(1) by redesignating sections 7316 and 7317 as sections 7317 and 7318, respectively; and

(2) by inserting after section 7315 the following new section 7316:

"§ 7316. Mental illness research, education, and clinical centers

"(a) The purposes of this section are to facilitate the improvement of health-care services for eligible veterans suffering from mental illness, especially service-related conditions, through research, the education and training of health personnel, and the development of improved models for the furnishing of clinical services.

"(b)(1) In order to carry out the purposes of this section, the Secretary, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than five health-care facilities of the Department as the locations for centers of mental illness research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this section.

"(2) The Secretary shall designate at least one facility under paragraph (1) not later than January 1, 1992.

"(3) In designating facilities as the locations for centers under paragraph (1), the Secretary, upon the recommendation of the Chief Medical Director, shall ensure appropriate geographic distribution of such facilities.

"(4) The Secretary may not designate any health-care facility as a location for a center under paragraph (1) unless the Secretary, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(A) with an accredited medical school which provides education and training in psychiatry and with which such facility is affiliated, an arrangement under which residents receive education and training in psychiatry through regular rotation through such facility so as to provide such residents with training in the diagnosis and treatment of mental illness;

"(B) with an accredited graduate school of psychology which provides education and training in clinical or counseling psychology or both and with which the facility is affiliated, an arrangement under which students receive education and training in clinical or counseling psychology or both through regular rotation through such facility so as to provide such students with training in the diagnosis and treatment of mental illness;

"(C) an arrangement under which nursing, social work, or other allied health personnel receive training and education in mental health care through regular rotation through such facility;

"(D) the ability to attract the participation of scientists who are capable of ingenuity and creativity in research into the causes, treatment, and prevention of mental illness and into models for furnishing care and treatment to veterans suffering from mental illness;

"(E) a policymaking advisory committee composed of appropriate mental health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(F) the capability to conduct effectively evaluations of the activities of such center.

"(c) Activities of clinical and scientific investigation at each center shall be eligible to compete for the award of funding from amounts appropriated for the Department of Veterans Affairs medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for mental illness.

"(d) There are authorized to be appropriated for the basic support of the research and education and training activities of the centers established pursuant to subsection (b)(1), $3,125,000 for fiscal year 1992 and $6,250,000 for each of the three subsequent fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Department of Veterans Affairs medical care account and medical and prosthetics research account such amounts as the Chief Medical Director determines appropriate.

"(e) The Chief Medical Director shall ensure that research activities carried out through centers established under subsection (b)(1) include an appropriate emphasis on the psychosocial dimension of mental illness and on proposals of means of furnishing care and treatment to veterans suffering from mental illness.

"(f) The Chief Medical Director shall ensure that useful information produced by the research, education and training, and clinical activities of the centers established under subsection (b)(1) is disseminated throughout the Veterans Health Administration through the development of programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title and other means.

"(g) The official within the Central Office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall be responsible for the supervision of the operation of the centers established pursuant to subsection (b)(1).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by striking out the items relating to sections 7316 and 7317 and inserting in lieu thereof the following:

"7316. Mental illness research, education, and clinical centers.

"7317. Malpractice and negligence suits: defense by United States.

"7318. Hazardous research projects: indemnification of contractors.".

(c) REPORTS.—Not later than February 1 of each of 1993, 1994, and 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience during the prior fiscal year under the centers established pursuant to section 7316 of title 38, United States Code (as added by subsection (a)). Each such report shall contain the following:

(1) A description of—

(A) the activities carried out at each center and the funding provided for such activities;

(B) the advances made at each center in research, education and training, and clinical activities relating to mental illness in veterans; and

(C) the efforts made by the Chief Medical Director of the Department of Veterans Affairs pursuant to subsection (e) of such section (as so added) to disseminate throughout the Veterans Health Administration useful information derived from such activities.

(2) The Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of the centers.

PART C—PROGRAM OF MARRIAGE AND FAMILY COUNSELING FOR CERTAIN VETERANS

SEC. 131. PROGRAM FOR FURNISHING MARRIAGE AND FAMILY COUNSELING.

(a) REQUIREMENT.—Subject to the availability of funds appropriated pursuant to the authorization in section 133 of this Act, the Secretary of Veterans Affairs shall conduct a program to furnish to the persons referred to in subsection (b) the marriage and family counseling services referred to in subsection (c). The Secretary shall commence the program not later than 30 days after the date of the enactment of this Act. The authority to conduct the program shall expire at the end of September 30, 1994.

(b) PERSONS ELIGIBLE FOR COUNSELING.—The persons eligible to receive marriage and family counseling services under the program are—

(1) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses, children, and parents of such veterans; and

(2) veterans who are or were members of the reserve components who were called or ordered to active duty during the Persian Gulf War and the spouses, children, and parents of such members.

(c) COUNSELING SERVICES.—Under the program, the Secretary may provide marriage and family counseling that the Secretary determines, based on an assessment by a mental-health professional employed by the Department and designated by the Secretary (or, in an area where no such professional is available, a mental-health professional designated by the Secretary and performing services under a contract or fee arrangement with the Secretary) is necessary for the amelioration of psychological, marital, or familial difficulties that result from the active duty service referred to in subsection (b) (1) or (2).

(d) MANNER OF FURNISHING SERVICES.—(1) The Secretary shall furnish the marriage and family counseling services under the program as follows:

(A) By personnel of the Department of Veterans Affairs who are qualified to provide such counseling services.

(B) By appropriately certified marriage and family counselors employed by the Department.

(C) By qualified mental health professionals pursuant to contracts with the Department.

(2) The Secretary shall establish the qualifications required of personnel under subpara-

graphs (A) and (C) of paragraph (1) and shall prescribe the training, experience, and certification required of appropriately certified marriage and family counselors under subparagraph (B) of such paragraph.

(3) The Secretary may employ counselors to provide marriage and family counseling under paragraph (1)(B) and shall pay such counselors at the rates prevailing for such counseling among non-Department health-care professionals with similar training, experience, and certification in the locality in which such counselors provide such counseling, as determined by the Secretary.

(e) CONTRACT COUNSELING SERVICES.—(1) Subject to paragraphs (2) and (4), a mental health professional referred to in subsection (d)(1)(C) may furnish marriage and family counseling services to a person under the program as follows:

(A) For a period of not more than 15 days beginning on the date of the commencement of the furnishing of such services to the person.

(B) For a 90-day period beginning on such date if—

(i) the mental health professional submits to the Secretary a treatment plan with respect to the person not later than 15 days after such date; and

(ii) the plan and assessment made under subsection (a) are approved by an appropriate mental health professional of the Department designated for that purpose by the Chief Medical Director.

(C) For an additional 90-day period beginning on the date of the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period) if—

(i) not more than 30 days before the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period), the mental health professional submits to the Secretary a revised treatment plan containing a justification of the need of the person for additional counseling services; and

(ii) the plan is approved in accordance with the provisions of subparagraph (B)(ii).

(2)(A) A mental health professional referred to in paragraph (1) who assesses the need of any person for services for the purposes of subsection (c) may not furnish counseling services to that person.

(B) The Secretary may waive the prohibition referred to in subparagraph (A) for locations (as determined by the Secretary) in which the Secretary is unable to obtain the assessment referred to in that subparagraph from a mental health professional other than the mental health professional with whom the Secretary enters into contracts under subsection (d)(1)(C) for the furnishing of counseling services.

(3) The Secretary shall reimburse mental health professionals for the reasonable cost (as determined by the Secretary) of furnishing counseling services under paragraph (1). In the event of the disapproval of a treatment plan of a person submitted by a mental health professional under paragraph (1)(B)(i), the Secretary shall reimburse the mental health professional for the reasonable cost (as so determined) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

(4) The Secretary may authorize the furnishing of counseling in an individual case for a period shorter than the 90-day period specified in subparagraph (B) or (C) of paragraph (1) and, upon further consideration, extend the shorter period to the full 90 days.

(5)(A) For the purposes of this subsection, the term "treatment plan", with respect to a person entitled to counseling services under the program, must include—

(i) an assessment by the mental health professional submitting the plan of the counseling needs of the person described in the plan on the date of the submittal of the plan; and

(ii) a description of the counseling services to be furnished to the person by the mental health professional during the 90-day period covered by the plan, including the number of counseling sessions proposed as part of such services.

(B) The Secretary shall prescribe an appropriate form for the treatment plan.

(f) COST RECOVERY.—For the purposes of section 1729 of title 38, United States Code, marriage and family counseling services furnished under the program shall be deemed to be care and services furnished by the Department under chapter 17 of such title, and the United States shall be entitled to recover or collect the reasonable cost of such services in accordance with that section.

SEC. 132. DEFINITIONS.

For the purposes of this part, the terms "veteran", "child", "parent", "active duty", "reserve component", "spouse", and "Persian Gulf War" have the meanings given such terms in section 101(2), (4), (5), (21), (27), (31), and (33) of title 38, United States Code, respectively.

SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,000,000 for fiscal year 1991 and $10,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out this part. Funds authorized to be appropriated under this section shall be considered to be emergency requirements for the purposes of section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(i)), but may be obligated for the program conducted pursuant to section 131 of this Act only if the President designates an appropriation under this section as an emergency requirement pursuant to such section 251(b)(2)(D)(i).

SEC. 134. REPORTS.

(a) INTERIM REPORT.—Not later than January 1, 1993, the Secretary shall submit to Congress a report on the program conducted pursuant to section 131 of this Act. The report shall contain information regarding the persons furnished counseling services under the program, including—

(1) the number of such persons, stated as a total number and separately for each eligibility status referred to in section 131(b) of this Act;

(2) the age and gender of such persons;

(3) the manner in which such persons were furnished such services under the program; and

(4) the number of counseling sessions furnished to such persons.

(b) FINAL REPORT.—Not later than January 1, 1994, the Secretary shall submit to Congress a report on the program. The report shall contain updates of the information referred to in subsection (a) and a description and evaluation of the program and shall include such recommendations with respect to the program as the Secretary considers appropriate.

TITLE II—GENERAL HEALTH CARE

PART A—GENERAL HEALTH

SEC. 201. ELIGIBILITY FOR PROSTHETIC DEVICES AND CERTAIN OTHER MEDICAL ITEMS.

(a) IN GENERAL.—Section 1701(6)(A)(i) is amended by striking out "(except under the conditions described in section 1712(f)(1)(A)(i) of this title)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which the Secretary of Veterans Affairs submits to the Committees on Veterans' Affairs of the Senate and House of Representatives copies of the Secretary's written determination that implementation of that amendment will not result in (1) substantial delay, or contribute substantially to delays, in the furnishing of prosthetic items in connection with the treatment of disabilities that are service connected (within the meaning of that term provided in section 101(16) of title 38, United States Code), or (2) the denial of such items in connection with the treatment of such disabilities.

SEC. 202. INCREASE IN MAXIMUM LIMITATIONS ON HOME HEALTH SERVICES.

Section 1717(a)(2) is amended—

(1) in subparagraph (A), by striking out "$2,500" and inserting in lieu thereof "$5,000"; and

(2) in subparagraph (B), by striking out "$600" and inserting in lieu thereof "$1,200".

SEC. 203. EXPANDED SERVICES FOR HOMELESS VETERANS.

(a) ASSESSMENT AND PLAN.—(1)(A) The Secretary of Veterans Affairs shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the director of the medical center concerned or the region of the director of the region concerned, as the case may be.

(B) Each assessment shall identify the needs of homeless veterans with respect to the following areas:

(i) Health care.

(ii) Education and training.

(iii) Employment.

(iv) Shelter.

(v) Counseling.

(vi) Outreach services.

(C) Each assessment shall also indicate the extent to which the needs referred to in clauses (i) through (vi) of subparagraph (B) are being met adequately by the programs of the Department of Veterans Affairs, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

(D) Each assessment shall be made in consultation with all facilities of the Department of Veterans Affairs serving veterans in the appropriate service area and with community-based organizations that have experience working with homeless persons in that area.

(E) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(2)(A) The director of each medical center shall develop a plan for each of fiscal years 1992, 1993, and 1994 for the provision of outreach services and other services to meet the needs that are identified in the assessment referred to in paragraph (1)(B) on the part of homeless veterans in the area served by the medical center concerned. The director of each medical center shall develop such plans in consultation with the director of the appropriate regional benefits office, the heads of other facilities of the Department of Veterans Affairs, and the Director for Veterans' Employment and Training within the State concerned.

(B) Each plan developed pursuant to subparagraph (A) shall—

(i) describe the actions to be taken by the Department of Veterans Affairs to meet, directly or otherwise, those needs of homeless veterans that are identified in the assessment referred to in paragraph (1) as not being adequately met by existing programs; and

(ii) provide that the director of the medical center concerned or other official of the Department of Veterans Affairs will take appropriate action to meet those needs, to the maximum extent practicable, through existing programs and available resources.

(C) The director of each medical center shall coordinate the development of the plan for the area served by the medical center concerned with other programs of the Department of Veter-

ans Affairs, other departments and agencies of the Federal Government, State and local governments, and community-based organizations and other private entities that provide services to homeless persons.

(D) Each plan shall include a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned and shall describe the services offered by those programs.

(3) The director of each medical center shall be responsible for carrying out the plan developed with respect to the area served by that medical center. In carrying out such plan, the director shall take appropriate actions to seek to inform each homeless veteran, and each veteran who is at risk of becoming homeless (as determined by the director), of the services available to the veteran within the area served by the medical center.

(4) The director of each medical center shall disseminate to other departments and agencies of the Federal Government, all State and local governments, and all private entities that provide services to homeless persons or homeless veterans within the area served by the medical center information regarding the services provided to homeless veterans by the medical center or other facility of the Department of Veterans Affairs.

(b) PILOT PROGRAM FOR PROVIDING DOMICILIARY CARE FOR HOMELESS VETERANS.—(1) The Secretary shall conduct a pilot program to determine the effectiveness of providing, through existing community-based organizations, domiciliary care (including medical services) to homeless veterans eligible for such care from the Department of Veterans Affairs under other provisions of law. In carrying out the program, the Secretary may enter into contracts with community-based organizations that have demonstrated effectiveness in providing relevant services to homeless persons. The Secretary shall conduct the program at not more than 15 locations throughout the United States.

(2) In entering into contracts under this section, the Secretary shall give preference to community-based organizations that offer the most comprehensive care and services to homeless individuals, particularly services that meet needs identified in the assessments referred to in subsection (a)(1) as not being adequately met by existing programs.

(3) There is authorized to be appropriated to carry out this subsection $1,500,000 for each of fiscal years 1992, 1993, and 1994.

(4) If the Secretary determines that the pilot program conducted pursuant to paragraph (1) is meeting effectively the domiciliary care needs of homeless veterans and that additional funds are needed for that program, the Secretary may transfer funds appropriated to carry out section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628; 102 Stat. 3257), as amended by subsection (e), to the account available to carry out the pilot program provided for in this subsection, except that no amount may be transferred in any fiscal year that would reduce the amount available for expenditure under such section 801 below an amount equal to the amount expended under that section in the preceding fiscal year. Funds transferred under this paragraph shall be available for the same period for which originally appropriated.

(c) AUTHORITY TO ACCEPT DONATIONS FOR CERTAIN PROGRAMS.—The Secretary may accept donations of funds and services for the purposes of providing one-stop, non-residential services and mobile support teams and for expanding the medical services to homeless veterans eligible for such services from the Department of Veterans Affairs.

(d) DEFINITIONS.—As used in subsections (a), (b), and (c):

(1) The term "medical center" means a medical center of the Department of Veterans Affairs.

(2) The term "regional benefits office" means a regional benefits office of the Department of Veterans Affairs.

(3) The term "veteran" has the same meaning given such term by section 101(2) of title 38, United States Code.

(4) The term "homeless" has the same meaning given such term by section 103(a), as limited by section 103(c), of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 485).

(e) EXTENSION OF CERTAIN PROGRAMS FOR HOMELESS VETERANS.—(1) Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628; 102 Stat. 3257) is amended—

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Department of Veterans Affairs $30,000,000 for each of the fiscal years 1989 and 1990; $50,000,000 for fiscal year 1991; $57,500,000 for fiscal year 1992; and $65,000,000 for fiscal year 1993. Funds appropriated pursuant to this section shall be in addition to any funds appropriated pursuant to any other authorizations (whether definite or indefinite) for such fiscal years.";

(B) in subsection (b)—

(i) by inserting "(1)" after "DOMICILIARY CARE.—";

(ii) by striking out "50 percent" and inserting in lieu thereof "the amounts specified in paragraph (2)";

(iii) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(iv) by adding at the end the following new paragraph:

"(2) The amounts available for the purposes referred to in paragraph (1) are as follows:

"(A) For fiscal year 1989, $15,000,000.

"(B) For fiscal year 1990, $15,000,000.

"(C) For fiscal year 1991, $20,000,000.

"(D) For fiscal year 1992, $22,500,000.

"(E) For fiscal year 1993, $25,000,000."; and

(C) in subsection (c)—

(i) by inserting "(1)" after "HOMELESS VETERANS.—";

(ii) by striking out "50 percent" and inserting in lieu thereof "the amounts specified in paragraph (2)"; and

(iii) by adding at the end the following new paragraph:

"(2) The amounts available for the purposes referred to in paragraph (1) are as follows:

"(A) For fiscal year 1989, $15,000,000.

"(B) For fiscal year 1990, $15,000,000.

"(C) For fiscal year 1991, $30,000,000.

"(D) For fiscal year 1992, $35,000,000.

"(E) For fiscal year 1993, $40,000,000.".

(2) EXTENSION OF PROGRAM FOR MENTALLY ILL HOMELESS VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "1992" and inserting in lieu thereof "1994".

(f) REPORT.—Not later than February 1, 1993, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing an evaluation of the programs referred to in subsections (a), (b), and (c).

SEC. 204. EXTENSION OF PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS.

Section 113(b) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended—

(1) by striking out "and 1990" and inserting in lieu thereof a comma and "1990, 1991, 1992, and 1993"; and

(2) by adding at the end the following new sentence: "Funds appropriated to carry out the pilot program authorized by this section shall remain available until expended.".

SEC. 205. ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS.

(a) ESTABLISHING OF ADVISORY COMMITTEE.—Chapter 5 is amended by adding at the end of subchapter III the following new section :

"§543. Advisory Committee on Prosthetics and Special-Disabilities Programs

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the 'Committee').

"(2) The members of the Committee shall be appointed by the Secretary and shall include—

"(A) appropriate representatives of veterans who use prosthetic devices;

"(B) individuals who are recognized experts in the fields of prosthetics engineering;

"(C) individuals engaged in prosthetics research;

"(D) individuals engaged in rehabilitative medicine;

"(E) individuals engaged in the clinical treatment of individuals who are users of prosthetic devices;

"(F) individuals engaged in clinical treatment in the Department's special-disabilities programs; and

"(G) such other individuals with pertinent expertise or experience as the Secretary may determine appropriate.

"(3) The Committee may also include, as ex officio members, individuals appointed from the Department.

"(4) The Secretary shall determine the total number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that the term of office of any such member may not exceed three years.

"(b)(1) It shall be the function of the Committee to advise the Secretary and the Chief Medical Director on all matters related to—

"(A) prosthetics and special-disabilities programs administered by the Secretary;

"(B) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

"(C) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

"(D) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

"(2) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in paragraph (1) of this subsection.

"(c) Not later than January 15 of 1992, 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans Affairs' of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 30 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

"(d) As used in this section, the term 'special-disabilities programs' includes all programs administered by the Secretary for spinal-cord-injured veterans, blind veterans, veterans who have lost or lost the use of extremities, hearing-impaired veterans, and other veterans with serious incapacities in terms of daily life functions.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 is amended by adding after the item relating to section 542 the following:

"543. Advisory Committee on Prosthetics and Special-Disabilities Programs.".

SEC. 206. SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITIES AFFECTING PROCREATION.

(a) DEFINITION OF "MEDICAL SERVICES".—Clause (A) of section 1701(6), as amended by section 201 of this Act, is further amended to read as follows:

"(A)(i) surgical services, (ii) services to achieve pregnancy in a veteran or a veteran's spouse when such services are necessary to overcome a service-connected disability impairing a veteran's procreative ability (but only if such services are furnished by contract, except for services which the Chief Medical Director determines that Department of Veterans Affairs facilities are fully capable of furnishing in a cost-effective manner), (iii) dental services and appliances as described in sections 1710 and 1712 of this title, (iv) optometric and podiatric services, (v) (in the case of a person otherwise receiving care or services under this chapter) preventive health-care services as defined in section 1762 of this title, (vi) wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Secretary determines to be reasonable and necessary, and (vii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and".

(b) ADVISORY COMMITTEE.—The Chief Medical Director of the Department of Veterans Affairs shall appoint an advisory committee to advise the Chief Medical Director on the exercise of authority to furnish services described in subclause (ii) of section 1701(6)(A) of title 38, United States Code, as added by subsection (a). Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee appointed under this subsection.

SEC. 207. PREVENTIVE MEDICINE.

(a) EXTENSION OF PILOT PROGRAM.—Section 1763(a)(1) is amended to read as follows:

"(a)(1) In order to carry out the purpose of this subchapter, the Secretary shall, through fiscal year 1996—

"(A) furnish annually at least two preventive health-care services that the Secretary determines to be feasible and appropriate to any veteran being furnished care or services under section 1710(a)(1) or 1712(a) (1) or (2) of this title; and

"(B) implement annually at each Department of Veterans Affairs health-care facility a major preventive health-care and health-promotion initiative for such veterans.".

(b) LIMIT ON EXPENDITURES.—Section 1763(c) is amended—

(1) by striking out "or" after "1983,"; and

(2) by striking out the period at the end and inserting in lieu thereof ", more than $16,000,000 in fiscal year 1992, more than $17,000,000 in fiscal year 1993, more than $18,000,000 in fiscal year 1994, more than $19,000,000 in fiscal year 1995, or more than $20,000,000 in fiscal year 1996.".

(c) DIRECTOR OF PREVENTIVE HEALTH-CARE AND HEALTH-PROMOTION PROGRAMS.—Section 1763 is amended by adding at the end the following new subsection:

"(d)(1) The Chief Medical Director shall designate an official in the Veterans Health Administration to act as the Director of Preventive Health-Care and Health-Promotion Programs.

"(2) The Director of Preventive Health-Care and Health-Promotion Programs shall prepare guidance regarding, and be responsible for coordinating, evaluating, and advising the Chief Medical Director on, all activities carried out under this subchapter.".

(d) REPORTS.—Section 1764 is amended to read as follows:

"(a) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

"(1) not later than February 1, 1994, an interim report on the experience under the program provided for by this subchapter; and

"(2) not later than February 1, 1996, a final report on the experience under the program.

"(b) Each report submitted pursuant to subsection (a) of this section shall include, with respect to the experience under the program through September 30 of the year preceding the deadline for submission of such report specified in subsection (a)—

"(1) a description of the types of services that have been furnished pursuant to section 1763(a)(1)(A) of this title and the number of veterans who received such services;

"(2) a description of the preventive health-care and health-promotion initiatives that were implemented pursuant to section 1763(a)(1)(B) of this title and the number of veterans who have been served through such initiatives;

"(3) a description of the types of preventive health-care services that have been furnished pursuant to sections 1710 and 1712 of this title and the number of veterans who received such services;

"(4) a description of activities conducted pursuant to section 1763(a)(2) of this title;

"(5) an assessment of the results of the program; and

"(6) any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate.".

(e) CONFORMING AND CLARIFYING AMENDMENTS.—(1) Section 1761(1) is amended by striking out ", including veterans with service-connected disabilities" and all that follows through "disability under this chapter,".

(2) Clauses (1) and (2) of section 1762 are amended to read as follows:

"(1) periodic medical examinations (including screenings for high blood pressure, glaucoma, colorectal cancer, and cholesterol) and dental examinations;

"(2) patient health education (including education about nutrition, stress management, physical fitness, and smoking cessation);".

SEC. 208. ASSISTIVE DOGS FOR CERTAIN DISABLED VETERANS.

(a) AUTHORITY TO PROVIDE ASSISTIVE DOGS.—Section 1714 is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide—

"(A) a service dog to a quadriplegic veteran who has a service-connected disability; and

"(B) a signal dog to a veteran who has a service-connected hearing impairment and is in need of the assistance of such a dog.

"(2) The Secretary may pay travel and incidental expenses to veterans referred to in paragraph (1), under the terms and conditions set forth in section 111 of this title, for travel to and from such veteran's homes that are incurred in becoming adjusted to the service dogs and signal dogs referred to in such paragraph.

"(3) For the purposes of this subsection:

"(A) The term 'service dog' means a dog trained to assist quadriplegic individuals in the performance of daily living tasks.

"(B) The term 'signal dog' means a dog trained to provide hearing assistance to deaf persons.".

(b) TECHNICAL CORRECTIONS.—Section 1714(b) is amended by striking out "(under the terms and conditions set forth in section 111 of this title) to and from their homes and" and inserting in lieu thereof ", under the terms and conditions set forth in section 111 of this title, for travel to and from such veteran's homes that are".

SEC. 209. PROSTHETIC SERVICES REPORT.

Not later than January 15, 1992, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's evaluation of the reasons for the backlog that occurred in the procurement of prosthetic appliances in fiscal year 1989, and for the failure to furnish prosthetic appliances in accordance with the priority established in section 1712(i) of title 38, United States Code; and

(2) a description of the actions that the Secretary has taken and plans to take to prevent a recurrence of—

(A) the failure to furnish prosthetic appliances in accordance with such priority, including a schedule for any such planned actions; and

(B) the accumulation of a significant backlog in the procurement of prosthetic appliances.

SEC. 210. REPEAL OF AUTHORITY TO FURNISH TOBACCO TO VETERANS RECEIVING HOSPITAL OR DOMICILIARY CARE.

(a) IN GENERAL.—Section 1715 is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by striking out the item relating to section 1715.

SEC. 211. DEVELOPMENT OF RECOMMENDED LEGISLATION FOR THE ELIMINATION OF INCONSISTENCIES IN CERTAIN VETERANS BENEFITS LAWS.

(a) REQUIREMENT TO ESTABLISH TASK FORCE.—The Secretary of Veterans Affairs shall establish a task force to recommend policies and legislation for the elimination of inconsistencies among provisions of law relating to veterans' eligibility for certain health-care benefits.

(b) COMPOSITION OF TASK FORCE.—The task force shall be composed of the following:

(1) Employees of the Department of Veterans Affairs involved in the administration of programs affected by the inconsistencies in law referred to in subsection (a).

(2) Representatives of organizations concerned with the administration of such programs, as determined by the Secretary.

(c) RESPONSIBILITIES OF TASK FORCE.—The task force shall—

(1) identify inconsistencies among sections 1701(6), 1712, 1714, 1717, and 1719 of title 38, United States Code, and the implementation of such sections;

(2) after consultation with appropriate representatives of veterans, develop policy recommendations and legislative proposals for the elimination of any such inconsistencies; and

(3) not later than the date specified by the Secretary, submit to the Secretary a report containing (A) descriptions of the inconsistencies identified by the task force, (B) the policies and legislative proposals recommended by the task force for the elimination of such inconsistencies, and (C) the reasons for each such recommendation.

(d) ACTION BY THE SECRETARY.—The Secretary shall—

(1) review the report submitted by the task force; and

(2) either (A) approve the recommendations for legislation contained in the report, or (B) with respect to any such recommendations that the Secretary does not approve, recommend, or decline to recommend, alternative legislative proposals that the Secretary considers appropriate for the elimination of the inconsistencies identified by the task force.

(e) SUBMISSION OF RECOMMENDATIONS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(1) the report submitted to the Secretary by the task force; and

(2) a report containing—

(A) any legislation recommended by the Secretary for the elimination of the inconsistencies identified by the task force;

(B) an analysis of any legislation recommended by the Secretary; and

(C) the reasons for any differences between any legislation recommended by the Secretary and the legislation recommended by the task force.

SEC. 212. ELIGIBILITY OF FORMER PRISONERS OF WAR FOR OUTPATIENT MEDICAL SERVICES.

Section 1712(a)(1) is amended—

(1) at the end of clause (B), by striking out "and";

(2) at the end of clause (C), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(D) to any former prisoner of war for any disability.".

SEC. 213. PILOT PROGRAM FOR FURNISHING ASSISTIVE MONKEYS TO CERTAIN VETERANS.

(a) Requirement for Pilot Program.—During fiscal years 1992, 1993, 1994, and 1995, the Secretary of Veterans Affairs shall conduct a pilot program under which the Secretary shall—

(1) furnish assistive monkeys to quadriplegic veterans who have service-connected disabilities rated 50 percent or more; and

(2) facilitate the furnishing of assistive monkeys to other quadriplegic veterans.

(b) Selection of Veteran-Participants.—(1) In determining whether to furnish an assistive monkey to a veteran, or to facilitate the furnishing of an assistive monkey to a veteran, under the pilot program, the Secretary shall (A) consider the extent to which the veteran needs and can benefit from the assistance of the monkey, and (B) provide a preference for veterans who have service-connected quadriplegia.

(2) The Secretary shall approve a veteran for participation in the pilot program only upon the Secretary's determination that the veteran is well-suited for—

(A) carrying out the responsibilities involved in the care of the monkey; and

(B) effectively using the monkey for assistance in performing the veteran's daily living tasks.

(c) Administrative Matters.—(1) The Secretary is authorized to enter into contracts for the furnishing of assistive monkeys under subsection (a). Under such contracts the Secretary may make advance payments for the furnishing of the monkeys before receipt of the monkeys and may either reimburse the provider of such monkeys for the costs of training the monkeys or, subject to such terms and conditions as the Secretary determines are necessary to protect the interests of the Government, make advance payments for such costs before the costs are incurred.

(2) Ownership of an assistive monkey furnished to a veteran under the pilot program shall be determined in accordance with a contract between the provider of the monkey and the veteran.

(3) The Secretary shall provide for the protection of the welfare of assistive monkeys furnished veterans under the pilot program.

(d) Evaluation and Report.—(1) The Secretary shall evaluate the conduct of the pilot program, the nature and extent of the benefit to veterans furnished assistive monkeys under the program (including any benefits related to employment), the costs and cost-effectiveness of furnishing such monkeys to quadriplegic veterans, and the effects of such program on the recruitment and retention of paid primary caregivers for veterans receiving monkeys and on the morale of unpaid primary caregivers for such veterans.

(2) Not later than February 1, 1995, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under the pilot program. The report shall contain—

(A) the results of the evaluation carried out under paragraph (1), including descriptions of the procedures and criteria used to select veterans to receive assistive monkeys, the nature and extent of the benefit that the veterans received from the assistance of such monkeys, and the amounts and types of costs incurred by the Department of Veterans Affairs in the conduct of the program;

(B) the Secretary's views on the relationship between the furnishing of an assistive monkey to a veteran and the payment to a veteran of (i) an aid and attendance allowance under section 1114(r) of title 38, United States Code, or (ii) an annual rate of pension under section 1521 of such title based on the veteran's need of regular aid and attendance; and

(C) any recommendations that the Secretary considers appropriate regarding whether the pilot program should be continued or whether the authority to furnish assistive monkeys to quadriplegic veterans should be made permanent.

(e) Evaluation of Private Assistive Monkey Placement Programs.—Before furnishing assistive monkeys to veterans under the pilot program, the Chief Medical Director of the Department of Veterans Affairs shall provide for the conduct of an independent evaluation of the way that assistive monkeys would be treated during training and placement under the pilot program. The Chief Medical Director shall ensure that the person or organization performing the evaluation consults with representatives of appropriate animal welfare organizations prior to conducting the evaluation.

(f) Definitions.—For the purposes of this section—

(1) the terms "veterans" and "service-connected" have the meanings given those terms in paragraphs (2) and (16), respectively, of section 101 of title 38, United States Code; and

(2) the term "assistive monkey" means a monkey that is specially trained to assist in the performance of daily living tasks for quadriplegic individuals.

SEC. 214. EXTENSION OF CERTAIN TEMPORARY PROGRAMS.

(a) Program for Trial Work Periods and Vocational Rehabilitation.—Section 1163(a)(2)(B) is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(b) Program of Vocational Training for New Pension Recipients.—Section 1524(a)(4) is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(c) Protection of Health-care Eligibility.—Section 1525(b)(2) is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

SEC. 215. PROHIBITION AGAINST USE OF PRICES OF DRUGS PAID BY THE DEPARTMENT OF VETERANS AFFAIRS IN THE CALCULATION OF MEDICAID REBATES.

Section 519(a) of Public Law 102–139 is amended to read as follows:

"(a) the following shall not be used to calculate Medicaid rebates paid by drug and biological manufacturers:

"(1) Prices of drugs and biologicals paid by the Department of Veterans Affairs and prices of drugs and biologicals on contracts administered by the Department of Veterans Affairs.

"(2) Prices (after any rebate or discount) of drugs and biologicals paid pursuant to contracts entered into with States which include, as a basis for rebates or discounts, the prices referred to in clause (1);".

Part B—Health-Care Personnel

SEC. 221. PAY ENHANCEMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Section 7454(b) is amended by striking out "or occupational therapists," and inserting in lieu thereof "occupational therapists, or any other health-care personnel furnishing direct care to patients or providing services incident to the furnishing of direct care to patients,".

SEC. 222. SPECIAL RATES CAP.

Section 7455(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by inserting at the end the following new paragraph:

"(2) Whenever the amount of an increase under subsection (a)(1) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.".

SEC. 223. RATES OF PAY FOR CERTAIN PSYCHOLOGISTS.

Notwithstanding any other provision of law, the Secretary of Veterans Affairs, not later than 90 days after the date of the enactment of this Act, shall utilize the authority provided in section 7455 of title 38, United States Code, to increase the rates of pay for clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accredited authority recognized by the Secretary unless the Chief Medical Director of the Department of Veterans Affairs determines that such psychologists are not needed to furnish appropriate quality of psychological services for veterans. The amount by which such rate of pay shall be increased shall be the amount determined by the Secretary, upon the recommendation of the Chief Medical Director, to be necessary to make the pay for such psychologists competitive with the pay of psychologists with the same qualifications and credentials serving in non-Department of Veterans Affairs capacities comparable to the Department capacities in which the Department psychologists are serving.

SEC. 224. CHILD-CARE SERVICES.

(a) Assessments of Employee Needs for Child-Care Services.—(1) In order to provide for adequate planning for the availability of child-care services for children of Department of Veterans Affairs employees, the Secretary of Veterans Affairs shall require the director of each Department of Veterans Affairs medical center and regional office to—

(A) assess the needs of such employees for child-care services; and

(B) submit an annual report to the Secretary containing—

(i) the director's findings relating to the needs of such employees for such services and the extent to which such services are available to meet such needs, and

(ii) a proposal (including a schedule) for meeting fully any unmet needs or, if the director determines that it is impracticable to meet such needs fully, a detailed explanation of the reasons for such determination and a proposal (including a schedule) for meeting as many of such needs as is practicable.

(2) In making the assessment referred to in paragraph (1), the director shall consult with appropriate representatives of the employees at the center or office.

(3) The annual report referred to in this subsection shall be submitted not later than March 1 of each year.

(b) Technical Amendment.—Subsection (b) of section 7809 is amended by striking out "of this section" in the final sentence.

SEC. 225. SPECIAL PAY FOR CERTAIN PHYSICIANS AND DENTISTS BASED ON BOARD CERTIFICATION.

(a) FULL-TIME PHYSICIANS AND DENTISTS.—Section 7437(e)(1)(C) is amended by striking out "only for the special pay" and all that follows through the period and inserting in lieu thereof "for no special pay factors other than primary, full-time, length of service, and specialty or board certification.".

(b) PART-TIME PHYSICIANS AND DENTISTS.—Section 7437(e)(2)(C) is amended by striking out "only for the special pay" and all that follows through the period and inserting in lieu thereof "for no special pay factors other than primary, full-time, length of service, and specialty or board certification.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted with the amendment made by section 102 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102–40; 105 Stat. 187).

(d) AVAILABILITY OF FUNDS.—Expenses incurred for periods before October 1, 1991, by reason of the enactment of the amendments made by subsections (a) and (b) may be charged to fiscal year 1992 appropriations for the same purpose.

SEC. 226. TRANSITION RULE FOR PAYMENT OF SPECIAL PAY UNDER CERTAIN SPECIAL PAY AGREEMENTS.

(a) TRANSITION RULE.—Section 104(d) of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102–40; 105 Stat. 199) is amended by adding at the end the following: "In the case of a physician or dentist who was employed by the Department of Veterans Affairs on July 14, 1991, and who was ready and willing to enter into an agreement under such subchapter on such date, the agreement entered into by the physician or dentist shall take effect on that date without regard to the date of the approval of the agreement under the regulations prescribed to carry out such subchapter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted with section 104 of such Act.

(c) AVAILABILITY OF FUNDS.—Expenses incurred for periods before October 1, 1991, by reason of the enactment of the amendment made by subsection (a) may be charged to fiscal year 1992 appropriations for the same purpose.

SEC. 227. AUTHORITY TO APPOINT NON-PHYSICIAN DIRECTORS TO THE OFFICE OF THE CHIEF MEDICAL DIRECTOR.

Section 7306(a) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Chief Medical Director for the operation of their respective services.".

SEC. 228. EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE.

Section 7404(b)(2) is amended in the first sentence by inserting ", or comparable position" before the period.

TITLE III—MINORITY AFFAIRS

SEC. 301. ASSIGNMENT OF MINORITY ISSUES TO AN ASSISTANT SECRETARY OF VETERANS AFFAIRS.

(a) POSITION AND FUNCTIONS OF ASSISTANT SECRETARY.—Section 4 of the Department of Veterans Affairs Act (Public Law 100–527; 102 Stat. 2638) is amended by adding at the end of subsection (b) the following new paragraph:

"(11) The review and assessment of the effects of policies, regulations, and programs and other activities of the Department on minority veterans and the coordination and monitoring of policies facilitating access of such veterans to services and benefits provided under laws administered by the Secretary.".

(b) "MINORITY VETERANS" DEFINED.—Section 4 of such Act is further amended by adding at the end the following new subsection:

"(g) DEFINITIONS.—As used in this section:

"(1) The term 'minority veterans' means veterans who are—

"(A) black individuals;

"(B) Native Americans;

"(C) Hispanic-Americans;

"(D) Asian-Americans;

"(E) Pacific-Islander-Americans; and

"(F) women.

"(2) The term 'veteran' has the meaning given that term in section 101(2) of title 38, United States Code.

"(3) The term 'Native American' means an Indian, a Native Hawaiian, or an Alaska Native.

"(4) The term 'Indian' has the meaning given that term in section 4(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(a)).

"(5) The term 'Native Hawaiian' has the meaning given that term in section 815(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

"(6) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(7) The term 'Asian-American' means any citizen or permanent resident of the United States, other than a Native American, whose ancestral origin is in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent of Asia.

"(8) The term 'Pacific-Islander-American' means any citizen or permanent resident of the United States, other than a Native American, whose ancestral origin is in any of the original peoples of the Pacific Islands.".

SEC. 302. REESTABLISHMENT OF THE ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) ESTABLISHMENT.—Effective October 1, 1991, the Advisory Committee on Native-American Veterans established by section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99–272; 100 Stat. 388) is reestablished.

(b) INCORPORATION OF PROVISIONS OF PRIOR LAW.—Subsections (b) through (e) and (g) of section 19032 of the Veterans' Health-Care Amendments of 1986 shall apply to the Advisory Committee on Native-American Veterans reestablished by subsection (a).

(c) REPORTS.—(1) Not later than March 31, 1992, and March 31, 1993, the Committee shall submit to the Secretary of Veterans Affairs a report containing the findings and any recommendations of the Committee regarding the matters described in section 19032(b) of the Veterans' Health-Care Amendments of 1986 that were examined and evaluated by the Committee during the fiscal year preceding the fiscal year in which the report is submitted.

(2) Not later than 60 days after receiving each such report, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

(d) TERMINATION.—The Committee shall expire 90 days after the date on which the second report is transmitted by the Committee pursuant to subsection (c).

TITLE IV—MISCELLANEOUS

SEC. 401. CLARIFICATION OF PROHIBITION ON PAYMENT OF ATTORNEYS' FEES.

(a) IN GENERAL.—Section 5904(c) is amended—

(1) by inserting "(A)" after "(c)(1)";

(2) by redesignating paragraph (2) as subparagraph (B);

(3) in subparagraph (B) (as so redesignated), by striking out "paragraph (1)" and inserting in lieu thereof "subparagraph (A)"; and

(4) by adding at the end the following new paragraph:

"(2) The provisions of this subsection shall apply only to cases involving a claim for benefits submitted by any person applying for benefits under the laws administered by the Department, and such provisions shall not apply in cases in which the Government is proceeding against a person to collect an indebtedness or in which other attorneys' fee statutes apply.".

(b) APPLICATION OF PROHIBITION.—Section 3404(c) of title 38, United States Code, as in effect on November 17, 1988, shall apply only to cases involving a claim for benefits submitted by any person applying for benefits under the laws administered by the Department and shall not apply in cases in which the Government is proceeding against a person to collect an indebtedness or in which other attorneys' fee statutes apply.

SEC. 402. AUTHORIZATION TO FLY POW/MIA FLAG AT NATIONAL CEMETERIES OF THE UNITED STATES.

(a) AUTHORIZATION.—The director of each national cemetery is authorized to display a POW/MIA flag on a flagstaff at that cemetery. In determining whether to display a POW/MIA flag at the cemetery, the director is authorized and urged to consult with appropriate representatives of local civic and veterans' organizations having an interest in the activities of the cemetery.

(b) PROHIBITION.—No officer or other employee of the Federal Government may obligate appropriated funds for the purpose of purchasing a POW/MIA flag for display at a national cemetery.

(c) DEFINITIONS.—In this section:

(1) The term "national cemetery" means any cemetery in the National Cemetery System referred to in section 1000 of title 38, United States Code.

(2) The term "POW/MIA flag" means the flag designated as the National League of Families POW/MIA flag pursuant to section 2 of the Joint Resolution designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag (Public Law 101–355; 104 Stat. 416).

(3) The term "flagstaff" means any flagstaff at a national cemetery, including the main flagstaff of the cemetery.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I send to the desk an amendment to the title and ask that it be agreed to.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

Amend the title so as to read: "An Act to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes.".

The PRESIDING OFFICER. Without objection, the amendment to the title is agreed to.

Mr. DECONCINI. Mr. President, I want to thank the Senator from Wyoming for his cooperation and everybody who has helped here, particularly the Senator from Pennsylvania who has been indeed very helpful in the passage of this bill, and the cooperation is unsurpassed.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I shall be very brief because I know the majority leader wants to move on to the nomination of Attorney General-designate Barr.

But I thank my distinguished colleague from Arizona and the distinguished majority leader and I thank the chairman of the committee, Senator CRANSTON, who is on the floor now, and my distinguished colleague from Wyoming for the spirited debate and the even more spirited debate in the well. I think one day when the laurels of the Senate are published, if we ever had a record of what went on in the well, it would be much more interesting than what goes on on the floor.

I thank the Chair and yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I want to thank the floor managers, Senator DECONCINI and Senator SPECTER, for their courtesies to me in allowing me to go forward with those amendments and realizing the result and taking the time of the body to set a record on things I think we will have to address in the future days. I thank them very much.

And again I made my remarks about Senator CRANSTON earlier in the day and we must realize the extraordinary, extraordinary things he has done for veterans in a lifetime of political service, public service in the U.S. Senate.

Mr. DECONCINI. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. SIMPSON. I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRAGEDY AT CHEYENNE, WY, VA MEDICAL CENTER

Mr. SIMPSON. Mr. President, earlier in the day, as we discussed the veterans' bill, I did not go to a provincial matter. But I was informed of a tragic occurrence in the Cheyenne, WY, VA Medical Center. A veteran outpatient was found frozen to death on the grounds of the hospital last night.

My staff spoke with Deputy Secretary Principi this morning and he is conducting an investigation. I am told the veteran refused to be admitted to the hospital and then declined to follow the doctor's recommendations. I also am advised the doctor who had last seen the patient recommended to the patient that he be admitted to the hospital.

I do not know the position of the patient's family. They may have a different version. But we are shocked and saddened by that news. I have asked Deputy Secretary Principi and Secretary Derwinski for a full investigation into that matter. That is not a common occurrence in veterans' facilities but one that is always very troubling.

THE PRESIDENT'S DOMESTIC AGENDA

Mr. SIMPSON. Mr. President, I wanted to comment on the fine statement this morning of Senator DOLE. We are talking about the President, the foreign policy issues, the domestic agenda of the United States, and I hope all of our colleagues heard the remarks of Senator LUGAR and Senator BOREN this morning. These two fine Senators—and they are indeed—both spoke very clearly of the need to put aside this partisan posturing with regard to the Soviet Union and what we must do there. We have to respond in some way which is acceptable to the American public, and we must do that. I hope that we heed the language of Senator LUGAR and Senator BOREN this morning. I urge you to review that in the CONGRESSIONAL RECORD.

Also Senator DOLE was speaking of where we are as we find ourselves now in this gridlock.

And, what we are finding is that the ground has been carefully cultivated, the water has been chummed, as we used to say in an old fishing parlance, with the issue that somehow George Bush is not paying attention to the domestic needs of the United States. That is just simply not so.

And because of that, then the Armed Services Committee came up with a proposal to assist the Soviet Union, and that, then, gave the partisans on our side of the aisle the opportunity to say: Ha; in one breath you are saying the President is not paying attention to the domestic agenda, and on the other side, with the other breath, you are saying you want money for the Soviet Union—$1 or $2 billion.

We are going to have to do something for the Soviet Union. It is going to be in the form of credits in agriculture, which can be of assistance to Americans. It is going to be in the form of various procedures that will not be punitive, financially, to Americans. It can be something done so that we can get rid of surpluses; we can open new avenues of accord. That must be done.

So what Senators BOREN and LUGAR were saying is, let us put aside—I know it is exciting, and we are only a year from the election, but we do have a country to operate, and foreign relations and foreign policy to carry out, and a domestic agenda. It will not make it to say that George Bush has not turned his attention to the domestic agenda of the United States when a person has presented the Clean Air Act, which by good bipartisan support we passed here; The Americans With Disabilities Act, which we passed with good bipartisan support; a child care bill, which we passed with good bipartisan support last year; an education bill presented by the President; a highway bill presented by the President; a crime bill presented.

Those are things that have to do with the domestic agenda of the United States. We spent a great deal of time on these things.

So, as was said by our two colleagues, the Senator from Oklahoma [Mr. BOREN] and Senator LUGAR, we have to do something here with regard to the Soviet Union. It is no longer good enough to just simply play politics, and domestic versus foreign. The real issue is that people know the President of the United States. They see who he is. He has been through the fires. You are not going to bring up anything that is new or debilitating to him. He has been at the pinnacle and he has been at the depths of all of his years of public service. He has been through the fires, the annealing process, the fiery furnace.

It seems to me we should just get about our business, because sometime in the next summer the searchlight will fall on the singular candidate for Presidency in the other party. And they will scour the Earth, then, on that poor person, while the others have already been through the test.

So let us get on with the action. The majority leader has come to the floor, and I indicated at the time of my remarks that I would discontinue when he came forward. But I do think it is very important to listen to what Senators BOREN and LUGAR are telling us.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that at such time as the Senate considers the nomination of William P. Barr to be Attorney General, there be 30 minutes of debate, equally divided between the chairman and ranking member of the Committee on the Judiciary; that following the using or yielding back of time, the Senate, without any intervening action, proceed to vote on the nomination; that the motion to reconsider be laid upon the table; that the President be notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I have asked the staff to notify the chairman and ranking member of the committee. It is my intention to exercise my authority to proceed to this nomination, and thereby to begin the 30 minutes as soon as the chairman and ranking member arrive.

Therefore, Senators should expect that in slightly more than 30 minutes, if all the time is used, there will be a vote on this nomination. And we will be in session throughout the evening, as there are a number of other matters that we hope to proceed on this evening that will require rollcall votes.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, under a previous order, I have the authority to proceed to the nominations of Carol T. Crawford to be a member of the U.S. International Trade Commission. And then, immediately following that, to the nomination of Janet A. Nuzum to be a member of the U.S. International Trade Commission.

For the information of Senators involved in that, and there are several of them who have reserved time under the order, it is my intention to proceed to these nominations immediately following disposition of the Barr nomination. Therefore, Senators should be aware of that.

We will proceed now to the Barr nomination with a 30-minute time limit, and then we will proceed to the Crawford and Nuzum nominations, pursuant to the unanimous-consent agreement which is printed on the inside of the cover page of today's Executive Calendar.

Thereafter, it is my intention to continue on other business. I have discussed with the distinguished Republican leader further action which we hope to take this evening, and I hope to have an announcement in that regard shortly.

Mr. President, while awaiting the arrival of the distinguished chairman and ranking member of the Judiciary Committee to begin the proceedings on the Barr nomination, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF WILLIAM PELHAM BARR, OF VIRGINIA, TO BE ATTORNEY GENERAL

Mr. MITCHELL. Mr. President, under the authority previously vested in me, I ask that the Senate proceed to executive session and that the Chair lay before the Senate the nomination of William P. Barr, to be Attorney General.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of William Pelham Barr, of Virginia, to be Attorney General.

The Senate proceeded to consider the nomination.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware is allotted 15 minutes and the Senator from South Carolina is allotted 15 minutes as well. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, the Attorney General of the United States owes allegiance first and foremost to the Constitution and laws of this country, as we all know. This responsibility tempers his loyalty to the President that he or she may serve. The White House counsel answers to the President alone. The Attorney General does not answer to the President alone. He also answers to the public and to the institutions of Government as well.

Throughout his career of public service, William Barr has acted to protect and enhance the authority of the Executive. As Attorney General, however, Mr. Barr must distinguish the interest of the President from those of the public, and he must respect the separate though complementary powers of the three branches of Government. Based on my contacts with Mr. Barr, both before and during his testimony at the Judiciary Committee hearings on his nomination, I believe that Mr. Barr understands and is committed to the dual responsibility of the Office of Attorney General.

At the recent hearings on his nomination, I asked Mr. Barr about his view of the doctrine of separation of powers, and we discussed several areas where the exercise of power has caused tension between the executive and the legislative branches. We discussed, among other things, powers like the power to make war, the power of the Constitution divided between the executive and legislative branches. The responsibility and authority of each branch is distinct. Congress is to declare war; the President, as Commander in Chief, may then conduct war, but, although the roles are separate, the power is shared and each branch must act to take the country into war.

Mr. Barr agreed the Constitution assigns warmaking powers jointly to the Congress and the President. He acknowledged the President cannot initiate an offensive action and, even where the President has latitude to respond where lives are at stake or the vital interests of Americans are threatened, his authority is "provisional," because it is always subject to Congress' exercise of power. That is in the hearing record.

This testimony indicates to me that Mr. Barr recognizes the Congress and the President must be united in the decision to commit substantial forces to armed hostilities abroad, and it reveals he understands the separate but shared nature of the warmaking power.

Mr. Barr was similarly reassuring when asked about other issues of executive authority. For example, he admitted that as a matter of policy he would like to see the President have a line-item veto. Nonetheless, he continued, after carefully reviewing the issue he "found no basis for an inherent line-item veto in the Constitution."

On other questions of executive privilege, Mr. Barr said he believes Congress has "a legitimate interest in seeking information" and that "our policy should be one of maximum accommodation," referring to the policy of the Attorney General's office, the Justice Department. And he put this policy into practice, noting that he negotiated a compromise or accommodation on every request for information he handled while head of the Office of Legal Counsel.

He also said he expects and accepts the Supreme Court's decision on Morrison versus Olson and he would support a reauthorization of the independent counsel statute when it expires next year.

These specific examples give weight to Mr. Barr's testimony that "his loyalty is to the separation of powers and the system," and that his approach is to examine a claim of authority by "taking the politics out of it."

While there is ambiguity about what the Constitution envisions, Mr. Barr undoubtedly will continue to assert broad executive authority. I may disagree with his interpretation of executive power in certain of these instances, but Mr. Barr does not unreasonably seek to create ambiguity where none exists, and be expressed a commitment to defending the Constitution's division of power between the branches of Government even where he personally may desire that the powers were allocated differently.

In my view, this commitment to the public interest, above all else, is a critical attribute in an Attorney General, and I will vote to confirm Mr. Barr.

Two other subjects merit brief mention. First, Mr. Barr stated that he believed the Court's decision in Roe versus Wade is incorrect as a matter of constitutional interpretation and should be overruled. Such candor has, unfortunately, become quite rare on the part of administration nominees. Again, I disagree with Mr. Barr's conclusion, but he has been nominated to a position in the executive branch, not the Federal judiciary, and in choosing members of the third independent branch of Government, the Senate need not defer to the President's selection of nominees who share his ideology. In contrast, the executive branch nominees will serve in the President's administration and must implement his policies. It is, therefore, appropriate, in my view, for the Senate to accommodate, within reason, the President's desire to have individuals who share his views confirmed for executive branch positions.

Finally, before I yield to my colleague from South Carolina, I want to comment on the subject on which Mr. Barr received the most questions during the hearing. That is the Justice Department's handling of the BCCI investigation.

As I stated at the hearing, I am concerned that the Department was too slow in appreciating the seriousness and the scope of BCCI's wrongdoing. According to Mr. Barr, the Department essentially assumed the role of a reactive one, responding to the worldwide showdown of BCCI in press reports of alleged wrongdoing, realizing the significance of the multiple pieces of the investigation only in the summer of 1991. This, in my view, is not acceptable and happened on the watch of the last Attorney General.

The Department of Justice and other Federal agencies must be in a position to size up the nature of a problem, to coordinate getting information to the appropriate agencies, and to act proactively before, not after, the illegality has spiraled into historic proportions.

But this is not the question before us today. We will face that question with the Attorney General in the months to come in seeking to determine how the Department can improve its operations to avoid future investigative failures under the new Attorney General.

Today the question is whether Mr. Barr should be confirmed to be Attorney General. I am aware of no evidence that suggests that Mr. Barr acted in a way to delay or obstruct the investigation of BCCI. While I am concerned the Department seemed to be asleep at the switch under Attorney General Thornburgh, Mr. Barr testified that he had no responsibility for BCCI prior to assuming the role of Acting Attorney General in August of 1991.

Since August, Mr. Barr has taken steps to ensure that the BCCI investigation is pursued aggressively. In fact, last Friday, the Justice Department announced an indictment of BCCI and three senior officials on conspiracy, wire fraud, and racketeering charges. At the same time, the Department's investigation is continuing in this country and abroad.

I told Mr. Barr at the hearings that the Judiciary Committee would remain attentive to the Department's handling of this investigation. And Mr. Barr, in a welcome change of previous Attorneys General in my view, agreed to work with the committee to keep it informed on the progress of the investigation.

For all the reasons I have mentioned today and one other, I will vote for Mr. Barr to be Attorney General for the United States. The other reason is Mr. Barr, I believe, in my working with him in the past, is one who wishes to accommodate a coequal branch of Government and assist it in its responsibility of oversight. I look forward to working with Mr. Barr. I plan on supporting him, and I anticipate and hope that he will be a fine Attorney General.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 15 minutes.

Mr. THURMOND: Mr. President, I rise today to voice my strong support for President Bush's nominee, Mr. William P. Barr, to be the Attorney General of the United States.

Mr. Barr has done an outstanding job in fulfilling the duties of Acting Attorney General since August of this year. The Attorney General is the chief law enforcement officer of the Federal Government, and has ultimate responsibility in regards to major civil litigation involving the United States. He also gives advice and provides legal opinions to the President on a wide range of issues. The Attorney General manages some 88,000 Justice Department employees nationwide and oversees all major components of the Department such as the FBI, DEA, INS, U.S. Marshals Service, Bureau of Prisons, and U.S. attorneys. The person entrusted with this important responsibility must perform the duties of this office in an independent and uncompromising manner.

Mr. President, Mr. Barr's recent confirmation hearing demonstrated that he is the appropriate individual to lead the Department of Justice. He is a man of character and integrity who throughout his career has shown courage, professionalism, and independence. Furthermore, Mr. Barr understands the important responsibility of this position, having served as an Assistant Attorney General, Deputy Attorney General, and more recently as the Acting Attorney General. His service in these positions has clearly illustrated that he will continue to ably perform upon confirmation. Mr. Barr has also demonstrated that he can make tough decisions under extreme pressure. It was this nominee who, as Acting Attorney General, directed a prison rescue in Talledega, AL, that freed nine hostages with no loss of life.

Mr. President, Mr. Barr possesses an exemplary background and has the hands-on experience necessary for this position. He received both his bachelor's and master's degrees from Columbia University. Mr. Barr earned a law degree from George Washington University Law School, graduating second in his class. During law school, he served in the intelligence section and the Office of Legislative Counsel at the Central Intelligence Agency. Following law school, Mr. Barr was a law clerk to the Hon. Malcolm Wilkey of the U.S. Court of Appeals for the District of Columbia Circuit. He has had practical experience as an associate and later as a partner with the Washington, DC, law firm of Shaw, Pittman, Potts and Trowbridge. Mr. Barr also served as Deputy Assistant Director for the Office of Policy Development in the Executive Office under President Reagan. In 1989, Mr. Barr was confirmed by this body as the Assistant Attorney General for the Office of Legal Counsel at the Department of Justice, and in 1990, the Senate confirmed him to be the Deputy Attorney General. He now serves as the Acting Attorney General.

Mr. President, Mr. Barr has a thorough understanding of our system of government. Throughout his 2 days of testimony before the Judiciary Committee, he demonstrated that he is intelligent, reasonable, and forthright. He clearly realizes the importance of the role of the Attorney General and the responsibilities that will be imposed upon him, once confirmed. I believe he will be ever mindful of the trust and confidence placed in him by the President and the people of our Nation as he carries out the duties of this esteemed office.

Mr. President, I strongly support Mr. Barr's confirmation to be the Attorney General of the United States and I urge my colleagues to vote in favor of his nomination to this important position.

I now yield such time as he may require to Senator HATCH.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I think the choice of William Barr as Attorney General is an excellent choice. He is a fine person. He is a terrific law-and-order person who I think will do a great job as Attorney General of the United States. I think he will be a less partisan Attorney General than some we have seen over the last 15 or 20 years, and who I think will keep in mind the important functions of the Justice Department and do them the way they should be done.

Mr. President, I have known William Barr for quite a while, and I have tremendous respect for him. I am pleased that the distinguished chairman and the distinguished ranking member are supporters of William Barr and want to see him have every opportunity to become the great leader that he has the potential of becoming and is already.

I intend to give him all the support from here that I possibly can, because the responsibilities of the Attorney General of the United States are so important to this country that he deserves bipartisan support for his discharge of those functions.

Mr. President, in William Barr, President Bush has nominated a tough law-and-order public servant to be Attorney General. Just as important, Mr. Barr is firmly committed to equal opportunity under the law. He demonstrated that again 2 weeks ago when he initiated administratively a fair housing testing program at the Justice Department to combat housing discrimination. I was especially pleased to see the Department undertake this program as a response to legislation I have introduced in the last two Congresses.

At the same time, I am confident that Mr. Barr will be equally vigilant in opposing racial, ethnic, and gender preferences and reverse discrimination.

William Barr is not a member of President Bush's personal or political inner circle. He is not part of the President's political braintrust. He is not a politician or former politician who brings political clout to this position or carries political weight in 1 of the 50 States.

William Barr is just a lawyer's lawyer, that's all. President Bush's nomination of Mr. Barr is one more example that persons with talent and merit can and do rise to the top in our country. Talent, merit, and performance are the only reasons William Barr is Acting Attorney General and is before the Senate as nominee to be Attorney General.

I commend the President for this fine nomination. I congratulate the nominee for his sterling record.

After obtaining two degrees from Columbia University, William Barr went to work for the Central Intelligence Agency. He attended law school at night for 4 years and obtained his law degree from George Washington University. After clerking for Judge Malcolm Wilkey of the U.S. Court of Appeals for the District of Columbia, he became an associate at Shaw, Pittman, Potts & Trowbridge here in Washington.

For a year and a half in the first Reagan term, Mr. Barr served as Deputy Assistant Director of the Office of Policy Development. I pause here to marvel at his rise from a relatively obscure Federal position to his nomination 8 years later to the number one legal position in the executive branch. This rise is nothing short of phenomenal.

In between, Mr. Barr became a partner at his former law firm. He was tapped to become Assistant Attorney General for Legal Counsel in 1989. His performance there merited his promotion to Deputy Attorney General. His conduct in that office has continued to be impressive and now he is the President's nominee to be Attorney General.

Will he be tough enough when the situation calls for it? As Acting Attorney General, faced with an inmate uprising and hostage taking at a prison in Alabama, he exhibited sound judgment, courageous leadership, and took the tough action necessary when the chips were down.

I will close by quoting from an unlikely source. The New York Times editorial page had some kind words for Mr. Barr. Here is part of what an October 20, 1991, editorial said:

> William Barr * * * is an able and energetic lawyer who has already displayed strong loyalty to his client in the White House. In various high-ranking Justice Department jobs, he has boosted the administration's hardline crime legislation and endorsed its view of executive power.

Perhaps the New York Times viewed this latter comment as a criticism, but I regard it as a compliment.

The editorial continued, in part:

> As Acting Attorney General this summer, Mr. Barr made key decisions under pressure that led to the rescue of hostages in the uprising at the Talladega Prison in Alabama. He impressed Mr. Bush as much for not grandstanding as for firm leadership.
>
> Mr. Barr has also impressed many in Congress, even those who disagree with him, for this forthrightness. * * *

I look forward to Mr. Barr's early confirmation and to his tenure as the Nation's 77th Attorney General.

Mr. SPECTER. Mr. President, I am delighted to lend my voice in support of the nomination of William Barr to be Attorney General of the United States. I think his appointment is a very meritorious one. He is a career Justice Department official. He has had experience in Government working at the CIA while he went to law school locally in Washington, DC. He has served in the position of Assistant Attorney General. He has been Deputy Attorney General. He will now become, at the age of 41, Attorney General of the United States, if successful, and it certainly appears that he will be at this moment.

I have had considerable contact with Mr. Barr in his work so far in the Department of Justice. He is very responsive. We have worked on the issue of confirmation of judges and he has had a broad-based approach there. He is knowledgeable on legal theory. He is knowledgeable on the practice of law. He has had experience as a practitioner. He comes working his way through the Department, which will provide a level of professionalism which is very important.

There is no office in Government, Mr. President, more important than the Attorney General of the United States. He is a quasijudicial official, and the motto on the Department of Justice expresses the proposition well when it states that the Government wins its case when justice is done. I believe that Mr. Barr will be an excellent Attorney General in that tradition.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I know of no one on the Democratic side asking for a rollcall vote. I see no need for one. Obviously, we will accommodate one if anyone would like. But we are ready to vote whenever my colleagues are finished speaking to this issue.

Mr. DOLE. Mr. President, it is a pleasure to rise in support of Bill Barr's nomination as Attorney General.

In my view, President Bush is to be congratulated for nominating exactly the right person to lead the Department of Justice.

In this Autumn of confirmation battles, the 14 to 0 Judiciary Committee vote in support of confirmation is testimony to the universal acclaim given to this nomination.

Bill Barr is considered by everyone who knows him to be an outstanding attorney—a lawyer's lawyer.

Throughout his years with the CIA, in private practice, at the White House, and at the Justice Department, he has earned a reputation for intelligence and integrity.

Bill Barr will be an Attorney General who will hit the ground running.

He has done a superb job in serving as Acting Attorney General for the past 4 months, and in serving as Deputy Attorney General for over a year.

His courageous and clear-headed actions during this August's Talladega prison uprising is evidence of the type of leadership we can expect from him.

He will be an Attorney General who will aggressively lead the fight against crime and drugs.

Agents at the FBI and DEA, police officers at the State and local level, State attorney general, and local prosecutors all give him high marks for his professionalism and staunch support of their efforts.

Bill Barr has earned the President's confidence, he has earned America's confidence, and he has earned the support of the Senate.

I am hopeful we can move ahead with this nomination. I appreciate the spirit of cooperation from the managers. I hope we can avoid a rollcall vote. We have a number of other matters to take care of tonight. This will save us 15 to 30 minutes.

Mr. SIMPSON. Mr. President, I would like to speak in strong support of President Bush's nomination of William Barr to be Attorney General of the United States.

Mr. BARR has a distinguished career record. He received bachelors and masters degrees from Columbia University and a law degree from George Washington University. He worked as legislative counsel with the CIA and in the Domestic Policy Office in the White House. He was both an associate and a partner with a prominent Washington, DC law firm. In the Department of Justice, he was the Director of the Office of Legal Counsel, the Deputy Attorney General, and is now the Acting Attorney General.

Rarely is someone as young and nonpolitical as Bill Barr nominated for the position of Attorney General. I believe this indicates how confident the President is in Mr. Barr's intelligence, competence, fairness, and practical ability.

In recent nomination hearings, Mr. Barr clearly showed the Judiciary Committee that he is thoughtful, well read, a quick study, and willing to listen to all points of view on the crucial issues that challenge the Justice Department. I feel that he gave the entire committee reason to believe that he will be an excellent Attorney General.

I look forward to working with Mr. Barr, and I urge his confirmation.

Mr. HOLLINGS. Mr. President, I intend to vote with enthusiasm to confirm William P. Barr as Attorney General. He is the right man for the job at the right time.

Mr. Barr has a distinguished academic background and impressive experience in private practice as well as in public service. Most important, Bill Barr is a known quantity. He has done a truly outstanding job as Deputy Attorney General for the last year and a half, during which time he has worked with many of us in this body, earning our respect for his professionalism and competence. In the case of the uprising at Talladega Federal Prison in Alabama last summer, it was Bill Barr who managed the crisis and succeeded in quelling the disorder without loss of life.

Mr. President, I have forged an excellent working relationship with Deputy Attorney General Barr during the last year and a half, as I know many of my colleagues have. He is an outstanding manager, a fair and deliberate negotiator, and works to ensure comity between the Congress and the administration. I look forward to a good and productive partnership with him in the time ahead.

Mr. GRASSLEY. Mr. President, after hearing William Barr testify last week, I believe every Senator should vote to confirm him to serve as the Nation's Attorney General. Mr. Barr made clear with his candid testimony and direct responses to a wide variety of questions that he is a lawman, not a politician.

Make no mistake, Mr. Barr is a conservative and firmly committed to the President's program. His values are reflected in his actions. He is obviously a man with a strong sense of his duties and obligations—fidelity to the law, to the people, to the President, and to his family. It has taken him only a short time to convince all of us of the strength of his character and his personal integrity.

He has demonstrated that he is both a capable lawyer and a capable manager. He showed his qualities as a leader by earning the confidence of the entire Federal law enforcement community with his successful handling of the crisis at Talladega. His skills as counselor have been evidenced to members of the committee in his appearances before the body as head of the Office of Legal Counsel, Deputy Attorney General, and now Acting Attorney General. He doesn't give answers he thinks we want to hear. But, as President Eisenhower's Attorney General Herbert Brownell said, "an Attorney General doesn't do his job by trying to be popular." When we talk to our lawyer, we want straight answers and objective advice—the kind of answers the President, the Congress, and the people can expect from Attorney General Barr.

While we might not agree on every discrete issue of the day, I am confident that Mr. Barr will uphold his pledge to administer the law "evenhandedly and with integrity." Mr. Barr is a good lawman, who is concerned about the rights of the victims of crime as much as the rights of criminals. He understands that protecting the rights of Americans sometimes requires extending the long arm of the law beyond our borders. For this reason, we can count on him to be zealous in bringing to justice the Libyan intelligence officials he indicted last week for the bombing of Pan Am flight 103, and to make certain that foreign businesses operating in U.S. markets adhere to the principles of competition embodied in our antitrust laws. I know that he will also be vigilant in prosecuting white-collar criminals who defraud the Government and in addressing new criminal problems like the peddling of methamphetamines in the rural Midwest.

Attorney General Barr has made a strong impression on me in a short time as a first-rate law enforcement leader, and I will vote for his confirmation.

Mr. KOHL. Mr. President, I rise in support of the nomination of William Barr to be U.S. Attorney General. After listening to 2 days of testimony and after a thorough review of his record, I have concluded that he is qualified to serve as the country's chief law enforcement officer.

During the confirmation hearings, Mr. Barr displayed a degree of candor not often heard in these Halls. I agree with his support for the Brady Bill; I disagree with his opposition to Roe versus Wade; but more importantly, I admire and appreciate his honesty and integrity. Bill Barr's willingness to discuss the issues is a refreshing change in the confirmation process, and it would be wise of future nominees—both for the Justice Department and judgeships—to follow Mr. Barr's example.

Additionally, I am inclined to believe that Mr. Barr will do a good job of balancing potentially competing interests. I think he recognized the tension that could arise between his role as lawyer for the President and his role as the Attorney for the American people. If these two roles should ever conflict, Mr. Barr said his ultimate loyalties lie in following the law. I believe this is the appropriate position for the Attorney General to take.

Mr. Barr also impresses me as someone who is inclined to draw people in to the decisionmaking process and not isolate himself from career professionals at the Department of Justice, as his predecessor had done. Moreover, he has expressed a willingness to communicate and cooperate with the Congress. Even during the confirmation hearings, for example, he spoke without hesitation about the BCCI investigation, his appointment of a special investigator into Inslaw, and his opinions about executive prerogatives and powers. Again, he spoke openly of these things even when some of his opinions were unpopular.

Mr. President, my endorsement of Bill Barr is also based on the views that we share about how to reduce violent crime in America: We need better State, local, and Federal coordination; we need to attack violent crime at its very root, as opposed to merely treating its symptoms; we need to address criminal behavior as it permeates our workplaces, schools, and homes; most important, we need to take a more comprehensive approach to crime prevention by empowering our communities, educating our children, and reestablishing a strong family.

Too often around Washington, people seem less concerned about what is constitutionally sound and more concerned about what constitutes a good sound bite. I believe Bill Barr will reject that approach and will work toward goals and solutions—not mere political advantage.

That is why I am voting to confirm William Barr, Mr. President, and why I believe he will make a fine Attorney General.

Thank you, Mr. President.

Mr. THURMOND. Mr. President, Mr. Barr will make an excellent Attorney General. I think everybody is for him. To save time, I yield back the time and suggest we vote.

Mr. BIDEN. I yield back time and suggest we vote.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the nomination of William Barr to be the Attorney General of the United States.

So the nomination was confirmed.

Mr. THURMOND. I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I assume we have a new Attorney General.

I congratulate him, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF CAROL T. CRAWFORD, OF VIRGINIA, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION

Mr. PACKWOOD. Mr. President, I have been asked by the majority leader, who cannot come to the floor right now to commence the proceeding on the nomination for the International Trade Commission, Carol Crawford.

I ask unanimous consent that the Senate proceed to that nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk read the nomination of Carol T. Crawford to be a member of the U.S. International Trade Commission.

Mr. PACKWOOD. Mr. President, I see the Senator from West Virginia is here now. The majority leader said to go ahead, and I thought I would make my opening statement.

The PRESIDING OFFICER. I remind the Senate that the 1 hour for debate on the nomination is to be divided as follows: 20 minutes for the Senator from West Virginia [Mr. ROCKEFELLER]; 18 minutes for the Senator from Oregon [Mr. PACKWOOD]; 10 minutes for the Senator from Michigan [Mr. RIEGLE]; 5 minutes for the Senator from Missouri [Mr. DANFORTH]; 5 minutes for the Senator from Kansas [Mr. DOLE]; and 2 minutes for the Senator from Pennsylvania [Mr. SPECTER].

Mr. PACKWOOD. I was advised that Senator BENTSEN may want to say something. It is my understanding that Senator RIEGLE might not be here, and it would require a unanimous consent to let Senator BENTSEN speak. I would not object if Senator BENTSEN wants to speak.

Mr. President, I will open with just a short statement about Carol Crawford, and then I will reserve the remainder of my time to respond to any argument that is made.

It is not very often in one's career that one can speak so forcefully, so lovingly, so gracefully of a person as I can speak of Carol Crawford, who I have known now for 23 years.

Carol is a native of New Jersey, was a graduate of Mount Holyoke College in 1965, with a bachelor of arts. She went to work 1 year later as a staff assistant to the President of the National Federation of Republican Women. And in 1967 she became a caseworker which, of course, in Congress is one of the entry level positions that many young people start. She became a caseworker for a Congressman from Nebraska named Bob Denney, a man who subsequently became a Federal district court judge.

When I was elected to the Senate in 1968, I came back shortly after the election to interview people for employment, and Carol was one of scores, or maybe hundreds, that interviewed with me. I hired her as my first legislative director. She was still quite a young woman and had not held this position in Congressman Denney's office long before she came with me. She was truly marvelous and extraordinary. There is no other way to describe her. I would have kept her on forever. One day, I would have made her my administrative assistant. She was, in every sense, as perfect an employee as you could hope for, whether it was dealing with constituents, the executive branch, or fellow employees. She was smart, gracious, and warm.

Then one day in 1975, she came to me and said she was leaving. I thought, oh, dear, what have I done? Why is she leaving? I was sure it must have been my fault, not hers. She said, no, that there comes a time to grow and move on. She said she was going to law school. She was then age 32, and she was going to law school, having been 10 years out of academics. She was admitted to American University and went full-time and graduated in 1978 magna cum laude.

She went to work for a short period of time for Collier, Shannon, Rill & Scott, one of the well-known law firms of the country but missed public service. She had 10 straight years of public service before she had taken off for law school.

So in 1981 she became the executive assistant to the Chairman of the Federal Trade Commission. It is a position that she held for 2 years. Bear in mind, She had no experience, particularly in my office, in matters of the Federal Trade Commission, such as antitrust or consumer protection. She went there as the personal assistant to the Chairman, and he, just as I, recognized her abilities very quickly. And in 1983 she was appointed Director of the Bureau of Consumer Protection in the Federal Trade Commission.

There are only three bureaus in the Federal Trade Commission, and the Bureau of Consumer Protection is one. Again, she has shone brightly, in that job.

In 1985 President Reagan asked her to move over to the Office of Management and Budget. There she became an Associate Director for Economics and Government in the Office of Management and Budget. She was responsible for the budgets in total of about $100 billion in all of the independent agencies, such as the Department of Transportation, and a variety of others. Again, Crawford did extraordinarily well in moving into areas that she had not dealt with before.

Again, this woman is quick and bright; she learns not only quickly, but she learns deeply. She did so well as Associate Director in the Office of Management and Budget that she was asked by President Bush in 1989, to become the Assistant Attorney General for Legislative Affairs.

She handled that job until she was nominated for the International Trade Commission 21 months ago. Twenty-one months, Mr. President. She has been kept waiting that long, through no fault of her own. There has been, and partially the fault of the administration, a foulup in the appointment of the Chairman of the International Trade Commission. There was not going to be one appointment made unless two appointees were made. After Crawford, it took a fair time to work out who the second appointment would be. The second one was selected and the nomination has gone forward. That is where we are now.

To the extent that one Senator can vouch to another about the capability, the decency, the honesty of a person, I can vouch for Carol Crawford. I can vouch for her family. I attended her wedding in 1970 and attended the 20th anniversary with many of the same people who had been at the wedding 20 years earlier. I know her husband well. I have been a guest in their house and they in mine.

This is the kind of person that you want in Government. This is a woman, who but for 5 years, the years in law school, and 2 years of law practice, has given all of her adult life to public service. So I would hope that this Senate would seize the opportunity to confirm her for a position on the International Trade Commission.

We will very seldom ever find her equal. I can assure the Senate we will not find anyone, for any position, at any time, that is better than she is.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I yield myself such time on the 20 minutes that I might need given under the unanimous-consent agreement.

Mr. President, I ask for the yeas and nays on this vote at this point.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROCKEFELLER. I thank the Chair.

Mr. President, this nomination will seem, to whomever is listening, like not a very large matter. But I can assure Senators that it is. Indeed, given the state of our economy, every nomination that affects jobs and competitiveness matters a lot.

Since the work of the International Trade Commission inevitably determines the fate of thousands of American jobs, the kind of person we place there clearly makes a difference. Ms. Crawford, unfortunately, does not have the experience, the knowledge, or the temperament necessary to make these judgments.

Fairness and objectivity is particularly important right now because of the increasingly sad state of our economy. A study by the Office of Technology Assessment, that several of us in the Finance Committee released last week, lays to rest any lingering doubts that America is sustaining its leadership position in the world trading system.

This situation that we are in, Mr. President, calls for major initiatives on the domestic front, but it also demands close attention to how well we can defend ourselves against foreign unfair trade practices that steal our jobs, steal our technology, and put our industry at risk.

We have good laws in this area, laws we are trying to defend against relentless attack in the Uruguay round, but they are complicated and they leave much to executive discretion. Therefore, it makes a great deal of difference who enforces these laws.

In that regard, Mr. President, I want to express my grave concern about the nomination of Carol Crawford, since I believe her to be unqualified to serve on the International Trade Commission. At the most basic level, the Senate's constitutional obligation to advise and consent to nominations gives us the responsibility of reviewing Presidential appointments carefully, and of raising objections when we believe they are warranted. But we also have a special responsibility in the midst of this current economic crisis to give extra scrutiny to nominees who will have the power to make the situation worse. This is such a case, in my judgment.

Ms. Crawford's nomination was approved by the Finance Committee last July by a vote of 12 to 7, the first divided vote on an ITC nominee that I recall, at least since I came to the Senate. Several of us, the Senator from South Dakota [Mr. DASCHLE], the Senator from Michigan [Mr. RIEGLE], and myself were among the dissenters and want to comment, either directly or indirectly, on our reasons for opposing Ms. Crawford.

I would like to begin that process by discussing the position to which she has been nominated, Ms. Crawford's record of experience and qualifications, and why a substantial number of committee members decided to oppose her.

The International Trade Commission rarely receives the public attention and scrutiny of, for example, the Supreme Court. Yet it is a critical agency for millions of Americans who hold jobs in import-impacted industries. While the Commission has a number of important responsibilities, its major one is to determine whether a domestic industry has in fact been injured because of imports in the various cases that come before it. That is a very complex matter.

Those cases usually involve allegations of unfair trade; dumping, for example, or government subsidies, which are decided by the Commerce Department. Our adherence to GATT rules, however, also obligates us to determine not only whether an unfair trade practice has occurred but also whether it caused injury. To make such judgments, the Commission functions as a quasi-judicial agency, conducting its own investigation, distributing questionnaires, holding hearings, and ultimately voting on each case on the question of injury.

In recognition of the importance of objectivity and neutrality in this process, the Commission by statute consists of six members, three from each party. The chairmanship is supposed to alternate between the two parties. The Commission, in addition, has adopted strict sunshine procedures to ensure the transparency and the integrity of its proceedings.

I make these points, Mr. President, to emphasize that the nature of the Commission's work requires someone with judicial temperament and objectivity, and someone with a good working knowledge of both economics and U.S. trade law, as the standards in question and their applications are very detailed and very technical.

This is both challenging and important work. Essentially the Commission has a major role in determining whether or not import relief is to be granted to American workers and American firms. Over a 9-year term literally millions of American jobs can hang in the balance of a particular commissioner's judgment. With respect to Ms. Crawford, I have two sets of concerns regarding her appointment to this position. They relate to what she has done and what she has not done.

Taking the latter first, what she has not done is accumulate any experience in, or knowledge of, trade law. She has admitted that she has no background in this field except for her work at the Federal Trade Commission where she emphasized the cost to consumers of enforcing the very laws that she would be charged with defending at the ITC.

Her tenure at the FTC was during its most ideological period when it regularly opposed affirmative decisions by the ITC.

This has led to charges that Ms. Crawford, if confirmed, would approach her task with ideological bias rather than with the judicial objectivity that the position calls for.

As evidence, some have cited the speech delivered in her name at an OECD conference in November 1984, which detailed the persistent effort of her agency, the Federal Trade Commission, to intervene in ITC proceedings on the side of the foreign producer and against the domestic industry.

As explained in the speech, the Federal Trade Commission consistently took sides against the American industry and went to some length to develop an economic analysis to backup its arguments.

Ms. Crawford has argued, in effect, that she cannot be an ideologue because she has no views on the subjects that she would be considering at the ITC.

She asks us to ignore her previous associations with some of the most ideological and biased members of the Reagan administration on trade issues, and she asks us to treat her as a clean slate.

I must say, Mr. President, that it is a novel approach, to claim ignorance as a defense against charges of bias. It seems to me, whether ignorant or biased, in either case Ms. Crawford is not qualified for the position.

Adding to what I believe is her obvious unpreparedness for this demanding technical position, is her record of employment with the Federal Government.

After her work at the FTC, Ms. Crawford was associate director of the Office of Management and Budget, OMB, responsible, among other things, for bank regulations at precisely the point when OMB was refusing to approve requests for additional bank examiners.

Indeed, Ms. Crawford is mentioned in testimony regarding this matter. In testimony before the Senate Banking Committee, the former head of the Home Loan Bank Board, Ed Gray, stated that Ms. Crawford was one of two OMB officials who rejected his request for additional funds for bank examiners, and it was the inadequate number of examiners which in fact contributed to the Government's failure to adequately supervise this country's savings and loan institutions.

Suffice it to say that I have some substantial doubt that Ms. Crawford has either the knowledge and experience, or the independence of the administration, necessary to perform the duties of this office properly.

What we have in this case, simply put, is an unqualified nominee. In my view, this seems to be a very unfortunate trend, a persistent lowering of standards, which I believe this body has a responsibility to fight.

The President is asking us over and over again to accept people who may have good Republican credentials, who have been laboring in the political vineyards for years—and all that is fine—but who clearly do not have the background or the experience to perform the important positions to which they are being nominated.

There is no better example of this than the International Trade Commission. Historically, the members have included Members of Congress, trade lawyers with years of experience, high-level public officials, and congressional staff who helped to write the laws that the Commission administers. Indeed, the nominee for the current Democratic vacancy fits into that latter category.

When it comes to Republican candidates, however, the President seems to follow a strategy based more on rewards for past service than on merit. In my view, the people deserve better than that, Mr. President, particularly the millions of Americans whose jobs will depend on how the Commission votes in future trade cases.

When people ask me what is wrong with the current nomination process, a very popular topic in light of the debate over Clarence Thomas, my response is that there is nothing wrong with it that competent nominees cannot cure quickly.

Unfortunately, Mr. President, Ms. Crawford is not in that category, in my judgment. And so reluctantly, and in full respect to the Senator from Oregon, I must ask Senators to join me in opposing her.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield 2 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri has 5 minutes under the previous order.

The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I wish I could agree with my friend from West Virginia about how delightful the confirmation process is in the U.S. Senate. I think this nomination is further evidence that something very wrong has come to the whole process. Carol Crawford's nomination was sent to the Senate on January 23 of this year. It is now, as of today, 3 days short of 10 months that this issue has come before the Senate. At last, we are ready to act.

The principal argument that is made against Carol Crawford is that she served as the Director of the Bureau of Consumer Affairs of the Federal Trade Commission, and therefore she is to be blamed for everything that happened at the FTC, whether in her Bureau or in one of the other two bureaus in which she did not serve.

She is blamed, for example, for a 1984 speech, an OECD speech, a speech which was not given by her, not written by her, and which by her account does not express views held by her. She is blamed for what was an ideological swing by the FTC under the directorship of Jim Miller. And there is no doubt about it, the FTC had as it Chairman a man named Michael Pertschuk. He served during the Carter administration. He was a very, very controversial, very bright, very interesting person—loves to fight, loves to scrap, loved controversy.

And when the Reagan administration came in, and when Jim Miller became the Chairman of the FTC, he also was a scrapper. And given the swing in ideology in the Commission, there was a lot of rhetoric that came out of the FTC at that time. But to blame the FTC generally and Carol Crawford specifically is misplaced blame.

I have visited with Carol Crawford in connection with this nomination and asked her in great detail whether she would bring to the Federal Trade Commission any particular ax to grind; whether she had some specific trade ideology that she wanted to further at the Commission.

She answered those questions in the negative, and said that her intention as a member of the ITC would be to apply the law, and to attempt to apply the law as Congress intended it to be applied.

Carol Crawford is a first-rate person. She is bright; she is able; she would be an excellent Commissioner of the International Trade Commission. I urge her confirmation by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, if I might respond to some of the arguments raised by my good friend from West Virginia. He talks about experts. The experts from the biggest CPA firms in this country—with hundreds of CPA's—cannot audit an S&L and tell us if it is bankrupt or not. There were experts who told us in 1965 what Medicare was going to cost, the best experts we had in Government, and they have been wrong ever since about the cost. There have been experts who told us that oil was going to go to $60 a barrel, and we passed a windfall profits tax and assumed we would collect $20 billion a year on it because it had gone from $3 to $12 to $30, and clearly, therefore, it was going to go up.

The best experts we had in this Government told us that. They were all wrong on all those scores. So do not give me this nonsense about experts. They can get us in as much trouble, probably more, because their presumed expertise is often not challenged.

I am telling you, when a woman that has graduated magna cum laude from law school can go from the Federal Trade Commission doing one kind of a job, to the Office of Management and Budget doing a totally different kind of a job, to the Attorney General's office doing a totally different kind of a job, and do them all well, that is better qualifications than all of the experts that you can roll in through this Senate Chamber.

But now I want to take issue specifically with one point—because this is the kind of thing that is going to cause good people to say: I do not want to be a part of this Government. That is the reference of the Senator from West Virginia to her speech at the OECD, the Organization for Economic Cooperation and Development in Europe.

What he said is untrue, and he knows it is untrue. And I deem it that way. If he wants to challenge it, he can. Carol Crawford was a pro forma delegate to the OECD Conference. It was a consumer protection conference, and she was the head of the Bureau of Consumer Protection in the Federal Trade Commission. She never went to the Conference. She never gave the speech. She never saw the speech.

I have a letter from the man who gave the speech. His name is James McCarty. He was career in the FTC, and he served from 1977 to 1979. He was the Associate Director of the FTC's Bureau of Competition. The Bureau of Competition are the ones that gave the speech. The paper was drafted within the Bureau of Competition, and Mr. McCarty gave the speech.

Carol never saw it; never wrote it; never delivered it. The reason her name was on it was because she was the delegate to the Conference as head of a Government agency, but she never went to the Conference.

Mr. President, I ask unanimous consent that the text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JAMES E. MCCARTY,
ATTORNEY AT LAW,
Denver, CO, June 26, 1991.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, DC.

DEAR SENATOR PACKWOOD: I am writing to provide information that may assist the Senate Finance Committee in its hearings on the President's nomination of Carol T. Crawford to be a member of the International Trade Commission. This letter seeks to clarify certain issues posed in my recent phone conversation with Mr. Brian Waidmann, Special Assistant to the President for Legislative Affairs.

I am presently Senior Counsel—Antitrust for U S WEST Communications, Inc., in Denver, Colorado. However, from 1977 to 1989 I served on the staff of the Federal Trade Commission ("FTC").

I understand from my conversation with Mr. Waidmann that the Committee is interested in a paper presented in Ms. Crawford's name to the Organization for Economic Cooperation and Development ("OECD") in Paris in November of 1984. Because I actually presented the paper on the Federal Trade Commission's behalf in Paris at the OECD session, I may be able to provide you and the Committee with helpful information regarding the paper.

In the Fall of 1984, a Consumer Committee within the OECD was preparing a consumer-oriented program dealing with international trade issues. The OECD invited an FTC representative to explain the agency's "Competition Advocacy" Program. Under that Program, the FTC has, for a number of years, submitted filings to various Federal and State agencies urging that competitive effects be considered in regulatory decisionmaking. Of relevance here, the FTC had submitted a number of such filings to the International Trade Commission ("ITC"). As I recall, the OECD was interested in the FTC's approach and had invited an agency representative to explain this FTC involvement in ITC proceedings.

To the best of my recollection, Ms. Crawford was invited to be the FTC's delegate purely for protocol reasons: the OECD session involved a consumer committee, and at that time Ms. Crawford was the FTC's senior manager with responsibilities for consumer protection matters. Ms. Crawford was unable to attend the OECD session, and I was asked to present the FTC's paper in her stead. At the time, I was Associate Director of the FTC's Bureau of Competition.

As I recall, Ms. Crawford had little, and probably no involvement in preparing the FTC's presentation to OECD. A written paper summarizing the FTC's Competition Advocacy Program (including its filings before the ITC) was drafted by attorneys within the agency's Bureau of Competition. The FTC's Bureau of Economics likely provided input to the paper as well. Within the FTC, those were the two divisions with principal responsibility for Competition Advocacy filings that involved international trade issues.

As a procedural matter, I believe that all three FTC Bureaus—Competition, Economics, and Consumer Protection—routinely were asked to sign off on all FTC filings made with other governmental agencies. This would include the paper presented to the OECD. In addition, a majority of the five Commissioners of the FTC also authorized all such filings. As a practical matter, however, both the Commissioners and Bureau directors usually gave considerable deference to the expertise of the Bureau (or Bureaus) that actually prepared a given Competition Advocacy filing. In the case of an ITC or OECD filing concerning international trade, for example, the Bureau of Consumer Protection Director historically would defer to the views of the Directors of the Competition and Economics Bureaus.

To the best of my recollection, this procedure was followed in preparing the FTC's 1984 paper to the OECD. As indicated, the paper was drafted within the Bureau of Competition. The only discussions I recall having concerning the paper were with Bureau of Competition staff. I do not recall ever having discussed the paper's contents with Ms. Crawford, but I believe her name may have appeared on the paper as submitted. Again, I believe that was for protocol reasons—she had been the representative officially invited by OECD.

Pursuant to the Federal Trade Commission's authorization, I presented the FTC's paper to the OECD session in Paris in November 1984. As I recall, the paper was submitted with the standard "boilerplate" FTC disclaimer on the cover. That disclaimer indicated that the paper reflected the views of the author. In retrospect, the appearance of Ms. Crawford's name on the paper was imprecise—particularly in connection with the boilerplate disclaimer. This is because the paper actually was authored by the Bureaus of Competition (and perhaps Economics), not by Ms. Crawford or her staff in the Bureau of Consumer Protection. Further, I presented the paper as the views of the FTC as an agency, not on behalf of Ms. Crawford or her Bureau of Consumer Protection.

I hope this information is useful to you and the Committee. Please do not hesitate to have your staff contact me at (303) 896-2200 if I can be of any further assistance.

Sincerely,

JAMES E. MCCARTY.

Mr. PACKWOOD. Mr. President, is that the kind of slander and libel and defamation we have to put up with in this Chamber? You can't accuse somebody of giving a speech they never saw, never wrote, at a conference they never went to. It is no wonder good people do not want to serve.

Then we have Mr. Edwin Gray, of the Federal Home Loan Bank Board, complaining that Carol would not give him any examiners and that is why we had the S&L crisis. In essence, that is the argument. Let us get it straight. To begin with, Carol did not go to the Office of Management and Budget until 1985. So anything that they might have done before she got there she is not responsible for.

Throughout Crawford's tenure at OMB, Mr. Gray had never hired enough examiners to reach the ceiling that he was allowed. The Office of Management and Budget sets a ceiling as to how many people you can hire. And if OMB determines you can have 500 bank examiners and you hire 400, it is not OMB's fault that you did not hire 500.

But, again that is neither here nor there, because when Carol Crawford testified before the Senate Banking Committee, she was asked specifically about Mr. Gray's assertion that she had specifically kept him from getting the number of bank examiners that he needed. This was her answer, under oath in the Senate Banking Committee:

> Soon after I went to OMB, Mr. Gray came to visit me. He said he would be needing additional staff resources. I made the decision instantly that he needed every additional bit of staffing resources that we could give him. I told him, literally, that he had carte blanche.

Bear in mind, this was at a time when he had not even hired as many people as he was authorized to hire anyway.

So, if we are going to talk about expertise, I will put this woman up against any expert you can name, and she will be right more often than they are. If you want to talk about judgment, this woman has more judgment in her little finger than most of us will ever have. Do you want to talk about experience? We have no lawyers on the ITC except for these two women who are being nominated now. If this is a complicated legal area, they ought to be happy to get two lawyers. They have nobody who had any previous trade experience except perhaps for Commissioner Rohr and Brunsdale.

But this woman is qualified beyond belief. And to attempt to smear her reputation and accuse her of saying things she never said at conferences she never went to, or giving speeches that she never saw or wrote, is beneath the dignity of this Senate. And I hope, if for no other reason than for those kind of charges, false charges—knowing false charges—that she would be confirmed overwhelmingly.

I thank the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from West Virginia.

Mr. ROCKEFELLER. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from West Virginia has 8 minutes and 30 seconds.

Mr. ROCKEFELLER. Does the Senator from Michigan, who is currently on the floor, wish to speak?

Mr. RIEGLE. Mr. President, I rise to oppose this nomination. Ms. Crawford has the following strikes against her:

First, she admits she has no background in trade law except for her work as a Federal Trade Commission staffer responsible for the FTC's work in dramatizing the cost to consumers of, that is, opposing, actions under U.S. unfair trade laws. These are the same laws she would have to administer at the ITC.

Second, she was at the Federal Trade Commission during its most ideological period in the Reagan administration. That deregulatory philosophy is fundamentally at odds with the culture of an independent regulatory agency like the International Trade Commission, which is supposed to administer trade law; that is, to regulate unfair trade practices.

Third, she was associate director of OMB responsible for banking regulation at a time when OMB was resisting higher funding for bank regulators. Former Federal Home Loan Bank Board Chairman Ed Gray singled out her and Constance Horner for blockings requests for higher funding.

Most nominees with limited relevant experience to the post in question can be given the benefit of the doubt. But I believe that Ms. Crawford does not merit the benefit of the doubt in view of these three strikes against her.

The International Trade Commission has two basic jobs:

First, it determines whether the domestic industry has been injured in a dumping or subsidy case. If the ITC does not find injury, then the industry will normally not qualify for relief; and

Second, it decides counterfeiting and trademark fraud cases and imposes restrictions on these types of unfair imports.

This is not a job for someone with a strong ideological or philosophical bent; this is a job for someone willing to simply administer the laws which Congress wrote, irrespective of their own philosophical beliefs about trade policy.

If the unfair trade laws are not administered impartially and faithfully—if they do not work—then our constituents have no choice but to ask Congress for help. The unfair trade laws are there to insulate Congress from scores of requests by individual companies and industries for trade legislation.

That is why it is important to put qualified people without a philosophical agenda on the International Trade Commission. That is why I oppose this nomination.

Mr. ROCKEFELLER. Mr. President, I have nothing but the greatest respect for the loyalty that the Senator from Oregon feels towards Ms. Crawford, and I would expect no less of him. And, indeed, were any of the very fine people that work with me wanting to go to a position, indeed, were nominated for a position, I would do no less. And I admire him very much for that. But I do not think that is entirely our point here.

The fact of the matter is that the International Trade Commission is just an extraordinarily complicated subject. The Senator from Oregon makes fun of experts, and he did that, I thought, rather well, rather cleverly. But underneath the concept of an expert—at least I hope the Senator would grant me this—goes a certain integrity that goes along with knowledge, knowing something about the subject. I think the Senator from Oregon would agree that if, for example, you are going to have some position that relates to the Health Care Finance Administration, your judgment may not be excellent, but knowing something about the resource base, relative value scale, or asymmetrical transitions, or behavioral offsets becomes very important, and that having a body of knowledge, if it is to be in health care, is very important. And, indeed, if one is going to be working in international trade matters, one is going to be dealing with equally complex questions such as those of the steel industry on other key sections of our company.

This Senator can remember, when he was a Governor, going before the International Trade Commission and presenting a case on behalf of a steel company from this Senator's State of West Virginia. And literally the balance of the jobs in the steel industry rested upon the decision of the members of the International Trade Commission, whether they felt that injury had been laid upon the industry. And indeed it had been.

Knowing what goes on in international trade; knowing what is involved with agriculture; knowing how it is that businesses in other countries do business—people talk about the keiretsu business in Japan. There is a very special way they do business in Japan. It is not the same as ours. They are very good at disguising what they do. They do not operate in what we would call a transparent, open manner. Knowing something about that country, or knowing something about the European Community and how its member states conduct trade with respect to agriculture, for example, how it is they put on trade barriers, are they literal trade barriers, are they nontransparent? Are they not? It is extremely complicated and it demands a certain level of expertise.

I am not suggesting that experts cannot make mistakes. Indeed they do, but they make their mistakes, when they do, at least from a body of knowledge.

Here we have a woman who has admitted that she has no views on this subject. She has no views. That is very disconcerting to me. How does somebody go into something as important as the International Trade Commission, when an enormous amount of our gross national product is involved with international trade, and she says she has no views? I am not saying she is not a very bright person, a very loyal person, a very wonderful person. But knowing something about international trade, if you are going to be on the International Trade Commission, is a matter of some importance.

She does not know about trade. She admits to not knowing about trade. We are not talking about business sending our products out of the country. We are talking only about countries who send their products into our country and who sometimes willfully do damage. That is what the International Trade Commission is meant to decide: Has injury been established?

For that, you may not have to be an expert but you surely have to have a body of knowledge, which can only come from experience. She has admitted she does not have this body of knowledge. And it absolutely defies me as to why one would eagerly go and vote for this person.

She was approved in the Finance Committee, but it was with seven votes against her. It was, in the way the Finance Committee works, a very close vote. People had substantial differences with respect to their trust in her.

The Senator from Oregon, who is my good friend and always will be, refers to the 1984 speech that Carol Crawford said she did not give. I have no argument with that. I, in fact, never said that she said she did give it. But here her name is on it. And then there is this very odd disclaimer at the bottom. And whether she gave it or not, she never ever in the years afterwards either corrected the document or admitted anything of her thinking on trade issues and whether it was anywhere different. She could have commented on it. I did not make a Federal case out of it, but it just strikes me as a pattern of inconsistency, with a person who evidently just does not have very much of a body of knowledge.

So it would be for that reason and that reason alone—that this woman has no views on international trade, something which the International Trade Commission deals with exclusively—that I would oppose for nomination.

I reserve the remainder of my time.

Mr. PACKWOOD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Oregon has remaining 5 minutes and 44 seconds, the Senator from West Virginia has remaining 2½ minutes.

Mr. PACKWOOD. I will again refer to the OECD speech. The Senator from West Virginia says she has not denounced it. First, she never knew her name was on it. The name appears as a matter of pro forma, because she was the delegate.

Now years go by. This is a 1984 speech. She never knew it was given. She never knew what was in it. She never saw it and no one ever asked her about it. And then suddenly, 7 years later somebody says, "What about that speech you gave in 1984 in Paris?" And she said, "What speech?" She has argued that the views in that speech are not hers, and she was blindsided, as we all are so often.

I wonder how many times we are asked, "How could you have written a letter like that?" Because 400 or 500 letters a day go out of your office over your signature and you do not see every one. And one day, one goes out that does not represent your views, unintentionally, and you are stuck with it.

Mr. President, I will come back again to an important point. I hope that we are not starting down the path where we are going to be governed by experts, because I know what happens: They tune out everybody that is not expert in their field and when they make a mistake it is a big one.

I would rather have somebody with intelligence, judgment, balance and a breadth of experience on the commission. Someone who has proven that she can move from the personal assistant to the Chairman of the Federal Trade Commission, to the head of the Bureau of Consumer Protection, to the Office of Management and Budget where she oversaw the Department of Transportation and other agencies, totaling about $1 billion in budget, and then on to the Attorney General's Office.

If that is not a variety of experience, if that is not proof you can handle the job given to you, then there will never be enough proof.

I will say, again, Mr. President, this woman is qualified beyond belief. She has given her life to public service in this country, and we will be lucky if we confirm her for the position on the International Trade Commission.

I reserve the remainder of my time.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN.) The Senator from West Virginia.

Mr. ROCKEFELLER. In view of the fact that the Senator from Michigan is not going to be speaking and 10 minutes has been allotted to him, does the 10 minutes that is allotted to him go to the opposition?

The PRESIDING OFFICER. Under the previous order, the order agreed to, time unused goes to the chairman and the ranking member of the Finance Committee.

Mr. ROCKEFELLER. Might I ask of the Chair if I am a manager on this side, so to speak, would the 10 minutes go to me?

The PRESIDING OFFICER. Under the order, it would not go to the managers, but under the order it went to the chairman and the ranking member of the Finance Committee. That would, therefore, in the Chair's understanding, mean that the 10 minutes of Senator RIEGLE would go to the chairman of the Finance Committee. Senator BENTSEN could yield that time.

Mr. ROCKEFELLER. The Presiding Officer has made himself clear.

Mr. President, my friend from Oregon is talking about one of our International Trade Commission members, Mr. Seeley Lodwick. I would have to say I take some satisfaction, as I look at his résumé, in that he has been an Under Secretary of Agriculture for International Affairs and Commodity Programs. He is far from simply "a farmer."

It occurs to this Senator, the International Trade Commissioners are dealing with section 201 which has to do with injury, dealing with dumping and countervailing duty laws; they are dealing with section 337 which has to do with patent infringement and other matters, extraordinarily complex.

I understand the desire of the Senator from Oregon to have this confirmation successful for somebody who has worked for him. But I would point out to my colleagues that 17 percent of our gross national product, Mr. President, is in fact involved with international trade. I would point out that for every $1 billion of exports, there are 23,000 jobs involved.

In this case, we are talking about imports which have the reverse effect on jobs. Indeed, that is why industries go to the Commission—to halt injury and job loss. If foolish judgments are made by the International Trade Commission, we all suffer.

We will have a $65 billion trade deficit this year, Mr. President. That is an enormous burden to the economy of this country. It is an enormous burden to the people of my State. When the coal miners of southern West Virginia are thrown out of work because of dumping practices that relate to the steel industry, that is not only felt in the steel industry, that is felt in the coal industry.

People do get thrown out of work, Mr. President, because of import injury. That is what the International Trade Commission decides. Carol Crawford says that she has no views on these matters. I consider that wholly insufficient as a criteria for nomination and certainly for confirmation, and I oppose her confirmation and reserve the remainder of my time.

Mr. PACKWOOD. Mr. President, I have no objection to the distinguished Senator from West Virginia using—Senator BENTSEN indicated he has no objection—to his using his time.

Mr. ROCKEFELLER. This Senator has no further use for the time, if the Senator wishes to make a closing statement on behalf of Ms. Crawford.

Mr. PACKWOOD. Senator SPECTER is coming. Senator SPECTER wants to speak for 2 minutes.

Mr. ROCKEFELLER. I reserve the remainder of my time.

Mr. PACKWOOD. Mr. President, I would like to read one more thing. The Senator from West Virginia said he is surprised Ms. Crawford had not renounced this speech in 1984. I will read from the hearings before the Finance Committee in which she said:

> I was stunned to learn for the first time only 6 weeks ago that a paper was presented in my name in 1984 that expressed views concerning trade policy that are not and never have been my views. It is my understanding that this paper has been circulated to members of this committee.
>
> Trade laws on the matters dealt with in the paper are very clear. I was shocked to read the substance of the paper, and appalled moreover to hear that some have understood it to reflect my views.
>
> Let me say to each and every member of this committee the paper, most emphatically, does not reflect my views. I strongly disagree with the substance of the paper, now that I have read it. It presents an interpretation of the laws administered by the ITC that I believe is incorrect. In fact, I don't even believe the interpretation is permitted under the terms of the statute. I welcome, therefore, this opportunity to correct the record.

And so at least to the extent my good friend from West Virginia says she has no views, she certainly has views that are in opposition to the OECD paper that was presented in Paris in 1984.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized, and has 2 minutes in his own right under the previous order.

Mr. SPECTER. I thank the Chair.

Mr. President, I am pleased to lend my views in support of the nomination of Carol Crawford to be a member of the International Trade Commission. I have known Miss Crawford from her work as an assistant attorney general for legislative Affairs and have been very much impressed with her capability and her professionalism, so that when I heard her nomination would be on the floor I wanted to come over and state the contacts I have had with her and my views of her competence for this importance position.

In noting her résumé, I see that she is magna cum laude from law school at American University, which is not easy to obtain, and that she has been a public servant for some 18 years; she has had some very difficult assignments, such as being legislative director to Senator BOB PACKWOOD. Having that kind of an assignment, I would say that she has had a good indoctrination as to what happens on Capitol Hill.

I had not known until I reviewed the résumé that she had worked as a legislative director for Senator PACKWOOD, but in the work that I had with her when she was Assistant Attorney General for the Department of Justice, brought nominees over and had a fair amount of contact on matters where the Judiciary Committee interfaced with the Department of Justice, I can see her sensitivity for Capitol Hill relations.

I note that she has been the Director of the Bureau of Consumer Protection of the Federal Trade Commission. She has been Associate Director of the Office of Management and Budget. She is very much a professional.

The International Trade Commission is a very important Commission. It certainly impacts with great importance on trade policy for the United States and has been very important to my own State of Pennsylvania.

Based on the experience I have had with her, and the résumé I see, I believe she is well qualified for the International Trade Commission, and I urge my colleagues to support her.

I yield the floor.

Mr. DASCHLE. Mr. President, again the Senate is confronted with a nominee who is not qualified for the position. Carol Crawford is not qualified to serve as a member of the International Trade Commission, and I fear that her confirmation could undermine the enforcement of our effort to ensure fair trade. The result will be higher trade deficits and the further weakening of our industrial and agricultural base. For these reasons, I urge the Senate to reject this nomination.

We must send a message to the administration that we will not accept nominees who lack the experience, knowledge, training, and education to perform the jobs for which they are nominated. We also must not allow officials who are not committed to the enforcement of our trade laws to undermine these laws and jeapordize our economy.

The International Trade Commission plays a critical role in our economic policy. The ITC assures American producers a level playing field. Thousands of businesses and millions of jobs depend on this agency to enforce the laws designed to protect against unfair trade. It offers a forum where American producers' grievances will be heard and addressed. By enforcing U.S. trade law, the ITC promotes freer and fairer trade by encouraging other countries to give up their unfair practices and trade fairly. A role of such importance should not be entrusted to persons who are not qualified for, or committed to, the assignment.

Ms. Crawford lacks any experience in and knowledge of trade laws. This is a fact that she admits. Her only exposure to this field was during her service at the Federal Trade Commission, in which she sought to defeat the purpose of the laws she now would be responsible for enforcing. During her tenure, the FTC opposed affirmative decisions by the ITC on behalf of American producers injured by unfair trade. Her name is on a 1984 speech detailing the FTC's efforts to take sides with foreign interests against American producers in ITC actions.

Ms. Crawford says now she never delivered or approved the speech, and lacks the knowledge to form a strong philosophy concerning the enforcement of U.S. trade law. Whether or not she delivered the speech, it portrays an FTC that during her tenure was hostile to the ITC's enforcement of U.S. law against unfair trade. Her service in the agency in that period raises serious questions concerning her commitment to enforcement of U.S. trade law.

By using her ignorance of trade law to avoid tough questions concerning her philosophy, Ms. Crawford fits a disturbing and familiar pattern of Bush administration nominees. This maneuver, which is designed to circumvent the Senate's constitutional responsibility for advice and consent, must not be tolerated.

Beyond the questions concerning her qualifications and commitments are questions raised by Ms. Crawford's record in other government positions. I am not permitted under the unanimous consent agreement to discuss some of these issues. I will say only that these questions further undermine my confidence in Ms. Crawford's fitness for a position as important as a member of the International Trade Commission.

In summary, Mr. President, U.S. trade law is too important to our economy and the personal well-being of millions of Americans to be enforced by novices who are learning on the job. Ms. Crawford lacks the experience and knowledge to perform this important responsibility. Various episodes in her background also raise questions concerning her commitment to the enforcement of U.S. trade law and her conduct in office. For these reasons, I urge that the Senate reject her nomination to the ITC.

Mr. SANFORD. Mr. President, I rise to join a number of my colleagues from the Finance Committee in opposing the nomination of Carol Crawford to be a member of the International Trade Commission.

I do so because I am deeply troubled by the trade deficit our country faces and the harm that those deficits have caused to our domestic industry and American workers. I also am concerned that Ms. Crawford lacks the needed expertise and background in trade law.

Indeed, Ms. Crawford admitted during her confirmation hearing that she has no background in trade law. At a time when our Nation is being flooded with imports, when too many workers are watching their jobs get traded away and domestic companies complain that relief from unfairly traded imports is extremely hard to come by, I think we must have an International Trade Commission that fully understands our trade laws and the need to rigorously enforce them. I do not believe that Ms. Crawford has demonstrated that she has that expertise. I think the workers of North Carolina are entitled to know that their jobs will be protected from cheap imports made with subsidies abroad or from products that are dumped in our market. I simply do not think Ms. Crawford is qualified to take on those responsibilities as a member of the International Trade Commission.

Mr. HATCH. Mr. President, Carol Crawford is a friend of mine. She and her husband are fine people and both believe in giving back to our Government and the people.

I knew Carol before she served at Justice. Her tenure at Justice was a difficult one but she conducted herself with intelligence, dignity, fairness, and compassion. She did well and I was proud of her.

She will do a good job in this position and I strongly support her. I hope our colleagues will support this nominee. You will not be sorry.

Mr. SIMPSON. Mr. President, I would wish to add my voice to the chorus of accolades being extended today to Carol Crawford on her confirmation by the Senate as an ITC Commissioner. She will swiftly and clearly demonstrate that our confidence in her is not misplaced. I am very confident she will thoughtfully and judiciously apply the laws entrusted to the International Trade Commission in order to responsibly provide fair and effective remedies to U.S. industries that are affected by foreign imports.

It has been my sincere personal pleasure to have known Carol Crawford and her husband Ron since my first days in this body, nearly 13 years ago. I have observed her career—careful observing her rise through the ranks of this city of Washington—from her days at Congressional Quarterly to her time as a staff researcher in the House of Respresentatives and then to the Senate, where she served our colleague BOB PACKWOOD with true distinction and total loyalty for more than six years. She then polished up her legal talents in two Washington firms before joining the Federal Trade Commission, the Office of Management and Budget and the Department of Justice. In each case, Carol demonstrated ability, dedication, a team spirit, and an outstanding sense of duty.

Carol Crawford is surely the right person in the right place at the right time. The ITC will benefit, and therefore our Nation will benefit, from the independent thought and inner strength she will bring to the job. In Washington, many people "talk the talk." Carol Crawford "walks the walk." She gets things done. At a time when we, as a nation, can ill-afford to become protectionist, Carol brings the free trade attitude to a world so prone to isolationism. She is goal-oriented, balanced, and fair. She is a woman of uncommon common sense. These traits have brought her to this new challenge, and will continue to serve her well. And we will all benefit greatly from it.

Over the years, my wife Ann and I have greatly enjoyed our times with Carol and Ron Crawford. They are individuals of enormous substance, wit, and charm—and they top it all off with a delightful sense of humor.

Mr. President, I am so very pleased by today's vote to confirm Carol Crawford as our newest ITC Commissioner. She will make us very proud.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PACKWOOD. I am prepared to yield back the time if the Senator is.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, let me just close briefly and then I will be glad to yield back whatever time is remaining.

I think we are talking about standards, and I think we are talking about independence. The International Trade Commission is a quasi-judicial body. It requires independent judgment. It calls for it.

Carol Crawford is undoubtedly a very bright and a very able person. When she worked for OMB, she worked for perhaps the most political and most ideological agency and director that we have seen in a long time. You cannot mix politics and ideology and the International Trade Commission together without doing serious damage.

It seems to me that the nominating process and confirming process is extraordinarily important. We have gotten into a habit in this body of saying yes too often. I bear no grudge to Carol Crawford and wish her well in life but not on the International Trade Commission. I do not believe she has—indeed, she feels she does not have—any views on international trade. That kind of information is important.

I am not at all convinced that she would be independent. In fact, I am persuaded she would likely do the bidding of the administration. I find that offensive. I find that not up to the standards to which the Senate ought to reach.

I would, therefore, urge my colleagues to vote against her confirmation because of the need for independence and knowledge on something so incredibly important for jobs in this country as the International Trade Commission.

I thank the Presiding Officer, and I yield the remainder of my time. I thank my good friend from Oregon.

Mr. PACKWOOD. I thank my good friend from West Virginia, and Senator DOLE has indicated he is prepared to yield back his time also.

The PRESIDING OFFICER. The Chair informs Members of the Senate that it is the Chair's understanding Senator RIEGLE still has 10 minutes which has been delegated to the chairman of the Finance Committee. Senator DOLE has 5 minutes, which I understand has been yielded back.

Mr. PACKWOOD. I was under the impression that Senator RIEGLE was not going to talk, and that the Senator from West Virginia was using his time, that when he was done that was going to be yielded back also.

Mr. ROCKEFELLER. The Senator from Oregon is entirely correct.

The PRESIDING OFFICER. Without objection then the Chair understands that all time heretofore set aside for purposes of the debate on the nomination of Carol Crawford as allocated under a previous order is yielded back.

The question is, Will the Senate advise and consent to the nomination of Carol T. Crawford, of Virginia, to be a member of the U.S. International Trade Commission. On this question the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mr. CRANSTON], the Senator from Ohio [Mr. GLENN], the Senator from Iowa [Mr. HARKIN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 33, as follows:

[Rollcall Vote No. 260 Ex.]

YEAS—59

Akaka
Bond
Breaux
Brown
Bryan
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kohl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Reid
Robb
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—33

Adams
Bentsen
Biden
Bingaman
Boren
Bumpers
Burdick
Byrd
Daschle
Dodd
Exon
Ford
Fowler
Gore
Graham
Hollings
Kerry
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Nunn
Pryor
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wofford

NOT VOTING—8

Baucus
Bradley
Conrad
Cranston
Glenn
Harkin
Kennedy
Kerrey

So the nomination was confirmed.

NOMINATION OF JANET A. NUZUM OF VIRGINIA TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION

The PRESIDING OFFICER. Under the previous order, the nomination of Carol T. Crawford having been confirmed, the Senate will now proceed to the consideration of the nomination of Janet A. Nuzum, of Virginia, to be a member of the U.S. International Trade Commission.

Further, under the previous order, the nomination is deemed confirmed without debate; that the motion to reconsider be tabled; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The nomination considered and confirmed is as follows:

Janet A. Nuzum, of Virginia, to be a member of the U.S. International Trade Commission for the remainder of the term expiring June 16, 1996.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

REGARDING THE APPOINTMENT PROCEDURES OF THE U.S. INTERNATIONAL TRADE COMMISSION

The PRESIDING OFFICER. Under the previous order, the Senate Committee on Finance is discharged from further consideration of H.R. 3624, a bill regarding the appointment procedures of the U.S. International Trade Commission, and the Senate will proceed to its immediate consideration; the bill is deemed read a third time, passed, and the motion to reconsider be laid on the table.

So the bill (H.R. 3624) was deemed read a third time and passed.

Mr. BENTSEN. Mr. President, the bill that we are approving today is intended to correct serious problems that have arisen in connection with the appointment of Commissioners to serve as chairpersons of the International Trade Commission [ITC]. I introduced identical legislation last month (S. 1881), and I want to take this opportunity to describe the bill and to explain why I think its passage is necessary.

Congress struggled for years to find a workable administrative structure for the ITC which would not compromise the agency's mission as both an independent source of knowledgeable trade advice to the Congress and the executive branch and as an independent arbiter of trade cases. The solution found in 1977 ensured that no single political party or individual could exercise undue influence over the Commission on substantive issues.

That delicate balance has now been upset because the administration has refused to comply with the law the Congress so carefully drafted and, in so doing, has sought to politicize the International Trade Commission—contrary to Congress' express desires.

Let me explain, and let me begin by putting our current situation in a historical context. Under the structure that prevailed until 1977, each Commissioner bore equal responsibility for the administrative details of running the Commission. That deflected the time and attention of all of the Commissioners from their main substantive concerns and created an administrative deadlock. Congress debated the problem for 2 years—in 1976 and 1977—and finally devised what we thought was a decent solution. Throughout that 2-year debate, we maintained that we should avoid politicizing the agency, undermining its independence, or creating a situation in which one Commissioner or one political party could unduly influence the substantive agenda of the Commission.

The balance that we stuck in our 1977 legislation was a careful one. We provided that the President appoint a Commissioner as Chair and Vice Chair for a 2-year term. We vested the day-to-day administrative responsibilities in the Chair, subject to disapproval by a majority vote of the Commissioners. We made the Chair responsible for initiating budget matters, and provided the chair with the authority to dismiss senior supervisory employees—both responsibilities subject, however, to majority approval of the Commissioners.

As a counterweight, we provided that the chairmanship should rotate between political parties every 2 years, and that the vice chairperson be of a different political party than the chairperson. We stated clearly at that time that the new structure we adopted was intended to strengthen the independence of the Commission—and not permit the Commission to become merely another tool of the executive branch.

The delicate balance that we struck in that legislation has been deliberately undercut by the administration in recent years. Instead of complying with the law, the administration has chosen to ignore it.

Let us take a look at what has happened in the past several years, bearing in mind that the statute clearly calls on President to name a chairperson for a 2-year term, and to rotate the chairmanship between political parties. In June 1986, the President named a pro-Republican independent as chairperson. Her vice chairperson was also a Republican. When it came time to name a new chairperson in June 1988, after some delay, the President named a Republican. In June 1990, a new chairmanship term began. Instead of naming a Democrat to that position—as the law requires—the President has simply refused to designate a chairperson at all. Instead, he has named the former Republican Chair to serve as Vice Chair, and in that capacity, she has acted as Chairperson.

Now, almost 18 months of a 24-month term have elapsed—a term in which a Democratic Commissioner was to have headed the agency—and the President still has not designated a Democrat to serve as Chair. Thus, a Democrat has not served as Chair since 1986, and that is clearly contrary to congressional intent.

It is more than that. It is an outrage—and a striking example of bad Government by this administration.

H.R. 3624 attempts to correct this situation—a correction which, frankly, would not have been necessary if the President had implemented the law as intended. First, the bill attempts to prevent future manipulation of the statute by providing that, where the President fails to appoint a Chairperson as of the date of a new 2-year term, the Commissioner with the longest period of service who is a member of an eligible political party; that is, not a member of the same political party as the immediately preceding Chairperson, shall serve as Chairperson until the President makes his designation.

Second, the bill seeks to correct, at least partially, the imbalance that the administration has created when it manipulated the chairmanship to achieve, in effect, almost 6 years of a Republican chairmanship. The bill would require the President to appoint a Democratic Chair for the term beginning in June 1992.

Finally, the bill also amends the eligibility requirements for chairperson by providing that only Commissioners who have served at least 1 year as a Commissioner are eligible to become Chairperson. The current rule provides that the two most junior members of the Commission are ineligible to serve as Chairperson. That rule has created unexpected anomalies, such as Commissioners with long periods of service being ineligible to serve as Chair because of the failure to make prompt appointments to the chairmanship. I expect that the new rule will be more workable, while still preserving the requirement that only experienced Commissioners may serve as Chairperson.

It is my belief that these modifications will help to restore to the International Trade Commission the independence and the balance that Congress has fought to preserve—and reverse the trend toward increasing politicization that Presidents Reagan and Bush have promoted.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my intention that the Senate will next proceed to the supplemental appropriations bill. I have discussed the matter with the chairman of the Appropriations Committee, the ranking member, and the distinguished Republican leader, and have requested consent of the Republican leader to proceed to that bill at this time.

He advises me that he is not able to give that consent at this time but will be meeting and consulting with several of his colleagues shortly, and he indicated that he would respond to me in the very near future, hopefully within the next half hour or so, on whether or not we will be able to proceed to that bill this evening.

As all Senators know, if we do not get consent, then we will have to file a motion to proceed and a cloture motion on the motion to proceed to the supplemental appropriations bill, which we will do, if necessary. That would simply, of course, result in a substantial delay in getting to that bill.

We hope that we can begin the bill and make good progress on it this evening. There are a number of other matters that require the attention of the Senate, which I will shortly undertake while awaiting a response.

But Senators should be aware that the possibility of taking up important legislation and having votes later this evening does exist. That may occur, and Senators should remain close to the Capitol until such time as we are able to make a definite statement in that regard.

So, I want to repeat: We intend to go to the supplemental appropriations bill. It is my hope that we can begin it this evening if we can get consent to do so. If not, we will file cloture on the motion to proceed and then get to it as soon as we can under the rule.

In the meantime, I hope to be able to say one way or the other in that regard within a half hour or so and will so advise Senators as soon as I receive that information.

There will be other business conducted in the meantime that will not require rollcall votes.

Mr. President, I know the distinguished Senator from Kansas wished to be recognized, and so I will yield the floor at this time for her to make her statement. And then I will seek to conduct the other business after that.

Mrs. KASSEBAUM. Mr. President, I thank the majority leader.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM pertaining to the introduction of Senate Joint Resolution 234 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. KASSEBAUM. I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 1998 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,440th day that Terry Anderson has been held captive in Lebanon.

We read each day now that the hostage crisis that has persisted for more than 7 years is, at long last, drawing to a close. And the developments over the last few months certainly point to this conclusion. Mr. President, I ask unanimous consent that an Associated Press chronology of recent events be printed in the RECORD at this time.

There being no objection, the chronology was ordered to be printed in the RECORD, as follows:

BRIEF LOOK AT RECENT HOSTAGE DEVELOPMENTS IN MIDDLE EAST

Here is a brief look at recent developments in the Mideast hostage situation:

Aug. 8 British hostage John McCarthy is freed. French aid worker Jerome Leyraud is kidnapped in Beirut. A little-known group called the Organization for the Defense of

Prisoners' Rights claims responsibility and says it will kill Leyraud if another Westerner is freed.

Aug. 11 Leyraud, 26, is released in good condition. Hostage Edward Tracy is freed in Beirut.

Sept. 11 Israel releases 51 Arab prisoners and the bodies of nine Arab guerrillas as demanded by pro-Iranian groups, after receiving confirmation that an Israeli serviceman missing in Lebanon was dead. Israel said it released the prisoners in recognition of the U.N. chief's efforts to secure a broad-based hostage deal involving the 11 Western hostages.

Sept. 13 The body of an Israeli soldier missing in Lebanon since 1983 is returned to the Jewish state. Israel allows the return of a deported Palestinian.

Sept. 24 Briton Jack Mann is released in Beirut by the Revolutionary Justice Organization, a Shiite Muslim faction.

Oct. 6 In a videotape, Terry Anderson urges all parties to accelerate negotiations to free Western hostages and that hundreds of Arab prisoners held by Israel deserve freedom, too.

Oct. 19 Israel announces it has received proof that another of its servicemen missing in Lebanon is dead.

Oct. 21 Israel and its allied militia in Lebanon free 15 Lebanese prisoners.

Oct. 22 American professor Jesse Turner is released by the Islamic Jihad for the Liberation of Palestine.

Nov. 15 U.N. chief mediator on the hostage issue, Giandomenico Picco, leaves New York for the Mideast.

Nov. 17 The Tehran Times, the English-language Iranian newspaper, says an American and an British hostage will soon be freed on humanitarian grounds.

Nov. 18 Islamic Jihad releases American Thomas Sutherland and Briton Terry Waite.

MASSACRE IN EAST TIMOR

Mr. MOYNIHAN. Mr. President, the illegal and bloody occupation of East Timor continues. For 16 years, Indonesia has occupied this unfortunate former Portuguese colony. within months of Indonesia's invasion, 10 percent of the native population has been killed, a figure comparable to the percentage losses suffered by the Soviet Union during the entirety of the Second World War. Today some estimates place the figure at about 30 percent, a figure comparable to the holocaust suffered in Cambodia under the Khmer Rouge.

On November 12, 1991, Indonesian troops opened fire on unarmed civilians attending a memorial ceremony at a cemetery in East Timor. A minimum figure for the death toll is 100; other estimates suggest that the toll was closer to 200. Reporters covering the massacre were savagely beaten. And yet, in a genocidal war which has had too few video images to capture the attention of the world, some film of the massacre survived. It stand as an irrefutable indictment of the ferocity of the Indonesian response to even peaceful protest.

Two recent articles have chronicled this sorry event. First, in an article titled "Horrid Silence Over East Timor" in the Washington Post, Mary McGrory denounces both Indonesia's actions and the world's indifference with her usual eloquence. Second, Juan Gonzalez writes in the New York Daily News that "The blood of East Timor can't draw much U.S. ink." I ask unanimous consent that both these articles be printed in the RECORD.

Mr. President, at the time of Indonesia's invasion, I served as the U.S. Permanent Representative to the United Nations. Our response to this event, as to Morocco's invasion of western Sahara was determined by the State Department's cold war perspective; Indonesia and Morocco were, at least tacitly, United States allies and, thus, the United Nations was to take no action to effectively frustrate their actions. As I have written, it is clear that both invasions violated international law. Indeed. The International Court of Justice had written an opinion specifically finding that western Sahara was not a possession of Morocco and was entitled to the right of self-determination. This fact had little purchase in Washington of the day. It would be a mistake to think that I found these events—or U.S. policy concerning them—anything less than tragic and misguided. The United Nations was being used as a cold war battle ground, rather than a mechanism to enforce international law. As I wrote, "the Charter was being drained of meaning." My writings on United States policy toward East Timor reflected the irony of our failure to enforce a rule of international law which we had largely put in place, and I would hope that it would be recognized as such.

Mr. President, with the cold war over it is time to work to redress some of the errors of the past. If the President's new world order is to have meaning, then the rule of law and the Charter's flat prohibition on the use of force to resolve international disputes must be enforced. I urge the administration to work diligently to enforce the rule of law on East Timor.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 19, 1991]

HORRID SILENCE OVER EAST TIMOR

(By Mary McGrory)

You haven't seen on your home screen the horrors that have been occurring in a country you've never heard of. "No visuals," say the nets, so Americans who rely on television for their news don't know about the latest atrocity in East Timor—a little place God forgot. On Nov. 12, Indonesian soldiers opened fire on unarmed mourners in a cemetery near Dili, the capitol of East Timor.

There is, however, a "visual" available. It's the white bandage wrapped around the fractured skull of Allan Nairn, a 36-year-old correspondent for the New Yorker magazine, who with his partner, Amy Goodman, a producer for Pacifica Network news, was beaten by the murderous troops.

In a sense, Nairn and Goodman were seeing their taxpayers' dollars at work. The rifle butts which fractured Nairn's skull were M-16s, U.S. weapons provided by Washington to our friends the Indonesians. Since 1974, when the U.N. granted independence to East Timor, then a Portuguese colony, the Indonesians have refused to recognize its sovereignty. In 1975, when the military dictatorship of Gen. Suharto launched a savage invasion of East Timor, the United States made a feeble protest: Indonesia was letting our nuclear subs pass through their waters, an important Cold War consideration.

The motivation for supporting them since is totally baffling. "I've never heard a good reason," says Rep. Tony Hall (D-Ohio), one of the few members of Congress who has paid attention to Indonesia's systematic attempt to subjugate the Timorese.

Some 200,000 of a nation of 700,000 Timorese have been murdered. Others have been subjected to arrest, detention, torture, or disappearance. Although George Bush made a tremendous fuss over Kuwait, a slightly larger country that was also invaded by a neighbor, he has not raised his voice over East Timor. The Roman Catholic bishop of East Timor says 160 people died in the massacre. The Indonesian military has variously said that the crowd was "warned" and that "people who don't behave properly have to be shot."

In the wake of the massacre, we have condemned the action, called for an official inquiry, and sent our ambassador to Dili to investigate. But the administration will not support Hall's move to cut $1.9 million for military education out of the $50 million we send to Indonesia yearly. State Department spokesman Richard Boucher said we should continue to finance their education because it can "contribute to the professionalism of the military and expose it to democratic and humanitarian standards."

The reason we know anything about the latest atrocity is that a handful of Western witnesses, besides Nairn and Goodman, survived. They included Yorkshire network correspondent Chris Wenner, who has three minutes of tape of the massacre, and an Italian priest, Rento Stefani, who also has a video. They were in the crowd of thousands gathered at the gates on Nov. 12 to visit the grave of a young Timorese resistance workers who had been shot two weeks before by the military when he sought sanctuary in a Catholic church.

Nairn and Goodman went to the head of the procession as it paused at the cemetery gates, thinking Westerners conspicuously armed with cameras might inhibit violence. It was a bad guess. The soldiers began beating them with rifles. Nairn flung himself on Goodman; they hit him harder. At one point, the soldiers aimed rifles at their heads, and Goodman shouted, "Please, we are Americans, we are Americans." She held up her passport. The soliders had Nairn's.

The pair managed to board a passing truck, packed with wounded and terrified passengers, and were taken to a hospital. Nairn was bleeding from the—ears. For evidence, Amy Goodman wrapped around her waist his bloody shirt. At the airport, they talked their way onto a flight to Bali. Goodman told authorities Nairn was sick. They phoned ahead to the U.S. consul about Nairn's passport and he met them.

At Guam, their next stop, they tied up the six lines in the hospital emergency room telephoning news organizations all over the world.

They cannot imagine that this is not a major news event. Perhaps there is just too much competition in bad news about human rights in Asia. In China, Secretary of State

James A. Baker III was handed his head when he brought up human rights: Two dissidents were arrested to prevent them from talking to him. In Burma, the winner of the Nobel Peace Prize, Aung San Suu Kyi, is under house arrest. In Hong Kong, Vietnamese boat people are forcibly repatriated. In Cambodia; the chief executioner of the Khmer Rouge is brought home to join the government, the ultimate, perhaps, in what Western diplomacy has wrought in the Pacific.

[From the New York Daily News, Nov. 20, 1991]

THE BLOOD OF EAST TIMOR CAN'T DRAW MUCH U.S. INK

(By Juan Gonzalez)

With Kuwait and the Kurds, Lithuania and Uzbekistan, even Croatia, so many countries have been vying to be Washington's favorite world cause this year that our fawning national press has had enough trouble just rewriting State Department press releases and spelling names correctly.

Thankfully, there are still a few journalists around like Amy Goodman, news editor at WBAI/Pacifica Radio, and Allan Nairn, correspondent for The New Yorker magazine; the kind of reporters who risk their lives getting stories our government would rather bury.

Because of their determination to cover stories others ignore, Goodman and Nairn were witnesses to an incredible human slaughter in an obscure and forgotten country which, until recently, foreigners were not allowed to visit.

The massacre happened on Nov. 12 in the East Timor city of Dili, just outside the Santa Cruz cemetery. East Timor is the size of Connecticut and is east of Indonesia and north of Australia.

By our government's own estimate, as many as 100 unarmed people were shot in cold blood by occupying Indonesian soldiers. Other estimates are as high as 200 dead.

This is only the latest in a series of killings and human rights violations that have left more than 200,000 East Timorese dead since 1975, roughly a third of the country's total population. We're talking genocide comparable to Cambodia's killing fields or to any Saddam Hussein atrocity.

"It's the site of one of the great holocausts of this century and few people have ever heard of it," said Nairn, who has been following events there for years.

The former Portuguese colony was granted its independence in 1975. But on Dec. 7 of that year, two days after President Gerald Ford and Secretary of State Henry Kissinger visited Indonesia and met with Gen. Suharto, the right-wing military dictator of the mostly Muslim country, Suharto invaded and annexed his newly independent and Catholic neighbor.

Just as in last year's invasion of Kuwait by Iraq, the United Nations Security Council immediately condemned the invasion and demanded the prompt withdrawal of Indonesian troops. But there were no blaring headlines in any U.S. newspapers, as there were with Kuwait or Croatia.

In fact, our own New York senator, Daniel Moynihan, then UN ambassador, boasts in his memoirs of having successfully prevented any UN action against Indonesia.

Since then, our government has continued to provide economic and military aid to Suharto's regime, amounting to nearly $70 million last year, while Indonesian troops continued their repression of the Timorese freedom movement.

Goodman, Nairn and a handful of European reporters arrived in Dili a few weeks ago to report on new negotiations between Portugal and Indonesia over the future of East Timor.

On Nov. 12, they were covering a protest march honoring 16-year-old Sebastiao Gomes, an independence supporter who had been killed two weeks earlier by soldiers who stormed a Catholic church.

Several thousand protesters marched to Gomes' grave and, after hearing anti-Indonesian speeches, filed out of the cemetery.

"All of a sudden, up the road, military transports appeared and began heading toward the crowd," Goodman recalled. From another street, hundreds of soldiers, armed with M-16s, began marching in formation toward the crowd.

"We decided to go to the front because we figured as Westerners we could head off any trouble," Goodman said. "That turned out to be wrong.

"About a dozen soldiers came up around the corner, lined up and just started shooting. It was the most shocking sight. They didn't pause for a second. Bodies started dropping all around us."

Other soldiers rushed up, flung Goodman and Nairn to the pavement and began pummeling them with rifle butts, fists and boots. Nairn jumped on Goodman to protect her. Both were then dragged down another street as the shooting continued, with M-16s pointed at their heads.

"We're Americans, Americans," Nairn told them. Only those words seemed to stop the soldiers from executing them.

As the soldiers turned to beat an old Timorese man, the reporters jumped into a passing truck. They arrived at the airport hours later, Nairn still bleeding profusely. They jumped on a plane for Bali, then flew on to Guam, where Nairn was treated for a fractured skull.

A British television cameraman, Max Stahl, had been in the cemetery when the shooting started and got some footage of the panicked protesters fleeing the soldiers' bullets. Stahl buried the film in the cemetery moments before soldiers arrested him, then retrieved it after his release.

His film—the only visual proof of the unprovoked massacre—aired on English television Monday.

Over at the State Department they quickly came up with a press release condemning the massacre, and the reaction of reporters was mostly, "East what?"

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider the following nominations:

Calendar 383. James G. Randolph, to be an Assistant Secretary of Energy;

Calendar 414. William C. Harrop, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel;

Calendar 415. A. Peter Burleigh, for the rank of Ambassador during his tenure of service as Coordinator for Counter-Terrorism;

Calendar 416. John G. Weinmann, for the rank of Ambassador during his tenure of service as Chief of Protocol;

Calendar 417. John K. Blackwell, for the rank of Ambassador during his tenure of service as Representative of the United States of America on the Human Rights Commission;

Calendar 418. Thomas R. Pickering, Alexander F. Watson, Joseph V. Reed, Jr., Dan Burton, Mervyn M. Dymally, George E. Moose, Jonathan Moore, Shirin Raziuddin Tahir-Kheli, Oscar Padilla, and Margaretta F. Rockefeller, to be Representatives and Alternate Representatives of the United States of America to the 46th Session of the General Assembly of the United Nations;

Calendar 419. Richard B. Stone, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark;

Calendar 420. Michael B. McCaskey, to be a Member of the Peace Corps National Advisory Council;

Calendar 421. Richard N. Bond and Tom G. Kessinger, to be Members of the Peace Corps National Advisory Council;

Calendar 422. Ruth G. Cox and Roland H. Johnson, to be Members of the Peace Corps National Advisory Council;

Calendar 423. Reginald J. Brown, to be an Assistant Administrator of the Agency for International Development;

Calendar 424. Andrew S. Natsios, to be an Assistant Administrator of the Agency for International Development;

Calendar 425. Henrietta H. Fore, to be an Assistant Administrator of the Agency for International Development;

Calendar 426. Penn Kemble, Daniel A. Mica, and Cheryl F. Halpern, to be Members of the Board for International Broadcasting;

Calendar 427. Mark McCampbell Collins, Jr., to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development;

Calendar 428. John Condayan, to be an Associate Director of the U.S. Information Agency;

Calendar 429. Jose A. Costa, Jr., Joseph F. Glennon, to be members of the Advisory Board for Cuba Broadcasting;

Calendar 430. Charles Tyroler II, to be a member of the Advisory Board for Cuba Broadcasting; and

Calendar 431. Pamela J. Turner, to be a member of the U.S. Advisory Commission on Public Diplomacy, and

All nominations placed on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en block, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

James G. Randolph, of Oklahoma, to be an Assistant Secretary of Energy (Fossil Energy).

DEPARTMENT OF STATE

William Caldwell Harrop, of New Jersey, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

A. Peter Burleigh, of California, A career member of the Senior Foreign Service, class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Coordinator for Counter-Terrorism.

John Giffen Weinmann, of Louisiana, for the rank of Ambassador during his tenure of service as Chief of Protocol for the White House.

John Kenneth Blackwell, of Ohio, for the rank of Ambassador during his tenure of service as Representative of the United States of America on the Human Rights Commission of the Economic and Social Council of the United Nations.

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the Forty-sixth Session of the General Assembly of the United Nations:

Representatives:

Thomas R. Pickering, of New Jersey.

Alexander Fletcher Watson, of Massachusetts.

Joseph Verner Reed, Jr., of Connecticut.

Dan Burton, of Indiana.

Mervyn M. Dymally, of California

Alternate Representatives:

George Edward Moose, of Maryland.

Jonathan Moore, of Massachusetts.

Shirin Raziuddin Tahir-Kheli, of Pennsylvania.

Oscar Padilla, of California.

Margaretta F. Rockefeller, of New York.

Richard B. Stone, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

PEACE CORPS NATIONAL ADVISORY COUNCIL

Michael B. McCaskey, of Illinois, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1992.

The following named persons to be members of the Peace Corps National Advisory Council:

Richard N. Bond, of New York, for a term expiring October 6, 1992.

Tom G. Kessinger, of Pennsylvania, for a term expiring October 6, 1993.

The following-named persons to be Members of the Peace Corps National Advisory Council for terms expiring October 6, 1993:

Ruth Gardner Cox, of Texas. (Reappointment)

Roland H. Johnson, of Pennsylvania, vice Peter L. Boynton.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Reginald J. Brown, of Virginia, to be an Assistant Administrator of the Agency for International Development.

Andrew S. Natsios, of Massachusetts, to be an Assistant Administrator of the Agency for International Development, vice Philip Lawrence Christenson, resigned.

Henrietta Holsman Fore, of California, to be an Assistant Administrator of the Agency for International Development.

BOARD FOR INTERNATIONAL BROADCASTING

The following-named persons to be members of the Board for International Broadcasting:

Penn Kemble, of the District of Columbia, for a term expiring April 28, 1992.

Daniel A. Mica, of Florida, for a term expiring April 28, 1993.

Cheryl Feldman Halpern, of New Jersey, for a term expiring April 28, 1994.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Mark McCampbell Collins, Jr., of the District of Columbia, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development for a term of 2 years.

U.S. INFORMATION AGENCY

John Condayan, of Virginia, to be an Associate Director of the U.S. Information Agency.

EXECUTIVE OFFICE OF THE PRESIDENT

The following named persons to be Members of the Advisory Board for Cuba Broadcasting for terms expiring October 27, 1994:

Jose A. Costa, Jr., of Florida, vice Danford L. Sawyer, Jr., term expired.

Joseph Francis Glennon, of Florida.

Charles Tyroler II, of Virginia, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1992.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Pamela J. Turner, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1992.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Richard M. Brown, and ending Wendy A. Stickel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 29, 1991.

Foreign Service nominations beginning David Allan Alarid, and ending Carol K. Stocker, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 29, 1991.

STATEMENT ON THE NOMINATION OF JAMES RANDOLPH

Mr. WALLOP. Mr. President, on November 13, 1991, the Committee on Energy and Natural Resources favorably reported the nomination of James Randolph to be Assistant Secretary for Fossil Energy for the Department of Energy by a vote of 19–0.

Mr. Randolph is very well-qualified to take on the responsibilities of directing the Department's fossil energy programs. Following a distinguished military career in the U.S. Air Force and retiring as a major general, Mr. Randolph joined Kerr McGee Corp. He served from 1976 through 1988 as president of Kerr McGee Coal Corp. and retired in January 1989 as senior vice president, coal and uranium, Kerr McGee Corp. Mr. Randolph is a former chairman of the National Coal Council. He holds a B.S. degree in industrial engineering from the University of Michigan, as well as an M.S., military science from the U.S. Army Command and Staff University, and an M.S., international affairs from George Washington University.

I have urged Mr. Randolph in his new capacity to pay close attention to the use of fossil fuels as one of our Nation's natural resources. My State of Wyoming is the largest coal producing State in the Nation, and we are very interested in opening up new markets and maintaining our leadership role.

The U.S. right now has a leadership position in clean coal technology development. It is vital we maintain that leadership role, and make the technology available to developing countries such as China. As important as these technologies are to perceived international concerns about global warming, they are independently important to our Nation's effort to utilize coal in an environmentally benign manner.

Another area of concern that I have touched on with Mr. Randolph is the strategic petroleum reserve. The Congress authorized the Department of Energy to lease oil for storage in the SPR in 1990. While the Department did not get as broad authority as it would like in the recent Interior Appropriations Act, it is important that DOE initiate bilateral initiatives with countries who are prepared to lease oil for the SPR.

Mr. President, I support the nomination of James Randolph to be Assistant Secretary for Fossil Energy, and I urge my colleagues to join me in confirming him to this position.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:07 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its clerks, announced that the Speaker has signed the following enrolled bill:

S. 1475. An act to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such Act, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 1:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 1475) to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such Act, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes.

At 4:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 458. An act for the relief of Pilar Mejia Weiss;

H.R. 635. An act for the relief of Abby Cooke;

H.R. 1917. An act for the relief of Michael Wu;

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source; and

H.J. Res. 346. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 188. A concurrent resolution concerning freedom of emigration and movement for Syrian Jews;

H. Con. Res. 201. A concurrent resolution expressing the sense of the Congress relating to the need for a Conference on Security, Stability, Development, and Cooperation in Africa and commending the Helsinki Commission for its leadership on this initiative;

H. Con. Res. 214. A concurrent resolution expressing the sense of the Congress with respect to the implementation of the United Nations peace plan for the Western Sahara;

H. Con. Res. 216. A concurrent resolution concerning the use of forced labor in Chinese prisons; and

H. Con. Res. 241. A concurrent resolution expressing support for Zambia's transition to democracy.

A message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 272) to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3762. An act to amend the Metropolitan Washington Airports Act of 1986 to modify the composition of the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 226. A concurrent resolution commending the participants in the Middle East peace conference convened in Madrid, and urging them to continue their pursuit of a just and lasting peace in the Middle East.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 458. An act for the relief of Pilar Mejia Weiss; to the Committee on the Judiciary.

H.R. 635. An act for the relief of Abby Cooke; to the Committee on the Judiciary.

H.R. 1917. An act for the relief of Michael Wu; to the Committee on the Judiciary.

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source; to the Committee on Finance.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 188. Concurrent resolution concerning freedom of emigration and movement for Syrian Jews; to the Committee on Foreign Relations.

H. Con. Res. 201. Concurrent resolution expressing the sense of the Congress relating to the need for a Conference on Security, Stability, Development, and Cooperation in Africa and commending the Helsinki Commission for its leadership on this initiative; to the Committee on Foreign Relations.

H. Con. Res. 214. Concurrent resolution expressing the sense of the Congress with respect to the implementation of the United Nations peace plan for the Western Sahara; to the Committee on Foreign Relations.

H. Con. Res. 241. Concurrent resolution expressing support for Zambia's transition to democracy; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill, received from the House of Representatives for concurrence on November 15, 1991, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3508. An act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the State reported that on today, November 20, 1991, he had presented to the President of the United States the following enrolled bill:

S. 1720. An act to amend Public Law 93-531 (25 U.S.C. 640d et seq.) to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program for fiscal years 1992, 1993, 1994, and 1995.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HEFLIN, from the Select Committee on Ethics:

Special Report entitled "Investigation of Senator Alan Cranston" (Rept. No. 102-223).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 653. A bill to prohibit injunctive relief, or an award of costs, including attorney's fees, against judicial officer for action taken in a judicial capacity (Rept. No. 102-224).

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1992 (Rept. No. 102-225).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Leo P. Duffy, of Pennsylvania, to be an Assistant Secretary of Energy (Environmental Restoration and Waste Management).

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Sylvia Chavez Long, of New Mexico, to be an Assistant Secretary of Veterans Affairs (Congressional Affairs);

James Ashley Endicott, Jr., of Texas, to be General Counsel, Department of Veterans Affairs;

Jo Ann Krukar Webb, of Virginia, to be an Assistant Secretary of Veterans Affairs (Policy and Planning); and

Allen B. Clark, Jr., of Texas, to be Director of the National Cemetery System, Department of Veterans Affairs.

By Mr. BENTSEN, from the Committee on Finance:

Peter S. Watson, of California, to be a member of the United States International Trade Commission for the term expiring December 16, 2000.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER:

S. 1992. A bill to amend title XIX of the Social Security Act to provide for waivers to allow States that meet certain criteria to operate pharmaceutical benefit programs independent of the medicaid drug purchasing requirements; to the Committee on Finance.

By Mr. CONRAD:

S. 1993. A bill to improve monitoring of the domestic uses made of certain foreign grain after importation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATFIELD:

S. 1994. A bill to provide assistance to States to enable such States to raise the quality of instruction in mathematics and science by providing equipment and materials necessary for hands-on instruction; to the Committee on Labor and Human Resources.

By Mr. SPECTER:

S. 1995. A bill to provide increased access to and affordability of health care, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER:

S. 1996. A bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. KASTEN:

S. 1997. A bill to amend the Internal Revenue Code of 1986 to exclude from the social security tax on self-employment income certain amounts received by insurance salesmen after retirement; to the Committee on Finance.

By Mr. EXON:

S. 1998. A bill to adopt the Airline Consumer Protection and Competition Emergency Commission Act of 1991; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMPSON (for himself, Mr. WALLOP, Mr. HATCH and Mr. BURNS):

S. 1999. A bill to amend the Uniform Time Act of 1966 to alter the time period for Daylight Saving Time; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM (for herself, Mr. SIMON, Mr. DECONCINI, Mr. MCCONNELL, Mr. ROBB, Mr. HATFIELD, Mr. KENNEDY, Mr. MOYNIHAN and Mr. D'AMATO):

S.J. Res. 234. A joint resolution expressing the sense of the Congress regarding the Government of Kenya's November 14 through 16, 1991 suppression of the democratic opposition and suspending economic and military assistance for Kenya; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROTH:

S. Res. 225. A resolution amending the Standing Rules of the Senate; to the Committee on Rules and Administration.

By Mr. GARN (for Mr. DOLE):

S. Res. 226. A resolution on certain Minority party committee appointments; considered and agreed to.

By Mr. PRESSLER:

S. Res. 227. A resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER:

S. 1992. A bill to amend title XIX of the Social Security Act to provide for waivers to allow States that meet certain criteria to operate pharmaceutical benefit programs independent of the Medicaid drug purchasing requirements; to the Committee on Finance.

OPERATION OF STATE PHARMACEUTICAL BENEFIT PROGRAMS INDEPENDENT OF MEDICAID

Mr. DURENBERGER. Mr. President, the American drug industry is on trial. We will all hear more on this subject later in the day from some of our other colleagues, particularly, those on the Special Committee on Aging. But because of relentlessly escalating prescription drug prices, the people of this country and many of its representatives believe the marketplace has failed. A verdict in favor of Federal price regulation, which is the industry's worst nightmare, could be on the horizon.

On May 24 of this year, I came to the floor and decried the escalating prices in the pharmaceutical industry and challenged the manufacturers of the prescription drugs to justify the pricing decisions. Mr. President, I told the industry to make its case.

In the last 6 months, I have gathered a lot of evidence. I have met with the CEO's of many major U.S. firms, and toured research facilities, and talked to scientists in Government and in the private sector. I met with economists at the Office of Technology Assessment and at the University of Minnesota. I spoke with pharmacists, HMO administrators, and State health officials in my State, and I have had occasion to meet some transgenic mice.

I would like to tell you what I learned. The United States has a very impressive, highly competitive, research-oriented pharmaceutical industry. In conjunction with our National Institutes of Health, which expends $8 billion in public funds on biomedical research, our pharmaceutical industry is among the most innovative in the world.

But we also pay an additional and a very high price for all that innovation. In fact, the people of the United States pay the highest prices for drugs by far of anyone in the world.

America has the only "free" market for pharmaceuticals of any major industrialized Nation. Americans are paying for research and development for the world, because most other countries are choosing to regulate drug prices.

Our market in this country may be free, but it is far from perfect. Indeed, the U.S. drug market is highly dysfunctional. Let me provide a few examples:

A functional market requires information, and information is lacking among those of us who are the buyers in the pharmaceutical market place.

Doctors are the primary decisionmakers for prescription drugs, but traditionally doctors have not concerned themselves with drug prices, with the cost effectiveness of drugs, the relationship between what it does and what it costs. Physicians have never accepted responsibility for the economic consequences of their decisions. They say it is outside of their expertise.

Traditionally, patients pay for their prescriptions without participating in the choices. The American public needs to be educated about drugs. Many have been persuaded and still believe that the more expensive and the newer the drug, the better that drug is for them.

The truth, Mr. President, is that everything that is new is not good, and everything that is good is not necessary. Cost-effective decisions are good medicine. U.S. drug consumers are not always getting what is best for them, but they, or third parties, pay as though they were.

The drug industry has not been a passive observer of this glaring lack of information in the marketplace. In fact, the industry has encouraged these dysfunctions. The drug industry spends billions on marketing and promotion to physicians, but offers little information about price comparison. The industry has fostered the idea that price is not relevant to the selection of pharmaceuticals—a notion that would be laughable in any other consumer context.

The drug industry says that it believes in a free market. Sometimes I wonder. If so, why do they not make the market work better? Many of their tactics undermine rather than support a functioning marketplace. So they wonder why governments intervene in the market or assume the role of price regulator.

There are encouraging signs that buyers are wising up by grouping up. Some HMO's, hospital organizations, and physician groups like the Mayo Clinic are managing drug benefits like other health benefits. They realize that cost-effectiveness evaluations make sense. They are educating their doctors about the value of comparing prices of pharmaceuticals. They are negotiating with the drug companies on the basis of complete information, not marketing hype.

Some of the concessions that the industry won in OBRA 1990 in the Medicaid drug rebate program undermine the ability of Medicaid administrators to manage as effectively as HMO's. I am today introducing S. 1992, a bill to allow creative State Medicaid programs to obtain waivers in order to engage in cost-effective drug benefit management. If the drug industry believes in the marketplace, it will support my approach. I ask unanimous consent that S. 1992 be printed in the Record.

There being no objection, the text of S. 1992 was ordered to be printed in the Record, as follows:

S. 1992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF MEDICAID REQUIREMENTS TO ALLOW CERTAIN STATES TO OPERATE INDEPENDENT DRUG PURCHASING PROGRAMS.

(a) In General.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended by adding at the end the following new subsection:

"(l) State Waivers.—

"(1) In general.—The Secretary shall provide for 2-year waivers from the requirements of subsections (a), (b), (c) and (d) to States that submit applications to the Secretary that meet the requirements of paragraph (2).

"(2) State application contents.—A State seeking a waiver from the requirements described in paragraph (1) must submit an application to the Secretary that provides that the State has a plan to manage payment for covered outpatient drugs for which payments are made under this title in a manner—

"(A) that assures that total costs under such plan do not exceed what they would have been under the requirements of this section; and

"(B) that ensures appropriate and reasonable access of individuals eligible for benefits under this title to such drugs.

"(3) Administration.—The Secretary shall approve or disapprove an application submitted to the Secretary under this subsection within 90 days of receipt of such application or if additional information with respect to such an application, is requested within 30 days of receipt of such additional information. If the Secretary disapproves an application of a State under this subsection the Secretary shall notify the State in writing of such disapproval and shall include a specific description of how the application need be amended in order to be approved under this subsection.

"(4) Renewal.—The Secretary shall provide for renewal of waivers granted under this subsection for additional 2-year periods if a State demonstrates that it has met and continues to meet the requirements of this subsection.

"(5) Non-application of waivered programs to best price determinations.—The Secretary shall provide that rebate agreements entered into between States operating under waivers under this subsection and manufacturers of drugs and biologicals shall not be referenced or used in calculating best price or the amount of rebates under this section or for purposes of any other drug rebate or discount program operated by the Federal Government.".

(b) Budget Neutrality.—The Secretary of Health and Human Services shall execute the amendment made by this section in such a manner as to ensure that payments under title XIX of the Social Security Act for covered outpatient drugs described in section 1927 of such Act are no greater or less than what such payments would have been but for the amendment made by this section.

(c) Effective Date.—The amendment made by subsection (a) shall become effective with respect to payments for calendar quarters beginning on or after July 1, 1992.

Mr. DURENBERGER. Mr. President, efforts to improve the marketplace may be too little and too late.

Mr. President, today my Finance Committee colleague from Arkansas and the chair of the Senate Special Committee on Aging, Senator Pryor, is introducing a bill aimed at slowing the escalating prices of drugs. His bill reveals his frustration with this nonfunctional marketplace. I admire his efforts to address this problem and his tenacity in the pursuit of solutions.

I am sympathetic to his concerns, but not yet persuaded that his particular bill is the best remedy.

I have always supported the section 936 tax credit because it is an effective method of encouraging investment and job creation in Puerto Rico. I am not convinced that the potential reduction in section 936 tax credits contained in the bill will produce the desired result. It may very well encourage some of the drug companies to close their operations in Puerto Rico and reincorporate elsewhere. That could not only mean the loss of production jobs in Puerto Rico but the loss of R&D jobs on the mainland. From my perspective, that is too large a risk to take and, as I say, the jury is still out on this proposal.

Meanwhile, Mr. President, I am pledged to find market-based solutions to the problems of escalating drug prices. Not all these solutions need come from Congress. Why can they not come from those who provide us with medical care? How strong is the drug industry's commitment to real competition? How strong is organized medicine's commitment to controlling costs? Do they understand the economic pressures on American patients?

I want to remind the CEO's of drug companies of their responsibility to help make the market work. They should not oppose efforts to improve the functioning of the market, even if those efforts mean that buyers will be better informed and tougher negotiators.

Mr. President, some of my colleagues want to go to Canada to solve our health care problems. If the drug industry wants a Canadian-style solution, it is here on the floor. The Canadian Government has a patent medicine review board that can revoke patent protection for a durg if price increases are unjustified.

Does the industry want the Massachusetts-style solution in the Democratic leadership proposal? Do they want mandated national expenditure goals enforced by a Federal health expenditure board? If prices continue to rise, Government regulation will not be far behind.

So Mr. President, I say again, the jury is divided on the future of the pharmaceutical marketplace in America. Some have already concluded that the market will not work. And some of our colleagues will be on the floor saying that this afternoon. I still believe in the market, but even my confidence is waivering. Mr. President, the patience of the American people is wearing thin.

I urge the representatives of the medico-pharmaco industry in this country to engage in good-faith efforts to make the market work for the benefit of the American people. If they do not, their behavior will be the evidence used to sentence them to a verdict they will regret.

By Mr. CONRAD:

S. 1993. A bill to improve monitoring of the domestic uses made of certain foreign grain after importation; to the Committee on Agriculture, Nutrition, and Forestry.

MONITORING OF DOMESTIC USES OF CERTAIN IMPORTED FOREIGN GRAIN

Mr. CONRAD. Mr. President, I rise to introduce the Agricultural Trade Program Protection Act of 1991. This legislation is designed to protect the integrity of the agricultural trade and foreign food assistance programs of the United States.

Current laws require that only American agricultural products be exported under the Export Enhancement Program [EEP], the credit guarantee program—GSM 102 and 103— and the Public Law 480 food assistance program.

These trade programs are critical to helping keep American agricultural products competitive with those from highly subsidized producers in Canada and Europe. According to USDA, the effect of the European Community subsidies alone has been to idle 36 million acres of grains and oilseeds production in the United States—that, plus agricultural trade barriers in Europe and Asia, translates into about 250,000 lost jobs. Without our agricultural trade programs, the economic and job losses would be even higher.

These programs are the only trade tools we have to fight the European agricultural trade war. We cannot afford to lose them.

Unfortunately, the United States has allowed increasingly larger amounts of highly subsidized grain imports. On the west coast, imports of feed grains come from the Scandinavian countries where their farmers are guaranteed a price 3 to 4 times the market price.

In the upper midwest, increasingly higher levels of imports have come from Canada under the United States-Canadian Free Trade Agreement.

And I might say that that agreement should be termed the so-called United States-Canadian free trade agreement: so-called because it is not a free trade agreement. It is a tariff reduction agreement. It is not free trade when Canada can send its grain across the border into the United States and we cannot send one kernel the other way. That is a so-called free trade agreement.

Strangely, the United States negotiators accepted, at Canada's insistence, a provision in the agreement which allows Canada to subsidize the transportation of its grain to Thunder Bay, Canada's primary grain export terminal. From Thunder Bay it is a short boat ride to U.S. mills and grain terminals on the Great Lakes.

In my State of North Dakota, Canadian farmers simply bring their grain across the border in trucks—at which point it enters the United States grain export stream.

The Canadians are shipping increasing amounts of grain to the United States rather than to their traditional export customers, in part, because of the high EC subsidies are taking their markets as well as ours and, in part, because their system is designed to move grain to their export terminals near U.S. users and grain export elevators.

Because grain is fungible, these imported stocks become interchangeable in our internal markets and are likely to be exported under our export support programs. Today we have no practical and effective method to keep track of non-U.S. origin grain.

Let me repeat that, Mr. President. What is happening is that Canadian grain is coming into United States markets and is being exported under our export programs at the expense of the American taxpayer. Does that make any sense? It makes absolutely none. It makes no sense to allow foreign grain to enter into the U.S. grain export stream. Canada is simply using our system to sell their grain.

This commingling of United States and foreign grain can make entire cargoes of our supplies ineligible for U.S. export assistance programs, since current law requires that an eligible agricultural commodity must be produced "entirely" in the United States to be eligible for USDA-operated programs.

Unfortunately, Mr. President, there is no way to know which grain is United States-origin grain and which grain is Canadian-origin grain.

These programs were designed to help U.S. farmers combat the high export subsidies of the European Community, not to help Canadian farmers. It makes no sense to allow foreign grain to enter the U.S. grain export stream. Canada is simply piggybacking on our system to sell their grain. If we allow this to happen without restriction, it is our own fault.

Canada foresaw a similar problem in their country when negotiating the United States-Canadian Free Trade Agreement. Canada reserved the right to require "end-use certificates" on grain imported from the United States. Canada has extended the use of these end-use certificates to include fruits and vegetables imported from the United States.

We really have three choices in dealing with this problem.

First, we could eliminate our agricultural export programs, surrender in the agricultural trade war, and let the Europeans take the field. We could do that. It would cost us billions of dollars in further losses to our farmers and our national economy—not to mention that it would cost us 250,000 jobs—but we could do that.

Second, we could do nothing and let foreign grain enter our export system and export programs. A minor variation on this option is to change the law to allow Canada's grain into our export system. I am sure the Canadian farmers would be grateful for that approach, but I guarantee that the United States taxpayer would not be.

Third, we could require end-use certificates for imported grain until such time as trade negotiators reach an agreement to eliminate export subsidy programs. In other words, we could do what the Canadians are doing to us.

The legislation I am introducing today provides for option 3. It gives the Secretary of Agriculture the ability to apply the most sensible option; that is, to require end-use certificates for imported grain. This bill protects the U.S. taxpayer, protects the U.S. farmer, and helps retain U.S. agricultural markets. That is the way Canada handles a similar problem, and it is legal under the United States-Canada Free Trade Agreement.

This legislation is supported by the National Association of Wheat Growers, the National Barley Growers Association, the National Corn Growers Association, the American Soybean Association, and the National Grain Sorghum Producers' Association.

Mr. President, I ask unanimous consent to show Senator LARRY CRAIG of Idaho as an original cosponsor of this legislation.

I ask, at this point, Mr. President, unanimous consent to have printed in the RECORD the bill together with a letter from those organizations in support of this legislation, and also a Journal of Commerce article entitled "Faster Market Adjustment Needed in North American Trade."

And I also ask unanimous consent that I be allowed to have printed in the RECORD the English version of the Canadian explanation and forms for the end-use certificate program that they have in their country.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MONITORING OF DOMESTIC USES MADE OF CERTAIN FOREIGN GRAIN AFTER IMPORTANT.

(a) DEFINITIONS.—For purposes of this section:

(1) ENTRY.—The term "entry" means the entry into, or the withdrawal from warehouse for consumption in, the customs territory of the United States.

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) CERTIFICATION REQUIREMENTS REGARDING FOREIGN GRAIN.—

(1) END-USE CERTIFICATE.—An end-use certificate that meets the requirements of subsection (c) shall be included in the documentation covering the entry of any foreign grain.

(2) QUARTERLY REPORTS.—A consignee of imported foreign grain shall submit to the Secretary of Agriculture a quarterly report that certifies—

(A) what percentage of the foreign grain covered by an end-use certificate was used by the consignee during the quarter; and

(B) that the grain referred to in paragraph (1) was used by the consignee for the purpose stated in the end-use certificate.

(c) END-USE CERTIFICATE AND QUARTERLY REPORT CONTENT.—The end-use certificates and quarterly reports required under subsection (b) shall be in such form, and require such information, as the Secretary of Agriculture considers necessary or appropriate to carry out the purposes of this section, including—

(1) in the case of the end-use certificate—

(A) the name and address of the importer of record of the foreign grain;

(B) the name and address of the consignee of the grain;

(C) the identification of the country of origin of the grain;

(D) a description by class and quantity of the grain covered by the certificate;

(D) specification of the purpose for which the consignee will use the grain; and

(E) the identification of the transporter of the grain from the port of entry to the processing facility of the consignee; and

(2) in the case of the quarterly report—

(A) the information referred to in subparagraphs (A) and (B) of paragraph (1);

(B) the identification of the end-use certificates currently held by the consignee;

(C) a statement of the quantity of the foreign grain covered by each of the end-use certificates identified under subparagraph (B) that was used during the quarter; and

(D) a statement of the use made during the quarter by the consignee of each quantity referred to in subparagraph (C).

(d) REGULATIONS.—The Secretary of Agriculture shall prescribe such requirements regarding the preparation and submission of the quarterly reports required under subsection (b)(2) as may be necessary or appropriate to carry out the purposes of this section.

(e) PENALTIES.—

(1) CUSTOMS PENALTIES.—End-use certificates required under this section shall be treated as any other customs documentation for purposes of applying the customs laws that prohibit the entry, or the attempt to enter, merchandise by fraud, gross negligence, or negligence.

(2) CIVIL PENALTIES.—Any person who knowingly violates any requirement prescribed by the Secretary of Agriculture to carry out this section is punishable by a civil penalty in an amount not to exceed $10,000.

(f) ENTRY PROHIBITED UNLESS END-USE CERTIFICATE PRESENTED.—The Commissioner of Customs may not permit the entry of foreign grain unless the importer of record presents at the time of entry of the grain an end-use certificate that complies with the applicable requirements of subsection (c).

NOVEMBER 13, 1991.

Hon. KENT CONRAD,
Senate Hart Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: We are very concerned about a serious problem that has surfaced in the U.S. marketing system which threatens to cripple our ability to remain competitive and limit the amount of assistance that can be provided to developing nations and emerging democracies.

Because grain is fungible, imported stocks become interchangeable in our international markets, and we have no practical and effective method to keep track of non-U.S. origin grain. Co-mingling of U.S. and foreign grain can make entire cargoes of our supplies ineligible for U.S. export assistance programs, since current law requires that an eligible agricultural commodity must be produced entirely in the U.S. to be eligible for USDA-operated programs.

We know of your continuing interest in monitoring developments which could seriously distort U.S. grain markets. Likewise, we all have an interest in protecting the integrity of U.S.-origin grain, in order that it will not become adulterated by foreign grain, thereby making it ineligible for vital government export programs.

We strongly support your efforts to establish an "end use certificate" procedure to track imported grain and require certification of its end use. Such a system would be very similar to the import procedures applied by the Canadians to any movement of grains from the U.S. to Canada.

It is our hope that other interested farm and commodity groups will also join in support of your efforts to protect the operation of programs that are critical to our export marketing system.

Sincerely yours,
American Soybean Association, National Association of Wheat Growers, National Barley Growers Association, National Corn Growers Association, National Grain Sorghum Producers' Association.

[From the Journal of Commerce, Oct. 7, 1991]

FASTER MARKET ADJUSTMENT NEEDED IN N. AMERICAN TRADE, CANADA SAYS

(By Charles W. Thurston)

Resolution of international trade disputes often is so pitifully slow that price-sensitive markets can be temporarily hijacked by low-cost competitors long before diplomatic help arrives.

This is particularly true in the perishable fruit and vegetable industry, in which a convoy of trucks laden with as-yet-unsold produce rolling toward a market can cause the price of a commodity to sag like a rotten tomato.

In more than two years of free trade between Canada and the United States, Canadian producers suffering from alleged U.S. produce dumping have only managed to invoke a so-called tariff snapback provision in three out of nine cases.

In the three cases, an import tariff that had been in place prior to the 1989 U.S.-Canada free-trade agreement was reinstated, or snapped back, temporarily.

Seeking to fend off overly cheap loads of asparagus, peaches and tomatoes, the Canadians, dutifully measured the below-market prices, documented the commodity acreage under competitive attack and alerted U.S. authorities to gain the relief.

The bad news, alas, at least for the Canadians, has been that the market price structures were routed anyway.

"If a snapback tariff is 3% but the price of an item has fallen from 85 cents to 30 cents, what the hell does it give you?" asked Danny Dempster, executive vice president of the Canadian Horticultural Council, an Ottowa produce trade association.

Such were the terms of Canada's first use of the snapback, to protect against dumped asparagus from the U.S. West Coast in 1990.

While U.S. growers and officials may not have been particularly upset with this track record for agricultural dispute resolution until now, Mexico's entry into the proposed trilateral free-trade agreement could change the outlook.

"The United States will have to look at (the snapback provision) from an import and export perspective, recognizing that what is sauce for the goose is sauce for the gander," Mr. Dempster suggests.

Because the snapback provision in U.S.-Canadian trade requires a monitoring of import prices, a measurement of cultivated acreage of the affected commodity, and two working days of notice to the offending country, "it is likely the cost of this exceeds any potential benefits it provides," Mr. Dempster complains.

To increase the penalty, Canada is proposing the use of a tariff surcharge to complement the tariff snapback. Such a surcharge already is recognized by the General Agreement on Tariffs and Trade, the Geneva-based organization that sets world trade rules.

But while Canada recognizes the surcharge tool as useful, the United States until now has not, the Canadians point out.

But again, the situation may change now that Mexico has entered the trade picture.

In order to monitor price variations, Canada began requiring a "confirmation of sale" document for all imported produce at the same time the U.S.-Canada trade pact started. The two-page, 28-part form allows the Canadians to track supplier, sale price, transporter, buyer, point of sale, volume, tax and a host of other factors.

No such form is required in the United States, where much of imported perishable agricultural products are sold on a consignment basis.

Canadian officials have suggested that such a form be developed for trilateral use, perhaps as an electronic documents, to quicken and sharpen monitoring practices.

One impact of such a document would be to decrease consignment selling and thus decentralize U.S. produce markets, where prices have traditionally been set well after goods cross the border.

If exporting sellers and importing buyers were forced to agree on a price prior to shipment, goods would likely move more directly to end users.

An estimated 40% of all food products in the United States now go through two or more stops before they get to the customer, said Patrick Kiernan, vice president of the Grocery Manufacturers of America, a Washington trade group.

One produce distribution center that could be significantly affected is in Nogales, Ariz., which serves as the key U.S. weigh station for produce imported from the states of Sinaloa and Sonora. Situated along Arizona State Highway 19, some of the warehouses owned by the 70 members of the West Mexico Vegetable Distributors Association could be rendered unnecessary under a North American free-trade pact.

"We all fight for as much direct business as we can get. But some times the buyers won't commit to a price and you've got to use brokers," commented Alberto Maldonado, president of the association.

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1. The Canadian Grain Commission provides end-use certificates for persons requiring these certificates for the importation into Canada of wheat, oats or barley originating in the United States of America.

2. Section 87.1(2) of the Canada Grain Act states the following: "All end-use certificates accompanying grain imported into Canada pursuant to paragraph 46 of the Canadian Wheat Board Act shall be submitted to persons employed in the administration or enforcement of the Customs Act for forwarding to the Commission."

3. Section 105.1 of the Canada Grain Act states: "No person shall knowingly use any grain in respect of which an end-use certificate has been submitted in respect of grain imported into Canada pursuant to paragraph 46 of the Canadian Wheat Board Act for any use other than consumption at the facility referred to in the certificate."

4. Section 87(3) of the Canada Grain Regulations states the following: "The importer mentioned in an end-use certificate shall provide the Commission, within ten days of delivery of the grain to the consignee mentioned in the end-use certificate, with a copy of the bill of lading on which an acknowledgement and the date of receipt of the grain at the consignee's facility, have been attested to by a representative of the consignee."

5. Section 87(5) of the Canada Grain Regulations states: "The consignee mentioned in an end-use certificate shall provide the Commission, within three months after and at three month intervals after receipt of the grain mentioned in the end-use certificate, with a report in the form set out in Form 2 of Schedule XV, until the grain has been fully consumed at the consignee's facility."

6. Individual end-use certificates are required for each shipment, and are to be pre-

sented to Canada Customs at the time of importation.

7. The possession of an end-use certificate does not relieve the importer of other legal requirements pertaining to the importation, such as those required by Revenue Canada (Customs and Excise) and Agriculture Canada (Plant Protection).

CANADIAN GRAIN COMMISSION, WINNIPEG, MANITOBA

Importer's Name and Address:
Phone Number:
Description of Grain Imported:
Wheat:
Oats:
Barley:
Quantity In Net Tonnes:
Type Of Processing Facility To Which Grain is Consigned:
Miling For Human Consumption:
Miling For Animal Feed:
Manufacturing/Specify Products:
Other/Specify:
Brewing or Malting:
Distilling:
Consignee Name and Address:
Phone Number:
Transportation (insert Name Of Compay Beside Appropriate Mode Of Transportation):
Railway:
Vessel:
Truck:

I, on behalf of the importer named above, declare that I have personal knowledge of the matters referred to herein and I hereby certify that the information provide above is correct, that the grain described in this Form is consigned directly to a processing facility in Canada for consumption at that facility and I undertake to provide the Canadian Grain Commission with the required evidence of delivery of the grain at that facility within ten days of such delivery.

Name of Importer's Authorized Representative (in block letters):
Signature:
Title:
For Customs Use:
Signed on behalf of Chief Officer of Customs:
Date Stamp of Customs Office of validation:

CANADIAN GRAIN COMMISSION, WINNIPEG, MANITOBA

GRAIN END-USE CERTIFICATION CONSIGNEE QUARTERLY REPORT

Consignee's Name and Address:
Importer's Name and Address:
Import End-Use Certificate Numbers:
Quantity (in net tonnes):
Class:
Date of receipt:

I, on behalf of the consignee named above declare that I have personal knowledge of the matters referred to herein and I hereby confirm that the grain described above (insert "X" before applicable statement):

Has been fully consumed at my facility.
Has been used in part.
(i) state quantity——tonnes.
(ii) state approximate further period of time for full use:——weeks.

In accordance with the use specified in the import end-use certificate.

Name of Consignee's Authorized Representative (in block letters):
Signature:
Date:

By Mr. HATFIELD:

S. 1994. A bill to provide assistance to States to enable such States to raise the quality of instruction in mathematics and science by providing equipment and materials necessary for hand-on instruction; to the Committee on Labor and Human Resources.

ELEMENTARY SCIENCE FACILITIES ACT

• Mr. HATFIELD. Mr. President, the legislation I am introducing today focuses on the national goal of raising student achievement in science and mathematics. It will provide elementary classrooms with the basis scientific equipment and materials necessary for hands-on discovery lessons which capture the interest and imaginations of young minds.

Because children have a natural curiosity about their world, they gain scientific knowledge most effectively through investigation. Rote learning does not foster creative problem solving, higher order thinking skills, or the skills to work as a team member.

Research indicates that children form strong opinions about science and mathematics by the end of the fifth grade. They either hate it or they love it. More young students would grow to love science if they have more opportunities to do science: to explore, measure, survey, and investigate with basic tools such as hand lenses, microscopes, scales, and thermometers. These, after all, are the activities that real scientists engage in—they don't passively sit and listen to someone or read explanations from a book.

The need to revitalize the science curriculum is clear, especially in elementary schools. The Congressional Research Service estimates that science is taught in elementary schools directly from a textbook for, on the average, approximately 15 minutes a day. Even more distressing, nearly 80 percent of elementary teachers used the last period of the day, when students are least attentive, for science instruction.

The Department of Education reports that only 7 percent of high school seniors are prepared for college level courses. Seven percent is not enough! All of the citizens in a technological society must be scientifically literate. It is hard to believe that one of the wealthiest countries in the world does not provide all of its young children with the basic tools for meaningful scientific explorations.

Many teachers, even those who receive the finest training, will be unable to implement new programs without adequate resources. My legislation will provide young students and their teachers with some of the scientific equipment and materials essential for hands-on exploration and experiments.

At a time of scarce resources and competing priorities, we can give only limited amounts to this critical need. When looking for a reasonable starting point in determining a dollar amount, I wondered: What can we do with one dollar of funding for each student per year?

There are about 30 million elementary students in the 50 states, the territories, and commonwealth; 30 in formula grants each year for 3 years, with a local matching amount, would provide an average of $200 for each class of elementary students. Some classes in some schools are well-equipped and won't need this modest infusion, which will provide more to others.

Each State will coordinate grants to local education agencies, giving first priority to those agencies which— first serve large numbers of low-income students; second, address the needs of underrepresented groups in mathematics and science; and third, demonstrate the integration of grant-funded equipment into a plan for improving science and mathematics instruction.

Over 3 years, each elementary science classroom in the Nation could receive a grant under this bill. Teachers will no longer face daily the riddle of how to provide activity-based scientific experience for their young students without equipment and materials. By providing the means to enable all of America's young children to experience the excitement of engaging in science, we will strengthen America's future ability to compete, scientifically and technologically, in the global economy. A strong foundation in the sciences can be formed only by giving our young students access to the basic tools of scientific investigations. With appropriate resources that enrich instruction, science can come alive for all of our children.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elementary Science Facilities Act".

SEC. 2. STATEMENT OF PURPOSE.

It is the purpose of this Act to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

SEC. 3. PROGRAM AUTHORIZED.

(a) GRANTS.—The Secretary is authorized to make allotments to State educational agencies under section 4 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 1993, 1994, and 1995 to carry out this Act.

SEC. 4. ALLOTMENTS OF FUNDS.

(a) IN GENERAL.—From the amount appropriated under section 3(b) for any fiscal year, the Secretary shall reserve—

(1) not more than ½ of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau according to their respective needs for assistance under this Act; and

(2) ½ of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

(b) ALLOTMENT.—From the amount not reserved pursuant to subsection (a), the Secretary shall allot among State educational agencies as follows:

(1) One-half of such remainder shall be distributed among the State educational agencies by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 11, inclusive, in the State bears to the number of such children in all States.

(2) One-half of such remainder shall be distributed among the State educational agencies according to each State's share of allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(c) DEFINITIONS.—For the purposes of this Act—

(1) the term "elementary school" has the same meaning given such term in section 1471(8) of the Elementary and Secondary Education Act of 1965;

(2) the term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965;

(3) the term "Secretary", unless otherwise specified, means the Secretary of Education;

(4) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(5) the term "State educational agency" has the same meaning given to such term by section 1471(23) of the Elementary and Secondary Education Act of 1965.

(d) DATA.—The number of children aged 5 to 11, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

SEC. 5. STATE APPLICATION.

(a) APPLICATION.—Each State educational agency desiring to receive an allotment under this Act shall file an application with the Secretary which covers a period of 3 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

(1) provide assurances that—

(A) the State educational agency shall use the allotment provided under this Act to award grants to local educational agencies within the State to enable such local educational agencies to carry out the purpose of this Act;

(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

(C) every elementary school in the State is eligible to receive a grant under this Act once over the 3-year duration of the program assisted under this Act;

(D) funds provided under this Act will supplement, not supplant, State and local funds made available for activities authorized under this Act;

(E) during the 3-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and individuals with disabilities; and

(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in awarding grants under this Act;

(2) provide, if appropriate, a description of how funds paid under this Act will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(3) describe procedures—

(A) for submitting applications for programs described in sections 6 and 7 for distribution of payments under this Act within the State; and

(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

SEC. 6. LOCAL APPLICATION.

(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for only one grant under this Act.

(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this Act to meet the purpose of this Act;

(2) include assurances that the local educational agency shall match on a dollar-for-dollar basis the funds received under this Act;

(3) describe, if applicable, how funds under this Act will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics;

(4) describe the process which will be used to determine different levels of grant amounts to be awarded to schools with different needs.

(c) PRIORITY.—In awarding grants, the State educational agency shall give priority to applications that—

(1) assign highest priority to schools which are most seriously under-equipped;

(2) are attentive to the needs of underrepresented groups in science and mathematics;

(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

(4) include plans for dissemination of lessons and activities using grant equipment and materials to teachers in schools not receiving grants.

SEC. 7. PARTICIPATION OF PRIVATE SCHOOLS.

(a) PARTICIPATION OF PRIVATE SCHOOLS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary schools, such State educational agency shall, after consultation with appropriate private school representatives, make provision for providing funds under this Act as will assure the equitable participation of such private schools in the purposes and benefits of this Act.

(b) WAIVER.—If by reason of any provision of State law a local educational agency is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsection (a), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers.

SEC. 8. PROGRAM REQUIREMENTS.

(a) COORDINATION.—Each State educational agency receiving a grant under this Act shall—

(1) disseminate information to school districts and schools, including private schools, regarding the grant program;

(2) evaluate applications of local educational agencies;

(3) award grants to local educational agencies based on the priorities described in section 6(c); and

(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

(b) LIMITATIONS ON USE OF FUNDS.—

(1) IN GENERAL.—Grant funds and matching funds under this Act only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

(2) CAPITAL IMPROVEMENTS.—Grant funds under this Act may not be used for capital improvements. No more than 50 percent of matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this Act is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

SEC. 9. FEDERAL ADMINISTRATION.

(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this Act, shall develop procedures for State and local evaluations of the programs under this part.

(b) REPORT.—The Secretary shall report to the Congress each year on the program assisted under this Act.●

By Mr. SPECTER:

S. 1995. A bill to provide increased access to and affordability of health care, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH CARE ACCESS AND AFFORDABILITY ACT OF 1991

Mr. SPECTER. Mr. President, the issue of health care is tremendously important in the United States today. Over 800 bills have been introduced in the first session of the 102d Congress on this one issue alone. The majority of the legislative proposals, introduced by both Republicans and Democrats, involve comprehensive reform affecting the access to, and the affordability of, health care.

Earlier this month, I joined with several of my colleagues in introducing the Health Equity and Access Improvement Act, S. 1936. This legislation is the composite of the effort of many Senators working for over 16 months to craft a responsible health care bill. While I have reservations about some of the details, in my view, the bill provides a good starting point for the consideration of comprehensive reform to extend adequate medical care to all Americans. This bill covers aspects of health care which were not included in S. 1936.

Although strong consensus has emerged in the Congress for health care reform, no consensus yet has emerged on the best means of extending affordable care to all of our Nation's citizens. Enactment of effective comprehensive health care reform will not happen overnight. It will take time to craft meaningful legislation which can pass the Congress and be signed by the President.

We do not have to wait upon comprehensive reform, however, to improve access to health care and reduce the Nation's $760 billion health care bill. Today I am introducing legislation which supplements the proposals of S. 1936 and builds upon established public health programs currently under the jurisdiction of the Labor, HHS and Education Subcommittee on Appropriations. As the ranking Republican member of the subcommittee, I am convinced that through increased investment in programs of health research, primary care delivery, disease prevention, and health promotion, we can begin to improve access to care for millions of Americans and cut the escalating cost of health care in this country.

Progress has been made toward improving the Federal investment in health programs. The National Institutes of Health is supporting over 26,000 research grants into understanding, treating and curing disease, the highest in the agency's history. Funding for disease prevention programs at the Centers for Disease Control has risen to over $1.5 billion, an increase of nearly $400 million over the past 2 years. Included, is an increase for the childhood immunization program of $111 million, an increase of $19 million for lead poisoning prevention and an increase of $50 million for the Breast and Cervical Cancer Mortality Prevention Program. In total, Federal support for health programs administered by the Public Health Service has risen from $12.9 billion when I became the ranking Republican in 1989, to over $16.5 billion for fiscal year 1992.

The Health Care Access and Affordability Act builds upon that progress by establishing new spending targets for a variety of Public Health Service programs and by expanding their authorized activities. The bill includes the following proposals to improve access and limit the growth in health care expenditures:

Expands federally supported primary care clinics by $380,000,000. This will improve access to care in medically underserved areas and reduce the need for costly emergency room care;

Expands federally supported health promotion and prevention services by $720,000,000. These programs are focused upon reducing health risks through changing the behavior of both providers and consumers and encouraging greater responsibility for healthy behavior;

Encourages the modification of provider practice styles by changing provider behavior through medical effectiveness research and direct modification of medical practice; and

Establishes a new Federal initiative on drug development with a focus on the diseases that have high mortality and societal costs.

PRIMARY HEALTH CARE

Effective health care reform must not only address access to health care, but also must take steps to prevent the need for treatment. The cornerstone of this health care bill is the delivery of primary and preventive care services to households and individuals in convenient and familiar places. If health is to be a true national priority, it is logical to provide health care services in the locality where people live and work.

The Health Care Access and Affordability Act expands the authorization of programs such as community and migrant health centers, maternal and child health block grants, and health care for the homeless. Maximizing the use of these community based health care programs will help eliminate the fragmentation which characterizes the existing health care system. Utilization of this system will promote better access to services such as health education, screening, immunization, well-child care, and prenatal care. Utilization of this system also will yield cost savings. Community based clinics have effectively reduced infant mortality, yielded better immunization coverage, and fostered earlier detection and treatment of preventable illnesses.

HEALTH PROMOTION AND PREVENTION

Health care consumers also must be given the tools to assume more responsibility for their health. Individuals should develop the ability to be more prudent buyers of health care services and better managers of their lifestyle. The Centers for Disease Control estimates that of the 2.2 million deaths which occur in the United States every year, about half are potentially preventable. Secretary Sullivan has estimated that behavioral induced illnesses and injury cost the nation's health care system $40 billion annually.

Programs, such as childhood immunization, lead poisoning prevention, preventive health and health services block grants, and breast and cervical cancer prevention provide key Federal support to States, localities, and community based organizations to halt the development of disease and/or injury. Health prevention, promotion of healthier lifestyles, and education on particular health care conditions can improve health care delivery and reduce health care costs.

MEDICAL EFFECTIVENESS RESEARCH AND MEDICAL PRACTICE GUIDELINES

Rapid development and diffusion of technologies is a component of our high-technology health care system. Our ability to produce more health care devices and procedures is going beyond our knowledge of when and how they should be used. There is also extensive variation in our physician's practice patterns as well as the resultant health care outcomes. The problem of increasing technology and proliferization of high-technology services within our health care system contributes to the high and rapidly rising health care costs. There exists a potential that medical practice research may address these concerns and reduce health care costs and improve quality.

My legislation provides for expanding the authorization for medical treatment effectiveness research, including establishing medical practice guidelines on the conditions for which there is found to be a wide variation in current medical practice. Practice guidelines are systematically developed statements which assist the practitioner and the patient in decisions about appropriate health care.

FEDERAL INITIATIVE ON DRUG DEVELOPMENT

In fiscal year 1990, the National Institutes of Health had approved, but was not able to fund over $110 million in major new clinical trials. This underfunding of clinical trials occurred in spite of the social and economic costs of the leading diseases. For example, Alzheimer's disease has societal costs of $88 billion compared to $230 million in federally funded research; Heart Disease has societal costs of $94 billion compared to $704 million in federally funded research; Cancer has societal costs of $72 billion compared to $1.7 billion in federally funded research; AIDS societal costs $66 billion compared to $1.1 billion in federally funded research.

My bill will specifically authorize a program at the National Institutes of Health to expand support for clinical trials on promising new drugs and disease treatments. Priority will be given to the most costly diseases and those impacting the most number of people.

REPORT ON HEALTH CARE COST CONTROL TARGETS

On November 19, I participated in a joint hearing of the Special Committee on Aging and the Government Affairs Committee regarding strategies for cutting the cost of health care. Witnesses at the hearing testified concerning the fact that health care expenditures in the United States continue to grow at an alarming rate. The percent of our country's gross national product devoted to health care grew from 7.3 percent in 1970 to 12.3 percent in 1990. Projections for the year 2000 show that share rising to over 16 percent.

In contrast, other industrialized nations have had some success at limiting the growth in health care expenditures. Some have done so by establishing caps and targets for health care spending and for the payment of services. A General Accounting Office report, released on November 15, 1991, found that France, Germany, and Japan have implemented health care spending targets and caps and have successfully lowered the increase in health care costs. In Germany, for example, the report found that spending caps had reduced expenditures by as much as 17 percent below what would have been spent on physician care without the caps.

To explore the feasibility of implementing a similar strategy in this country, the bill directs the Secretary of Health and Human Services to issue a report to the Congress regarding establishing national spending targets for health care and health care services as a means of controlling health care costs. The report is to be prepared after the Secretary's consideration of the recommendations of the Health Care Cost Control Advisory Committee established under in the bill. The advisory committee is to be comprised of representatives from the provider communities, organized labor, business, academia, and private insurers.

FINANCING

As ranking Republican on the appropriations subcommittee which has jurisdiction over funding for these programs, I am aware of the fiscal constraints imposed upon domestic spending by the Budget Enforcement Act of 1990. I realize that without increasing the funds available for domestic programs in fiscal year 1993, it will be difficult to meet the funding targets established in this bill. Next year, the Congress and the President will consider the implications of the dramatic changes in the Soviet Union for maintaining a strong national defense. A peace dividend resulting from reductions in the Budget Enforcement Act's caps for defense spending is likely. In my view, priorities in the distribution of the resultant peace dividend should be given to reducing the deficit and to increasing the investment in federally supported programs, such as health and education.

CONCLUSION

I am convinced that improving access to care and reducing the spiraling growth of health care expenditures can be achieved. By acting now to provide consumers and health care providers with the information and services necessary to prevent illness and disease, we can both improve the quality of life and begin to reduce the cost of medical care.

By Mr. ROCKEFELLER:

S. 1996. A bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the Medicare Program, and for other purposes; to the Committee on Finance.

MEDICARE CANCER COVERAGE IMPROVEMENT ACT

• Mr. ROCKEFELLER. Mr. President, I am pleased to rise today to introduce the Medicare Cancer Coverage Improvement Act of 1991. This bill is intended to ensure that Medicare beneficiaries, who are more frequently afflicted with cancer, receive the state-of-the-art care they deserve. This goal can be achieved at relatively modest cost to the Medicare Program, and in a way that contributes to ongoing progress against the disease.

While significant headway has been made in recent years in the diagnosis and treatment of cancer, the full benefits of these advances have not always been realized by patients, particularly by Medicare beneficiaries. This legislation addresses three obstacles that stand in the way of senior citizens receiving the best available care: coverage of off-label uses of anticancer drugs, coverage of oral anticancer therapies, and coverage of patient-care costs associated with clinical trials of new cancer therapies.

First, the bill establishes a uniform standard for coverage of so-called off-label or unlabeled uses.

Medicare currently covers the cost of anticancer chemotherapy drugs administered by a physician, but coverage is unreliable because the Health Care Financing Administration [HCFA] allows its fiscal agents, or carriers, too much discretion with respect to uses of the drugs which are off-label, or different from a specific use approved by the Food and Drug Administration [FDA]. Both the FDA and HCFA officially recognize that physicians may appropriately prescribe FDA-approved drugs for these so-called off-label indications. In fact, studies show that half or more of the uses of anticancer drugs are for off-label indications. A finding that is not unexpected in light of the rapidly evolving nature of cancer treatment.

Although Medicare carrier guidelines expressly authorize coverage of medically appropriate unlabeled indications, many carriers are reluctant to accept them. As a result, Medicare beneficiaries are deprived of the most up-to-date treatment, physicians and patients are unfairly disadvantaged, and progress against cancer is undermined.

There is no scientific or medical basis for allowing such decisions to vary among the more than 50 Medicare carriers. The resulting chaos has been criticized by Government agencies, such as the FDA, the National Cancer Institute [NCI], the National Committee to Review Current Procedures for Approval of New Drugs for Cancer and AIDS and, most recently, the General Accounting Office [GAO].

This past September, The GAO released a study of off-label use of cancer drugs. Subtitled "Reimbursement Policies Constrain Physicians in the Choice of Cancer Therapies," this report found that Medicare's unreliable and inconsistent coverage of accepted off-label uses of cancer drugs forced oncologists to alter their preferred treatments, therefore depriving their patients of the best available care. The GAO found, too, that denial of coverage for such uses may actually increase the cost of cancer therapy, as physicians resort to hospital treatment—where accepted off-label uses are more consistently reimbursed—solely to circumvent the restrictions imposed by HCFA's reimbursement policies. The GAO concluded that it was essential for Medicare to develop a policy that would ensure uniform and consistent coverage decisions.

The Medicare Program itself is not unmindful of the hardship caused by the lack of a uniform coverage policy. In January 1989, HCFA initiated a rulemaking on coverage determinations. Nearly 2 years later, however, that rule has yet to be published in final form. Meanwhile, as the GAO reported, Medicare beneficiaries and their physicians continue to suffer inconsistent results because of HCFA's inaction, and every day of delay deprives beneficiaries of access to potentially life-saving treatment.

This bill would resolve the matter by requiring Medicare to cover any unlabled indication of an FDA-approved drug that has been accepted for inclusion in major medical compendia or that appears in peer-reviewed medical literature. Carrier discretion with respect to coverage decisions on off-label uses would be eliminated.

While I am still awaiting a CBO cost estimate, the cost of this provision should be minimal since most off-label uses are already covered under Medicare. The amendment would simply apply on a uniform basis what HCFA already officially recognizes as its policy. Additionally, administrative costs for the carriers should actually decline somewhat, as a result of having coverage determinations made centrally.

Second, the bill provides for coverage of oral anticancer drugs that can be substituted for an injectable version of the same chemical ingredient.

Most anticancer chemotherapy administered by physicians are covered by the Medicare Program as incident to physicians' services. A few anticancer drugs are available in oral dosage form, but because Medicare does not reimburse for outpatient prescription drugs, oral doses are not covered. In European countries, where health coverage is more comprehensive and outpatient drug benefits are standard, anticancer drugs which are available in both oral and injectable dosage form are used predominantly in oral form. In the United States, where reimbursement policy favors physician-administered drugs, the reverse is true, with injectable drugs being used much more frequently than oral alternatives.

Thus, Mr. President, reimbursement policy—and not science—is clearly driving clinical decisions in this country. This approach is unacceptable, both for individual patients and overall health policy. In the short term, it deprives patients and their physicians of an effective treatment option, and one which can yield immediate savings to the Medicare Program by avoiding some of the costs associated with administering chemotherapy. In the long-term, this reimbursement-driven approach to treatment could actually retard the development of new therapies which do not fit squarely within Medicare reimbursement criteria. We should be developing reimbursement policies that are not only cost effective, but that also encourage technological advances and permit patients to realize the full advantage of those gains.

Mr. President, my bill would take a significant step toward achieving that goal by extending Medicare coverage to any oral anticancer drug which is the same chemical entity as a drug already covered by Medicare when injected by a physician. Physicians would thus have additional treatment options, and their patients would enjoy the flexibility to receive anticancer treatment at home rather than being forced to travel to a doctor's office or a hospital. This is particularly important for seniors in West Virginia who, like others who live in rural areas, often drive long distances to be treated by a cancer specialist.

Expanding the range of treatment options reimbursable by Medicare could produce cost-savings to the program as well. Obviously, use of an oral drug would avoid some costs of chemotherapy administration. In addition, as the GAO recently concluded, there could also be other, less direct savings. By expanding the range of reimbursable outpatient treatment options available to physicians, we could avoid situations where a patient is admitted to a hospital simply to receive a course of treatment that is not covered in other settings.

Finally, the bill directs the Secretary of Health and Human Services to study the costs of patient care for Medicare beneficiaries enrolled in cancer treatment clinical trials and to develop criteria for such coverage.

Mr. President, Medicare does not, as it should not, pay for services which are not medically reasonable and necessary. Unfortunately, this has been interpreted to exclude from coverage services which are experimental or investigational, and is used by the Medicare Program to deny coverage for patient care for beneficiaries enrolled in clinical trials. When the clinical trial involves an investigational drug, the drug is provided free of charge by the sponsoring company, but the patient remains liable for a variety of costs, including hospital and physician charges. If the Medicare Program refuses to cover these costs, the beneficiary may face many thousands of dollars of unreimbursed expense, or go without treatment altogether.

Denial of coverage for investigational treatment is particularly problematic for cancer patients. As the National Cancer Institute has frequently noted, treatment provided under a clinical protocol is state-of-the-art cancer therapy. Perhaps more than in any other disease category, cancer patients are likely to receive treatment under a protocol, especially if the treatment is provided in one of the many cancer centers across the country which deal almost exclusively with cancer. Often, the protocol under investigation represents only a minor variation from standard treatment and can in no way fairly be characterized as experimental in the usual sense of that term.

Even when the investigational treatment is more clearly a variation from standard therapy, ethical guidelines for clinical investigations require a demonstration that standard therapy would not be expected to benefit the patient. Thus, investigational therapy is, almost by definition, at least as good as standard therapy. In most instances, it is accurate to say that investigational therapy is the best available treatment.

Mr. President, it is time to develop a rational policy to make sure Medicare beneficiaries are not unfairly denied access to the best available care. To this end, the bill requires the Secretary to study the feasibility of Medicare coverage of patient care costs associated with enrollment in clinical trials that meet quality assurance and ethical standards and to report his recommendations to the Congress within 2 years.

The report is to focus on the additional cost, if any, of such coverage to the Medicare program; the extent to which these investigations represent the best available treatment for cancer patients; whether progress in developing new cancer treatments would be assisted by Medicare coverage of investigational cancer treatments; and whether there should be special criteria for the admission of Medicare beneficiaries, on account of their age or physical condition, to clinical trials.

Mr. President, I am confident that these relatively minor changes in Medicare policy can result in significant improvements in the care available to cancer patients. Reimbursement policies all too often prove virtually insurmountable obstacles in the battle against cancer. These policies can improperly influence treatment decisions in a way that not only is harmful to cancer patients, but increases costs as well. By eliminating undesirable and unnecessary aspects of those policies, we can respond to the needs of individual cancer patients and at the same time make important strides toward conquering this disease.

Mr. President, I ask unanimous consent that a summary of the bill and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Cancer Coverage Improvement Act of 1991".

SEC. 2. UNIFORM MEDICARE COVERAGE OF ANTICANCER DRUGS.

(a) IN GENERAL.—Section 1861(t) of the Social Security Act (42 U.S.C. 1395x(t)) is amended—

(1) be inserting "(1)" after "(t)";

(2) by striking "(m)(5) of this section" and inserting "(m)(5) and paragraph (2)"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) For purposes of paragraph (1) the term 'drugs' includes any drugs or biologics used in an anticancer chemotherapeutic regimen for a medically accepted indication as described in subparagraph (B).

"(B) The term 'medically accepted indication' means any use of a drug included under paragraph (1) which is approved by the Food and Drug Administration, which appears in peer-reviewed medical literature, or which is included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations and the United States Pharmacopoeia-Drug Information.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to items furnished on or after January 1, 1992.

SEC. 3. COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by adding "and" at the end of subparagraph (P); and

(3) by adding at the end the following new subparagraph:

"(Q) oral drugs prescribed for use in an anticancer chemotherapeutic regimen, for a medically indicated use (as described in subsection (t)(2)), if such drugs contain the same active ingredient that would be covered pursuant to subparagraph (A) or (B);''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1992.

SEC. 4. STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF NEW CANCER THERAPIES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the effects of expressly covering the patient care costs for medicare beneficiaries enrolled in clinical trials of new cancer therapies, where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an Institutional Review Board. The study shall include—

(1) an estimate of the cost of such coverage, taking into account the extent to which medicare currently pays for such patient care cost in practice;

(2) an assessment of the extent to which such clinical trials represent the best available treatment for the patients involved and of the effects of participation in the trials on the health of such patients;

(3) an assessment of whether progress in developing new anticancer therapies would be assisted by medicare coverage of such patient care costs; and

(4) an evaluation of whether there should be special criteria for the admission of medicare beneficiaries (on account of their age or physical condition) to clinical trials for which medicare would pay the patient care costs.

(b) REPORT—The Secretary of Health and Human Service shall submit a report on the study required by subsection (a), including recommendations as to the coverage of patient care cost of medicare beneficiaries enrolled in clinical trials of new cancer therapies, to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, not later than 2 years after the date of enactment of this Act.

MEDICARE CANCER COVERAGE IMPROVEMENT ACT OF 1991

UNIFORM MEDICARE COVERAGE OF ANTICANCER DRUGS

Current Law: The Medicare program covers items and services that are "reasonable and necessary." A drug prescribed for an "off-label" indication (i.e., a use other than those specifically approved by the Food and Drug Administration) is considered reasonable and necessary if the unapproved use in accepted in the medical community. Medicare carriers determine whether a particular indication is medically accepted.

Proposal: Any use of an FDA-approved anticancer drug that is approved by FDA, appears in the peer-reviewed medical literature, or is included in one or more of the three major medical compendia, is considered a medically accepted indication and must be covered.

COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS

Current Law: Medicare covers injectable drugs administered on an outpatient basis as incident to a physician's service. Medicare does not cover self-administered outpatient prescription drugs.

Proposal: An oral drug prescribed for a medically accepted indication in an anticancer regimen is covered if the drug contains the same active ingredient as a drug that would be covered if administered as incident to a physician's service.

STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF CANCER DRUGS

Current Law: None.

Proposal: The Secretary of Health and Human Services shall study the costs of patient care for Medicare beneficiaries enrolled in clinical trials of new cancer therapies (where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an Institutional Review Board) and develop criteria for such coverage.●

By Mr. KASTEN:

S. 1997. A bill to amend the Internal Revenue Code of 1986 to exclude from the social security tax on self-employment income certain amounts received by insurance salesmen after retirement; to the Committee on Finance.

EXCLUSION OF CERTAIN AMOUNTS RECEIVED BY INSURANCE AGENTS AFTER RETIREMENT

● Mr. KASTEN. Mr. President, today I am introducing legislation designed to restore fundamental fairness for retired insurance salesmen. I am sure that it would come as a surprise to many of my colleagues that former insurance salesmen are subject to the 15.3 percent self-employment tax on the retirement payments they receive upon separation from their employer.

One reason this tax treatment would come as a surprise to my colleagues is that it is not the result of congressional action. It is instead the result of an IRS interpretation of what constitutes self-employment income. IRS Notice 90–72 titled "Certain Payments by Retired Insurance Agents" states that retired insurance salespersons must continue to pay self-employment tax on amounts paid to them after retirement.

The stated rationale for the IRS' treatment of the payments in question is that under current law, no provision excludes these payments from taxation under the Self-Employment Contributions Act [SECA]. However, the payments are clearly retirement income, not self-employment income. Upon receipt of this income, the retired salesperson is no longer engaged in the trade or business of selling insurance. He or she is no longer receiving commissions from previously sold policies, but is instead receiving payments based on a percentage of commissions, indicating a clear change of employment status.

Despite clear evidence to the contrary, the IRS continues to insist that payments received by retired insurance agents from their former employers is self-employment income. It is therefore necessary for Congress to take action and make clear that the payments in question should be excluded from the 15.3-percent self-employment tax. My legislation would do precisely that. I invite my colleagues to join me in supporting this important clarification of the law.

I am pleased to say that my colleague from Wisconsin, Representative JIM SENSENBRENNER has introduced this legislation in the House of Representatives. I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM SELF-EMPLOYMENT TAX FOR CERTAIN AMOUNTS RECEIVED BY INSURANCE SALESMEN AFTER RETIREMENT.

(a) INTERNAL REVENUE CODE.—Subsection (a) of section 1402 of the Internal Revenue Code of 1986 (defining net-earnings from self-employment) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by inserting after paragraph (15) the following new paragraph:

"(16) there shall be excluded amounts received by a former insurance salesman after retirement if—

"(A) such amounts are deferred or renewal commissions on policies sold by such salesman before retirement or are computed by reference to commissions received by such salesman before retirement on such policies, and

"(B) such salesman was not an employee for purposes of chapter 21 with respect to the sale of such policies.".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 211 of the Social Security Act (defining net-earnings from self-employment) is amended by striking "and" at the end of paragraph (13), by striking the period at the end of the paragraph (14) added by section 3044 of the Technical and Miscellaneous Revenue Act of 1988 and inserting a semicolon, by redesignating the paragraph (14) added by section 1101B of such Act as paragraph (15), by striking the period at the end of such paragraph (15) and inserting "; and", and by inserting after such paragraph (15) the following new paragraph:

"(16) There shall be excluded amounts received by a former insurance salesman after retirement if—

"(A) such amounts are deferred or renewal commissions on policies sold by such salesman before retirement or are computed by reference to commissions received by such salesman before retirement on such policies, and

"(B) such salesman was not an employee for purposes of chapter 21 of such Code with respect to the sale of such policies."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.●

By Mr. EXON:

S. 1998. A bill to adopt the Airline Consumer Protection and Competition Emergency Commission Act of 1991; to the Committee on Commerce, Science, and Transportation.

AIRLINE CONSUMER PROTECTION AND COMPETITION EMERGENCY COMMISSION ACT

Mr. EXON. Mr. President, I rise to introduce legislation creating a special blue-ribbon commission to analyze the economic state of the U.S. Air passenger industry and aircraft manufacturing industry. The commission is to make recommendations to the President and Congress for national policy changes in these areas. This special temporary blue-ribbon commission is needed to help find ways to bring a halt to the disastrous trends in the U.S. airline industry toward fewer carriers, less competition, and a future unregulated monopoly dominated by only a few big carriers. In addition, concerns have increased recently due to proposed foreign purchases in the aircraft manufacturing sector.

A concentrated monopoly in the air passenger industry would be bad for American free enterprise, bad for consumers, and bad for our Nation as a whole. Continued airline bankruptcies leaving fewer and fewer carriers will inevitably lead in the long run to monopoly conditions and reregulation of rates and routes as in the days prior to the 1978 Airline Deregulation Act. Perhaps the horse is already out of the barn and economic trends in the industry are already too far along to prevent that result. However, I believe that before regulation of rates and routes would be restored, we must try to do all we can to make competition work as intended by the supporters of the 1978 act. I view the accelerating reduction in the number of major domestic carriers as an emergency matter of national concern which justifies the creation of this blue ribbon commission. Ironically, the continued loss of carriers is occurring at the same time that growth is predicted well into the next century for air passengers and air cargo. Midway Airlines just recently became the latest victim to fold and too many other U.S. carriers are in some form of bankruptcy, or close to it.

One proposed so-called solution deserves particular comment. Globalization of America's airline industry is mentioned and proposals have been made in the Senate and by the administration to increase current limits on foreign investments in the United States by U.S. carriers. In other words, since we cannot keep our house in order, we are going to be relying more and more on foreigners by allowing them to buy very close to controlling interests, if not controlling interests, in some of our basic commercial carriers.

In my view, it sounds like that would only more and more and more take us down the path toward doing to our Nation's domestic airline industry what has been done to our domestic electronics industry, domestic auto industry, and too many other industries, that is, to increase the foreign owned and controlled market share of a basic industry in our Nation. It is ironic that an administration so opposed to U.S. Government support for domestic industries would even contemplate increased foreign ownership of domestic airlines, possibly including ownership by foreign airlines, since many foreign airlines receive considerable protection and support from their own governments, which is not the case here.

The issue of increased foreign control is also a major concern in the aircraft manufacturing industry.

Increased foreign ownership and control of our Nation's very important airline industry is not a solution and not a result that I want to see happen. We are looking, Mr. President, at the short range, rather than taking the long view of what is best for America. Not only is our Nation's economic security at stake. Major U.S. carriers participate in national defense by making parts of their fleet available to the civil reserve air fleet which provides passenger aircraft to the Department of Defense during times of emergency need, such as the recent massive airlift of troops to Saudi Arabia after Iraq's invasion of Kuwait. Would foreign-owned, controlled, or dominated carriers in the United States be as reliable allies in some future Kuwait-style troop airlift as were our Nation's airlines during this last operation? That was not a concern during the airlift of troops to Saudi Arabia and I do not want to see our U.S. military have to worry about such questions in the future.

The current state of the U.S. airline and aircraft manufacturing industries is the result of a decade of romance with so-called "free-market" theories. I submit it is time to put slavery to theory aside and put American interests first.

Finally, I also wish to salute Mr. William Shea, who is the director of the University of Nebraska at Omaha's Aviation Institute. Bill has sent warning signals about the U.S. airline and aircraft industries and was an early proponent of creating this special Commission.

Mr. President, I look forward to working with my colleagues to obtain swift approval for this bill.

I hope that all will recognize and realize that the announcement made today that a major defense contractor headquartered in St. Louis, MO, McDonnell Douglas, has announced that they have agreed to the Government or interests in Taiwan to have 40-percent control of the manufacturing facilities of Lockheed in commercial aviation.

It was also reported on the news today that the Taiwan Government and Taiwan investors are interested in making more and more commercial airlines in Taiwan, a continuation of the shipment of jobs from America overseas which we have been doing in wholesale lots, unmindfully, in my opinion. In addition to that, they are also interested in a future possible entry into more high-technology fields with regard to military aircraft. And that, as reported in the news today, is one of the things that is behind this takeover.

Yesterday, I signed a letter, initiated by Senator BINGAMAN, and sent it to the President of the United States with about 30 other U.S. Senators affixing their signatures, calling on the President to take a close look at this proposal with regard to McDonnell Douglas to see whether or not the President does not believe that it is in the national security interests of the United States, whether Exon-Florio, as an important part of the recent omnibus trade bill, should not be invoked here to stop this kind of a most serious deterioration of the United States of America's aircraft industry.

It seems to me, Mr. President, that this is the time for us to stand up and take a stand. If we do not want to stand up and make a stand right now, then at least admit, at least concede, at least agree that we simply do not care and that we are going ahead in this madness to find one more major industry in the United States, the aircraft production industry, which we have led in from the very beginning of commercial aircraft manufacturers, going down the tube, as have so many of the other industries that I have just mentioned.

Mr. President, I ask unanimous consent that the bill that I currently send to the desk be printed in the RECORD. I also indicate at this time, Mr. President, that because of the critical nature and the decisions that have to be made now by the President and the Congress, that we better ask for some outside professional help to tell the President and the Congress what these experts see is the answer to the problem that is about to come crashing down on us, if it is not already here.

Mr. President, I look again to working with my colleagues to obtain swift approval of this bill in some manner. And if appropriate vehicles come along, I intend to offer this as an amendment to an appropriate vehicle on the floor of the Senate.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Airline Consumer Protection and Competition Emergency Commission Act of 1991.

SEC. 2. ESTABLISHMENT OF COMMISSION.

There is hereby established the Emergency Commission on Airline Consumer Protection and Competition (hereafter in this Act referred to as the "Commission"). Appointments to the Commission shall be made within 30 days of the date of enactment of this Act.

SEC. 3. PURPOSE.

The purpose of this Act is to provide for an assessment of the adverse condition of the United States air passenger industry and aircraft manufacturing industry and to provide for recommendations to be made to the President and the Congress.

SEC. 4. MEMBERSHIP OF COMMISSION.

(a) COMPOSITION.—The Commission shall be composed of seven members who shall be appointed as follows:

(1) one member to be appointed by the President.

(2) three members to be appointed by the Committee on Commerce, Science, and Transportation of the Senate.

(3) three members to be appointed by the Committee on Public Works and Transportation of the House of Representatives.

(b) SECTORS REPRESENTED.—Appointments shall be coordinated so that one or more of the members of the Commission are drawn from business, labor, academia, and government and are knowledgeable of the U.S. air passenger industry.

(c) LEADERSHIP.—The Commission shall elect a Chairman and Vice Chairman.

(d) QUORUM.—Five members shall constitute a quorum.

(e) EFFECT OF VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(f) PROHIBITION ON COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service, to the extent such funds are available for such expenses.

SEC. 5. FUNCTIONS OF THE COMMISSION.

The Commission shall assess the state of the airline industry, shall explore the full implications of foreign ownership of U.S. carriers, and shall make specific recommendations to the President and the Congress concerning what government policies should be adopted: to improve the competitive environment; to retard the flow of carrier bankruptcies and accompanying loss of jobs; to assure the continued ownership and control of U.S. air carriers by U.S. citizens; to promote adequate levels of competition and service with reasonable fares in all geographical areas of the nation; and to stabilize the work environment of airline industry employees.

The Commission shall also assess the state of the U.S. aircraft manufacturing industry and make recommendations which would help foster a healthy, competitive U.S.-owned and controlled industry.

SEC. 6. REPORT.

Not later than 3 months after the date initial appointments to the Commission are completed, the Commission shall submit a report to the President and the Congress on its activities and containing its recommendations.

SEC. 7. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this Act, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this Act. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal agency or instrumentality shall, to the extent reasonably possible and practicable.

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail personnel of such agency or instrumentality to the Commission on a nonreimbursable basis, to assist the Commission in carrying out its duties under this Act, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 8(b).

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other federal agencies.

(e) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with States agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this Act, subject to the limitation on total expenses set forth in section 8(b).

(f) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission (subject to the limitation on total expenses set forth in section 8(b) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-15 or above of the General Schedule under section 5332 of such title.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 8. EXPENSES OF COMMISSION.

(a) AVAILABILITY OF FUNDS.—Any expenses of the Commission shall be paid from such funds as may be available to the President.

(b) LIMITATION ON EXPENSES.—The total expenses of the Commission (excluding salaries) shall not exceed $500,000.

(c) AUDITING REQUIREMENT.—Before the termination of the Commission, the Comptroller General of the United States shall audit the financial books and records of the Commission to determine that the limitation on expenses has been met.

SEC. 9. TERMINATION.

The Commission shall cease to exist 9 months after the date of enactment of this Act.

By Mr. SIMPSON (for himself, Mr. WALLOP, Mr. HATCH, and Mr. BURNS):

S. 1999. A bill to amend the Uniform Time Act of 1966 to alter the time period for daylight saving time; to the Committee on Commerce, Science, and Transportation.

DAYLIGHT SAVING TIME AMENDMENTS ACT

Mr. SIMPSON. Mr. President, I introduce a bill to extend the end of daylight saving time from the final Sunday in October to the first Sunday in November. I am pleased that my senior colleague Senator WALLOP, Senator HATCH, and Senator BURNS have cosponsored this measure. It is also one other Senator have been involved in including the majority leader over the years. This proposal is the remarkable result of an extraordinary "grass roots" effort in the most real sense. A very fine schoolteacher in Wyoming had interested her delightful group of third-grade students in the workings of our political system—enough to get them to lobby heavily for an addition of one week to daylight saving time!

This fine Wyoming educator, Sharon Rasmussen, has also succeeded in acquiring an endorsement of this extension by the National Education Association, through a resolution which they passed recently by voice vote, with no one speaking in opposition. She is an energetic, spirited, and persuasive teacher, and she has done a tremendous job of demonstrating to her pupils that democracy truly does function from the ground up. Thus I am pleased to introduce this legislation on their behalf.

For most of the year, we are a Nation living largely out of step with the natural duration of the day. Virtually every American retires to bed several hours after the sun has set, and millions also do not rise until after daylight has broken.

In this time of concern about energy conservation, it seems curious that we do not make greater use of the most cheaply available form of light—sunlight. As Benjamin Franklin once wrote,

> (The sun) gives light as soon as he rises * * * had I not been reawakened so early in the morning I would have slept * * * by the light of the sun, and in exchange have lived the following night by candle-light * * * the latter being a much more expensive light than the former.

The economics of the matter remain equally valid today, excepting that our energy and budget situations require us to be even more diligent concerning energy economy than the Nation in Franklin's time had cause to be.

There are also some compelling safety reasons to delay the end of daylight savings time until the first week of November. The many children who go trick-or-treating on Halloween night would also be well served by that extra hour of daylight. Thus you are aware of the energy and impetus behind this legislative effort from these fine third graders of Sheridan, WY.

Mr. President, I ask that this measure be referred to the appropriate committee, and I ask my colleagues, too, for their support.

By Mrs. KASSEBAUM (for herself, Mr. SIMON, Mr. LUGAR, Mr. DECONCINI, Mr. MCCONNELL, Mr. ROBB, Mr. HATFIELD, Mr. KENNEDY, Mr. MOYNIHAN, and Mr. D'AMATO):

S.J. Res. 234. Joint resolution expressing the sense of the Congress regarding the Government of Kenya's November 14 through 16, 1991, suppression of the democratic opposition and suspending economic and military assistance for Kenya; to the Committee on Foreign Relations.

SITUATION IN KENYA

Mrs. KASSEBAUM. Mr. President, I rise today to introduce a joint resolution regarding the Government of Kenya's recent crackdown on the democratic opposition.

Over the past few years, I have become increasingly concerned by the repressive policies pursued by the Government of Kenya. President Moi has repeatedly seized and detained those who speak out against his government. Democratic activists have been continually harassed. The Kenyan Government has banned opposition magazines and journals. There have been serious questions raised regarding the independence of the judiciary.

In July 1990, the Government of Kenya engineered a violent and brutal crackdown on the democratic forces in Kenya. By the end of the month, security forces had killed at least 23 civilians. Over 1,000 demonstrators were arrested.

Last week, the Kenyan Government vigorously renewed its policy of repression. On November 14, President Moi arrested seven leading opposition leaders, including Mr. Gitobu Imanyara and Mr. Oginga Odinga. Two days later, the Government violently suppressed an opposition rally in Nairobi, dispersing several thousand peaceful demonstrators. Five more well-known democratic activists were arrested.

Many of us had hoped that the Government of Kenya was moving toward greater freedom and respect for human rights. President Moi had released all political detainees. The Kenyan courts had unbanned elements of the opposition press. For this reason, this most recent crackdown is deeply troubling.

Mr. President, in the past 2 years, three former United States allies in Africa—Liberia, Somalia, and Zaire—have fallen apart. In all three countries, the United States supported repressive dictatorships which ignored basic human rights. Now, their economies have been destroyed. Millions have been displaced from their homes. Thousands have been killed. Food supplies are scarce.

Kenya has not yet reached this point. But I fear that the repressive policies of President Moi put Kenya on the road to political instability, economic decline, and chaos.

Mr. President, this resolution strongly condemns the arrest of the Kenyan opposition leaders and the suppression of the November 16 rally. It urges President Moi to release those arrested and to drop the charges filed against them. It calls upon the Kenyan Government to permit the free expression of political views.

The resolution commends the United States Government for its actions in support of democracy in Kenya. It calls upon the United States to ensure that its development program bears relation to Kenya's progress toward an open political system and respect for human rights. It urges the President to reasses immediately whether to continue the International Military Educational Training Program to Kenya, given the deteriorating situation in that country.

The resolution also suspends United States military aid and economic support funds to Kenya, including the aid in the pipeline. These programs could resume if Kenya:

Releases political detainees and ends the prosecution of individuals for the expression of their political beliefs;

Ceases the physical abuse or mistreatment of prisoners;

Restores judicial independence; and

Restores freedom of expression.

These restrictions are very similar both to the current law and to the fiscal year 1992 Foreign Aid Authorization Act. However, whereas the foreign aid legislation only included the fiscal year 1990 and 1991 pipeline, this resolution would condition the entire Kenya security assistance pipeline, cutting all military assistant immediately.

Mr. President, I believe the situation has reached a very serious point. This resolution sends a clear and firm message to President Moi:

> We are deeply worried about the future of your nation; we believe that the repressive policies of your government threaten the economic success and political stability of Kenya; and until the human rights situation improves, the United States will not send any military aid or economic support funds to your government.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CRANSTON, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 141

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 154

At the request of Mr. NICKLES, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 154, a bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil and refined petroleum products.

S. 284

At the request of Mr. BRADLEY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 574

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 574, a bill to amend the Civil Rights Act of 1964 to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes.

S. 581

At the request of Mr. BOREN, the names of the Senator from Colorado [Mr. BROWN], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 581, a bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the targeted jobs credit, and for other purposes.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 581, supra.

S. 757

At the request of Mr. LEAHY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 757, a bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes.

S. 775

At the request of Mr. DECONCINI, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 775, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 843

At the request of Mr. BREAUX, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 869

At the request of Mr. RIEGLE, his name was added as a cosponsor of S. 869, a bill to amend title 38, United States Code, to improve the availability of treatment of veterans for post-traumatic stress disorder; and for other purposes.

At the request of Mr. DECONCINI, the names of the Senator from Vermont [Mr. LEAHY], the Senator from North Carolina [Mr. SANFORD], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 869, supra.

S. 879

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 1100

At the request of Mr. KERRY, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1112

At the request of Mr. HOLLINGS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1112, a bill to establish a commission to advise the President on proposals for national commemorative events.

S. 1157

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1157, a bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax.

S. 1357

At the request of Mr. BREAUX, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1455

At the request of Mr. GRAHAM, the names of the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. BOND], the Senator from Alabama [Mr. SHELBY], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1455, a bill entitled the "World Cup USA 1994 Commemorative Coin Act."

S. 1522

At the request of Mr. BOREN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment by cooperatives of gains or losses from sale of certain assets.

S. 1599

At the request of Mr. BRADLEY, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1599, a bill to extend nondiscriminatory (most-favored-nation) treatment to Estonia, Latvia, and Lithuania.

S. 1623

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1623, a bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

S. 1726

At the request of Mr. DIXON, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 1726, a bill to amend the Immigration and Nationality Act to restore authority in courts to naturalize persons as citizens.

S. 1738

At the request of Mr. DASCHLE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1738, a bill to prohibit imports into the United States of meat products from the European Community until certain unfair trade barriers are removed, and for other purposes.

S. 1793

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1793, a bill to restrict United States assistance for Serbia or any part of Yugoslavia controlled by Serbia until certain conditions are met, and for other purposes.

S. 1810

At the request of Mr. ROCKEFELLER, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 1810, a bill to amend title XVIII of the Social Security Act to provide for corrections with respect to the implementation of reform of payments to physicians under the medicare program, and for other purposes.

S. 1827

At the request of Mr. BOND, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 1827, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House.

S. 1830

At the request of Mr. WOFFORD, the names of the Senator from Colorado [Mr. WIRTH], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 1830, a bill to require Senators and Members of the House of Representatives to pay for medical services provided by the Office of the Attending Physician, and for other purposes.

S. 1833

At the request of Mr. PRESSLER, the names of the Senator from Utah [Mr. HATCH], the Senator from Vermont [Mr. JEFFORDS], the Senator from Illinois [Mr. DIXON], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1833, a bill extending nondiscriminatory treatment (most-favored-nation treatment) to the products of Estonia, Latvia, and Lithuania, and for other purposes.

S. 1866

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 1886

At the request of Mr. MCCONNELL, the names of the Senator from California [Mr. SEYMOUR], the Senator from Nevada [Mr. REID], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 1886, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source.

S. 1901

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1901, a bill to amend title 5, United States Code, to make election day a legal public holiday, with such holiday to be known as "Democracy Day."

S. 1950

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1950, a bill to amend the Internal Revenue Code of 1986 to extend for 1 year certain expiring tax provisions.

S. 1956

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1956, a bill to establish a national program to monitor and assess human exposure to toxic substances, and for other purposes.

S. 1988

At the request of Mr. COHEN, the name of the Senator from Arizona [Mr.

MCCAIN] was added as a cosponsor of S. 1988, a bill to amend title XVIII of the Social Security Act to provide for improved standards to prevent fraud and abuse in the purchasing and rental of durable medical equipment and supplies, and prosthetics and orthotics, and prosthetic devices under the Medicare Program, and for other purposes.

SENATE JOINT RESOLUTION 113

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution designating the oak as the national arboreal emblem.

SENATE JOINT RESOLUTION 176

At the request of Mr. DIXON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 176, a joint resolution to designate March 19, 1992, as "National Women in Agriculture Day."

SENATE JOINT RESOLUTION 198

At the request of Mr. AKAKA, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Maryland [Mr. SARBANES], the Senator from Virginia [Mr. WARNER], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 198, a joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

SENATE JOINT RESOLUTION 225

At the request of Mr. FOWLER, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. MOYNIHAN], the Senator from Wisconsin [Mr. KOHL], the Senator from Rhode Island [Mr. PELL], the Senator from Colorado [Mr. WIRTH], the Senator from Montana [Mr. BURNS], the Senator from Indiana [Mr. COATS], the Senator from New Mexico [Mr. DOMENICI], the Senator from Iowa [Mr. GRASSLEY], the Senator from Oregon [Mr. PACKWOOD], the Senator from Nevada [Mr. BRYAN], the Senator from Delaware [Mr. BIDEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. METZENBAUM], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Iowa [Mr. HARKIN], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], the Senator from Texas [Mr. GRAMM], the Senator from Utah [Mr. HATCH], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 225, a joint resolution to designate February 3, 1992, through February 9, 1992, as "National Police Officer and Firefighter Recognition Week."

SENATE JOINT RESOLUTION 233

At the request of Mr. BIDEN, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 233, a joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week."

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the names of the Senator from Nevada [Mr. REID], the Senator from Nebraska [Mr. KERREY], the Senator from Michigan [Mr. LEVIN], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Concurrent Resolution 65, supra.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. CRANSTON, the names of the Senator from Illinois [Mr. SIMON], the Senator from Illinois [Mr. DIXON], the Senator from Colorado [Mr. WIRTH], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Concurrent Resolution 69, a concurrent resolution concerning freedom of emigration and travel for Syrian Jews.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. WALLOP, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of Senate Concurrent Resolution 77, a concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military.

SENATE RESOLUTION 211

At the request of Mr. SASSER, the names of the Senator from North Carolina [Mr. SANFORD], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Resolution 211, a resolution expressing the sense of the Senate regarding human rights abuses in China against writers and journalists.

SENATE RESOLUTION 213

At the request of Mr. GORE, the names of the Senator from Nebraska [Mr. EXON], the Senator from Hawaii [Mr. INOUYE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Missouri [Mr. DANFORTH], the Senator from Idaho [Mr. CRAIG], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Resolution 213, a resolution expressing the sense of the Senate regarding United States policy toward Yugoslavia.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Resolution 213, supra.

At the request of Mr. GORE, the name of the Senator from Massachusetts [Mr. KENNEDY] was withdrawn as a cosponsor of Senate Resolution 213, supra.

SENATE RESOLUTION 223

At the request of Mr. PRESSLER, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Resolution 223, a resolution to support the activities of the Peace Corps in the republics of the former Soviet Union.

SENATE RESOLUTION 225—AMENDING THE STANDING RULES OF THE SENATE

Mr. ROTH submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 225

Resolved, That Senate Resolution 338, agreed to July 23, 1964 (88th Congress, 2d session), is amended as follows:

(1) The first section is amended to read as follows:

"That (a)(1) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to in this resolution as the 'Select Committee') consisting of 3 members all of whom shall be private citizens.

"(2)(A) The Majority Leader and the Minority Leader shall each select a member of the Select Committee, both of whom shall be former Members of Congress, preferably former senators.

"(B) The members of the Select Committee designated by the Majority and Minority Leaders shall agree upon and select a third member, who shall be—

"(i) a retired Federal judge, or a retired State judge of at least the appellate court level; and

"(ii) designated as the chairman.

"(b)(1) Members of the Select Committee shall serve a term of 4 years and may not be reappointed, except that the first chairman shall serve a term of 2 years and may be reappointed to one 4-year term.

"(2) A member whose term of appointment has expired prior to completion of a pending case may continue to participate in such case, and such term shall be extended until the member's participation in the case is completed. A new member subsequently appointed after a member whose term has expired has completed a pending case shall serve the remainder of the 4-year term.

"(3) A member of the Select Committee may, for good cause, recuse himself or herself from a particular case to be considered by the Select Committee, and such vacancy shall be filled on a temporary basis in the manner of the original appointment.

"(c) Members of the Select Committee shall be compensated at daily rates not in excess of the per diem equivalent of the highest gross rate of compensation which may be paid to a regular employee of the Senate, and shall be entitled to travel and per diem expenses in accordance with the rules and regulations of the Senate.

"(d) No member of the Select Committee shall engage in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties. Members of the Standing Committee shall otherwise be exempt from rules XXXIV, XXXV, and XXXVII of the Standing Rules of the Senate.

"(e) Vacancies in the membership of the Select Committee shall be filled in the same manner as original appointments thereto are made, and no action may be taken by the remaining members while a vacancy exists.

"(f) Three members shall constitute a quorum for the transaction of business, except that the Select Committee may fix a lessor number for the purpose of taking sworn testimony.".

(2) Section 2(c) is amended to read as follows:

"(c) No investigation of conduct of a Member or officer of the Senate, or any resolution, report, recommendation, interpretative ruling, or advisory opinion may be made without an affirmative vote of two members of the Select Committee.".

(3) Section 3(d) is amended to read as follows:

"(d) Subpoenas may be issued by the Select Committee or by the chairman. Any such subpoena shall be signed by the chairman and may be served by any person designated by the chairman. The chairman of the Select Committee or any member thereof may administer oaths to witnesses.".

• **Mr. ROTH.** Mr. President, I am today introducing a resolution aimed at strengthening the independence and credibility of the Select Committee on Ethics. It would accomplish this by changing the membership of the select committee, so that no sitting Senator would be a member of that body. Instead, two retired Members of Congress would be named to the committee, who in turn would select a retired judge to serve as chairman.

This three-member select committee would be paid on a per diem basis, serve 4-year terms, and not be eligible for reappointment. They would be prohibited from engaging in any outside employment that is in conflict with their duties on the committee.

I have long been concerned with the problems inherent in asking Senators to investigate the conduct of their own colleagues. I first raised this concern in 1977, when I offered a similar proposal. In the ensuing years I have seen little to convince me that the present process is either reasonable or credible.

The Constitution requires that the Senate judge the propriety of its own Members' conduct. This is a difficult task for any small, collegial organization, but one we are duty-bound to undertake. Far more difficult, however, is the task of actually investigating, and recommending specific action on, the conduct of a Member. That is what the Select Committee on Ethics must do, yet few Senators feel comfortable in this role.

This discomfort is heightened by the public's distrust of Congress' ability to act in this area with objectivity and thoroughness. Committee members know that even where no misconduct has been found, an exoneration can unfairly taint both the investigators and the investigated.

Clearly there is a need for both the perception and the reality of greater independence by the investigating body. There is not much we can do about the constitutionally imposed specter of "Senators judging Senators," at least in the end. But we can do something about the process that occurs before the issue reaches the Senate floor.

A committee of three non-Senators will have greater independence in conducting thorough investigations and making fair recommendations. The perception and reality of this would be enhanced by having a former judge as the chairman. The two former Members of Congress will bring a familiarity with congressional institutions and practices, without the added difficulty of having to work closely with someone they are also investigating. It creates a real problem when you have to investigate someone whose vote you are seeking at the same time.

The current system puts the members of the Select Committee on Ethics in a very difficult position. In fact, the Senate owes a debt of gratitude to those who have been willing to serve in this country. It is time to relieve Senators of this most difficult task of investigating, and recommending action on, close colleagues. I believe my proposal would accomplish this in a way that strengthens the independence and credibility of the Select Committee on Ethics.•

SENATE RESOLUTION 226—RELATIVE TO CERTAIN MINORITY PARTY COMMITTEE APPOINTMENTS

Mr. GARN (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 226

Resolved, That the Senator from Rhode Island (Mr. CHAFEE) shall continue his membership on the Committees on Banking, Housing and Urban Affairs until the convening of the Second Session of the One Hundred Second Congress.

SENATE RESOLUTION 227—RELATIVE TO AGRICULTURAL SUBSIDIES AND THE GATT NEGOTIATIONS

Mr. PRESSLER submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 227

Whereas in 1985, negotiations on an international agreement to reform the General Agreement on Tariffs and Trade (hereafter in this resolution referred to as "GATT") began in Punta del Este, Uruguay, with a targeted conclusion date of December 1990;

Whereas the United States and other major agricultural exporting nations insisted from the start on significant reductions in the subsidy programs operated by the European Community under its Common Agricultural Policy;

Whereas in December 1990, after the European Community decided against reducing the subsidy programs of its Common Agricultural Policy, no international agricultural subsidy reduction agreement was reached;

Whereas in November 1991, the European Community indicated some willingness to reduce its export subsidies during the GATT negotiations;

Whereas American agriculture has a long tradition of supporting international efforts to achieve more open markets and fairer rules governing world agricultural trade;

Whereas the support of United States farmers and ranchers for multilateral and other trade negotiations depends on the success of the Uruguay Round GATT negotiations in achieving agricultural subsidy reductions in the European Community; and

Whereas any agreement under the GATT that is not supported by American farmers and ranchers would not be acceptable to the Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that any agreement regarding proposed changes to the GATT must—

(1) achieve the elimination or substantial reduction of export subsidies as a means of disposing of agricultural surpluses in the world market;

(2) achieve new and expanded foreign market opportunities for United States farm products;

(3) ensure the European Community does not offset possible reductions in its agricultural export subsidies by adopting programs, such as variable levies or tariffs, which have the effect of substantially limiting United States agricultural exports to the European Community;

(4) not limit the United States' ability to exercise its rights under the GATT to eliminate unfair trade barriers in the future; and

(5) achieve a sound agreement governing sanitary and phytosanitary regulations.

Mr. PRESSLER. Mr. President, I am submitting a resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations. As I said on the Senate floor last week, recent reports in the world press, as well as papers here at home, stated that our trade negotiators had offered a major concession by proposing that the EC cut its export subsidies by 35 percent over the next 5 years. It was also reported that the United States and the EC have forged a crucial compromise over the issue of agricultural subsidies.

If these proposed changes in our negotiating position are true, I am very disappointed, I will fight any GATT changes that hurt our farmers and ranchers.

Future trade agreements must ensure freer and fairer trade for American farmers. Growth in international trade is key to the future of U.S. agriculture. We must open more world markets to U.S. farmers and ranchers.

Mr. President, the resolution I am now introducing sends a message to our GATT negotiators on what changes are needed in the agricultural provisions of the GATT. The resolution is quite simple and stresses five points.

First, the agreement must achieve the elimination or substantial reduction of export subsidies as a means of disposing of agricultural surpluses in the world markets. Over the last 10 years, U.S. agricultural exports to the EC have fallen from $11 billion to $6.5 billion. The loss is the result of the EC's mounting commodity surpluses, which built up after implementation of the EC common agricultural policy. The EC's need to dispose of these surpluses has resulted in the dumping of its agricultural surpluses on world markets, resulting in lower prices and lost markets for U.S. farmers and ranchers.

Second, the agreement must achieve new and expanded foreign market opportunities for U.S. farm products. Actions of the EC have resulted in the EC moving in just 10 years from a net importer of agricultural products to a net exporter. Actions of the EC have cost American agriculture billions of dollars in lost sales and lost markets. Changes in the GATT must reverse the liberal subsidy policies of the EC.

Third, the agreement must ensure the European Community does not offset possible reductions in its agricultural export subsidies by adopting other programs, such as variable levies or tariffs, which have the effect of substantially limiting U.S. agricultural exports to the European Community. New trade restrictions should not be erected to reverse any gains made by the lowering of export subsidies.

Fourth, the agreement must not limit the United States' ability to exercise its rights under the GATT to eliminate unfair trade barriers in the future. Posturing by the EC for a truce on further GATT disputes is uncertain and vague at best. The Uruguay round agreement should not result in legitimizing unfair trade practices or prevent the United States from pursuing formal actions against unfair trade practices.

Fifth, the negotiations must achieve a sound agreement governing sanitary and phytosanitary regulations. These are regulations that provide for food safety and plant and animal health. A sound agreement would protect human, animal, or plant health on the basis of sound scientific evidence and on the principle of equivalency. Regulations that are not identical but have the same effect in ensuring a given level of protection should be deemed to be equivalent.

Mr. President, economic gains from increased U.S. agricultural exports could be substantial. Every billion dollars' worth of agricultural exports means 26,000 jobs here in the United States.

Allowing the EC to continue its protectionist agricultural subsidy programs means that South Dakota farmers and ranchers would continue to face unfair foreign competition. Every farmer and rancher in South Dakota knows that higher grain, dairy, and meat prices depend on better access to foreign markets. The United States has reduced substantially its agricultural subsidies over the past 10 years, while the EC has increased subsidies. We must keep pressure on the EC to make major reductions in its export subsidies. This is essential if U.S. farmers and ranchers are to have any hope for a decent return for their hard work and investment.

AMENDMENTS SUBMITTED

VETERANS POST-TRAUMATIC STRESS DISORDER TREATMENT ACT OF 1991

SIMPSON AMENDMENT NO. 1358

Mr. SIMPSON proposed an amendment to the bill (S. 869) to amend title 38, United States Code, to improve the availability of treatment of veterans for post-traumatic stress disorder, and for other purposes, as follows:

On page 16, strike out line 18 and all that follows through page 18, line 22.

On page 18, line 23, strike out "104" and insert in lieu thereof "103".

On page 19, line 10, strike out "105" and insert in lieu thereof "104".

On page 22, line 1, strike out "106" and insert in lieu thereof "105".

On page 24, line 3, strike out "107" and insert in lieu thereof "106".

On page 24, line 21, strike out "108" and insert in lieu thereof "107".

On page 26, line 21, strike out "109" and insert in lieu thereof "108".

On page 28, line 19, strike out "110" and insert in lieu thereof "109".

SIMPSON AMENDMENT NO. 1359

Mr. SIMPSON proposed an amendment to the bill S. 869, supra, as follows:

On page 18, strike out line 23 and all that follows through page 19, line 9.

On page 19, line 10, strike out "105" and insert in lieu thereof "104".

On page 22, line 1, strike out "106" and insert in lieu thereof "105".

On page 24, line 3, strike out "107" and insert in lieu thereof "106".

On page 24, line 21, strike out "108" and insert in lieu thereof "107".

On page 26, line 21, strike out "109" and insert in lieu thereof "108".

On page 28, line 19, strike out "110" and insert in lieu thereof "109".

RIEGLE AMENDMENT NO. 1360

Mr. DeCONCINI (for Mr. Riegle) proposed an amendment to the bill S. 869, supra, as follows:

On page 67, below line 14, add the following:

TITLE IV—MISCELLANEOUS

SEC. 401. AUTHORIZATION TO FLY POW/MIA FLAG AT NATIONAL CEMETERIES OF THE UNITED STATES.

(a) Authorization.—The director of each national cemetery is authorized to display a POW/MIA flag on a flagstaff at that cemetery. In determining whether to display a POW/MIA flag at the cemetery, the director is authorized and urged to consult with appropriate representatives of local civic and veterans' organizations having an interest in the activities of the cemetery.

(b) Prohibition.—No officer or other employee of the Federal Government may obligate appropriated funds for the purpose of purchasing a POW/MIA flag for display at a national cemetary.

(c) Definitions.—In this section:

(1) The term "national cemetery" means any cemetery in the National Cemetery System referred to in section 1000 of title 38, United States Code.

(2) The term "POW/MIA flag" means the flag designated as the National League of Families POW/MIA flag pursuant to section 2 of the Joint Resolution designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag (Public Law 101-355; 104 Stat. 416).

(3) The term "flagstaff" means any flagstaff at a national cemetery, including the main flagstaff of the cemetery.

SIMPSON AMENDMENT NO. 1361

Mr. SIMPSON proposed an amendment to the bill S. 869, supra, as follows:

On page 67, below line 14, insert the following new matter:

TITLE IV—MISCELLANEOUS

SEC. 401. INDEXATION OF COST-OF-LIVING ADJUSTMENTS IN RATES OF COMPENSATION.

(a) In General.—Section 5312 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Effective December 1 of each year, each rate of disability compensation under sections 1114 and 1115 of this title, dependency and indemnity compensation under sections 1311, 1313, and 1314 of this title, and the clothing allowance under section 1362 of this title shall be increased by the increase in the price index for the base quarter of such year from the price index for the base quarter of the immediately preceding year, adjusted to the nearest $\frac{1}{10}$ of 1 percent. The price index for a base quarter shall be the arithmetical mean of such index for the three months comprising such quarter.

"(2) For the purpose of this section—

"(A) The term 'price index' means the Consumer Price Index—Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics; and

"(B) The term 'base quarter,' with respect to a calendar year, means the calendar quarter ending on September 30 of such year.".

(b) Publication Requirement.—Section 5312(d) (as redesignated by subsection (a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) Whenever disability compensation, dependency and indemnity compensation, and clothing allowance rates are increased under subsection (c), the Secretary shall publish the rates (as increased) in the Federal Register as soon after such increase as practicable.".

(c) Administrative Adjustment.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

DeCONCINI AMENDMENT NO. 1362

Mr. DECONCINI proposed an amendment to the bill S. 869, supra, as follows:

On page 48, line 10, strike out "662" and insert in lieu thereof "1762".

WOMEN'S BUSINESS DEVELOPMENT ACT

BUMPERS (AND KASTEN) AMENDMENT NO. 1363

Mr. DODD (for Mr. BUMPERS, for himself and Mr. KASTEN) proposed an amendment to the bill (H.R. 2629) to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Business Development Act of 1991".

SEC. 2. WOMEN'S DEMONSTRATION PROJECTS.

The Small Business Act is amended by adding at the end the following new section:

"SEC. 28. (a) The Administration may provide financial assistance to private organizations to conduct 3-year demonstration projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

"(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

"(2) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

"(b)(1) As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

"(A) If the project first receives its Federal financial assistance prior to fiscal year 1993, an annual amount that is not less than the amount of the Federal financial assistance provided each year.

"(B) If the project first receives Federal financial assistance in fiscal year 1993, or thereafter, annual amounts equal to—

"(i) in the first year, 1 non-Federal dollar for each 2 Federal dollars;

"(ii) in the second year, 1 non-Federal dollar for each Federal dollar; and

"(iii) in the third and final year, 2 non-Federal dollars for each Federal dollar.

"(2) Up to one-half of the non-Federal matching assistance may be in the form of in-kind contributions which are budget line items only, including but not limited to office equipment and office space.

"(3) The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal matching funds are obtained.

"(4) If any recipient of assistance under this section fails to obtain the required non-Federal contribution during any year of any project, it shall not be eligible thereafter for advance disbursements under paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded. In addition, prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

"(c) Each applicant for assistance under this section initially shall submit a 3-year plan on proposed fundraising and training activities, and may received financial assistance under this section for a maximum of 3 years per site. The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

"(1) the experience of the applicant in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(2) the present ability of the applicant to commence a demonstration project within a minimum amount of time; and

"(3) the ability of the applicant to provide training and services to a representative number of women who are both social and economically disadvantaged.

"(d) For purposes of this section, the term 'small business concern' means a small business concern, either start-up or existing, owned and controlled by women, and—

"(1) which is at least 51 percent owned by 1 or more women; and

"(2) the management and daily business operations of which are controlled by 1 or more women.

"(e) There are authorized to be appropriated $4,000,000 for each fiscal year to carry out the demonstration projects authorized by this section. Notwithstanding any other provision of law, the Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

"(f) The Administration shall prepare and transmit an annual report, beginning February 1, 1992, to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this section. Such report shall provide information concerning—

"(1) the number of individuals receiving assistance;

"(2) the number of start-up business concerns formed;

"(3) the gross receipts of assisted concerns;

"(4) increases or decreases in profits of assisted concerns; and

"(5) the employment increases or decreases of assisted concerns.

"(g) The Administration shall not provide financial assistance under this section to any new project after October 1, 1995, except that it may fund projects which commenced prior thereto.".

SEC. 3. ADMINISTRATIVE PROVISION.

Section 8 of the Small Business Act (15 U.S.C. 637) is amended by striking subsection (c) and redesignating subsections (d) through (j) as subsections (c) through (k). Projects funded pursuant to the provisions of former subsection (c) shall be deemed to be funded under and shall be treated as if funded under section 28 of the Small Business Act, as added by section 2.

SEC. 4. PERMANENT AUTHORIZATION OF SMALL LOAN PROGRAM.

Section 7(a)(19)(B) of the Small Business Act (15 U.S.C. 636(a)(19)(B)) is amended by striking "during fiscal years 1989, 1990, and 1991,".

SEC. 5. NATIONAL WOMEN'S BUSINESS COUNCIL.

Subparagraph (G) of section 403(b) of the Women's Business Ownership Act of 1988 (102 Stat. 2695) is amended to read as follows:

"(G) The Chairperson and Vice Chairperson of the council shall be designated by the President and may be either a representative of the public sector or the private sector, except that the Chairperson and Vice Chairperson shall not be from the same sector concurrently. Each shall serve for a maximum term of 2 years. No person may be designated to the same office for 2 consecutive terms, nor may consecutive designees as Chairperson be from the public sector.".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry, will hold a hearing on the nomination of Charles R. Hilty to be Assistant Secretary of Agriculture for Administration, and Gary C. Byrne to be a member of the Farm Credit Administration, Friday, November 22, 1991, at 10 a.m., in SR–332.

For further information please contact Kathleen Merrigan of the committee staff at 224–2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation be authorized to meet on Wednesday, November 20, 1991, at 12:30 p.m., on the subject: computer security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, November 20, 1991, at 12:30 p.m., to hold a nominations hearing.

WITNESS LIST

Senators/Representatives

Senator Dennis DeConcini.
Senator Thad Cochran.
Senator Alan J. Dixon.
Senator Paul Simon.
Senator John McCain.
Senator Trent Lott.
Representative Robert H. Michel.

Judges

Joe B. McDade, Peoria, Illinois, United States District Judge for the Northern District of Illinois.

John M. Roll, Tuscon, Arizona, United States District Judge for the District of Arizona.

David C. Bramlette, Biloxi, Mississippi, United States District Judge for the Southern District of Mississippi.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DODD. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Wednesday, November 20, 1991, at 10 a.m., in SR-332, to hold a hearing regarding jobs and rural America.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support of the Committee on Armed Services be authorized to meet on Wednesday, November 20, 1991, at 10 a.m., to receive testimony on Defense Department purchases from the Federal Prison Industries.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., November 20, 1991, to consider S. 484, S. 106, H.R. 543, S. 549, Senate Joint Resolution 23, S. 1501, H.R. 429, S. 1225, S. 979, S. 1351, S. 1770, nomination of Leo Duffy, H.R. 476, H.R. 2927, S. 461, S. 1552, H.R. 3387, H.R. 990, H.R. 2370, S. 606, S. 1696, and S. 1228.

AGENDA AND DATE PUT ON AGENDA

1. S. 484, to establish conditions for the sale and delivery of water from the Central Valley Project, California, a Bureau of Reclamation facility, and for other purposes; 7-19-91.

2. S. 106, to amend the Federal Power Act; 9-20-91.

3. H.R. 543, to establish the Manzanar National Historic Site in the State of California, and for other purposes; 9-20-91.

4. S. 549, to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System; 10-10-91.

5. S.J. Res. 23, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; 10-10-91.

6. S. 1501, to amend the Reclamation Reform Act of 1982, and for other purposes; 11-08-91.

7. H.R. 429, to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes; 11-08-91.

8. S. 1225, to designate certain lands in California as wilderness, and for other purposes; 11-08-91.

9. S. 979, to provide for strong Department of Energy support of research and development of technologies identified in the most recent National Critical Technologies Report as critical to U.S. economic prosperity and national security, and for other purposes; 11-15-91.

10. S. 1351, to encourage partnerships between Department of Energy Laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness; 11-15-91.

11. S. 1770, to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes; 11-15-91.

12. Nomination of Leo Duffy to be Assistant Secretary for Environmental Restoration and Waste Management, U.S. Department of Energy; 11-15-91.

13. H.R. 476, to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes; 11-15-91.

14. H.R. 2927, to provide for the establishment of the St. Croix, Virgin Islands Historical Park and Ecological Preserve, and for other purposes; 11-15-91.

15. S. 461, to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; 11-15-91.

16. S. 1552, to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; 11-15-91.

17. H.R. 3387, to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; 11-15-91.

18. H.R. 990, to authorize additional appropriations for land acquisition at Monocacy National Battlefield, Maryland; 11-15-91.

19. H.R. 2370, to alter the boundaries of the Stones River National Battlefield, and for other purposes; 11-15-91.

20. S. 606, to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; 11-15-91.

21. S. 1696, to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes; 11-15-91.

22. S. 1228, to provide for a comprehensive review by the Secretary of the Interior of western water resource problems and programs administered by the Geological Survey, the Bureau of Reclamation, and for other operations of the Department of the Interior, and for other purposes; 11-15-91.

1. FROM THE SUBCOMMITTEE ON WATER AND POWER

S. 484 (Bradley and Cranston). The Central Valley Project Improvement Act.

Purpose: The purposes of S. 484 are to promote and expand the authorized purposes of the Central Valley Project, California, by establishing conditions which must be satisfied before the Secretary of the Interior may sell or deliver water from the Central Valley Project under contract or other agreement, and for other purposes.

Legislative History: S. 484 was introduced by Senators Bradley and Cranston on February 26, 1991. The Subcommittee on Water and Power conducted hearings on S. 484 in Los Angeles, California, on March 18; in Washington, D.C. on May 8; and in Sacramento, California on May 30, 1991.

At the May 8 Subcommittee hearing, representatives from the Bureau of Reclamation testified in opposition to S. 484 as unnecessary at this time. Representatives from the U.S. Fish and Wildlife Service and Bureau of Indian Affairs supported certain provisions of S. 484, while opposing others as unnecessary. Representatives from the Environmental Protection Agency supported the bill. A representative of the Department of Agriculture expressed concern over certain provisions of the bill, while supporting others.

Amendments: Senator Bradley may offer amendments. Other amendments are expected.

2. FROM THE SUBCOMMITTEE ON WATER AND POWER

S. 106 (Craig, Symms & Seymour). A bill to amend the Federal Power Act.

Purpose: The purpose of S. 106 is to reverse the U.S. Supreme Court's 1990 opinion in the case of *California* v. *FERC* (generally known as the "*Rock Creek*" case). The bill amends the Federal Power Act to prohibit the granting of a Federal license for a hydroelectric project unless the applicant complies with all substantive and procedural requirements of the affected State in which the project is located with respect to water acquisition and use.

Legislative History: S. 106 was introduced on January 14, 1991. The Subcommittee on Water and Power conducted a hearing on S. 106 on June 5, 1991. The Administration and staff of the Federal Energy Regulatory Commission testified in opposition to the measure.

Amendments: Amendments are expected.

3. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

H.R. 543. To establish the Manzanar National Historic Site in the State of California, and for other purposes.

Purpose: The purpose of title I of H.R. 543 is to establish the 500 acre Manzanar National Historic Site in California. Title II of H.R. 543 directs the Secretary of the Interior to conduct a National Historic Landmark theme study on Japanese American history.

Legislative History: H.R. 543 passed the House of Representatives by a voice vote on June 24, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on H.R. 543 on July 25, 1991. The Subcommittee also held a hearing on S. 621, sponsored by Senators Cranston and Akaka, which would establish the Manzanar National Historic Site, and S. 1344, introduced by Senators Akaka, Cranston and Adams, pertaining to the Japanese American history theme study.

At the Subcommittee hearing, the Associate Director of the National Park Service testified in support of title I and in opposition to title II of H.R. 543.

Amendments: Amendments are likely.

4. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

S. 549 (Cranston). To amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

Purpose: The purpose of S. 549 is to designate approximately 8 miles of the lower Merced River in California as a component of the National Wild and Scenic Rivers System.

Legislative History: S 549 was introduced by Senator Cranston on March 5, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on the bill on March 21, 1991. The House and Senate passed similar legislation last Congress, although because of non-germane amendments, the bill was not enacted.

At the Subcommittee hearing, the Assistant Director of the Bureau of Land Management testified in support of the bill, if amended.

Amendments: Amendments are likely.

5. FROM THE FULL COMMITTEE

S.J. Res. 23 (Mr. Inouye). To consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

Purpose: The purpose of Senate Joint Resolution 23 is to provide Congressional consent to amendments to the Hawaiian Homes Commission Act. In 1959, the Hawaii Admission Act transferred authority over the Hawaiian Homes Commission Act to the State of Hawaii, but at the same time required Congressional consent to certain amendments to the Act proposed by the State.

Legislative History: Senate Joint Resolutions 23 through 34 were introduced by Senator Inouye on January 14, 1991. A hearing was held on July 23, 1991. Testimony was heard from representatives of the Department of the Interior, the Office of the Governor, the Department of Hawaiian Home Lands, and the Office of Hawaiian Affairs.

Amendments: Amendments are anticipated.

6. FROM THE SUBCOMMITTEE ON WATER AND POWER

S. 1501 (Burns, Conrad, Shelby, Simpson, Murkowski, Akaka, Baucus, Domenici, Wallop, Brown, Craig, Symms, Pryor, and Cochran). A bill to amend the Reclamation Reform Act, and for other purposes.

Purpose: The purpose of S. 1501 is to amend the Reclamation Reform Act of 1982.

Legislative History: S. 1501 was introduced on July 18, 1991 and received a hearing before the Subcommittee on Water and Power on September 12, 1991.

Amendments: Amendments are expected.

7. FROM THE SUBCOMMITTEE ON WATER AND POWER

H.R. 429—Reclamation Projects Authorization and Adjustment Act of 1991.

Purpose: The purpose of H.R. 429 is to authorize certain new Reclamation program facilities and projects, changes to other Reclamation facilities and projects, and other purposes.

Legislative History: H.R. 429 was received in the Senate on June 25, 1991. The Subcommittee on Water and Power conducted four days of hearings on various titles of H.R. 429:

September 12—title XVII;

October 22—titles X, XI, XXIV, XXVII, XXIX, and XXX;

October 23—titles XII, XXI, XXII, XXVI, and XXVIII;

October 24—titles XV, XVI, XVIII, and XXV.

Amendments: Amendments are expected.

8. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

S. 1225 (Seymour and Cranston). To designate certain lands in California as wilderness, and for other purposes.

Purpose: The purpose of S. 1225 are to designate approximately 398,000 acres of the Los Padres National Forest as wilderness, to designate 190 miles of six rivers for inclusion or for study for inclusion in the Wild and Scenic Rivers System, and to withdraw approximately 75,000 acres of federal land from mineral entry.

Legislative History: S. 1225 was introduced by Senators Seymour and Cranston on June 5, 1991. A companion bill, H.R. 2556, has been introduced in the House. Last year, a similar bill passed the House but was never considered by the Senate.

At the Subcommittee hearing, the Associate Deputy Chief of the Forest Service testified in support of the bill, if amended.

Amendments: Amendments are anticipated.

9. FROM THE SUBCOMMITTEE ON RESEARCH AND DEVELOPMENT

S. 979 (Bingaman, Johnston, Domenici and Shelby), the "Department of Energy Critical Technologies of 1991".

Purpose: The purpose of S. 979 is to provide for Department of Energy support of research and development of technologies that are critical to United States economic prosperity and national security. S. 979 would require the Secretary, through a Critical Technologies Planning Council, to develop a five-year plan that would provide for coordination of research and development activities of the Department's laboratories. The bill would also direct the Secretary to solicit and select proposals for partnerships among the laboratories, educational institutions, and the private sector.

Legislative History: S. 979 was introduced on April 25, 1991, and was referred to the Energy and Natural Resources Committee. The Subcommittee on Energy Research and Development held a hearing on June 27, 1991.

At the hearing, the Administration was supportive of many of the goals of S. 979 but opposed many of the specific provisions of the bill. Witnesses from industry and the academic community were generally supportive of many of the goals and activities expressed in S. 979.

Amendments: Amendments are anticipated.

10. FROM THE FULL COMMITTEE

S. 1351 (Domenici, Johnston, Bingaman, Wallop, Ford, Craig, Simon, Moynihan, Gorton, Seymour, D'Amato, Symms, Gore, Warner and Shelby), the "Department of Energy Science and Technology Partnership Act".

Purpose: The purpose of S. 1351 is to encourage partnerships between Department of Energy laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness.

The bill identifies the specific areas in which the departmental laboratories are authorized to conduct research and development activities under these partnership agreements.

Legislative History: S. 1351 was introduced on June 21, 1991, and was referred to the Energy and Natural Resources Committee. The full Committee held hearings on July 30 and 31, 1991.

At the hearings, the Secretary of Energy and witnesses from industry and the academic community, endorsed and supported many of the goals and activities expressed in S. 1351.

Amendments: Amendments are anticipated.

11. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

S. 1770 (Daschle). To convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes.

Purpose: The purpose of S. 1770 is to convey approximately 2.2 acres of surplus property in the Black Hills National Forest to the Black Hills Workshop and Training Center.

Legislative History: S. 1770 was introduced by Senator Daschle on September 27, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on this measure on November 7, 1991.

At the Subcommittee hearing, a representative from the Forest Service testified in support of the bill, if amended.

Amendments: Amendments are expected.

12. FROM THE FULL COMMITTEE

To consider the nomination of Leo Duffy to be Assistant Secretary for Environmental Restoration and Waste Management, U.S. Department of Energy.

Legislative History: The Full Committee conducted a hearing on November 19, 1991. Mr. Duffy has submitted all required information under the Committee Rules.

13. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

H.R. 476. To designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes.

Purpose: The purpose of H.R. 476 is to designate 15 river segments in the State of Michigan as components of the National Wild and Scenic River System and to provide for the designation of 10 river segments in the State as Wild and Scenic Study Rivers.

Legislative History: H.R. 476 passed the House of Representatives by a voice vote on June 3, 1991. Companion legislation, S. 209, has been introduced in the Senate by Senator Riegle. The Subcommittee on Public Lands, National Parks and Forests held a hearing on both bills on October 15, 1991. Last Congress, the House passed similar legislation, H.R. 4019, although no action was taken in the Senate.

At the Subcommittee hearing, the Associate Deputy Chief of the Forest Service testified in support of the bill, if amended.

Amendments: Amendments are possible.

14. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

H.R. 2927. To provide for the establishment of the St. Croix, Virgin Islands Historical Park and Ecological Preserve, and for other purposes.

Purpose: The purpose of H.R. 2927 is to establish the 1.046 acre "Salt River Bay National Historical Park and Preserve at St. Croix, Virgin Islands."

Legislative History: H.R. 2927 passed the House of Representatives by a voice vote on November 5, 1991. Companion legislation, S. 1495, was introduced in the Senate by Senator Johnson on July 18, 1991. The Subcommittee on Public Lands, National Parks and Forest held a hearing on S. 1495 on September 26, 1991.

At the Subcommittee hearing, the Secretary of the Interior testified in support of the bill.

Amendments: Amendments are likely.

15. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

S. 461 (Smith and Rudman). To amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

Purpose: The purpose of S. 461 is to designate a ten mile segment of the Lamprey River in New Hampshire as a Wild and Scenic Study River.

Legislative History: S. 461 was introduced by Senators Smith and Rudman on February 21, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on the bill on November 7, 1991.

At the Subcommittee hearing, the Associate Director of the National Park Service testified in support of the bill, if amended.

Amendments: No amendments are expected.

16. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

S. 1552 (Biden, Roth, Wofford, and Specter). To amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

Purpose: The purpose of S. 1552 is to designate the White Clay Creek in Delaware and Pennsylvania as a Wild and Scenic Study River. The Secretary of the Interior is to complete the study within 3 years after the date of enactment of this Act.

Legislative History: S. 1552 was introduced by Senators Biden, Wofford, Roth, and Specter on July 24, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on the bill on November 7, 1991.

At the Subcommittee hearing, the Associate Director of the National Park Service testified in support of the bill.

Amendments: No amendments are anticipated.

17. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

H.R. 3387. To amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

Purpose: The purpose of H.R. 3387 is to reauthorize appropriations for the Pennsylvania Avenue Department Corporation totaling approximately $2.8 million for FY 1992.

Legislative History: H.R. 3387 passed the House of Representatives by a voice vote on November 6, 1991. Similar legislation, S. 1660, was introduced by Senator Johnston at the request of the Administration on August 2, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 1660 on November 7, 1991.

Amendments: No amendments are expected.

18. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

H.R. 990. To authorize additional appropriations for land acquisition at Monocacy National Battlefield, Maryland.

Purpose: The purpose of H.R. 990 is to authorize an additional $20 million for land acquisition at Monocacy National Battlefield in Maryland.

Legislative History: H.R. 990 passed the House of Representatives by a voice vote on June 3, 1991. Identical legislation, S. 1230 was introduced by Senators Sarbanes and Mikulski on June 6, 1991. The Subcommittee on Public Lands, National Parks, and Forests held a hearing on both bills on November 7, 1991.

At the Subcommittee hearing, the Associate Director of the National Park Service testified in support of the bill.

Amendments: No amendments are expected.

19. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

H.R. 2370. To alter the boundaries of the Stones River National Battlefield, and for other purposes.

Purpose. The purpose of H.R. 2370 is to modify the boundaries of the Stones River National Battlefield in Tennessee to authorize the addition of approximately 332 acres to the park.

Legislative History: H.R. 2370 passed the House of Representatives by a voice vote on September 24, 1991. The Senate companion measure, S. 1772, was introduced by Senators Sasser and Gore on September 30, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on both bills on November 7, 1991.

At the Subcommittee hearing, the Associate Director of the National Park Service testified in support of the bill, if amended.

Amendments: Amendments are possible.

20. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

S. 606 (Heinz). To amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes.

Purpose: The purpose of S. 606 is to designate approximately 85 miles of the Allegheny River in Pennsylvania as a component of the Wild and Scenic Rivers System.

Legislative History: S. 606 was introduced by the late Senator John Heinz on March 7, 1991. Companion legislation, H.R. 1363, passed the House of Representatives by a voice vote on June 3, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 606 on November 7, 1991.

At the Subcommittee hearing, the Associate Deputy Chief for the Forest Service testified in opposition of the bill, unless amended.

Amendments: Amendments are likely.

21. FROM THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

S. 1696 (Baucus). To designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes.

Purpose: The purposes of S. 1696 are to designate approximately 1.4 million acres of the National Forest lands in Montana as wilderness; approximately 350,000 acres of special management areas; approximately 155,000 acres as wilderness study areas; and to release approximately 4 million acres land in those forests for multiple-use management.

Legislative History: S. 1696 was introduced by Senator Baucus on September 10, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on the measure on October 22, 1991. A bill designating wilderness on two forests, S. 72, was introduced by Senator Baucus on January 14, 1991. A field hearing was held on S. 72 in June 1991.

At the Subcommittee hearing on S. 1696, a representative from the Department of Agriculture testified in opposition to the bill unless significantly amended.

Amendments: Amendments will be offered.

22. FROM THE SUBCOMMITTEE ON WATER AND POWER

S. 1228 (Hatfield and Bradley)—the "Western Water Policy Review Act of 1991."

Purpose: The purpose of S. 1228 is to provide for a comprehensive review by the Secretary of the Interior of western water resource problems and programs administered by the Geological Survey, the Bureau of Reclamation, and other operations of the Department of the Interior.

Legislative History: S. 1228 was introduced on June 6, 1991. The Subcommittee on Water and Power conducted a hearing on S. 1228 on September 19, 1991. At the Subcommittee hearing, the Commissioner of Reclamation agreed with the overall policies contained in the bill, but expressed specific objections to certain provisions.

Amendments: Amendments are expected.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, November 20, 1991 at 5 p.m., in executive session, to continue discussion of the DOD and committee investigation of the Air Force promotion selection process.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on November 20, 1991, beginning at 9:00 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate, H.R. 1426, the Lumbee Recognition Act, and to meet on the nomination for report to the Senate, David Lester, Wiley Buchanan, Robert Ames, and William Johnson to be members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development, and to meet on Federal court review of tribal court rulings in actions arising under the Indian Civil Rights Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, November 20, 1991, at 10 a.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 20, 1991, at 10:45 a.m. to consider Senate Joint Resolution 215, a resolution approving the extension of most-favored-nation treatment to the products of the Union of Soviet Socialist Republics; to hear and consider the nominations of Alan M. Dunn, to be an Assistant Secretary of Commerce; Peter S. Watson to be a member of the U.S. International Trade Commission; and, Arnold R. Thompkins, to be an Assistant Secretary of Health and Human Services; and, to consider a request for the International Trade Commission to conduct an investigation pursuant to section 332 of the Tariff Act of 1930 on import competition in the macadamia nut industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 20, 1991, at 9:30 a.m. to hold a hearing on issues that must be dealt with before the Uruguay round of trade negotiations can be completed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. DODD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on the nominations of Allen Clark to be Director of the VA National Cemetery System, James Endicott to be VA General Counsel, Sylvia Chavez Long to be Assistant Secretary for Congressional Affairs, and Jo Ann Webb to be Assistant Secretary for Policy and Planning, on Wednesday, November 20, 1991, in the Reception Room off of the Senate floor after the first rollcall occurring after 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RULES OF PROCEDURE, COMMITTEE ON GOVERNMENTAL AFFAIRS

• Mr. GLENN. Mr. President, in July 1991, the Committee on Governmental Affairs adopted an amendment to rule 2(A) of its rules of procedure. Rule 2(A) now reads as follows:

A. *Reporting measures and matters.* A majority of the members of the Committee shall constitute a quorum for reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

I herewith submit a copy of rules of procedure adopted by the Committee on Governmental Affairs pursuant to rule XXVI, section 2, standing rules of the Senate, and as amended in July 1991, and ask that they be printed in the RECORD at this point.

The rules of procedure follow:

RULES OF PROCEDURE OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

(Pursuant to rule XXVI, section 2, Standing Rules of the Senate)

RULE 1. MEETINGS AND MEETING PROCEDURES OTHER THAN HEARINGS

A. *Meeting dates.* The Committee shall hold its regular meetings on the first Thursday of each month, when the Congress is in session, or at such other times as the chairman shall determine. Additional meetings may be called by the chairman as he deems necessary to expedite Committee business. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

B. *Calling special Committee meetings.* If at least three members of the Committee desire the chairman to call a special meeting, they may file in the offices of the Committee a written request therefor, addressed to the chairman. Immediately thereafter, the clerk of the Committee shall notify the chairman of such request. If, within three calendar days after the filing of such request, the chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the Committee members may file in the offices of the Committee their written notice that a special Committee meeting will be held, specifying the date and hour thereof, and the Committee shall meet on that date and hour. Immediately upon the filing of such notice, the Committee clerk shall notify all Committee members that such special meeting will be held and inform them of its date and hour. If the chairman is not present at any regular, additional or special meeting, the ranking majority member present shall preside. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

C. *Meeting notices and agenda.* Written notices of Committee meetings, accompanied by an agenda, enumerating the items of business to be considered, shall be sent to all Committee members at least three days in advance of such meetings, excusing Saturdays, Sundays, and legal holidays in which the Senate is not in session. In the event that unforeseen requirements or Committee business prevent a three-day notice of either the meeting or agenda, the Committee staff shall communicate such notice and agenda, or any revisions to the agenda, as soon as practicable by telephone or otherwise to members or appropriate staff assistants in their offices.

D. *Open business meetings.* Meetings for the transaction of Committee or Subcommittee business shall be conducted in open session, except that a meeting or series of meetings on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) below would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee members when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

Notwithstanding the foregoing, whenever disorder arises during a Committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the chairman to enforce order on his own initiative and without any point of order being made by a member of the Committee; *provided, further,* that when the chairman finds it necessary to maintain order, he shall have the power to clear the room, and the Committee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

E. *Prior notice of first degree amendments.* It shall not be in order for the Committee, or a Subcommittee thereof, to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless a written copy of such amendment has been delivered to each member of the Committee or Subcommittee, as the case may be, and to the office of the Committee or Subcommittee, at least 24 hours before the meeting of the Committee or Subcommittee at which the amendment is to be proposed. This subsection may be waived by a majority of the members present. This subsection shall apply only when at least 72 hours written notice of a session to mark-up a measure is provided to the Committee.

F. *Meeting transcript.* The Committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting whether or not such meeting or any part thereof is closed to the public, unless a majority of the Committee members vote to forgo such a record. (Rule XXVI, Sec. 5(e), Standing Rules of the Senate.)

RULE 2. QUORUMS

A. *Reporting measures and matters.* A majority of the members of the Committee shall constitute a quorum for reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

B. *Transaction of routine business.* Five members of the Committee shall constitute a quorum for the transaction of routine business, provided that one member of the minority is present.

For the purpose of this paragraph, the term "routine business" includes the convening of a meeting and the consideration of any business of the Committee other than reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

C. *Taking testimony.* One member of the Committee shall constitute a quorum for taking sworn or unsworn testimony. (Rule XXVI, Sec. 7(a)(2) and 7(c)(2), Standing Rules of the Senate.)

D. *Subcommittee quorums.* Subject to the provisions of sections 7(a) (1) and (2) of Rule XXVI of the Standing Rules of the Senate, the Subcommittees of this Committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

E. *Proxies prohibited in establishment of quorum.* Proxies shall not be considered for the establishment of a quorum.

RULE 3. VOTING

A. *Quorum required.* Subject to the provisions of subsection (E), no vote may be taken by the Committee, or any Subcommittee thereof, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. *Reporting measures and matters.* No measure, matter or recommendation shall be reported from the Committee unless a majority of the Committee members are actually present, and the vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are actually present at the time the vote is taken. (Rule XXVI, Sec. 7(a) (1) and (3), Standing Rules of the Senate.)

C. *Proxy voting.* Proxy voting shall be allowed on all measures and matters before the Committee, or any Subcommittees thereof, except that, when the Committee, or any Subcommittee thereof, is voting to report a measure or matter, proxy votes shall be allowed solely for the purposes of recording a member's position on the pending question. Proxy voting shall be allowed only if the absent Committee member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. All proxies shall be filed with the chief clerk of the Committee or Subcommittee thereof, as the case may be. All proxies shall be in writing and shall contain sufficient reference to the pending matter as is necessary to identify it and to inform the Committee as to how the member establishes his vote to be recorded thereon. (Rule XXVI, Sec. 7(a)(3) and 7(c)(1), Standing Rules of the Senate.)

D. *Announcement of vote.* (1) Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such a measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the Committee. (Rule XXVI, Sec. 7(c), Standing Rules of the Senate.)

(2) Whenever the Committee by roll call vote acts upon any measure or amendment thereto, other than reporting a measure or matter, the results thereof shall be announced in the Committee report on that measure unless previously announced by the Committee, and such announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment thereto by each member of the Committee who was present at the meeting. (Rule XXVI, Sec. 7(b), Standing Rules of the Senate.)

(3) In any case in which a rollcall vote is announced, the tabulation of votes shall state separately the proxy vote recorded in favor of and in opposition to that measure, amendment thereto, or matter. (Rule XXVI, Sec. 7 (b) and (c), Standing Rules of the Senate.)

E. *Polling.* (1) The Committee, or any Subcommittee thereof, may poll (a) internal Committee matters including the Committee's staff, records and budget; (b) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and (c) other Committee business other than a vote on reporting to the Senate any measures, matters or recommendations or a vote on closing a meeting or hearing to the public.

(2) Only the chairman, or a Committee member or staff officer designated by him, may undertake any poll of the members of the Committee. If any member requests, any matter to be polled shall be held for meeting rather than being polled. The chief clerk of the Committee shall keep a record of polls; if a majority of the members of the Committee determine that the polled matter is in one of the areas enumerated in subsection (D) of Rule 1, the record of the poll shall be confidential. Any Committee member may move at the Committee meeting following the poll for a vote on the polled decision, such motion and vote to be subject to the provisions of subsection (D) of Rule 1, where applicable.

RULE 4. CHAIRMANSHIP OF MEETINGS AND HEARINGS

The chairman shall preside at all Committee meetings and hearings except that he shall designate a temporary chairman to act in his place if he is unable to be present at a scheduled meeting or hearing. If the chairman (or his designee) is absent ten minutes after the scheduled time set for a meeting or hearing, the senior Senator present of the chairman's party shall act in his stead until the chairman's arrival. If there is no member of the chairman's party present, the senior Senator of the Committee minority present, with the prior approval of the chairman, may open and conduct the meeting or hearing until such time as a member of the majority arrives.

RULE 5. HEARINGS AND HEARINGS PROCEDURES

A. *Announcement of hearings.* The Committee, or any Subcommittee thereof, shall make public announcement of the date, time and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearing, unless the Committee, or Subcommittee, determines that there is good cause to begin such hearing at an earlier date. (Rule XXVI, Sec. 4(a), Standing Rules of the Senate.)

B. *Open hearings.* Each hearing conducted by the Committee, or any Subcommittee thereof, shall be open to the public, except that a hearing or series of hearings on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) below would require the hearing to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee members when it is determined that the matters to be discussed or the testimony to be taken at such hearing or hearings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

Notwithstanding the foregoing, whenever disorder arises during a Committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the chairman to enforce order on his own initiative and without any point of order being made by a member of the Committee; *provided, further,* that when the chairman finds it necessary to maintain order, he shall have the power to clear the room, and the Committee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

C. *Full Committee subpoenas.* The chairman, with the approval of the ranking minority member of the Committee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing or deposition, provided that the chairman may subpoena attendance or production without the approval of the ranking minority member where the chairman or a staff officer designated by him has not received notification from the ranking minority member or a staff officer designated by him of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the ranking minority member as provided in this subsection, the subpoena may be authorized by vote of the members of the Committee. When the Committee or chairman authorizes subpoenas, subpoenas may be issued upon the signature of the chairman or any other member of the Committee designated by the chairman.

D. *Witness counsel.* Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing or deposition to advise such witness while he or she is testifying, of his or her legal rights; *provided, however,* that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Committee chairman may rule that representation by counsel from the government, corporation, or association or by counsel representing other witnesses, creates a conflict of interest, and that the witness shall be represented during interrogation by staff or during testimony before the Committee by personal counsel not from the government, corporation, or association or by personal counsel not representing other witnesses. This subsection shall not be construed to excuse a witness from testifying in the event his counsel is ejected for conducting himself in such manner so as to prevent, impede, disrupt, obstruct or interfere with the orderly administration of the hearings; nor shall this subsection be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

E. *Witness transcripts.* An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his or her testimony whether in public or executive session shall be made available for inspection by the witness or his or her counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be provided to any witness at his or her expense if he or she so requests. Upon inspecting his or her transcript, within a time limit set by the chief clerk of the Committee, a witness may request changes in the transcript to correct errors of transcription and grammatical errors; the chairman or a staff officer designated by him shall rule on such requests.

F. *Impugned persons.* Any person whose name is mentioned or is specifically identified, and who believes that evidence presented, or comment made by a member of the Committee or staff officer, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his or her character or adversely affect his or her reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which statement shall be considered for placement in the hearing record by the Committee;

(b) request the opportunity to appear personally before the Committee to testify in his or her own behalf, which request shall be considered by the Committee; and

(c) submit questions in writing which he or she requests be used for the cross-examination of other witnesses called by the Committee, which questions shall be considered for use by the Committee.

G. *Radio, television, and photography.* The Committee, or any Subcommittee thereof, may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television or both, subject to such conditions as the Committee, or Subcommittees, may impose. (Rule XXVI, Sec. 5(c), Standing Rules of the Senate.)

H. *Advance statements of witnesses.* A witness appearing before the Committee, or any Subcommittee thereof, shall provide 100 copies of a written statement and an executive summary or synopsis of his proposed testimony at least 48 hours prior to his appearance. This requirement may be waived by the chairman and the ranking minority member following their determination that there is good cause for failure of compliance. (Rule XXVI, Sec. 4(b), Standing Rules of the Senate.)

I. *Minority witnesses.* In any hearings conducted by the Committee, or any Subcommittee thereof, the minority members of the Committee shall be entitled, upon request to the chairman by a majority of the minority to call witnesses of their selection during at least one day of such hearings. (Rule XXVI, Sec. 4(d), Standing Rules of the Senate.)

J. *Full Committee depositions.* Depositions may be taken prior to or after a hearing as provided in this subsection.

(1) Notices for the taking of depositions shall be authorized and issued by the chairman, with the approval of the ranking minority member of the Committee, provided that the chairman may initiate depositions without the approval of the ranking minority member where the chairman or a staff officer designated by him has not received notification from the ranking minority member or a staff officer designated by him of disapproval of the deposition within 72 hours, excluding Saturdays and Sundays, of being notified of the deposition notice. If a deposition notice is disapproved by the ranking minority member as provided in this subsection, the deposition notice may be authorized by a vote of the members of the Committee. Committee deposition notices shall specify a time and place for examination, and the name of the staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear or produce unless the deposition notice was accompanied by a Committee subpoena.

(2) Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 5D.

(3) Oaths at depositions may be administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee staff. If a witness objects to a question and refuses to testify, the objection shall be noted for the record and the Committee staff may proceed with the remainder of the deposition.

(4) The Committee staff shall see that the testimony is transcribed or electronically recorded (which may include audio or audio/video recordings). If it is transcribed, the witness shall be furnished with a copy for review. No later than five days thereafter, the witness shall return a signed copy, and the chairman or designated staff officer shall enter the changes, if any, requested by the witness in accordance with subsection (E). If the witness fails to return a signed copy, the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the chief clerk of the Committee. Committee staff may stipulate with the witness to changes in the procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

RULE 6. COMMITTEE REPORTING PROCEDURES

A. *Timely filing.* When the Committee has ordered a measure or matter reported, following final action the report thereon shall be filed in the Senate at the earliest practicable time. (Rule XXVI, Sec. 10(b), Standing Rules of the Senate.)

B. *Supplemental, minority, and additional views.* A member of the Committee who gives notice of his intention to file supplemental, minority or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than three calendar days in which to file such views, in writing, with the chief clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views. (Rule XXVI, Sec. 10(c), Standing Rules of the Senate.)

C. *Notice by Subcommittee chairmen.* The chairman of each Subcommittee shall notify the chairman in writing whenever any measure has been ordered reported by such Subcommittee and is ready for consideration by the full Committee.

D. *Draft reports of Subcommittees.* All draft reports prepared by Subcommittees of this Committee on any measure or matter referred to it by the chairman, shall be in the form, style, and arrangement required to conform to the applicable provisions of the Standing Rules of the Senate, and shall be in accordance with the established practices followed by the Committee. Upon completion of such draft reports, copies thereof shall be filed with the chief clerk of the Committee at the earliest practicable time.

E. *Impact statements in reports.* All Committee reports, accompanying a bill or joint resolution of a public character reported by the Committee, shall contain (1) an estimate, made by the Committee, of the costs which would be incurred in carrying out the legislation for the then current fiscal year and for each of the next five years thereafter (or for the authorized duration of the proposed legislation, if less than five years); (2) a comparison of such cost estimates with any made by a Federal agency; or (3) a statement of the reasons for failure by the Committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(a), Standing Rules of the Senate.)

Each such report shall also contain an evaluation, made by the Committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution. The evaluation shall include (a) an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (b) a determination of the economic impact of such regulation on the individuals, consumers, and businesses affected, (c) a determination of the impact on the personal privacy of the individuals affected, and (d) a determination of the amount of paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which determination may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution. Or, in lieu of the forgoing evaluation, the report shall include a statement of the reasons for failure by the Committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(b), Standing Rules of the Senate.)

RULE 7. SUBCOMMITTEES AND SUBCOMMITTEE PROCEDURES

A. *Regularly establish Subcommittees.* The Committee shall have five regularly established Subcommittees. The Subcommittees are as follows:

Permanent Subcommittee on Investigations.

Government Information and Regulation.

General Service, Federalism, and the District of Columbia.

Oversight of Government Management.

Federal Services, Post Office, and Civil Service.

B. *Ad hoc Subcommittees.* Following consultation with the ranking minority member, the chairman shall, from time to time, establish such ad hoc Subcommittees as he deems necessary to expedite Committee business.

C. *Subcommittee membership.* Following consultation with the majority members, and the ranking minority member of the Committee, the chairman shall announce selections for membership on the Subcommittees referred to in paragraphs A and B, above.

D. *Subcommittee meetings and hearings.* Each Subcommittee of this Committee is authorized to establish meeting dates and adopt rules not inconsistent with the rules of the Committee except as provided in Rule 7(E).

E. *Subcommittee subpoenas.* Each Subcommittee is authorized to adopt rules concerning subpoenas which need not be consistent with the rules of the Committee; *provided, however,* that in the event the Subcommittee authorizes the issuance of a subpoena pursuant to its own rules, a written notice of intent to issue the subpoena shall be provided to the chairman and ranking minority member of the Committee, or staff officers designated by them, by the Subcommittee chairman or a staff officer designated by him immediately upon such authorization, and no subpoena shall issue for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the chairman and ranking minority member waive the 48 hour waiting period or unless the Subcommittee chairman certifies in writing to the chairman and ranking minority member that, in his opinion, it is necessary to issue a subpoena immediately.

F. *Subcommittee budgets.* Each Subcommittee of this Committee, which requires authorization for the expenditure of funds for the conduct of inquiries and investigations, shall file with the chief clerk of the Committee, not later than January 10 of the first year of each new Congress, its request for funds for the two (2) 12-month periods beginning on March 1 and extending through and including the last day of February of the two following years, which years comprise that Congress. Each such request shall be submitted on the budget form prescribed by the Committee on Rules and Administration, and shall be accompanied by a written justification addressed to the chairman of the Committee, which shall include (1) a statement of the Subcommittee's area of activities, (2) its accomplishments during the preceding Congress detailed year by year, and (3) a table showing a comparison between (a) the funds authorized for expenditure during the preceding Congress detailed year by year, (b) the funds actually expended during that Congress detailed year by year, (c) the amount requested for each year of the Congress, and (d) the number of professional and clerical staff members and consultants employed by the Subcommittee during the preceding Congress detailed year by year and the number of such personnel requested for each year of the Congress. The chairman may request additional reports from the Subcommittees regarding their activities and budgets at any time during a Congress. (Rule XXVI, Sec. 9, Standing Rules of the Senate.)

RULE 8. CONFIRMATION STANDARDS AND PROCEDURES

A. *Standards.* In Considering a nomination, the Committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. The Committee shall recommend confirmation, upon finding that the nominee has the necessary integrity and is affirmatively qualified by reason of training, education, or experience to carry out the functions of the office to which he or she was nominated.

B. *Information Concerning the Nominee.* Each nominee shall submit the following information to the Committee:

(1) A detailed biographical resume which contains information relating to education, employment and achievements;

(2) Financial information, including a financial statement which lists assets and liabilities of the nominee and tax returns for the 3 years preceding the time of his or her nomination, and copies of other relevant documents requested by the Committee, such as a proposed blind trust agreement, necessary for the Committee's consideration; and,

(3) Copies of other relevant documents the Committee may request, such as responses to questions concerning the policies and programs the nominee intends to pursue upon taking office.

At the request of the chairman or the ranking minority member, a nominee shall be required to submit a certified financial statement compiled by an independent auditor.

Information received pursuant to this subsection shall be made available for public inspection; *provided, however,* that tax returns shall, after review by persons designated in subsection (C) of this rule, be placed under seal to ensure confidentiality.

C. *Procedures for Committee inquiry.* The Committee shall conduct an inquiry into the experience, qualifications, suitability, and integrity of nominees, and shall give particular attention to the following matters:

(1) A review of the biographical information provided by the nominee, including, but not limited to, any professional activities related to the duties of the office to which he or she is nominated;

(2) A review of the financial information provided by the nominee, including tax returns for the three years preceding the time of his or her nomination;

(3) A review of any actions, taken or proposed by the nominee, to remedy conflicts of interest; and

(4) A review of any personal or legal matter which may bear upon the nominee's qualifications for the office to which he or she is nominated.

For the purpose of assisting the Committee in the conduct of this inquiry, a majority investigator or investigators shall be designated by the chairman and a minority investigator or investigators shall be designated by the ranking minority member. The chairman, ranking minority member, other members of the Committee and designated investigators shall have access to all investigative reports on nominees prepared by any Federal agency, except that only the chairman, the ranking minority member, or other members of the Committee, upon request, shall have access to the report of the Federal Bureau of Investigation. The Committee may request the assistance of the General Accounting Office and any other such expert opinion as may be necessary in conducting its review of information provided by nominees.

D. *Report on the Nominee.* After a review of all information pertinent to the nomination, a confidential report on the nominee shall be made to the chairman and the ranking minority member and, upon request, to any other member of the Committee. The report shall summarize the steps taken by the Committee during its investigation of the nominee and identify any resolved or questionable matters that have been raised during the course of the inquiry.

E. *Hearings.* The Committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office, including the policies and programs which he or she will pursue while in that position. No hearing shall be held until at least 72 hours after the following events have occurred: the nominee has responded to prehearing questions submitted by the Committee; and the report required by subsection (D) has been made to the chairman and ranking minority member, and is available to other members of the Committee, upon request.

F. *Action on confirmation.* A mark-up on a nomination shall not occur on the same day that the hearing on the nominee is held. In order to assist the Committee in reaching a recommendation on confirmation, the staff may make an oral presentation to the Committee at the mark-up, factually summarizing the nominee's background and the steps taken during the pre-hearing inquiry.

G. *Application.* The procedures contained in subsections (C), (D), (E), and (F) of this rule shall apply to persons nominated by the President to positions requiring their full-time service. At the discretion of the chairman and ranking minority member, those procedures may apply to persons nominated by the President to serve on a part-time advisory basis.•

TRIBUTE TO JAMES D. GORMLEY, BRIGADIER GENERAL, U.S. AIR FORCE (RETIRED) ON THE OCCASION OF HIS RETIREMENT AS PRESIDENT OF GENERAL AVIATION MANUFACTURERS ASSOCIATION

• Mr. McCAIN. Mr. President, I rise today to recognize the civilian and military service of my friend and fellow aviator, James D. Gormley, brigadier general, U.S. Air Force (retired) on the occasion of his retirement as president of the General Aviation Manufacturers Association [GAMA], a national trade association that represents the interests of our domestic general aviation airframe, engine, avionics, component and service manufacturers.

Jim joined GAMA in April 1981 following a distinguished career in the U.S. Air Force. He held the post of vice president for government relations with GAMA from 1981 to January 1990 and served as their chief lobbyist on many issues of import and impact to the general aviation industry. We fought, and are continuing to do so, side by side to reform the product liability situation which has devastated the production of small aircraft in this country. Jim was also instrumental in opposing the repeal of the investment tax credit and the imposition of the burdensome luxury tax on private aircraft. In addition to his lobbying duties, Jim was the lead GAMA official on international trade issues and policies, serving with distinction on the Department of Commerce's Industry Sector Advisory Committee [ISAC] for Aerospace. Jim was appointed its vice chairman and spearheaded the successful campaign to influence Brazil to reduce its import duties on United States manufactured airplanes. As the negotiations with Brazil peaked, Jim was designated to head the Department of Commerce's quick reaction team which provided timely industry input on tariffs to the United States Trade Representative.

In January 1990, Jim was appointed president of GAMA. In this capacity he served as the strong link between the GAMA board and the GAMA staff. He has been unwavering in his effort to gain product liability reform, in spite of formidable opposition. In the fall of 1990, when it looked like a 10-percent luxury tax on the sale of new private aircraft would bring the industry to its knees, Jim was instrumental in orchestrating the business exemptions associated with the final legislation. Had the budget agreement not included these exemptions, many experts suggested that the sale of new aircraft would be severely impacted for the next 5 to 10 years. Jim also directed the effort to gain congressional funding for follow-on research by the Federal Aviation Administration [FAA] on high intensity radiated fields [HIRF] aimed at providing rational airworthiness criteria.

Prior to joining GAMA, Jim served with distinction for 28 years in the U.S. Air Force during peace and war, retiring with the rank of brigadier general. He was commissioned in 1953 through the Reserve Officers' Training Corps Program and received his pilot wings at Greenville Air Force Base, MS, in October 1954. From 1955 to 1957, he served in Japan.

In October 1957, Jim was assigned to Ellsworth Air Force Base, SD, where he served as an interceptor pilot and flight commander with the 54th Fighter-Interceptor Squadron. He transferred to the 5th Fighter-Interceptor Squadron, Minot Air Force Base, ND in November 1960. Then in April 1964, Jim moved to Tyndall Air Force Base, FL as chief, 4756 Combat Crew Training Squadron's F–106 academics section.

In December 1966, Jim entered F–105 training at Nellis Air Force Base, NV and in June 1967 was assigned to the 333d Tactical Fighter Squadron, Takhli Royal Thai Air Force Base, Thailand. While there, Jim flew 100 fighter missions over North Vietnam including 49 over Hanoi. During one of these missions, Jim led one of the largest fighter-bomber missions of the war. During the initiation of the attack, Jim flew his F–105 in first to suppress the antiaircraft capability of the enemy allowing the other aircraft to find their targets. Even though Jim had numerous holes in his aircraft, he was able to bring all his crews back safely from this successful operation.

Jim was assigned in April 1968 to Pacific Command Headquarters at Camp Smith, HI, where he served as aide to the commander-in-chief, Pacific. In June 1970, he returned to attend the Air War College. Following his graduation in May 1971, Jim came to Washington and was assigned to the Office of the Chief of Legislative Liaison of the Air Force and served as the chief, Senate Liaison Office. During the next 4 years, Jim became acquainted with nearly every Member of the U.S. Senate and provided worldwide military escort for many of them. This service is available to a congressional delegation, especially when traveling to several countries on one trip or to underdeveloped areas.

From May 1975 until January 1977, Jim was the vice commander, 93d Bombardment Wing, Castle Air Force Base, CA. He returned to Minot Air Force Base as commander of the 5th Bombardment Wing from January 1977 to September 1978 when he became commander of the 57th Air Division. Following this assignment, Jim returned to Washington to serve as the Deputy Director of Air Force Legislative Liaison until his retirement on April 1, 1981.

Jim was a military command pilot with more than 4,000 flying hours in a variety of aircraft. His military decorations and awards include the Silver Star, Legion of Merit, Distinguished Flying Cross with oak leaf cluster, Air Medal with 10 oak leaf clusters, Joint Service Commendation Medal and the Air Force Commendation with 2 oak leaf clusters.

Following his retirement, Jim and his wife Jan intend to relocate to Florida where they will be closer to their children and take advantage of a longer golf season. I join my colleagues in saying thank you to Jim and Jan for a career of dedication to duty and devotion to this country that we all love. I wish you and your family well as you embark on this well deserved reward for your many years if selfless service.•

U.S.S.R. TESTING MORATORIUM

• Mr. SIMON. Mr. President, things have moved so quickly and dramatically on the international scene that the question of nuclear testing seems to have been pretty much lost and left behind.

I hope it is not left behind.

We could make a significant step forward if the United States and the Soviet Union were to agree that we would not have any future nuclear tests as long as no other nation had such tests, and we ought to then lead in getting virtually all the nations of the world to sign such an agreement.

What reminded me once again of the importance of this is an item that appeared in Izvestiya, the translation of which I have just received, which points out that the Soviets have proclaimed a 1-year moratorium on all nuclear explosions. It just baffles me that we do not use the common sense to do the same—saving money and, at the same time, giving greater hope to humanity.

Mr. President, I ask to insert the Izvestiya article into the RECORD at this point.

The article follows:

NOVAYA ZEMLYA TEST SITE: PAST, PROSPECTS

On instructions from President B. Yeltsin a ban for one year has been imposed on nuclear tests on the territory of Russia. M. Gorbachev has proclaimed a one-year moratorium on thermonuclear explosions. And what comes afterwards? What is the fate that awaits the Novaya Zemlya nuclear test site and the Russian North?

Exactly one year ago the last—the 132d—nuclear explosion was heard on Novaya Zemlya. It has already become history. But today, alarming new facts are being presented: an accident aboard a nuclear submarine in the White Sea, nuclear graveyards around Novaya Zemlya, the archipelago that is the country's only nuclear test site. Perhaps this is all too much for wounded Nature in the North?

The accident aboard the nuclear submarine occurred late in September during a training launch of a solid-fuel missile in the area where training launches are conducted. To judge from the official statements, none of the crew was injured and there was no accidental spillage into the sea. The chief of staff of the Belomorsk Flotilla, Admiral N. Pakhomov, claims that "no harm was done to people, the sea, or animals."

There is no reason not to believe this almost ideal picture, although some lines (and quite significant ones) have not been filled in. Why, for example, did the public learn about what had happened only some days later, and not from official sources but almost by chance, through rumors?

"I personally learned about the accident only on 2 October, from the local newspapers," the chief of the Arkhangelsk administration, P. Balakshin, told me. "I immediately contacted Admiral Chernavin, and he assured me that nothing serious had occurred."

But a map of the burial sites on Novaya Zemlya was published recently. It was passed to journalists at a briefing in Moscow by USSR People's Deputy A. Zolotkov.

The map shows all the gulfs and bays on the northern archipelago, and also the regions of the Kara Sea, where ships of the Murmansk Steamship Line have been dumping radioactive waste over the past two decades. This report literally stunned readers, since for many years the experts have been claiming that there are no nuclear burial sites in the northern seas. It turns out that this was untrue.

By studying the shipping documents the people's deputy was able to reveal secret trips and the nature of the cargo. Some 11,000 containers with equipment from nuclear reactors, radioactive structures, concrete blocks, and other dangerous waste lie at the bottom of the sea and have perhaps already been eroded by the active sea water. The content of the containers was not vitrified or encased in concrete or bitumen before it was dumped.

Naturally, all of this was done in secret, behind the backs not only of ordinary Northerners, whose opinion the military has never considered, but also the local environmental organizations, and even the oblast leadership. The local authorities learned about the presence of nuclear burial sites around Novaya Zemlya only from the newspapers.

We involuntarily think of the last nuclear explosion that thundered across Novaya Zemlya exactly a year ago, and caused a great deal of noise. In Arkhangelsk they learned about it from a TASS report, even though on the day before, at a meeting with USSR people's deputies from the northern territories with the leadership of the test site, it had been agreed that the local authorities would be notified in advance of the time of the upcoming test. An attempt had been made by the people of Novaya Zemlya to communicate with neighboring regions, but the mechanism used to notify them was not working, and force of habit was stronger than the agreement, so that again the nuclear explosion was a surprise.

So what occurred aboard the nuclear submarine in the White Sea, and how safe is the radiation situation around the burial sites round Novaya Zemlya, and what is the program for further nuclear tests at the northern test site? For it was not a reserve, or backup site, as some representatives depicted it earlier.

In terms of total yield in all tests (87 in the atmosphere, three underwater, and 42 underground), the test site in the Arctic beats all world records. The most intensive periods of testing on Novaya Zemlya were in 1958 (26 explosions in the atmosphere and one underwater), and in 1961 and 1962 (24 and 36 tests respectively, all in the atmosphere). And the aggregate expressed in TNT equivalents from the fission alone exceeds 90 megatons.

No existing or former test site in the world has been subjected to such a colossal load. In 1961–1962, when the nuclear powers were engaged in a senseless race, a real nuclear bacchanalia got under way in the Arctic as one atmospheric test succeeded another. On 30 October 1961 the most powerful nuclear explosion, with a yield of 58 megatons, was set off above the archipelago. Seven of the most powerful explosions on Novaya Zemlya during that period were equal to the yields of all the atmospheric tests conducted by all the other nuclear powers during the period 1945 through 1980.

These figures never appeared in the Soviet press. They have been generalized on the basis of many foreign sources by USSR People's Deputy Aleksandr Yemelyanenkov and Candidate of Technical Sciences Vladimir Yakimets, adviser to the president of the "Nevada-Semipalatinsk" antinuclear movement. The conclusion that begs itself is this: The Northern archipelago and the neighboring territory has already been subjected to dangerous ecological risk, and a serious scientific research study should be made of it.

Last week I was at the test site in Semipalatinsk. At particular places, for example, at the site of the first thermonuclear or "Sakharov" explosion, the instruments showed a radiation background hundreds of times higher than the natural radiation background, even though in the opinion of the military it is quite safe. But what can be said about the northern archipelago, where the most powerful atmospheric tests were conducted?

Today, all eyes have been turned to Novaya Zemlya. The one-year moratorium proclaimed by USSR President M. Gorbachev and the ukase of Russian Soviet Federated Socialist Republic President B. Yeltsin give grounds for hope that in the coming months there will be no explosions. But what then? What will be the military's subsequent attitude toward the territory?

The head of the Arkhangelsk administration, P. Balakshin, has sent M. Gorbachev and B. Yeltsin a telegram which, in addition to the natural dissatisfaction with the latest events, contains a demand for a study of the situation and the transfer of relations between the territory and the military onto a firm legal footing. Preparations are now under way for a session of the oblast Council on the Ecology, where these issues will be voiced, it is suggested, even more sharply.

The traditional doggedness of our military and their desire to reach compromises only when they will not "forgo principles," which has been used in the past but is no longer possible, is sometimes surprising.

At Semipalatinsk they moved to meet the public only when it became clear that under pressure from antinuclear sentiments the site would have to be closed down. This can also be expected on Novaya Zemlya if the military's attitude toward the territory remains the same. There are no anti-Army movements in the North, but having assumed (at least for the time being) the entire burden of nuclear testing, this previously quiet region is ready to take up the baton of stormy antinuclear actions. As in Semipalatinsk, they do not want to have to experience the nuclear fear, and they want to know the truth about the test site.

It is now extremely important to determine whether or not Russia wants to remain at the test site in order to maintain the country's nuclear potential at the level needed for military parity. If the republic Supreme Soviet decides that it does, then it would be necessary immediately to work out and legitimize the legal relationship between the territory and the military, and the interests of the former should be considered unconditionally and absolutely, otherwise no one will tolerate the test site on his own territory.

It is also possible to understand the military, who ensure nuclear combat capability and now find themselves in an indeterminate kind of situation: On the one hand anti-nuclear sentiments are gathering strength and demands are heard to close down the test sites, while on the other there is a confirmed nuclear program that as military people they must pursue. This is why it would seem extremely necessary for the USSR Supreme Soviet to pass a law on nuclear testing, while on the basis of the Russian parliament, the legal status of the test site could be defined.

The Northerners are patient. This is also being confirmed now, when alarming facts are being reported from all sides. But everything has its limits, the more so when these facts are truly alarming. An antinuclear movement is gathering strength here and there is talk of the demilitarization of the northern seas, which are saturated with weapons and dangerous waste. Demands are being heard for an investigation by deputies of the causes and consequences of the accident aboard the submarine in the White Sea, with subsequent publication of all the figures in the press. The region is waking up * * *.•

IN TRIBUTE TO ANTONIO C. TROVATO

• Mr. CHAFEE. Mr. President, I rise today to pay tribute to Antonio Trovato of Westerly, RI. Tony Trovato was honored for his outstanding community service on Saturday, May 4, 1991, at the Calabrese Club in that town.

Tony Trovato was born in Westerly on February 1, 1925. As a youth, he attended the Westerly public schools and is a graduate of the Cheshire Academy. Thereafter, Tony attended Rhode Island State College, now the University of Rhode Island, and studied clothing design in New York City. He graduated from the American Gentleman Designing School.

As a citizen of Westerly, Tony Trovato has been an invaluable asset to the community. He has been an active civic leader, serving as State senator, beach commissioner, and district moderator, as well as a member of the town council. In addition, he has given of his time and talents as a volunteer for 20 years at Westerly Hospital. These activities demonstrate Tony's sincerity, commitment, and love for his neighbors and the community.

I join with all the people of Westerly in saluting Antonio Trovato and wishing him great success and happiness in the years ahead.•

WAS EARNINGS TEST ACT OF POLITICAL COWARDICE?

• Mr. McCAIN. Mr. President, on November 12, the Senate adopted an amendment I offered during consideration of the Older Americans Act reauthorization bill that would repeal the Social Security earnings test.

Some have tried to label this action as political cowardice on the part of this body—that no Member wanted to vote against the elderly. And that this was an election year ploy. I strongly disagree.

What the Senate did on November 12 was an exercise in clear-headed judgment. In adopting my amendment, the Senate said that its high time that the last bastion of age discrimination be eliminated—something which a lot of us have been advocating for years.

This is an issue of fairness—it is proseniors, progrowth and projobs. It is inexcusable that this Nation punishes those elderly who either want or have to work, and seniors all over this country couldn't agree more.

Among the letters of appreciation I have received since November 12 is one from Martha McSteen. She is a former Social Security Commissioner under Ronald Reagan, and currently president of the National Committee to Preserve Social Security and Medicare—

one of our leading national seniors organizations.

I ask unanimous consent that the full text of this letter be included in the RECORD at this time.

The letter follows:

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, November 19, 1991.
Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: The National Committee to Preserve Social Security and Medicare strongly endorses your amendment to the Older Americans Act which would eliminate the Social Security retirement test for beneficiaries age 65-69.

Senior citizens with generous pensions or profitable investments don't lose lifetime Social Security benefits. Why should senior citizens who work? Our senior citizens deserve the fairness of a system that provides them with independence, dignity and the opportunity to remain a productive part of the American workforce.

Social Security has evolved over time. Clearly, Congress has recognized that Social Security is not only an insurance against the income loss of retirement and that is why it has periodically voted to support the liberalization of the earnings test.

Concerns about the impact of eliminating the retirement test on the Social Security trust funds are misplaced. CBO projects a cost of $3.9 billion in 1992—about 6 percent of the $59.6 billion surplus. Social Security will still have over $1 trillion in reserves by the end of this decade even if your amendment is enacted into law. And most of the cost is in the short term. The long-term cost is negligible.

CBO estimates also do not take into account the changes that would occur from repealing the earnings test. One, the Trust Fund would save $50 to $100 million a year in administrative expenses by eliminating the earnings test. And second, repeal would encourage over 700,000 retirees to increase their work effort.

According to Aldona and Gary Robbins in their report, Paying People Not To Work, "our annual output of goods and services would increase by at least $15.4 billion and government revenue would increase by $4.9 billion, more than offsetting the additional Social Security benefits that would be paid." The estimates of the number of people who would increase work effort are consistent with surveys by the Commonwealth Fund that indicate that 1.6 million seniors age 65–69 are ready and able to work.

Thank you for your efforts on behalf of senior citizens. If there is anything else I can do to help, please let me know.

Sincerely,
MARTHA A. MCSTEEN,
President.

Mr. MCCAIN. The Senate's action on November 12 has also been praised by a number of leading newspapers across the country. Among them is the Los Angeles Times.

I ask unanimous consent that the full text of this editorial be included in the RECORD at this time.

The article follows:

[From The Los Angeles Times, Nov. 17, 1991]

WHY PUSH THEM OUT OF WORK?

There are more than 40 million Americans age 60 or older, many of whom are eager to work beyond normal retirement age but can't afford to, thanks to an outmoded earnings test applied to Social Security recipients. The Senate, in a provision attached to the extension of the Older Americans Act, has voted to eliminate this punitive restriction. The measure now goes to a congressional conference committee, where House conferees will have a chance to accept the Senate's provision. They should do so, and the House should adopt it. Millions of workers would be the better for it, and so would government and society.

Current law says that people between the ages of 65 and 70 who draw Social Security and who earn more than $9,720 a year must lose $1 in Social Security benefits for every $3 they earn over that limit. This rule effectively applies to those workers a 33 percent marginal tax rate—higher than anyone else must pay—but there is more. Senator John McCain (R-Ariz.) says that when federal, state and other Social Security taxes are factored in, the tax bite approaches nearly 70%. If that isn't age discrimination, McCain suggests, nothing is.

There is no earnings ceiling for Social Security recipients age 70 and older. It's nonsensical to have one for those younger. Maintaining the arbitrary ceiling and taxing away 33 cents out of every dollar earned from those who exceed it drives millions of productive workers into forced retirement. The nation's economy is not so robust that it can afford to lose willing, able and experienced employees. Federal and state treasuries are not so flush they can pass up the revenues that could be had from taxes on the higher earnings of older workers.

Why chase people who want to work out of the labor force? Why make this pool of talent lie stagnant? The earnings ceiling is an echo of an earlier time when it was argued that older workers had to be pushed into retirement to make jobs available for new entrants into the work force. Demographics and the needs of the economy have changed. Millions of those older workers want to go on working without being punished if they earn too much. The time has come to let them do so.

Mr. MCCAIN. Some claim that repeal costs money and will contribute to the Federal deficit.

The CBO cost estimate, however, only takes into account the benefits that would be paid from Social Security to those who had earned them. Experts who have performed dynamic estimates, such as the Institute for Research on the Economics of Taxation and the National Center for Policy Analysis, have determined that the proposal is actually good for the economy—it will result in increased Social Security revenues. It will also result in income tax revenues increasing by $4.9 billion in the first year, lead to the production of at least $15 billion in goods and services, and result in at least 500,000 seniors staying in or coming back to the work force.

With regard to the deficit issue, it is important for people to remember that last year's budget agreement took Social Security off-budget and out of the Federal deficit calculations. Thus, this amendment does not contribute to the deficit at all.

The fact that there was no budget point of order raised against my amendment is a testament to the fact that the Senate recognized that this amendment did not cost money or contribute to the Federal deficit.

This is now in conference, where the House and Senate will decide how to proceed—as the House's version of the Older American Act reauthorization bill did not include a proposal to repeal the Social Security earnings test.

There is some possibility, however, that this issue will be dealt with on the House floor before it is considered in the conference, as a motion to commit the conferees to the Senate position may come to the House floor for a vote today.

Mr. President, just as was the case with the effort to repeal the surtax under the Medicare Catastrophic Coverage Act 2 years ago, the attention of this Nation's seniors is once again focused on Congress.

The act of political cowardice on the part of the conference committee would be to drop this measure in conference. It is the hope of this Nation's seniors that the conference committee will exercise the same clear-headed judgement exercised in the Senate on November 12.•

IN TRIBUTE TO E. RAYMOND BENWAY

• Mr. CHAFEE. Mr. President, I rise today to pay tribute to Mr. E. Raymond Benway of Newport, RI. Mr. Benway is this year's recipient of the Veteran of the Year Award presented by the Benevolent and Protective Order of Elks, Newport Lodge No. 104.

The Newport Elks have been active since 1888. Their organization has a distinguished record of involvement in numerous charitable activities that have benefited veterans, children, the handicapped, and the sick and aged. Each year, the lodge presents its Veteran of the Year Award to a local veteran, in recognition of that person's outstanding service to the country and fellow citizens.

Raymond Benway has a long and distinguished record of service. His 30-year career as a member of the U.S. Navy and U.S. Coast Guard began in Newport in 1943. He served throughout World War II aboard naval vessels, participating in combat missions in the Pacific, including the Marianas, Leyte Gulf, the Marshall Islands, New Guinea, and Bougainville in the Solomon Islands. In 1950, Mr. Benway joined the Coast Guard, in which he served until retirement in 1973. His duties included work at the Castle Hill Light Station in Newport, and assignment to a Coast Guard division in Vietnam. Mr. Benway has received numerous decorations in recognition of his excellent military service.

Retirement did not slow Raymond Benway down. Since that time, his energy and enthusiasm have contributed to the efforts of many local organizations. He is active in the Veterans of Foreign Wars, Post 4487, Middletown, RI, and the Fleet Reserve Organization, Branch 19, Newport, RI. In addition, in 1967–68, he served as exalted ruler of the Newport Lodge of Elks, and he is currently the chairman of the Flag Day committee and the Memorial Sunday committee, and a member of the veterans committee.

Raymond Benway's life has been marked by service to country and community. Wherever he has been, whether in defense of his homeland on the world's seas, or helping those in need in his own city, Raymond Benway has provided a fine example for others. I applaud the Newport Lodge of Elks for selecting Mr. Benway as veteran of the year, and I ask my colleagues in the U.S. Senate to join me in extending to him our heartiest congratulations and best wishes for the future.●

SEQUENTIAL REFERRAL

Mr. DODD. Mr. President, as if in executive session, I ask unanimous consent that the nomination of Arnold R. Thompkins to be Chief Financial Officer reported today by the Committee on Finance be referred to the Committee on Governmental Affairs for a period not to exceed 20 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

WOMEN' BUSINESS DEVELOPMENT ACT OF 1991

Mr. DODD. Mr. President, I ask unanimous consent that the Small Business Committee be discharged from further consideration of H.R. 2629, a bill relating to women in small business, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2629) to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO 1363

(Purpose: To provide a substitute)

Mr. DODD. Mr. President, on behalf of Mr. BUMPERS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. BUMPERS (for himself and Mr. KASTEN), proposes an amendment numbered 1363.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Business Development Act of 1991".

SEC. 2. WOMEN'S DEMONSTRATION PROJECTS.

The Small Business Act is amended by adding at the end the following new section:

"SEC. 28. (a) The Administration may provide financial assistance to private organizations to conduct 3-year demonstration projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

"(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

"(2) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

"(b)(1) As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

"(A) If the project first receives its Federal financial assistance prior to fiscal year 1993, an annual amount that is not less than the amount of the Federal financial assistance provided each year.

"(B) If the project first receives Federal financial assistance in fiscal year 1993, or thereafter, annual amounts equal to—

"(i) in the first year, 1 non-Federal dollar for each 2 Federal dollars;

"(ii) in the second year, 1 non-Federal dollar for each Federal dollar; and

"(iii) in the third and final year, 2 non-Federal dollars for each Federal dollar.

"(2) Up to one-half of the non-Federal matching assistance may be in the form of in-kind contributions which are budget line items only, including but not limited to office equipment and office space.

"(3) The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal matching funds are obtained.

"(4) If any recipient of assistance under this section fails to obtain the required non-Federal contribution during any year of any project, it shall not be eligible thereafter for advance disbursements under paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded. In addition, prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

"(c) Each applicant for assistance under this section initially shall submit a 3-year plan on proposed fundraising and training activities, and may receive financial assistance under this section for a maximum of 3 years per site. The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

"(1) the experience of the applicant in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(2) the present ability of the applicant to commence a demonstration project within a minimum amount of time; and

"(3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(d) For purposes of this section, the term 'small business concern' means a small business concern, either start-up or existing, owned and controlled by women, and—

"(1) which is at least 51 percent owned by 1 or more women; and

"(2) the management and daily business operations of which are controlled by 1 or more women.

"(e) There are authorized to be appropriated $4,000,000 for each fiscal year to carry out the demonstration projects authorized by this section. Notwithstanding any other provision of law, the Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

"(f) The Administration shall prepare and transmit an annual report, beginning February 1, 1992, to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this section. Such report shall provide information concerning—

"(1) the number of individuals receiving assistance;

"(2) the number of start-up business concerns formed;

"(3) the gross receipts of assisted concerns;

"(4) increases or decreases in profits of assisted concerns; and

"(5) the employment increases or decreases of assisted concerns.

"(g) The Administration shall not provide financial assistance under this section to any new project after October 1, 1995, except that it may fund projects which commenced prior thereto.".

SEC. 3. ADMINISTRATIVE PROVISION.

Section 8 of the Small Business Act (15 U.S.C. 637) is amended by striking subsection (c) and redesignating subsections (d) through (j) as subsections (c) through (k). Projects funded pursuant to the provisions of former subsection (c) shall be deemed to be funded under and shall be treated as if funded under section 28 of the Small Business Act, as added by section 2.

SEC. 4. PERMANENT AUTHORIZATION OF SMALL LOAN PROGRAM.

Section 7(a)(19)(B) of the Small Business Act (15 U.S.C. 636(a)(19)(B)) is amended by striking "during fiscal years 1989, 1990, and 1991,".

SEC. 5. NATIONAL WOMEN'S BUSINESS COUNCIL.

Subparagraph (G) of section 403(b) of the Women's Business Ownership Act of 1988 (102 Stat. 2695) is amended to read as follows:

"(G) The Chairperson and Vice Chairperson of the council shall be designated by the President and may be either a representative of the public sector or the private sector, except that the Chairperson and Vice Chairperson shall not be from the same sector concurrently. Each shall serve for a maximum term of 2 years. No person may be designated to the same office for 2 consecutive terms, nor may consecutive designees as Chairperson be from the public sector.".

Mr. BUMPERS. Mr. President, on H.R. 2629 is the Women's Business Development Act of 1991, which passed the House on October 8, 1991. It came to the Senate and was referred to the Senate Committee on Small Business. By unanimous consent, the bill was discharged from the committee's jurisdiction and brought to the floor for vote. At this time, Senator KASTEN and I wish to offer a substitute amendment to H.R. 2629, which is essentially the women's business development bill as passsed by the House with two changes.

One change expands potential sources of matching contributions for entities receiving grants under the women's demonstration projects to permit State and local contributions as well as contributions from private sources. This change will enable grantees to develop ties to State and local funding sources, which should improve their likelihood of success after completion of its program term. The other change retains the size of the existing women's business council by deleting House provisions which would have expanded its membership from 9 to 11 members. The council had 2 years remaining in its authorization and is charged with preparing a final report in that time. Increasing its membership at this juncture will complicate that process and increase its costs. Both of which are unwelcome changes at this time.

The House-passed women's business development bill makes changes to their small business programs:

First, SBA's women's demonstration project grants;

Second, the women's business council; and

Finally, SBA's small loan program.

All three were originally authorized by the Women's Business Ownership Act of 1988, and both the authority for women's demonstration project grants and the small loan program expired September 30, 1991. This reauthorization is necessary to enable SBA to make additional technical assistance grants for women-owned business and to operate its small loan program, which encourages SBA guarantees or small business loans under $50,000.

H.R 2629 will extend SBA's authority to award technical assistance grants for training projects for women-owned businesses until October 1, 1995, 4 years from the original sunset date. It will also authorize an appropriation of $4 million per year.

In addition, H.R. 2629 will limit the length of the grants to 3 years per training site and will change the funding formula for the grants to permit the private grantee to commit proportionately less of its funds in the first year of program participation and to increase that percentage as it progresses through its 3-year program term. The bill permits up to one-half of the matching contribution to be in-kind contributions.

The second small business program affected by H.R. 2629 is the women's business council. Although the bill does not extend the term of the council, which will expire on October 1, 1993, it does make a number of organization changes to the women's business council:

Limiting the terms of the chairman and vice chairman to 2 years each;

Prohibiting consecutive 3-year terms for any member of the Council:

Prohibiting consecutive terms for the same position by representatives of the private sector; and

Prohibiting the positions of chairman and vice chairman from being held simultaneously by individuals from the private sector or from the public sector.

Finally, H.R. 2629 will permanently authorize SBA's small loan program, which expired on October 1 of this year. The Small Loan Program permits a Bank to retain one-half of the 2-percent guaranty fee on a small business loan of $50,000 or less. This program encourages banks to make loans of $50,000 or less, which they might otherwise avoid because of high administrative costs. The small loan program is an important aid to small businesses, especially in this recessionary economy, and should be reauthorized.

The PRESIDING OFFICER. If there be no further debate the question is on agreeing to the amendment.

The amendment (No. 1363) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 2629) as amended, was passed.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT TO CZECHOSLOVAKIA AND HUNGARY

Mr. DODD. Mr. Presidnt, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1724.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1724) entitled "An Act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary," with the following amendment:

Page 3, after line 17, of the Senate engrossed amendment, insert:

SEC. 4. REPEAL OF THE PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS.

Section 510 of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5100) is repealed.

TITLE I—EXTENSION OF NONDISCRIMINATORY TREATMENT TO ESTONIA, LATVIA, AND LITHUANIA.

SEC. 101. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) The Government of the United States extended full diplomatic recognition to Estonia, Latvia, and Lithuania in 1922.

(2) The Government of the United States entered into agreements extending most-favored-nation treatment with the Government of Estonia on August 1, 1925, the Government of Latvia on April 30, 1926, and the Government of Lithuania on July 10, 1926.

(3) The Union of Soviet Socialist Republics incorporated Estonia, Latvia, and Lithuania involuntarily into the Union as a result of a secret protocol to a German-Soviet agreement in 1939 which assigned those three states to the Soviet sphere of influence; and the Government of the United States has at no time recognized the forcible incorporation of those states into the Union of Soviet Socialist Republics.

(4) The Trade Agreements Extension Act of 1951 required the President to suspend, withdraw, or prevent the application of trade benefits, including most-favored-nation treatment, to countries under the domination or control of the world Communist movement.

(5) In 1951, responsible representatives of Estonia, Latvia, and Lithuania stated that they did not object to the imposition of "such controls as the Government of the United States may consider to be appropriate" to the products of those countries, for such time as those countries remained under Soviet domination or control.

(6) In 1990, the democratically elected governments of Estonia, Latvia, and Lithuania declared the restoration of their independence from the Union of Soviet Socialist Republics.

(7) The Government of the United States established diplomatic relations with Estonia, Latvia, and Lithuania on September 2, 1991, and on September 6, 1991, the State Council of the transitional government of the Union of Soviet Socialist Republics recognized the independence of Estonia, Latvia, and Lithuania, thereby ending the involun-

tary incorporation of those countries into, and the domination of those countries by, the Soviet Union.

(8) Immediate action should be taken to remove the impediments, imposed in response to the circumstances referred to in paragraph (5), in United States trade laws to the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of those countries.

(9) As a consequence of establishment of United States diplomatic relations with Estonia, Latvia, and Lithuania, these independent countries are eligible to receive the benefits of the Generalized System of Preferences provided for in title V of the Trade Act of 1974.

SEC. 102. EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

(a) In General.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) or any other provision of law, nondiscriminatory treatment (most-favored-nation treatment) applies to the products of Estonia, Latvia, and Lithuania.

(b) Conforming Tariff Schedule Amendments.—General Note 3(b) of the Harmonized Tariff Schedule of the United States is amended by striking out "Estonia", "Latvia", and "Lithuania".

(c) Effective Date.—Subsection (a) and the amendments made by subsection (b) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 103. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE BALTICS.

Title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply to Estonia, Latvia, and Lithuania effective as of the 15th day after the date of the enactment of this Act.

SEC. 104. SENSE OF THE CONGRESS REGARDING PROMPT PROVISION OF GSP TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that the President should take prompt action under title V of the Trade Act of 1974 to provide preferential tariff treatment to the products of Estonia, Latvia, and Lithuania pursuant to the Generalized System of Preferences.

TITLE II—TRADE PREFERENCE FOR THE ANDEAN REGION

SEC. 201. SHORT TITLE.

This title may be cited as the "Andean Trade Preference Act".

SEC. 202. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this title.

SEC. 203. BENEFICIARY COUNTRY.

(a) Definitions.—For purposes of this title—

(1) The term "beneficiary country" means any country listed in subsection (b)(1) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this title.

(2) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) The term "HTS" means Harmonized Tariff Schedule of the United States.

(b) Countries Eligible for Designation; Congressional Notification.—(1) In designating countries as beneficiary countries under this title, the President shall consider only the following countries or successor political entities:

Bolivia
Ecuador
Colombia
Peru.

(2) Before the President designates any country as a beneficiary country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(c) Limitations on Designation.—The President shall not designate any country a beneficiary country under this title—

(1) if such country is a Communist country;

(2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association, which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, and if such preferential treatment has, or is likely to have, a significant adverse effect on United States commerce, unless the President—

(A) has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and

(B) reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent or such country fails to work towards the provision of adequate and effective protection of intellectual property rights;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this title if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(d) Factors Affecting Designation.—In determining whether to designate any country a beneficiary country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to protect its own economic development;

(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights;

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(11) whether such country has met the narcotics cooperation certification criteria set forth in section 481(h)(2)(A) of the Foreign Assistance Act of 1961 for eligibility for United States assistance; and

(12) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this Act.

(e) WITHDRAWAL OR SUSPENSION OF DESIGNATION.—(1) The President may—

(A) withdraw or suspend the designation of any country as a beneficiary country, or

(B) withdraw, suspend, or limit the application of duty-free treatment under this title to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such a country should be barred from designation as a beneficiary country.

(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days before taking such action.

(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

(i) accept written comments from the public regarding such proposed action,

(ii) hold a public hearing on such proposed action, and

(iii) publish in the Federal Register—

(I) notice of the time and place of such hearing prior to the hearing, and

(II) the time and place at which such written comments will be accepted.

(f) TRIENNIAL REPORT.—On or before the 3rd, 6th, and 9th anniversaries of the date of the enactment of this title, the President shall submit to the Congress a complete report regarding the operation of this title, including the results of a general review of beneficiary countries based on the considerations described in subsections (c) and (d). In reporting on the considerations described in subsection (d)(11), the President shall report any evidence that the crop eradication and crop substitution efforts of the beneficiary are directly related to the effects of this title.

SEC. 204. ELIGIBLE ARTICLES.

(a) IN GENERAL.—(1) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of—

(i) the cost or value of the materials produced in a beneficiary country or 2 or more beneficiary countries under this Act, or a beneficiary country under the Caribbean Basin Economic Recovery Act or 2 or more such countries, plus

(ii) the direct costs of processing operations performed in a beneficiary country or countries (under this Act or the Caribbean Basin Economic Recovery Act),

is not less than 35 percent of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out subsection (a) including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expense of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, interest, and salesmen's salaries, commissions or expenses.

(4) If the President, pursuant to section 223 of the Caribbean Basin Economic Recovery Expansion Act of 1990, considers that the implementation of revised rules of origin for products of beneficiary countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) would be appropriate, the President may include similarly revised rules of origin for products of beneficiary countries designated under this title in any suggested legislation transmitted to the Congress that contains such rules of origin for products of beneficiary countries under the Caribbean Basin Economic Recovery Act.

(b) EXCEPTIONS TO DUTY-FREE TREATMENT.—The duty-free treatment provided under this title shall not apply to—

(1) textile and apparel articles which are subject to textile agreements;

(2) footwear not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(6) articles to which reduced rates of duty apply under subsection (c);

(7) sugars, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12 of the HTS; or

(8) rum and tafia classified in subheading 2208.40.00 of the HTS.

(c) DUTY REDUCTIONS FOR CERTAIN GOODS.—(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

(B) be implemented in 5 equal annual stages with the first ⅕ of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.

(d) SUSPENSION OF DUTY-FREE TREATMENT.—(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed under chapter 1 of title II of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the United States International Trade Commission to the President under section 202(f) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation providing solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be taken under section 203 of the Trade

Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974, determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing alike or directly competitive article results from the duty-free treatment provided by this title.

(5)(A) Any action taken under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 202 of this title shall remain in effect until modified or terminated.

(B) If any article is subject to any such action at the time duty-free treatment is proclaimed under section 202 of this title, the President may reduce or terminate the application of such action to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 204 of the Trade Act of 1974.

(e) EMERGENCY RELIEF WITH RESPECT TO PERISHABLE PRODUCTS.—(1) If a petition is filed with the United States International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within 14 days after the filing of a petition under paragraph (1) of this subsection—

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the taking of action under section 203 of the Trade Act of 1974,

(B) on the day a determination by the President not to take action under section 203(b)(2) of such Act becomes final,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day of the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means—

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;

(C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheadings 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; or

(D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

(f) SECTION 22 FEES.—No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624).

SEC. 205. RELATED AMENDMENTS.

(a) INCREASE IN DUTY-FREE TOURIST ALLOWANCE.—Note 4 to subchapter IV of chapter 98 of the HTS is amended by inserting before the period the following: "or a country designated as a beneficiary country under the Andean Trade Preference Act".

(b) TREATMENT OF INSULAR POSSESSIONS PRODUCTS.—General Note 3(a)(iv) of the HTS (relating to products of the insular possessions) is amended by adding at the end thereof the following:

"(E) Subject to the provisions in section 204 of the Andean Trade Preference Act, goods which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under such Act.".

SEC. 206. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—The United States International Trade Commission (hereinafter in this section referred to as the "Commission") shall prepare, and submit to the Congress, a report regarding the economic impact of this title on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this title in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, during—

(1) the 24-month period beginning with the date of enactment of this title; and

(2) each calendar year occurring thereafter until duty-free treatment under this title is terminated under section 208(b).

For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States industries.

(b) REPORT REQUIREMENTS.—(1) Each report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regarding—

(A) the actual effect, during the period covered by the report, of this title on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries;

(B) the probable future effect that this title will have on the United States economy generally, as well as on such domestic industries, before the provisions of this title terminate; and

(C) the estimated effect that this title has had on the drug-related crop eradication and crop substitution efforts of the beneficiary countries.

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable—

(A) analyze the production, trade and consumption of United States products affected by this title, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this title.

(c) SUBMISSION DATES; PUBLIC COMMENT.—(1) Each report required under subsection (a) shall be submitted to the Congress before the close of the 9-month period beginning on the day after the last day of the period covered by the report.

(2) The Commission shall provide an opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

SEC. 207. IMPACT STUDY BY SECRETARY OF LABOR.

The Secretary of Labor, in consultation with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact that the implementation of the provisions of this title has with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

SEC. 208. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment.

(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this title shall remain in effect 10 years after the date of the enactment of this title.

TITLE III—CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Chemical and Biological Weapons Control and Warfare Elimination Act of 1991".

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to mandate United States sanctions, and to encourage international sanctions, against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals, and to impose sanctions against companies that aid in the proliferation of chemical and biological weapons;

(2) to support multilaterally coordinated efforts to control the proliferation of chemical and biological weapons;

(3) to urge continued close cooperation with the Australia Group and cooperation with other supplier nations to devise ever more effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production; and

(4) to require Presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, deliver, transfer, or use chemical or biological weapons.

SEC. 303. MULTILATERAL EFFORTS.

(a) MULTILATERAL CONTROLS ON PROLIFERATION.—It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons. In furtherance of this policy, the United States shall—

(1) promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(2) set as a top priority the early conclusion of a comprehensive global agreement banning the use, development, production, and stockpiling of chemical weapons;

(3) seek and support effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(4) pursue and give full support to multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing "appropriate and effective" sanctions against any country which uses chemical weapons in violation of international law.

(b) MULTILATERAL CONTROLS ON CHEMICAL AGENTS, PRECURSORS, AND EQUIPMENT.—It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to support the Australia Group's objective to support the norms and restraints against the spread and the use of chemical warfare, to advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Australia Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by proposing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(B) liaison officers to the Australia Group's coordinating entity from within the diplomatic missions,

(C) a close working relationship between the Australia Group and industry,

(D) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(E) information-exchange channels of suspected proliferants,

(F) a "denial" list of firms and individuals who violate the Australia Group's export control provisions, and

(G) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 304. UNITED STATES EXPORT CONTROLS.

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technology,

that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) EXPORT ADMINISTRATION ACT.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended—

(1) by redesignating subsections (m) through (r) as subsections (n) through (s), respectively; and

(2) by inserting after subsection (l) the following:

"(m) CHEMICAL AND BIOLOGICAL WEAPONS.—

"(1) ESTABLISHMENT OF LIST.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the list maintained under this section, a list of goods and technology that would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability.

"(2) REQUIREMENT FOR VALIDATED LICENSES.—The Secretary shall require a validated license for any export of goods or technology on the list established under paragraph (1) to any country of concern.

"(3) COUNTRIES OF CONCERN.—For purposes of paragraph (2), the term 'country of concern' means any country other than—

"(A) a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of goods or technology on the list established under paragraph (1); and

"(B) such other countries as the Secretary of State, in consultation with the Secretary and the Secretary of Defense, shall designate consistent with the purposes of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.".

SEC. 305. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) AMENDMENT TO EXPORT ADMINISTRATION ACT.—The Export Administration Act of 1979 is amended by inserting after section 11B the following:

"CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS

"SEC. 11C. (a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States under this Act, or

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of this Act to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

(b) AMENDMENT TO ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended by inserting after chapter 7 the following:

"CHAPTER 8—CHEMICAL OR BIOLOGICAL WEAPONS PROLIFERATION

"SEC. 81. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

"(a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States,

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

"(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)) to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHOM SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

SEC. 306. DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) WHEN DETERMINATION REQUIRED; NATURE OF DETERMINATION.—Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after the date of the enactment of this title, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 307 applies if the President determines that that government has so used chemical or biological weapons.

(2) MATTERS TO BE CONSIDERED.—In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(3) DETERMINATION TO BE REPORTED TO CONGRESS.—Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 307.

(b) CONGRESSIONAL REQUESTS; REPORT.—

(1) REQUEST.—The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on Foreign Affairs of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) REPORT TO CONGRESS.—Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of whether the specified government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This report shall contain an analysis of each of the items enumerated in subsection (a)(2).

SEC. 307. SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) INITIAL SANCTIONS.—If, at any time, the President makes a determination pursuant to section 306(a)(1) with respect to the government of a foreign country, the President shall forthwith impose the following sanctions:

(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

(2) ARMS SALES.—The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

(3) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(5) EXPORTS OF NATIONAL SECURITY-SENSITIVE GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. 2405) shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 5(c)(1) of that Act (22 U.S.C. 2404(c)(1)).

(b) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—Unless, within 3 months after making a determination pursuant to section 306(a)(1) with respect to a foreign government, the President determines and certifies in writing to the Congress that—

(A) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(B) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(C) that government is willing to allow onsite inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals,

then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least 3 of subparagraphs (A) through (F) of paragraph (2).

(2) SANCTIONS.—The sanctions referred to in paragraph (1) are the following:

(A) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

(B) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(C) FURTHER EXPORT RESTRICTIONS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of all other goods and technology (excluding food and other agricultural commodities and products).

(D) IMPORT RESTRICTIONS.—Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(E) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(F) PRESIDENTIAL ACTION REGARDING AVIATION.—(i)(I) The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 306(a)(1) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(II) Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii)(I) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 306(a)(1), in accordance with the provisions of that agreement.

(II) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(iv) For purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(c) REMOVAL OF SANCTIONS.—The President shall remove the sanctions imposed with respect to a country pursuant to this section if the President determines and so certifies to the Congress, after the end of the 12-month period beginning on the date on which sanctions were initially imposed on that country pursuant to subsection (a), that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow onsite inspections by United Nations observers or other internationally recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(d) WAIVER.—

(1) CRITERIA FOR WAIVER.—The President may waive the application of any sanction imposed with respect to a country pursuant to this section—

(A) if—

(i) in the case of any sanction other than a sanction specified in subsection (b)(2)(D) (relating to import restrictions) or (b)(2)(E) (relating to the downgrading or suspension of diplomatic relations), the President determines and certifies to the Congress that such waiver is essential to the national security interests of the United States, and if the President notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, or

(ii) in the case of any sanction specified in subsection (b)(2)(D) (relating to import restrictions), the President determines and certifies to the Congress that such waiver is essential to the national security interest of the United States, and if the President notifies the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect; or

(B) if the President determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of that country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

(2) REPORT.—In the event that the President decides to exercise the waiver authority provided in paragraph (1) with respect to a country, the President's notification to the Congress under such paragraph shall include a report fully articulating the rationale and circumstances which led the President to exercise that waiver authority, including a description of the steps which the government of that country has taken to satisfy the conditions set forth in paragraphs (1) through (4) of subsection (c).

(e) CONTRACT SANCTITY.—

(1) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.—(A) A sanction described in paragraph (4) or (5) of subsection (a) or in any of subparagraphs (A) through (D) of subsection (b)(2) shall not apply to any activity pursuant to any contract or international agreement entered into before the date of the presidential determination under section 306(a)(1) unless the President determines, on a case-by-case basis, that to apply such sanction to that activity would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(B) The same restrictions of subsection (p) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as that subsection is so redesignated by section 304(b) of this title, which are applicable to exports prohibited under section 6 of that Act shall apply to exports prohibited under subsection (a)(5) or (b)(2)(C) of this section. For purposes of this subparagraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a foreign government in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(p) of that Act.

(2) SANCTIONS APPLIED TO EXISTING CONTRACTS.—The sanctions described in paragraphs (1), (2), and (3) of subsection (a) shall apply to contracts, agreements, and licenses without regard to the date the contract or agreement was entered into or the license was issued (as the case may be), except that such sanctions shall not apply to any contract or agreement entered into or license issued before the date of the presidential determination under section 306(a)(1) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

SEC. 308. PRESIDENTIAL REPORTING REQUIREMENTS.

(a) REPORTS TO CONGRESS.—Not later than 90 days after the date of the enactment of this title, and every 12 months thereafter, the President shall transmit to the Congress a report which shall include—

(1) a description of the actions taken to carry out this title, including the amendments made by this title;

(2) a description of the current efforts of foreign countries and subnational groups to acquire equipment, materials, or technology to develop, produce, or use chemical or biological weapons, together with an assessment of the current and likely future capabilities of such countries and groups to develop, produce, stockpile, deliver, transfer, or use such weapons;

(3) a description of—

(A) the use of chemical weapons by foreign countries in violation of international law,

(B) the use of chemical weapons by subnational groups,

(C) substantial preparations by foreign countries and subnational groups to do so, and

(D) the development, production, stockpiling, or use of biological weapons by foreign countries and subnational groups; and

(4) a description of the extent to which foreign persons or governments have knowingly and materially assisted third countries or subnational groups to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons.

(b) PROTECTION OF CLASSIFIED INFORMATION.—To the extent practicable, reports submitted under subsection (a) or any other provision of this title should be based on unclassified information. Portions of such reports may be classified.

Mr. DODD. Mr. President, I move that the Senate disagree to the House amendment, request a conference with the House on disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. BENTSEN, Mr. MOYNIHAN, and Mr. PACKWOOD.

SENIOR EXECUTIVE SERVICE IMPROVEMENTS ACT

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2270, the Senior Executive Service Improvements Act, just received from the House; that the bill be deemed read three times and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2270) was deemed read the third time and passed.

BILL PRINTED AS PASSED—H.R. 2194

Mr. DODD. Mr. President, I ask unanimous consent that H.R. 2194, the Federal facilities bill, be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 3508

Mr. DODD. Mr. President, I ask unanimous consent that H.R. 3508 relating to health professionals, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992—CONFERENCE REPORT

Mr. DODD. Mr. President, I submit a report of the committee of conference on H.R. 2038 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for after purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 18, 1991.)

Mr. BOREN. Mr. President, as my colleagues know, the annual intelligence authorization bill authorizes appropriations for all intelligence activities of the U.S. Government. These include not only the authorization for CIA, but also the authorization for Department of Defense intelligence components, the Bureau of Intelligence and Research of the Department of State, the Intelligence Division of the FBI, and various intelligence components in other Departments and agencies.

In addition to allocating resources, this bill also serves as the vehicle for legislative improvements of a policy nature. In this respect, this year's bill is especially significant.

Mr. President, it gives me great pleasure to note that the conference committee has reported out a bill which authorizes the creation of a national security education trust fund, funded at a level of $150 million, the interest from which will be used on a continuing basis to fund undergraduate scholarships for American students to study abroad for at least a semester and grants to institutions of higher learning, in the areas of international studies, area studies, and foreign languages and graduate fellowships in these same fields.

The National Security Education Act is the largest new higher education initiative of this kind since the adoption of the National Defense Education Act in 1958. It will provide $35 million next year for the three functions I just mentioned. It will more than triple the present Federal funding for American undergraduate study abroad, increase by 40 percent funds for graduate fellowships, area studies, and foreign languages and will be the first program solely devoted to providing curriculum grants to colleges and universities for these areas of study.

To my mind, this is a long-term investment in our future, an investment to improve our understanding of the rest of the world and foster cooperation with it for generations to come. This is important not simply to prepare knowledgeable people for Government service—although that is a clear objective of this bill—but rather to make us a stronger country, one with greater appreciation and tolerance for other governments and societies, one better able to cope with the economic and political challenges which lie ahead, whether as Government servants or as participants in the private sector.

To achieve this, the bill provides funds not only to improve the quality of U.S. educational services, but also to provide the opportunity for thousands of U.S. students, who would not otherwise have it, to study abroad, to learn what other societies and cultures are like, to learn foreign languages, to establish personal ties that might later manifest themselves in a thousand different ways.

The world is a different place today. Not only are old political structures crumbling, and new ones taking their place, communications are drawing the world more closely together. There is a greater awareness of developments around the world than ever before. Economically, we find ourselves competing with the rest of the world both at home and abroad to maintain our level of prosperity.

Yet, paradoxically, it is also a time of drawing inward, of reducing our military presence around the world, of cutting costs, of reducing spending, of looking toward domestic problems. Far too few of our educational institutions promote international studies or even the study of foreign languages, far too few of our students study abroad and even those who do, typically study in European countries with a Western orientation.

It is my hope that this legislation ultimately will provide at least part of the wherewithal that this country needs to create the international outlook we must have if we are to keep this country at peace and prosperous. It is no panacea, to be sure, but it is a positive step, which I think will ultimately contribute far more to our Nation's security than a new bomber or a new battleship.

I want to thank my colleagues on the conference committee, both the House and Senate, for supporting this proposal. I am confident they will never regret it. This is something that I think we will look back upon as one of the really good things that Congress had the foresight and wisdom to press for, at a time in our history which could not be more apropos.

I also want to mention two other provisions in this conference bill, Mr. President, which I think are worthy of particular note.

The first is the sense-of-the-Congress provision that the intelligence budget total should be publicly disclosed. The Senate had passed a provision in its bill which would have mandated the disclosure of the intelligence budget totals. In the face of a firm threat from the White House that the President would veto the bill if this provision were included in the bill, the conferees decided to opt instead for a sense-of-the-Congress provision that would not be legally binding upon the President. This provides that it is the sense of Congress that in 1993, the intelligence budget totals should be disclosed publicly in an appropriate manner.

We purposely put the date at "1993" to give the intelligence committees an opportunity to work with the President and the new Director of Central Intelligence, Mr. Gates, to ascertain how this disclosure might best be accomplished without endangering the national security.

At his confirmation hearings, Mr. Gates, in fact, endorsed such disclosure in concept, though he warned of the risks of holding to the bottom-line figure once disclosed. But, he viewed such disclosure as a symbol of a new openness, marking both a change in the world and a change in the intelligence community. The committee viewed it this way as well, and is optimistic that the President and his staff will themselves come to see this action as a way of breaking with the past, of keeping faith with the future. We intend to pursue this matter, Mr. President, in the months ahead.

Finally, Mr. President, I want to comment on the resolution of the CIA consolidation of facilities issue. This bill provides, among other things, that CIA must comply with certain procedures and make certain certifications before it may proceed with the consolidation of its facilities. In my view, these conditions and limitations are wise and appropriate. Both Intelligence Committees have for some time supported the need for CIA to consolidate its facilities in the Greater Washington area. In the long run, it will save the U.S. Government a considerable amount of money, as well as providing better security and communications for CIA. But it must be done in a careful, objective way, assessing all the alternatives, and assessing the costs both in monetary terms and in terms of the effects on employees. I think the conference report we have before us achieves this goal, and puts this project on the right path. I am indebted to those in both houses who have worked diligently to achieve this result.

With that, let me urge my colleagues to support the adoption of this conference report. It is a sensible and fair bill, which represents a great deal of work on the part of the two Intelligence Committees.

Mr. GLENN. Mr. President, while on balance I support this conference agreement on the fiscal year 1992 intelligence authorization bill, there are several aspects of this legislation which I find troubling.

Of greatest concern to me are the reductions in the intelligence budget contained in this legislation. I remain unconvinced of the rationale for these reductions. Our concerns with the intelligence community's priorities should not be addressed by deep budget cuts, but rather by restructuring existing resources. I am convinced that during this time of unprecedented change and uncertainty in the international system, the need for a strong and reliable intelligence capability is particularly compelling.

The positive changes taking place in the Soviet Union today are offset by the destabilizing effects of extensive economic, political, ethnic, and religious turmoil. While history has recorded the decline of empires before, never has the world witnessed the disintegration of an empire that was armed to the teeth with weapons of mass destruction. This fact alone means that the Soviet Union—or what remains of it—must remain a high priority for United States intelligence.

In addition, there are a host of other national security threats that demand a greater concentration of intelligence capabilities and resources—the proliferation of weapons of mass destruction, drug smuggling, terrorism, environmental change, low-intensity conflict in the Third World, and the illicit export of high-technology items.

With the end of the cold war and the strong likelihood that our defense spending will be declining sharply over the next several years, we must be mindful of the lessons of history. Defense spending has always experienced cycles of expansion and contraction. Periods of lower tensions result in reduced defense budgets. Such times seem to eventually give way to periods of greater tension which, in turn, lead toward greater defense spending. When the day comes that the United States must rebuild our national defense to confront a threat that is now difficult to foresee, we must do it from the stongest and most reliable intelligence base possible. Indeed, accurate and timely intelligence is America's greatest force-multiplier.

I am convinced that significant reductions in our intelligence capabilities, especially during this period of international instability, are unwise and could ultimately be damaging to U.S. national security.

Mr. President, because of my concern with the diminishing intelligence budget, it is essential to be more responsible than ever before with the allocation of intelligence resources. This is why I am strongly opposed to the provision in this conference report which would establish a trust fund to support language and foreign area studies at the undergraduate and graduate level. While this is perhaps a commendable objective, such a program does not belong in the intelligence budget.

I believe that it is highly inappropriate to utilize increasingly scarce intelligence resources to fund educational programs at a time when we are terminating important intelligence systems and programs.

Implicit in this initiative is the goal of infusing the intelligence community with individuals with greater foreign language proficiency and foreign area expertise. Assuming that this is a valid requirement, surely there must be more straightforward and less expensive ways of achieving this objective, such as retraining existing intelligence personnel or more actively recruiting the many U.S. citizens who already have needed language skills and foreign area expertise.

The greatest resource in U.S. intelligence are the thousands of men and women who toil with little public recognition of and appreciation for their unique contribution to American national security. Over the course of their intelligence careers, these individuals have developed unique and invaluable skills and experience which cannot be taught at an institution of higher learning. In the next several years, many of these individuals will be discharged from their jobs in the intelligence community because of growing budgetary constraints. It is more than a little ironic that we should be spending significant resources to subsidize the recruitment of a new generation of intelligence personnel when we will be laying off more seasoned intelligence professionals.

Mr. President, I believe that this is inappropriate. I am deeply concerned that the conference's authorization of this program could mark the beginning of a disturbing trend—cannibalizing the shrinking intelligence budget to fund programs that are at best marginally relevant to the greater needs of the U.S. intelligence community.

Finally, I am deeply disappointed that the conference did not fully authorize the administration's requested level of funding for a major new program which would make a unique and highly significant contribution to our current reconnaissance capabilities. Particularly when the requirements for such a capability are so compelling, failure to see this program through to deployment would be as shortsighted and irresponsible as the termination of the SR-71, which left our Nation without a survivable strategic airborne reconnaissance platform.

While the price tag for this program is significant, I am firmly convinced that the expense is justified, especially in light of lessons learned from Operation Desert Shield and Operation Desert Storm. Surely when American lives and interests are on the line—as they recently were in the Persian Gulf—the United States cannot afford not to have the best possible intelligence capability at its disposal.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MINORITY PARTY COMMITTEE APPOINTMENTS

Mr. GARN. Mr. President, on behalf of Senator DOLE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 226) on certain minority party committee appointments.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 226) was agreed to, as follows:

S. RES. 226

Resolved, That the Senator from Rhode Island (Mr. Chafee) shall continue his membership on the Committee on Banking, Housing and Urban Affairs until the convening of the Second Session of the One Hundred Second Congress.

Mr. DODD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TROOP REDUCTION IN EUROPE

Mr. SIMON. Mr. President, I received a press release, along with you, and Senator PELL, and the other Members of this body, which stated that the Defense Department intends to pare down our Armed Forces in Western Europe by 50 percent by the end of 1995.

I do not fault the fact that we are paring down our defense establishment over there. But if it makes sense to do it by 1995, why does it not make sense to do it by the end of this next year? And even if we keep every one of those personnel in the Armed Forces and do not reduce the numbers—and I think frankly we can reduce the numbers—but even if we were to keep the same numbers to have these personnel here and have their dependents here means that money is going to be spent in the United States rather than in other countries.

If we were rolling in money and had a huge budget surplus and no trade deficit, I would understand kind of leisurely going along until 1995 to solve this problem. I do not understand when we do it when we have the kind of budgetary problems and the kind of trade deficit problems that we have today. I think we ought to make a greater priority out of this.

Let me add there is another reason, and I say this as someone who was stationed overseas in the Army after World War II. I was stationed in Germany, and the reality is that foreign troops in another country do create some ill will. We do not like to talk about it, and I am not suggesting that Americans are any worse than people of any other country. But with foreign troops stationed in a place comes problems of excessive drinking, prostitution, the kind of problems that we all know about and we talk about privately.

I think we would create some good will elsewhere if we were to reduce the numbers that are overseas. I do not know precisely how we deal with this, and we are not going to deal with it before we adjourn sine die. But it just seems to me it makes so much sense.

The enemy, the Soviet Union, has disintegrated, for all practical purposes, in terms of a potential foe. Senator SAM NUNN is talking about spending some money of our defense dollars to help dismantle the nuclear forces over there, and I commend Senator NUNN for his suggestions. But it seems to me that if it makes sense to reduce by 50 percent our Armed Forces, and their dependents, in Western Europe by the end of 1995, why does it not make infinitely more sense to do it by the end of 1992?

I hope we use a little common sense in this area, Mr. President, and I hope that you—as a former business executive and someone whose judgment I think is respected by Members in this body on both sides—and the chairman of the Senate Foreign Relations Committee, who has a great deal of background in this area, I hope they can be among the people who will lead in this area.

Mr. President, if no one else seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers the conference report on H.R. 2100, the Department of Defense authorization bill, that it be considered under the following time agreement: 2 hours equally divided between Senators NUNN and WARNER or their designees; 30 minutes for Senator LEAHY; and that when all time is used or yielded back, the Senate, without any intervening action or debate, vote on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS BILL

Mr. MITCHELL. Mr. President, earlier this evening I indicated that it was my intention to proceed this evening, or as soon as possible, to the supplemental appropriations bill. At that time I had inquired of the distinguished Republican leader whether he was in a position to grant that consent. He indicated then that he was not in a position to do so at that time.

And I will now inquire of the distinguished Republican leader whether it will be possible for him to give consent to proceed to the supplemental appropriations bill at this time.

Mr. DOLE. Mr. President, if the majority leader will yield, I think the one problem of giving consent was that there was one amendment which just had the Senator's name and two question marks behind the name. We did not have any idea what the amendment was.

Until we can ascertion that, I am not in a position to give consent. I suggest to the majority leader I think we can do that by tomorrow. But just as sort of a fail-safe, I think the leader plans to proceed with a cloture motion.

Mr. MITCHELL. Accordingly, Mr. President, so that in the event we are not able to get consent tomorrow—and I hope very much that we will be able to get consent tomorrow so that we can proceed with dispatch—it is my intention now to move to proceed to the supplemental appropriations bill, and then to file a cloture motion on the motion to proceed, which would ripen on Friday morning.

But as the distinguished Republican leader and I have discussed privately, and I have just stated here in this public colloquy, we both hope that it will not be necessary to actually vote on cloture on the motion to proceed, but that we get to the supplemental appropriation bill sometime during the day tomorrow.

CLOTURE MOTION

Mr. MITCHELL. Accordingly, Mr. President, I now move to proceed to House Joint Resolution 157, and I send a cloture motion to the desk. I ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the motion to proceed to House Joint Resolution 157, making technical corrections and making appropriations for the fiscal year ending September 30, 1991, and for other purposes:

George Mitchell, Daniel K. Akaka, Joe Biden, Don Riegle, Claiborne Pell, Robert C. Byrd, Wendell Ford, Fritz Hollings, Barbara Mikulski, J.J. Exon, Harry Reid, Richard Bryan, Frank Lautenberg, Quentin Burdick, Daniel K. Inouye, and Richard Shelby.

Mr. MITCHELL. Mr. President, I now withdraw the motion to proceed to House Joint Resolution 157.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. I have discussed with the distinguished Republican leader the schedule for tomorrow. We both have been briefed throughout the evening by the chairman and ranking member of the Banking Committee, as well as by the Secretary of Treasury, who was here earlier this evening consulting with the chairman and ranking member.

We are advised that substantial progress has been made in reaching agreement on a narrower version of the banking bill, which appears to open up the prospect of completing action on the bill during the day tomorrow.

I inquire of the Chair whether I am correct that when the Senate returns to legislative session tomorrow, the banking bill will be the pending business.

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. In that event, Mr. President, Senators should be advised that we will come in at 8:30 tomorrow. There will be 1½ hours of morning business, and then at 10 o'clock in the morning, the Senate will return to legislative session, at which time the banking bill will be the pending business.

It is my understanding that at approximately 10 a.m., the manager, the chairman of the Banking Committee, will propound an agreement governing the disposition of that bill, identifying amendments thereto, hopefully with time agreements where possible, and that we can complete action on the bill during the day tomorrow.

It is my intention thereafter to proceed to the defense authorization conference report, pursuant to the agreement just obtained, which provides for a maximum of 2 hours and 30 minutes on that bill. I hope that all that time will not be used, and that we can complete action on that during the day tomorrow.

It is also my hope, as previously expressed, that we will in the interim have obtained consent to proceed to the supplemental appropriations bill, and that we can take action on that measure, as well, tomorrow.

Mr. DOLE. If the majority leader will yield, Mr. President, I think it is fair to say we are also trying to figure out how to get to conference on the crime bill. We hope to be able to resolve that. If that were done and we were able to do the other two tomorrow, that would be a big step toward adjournment.

Mr. MITCHELL. It surely would be. As the distinguished Republican leader knows, he and I met earlier this evening with the Speaker, the majority leader, and the minority leader in the House in an effort—that is one of several meetings we will have in the remaining days, as we always do—to see if we cannot reach agreement on how best to proceed in a way that will permit us to adjourn in accordance with our target of prior to Thanksgiving.

Getting action on the banking bill will be a major part of that, and as the distinguished Republican leader has just noted, the crime bill is also a major part of that. We have been consulting on that throughout the evening, as well, and we hope to have that resolved by noon tomorrow, one way or the other, in a way that will permit us to proceed with respect to that important legislation.

PROGRAM

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m. on Thursday, November 21; that following the prayer, the Journal of proceeding be deemed approved to date; and the time for the two leaders be reserved for their use later in the day; that there be a period for morning business not to extend beyond 10 a.m. with Senators permitted to speak therein, with the following Senators recognized to speak in the order listed: Senator GORE, for up to 25 minutes; Senator REID, for up to 15 minutes; Senator LIEBERMAN, for up to 5 minutes; and that Senator PRYOR control the remaining time until 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I wonder if the distinguished assistant Republican leader might be able to speak for 5 minutes, and then just go out.

Mr. MITCHELL. Certainly. I believe the Chair has one announcement first, and I will include that in the closing request.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, announces the appointment of the following Senators to be members of the official Senate delegation to attend the 50th Anniversary Commemoration of the Attack on Pearl Harbor: The Senator from Arizona [Mr. MCCAIN], vice chairman; the Senator from Oregon [Mr. HATFIELD]; the Senator from Texas [Mr. GRAMM]; the Senator from Washington [Mr. GORTON]; and the Senator from Utah [Mr. GARN].

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator SIMPSON be recognized to address the Senate, and that upon the completion of his remarks the Senate stand in recess as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

SENATOR BYRD'S BIRTHDAY

Mr. SIMPSON. Mr. President, since the day is upon us, I want to very briefly mention that it was 74 years ago today, on November 20, 1917, an event occurred in North Wilkesboro, NC, which has proven to be highly important to this magnificent institution, the U.S. Senate, relating to the birth of the distinguished chairman of the Appropriations Committee, the President pro tempore, the senior Senator from West Virginia, a historian without peer in the institution he loves so well. That is our friend, ROBERT C. BYRD.

He has held more legislative elective offices than any other individual in the history of his beloved State. He began service in the West Virginia House of Delegates in 1946. He was elected to the West Virginia Senate in 1950. He was elected to the U.S. House in 1952. Since 1958, he has served with great distinction in the U.S. Senate.

During that period of service in Congress, he obtained a law degree. He was the 1,579th person out of 1,799 of us to serve in the Senate. He has held more leadership Senate positions than any other Senator of any party in the history of the U.S. Senate. Many other honors and distinctions have accompanied this rise of his. He is a 33rd degree Mason, and was awarded the Grand Cross of the Court of Honour by the Supreme Council of the Masonic Order. He was named West Virginian of the Year more than anyone in history.

Senator BYRD is author of "The Senate: 1789 Through 1989." Here is where his legacy will be handed down through the uncounted years in these two volumes that all of us have read and enjoyed. They include not only serious presentations of parliamentary proceedings and the business of the Senate, but some rare anecdotal material, which is truly delightful to read.

Mr. President, his achievements are many. The list is long. But, above all else, he is a Senator's Senator. No one in the history of the Senate has given the institution more. He has actually dedicated his very life to it. I dearly hope that he and his very steady and gracious wife, Erma, enjoy this—as he referred to it, and I sought this information—his 27,029th day in the life of one of the finest statesmen to have served his country in the U.S. Senate.

He had taken me under his wing when I first came here. He knew my father. He worked with him on many issues. I want to thank him for sharpening my awareness of history, literature, the master works of the bards and scribners of the ages. That has been a delightful secondary benefit of his friendship.

He is a font of knowledge and the singular most important chronicler of our beloved institution, in which he believes so deeply in so many ways and provides evidence of that data.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that I may proceed for 3 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized for 3 minutes.

Mr. SIMPSON. I thank the Chair.

(The remarks of Mr. SIMPSON pertaining to the introduction of S. 1999 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS UNTIL TOMORROW AT 8:30 A.M.

The PRESIDING OFFICER. Under the previous order the Senate stands in recess until 8:30 a.m. tomorrow.

Thereupon, the Senate, at 10 p.m., recessed until Thursday, November 21, 1991, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 20, 1991:

DEPARTMENT OF EDUCATION

G.O. GRIFFITH, JR., OF MISSISSIPPI, TO BE ASSISTANT SECRETARY FOR INTERGOVERNMENTAL AND INTERAGENCY AFFAIRS, DEPARTMENT OF EDUCATION, VICE MICHELLE EASTON.

THE JUDICIARY

CARLOS BEA, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

TIMOTHY D. LEONARD, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA, VICE LAYN R. PHILLIPS, RESIGNED.

ROBERT E. PAYNE, OF VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA, VICE J. CALVITT CLARKE, JR., RETIRED.

EWING WERLEIN, JR., OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF TRANSPORTATION

JAMES BUCHANAN BUSEY IV, OF ILLINOIS, TO BE DEPUTY SECRETARY OF TRANSPORTATION, VICE ELAINE L. CHAO.

EXECUTIVE OFFICE OF THE PRESIDENT

ROBERT EDWARD GRADY, OF NEW JERSEY, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, VICE WILLIAM M. DIEFENDERFER, III, RESIGNED.

DEPARTMENT OF JUSTICE

HENRY EDWARD HUDSON, OF VIRGINIA, TO BE DIRECTOR OF THE U.S. MARSHALS SERVICE, VICE K. MICHAEL MOORE.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate November 20, 1991:

DEPARTMENT OF JUSTICE

WILLIAM PELHAM BARR, OF VIRGINIA, TO BE ATTORNEY GENERAL.

U.S. INTERNATIONAL TRADE COMMISSION

CAROL T. CRAWFORD, OF VIRGINIA, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING JUNE 16, 1999.

JANET A. NUZUM, OF VIRGINIA, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 16, 1996.

DEPARTMENT OF ENERGY

JAMES G. RANDOLPH, OF OKLAHOMA, TO BE AN ASSISTANT SECRETARY OF ENERGY (FOSSIL ENERGY).

DEPARTMENT OF STATE

WILLIAM CALDWELL HARROP, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

A. PETER BURLEIGH, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS COORDINATOR FOR COUNTER-TERRORISM.

JOHN GIFFEN WEINMANN, OF LOUISIANA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS CHIEF OF PROTOCOL FOR THE WHITE HOUSE.

JOHN KENNETH BLACKWELL, OF OHIO, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE HUMAN RIGHTS COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

THE FOLLOWING NAMED PERSONS TO BE REPRESENTATIVES AND ALTERNATE REPRESENTATIVES OF THE UNITED STATES OF AMERICA TO THE 46TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

REPRESENTATIVES:
THOMAS R. PICKERING, OF NEW JERSEY.
ALEXANDER FLETCHER WATSON, OF MASSACHUSETTS.
JOSEPH VERNER REED, JR., OF CONNECTICUT.
DAN BURTON, OF INDIANA.
MERVYN M. DYMALLY, OF CALIFORNIA.
ALTERNATE REPRESENTATIVES:
GEORGE EDWARD MOOSE, OF MARYLAND.
JONATHAN MOORE, OF MASSACHUSETTS.
SHIRIN RAZIUDDIN TAHIR-KHELI, OF PENNSYLVANIA.
OSCAR PADILLA, OF CALIFORNIA.
MARGARETTA F. ROCKEFELLER, OF NEW YORK.

RICHARD B. STONE, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

PEACE CORPS NATIONAL ADVISORY COUNCIL

MICHAEL B. MCCASKEY, OF ILLINOIS, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1992.

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL:

RICHARD N. BOND, OF NEW YORK, FOR A TERM EXPIRING OCTOBER 6, 1992.

TOM G. KESSINGER, OF PENNSYLVANIA, FOR A TERM EXPIRING OCTOBER 6, 1993.

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR TERMS EXPIRING OCTOBER 6, 1993:

RUTH GARDNER COX, OF TEXAS.
ROLAND H. JOHNSON, OF PENNSYLVANIA.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

REGINALD J. BROWN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR FOR THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

ANDREW S. NATSIOS, OF MASSACHUSETTS, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

HENRIETTA HOLSMAN FORE, OF CALIFORNIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

BOARD FOR INTERNATIONAL BROADCASTING

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE BOARD FOR INTERNATIONAL BROADCASTING:

PENN KEMBLE, OF THE DISTRICT OF COLUMBIA, FOR A TERM EXPIRING APRIL 28, 1992.

DANIEL A. MICA, OF FLORIDA, FOR A TERM EXPIRING APRIL 28, 1993.

CHERYL FELDMAN HALPERN, OF NEW JERSEY, FOR A TERM EXPIRING APRIL 28, 1994.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

MARK MCCAMPBELL COLLINS, JR., OF THE DISTRICT OF COLUMBIA, TO BE U.S. ALTERNATE EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS.

U.S. INFORMATION AGENCY

JOHN CONDAYAN, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE U.S. INFORMATION AGENCY.

EXECUTIVE OFFICE OF THE PRESIDENT

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR TERMS EXPIRING OCTOBER 27, 1994:

JOSE A. COSTA, JR., OF FLORIDA.

JOSEPH FRANCIS GLENNON, OF FLORIDA.

CHARLES TYROLER II, OF VIRGINIA, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 1992.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

PAMELA J. TURNER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1992.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING RICHARD M. BROWN, AND ENDING WENDY A. STICKEL. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF OCTOBER 29, 1991, FOR COMPLETE LIST.)

FOREIGN SERVICE NOMINATIONS BEGINNING DAVID ALLAN ALARID, AND ENDING CAROL K. STOCKER. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF OCTOBER 29, 1991, FOR COMPLETE LIST.)

EXTENSIONS OF REMARKS

POSTAL BOUTIQUES MAY BECOME POST OFFICES ONCE MORE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. BROOMFIELD. Mr. Speaker, yesterday's Washington Post had some good news for the millions of Americans who are concerned about the deteriorating Postal Service. They will be pleased to read that the Postmaster General has ordered the Nation's 40,000 post offices to stop selling key chains, coffee mugs, T-shirts, and other trinkets.

Postmaster General Anthony Frank had at one time defended his corporation's entry into the trinkets market as an attempt to generate revenue that would partially offset the need for increases in the price of stamps.

He has been quoted as saying that—

> Every billion dollars we earn through these and other programs and products is another penny we don't have to collect from sales of first-class stamps.

I have never seen the actual revenues that Mr. Frank's postal boutiques have generated, but I find it hard to believe that the figure is quite as grand as $1 billion. I suspect that the sale of these trinkets had an infinitesimal impact on the Postal Service's $48 billion in revenues.

It may be that the Postmaster General's decision to close the postal boutiques is simply a way of catching up with business realities. A Postal Service spokesman is quoted as saying at the time of the decision that some post offices, such as those in the Washington area, offered a wide variety of items, while some offered none.

That strikes me as a way of saying that many postmasters outside Washington were sensible enough to ignore the trinkets business and stick to the business of delivering the mail, while postmasters inside the beltway, fearful of a Saturday morning visit by someone high up in Postal Service management, made sure they offered all sorts of management-approved gewgaws.

Now that the Postmaster General has reconsidered the trinkets business, perhaps he will have second thoughts about sponsoring the Olympic Games. According to James Bovard, an associate policy analyst at the Cato Institute, the Postal Service spent roughly $15 million for the right to be a cosponsor of the 1992 Olympic Games and will spend more than $120 million on Olympic promotions during a 3-year period.

Postmaster General Frank has justified this extraordinary expenditure by saying: Olympic sponsors such as VISA, 3M, and Coca-Cola are viewed by customers as industry leaders, as quality service providers—the kind of people you'd like to do business with.

Who's kidding whom. Nobody's going to be fooled by this $100 million image campaign but the postal managers themselves. Ask any American who has walked into a post office and they'll tell you that the only way the U.S. Postal Service is going to be viewed as a quality service provider is by providing quality service.

That's something the Postal Service hasn't done in a long time. The people who the Postal Service is supposed to serve have had it up to here with declining postal service and rising postal costs.

I've heard criticisms of the U.S. Postal Service from postal customers, as well as from postmasters, from union officials, and from men and women of the Postal Service who serve on the frontlines.

That's why I believe it is important to create a commission to study the postal system, a commission that would include Members of Congress from both parties, members of the Postal Service management, representatives of the postal unions, as well as representatives of the general public.

It's been 20 years since the old Post Office Department was reestablished as a quasi-independent agency. It seems to me to be a good time to take a fresh and impartial look at the Postal Service and see whether the American people are getting their money's worth.

My resolution which would create such a commission now has more than 100 cosponsors. I urge my fellow Members who have not yet signed onto the resolution to consider doing so today.

THE DECADE OF THE BRAIN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. GEKAS. Mr. Speaker, in a report issued recently, the Institue of Medicine enthusiastically endorses a two-decade effort to develop a set of sophisticated computer data bases and three-dimensional models of the brain. One of the great humanitarian accomplishments that many hope will come from mapping the brain and its functions, are finding ways to prevent and cure mental illnesses.

No one is better qualified to tell this fascinating story than Dr. James D. Watson, Nobel Laureate and Director of the National Center for Human Genome Research in the National Institutes of Health. Dr. Watson was formerly a professor at Harvard and director of the Cold Spring Harbor Laboratory of Quantitative Biology. He received the Nobel Prize in 1962 for his discovery—with Drs. Crick and Wilkins—of the double-helix structure of DNA and its code of instructions for making proteins which keep the body going and control heredity.

Dr. Watson's article, "Genes and the Legacy of Psychiatric Illness," is the lead story in the Decade of the Brain, the quarterly research publication of the National Alliance of the Mentally Ill [NAMI]. Over the past 10 years, NAMI has grown to an organization of 140,000 family members and over 1,000 affiliates including 2,550 members in the AMI of Pennsylvania. These affiliates and their members lead the fight to overcome stigma, and to promote funding for services research, as well as biomedical research on the causes and treatments for the mentally ill. At this point, I include Dr. Watson's article from volume 2, issue 2 of the Decade of the Brain:

[From the Decade of the Brain; Spring 1991]

GENES AND THE LEGACY OF PSYCHIATRIC ILLNESS

(By Dr. James D. Watson)

The human brain—the remarkable feature that makes us unique among the animals—is home to our imagination, wonder, and genius. Some believe that within this mysterious sanctum lies the seat of our soul. Perhaps because of this, diseases of the brain carry with them special tragedies, for they can rob us of the very elements of personhood. On the streets of this country's most beautiful and prosperous cities, one does not have to look long or even hard before the personal ruin of untreated mental illness becomes painfully clear.

Throughout most of this century, the search for causes of psychiatric illness—brain diseases that show themselves in the form of behavior disorders—has followed a divided path. On one side, psychiatric illnesses were explained as the result of environmental stresses of the family, which in some way "nurtured" these tragic disorders in the ill person. Many psychiatric illnesses, to be sure, often affect more than one member of a household. Stresses in the home environment acted on all members of the family. Those of strong moral constitution survived them, while the weak succumbed.

Perhaps because of the technical shortcomings of laboratory investigations into the brain, the only way to access its depths was through non-biological tools, such as the psychotherapist's couch. Over the past two decades, however, the brain's most rigidly kept secrets have begun to give way to probing by increasingly sophisticated biomedical research tools. Using new biochemical assays and brain imaging techniques, scientists have now learned much about the interactions between brain cells and the myriad of molecules that influence them.

Psychiatrists, and their patients, were among the first beneficiaries of this research. Drugs such as lithium, tricyclic antidepressants, and antipsychosis drugs began to bring ill people back to health in a way that non-biological treatments could not. The enormous power of these psychotropic drugs spawned a new way of thinking about the "nature" of psychiatric illness, and the field of "biological psychiatry" was born.

Growing evidence of the biological roots of serious psychiatric illnesses, such as schizophrenia and manic-depression, finally helped to absolve the guilt of patients and families whose lives had been torn apart by these

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tragic disorders. No longer were disorders "all in one's head" but, indeed, in one's brain. These diseases finally took their rightful place among real medical illnesses, like cancer and diabetes. In this new arena, though, it would not be long before biological psychiatrists found themselves confronted by a new set of research questions, which other biomedical researchers had been grappling with for some time.

To a biologist's way of thinking, the occurrence of the same illness among family members, particularly several generations, suggests something other than shared environmental stresses: namely, the inheritance of specific genes. Made of the hereditary chemical DNA, genes are passed on from parents to their children when the parents' chromosomes mix during fertilization. During the cell division that follows, which ultimately produces a human being, a complete set of genes is parcelled out to nearly every cell in the body. There, genes carry detailed instructions for cells, this may be to produce a certain cellular receptor, neurotransmitter, or growth factor. Errors in the structure of a gene can result in an altered gene product which, in turn, can cause a cell to malfunction and lead to diseases of the brain and other organs and tissues.

Nearly every biomedical discipline has now begun to examine genes, and the defects in them, as the very first step in the disease process. We know already that over 3,000 human diseases result from defects in only one of the estimated 100,000 genes each human cell contains. Scientists refer to this complete set of genes as the human genome. One of the goals of modern genetic research is to study the structure of individual genes. Such structure studies will provide important clues as to how the gene is supposed to work and why it doesn't in people who are sick.

The age of human disease gene identification began, with one or two exceptions, only within the past few years. To date, a number of genes have been isolated which, when mutated, lead to specific diseases. These include some that you have heard about—such as cystic fibrosis, Duchenne muscular dystrophy, type 1 neurofibromatosis, chronic granulomatosis disease, retinoblastoma—a total of a few dozen perhaps. The genes associated with many other human diseases have been localized within the genome to a particular chromosomal site, a major step on the way to their isolation. Some "disease genes" in this category include those associated with Huntington's disease, a familial form of colon cancer, and an inherited form of early onset breast cancer. The studies that have led to the mapping and/or isolation of these genes were aided by the understanding of the way in which the associated conditions were inherited in families; for the most part, these are inherited in rather strict Mendelian fashion, indicating that the manifestation or phenotype (the disease) is determined by a single gene. The "relative simplicity" of the genetics of these diseases (and I don't mean to imply that there was not a lot of brainpower and hard work that went into these achievements) has allowed such enormous progress to be made using the tools and techniques available today which, by the standards we hope to establish through the Human Genome Project, are still relatively crude.

There are many other conditions and diseases, chief among them the psychiatric diseases, for which the situation is much more complex. Accordingly, progress toward a genetic handle on these illnesses has been much slower. There is a large body of data that indicates that genetics plays a significant role in a number of psychiatric illnesses. Statistical studies analyzing the way traits are passed on from generation to generation (inheritance patterns) suggest that genes are involved in schizophrenia, bipolar affective disorder, anxiety disorders, and substance addictions. However, the data are complicated.

There are a number of factors which complicate the situation when geneticists try to analyze so-called complex diseases. The analytical techniques that are available today are not yet up to the task of interpreting the situation in which any one of several genes may lead to a similar appearing disease (this situation is known as "genetic heterogeneity"). This also applies to the situation in which the action of several genes together is required before the disease is manifested. Sometimes, for reasons which are not understood, the same gene has different effects in different individuals; for example, in one person the disease is severe while in another person the disease is mild or may not appear at all (this phenomenon is known as "incomplete penetrance"). Some diseases, and here the psychiatric illnesses are prime examples, have many symptoms and one individual may suffer from a particular set and another person from another set, only some of which are the same as the first person's symptoms. In other cases, symptoms that are not genetically determined may not be distinguishable from those that are. And finally, there is the subject of environmental influence, which may suppress or augment genetic effects in complicated ways.

For these reasons, perhaps, and/or others, the current status of the identification genes responsible for psychiatric diseases is very unclear. Four years ago, results of studies of bipolar disease in an Amish population indicated that a gene for manic/depressive illness was located on human chromosome 11. Last year, this conclusion was reversed after more individuals in the affected families were analyzed and after certain individuals who were assessed as unaffected in the 1987 study developed symptoms. In 1988, another study indicated that a gene on chromosome 5 was involved in schizophrenia in a particular family. However, as was noted at the time, there were certain technical difficulties with those results and more recent evidence reduces the likelihood that the linkage is real.

Thus, while there is still no reason to doubt that genes and genetics play a real role in psychiatric illness, it is also clear that we have not yet learned how to readily identify the genes involved. However, most people in the field agree that one of the tools that would be most useful in dissecting the complex genetics of these devastating illnesses would be a much more detailed and easy to use genetic map than is currently available. And that is the first place the Human Genome Project comes onto this scene.

The Human Genome Project is a new research program to develop research tools that will make the search for genes easier and cheaper. The goals of the project are to make biological maps of the 23 pairs of human chromosomes and read the genetic text contained in human DNA. It is expected to take about 15 years and cost a total of $3 billion.

"Mapping" a chromosome means establishing a series of markers, or signposts, that will help scientists in search of genes find their way along a chromosome. If each chromosome contains about 5,000 genes tangled up in some 150 million base pairs of DNA, it's very easy to get lost. To speed the development of advanced mapping tools, the National Center for Human Genome Research (NCHGR), the component of the National Institutes of Health (NIH) charged with overseeing its role in the Human Genome Project, has begun a crash program to get some 300 highly informative markers quickly placed on the human genetic map. Within the next two years, this interim or "framework" map will provide gene hunters with valuable new tools to seek out genes. It is expected to dramatically decrease the amount of time a researcher has to spend walking along a chromosome, because he or she will be able to go more directly to the location of interest. It will also help the scientist actually count the number of genes that may be involved in determining a specific condition and therefore improve our ability to analyze complex diseases. As we get these markers, we will make them available to the entire cadre of biomedical researchers around the world who are interested in finding genes. The framework map is likely to be the first tool the Human Genome Project offers the human genetics community.

While the framework map is being developed, we are also supporting scientists who are working on another type of very detailed map of single human chromosomes. These "physical" maps will give precise distances in terms of DNA base pairs between markers and will also give researchers access to DNA itself in pieces of a size that can be readily handled in the laboratory. Physical maps will allow scientists to look for genes at an extremely high magnification and will help them begin to understand gene structure. NCHGR is underwriting high-resolution mapping projects on chromosomes 4, 7, 11, 17, 22, and X, while the companion genome program of the Department of Energy is supporting the development of the maps of chromosomes 16, 19, and 21.

Once a researcher has isolated a gene, the next step is to read the genetic text contained in the DNA. The order of the letters, or base pairs, in this text specifies the genetic information DNA carries. Reading the text is done by a process known as sequencing, which is now rather costly and time consuming. Current sequencing methods are adequate for studying small regions of the genome on a gene by gene basis, but the scale of the Human Genome Project is different. We need to read lots of DNA very quickly and very cheaply. Therefore, over the next five years, NCHGR will support a number of research projects that will try to reduce the cost of sequencing and increase its rate. We are also trying to develop faster, more efficient ways to handle the complex data that comes from sequencing genes. In these development projects, researchers will use the DNA of important laboratory animals or regions of the human genome where we think important disease genes reside.

DNA sequencing holds the best hope for understanding the molecular alterations responsible for diseases, because therein lies the essence of genetic illness. Comparing the structure of DNA from patients with psychiatric disease to the DNA of well people, scientists can pinpoint the differences and learn which characteristics result in illness. That information can lead scientists to the protein the gene encodes, and with hard work, insight, and luck, to the cellular biochemistry upset by the genetric error. The main reason for learning this information is because it is the first step toward developing preventive strategies, treatments, and even cures for gene-based illnesses.

Many people who suffer from severe mental illnesses respond very well to modern drugs. But most of these people come to the doctor after they are already ill, perhaps after suffering a deep depression, a devastating episode of mania, psychosis, or after their lives have been tragically ruined by alcohol. Some of the first spin-offs from the Human Genome Project to reach the clinic will be an increased supply of genetic tests to aid in the diagnosis of disease. This may mean that, when used correctly, a simple blood test may help us to forecast these destructive events so that therapies to ward them off may be started ahead of time.

The Human Genome Project will provide us with almost unimaginable opportunities to learn things about our DNA. Along with that new information comes new responsibilities. Therefore, an important part of our program at the NIH will attempt to deal with the ethical and social questions that accompany our increased abilities to know very private things about our genes. The NCHGR's Ethical, Legal, and Social Implications, or ELSI program, has identified three key areas in which policy options must be developed in the next few years. Issues of importance include privacy—who has the right to know genetic information about an individual?—and fairness—how can we avoid discrimination by insurance providers, employers, and society at large against people who have a genetic diagnosis; and what rules, if any, should guide the use and accuracy of the growing number of genetic tests in clinical practice? Through public discussion and scholarly research on these issues, we hope to assemble thoughtful information that policy makers will use to ensure protection of a person's genetic blueprint.

Are we striving for the perfect human being? No! And will we become a society that will tolerate no less? I hope not. We do know that in both biology and society, difference is the rule rather than the exception. When we can finally read the complete map of the human genome, we will really be scratching our heads over what is even "normal." By exploring the molecular details of the human race, we will not only marvel at our uncanny similarities but also celebrate our remarkable diversity.

ERNIE SINDELAR: A TRUE PIONEER

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Ms. OAKAR. Mr. Speaker, I rise today to ask a rhetorical question: What do JOHN GLENN, Neil Armstrong, and Ernie Sindelar share in common?: All three are Ohioans and all three are true pioneers. The accomplishments of JOHN GLENN and Neil Armstrong are well documented. So who, you well may ask, is Ernie Sindelar? Ernie is one of the pioners of Cleveland television.

This weekend, Ernie Sindelar will receive the Silver Circle Award from the National academy of Television Arts and Sciences. The Silver Circle Awards recognize individuals who have made a significant contribution to the Cleveland broadcast community and who have spent a quarter century of their life in the television industry. But I am getting ahead of myself.

Ernie Sindelar has been retired for some 10 years now. He packed up his mementos and took down the plaques from the walls of his office at WEWS–TV 5 on a June day in 1981—calling it a day after 34 years of blazing new and uncharted trails in a business called television.

When I say that Ernie Sindelar is a pioneer, I do not use the word loosely. When Ernie decided this was to be his passion, his life's work not many people knew what this creature, television, was. Almost certainly, fewer still had an inkling of the future power of this new kid on the broadcast block. As Ernie put it, "We literally were learning something new each day and were limited only by a lack of imagination."

Ernie Sindelar joined channel 5 in Cleveland in November 1947, a month before it sent its first broadcast image to the scattered few receivers in the area. He has never looked back. And we native Clevelanders are much the richer for it.

Ernie was educated at John Adams High School and the former Fenn College. He blossomed in broadcasting. After a 2-year stint in Chicago, Ernie came home to Cleveland and, as they say, the rest was history—literally. He progressed quickly from field operations at channel 5 to become producer, director, and creator of shows. Maybe Ernie didn't become richer for it but certainly Cleveland did.

It was a magical, mystical marriage. Although Ernie has been glorying in retirement for 10 years now, he has not lost his zest for life. And he left us with a lifetime of wonderful memories and images from a toy called television. I want to thank former Plain Dealer TV columnist Bill Hickey for much of the history on Ernie which has been recounted here.

So, Mr. Speaker, this Saturday, when Ernie Sindelar steps in front of the cameras of a medium he helped create to accept that Silver Circle Award from the Cleveland chapter of NATAS, I ask that you and my colleagues in Congress join me in saying, "Thank you, Ernie. We don't have a chance to meet many pioneers in our lives. We are glad we met you."

PORT OF MIAMI'S CARMEN J. LUNETTA TO BECOME PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Carmen J. Lunetta, the Port of Miami Director, who recently was featured in Turismo Latino magazine after being selected president of the International Association of Ports and Harbors. The article tells how Mr. Lunetta's background at the Port of Miami assisted him in becoming president of this worldwide organization

Carmen J. Lunetta, Port Director of the Port of Miami, has been elected first vice president of the International Association of Ports and Harbors [IAPH], a nonprofit organization of world ports, including 230 member ports in more than 80 countries.

"It is indeed an honor and privilege to have the opportunity to serve in this capacity, especially as it's indicative of the prominence of the Port of Miami as Cruise Captial of the World and cargo hub of Latin America and the Caribbean," Lunetta said.

Lunetta was elected during last month's IAPH Biennial Conference in Barcelona, Spain. He is slated to serve as first vice president until the next IAPH Biennial Conference, set for April 1993 in Sydney, Australia, at which he is to assume the IAPH presidency.

Lunetta served as conference vice president in 1989, when Miami hosted the IAPH Biennial Conference, and, from 1987 to 1989, served as IAPH Cargo Handling Operations Committee chairman of the American Association of Port Authorities as well as director of the Florida Ports Council and the South Atlantic and Caribbean Ports Association.

Under more than three decades of Lunetta's leadership, the Port of Miami has grown from its pre-construction origin as a forested island in Biscayne Bay to its current status as one of the world's most prominent seaports, contributing more than $5 billion a year to the local economy and anchoring Miami's role as a hemispheric cultural and trade center.

I am happy to pay tribute to Mr. Lunetta by reprinting this article. Through Mr. Lunetta's leadership, Miami's port has gained recognition as being one of the best organized and well administered ports in the world.

A WAY OUT OF THE CARIBBEAN DEBT TRAP

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. RANGEL. Mr. Speaker, I call the attention of my colleagues to the concern of the Third World debt crisis, a problem that continues to plague economies throughout the globe. The problem is particularly acute in Latin America and the Caribbean. The Congress considered numerous plans to alleviate this debt burden and has sought to promote legislation for programs designed to lessen Latin American and Caribbean indebtedness while promoting growth and market reform.

Jamaica's Ambassador to the United States, Dr. Richard Bernal, has written an op-ed piece, "A Way Out of the Caribbean Debt Trap," which appeared in the Washington Post on Tuesday, November 5, that addresses the debt problem in the Caribbean and offers possible solutions. I would like to insert that article into the RECORD and I recommend it as sound reading for my colleagues in the House:

A WAY OUT OF THE CARIBBEAN DEBT TRAP

The 20-odd countries of the Caribbean are trapped in a debt crisis that is unique for two important reasons. Because such a large chunk consists of loans by government—unlike the commercial debt owed by most of Latin America—the U.S. government can act quickly to alleviate the crunch. And because of the region's close economic and other ties to the United States, easing the Caribbean debt stranglehold directly benefits Americans—so the United States should reduce the debt burden for reasons of self-interest.

Total debt servicing for the Caribbean is approximately $1 billion annually, while debt payments to the United States alone come to more than $100 million. The Enterprise for the Americas Initiative now before Congress would reduce the bilateral debt owed by those Caribbean and Latin American countries diligently trying to restructure their economies. It acknowledges that the debt of some Caribbean nations can only be paid at the detriment of both the debtor and creditor country.

The economic plight of the region has reflected and will reflect itself in declining markets for U.S. exports, fewer investment opportunities, increasing susceptibility to involvement in drug trafficking, burgeoning migration, the necessity for increased development assistance and political instability. Obviously, none of this is in America's interest.

Conversely, taking Jamaica as an example, the restoration of our import capacity through debt relief is to the mutual benefit of both our countries because 50 cents of every dollar we spend on imports is used to purchase goods and services from the United States. If our private sector grows, it will certainly increase its need for raw materials from America—our largest trading partner—and will develop the capacity to increase significantly its contribution to trade between our nations.

The trade of our Caribbean neighbors is similarly concentrated with the U.S. economy. Overall, debt relief to the Caribbean would translate into $50 million to $60 million annually in increased demand for U.S. exports, creating thousands of jobs and aiding the U.S. trade balance. In this context, "debt relief" is actually a misnomer, because it implies an altruistic transfer of resources with no return to the United States. In fact, debt relief stimulates trade.

Thus debt relief should be viewed as the recycling of resources that would have been used to service the intergovernment debt into funding trade between the private sectors of two economies. The latter is more dynamic and has a greater multiplier effect on employment, trade and growth. Debt relief creates or maintains jobs in the Caribbean and the United States. In addition, the resuscitation of economic growth in the Caribbean is imperative if these countries are to extricate themselves from the poverty that engulfs most of our citizens and threatens the social stability and peace in which democracy can flourish.

If the stranglehold of debt on development is not broken, it could expose those small countries to the risk of political instability and even the cancer of a drug culture.

Given the global operation of drug cartels, it is conceivable that this international scourge could subordinate the economies of these developing countries and destabilize their governments. The vulnerability of democracy in the Caribbean is evident in Haiti, in last year's attempted coup in Trinidad and Tobago, following the disastrous events in Grenada.

Bilateral debt owed to the United States represents a substantial share in the debt of some countries, especially the smaller economies of the Dominican Republic, Jamaica (where it's about 40 percent), Haiti, Guyana, Honduras and Costa Rica. Most became heavily indebted during the last decade.

The servicing of external debt has become the single most sustained impediment to economic growth. The debt-service ratio—that is, the share of foreign exchange earnings from exports of goods and services required for debt repayment—is high. In Jamaica, for example, it is 30 percent, which means that a third of every dollar in foreign exchange earned is not available to the economy to purchase essential imports—most of which could come from the United States.

The cancellation of bilateral debt is neither new nor unprecedented. At the end of World War I, the Allies owed the United States more than $12 billion. These debts were rescheduled, repayment periods were extended, principal sums were reduced or canceled, and the interest rate was reduced. Only $2.6 billion was repaid between 1918 and 1931, less than a quarter of the original sum. And after World War II, the United States reduced Germany's debt by two-thirds and rescheduled the remaining debt over 35 years at 3 percent.

The United States cannot be an oasis of well-being in a sea of poverty. The debt crisis of Caribbean countries has adverse implications for both the United States and the Caribbean. Given the relatively small size of the debt and given that debt reduction for reconstruction and development is not unprecedented, the United States could afford bilateral debt relief as proposed by the Enterprise for the Americas Initiative.

GENEVIEVE DELLA NOCE RECOGNIZED BY THE ORDER SONS OF ITALY IN AMERICA, STATE LODGE OF MARYLAND

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mrs. BENTLEY. Mr. Speaker, I recently had the pleasure of attending a very special event recognizing a very special lady, Genevieve Della Noce.

The Order Sons of Italy in America, State Lodge of Maryland, recognized Genevieve as an outstanding Italian American and selected her as the recipient of the "Columbus Day Award" for her dedication to the community and to the order. Born in Baltimore of immigrant parents, her father and father-in-law were among the Italian immigrants who helped form, for the betterment of their fellow man, the Order Sons of Italy in Maryland. With a strong sense of pride in her nationality, her life has been steeped in tradition. At 81 years old, Genevieve is an inspiration, not only to the Italian-American community, but to everyone who knows her.

With over 50 years in the order, Genevieve has the proud distinction of holding many firsts. On December 6, 1931, a beautiful hall was dedicated as the headquarters of the order in Maryland and the first wedding reception to be held there on December 15, 1936 was Genevieve's. From its inception, when the first lodge meeting was held in 1913, until 1975, the Maryland State Lodge was composed of men only. However, Genevieve was the first to change that precedent when she was the first female elected to serve as State recording secretary. A post she held for the next 12 years.

For over five decades, Genevieve has given of herself to the order. Her hard work and dedication truly is commendable. She has served on committees, raised funds and organized, founded, and completed many individual activities literally too numerous to list.

Aside from her participation in many civic endeavors, she also has worked as a teacher. Since 1940, and still today, she is president of the Della Noce & Sons Funeral Home. Genevieve has been a resident of Little Italy in Baltimore for 44 years and has actively involved herself in the community with an uncommon dedication and devotion to whatever endeavor she undertakes. She not only has made this a better community in which to live, but a better Nation as well.

I can think of few people who possess the wealth of character and spirit evident in Genevieve Della Noce. She is indeed blessed and has my utmost respect and admiration.

Mr. Speaker, my fellow colleagues, I congratulate Genevieve Della Noce upon her recognition by the Order Sons of Italy in America, Maryland Lodge, and wish her continued success and happiness in the years to come.

HIALEAH-MIAMI LAKES ADULT EDUCATION CENTER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, The Hialeah-Miami Lakes Adult Education Center, as a part of its broad curriculum, offers a variety of classes to seniors at more than 13 locations throughout South Florida. Classes include: arts and crafts, basic education, citizenship, computers, nutrition, sewing, language training, flower arranging and interior design. The center makes these classes accessible to seniors in terms of cost, location and time. The instruction provided is extremely valuable to the South Florida elderly because it encourages independence and creativity while teaching a valuable skill or activity.

The Hialeah-Miami Lakes Adult Education Center depends on State funding for a portion of its operating costs. In recent times of budget difficulties, the education cuts have affected the center like many other educational institutions which receive State funds. Because of these cuts, the seniors program provided by the center is in jeopardy. The Hialeah-Miami Lakes community has acknowledged the benefit of the center's senior program, however, and is working to support its work in spite of these financial difficulties.

On November 30, the Hialeah Chamber of Commerce and Industries and the city of Hialeah is sponsoring a senior citizen fund raising dance at Milander Auditorium. Nearly 1,000 participants are expected, and all of the proceeds will be used to continue classes for senior classes.

Mr. Speaker, I commend the leadership of the Hialeah-Miami Lakes Adult Education Center principal, Mr. Robert P. Villano and assistant principal, Mr. Manny Gonzalez for their work to keep the senior's classes available. I also commend the Dade County Public School superintendent, Mr. Octavio Visiedo for his efforts on behalf of the center. Many seniors have benefitted, and will continue to gain, through the hard work of these administrators. I wish them much success in their fund-raising efforts.

RUMBLINGS ON THE PLANTATION

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. HUNTER. Mr. Speaker, much attention was given to the emerging role of blacks in conservative politics during the nomination proceedings of now Supreme Court Justice Clarence Thomas. The following article by Preston White in the October issue of Crisis, A Journal of Lay Catholic Opinion, provides an excellent insight into the abandonment of moral issues important to blacks in the liberal agenda. I urge my colleagues to read on.

RUMBLINGS ON THE PLANTATION

(By Preston L. White)

Some time ago, a friend and I were discussing his recent switch to the Republican Party. As a lifelong black Democrat and civil rights activist, he said that the decision to switch was one of the most difficult he had ever made. When I asked what, finally, made him decide to change parties, he said that he simply could not support a party that backed such policies as abortion-on-demand, pornography, and homosexual rights.

For many African-Americans, the dilemma which caused my friend to make his final decision is not unusual. In fact, many of us find ourselves at loggerheads with much of the social agenda of modern liberalism. For example, in a 1988 survey of black opinion, conducted by the Northwestern University Laboratory for Richard Clark & Associates, 72 percent of African-Americans favored the death penalty as an optional sentence for most serious crimes; 62 percent said that they would favor a law requiring public school children to say the Pledge of Allegiance each day; and 70 percent thought that blacks could best improve their lot in life through self-help or individual initiative, rather than through civil rights groups.

Other findings are equally striking. A report by Michel McQueen in the May 17, 1991 Wall Street Journal cited research that 50 percent of African-Americans believe abortion is always wrong, and 38 percent do not. Among whites, however, only 43 percent say abortion is always wrong, and 47 percent do not. Also, in a 1988 study by the Times Mirror Company, the data indicated that about one-half of black Americans scored high on religious faith; by contrast, only one-fifth of whites were highly religious.

Despite these statistics, the overwhelming majority of African-Americans remain loyal to liberal groups and candidates. They also remain supportive of liberal policies that call for greater government intervention when it comes to such issues as housing, unemployment, and civil rights. Even so, when contrasted with their attitudes of almost two decades ago, the attitudes of African-Americans towards such policies are beginning to change, indeed to move in the direction of their socially conservative convictions.

For example, according to findings by the National Opinion Research Center, between the years 1972-76, 67 percent of African-Americans felt that more government intervention was needed to solve the country's problems; between the years 1985-89, this figure had fallen to 52 percent. In the earlier period, 70 percent of African-Americans felt that there should be greater government intervention in improving the living standards of the poor; by the late '80s, however, this figure had fallen to 54 percent. Today, African-Americans remain politically liberal but morally conservative. Nevertheless, like most ethnic groups gradually entering the mainstream or middle class, this gap between their moral opinions and their political beliefs is slowly diminishing.

Traditional conservatives have now become an influential constituency of the Republican establishment and have been greatly responsible for the control that, for almost two decades, Republicans have had over the presidency. Despite this fact, when it comes to reaching out to African-Americans with a socially conservative agenda, the GOP seems to assume that there is no point in mounting an aggressive campaign.

Bill Keyes, a black conservative activist, points out that conservatives fail to get African-American support because they have not been aggressive enough in demonstrating that African-Americans agree with them on many issues, especially moral ones. To illustrate, Keyes tells how, in 1984, the political action committee he headed was able to arrange for black football star Rosey Grier to do several campaign appearances on behalf of President Reagan, Senator Jesse Helms and several other conservative hopefuls, because, in his words, "the school prayer issue has moved Grier from the liberal to the conservative camp."

The liberal establishment, on the other hand, seems to feel that it can ignore the conservative moral opinions of African-Americans. Fred Barnes of The New Republic recently suggested that liberal activists "think they can keep the allegiance of black voters by playing up the issues of civil rights and racism. These issues overshadow the moral, family, and social issues on which blacks are more conservative." The reason this approach has worked in the past is explained by Joseph Perkins, a journalist and black conservative, in a 1987 monograph entitled, "A Conservative Agenda for Black Americans."

Perkins states that "blacks have been very unsophisticated politically. They have relied on their leaders to tell them what to think politically and how to vote at the ballot box. In short, black politics has been the politics of hegemony."

There is evidence, though, that the liberal establishment may be in for a rude awakening if it continues to neglect the conservative moral trends among African-Americans. For conservatives, however, these trends can only be beneficial. But that Republican Party is going to have to be far more aggressive, and it must not give in to the current pressure to moderate its stands on moral issues. In fact, it may need to intensify many of its positions on such issues, to gain more support from African-Americans. Perhaps the Clarence Thomas hearings will provide a glimpse into what progress has been made.

THE B-2 IS VERY MUCH ALIVE AND WELL

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. DAVIS. Mr. Speaker, the House recently passed the conference report on H.R. 2100, the Defense authorization bill for fiscal years 1992 and 1993. That legislation authorized spending over $4 billion on the B-2 Stealth Bomber Program in fiscal year 1992, and authorized one new production aircraft; the $1 billion in funds for that new production aircraft were heavily fenced, however, and may not be obligated unless and until a subsequent act passes both Houses and has been signed into law by the President.

Some B-2 critics have asserted that this outcome sounds the death knell for B-2; that the program has been stopped dead in its tracks; and that this is the result of technical flaws associated with the aircraft.

In fact, the B-2 is very much alive and well, Mr. Speaker. The B-2 flight and ground test programs are proceeding apace and making dramatic technical strides, according to an article in the November 18, 1991 Aviation Week & Space Technology entitled "B-2 Test Program Remains on Track to Meet Aero-structural Milestones."

Let me briefly highlight some of the recent, remarkable accomplishments of the B-2 ground and flight test program:

With three aircraft at Edwards Air Force Base, CA, the test team had compiled 327.8 hours on 77 flights by November 1.

B-2 crews have flown the aircraft in 95 percent of its operational flight envelope and structurally cleared 75 percent of that envelope.

The B-2 has been tested over the full operational speed range.

B-2 crews have completed about 30 percent of the planned flying qualities and flight control test points.

B-2 crews have completed tests in 80 percent of the air refueling envelope, involving both the KC-135 and KC-10 tankers.

B-2 crews have completed more than 50 percent of planned vibro-acoustics testing with the weapons-bay doors open.

In four flights, the B-2 has demonstrated five key radar modes, including two air-to-ground modes.

In parallel with structural flight tests, ground-based fatigue and static loads testing will be completed by next year. One fatigue lifetime cycle was finished earlier this year, and a second cycle is well underway.

AV-3, the third test aircraft—the first with a near-complete avionics suite—is concentrating on radar and navigation systems evaluation.

AV-4 is scheduled to make its first flight early in 1992, will be devoted to avionics and weapons tests.

By the end of 1992, the B-2 combined test force will be operating six flight test aircraft.

At the same time, Mr. Speaker, the Air Force is in the process of ensuring the B-2 will possess a robust conventional armaments capability. This is not surprising, since the B-2 all along has had both a nuclear and conventional mission. The B-2 will be able to carry a variety of conventional weapons, including smart weapons made famous in the gulf war. In fact, the B-2 could carry up to 16 such weapons, or eight times the number carried by the F-117 Stealth fighter during the war.

About 1 year of low observables testing has been completed—all on AV-1. The B-2 combined test force has operated the aircraft in the entire radar spectrum, from low to high frequencies, focusing on those frequencies that represent potential threats. AV-1 has undergone radar tests from all aspects in azimuth—a full 360 degrees—and is being characterized from different elevation angles.

The B-2 flight testing program to date has demonstrated, according to the Defense Science Board, the fundamental soundness of the Stealth design. The July 26 test anomaly, which critics of the B-2 point to as proof that the bomber will not perform as advertised, in fact should be viewed as the type of problem that arises early in any new aircraft development program.

I would conclude, Mr. Speaker, by quoting the Director of the B-2 combined test force:

> From a test standpoint we've seen nothing that would keep the airplane from doing what it was designed to do. We've identified a few problems—such as some software changes needed—and have demonstrated that they can be fixed without major changes to the aircraft.

As a senior member of the House Armed Services Committee and the ranking Republican member on the Research and Development Subcommittee, I have followed and will continue to closely monitor the status of the B-2 ground and flight test programs. I remain convinced that the Nation's security will be strengthened dramatically by the deployment of an adequate number of the B-2's—certainly more than the 15 aircraft that have been approved to date. As I and my colleagues consider future options for the B-2, we should keep the facts in mind—and those facts, as conveyed in the attached Aviation Week article, clearly portray a B-2 test program that is making great strides:

B-2 TEST PROGRAM REMAINS ON TRACK TO MEET AERO-STRUCTURAL MILESTONES

(By William B. Scott, Edwards AFB, CA)

The Air Force/Northrop B-2 flight and ground test program will meet this year's predetermined milestones, despite the recent Pentagon and congressional preoccupation with low observables testing and results.

Next year's objectives should be achieved as well, although a possible increase in the priority of conventional weapon testing could complicate scheduling, according to combined test force (CTF) officials.

With three aircraft at Edwards AFB, Calif., the test team had compiled 327.8 hr. on 77 flights by Nov. 1. Approximately 8 percent of the planned flight testing hours have been completed, and USAF officials were quick to highlight the productivity of this test time.

So far, B-2 crews have:

Flown the aircraft in 95 percent of its operational flight envelope and, through flutter tests, structurally cleared 75 percent of that envelope. Several planned flutter test points in the upper center of the flight envelope were deleted, since data closely tracked predictive models. The B-2 has been tested over the full operational speed range, from the lowest to highest Mach numbers, and from sea level to "almost 50,000 ft." according to test force officials.

Completed about 30 percent of the planned flying qualities and flight control test points. Minor flying qualities discrepancies discovered in early flight test phases were corrected by software changes. Some reduced pilot workload by altering the variation in stick force with airspeed changes. Another corrected pitch force changes when the weapons bay doors were opened.

Conducted tests in 80 percent of the air refueling envelope, evaluating the bomber's handling behind both the KC-10 and KC-135 tankers.

Completed more than 50 percent of planned "vibro-acoustics" testing with weapons bay doors open.

Expanded the center of gravity envelope faster than expected.

In four flights, demonstrated five key radar modes, including two air-to-ground modes. Coming so early in the avionics test work, this is a significant milestone for the Hughes AN/APQ-181, a dual-system, multimode, synthetic aperture radar linked with two navigation systems. The radar and navigation systems communicated with each other on the first B-2 avionics test flight. The program now is reaping the benefits of integrating "lessons learned" from previous developments of software-intensive digital avionics, and from the 1,600 hr. of avionics testbed flight time. The radar, navigation and other systems were flown extensively on a modified KC-135 well before the B-2's first flight (AW&ST Mar. 11, p. 55).

B-2 No. 1 (AV-1) has transitioned from envelope expansion and flying qualities work to focus on low observables (LO) testing. As a result, AV-2 has assumed the envelope expansion workload, integrating it with structural loads tests. The only test aircraft that will not be refurbished and delivered to the operational B-2 fleet, AV-2 is not configured with a production LO configuration.

In parallel with structural flight tests, ground-based fatigue and static loads testing at Palmdale, Calif., will be completed next year. One fatigue lifetime cycle was finished earlier this year, and a second cycle is well under way. Minor structural cracking discovered during the first 10,000-hr. lifetime test prompted a modification of the flight test aircraft (AW&ST June 3, p. 24).

The third test aircraft (AV-3)—the first with a near-complete avionics suite—is concentrating on radar and navigation systems evaluations. As of Nov. 1, it had flown 33.8 hr. in seven flights.

Aircraft No. 4, which will make its initial flight early next year, will be devoted to avionics and weapon tests. By the end of 1992, the CTF will be operating six flight test aircraft (AS&ST Feb. 4, p. 47).

From the start, the B-2 has had both a nuclear and conventional mission, and the test program called for clearing the bomber to carry and deploy a variety of both weapon types.

However, the now-diminished threat of nuclear conflict, coupled with lessons learned from the Persian Gulf war, has prompted reconsideration of overall weapon testing priorities.

A joint-command review of the issue by "the users and the developers" is under way now and could "result in a stronger emphasis on conventional weapon testing earlier in the program," Col. Frank T. Birk, B-2 combined test force director, said. The scope of planned testing is not expected to change, only the chronology.

In addition, the review team is looking at the feasibility of adding laser and inertially guided conventional munitions to the B-2's arsenal. That process could give the B-2 a new 2,000-lb.-class conventional capability.

The bomber would carry 16 such weapons, or eight times the Lockheed F-117A's load. The anticipated tactical benefits will be weighed against development cost and schedule factors before a decision is made.

The test force here has loaded inert weapons onto a Boeing rotary launcher assembly (RLA), rotated the system and conducted some training of USAF munitions personnel in the process. Captive carriage tests with simulated nuclear weapon shapes—mounted on the RLA—are scheduled to begin next month, followed by "box drop" weapon separation ground checks.

Actual inflight separation tests will start next spring.

About one year of low observables testing has been completed, all on AV-1. Birk said the test force has "looked at the entire radar spectrum, from low to high frequencies, focusing on those frequencies that represent potential threats." AV-1 has undergone radar tests from all aspects in azimuth—a full 360 deg.—and is being characterized from different elevation angles.

Birk echoed Air Force Secretary Donald B. Rice's statements backed by the Defense Science Board task force findings—that "the fundamental soundness of the stealth design has been demonstrated by flight testing" (AW&ST Nov. 4, p. 69). The July 26 LO test anomaly is viewed as typical of the find-fix-fly routine inherent in the flight testing of any new aircraft.

"You can equate the [LO tests and single "failure"] to an initial look at a new aircraft's flying qualities," Birk said.

"If it doesn't respond exactly as we want it to, one solution is to rebuild the flight control system. Another solution is to go in and adjust the gains in a particular area. That's a close parallel to what we're doing in LO [testing]. We're not talking about reshaping the B-I" (AW&ST Nov. 11, p. 80).

In describing B-2 testing progress, Birk emphasized that flight evaluations and logistics ground tests are given equal priority in the complex scheduling process. About 36,000 hr. of testing was scheduled to accomplish 11,000 tasks. Most of these are for Technical Order validation and verification, to ensure maintenance manuals agree with the aircraft configuration and actual procedures.

"The Air Force has never had a new aircraft enter service with these manuals available upon delivery," Birk said.

In summarizing the B-2 test program status, the combined test force director said, "From a test standpoint, we've seen nothing that would keep the airplane from doing what it was designed to do. We've identified a few problems—such as some software changes needed—and have demonstrated that they can be fixed without major changes to the aircraft."

TRIBUTE TO DR. EDWARD GUINN

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. GEREN of Texas. Mr. Speaker, on Sunday, October 27, I had the privilege to honor an outstanding member of my community, Dr. Edward Guinn. Dr. Guinn has served my community as a caring physician, public servant, and leading role model for Tarrant County's many young Afro-Americans.

The most striking characteristic that Dr. Guinn has demonstrated throughout his life is that of a trend-setter and educator. Dr. Guinn comes from a long line of men and women who were committed to educating those around them, and he has continued in that tradition by teaching our community a thing or two about staying one step ahead in health care.

Always searching for ways to improve health care services to the people of Tarrant County, Guinn used his position as a Fort Worth city councilman to introduce the city to its first ambulance services. Understanding that the quality of emergency medical services available to a community often determines life or death for many citizens, he was one of the first in Tarrant County to support "911" emergency services.

Dr. Guinn has committed his life to ensuring that all Tarrant County citizens have access to quality health care services, but along the way, he never lost sight of the very special needs of those in his own minority community. After completing his time on the city council, he turned his energies toward improving health care services to the economically disadvantaged. Ever mindful of the future, he continues to dedicate much of his time to recruiting promising young minorities for careers in the health care field.

At the ceremony honoring his lifetime of achievements, the Forth Worth Star-Telegram quoted Dr. Guinn as saying, "When I look back at the magnitude of the problem, I realize how little I've done."

When we look back at Dr. Guinn's life, however, we can only see how much he has done.

TRIBUTE TO GENESIS SHELTER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. BROWN. Mr. Speaker, I rise today in proud recognition of Genesis Shelter which serves homeless women and families living in the 36th Congressional District, which I am privileged to represent. The Genesis Shelter Services, is run by the Lutheran Social Services of Southern California [LSS/SC]. This fall, Genesis will expand from 40 beds to 72 beds, making it Riverside County's largest shelter for the homeless. With the highest regards, I commend Genesis Shelter for providing shelter and care for many needy families in my district.

The Genesis Shelter is located in a former motel which was purchased in 1988 by the Riverside County Housing Authority and leased by LSS/SC. Since its opening in January, Genesis Shelter has served approximately 2,000 individuals, half of them children. The program boasts about 75 volunteers, including the organized participation of Arlington High School students and employees or Redlands Federal Bank.

The program involves looking at the needs of the homeless on a case-by-case basis, and then helping them address their own particular needs. This service is vital in enhancing the opportunities of homeless individuals to achieve independent living, permanent housing, and regular employment. After completing the program, an impressive 85 percent of the clients leave the shelter with both permanent jobs and permanent housing.

In my enthusiastic support for the Genesis Shelter, I have consistently recommended that the President designate the Lutheran Social Services of Southern California to be a point of light. This organization has certainly brought light into many people's lives, and deserves recognition for its successes.

IN TRIBUTE TO MARSHAL McMAHON

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. PORTER. Mr. Speaker, when Marshal McMahon recently passed away, the people of our area and our State lost a great gentleman, public servant, and leader in the community.

When I was still in grammar school, Mr. McMahon was a familiar face around my home town of Evanston. He was a justice of the peace and one of my father's good friends. Since my father was one of Evanston's municipal court judges, he and Marshal McMahon had much in common and they would spend long hours discussing issues of the day and some of the finer points of jurisprudence. I listened with fascination and admiration, and I could sense why dad's friendship with Mr. McMahon was so strong—he was an engaging man with a sharp mind and a delightful personality.

Originally from Evanston, Mr. McMahon and his family later moved to Northfield, IL. For nearly six decades, he worked as a lawyer in the Chicago area and was a partner in the law firm of McMahon, Finn & Plunkett—later to be known as McMahon and Plunkett.

In addition to work at his law firm, Mr. McMahon was general counsel and a board member for Commercial Intertech, a Youngstown, OH, steel company, and also served as counsel to the firm of Pope & Ballard. A golfing enthusiast, he was also past president of the Evanston Golf Club and a former director of the Western Golf Association.

Mr. Speaker, Marshal McMahon was an individual of great compassion and intellect with a deep sense of duty to his fellow human beings. He leaves behind a legacy of outstanding civic and business leadership, and all those who were privileged to know and work with him share with his family—his wife, Ann, his sons Marshal Jr., John, Dennis and Brian, his daughter, Margaret Kinney, and his stepsons James, Charles, Michael and Dennis Driscoll—the grief and profound loss of his death.

I am proud to place in our Nation's permanent RECORD these remarks about Marshal McMahon, a truly outstanding American whose good works live on within us all.

FORT HOWARD VA MEDICAL CENTER CELEBRATES 50TH ANNIVERSARY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mrs. BENTLEY. Mr. Speaker, I rise today to recognize the Fort Howard Veterans Administration Hospital Medical Center, at Fort Howard, MD, on its 50th anniversary.

In 1941, the Veterans Administration obtained Fort Howard from the Department of the Army. Upon acquiring the facility, the VA began to provide medical and surgical services as well as occupational therapy, corrective and physical therapy. Over the years, the facilities have grown with a constant dedication and commitment to providing the very best care. Quality patient care is the foremost concern of the Fort Howard Medical Center. Strides have been made to make available the most advanced and modern medical equipment and service including imaging equipment, modern scanning equipment, better radiology service and increased training and education of staff.

Currently, Fort Howard is home to a 240-bed modern general medical and rehabilitation hospital and a 47-bed nursing home care unit for extended care. Located on a stately and serene setting at the edge of the Chesapeake Bay at the mouth of the Patapsco River, Fort Howard sits at the entrance of the inner harbor of Baltimore. Rich in history and charm, Fort Howard stands at the location of important battlefields and military occupations.

Established in 1889, Fort Howard was designated a military reservation on April 16, 1900. Named in honor of Col. John Eager Howard, a former Governor of Maryland and Baltimore philanthropist, Colonel Howard was a distinguished soldier of the Maryland Continental Line during the Revolutionary War.

Before its designation as a military reservation, the land was acquired in 1669 as a plantation. In 1793, Capt. Robert North sailed his ship *Content* to the location which now comprises Fort Howard. He named the point after himself and started a prosperous trade on the Patapsco River. Previously an Indian trail, the road leading to Fort Howard today bears the name of old North Point Road.

During the War of 1812, British troops came ashore at Fort Howard in 1814. Fifty warships, with 6,000 to 7,000 British troops, sailed up the Patapsco River. The British had burned Washington and now had their sights set on Baltimore. What became known as the Battle of North Point was a turning point in the war. Unable to seize Baltimore by way of the North Point route, the British sailed toward the harbor of Baltimore and engaged American troops in an unsuccessful battle at Fort McHenry. As we all know, America was victorious and Francis Scott Key, prisoner on a British warship, was inspired to write the Star Spangled Banner after seeing the splendor and glory of the American flag still flying over Fort McHenry after the fierce battle. In years to follow, Fort Howard served as a lookout station and housed coast batteries and, at one time, was the location of Gen. Douglas MacArthur's headquarters during World War I.

The history and charm of Fort Howard is indeed remarkable and the 50th anniversary of the Fort Howard Medical Center serves to highlight the most important characteristic of Fort Howard, which is providing he best care to our Nation's veterans. With the passing of yet another Veterans Day, we are reminded of the sacrifices made by so many brave and valiant men and women on behalf of their country and on behalf of freedom.

The memory of those who selflessly gave of themselves in service to their country shall not diminish with time. The blessings of freedom and liberty we enjoy today were won with the sacrifices of our service men and women. They are deserving of our utmost respect and admiration, not only on Veterans Day, but throughout the entire year. Whenever I visit Fort Howard, I am struck with a tremendous sense of pride and the realization that our Nation's most valuable resource is its citizens. The wealth of character and spirit displayed by the patients and staff of Fort Howard truly is remarkable.

I congratulate Fort Howard Medical Center on its 50th anniversary and look forward to attending celebrations throughout the coming year. May God bless our veterans and this great Nation.

MARIAN KRUTULIS MAKES GULLIVER PREP INTO NATIONALLY RECOGNIZED INSTITUTION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Ms. Marian Krutulis, the founder and director of the Gulliver Preparatory and Academy Schools in Miami, FL, was honored for her leadership at an October 19 tribute roast, celebrating her 40th year with Gulliver. Ms. Krutulis founded the Gulliver Preparatory and Academy Schools in 1951 based on an unswerving commitment to academic excellence that meets the needs of the individual student. The results have been spectacular.

The event honoring Ms. Krutulis drew many from the community who have been deeply affected by her visionary work in education. I would like to thank the chairpersons of the Marian Krutulis tribute, Mrs. Carole Brener, Mrs. Carole Smith, and Mrs. Barbara Boling, for bringing the founder and director of Gulliver much deserved recognition.

Not only has the South Florida community recognized her success with Gulliver, but the product of her efforts recently received the prestigious National School of Excellence Award. The Miami Herald recognized the laudable achievements of Gulliver Preparatory School and her leadership in a story by Ms. Tananarive Due. That article follows:

The cafeteria at Gulliver Preparatory School is a frenzy of laughs, shouts and howls. Freshmen scurry about, clasping bright green beanies to their heads. In the midst of chaos, teachers eat their lunches without objecting.

Whap, a beanie gets knocked off, and because the hapless owner has violated the code requiring him to wear the cap at all times, he is a target for ridicule. An upperclassman orders him to get down on his knee and propose marriage to a girl he doesn't know. Nearby, an off-key choir of freshmen sings I Wanna Sex You Up at the top of its lungs. It's Beanie Week at Gulliver, a freshman rite of passage and homecoming tradition.

This is not what Gulliver Prep looked like last spring when two judges sanctioned by the U.S. Department of Education deemed it one of the finest secondary schools in the country. After those site visits and rigorous scrutiny in Washington, Gulliver was among 222 schools to receive the annual National School of Excellence Award.

Administrators flew to Washington last month for praise from President George Bush—who is, coincidentally, grandfather to a Gulliver Prep sophomore.

The accolades have been hard to get used to, says the director and founder, Marian Krutulis. "All of a sudden, it's awesome," says Krutulis, known as "Mrs. K."

STRICT DISCIPLINE

The school where last month beanies sprouted is a sober place where gum-chewing or a hanging shirttail will land a student in a two-hour detention after school. Teachers dole out four-hour detentions, on Saturday mornings yet, when students are late to class.

This also is a school that sends every graduating senior to college, even the learning disabled. Three percent start at two-year colleges; the rest go to four-year colleges. This year, four seniors have been accepted at Harvard. There are 137 students in Gulliver's senior class.

One judge who visited Gulliver is Murray B. Gerber, director of Bradenton Academy in Bradenton.

Gerber said he was impressed by Gulliver's small classes, activities, international student body, fine arts program and offerings for learning-disabled kids, who attend regular classes but also receive one-on-one attention from specialists at the school. Classes at Gulliver range from basic to college-level.

"It's very unique," says Ellen Mittman, chairperson of the learning center and a learning disabilities specialist. "The school itself is committed to taking children of all levels and working with them."

Gulliver has two campuses. Gulliver Academy on Red Road serves the younger students. The high school, Gulliver Prep, which is on Kendall Drive, has roughly 600 9th- through 12th-graders. The Krutulis family bought the original buildings, former tea rooms that had been converted to schools, in 1951. Two sons still help her run the school.

UNDERSTANDING DIFFERENCES

Krutulis says she understands how parents feel when children have trouble learning; two of her children were frustrated by dyslexia, a disability that affects reading comprehension. "As I started my school, this was one thing where parents needed some guidance," Krutulis says. "When you have children you can't help, you feel panicky. It's a terrible feeling."

Teachers, whose contracts are renewed each year, are required to stay 40 minutes after each school day to provide extra help. A math lab is open to all students until 5 p.m. If students need incentive to complete homework, the school has an after-school tutorial, then a supervised study hall until 5 p.m.

If a student isn't turning in homework, or if a teacher senses a physical or emotional problem, the teacher zips a note to a guidance counselor and the counselor meets with the student immediately. If a teacher or student believes the class is too difficult, a student can be transferred out the next day.

If a student is denied admission to a university and Gulliver's guidance director thinks it's a mistake, she'll call admissions officers to go to bat. "You really know that family. You really know that child," says Meric J. Kravetz, director of guidance at Gulliver. "Parents expect accountability here, and they get it."

Gulliver's classes usually have no more than 20 students, but the newspaper class has only seven, microeconomics has six. Advanced Placement European history has nine, and seven are enrolled in creative writing.

DIFFERENCE WITH PUBLIC

"The difference is, when I went to public school, I got D's and F's. Now I get A's and B's," says Scott Bloom, 17, a senior at Gulliver. "In public school, you're just one of the thousands who go there. Here, the teachers care about you."

Thespian honor society president Jason Gutman, 17, has attended Gulliver since kindergarten. He says his A.P. English teacher, Patrick Deer, teaches Shakespeare the same way drama experts taught at a New York summer program. And if he didn't have faith in Gulliver's fine arts offerings, Gutman said, he would have considered the New World School of the Arts.

"The teachers are so knowledgeable," Gutman says, "It's not like the administration says, 'We want you to teach history, so read the book and teach this.' They're very personable, too. If you ever have a problem with anything, they'll help you."

Shira Silverman, 17, says her last private school placed her in honors classes where she got A's without doing much work. "I'd rather get B's and A's and be prepared for college," she says.

Says senior Lisette Alvarez, 16: "Basically you get out of it what you put into it. If you want to, you can excel."

But Gulliver is a for-profit private school, and its personalized attention costs. High school parents pay nearly $8,000 a year, not including books. The school provides partial scholarships for about 10 percent of those students.

As far as parents like Laura Wolfson are concerned, the money is well-spent. Wolfson, whose son is a junior at Gulliver and whose daughter is a Gulliver graduate now at Harvard, pulled daughter Julie out of public schools in third grade.

"When a child is in third grade and they want to learn, it's very upsetting to see them getting work they've already learned. I just couldn't stand it. Somebody has to listen," says Wolfson, vice-president of the active Gulliver Parents Association.

"If you didn't have the teachers that were really nurturing and understanding, the curriculum wouldn't really matter. It's a family-run school. [Krutulis] has been there so long, and she really cares. She's like a grandmother. She's sweet, but boy, people shake when they go in her office."

Mr. Speaker, I would once again like to commend the hard work and dedication of Ms. Marian Krutulis. She has devoted a significant part of her life to making Gulliver a success. I also want to congratulate the students, teachers and administrators of Gulliver Preparatory School on receiving the National School of Excellence Award. In particular: headmaster, James Williams; assistant headmaster, Lew Caputa; director of admissions and registrar, Pat Hammond; and director of guidance, Merle Kravetz deserve recognition.

INTRODUCTION OF LEGISLATION TO BETTER SERVE DRUG-EXPOSED CHILDREN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. RANGEL. Mr. Speaker, I am introducing a bill today that addresses one of the most critical issues in American education. Thousands of children harmed by their mothers' drug abuse during pregnancy are entering our schools. Teachers report a drastic increase in the number of developmentally and behaviorally disabled children. The school system is virtually unprepared to accommodate these children's needs. My bill proposes to augment current education programs to better serve drug-exposed children and, therefore, ensure a better education for all students.

At least 1 out of every 10 children born today in the United States has been exposed to drugs in the womb. Estimates of the total number of drug-exposed children born per year range from 375,000 to 739,000. Some researchers predict that, by the year 2000, over 60 percent of inner-city school children will have been exposed to drugs in the womb.

The rate of drug abuse among pregnant women is virtually the same across all racial and socioeconomic categories. The problem will worsen. Drug abuse among adolescent girls and women of childbearing age has not declined the way some Government surveys predicted. As the number of infants born to drugs increases, so will the number of drug-exposed children entering the classroom.

Educators are only beginning to understand the ramifications of perinatal drug exposure. Teachers say they are witnessing new behavioral characteristics among their students. Drug-exposed children often possess normal intelligence but suffer language deficiencies, have short attention spans, or are overwhelmed by the slightest stimulation.

Without any formal training or even accurate information about drug-exposed children to help them, teachers must try, on their own, to accommodate special students' needs while educating the 30 or 40 other children in the classroom. When teachers spend a disproportionate amount of time with drug-exposed children, they are unable to give the other children as much attention. Often, drug- exposed children will be placed in special education where they may receive unnecessary services. Over the past year, for example, preschool special-education enrollments have increased by 26 percent in New York City, and by 115 percent in Los Angeles.

In many cases, drug-exposed children are not eligible for programs that provide appropriate services. One such program, part H of the Individuals with Disabilities Education Act [IDEA], is implemented at the State level. States decide who is eligible. Over half the States do not automatically include drug-exposed children due to the expenditure such a large population would require.

It is possible to rehabilitate drug-exposed children. We are not encountering a "lost generation" or "bio-underclass," as some would suggest. Studies have shown that, when given proper care, drug-exposed children can overcome their disabilities and reach normal learning and behavior levels. The Select Committee on Narcotics, which I chair, has held hearings to discuss techniques for working with drug-exposed children.

Our witnesses described pilot programs with success rates over 70 percent. Such programs have several key characteristics: they intervene early in a child's life, usually before age 5; they provide a calm atmosphere conducive to learning; and they allow teachers to focus on a child's behavioral disability without forsaking the child's intellectual capability. It would be impossible to replicate programs like these in every school district and, as our witnesses testified, drug-exposed children should not be segregated into separate learning facilities. The pilots illustrate, however, that rehabilitation is achievable. If we choose to do nothing for drug-exposed children, we will have to provide greater remedial expenditures for such things as incarceration or welfare in the future.

In view of successful attempts to rehabilitate drug-exposed children, and the existence of national education programs that could provide such children with the services they need, my bill proposes the following:

In areas hardest hit by drug abuse, allocate emergency grants to expand capacity of IDEA programs. If the Federal Government mandated States to include drug-exposed children, many States would elect not to participate in IDEA at all fearing an expanded entitlement obligation. My bill would allow States to use Federal funds to serve drug-exposed children.

To help educators accommodate drug-exposed children, my bill would:

Improve teacher training by providing schools of education with curriculum development seed-money. Schools receiving such funds would be obligated not only to give students of education better training, but to allow teachers from surrounding communities to get inserving training about intervention strategies for drug-exposed children.

Improve access to information about drug-exposed children. Expand the duties of the existing alcohol and drug abuse clearinghouse to include intervention strategies for drug-exposed children.

Of course, any attempt to ameliorate this problem must address the root cause: pregnant women's drug abuse. Many drug treatment programs exclude pregnant women for liability reasons. We must work to improve pregnant women's access to treatment in order to prevent the birth of more drug-exposed children. The bill I am introducing today, however, is designed to help those children already born.

We do not have much time to act. The Nation's schools will receive hundreds of thousands of drug-exposed children each year. It is imperative that we act decisively—and quickly.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Educators' and Drug-Exposed Children's Assistance Act.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) educational personnel are witnessing new types of behavioral disabilities among students, attributable in many cases to perinatal drug exposure;

(2) most educational personnel are uninformed about the identifiable characteristic of and intervention strategies for drug-exposed children;

(3) educators' lack of training in intervention strategies for drug-exposed children leads to the educators spending a disproportionate amount of time with these children, therefore diminishing the amount of time educators spend teaching other students;

(4) pilot training programs have helped educational personnel to better accommodate the needs of drug-exposed children;

(5) pilot rehabilitation programs have helped more than 70 percent of drug-exposed children served to reach normal behavioral and learning levels;

(6) between 554,400 and 739,200 drug-exposed children are both each year and the number is expected to increase during the next five years;

(7) current special education and rehabilitation programs serving children who are up to 3 years of age do not have sufficient capacity to serve drug-exposed children; and

(8) drug-exposed children who do not receive proper rehabilitative services are at greater risk for drug addiction and require, throughout the course of their lifetimes, greater remedial and corrective expenditures than other individuals.

SEC. 3. PURPOSE.

It is the purpose of this Act to assist educational personnel in accommodating the special needs of drug-exposed children, to facilitate research and information dissemination regarding drug-exposed children, and to improve access to early intervention and rehabilitative services for drug-exposed children.

SEC. 4. ESTABLISHMENT OF PROGRAM OF GRANTS REGARDING CERTAIN DRUG-EXPOSED INFANTS, TODDLERS, AND CHILDREN.

The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by adding at the end the following new part:

"PART I—DRUG EXPOSED CHILDREN

"SUPPLEMENTAL GRANTS REGARDING CERTAIN DRUG-EXPOSED INFANTS, TODDLERS, AND CHILDREN

"SEC. 691. (a) The Secretary may make grants to States to carry out demonstration programs for the purpose of providing, subject to subsection (d)—

"(1) early intervention services to infants and toddlers from birth to age 2 (inclusive) who, as a result of perinatal exposure to one or more drugs, are at risk of having substantial developmental delays if such services are not provided to the infants and toddlers; and

"(2) a free appropriate public education to children age 3 or older who, as a result of such exposure, have substantial risk of becoming children with disabilities.

"(b) The Secretary may make a grant under subsection (a) to a State for a fiscal year only if the Secretary has approved for the State for the fiscal year both a grant under part B and a grant under section 673.

"(c) The Secretary may make a grant under subsection (a) only if the State involved agrees that the program of the State under such subsection will be carried out only in communities with a substantial incidence of the abuse of drugs, as indicated by the number of infants, toddlers, and children in the communities who are perinatally exposed to one or more drugs, or as indicated by other appropriate data.

"(d)(1) Subject to paragraph (2), the Secretary may make a grant under subsection (a) only if the State involved agrees that—

"(A) eligible infants and toddlers who are admitted to the program of the State under such subsection will be considered to be infants and toddlers with disabilities for purposes of section 672(1) (and, accordingly, all services and other benefits or rights available under part H with respect to infants and toddlers with disabilities will be available with respect to such eligible infants and toddlers); and

"(B) eligible children who are admitted to the program of the State under such subsection will be considered to be children with disabilities for purposes of section 602(a)(1) (and, accordingly, all services and other benefits or rights available under part B with respect to children with disabilities will be available with respect to such eligible children).

"(2) With respect to compliance by a State with an agreement under paragraph (1), the Secretary may require such compliance only to the extent that the amount of the grant under subsection (a) is sufficient for the State to maintain such compliance.

"(e) The Secretary may make a grant under subsection (a) only if the State involved agrees that—

"(1) in the case of eligible infants and toddlers, the program of the State under subsection (a) will be carried out by the lead agency designated by the State under section 676(b);

"(2) in the case of eligible children, the program will be carried out by the State educational agency;

"(3) the State will ensure that, in the operation of the program, the activities of such lead agency are coordinated with the activities of the State educational agency; and

"(4) in preparing the application required in subsection (i), the State will consult with the lead agency and the State educational agency.

"(f) In the case of expenditures made for providing early intervention services to infants and toddlers with disabilities or for providing a free appropriate education to children with disabilities, the Secretary may make a grant under subsection (a) only if the State involved agrees that—

"(1) the State will, respectively, maintain such expenditures of the State at a level that is not less than the level of such expenditures maintained by the State for the fiscal year preceding the first fiscal year for which the State receives such a grant; and

"(2) if for such fiscal year the State considered eligible infants and toddlers to be infants and toddlers with disabilities, or considered eligible children to be children with disabilities, the State will, respectively, in complying with the agreement made under paragraph (1) maintain such expenditures for eligible infants and toddlers and eligible children at a level that is not less than the level maintained by the State for such fiscal year.

"(g) The Secretary may make a grant under subsection (a) only if the State involved agrees that the State will not expend more than 5 percent of the grant for administrative expenses related to the grant.

"(h) The Secretary may make a grant under subsection (a) only if the State involved agrees to submit to the Secretary, for each fiscal year for which such a grant is made to the State, a report describing the purposes for which the grant was expended.

"(i) The Secretary may make a grant under subsection (a) only if the State involved makes an agreement that the grant will not be expended for any purpose other than the purpose described in such subsection and for purposes of compliance with any other agreements required in this section. Such a grant may not be made unless an application for the grant is submitted to the Secretary containing each of the agreements required in this section, and the application is in such form, is made in such manner, and contains such other agreements, and such assurances and information, as the Secretary determines to be necessary to carry out this section.

"(j) The period during which payments are made to a State from a grant under subsection (a) may not exceed 4 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. The preceding sentence may not be construed as establishing a limitation on the number of grants under subsection (a) that may be made to a State.

"(k) For fiscal year 1993 and subsequent fiscal years, the Secretary shall conduct evaluations of the demonstration programs carried out under subsection (a) and shall disseminate to the States the findings made as a result of the evaluations.

"(l) Not later than February 1 of fiscal year 1994 and of each subsequent fiscal year, the Secretary shall submit to the Congress a report summarizing the evaluations conducted under subsection (k) for the preceding fiscal year.

"(m) For purposes of this section:

"(1) The term 'early intervention services' has the meaning given such term in section 672(2).

"(2) The term 'eligible children' means children described in subsection (a)(2).

"(3) The term 'eligible infants and toddlers' means infants and toddlers described in subsection (a)(1).

"(4) The term 'infants and toddlers with disabilities' has the meaning given such term in section 672(1).

"(n) For the purpose of carrying out this section, there are authorized to be appropriated $150,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.".

SEC. 5. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO DRUG-EXPOSED CHILDREN AND TECHNICAL ASSISTANCE.

(A) Amendments to Public Health Service Act.—Section 509 of the Public Health Service Act (42 U.S.C. 290aa–7) is amended—

(1) by striking "and" after paragraph (3);

(2) by striking and period at the end of paragraph (4) and inserting "; and"; and

(3) by inserting and following new paragraph:

"(5) collect and disseminate information and instructional materials regarding—

"(A) the characteristics of drug-exposed children;

"(B) effective strategies for the integration of such children in mainstream classroom settings; and

"(C) curricular plans for schools of education in institutions of higher education that describe the characteristics of drug-exposed children and recommend effective strategies to assist such children."

(b) Technical Assistance.—The Secretary shall, in conjunction with the activities of the clearinghouse referred to in subsection (a), provide consultation and technical assistance to educational personnel regarding the educational needs of drug-exposed children and effective strategies for assisting such children.

(c) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for 1992 and such sums as may be necessary for each of the fiscal years 1993 through 1996.

SEC. 6. TEACHER TRAINING.

(a) General Authority.—From the funds appropriated to carry out this section, the Secretary may make grants to schools of education at institutions of higher education to support the development and instruction in the use of curricula and instructional materials that provide teachers and other education personnel with effective strategies for educating drug-exposed children. In selecting schools for receipt of grants under this section, the Secretary shall give priority to schools located in or near communities with a large number or rate of—

(1) arrests for, or while under the influence of drugs;

(2) infants perinatally exposed to drugs;

(3) drug-exposed children of preschool or school age; or

(4) a significant drug problem as indicated by other appropriate data.

(b) Conditions for Grant Assistance.—Any recipient of a grant under this section shall agree, as a condition to receipt of such grant, to disseminate the curricula and materials developed with funds provided under this section by either or both of the following methods:

(1) Instruction of teachers and other education personnel from schools within the area in which the grant recipient is located.

(2) Designation of personnel of the grant recipient to serve as consultants to such schools for the dissemination of such curricula and materials.

(c) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $15,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 1996.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) The term "Department" means the Department of Education.

(2) The term "drug-exposed children" means children with developmental, psychological, behavioral, or any other disability caused by exposure to illicit drugs before or shortly after birth resulting from maternal drug abuse.

(3) The term "educational personnel" means headstart teachers, preschool, elementary, and secondary teachers, counselors, social workers, special education teachers, administrative and support staff, and other school-based staff involved with the education and guidance of children enrolled in school.

(4) The term "Secretary" means the Secretary of Education.

WOODROW WILSON REID: "SENIOR OF THE YEAR"

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mrs. BENTLEY. Mr. Speaker, I rise today to congratulate Mr. Woodrow Wilson Reid upon his recognition by the Essex Church of God as "Senior-Of-The-Year."

Each year the Essex Church of God congregation names one of its senior citizens as "Senior-Of-The-Year" and Woodrow Wilson Reid was chosen as this year's recipient. Born on August 9, 1915, in Greenville County, SC, Woodrow is the son of a farmer and logger and the product of a deeply committed Christian family. He grew up in Greenville County and moved to Baltimore after the start of World War II to work as a welder in a shipyard. In 1943, Woodrow joined the merchant marine, in which he served for 37 years.

During his years on the sea, Woodrow worked as a cook, baker, and finally chief steward. He made at least three trips around the world and was even wounded while at sea in an accidental shooting. Throughout his career in the merchant marine, the Reid family briefly moved back to South Carolina, but later returned to Baltimore and joined the Essex Church of God.

Pastor James Lane and the congregation welcomed the Reid family into the church and the Reid family quickly became involved with the church. A strong supporter and faithful parishioner, Woodrow became Sunday school superintendent and a member of the church and pastor's council only a few weeks after his retirement from the sea in the summer of 1979. With a great affection for the children of Essex, Woodrow is known affectionately as "Pop Reid" by the children on the church's bus route. In addition, he spends every Saturday morning taking the gospel to those he loves in spite of rain, sleet, snow, or hail. Hardly a week goes by that he or his wife do not buy shoes, clothes, or take food to someone on the bus route.

Unfortunately, in 1985, Woodrow lost his wife Ruby of 51 years. Later in 1987, he married his second wife, Margaret, who brought an end to months of loneliness. Still today, Woodrow continues to serve God and his fellow man. On November 22, 1991, Woodrow Wilson Reid will be recognized as "Senior-Of-The-Year." This will not be the first time Woodrow Wilson Reid has been recognized for his outstanding dedication and service. In 1982, he was selected as Delmarva-D.C's Laymen of the Year.

Mr. Speaker, my fellow colleagues, it is with great respect and admiration that I congratulate Woodrow Wilson Reid upon this momentous occasion. Woodrow truly is a very special man. Through giving of himself, he has not only made Essex, MD, a better community in which to live, but he has made this a better Nation as well. May God bless Woodrow Wilson Reid with continued health and happiness in the years ahead.

FRIENDS OF JANET JEFFREYS HOLD CHARITY BENEFIT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Ms. Janet Jeffreys suffers from cystic fibrosis so severe that her survival depends upon a double lung transplant. She has bravely faced this terrible disease with the encouragement of her friends and family. Sadly, Janet Jeffreys of south Florida is just one of the many thousands to suffer from this disease nationwide.

The heroic surgical effort to replace Janet's diseased lungs with a health vascular system is very costly. In response to this financial burden, her friends and those of her grandfather, Dr. Joe Davis, have planned a holiday fashion show luncheon on November 23 to help cover the cost of Janet's treatment. This event promises to be a great success for those who attend, and ultimately for Janet.

Mr. Speaker, I want to draw attention to the courage shown by Janet and to offer my best wishes as her treatment continues. I also comment the leadership and support shown by Sgt. Rita Oramas and Sgt. Liz Brown in organizing this event. The outpouring of support for Janet Jeffreys is an inspiration.

CONGRESSIONAL MEDAL FOR VETERANS OF THE ATTACK ON PEARL HARBOR

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. SMITH of Florida. Mr. Speaker, on December 7, we will mark the 50th anniversary of Japan's surprise attack on American military forces at Pearl Harbor. We will remember the sacrifice of the young soldiers, sailors, marines, and airmen who lost their lives on that fateful Sunday morning. And we will remember those who survived the attack. Notwithstanding the bombs and torpedoes, they began a defense of freedom that culminated in the allied victory over the Empire of Japan and Nazi Germany.

On December 7, 1991, we will remind today's generation of the people who were at Pearl Harbor on that Day of Infamy. We will speak of their bravery and love of country, of the inspiration they gave to our Nation. When the eulogies are spoken and the speeches are made, I hope that Americans everywhere, especially those who were born after 1941, will ask themselves a question: What kind of courage could inspire such words half a century later?

Mr. Speaker, I can suggest an answer. In the flames and smoke and din of the attack, individual Americans exhibited precisely the values upon which this Nation was founded: A defiant love of liberty. Perseverance in the face of adversity. Cooperation that transcends petty differences. Devotion to family and Nation. Valor.

These values sustained us then. They are the same values that can sustain and protect America today. So it is especially fitting that the Congressional Medal for Veterans of the Attack on Pearl Harbor has been created to signify the 50th anniversary of the events of December 7, 1941. In Florida's 16th Congressional District, there are 17 recipients of this medal. I ask that their names be entered into the RECORD. They are America's finest. We enjoy our freedoms because of their heroism. They ennoble us all:

Paul Ackerson; Frank Belisle; Dominic Bruno; Andrew Bryzicki; Donald Butler; Edlek Carstens; William Clarke; Norman Coplin; Ralph Davis, Jr,; Mrs. Frances Rall Foster, accepting for Richard Redner Rall, deceased; Mrs. Mildred A. Gregory, accepting for William C. Gregory, deceased; James Lobozzo; William Muller; Rocco Ottato; Louis Perlman; James Pryor; and Theodore Reiner.

HIALEAH-MIAMI SPRINGS BOARD OF REALTORS 39TH ANNUAL INSTALLATION DINNER DANCE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to recognize the Hialeah-Miami Springs Board of Realtors which is holding its 39th annual installation dinner dance on November 23d at the Miami Lakes Inn.

The dinner dance is the board of realtors' main event of the year. The Hialeah-Miami Springs Board of Realtors is representative of the many businesses and residents which have helped make Hialeah the fastest growing city among cities with over 100,000 people in Florida. Nearly 200,000 people now make the Hialeah area their home according to the 1990 census, making Hialeah, south Florida's second largest city in population.

The board of realtors is involved in numerous civic and volunteer activities which make up this important community's contribution to the "thousand points of light" President Bush has often referred to.

I extend my sincere hope for the board of realtors' continued success, and special thanks to its new president, Alice G. Fields and executive vice president Sydney R. Garton.

I would like to take this opportunity to thank the other officers who will be installed at the dinner dance: President-elect Julio A. Robaina, Jr., Secretary Manuel Oscar Rodriguez, Treasurer Elizabeth M. Pyke, Director Gerry J. Fontanella, Director Efren V. Leal, Director Manuel Oscar Rodriguez, Director James M. Sullivan, Jr., Director Oscar Barber, Director Nancy J. Deno, Director Mercedes Fernandez, Director Vera A. Gray, and Director Henry Hernandez. I would also like to recognize the life members of the board of directors: Christine C. Brunner, Marielene McGregor and Elouise B. McNamara; and the outgoing officers Jose J. Bazan, Pedro F. Hernandez, and Phillip J. Webb.

MOBIL CORP. PRESENTS GRANT TO SEAMEN'S CHURCH INSTITUTE

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mrs. BENTLEY. Mr. Speaker, today, I would like to recognize a very noteworthy contribution made by the Mobil Corp. Recently, Mobil Corp.'s philanthropic arm, Mobil Foundation, has presented a grant of $200,000 to enhance the Marine training facility of the Seamen's Church Institute [SCI] of New York and New Jersey. SCI, an ecumenical voluntary agency founded 157 years ago by the Episcopal Church, serves seafarers of all nations and creeds. Its maritime training division, in the new SCI headquarters on Water Street, near South Street Seaport in Manhattan, operates one of the world's most sophisticated visual ship-simulators, used to train ship's officers and seagoing personnel. SCI is also a leader in promoting maritime environmental protection and safety at sea.

In presenting Mobil's gift, Gerhard E. Kurz, president of Mobil Shipping and Transportation Co., said:

> This will help launch SCI's million-dollar campaign to make the visual ship-simulator even better and to add visual capacity to another of the school's four interactive training bridges. The entire maritime industry benefits from SCI's pace-setting programs, so we hope other shipping companies follow our lead and will now come aboard this campaign.

Mobil has for years made use of SCI's advanced technology and training programs to enhance the professional competence of its marine employees. At SCI, the visual bridge provides computer-generated images of real life navigational situations that unfold depending on how trainees respond. Mobil Foundation's grant was accepted by Rev. James R. Whittemore, executive director of SCI, who said:

> This is a generous gift and testifies as to Mobil's continuing emphasis on programs that protect the world's marine environment.

Mobil Shipping and Transportation meets its worldwide requirements through both owned tonnage and term charters. It controls a deep-sea vessel capacity of more than 4.4 million deadweight tons.

TRIBUTE TO AMBASSADOR JOSEPH VERNER REED

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. BURTON of Indiana. Mr. Speaker, last month, Ambassador Joseph Verner Reed announced his retirement. Ambassador Reed's most recent assignment was State Department Chief of Protocol. In this role, he has ably assisted Secretary of State Jim Baker, President Bush, and the Nation at large.

Still desiring to serve his country, Ambassador Reed is currently serving as a public delegate to the United Nations. I am also serving as a member of the U.S. Mission in New York, having been named a congressional delegate during the current 46th session of the U.N. General Assembly. It is both a pleasure and an honor to work with such a distinguished and capable diplomat as Ambassador Reed.

Ambassador Gonzalo J. Facio of Costa Rica has written a moving op-ed piece as a tribute to Ambassador Reed, with whom he has worked for many years. I will submit Ambassador Facio's piece to be entered into the RECORD at this point, and I commend it to all of my colleagues.

A DIPLOMAT OF CONSIDERABLE SOPHISTICATION

(By Costa Rican Ambassador to the U.S. Dr. Gonzalo J. Facio)

As a man who has had the pleasure of representing Costa Rica before the Government of the United States in the administrations of Dwight D. Eisenhower, John F. Kennedy, Lyndon Johnson and now George Bush, I feel that I am in a unique position to comment on the tradition of openness and genuine warmth in dealing with emissaries from small countries upheld by this country.

The tradition, I believe, became a fine art under the able, knowing and enthusiastic leadership of the last Chief of Protocol, Ambassador Joseph Verner Reed, who retired this past Friend, October 18, 1991.

A skillful practitioner of diplomacy, Ambassador Reed ably complemented President George Bush's considerable skills in foreign policy.

He was also capable when the occasion required, as it often did, of transcending partisan politics without compromising his loyalty to the President. That alone suggests a level of political adroitness to which most merely aspire. Ambassador Reed succeeded in raising an erstwhile plum position to the respect and admiration of his peers in the international community of nations. In the process, he established a vision that served well his president, his country and the international brotherhood of diplomats.

Given that vision, Joseph Reed found it natural to embrace the representatives of countries such as Costa Rica, and to seek eagerly to understand and appreciate their diverse cultures. In the process he enhanced his country's standing among members of the foreign diplomatic corps.

Unlike some professional diplomats both here and elsewhere, Ambassador Reed never allowed his considerable sophistication to prevent him from being concerned genuinely with the hopes and aspirations of developing nations. His demeanor was never patronizing. On the contrary, he displayed consistently a level of understanding and interest that demonstrated an abiding kinship forged by his substantive international banking experience and his distinguished service at the United Nations.

I have seen Joseph Reed at work and have watched him operate comfortably with diplomats from every culture. In every instance, he was a premier saleman for the United States of America, that rare type of merchant who was not only proud of his product and confident that he could deliver it, but also was committed to treating fairly whoever was seeking those particular wares. I share the assessment of one of my fellow diplomats, Derek Burney, Ambassador from Canada, regarding Joseph Verner Reed: "From my vantage point, his performance as chief of protocol was always as impeccable as his appearance."

It is not easy to be responsible for 134 ambassadors in the city touted as the capital of the free world. And it wasn't easy for Ambassador Reed. But he did it all with aplomb and left his many friends with the strong suspicion that he could have done even more if his country had required it.

Accordingly, my hat is off to an Ambassador extraordinaire, Joseph Verner Reed. He will be sorely missed.

TRIBUTE TO DR. MARION "JACK" BROOKS

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. GEREN of Texas. Mr. Speaker, on Sunday, October 27, I had the privilege of honoring one of my community's finest leaders, Dr. Marion "Jack" Brooks. Dr. Brooks has dedicated his life to bringing a better life to the minority citizens of Tarrant County, as a physician, as a public official, and as leader on civil rights.

Chester Bowles once said, "Government is too big and important to be left to the politicians." Dr. Brooks personifies that statement in his tireless efforts to improve the quality of public services available to Tarrant County's minority community. Here are just a few of the achievements for which he will be remembered.

As the Tarrant County minority community was struggling in 1951 to find trained minority physicians, Dr. Brooks established his medical practice to give them the best health care available. When he discovered that the minority citizens of Tarrant County deserved much more from the local government services than they were receiving, he became one of the first Afro-Americans to be appointed to community boards and commissions.

When so many in his minority community could not make the long and expensive trip in 1963 to march with Dr. Martin Luther King on Washington, Dr. Brooks organized his own march—on Austin, TX. While others took the message of civil rights to the Federal Government, he made sure our State officials heard the message loud and clear.

Dr. Brooks also took this message to local officials when he co-founded the Tarrant County Precinct Workers Council in the 1960's, a grassroots caucus on civil rights that maintains its political power even today.

Dr. Brooks is a great American and a proud American. At the ceremony held in his honor on Thursday, he told of an encounter with a French soldier during World War II. When asked about his allegiance to his country, he told the soldier, "I would rather be a lamppost in Dime Box, TX than the Prime Minister of France."

We are thankful he is a doctor in Fort Worth.

HUMAN RIGHTS ABUSES IN EAST TIMOR

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. PORTER. Mr. Speaker, last week, Indonesian security forces on the island of East Timor brought to head the smoldering hostilities there by opening fire on thousands of unarmed demonstrators. While Indonesian authorities admit that several people were killed or injured in the clash, eyewitnesses, including two American journalists, claim that they saw the bodies of dozens of demonstrators lying in the streets in the aftermath of the demonstration. Some sources have estimated the slaughter at more than 100. Now the sickening news has filtered out of the East Timorese capital city of Dili. The Washington Post reports that Indonesian soldiers are hunting for survivors of the clash and that many people injured by the military are afraid to seek medical care.

The recent history of East Timor is one of struggle and violence. In 1975, Indonesia invaded East Timor and the colonial power, Portugal, withdrew. The violence, famine, and disease that accompanied the ensuing war between the East Timorese and Indonesians left at least 100,000 of the island's original population of 700,000 dead. Since 1975, Indonesian authorities have undertaken a consistent regime of human rights abuses against the Timorese people in an effort to quell the nationalist movement on the island. In the last year, the abuses appear to have escalated.

Amnesty International reports that "scores of people were beaten by security forces during peaceful prodemocracy demonstrations in January of 1991 or were detained without charge and tortured or ill-treated in custody." These detainees complained of being tortured with electric shocks, immersed for long periods in fetid water, kicked, punched, slashed with knives, and hung from the ceiling.

Around the globe, the seeds of democracy and freedom are at last finding fertile ground to sprout and grow in many places where the people had lived under systems of repression and cruelty Unfortunately, the message of changes elsewhere does not seem to have had any positive effect on the Indonesian authorities in East Timor. The actions of the Indonesian military last week and the continued repression of peaceful expressions of political opinion in East Timor are unconscionable violations of human rights and must not go undenounced.

I strongly urge the administration to freeze all U.S. aid to Indonesia until the Indonesian Government ceases violations of human rights in East Timor, investigates the shooting and brings to justice those in the Indonesian military who are responsible, releases all political prisoners from East Timor, compensates the families of those killed and injured, and permits political pluralism in Indonesia. I will also work with the Foreign Operations Committee to see the United States does not continue to generously provide assistance to Indonesia while it cruelly violates the basic human rights of the people of East Timor.

The world knows that political coercion is not a viable foundation for governance. The Government of Indonesia must learn this lesson and put an end to the repression in East Timor.

A TRIBUTE TO THE WOMEN OF MUNICIPIOS DE CUBA EN EL EXILIO

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to acknowledge the members of the National Commission of Municipal Women which is a division of the Cuban Municipalities in Exile. On the 17th of November, the National Commission of Municipal Women held a luncheon to honor the organization's member of the year. Several women were nominated for the Amparo Bermudez Award.

This award is named after the late Amparo Bermudes who was an exemplary member of the National Commission of Municipal Women. Recipients of this special honor were acknowledged for their hard work, commitment, and dedication as well as for keeping tradition and family unity alive within the community. Lazara Otero, Lia Fernandez, Zenia Gamero, Silvia Diaz, Gladys Mederos, Teressia Numez, and Delia Cuervo were all awarded the Amparo Bermudez Award by the members of Cuban Municipalities in Exile.

The members of the National Commission of Municipal Women have dedicated their time to keeping the customs and practices of their heritage alive within their community. One of their main objectives is to pass the culture of the Cuban people on to the younger generations in the hopes that the rich tradition of our Cuban heritage will be remembered.

It is my wish to honor these ladies for their endless dedication and the time and devotion they have contributed in the name of tradition.

SAN BERNARDINO PUBLIC LIBRARY CELEBRATES CENTENNIAL ANNIVERSARY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. BROWN. Mr. Speaker, today I rise in celebration of the centennial anniversary of the San Bernardino Public Library and to remind all of our citizens of the debt we all owe to the libraries in this country.

For 100 years, the San Bernardino Public Library has opened the door to learning for both children and adults. The first public library of San Bernardino was opened to the public July 30, 1892. There were 800 books ready to circulate and 1,000 more on the way. The first branch library to help reach San Bernardino's growing population was established in 1929. Last year, San Bernardino Public Library served 68,000 library cardholders, 700,000 items were borrowed, 102,000 reference and information questions were answered for the public, and 28,500 children and adults attended library programs. Approximately 300,000 people per year visit the Feldheym Library to consult its materials, borrow materials, use the meeting rooms, or visit the art galleries. San Bernardino Public Library serves as a reference and information center, an independent learning center, a community activity and popular materials library.

Our libraries are the storehouses of the wisdom, knowledge, and culture of our own and other civilizations. The San Bernardino Public Library is a resource of great value which we often—unfortunately—take for granted. Our libraries and the services they provide are a true symbol of democracy at work. People all over the world are willing to risk their lives and their homes for the opportunity to achieve some of the freedoms we in America enjoy daily. Foremost among these freedoms is the right to uncensored information and equal access to that information. The public library is the foremost among institutions developed in the United States to serve the needs of democracy and equal opportunity.

Given their importance, I urge our citizens to support the libraries which serve them, and to join me in honoring the San Bernardino Public Library for its 100 years of service to the people of San Bernardino.

TRIBUTE TO RABBI DR. ALBERT M. KANTOR

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. CAMPBELL of California. Mr. Speaker, I rise today to tell my gracious colleagues of a wonderful man and a wonderful achievement. On November 24, Rabbi Dr. Albert M. Kantor, of Chicago, IL, will be justly honored for his continual and unconditional dedication and contribution to Jewish spirited education. The Associated Talmud Torahs of Chicago will award Rabbi Kantor the "Keter Shem Tov," or the "Crown of a Good Name." A most remarkable achievement, the "Crown of a Good Name" is only received by scholarship and service to one's community and to humanity. It is indeed a most befitting award for this extraordinary man.

Rabbi Kantor was ordained in Skokie, IL, in 1955, and has lived his life true to the philosophy that it is better to give than to receive. He founded the Skokie Valley Traditional Synagogue in 1955, in later years serving as the Rabbi Emeritus. He continued his work for the community as president of the Chicago Board of Rabbis, and as vice president of the Chicago Rabbinical Council. As a doctor in psychology and theology, and as a practicing psychotherapist, Rabbi Kantor takes with him a unique insight and understanding into all he does, and to all he touches. In addition to those people he has personally helped, he has reached many more through his numerous articles and publications. Truly, his effects are immeasurable and his efforts tireless.

I know of few who have so completely dedicated themselves to others, to education, to betterment of life for so many. It is an honor to stand today, to join his wife, Sara Lee Kantor, their four children, and their three grandchildren, in recognizing and thanking Rabbi Dr. Albert M. Kantor, a friend to all.

PETER J. McCLOSKEY: IRISH MAN OF THE YEAR

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to my very good friend, Peter J. McCloskey, of Pottsville, PA. Pete has been selected by the Ancient Order of Hibernians, John F. Kennedy Division No. 2, as the 1991 Irish Man of the Year.

Pete's contributions to the people of Schulykill County and the U.S. Postal Service, along with his devotion to the church and his family, stand well known, and this high honor is being bestowed on him for such outstanding service.

Pete has put unparalleled energy into supporting others in their efforts to succeed or just survive. He has helped postal employees with aspirations to be postmasters and political candidates with hopes for office achieve their dreams. Furthermore, he has provided advice to hundreds of black lung survivors and Social Security beneficiaries who have lacked appropriate compensation. Pete has taken the time and the interest to refer many of these needy individuals to my office, resulting in the satisfactory resolution of their legitimate and often desperate concerns. These are just a few examples of Pete's untiring efforts to help others.

However, qualifications for recipients of the Irish Man of the Year Award also include a sincere interest and pride on the part of the individual for his or her Irish heritage. Indeed, Pete has truly embodied the Irish-American spirit over the years. In fact, he has served for numerous years as a member of the ancient Order of Hibernians, a highly revered Irish-American institution.

Mr. Speaker, it has been an honor for me to have known Pete McCloskey over the years. Thus, it is with much pleasure that I congratulate him today for being chosen as the Irish Man of the Year. Indeed, he has served as a role model for us all, and for this he deserves such high commendation.

MIAMI AUTHOR KAY BRIGHAM DEFENDS COLUMBUS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Miami author Kay Brigham who has written a defense of Columbus's role in history which was featured in the Miami Herald. The article "Celebrate the Columbus quincentenary!" gives the good side of the Columbus voyage, and its impact on the world:

On the eve of the quincentenary of Christopher Columbus' first voyage to America, Columbus-bashing has become fashionable. The media have taken it up and made it a national sport. No personage has escaped the scrutiny of the modern inquisitors who are on a crusade to "demythologize" history. Now it is Columbus' turn to be hacked to pieces.

"Genocide" and "ecocide" are the war cry heard around the world rallying the revisionists to their contemporary social and environmental agendas. The first whoop in 1990 was a condemnatory resolution from the National Council of Churches, followed by Kirkpatrick Sale's vitriolic book, "The Conquest of Paradise."

In last Sunday's Viewpoint section, the revisionist line was again echoed in an article by Hans Koning titled "Teach the truth about Columbus." Koning had earlier written for The New York Times: "Don't celebrate 1492—mourn it."

Koning, who claims to have reviewed the historical record of the Great Encounter, concludes that "there is not one recorded moment of awe, of joy, of love, of a smile." (Has he ever read the famous log of the First Columbian Voyage, which abounds with awe and joy?) Koning see "only anger, cruelty, gold, terror and death." He adds that "most historians agree that the early Spanish record in the Americas is unique in its entire absence of conscience.

In the first place, Koning has chosen to ignore the greater body of the historical record, the prolific writings of Columbus and his contemporaries. These primary sources are of utmost importance because they show the essence and motivations of Columbus within the context of his own times. In the second place, Koning insists that nothing is relevant but the raw record of "unmitigated horror" on the part of the European invaders. All that 1492 underwrites, according to Koning's warped view, is the superiority of one race over another. "It is poisonous."

Does Koning really believe that if Christopher Columbus had not arrived in America, the last 500 years would have been different in regard to the things he complains about? In the last 500 years, have there been less cruelty, slavery, wars, genocide and ecocide in the cultures and societies Columbus never reached, such as China, Russia, India?

There is a dark side to every human endeavor. That's because the men and women who make history are flawed—every one of them. We do not admire everything about the great historical figures, but that does not mean we should not applaud their achievements.

Bartolomé de Las Casas, a contemporary of Columbus and the great defender of the Indians in the New World, pointed out the evil of slavery and abuse of the indigenous peoples. He did not admire (and said so plainly in his writings) Columbus' ineptness as an administrator in Hispaniola and the policy of enslavement of the Indians that the admiral initiated in 1495. Yet at the same time Las Casas, who knew Columbus personally and had access to firsthand reports, recognized in the Genoese explorer admirable qualities. In his "History of the Indies" Las Casas wrote that Columbus was "most impressive in his port and countenance, a person of great state and authority and worthy of all reverence . . . He was a gentleman of great force of spirit, of lofty thoughts, naturally inclined (from what one may gather of his life, deeds, writings and conversation) to undertake worthy deeds and signal enterprises."

Violence and tragedy worked both ways in the Great Encounter. Columbus did not sail into an idyllic, harmonious world, as many revisionists paint it. The "gentle" Tainos massacred the Spaniards left behind at Fort Navidad on Hispaniola in 1493. The fierce Caribs, a cannibal group in the Antilles, enslaved the Tainos—and ate them. Cortés, well-versed in the ways of cruelty himself, was aghast when he witnessed the practice, on a grand scale, of human sacrifice in the Aztec culture of Mexico. The revisionists should be blaming Adam and Eve instead of Columbus for the destruction of Paradise.

Historically oppressed groups, such as native Americans, blacks or women, should get a careful hearing concerning their God-given rights. Columbus, too, deserves a careful hearing and has left us numerous letters, shipboard diaries and even an extraordinary collection of his personal studies entitled *Book of Prophecies*, through which he explains his vision of history and his motivations. Let us consider the admiral's own words, keeping in mind his medieval scholastic formation:

"At this time I have seen and put in study to look into all the Scriptures, cosmography, histories, chronicles and philosophy and other arts, which the Lord opened to my understanding (I could sense his hand upon me), so that it became clear that it was feasible to navigate from here to the Indies; and he unlocked within me the determination to execute the idea.. . . Who doubts that this illumination was from the Holy Spirit? I attest that he [the Spirit], with marvelous rays of light consoled me through the holy and sacred Scriptures, . . . encouraging me to proceed, and, continually, without ceasing for a moment, they inflame me with a sense of great urgency.. . . I have already said that for the execution of the enterprise of the Indies, neither reason nor mathematics, nor world maps were profitable to me; rather the prophecy of Isaiah was completely fulfilled.. . . No one should be afraid to take on any enterprise in the name of our Savior, if it is right and if the purpose is purely for his holy service." (Letter to the Spanish Sovereigns, *Book of Prophecies*).

History should not be rewritten exploitatively to promote 20th Century causes and issues. History must be understood within its own context, with all the facts—good and bad—presented. The critics are focusing on the negative aspects of the Encounter. We should learn from the mistakes of the past so as not to repeat them. Yet it would be an even greater mistake not to recognize and, yes, even celebrate the good! Can we not learn to be better by emphasizing and rewarding the noble and the heroic of great historical events?

Come on, America. Are we going to let the cynics take the wind out of the sails of the quincentenary? The time has come to form the Friends of Columbus Society and get on with the celebration of the quincentenary of one of the greatest events of history.

Has anyone stopped to think what we would be like if Columbus had not arrived on these shores?

What can we admire today about Columbus? We have to admire his faith in God; his sense of mission; his courage in the face of extreme adversity and deprivations; his steadfastness; his spirit of adventure; his vision; his inquiring mind; his entrepreneurship.

What can we celebrate on the occasion of the quincentenary? The Great Encounter produced new and robust races and cultures; set up a fabulous exchange of goods and knowledge between the Old and New Worlds; initiated the histories of the United States, Canada and the numerous American republics. I believe the people in the United States still appreciate and can celebrate the Columbian legacy of Judeo-Christian values that undergird the freedoms that all our citizens enjoy today and that attract and inspire people all over the globe.

I agree with Hans Koning that we should teach the truth about Columbus to our children. But let's aim for the whole truth.

"You will know the truth, and the truth will set you free" (John 8:3).

I am happy to pay tribute to Mrs. Brigham by reprinting this article from the Miami Herald. The Christopher Columbus Quincentenary Jubilee Commission has endorsed her two books, Christopher Columbus: His Life and Discovery in the Light of His Prophecies and

Christopher Columbus' Book of Prophecies as an "official quancentenary project".

THE TOY INJURY REDUCTION ACT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mrs. COLLINS of Illinois. Mr. Speaker, yesterday I introduced legislation entitled "The Toy Injury Reduction Act" H.R. 3809. The bill is designed to protect children by directing the Consumer Product Safety Commission [CPSC] to provide for the labeling of certain toys that pose a hazard to young children and to require minimum size requirements for balls intended for children under 3.

Every year, too many young children choke to death on small toys and small parts of toys. The Consumer Product Safety Commission reports 23 children died last year while playing with unsafe toys and estimated that 164,500 were injured by toys. The CPSC reported 146 choking-related deaths from January 1980 through April 1989. The analysis showed that balloons were responsible for over 40 percent of those deaths. One can only speculate as to how many children will die this year alone at the hands of an innocent-looking holiday toy.

The CPSC has a regulation that prohibits small toys, and toys that contain small parts, from being marketed to children under 3. However, there are no mandatory warning labels to warn parents about the choking hazards of small toys and toys with small parts that are marketed to children over 3, but still pose a hazard to the younger children. In addition, there are no mandatory warning labels to warn parents of the hazards of some innocent looking, but potentially dangerous toys—balloons, marbles, and games of skill that have small balls.

While the CPSC has been considering this issue for several years, the simple truth is that there are currently no required warning labels to address these hazards and any labels voluntarily used can vary in content. In some cases, age warning labels are so blandly written that parents may believe them more related to educational development than safety. As a result, in many cases, parents receive no effective warning that tells them a toy may end up choking and killing a child.

The Toy Injury Reduction Act will put an end to this lack of information and help save the lives of many children. The bill requires the CPSC to issue regulations requiring appropriate warning labels to toys.

Furthermore, children have been known to choke on balls that are large enough to pass the small parts standard, yet small enough to become lodged in a child's throat. The Toy Injury Reduction Act will alleviate this problem by requiring the CPSC to address this danger by establishing a minimum diameter for balls intended for children under the age of 3.

The Toy Injury Reduction Act is a big step forward in the effort to protect our Nation's children.

NEED TO REPEAL THE SOCIAL SECURITY EARNINGS TEST AND THE INTRODUCTION OF TWO BILLS TO REFORM THE EARNINGS TEST

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. RINALDO. Mr. Speaker, today I am introducing two bills that will significantly reform the Social Security earnings test. The first measure will amend the Social Security Act to raise the amount of earnings which are exempt under the act as it applies to the earnings test of $20,000. My second bill amends the Social Security Act to phase out the earnings test over the next 4 years.

A majority of Members of the House have already supported outright repeal of the earnings test. I certainly share their view that an outright repeal of the earning test is the best solution. These measures, however, offer a modest and less expensive way of relieving working Americans from burdensome marginal rates of taxation.

This is an issue of fairness. If you choose to work, you should be allowed to keep what you earn. Earned income should not be treated any differently from the way investment income is treated. Yet, for older Americans, working often means the loss of part or all of their Social Security benefits, while investment income results in no such loss of benefits.

For today's senior citizens, a working retirement is a necessity and not just a way to keep active between trips to visit the grandchildren. The costs of health care, property taxes, rent, and food often exceeds the amount of Social Security benefits and pension income combined. Making ends meet means taking a job. And for hundreds of thousands of seniors, taking a job means relinquishing Social Security benefits.

The earnings limit is a vestige of a time when working in retirement was considered a luxury that society could not afford to condone. It dates from an era when jobs were scarce and younger workers with families to support were jobless and in need.

As many of my colleagues know, I am also collecting signatures for a letter to be sent to the conferees on the Older Americans' Act to urge them to preserve the Senate language on the earnings test. I believe this is an important opportunity to repeal this limit that we cannot afford to miss. If any of my colleagues would like to join me in sending this letter, please let me know.

The time has come to end this tax and unleash the productive potential of older Americans, and I urge my colleagues in the House to join me in this effort.

THE CONFIRMATION PROCESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, November 20, 1991 into the RECORD:

THE CONFIRMATION PROCESS

The Clarence Thomas hearings raised concerns and questions about the confirmation process for nominees to the Supreme Court. It was an American tragedy on television, marked by tales of pornography, harassment, obscenity, lies, and betrayals. Like other Americans, I wondered throughout the hearings how the confirmation process could be reshaped. I kept thinking that some great injustice had been done, but did not know what or to whom. I kept wondering whether the committee would ever get to the truth. Was there some way of avoiding this type of spectacle in the future? Surely, no citizen could take satisfaction in this recent confirmation hearing, even if a majority of Americans thought that in the end Thomas received a fair hearing from the Senate.

My constituents were upset by the confirmation process, especially the Senate's handling of the sexual harassment charges against the nominee. One woman said, "Nobody emerges from this looking like a winner." After it was over, I kept asking myself if this was the best way to elevate a person to this nation's highest court.

Process And Problems: The Thomas hearing highlighted several clear problems with the current process, including the public airing of sensitive private issues, the nominee's side-stepping of basic constitutional questions, the politicization of the process, and the lack of consultation between the President and the Senate during the nomination process.

Since the hearings, I have talked to knowledgeable observers of the process who believe that the confirmation process is an inevitable product of divided government and that changing the process will never happen. They feel that an effort to change the system is a pipe dream. They may be right, but I'm not so sure. At least an effort should be made to try to improve the process.

The Constitution gives the President the right to nominate the justices to the Supreme Court. Article II of the Constitution says that the President "shall nominate * * * with the advice and consent of the Senate * * * Judges to the Supreme Court." Politicians and scholars have argued for over 200 years about how much authority this clause gives the Senate in the confirmation process. Some have suggested that the Senate defer to the President once a nominee shows that he or she meets a minimal set of qualifications. Others say that the Senate should independently investigate and scrutinize the record and constitutional philosophy of a nominee to a life-time appointment to the Supreme Court.

The hearings also raised concerns about the increased politicization of the confirmation process. Everyone can agree that it has gone too far and that we need to pull back, but it may be unrealistic, and perhaps even unwise, to remove politics completely from the process. I doubt if any procedure can be foolproof against political pressures. Out of the rough and tumble of debate and competing views comes the consensus that has enabled the United States to endure for more than 200 years.

Historical Perspective: The history of the confirmation process does not provide us with much guidance on possible reform. Only two nominees testified before the Senate Judiciary Committee before 1955: Harlan Fiske Stone in 1925, and Felix Frankfurter in 1939. Since John M. Harlan testified before the panel in 1955, it has become common practice for nominees to testify on judicial philosophy and legal issues. The process has worked reasonably well for most of our history. Only in recent years has it proved unsatisfactory. The recent practice of nominees side-stepping even the most basic constitutional questions is disconcerting.

PROCESS REFORMS: Today the selection of a Justice is considered a life and death confrontation between the President and the Senate. The whole process has become too confrontational. A way must be found to encourage agreement between the President and the Senate. The President needs to take the Senate's advice as seriously as he does its consent. This means the President should consult with Senators about who should be nominated for the next Supreme Court vacancy. The aim should be to nominate a consensus candidate of true distinction.

I also think that the Senate should scrutinize nominees for the Court both as to their political ideologies as well as their judicial competence. There is no suggestion in the constitution that one branch is superior to the other in this process. It is appropriate for the nominee to discuss constitutional issues just so long as he or she says nothing that might be construed as a commitment for a decision in a pending case.

On the narrow issue of how the Senate should treat a credible and serious allegation of misconduct, it seems to me that the Judiciary Committee should be able to hold a full hearing in executive session. This would at least spare the country from the simply awful testimony at the Thomas hearings. This format would also protect the privacy of the nominee and witnesses.

Another way to encourage agreement between the President and the Senate would be for the Senate to advise the President by passing a sense of the Senate resolution setting forth the professional and philosophical criteria it will use in deciding whether to confirm a future high court nominee. This would put the President on notice as to what the Senate would accept and it would advise him that if he did not send a nominee who met the criteria, his nominee could face a confirmation battle.

Conclusion: The President himself has the power to restore a sense of balance and decorum to the choice of Supreme Court justices. Part of the difficulty is that conservative presidents, in office for the past eleven years, have made eight Supreme Court nominations with the sole objective of revamping the judicial ideology of the high court.

In general the presumption exists that, unless there is a clear disqualification of a nominee, the President is entitled to his nominee. The President, of course, has to earn that presumption by the character of his nominations. What has been missing is political moderation, both in the nomination by the President and the reaction by the Senate.

IN SUPPORT OF THE HIGHER EDUCATION AMENDMENTS OF 1992

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. SERRANO. Mr. Speaker, I rise to call your attention to one of the most important pieces of legislation that will impact this Nation and how we prepare our youth for the future, H.R. 3553, the Higher Education Amendments of 1992.

I am one of those individuals who believes that when it comes to education there should not be any spending limits. Developing our human resources should be a priority because it would guarantee our future ability to compete in the global market. Education is power, and until every American recognizes that fact, and is afforded the opportunity to fully participate and reap the benefits, we shall continue to decline as a nation.

H.R. 3553 provides access to a quality education for all, albeit low-income students, part-time nontraditional students or, middle-income students. This bill is particularly sensitive to nontraditional students in that it includes measures to ensure equitable financial aid, special services such as child care, and special hours for nontraditional students. I am particularly pleased that also incorporated in this measure is a provision I authored, the Teacher Opportunity Corps Program. This program would award grants to teachers aides/paraprofessionals working in economically depressed school districts. Several States have successfully initiated such programs involving committed individuals working as paraprofessionals, frequently employed in schools that serve children with the greatest needs, and that unfortunately, also suffer a shortage of full-time qualified teachers.

I am especially pleased that the act also provides a mechanism to make whole the victims of unscrupulous schools who have defaulted on student loans and thus deterred many from continuing their education. If we can forgive a debt of $7 billion for Egypt, we can forgive who have been taken advantage of by scheming operators.

It is particularly important that when students do enroll in college or university that they are focused on their studies and not distracted about whether their loan or grant will cover all their educational expenses. If we are truly about the business of refining this Nation's education system it is imperative that all students have access and choice of educational programs regardless of their economic background. By establishing the Pell grant program as an entitlement, students would be assured of an amount not subject to the whims of policymakers.

Mr. Speaker, I have often stated and stand by the fact that, education is the best and surest way out of the poverty and misery that our people live in. Many of the problems that affect our communities would be solved, or at least dealt with, if people had the ability to read, write, and defend themselves properly. As we move into the 21st century, it is vital that we educate all Americans to acquire the skills and knowledge that are essential to being successful and productive members of our society. By enhancing the educational the state of our economy.

I urge my colleagues to support the Higher Education Amendments of 1992, H.R. 3553.

UTAH'S GENEVA STEEL

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. OWENS of Utah. Mr. Speaker, this morning's Wall Street Journal reports the amazing economic history of Utah's Geneva Steel, formerly a defunct USX steel mill which a small group of imaginative Utahns have resuscitated to life.

Geneva Steel represents one of the classic stories of a revitalized industrial policy so necessary to this country's economic revival and long-term economic vitality.

When Geneva became a public corporation and announced a large expenditure for pollution control, vitally needed at the mill, I attended the press conference and expressed faith and confidence that the company's principals, Joseph Cannon and Robert Grow, would effect such changes. I indicated that it was my role to help hold their feet to the fire to assure that, in fact, they keep their commitment to do everything technically possible to control pollutants from what has traditionally been an unclean mill.

I thought that Members would be interested in reading this interesting and instructive story.

[From the Wall Street Journal, Nov. 20, 1991]

MIRACLE MILL—UTAH'S GENEVA STEEL, ONCE CALLED HOPELESS, IS RACKING UP PROFITS

(By Clare Ansberry)

PROVO, UTAH—In a clubby, staid industry, Geneva Steel stands out like a pickle in an olive jar.

The Mormon attorneys who bought Geneva's sole plant in 1987 from USX Corp. didn't know a thing about steel. Chairman Joseph Cannon, a 42-year old Bob Dylan fan, one-time missionary and now a Republican U.S. Senate candidate, was also the federal environmental official who helped draft the strict clean-air laws that irked steelmen. And the company's president, Robert Grow, was a real-estate lawyer who now often wears jeans to work and is frustrated because, after failing a depth-preception test, he can't drive Geneva's big cranes.

"People said. 'Those guys in Utah are stupid. They won't last,'" says Mr. Grow, also 42, who brashly calls USX's 62-floor Pittsburgh headquarters "The Ingot."

But even experienced steelmen would shudder at the thought of cranking up Geneva Steel, the Methuselah of mills. Until September, Geneva was producing steel in open-hearth furnaces similar to those built a hundred years ago. Even much of the office furniture is ancient. Managers eat lunch at tables bearing Department of Defense tags; they were left over from the 1940s, when the government built the mill to supply West Coast defense plants.

Yet while the nation's six largest steelmakers are awash in red ink, Geneva has made a profit every month since the Cannon group bought it. In the fiscal nine months ended May 31, it earned $16.4 million, or $1.10 a share. Last year, it earned an average of $53 a ton of steel shipped, more than three times as much as Big Steel did. Since going public in March 1990, its stock has nearly doubled to $19 a share.

Geneva is the new face of the century old U.S. steel industry. Along with upstart minimills, it and several other plants—Weirton Steel, Gulf States Steel and Republic Engineered Steels, all one-mill operations orphaned in Big Steel restructurings—are low-cost, aggressive about introducing untried technology and market-driven.

Geneva also is stingy with management titles and relies on workers to dream up simple, cost-effective solutions to problems, such as storing finished coils indoors rather than outside, where they rust. It courts steel-service centers, which buy, process and then distribute steel to midsized and small users, while shunning auto makers, the largest but most demanding steel buyers.

In fact, Mr. Grow talks of car manufacturers in terms that some steelmakers might consider blasphemous: "Every year, three big gorillas swing out of their trees and ask the steel companies what they'd like to give their steel away for. They are the biggest and meanest guys in the U.S., and frankly we don't want to play with gorillas." None of the Big Three auto makers has any comment.

Companies such as Geneva, says Thomas J. Usher, president of USX's U.S. Steel Group, "clearly will continue to change the domestic steelmaking landscape." Even the American Iron and Steel Institute, traditionally Big Steel's mouthpiece, acknowledged the new breed this year by looking beyond the majors for its chairman—Joseph F. Toot Jr., the president of Timken Co., a bearing maker in Canton, Ohio.

After dictating to the industry for much of the century, steel's giants are losing clout. They account for less than half of the nation's steel shipments and, by the year 2000, will probably represent just a quarter of it. Geneva, which under USX control didn't ship west of Denver, now has customers in 46 states. After the 1989 San Francisco earthquake, Geneva's steel was the first to shore up the broken highways, and it help repair the Exxon Valdez.

Yet whether Geneva and other newly independent mills will prosper remains to be seen. They still can't make the more profitable high-grade steel for things such as refrigerator doors. Instead, they churn out low-value pieces for construction decks and highway girders. And as they borrow money to buy modern equipment and gradually get stuck with more expensive labor and raw-material contracts, those lean highfliers may fatten into blimps.

Even Geneva loaded up on debt to finance $287 million in capital improvements from 1990 to mid-1993. The consequent increases in interest and depreciation costs can't be controlled like furniture purchases can. And new technology often has cash-draining start-up problems.

"Geneva is competitive, and we think it will be around, but it hasn't been around long enough to see a full cycle of business" as an independent company, Mr. Usher says. Geneva has already felt the sting of the recession. Its average profit-sharing check has dropped to about $135 from $6,000 in 1988, the first year.

Yet the company already has survived far longer than many expected. When Mr. Cannon led a grass-roots crusade in the Salt Lake City area to take it over, Geneva's big competitors gave it six months. Steel was in a severe recession, and foreign rivals were invading the West Coast. Geneva's main customer a USX finishing plant in California, announced it was going to buy steel from a South Korean partner. That's partly why USX, which had bought Geneva from the government after World War II, closed the plant in 1986.

But the affable Mr. Cannon, a sort of Pillsbury doughboy with glasses, was used to challenges. He spent two years as a young Mormon missionary trying to convert Ireland's staunch Catholics and was the only top administrator to survive the Anne Burford purge at the Environmental Protection Agency."

HARD BARGAINERS

Mr. Cannon's acquisition team—two law firms and an accounting firm that put up a total of $1.1 million as front money and contributed some manpower—drove a hard bargain. Aided by borrowed funds, they paid $40 million for a plant that had cost USX $47 million in the 1940s. And they left USX with the mill's ball and chain: the pension, and retiree medical-benefit expenses, plus environmental liabilities that topped $10 million.

Once Geneva's new owners had taken over, their lawyers negotiated lower-cost contracts for everything from iron ore to electricity and labor. They began buying more ore from Utah instead of Minnesota and asked suppliers for an extra 30 days to pay. When invited to a golf outing by the railroad serving Geneva, Mr. Grow brought along a list of rail rates to haggle over between shots.

Even though Geneva added accounting, public-relations and legal departments—which USX had handled at Pittsburgh headquarters—the new company had fewer managers. It didn't refurbish the two-story brick office bhilding, which still has old-fashioned linoleum floors and looks more like Geneva High than Geneva Steel.

Michelle Galanter Applebaum, an analyst at Salomon Brothers, notes that Geneva reopened amid an industry slump, pushing its new owners to become extraordinarily frugal. "It made them be disciplined enough that they could break even and make money in a disaster year like 1987," she adds.

The new company's first major move was the purchase of two steelmaking furnaces. They weren't new; they were slightly used ones bought from a scrap dealer, who was junking them to raise money for cash-strapped LTV Corp. When another furnace needed repairs, Geneva sent scavengers to closed steel plants across the country to scrounge for parts.

"Big Steel's view is, 'Buy new, buy expensive. Don't take risks,'" Mr. Grow says. "Our view is buy used and make sure it turns out to be world-class."

RELYING ON CONSULTANTS

Geneva assembled a team of consultants from Germany, New Zealand and the U.S. to upgrade the two junked furnaces and make them the most advanced of their kind in the world, Mr. Grow says. The two furnaces cost Geneva $4 million, not including modest upgrading costs; new ones would have cost $71 million. Geneva executives also made sure the pieces of the two then-dismantled furnaces were on Mississippi River barges before LTV heard about Geneva's bargain with the junk dealer; they were afraid that somehow LTV might manage to scuttle the deal.

"We were nervous about how the big guys would react to us going up against them," Mr. Cannon says.

Well aware that they didn't know how to run the plant, Messrs. Cannon and Grow begged competitors for guidance, lured away some of their employees and relied heavily on the consultants. "Most steel companies have so much staff that they're insulted if you bring in technical experts," says Max Sorenson, the vice president of engineering, wooed from Inland Steel. "Our people are so busy no one has any problem if you bring in someone."

In some ways, ignorance paid off. "We were unburdened by a lot of knowledge in steel industry," Mr. Cannon says. "We didn't know what could and couldn't succeed. We asked: 'Why can't this be done?'" When orders started picking up, Mr. Cannon suggested that workers reassemble and start up a blast furnace that had been written off as junk. "Old-timers thought I was crazy," he says. But Geneva's workers tried, and it worked.

Without any inventory in hand, Geneva shipped steel 33 days after its new owners took over—half as long as USX had predicted. "It was amazing," says Ezra B. "Bud" Patten, a former Mormon bishop who began as a painter in the plant in 1949. "In fact, it was really a miracle."

EMPLOYEE RELATIONS

Only a few months after the plant had opened, workers received a $500 bonus. Soon, the company was setting up regular meetings for employees and their spouses and had a 30-minute cable-TV show starring Geneva workers as roving reporters. In addition, the company has set up a six-person safety department and since the 1987 start-up hasn't had a fatal accident.

The employees did extra things, too. Those at the water-treatment facility planted a lawn and bought a lawnmower. The workers also agreed to plow profit-sharing funds into capital improvements.

Managers could go ahead with projects without waiting, as they had once done, for approval to flow like molasses down the USX tower and across the country. Roger Huber, who runs the rolling mill, installed a computerized inventory system that eliminated hand labeling and enabled Geneva to export to Japan, where customers require computerized labels.

Geneva still has a way to go to move from the 19th to the 21st century. A short walk through the furnace building is like leapfrogging from the world of Charles Dickens to that of Luke Skywalker. Liquid steel bubbles in open-hearth furnaces that burp clouds of smoke and take five hours to cook steel; a few hundred yards away, a space-ship-like basic-oxygen furnace quietly makes steel in 45 minutes.

Still to come is a German-designed continuous caster, which will be the first in the world to roll both thick steel slabs (standard today) and thin ones (probably the choice of tomorrow). Mr. Grow says that dual capability will enable Geneva "to maximize what we have today and be ready for the future."

Mr. Cannon is especially proud of his environmental projects. They are so effective that government officials have visited the plant for advice on eliminating coke-oven emissions, a major industry headache. He brags that Geneva is meeting stringent air-emission standards that won't become law for years. "I challenge anyone on the face of this planet to do more and still remain profitable," says Mr. Cannon, who bought Utah's first commercially available natural-gas car.

Yet, in this pristine setting at the base of the purple Wasatch Mountains, Geneva remains, perhaps inevitably, a big, ugly steel plant. Environmentalists and some local politicians have held Geneva-bashing news conferences starring Robert Redford, the actor, environmentalist and operator of the nearby Sundance ski resort.

Dealing with the mill's bad image may prove tougher than taking on Big Steel, Geneva has hired pollsters to gauge public perceptions of its environmental record and has held community focus groups. And to help decide where to plant shrubs, it is turning to Henry Arnold, the Frank Lloyd Wright of landscaping. "We may even start to look nice," Mr. Cannon says.

MISCLASSIFICATION OF WORKERS ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. LANTOS. Mr. Speaker, yesterday I introduced H.R. 3813, the Misclassification of Workers Act, which is intended to remedy a serious, widespread, and growing problem. My distinguished Republican colleague on the Government Operations Employment and Housing Subcommittee, Mr. SHAYS of Connecticut, who has provided active leadership on this issue, joins me. I am also joined by two other members of the subcommittee, Ms. DELAURO and Mr. MARTINEZ.

Employers' misclassification of workers as independent contractors, when they are actually employees, impacts adversely on businesses which lose out to illegitimate competitors, or workers who lose benefits and legal protection such as unemployment insurance and workers compensation, and on the public treasury—all of us as taxpayers who must make up for the deficiencies caused by those who cut corners or cheat.

The Employment and Housing Subcommittee, which I chair, as well as the Commerce, Consumer and Monetary Affairs Subcommittee of Government Operations and the Small Business Committee, have all held hearings on aspects of this problem. There is wide agreement that legislative action is required, even overdue.

Although employers and unions in the construction industry have been the most vocal in bringing this issue to our attention, we have also found misclassification to be a real problem in other industries ranging from health care to building maintenance. Bona fide independent contractors will—and should—continue to function as such. But far too often employers use misclassification of their employees as a device to escape liability for Social Security and unemployment compensation taxes, to avoid overhead costs associated with withholding of income taxes and wage and hour compliance, and to escape other provisions of the safety net which we have developed to protect American workers. The workers may not know, until misfortune strikes, that they are not covered by unemployment insurance, workers compensation, or even Social Security.

We have a rare opportunity to increase Federal revenue by a significant amount while simultaneously helping honest businesses and protecting workers. In 1984 an Internal Revenue Service study found one in seven workers misclassified as independent contractors, which represented several billion dollars in lost revenue. That was based on employers who filed the required information tax returns, but we have no estimate of the hidden portion of the iceberg, those employers who do not inform IRS that they have made contractor payments. And in Illinois it was found that $50 million in unemployment compensation taxes was due, two-thirds of it because of misclassification. So State treasuries are losing legitimate revenue also.

In 1978 Congress enacted Section 530 of the Internal Revenue Act as a temporary protection against some overzealous IRS assessments in reclassification cases. By now this safe harbor provision can no longer be considered an appropriate remedy. This bill proposes to modify it.

Recognizing that many employers have, in good faith, relied on section 530 to protect their misclassification of workers, this bill provides to such employers an amnesty for back taxes and penalties. It would prohibit future misclassification on the sole—presently permissible—basis of a prior IRS audit which happened not to challenge such classification. It would debar from Federal contracts, for 2 years, companies which have willfully misclassified their workers.

In addition, following the lead of California and Connecticut, it would give a private right of action to bidders on Federal contracts who lose out to those who misclassify employees as independent contractors. Such companies have the motivation and the resources to pursue illegal competitors and thus augment the Government's enforcement efforts.

Mr. Speaker, I believe that this measure will improve revenue collections, reduce the incidence of inequitable tax administration, assist legitimate businesses, and help to implement the economic safety net we want for our work force.

INTRODUCTION OF THE URBAN UNIVERSITIES COMMUNITY REVITALIZATION ACT

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. MOODY. Mr. Speaker, today I am introducing legislation with Chairman MOAKLEY that will help urban universities eliminate crime in their communities. The Urban Universities Community Revitalization Act will provide grants to urban universities for implementation of a comprehensive program to work with their communities to solve campus and city crimes and address their root causes.

Urban universities have increasingly suffered because of the growing problems of urban crime and deterioration. We are all painfully aware of the expanding crime rates in our cities. In my district, the city of Milwaukee has experienced an increase of about 47 percent in violent crimes between 1989 and 1990. No neighborhood is completely safe and the university campuses are no exception. Universities are concerned about protecting their students and providing a safe environment so students can concentrate on their studies.

Many universities across the country have responded by working with their communities to improve their neighborhoods. A university in my district, Marquette University, has developed a program to combat the crime surrounding the Marquette University. Students at this campus have been victims of muggings, armed robberies, and even murders.

Marquette's plan focuses on campus security, neighborhood development, and community services. The Marquette plan addresses the underlying causes of crime and makes use of the skills of the university to help fight them. Marquette's program is enjoying support from the city of Milwaukee, local businesses, and the people in the community. In addition, the university's plan is giving its students practical experience delivering community service and at the same time improving the students' community.

Universities across the country need to develop and expand on programs like Marquette's. Congressman MOAKLEY and I would like to ensure that there is a Federal role in these campus crime programs. The Urban Universities Community Revitalization Act will allow the Secretary of Education to give 5-year grants of about $4,000,000 per year to eight institutions in urban settings with documented campus and community crime problems. Grantees would have to design and implement programs in institutions of higher education and the communities of which they are a part to address pressing and severe crime problems, and their causes—poverty, unemployment, illiteracy, drug and alcohol abuse, and increasing school dropout and teenage pregnancy rates.

With the Urban Universities Community Revitalization Act we can make an impact on both universities and their communities. This is a practical approach to a severe problem. Please join us in supporting this legislation.

WELCOMING HIS HOLINESS ALEXIS II, PATRIARCH OF MOSCOW AND ALL RUSSIA, PRIMATE OF THE RUSSIAN ORTHODOX CHURCH

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. ROE. Mr. Speaker, our world finds itself in a time of great changes and for many throughout the world it is a time of new-found freedoms. The most startling example of this is, undoubtedly, the blossoming of liberty and democracy across Eastern Europe and the Soviet Union. For the past several days, our Nation has been blessed with the presence of His Holiness Alexis II, Patriarch of Moscow and all Russia, Primate of the Russian Orthodox Church. This visit would have been unheard of only a few short years ago and marks a remarkable awakening for the faithful Christians of the Orthodox Church around the world.

On Saturday, November 23, there will be a farewell event marking the end of this historic pilgrimage held at SS. Peter-Paul's Russian Orthodox Cathedral Cultural Center in Passaic, NJ. There is a thriving community of faithful parishioners in my congressional district and the northern New Jersey area devoted to the Orthodox Church. This gracious visit by His Holiness, the first to America in 85 years by a patriarch of the Russian Mother Church, is truly an inspiration to the over 1 million members of its daughter institution the Orthodox Church of America.

His Holiness, Alexis II arrived in the United States on November 8 and for the past 2 weeks has traveled and met with numerous religious and civic leaders from the United

States and Canada. His Holiness is the spiritual leader of over 70 million Christians in the Soviet Union. For almost 75 years, the Russian Orthodox Church and religious belief of any kind has suffered under the tyranny of Communist oppression.

Mr. Speaker, I believe it is one of the most inspiring testaments to the strength and character of the Russian people that in spite of the determined efforts of a hostile and unscrupulous government, faith in God and religious conviction have remained alive and well in the Soviet Union. Once jailed for his religious convictions, Patriarch Alexis II is leader of a newly invigorated Russian Orthodox Church which has been recognized by the Soviet Government for the first time as a legal entity.

As we are painfully aware there will be difficult times ahead for the Soviet peoples. The Russian Orthodox Church will undoubtedly be the source of spiritual comfort and leadership which will be essential in making these days a start toward a better way of life.

Mr. Speaker, I am proud that constituents in my district and throughout northern New Jersey will have the opportunity to extend our warmest appreciation and strong admiration to His Holiness, Alexis II. This historic visit cements the tie between the faithful of the Orthodox Church and in so doing it forms an important bridge between our two nations which for so long were separated by a curtain of mistrust and suspicion.

it is faith in God and the future which sustains people during troubled times and as our world passes through the pains of change and growth, that faith will be the beacon which will illuminate our path.

Mr. Speaker, I am sure you and all my colleagues here in Congress join me in welcoming His Holiness, Alexis II to our country, God's speed on his journey home and all God's continued blessings in the future.

ANALYSIS OF THE PROPOSED MEXICO FREE-TRADE AGREEMENT

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. WOLPE. Mr. Speaker, as the Bush administration continues to negotiate a free trade agreement with Mexico under the so-called fast-track authority, I want to call your attention to an article written by a distinguished professor of economics at Kalamazoo College, Dr. Frederick Strobel. In his article, Dr. Strobel argues that the proposed trade pact with Mexico could have a profoundly negative impact on middle-class families. We all ought to take cognizance of Dr. Strobel's assessment that "the virtues of a free trade treaty do not outweigh the vices." I commend his analysis of the proposed Mexico Free-Trade Agreement to you.

[From the Newark (NJ) Star-Ledger, Sept. 8, 1991]

TRADE PACT WILL SPEED DECLINE OF MIDDLE CLASS

(By Frederick R. Strobel)

Since 1973, the American middle class has suffered its most significant decline in relative size and living standards since the Great Depression. It has lived with increasing job insecurity and falling real family incomes, despite the presence of far more two-earner families, and has seen middle-aged white collar unemployment invade its ranks. More than ever, members of the middle class are haunted by the foreboding spectre of sliding into the lower class.

While the causes of the American middle class decline are complicated and varied, the common ingredient has been the inability of labor to bargain effectively with capital, as represented by management. Further, management is more and more represented by the United States government, which has pushed the extension of free trade for the benefit of profit income but with a general disregard for labor income. The once-healthy income of the American worker has been shot full of holes by three factors that bear heavily on the proposed free trade pact with Mexico.

First, foreign imports during the 1980s grew at twice the rate of exports, decimating American manufacturing and eliminating many middle-class jobs. It's true that such imports provide what economists fondly term "consumer surplus." However, one must also ask if an abundance of cheaply priced imported goods outweighs the negative effect on the wages of workers.

The behavior of real wages in manufacturing in the 1980s attests to the conclusion that it does not. While American manufacturing productivity grew strongly at close to 4 percent annually in the 1980s, real manufacturing compensation barely rose, at less than 0.5 percent per year.

A second inevitable result of a Mexican free trade treaty would be the exodus of many U.S. manufacturing firms to Mexico to take advantage of its cheap labor. Such goods could then be shipped back duty-free under a free trade treaty. Already automobiles are a leading import from Mexico, even under the so-called "nonfree trade" situation.

In addition to causing U.S. job losses, such a movement of American industry to Mexico would do little to enhance American competitiveness in our ailing durable goods industries. If American industry continues to simply seek out the panacea of lower-cost labor as a means of survival, then it is, indeed, clearly unwilling to make the technological improvements in product quality that ensure long-term success.

Third, by allowing a free trade treaty with Mexico the U.S. government would be performing an inhumane service to its citizens. Why is the American per capita wage approximately 10 times higher than Mexico's? The answer is simple. We are a developed country, with developed institutions, one that, at least in former times, looked after its population. We have tried to ensure fair income distribution, good schools, safe streets and reasonably clean air. All of this costs money, willingly paid for by taxes on a healthy middle class.

But now the United States, struggling to maintain these middle-class institutions, is finding its labor in competition with an overpopulated country with a huge underclass and only a tiny middle class. Such a country has poor schools, lax environmental and safety standards, and a rampant history of corrupt, nondemocratic governments. Since free trade tends to equalize the wages of the trading countries, the likely result will be an erosion in American wages as Mexican wages rise.

While we applaud the gains of Mexican workers, this is not our primary concern. The American middle class can no longer stand further wage and family income cuts. From 1949 to 1988 corporate income taxes collected fell from 28 percent to 10 percent of all federal revenues over the period. The difference was made up by personal and (regressive) Social Security taxes—paid primarily by the beleaguered middle class. Protecting this group; the backbone of our nation, should now become the primary objective of American policymakers. Sadly, it is not.

The AFL–CIO opposes the Mexican-American free-trade treaty because it rightly fears that American firms will pick up and move to Mexico. Free-trade advocates counter that American manufacturers are bound to seek low-cost labor somewhere, and it is better that they seek it in Mexico than in Southeast Asia. However, this position ignores the fact that massive tax cuts were given to American manufacturers in the 1980s so they could invest in new plants and equipment within the United States and thus create more American jobs. By and large, it didn't happen.

American businesses violated the social contract (tax breaks in exchange for domestic investment) by investing abroad at record rates. Given this betrayal, the Congress should consider restricting the unrestrained mobility of American capital.

While there may be some benefits to the United States in terms of cheaper imports and even new jobs created to expand exports to Mexico, the virtues of a free trade treaty do not outweigh the vices. Even if the treaty were beneficial on balance, the case has not been made as to the distribution of the fruits of free trade. Most likely, the middle-class paycheck will continue to stagnate, or shrink, as new profits are translated into higher incomes at the upper end of the wage scale. (As it is, American CEOs and boards of directors have much higher salaries than their Japanese and German counterparts.)

What is certain, however, is that the American middle class has been steadily shrinking in size and real income since 1973. Free trade with the massively overpopulated and underdeveloped nation to the south will only speed this decline.

ANNA MORAN NAMED TO RECEIVE THE 1990–91 SALLIE MAE TEACHER TRIBUTE AWARD

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, today I wish to pay tribute to an individual who has dedicated over 24 years of her life to teaching the children of this great Nation. For Mrs. Moran's tireless efforts she has been named by the Student Loan Marketing Association (Sallie Mae) as one of 62 teachers nationwide to receive the 1990–91 Sallie Mae Teacher Tribute Award.

Each winner of the award is an educator who has inspired a former student to enter the field of teaching. Winners were nominated by recipients of the companion Sallie Mae First-year Teacher Award as the elementary or secondary teacher who most influenced their decision to pursue a career in education. Mrs. Moran was nominated by Paula Fernandes, who was a seventh grade student of Mrs. Moran at Holy Name of Jesus in Chicopee, MA.

Mrs. Moran started her teaching career in 1967 at St. Louis Park, MN. She then moved on to teach at Wurzburg American High School and Nuremburg American High School both in West Germany. Where she taught the children of our service men and women. After the 4 years in Germany, in 1974 she returned to Springfield, MA; where she was born and raised. Mrs. Moran now resides in Chicopee, MA and is teaching at the Holy Cross School, Springfield, MA and all of her students are benefitting from her return.

Mr. Speaker, as a former teacher I know how much time and effort to plan the agenda of each class and yet how rewarding all that time is when you see the classroom leaders of today become the world leaders of tomorrow. I extend my congratulations to Anna Moran. I am sure she will continue to inspire her students for years to come.

INTRODUCTION OF LEGISLATION TO LIMIT INFLUENCE OF PAC'S

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Ms. SNOWE. Mr. Speaker, today I am introducing legislation to reduce the influence of Political Action Committees [PAC's] in Federal elections and to restore the importance of individuals in campaigns.

Across the Second District of Maine, and across the country, the public has been expressing their frustration with a campaign finance system they see as putting special interests in front of their own. They are demanding, and I hope Congress will be able to deliver, a comprehensive reform of this system.

PAC's have supplanted individual contributions as the dominant source of campaign funds. In 1974 House candidates received 17 percent of their total funding from PAC's; in 1988 that total had risen to 48 percent. During that same time period individual contributions declined from 73 percent to 46 percent. In order to address this trend effectively, my bill would reduce the amount of money a PAC could give a candidate from $5,000 to $1,000. This would put the maximum PAC contribution on par with the maximum individual contribution.

In order to encourage individuals to renew their participation in the political process, my bill would provide a tax credit for contributions up to $100 for individuals and $200 for those filing a joint return. The tax credit applies to contributions to House candidates running for the seat in the district in which the individual resides.

In order to offset the cost of this tax credit, the bill repeals the alternative minimum tax preference granted for intangible drilling costs for oil and gas operations included in the Omnibus Budget Reconciliation Act of 1990.

In the 6 years prior to the 1990 election, House incumbents raised seven times more from PAC's than the amount given to challengers. Lowering the amount of money a PAC can contribute to a candidate should also improve the competitiveness of House races.

To further reduce the role PAC's play in raising funds, the bill I am introducing today prohibits bundling. Bundling is used by PAC's to circumvent the $5,000 limit by collecting checks made out to the candidate and forwarding them under the PAC's letterhead.

This bill also prohibits leadership PAC's. In the 1988 election cycle, 40 Members of Congress and over half the Presidential candidates had personal PAC's.

Article I, Section 2 of the Constitution states that the House "* * * shall be composed of Members chosen every second Year by the People of the several State,* * *" Reforming our campaign finance system to replace the emphasis of PAC participation with individual participation, will allow us to meet the original intent of this provision.

HONORING THE ACHIEVEMENTS OF MARILOU EDWARDS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. SKELTON. Mr. Speaker, I take this means to congratulate Marilou Edwards of Lexington, MO, for being 1 of 10 recipients of the Governor's Adult Leadership Award presented recently during the Missouri Community Betterment Conference. Mrs. Edwards, wife of Lt. Comdr. John R. Edwards, received this award based upon her involvement with the restoration of the Lexington Historical Association's log house and involvement in the Lexington Child Advocacy Council.

Marilou Edwards is truly a lady who brings distinction to the words civic leadership. She has made a major contribution to the city of Lexington and I congratulate her on this well deserved honor.

TRIBUTE TO FRINNA AWERBUCH

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. GREEN of New York. Mr. Speaker, I rise to recognize my constituent, Ms. Frinna Awerbuch, a refugee from World War II, who, since her emigration from Russia to the United States, has dedicated her career to instructing New York's most talented young pianists.

More than two decades ago, Ms. Awerbuch founded an international piano competition which offers monetary prizes to rising pianists as well as an opportunity for the winner to perform in prestigious Carnegie Hall. As a result of her efforts, young pianists from across the United States have excelled and established stellar careers.

Ms. Awerbuch arranges for the competitors to offer free concerts open to the public so that New Yorkers of modest means may have the opportunity to hear quality classical music. As an accomplished performer herself, Ms. Awerbuch donates additional time to play for various audiences.

As Frinna Awerbuch has chosen to retire from the piano competition, I should like to take this opportunity to commend her for dedicating her career to both musical excellence and public awareness of classical music. Finally, I should like to wish her a happy 90th birthday and all the best for a long and healthy retirement.

TRIBUTE TO DOMINICK CIAMPA, HON. CHARLES J. HYNES, AND ANNIE B. MARTIN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Dominick Ciampa, president and chief executive officer of the Ciampa Organization, the Honorable Charles J. Hynes, Kings County district attorney, and Ms. Annie B. Martin, trustee of the New York City Central Labor Council, who are being honored on November 21, 1991, by Outreach Project, for their dedication to the prevention of drug abuse.

Since 1979, Outreach Project has provided drug and alcohol treatment services to high-risk youngsters and their families. Mr. Ciampa, Mr. Hynes, and Ms. Martin, have all contributed greatly to the fight against drug and alcohol abuse.

Mr. Dominick Ciampa is the president and chief executive officer of the Ciampa Organization. As president of the Queensborough Chamber of Commerce and as founder and past-president of the Queens County Builders & Contractors Association, he has worked hard to combat the threat of substance abuse and serve as a positive role model for the community.

Kings County District Attorney Charles J. Hynes took office on January 1, 1990. A St. John's University alumnus, he had served as the special State prosecutor, New York City fire commissioner and bureau chief of rackets at the Kings County district attorney's office. He has had a long history of fighting drug trafficking. In 1985, Gov. Mario Cuomo appointed him New York City corruption special prosecutor. Eighteen months later, his office probed the 77th Precinct scandal in Brooklyn. Police officers were indicted for stealing drugs and money from drug dealers and reselling the drugs. Sixteen police officers were removed from the force. He has served as a spokesman for the intolerance of corruption and drug abuse in the city of New York.

Ms. Annie B. Martin is a tireless, consummate leader working in the ranks of labor and civil rights with an unshaken commitment to equal opportunity for all Americans. Her dedication to such a cause has led her to be elected president of the New York Branch NAACP. Through her tireless efforts, she works hard to help remedy the conditions of those often too powerless to help themselves in the New York area. She has worked hard to aid in the cause of combating drug and alcohol addiction.

These three individuals should be honored for their dedication and hard work. They also serve as role models, demonstrating that caring people can make a difference in fighting what is adverse in our society. I ask you all to join me in honoring these three individuals for their tireless devotion to the cause of Outreach Project.

DEDICATION OF ABE SHERMAN DORMITORY, MONTROSE MILITARY RESERVATION

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mrs. BENTLEY. Mr. Speaker, on Saturday, July 27, 1991, I had the pleasure of attending the dedication of the Abe Sherman dormitory at the Montrose Military Reservation near Owings Mills, MD.

It was right, fitting and proper that we gathered to honor Abe Sherman in the presence of many new young second lieutenants, for Abe Sherman is a good role model for one starting out on a new military career.

I remember Abe Sherman, as most of us "old timers" do, as the feisty new store owner on Park Avenue in downtown Baltimore. Abe was a good friend of mine, and would clip and save articles of interest to me on the port and other maritime subjects, for which I was always grateful.

I remember also, however, when he had the old news kiosk in front of the courthouse that caused an interesting battle between him and a member of my party, the late Republican mayor of Baltimore and Governor of Maryland, Theodore Roosevelt McKeldin.

The were both characters, and I was glad to know both of them, but they both had character, too, and this is why we assembled to honor Abe Sherman.

He was a veteran of the Maryland 29th Infantry Division in both world wars against Germany. He fought the Kaiser's troops in World War I and came home to his wife and family. Then, at age 43 when World War II broke out, he joined the 29th again to fight Hitler's Nazis, and earned the Silver Star for bravery in action after landing in France during the D-Day invasion of Normandy.

His son, the genial Phil Sherman, is also a role model for those embarking on military careers, a man of whom his father was proud, both as an attorney and as a brigadier general in the Maryland National Guard in his own right. General Sherman also is a former gasogene, or president, of the Six Napoleons, the local Sherlock Holmes Society, of which he has been a member for several years. A gasogene, by the way, is a device used by the Victorians to make coffee in London in those days.

Sherlockians, as they are called, sincerely believed that Holmes was a real person. The tales of his derring-do are called "adventures," and not stories, because they believed they really happened. Nor do they believe Holmes ever died, "For his obituary would have been in all the papers. He is merely retired, raising bees in England."

Likewise, the legend of Abe Sherman—the famed "stripeless Sergeant" of World War II who refused promotion time and again—is also alleged to have died in 1987, but his spirit is alive and well and with all of us here today.

I salute his memory and the inheritors of the great tradition of the Shermans and of Operation Desert Storm, in which so many Marylanders played vital parts.

INTERNAL REVENUE CODE PROVISION BENEFITS BOTH PUERTO RICO AND UNITED STATES

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. FUSTER. Mr. Speaker, I rise today to point out to my colleagues another example of the success story that section 936 of the Internal Revenue Code has been to Puerto Rico over the years, and, moreover, to the best interests of the United States in the Caribbean Basin. I do this, Mr. Chairman, because sometimes few of my colleagues do not recognize the many positive aspects of this program, which has been of crucial importance to the continuing economic development of Puerto Rico and which shows great promise to spur U.S. policy objectives in the Caribbean.

Indeed, Mr. Speaker, since Puerto Rico began its program in 1985 to assist the U.S. Government in promoting economic development in the Caribbean Basin, 95 projects have come to fruition, creating 20,940 jobs in the Caribbean and a related 2,289 jobs in Puerto Rico. Through October 1991, a total of $660.6 million in section 936 funds have been invested in Caribbean Basin Initiative countries.

Puerto Rico's assistance has taken many forms, from alerting potential investors of business opportunities, to setting up twin plants for manufacturing, to the lending of investment funds. Mr. Speaker, now comes new word of a further development that should interest my colleagues. Caribbean Basin Partners for Progress, Ltd. [CBPP], a partnership comprised of corporations with operations in Puerto Rico under section 936, has announced its first 936/CBI lending transaction of $520,000 to a small Dominican Republic apparel manufacturer. The financial assistance provide by CBPP will result in the creation of 400 new jobs.

This last category of assistance was slow in getting started but in the last couple of years the trickle of investment funds out of Puerto Rico has turned into a virtual torrent. These funds, Mr. Speaker, most of which originated with U.S. corporations manufacturing in Puerto Rico under section 936, are rapidly establishing themselves as an essential element of U.S. development policy in the Caribbean Basin. From its slow beginning the volume of investment has already grown to a level that exceeds almost everyone's expectations. Through October 1991 a total of $660.6 million in 936 funds have been invested in CBI countries. Mr. Speaker, this constitutes 74 percent of total CBI investments made through the auspices of Puerto Rico's Caribbean Development Program and a substantial share of all new investment in the region. With the institutions now in place and the experience that has been gained, the pace of investment can only be expected to quicken in the years ahead.

The slow pace of initial investment had various causes. In the first place, until the Tax Reform Act of 1986 was passed, the terms of section 936 required that all profits accumulated in Puerto Rico under that provision had to be either reinvested in Puerto Rico or sent back to affiliated U.S. companies. That prevented the lion's share of financial capital in Puerto Rico from being made available to the Caribbean. The Reform Act broadened the category of eligible reinvestment locations to include all countries covered by the Caribbean Basin Initiative whose governments had signed a tax information exchange agreement—TIEA—with the U.S. Treasury. Because only two CBI countries had worked out such agreements by the time of the bills passage, this provision, too, served as a substantial impediment to investment. Progress has been understandably slow, but now a total of nine CBI countries, encompassing most of the region's population, have signed TIEA's. To date, Mr. Speaker, 7 of them have already received loans of 936 funds.

The Congress also wanted to make sure that the funds were not simply arbitraged from Puerto Rican financial institutions through Caribbean financial institutions, so the Reform Act required that 936 loans be either made directly for productive activities in the private sector or for the government infrastructure projects. The U.S. Treasury was given the task of creating implementing regulations, and that, too has been a slow process.

For their part, the government of Puerto Rico and the Commonwealth's private financial institutions have found themselves exploring new ground in creating new institutions to best mobilize 936 funds for Caribbean investments, while the CBI countries have had to work to identify worthy eligible activities. In January 1990, the Puerto Rico Government created the Caribbean Basin Project Financing Authority, better known by its Spanish-language acronym, CARIFA. CARIFA sells bonds directly to 936 funds for the exclusive purpose of financing Caribbean projects.

The one continuing complaint that has been heard from the Caribbean—and it will have a familiar ring to anyone who has ever been involved in economic development—is that while 936 loans have been cheaper than the average business loan, they have not been easier to get, especially for small business ventures. That's why the announcement of the first small loan made by the Caribbean Basin Partners for Progress is so important. We expect it to be the first of many of its type, giving new hope to what can and should be the region's most dynamic sector.

Mr. Speaker, section 936 is already the cornerstone of Puerto Rico's economy. With continued cooperation from the executive and legislative branches of the Federal Government it is well on its way to assuming a similar position of importance in the entire Caribbean Basin.

A TRIBUTE TO YOUTH VOLUNTEERISM IN ORANGE COUNTY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. GILMAN. Mr. Speaker, I rise in the well of the House today in order to bring to the attention of my colleagues the work being accomplished by numerous youth volunteers in my congressional district in Orange County, NY. During this holiday season, a time of giving and sharing, it is indeed an honor to inform my colleagues that service to others and to the community is alive and well, and is in fact flourishing in the mid-Hudson Valley in the great State of New York.

The services rendered by these Orange County young people have included peer counseling, fire and substance abuse prevention, church, sports and other community activity services, as well as numerous youth-in-government programs. There are more than 100 Orange County volunteer youths in these programs including: Andrea Martinez, Cassandra Helt, Jessica Nutley, Michael Regan, Jennifer Brown, Anthony Losocco, Aric Gorton, Brian Whitney, Kevin Camisi, Kris Anderson, Antoinette Appel, Kevin Dehrent, Mahagony Walker, Judy Cushing, Anita Athougies, Michelle Boxman, Michele Irizarry, Susie Sohn, Amy Thompson, Kenni McGrath, Tanya Realmuto, Anthea Martinez, Marilyn Brozychi, Sara Kesten, Patty Gray, Christine Fell, Brian Fried, Jennifer Halks, Jennifer Lyons, Josh Walker, Flo Shoebottom, Jill Canzoneri, Kristen Dietz, Andrea Martinez, Sid Teshome, Mary Devery, Sonia Alders, Katie Degan, Michele Boxman, Allison Frey, Sue Ellis, Todd Canterino, Kathy Green, Tammy Heady, Laura Borden, Stacey Kahnert, Dawn Rojas, Monica Seeley, Kristen Milione, Kristine Kosar, Sherri Vasta, Kim Osweiler, Christine Nicholson, Sarah Mortenson Janine Lawler, Chandra Ptak, Terri Fehn, Stephanie Haley, Erin Kirby, Aileen Kelly, Kristi D'Aliso, Kerry McPartland, Jill Trippi, Keziah Lain, Regina Mian, Brieanne Panuto, Tina Krawcyk, Jazmine Lanolitz, Sarah Quirk, Jackie Palermo, Sara Wilbur, Mary Jo Erato, Chip Ziem, Linda Federizzi, Erin Walker, Kerri Owens, Ananda Krob, Erica Harris, Missy Noeth, Sherri Budd, Gerald Worden, Aubie Birnbaum, Sara Weymer, David Cherry, Andrew Deblock, Rebecca Gumaer, Sharon Dziuba, Dana Hargrove, Erin McNally, Ann D'Angelo, Danielle Daling, Luther Gilcrest, Brian Parella, David Zubikowski, Donald Swanerbury, John Moeller, Jane McNulty, Greg Minetos, Duane Martel, Megan Michelitch, Jaclyn Miedema, Kerry McParland, Antoinette Cirucci, Amy King, Amy Ligenzowski, Shioban Magee, Liz Scala, Karen Papp, Peter Reese, Mary Rickard, Hilda Louis Perez, Ann Olden, Karl Nrabenet, Ryan Poley, Clark Walters, Laura Privitera, Jared Roscher, Jessica Callihan, Breanne Roberts, Rick Dedford, James Phaneuf, Amy Macentee, Christian Shultz, Billy Cardone, Christine Swanson, Peter Staritz, Marjorie Barnum, Melissa Zambrana, Rececca Moore, and Rena Migdel.

Mr. Speaker, it is indeed an honor to recognize all of these caring, outstanding youths from our Orange County communities. If these dedicated young people are an example of what lies ahead for the future of our Nation, and I believe they are, it is indeed gratifying to learn of their tireless efforts on behalf of others in their community.

Mr. Speaker, I invite my colleagues to join with me in offering our congratulations to all those named volunteers and let us challenge them to keep up their good work!

IN RECOGNITION OF WALDO H. BURNSIDE'S LEADERSHIP IN CALIFORNIA'S TRANSPORTATION SYSTEM

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. DIXON. Mr. Speaker, I am honored to rise today to recognize the work of a prominent leader in the Los Angeles business and transportation communities, Mr. Waldo H. Burnside. Mr. Burnside is stepping down as chairman of the Greater Los Angeles Transportation Coalition [GLATC]. I am confident that he will continue his efforts on behalf of the Los Angeles Metro system and continue to be a strong supporter on the importance of investing in an integrated transportation system which seeks to ensure the economic health and vitality of our State.

For over 7 years, Mr. Burnside has been an important part of the tremendous effort to develop an integrated transportation system with the support of the Los Angeles business community. As chair and cochair of the Greater Los Angeles Transportation Coalition, he has played a key role in articulating to elected officials at the local, State, and Federal levels the strong support of our business community for the Metro Rail system and the ongoing need to relieve traffic congestion and improve air quality in the Los Angeles basin.

During the 1980's, the coalition of business, labor, and elected officials were critical to our success in winning Federal funding for the Metro Red Line. Mr. Burnside, along with Messrs. Ray Remy, president of the Greater Los Angeles Chamber of Commerce, and Ron Lamb, executive director of the Greater Los Angeles Transportation Coalition, were clearly instrumental in mobilizing the business community in support of the Metro Red Line. This project will provide the backbone for our overall rail system.

Mr. Burnside's contributions to the Los Angeles business community extends beyond his involvement in our transportation system. He served on the board of directors of Carter Hawley Hale Stores, where he previously was president and chief executive officer, and the board of directors of Security Pacific Corp., the Automobile Club of Southern California, and the Independent Colleges of Southern California, and as a trustee of the St. John's Hospital and Health Center Foundation.

Mr. Speaker, it is truly a pleasure to acknowledge the outstanding contributions of Waldo H. Burnside who has worked so selflessly behind the scenes to coalesce the Los Angeles business community on transportation issues. I look forward to his continuing leadership on these issues as we expand the Los Angeles Metro system and improve mobility and the quality of life for residents of the city of Los Angeles.

Mr. Burnside has been a tireless advocate, not only for the developing Metro Rail system, but also for necessary legislation and local and State ballot measures to fund and build the 300-mile rail system. This is best exemplified by his efforts in behalf of proposition C, the second local half-cent sales measure to fund rail construction and other transportation programs, passed by voters last November. Mr. Burnside was also part of the statewide business coalition that won approval of propositions 108 and 111, a 10-year transportation financing plan, approved in June 1990.

In addition to his distinguished 7-year tenure at the GLATC, Mr. Burnside has worked in support of transportation as chair of the transportation council steering committee of the Greater Los Angeles Area Chamber of Commerce.

TRIBUTE TO THE HONORABLE THOMAS M. MOORE

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. VALENTINE. Mr. Speaker, I rise today to pay tribute to Hon. Thomas M. Moore, of Wilson, NC, who died on August 10.

Thomas "Mickey" Moore was Chief Judge of the Bankruptcy Court, Eastern District of North Carolina, and a retired major general of the U.S. Army Reserve. He was also a close friend of mine. I knew Mickey Moore most of my adult life, and I take great pride in representing his home town and county in the U.S. House of Representatives.

Judge Moore attended Charles L. Coon High School, where he was a member of the varsity football and basketball teams. He was named the most valuable player on the 1945 high school football team. He attended the University of North Carolina at Chapel Hill and received an A.B. degree in 1950 and his law degree in 1952.

He was appointed part-time referee in bankruptcy on November 1, 1960, and served until 1976 when he was appointed a full-time bankruptcy judge for the Eastern District of North Carolina. On November 1, 1985, he was appointed Chief Judge of the Bankruptcy Court for the Eastern District of North Carolina, which is comprised of 44 counties.

As a legal scholar, Judge Moore set a high standard for fairness and equal protection under the law. His dealings with attorneys, plaintiffs and defendants were always honest and fair. Mickey Moore's patience, positive attitude and judicial temperament were recognized by all who knew and worked with him.

Judge Moore was instrumental in establishing both the bankruptcy section of the North Carolina Bar Association and the Eastern Bankruptcy Institute, an independent association of bankruptcy practitioners in eastern North Carolina.

Mickey Moore's contribution to the quality of life of North Carolina was not limited to his service on the bench. Judge Moore's military career began upon his graduation from the University of North Carolina. He entered the U.S. Army as a private and had completed most of his basic training when he received a commission in the Judge Advocate General's Department. He spent most of his active duty here in Washington at the Pentagon as a first lieutenant reviewing procurement contracts for munitions and missile parts.

Although he was released from active duty in 1954, Judge Moore continued his service to the Nation in the U.S. Army Reserve. He spent 28 years in the Army Reserve rising from battery commander to major general.

Mickey Moore was honored with the Meritorious Service Medal, the Army Commendation Medal, the National Defense Service Medal, the Armed Forces Reserve Medal and the Army Reserve Components Achievements Medal.

Judge Moore was a leader in the religious life of his church and community and an outstanding member of the Masonic Order.

Judge Moore's wife, Frances, his two children, Clifford Thomas Moore and Janis Moore Stephens, and his two grandchildren can be proud of his life and accomplishments. His attention to the needs of others, his compassion, honesty and good judgment benefited his community and his State.

I miss my friend Mickey Moore, but I take comfort in knowing that his contributions will live on. I take great pride in having known him.

NEW RULE ON MEDICAID NEEDS MODIFICATION

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. GINGRICH. Mr. Speaker, on Wednesday, November 6, I met with a group of about 50 Georgia hospital executives, State legislators, county commissioners, and State government officials. The Georgia Hospital Association organized a day-long effort to ask members of the Georgia delegation to go the extra mile in helping to block a new Federal rule. This rule, issued in September by the Health Care Financing Administration and clarified last week, would eliminate Federal matching funds for State Medicaid dollars raised through voluntary donations from Medicaid providers.

This voluntary donation program in Georgia is used to finance expanded health-care services for poor women and children, including birthing and parenting classes, prenatal and postpartum care, prenatal case management, and improved primary care.

Mr. Speaker, if this rule were to go into effect, it would cost Georgia more than $150 million in Federal Medicaid funds this year alone. I believe we need to withdraw or modify the rule, which is scheduled to take effect on January 1, 1992. I supported legislation introduced by Mr. WAXMAN, that would delay the implementation of the rule. I will work to override a veto of the bill if necessary. Let's not eliminate a program that works at providing health care to the poor and disabled.

A TRIBUTE TO DR. R. ADAMS COWLEY, FATHER OF EMERGENCY MEDICAL CARE

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mrs. BENTLEY. Mr. Speaker, the State of Maryland recently lost a truly very special man, Dr. R. Adams Cowley, father of the shock trauma program and emergency medical system.

Dr. Cowley is literally responsible for saving the lives of countless Marylanders and persons worldwide thanks to his contributions to medicine. It is with great sorrow and utmost respect and admiration for Dr. Cowley and his family, that I pay tribute to a visionary decades ahead of his time. A man whose idea of emergency care to save lives was right, a man who had the courage and strength of character to see his concept through to the end, to reality. He was dreamer who made his dream come true through sheer force of will, character, and persuasion.

As Marc Antony said of Julius Caesar in Shakespeare's immortal play, "When comes such another?" I do not believe we will see his like again in our lifetime.

As he himself told an interviewer in 1978, "In the traditional hospital set-up, the operating rooms and anesthesiologists are all busy, so what do you do? You wait!" He was asked, "And in your system, that doesn't happen?" He answered, "No, because we have everybody right there working. Our entire system is ready to go as soon as that helicopter lands here."

A decade later, he told the Maryland State Medical Journal, "We started moving patients in 1968 by military helicopter—bringing the patients to us. We worked with the Maryland State Police to use its helicopters. We discovered that 70 percent of all traffic accident mortality was rural. If we wanted to study shock, we had to have a way to get patients in—and nobody was going to give us any. We decided we'd have to work with the patients nobody else wanted * * *. The patients came to us dying, but—through the techniques we'd developed through working with animals—about half of the patients returned surviving."

By the time he was interviewed for the cover story in the official publication of Med-Chi, the State Medical Society—or the Medical and Chirurgical Society of the State of Maryland as it is officially known—Dr. Cowley had already been honored with the Distinguished Marylander Award from the Advertising Club of Baltimore, and many magazines and newspapers as well.

In all of that attention, however, it should be remembered that he wasn't above acknowledging the help he'd gotten along the way, as seen in this quote: "Had Gov. Marvin Mandel not intervened when he did, there would not have been a shock trauma program, nor a statewide EMS system in Maryland today."

Now, because of Governor Mandel, and his successors as Governor—the late Blair Lee III, Harry Hughes and William Donald Schaefer—and their support of Dr. Cowley, his system is literally the best on Earth—anywhere.

Let us remember Dr. Cowley for this signal achievement, and for his qualities as a man, a physician, and administrator. As he told the Journal 13 years ago, "There's four things I demand from people: loyalty, responsibility, and honesty, plus a desire to work—hard. I insist on quality and making the effort. The other thing I feel strongly about is attention to detail, and some people don't like to get caught up in pursuing that—but attention to detail has made it possible for us to develop innovative programs. I want dedicated people, and I think we have missionary zeal here. I personally interview all the MD's I hire."

Because of his contributions to medicine—and because he learned his techniques while serving as a U.S. Army surgeon in Europe after World War II—my office was able to have him honored with burial in Arlington National Cemetery, where rest our Presidents and most famous heroes.

He deserves no less. He leaves a legacy: the legacy of so many Marylanders and persons worldwide who would not be alive today. My thoughts and prayers are with the Cowley family and I am thankful that we all were blessed with such a spcial man.

MEDICARE CANCER COVERAGE IMPROVEMENT ACT OF 1991

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. LEVIN of Michigan. Mr. Speaker, I am pleased to introduce today the Medicare Cancer Coverage Improvement Act of 1991. This legislation proposes three changes in Medicare policy. These changes will result in significant improvements in the care for Medicare beneficiaries afflicted with cancer, and contribute substantially to our progress in conquering this disease.

The changes I propose are particularly timely this year, as we celebrate the 20th anniversary of the founding of the National Cancer Institute [NCI]. The ground-breaking efforts of the Institute, through the work of its dedicated scientists and the research it funds, have resulted in spectacular gains in the fight against cancer.

Too often, however, as the General Acccounting Office [GAO] discovered in its recent study of cancer treatment, Medicare reimbursement policies prevent cancer patients from receiving the full benefits of cancer research. This bill would eliminate counterproductive elements of those policies, and ensure that cancer therapy is guided by the best in medical practice, and not by inflexible payment rules.

The Medicare Cancer Coverage Improvement Act of 1991 would ensure that state-of-the-art care is available to Medicare cancer patients by providing coverage for oral anticancer agents that can be substituted for injectable forms of the same drugs. Medicare currently reimburses outpatient chemotherapy only where the products used to fight cancer are administered through injection. Coverage of oral anticancer drugs is precluded by the Medicare statute.

On its face, this policy, with no medical or scientific basis, severely restricts the treatment options available to cancer patients and their doctors, by depriving them of access to products that are available in oral, rather than injectable form. Perversely, Medicare's policy also has the effect of actually increasing the cost of cancer treatment is some cases. In situations where the same drug is available in both oral and injectable form, it creates a powerful incentive for physicians to opt for more costly administration by injection, and in some instances unnecessary hospitalization.

Less obvious perhaps, but no less significant, is the policy's potential effect on the research process. By paying only for injectable products, the effect of Medicare's policy may well be to encourage the development of injectable therapies and discourage progress on oral ones. Instead, we should be developing reimbursement policies that both expand access to life-saving therapies and promote scientific advances.

In addition, substituting oral for intravenous therapy would often result in less side-effects and a reduced travel burden for patients.

Blue Cross and Blue Shield of Michigan routinely pays for oral products that can appropriately be substituted for injectable versions of the same drug, even for patients who do not have outpatient drug coverage. They have this policy because they realize that expanding treatment options in this way can actually save money in the long run. But it only does so for patients covered under their private side of business. Medicare beneficiaries are denied this coverage.

The bill would begin to right these inequities in reimbursement policy by requiring Medicare to cover oral forms of injectable anticancer drugs. This change in policy would expand the treatment options available to patients, and at the same time avoid, where medically appropriate, the costs associated with chemotherapy by injection.

The second way in which this legislation would improve care for Medicare beneficiaries stricken with cancer is to cover all medically-accepted indications of anticancer drugs. Most cancers are treated today with chemotherapy, the cost of which is usually reimbursed by Medicare as incident to the physician's service. However, because research far outpaces the more formal drug approval process of the Food and Drug Administration [FDA], chemotherapeutic agents are quite often used to treat cancers not included in their FDA-approved labeling. Indeed, the GAO found that over half of all cancer patients receive chemotherapy which includes at least one drug used for a so-called unlabeled indication. In short, unlabeled usages often represent the state-of-the-art in cancer treatment, a fact recognized by the FDA, the NCI, and virtually every expert in the field of cancer.

Medicare itself currently covers such unlabeled indications if they are generally accepted within the medical community. This determination, however, is now made at the local level, by the insurance companies that act under contract as fiscal agents for the Medicare Program. The GAO found that this decentralized decisionmaking process produces wide regional variations in coverage of unlabeled indications, with the result that Medicare policy is frequently shifting and confusing. For this reason, the GAO in its report recommended that the Medicare Program establish uniform standards for coverage of unlabled uses of cancer drugs.

Michigan law has required coverage of unlabelled uses of cancer chemotherapy for the last 3 years. The benefits are clear and we should provide them to all of our citizens.

Medicare itself, however, has yet to act on the GAO's recommendation. Although the Health Care Financing Administration [HCFA] commenced a rulemaking on this important issue in January 1989, the rule is apparently bogged down in a bureaucratic quagmire, and there is no assurance that it will see the light of day any time soon. In the meantime, the treatment of thousands of Medicare beneficiaries hinges on the arbitrary and inconsistent decisions of Medicare's fiscal agents.

We simply cannot tolerate continued inaction on this important issue. There is no medical or scientific reason why Medicare cancer patients in one part of the country should enjoy the benefits of the latest research, while those same breakthroughs are denied to patients elsewhere.

To remedy this situation, the bill would establish a uniform policy by requiring Medicare to cover any use of an FDA-approved drug in an anticancer chemotherapeutic regimen that: First, appears in the drug's labeling; second, appears in the peer-reviewed medical literature; or third, is included, or has been approved for inclusion, in any of the standard medical compendia.

The GAO found that many physicians frequently admit patients who could otherwise receive chemotheraphy on an outpatient basis to the hospital—where coverage of unlabeled uses is more consistent—simply to circumvent Medicare's uncertain reimbursement policy. The bill would eliminate the need for this subterfuge, thereby avoiding the increased costs of hospitalization. Ensuring that Medicare's current coverage policy is applied consistently across the country will result in minimal costs and may even produce budget savings.

I would like to emphasize, finally, that the bill's focus on coverage of unlabeled indications in the treatment of cancer does not mean that Medicare may refuse to pay for accepted unlabeled uses of drugs in the treatment of other diseases. Medicare's current policy, in theory at least, is to pay for all medically accepted unlabled uses. In practice, as the GAO found, the program's compliance with its policy is uneven. Cancer patients are hurt by this situation more than any other group of beneficiaries, because they are the persons most likely to receive a drug prescribed for an unlabeled indication, cancer chemotherapy is often very expensive, and patients with cancer cannot wait for HCFA to act. Thus, cancer is addressed specifically in this bill. Medicare must nevertheless continue to cover medically accepted uses of non-cancer drugs.

The third and final way in which the bill works to improve the care available to Medicare beneficiaries who suffer from cancer is to require the Secretary of Health and Human Services to study the development of criteria for coverage of the patient care costs associated with clinical trails of new anticancer therapies.

Medicare, like most insurers, will not pay for care that is considered experimental. The practical effect of the policy is to deny coverage of the hospital and physician costs associated with clinical trails of new drug therapies. While this policy may make sense in the case of a disease for which there is a proven treatment, in the case of cancer the policy often works to deny patients access to state-of-the-art care.

Despite the great strides we have made in recent years in the diagnosis and treatment of cancer, it remains in far too many cases and incurable disease. There simply are no proven therapies for many kinds of cancer. For this reason, as the NCI has frequently stated, investigational treatment frequently offers the best—and perhaps the only—hope cancer patients have of beating their disease. Indeed, while participation in clinical trials may sometimes raise ethical issues for physicians and their patients, in the case of a cancer for which all proven effective treatments have been tried, it may actually be unethical for a physician to deny a patient access to a potentially life-saving investigational therapy.

Medicare's policy of not covering patient care costs associated with clinical trails thus forces patients either to play for these costs themselves, receive treatment that has been shown to be ineffective, or do without treatment altogether. This result is not only unfair to individual patients, it is counterproductive in a much broader sense as well. By systematically excluding a large population of patients from research on this disease, we may deprive future cancer patients of the opportunity to receive improved treatments—a situation that can harm us all. Several of our colleagues have been stricken—and succumbed—to cancer. Simple statistics say that they will not be the last of us to walk their path.

We need to investigate policies to ensure that Medicare beneficiaries will have access to investigational cancer therapies in appropriate circumstances. To this end, the bill requires the Secretary of Health and Human Services to study the effects of covering the patient care costs associated with clinical trails of new cancer treatments and recommend criteria for such coverage. The Secretary is directed to focus on participation in trials that have been scientifically validated, such as investigations that meet NCI or similar standards, including ethical review by an Institutional Review Board. The factors to be considered by the Secretary include the cost, if any, of such coverage; the extent to which these trials represent the best available care; whether progress against the disease would by assisted by such coverage; and whether special conditions should apply to participation, depending on the age and physical condition of the beneficiary.

Mr. Speaker, because over half of all persons with cancer in this country are aged 65 or older, Medicare is the primary source of health insurance for cancer patients. The changes in Medicare policy that I just outlined would go far toward assuring that these patients receive the state-of-the-art care that they deserve. We cannot afford to continue permitting payment policies to influence how individual cancer patients are treated, particulary when those policies may result in less than optimal care, and also have the effect of impeding our progress in fighting this disease.

Mr. Speaker, I insert a summary and test of the bill in the RECORD following my remarks:

SUMMARY: MEDICARE CANCER COVERAGE IMPROVEMENT ACT OF 1991

UNIFORM MEDICARE COVERAGE OF ANTICANCER DRUGS

Current Law: The Medicare program covers items and services that are "reasonable and necessary." A drug prescribed for an "off-label" indication (i.e., a use other than those specifically approved by the Food and Drug Administration) is considered reasonable and necessary if the unapproved use is accepted in the medical community. Medicare carriers determine whether a particular indication is medically accepted.

Proposal: Any use of an FDA-approved anticancer drug that is approved by FDA, appears in the peer-reviewed medical literature, or is included in one or more of the three major medical compendia is considered a medically accepted indication and must be covered.

COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS

Current Law: Medicare covers injectable drugs administered on an outpatient basis as incident to a physician's service. Medicare does not cover self-administered outpatient prescription drugs.

Proposal: An oral drug prescribed for a medically accepted indication in an anticancer regimen is covered if the drug contains the same active ingredient as a drug that would be covered if administered as incident to a physician's service.

STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF CANCER DRUGS

Current Law: None.

Proposal: The Secretary of Health and Human Services shall study the costs of patient care for Medicare beneficiaries enrolled in clinical trials of new cancer therapies (where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an Institutional Review Board) and develop criteria for such coverage.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Cancer Coverage Improvement Act of 1991".

SEC. 2. UNIFORM MEDICARE COVERAGE OF ANTICANCER DRUGS.

(a) IN GENERAL.—Section 1861(t) of the Social Security Act (42 U.S.C. 1395x(t)) is amended—

(1) by inserting "(1)" after "(t)";

(2) by striking "(m)(5) of this section" and inserting "(m)(5) and paragraph (2)"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) For purposes of paragraph (1) the term 'drugs' includes any drugs or biologics used in an anticancer chemotherapeutic regimen for a medically accepted indication as described in subparagraph (B).

"(B) The term 'medically accepted indication' means any use of a drug included under paragraph (1) which is approved by the Food and Drug Administration, which appears in peer-reviewed medical literature, or which is included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations and the United States Pharmacopoeia-Drug Information.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to items furnished on or after January 1, 1992.

SEC. 3. COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by adding "and" at the end of subparagraph (P); and

(3) by adding at the end the following new subparagraph:

"(Q) oral drugs prescribed for use in an anticancer chemotherapeutic regimen, for a medically indicated use (as described in subsection (t)(2)), if such drugs contain the same active ingredient that would be covered pursuant to subparagraph (A) or (B);".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1992.

SEC. 4. STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF NEW CANCER THERAPIES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the effects of expressly covering the patient care costs for medicare beneficiaries enrolled in clinical trials of new cancer therapies, where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an Institutional Review Board. The study shall include—

(1) an estimate of the cost of such coverage, taking into account the extent to which medicare currently pays for such patient care costs in practice;

(2) an assessment of the extent to which such clinical trials represent the best available treatment for the patients involved and of the effects of participation in the trials on the health of such patients;

(3) an assessment of whether progress in developing new anticancer therapies would be assisted by medicare coverage of such patient care costs; and

(4) an evaluation of whether there should be special criteria for the admission of medicare beneficiaries (on account of their age or physical condition) to clinical trials for which medicare would pay the patient care costs.

(b) REPORT.—The Secretary of Health and Human Services shall submit a report on the study required by subsection (a), including recommendations as to the coverage of patient care costs of medicare beneficiaries enrolled in clinical trials of new cancer therapies to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, not later then 2 years after the date of enactment of this Act.

LONG-TERM CARE INSURANCE STANDARDS ACT OF 1991

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1991

Mr. STARK. Mr. Speaker, I am pleased to introduce, along with my colleagues Mr. RUSSO, Mr. DONNELLY, Mr. COYNE, Mr. CARDIN, and Mr. MCDERMOTT, the Long-Term Care Insurance Standards Act of 1991—a bill to establish uniform, Federal standards for private long-term care insurance and provide meaningful protections to senior citizens and other policyholders.

The cost of long-term care poses a serious financial threat for the majority of senior citizens. The absence of a public long-term care program has created a terrible void for too many seniors and their families. Some attempt is being made to fill this void with a small but growing market for private long-term care insurance.

Private long-term care insurance will never be a solution for a majority of seniors. Few can afford a relatively good policy which, according to the Health Insurance Association of America, is priced at about $1,400 per year for a 65-year-old.

Keep in mind that those who buy long-term care insurance at $1,400 per year may have other, substantial out-of-pocket medical expenses. The majority of seniors buy Medigap policies—at well over $700 per year. They are also likely to have other medical bills—for instance, for prescription drugs, that are neither covered by Medicare, Medigap, nor private long-term care insurance.

At best, the private long-term care insurance market holds some promise for protecting the income and assets of relatively well-off older Americans. It will never be a comprehensive solution to address the Nation's long-term care needs.

Nonetheless, it is unfortunate for the minority of seniors that choose to purchase private long-term care insurance that a substantial portion of policies may be of minimal value to their policyholders.

The decision to purchase private long-term care insurance is a risky enterprise for the average consumer—about like buying a used car. Even the most well-informed insurance customer would have great difficulty deciphering the hidden loopholes, the vagaries, and limitations of many long-term care products on the market today.

At a hearing of the Committee on Ways and Means, Subcommittee on Health, held on April 11, 1991, numerous problems with private long-term care insurance policies were identified.

In general, the subcommittee found that the current voluntary approach to regulation is not working. According to the U.S. General Accounting Office [GAO], States are not in substantial compliance with the National Association of Insurance Commissioners [NAIC] standard.

The absence of uniform standards should not be surprising under the current voluntary system. State legislatures may pick and choose among NAIC's standards or reject such standards altogether. The NAIC simply issues model statutes and regulations as guidance to State regulators. States are ultimately responsible for the regulation of private long-term care insurance policies.

And what an abysmal job that States have done. As of late 1990, only 28 States have issued regulations for private long-term care insurance. According to the GAO, many States have not adopted the standard developed by the NAIC between 1986 and 1988.

Twenty-four States have not adopted guaranteed renewable requirements;

Eighteen States have not adopted standards disallowing Alzheimer's disease exclusions;

Twelve States do not prohibit coverage from being conditioned on prior hospitalization, and

Eleven States do not prohibit policies from limiting coverage to skilled care.

While the market would be greatly improved if all States adopted and enforced the NAIC's suggested changes, the existing NAIC model does not go far enough to protect consumers. In the absence of meaningful improvements in current standards, consumers will find themselves without adequate protection when it comes time to receive coverage under their insurance policy.

The problems highlighted at the subcommittee's April 11 hearing include, but are not limited to the following:

Inadequate inflation protection: One of the most serious concerns with long-term care insurance policies is the absence of adequate inflation protection.

According to testimony presented by Josh Weiner of the Brookings Institute, a consumer who purchases an unindexed policy today at age 50 with a $60 daily benefit and uses it at age 85 would have the same purchasing power as a person trying to buy long-term care today with a $10-per-day benefit.

Even a policy with a simple inflation adjustment places consumers at considerable financial risk. A policy with a benefit level that increases by a fixed amount per year will not keep pace with inflation.

Without adequate inflation protection, a long-term care policy provides only illusory coverage.

Today, only 14 States require any form of inflation protection. The NAIC has suggested that policies include a mandatory offer of an inflation rider. While this approach is better than nothing, it nonetheless allows insurers to offer an array of inflation indices which are more likely to assure confusion than good value.

Absence of benefits for lapsed policies: Another problem with the private long-term care insurance market is its relatively high lapse rates.

According to the GAO, among the 44 insurers interviewed for their study, the expectation was that 60 percent or more of their original policyholders would allow their policies to lapse within 10 years. One insurer expects an 89-percent lapse rate after 10 years.

Lapse rates are a problem for consumers because the vast majority of policies do not provide nonforfeiture benefits. Policyholders who drop their policies, either to buy better ones or because they are unable to afford a premium increase, are likely to lose thousands of dollars.

Ambiguous eligibility triggers and restrictive benefit descriptions: An area that has drawn increasing concern among senior organizations and consumer groups is the method of determining eligibility for coverage in private long-term care insurance policies. According to the GAO, a number of policies reviewed used criteria that were not defined or were defined in ways that could potentially be restrictive. This ambiguity puts the policyholder at a decided disadvantage when benefits are needed.

For example, policies may limit services to those that are considered "medically necessary"; however, some policyholders who need custodial, home, and community-based care might not qualify under the medical necessity criteria—even though they have serious physical or cognitive impairments.

Insurers are increasingly using limitations in activities of daily living [ADL's] as determinants of disability. While the use of ADL's represents an improvement over medical necessity standards, there are problems with the way in which ADL's appear to be used. Many policies do not specify which ADL's or the number of ADL's required in order for services to be covered. Furthermore, many policies do not state how ADL impairments will be evaluated by the insurer.

The use of ADL impairments as an exclusive determinant of eligibility also has the potential to create serious problems for patients with Alzheimer's disease. A policy that limits benefit to persons with ADL limitations may deny benefits to an Alzheimer's patient—because a substantial portion of people with Alzheimer's disease do not have serious ADL impairments. They may be physically able to eat, bathe, and dress despite severe cognitive impairments.

The GAO reported that benefit definitions were often restrictive. Of the 44 policies reviewed, 23 define levels of care restrictively, and 37 define facilities restrictively. These definitions have the effect of denying coverage of benefits typically offered to nursing home residents or reducing the number of nursing homes available to policyholders who would otherwise qualify for benefits.

Limited price regulation: States have given insurers broad discretion in establishing appropriate premiums for policies. The results, according to the GAO, is wide-ranging differences in premiums on virtually identical policies. Unfortunately, price is a poor proxy for value.

A related concern is with the possibility or probability that so-called level premiums may increase at some point in time after the policyholder purchases the policy. Companies with guaranteed renewable policies are free to raise premiums as long as they increase the premium for everyone else in the State with the same policy. The GAO reported an alarming number of requests for premium increases.

There is some concern that insurers are lowering their premiums in order to sell more policies. Once policyholders are locked in, the company is free to raise premiums. The policyholder is left with a choice: Either pay the higher premium or allow the policy to lapse.

Such an increase could pose significant difficulties for seniors. As policyholders age, they may be increasingly unable to afford unanticipated premium increases.

THE NEED FOR CONSUMER PROTECTION STANDARDS

Last year, the Congress enacted meaningful, Federal consumer protection standards for Medigap policies. Under current law, there are no Federal standards for private long-term care insurance.

There are a number of reasons for enacting Federal consumer protection standards for the private long-term care insurance market at this time.

First, as noted above, the States have done an abysmal job regulating the private long-term care insurance market.

Second, at a time when there is much confusion in the market, these standards would assure consumers that available policies meet minimum quality standards.

Third, minimum Federal standards will not discourage the development of new long-term care products. Rather, they will eliminate the bad apples in the private long-term care insurance marketplace.

This bill would provide important protections to seniors and others who purchase private long-term care insurance. I urge my colleagues to join this effort and support this bill.

A summary of the major provisions of H.R. — follows:

SUMMARY OF MAJOR PROVISIONS OF THE LONG-TERM CARE INSURANCE STANDARDS ACT OF 1991

1. FEDERAL STANDARDS FOR PRIVATE LONG-TERM CARE INSURANCE

a. Disclosure to consumers would be improved. An outline of coverage, with uniform language and format, would be provided to all applicants prior to sale. The outline would describe benefits, eligibility criteria, restrictions and other relevant terms of the policy.

b. Restrictive conditions on benefits would be eliminated, such as exclusions for coverage of Alzheimer's Disease, prior-institutionalization requirements and medical necessity criteria.

c. Preexisting condition exclusions would be limited to no more than 6 months. Post-claims underwriting would be prohibited.

d. Current policyholders would be offered an opportunity to upgrade to a policy that meets new Federal standards, without new pre-existing condition clauses or new underwriting restrictions.

2. INFLATION PROTECTION

a. Benefit payments would be increased no less than 5 percent compounded annually for life to account for inflation.

b. Inflation feature would be disclosed to consumers prior to sale.

3. NON-FORFEITURE BENEFITS

a. All policies in force for a minimum of three years would provide non-forfeiture benefits, based upon the amount of time the policy was in effect.

b. Non-forfeiture feature would be disclosed to consumers prior to sale.

4. LIMITS ON PREMIUM INCREASES

a. Premium increases would be prohibited for individuals age 75 or older.

b. Insurers would be required to disclose to consumers, prior to sale, the maximum annual premium increase and maximum lifetime premium.

5. SALES AND MARKETING PRACTICES

a. The sale of long-term care insurance policy that duplicates Medicare benefits to a Medicare beneficiary would be prohibited.

b. The sale of long-term care insurance policy to an individual, if the policy duplicates Medigap benefits to which the individual is already entitled, would be prohibited.

c. The sale of a long-term care policy to a Medicaid beneficiary, or a qualified Medicare beneficiary, would be prohibited.

d. High pressure sales tactics, cold lead advertising and twisting would be prohibited.

e. Limits on agent commissions would be established to minimize incentives to churn.

6. ADMINISTRATION AND ENFORCEMENT

a. The Secretary of Health and Human Services would promulgate regulations to implement federal standards of compliance within 180 days following enactment.

b. All policies issued after regulations are promulgated would be required to meet federal standards.

c. A 50 percent premium tax would be imposed on issuers of non-compliant policies.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 21, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 22

9:00 a.m.
Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To continue hearings to discuss whether to proceed to investigate circumstances relating to the release of the American hostages in 1980.
SD-419

9:30 a.m.
Foreign Relations
To hold hearings on the nomination of Frederick Vreeland, of the District of Columbia, to be Ambassador to the Kingdom of Morocco.
S-116, Capitol

Governmental Affairs
Business meeting, to mark up S. 1942, to provide for procedures for the review of Federal department and agency regulations, H.R. 3322, to designate the Wellston Station facility of the United States Postal Service in St. Louis, Missouri, as the "Gwen B. Giles Post Office Building," and to consider pending nominations.
SD-342

Rules and Administration
To hold hearings on pending nominations.
SR-301

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the nominations of Charles R. Hilty, of Ohio, to be Assistant Secretary of Agriculture for Administration, and Gary C. Byrne, of California, to be a Member of the Farm Credit Administration Board.
SR-332

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to examine proposed revisions to the procedures for determining wetlands jurisdiction.
SD-406

Finance
Business meeting, to consider a proposed temporary moratorium relating to the issues of medicaid voluntary donations, provider-specific taxes, and intergovernmental transfers.
SD-215

Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

10:30 a.m.
Rules and Administration
Business meeting, to consider pending calendar business.
SR-301

2:00 p.m.
Foreign Relations
To hold hearings on Jose E. Martinez, of Texas, to be Director of the Trade and Development Program, U.S. International Development Cooperation Agency.
SD-419

NOVEMBER 26

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To resume hearings to examine programs of the juvenile justice system, focusing on youth gangs and their access to guns, and how programs can help prevent the violence associated with youth gangs.
SD-226

Select on Indian Affairs
Business meeting, to mark up S. 1607, to provide for the settlement of water rights claims of the Northern Cheyenne Tribe in the State of Montana; to be followed by hearings on S. 1602, to ratify a compact between the Assiniboine and Sioux Indian Tribes of the Fort Peck Reservation and the State of Montana.
SR-485

DECEMBER 5

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to review the Department of Defense hospital and medical supply system.
SD-342

CANCELLATIONS

NOVEMBER 21

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to review the Department of Defense hospital and medical supplies system.
SD-342

NOVEMBER 22

9:30 a.m.
Governmental Affairs
To hold hearings on the Federal Government's role in promoting energy conservation technology.
SD-342